

**SINGLE MEMBER OF REGULATORY TRIBUNAL  
DECISION SHEET**

**RICS Regulatory Tribunal Rules Version 2 (2 February 2022)**

**Part VI, Regulatory Tribunal Single Member Decision**

**Regulated Member: Vilas Zende**

**Membership Number: 6601424**

**Single Member Decision of: Dr Angela Brown**

**Case Number: CON002069**

**Date of decision: 13 February 2025**

**CHARGE:** The charge against the Regulated Member is:

*'Between 1 January 2023 and 1 February 2024, you have failed to comply with RICS' requirements in respect of Continuing Professional Development (CPD) in that you have not completed and recorded, or caused to be recorded, at least 20 hours of CPD on the RICS CPD portal.'*

**Contrary to Rules 1 and 2 of the Rules of Conduct.**

**Rules of Conduct Global October 2021.**

**The Regulated Member is therefore liable to disciplinary action under Bye-law 5.2.2(c).**

## **RULES AND BYE-LAWS**

### **1. Bye-Law 5.2.2 provides:**

*'A Member may be liable to disciplinary action under these Bye-Laws, whether or not he was a member at the time of the occurrence giving rise to that liability, by reason of:*

*...(c) a failure to adhere to these Bye-Laws or to Regulations or Rules governing Members' conduct...*

### **The Rules of Conduct provide:**

#### **Rule 1 –**

*Members and firms must be honest, act with integrity and comply with their professional obligations, including obligations to RICS.*

*Appendix A to the Rules of Conduct sets out the core professional obligations for members including:*

*Members **must** comply with the CPD requirements set by RICS.*

#### **Rule 2 –**

*Members and firms must maintain their professional competence and ensure that services are provided by competent individuals who have the necessary expertise.*

Rule 2 sets out a number of example behaviours that provide further guidance to the requirements of the rule.

Example Behaviour 2.5 states:

*Members maintain and develop their knowledge and skills throughout their careers. They identify development needs, plan and undertake continuing professional development (CPD) activities to address them and are able to demonstrate they have done so. Firms encourage and support directors, partners and employees to maintain and develop their knowledge and skills, and check that they are complying with CPD requirements set by RICS.*

## **RICS' Specific Requirements Relating to CPD**

- 1 As set out in the document CPD Requirements and obligations, RICS Members are required to complete a minimum of 20 hours CPD activities by 31 December of each calendar year, and record, or cause it to be recorded online by 31 January.
- 2 The requirements are as follows:
  - (i) All RICS members must undertake a minimum of 20 hours CPD each calendar year (January to December).
  - (ii) Of the 20 hours at least 10 hours must be formal CPD. The remainder can be informal CPD.
  - (iii) All RICS members must maintain a relevant and current understanding of RICS professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD.
  - (iv) Members must record their CPD activity online by 31 January

## **MATERIALS CONSIDERED**

A hearing bundle of 27 pages.

## **BACKGROUND**

- 3 RICS Members are required to complete a minimum of 20 hours CPD activities by 31 December of each calendar year, and record, or cause it to be recorded online by 31 January.
- 4 The CPD requirements confirm that:
  - For a first breach of this rule the member would receive a Fixed Penalty Caution which will remain on the member's disciplinary record for a period of 10 years.
  - A second breach will result in a further Caution and a Fixed Penalty Fine of £150 or equivalent. Non-payment of the Fixed Penalty within 28 days of notification will lead to the fine being increased to £250.
  - A third CPD breach is likely to result in a referral to disciplinary proceedings.

## **FINDINGS OF FACT**

- 5 I have been provided with a hearing bundle of 27 pages, which includes a witness statement from a Regulatory Support and CPD officer who has looked at the Member's CPD record on the RICS online system showing the amount of CPD that the Member has recorded.
- 6 This confirms that the Member has completed 0 hours of CPD for 2023. I note that there is no evidence that the Member has been granted any concessions for the 2023 CPD year, and therefore, since no concessions apply, he is required to complete and record his CPD for 2023. Further, there is no evidence that the Member has applied for or been granted any exemption to the requirement to complete and record CPD for this year.
- 7 Accordingly, I find the factual allegations proved, based upon the documentary evidence provided.

## **DECISION ON LIABILITY FOR DISCIPLINARY ACTION**

- 8 I am satisfied that the RICS requirements to complete and record CPD are reasonable and that the Member's failure to comply with these requirements is sufficiently serious to give rise to a liability for disciplinary action. In reaching this conclusion I take into account the fact that the CPD policy has been approved by the Standards and Regulation Board and is an expressly stated RICS rule and requirement. In addition, the Sanctions Policy makes it clear that even a single breach of CPD requirements is sufficient to give rise to a liability for disciplinary action. I note that the purpose of the CPD requirements is to ensure that there are consistent standards within the profession; that members maintain up to date knowledge in their area of expertise in the interests of protecting the public and the wider public interest; and that the members ensure this is demonstrated by the completion of a record at RICS. I note that all members agree to adhere to the RICS Rules, Regulations and Bye-Laws and accept that they may be subject to disciplinary action if they fail to do so. I am satisfied that the Member was given every opportunity to comply with the CPD requirements.
- 9 Accordingly, I am satisfied that the Member is liable to disciplinary action.

## DECISION ON REGULATORY SANCTION

- 10 I note that in addition to the 0 recorded hours in 2023, there were 0 CPD hours recorded by the Member in the year 2022, and again, 0 hours recorded in 2021. Prior to that, I see that 20 hours or over were recorded by the Member in each year from 2015 to 2020.
- 11 I take into account the RICS Sanctions Policy Version 9 (2022) which at paragraph 22.1 states that the policy for CPD breaches is as follows:
- a. First breach – Fixed Penalty (caution)
  - b. Second breach within 10 years of receipt of a caution – Fixed Penalties (caution and fine)
  - c. Third breach within 10 years of receipt of a caution – referral to Single Member or Disciplinary Tribunal with presumption of expulsion.
- 12 I considered the Member's disciplinary history which shows that his first year breach was in 2021, for which a caution was issued in 2022; and that his second year breach was in 2022, for which a caution and fine were issued in 2023.
- 13 Evidence before me in the bundle of documents is that the Member's membership fees in 2023/2024 have been paid, and that the fine issued in 2023 for non-compliance in 2022 has been paid.
- 14 Evidence from RICS records indicates that at all relevant times the Member's record contained a postal and email address. Further, from the statement of the `Regulation Support Team Manager provided in the bundle, RICS confirms that six reminders would have been sent to the Regulated Member's preferred email address, at regular intervals from November 2023, all of which contained the following paragraphs to ensure a consistent message:

*'All practicing RICS members are required to complete at least 20 hours of CPD (including 10 hours of formal CPD) by 31 December 2023 and record it online by 31 January 2024.'*

*Our records indicate that, within a ten-year period, you have failed to comply with our CPD requirements on two or more previous occasions.*

*The RICS Sanctions Policy stipulates that such breaches may be referred to a Disciplinary Panel or a Single Member of the Regulatory Tribunal, and are likely to result in expulsion from RICS.*

The above statement acknowledges that if a member did not have an email address, or if an incorrect email address was stored on the system, the member would not have been sent those reminders.

I understand that, therefore, in mid-April 2024, RICS sent a hard copy letter issuing sanctions to those members based in the UK, EMEA and APAC region who did not have an email address. They also sent hard copy letters to all members who had breached for a third time or more (regardless of if they had an email address or not). This was sent to the postal address held on the system. The content of those letters was consistent with the messages as referred to above.

In the bundle I have been provided with a summary print out recording that a CPD 3<sup>rd</sup> Breach Letter was sent to the Member's preferred address on 19 April 2024.

On the evidence before me, I am satisfied that the reminders were correctly addressed to the preferred addresses then held on file for the Member.

- 15 The Member has not responded to the emails, the letter nor to the disciplinary bundle sent on 21 January 2025. RICS has not been provided with any explanation and is not aware of any mitigating circumstances which may have prevented the Member from complying with CPD obligations in 2023.
- 16 RICS is a professional membership organisation and sets standards for its members as a condition of membership. The recording of CPD is RICS' means of monitoring to ensure compliance and in turn to give protection to the public. Compliance is not optional. It is not difficult to record CPD online and the CPD requirements are not dependent on the RICS sending reminders to its members.
- 17 I bear in mind that the purpose of sanctions is not to be punitive, although they may have a punitive effect. The purpose of sanctions is to protect the public, to declare and uphold the standards of the profession, and to maintain public confidence in the reputation of the

profession and of RICS as its regulator. Sanctions must be proportionate to the breach and all the circumstances, and a decision should be reached having taken into account any mitigating and/or aggravating factors.

### **Mitigating /Aggravating features**

18 I was not able to identify any mitigating factors present in this case.

19 I consider that the following aggravating factors are present in this case:

- The Member clearly understands the process of recording CPD, as hours were successfully recorded from 2015 to 2020. Thus, he demonstrates that he is aware of his CPD obligations.
- There has been no engagement from the Member in response to the frequent reminders to compete and record CPD sent to his correct email address, and lastly, by post.
- The allegation for the breach in 2023 is serious.
- This is the third breach of the requirement within a period of three years.
- The seriousness is articulated in the Sanctions Policy in that a third CPD breach should be referred to a Single Member or Disciplinary Tribunal with presumption of expulsion. (paragraph 22.1 Sanctions Policy Version 9 with effect from February 2022).
- Payment of a fixed penalty fine may indicate that the Member acknowledges the second year breach and therefore would have been aware of the obligations to comply.
- The Member has not offered any reasonable explanation for failing to comply with RICS' CPD requirements.
- The Member has paid his membership fees in 2023/2024. Payment of fees may suggest that the Member is intending to practise without complying with CPD requirements.
- As of 20 January 2025, the Member has completed and recorded 0 hours of CPD for the 2024 calendar year. I note that the Member is not required to record his CPD activities for 2024 until 31 January 2025.

20 I first considered whether to impose any sanction. I concluded that the repeated failure to record CPD was serious and, in the absence of exceptional circumstances, imposing no sanction would be neither proportionate nor appropriate. In reaching this conclusion I noted that the Member had been sent numerous reminders by RICS. However, whether the Member received these reminders or not, it remained his responsibility to ensure that he complied with his CPD obligations.

- 21 I went on to consider whether to impose a caution. I concluded that a caution would not adequately reflect the seriousness of the case, recognising the cumulative pattern of non-compliance and the fact that a caution had already been imposed for previous breaches. I also considered the imposition of a reprimand but concluded that similarly this did not reflect the seriousness of the Member's repeated failure to comply with the requirement to complete, record or cause to be recorded CPD on the RICS online system.
- 22 In considering whether to impose an undertaking I took into account the mandatory nature of the CPD requirements. I noted that the CPD requirements are designed to ensure that the skills and knowledge of RICS members are kept up to date and ultimately to ensure public protection. I concluded that it would not be appropriate or proportionate, in the absence of extenuating circumstances, to impose an undertaking given that the Member should have been completing and recording his CPD online in any event. I concluded that imposing such a sanction would undermine public trust and confidence in the regulatory process.
- 23 I then considered whether to impose a fine. I was mindful that a fine was imposed on the Member for failing to record his CPD hours for the year 2022 and that this was paid. I concluded that, in these circumstances, to impose a further financial penalty would serve no useful purpose, as it had not resulted in compliance with the CPD requirements to date. Instead, a further fine could undermine the need to uphold the standards expected of all members and the deterrent effect on other members of the profession.
- 24 I went on to consider conditions. I took the view that imposing a condition for non-compliance of the CPD requirements is appropriate in certain circumstances. However, to impose such a sanction, I would need to be satisfied that the Member has demonstrated a willingness to engage with the regulatory process and a willingness to comply with any condition imposed. As the Member has repeatedly failed to comply with the CPD requirements in the past and has failed to respond to written reminders to record his CPD, I could not be satisfied that he would comply with conditions. Therefore, I concluded that it would not be possible to formulate conditions which would be realistic or achievable. Furthermore, in the absence of any mitigation, remorse or insight, I concluded that the Member's non-compliance with the CPD requirements demonstrated a disregard for the purpose of regulation and consequently undermines public trust and confidence in the profession. In the absence of any further mitigation or extenuating circumstances, such as ill-health, such conduct appears

incompatible with continued membership.

25 Having determined that conditions would not meet the wider public interest I determine that the Member should be expelled from RICS membership.

26 As a Single Member in this case my powers are governed by Rule 107 of the RICS Regulatory Tribunal Rules Version 2 (2 February 2022).

I have found the member to be in breach of two separate rules of conduct: Rule 1 and Rule 2, both of which are set out on page 2 above.

27 The breach of the core obligation to comply with RICS' CPD requirements

contrary to Rule 1 applies to any failure to comply with those requirements: in this case to the first, second and third breach.

Rule 2 and Example Behaviour 2.5, whilst also applying to a single breach of the CPD Requirements, applies with greater force where, as here, the Member has breached the CPD requirements on multiple occasions.

Three breaches of the CPD requirements within a period of three years constitutes a clear indication of a failure to maintain his professional competence.

In exercising my powers under Rule 107 f (i) of the Regulatory Tribunal Rules Version 2 (2 February 2022), I am satisfied that the evidence presented to me demonstrates that the Member has failed to meet the requirements in respect of Rule 1 and Rule 2 of the Rules of Conduct, and Example Behaviour 2.5 for the third time.

28 I recognise that expulsion is a sanction of last resort and should be reserved for those categories of cases where there is no other means of protecting the public or the wider public interest. I decided that the Member's case falls into this category as he has repeatedly failed to comply with the fundamental requirement to record CPD for three consecutive years, and by not recording any CPD up to 20 January 2025, has not demonstrated any intent to do so for the current year or in the future. I am satisfied that, in these circumstances, any lesser sanction would undermine public trust and confidence. In reaching this conclusion I have

carefully balanced the wider public interest against the Member's interests and his professional standing. I have had regard to the impact expulsion may have on the Member but concluded that his interests are outweighed by my duty to give priority to the significant public interest concerns raised by this case. I am also mindful that paragraph 22.1 of the Sanctions Policy states that there is a presumption of expulsion where there is a third breach of CPD requirements within 10 years of a receipt of a caution for breach of the same requirements

### **ORDER MADE**

In accordance with Part VI of the Regulatory Tribunal Rules Version 2 (2 February 2022), I make the following order:

**That Mr Vilas Zende (The Regulated Member) shall be expelled from membership of the RICS**

### **TAKING EFFECT OF ORDER**

In accordance with Part VI of the Regulatory Tribunal Rules, this order will take effect 14 days from service of the Single Member's decision upon the Regulated Member, unless notification in writing is received from the Regulated Member or RICS stating that they consider that the findings and/or the Regulatory Sanction imposed by the Single Member are wrong.

### **COSTS**

In accordance with Part VI Rule 119 of the Regulatory Tribunal Rules Version 2 (2 February 2022) I make the following order in respect of costs:

**Mr Vilas Zende (The Regulated Member) will pay costs in the amount of £350**

### **PUBLICATION**

In accordance with Part VI of the Regulatory Tribunal Rules, the Single Member's Record of Decision will be published following the expiry of 14 days from service of the Single Member's decision upon the Regulated Member.