

Disciplinary Panel Hearing

Case of

JOHN BLACKWELL [1187970]

Warrington

On

18 March 2025

At

Held virtually via Microsoft teams

Chair

Dr Angela Brown

Members

Peter Baker – Lay Member

Eleanor Spencer – Surveyor Member

Legal Assessor

Fiona Barnett

Regulatory Tribunal Executive

Jae Berry

HEARING ON BASIS OF WRITTEN REPRESENTATIONS

Service and proceeding in absence

1. Mr Blackwell did not attend the hearing.
2. The Panel had before it a witness statement from Jae Berry, RICS, dated 17 March 2025.

3. Ms Berry confirmed that Notice of this hearing dated 22 January 2025 was sent to Mr Blackwell by email on that date to the preferred address held by RICS on their register of members. The Panel was provided with a delivery receipt for that email.
4. The Panel was satisfied that the requisite period of notice had been given in accordance with Rule 53 of the RICS Regulatory Tribunal Rules, Version 2, with effect from 2 February 2022, ("the Rules") and that the notice requirements set out in the Rules were met.
5. The Panel bore in mind that the RICS panel bundle included a document entitled, "Written representations in support of an appeal", ("the written representations"). This was dated 20 July 2024 and was submitted to RICS by Solicitor/Counsel on Mr Blackwell's behalf before the notice of this hearing was served.
6. Paragraph 23 of the written representations states:
"Mr Blackwell has asked that the matter be reviewed on the papers....."
7. The Notice of Hearing letter sent to Mr Blackwell informed him that his presence at this hearing was not required, given that an application to have the case dealt with on the papers alone and in the absence of the parties was agreed.
8. The Panel was therefore satisfied that Mr Blackwell has waived his right to attend and that it would be appropriate to deal with this case in his absence, without an oral hearing, on the basis of the written material before it. No adverse inference will be drawn from his absence.

The Charge:

9. The charge against Mr Blackwell is:

"Between 1 January 2022 and 1 February 2023, 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

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

Response

10. Paragraph 4 of the written representations states:

“Mr Blackwell:

4.1 Admits that he failed to record the CPD that he had in fact undertaken during that period on the RICS CPD portal in accordance with his obligations;

4.2 Further admits that he failed to complete the requisite hours of CPD in the relevant (2022) period (being a minimum of 20 hours in total, 10 of which have to be Formal CPD).”

Background

11. Mr Blackwell has been a professional Member of RICS since December 2006.

12. RICS’ requirements in respect of continuing professional development (“CPD”) are set out on the RICS website. They include requirements that all members must undertake a minimum of 20 hours CPD each calendar year (January to December), of which at least 10 hours must be formal CPD. Members must record their CPD activity online via the RICS secure portal by 31 January.

13. Mr Blackwell first breached the CPD requirements in 2018 and was given a caution.

14. Mr Blackwell breached the CPD requirements for the second time in 2021 and was given a caution and a fine. RICS has confirmed that the fine has been paid.

15. It is alleged that Mr Blackwell did not complete the requisite number of CPD hours for 2022 and record these via the RICS portal by 31 January 2023.

16. Given that this was Mr Blackwell’s third alleged breach of his CPD requirements, his case was initially referred to a Single Member of the Regulatory Tribunal. That Single Member found the charge proved and imposed a sanction.

17. Rule 115 of the Rules sets out the absolute right for a Regulated Member to reject the findings and/or sanction imposed by a Single Member of the Regulatory Tribunal. On 22 July 2024, Mr Blackwell exercised that right, and the matter is before the Disciplinary Tribunal to consider afresh.

Evidence

18. The Panel had before it the RICS solicitor's bundle of documents, running to 114 pages. This included:

- Witness statements from two RICS employees, and
- Witness statements from Kevin Gorman, the Chairman of Mr Blackwell's company, and [REDACTED], Mr Blackwell's wife.

Findings of fact

19. In reaching its decision on the facts, the Panel reminded itself that the burden of proof rests with RICS and that the standard of proof applicable in these proceedings is the civil standard. This means that the Panel must not find a fact proved unless it is satisfied, on the balance of probabilities that it is true, i.e. that it is more likely than not to have occurred as alleged.

20. The Panel accepted the unchallenged written statements and exhibits of Fay Reaney, RICS investigation specialist, and Claire Hoverd, RICS Regulations Support Team Manager. These statements provided details of:

- Mr Blackwell's CPD compliance history;
- the methods used by RICS to remind members of their CPD obligations;
- the reminders sent to Mr Blackwell in relation to the 2022 CPD year.

21. Ms Reaney confirmed that in 2022, Mr Blackwell had recorded zero hours of CPD and that he had no concessions. Ms Hoverd stated that Mr Blackwell should have received 6 CPD reminder emails and a hard copy letter from RICS.

22. The Panel also had regard to the admissions made on Mr Blackwell's behalf in the written representations, in which it was admitted that he had not completed sufficient formal CPD in the 2022 CPD year.

23. Having considered the unchallenged evidence before it and the admissions made on Mr Blackwell's behalf, the Panel found the factual allegation proved on the balance of probabilities.

24. The Panel was satisfied that Mr Blackwell's failure to complete and record at least 20 hours of CPD on the RICS portal amounted to a breach of Rules 1 and 2 of the Rules of Conduct.

Liability to disciplinary action

25. In the RICS written case summary, it is submitted that given the presumption of expulsion for a third breach of the CPD requirements, the Panel can be satisfied that Mr Blackwell is liable to disciplinary action.
26. In the written representations submitted on Mr Blackwell's behalf, it is stated that Mr Blackwell accepts that his failure to comply with the RICS' requirements to complete and record CPD is sufficiently serious to give rise to a liability for disciplinary action.
27. The issue of liability to disciplinary action is however a matter for the Panel, in the exercise of its own judgment.
28. The Panel's was satisfied from the evidence before it that this was Mr Blackwell's third breach of his CPD requirements within a ten year period, (having also breached them in 2018 and 2021). Its view was that his failure to comply with the CPD requirements amounted to a serious falling short of his professional obligations.
29. It is the duty of a RICS member to ensure that he/she is aware of the CPD requirements and to comply with them. The CPD requirements are designed to ensure consistent standards within the profession, that individuals maintain up to date knowledge in their area of expertise, and that members demonstrate this by the completion of a record at RICS. The purpose of the record is so that RICS can monitor compliance.
30. Completing CPD is crucial for professionalism and ongoing competence. The failure to fulfil professional obligations is likely to undermine public confidence in the profession. Members of the public are entitled to expect that surveyors are competent and up to date with their knowledge. They could also be placed at risk if a member of RICS has not undertaken the requisite CPD and maintained the necessary level of professional competence. In the circumstances, the Panel was satisfied that Mr Blackwell was liable to disciplinary action.

Sanction submissions

31. RICS made no sanction submission, stating that the appropriate sanction is a matter for the Panel.

32. The written submission made on Mr Blackwell's behalf included details of his personal, family and business circumstances at the relevant time. The written submission is not set out in full in this decision, however, it included the following information and submissions, (in summary):

- Mr Blackwell apologises profusely for his conduct.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Mr Blackwell did not deliberately fail in his obligations. He asks the Panel to take account of his personal issues and accept that these matters meant that he didn't always do what he should have done.
- Mr Blackwell completed 28 hrs informal CPD and 2 hours formal CPD in the 2022 CPD year. This fell short of his obligation, however, he asks the Panel to take into account what he has done.
- Mr Blackwell is committed to completing his CPD in line with RICS requirements. He was unaware of the 2021 fine until it was raised in the context of this matter. He took steps to pay it when he became aware of it.
- In relation to the reminders from RICS, Mr Blackwell searched his records "to no avail". He apologises if emails from RICS were overlooked
- Mr Blackwell has no other adverse disciplinary history.
- He has completed his CPD for 2023 and (at the time of writing) was "well on the way" for 2024.
- Mr Blackwell accepts that he failed in his obligations but would like to remain a member of RICS. He is committed to regaining and maintaining the trust of the Panel and RICS going forward by whatever means necessary. He respectfully asks that the Panel show clemency, imposing such conditions and reprimands as it deems fit, if that meant that he could retain his membership.

33. The written representations make references to other RICS CPD cases, and invite the Panel to have particular regard to one case in which the Member was not expelled from RICS for breaches of the CPD requirements. Paragraph 15 of the written representations states,

".....whilst each such case turns on its facts, [Mr Blackwell] would respectfully submit that there are huge similarities between that case and

the instant matter, such that the Panel might reasonably have regard to the outcome of Mr [X's] case in the hope of a consistency of approach."

Decision as to sanction

34. The Legal Assessor advised the Panel that the purpose of a sanction is to protect the public, to safeguard the reputation of the profession and to declare and uphold proper standards of conduct and behaviour. Further, any sanction imposed must be proportionate. If the Panel is minded to impose a sanction, it must consider the aggravating and mitigating factors, and assess the sanctions in order of severity, starting with the least severe. It must satisfy itself that any sanction it imposes is the minimum necessary to meet the public interest.
35. The Legal Assessor advised the Panel that it should decide this case on its own facts and merits. She advised that other RICS Regulatory Tribunal cases do not serve as precedents or "comparators". In reaching the decision on sanction, the Panel must not use other cases and/or outcomes from this jurisdiction as a yardstick.
36. The Panel had regard to the RICS Sanctions Policy, (version 9 with effect from 2 February 2022), ("the Policy"). This states, at paragraph 21.1, that in the absence of extenuating circumstances, a third breach of the Rules of Conduct requirements for CPD within 10 years of receipt of a caution for breach of those rules, is likely to result in expulsion. Nevertheless, the Panel accepted the Legal Assessor's advice that it was incumbent upon it to approach the sanctions in ascending order of seriousness, and to adopt the sanction which is appropriate and proportionate having regard to the weight it attributes to the aggravating and mitigating factors.
37. The Panel considered whether there were any aggravating factors, and identified the following:
 - The failure to complete CPD impacts on ongoing competence and gave rise to a risk of loss or harm to the public, even if there was no actual harm.
 - This risk was compounded because Mr Blackwell had also not completed his CPD in the previous year, (2021).
 - This was the third CPD breach in a 10 year period. Mr Blackwell has been cautioned twice and also fined for his previous failures to comply.
 - Mr Blackwell is a longstanding member of RICS, and should be familiar with the Rules of Conduct, the importance of compliance and the consequences of non-compliance. RICS is a professional membership organisation which

sets standards for its members as a condition of membership. From the inception of the compulsory recording of CPD online, RICS has publicised its policy on sanctions for non-compliance. It is not difficult to record CPD online and compliance is not optional. Mr Blackwell must have been aware of this.

38. The Panel considered whether there were any mitigating factors, and identified the following:

- Mr Blackwell has shown that he is committed to complying with his CPD obligations going forward and the Panel accepts that he now intends to comply. He has provided evidence to show that he has completed CPD for 2023 and 2024, and the Panel accepts that he has also signed up for the RICS support package, which should assist him in complying with his obligations in future.
- The Panel accepts that Mr Blackwell completed at least 30 hours of CPD in the 2022 year, although only 2 were formal CPD, rather than the minimum 10 hours required.
- He has admitted the allegations, apologised, and engaged with the regulatory process on this occasion.
- [REDACTED]

39. The Panel next considered the sanctions in order of seriousness. It first considered whether to take no action. It concluded that the matters were too serious for no sanction to be imposed.

40. It next considered a Caution. Mr Blackwell has already been cautioned on two occasions and those cautions did not serve the purpose of preventing a further breach of the conduct which has brought him before this Panel. It therefore decided that a Caution was not appropriate and would be insufficient to mark the seriousness of the breach.

41. The Panel next considered a Reprimand. A Reprimand may be appropriate where there has been or is a risk of public harm. The Panel has identified a risk of harm arising from the breach of the CPD requirements, however, it decided, given that

this was a third breach of the RICS rules, that a Reprimand was not a sufficient sanction to uphold the public interest.

42. The Panel next considered undertakings, but was of the view that this was not a case in which undertakings would be appropriate or proportionate.
43. The Panel then considered whether to impose a fine. It decided that a fine would be an appropriate sanction and that £500 would be an appropriate and proportionate amount for a fine. However, the Panel decided that whilst a fine is an appropriate sanction, it would not on its own be sufficient to meet the public interest and ensure Mr Blackwell's future compliance. The Panel therefore went on to consider whether it would be appropriate and proportionate to impose conditions on Mr Blackwell's membership in conjunction with the fine.
44. The Panel decided that it could formulate conditions which would be appropriate and proportionate to ensure compliance and uphold the public interest. It decided to impose the conditions below:
 - i. As a condition of continuing RICS membership, Mr Blackwell must comply with the CPD requirements for the year 2025 by completing and recording his CPD by 31 January 2026.
 - ii. As a condition of continuing RICS membership, Mr Blackwell must comply with RICS CPD requirements on an ongoing basis. Any failure to comply with RICS CPD requirements up until 31 January 2028 will result in automatic expulsion from membership without further reference to a Single Member/Disciplinary Panel, unless Mr Blackwell has obtained a RICS extension or a RICS exemption from his CPD requirements.
45. The Panel was mindful that the Policy suggests that Expulsion is the likely penalty for a third breach of CPD requirements. However, the Panel considered that to go beyond the combination of sanctions imposed would be excessive and disproportionate in the circumstances having balanced the aggravating and mitigating factors.
46. Although this was a third breach, and that such a breach presents a risk to the public and damages public confidence in the profession, the Panel nevertheless found that there was compelling mitigation which served to explain why Mr Blackwell had failed to meet his 2022 obligations, and which justified a sanction which fell short of expulsion. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The Panel also attributed weight to the steps Mr Blackwell has taken to complete his CPD for 2023 and 2024, and found this to be evidence of remediation and his ongoing commitment to future compliance.

47. The Panel was satisfied that the combination of sanctions imposed should serve to protect the public, maintain public confidence in the profession and uphold proper standards of conduct and competence, whilst ensuring that Mr Blackwell is able to maintain his RICS membership. This combination of sanctions is also sufficient to send a strong signal to members of the profession that failures to meet the standards expected of a RICS member will not be tolerated.

Order

48. The Panel orders that Mr Blackwell be fined the sum of £500, and it orders that he must comply with the conditions on his membership set out at paragraph 44 above.

Publication

49. The Panel considered the guidance as to publication of its decisions set out in Supplement 3 to the Sanctions Policy. It bore in mind that there is a presumption in favour of publication of decisions of the Disciplinary Panel. There was no justification for the Panel to depart from that presumption.
50. The Panel therefore ordered that this decision should be published in Modus and on the RICS website, in accordance with the provisions of Supplement 3.
51. However, the Panel directed that all matters pertaining to Mr Blackwell's private and family life must be redacted from the published decision. It was satisfied that to include these matters in any published decision would encroach on his right to respect for his private and family life.

Costs

52. RICS made no application for costs.

Appeal Period

53. Mr Blackwell has 28 days from service of the notification of this decision to appeal in accordance with Rules 152 and 153 of the Rules.
54. In accordance with Rules 166 and 167 of the Rules, RICS' Chair of Governing Council may apply to the Appeal Panel for a review of a finding or Regulatory Sanction imposed by a Disciplinary Panel. Any such application must be served within 28 days of receipt of the request.