

SINGLE MEMBER OF THE REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2022

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Andrew Gower

Single Member Decision of: Deborah Fajoye

Case Number: CON002327

Date of Decision: 17 March 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 2022.

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

ALLEGED RULE/S BREACH

RICS' requirements in respect of Continuing Professional Development ("CPD") are set out in the document 'CPD Requirements and Obligations'. They include requirements that *"All members must undertake a minimum of 20 hours CPD each calendar year (January to December)"* and that *"Members must record their CPD activity online by 31 January"*.

Contrary to Rules 1 and 2 of the Rules of Conduct 2022.

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

MATERIALS CONSIDERED

- RICS Investigation report with associated statements and exhibits
- Rules of Conduct 2022
- Rules of Conduct for Members 2020

- RICS Bye-law 5.2.2
- RICS CPD Requirements and Obligations
- RICS CPD FAQs
- Part VI RICS Regulatory Tribunal Rules version 2
- RICS Sanctions Policy: Guidance to RICS Regulatory Tribunal Rules version 9
- RICS Single Member Decisions Guide 2022

BACKGROUND

RICS requirements in respect of CPD are set out in the RICS document 'CPD Requirements and Obligations'. They include requirements that *"all members (AssocRICS, MRICS and FRICS) must record their CPD online"*.

The key requirements are:

- All members (AssocRICS, MRICS and FRICS) must undertake a minimum of 20 hours CPD each calendar year (January to December).
- Of the 20 hours at least 10 hours must be formal CPD. The remainder can be informal CPD.
- All members must maintain a relevant and current understanding of our professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD.
- Members must record their CPD activity online by 31 January every year

Andrew Gower ("Mr Gower") is a member of RICS ("MRICS") and was first admitted on 25 February 1999 and they practice in the UK.

It is noted that Mr Gower recorded CPD in 2016, 2017, 2018, 2019 and 2020, which demonstrates that they are aware of CPD requirements and capable of compliance.

Mr Gower recorded 0 hours of CPD online for 2023 and he does not have any exemption or concessions on record for that year. As such, they were required to complete and record CPD.

The evidence demonstrates that this is Mr Gower's third breach of CPD requirements (2021, 2022 and 2023) contrary to Rule 6 of the Rules of Conduct for Members (versions 6 and 7) and currently set out as a core obligation in the Rules of Conduct 2022.

FINDINGS OF FACT

I have carefully considered the investigation report and disciplinary bundle provided by RICS. These clearly set out Mr Gower's alleged failings regarding CPD requirement. I have made the following observations:

- I have reviewed statements and records provided by RICS. The statements clearly set out Mr Gower's CPD activities from 2013. It's noted that Mr Gower did not submit CPD in 2013, 2014 and 2015. This is because his registration had lapsed due to non-payment of fees. However, he gained readmission to the register in 2016. Mr Gower recorded their CPD activities online in 2016, 2017, 2018, 2019 and 2020, which demonstrate that they're cognisant of their obligations in regard to completing and recording their CPD activities online.
- The records show that Mr Gower recorded less than 20 hours of CPD in 2021 and 2022. In 2021, he recorded 7.25 hours of CPD (only two hours was formal CPD). This was recorded as a first breach and Mr Gower received a caution which was issued in 2022. In 2022, Mr Gower

received a caution and fine for a second breach because he recorded only one hour of CPD (0 hours of formal CPD).

- RICS confirmed Mr Gower has settled the fixed penalty fine issued in 2023 for CPD non-compliance in 2022. Also, the records show that Mr Gower has paid their membership fees in 2023/2024, which indicates their intention to continue practising.
- Mr Gower recorded online 0 hours of CPD for 2023 and the evidence demonstrates they had no relevant CPD exemption and/or concession for the relevant year. As such, they were required to complete and record a minimum of 20 hours CPD.
- This is Mr Gower's third breach of CPD requirements within a 10-year period.
- At the time of making the statements, RICS confirmed that Mr Gower has recorded 0 hours of CPD for the current CPD year 2024 (deadline being 31 January 2025).
- Having been a member since 1999, and been subject to two previous CPD related sanctions, I am satisfied that Mr Gower would have been cognisant of their obligations in respect of CPD.
- The records indicate that Mr Gower should have received seven written communications from RICS, by way of reminders in respect of their CPD, both before and after the due date for the 2023 CPD. The written communications were sent to Mr Gower's registered email address and the last letter was sent by post. These written communications were sent between November 2023 and April 2024. Further, Mr Gower was contacted by telephone on 28 May 2024 in relation to this matter, but there was no answer. Mr Gower has not responded to this call or any of the written communications.
- The evidence suggests that at all material times, Mr Gower's registered email and postal addresses have not been updated. As such, I am satisfied that RICS effectively reminded Mr Gower about the 2023 CPD and they had ample opportunity to submit their CPD activities online by the relevant due date (31 January 2024). Notwithstanding, as a regulated member, it is Mr Gower's responsibility to ensure that they keep abreast of and adhere to RICS rules including CPD requirements.
- On 20 February 2025, RICS sent a 'CPD Disciplinary Proceedings' letter to Mr Gower, including the CPD disciplinary bundle, listing questionnaire, statement of means form, and schedule of costs. Mr Gower has not responded to this letter nor have they provided any submissions providing an explanation for their third CPD breach.
- In the absence of any submissions from Mr Gower, I have no evidence of mitigation or insight.

In light of the above, I find the facts as set out in the investigation report proved.

LIABILITY FOR DISCIPLINARY ACTION

The requirement to complete and record CPD is a mandatory and core obligation of RICS membership (unless exempt). It is designed to ensure that a member has the required up-to-date competence and knowledge to practice safely within their area of expertise and ultimately ensure public protection.

Mr Gower failed to record the minimum required hours of CPD for three consecutive years. They recorded online 0 hours of CPD for 2023 and as such this constitutes their third breach of CPD requirements in accordance with Rules 1 and 2 of the Rules of Conduct 2022.

RICS Sanctions Policy, February 2022 (version 9) suggests that even one sole breach of CPD requirements is sufficient to give rise to a liability to disciplinary action.

In light of the above, I have determined that Mr Gower's failure to comply with those requirements is sufficiently serious to give rise to a liability to disciplinary action.

REGULATORY SANCTION

This is Mr Gower's third breach of the RICS requirements for CPD. Therefore, I find that they are liable to regulatory sanction. There is a presumption of expulsion for a third breach subject to the circumstances of the case and any mitigating or aggravating factors.

I have carefully considered RICS Sanctions Policy and the aggravating and mitigating factors in this case.

I have taken into account the following aggravating factors:

- It is noted that this is Mr Gower's third CPD breach within a 10-year period of receipt of a caution. As such, the alleged breach is not an isolated failure.
- RICS have confirmed that Mr Gower has settled the fine issued for CPD non-compliance in 2022. Also, they have paid their membership fees up until 2024, which would suggest that they intend to continue practising without complying with CPD requirements.
- Mr Gower has been a regulated member since 1999, recorded CPD between 2016 and 2020 (none recorded after this time), and they have received two previous sanctions for CPD breaches. As such, it is reasonable to consider that Mr Gower is cognisant of CPD requirements.
- The evidence demonstrates that Mr Gower's actions were deliberate and a flagrant disregard for RICS regulatory rules and CPD requirements. In particular, Mr Gower has failed to record CPD for three consecutive years.
- I have no evidence that Mr Gower has engaged with the CPD process since 2021.

Mr Gower has not responded to these allegations nor have they provided any submissions. Therefore, I have not identified any mitigating factors.

Given this is the third sanction issued to Mr Gower for breaches of CPD requirements, I have determined that a caution, reprimand or fine on its own or combination thereof would not adequately reflect the seriousness of this case. In particular, I do not consider that a further financial penalty would result in compliance with CPD requirements, as Mr Gower had already been issued a fixed penalty fine in 2022 and they repeated a further breach the following year.

I do not consider that either a condition or undertaking be applied in this case as CPD is a mandatory requirement for RICS membership.

I recognise that expulsion is the ultimate sanction and should be reserved for those categories of cases where there is no other means of protecting the public or the wider public interest. Given

the serious and repetitive nature of this breach, I have determined that Mr Gower be subject to expulsion from membership. I consider that an expulsion is the most appropriate and proportionate outcome to maintain public protection and meet the wider public interest. In reaching my decision, I carefully balanced the wider public interest against the interests of Mr Gower and their professional standing. I acknowledge that expulsion may have a significant impact on Mr Gower's livelihood. However, in the absence of evidence of insight at a fundamental level and/or compelling mitigation from Mr Gower, I cannot be satisfied that he would not commit a further breach. Subsequently I consider that the wider public interest by far outweighs Mr Gower's interests.

Finally, I have not been presented with any evidence that would justify deviating from the presumption in paragraph 22.1 of the Sanctions Policy, which stipulates that expulsion is likely where there is a third breach of Rule 2 of the Rules of Conduct within a 10-year period of receipt of a caution for breach of the same rule(s).

ORDER MADE

In accordance with Part VI of the Regulatory Tribunal Rules, I make the following order:

That Mr Gower be expelled from RICS membership.

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 of the Regulatory Tribunal Rules, I make the following order in respect of costs:

In the absence of any statement of means and/or documentary evidence of Mr Gower's financial or personal circumstances, I have been unable to identify any reason for reducing the costs. As such, I have concluded that the costs are fair and reasonable.

I therefore order that Mr Gower pay the costs 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.