

SINGLE MEMBER OF THE REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2022

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Eric Mangematin

Single Member Decision of: Glenn Mathieson

Case Number: CON002157

Date of Decision: 18 March 2025

CHARGE

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.

ALLEGED RULE/S BREACH

The Rules of Conduct 2021:

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.

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.

Bye-Laws

Bye-Law 5.2.2 - 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...

CPD Requirements and obligations

1. All members must undertake a minimum of 20 hours CPD each calendar year (January to December).
2. Of the 20 hours at least 10 hours must be formal CPD. The remainder can be informal CPD. (For guidance, see below and download examples.)
3. 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.
4. Members must record their CPD activity online by 31 January.

MATERIALS CONSIDERED

I have considered a 27 page bundle of evidence provided to me, which includes:

- an investigation report in respect of the matters relating to the Charge;
- correspondence between RICS and the Regulated Member in respect of their CPD requirements and prospective disciplinary proceedings;
- witness statements provided by two members of RICS staff relating to the Regulated Member's CPD record and communications sent to members reminding them of their CPD obligations;
- the decision of the Head of Regulation to refer the matter as a disciplinary charge for consideration by a Single Member of the Regulatory Tribunal.

BACKGROUND

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. The CPD requirements confirm that:

- For a first breach of this rule the member would receive a 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 Fine of £150 or equivalent. Non-payment of the Fine 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

I have considered the bundle of evidence submitted. Contained within this is a statement by a member of RICS staff whose role is that of a Regulatory Support and CPD Officer. They provide an extract of the Regulated Member's CPD record which confirms that an insufficient 12 hours of total CPD was recorded by the member in 2020, and that no CPD hours were recorded thereafter in any of the three following years 2021 to 2023.

This statement also evidences that the member has previously received a caution for the 2020 CPD breach, as well as two fixed penalties in respect of 2021 and 2022. The Regulated Member has, however, maintained and annually renewed their RICS membership throughout the period in question.

I have also taken into account a statement by another Regulatory Support and CPD Officer, who has stated that the Regulated Member was sent 6 e-mails between November 2023 and March 2024 reminding them of their CPD obligations.

The Regulated Member has not responded to the Charge, despite having been afforded the opportunity to do so by way of an e-mail dated 29 January 2025, and a further e-mail of 24 February 2025 which notified them of matters being referred for a disciplinary decision.

I have reminded myself that the burden of proof rests on RICS, and that the relevant standard of proof is the balance of probabilities. In the absence of any response from the Regulated Member, or any contradictory evidence elsewhere, I have been given no cause to doubt the accuracy of the information provided in the witness statements referred to above. Consequently, I am satisfied that there is clear evidence to support that the Regulated member has failed to complete their CPD obligations between 2020 and 2023, and that the 2023 breach represents their fourth consecutive failure to do so, despite having previously received a regulatory sanction on 3 occasions for similar failings.

For these reasons, I am therefore satisfied that the factual basis of the Charge is proved.

LIABILITY FOR DISCIPLINARY ACTION

I am satisfied that the RICS requirements to complete and record CPD are reasonable and that the Regulated Member's failure to comply with these requirements is serious.

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 has been given every opportunity to comply with the CPD requirements.

In light of the above, I have concluded that the conduct of the Regulated Member in failing to adhere to the CPD requirements is sufficient to give rise to a liability to disciplinary action.

REGULATORY SANCTION

I have taken 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.

I have also reminded myself that the Regulated Member has received three previous sanctions in respect of the same issue. Additionally, I am satisfied that the Regulated Member was sent six reminders to an e-mail address that they themselves had provided for contact, and that the Regulated Member continued to maintain and renew their membership throughout, rather than allowing it to lapse. Finally, the fact that there has been previous CPD submitted, albeit insufficient, does at least demonstrate an awareness on the Regulated Member's part of their obligation to submit such CPD evidence.

The RICS Sanctions Policy stipulates that three or more CPD 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 Member has not responded to any of the correspondence relating to these matters. RICS has therefore 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.

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.

I recognise 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.

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

I consider it an aggravating factor that the Member clearly understands the process and obligation of recording CPD, as hours were successfully recorded in 2020. There has been no engagement from the Member in response to the reminders to compete and record CPD, nor any engagement with these disciplinary proceedings.

The allegation for the breach in 2023 is serious, and is the fourth breach of the requirement in consecutive years. The seriousness of such matters is reflected in the fact that the Sanctions Policy indicates a presumption of expulsion for three CPD breaches within a ten year period.

I have concluded that, given this seriousness, and in the absence of exceptional circumstances, imposing no sanction would be neither proportionate nor appropriate. As for the options of a caution, reprimand and fixed penalty, I have concluded that, similarly, these would not reflect the seriousness of the Regulated Member's repeated failure to comply with the requirement to complete and record CPD, particularly given the previous cautions and fixed penalties which have, it seems, failed to have a salutary effect.

I have also considered the options of undertakings or conditions, but have taken the view that imposing such in respect of obligations about which the Regulated Member is already expected to adhere, and which have been breached multiple times, would be both fruitless, as well as insufficient to satisfy the wider public interest.

I therefore determine that the Regulated Member should be expelled from RICS membership, and I am satisfied that, in the circumstances, any lesser sanction would undermine public trust and confidence.

In reaching this conclusion I have carefully balanced the wider public interest against the Regulated Member's interests and professional standing. I have had regard to the impact expulsion may have on the Regulated Member, but have concluded that their interests are outweighed by my duty to give priority to the significant public interest concerns raised by this case.

ORDER MADE

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

That Mr Eric Mangematin (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, I make the following order in respect of costs:

Mr Eric Mangematin (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.