

Registration Panel Hearing

Case of

Daniel Smith (in attendance, unrepresented)

On

Tuesday 10 December 2024

Held remotely via Microsoft Teams

Panel

Alison Sansome (Independent Member, Chair)
Mark Griffin (Surveyor Member)
Peter Baker (Independent Member)

Legal Adviser

Ben Kemp

RICS Representative

Marie-Claire Frankie

Member's Representative

None

Tribunal Executive

Adeel Qureshi

Introduction

1. This is the oral hearing of an application by Mr Smith for re-admission following disciplinary expulsion, under Rule 130(a) of the RICS' Regulatory Tribunal Rules (Version 2, with effect from 02 February 2022) (the Tribunal Rules).

Burden of proof

2. Under Rule 135 of the Tribunal Rules, the burden is on the Applicant, Mr Smith, to satisfy the Registration Panel that the order being sought should be made.

Background

3. Mr Smith was first registered as a member of RICS on 15 October 2012.
4. He was expelled from RICS following a decision issued by an RICS Disciplinary Panel on 24 October 2019. The case was heard and decided in the absence of Mr Smith, who did not engage with the 2019 proceedings. The written decision to expel Mr. Smith was included in the bundle of documents produced and before the Registration Panel for today's hearing.
5. Since January 2013 RICS members have been obliged to complete 20 hours Continuing Professional Development (CPD) activity by 31 December of each calendar year and record it on an online portal.
6. On 24 October 2019, the Disciplinary Panel found Mr Smith liable to disciplinary action and subject to expulsion in respect of a third breach, in 2018, of RICS' CPD requirements. He had previously failed to comply with RICS' CPD requirements in 2013, when he received a caution, and then in 2014, when he received a caution and a fine.
7. On 26 February 2024 Mr Smith submitted an application to be re-admitted to RICS membership. It was a matter of agreement between the parties that his application satisfied the formal requirements for such an application, as stipulated by the RICS Rules Setting Out the Procedure for Re-Admission to Membership Following Disciplinary Expulsion (version 2, with effect from 02 March 2020) (the Re-admission Rules). These included satisfying the requirement for a letter from a current RICS member confirming that, being aware of the circumstances of Mr Smith's expulsion, they consider him suitable for re-admission. Mr. Smith had produced correspondence from a current Member, dated 23 April 2024, satisfying this requirement. RICS accordingly took no issue with the formal validity of Mr Smith's application.

Preliminary matters

8. The Panel was satisfied that the relevant requirements had been met in relation to notice and service. A statement was produced from Mr. Adeel Qureshi, RICS Regulatory Tribunal Executive, dated 09 December 2024, evidencing details of how and when service had been effected, in accordance with the Tribunal Rules. Moreover, Mr Smith was in attendance and took no issue with notice and service of the documentary bundle before the Panel.

RICS submissions regarding the application

9. The Panel had before it Mr Smith's formal written application for re-admission, the written decision of the Disciplinary Panel on 24 October 2019 that resulted in Mr Smith's expulsion from RICS, the supporting letter from a current RICS member (Mr Gerry Martin, MRICS), and the Case Summary and evidence bundle produced by RICS, including relevant correspondence between Mr Smith and RICS and written submissions regarding his career history and suitability for re-admission.
10. Ms Frankie referred the Panel to the relevant provisions of the RICS Bye-laws and Regulations, as well as the Re-admission Rules. She referred the Panel to the written submissions produced on behalf of RICS
11. RICS took no issue with Mr Smith's formal eligibility for re-admission- he had satisfied all of the applicable formal and procedural requirements. It deferred to the judgement of the Panel as to whether Mr Smith was a fit and proper person and whether as such it was in the best interests of RICS that he should be re-admitted. Ms Frankie submitted that the Panel may wish to have regard to the wider reputation of the profession in considering the best interests of RICS in this respect. She confirmed that there was no other disciplinary record (other than the aforementioned finding in relation to CPD in 2019).

Submissions of Mr Smith

12. Mr Smith made oral submissions to the Panel. He described his career to date and acknowledged that he had not previously had sufficient regard for his regulatory obligations, as a Member of RICS. He stated that he had learned his lesson and now appreciated the importance of regulation, both as an individual member and to the profession and wider market in which he worked. While it was not necessary for him to be a member of RICS for his work, it was important for him personally, he benefited from the opportunities which RICS membership provided, and he believed in turn that the market benefited from surveyors being members and being seen to be held to appropriately high, consistent standards. Mr Smith stated that he had always undertaken relevant CPD, but had not until recently fully appreciated the importance of formal compliance with RICS' recording requirements. In anticipation of his potential re-admission, he had taken the initiative in recording CPD activities for 2024 on the RICS digital system, confirmed by

RICS as amounting to 31 hours of formal in addition to a further 10 hours of informal CPD, exceeding the annual requirement of 20 hours, of which 10 requires to be formal. Mr Smith further confirmed that he had taken steps to ensure his ongoing compliance. He had familiarised himself with the RICS CPD system and had committed to ensuring he allocated sufficient time and importance to recording his CPD.

13. In response to a number of questions from the Panel, Mr Smith confirmed that he did not currently sign valuations, but was responsible for reviewing them in advising lenders on asset recovery. While not essential for his role, it was valuable and important he had realised in upholding confidence in the market, for all surveyors to be accountable to the same high regulatory standards. He underlined his commitment both to continuing to maintain his competence and to ensuring his ongoing compliance, were he to be re-admitted.

Registration Panel's Decision

14. The Panel considered, in accordance with Rule 5 of the Re-admission Rules:
 - (a) whether Mr Smith was a fit and proper person for the purposes of re-admission in accordance with RICS Regulation 2.2.2; and
 - (b) whether his re-admission was in the best interests of the RICS.
15. The Panel received and accepted advice from its Legal Adviser. It noted that RICS had not raised any concern which might be considered a barrier to re-admission at this stage. It nonetheless recognised that it was for Mr Smith to satisfy the Panel that he should be re-admitted, applying the criteria set out, and that it was in turn for the Panel to be satisfied that Mr Smith was a fit and proper person to be a Member of RICS, and that it was in the best interests of RICS to allow him to be re-admitted.
16. The Panel was satisfied overall that Mr. Smith was a fit and proper person to be a member of RICS. There was no additional relevant consideration or impediment in this respect, other than the implications of the 2019 disciplinary finding, relating to his previous non-compliance with the RICS CPD requirements. In this respect, the Panel was satisfied that Mr. Smith had learned from his previous non-compliance, and had demonstrated insight as to the importance and role of regulation in upholding public confidence. It was satisfied that he had demonstrated meaningful reflection and substantive insight and had, by logging his CPD for 2024, demonstrated his commitment in practice to compliance. The Panel was satisfied that Mr Smith had achieved an appropriate level of increased self-awareness in his professional role and that it was appropriate, and in the best interests of RICS, that he should be re-admitted to membership. The Panel encourages him to seize this opportunity and considers that he could, with renewed insight and motivation, progress to be a positive ambassador for the profession.

17. The Panel accordingly granted Mr Smith's application for re-admission. It did not consider it necessary to impose any additional conditions on his re-admission to membership.

Publication and Costs

Publication

18. The Panel considered the guidance as to publication of its decisions and accepted the Legal Adviser's advice. The advice was, and the guidance provides, that it is usual for the decisions of the Panel to be published on the RICS website and in RICS Modus. The Panel had regard to the submissions of both parties. Mr Smith made no objection to publication of this decision. The Panel equally sees no reason for departing from the normal practice in this case. Part of the role of the Panel is to uphold the reputation of the profession, and publication of its decisions is an essential part of that role.
19. The Panel therefore orders that this decision be published on the RICS website and in the RICS Modus, in accordance with Supplement 3 to the Sanctions Policy 2008, version 9.

Costs

20. RICS made an application for costs in the total sum of £2,170, supported by a detailed schedule of costs. Ms Frankie informed the Panel that RICS did not in the circumstances seek to recover its costs insofar as relating to her time in preparing for and presenting the case. The sum sought (£2,170) reflects only the costs of the hearing itself.
21. Mr Smith made no objection to the RICS application for costs in this amount. He had produced a similarly detailed statement of his financial means, as requested by RICS. The Panel considered this, concluding that it did not provide a basis to vary the amount of costs from that sought.
22. The Panel considered all of the circumstances. The Panel concluded that it was appropriate for Mr Smith pay the costs of this hearing, otherwise the full cost of these proceedings would fall on the profession as a whole. The Panel was therefore satisfied that it was just and reasonable to order that Mr Smith pay the RICS' costs of this hearing in the sum of £2,170.

Appeal Period

23. Mr Smith may appeal to an Appeal Panel against this decision within 28 days of notification of this decision, in accordance with Rules 152-153 of the Regulatory Tribunal Rules.