

Before the Building Practitioners Board

BPB Complaint No. CB26578

Licensed Building Practitioner: Matthew James Fahy (the Respondent)

Licence Number: BP134445

Licence(s) Held: Bricklaying and Blocklaying – Veneer,
Structural Masonry

Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

Complaint or Board Inquiry Board Inquiry

Hearing Type: On the Papers

Hearing and Draft Decision Date: 4 December 2024

Finalised Decision Date: 27 February 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)

Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2

Mr P Thompson, LBP, Carpentry and Site AoP 3, Quantity Surveyor

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Disciplinary Finding:

The Respondent **has** committed a disciplinary offence under section 317(1)(b) and (d) of the Act.

The Respondent is fined \$1,500 and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary of the Board’s Draft Decision

[1] The Respondent supervised brickwork that was not completed as per the building consent and which did not meet quality and compliance requirements. The brickwork was deconstructed, and another practitioner then constructed the brick cladding. A complaint was made about the main contractor. It raised the issues with the brickwork, and the Board launched an inquiry. The Respondent accepted there were compliance issues and that his supervision was not adequate. On that basis, the Board decided that the Respondent had negligently supervised building work and that he had supervised building work that differed from the building consent. The Respondent was fined \$1,500 (reduced from \$2,000) and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

The Charges

- [2] The prescribed investigation and hearing procedure is inquisitorial. The Board sets the charges and decides what evidence is required.¹
- [3] The Board's investigations arose as a result of a complaint about [Omitted] (BP[Omitted]). The matters complained about included the brick cladding, and the evidence suggested that the Respondent was the Licensed Building Practitioner (LBP) who had carried out or supervised the brick cladding. On that basis, the Board initiated a Board Inquiry into the Respondent.
- [4] Having received the Registrar's Report, the disciplinary charges the Board resolved to further investigate² were that the Respondent may, in relation to building work at [Omitted], Wellington, have carried out or supervised building work in a negligent or incompetent manner contrary to section 317(1)(b) of the Act or in a manner that does not comply with a building consent contrary to section 317(1)(d) of the Act.

Draft Decision Process

- [5] The Board's jurisdiction is that of an inquiry. Matters are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers necessary prior to it making a decision.
- [6] Ordinarily, the Board makes a decision having held a hearing.³ The Board may, however, depart from its normal procedures if it considers doing so would achieve the purposes of the Act, and it is not contrary to the interests of natural justice to do so.⁴
- [7] In this instance, the Board has decided that a formal hearing is not necessary. The Board considers that there is sufficient evidence before it to allow it to make a decision on the papers. There may, however, be further evidence in relation to the matter that the Board was not aware of. To that end, this decision is a draft Board decision. The Respondent will be provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. If the Respondent requests an in-person hearing, or the Board directs that one is required, this decision will be set aside, and a hearing will be scheduled.

Evidence

- [8] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. Under section 322 of the Act, the Board

¹ Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law. The evidentiary standard is the balance of probabilities, *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

² The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with regulation 10 of the Complaints Regulations.

³ Regulation 10 of the Complaints Regulations.

⁴ Under Clause 27 of Schedule 3 the Board may regulate its own procedure and it has summary jurisdiction, which allows for a degree of flexibility in how it deals with matters: *Castles v Standards Committee No.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.

Background

[9] The Respondent was engaged by the head contractor ([Omitted]) to complete the brick cladding for the build. Partway through the work, the owners of the property obtained the opinion of another practitioner ([Omitted] BP[Omitted]) who raised the following issues: mortar joints bigger than 10 mm, wall-ties missing or loose, cladding leaning back towards the house, a gap at the top of the veneer of 20 mm, lack of weep holes every third perpend, and no half-high inspection. As a result, the brickwork was taken down, and another practitioner was engaged to install the brick cladding.

[10] The Respondent, in his response to the Board Inquiry, stated he supervised two employees who installed 10 m² of brickwork on the lower level (10% of the total brickwork) before they were pulled onto a new job. He submitted that the owners were happy with the work. He then found out that another bricklayer had been asked to inspect his work and noted that there had not been any direct communication regarding concerns/issues with his workmanship. He stated that if he had known about the issues, he could have spoken with his staff and remedied them. He further stated:

I hold my hand up and say the workmanship was not where it should have been, however I believe the non-compliance highlighted by the external bricklayer's inspection could have all been remediated had it been communicated in a timely and professional manner.

I also acknowledge I should have monitored my staff's progress more closely; however, I could have been contacted straight away by the builder/owners, to discuss any issues/concerns they had. Had this occurred, I would have been able to use it as a learning example with my staff and ensure it didn't happen again.

My frustration with the poor communication, level of professionalism, project management, and ultimately the feeling of betrayal, meant I could no longer continue work at [Omitted].

- [11] With regard to the allegation that the brickwork had not been inspected at half-height, he stated:

My staff concentrated on one section to begin with and left a section open so the inspector could see inside the cavity and do the necessary checks. From my experience, most inspectors are happy with this approach.

In the end, we had only completed 10m2 when we ceased working on the job. Had we continued, I would have organised an inspection when the rest of the lower level was at half height. We went to the soffit on this first section as there was space to see inside the cavity.

Negligence or Incompetence

- [12] The Board's finding was that the Respondent supervised building work in a negligent manner.

- [13] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,⁶ that the Respondent departed from an accepted standard of conduct when carrying out or supervising building work as judged against those of the same class of licence. This is described as the *Bolam*⁷ test of negligence.⁸ A threshold test applies. Even if the Respondent has been negligent or incompetent, the Board must also decide if the conduct fell seriously short of expected standards.⁹ If it does not, then a disciplinary finding cannot be made.

- [14] In terms of supervision, it is a defined term in the Act. Section 7 defines it as:

supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—

(a) is performed competently; and

(b) complies with the building consent under which it is carried out.

- [15] There are various factors that the Board needs to consider when it determines whether an LBP's supervision has met an acceptable standard. The District Court has stated, albeit in the context of the Electricity Act, that at the very least, supervision requires knowledge that work is being conducted, visual and other actual inspection of the work during its completion, assessment of safety measures undertaken by the

⁶ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1. Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.

⁷ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁸ Adopted in New Zealand in various matters including: *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

⁹ *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [21] "Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness".

person doing the work on the site itself, and, after completion of the work, a decision as to the compliance of the work with the requisite regulations.¹⁰

- [16] There are varying types of supervision. The Ministry of Business Innovation and Employment has issued a supervision guidance document.¹¹ It notes the different types of supervision: direct, general and remote. It also provides a matrix to assist in determining the appropriate form of supervision to be used. Generally, the greater the complexity of the work, the higher the need for direct supervision. The skill level of the person being supervised also needs to be taken into consideration.
- [17] When considering supervision, the Board needs to consider what type of supervision was required and how well that supervision was undertaken. The Board also needs to consider whether the work met the requirements of the building code and, if not, the level of non-compliance.

Has the Respondent departed from an acceptable standard of conduct?

- [18] When considering what an acceptable standard is, the Board must consider the purpose of the Building Actⁱ as well as the requirement that all building work must comply with the Building Code¹² and any building consent issued.¹³ The test is an objective one.¹⁴
- [19] The brickwork that had been completed had compliance issues (mortar joints bigger than 10 mm, wall-ties missing or loose, cladding leaning back towards the house, gap at the top of the veneer of 20 mm, lack of weep holes every third perpend), and had not been inspected at half height. The Respondent has accepted that there were issues and that he could have done better at monitoring his staff. It is with respect to the latter aspect, the monitoring of staff, that the Board has made its finding that the Respondent has conducted himself in a negligent manner. The Respondent should have paid closer attention to the work that was being undertaken under his supervision and checked its quality and compliance as it was being completed.
- [20] Whilst the brickwork was taken down and the Respondent was not given the opportunity to remediate the issues, they should not have occurred in the first place. In this respect, LBPs should aim to get building work right the first time and not rely on others to identify compliance failings. In the first reading of changes to the Act around licensing,¹⁵ it was noted by the responsible Minister:

In February this year the Minister announced measures to streamline and simplify the licensed building practitioner scheme. A robust licensing scheme

¹⁰ *Electrical Workers Registration Board v Gallagher* Judge Tompkins, District Court at Te Awamutu, 12 April 2011

¹¹ Practice Note: Supervision, August 2017, issued under section 175 of the Act.

¹² Section 17 of the Building Act 2004

¹³ Section 40(1) of the Building Act 2004

¹⁴ *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71 noted that the tribunal does not have to take into account the Respondent's subjective considerations.

¹⁵ Hansard volume 669: Page 16053

with a critical mass of licensed builders means consumers can have confidence that their homes will be built right first time.

- [21] Also, the Board does not accept that the pressure the Respondent was put under to complete the work when he was under-resourced is a defence. Quality and compliance standards cannot be relaxed because a practitioner is under pressure.

Was the conduct serious enough?

- [22] The conduct was at the lower end of the scale but was, nevertheless, sufficiently serious enough to warrant disciplinary action being taken. The evidence indicates that the Respondent took a hands-off approach to his supervision. Because of that, the Board does not consider the conduct to be an inadvertent error, oversight, or carelessness but a result of a lack of care and attention to the Respondent's supervisory responsibilities.

Has the Respondent been negligent or incompetent?

- [23] The Respondent has negligently supervised building work.

Contrary to a Building Consent

- [24] Building consents provide detailed plans and specifications for building work. They are issued by Territorial or Building Consent Authorities on the basis that the building work will meet the provisions of the Building Code.¹⁶ Once issued, there is a requirement that the building work be carried out in accordance with the building consent.¹⁷ Building consents also stipulate the number and type of inspections the issuing authority will carry out during the build.¹⁸ Inspections ensure independent verification that the building consent is being complied with.
- [25] If building work departs from the building consent issued, the Board can find that a disciplinary offence under section 317(1)(d) of the Act has been committed. The Board does not have to find that departure was deliberate or a result of negligent conduct.¹⁹ The Board does, however, consider that the seriousness of the conduct under investigation does have to be taken into account. As such, even if the Respondent's building work departed from the building consent, the Board must also decide if the conduct fell seriously short of expected standards.²⁰ If it does not, then a disciplinary finding cannot be made.
- [26] The manner in which the brickwork was completed was not in accordance with the building consent that had been issued. The issues noted regarding negligence are

¹⁶ Section 49 of the Act

¹⁷ Section 40 of the Act

¹⁸ Section 222 of the Act

¹⁹ *Blewman v Wilkinson* [1979] 2 NZLR 208

²⁰ *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [21] "Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness".

also departures from the building consent, and, for the same reasons as stated with respect to negligence, the Board finds that the conduct was serious. The Board does, however, note the commonality with the negligence findings, and it will treat the two as a single disciplinary offence when determining the appropriate penalty.

Has the Respondent breached section 317(1)(d) of the Act?

[27] The Respondent has supervised building work that did not comply with the building consent.

Board's Decision

[28] The Respondent **has** breached sections 317(1)(b) and (d) of the Act.

Penalty, Costs and Publication

[29] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Actⁱⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

[30] The matter was dealt with on the papers. Included was information relevant to penalty, costs and publication, and the Board has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

[31] The Board has the discretion to impose a range of penalties.ⁱⁱⁱ Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.²¹ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:²²

- (a) protection of the public and consideration of the purposes of the Act;²³
- (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;²⁴
- (c) setting and enforcing a high standard of conduct for the industry;²⁵
- (d) penalising wrongdoing;²⁶ and

²¹ *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

²² Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

²³ Section 3 Building Act

²⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁵ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

²⁶ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

(e) rehabilitation (where appropriate).²⁷

[32] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases²⁸ and applying the least restrictive penalty available for the particular offending.²⁹ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty³⁰ that is consistent with other penalties imposed by the Board for comparable offending.³¹

[33] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to considering any aggravating and/or mitigating factors present.³²

[34] The Board's starting point was a fine of \$2,000, which is at the lower end of the scale for a matter of this type. In setting the amount, the Board has taken the following statement made by the Respondent into account:

I was just over a year into the running of my own business – Foundation Bricks and Blocks Ltd - when work at [Omitted] was undertaken. I have learnt a lot since then and have learnt to trust my gutt feeling when it comes to accepting and saying yes to work, ensuring I have sufficient resources and can adequately supervise my staff.

[35] The Board hopes that the above will prove to be the case.

[36] The matter has been dealt with by way of a Draft Decision. Given the process adopted and the Respondent's acceptance of responsibility, as noted in paragraphs [11] and [12], the Board has decided that it would be appropriate to reduce the fine by 25% to one of \$1,500.

Costs

[37] Under section 318(4) of the Act, the Board may require the Respondent to pay the costs and expenses of, and incidental to, the inquiry by the Board. The rationale is that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.³³

²⁷ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

²⁸ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

³⁰ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³² In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

³³ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

- [38] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings³⁴. The starting point can then be adjusted up or down, depending on the particular circumstances of each case³⁵.
- [39] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings: simple, moderate and complex. The current matter was simple. Adjustments are then made.
- [40] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$700 toward the costs of and incidental to the Board's inquiry. This is the Board's scale amount for a simple matter that has been dealt with by way of a Draft Decision. It is significantly less than 50% of actual costs.

Publication

- [41] As a consequence of its decision, the Respondent's name and the disciplinary outcomes will be recorded in the public Register maintained as part of the Licensed Building Practitioners' scheme as is required by the Act,³⁶ and he will be named in this decision, which will be available on the Board's website. The Board is also able, under section 318(5) of the Act, to order further publication.
- [42] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.³⁷ Further, as a general principle, publication may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing, and the courts have stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.³⁸
- [43] Based on the above, the Board will not order any publication over and above the record on the Register, the Respondent being named in this decision, and the publication of the decision on the Board's website. The Respondent should note, however, that as the Board has not made any form of suppression order, other entities, such as the media or the Ministry of Business Innovation and Employment, may publish under the principles of open justice reporting.

³⁴ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

³⁵ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

³⁶ Refer sections 298, 299 and 301 of the Act

³⁷ Section 14 of the Act

³⁸ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Section 318 Order

[44] For the reasons set out above, the Board directs that:

Penalty: Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$1,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$700 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

Publication: The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 301(l)(iii) of the Act.

In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be published on the Board's website.

[45] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

Submissions on Draft Decision

[46] The Board invites the Respondent to:

- (a) provide further evidence for the Board to consider; and/or
- (b) make written submissions on the Board's findings. Submissions may be on the substantive findings and/or on the findings on penalty, costs and publication.

[47] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **26 February 2025**.

[48] If submissions are received, then the Board will meet and consider those submissions.

[49] The Board may, on receipt of any of the material received, give notice that an in-person hearing is required prior to it making a final decision. Alternatively, the Board may proceed to make a final decision which will be issued in writing.

[50] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

[51] If the Respondent, having received and considered the Board's Draft Decision, considers that an in-person hearing is required then one will be scheduled, and a notice of hearing will be issued.

[52] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **26 February 2025**.

[53] If a hearing is requested, this Draft Decision, including the Board's indicative position on penalty, costs and publication, will be set aside.

Right of Appeal

[54] The right to appeal Board decisions is provided for in section 330(2) of the Act^{iv}.

Signed and dated this 4th day of February 2025.



Mr M Orange
Presiding Member

This decision and the order herein were made final on 27 February 2025 on the basis that no further submissions were received.

Signed and dated this 5th day of March 2025.



Mr M Orange
Presiding Member

ⁱ **Section 3 of the Act**

This Act has the following purposes:

- (a) *to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—*
 - (i) *people who use buildings can do so safely and without endangering their health; and*
 - (ii) *buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
 - (iii) *people who use a building can escape from the building if it is on fire; and*
 - (iv) *buildings are designed, constructed, and able to be used in ways that promote sustainable development:*
- (b) *to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.*

ⁱⁱ **Section 318 of the Act**

- (1) *In any case to which section 317 applies, the Board may*

-
- (a) do both of the following things:
 - (i) cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and
 - (ii) order that the person may not apply to be relicensed before the expiry of a specified period:
 - (b) suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:
 - (c) restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:
 - (d) order that the person be censured:
 - (e) order that the person undertake training specified in the order:
 - (f) order that the person pay a fine not exceeding \$10,000.
- (2) The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).
 - (3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.
 - (4) In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.
 - (5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."

iii Section 318 Disciplinary Penalties

- (1) In any case to which section 317 applies, the Board may—
 - (a) do both of the following things:
 - (i) cancel the person's licensing and direct the Registrar to remove the person's name from the register; and
 - (ii) order that the person may not apply to be relicensed before the expiry of a specified period:
 - (b) suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:
 - (c) restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:
 - (d) order that the person be censured:
 - (e) order that the person undertake training specified in the order:
 - (f) order that the person pay a fine not exceeding \$10,000.
- (2) The Board may take only 1 type of action in subsection (1)(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).
- (3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.
- (4) In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.
- (5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

^{iv} **Section 330 Right of appeal**

- (2) A person may appeal to a District Court against any decision of the Board—
(b) to take any action referred to in section 318.

Section 331 Time in which appeal must be brought

An appeal must be lodged—

- (a) within 20 working days after notice of the decision or action is communicated to the appellant; or
(b) within any further time that the appeal authority allows on application made before or after the period expires.