

## Before the Building Practitioners Board

BPB Complaint No. CB26525  
Licensed Building Practitioner: Paul Nasmith (the Respondent)  
Licence Number: BP102213  
Licence(s) Held: Carpentry

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

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Complaint or Board Inquiry: Complaint  
Hearing Type: Audio Visual Link  
Hearing and Decision Date: 3 December 2024

#### Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)  
Mr T Tran, Barrister– Legal Member  
Mr G Anderson, LBP, Carpentry and Site AoP 2  
Mr P Thompson, LBP, Carpentry and Site AoP 3, Quantity Surveyor  
Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director

#### Appearances:

K Narayan for the Respondent

#### 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 disciplinary offences under sections 317(1)(b) and (d) of the Act.

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

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**Summary**

- [1] The Respondent has been found to have carried out or supervised building work in a negligent manner contrary to section 317(1)(b) of the Act and carried out or supervised building work that does not comply with a building consent contrary to section 317(1)(d) of the Act.
- [2] The disciplinary proceeding arose from a complaint about building work carried out at [Omitted], Auckland. The issues centred on defective installation of Abodo cladding, exterior window and door joinery, and wall lining substrate. The Respondent admitted the defects but submitted they were not serious enough to warrant disciplinary action.
- [3] The Board found the Respondent’s supervision regime, which consisted of visiting the site once every three weeks for 15-30 minutes while managing five projects, was inadequate. This led to significant defects affecting the weathertightness of the building. While the Respondent had taken substantial steps to remedy the situation, including paying \$480,000 toward remediation, personally carrying out remedial work under supervision and implementing improved business practices, these subsequent actions did not negate the seriousness of the original conduct.

- [4] After considering the evidence and submissions, the Board determined to censure the Respondent and ordered costs of \$1,500. A record of the disciplinary offending will be recorded on the Public Register for a period of three years. The Board's decision reflects both the seriousness of the offending and the significant mitigating factors present, including the Respondent's acceptance of responsibility and remedial actions.

### **The Charges**

- [5] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. The Board sets the charges and decides what evidence is required.<sup>1</sup>
- [6] In this matter, the disciplinary charges the Board resolved to investigate were whether the Respondent had, in relation to building work at [Omitted], Auckland:
- (a) Carried out or supervised building work in a negligent manner contrary to section 317(1)(b) of the Act; and
  - (b) Carried out or supervised building work that does not comply with a building consent contrary to section 317(1)(d) of the Act.
- [7] The specific allegations related to the installation of Abodo cladding, the installation of exterior window and door joinery, and the compliance of wall lining substrate for membrane tanking behind tiled areas.

### **Evidence**

- [8] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed.<sup>2</sup> 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.
- [9] The Board had before it evidence from the Complainant ([Omitted]), [Omitted] of [Omitted] Limited, and the Respondent (Paul Nasmith). It also received documentary evidence, including building reports, inspection records, and correspondence.
- [10] Through his counsel, the Respondent admitted there were defects in the building work. His position was not to contest that defective work occurred but rather to submit the defects were not serious enough to warrant disciplinary action. The Respondent also acknowledged through his evidence that his supervision was inadequate, stating, "I didn't get there enough to check on things."
- [11] The evidence established the construction defects were a direct result of inadequate supervision. The Respondent's minimal presence on site, which by his own admission was sometimes only once every three weeks for 15-30 minutes, combined with his

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<sup>1</sup> 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.

<sup>2</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

high workload across five projects, meant he could not effectively monitor critical stages of construction or ensure compliance with building consent requirements. His supervision regime provided insufficient oversight of the restricted building work. This systemic failure in supervision manifested in serious defects across multiple aspects of the build, from the cladding installation through to the window joinery and wall linings. The issues identified were not isolated incidents but rather reflected a pattern of insufficient oversight that affected the fundamental weathertightness and durability of the building.

### **The Specific Allegations**

[12] The Board will address each of the detailed allegations set out in the Notice of Proceeding in turn below.

#### *Abodo Cladding Installing*

[13] The first matter related to the installation of the Abodo cladding. The Council inspection dated 24 November 2022 identified the cladding had not been installed in accordance with the consented drawings. This was further evidenced by a letter dated 30 November 2022 from Abodo, which confirmed that the cladding installation did not meet the manufacturer's specifications, particularly in relation to the sealing requirements.

[14] Mr [Omitted] provided evidence through his report dated 21 October 2021, which documented, with photographic evidence, issues with the cladding installation. His inspection revealed some unsealed boards, unsealed cut ends, and inadequate pre-installation preparation. Mr [Omitted] noted early signs of deterioration and cracking, which he attributed directly to these installation failures. The Respondent acknowledged in his evidence that he should have checked the boards were sealed before installation, marking a clear departure from both the consent requirements and manufacturer specifications.

#### *Window and Door Joinery Installation*

[15] The second matter concerned the installation of exterior window and door joinery. The Board received detailed evidence from Mr [Omitted]' report identifying missing foam bond breakers, inadequate continuous flashing tape, and issues with the head flashings. These elements were specifically required by both the building consent and the manufacturer's specifications. The Complainant provided evidence that the windows continue to experience water and air leaks, demonstrating the ongoing consequences of these installation failures.

[16] The defective installation was further confirmed through Council inspection records. While Nu-look Windows agreed to remedy issues at no cost, this acknowledgement of defects supports the finding that the original installation did not meet consent requirements. The Respondent's supervision of this critical weathertightness element was inadequate, with no evidence of any quality control checks at the time of installation.

### *Wall Lining Substrate*

[17] The third matter related to the compliance of the wall lining substrate for membrane tanking behind tiled areas. Mr [Omitted]' report identified significant issues with the substrate installation in both bathrooms. The Respondent acknowledged using incorrect materials, explaining this decision was made under time pressure. This admission, combined with the physical evidence documented in Mr [Omitted]' report, demonstrates both a departure from the building consent and a failure to ensure compliant installation.

### *The Board's Analysis of the Evidence*

[18] As set out above, the evidence presents a consistent pattern of inadequate supervision and non-compliant work across multiple elements of the build. The Respondent's own evidence confirms that site visits were limited to once every three weeks for 15-30 minutes, which the Board finds insufficient for ensuring compliance with the building consent and maintaining quality control over critical building elements.

[19] While the workers carrying out the physical work were qualified builders, the Respondent, as the Licensed Building Practitioner, held ultimate responsibility for ensuring compliance with the building consent. The evidence demonstrates that his supervision regime was inadequate to fulfil this obligation.

[20] However, the main issues the Board will need to consider are whether the Respondent was negligent and, if so, whether it was serious enough to warrant disciplinary action.

### **Negligence**

[21] To find the Respondent was negligent, the Board needs to determine, on the balance of probabilities,<sup>3</sup> 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*<sup>4</sup> test of negligence.<sup>5</sup> Even if the Respondent has been negligent, the Board must also decide if the conduct fell seriously short of expected standards.<sup>6</sup> If it does not, then a disciplinary finding cannot be made.

[22] When considering what an acceptable standard is, the Board must consider the purpose of the Building Act<sup>i</sup> as well as the requirement that all building work must

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<sup>3</sup> *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.

<sup>4</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>5</sup> 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)

<sup>6</sup> *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".

comply with the Building Code<sup>7</sup> and any building consent issued.<sup>8</sup> The test is an objective one.<sup>9</sup>

[23] Turning to the specific disciplinary charges.

*Section 317(1)(b) - Negligent Supervision*

[24] The Board must consider whether the established facts demonstrate the Respondent carried out or supervised building work in a negligent manner. The facts must also demonstrate the departure was serious enough to warrant disciplinary sanction.

[25] In this case, the evidence demonstrates negligent supervision in several respects. The Respondent's supervision regime of visiting the site once every three weeks for 15-30 minutes while managing five separate projects fell well below the standard expected of a Licensed Building Practitioner. This minimal presence on site meant he could not adequately monitor critical stages of the build, including the installation of weathertightness elements such as the cladding and window joinery.

[26] The consequences of this inadequate supervision are evident in the defects identified above. The improper installation of the Abodo cladding, including the failure to seal some boards and unsealed cut ends, were basic errors that proper supervision should have identified and prevented. Similarly, the missing foam bond breakers and inadequate flashings in the window installation were fundamental defects that directly resulted from insufficient oversight.

*Section 317(1)(d) - Non-compliant Building Work*

[27] For this disciplinary charge, the Board must be satisfied that building work was carried out contrary to the building consent. The evidence clearly establishes multiple departures from the consented plans and specifications.

[28] The Abodo cladding installation failed to meet the specific requirements set out in the consent drawings, as evidenced by both the Council inspection of 24 November 2022 and Abodo's letter of 30 November 2022. The manufacturer's specifications, which were incorporated into the consent documentation, required specific sealing and preparation methods that were not followed.

[29] The window and door joinery installation similarly departed from consent requirements. The consented details clearly specified the need for foam bond breakers, continuous flashing tape, and particular head flashing arrangements. The evidence from Mr [Omitted]' report and ongoing weathertightness issues confirm these elements were either missing or incorrectly installed.

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<sup>7</sup> Section 17 of the Building Act 2004

<sup>8</sup> Section 40(1) of the Building Act 2004

<sup>9</sup> *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.

- [30] The wall lining substrate issues represent another clear departure from the consent. The Respondent's admission that incorrect materials were used under time pressure demonstrates a conscious decision to deviate from consent specifications.

### **Board's Decision**

- [31] The Board has carefully considered the Respondent's submission, through his counsel, that while defects existed, they were not serious enough to warrant disciplinary action.

- [32] However, the Board disagrees with this submission for several reasons:

- (a) First, the supervision failures were not merely minor oversights but reflected a systematic failure to provide adequate oversight of important building work. The Respondent's own evidence was that he sometimes only visited the site once every three weeks for 15-30 minutes while managing five projects. This level of supervision made it impossible to properly oversee critical stages of construction that directly affected the weathertightness and durability of the building.
- (b) Second, the consequences of this inadequate supervision were significant. The defects identified affected fundamental aspects of the building's weathertightness system. The improper installation of cladding, missing or inadequate window flashings, and incorrect substrate materials are not minor technical breaches but serious defects that could lead to water ingress and building deterioration. This is evidenced by the ongoing issues with water and air leaks in the windows. The potential long-term consequences of such defects for building owners are precisely what the licensing regime was established to prevent.
- (c) Third, the scale of remediation required, with payments of \$480,000 being made, demonstrates the seriousness of the defects. While the Board commends the Respondent's subsequent remedial actions and business practice improvements, these actions demonstrate an acknowledgement of the gravity of the original failings. The Board's role in maintaining professional standards and protecting the public requires that conduct leading to such significant defects and extensive remediation can be addressed through the disciplinary process.

- [33] Having considered all the evidence, the Board is satisfied that the conduct fell seriously short of the expected standards and warrants disciplinary action.

- [34] Accordingly, both disciplinary charges have been established. The Respondent has committed disciplinary offences under sections 317(1)(b) and (d) of the Act.

### **Penalty, Costs and Publication**

- [35] Having found two of the grounds in section 317 applies, the Board must, under section 318 of the Act,<sup>ii</sup> consider the appropriate disciplinary penalty, whether the

Respondent should be ordered to pay any costs and whether the decision should be published.

- [36] Counsel for the Respondent made submissions at the hearing as regards to penalty, costs and publication.

### Penalty

- [37] The Board has the discretion to impose a range of penalties.<sup>iii</sup> Exercising that discretion and determining the appropriate penalty requires that the Board to balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.<sup>10</sup> It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:<sup>11</sup>
- (a) Protection of the public and consideration of the purposes of the Act;<sup>12</sup>
  - (b) Deterring the Respondent and other Licensed Building Practitioners from similar offending;<sup>13</sup>
  - (c) Setting and enforcing a high standard of conduct for the industry;<sup>14</sup>
  - (d) Penalising wrongdoing;<sup>15</sup> and
  - (e) Rehabilitation (where appropriate).<sup>16</sup>
- [38] 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 cases<sup>17</sup> and applying the least restrictive penalty available for the particular offending.<sup>18</sup> In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty<sup>19</sup> that is consistent with other penalties imposed by the Board for comparable offending.<sup>20</sup>
- [39] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.<sup>21</sup>

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<sup>10</sup> *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]

<sup>11</sup> Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

<sup>12</sup> Section 3 Building Act

<sup>13</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>14</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

<sup>15</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>16</sup> *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

<sup>17</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>18</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

<sup>19</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>20</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>21</sup> 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.



- [40] When considering penalty in this case, the Board set a starting point of a \$3,000 fine. This reflects the seriousness of the offending, particularly the inadequate supervision that led to significant weathertightness defects. From the starting point, the Board considered a number of mitigating factors:
- (a) The first is that the Respondent accepted responsibility for the defective work from the outset. This acceptance of responsibility is akin to a guilty plea and warrants a discount of one-third.
  - (b) The second mitigating factor is the substantial steps taken by the Respondent to remedy the situation. He has paid \$480,000 toward remediation and personally carried out remedial work under supervision. This significant contribution warrants a further one-third discount.
  - (c) Finally, the Board considers the Respondent's actions to improve his business practices and prevent future occurrences warrant consideration. He has reduced his workload, implemented daily site visits, and undertaken additional training. These proactive steps to address the underlying causes of the offending warrant an additional one-third discount.
- [41] After applying these discounts, the Board has determined that no fine should be imposed. However, as the Board must take some form of action under section 318, the Board will impose a censure.

### Costs

- [42] 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.<sup>22</sup>
- [43] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings.<sup>23</sup> The starting point can then be adjusted up or down with regard to the particular circumstances of each case.<sup>24</sup>
- [44] 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 Board has categorised this hearing as simple. Adjustments are then made.
- [45] Based on the above, the costs order is reduced from the standard scale amount for this type of hearing of \$2,150 to \$1,500, reflecting the cooperative approach taken by the Respondent and his acceptance of responsibility.

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<sup>22</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74

<sup>23</sup> *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

<sup>24</sup> *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.

## Publication

- [46] 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,<sup>25</sup> and he will be named in this decision, which will be available on the Board's website.
- [47] The Board is also able, under section 318(5) of the Act, to order further publication.
- [48] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.<sup>26</sup> 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.<sup>27</sup>
- [49] In this case, 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.

## Section 318 Order

- [50] For the reasons set out above, the Board directs:
- Penalty:** Pursuant to section 318(1)(d) of the Building Act 2004, the Respondent is censured.
- Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,500 (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(I)(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.**
- [51] The Respondent should note 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.

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<sup>25</sup> Refer sections 298, 299 and 301 of the Act

<sup>26</sup> Section 14 of the Act

<sup>27</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

## Right of Appeal

[52] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>iv</sup>.

Signed and dated this 29<sup>th</sup> day of January 2025.



**Mr M Orange**  
Presiding Member

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### <sup>i</sup> **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.*

### <sup>ii</sup> **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:*

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- (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

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(b) *within any further time that the appeal authority allows on application made before or after the period expires.*