

Before the Building Practitioners Board

	BPB Complaint No. 26478
Licensed Building Practitioner:	Te Wehi Anderson (the Respondent)
Licence Number:	BP 133369
Licence(s) Held:	Carpentry

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	Complaint
Hearing Location	Auckland
Hearing Type:	In Person
Hearing Date:	3 October 2024
Decision Date:	14 October 2024

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 disciplinary offences under sections 317(1)(b), (d) and (da)(ii) of the Act.

The Respondent is fined \$1,500 and ordered to pay costs of \$2,950. 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 was contracted to build a new residential dwelling. The work was carried out under his supervision at a time when he was not well. Issues arose with the compliance of the building work and, in particular, in relation to the manner in which cladding flashings were installed. The Board found that the manner in which the flashings were installed was not compliant with clause E2 of the Building Code and that the Respondent had supervised building work in a negligent manner as a result.

- [2] The Board also found that the same building work had been carried out in a manner that was contrary to a building consent and that the Respondent failed to provide a record of work on completion of restricted building work.
- [3] The Board fined the Respondent \$1,500 and ordered to pay costs of \$2,950. The fine was reduced on the basis that the Respondent had, since the complaint was made, provided a record of work, and he had accepted that the building work under investigation had not been completed to an acceptable standard. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

The Charges

- [4] 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.¹
- [5] In this matter, the disciplinary charges the Board resolved to further investigate² were that the Respondent may, in relation to building work **[Omitted]**, have:
- (a) carried out or supervised building work in a negligent or incompetent manner contrary to section 317(1)(b) of the Act;
 - (b) carried out or supervised building work that does not comply with a building consent contrary to section 317(1)(d) of the Act; and
 - (c) failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) of the Act contrary to section 317(1)(da)(ii) of the Act.
- [6] The Board gave notice that in further investigating the Respondent's conduct under sections 317(1)(b) and (d) of the Act, it would be inquiring into:
- (a) the flooring compliance with E3/AS1 in respect of membrane requirements.
 - (b) the laying of the flooring and the fixing of the finishing lines.
 - (c) the unsupported bearer under the house by the south deck.
 - (d) metal cladding with regard to the fixing of the cladding, damage to the cladding, clearances to the flashing and the head flashing installation.

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.

- (e) items 1-3 and 5-7 of the Council's cladding inspection report dated 8 May 2023 (Page 42 of the Board's file).

Evidence

- [7] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed³. 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.
- [8] The Respondent was contracted to build a new residence under a building consent. Issues arose between the Complainant and the Respondent during the build a complaint to the Board was made.

Negligence or Incompetence

- [9] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,⁴ 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*⁵ test of negligence.⁶ To make a finding of incompetence, the Board has to determine that the Respondent has demonstrated a lack of ability, skill, or knowledge to carry out or supervise building work to an acceptable standard.⁷ A threshold test applies to both. Even if the Respondent has been negligent or incompetent, the Board must also decide if the conduct fell seriously short of expected standards.⁸ If it does not, then a disciplinary finding cannot be made.

Has the Respondent departed from an acceptable standard of conduct

- [10] 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 Code⁹ and any building consent issued.¹⁰ The test is an objective one.¹¹

³ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

⁴ *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.

⁵ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁶ 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)

⁷ In *Beattie v Far North Council* Judge McElrea, DC Whangarei, CIV-2011-088-313 it was described as "a demonstrated lack of the reasonably expected ability or skill level". In *Ali v Kumar and Others*, [2017] NZDC 23582 at [30] as "an inability to do the job"

⁸ *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".

⁹ Section 17 of the Building Act 2004

¹⁰ Section 40(1) of the Building Act 2004

¹¹ *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.

- [11] The Board noted various items of non-compliance that it would investigate, including raised in a failed Building Consent Authority (BCA) inspection dated May 2023. That inspection noted the following items, which the Board was investigating:

1/ The plans and the Building Code require 20mm overhang from the outer edge of the joinery facing to the edge of the head flashing.

Of the 24 ends (12 head flashings) 13 are either flush with the end of the facing panel - or finish short of the facing panel. This needs to be remedied.

2/ There are a number of SCREWS still to be installed on the cladding.

3/ Above the head flashings and the bottom edge flashing, HD Foam is required to be installed to act as a VERMIN STRIP to prevent vermin from accessing inside the cladding. This appears to be missing on all sections.

5/ On a number of head flashings - there is a GAP between the flashing and the cladding where water can easily enter. The end of the Head flashing needs to be sealed to the cladding. This is achieved via a 'tight fit' and sealed with a silicon. This needs to be remedied.

6/ A few Head flashings appear to have no fall - min required is 15% - with a few either flat or actually falling back towards the house. It appears that the cladding under the flashings has been cut too long - preventing the head flashing from sitting down correctly.

7/ Under the house by the south deck - there is a bearer that is sitting on the pile with 1 of the bearers NOT SITTING on the bearer at all. This is a relatively easy fix - with an extra bearer added to the side of the existing 2 bearers. This is still to be done.

- [12] The Building Control Officer (BCO) who carried out inspections gave evidence at the hearing. He noted that whilst the issue with the pile and bearer alignment was reasonably easy to fix, the issues regarding the cladding were not. His opinion was based on the cladding system relying on a layering principle to prevent the ingress of water. Because of this, in order to carry out rectification a certain amount of deconstruction would have been required. His evidence was that the issues with the flashings were serious and that the building work would not have been compliant with clause E2 of the Building Code. The Respondent submitted that the issues were not as serious because there were secondary flashings in place.

- [13] The Respondent, both in his initial response to the complaint and at the hearing, accepted that there were issues with the building work. He accepted that the above items were non-compliant, except that, with respect to item 1, he submitted that there was an alternative solution that would have been compliant. The BCO noted that if an alternative solution were to be used, a minor variation to the building consent would have to be obtained.

- [14] The Respondent also gave evidence that he had been let down by the staff that he had on-site and that his supervision of the building work had been impacted by his health during that period. Further, with respect to the pile and bearer, the Respondent stated that weather impacted the positioning of piles, that he was waiting for a solution from the engineer and designer, and that it was only one pile out of many. The Complainant noted that he had been able to get a solution from the engineer within one day of asking for it. The Board sought evidence from the Respondent to show that he had requested an engineering or design solution and the date of that request. No further evidence was provided.
- [15] As noted, the Respondent supervised the building work. Supervise is defined in section 7¹² of the Act. The definition states:
- 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.*
- [16] When considering whether supervision has been adequate, the Board needs to consider various factors. However, ultimately the question is whether the building work completed under supervision met the requirements of the building code and, if not, the level of non-compliance.
- [17] Supervision in the context of the Building Act has not yet been considered by the courts. It has, however, been considered in relation to the Electricity Act 1992¹³. The definition of supervision in that Act is consistent with the definition in the Building Act, and as such, the comments of the court are instructive. In the case, Judge Tompkins stated, at paragraph 24:

“As is made apparent by the definition of “supervision” in the Act, that requires control and direction by the supervisor so as to ensure that the electrical work is performed competently, that appropriate safety measures are adopted, and that when completed the work complies with the requisite regulations. At the very least supervision in that context 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

¹² Section 7:

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.*

¹³ *Electrical Workers Registration Board v Gallagher* Judge Tompkins, District Court at Te Awamutu, 12 April 2011

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

- [18] On the basis of the above, the Board finds that the Respondent’s supervision was not to an acceptable standard.
- [19] The Board was also investigating the quality and compliance of the flooring installed. The Complainant submitted that the flooring had not been installed in accordance with the manufacturer’s specifications, including with respect to the requirement for a membrane. The evidence heard established that the flooring used could be installed in the kitchen area without a membrane underneath it.
- [20] The Board was also provided with photographs of installed flooring where finishing lines may not have been completed to an acceptable standard. The Respondent gave evidence that the flooring was installed with the required expansion gaps and that the photos were taken before the skirting boards had been installed. The Respondent also submitted that the flooring was not finished.

Was the conduct serious enough

- [21] The conduct relating to the compliance of flashings was serious. The management of external moisture is crucial to the safe and healthy functioning of a residential home. The photographs provided to the Board with the complaint showed that there were gaps through which moisture could penetrate. Further, whilst the Respondent noted that the issues could be rectified, the Board would expect such work to be completed in a compliant manner in the first instance. On this basis, the Board finds that the conduct met the threshold for disciplinary action.
- [22] The issues regarding the pile and the flooring were not sufficiently serious to warrant disciplinary action.

Has the Respondent been negligent or incompetent

- [23] The Respondent has supervised cladding work in a negligent manner.

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.¹⁴ Once issued, there is a requirement that the building work be carried out in accordance with the building consent.¹⁵ Building consents also stipulate the number and type of inspections the issuing authority will carry out during the build.¹⁶ Inspections ensure independent verification that the building consent is being complied with.

¹⁴ Section 49 of the Act

¹⁵ Section 40 of the Act

¹⁶ Section 222 of the Act

[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.¹⁷ 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.¹⁸ If it does not, then a disciplinary finding cannot be made.

Was there building work that differed from the building consent

[26] The installation of the cladding, and in particular the flashings, was not, as noted above, in accordance with the building consent.

Was the conduct serious enough

[27] As with the finding of negligence, the conduct in relation to building work that was contrary to the building consent was serious, and it is appropriate that a disciplinary finding be made.

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

[28] The Respondent has supervised cladding work that was contrary to the building consent.

[29] The Board does note there is a degree of commonality between the findings of negligence and building contrary to a building consent. It will take that into consideration when determining the appropriate penalty.

Failure to Provide a Record of Work

[30] A Licensed Building Practitioner must provide a record of work for any restricted building work that they have carried out or supervised to the owner and the Territorial Authority on completion of their restricted building work.¹⁹

[31] There is a statutory requirement under section 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the territorial authority on completion of restricted building work²⁰ unless there is a good reason for it not to be provided.²¹

¹⁷ *Blewman v Wilkinson* [1979] 2 NZLR 208

¹⁸ *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".

¹⁹ Section 88(1) of the Act.

²⁰ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

²¹ Section 317(1)(da)(ii) of the Act

Did the Respondent carry out or supervise restricted building work

- [32] The Respondent was engaged to carry out and/or supervise building work on a new residential dwelling under a building consent. His work included work on the primary structure and external moisture management systems of a residential dwelling, both of which are restricted building work.²²

Was the restricted building work complete

- [33] The Respondent's involvement in the building work came to an end in late June 2023 when the contract for his services was brought to an end. For the purposes of the provision of a record of work, that was when completion occurred.

Has the Respondent provided a record of work

- [34] The Respondent did not provide a record of work on completion. He has, since the complaint was made, provided one.

Was there a good reason for the Respondent to withhold his records of work

- [35] The Respondent accepted that he had not provided a record of work on completion. He stated that he did not because he had not been paid. He accepted that this was not a good reason and that he should have provided a record of work sooner than he did.

Did the Respondent fail to provide a record of work

- [36] The Respondent has failed to provide a record of work on completion of restricted building work as per the requirements of section 88(1) of the Act.

Board Decisions

- [37] The Respondent has breached the following sections 317(1)(b), (d) and (da)(ii) of the Act.

Penalty, Costs and Publication

- [38] 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.
- [39] The Board heard evidence relevant to penalty, costs, and publication during the hearing and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [40] 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

²² Clause 5 of the Building (Definition of Restricted Building Work) Order 2011

various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.²³ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:²⁴

- (a) protection of the public and consideration of the purposes of the Act;²⁵
- (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;²⁶
- (c) setting and enforcing a high standard of conduct for the industry;²⁷
- (d) penalising wrongdoing;²⁸ and
- (e) rehabilitation (where appropriate).²⁹

- [41] 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 cases³⁰ and applying the least restrictive penalty available for the particular offending.³¹ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty³² that is consistent with other penalties imposed by the Board for comparable offending.³³
- [42] 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.³⁴
- [43] In this matter, the Board adopted a starting point of a fine of \$2,500. The level of the fine reflects the seriousness of the conduct, which was at the lower end of disciplinary offending, and is consistent with other penalties imposed by the Board for similar offences. The starting point also takes into consideration the Respondent's circumstances at the time of the disciplinary offending.
- [44] There are mitigating factors. Firstly, with regard to a record of work, the Respondent has now provided one, and the Board will reduce the fine by \$500 to reflect the late provision. The Respondent also took a responsible approach to the hearing in that he accepted that aspects of the building work were not completed to an acceptable

²³ *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]

²⁴ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

²⁵ Section 3 Building Act

²⁶ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁷ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

²⁸ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²⁹ *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

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

³¹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

³² *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³³ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³⁴ 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.

standard. The fine is reduced by a further \$500. Taking those reductions into account, the final fine is \$1,500.

Costs

- [45] 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.³⁵
- [46] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings³⁶. The starting point can then be adjusted up or down, having regard to the particular circumstances of each³⁷.
- [47] 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 moderately complex. Adjustments are then made.
- [48] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$2,950 toward the costs of and incidental to the Board's inquiry. The costs ordered are substantially less than 50% of actual costs.

Publication

- [49] 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,³⁸ 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.
- [50] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.³⁹ 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.⁴⁰
- [51] 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

³⁵ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

³⁶ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

³⁷ *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.

³⁸ Refer sections 298, 299 and 301 of the Act

³⁹ Section 14 of the Act

⁴⁰ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

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

[52] 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 \$2,950 (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(1)(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.

[53] 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.

[54] The Respondent may request time to pay the fine and costs by making a submission to the Registrar.

Submissions on Penalty, Costs and Publication

[55] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until the close of business on **25 November 2024**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received, then this decision will become final. If submissions are received, then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

Right of Appeal

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

Signed and dated this 4th day of November 2024.



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.*