

Before the Building Practitioners Board

	BPB Complaint No. CB26455
Licensed Building Practitioner:	Utiku Turoa Tyson (the Respondent)
Licence Number:	BP139512
Licence(s) Held:	Carpentry and Foundations

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:	29 November 2024
Decision Date:	28 January 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr T Tran, Barrister– Legal Member
Mr G Anderson, LBP, Carpentry and Site AoP 2

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's licence is cancelled. He may not apply to be relicensed for a period of three months. He is 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 carried out and supervised building work on a kit set dwelling in a negligent manner and a manner that was contrary to the building consent issued. He also failed to provide a record of work or completion of restricted building work. The Board decided to cancel his licence for a period of three months and ordered that he pay costs of \$2,950. The cancellation was ordered on the basis that the negligence was at the higher end of the scale and the Respondent had not engaged in the process. 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, 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
- [3] In this matter, the disciplinary charges the Board resolved to further investigate² were that the Respondent may, in relation to building work at [Omitted], Whanganui, 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 or supervise, or has carried out 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.
- [4] The Board gave notice that, in further investigating the Respondent's conduct under section 317(1)(b) and (d) of the Act, it would be inquiring into the building work issues raised by the Complainant and noted on page 22 of the complaint.

Procedure

- [5] The Respondent did not attend the hearing. An unsuccessful attempt was made to contact him. The Respondent had previously engaged in the complaint process and was issued with the required hearing notices in accordance with the provisions of the Act.
- [6] No applications for an adjournment were made. Nevertheless, the Board considered whether, in the interests of natural justice, one should be granted. The Board decided that it would proceed with the hearing but that it would adopt a procedure that would still afford the Respondent his natural justice rights. The procedure adopted was as follows:
- (a) the Board would receive the evidence of the witness that was present and would then adjourn the hearing;
 - (b) a transcript of the evidence received would be produced and provided to the Respondent together with a further copy of the hearing file; and

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.

- (c) a direction would be issued that the Respondent is to advise, no later than 10 working days after the transcript is issued to him, whether he requires that the hearing resume to him to cross-examine any of the witnesses and/or to call or give evidence in his defence.
- [7] A transcript of the hearing and invitation to respond was sent to the Respondent on 20 December 2024. The Respondent was advised that if he did not respond, the Board would meet and make a decision on the basis of the evidence before it.
- [8] No response was received. Accordingly, the Board has made a decision. In deciding to proceed and make a decision, the Board took into account that the purposes of the disciplinary provisions in the Act would be defeated if LBPs were able to avoid complaints by not engaging in the disciplinary process.

Evidence

- [9] 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.
- [10] The Respondent was engaged as a subcontractor by the main contractor, [Omitted] (the Complainant in this matter), to complete building work on an [Omitted] kit set dwelling. The building work was consented, and the Respondent's work included restricted building work requiring a record of work on completion.
- [11] The Respondent was involved in the build from late February through to late July 2023. On 12 July 2023, employees of [Omitted], the head contractor, reviewed the Respondent's work and found it to be substandard. The Complainant stated that the Respondent stopped working on the project and would not engage with him regarding the quality and compliance issues raised. Other contractors completed the build. The quality and compliance issues raised by the Complainant were set out in the complaint as follows:
- *Strand board flooring not screwed off as per plan (Utiku screwed 8 screws per sheet)*
 - *Gib not screwed off as per plan (BS1 GS1 gib screwing)*
- Utiku had not screwed the gib correctly using BS1 and GS1 screw patterns. In some cases the Gib was screwed every 600mm and sometimes not at all*
- *Straps for fixing the gable roof ends to the beams for structural integrity of the home*
 - *Roof not screwed off as per plan*
 - *Top of colour steel sheets on roof not up turned*

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

- *Roof screws in the valley of the sheets*
- *Timber trim between cladding and sheet was untreated pine*
- *Cladding nails incorrectly done. Cladding was nailed with 65mm nails not the specified 75mm nails.*

The nails used for cladding were 65mm which are too short to get through battens and attach to the home as specified in plans (75mm). He also had not marked these so they were not placed through the battern as specified.

- *silicone smeared on scribe and weather board.*

the sealing of all scribes and window areas was done poorly and he used the wrong material

- [12] The Respondent provided a written response to the complaint. In it, he addressed the allegations regarding the strand board flooring, noting there were issues with the product that was supplied, which had to be replaced. Because of that, he stated the flooring had only been temporarily fixed. The Respondent also noted that, due to issues with delays caused by wet framing, he was behind on the build schedule, which resulted in a dispute with the Complainant.
- [13] The Respondent also phoned the Board's Investigator, who recorded a summary of the conversation. The Investigator reported that the Respondent stated he was the primary LBP on-site, that he undertook foundation and cladding work, the materials provided were of poor quality, and that he had not provided a record of work because not all of the work on-site had been completed and he was not comfortable signing off what had been done.
- [14] At the hearing, the Board heard that this was the Respondent's first [Omitted] project, that he was both carrying out and supervising the building work and that, in addition to the foundations and cladding, he also installed the roof.
- [15] In terms of the materials for the build, the Board heard that the kit set is delivered in a container with all of the required materials, including the strand board. The evidence was that heavy rain had caused some swelling in the strand board, but the swelling was exacerbated because the strand board had been inadequately fixed. The witnesses' opinion was that there were no quality issues with the strand board before it was installed but that the subsequent issues arose because of the manner in which it was installed and the rain event.
- [16] The witnesses present confirmed the issues raised in the complaint and provided evidence on the extent to which the work was not compliant, which was more than minimal and, in some cases, resulted in failed building inspections.
- [17] As noted, the Respondent has not provided any evidence to refute what was heard at the hearing and has not provided any further explanations regarding the allegations.

Negligence or Incompetence

[18] 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

- [19] 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
- [20] The Board's finding was that the Respondent had conducted himself in a negligent manner. There were clear instances of building work that had not been completed to an acceptable standard and which would not have complied with the Building Code. In particular, the failure to install ridge straps and to correctly install bracing was not in compliance with Clauses B1 and B2 of the Building Code, and the cladding and roof were not in accordance with Clause E2.
- [21] In the event that the Respondent was supervising, as opposed to carrying out the building work, the Board's finding is that he negligently supervised the building work.
- [22] The build was not complex, and given the number and extent of the quality compliance issues, the Board considered the conduct was at the upper level of negligence and was verging on incompetence. Incompetence is the lack of knowledge or skill to carry out building work to an acceptable standard. However,

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.

because the Respondent did not appear, the Board was not able to examine him regarding his competence, and it was not able to make an incompetence finding.

Was the conduct serious enough

[23] The departures from an acceptable standard were serious. They would have compromised the structural integrity of the dwelling and its weather tightness. There was a distinct lack of care and attention paid to how the building work was carried out in a pattern of non-compliance, which was disconcerting.

[24] It was also disconcerting that the Respondent, once compliance issues were brought to the attention, did not engage with the main contractor or take responsibility for his failings.

Has the Respondent been negligent or incompetent

[25] The Respondent has carried out and supervised building work in a negligent manner.

Contrary to a Building Consent

[26] 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.¹² Once issued, the building work must be carried out in accordance with the building consent.¹³

[27] 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.¹⁴ 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.¹⁵ If it does not, then a disciplinary finding cannot be made.

Was there building work that differed from the building consent

[28] The building work complained about was not only carried out and supervised in a negligent manner but in a manner that was contrary to the building consent issued. For the same reasons the Board has made its findings regarding negligence, the Board finds that there has been a breach of section 317(1)(d) of the Act.

¹² Section 49 of the Act

¹³ Section 40 of the Act

¹⁴ *Blewman v Wilkinson* [1979] 2 NZLR 208

¹⁵ *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".

Was the conduct serious enough

- [29] The conduct was serious. The departures were substantial and numerous. It was not a case of error, inadvertence, or oversight. The Board does, however, note the commonality of the findings of negligence and building contrary to a building consent, which both relate to the same compliance failures, and it will take that into consideration when determining the appropriate penalty.

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

- [30] The Respondent has carried out and supervised building work that did not comply with the building consent issued.

Failure to Provide a Record of Work

- [31] 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.¹⁶
- [32] 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 work¹⁷ unless there is a good reason for it not to be provided.¹⁸

Did the Respondent carry out or supervise restricted building work

- [33] The Respondent was engaged to carry out and/or supervise building work on a new residential dwelling under a building consent. His work included foundations, framing, roof cladding, exterior cladding and interior bracing linings, all of which are restricted building work because they form part of the primary structure and/or external moisture management system of a residential dwelling.¹⁹

Was the restricted building work complete

- [34] The Respondent was on-site until, according to his response, May 2023. As a result of a dispute, he stopped carrying out building work and has not returned to carry out any further work since May 2023. Other contractors have completed the work, and the Respondent was aware of that. On that basis, May 2023 was the date when completion for the purposes of the provision of a record of work occurred because, as of that date, the Respondent would not be carrying out any further restricted building work.

Has the Respondent provided a record of work

- [35] The Respondent has not provided a record of work.

¹⁶ Section 88(1) of the Act.

¹⁷ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

¹⁸ Section 317(1)(da)(ii) of the Act.

¹⁹ Clause 5 of the Building (Definition of Restricted Building Work) Order 2011.

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

[36] The Respondent stated he had not completed all of the work he was engaged to carry out. That is not a good reason. The requirement to provide a record of work arises on the completion of restricted building work. If an LBP is not able to return to a site and continue with their work, then completion will have occurred because they will not be doing any more restricted building work. To find otherwise would mean that the Respondent would never have to provide a record of work, which would defeat the purposes of the legislation, which is to ensure that there is a complete record of all the LBPs who have carried out or supervised restricted building work.

Did the Respondent fail to provide a record of work

[37] The Respondent has failed to provide a record of work on completion of restricted building work.

Board Decisions

[38] The Respondent has breached section 317(1)(b), (d) and (da)(ii) of the Act.

Penalty, Costs and Publication

[39] 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.

[40] The Respondent has not engaged in the hearing process. The Board has decided that it will make penalty, costs, and publication orders on the basis of the evidence that was before it.

Penalty

[41] 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.²⁰ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:²¹

- (a) protection of the public and consideration of the purposes of the Act;²²
- (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;²³

²⁰ *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]

²¹ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29].

²² Section 3 Building Act.

²³ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354.

- (c) setting and enforcing a high standard of conduct for the industry;²⁴
 - (d) penalising wrongdoing;²⁵ and
 - (e) rehabilitation (where appropriate).²⁶
- [42] 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 cases²⁷ and applying the least restrictive penalty available for the particular offending.²⁸ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty²⁹ that is consistent with other penalties imposed by the Board for comparable offending.³⁰
- [43] 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.³¹
- [44] In this matter, the Board adopted a starting point for the cancellation of the Respondent's licence because of the level and seriousness of the non-compliance and because the conduct was at the higher level of the negligence scale, verging on incompetence. The Board considers that a cancellation of the Respondent's licence will not only serve to punish and deter the Respondent and others but will also protect the public.
- [45] The Respondent's approach to the matters under inquiry is also an aggravating feature as the manner in which a licensed person responds to a disciplinary complaint and conducts their defence can be taken into consideration by the Board. In *Daniels v Complaints Committee*³² the High Court held that it was permissible to take into account as an adverse factor when determining penalty that the practitioner had responded to the complaints and discipline process in a belligerent way. Whilst not belligerent, the Respondent's failure to appear and engage in the process is an aggravating factor.
- [46] The Board considered a period of six months cancellation but reduced this to three months on the basis that there may be factors that the Board was not aware of. The Board also considers that the important factor in cancelling a licence is that once the cancellation period has ended, the Respondent's competence will be reassessed if he decides to reapply for a licence.

²⁴ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724.

²⁵ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27.

²⁶ *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.

²⁷ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354.

²⁸ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818.

²⁹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354.

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

³¹ 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.

³² [2011] 3 NZLR 850.

Costs

- [47] 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
- [48] 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, having regard to the particular circumstances of each case³⁵.
- [49] 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 a moderately complex case. Adjustments are then made.
- [50] 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. This is the Board's scale amount for a half-day in-person hearing. It is significantly less than actual costs. The Board has not imposed any additional costs to recover the expenditure incurred in the Respondent failing to appear and the Board having to adopt an elongated process.

Publication

- [51] 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.
- [52] 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
- [53] Based on the above, a summary of the decision will be published. The Respondent will be named in that publication.

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

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

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

Penalty: Pursuant to section 318(1)(a)(i) of the Act, the Respondent's licence is cancelled, and the Registrar is directed to remove the Respondent's name from the Register of Licensed Building Practitioners and pursuant to section 318(1)(a)(ii) of the Act the Board orders that the Respondent may not apply to be relicensed before the expiry of three [3] months.

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)(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.

[55] 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.

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 25th day of February 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.*