

Before the Building Practitioners Board

	BPB Complaint No. CB26261
Licensed Building Practitioner:	Rick Aarts (the Respondent)
Licence Number:	BP137334
Licence(s) Held:	Roofing – Profiled Metal Roofing and/or Wall Cladding

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:	4 October 2023
Decision Date:	16 October 2023

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mr D Fabish, LBP, Carpentry and Site AoP 2
Ms K Reynolds, Construction Manager
Mr P Thompson, LBP, Carpentry, 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) and 317(1)(da)(ii) of the Act. The Respondent has not committed a disciplinary offence under section 317(1)(d) of the Act.

The Respondent is fined \$2,000 and ordered to pay costs of \$3,500. 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 was the supervising Licensed Building Practitioner for a roof and roof window install. The roof windows were not installed in a compliant manner. The Respondent did not attend the site, review the work or provide any direction or instruction to the supervised restricted building work. On that basis, the Board found that the Respondent had not supervised the work to an acceptable standard and that he had been negligent.
- [2] The Respondent's employers were removed from the site before all the contracted building work was completed. Another contractor completed it. A record of work was not provided. As the Respondent could not and would not be returning to carry out any further restricted building work, his restricted building work was complete, and he had a legal obligation to provide a record of work. As he did not, he failed to provide a record of work on completion of restricted building work.

- [3] The Board fined the Respondent \$2,000 for negligently supervision and the failure to provide a record of work. It also ordered that he pay costs of \$3,500. 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 at [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 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.
- [6] 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 quality and compliance of the installation of skylights and the roof and associated flashings.

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 appeared together with his employer, Nicola Noble, who assisted him and gave evidence. Ms Noble is not a Licensed Building Practitioner or a roofer. She is the owner of NYC Roofing Limited, which was contracted to install a roof and roof windows (5 Velux windows) on a new residential dwelling.

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

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

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

- [9] The Complainant was the owner of the main contractor, [OMITTED]. The installation took place at about the time of the Covid lockdowns and at a time when contractor resources were scarce. [OMITTED] did not have a trading history with NYC Roofing.
- [10] NYC Roofing operates with a single Licensed Building Practitioner (the Respondent), a number of directly employed staff (4-6 persons) and a number of sub-contractors, some of whom have their own Licensed Building Practitioners. With respect to the roof complained about, the installation was carried out by a subcontractor that NYC was familiar with and who was licensed soon after the installation. The roof windows were installed by two NYC staff. The Respondent accepted that he was the supervising Licensed Building Practitioner of both the subcontractor, who was not, at that time, a Licensed Building Practitioner.
- [11] The roof was mostly complete when issues were raised with it by the Complainant. Another contractor was engaged to complete the roof. The Board was provided with photographs of them. They included swarf, issues with the installation of some flashings, and the installation of the Velux windows, which the Complainant stated leaked. The Respondent and Ms Noble stated that NYC was not aware that the Velux windows were leaking.
- [12] The Respondent did not attend the site because of a combination of work pressures brought on by Covid lockdowns and the distance to the site. He stated his work schedule was dictated to him by his employer. Ms Noble stated that NYC was overstretched at the time. There were no Covid border controls in place at the time.
- [13] Whilst the Respondent was not able to attend the site, he did not use any other means of checking the work, such as reviewing photographs. No prework instructions were issued. The Respondent thought he may have had some discussions around the work with the subcontractor or staff during the installation but could not recall any details. The Respondent had intended to inspect the roof on completion, but that did not occur.
- [14] The most serious issue was the manner in which the Velux windows were installed. They had backtrays but did not have overflashings on the back of the windows. The remedial roofer said that whilst one was generally installed in a trade-like fashion, whilst others were not. He observed that it looked like two different workers had installed them. The photographs showed one of the skylights was poorly installed, with gaps around the flashings and an over-reliance on silicone. Both the Respondent and the remedial roofer gave evidence that they did not use the Velux flashings and that it is common practice to have custom flashings folded.
- [15] The remedial roofer refitted the poorly installed Velux window to ensure it was fitted correctly, reinstalled the flashings on all of the Velux windows, and installed backflashings on all of the Velux windows. The remedial roofer did not note any water ingress. Photographs provided to the Board did show water ingressing.

- [16] The Respondent provided photographs of installed Velux windows. They did not show any backflashings.
- [17] A record of work has not been provided. The Respondent and Ms Noble stated that a record of work would have been completed after all of the work had been carried out, and, in this instance, NYC had also been contracted to complete wall cladding, which was installed by another contractor. Further, Ms Noble gave evidence that records of work are normally provided on request but that no request had been made.

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 Act⁹ 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 Respondent did not carry out any building work. The work was restricted building work. It had to be carried out or supervised by a Licensed Building Practitioner. The Respondent was that supervisor.

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.

- [21] Supervision is a defined term in the Act.¹² There are various factors that the Board needs to consider when it determines whether a Licensed Building Practitioner’s supervision has met an acceptable standard. The District Court has stated, albeit in the context of the Electricity Act, that at the very least, supervision requires knowledge that work is being conducted, visual and other actual inspection of the work during its completion, assessment of safety measures undertaken by the person doing the work on the site itself, and, after completion of the work, a decision as to the compliance of the work with the requisite regulations.¹³
- [22] There are varying types of supervision. The Ministry of Business Innovation and Employment has issued a supervision guidance document.¹⁴ It notes the different types of supervision: direct, general and remote. It also provides a matrix to assist in determining the appropriate form of supervision to be used. Generally, the greater the complexity of the work, the higher the need for direct supervision. Considerations as to the skill level of the person being supervised also need to be taken into consideration.
- [23] The question for it is whether the Respondent has been negligent or incompetent as regards his supervision of the building work.
- [24] The definition of supervise in section 7 of the Act¹⁵ defines it as follows:
- 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.*
- [25] When considering supervision, the Board needs to consider what type of supervision was required and how well that supervision was undertaken. The Board also needs to consider whether the work met the requirements of the building code and, if not, the level of non-compliance. The work that was not compliant and which warranted further investigation was the Velux window installation. One was poorly installed, and the flashings on all of them required rework. All five had to be backflashed by

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

¹⁴ Practice Note: Supervision, August 2017, issued under section 175 of the Act.

¹⁵ 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.*

another roofer. They were leaking until they were backflashed. The Velux windows, as installed under the Respondent's supervision, would not have met the requirements of clause E2 of the Building Code.

[26] The Respondent was somewhat familiar with the work of the two employees who carried out the Velux installation. He did not attend the site. He did not issue instructions or review the building work while it was being carried out. Nor did he check it after it had been completed.

[27] As the supervised roofers were employees and the Respondent was familiar with their work, remote supervision may have been appropriate. Remote supervision does not mean no supervision. The guidance documentation, as regards remote supervision, notes:

A connection to the site, as well as, a regular presence onsite is a must. Remote supervision means only certain tasks can be undertaken without direct or general levels of supervision being present.

[28] That was not what occurred. As noted, the Respondent did not, at any stage, engage in the work and did not take responsibility for it. Because of his lack of engagement and because the work was not compliant and had not been carried out in a tradesperson-like manner, the Board finds that the Respondent's supervision had not been carried out to an acceptable standard.

Was the conduct serious enough?

[29] The Respondent gave evidence that he did not supervise because of surrounding circumstances. Those matters may be mitigating factors. They do not excuse the lack of supervision. There were other means by which the work could have been supervised. The Respondent could have reviewed photographs or videos. He could have issued instructions or reviewed what had been done with those who carried out the work. The Respondent's failings were serious, and they do warrant a disciplinary outcome.

Has the Respondent been negligent or incompetent?

[30] The Respondent negligently supervised the installation of Velux windows.

Contrary to a Building Consent

[31] Building consents provide detailed plans and specifications for building work. They are issued by Territorial or Building Consent Authorities on the basis that the building work will meet the provisions of the Building Code.¹⁶ Once issued, there is a requirement that the building work be carried out in accordance with the building consent.¹⁷ Building consents also stipulate the number and type of inspections the

¹⁶ Section 49 of the Act

¹⁷ Section 40 of the Act

issuing authority will carry out during the build.¹⁸ Inspections ensure independent verification that the building consent is being complied with.

- [32] If building work departs from the building consent issued, the Board can find that a disciplinary offence under section 317(1)(d) of the Act has been committed. The Board does not have to find that departure was deliberate or a result of negligent conduct.¹⁹ The Board does, however, consider that the seriousness of the conduct under investigation does have to be taken into account. As such, even if the Respondent's building work departed from the building consent, the Board must also decide if the conduct fell seriously short of expected standards.²⁰ If it does not, then a disciplinary finding cannot be made.

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

- [33] The building consent did not detail the flashing requirements. Evidence was heard that most roofers do not use Velux flashings and that customised flashings are used. As the consent did not specify backflashings, which were required, the Respondent did not carry out building work that was contrary to it.

Failure to Provide a Record of Work

- [34] 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.²¹
- [35] 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 work²² unless there is a good reason for it not to be provided.²³

Did the Respondent carry out or supervise restricted building work?

- [36] The Respondent supervised the installation of an external moisture-management system, being the roof and roof widows of a new residential dwelling. Under clause 5 of the Building (Definition of Restricted Building Work) Order 2011, the work was restricted building work.

Was the restricted building work complete?

- [37] The full scope of the building work that NYC was contracted to do was not completed. The contract was brought to an end as a result of a commercial dispute. Neither NYC nor the Respondent would be returning to carry out any further

¹⁸ Section 222 of the Act

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

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

²¹ Section 88(1) of the Act.

²² Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

²³ Section 317(1)(da)(ii) of the Act

restricted building work, and nor could they, as another contractor had completed the work. Given those factors, the restricted building work that the Respondent was supervising was complete.

Has the Respondent provided a record of work?

[38] A record of work was not provided. The elements of the offence have been established.

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

[39] Ms Noble stated that the work was not complete. That has been dealt with. She also stated that no request for a record of work was made.

[40] The legal requirement is for the Licensed Building Practitioner to provide a record of work on completion. There is no requirement for an owner or territorial authority to demand one. The Respondent was required to act of his own accord. The fact that a record of work was not requested is not a good reason.

Did the Respondent fail to provide a record of work?

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

Board's Decisions

[42] The Respondent has:

- (a) supervised building work in a negligent manner contrary to section 317(1)(b) of the Act; and
- (b) failed to provide a record of work on completion of restricted building work contrary to section 317(1)(da)(ii) of the Act.

[43] The Respondent has not carried out building work in a manner that was contrary to a building consent.

Penalty, Costs and Publication

[44] 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.

[45] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make orders.

Penalty

[46] 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.²⁴ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:²⁵

- (a) protection of the public and consideration of the purposes of the Act;²⁶
- (b) deterring other Licensed Building Practitioners from similar offending;²⁷
- (c) setting and enforcing a high standard of conduct for the industry;²⁸
- (d) penalising wrongdoing;²⁹ and
- (e) rehabilitation (where appropriate).³⁰

[47] 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 cases³¹ and applying the least restrictive penalty available for the particular offending.³² In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty³³ that is consistent with other penalties imposed by the Board for comparable offending.³⁴

[48] 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.³⁵

[49] In this matter, the Board decided that a fine would be the appropriate penalty, and it adopted a starting point of \$3,000, an amount that is consistent with other penalties imposed by the Board for similar offending. There were some mitigating factors. Covid and work pressures impacted, as did the manner in which NYC managed the work. Taking those factors into account, the Board reduced the fine to \$2,000.

Costs

[50] 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.³⁶

²⁴ *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]

²⁵ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

²⁶ Section 3 Building Act

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

²⁸ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

²⁹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

³⁰ *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

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

³² *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

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

³⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³⁵ 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.

³⁶ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

- [51] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings³⁷. The starting point can then be adjusted up or down, having regard to the particular circumstances of each case³⁸.
- [52] 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, for which the scale amount is \$3,500. Adjustments are then made. In this matter, there were no reasons to depart from the scale amount.
- [53] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$3,500 toward the costs of and incidental to the Board's inquiry.

Publication

- [54] 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,³⁹ 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.
- [55] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.⁴⁰ 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.⁴¹
- [56] Based on the above, the Board will not order further publication.

Section 318 Order

- [57] 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 \$2,000.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$3,500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

³⁷ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

³⁸ *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.

³⁹ Refer sections 298, 299 and 301 of the Act

⁴⁰ Section 14 of the Act

⁴¹ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

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, there will not be action taken to publicly notify the Board’s action, except for the note in the Register and the Respondent being named in this decision, which will be publicly available on the Board’s website.

[58] 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

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

Signed and dated this 16th day of November 2023



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*

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- (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.*

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- (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.*