

Before the Building Practitioners Board
At [omitted]

BPB Complaint No. C2-01170

IN THE MATTER OF

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315

AGAINST

[Omitted], Licensed Building Practitioner No. BP [omitted]

DECISION OF THE BUILDING PRACTITIONERS' BOARD

1 Introduction

- 1.1 [Omitted] (the Complainant) lodged a complaint with the Building Practitioners' Board (the Board) on 26 March 2015 in respect of [omitted], Licensed Building Practitioner (the Respondent).
- 1.2 The complaint alleged the Respondent has, in relation to building work at [omitted] (the Property) failed, without good reason, to provide a record of work, on completion of the restricted building work as required by s 88(1) of the Act (s 317(1)(da)(ii) of the Act).
- 1.3 The Respondent is a Licensed Building Practitioner with Carpentry and Site Area of Practice 2 Licences issued 6 October 2010.
- 1.4 The Board has considered the complaint under the provisions of Part 4 of the Act and the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations).
- 1.5 The following Board Members were present at the hearing:
- | | |
|--------------------|-------------------|
| Chris Preston | Chair (Presiding) |
| Richard Merrifield | Deputy Chair |
| Brian Nightingale | Board Member |
| Mel Orange | Board Member |
| Robin Dunlop | Board Member |
| Dianne Johnson | Board Member |
| Catherine Taylor | Board Member |
| Bob Monteith | Board Member |
- 1.6 The matter was considered by the Board in [omitted] on 17 November 2015 in accordance with the Act, the Regulations and the Board's Complaints Procedures.

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1.7 The following other persons were also present during the course of the hearing:

Terri Thompson	Counsel for the Registrar
Gemma Lawson	Board Secretary
[Omitted]	Respondent
[Omitted]	Witness for the Respondent
Geoffrey Hardy	Special Adviser to the Board

Members of the public were not present.

1.8 No Board Members declared any conflicts of interest in relation to the matters under consideration.

2 Board Procedure

2.1 The “form of complaint” provided by the Complainant satisfied the requirements of the Regulations.

2.2 On 31 July 2015 the Registrar of the Board prepared a report in accordance with reg 7 and 8 of the Regulations. The purpose of the report is to assist the Board to decide whether or not it wishes to proceed with the complaint.

2.3 On 27 August 2015 the Board considered the Registrar’s report and in accordance with reg 10 it resolved to proceed with the complaint that the Respondent failed, without good reason, to provide a record of work on completion of restricted building work as required by s 88(1) of the Building Act (s 317(1)(da)(ii) of the Act).

2.4 The Board requested a Special Adviser be appointed to prepare a report. Geoff Hardy’s report was received and circulated to the Respondent and Complainant.

2.5 On 19 October 2015 at 2 p.m. a pre-hearing teleconference was convened by Chris Preston. The Respondent and Greg La Hood as Counsel for the Registrar were both present. The hearing procedures were explained and the Respondent’s attendance at the substantive hearing was confirmed.

3 The Hearing

3.1 The hearing commenced at 9.15 a.m.

3.2 At the hearing the Board was assisted in the presentation of the case by Counsel for the Registrar.

3.3 Prior to the hearing the Board had attempted to summons the Complainant. The summons was not able to be served. The Complainant did, however, advise the Board Secretariat by way of email, on the Sunday before the hearing, that he had only just become aware of it and would not be attending as he was in the [omitted]. The Board considered whether his non-appearance would prejudice the Respondent or whether it would affect the Board’s inquiry and it determined it would not.

3.4 Persons who were present and giving evidence were sworn in, their evidence was presented and they answered questions from the Board.

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4 Substance of the Complaint

- 4.1 The complaint was that the Respondent had failed, without good reason, to provide a record of work on completion of restricted building work.

5 Evidence

- 5.1 The Complainant was the project manager and lead contractor in a new home build. He was not a licensed building practitioner but did take part in the build as a labourer. He engaged the Respondent to carry out building work at the property including restricted building work on 29 September 2014. There was no written contract.
- 5.2 A financial dispute arose between the Complainant and the Respondent in early December 2014. The Complainant claimed a new arrangement was made when he met with the Respondent on 21 December 2014. The Respondent's evidence was that the dispute remained unresolved.
- 5.3 On 23 December 2014 the Respondent left the Property. He took all of his equipment including his fencing with him. His evidence was that this was his usual Christmas close-down procedure and it was not an abandonment of the site or the contract and that the Complainant, who was working on the site as a labourer at the time, was aware of the arrangements. He produced documentation to support his position.
- 5.4 The Complainant claimed it was an abandonment and that he was forced to engage a new licensed builder on 23 December 2014.
- 5.5 The Respondent gave evidence that he was not advised of the new builder being engaged and he only found out about it by accident when driving by the Property on Boxing Day. He stated he tried several times throughout January to contact the Respondent. On 14 January 2015 he was able to issue a final invoice to the Respondent on site. At the hearing, the Complainant said it was the final December invoice, not a final invoice as a result of an alleged termination in December 2014.
- 5.6 The Complainant alleged he reminded the Respondent to provide his "memorandum" (record of work) when they met on 14 January. The Respondent did not accept that he had been asked for it.
- 5.7 The financial dispute between the Complainant and the Respondent remained unresolved. On 1 March 2015 the Respondent wrote to the Complainant about the financial dispute and formally requested the "memorandum". The Respondent says this was the first occasion the record of work had been mentioned.
- 5.8 The information before the Board included a file note from an investigator assisting the Registrar that the Respondent had advised a council employee that he was withholding the record of work because of what the Respondent wanted him to include on the record of work, which included work he did not supervise or carry out.
- 5.9 At the hearing, the Respondent gave evidence that there were two outstanding issues with the restricted building work he had carried out. The first was with regard to bright nails used by the Complainant when he was nailing parts of the ecoply rigid air barrier. The other was in relation to back blocking plasterboard sheets on the ceilings.
- 5.10 On 23 March 2015 the Respondent sought clarification from the [omitted] District Council as to whether there was an overlap between the record of work provided by the second licensed building practitioner engaged and the Respondent's restricted

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building work. He was advised to file a record for what he had carried out or supervised and he filed a record of work on the same day with the territorial authority. The record of work excluded the rigid air barrier. He did not provide a copy to the owner or the Complainant.

6 Board's Reasoning

- 6.1 The Board has previously dealt with a number of a record of work complaints and in Board Decision C1100¹ it provided general guidelines for practitioners.
- 6.2 The Board considered, given the factual matrix in this complaint, it was timely to revisit and review those guidelines as part of its considerations. Accordingly, a legal Special Adviser was appointed and a very full and considered report was provided and discussed at the hearing.

Who Must Provide a Record of Work?

- 6.3 The starting point with a record of work is that it is a mandatory statutory requirement whenever restricted building work² under a building consent is carried out by a licensed building practitioner (other than as an owner-builder).
- 6.4 Each and every licensed building practitioner who carries out restricted building work must provide a record of work.
- 6.5 The Board is aware that, in some quarters, it is common practice for one licensed building practitioner to provide a record of work for all restricted building work completed within their class of licence where in fact more than one licensed building practitioner has actually carried out restricted building work. Such a practice does not reflect the provisions of s 88(1) of the Act which states:
- “Each licensed building practitioner who carries out (other than as an owner-builder) or supervises restricted building work under a building consent must, on completion of the restricted building work, provide the persons specified in subsection (2) with a record of work, in the prescribed form, stating what restricted building work the licensed building practitioner carried out or supervised...”*
- 6.6 The use of the word “each” makes it clear that every licensed building practitioner who carries out restricted building work has to complete a record of work for the work they did.
- 6.7 It must also be noted that the reference to supervision in the context of records of work is to the supervision of persons who are not authorised to carry out restricted building work, i.e. non-licensed persons. A licensed building practitioner does not require supervision by virtue of their own licence – they are authorised to carry out restricted building work. Even if one practitioner was to consider that they were in overall charge of a building site and of the work being carried out under a building consent (such as where they hold a Site Licence) the wording “each licenced person...” in s 88 cannot be ignored.
- 6.8 The wording of the section is clear. The obligation is for each and every licensed building practitioner to provide a record of work for the restricted building work they

¹ Licensed Building Practitioners Board Case Decision C1100 3 June 2014

² Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

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carried out under a building consent irrespective of whether there may be another licensed building practitioner on site who may be providing overall supervision. Persons who provide a record of work for restricted building work that other licensed building practitioners have completed could be exposing themselves to potential disciplinary liability.

- 6.9 The requirement for each licensed building practitioner to complete a record of work is also consistent with the purpose of a record of work as outlined in paragraphs 6.10 to 6.12.

What is a Record of Work For?

- 6.10 The legislative history of the record of work provisions show that they are designed to create a documented record of who did what in the way of restricted building work under a building consent. A record of work avoids uncertainty in situations where a single lead contractor (who may or may not be licensed) has engaged with the owner and/or territorial authority by going beyond those persons to all those that are carrying out restricted building work. It ensures all those involved in carrying out or supervising restricted building work can be identified by the owner (and any subsequent owner) and the territorial authority along with the restricted building work they carried out.
- 6.11 It is to be noted that a record of work given by a licensed building practitioner does not, of itself create any liability, that would not otherwise exist as s 88(4) provides:
- (4) *A record of work given under subsection (1) does not, of itself,—*
- (a) *create any liability in relation to any matter to which the record of work relates; or*
- (b) *give rise to any civil liability to the owner that would not otherwise exist if the licensed building practitioner were not required to provide the record of work.*
- 6.12 Notwithstanding this if building defects do emerge then the record of work becomes useful historical knowledge for owners (both present and future), or other parties involved in defective building cases, who wish to pursue litigation. In this respect though it is not just about who to bring an action against but also who will be able to give evidence as to the restricted building work carried out.

On Completion of Restricted Building Work

- 6.13 The statutory provisions do not stipulate a timeframe for the licenced person to provide a record of work. The provisions in s 88(1) simply states “on completion of the restricted building work ...”. The first question then is when does completion occur.
- 6.14 In most situations issues with the provision of a record of work do not arise. The work progresses and records of work are provided in a timely fashion. Contractual disputes or intervening events can, however, lead to situations where the licensed practitioner, owner, or territorial authority’s perceptions as to when the record of work must be provided may differ.
- 6.15 One such situation is where it is clear the licensed building practitioner will not be able to carry out any further restricted building work on a site. This may occur for a variety of reasons including a contractual dispute or the incapacity of the licensed

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building practitioner. Regardless of the reasons in such a situation, even though the intended work has not been completed, the licensed building practitioner's restricted building work under the building consent has, in effect, been completed as they will not be carrying out any further restricted building work.

6.16 In Board decision C1100³ the Board held that

If a Respondent is not able to complete the intended restricted building work or to supervise the completion of it then, unless arrangements are made for another Respondent to complete it and provide a record of work which includes the work completed or supervised by the original Respondent, the original Respondent will have to provide a Record of Work for the restricted building work they completed or supervised prior to their involvement coming to an end.

6.17 The Board has reconsidered this statement in light of its experience of dealing with records of work and the purposes of the legislation. Whilst it may have reflected a pragmatic approach to records of work in such circumstances the Board finds it is no longer tenable. It is clear that s 88(1) requires each licenced person to complete a record of work for the restricted building work they have completed and that another licensed building practitioner cannot provide one for the work they have not, in fact, carried out or supervised.

6.18 When the point in time arises where a licensed building practitioner is not be able to carry out any further restricted building work will be a question of fact in each case that arises. In some it will be clear and in others not. Regardless though the Board would advise a cautious approach by licenced persons. They will be better served by providing a record of work sooner than it may have been required than by delaying and raising the potential of a complaint.

6.19 In this respect is must also be borne in mind that a record of work can capture not only what has been done but also what has not been done by the licensed building practitioner. By providing adequate detail within the record of work they can afford themselves a degree of protection against future liability by limiting the record to only that which they have completed. To this end the Board cautions against the tick box approach to completing a record of work when not all of the intended restricted building work has been completed by a single licensed building practitioner. Rather full details of exactly what has been done and, if necessary, what has not been done should be provided.

6.20 In summary, completing a record of work when the project as a whole has been finished may be a pragmatic approach in the ordinary course of events. However, if events occur which could affect the practitioners' continued involvement in the project, it is in their best interests to complete a record of work for the restricted building work they completed to that point in time.

How Soon After Completion?

6.21 Other jurisdictions such as those under the Plumbers, Drainlayers, and Gasfitters Act 2006 and the Electricity Act 1992 stipulate definitive time frames for the completion and provision of certification documentation by practitioners. The Building Act does not. Both s 88(1) and 317(1)(da)(ii) simply state "on completion". As such it is open to

³ 3 June 2014

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the Board to interpret how soon after actual completion (bearing in mind the discussion on completion outlined above) the record of work must be provided.

- 6.22 On a literal interpretation the obligation to provide a record of work would be at the same time as completion. This would be impracticable and therefore cannot be the intended meaning. Time frames have not been specified and nor has Parliament chosen to use phrases such as “immediately on completion” or “as soon as reasonably practicable”. Given this and taking into consideration the requirement to give effect to the purpose of Parliament⁴ the Board considers the use of the words “on completion” denotes a short time thereafter.
- 6.23 A degree of reasonableness has to be applied to this interpretation. Differing circumstances may result in longer or shorter timeframes. Generally the prescribed form for a record of work is simple and straightforward and a licensed building practitioner ought to know what they have or have not done or supervised and as such there should be few impediments to it being completed and provided in short order. The situations where this is not the case will be rare and will have to be justified by the practitioner.
- 6.24 It must also be noted that the requirement is on the licensed building practitioner to provide a record of work, not on the owner or territorial authority to demand one. A claim that the licensed building practitioner was not asked for a record of work will not be a defence. They must act of their own accord and not wait for others to remind them of their obligations.

How Much Detail is Required?

- 6.25 The prescribed form is contained in clause 6A of Schedule 1 of the Building (Forms) Regulations 2014. The form requires the licensed building practitioner to tick each category of restricted building work that they carried out or supervised, to specify whether they carried out or supervised the work, and to describe the restricted building work “if necessary”. There is also a requirement to provide a brief description of the building and the project, contact details for the owners and the licensed building practitioner, and a declaration that the licensed building practitioner supervised or carried out the work recorded on the form.
- 6.26 Completing and providing the form will, in most cases, be a simple and straightforward task. More thought and consideration will, however, be required in situations such as where more than one licensed building practitioner of the same licence class has worked on the restricted building work or where the full scope of the intended restricted building work has not been completed. In such cases care has to be taken to identify exactly what work the licensed building practitioner did and or did not do (or supervise as they case may be). The middle “details” section should be completed and additional information provided if necessary to ensure a third person reading the record of work can clearly identify the restricted building work the licensed building practitioner supervised or carried out.

⁴ Section 5 of the Interpretation Act 1999

Who Must a Record of Work be Provided to?

- 6.27 The Act provides that a record of work must be provided to both the owner and the territorial authority⁵. Providing a record of work to one but not the other will not satisfy the requirements of the Act. Both must be provided with a correctly completed record of work.
- 6.28 It is common in the building industry for an owner to appoint an agent to act on their behalf. Usually this is an express provision in their contractual relationship or, at times, it may be implied by the nature of the relationship between the owner and the agent and the conduct of the agent. An example would be where a head contractor instructs a designer and seeks the required building consent on behalf of the owner. Even though the head contractor may not have been contractually appointed as the owner's agent they appear, to others, to be acting as such.
- 6.29 The question for the Board is whether the licensed building practitioner's obligation to provide a record of work to the owner is satisfied where it is provided to the owner's agent.
- 6.30 From a practical view point it makes sense to allow an agent to receive or collect records of work on the owner's behalf. For example various licensed trades on a building site may not have a relationship with the owner and might be dealing almost exclusively with the person who is acting as their agent. In such circumstances it would be reasonable for them to provide the record of the work to the agent and for the agent in turn to provide it to the owner.
- 6.31 Where an agent does receive a record of work in a timely manner then it would be reasonable to say that the licensed building practitioner has fulfilled their obligation. However, if the agent is a licensed building practitioner who has carried out restricted building work then they cannot rely on their being the owner's agent and simply provide it to themselves. Their obligation lies to the actual owner.
- 6.32 It should also be noted that the option of providing a record of work to the agent can be displaced by the owner requiring that it be provided directly to them as well as to the territorial authority.

Good Reason for not Providing a Record of Work

- 6.33 Finally s 317(1)(da)(ii) of the Act provides for a defence of the licenced building practitioner having a "good reason" for failing to provide a record of work. If they can, on the balance of probabilities, prove to the Board that one exists then it is open to the Board to find that a disciplinary offence has not been committed. What then is a good reason?
- 6.34 To date there has only been one case where the Board has found there was a good reason for failing to provide a record of work. In case C1129⁶ the Board found that an employee licensed building practitioner had not committed a disciplinary offence in failing to provide a record of work in circumstances where he was not able effectively supervise and had taken steps to try and rectify that situation. In the case the Board stated:

⁵ S 88(2)

⁶ 26 November 2014

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6.7 The reason put forward by the Respondent was that he could not provide the records of work as, in his opinion, he could not make the statement that he had actually supervised the work. The question for the Board then is whether a licensed person can be required to complete a record of work in circumstances where, through the actions of others, they cannot, in good faith, make the statements set out in the record. Or, to phrase it in the language of the Act, is this a good reason.

6.8 The Board is mindful, in considering this, that to find in the affirmative would be to potentially allow employed persons to avoid their responsibilities under their employment arrangements. The converse is, however, also a possibility. Finding that an employee must, irrespective of the circumstances they are placed in, complete a record of work for restricted building work they are supervising may place them in an untenable position. The Board should not be disciplining persons for refusing to make a false statement. Given this the Board considers that the circumstances under which an employee who is, as part of their employment, required to supervise restricted work may constitute a good reason not to complete a record of work but each case must be determined on its own merits.

- 6.35 The Board has repeatedly stated that a Record of Work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, nor by contractual disputes. Licensed building practitioners should now be aware of their obligations to provide them and their provision should be a matter of routine.
- 6.36 Each case will be decided by the Board on its own merits but the threshold for a good reason is high.

7 Board's Conclusion on the Case

- 7.1 Taking the facts and principles discussed above into consideration the Board has found that the Respondent did not provide a record of work on completion of restricted building work and that there was no good reason for failing to do so.
- 7.2 On the evidence of the Respondent it had become apparent on 14 January 2015 that he would not be carrying out or supervising any further restricted building work. The obligation to provide a record of work arose at this point in time.
- 7.3 A record was not provided until after written demands were made for it on 1 March 2015 (some six weeks later) and then only to the territorial authority. The Respondent made a point of the fact that he had not been asked for one earlier and whilst this may well have been the case as was pointed out above it is his obligation to provide one, not the owner or the owner's agents responsibility to demand one.
- 7.4 The Board does not consider the period of delay to be reasonable. Whilst it accepts that the Respondent may have considered he needed to clear up some matters in relation to the nailing of the rigid air barrier and back blocking of plasterboard the former could have been noted on the record of work and the latter was not restricted building work and so did not need to be included. Critically though the Respondent took no steps to clarify the matters until prompted by the Complainant. The Respondent should have taken steps to clarify his work soon after 14 January and then provided a record of work in a timely manner.

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- 7.5 The Board also notes that the Respondent has not provided a record of work which covers all of the restricted building work he competed or supervised. He gave evidence that he carried out and or supervised the rigid air barrier and this was not included in the record of work.
- 7.6 Finally the Respondent has yet to provide a record of work to the owner. Providing one to just the territorial authority does not meet the full requirements of s 88(2) of the Act.

8 Complaint Decision

- 8.1 The Board has decided that the Respondent has carried out or supervised building work which is the subject of the complaint as a Licensed Building Practitioner failed, without good reason, to provide a record of work, on completion of the restricted building work as required by s 88(1) of the Act (s 317(1)(da)(ii) of the Act) and should be disciplined.

9 Disciplinary Penalty

- 9.1 The grounds upon which a Licensed Building Practitioner may be disciplined are set out in s 317 of the Act. If one or more of the grounds in s 317 applies, then the Board may apply disciplinary penalties as set out in s 318 of the Act⁷. Under s 318(4) of the Act, the Board has the power to order the Respondent to pay the reasonable costs and expenses of, and incidental to, the Board's inquiry and pursuant to s 318(5) of the Act, the Board may publicly notify any disciplinary action taken against a Licensed Building Practitioner in any way it thinks fit.
- 9.2 The Board's Complaints Procedures allow the Board to either set out the Board's decision on disciplinary penalty, publication and costs or to invite the Respondent to make written submissions on those matters.
- 9.3 As part of the materials provided to the Board for the Hearing the Respondent provided submissions which were relevant to penalty, publication and costs and the Board has taken these into consideration.
- 9.4 The Board is also mindful that the case afforded it the opportunity to revisit the question of records of work and to give further consideration as to the obligations of licensed building practitioners.
- 9.5 The Board is aware that the common understanding of the purposes of professional discipline is to uphold the integrity of the profession. Those purposes were recently reiterated by the Supreme Court of the United Kingdom:

“The primary purpose of professional disciplinary proceedings is not to punish, but to protect the public, to maintain the public confidence in the integrity of the profession and to uphold proper standards of behaviour.”⁷ ”

- 9.6 Given these factors the Board has considered that a censure is the appropriate penalty and, given it is at the lower end of the Board's penalty options, it does not see the need to seek further submissions as regards penalty.

10 Costs

- 10.1 Under s 318(4) the Board may require the Respondent “to pay the costs and expenses of, and incidental to, the inquiry by the Board.”

⁷ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

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- 10.2 The Board notes that the Respondent has been cooperative in regard to the Board's inquiry and again that the case has provided the Board with an opportunity to educate licensed building practitioners in general by way of its decision.
- 10.3 Under all the circumstances, the Board will not order the payment of any costs.

11 Publication of Name

- 11.1 As a consequence of these decisions the Respondent's name and the disciplinary outcomes will be recorded in the public register maintained as part of the Licenced Building Practitioners' scheme as is required by the Act.
- 11.2 Having taken into account the circumstances of the case and the mitigation presented, the Board does not find it necessary to further publish the Respondent's name or to specifically identify him in other publications.

12 Decision

- 12.1 For the reasons set out above, the Board directs that:

Penalty: Pursuant to s 318(1)(f) of the Building Act 2004, the Respondent is censured.

Costs: There will be no order for costs.

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, there will not be action taken to publicly notify the Board's action, except for the note in the register.

Right of Appeal

- 12.2 The Respondent has a right to appeal the Board decisions under s 330(2) of the Actⁱⁱ.

Signed and dated this 15th day of December 2015

Chris Preston
Presiding Member

ⁱ **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:*

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- (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."*

ii 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.*