

BPB Complaint No. C2-01307

IN THE MATTER OF

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315 of the Act

AGAINST

[The Respondent], Licensed Building Practitioner No. BP [omitted]

DECISION OF THE BUILDING PRACTITIONERS' BOARD

Introduction

- [1] [The Complainant] lodged a complaint with the Building Practitioners' Board (the Board) on 18 May 2015 in respect of [the Respondent], Licensed Building Practitioner.
- [2] The complaint alleged the Respondent had, in relation to building work at [omitted] failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).
- [3] The Respondent is a Licensed Building Practitioner with an External Plastering, Solid Plastering Area of Practice Licence issued 19 October 2011.
- [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).
- [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 |
| Bob Monteith | Board Member |
- [6] The matter was considered by the Board in Christchurch on 26 April 2016 in accordance with the Act, the Regulations and the Board's Complaints Procedures.
- [7] The following other persons were also present during the course of the hearing:

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Greg La Hood	Counsel for the Registrar
Sarah Romanos	Board Secretary
[Omitted]	Respondent
[Omitted]	Complainant by telephone

Members of the public were not present.

- [8] No Board Members declared any conflicts of interest in relation to the matters under consideration.

Board Procedure

- [9] The “form of complaint” provided by the Complainant satisfied the requirements of the Regulations.
- [10] On 18 January 2016 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.
- [11] On 11 February 2016 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, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).
- [12] A pre-hearing teleconference was scheduled but the Respondent advised he did not wish to attend. The Presiding Member issued a memorandum outlining the hearing procedures to the Respondent.

The Hearing

- [13] The hearing commenced at 9.30 a.m.
- [14] At the hearing the Board was assisted in the presentation of the case by the Counsel for the Registrar.
- [15] Persons giving evidence were sworn in, their evidence was presented and they answered questions from the Board.

Substance of the Complaint

- [16] The allegation was that the Respondent failed to provide a record of work on completion of restricted building work.

Evidence

- [17] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed. The relevant authority is *Z v Dental*

*Complaints Assessment Committee*¹ where Justice McGrath in the Supreme Court of New Zealand stated:

[102] The civil standard has been flexibly applied in civil proceedings no matter how serious the conduct that is alleged. In New Zealand it has been emphasised that no intermediate standard of proof exists, between the criminal and civil standards, for application in certain types of civil case. The balance of probabilities still simply means more probable than not. Allowing the civil standard to be applied flexibly has not meant that the degree of probability required to meet the standard changes in serious cases. Rather, the civil standard is flexibly applied because it accommodates serious allegations through the natural tendency to require stronger evidence before being satisfied to the balance of probabilities standard.

[105] The natural tendency to require stronger evidence is not a legal proposition and should not be elevated to one. It simply reflects the reality of what judges do when considering the nature and quality of the evidence in deciding whether an issue has been resolved to “the reasonable satisfaction of the Tribunal”. A factual assessment has to be made in each case. That assessment has regard to the consequences of the facts proved. Proof of a Tribunal’s reasonable satisfaction will, however, never call for that degree of certainty which is necessary to prove a matter in issue beyond reasonable doubt.

- [18] The Complainant was the director of [omitted] who had been contracted to manage building work at the property. The Complainant had a project manager but maintains oversight of projects. He engaged the Respondent to carry out external plastering work on the project.
- [19] The works took place between March and September 2015.
- [20] A payment dispute arose between the Respondent and the Complainant and the Complainant alleged the Respondent refused to provide a record of work until he was paid in full.
- [21] The Respondent provided a written response. In it he:
- (a) sought clarification between a producer statement and a record of work;
 - (b) stated he could not provide a producer statement as timber had been affixed to the plasterwork and he could not ensure that it is watertight;
 - (c) expressed concern that if he provided the paperwork then he would be liable for the timber being fixed on to the plaster and he would not be paid for his work; and
 - (d) stated that as at 18 January 2016 he had not provided a record of work but was happy to so after learning of the Building Act’s requirements.
- [22] The Respondent gave evidence that the work was completed under his supervision. There was an area where there was no timber framing installed and detail needed to be provided as to how the area was to be completed. This was not forthcoming and the Respondent stated he intended to return and finish the work.
- [23] The Complainant gave evidence by telephone that the uncompleted area was the result of an error by the Respondent’s staff in cutting and fixing the cladding. He stated the Respondent’s worker were messy and damaged the roof. He was

¹ [2009] 1 NZLR 1

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withholding funds until the issues were rectified and the work finished or to pay for others to do it. He stated he eventually had other persons' complete the unfinished work as the owners did not want the Respondent or his staff back and he felt he was left with no other option.

- [24] Within the documentation provided by the Respondent was an email dated 30 August in which the Complainant advised the Respondent as follows:

I need confirmation by Tuesday that you will have the job completed by the end of the week. If we do not receive this by 9am on Tuesday, we will consider that you have abandoned the site and we will engage another contractor to complete the work at your cost.

- [25] The Complainant stated the uncompleted area was very small at a gable end where it tapers to a point, they came up with detail to fix it themselves and the owner accepted the fix.
- [26] In questioning from the Board the Respondent stated he had not responded to nor taken any action on the email of 30 August.
- [27] The Complainant stated the Respondent refused to provide a record of work.
- [28] A record of work was completed on 26 January 2016. At the hearing the Respondent advised that he had posted it to the owner at the same time.

Board's Conclusion and Reasoning

- [29] There is a statutory requirement under s 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the building consent authority on completion of restricted building work.
- [30] Failing to provide a record of work is a ground for discipline under s 317(1)(da)(ii) of the Act. In order to find that ground for discipline proven, the Board need only consider whether the Respondent had "good reason" for not providing a record of work on "completion" of the restricted building work.

Was a record of work required?

- [31] The first question for the Board in this case is to consider whether the building work carried out under the supervision of the Respondent was restricted building work. The reason why is that the Ministry of Business Innovation and Employment ("the Ministry") has previously taken the position that application of proprietary plaster systems over autoclaved aerated concrete panels ("aerated panels") was not restricted building work and the Board had applied this interpretation in licensing appeals under s 330(1)(a) of the Act².
- [32] Counsel for the Registrar provided the Board with comprehensive submissions in this respect and, on reviewing the relevant legislation considers the application of proprietary plaster systems over lightweight aerated panel systems is restricted building work and that a record of work is required its completion. The Board agrees with those submissions.
- [33] Section 84 of the Act provides:

All restricted building work must be carried out or supervised by a licensed building practitioner [who is licensed] to carry out or supervise the work.

² Refer for example to Appeal A1110

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[34] Section 401B of the Act allows building work to be declared as restricted building work by Order in Council:

401B Order in Council declaring work to be restricted building work

- (1) *The Governor-General may, by Order in Council made on the recommendation of the Minister, declare any kind of building work (other than building work for which a building consent is not required) or any kind of design work to be restricted building work.*
- (2) *An order under subsection (1) may apply to any kind of building work or design work generally, or may apply to building work or design work in relation to particular types or categories of buildings or to particular parts of buildings.*
- (3) *The Minister may recommend the making of an order under this section only if the Minister is satisfied that the kind of building work or design work in question is (or is likely to be) critical to the integrity of a building or part of a building.*
- (4) *Building work or design work is not restricted building work if it relates to an application for a building consent made before the commencement of an order under subsection (1) declaring building work or design work of the same kind to be restricted building work.*

[35] The Building (Definition of Restricted Building Work) Order 2011 was then passed to establish restricted building work. Clause 5 of the Order stipulates:

5 Certain building work relating to primary structure or external moisture-management systems of residential buildings to be restricted building work

- (1) *The kinds of building work to which this clause applies are restricted building work for the purposes of the Act.*
- (2) *This clause applies to building work that is—*
 - (a) *the construction or alteration of—*
 - (i) *the primary structure of a house or a small-to-medium apartment building; or*
 - (ii) *the external moisture-management system of a house or a small-to-medium apartment building; and*
 - (b) *of a kind described in subclause (3); and*
 - (c) *of a kind for which a licensing class to carry out or supervise the work has been designated by Order in Council under section 285 of the Act.*
- (3) *The kinds of building work referred to in subclause (2)(b) are—*
 - (a) *bricklaying or blocklaying work;*
 - (b) *carpentry work;*
 - (c) *external plastering work;*
 - (d) *foundations work;*
 - (e) *roofing work.*

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- [36] On the basis of the Order there are three requirements which need to be met. Dealing with each as they relate to the case before the Board:
- (a) it must relate to the construction or alteration of the primary structure or the external moisture-management system of a house or a small-to-medium apartment building. The building work in question was in respect of the external moisture management system and as such this element is satisfied;
 - (b) be of a kind described in subclause (3) of the Order. Subclause (3) includes in (3)(c) external plastering work and as such this element is also satisfied;
 - (c) be of a kind for which a licensing class to carry out or supervise the work has been designated by Order in Council under section 285 of the Act.
- [37] Section 285 of the Act allows for licence classes to be designated by regulation. The designation is contained in clause 4 of the Building (Designation of Building Work Licensing Classes) Order 2010. It creates a class of licence for External Plastering and stipulates it covers the “*Application of external solid plaster, or proprietary plaster systems, to any building that is ... category 1, 2 or 3.*”
- [38] The Respondent is licensed in External Plastering with a Solid Plastering Area of Practice and as such the third element of the test is satisfied.
- [39] The earlier interpretation taken by the Ministry related to the performance indicators with the competencies set out in the Licensed Building Practitioners Rules 2007 (the LBP Rules). The LBP Rules:
- set out the standards of competence that building practitioners must meet in order to be licensed, and detail the procedures for assessing competence and issuing licence cards. The Schedule to the Rules describes the competencies for the Design, Site, Carpentry, Roofing, External Plastering, Bricklaying and Blocklaying, and Foundations licensing classes.³*
- [40] LBP Rule 4 states:
- Minimum standard of competence for each class of licence*
- (1) *The minimum standard of competence for a class of licence is meeting all of the competencies set out for that class of licence in Schedule 1.*
 - (2) *In determining whether a person meets a competency, regard must be had to the extent to which the person meets the performance indicators set out for that competency in Schedule 1.*
- [41] It is clear that the Rules are for the purpose of evaluating whether or not an applicant for a licence meets the applicable minimum standard when seeking a building licence. They do not determine what is and is not restricted building work and cannot be read in such a way as to limit what has been declared as restricted building work.
- [42] They do, however, provide a guide as to what types of work a licenced person can carry out. In this respect it is noted for external plastering that Schedule 1 of the Rules
- Descriptor: This licensing class covers practitioners applying external solid plaster, or proprietary plaster systems to any category of building.*

³ Explanatory note to the Licensed Building Practitioner Rules 2007

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- Explanatory Note:* This licensing class includes Solid Plastering and Proprietary Plaster Cladding Systems (PPCS).
- Competencies:* Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry.
- Competency 2:* Demonstrate knowledge of current external plastering trade practice.
- Competency 3:* Carry out planning for external plastering work.
- Competency 4:* Carry out external plastering work.

These competencies may be demonstrated by meeting some or all of the following performance indicators.

- [43] It is within the performance indicators used to further describe the competencies that specialised or aerated panels are not mentioned. As can be noted, however, from the final item from Schedule 1 noted above, a practitioner does not have to demonstrate all of the performance in a competency to be evaluated as competent.
- [44] There is also a general principle of statutory interpretation that general provisions do not derogate from specific ones⁴. In this respect the Licensed Building Practitioners Rules 2007 are general in their nature whereas the Building (Designation of Building Work Licensing Classes) Order 2010 and Building (Definition of Restricted Building Work) Order 2011 are far more specific in their provisions and should be preferred.
- [45] Having established that the building work carried out was restricted building work it follows that a record of work was required on completion.

Was the restricted building work complete?

- [46] The next aspect for the Board to consider is whether or not the restricted building work was actually complete. The Board discussed issues with regard to records of work in its decision C2-01170⁵ and gave guidelines to the profession which included when the restricted building work is considered to be complete.
- [47] 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 ...”.
- [48] 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.
- [49] In this instance the Respondent claimed the restricted building work was not complete. There was disagreement between the Respondent and the Complainant in this respect. The Board notes, however, that the contractual relationship was at and end in early September 2015 as a result of the email from the Complainant to the Respondent.
- [50] The Board has consistently taken the approach that even though the intended work may not have been completed, the licensed building practitioner’s restricted building

⁴ Refer Burrows and Carter Statute Law in New Zealand 5ed 2015 page 475

⁵ Licensed Building Practitioners Board Case Decision C2-01170 15 December 2015

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work under the building consent will, in effect, have been completed if they are not able to carry out any further restricted building work.

- [51] When the point in time arises is a question of fact. In this instance the Board finds that this occurred on the expiry of the deadline in the email of 30 August 2016 from the Complainant being early September 2015. The contract had come to an end and whilst the Respondent stated he was will to go back he took no steps to do so or contest that the contract was still operative.
- [52] The record of work was not provided until January 2016 and the Board finds the delay was unreasonable and in this respect the Board refers to the reasoning in its decision C2-01170⁶.

Was there a good reason for not providing a record of work?

- [53] 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?
- [54] Reasons advanced were:
- (a) he could not provide a producer statement as timber had been affixed to the plasterwork and he could not ensure that it is watertight; and
 - (b) if he provided the paperwork then he would be liable for the timber being fixed on to the plaster and he would not be paid for his work.
- [55] A record of work does not create any additional liability⁷ and is not a statement as to compliance and should not be confused with a producer statement. In completing a record of work the Respondent would not have been making any form of statement as to water tightness.
- [56] As regards payment the Board has consistently held that a record of work is a statutory document and cannot be used as leverage to obtain payment.
- [57] The Board does finds there were no good reasons advanced.

Board Decision

- [58] The Board has decided that the Respondent has failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act) and should be disciplined.

⁶ *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

⁷ Refer s 88(4) of the Act:

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.*

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Disciplinary Penalties

- [59] 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 Act¹.
- [60] 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 submissions on those matters.
- [61] 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. Included in this was the misunderstanding of the Respondent's obligations and of the difference between a record of work and a producer statement.
- [62] Given the nature of the disciplinary offending, the mitigation already heard and the level of penalty decided on the Board has decided to dispense with calling for further submissions. The Respondent will, however, be given an opportunity to comment on the level of penalty, costs and on publication should he consider there a further matters which the Board should take into consideration.
- [63] The Board is aware that the common understanding of the purposes of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct. 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.*⁸
- [64] In New Zealand the High Court noted in *Dentice v Valuers Registration Board*⁹:
- Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.*
- [65] The High Court in *Patel v Complaints Assessment Committee*¹⁰ has, however, commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to uphold professional standards:
- [27] Such penalties may be appropriate because disciplinary proceedings inevitably involve issues of deterrence. They are designed in part to deter both the offender and others in the profession from offending in a like manner in the future.*

⁸ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

⁹ [1992] 1 NZLR 720 at p 724

¹⁰ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.

- [66] Taking all of the above matters into consideration and on the basis that the situation as regards records of work in respect of specialised or aerated panels may have been unclear at the time (but noting the Respondent had not relied on advice to this effect) the Board considers a censure is appropriate. A censure is the most lenient form of penalty the Board can order.

Costs

- [67] 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.”

- [68] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case. The judgement in *Cooray v The Preliminary Proceedings Committee*¹¹ included the following:

“It would appear from the cases before the Court that the Council in other decisions made by it has in a general way taken 50% of total reasonable costs as a guide to a reasonable order for costs and has in individual cases where it has considered it is justified gone beyond that figure. In other cases, where it has considered that such an order is not justified because of the circumstances of the case, and counsel has referred me to at least two cases where the practitioner pleaded guilty and lesser orders were made, the Council has made a downward adjustment.”

- [69] The judgment in *Macdonald v Professional Conduct Committee*¹² confirmed the approach taken in *Cooray*. This was further confirmed in a complaint to the Plumbers, Gasfitters and Drainlayers’ Board, *Owen v Wynyard*¹³ where the judgment referred with approval to the passages from *Cooray* and *Macdonald* in upholding a 24% costs order made by the Board.
- [70] In *Collie v Nursing Counsel of New Zealand*¹⁴ where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:

But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate. It is not hard to see that the award of costs may have imposed some real burden upon the appellant but it is not fixed at a level which disturbs the Court’s conscience as being excessive. Accordingly it is confirmed.

- [71] The hearing was somewhat of a test case and this has been taken into consideration. In the all the circumstances the Board considers the sum of \$500 to be a reasonable sum of costs.

¹¹ HC, Wellington, AP23/94, 14 September 1995

¹² HC, Auckland, CIV 2009-404-1516, 10 July 2009

¹³ High Court, Auckland, CIV-2009-404-005245, 25 February 2010

¹⁴ [2001] NZAR 74

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Publication of Name

- [72] 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 Licenced Building Practitioners' scheme as is required by the Act.
- [73] The Board is also able, under s 318(5) of the Act, to order publication over and above the public register:
- 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.*
- [74] As a general principal such further public notification 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.
- [75] The Board does not consider it necessary to further publish the Respondent's name but it will publish its decision and inform the industry of it (without identifying the persons involved).

Penalty, Costs and Publication Decision

- [76] For the reasons set out above, the Board directs that:
- Penalty:** Pursuant to s 318(1)(d) of the Building Act 2004, the Respondent is censured.
- Costs:** Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of \$500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.
- Publication:** The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with s 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 but the Board will instruct the Registrar to publish the decision so as to inform the industry of its content without naming the Respondent.

Submissions on Penalty Costs and Publication

- [77] The Board invites the Respondent to make written submissions on the matters of disciplinary penalties, costs and publication up until close of business on **6 June 2016**.
- [78] If no submissions are received then this decision will become final.
- [79] If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

Right of Appeal

- [80] The right to appeal Board decisions is provided for in s 330(2) of the Actii.

Signed and dated this 16th day of May 2016

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:*
 - (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.*