



What can I do if I don't agree with a licensing decision?

A guide to help you decide what to do next

Introduction

If you don't agree with a licensing decision from the Registrar, then you can appeal to the Building Practitioners Board (the Board).

The Board is independent of the Ministry of Business, Innovation & Employment (the Ministry) and the Registrar.

An appeal is a serious and formal legal process. You should make sure that you have considered every other option available to you before you decide to appeal.

The purpose of this booklet is to help you decide if it's better to resolve your licensing issues with the Ministry or to appeal the Registrar's decision to the Board.

It will guide you through what you can do to get licensed, including the appeals process, if you decide an appeal is right for you.

To succeed at getting licensed on appeal, you'll need to provide reasons and evidence that prove the Registrar's decision should change.

If you're not able to do this, then it's better to focus on meeting the minimum standards for licensing, so you can be licensed in the future.

You can read about the standards for licensing in the Licensed Building Practitioners' Rules (The Rules) at www.dbh.govt.nz/lbp-rules

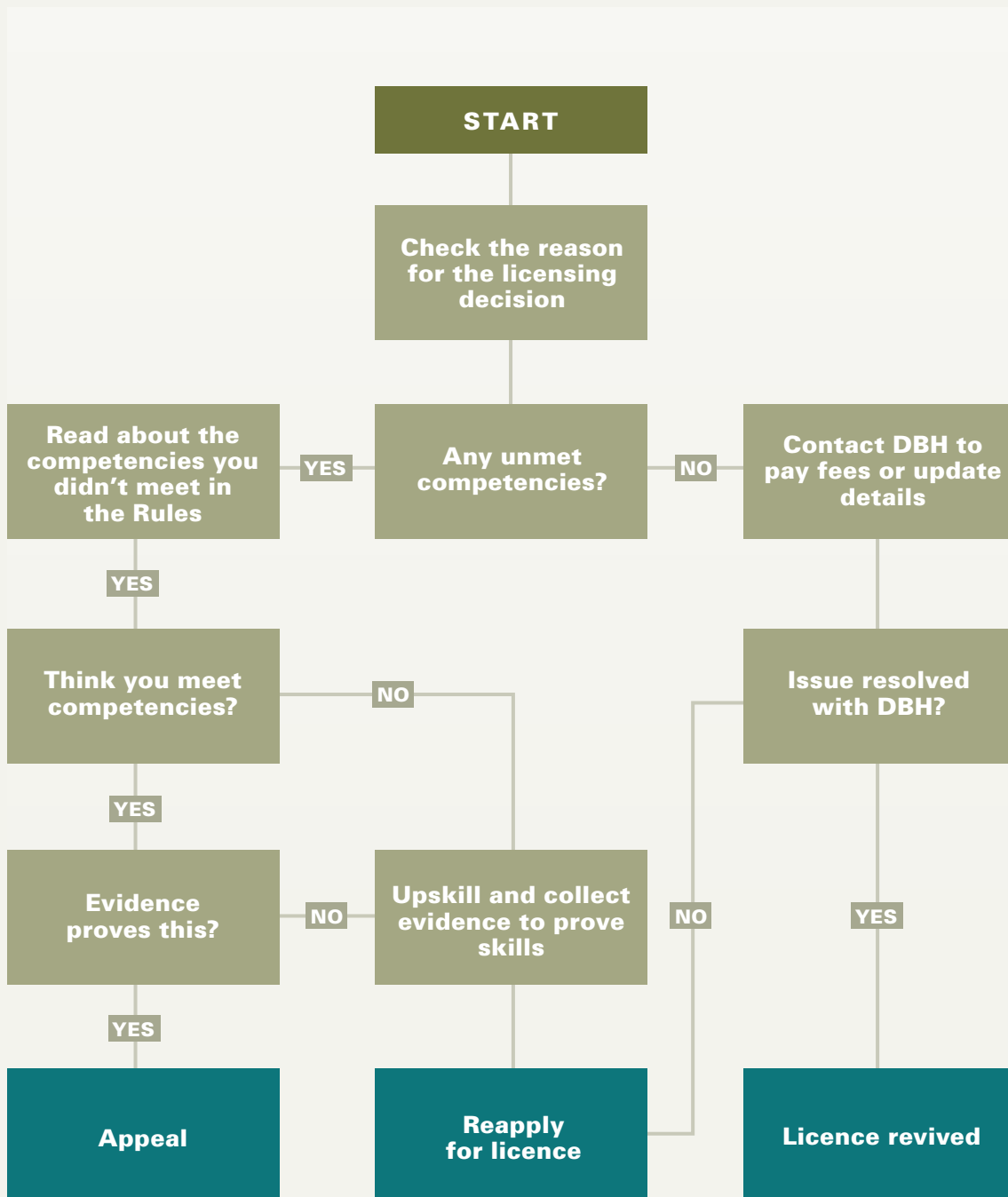
This booklet is a guide only. You can read the Board's full procedures for managing appeals for licensed building practitioners under the Building Act 2004 at www.dbh.govt.nz/bpb-appeal-procedures



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Thinking about appealing?



What are my options?

What to do next?

An appeal is a serious and formal legal process. Before you appeal a licensing decision, you should think about what other action you can take to get licensed.

The action you can take will depend on what the licensing decision is and the reason for it. Please read about the licensing decision that applies to you.

If your licence was suspended

Check the reason(s) that the Registrar gave for the decision.

If you didn't pay your fees or update your personal or skills maintenance details, then appealing the decision won't help you.

To revive your licence you can either:

- reply to the Registrar's annual contact letter and include your details or payment
- update your details or pay online using your igovt sign-on.

If you need any help with this, then you can contact the Ministry of Business, Innovation and Employment at info@dbh.govt.nz or 0800 60 60 50 during business hours.

If your licence was cancelled

Check the reason(s) that the Registrar gave for the decision.

If you haven't paid your fees, replied to annual contact from the Registrar or updated your personal or skills maintenance details in over a year, then you may need to reapply for your licence.

If there are special circumstances that stopped you from paying your fees, replying to contact or updating your details, then please discuss this with the Ministry. Contact info@dbh.govt.nz or 0800 60 60 50 during business hours.

What are my options?

If your licence application was declined or you were offered a licence for a lower area of practice than you applied for

Before you decide whether to appeal, there are a few things to think about.

- 1** Check the reason that the Registrar gave for the decision. Usually, the reason will be that you haven't met one or more competencies for your licence class (and area of practice, if it applies).
- 2** Ask for a copy of your assessor's report so you can get more detailed information on any competencies that you didn't meet. You can call 0800 60 60 50 during business hours or email info@dbh.govt.nz to get a copy.
- 3** Read about the competencies and performance indicators for the licence class you applied for in the Licensed Building Practitioners Rules at www.dbh.govt.nz/lbp-rules
- 4** Check that you meet the competencies for the licence class you applied for. These competencies are measured by performance indicators. Think about whether you can provide examples of your work that show how you meet the performance indicators for each competency you need to demonstrate. You'll also need to make sure that you provide examples for the area of practice that you want to be licensed in, unless you applied for a Carpentry licence.
- 5** If you can see that you didn't meet the competencies for the licence you applied for, think about reapplying when you have gained more experience. If you reapply for your licence you will have more time to upskill, you will be able to collect evidence of your competence in your own time, and you won't have to deal with the pressure of attending a formal hearing.
- 6** If you think that if you'd provided more evidence with your licence application you could have been licensed, then you may wish to appeal. After you've lodged your appeal, the Board will issue a set of directions which provide a time frame for you to submit your case.

Do I need to appeal?

To appeal a licensing decision you must have 'grounds for appeal'. This means you can give reasons and evidence which prove the licensing decision should change on appeal.

Use this table to decide whether you have grounds for appeal or if you should think about taking another action.

If your licence was...	then you need to...	and you have grounds for appeal if you believe you can prove...	or think about...
suspended	<ul style="list-style-type: none"> • think about the reason(s) your licence was suspended • check that you have replied to annual contact • check that you have paid your fees 	you replied to annual contact and paid your fees	talking to the Ministry about paying your fees or replying to annual contact
suspended pending disciplinary action	think about the reason(s) for the decision	your suspension is not necessary to protect the public	waiting until your disciplinary proceeding is finished
cancelled	<ul style="list-style-type: none"> • think about the reason(s) for the cancellation • check that you have replied to annual contact and paid your fees over the last 12 months 	you replied to annual contact and paid your fees over the last 12 months	<ul style="list-style-type: none"> • talking to the Ministry about any special circumstances that stopped you from replying to annual contact or paying your fees • reapplying for your licence

Do I need to appeal?

If your licence was...	then you need to...	and you have grounds for appeal if you believe you can prove...	or think about...
<p>declined or you were offered a licence for a lower area of practice than you applied for</p>	<ul style="list-style-type: none"> • think about the reason(s) for the decision • get a copy of the assessor's report • read about the competencies and performance indicators for your licence class at www.dbh.govt.nz/lbp-rules • check you meet the competencies • check if you can provide examples of your work from the performance indicators that show you meet the competencies 	<p>by providing evidence relating to the performance indicators that proves you meet any competencies in dispute</p>	<p>upskilling and reapplying for the licence when you meet the competencies</p>



How to appeal

If you decide to appeal, you must complete the 'Appeal form' and send it to the Building Practitioners Board (the Board). You can get a copy of the form from www.dbh.govt.nz/bpb or you can contact info@dbh.govt.nz or 0800 60 60 50 during business hours to ask for a copy.

Decisions for appeal

You can appeal to the Board, the Registrar's decisions to:

- decline your application to become licensed
- offer you a licence for a lower area of practice than you applied for
- suspend your licence
- cancel your licence.

About the Building Practitioners Board

The Board is independent of the Ministry of Business, Innovation and Employment and the Registrar.

The Minister for Building and Construction recommends members for the Board and the Governor-General appoints them. The Board members have expertise in design, construction, and inspection services and in law, dispute resolution and mediation skills.

You can read more about the Board at www.dbh.govt.nz/bpb

Timeframes

If you decide to appeal, you must do so within 20 working days of the date you received the Registrar's decision letter. You can only appeal after this with the Board's permission.

Incomplete forms

You have to complete all sections of the appeal form. If the form is not completed correctly, you'll be asked for any missing information.

You'll need to make sure the Board gets this information within 20 working days of the date you received the Registrar's decision letter. If you don't do this, then you'll need the Board's permission to appeal after this time.

Appeal form checklist

You must complete all the sections of the appeal form. If your form is incomplete you will need to make sure you return any missing information within 20 working days of receiving the Registrar's letter, otherwise you will need the Board's permission to appeal.

Take particular care to:

- attach a copy of the Registrar's decision letter
- include the reason for your appeal
- check if you can resolve your licensing issues with the Ministry of Business, Innovation and Employment, if your licence was suspended or cancelled. If you're not able to do this, then provide evidence that shows that that you complied with the Licensed Building Practitioners Rules 2007
- indicate what you want from the appeal (eg, 'I want to be licensed in the Design licensing class, area of practice 2').
- indicate whether you want to go to your appeal hearing
- list any witnesses or representatives you want to take part in your hearing
- list any special equipment or assistance you need to present your case at your appeal hearing
- sign and date your form.

Preparing your evidence

At your appeal hearing, the Board will only consider the specific decision you have appealed against. It's important you think about the reason(s) for the Registrar's decision and address these reasons when you make your case.

Evidence

Your evidence could include photos, drawings, qualifications, recent examples of your work and referees who can confirm that work.

It's helpful if your evidence is verified. This means that an independent person who has worked with you confirms:

- that you have done the work
- what you did on the job
- what tasks you worked on
- the project you worked on
- the role you took in the project
- the date(s) you did the work.

Qualifications, certificates, or photocopies can be verified by a Justice of the Peace (JP), a police officer or a barrister or solicitor.



If your licence application was declined or you were offered a licence for a lower area of practice than you applied for

Your evidence must focus on the competencies the Registrar decided you didn't meet. You must give recent examples of your work relating to the performance indicators for any competencies that you didn't meet for the licence class (and area of practice) you applied for. It's helpful to have referees who can confirm this work.

You don't need to provide any evidence about any other competencies the Registrar already agrees you have.

If your evidence doesn't show that you meet the competencies that the Registrar decided you didn't meet, then you won't be licensed on appeal.

Example:

You applied for a Carpentry licence and the Registrar decided you didn't meet **Competency 2: Demonstrate knowledge of current building and trade practice.**

Your evidence must focus on the performance indicators demonstrating knowledge of current building and trade practice (eg, demonstrating knowledge, interpreting technical information, describing safe working practices).

Do not give evidence on competencies the Registrar already agrees you have.

If your licence was suspended or cancelled

You'll need to think about the reasons the Registrar gave for the decision. Your evidence must show the Registrar's decision should be changed. If you're not able to do this, then your licence won't be revived on appeal.

Examples of evidence

You'll need to include recent evidence.

Your evidence should be signed by an independent person who can verify the work you did, when you did it and who you did it for.

Here's some examples of what kind of evidence the Board are looking for.

Example 1:

You applied for a Carpentry licence and the Registrar decided you didn't meet **competency 4: Carry out carpentry work.**

Your evidence should include recent examples from the performance indicators which show you do carry out carpentry work.

For example, your evidence could show how you:

- prepared a site for construction
- fixed exterior cladding
- constructed concrete structures
- constructed timber stairs, ramps and barriers.

Example 2:

You applied for a Design licence, **area of practice 3** and the Registrar decided you didn't meet **competency 4: Develop design and produce construction drawings and documentation (for category 3 buildings).**

Your evidence should include recent examples from the performance indicators which show you do develop, design and produce construction drawings and documentation for **category 3** buildings.

For example, your evidence could show how, for category 3 buildings, you:

- applied design standards and identified and produced specific design solutions
- prepared and developed design drawings and specifications
- coordinated and integrated specialist design inputs as required
- updated clients on timelines and costs.

Support people at a hearing

Witnesses

You can bring witnesses to support your case, as long as you supply a list of these people to the Board at least 10 working days before the hearing.

This is so the Board can check there is no conflict of interest before the hearing begins. If there is a conflict of interest between a witness and a member of the Board, then that Board member might need to stand aside. For this reason you must also state the relationship of your witness(es) to you.

Any evidence from your witnesses should focus on the competencies that you didn't meet.

Technical referees

It's in your best interests to provide witnesses who can act as technical referees.

A technical referee is someone who:

- saw the work that you have given examples of in your evidence
- knows what work you did
- understands what the work is.

For example, if your evidence shows you did carpentry work on a particular project, then another carpenter who worked on that project could act as a technical referee.

Personal or client referees

A witness who is a personal or client referee may say you did a good job, but not be able to answer questions on how your work shows you can meet the competencies.

Other support people

You are welcome to bring other support people such as family, interpreters, and legal or other representatives.

You must supply a list of your supporters to the Board at least 10 working days before the hearing.

Interpreters

You are welcome to bring an interpreter to your hearing. You must arrange for the interpreter to attend the hearing and pay for them yourself.

Before an appeal hearing

What happens before an appeal hearing

Before the appeal hearing, you'll be sent copies of the following documents:

- your appeal form
- any supporting documents sent with your appeal form
- the Registrar's report
- your original licence application
- the reasons for the licensing decision.

The Registrar and the Board will also be sent copies of this information. The Board won't have any other information unless you provide it. For example, the Board does not have access to all of the information the assessor had access to.

You'll be sent a notice of hearing letter with the time, date, and place of your appeal.

If you have more information that supports your appeal, send it to the Board's Secretary as soon as you can before the appeal hearing or within the time specified in our correspondence. The Board prefers to have your evidence as early as possible so that it has the time and opportunity to review your evidence before a hearing.

The Board will allow you to bring new evidence on the day of the appeal hearing, if you bring enough copies. The number of copies you need is specified in the notice of hearing letter. Providing extra evidence on the day isn't ideal, as it doesn't give the Board much opportunity to familiarise itself with your case before the hearing.

Prehearings

The Board may contact you by phone to discuss any procedural information before the hearing. It's not an opportunity to discuss the details of your case.

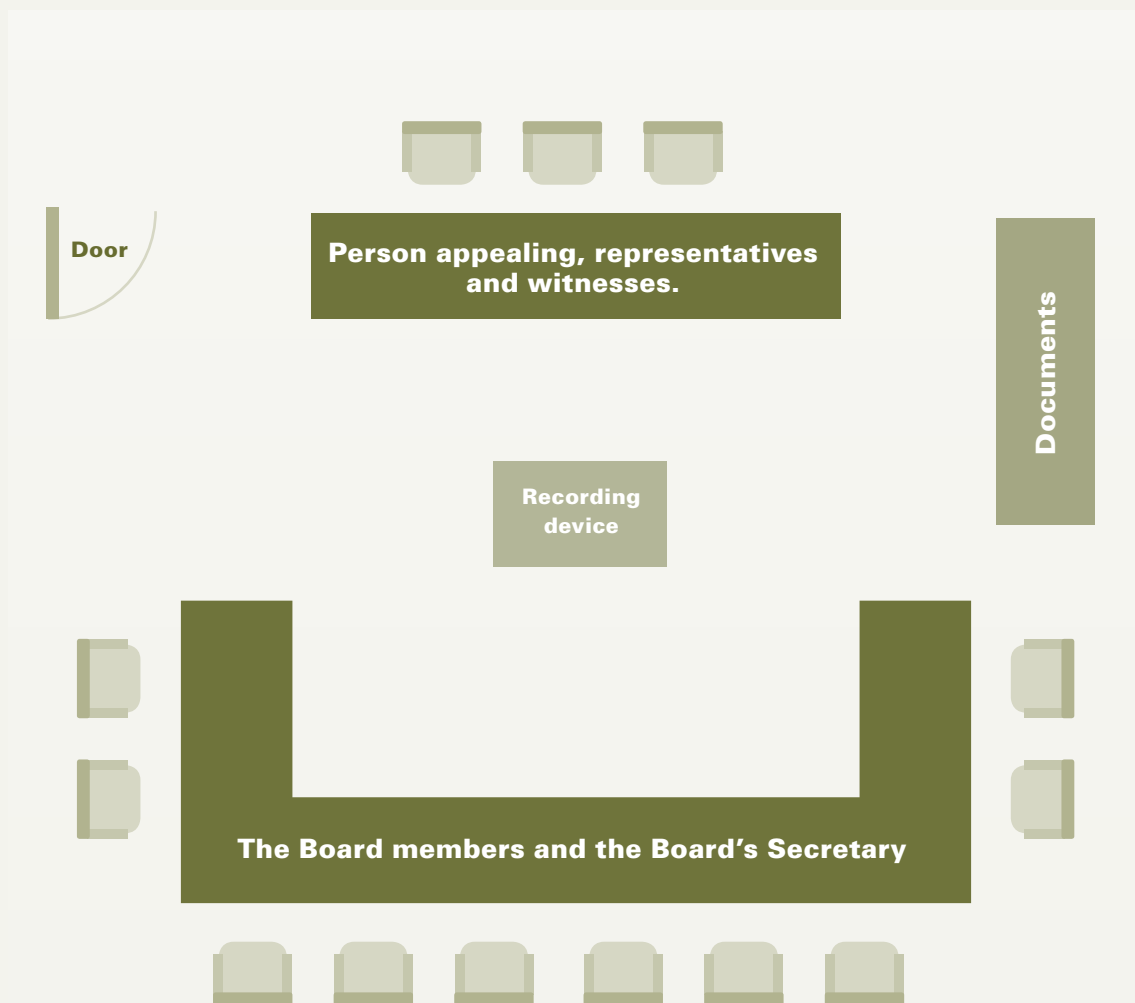
Hearings on the papers

Attending your appeal is optional. If you prefer, you can ask for a hearing 'on the papers'. This means the Board will decide the outcome of your appeal on the written evidence you and the Registrar submit. If you choose a hearing 'on the papers', you must provide all the evidence you have in writing, as the Board won't be able to ask you or your witnesses any questions. It's helpful to present your evidence in a clear and structured way as if you were preparing for a debate.

Non-attendance

If you don't turn up to a hearing you said you would attend, the Board will decide the outcome of your case 'ex parte'. This means that the hearing will go ahead without you, and the Board will decide your case based on the evidence the Registrar and any witnesses give at the hearing, and any evidence you submitted before the hearing.

What a hearing looks like



About the hearing

Where hearings are held

Hearings are usually held in the main centre closest to where you live. For example, if you live in the Manawatu your hearing could be held in Palmerston North. If you live in the Far North, your hearing could be held in Whangarei.

Appeals hearings are public

Appeal hearings are held in public unless the Board decides to hold it in private. You can request a hearing in private for privacy reasons. All appeal hearings are electronically recorded.

Who will be at the hearing

There will be between 3 – 8 members of the Board present (a quorum), the Board's Secretary, the Registrar or their representative, you, your support people, your legal or other representative, your witnesses, and any other person at the Board's discretion.

Appeal hearings are public and so any member of the public may attend, although this is uncommon.

What happens when you arrive at the hearing

When you arrive at the appeal hearing location, check in at reception. Please wait at reception until the Board's Secretary comes out to greet you.

The Secretary will go over how the hearing will work and will answer any of your last minute questions. You'll have a chance to let the Secretary know if you have any additional evidence.

The Chairperson of the Board (The Chair) will call you when the Board is ready to begin the hearing.

How the hearing begins

The Board members will introduce themselves to you. They will also introduce you to the Registrar and any support staff at the hearing.

The Chair will read out the reason for the appeal, and the decision which you are appealing against.

You, and any witnesses must swear an oath or affirmation before giving any evidence. You will be given a card to read from so you know what to say.

The Chair will guide you through the hearing and let you know when to speak and who will speak next.

At the appeal hearing

Presenting your case

You or your legal or other representative can present your case for appeal.

You and your witnesses can provide evidence to support your case.

You or the Board can ask the witnesses questions about their evidence

The Registrar presents their case

The Registrar or their representative will present their case.

The Board may ask the Registrar questions.

The Chairperson of the Board (the Chair) will tell you when you can respond to the things the Registrar said and make any final comments to support your case.

The Chair may also ask the Registrar for final comments.

Publishing your name and the appeal details

The Board will ask if you want your name published.

The result of your appeal and its details will be published at www.dbh.govt.nz/bpb but your name won't be published unless it is a matter of public interest or you've asked the Board to do so.

Closing the hearing

The Board will close the hearing and advise you in writing of the outcome of the appeal as soon as possible.

The appeal outcome

The outcome of your appeal

The Board will consider all the evidence from the hearing in private. Only the Board members and the Board's Secretary may be present while the Board makes its decision.

The Board makes its decision based on what you said you wanted from the appeal outcome in your appeal form (eg, 'I want to be licensed in the Design licensing class, area of practice 2').

It will let you know its decision as soon as possible after the hearing in writing, and will include the reason(s) for their decision.

The Board may confirm, reverse or modify the Registrar's licensing decision. It may also refer the decision back to the Registrar.

If your appeal is successful

The Registrar will implement the Board's decision

If your appeal is unsuccessful

If the Board confirms the Registrar's decision, you can reapply for a licence when you feel you can demonstrate that you meet the relevant competencies for your licence class.

Appeals heard to date

You can read about the outcomes of other appeals at: www.dbh.govt.nz/bpb-appeals

What if I don't agree with the Board's decision?

If either party doesn't agree with the Board's decision, they can appeal to the District Court.

You will need to seek your own independent legal advice, if you want to do this.



FAQs

What evidence can I present?

It's up to you to prove your case. You can present any evidence that you think will do this.

Your evidence could include recent examples of your work, project records, photos, drawings, technical referees, supporting qualifications, or recent learning activities (eg. training an apprentice).

Try to have your evidence verified. This means that an independent person, who has worked with you, confirms:

- that you have done the work
- what work you did
- the tasks you worked on
- the project you worked on
- the role you played in the project
- the date(s) you did the work.

A Justice of the Peace (JP), a police officer or a barrister or solicitor can verify photocopies and qualifications.

Who is a technical referee?

A technical referee is someone who saw you did the work that you gave examples of in your evidence, and understands what the work is. Someone who worked with you on a project could act as a technical referee.

When can I present my evidence?

You can submit evidence with your appeal form, when you get your notice of hearing letter, or you can present it at the appeal hearing as long as you provide enough copies for the Board. Your notice of hearing letter will tell you how many copies you would need to supply.

If you have large amounts of evidence you should send it to the Board as soon as possible before the hearing or by the date specified in your notice of hearing letter. This will give them more time to review your evidence.

For my evidence, can I use different projects to show I meet different competencies?

You are welcome to use examples of your work from different projects. The examples of your work must be recent and demonstrate your 'current' competence.

How should I organise my evidence?

Please list all the information you provide with an index. This is a good safeguard to make sure all your evidence is included. It's a good idea to identify what evidence relates to which competency.

Can anyone help me prepare for my appeal?

You can employ a lawyer or advocate to help prepare and present your case. If you belong to an industry organisation (eg, Master Builders) it may be able to offer you advice about preparing your case.

Where will my appeal hearing be held?

Appeal hearings are usually heard in the main centre closest to where you live. For example, if you live in the Manawatu, your hearing could be held in Palmerston North. If you live in the Far North, your hearing could be held in Whangarei.

You can indicate if you'd prefer for your hearing to be held in another main centre when you complete your Appeal form. The Board will consider your request at its discretion.

Do I have to go to my appeal hearing?

Going to the appeal hearing is optional. You can ask for the Board for a hearing 'on the papers'. This means the Board will decide the outcome of your appeal on the written evidence you and the Registrar submit.

If you don't turn up to a hearing you said you would attend, the Board will decide the outcome of your case 'ex parte'. This means that the hearing will go ahead without you, and the Board will decide your case based on the evidence the Registrar and any witnesses give at the hearing, and any evidence you submitted before the hearing.

Will the appeal cost me anything?

Lodging an appeal is free of charge.

How long will the hearing take?

It depends on how much evidence there is, how many witnesses there are, and if you, the Board or the Registrar have any questions. The Board will always allow you enough time to present your case.

Hearings usually take between 1 ½ and 2 hours. There are no breaks.

What if I'm offered a lower area of practice for the licence class I applied for? Can I appeal?

Yes, you can appeal. Your supporting evidence will need to focus on the competencies for the area of practice that you were declined. For example if you applied for a Design 3 licence and you were offered a Design 1 licence, your evidence will need to show how you meet the competencies for area of practice 3.

Can my witnesses attend a hearing by teleconference?

You can call in a witness by telephone if the Board agrees to it. You must make the arrangements for your witness to be available during the hearing. The Board will not phone your witness outside of the hearing.

What kind of special equipment or assistance can I ask for?

You can ask for things which help you attend your hearing or present your case such as wheelchair access, teleconferencing equipment, a table for your drawings, PowerPoint projectors etc.

Can I bring an interpreter?

You are welcome to bring an interpreter. You will need to arrange for them to attend the hearing and pay for their services yourself.

Disclaimer

This booklet is intended to provide general information on the appeal processes for licensed building practitioners (and those attempting to become licensed) under the Building Act 2004. While the Building Practitioners Board has taken every care in preparing this booklet, it should not be relied upon as establishing all the requirements of the Building Act 2004. Readers should always refer to the Building Act 2004 as the source document, and be aware that for specific situations or problems it may be necessary to seek independent legal advice.

The Building Practitioners Board accepts no liability for the use of the information in this booklet, nor does it accept liability for errors or omissions or any claim for loss or damage as a result of reliance on the information contained in the booklet.

