

HOW TO

# MAKE A COMPLAINT

ABOUT A LICENSED BUILDING PRACTITIONER

YOUR GUIDE TO THE COMPLAINTS PROCESS

**bpb** Building Practitioners Board  
Te Pōari Kaupapa Kaiwhaihanga Whare



**LICENSED  
BUILDING  
PRACTITIONERS**  
Building confidence

# Contents

Page 2	Who to complain to
Page 3	What you can complain about
Page 4	Making a complaint
Page 6	The investigation process
Page 7	Complaint hearings
Page 8	Possible outcomes
Page 9	LBP Complaints process flowchart

ISBN 978-1-98-851760-5 (online)

## Disclaimer

This booklet is intended to provide general information on the complaint processes for licensed building practitioners under the Building Act 2004. While the Building Practitioners Board and Ministry 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 and Ministry 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.

## Introduction

The Building Practitioners Board (the Board) is an important part of the Licensed Building Practitioner (LBP) scheme. Whilst independent of The Ministry of Business, Innovation and Employment, MBIE supports its role and functions.

The Minister of Building and Construction recommends members for the Board and the Governor-General appoints them. The members have expertise in design, construction, and inspection services and in legal, dispute resolution and mediation skills. You can read about the Board on our website at [www.lbp.govt.nz](http://www.lbp.govt.nz)

The LBP scheme was established in 2007. The purpose of the LBP scheme is to set minimum standards of competence for LBPs and make sure that LBPs are accountable for the work that they do, including repairs, renovations, and new building work.

The Board investigates and hears complaints about LBPs to support this goal.

Anyone can complain to the Board about the conduct of a LBP, as long as the person complained about was licensed at the time the conduct occurred.

The Board can discipline LBPs whose work or conduct doesn't meet the scheme's standards. The Board does not deal with payment or other commercial disputes and therefore cannot award any compensation. These are considered civil matters and may require the parties to follow a legal process to find financial resolution/remedy.

This booklet will guide you through the complaint process.

## Who to complain to

The following table sets out who you can make a complaint about including who you can contact. Before making your complaint you need to know if the person you are complaining about is an LBP. The Board does not investigate complaints about persons who are not licensed.

You can find this information on the public register at [www.lbp.govt.nz](http://www.lbp.govt.nz)

<b>IF THE PERSON YOU'RE COMPLAINING ABOUT IS...</b>	<b>THEN COMPLAIN TO...</b>
licensed building practitioner	the Building Practitioners Board using the complaint form available at <a href="http://www.lbp.govt.nz">www.lbp.govt.nz</a>
non licensed building practitioner	MBIE – using the complaint form available at <a href="http://www.building.govt.nz">www.building.govt.nz</a> , or contact 0800 60 60 50
a Registered Architect	the Registered Architects Board at <a href="http://www.nzrab.org.nz">www.nzrab.org.nz</a>
a Chartered Professional Engineer	the Institute of Professional Engineers at <a href="http://www.ipenz.org.nz">www.ipenz.org.nz</a>
a Registered Plumber, Gasfitter, or Drainlayer	the Plumbing, Gasfitters and Drainlayers Board at <a href="http://www.pgdb.co.nz">www.pgdb.co.nz</a>
an Electrical Worker	the Electrical Workers Registration Board at <a href="http://www.ewrb.govt.nz">www.ewrb.govt.nz</a>

# What you can complain about

You can complain to the Board about what an LBP did or did not do. You can also complain about work that they have supervised or work that they have overseen or instructed, including work carried out by subcontractors that they have instructed.

The Board has the right to discipline an LBP if the work or the actions they took falls within the 'grounds for discipline of licensed practitioners' detailed in **section 317** of the **Building Act 2004**.

**The Board does not deal with disputes about payments or other commercial disputes.**

## Grounds for discipline

An LBP can be disciplined if they:

- › carried out or supervised building work negligently or incompetently;
- › carried out or supervised building work that does not comply with a building consent;
- › held themselves out to be licensed to carry out or supervise restricted building work when they are not licensed to carry out that type of work;
- › have been convicted of an offence that affects their fitness to do building work;
- › provided false information in order to become licensed;
- › failed to provide a certificate of design work for a building consent application that included restricted building work;
- › failed to provide a record of work to the council and the property owner on completion of restricted building work;
- › misrepresented their competence;
- › carried out or supervised building work outside their competence;
- › failed to produce their licence or notify a change in circumstances in relation to the status of their licence (eg, their licence has been suspended or cancelled); and/or
- › conducted themselves in a manner that brings, or is likely to bring, the Licensed Building Practitioners scheme into disrepute.

# Making a complaint

You must make your complaint in writing using the LBP complaint form, and send it to the Building Practitioners Board.

You can download a copy from **[www.lbp.govt.nz](http://www.lbp.govt.nz)** or contact 0800 60 60 50.

You must include the following information:

› **Your details**

Make sure you include your name and contact details, as the Board does not investigate anonymous complaints.

› **The LBP's details**

Include as many contact details as you can for the LBP you are complaining about. The Board cannot investigate a complaint if they're not able to identify the other party.

› **Where and when the work or conduct you are complaining about occurred**

Make sure you give specific dates and the location for where the work or conduct you are complaining about occurred. This should include the date the work began, the date the work ended and the date the LBP finished on site.

› **What the complaint is about**

You'll need to give the details of the conduct or work you are complaining about and include the dates that the conduct applies to. You should also refer to the grounds for discipline (as outlined on page three).

› **Supporting evidence**

You will need to detail your evidence and attach any documents or photographs that support your complaint to the complaint form.

Typed or clearly written documents will make your complaint easier to understand and photographs with labels or captions will help us understand what your photographs are showing.

› **Steps taken to resolve the complaint**

Please detail any steps that you know have been taken to this point in time to resolve the complaint.

› **Declaration**

It's an offence under the Building Act 2004 to provide false or misleading information. You must sign the declaration to acknowledge that you understand this.

› **Witnesses**

A witness is anyone, apart from yourself, who either:

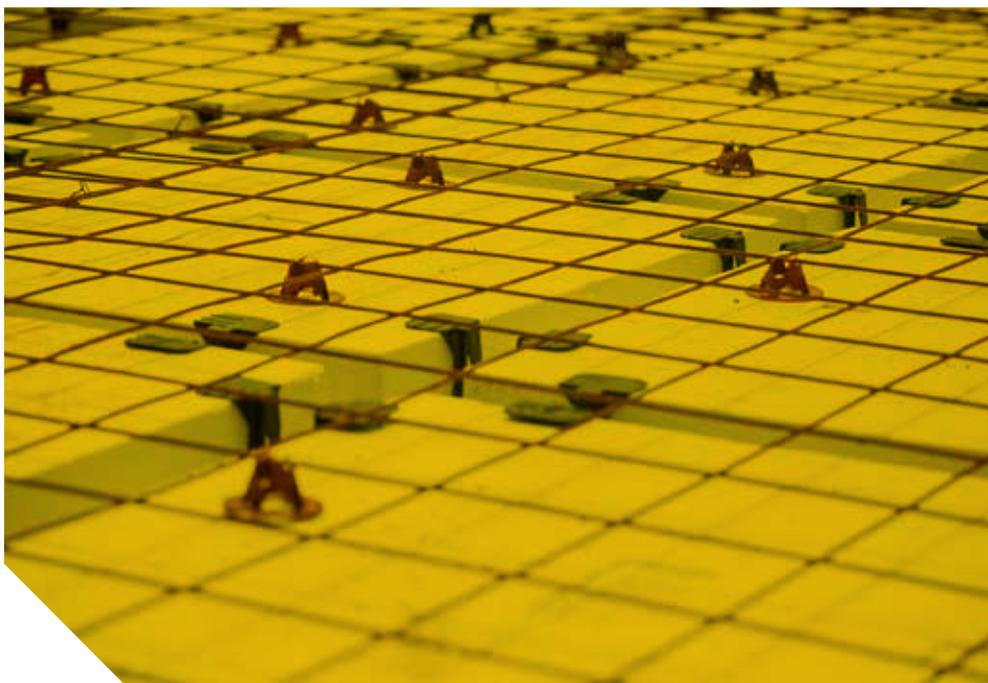
- saw the work being done;
- saw the finished work; and/or
- was a party to any discussions about the work or conduct you are complaining about.

Make sure you give the name and contact details for your witnesses and the details of any conduct or work they saw that relate to your complaint.

Witnesses must be able to provide evidence based on matters of fact about the complaint.

› **Attachments**

Ensure that you list all your attachments and make sure they are included when you send your form. Typed documents are best.



# Investigating the complaint

If the Board decides to investigate your complaint, the LBP will be notified at the beginning of the investigation.

The Board will ask the Registrar (or his/her delegate) to prepare a report on the complaint. If required, a Special Adviser or Technical Assessor may be asked to provide an expert assessment of the matter.

The Registrar's report to the Board will include:

- › The details of the complaint;
- › What both you and the LBP said about the complaint;
- › Any information or evidence that relates to the complaint;
- › What the Special Adviser or Technical Assessor has said about the complaint, if this applies; and
- › The Registrar's view on whether he/she thinks that the Board should consider the matter further.

When the Registrar's report is completed, the Board will consider it and decide whether to go ahead with your complaint or to dismiss it.

If the Board decides to go ahead, your complaint must proceed to a hearing. The Board will notify you and the LBP of the outcome of the complaint and whether or not they will hold a hearing.

## Reasons the board may not proceed with your complaint

The Board may dismiss your complaint if:

- › Your complaint relates to a person who was not an LBP at the time the work or conduct you are complaining about occurred;
- › You didn't complain in writing using the 'Licensed building practitioner complaint form';
- › You haven't named the LBP;
- › The conduct that you're complaining about doesn't fall within the grounds for discipline;
- › Your complaint is anonymous;
- › There is not enough evidence to investigate your complaint;
- › Your complaint is deemed by the Board to be frivolous, vexatious or not made in good faith;
- › The conduct you are complaining about is deemed by the Board to be minor or trivial;
- › It is not practical to investigate your complaint (for example if the LBP cannot be located or has died);
- › The Board has previously made a decision about your complaint; and/or
- › Your complaint does not fall within the Board's jurisdiction (for example it is a commercial dispute).

# Complaint hearings

## Complaint hearings

If the Board decides to proceed with your complaint they will hold a hearing. Hearings are held in public unless the Board decides there is a good reason to hold them in private.

The LBP you complained about will be invited to attend the hearing to present their case.

You can choose whether or not to go to the hearing unless you are summoned by the Board to attend.

## The hearing

Investigating and hearing complaints is a formal legal process and you, the LBP you complained about, and any witnesses must give your evidence under oath. The Board may question you, the LBP and any witnesses at any time during the hearing.

## Hearing on the papers

Sometimes the Board may hold a hearing 'on the papers' which means that a hearing will take place without anyone being required to attend in person. It is at the Board's discretion to hold a hearing in this manner.

## The complaint outcome

The Board will consider all the evidence from the hearing in private.

They will let all of the parties to the complaint know about their decision as soon as possible after the hearing. The Board's decision will be sent to all parties in writing. The Board will include the reason(s) for their decision and will direct the Registrar to implement the Board's decision.

You can read about the outcomes of previous complaints at [www.lbp.govt.nz](http://www.lbp.govt.nz)

## Appealing the Board's decision

Any penalty issued by the Board can be appealed to the District Court.

For further information, please refer to **section 330 of the Building Act 2004**.

You may wish to seek independent legal advice prior to lodging an appeal with the District Court.

# Possible outcomes

If the Board does not proceed with or uphold your complaint, the Board will notify both parties in writing.

## Disciplinary penalties

If the Board upholds your complaint about an LBP it can:

- › suspend or cancel that person's licence;
- › restrict the kind of work they can do;
- › fine the practitioner up to \$10,000;
- › order the practitioner to do training;
- › formally reprimand the person; and/or
- › order the practitioner to pay costs.

Any disciplinary action the Board takes will be recorded on the public register of LBPs for three years or until their licence is cancelled. That information will be available to anyone who searches the register.

The Board can publicly announce the action in any other way it sees fit, such as a press release.

## No compensation or reparation



The Board cannot order the person you complained about to compensate you or remedy the situation such as order the LBP to provide you with outstanding records of work or to fix the work. You may want to consider seeking independent legal advice about this.

## Fines and costs



If a fine or costs are ordered by the Board, they will be payable to the Ministry of Business, Innovation and Employment. If the fine isn't paid by the practitioner, the Board can suspend or cancel their licence or prevent them from relicensing.

# LBP Complaint Process

## Complaint received by the Building Practitioners Board

The complaint is assessed for completeness and further information may be requested

## Investigation of the Complaint by the Registrar of Building Practitioners (or his/her delegate)

Board asks for further investigation

## Registrar's report on the matter is considered by the Board and a decision is made on how to proceed

You may be contacted by a Special Adviser or Technical Assessor.

## The Board decides to hold a hearing on the matter and then makes a ruling

## Disciplinary decision handed down

## What this means for you

We ask for a response from the LBP and give him/her at least 20 working days to provide that response.

We might engage a Special Adviser or Technical Assessor for an expert opinion and they might contact the parties to arrange a site visit or to ask questions.

We might ask either party, witnesses or other relevant people to provide more information.

## The Board decides that there will be no further action

## The parties are notified of the Board decision in writing

You have a legal right to appeal a penalty decision. Seek independent legal advice if you are considering this.



Building Practitioners Board  
*Te Poari Kaupapa Kaiwaihanga Whare*



MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT  
HĪKINA WHAKATUTUKI

New Zealand Government