


ANNUAL REPORT 2022

BPB | Building Practitioners Board
Te Poari Kaupapa Kaiwaihanga Whare







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ROLE AND FUNCTIONS OF THE BOARD





The Building Practitioners Board (the Board) is a statutory body constituted under Part 4 of the *Building Act 2004*. It plays an important role in the Licensed Building Practitioners Scheme (the Scheme).

The functions of the Board are to:

- › hear appeals against licensing decisions of the Registrar of Licensed Building Practitioners (LBPs)
- › investigate and hear complaints about LBPs
- › approve Rules for LBPs
- › annually review and report on its operations to the Minister of Building and Construction.

The Board is independent of the Ministry of Business, Innovation and Employment (the Ministry), but is supported by the Ministry in the performance of its functions.

The Board is committed to supporting the capability of New Zealand's building and construction industry and maintaining building practitioner standards.

BOARD CHAIR'S REVIEW



Well, it has been another steady year for the Board.

Of the 234 complaints considered by the Board, 75 did not meet the required threshold to go to a hearing and, of those that were considered at Hearing by the Board, 106 were upheld.

The themes for the year were similar to those of past years; being a continuing practise of not issuing Records of Work in a timely manner, or withholding of the Record of Work to leverage payment; which is not allowed under the Building Act.

Undertaking building work prior to a building consent being issued, or in some cases even being applied for, remains an issue; as does a general misunderstanding or liberal interpretation of Schedule One exemptions.

There also remains confusion that the Board is only interested in, or has jurisdiction over, complaints regarding Restricted Building Work. This is not the case - the Board holds hearings and makes decisions on any building work which a Licensed Building Practitioner (LBP) may have done that does not meet the required standard or does not comply with the Building Consent or Building Code

There has been an increase in the number of design complaints. In most cases the standard of the drawings and specifications have resulted in an unacceptable number of requests for information (RFI's) and protracted responses. In several cases, this has been due to a lack of supervision of unlicensed and junior drafting staff and substandard control processes.

Moving forward, the Board expects to see an increase in complaints when the Code of Ethics comes into effect under the Building Act 2004 in October 2022. Practitioners are encouraged to review and understand the Code of Ethics and what this means for them. They should take advantage of the resources that MBIE provides to assist that understanding.

Again, I would like to thank the Board Members for their continued diligence and support; and to the MBIE team who provide all the investigation and administration support for the Board. It is not always a pleasant job but, done well, it helps the Board make good decisions and adds to the protection of the consumer.

This will be my last Chairman's report as I step aside in October 2022. I will take this opportunity to acknowledge all those who have been on the Board and those within MBIE providing support over the past nine years. When I look back, it is with pride and admiration for all those involved. There has been continuous improvement in the processes and procedures we use which, in no small part, is a result of the cooperation between the Board and MBIE staff and their combined willingness to change and improve.



Chris Preston
CHAIR





2021/22 AT A GLANCE



**234 Complaints/
Board Inquiries**
considered by the Board



212 Investigations
completed by the Registrar



25 Inquiries
initiated by the Board



106 Complaints
upheld



169 Complaints
determined following hearing



16 Appeals
against the Registrar determined



**STATEMENT OF
SERVICE
PERFORMANCE**



The Board's performance expectations and measures for 2021/22 set by the Minister are outlined below.

EXPECTATIONS	MEASURES	ACHIEVEMENT
<p>Legislative obligations</p> <p>The Board meets all obligations under relevant legislation, including reporting under the Act.</p>	<p>All legislative obligations are met and performance against its obligations is reported in its Annual Report.</p>	<p>Achieved.</p> <p>Annual Report provided to the Minister by 31 October 2022.</p>
<p>Licensed Building Practitioners Rules 2007</p> <p>Approve Rules relating to Licensed Building Practitioners in a timely way.</p>	<p>Approve or decline all proposed Rules within 30 working days of receipt from Ministry.</p>	<p>No Rule changes were proposed in this financial year.</p>
<p>Complaints</p> <p>Investigate complaints, hear complaints and discipline Licensed Building Practitioners efficiently and in accordance with Regulations.</p>	<p>Determine 90% of complaints within 60 working days of the date of the hearing.</p> <p>The complaint and disciplinary process from beginning to end is regularly reviewed.</p>	<p>Achieved.</p> <p>94% of complaints were determined within 60 working days of the date of the hearing.</p> <p>The complaints and disciplinary process was regularly reviewed. The Board held three Complaints Workshops with the Ministry.</p>
<p>Appeals</p> <p>Hear appeals against decisions of the Registrar in a timely way.</p>	<p>Determine 85% of appeals within 60 working days of receipt of complete appeal.</p>	<p>Not Achieved.</p> <p>63% of appeals were heard and/or determined within 60 working days of receipt of complete appeal.</p> <p>The drop in appeals determined within 60 working days was largely due to appeal hearing adjournments due to the August 2021 covid-19 lockdown and appellant unwellness.</p>
<p>Service Level Agreement with Ministry</p> <p>Develop, implement and monitor a Service Level Agreement that sets out the expected service levels to be provided by the Ministry and</p>	<p>Performance against the agreed service levels is reviewed by 31 March each year, to inform consideration of the next Service Level Agreement</p>	<p>Achieved.</p> <p>No changes were made to the Service Level Agreement in 2020/21.</p>
<p>Board self-appraisal</p> <p>The Board undertakes an annual self-appraisal of its performance as a Board and provides a summary to the Ministry.</p>	<p>A summary of the self-appraisal is received by 31 October each year, identifying areas which are working well for Board members, areas for improvement, and the action the Board intends to take as a result.</p>	<p>Achieved.</p> <p>An independent review of the Board's performance was undertaken using the Council of Australasian Tribunals (COAT) Excellence Framework. The Board is working through the recommendations that resulted from the review.</p>

EXPECTATIONS	MEASURES	ACHIEVEMENT
<p>Board member succession</p> <p>The Board provides the Ministry with its views on membership and succession.</p>	<p>The Board's review shows the current skills and experience of Board members and identifies any gaps and proposals for the Minister to consider in future appointment rounds.</p>	<p>Achieved.</p> <p>The Board worked actively with the Ministry's Governance team and provided a view of the future makeup of the Board, with consideration to skills and experience, gender balance and ethnic diversity.</p>
<p>Professional development</p> <p>Board members undertake professional development in the performance of their functions.</p>	<p>Training is available for Board members for at least four half-days of development per annum.</p>	<p>Board members attended the COAT Conference (virtual attendance).</p>

Chris Preston
BOARD CHAIR

20 October 2022

Mel Orange
DEPUTY CHAIR

LICENSING

Total number of LBPs and licences

At 30 June 2022, 27,223 individual LBPs were licensed with a total of 31,679 licences issued. The difference in individual LBPs and licences issued reflects LBPs that hold more than one licence. This is a slight increase from 2021, where there was a total of 27,138 individual LBPs. Overall licence numbers have rebounded and continued to increase after a slight decrease in 2019.

Total number of licences by licensing class, previous 3 years

	BRICKLAYING AND BLOCKLAYING	CARPENTRY	DESIGN	EXTERNAL PLASTERING	FOUNDATIONS	ROOFING	SITE	TOTAL
AT 30 JUNE 2020	834	20,368	2,523	460	361	1,329	4,493	30,368
AT 30 JUNE 2021	852	21,281	2,641	463	391	1,359	4,474	31,461
AT 30 JUNE 2022	851	21,511	2,737	452	405	1,379	4,344	31,679

APPEALS

The appeals process is available for building practitioners who want to question the Registrar’s decision to decline an application to become licensed, or to suspend or cancel a licence pursuant to the Building Act 2004.

Appeals activity summary for the previous 3 years

CARRIED FORWARD/RECEIVED	2019/20	2020/21	2021/22
Carried forward from previous year	2	1	1
Received – declined licence applications	17	15	20
Total	19	16	21
HEARD			
Hearings held	16	10	10
DETERMINED (CLOSED)			
Determined – following hearing	17	9	9
Determined – withdrawn	1	6	10
Total	18	15	19
IN PROGRESS AT YEAR END			
Active – not yet determined by the Board	10	1	2



Performance measures summary

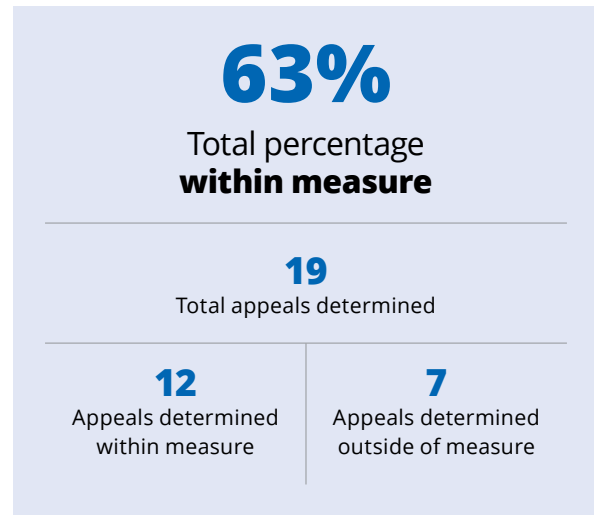
Target

Determine 85% of appeals within 60 working days of receipt of complete appeal.

Performance

20 new appeal applications were received for the 2021/22 year relating to declined licences and 1 appeal rolled over from the 2020/21 financial year. This was consistent with the previous year and is in line with the average received in recent years. The number of licensing decisions appealed still equates to less than one percent of the total number of licence applications.

In 2021/2022, 63% of appeals were determined within measure. This reduction from the 2020/21 year was due to adjournments resulting from the August 2021 COVID-19 lockdown and unwellness of appellants.



Appeal hearing outcomes – appealing declined licence application

CARRIED FORWARD/RECEIVED	NUMBER	%
Upheld (licence granted)	5	26%
Withdrawn	8	42%
Not upheld (licence not granted)	6	32%
Total	19	100%



COMPLAINTS

Any person may complain to the Board about the conduct of an LBP in accordance with the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 and the Building Act 2004.

The Board may initiate an inquiry into matters about the conduct of an LBP raised by its own inquiries or raised after a complainant decides not to proceed with a complaint and submits a withdrawal.

The Board received 169 new complaints and initiated 25 Board inquiries this year.

Complaint/Board inquiry activity summary for the previous 3 years

CARRIED FORWARD/RECEIVED	2019/20	2020/21	2021/22
Complaints/Board inquiries carried forward from previous year	188	154	139
Board Inquiries initiated	33	17	25
Complaints received	203 ¹	173	169
Total	424	344	333
INVESTIGATED/CONSIDERED			
Complaints/Board inquiries investigated	232	176	212
Complaints/Board inquiries considered	250	198	234
DETERMINED (CLOSED)			
Complaints withdrawn	-	-	-
Complaints Board determined not to proceed to hearing	90 ²	75	75
Complaints/Board Inquiries determined following hearing	169 ³	117	120
Total	259	192	195
IN PROGRESS AT YEAR END			
Complaints/Board inquiries active and not determined by the Board	154 ⁴	139	157

1 Excluded Board Inquiries

2 Includes withdrawals

3 Includes withdrawals

4 Includes complaints placed on hold

Performance measures summary

Target

Determine 90% of complaints within 60 working days of the date of the hearing.

Performance

94% of complaints/Board Inquiries were determined within 60 working days of the date of the hearing for the 2020/21 year.

94%

Total percentage **within measure**

120

Complaints/Board Inquiries determined following hearing

113

Determined within measure

7

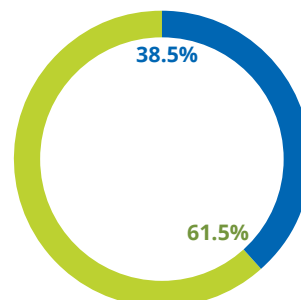
Determined outside of measure



Complaints/Board Inquiries determined

The table below details complaints/Board Inquiries determined by the Board in 2021/22.

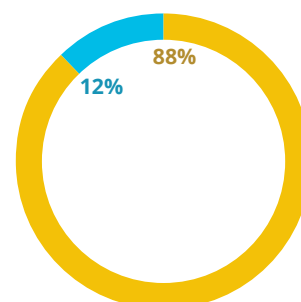
COMPLAINTS DETERMINED	NUMBER OF COMPLAINTS
Did not proceed to a hearing	75
Determined following hearing	120
TOTAL	195



Complaint/Board Inquiry hearing outcomes

The table below details complaints/Board Inquiries upheld and not upheld. In 2021/22, 105 LBPs were disciplined for 106 upheld complaints. Some LBPs had more than one upheld complaint against them.

HEARING OUTCOMES	NUMBER OF HEARINGS
Complaints/Board inquiries upheld	106
Complaints/Board inquiries not upheld	14
TOTAL	120



LBPs disciplined

Of the total complaints/Board Inquiries heard in 2021/22, 106 or 88% were upheld, and 14 or 12% were not upheld.

Upheld complaints by licence classes

The table below details the licence classes held by LBPs whose complaints were upheld. Note that some LBPs hold licences in more than one class.

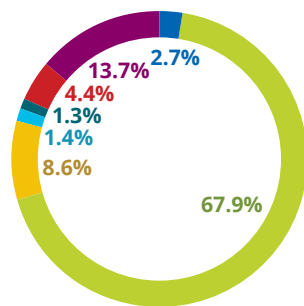
When compared with the total number of licences held, the proportion of licence holders disciplined typically reflects that proportion in each licence class, with a few exceptions.

Site and Design licence holders this year were disciplined at a lower rate than the percentage of licences held in the scheme, whereas Roofing licence classes were disciplined at a higher rate; although the number of complaints in these areas are low which leads to annual variability with this comparison.

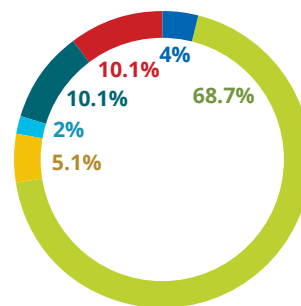
LICENCE CLASS	LBP disciplined in 2021/22	Total licences held in scheme at 30 June 2022
Bricklaying & Blocklaying	4	851
Carpentry	68	21,511
Design	5	2,737
External Plastering	0	452
Foundations	2	405
Roofing	10	1,379
Site	10	4,344
TOTAL	99	31,679

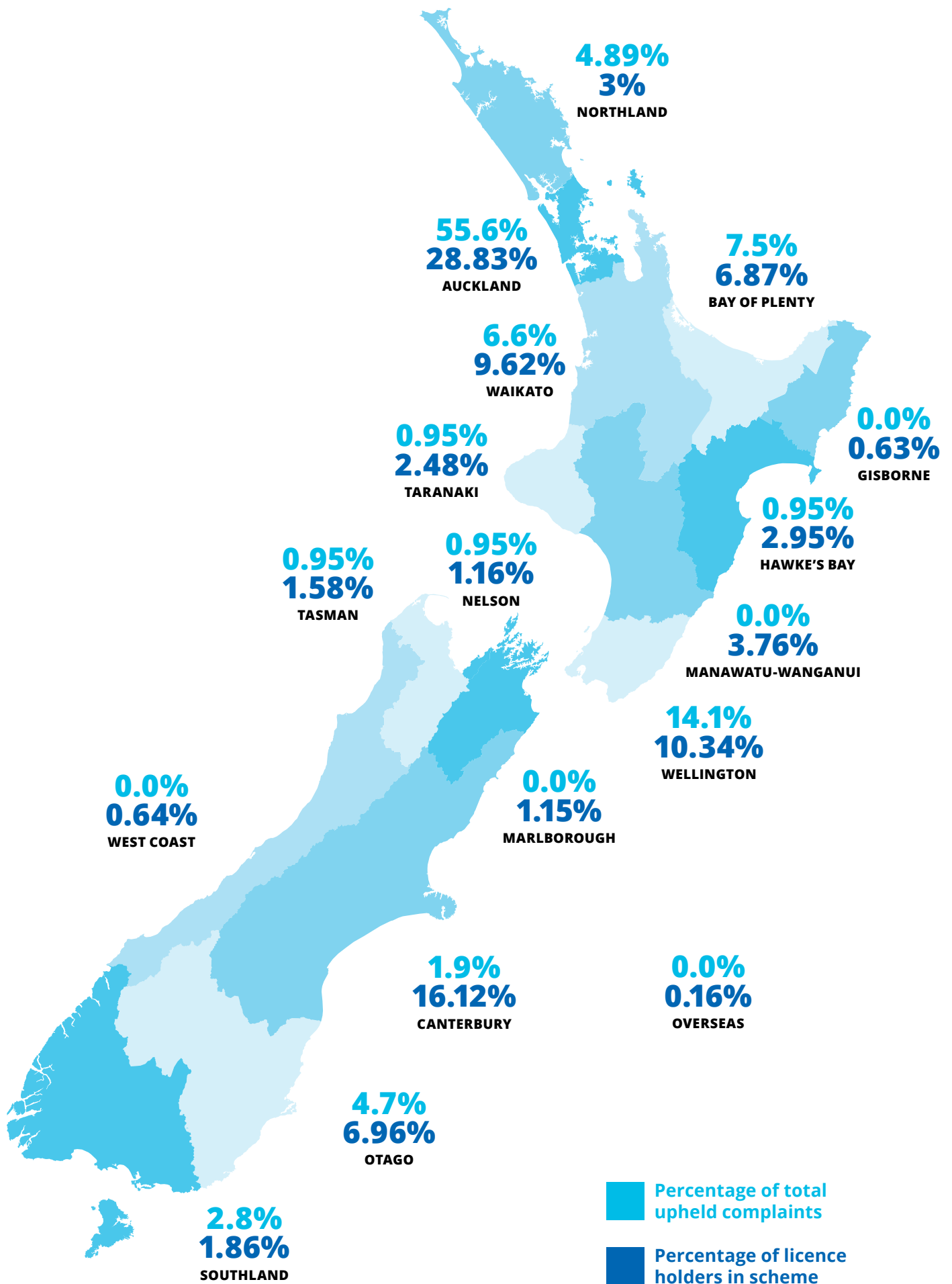
Note: Some LBPs hold licences in more than one class.

PERCENTAGE OF LICENCES HELD IN SCHEME



PERCENT OF TOTAL LBPs DISCIPLINED IN 2021/22





Upheld complaints in 2021/22 by region

The information below details upheld complaints by the regions where the conduct took place.

As identified in the below figures, Auckland has over half of all upheld complaints nationally (57%). Due to the comparative size of the Auckland construction industry, it is not surprising to see a larger number of complaints coming from the region. However, it is interesting to note that the number of complaints relative to the number of LBPs is disproportionately high. Canterbury, in comparison, has a significantly reduced number of complaints than what would be expected for the number of LBPs in the region. This could indicate regional differences in the performance of LBPs and/or the appetite of consumers to lay complaints against LBPs.

REGION	NUMBER OF UPHELD COMPLAINTS	PERCENTAGE OF TOTAL UPHELD COMPLAINTS	NUMBER OF LICENCE HOLDERS IN SCHEME	PERCENTAGE OF LICENCE HOLDERS IN SCHEME
Northland	3	3%	1327	4.89%
Auckland	59	55.6%	7850	28.83%
Waikato	7	6.6%	2617	9.62%
Bay of Plenty	8	7.5%	1869	6.87%
Hawkes Bay	1	0.95%	805	2.95%
Taranaki	1	0.95%	677	2.48%
Manawatu-Wanganui	0	0.0%	1025	3.76%
Wellington	15	14.1%	2816	10.34%
Marlborough	0	0.0%	315	1.15%
Tasman	1	0.95%	431	1.58%
Canterbury	2	1.9%	4386	16.12%
West Coast	0	0.0%	175	0.64%
Otago	5	4.7%	1890	6.96%
Southland	3	2.8%	508	1.86%
Nelson	1	0.95%	318	1.16%
Gisborne	0	0.0%	171	0.63%
Overseas	0	0.0%	43	0.16%
TOTAL	106	100%	27,223	100%



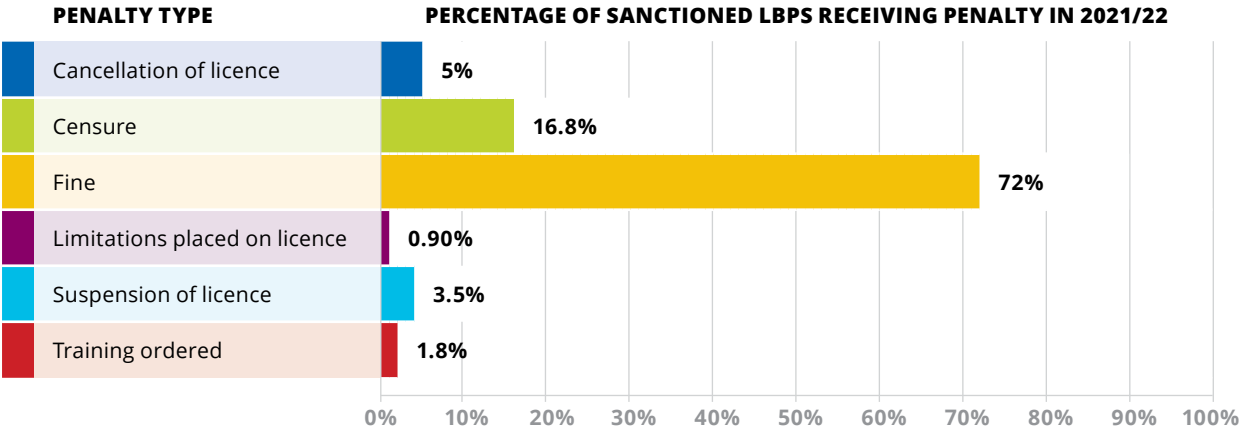
Penalties imposed in 2021/22

113 penalties were imposed for 106 upheld complaints against LBPs. Fines continue to be the most commonly imposed penalty, followed by censure. The cancellation or suspension of a licence occurs in less than 10% of cases and is usually reserved for more serious levels of offending.

Of the LBPs sanctioned, 5 also had their name published on the LBP website to alert the industry of the severity of their offending. This represents a minority of cases, as the Board only orders publication (over and above the inclusion in the register and in the decision) when there is a perceived need for the public and/or profession to know the findings of the hearing.

PENALTY TYPE	NO. OF PENALTIES IMPOSED IN 2021/22
Cancellation of licence	6
Censure	19
Fine	81
Limitations placed on licence	1
Suspension of licence	4
Training ordered	2
TOTAL	113

Note: A disciplinary decision may have more than one penalty imposed.



Note: A disciplinary decision may have more than one penalty imposed.

Key themes in complaints

Failing to provide a record of work once restricted building work is complete.

A breach of sections 88 and 317(1)(da)(ii) of the Building Act.

LBPs failing to build in accordance with a building consent or in accordance with the Building Code when a building consent is not necessary.

Poor application of supervision

leading to issues with construction sequencing or poor work.

False belief that working as a sub-contractor eliminates LBP obligations

leading to complaints regarding the conduct of individual LBPs.

Using Building Consent Authorities as quality control.

This is often in conjunction with poor supervision, where LBPs have relied on the inspection process to identify issues with work, rather than building it right the first time.

Issues with workmanship of non-restricted building work.

LBPs are accountable for both non-restricted as well as restricted building work.

Proceeding with non-compliant work

regardless of some level of doubt about compliance with the consented plans or the Building Code.

A power imbalance may exist between an employer and employee.

This can lead to LBPs being held to account for following an employer's direction.



FINANCIAL PERFORMANCE





The Building Practitioners Board is a statutory Board created under the provisions of the Building Act 2004. The Board's revenue and expenses are managed by the Ministry.

MEMBERS OF THE BOARD



CHRIS PRESTON, CHAIR

Mr Chris Preston is self-employed and is currently a full-time member of the Board. Previously, Mr Preston was a dispute resolution professional undertaking a range of residential disputes and advisory work. Clients included homeowners, contractors and builders. He was also previously CEO of the Registered Master Builders Federation and acting CEO of BRANZ on two occasions.

Mr Preston has a Bachelor of Commerce and a Postgraduate Diploma in Dispute Resolution from Massey University. He is an Associate of the Arbitrators' and Mediators' Institute of New Zealand and has undertaken the Institute of Directors course in governance.

Mr Preston has a keen interest in the community and was a member of the local Community Board and Business Association.

Mr Preston was appointed in 2013 and became the Chair in 2015. Chris is from Canterbury.

Mr Preston retires from the Board in October 2022.



MEL ORANGE, DEPUTY CHAIR

Mr Mel Orange is a self-employed barrister and business consultant from Christchurch who works in the energy and construction industries.

Mr Orange has previously held senior management positions and board positions in the energy industry.

Mr Orange is the Chair of the Electricity Rulings Panel and Presiding Member of the Electrical Workers Registration Board. He is a former Chair of the Electrical Workers Complaints Assessment Committee and a former Board and Commission member of the Electricity and Gas Complaints Commission.

Mr Orange was appointed in 2013 and became the Deputy Chair in 2020. Mr Orange is from Christchurch.



BOB MONTEITH

Mr Bob Monteith is a qualified builder who holds a New Zealand Certificate in Building. Bob is a Licensed Building Practitioner with over 50 years' experience in the building industry. He is Managing Director of Monteith Central Construction Limited.

Bob has held numerous industry-related working group appointments. He was a Board member of the New Zealand Certified Builders Association (NZCB) for seven years, three of those as the National President. He is an honorary member of NZCB.

Bob was appointed in 2015 and is from Kinloch, Taupo.

Bob concluded his involvement with the Board in January 2022.



DAVID FABISH

Mr David Fabish has operated his own residential construction business for 38 years and holds two carpentry trade qualifications.

Mr Fabish is a Licensed Building Practitioner in Carpentry and Site 2 and is a Life Member, and past National President and Board Member, of the Registered Master Builders Association (RMBA).

Mr Fabish is a Director on the Construction and Infrastructure Centre of Vocational Excellence (ConCOVE) Board and a Director on the Building and Construction Training Fund (BCTF) Board.

Mr Fabish is a Regional Judge for the House of the Year Competition, while David Fabish Ltd has won many House of the Year awards, including 2 National Category winners.

Mr Fabish was appointed in 2018 and is from New Plymouth.



FAYE PEARSON-GREEN

Mrs Faye Pearson-Green is an Architectural Designer and a Licensed Building Practitioner (Design 2). She has over 39 years' experience in the industry and has been self-employed since 1996.

Mrs Pearson-Green holds a NZ Certificate in Draughting (Architectural). She is a member of Architectural Designers New Zealand and the immediate-past Chair of the Canterbury Westland Branch. She is a Regional Judge for Registered Master Builders House of the Year competition.

Mrs Pearson-Green was appointed in 2017 and is from Christchurch.



ROB (YUANLIN) SHAO

Mr Rob Shao holds a master's degree in economics from the University of International Business and Economics (UIBE) in Beijing and spent over a decade of his professional career with a world-leading European brand printing press manufacturer, gaining extensive experience in industrial sales and management.

Since arriving in New Zealand in 2001, Mr Shao has retrained to focus on the residential building sector in Auckland. He has held various roles in the sector, ranging from hands-on carpentry work, site management and property development, to managerial duties with a group home builder, followed by property inspection services.

Mr Shao was awarded a Certificate in Applied Technology in Carpentry by Unitec in 2007, and became a Licensed Building Practitioner in 2011.

Mr Shao was appointed in 2019 and is from the North Shore, Auckland.

Mr Shao concluded his appointment with the Board in July 2022.

FRANK THOMAS

Mr Frank Thomas has operated his own roofing business for over 36 years, prior to which he worked for 14 years for local plumbing and roofing businesses involved in both contracting and manufacturing.

Frank holds Plumbing & Roofing Trade qualifications – namely a National Certificate in Roofing. He is well versed in the management of Asbestos and its removal and his company is accredited to do so - holding A&B Class Licences.

Frank is a Licensed Building Practitioner in Roofing and has held numerous positions with the Roofing Association of New Zealand (RANZ), along with being a past ITO Assessor and a past National Moderator for the Roofing Industry. In June 2019 he was awarded with a life membership. Frank is also involved in an Access & Engineering Company which regularly compliments the Roofing Company.

Frank was appointed in August 2020 and is from Hamilton.

Frank retired from the Board in October 2021.

JACQUI CLARK

Mrs Jacqui Clark is a barrister and solicitor with over 30 years legal experience. She is currently Special Counsel at Wilson McKay Solicitors and specialises in construction law. Jacqui has appeared as counsel at all levels of the NZ Court system and in numerous mediations and arbitrations. Clients have included homeowners, developers, builders, contractors, engineers and architects.

Ms Clark has a Bachelor of Arts in English and Bachelor of Laws (Hons) from Auckland University.

Ms Clark was appointed in 2021 and is from Auckland.



GRAHAM ANDERSON

Mr Graham Anderson has operated his own residential construction business for 25 years and holds carpentry and building foreman qualifications. Mr Anderson is a Licensed Building Practitioner in Carpentry and Site 2 and is a Member of the Registered Master Builders Association (RMBA).

Mr Anderson is an Associate member of the Arbitrators and Mediators Institute of New Zealand (AMINZ) and a Chartered Building Professional of the New Zealand Industry Institute of Building (NZIOB). His building company has won many 'House of the Year' awards including 7 National Category winners.

Mr Anderson was appointed in February 2022 and is from Christchurch.



KAREN REYNOLDS

Mrs Karen Reynolds is a Construction Management professional. She has over 17 years' experience in the industry. Karen worked in building and civil construction in Australia, before relocating to New Zealand in 2020.

Karen holds a Bachelor of Business and Bachelor of Construction Management (Honours).

She is a member of Registered Master Builders and National Association of Women in Construction.

Karen was appointed in February 2022 and is located in the Wairarapa.

How to contact us



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