

# **BUILDING PRACTITIONERS BOARD**

## ANNUAL REPORT 2023/24

OCTOBER 2024



## **MORE INFORMATION**

Information, examples and answers to your questions about the topics covered here can be found on our website: [www.lbp.govt.nz](http://www.lbp.govt.nz).

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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 and conduct Board initiated inquiries into the conduct of LBPs
- approve Rules relating to LBPs
- annually review and report on its operations to the Minister for Building and Construction.

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

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

# Board Chair's Review

The Board's predominant function is to hear complaints about the conduct of Licensed Building Practitioners (LBPs). The complaints regime ensures that LBPs are held to account, licensing standards are maintained, and the public is protected. The complaints process and the Board's decisions and disciplinary orders also offer an opportunity for other LBPs to learn, and they can deter other LBPs from engaging in similar conduct. To promote this aspect of the complaints process, the Ministry has introduced a regular newsletter aimed at LBPs (Wrapup), which includes a summary of the Board's decisions and disciplinary orders. The Board commends this initiative, which is creating an opportunity for LBPs to learn and develop.

Complaint volumes have been similar to the previous reporting year but remain low in terms of the percentage of licensed LBPs. The number of complaints that allege or include an allegation of a breach of the Code of Ethics for LBPs or disreputable conduct has increased. While that was expected with the introduction of the Code, the overall number of complaints and the matters complained about have not been as high or as serious as was anticipated. The Board will, in the forthcoming year, be moving away from a predominately educative approach when imposing penalties for breaches of the Code to a more punitive approach now that the Code is embedded in the licensing regime, and there has been a concerted effort by the Ministry to educate LBPs on their responsibilities.

During the year, the Board has focused on streamlining its operations to ensure that complaint and appeal hearings are conducted fairly and in accordance with natural justice while reducing costs where possible. Draft decisions and remote hearing processes have had a significant impact. Remote hearing systems and processes have also enabled witnesses to attend with less disruption.

Finally, I would like to thank the Registrar and Ministry staff for their assistance and support during the year.



Mel Orange  
**Board Chair**

# 2023/24 at a glance



**180 Complaints**  
received



**29 Licensing appeals**  
determined



**193 Investigations**  
completed by the Registrar



**238 Complaints/  
Board inquiries**  
considered by the Board



**16 Inquiries**  
initiated by the Board



**71 Complaints/Board  
inquiries** upheld

# Statement of Service Performance

The Board’s performance expectations and measures for 2023/24 set by the Minister for Building and Construction are outlined below.

PERFORMANCE EXPECTATIONS	MEASURES	ACHIEVEMENT
<p><b>Legislative obligations</b></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 2023.</p>
<p><b>Licensed Building Practitioners Rules 2007</b></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>A Rule change was proposed in June and was in the process of being approved at the end of the financial year.</p>
<p><b>Complaints</b></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>90.2% of complaints were determined within 60 working days of the date of the hearing.</p> <p>The complaints and disciplinary processes were regularly reviewed. The Board held two Complaints Workshops with the Ministry.</p>
<p><b>Appeals (Licensing)</b></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>Achieved.</p> <p>90% of appeals were heard and/or determined within 60 working days of receipt of complete appeal.</p> <p>NB: Some appellants sought adjournments or later hearing dates. If the above is adjusted to take those matters into account 76% of appeals were heard and/or determined within 60 working days.</p>

PERFORMANCE EXPECTATIONS	MEASURES	ACHIEVEMENT
<p><b>Service Level Agreement with Ministry</b></p> <p>Develop, implement, and monitor a Service Level Agreement that sets out the expected service levels to be provided by the Ministry and Registrar.</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 2023/24.</p>
<p><b>Board self-appraisal</b></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>
<p><b>Board member succession</b></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. An expression of interest process was commenced for new members.</p>
<p><b>Professional development</b></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>The Board has conducted internal training to develop its skills and knowledge of the members.</p> <p>Two Board members attended a COAT Conference.</p>

# Appeals

The appeals process is available for LBPs who disagree with the Registrar’s decision to decline an application to become licensed.

<b>APPEALS ACTIVITY SUMMARY – previous 3 years</b>			
<b>CARRIED FORWARD/RECEIVED</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
Carried forward from previous year	1	2	3
Received – declined licence applications	20	18	31
<b>Total</b>	<b>21</b>	<b>20</b>	<b>34</b>
<b>HEARD</b>			
Hearings held	10	14	29
<b>DETERMINED (CLOSED)</b>			
Determined – following hearing	9	14	25
Determined – withdrawn	10	3	4
<b>Total</b>	<b>19</b>	<b>17</b>	<b>29</b>
<b>IN PROGRESS AT YEAR END</b>			
Active – not yet determined by the Board	2	3	5

## PERFORMANCE MEASURES SUMMARY

### Target

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

### Performance

The Board met its target in relation to appeals.

31 new appeal applications were received for the 2023/24 year relating to declined licences, and 3 appeals were rolled over from the 2022/23 financial year.

The number of licensing decisions appealed equates to less than 2% of the total number of licence applications.

<b>90%</b>	
<b>Total percentage within measure</b>	
<b>29</b>	
<b>Total appeals determined</b>	
<b>26</b>	<b>3</b>
<b>Appeals determined within measure</b>	<b>Appeals determined outside of measure</b>

*Note: Some appellants sought adjournments or later hearing dates. If the above is adjusted to take those matters into account 76% of appeals were heard and/or determined within 60 working days.*

APPEAL HEARING OUTCOMES – appealing declined licence applications		
CARRIED FORWARD/RECEIVED	Number	%
Upheld (licence granted)	10	34.5%
Withdrawn	4	14%
Not upheld (licence not granted)	15	51.5%
<b>Total</b>	<b>29</b>	<b>100%</b>

# 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 the conduct of an LBP or continue with a matter as an inquiry after a complainant withdraws a complaint.

The Board received 180 new complaints and initiated 16 Board inquiries this year.

<b>COMPLAINT/BOARD INQUIRY ACTIVITY SUMMARY – previous 3 years</b>			
<b>CARRIED FORWARD/RECEIVED</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
Complaints/Board inquiries carried forward from the previous year	139	157	143
Board Inquiries initiated	25	11	16
Complaints received	169	209	180
<b>Total</b>	<b>333</b>	<b>377</b>	<b>339</b>
<b>INVESTIGATED/CONSIDERED</b>			
Complaints/Board inquiries investigated	212	220	193
Complaints/Board inquiries considered	234	262	238
<b>DETERMINED (CLOSED)</b>			
Complaints Board determined not to proceed to hearing	75	99	95
Complaints/Board inquiries determined following a hearing	120	147	92
<b>Total</b>	<b>195</b>	<b>246</b>	<b>187</b>
<b>IN PROGRESS AT YEAR END</b>			
Complaints/Board inquiries active and not yet determined	157	185	188

**PERFORMANCE MEASURES SUMMARY**

**TARGET**

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

**Performance**

The Board met its targets in relation to complaints.

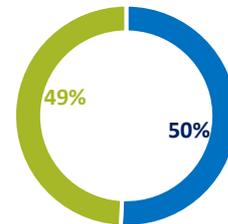
90.2% of complaints/Board Inquiries were determined within 60 working days of the date of the hearing for the 2023/24 year.

<b>90.2%</b>
<b>Total percentage within measure</b>
<b>92</b>
<b>Complaints/Board inquiries determined following hearing</b>
<b>83</b>
<b>Determined within measure</b>
<b>9</b>
<b>Determined outside of measure</b>

**COMPLAINTS/BOARD INQUIRIES DETERMINED**

The table below details complaints/Board inquiries determined by the Board in 2023/24.

COMPLAINTS DETERMINED	NUMBER OF COMPLAINTS
Did not proceed to hearing*	95
Determined following hearing	92
<b>TOTAL</b>	<b>187</b>

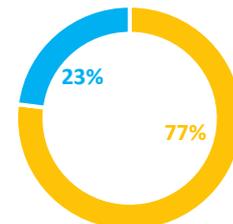


\* The Board can decide that a complaint or inquiry should not proceed to a hearing on the basis that regulation 9 of the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 applies.

**COMPLAINTS/BOARD INQUIRY HEARING OUTCOMES**

The table below details complaints/Board inquiries upheld and not upheld. In 2023/24, 71 complaints were upheld, and 66 LBPs were disciplined (some LBPs disciplined had more than one upheld complaint against them).

HEARING OUTCOMES	NUMBER OF HEARINGS
Complaints/Board inquiries upheld	71
Complaints/Board inquiries not upheld	21
<b>TOTAL</b>	<b>92</b>



## LBPS DISCIPLINED

Of the total complaints/Board Inquiries heard in 2023/24, 71 (77%) were upheld, and 21 (23%) were not upheld. The number of LBPs disciplined equates to less than 1% of the total number of licences held in the Scheme.

## UPHELD COMPLAINTS BY LICENCE CLASSES

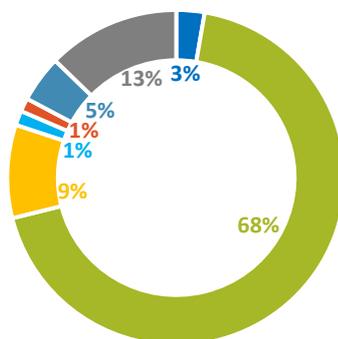
The table below details the licence classes held by LBPs whose complaints were upheld. Note that some LBPs hold licences in more than one class.

When compared with the total number of licences held, the proportion of licence holders disciplined typically reflects that proportion of all licences held in that licence class, with a few exceptions. As the number of complaints in some licence classes are low, annual variability is expected.

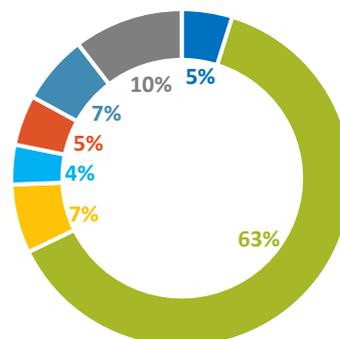
LICENCE CLASS	LBPS disciplined in 2023/24	Total licences held in scheme at 30 June 2024
Bricklaying and Blocklaying	5	825
Carpentry	66	21,171
Design	7	2,787
External Plastering	4	438
Foundations	5	412
Roofing	7	1,387
Site	11	3,932
<b>TOTAL</b>	<b>105</b>	<b>30,952</b>

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

PERCENTAGE OF LICENCES HELD IN SCHEME



PERCENTAGE OF TOTAL LBPS DISCIPLINED IN 2023/24



## PENALTIES IMPOSED IN 2023/24

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. A lack of training options restricts the use of training orders.

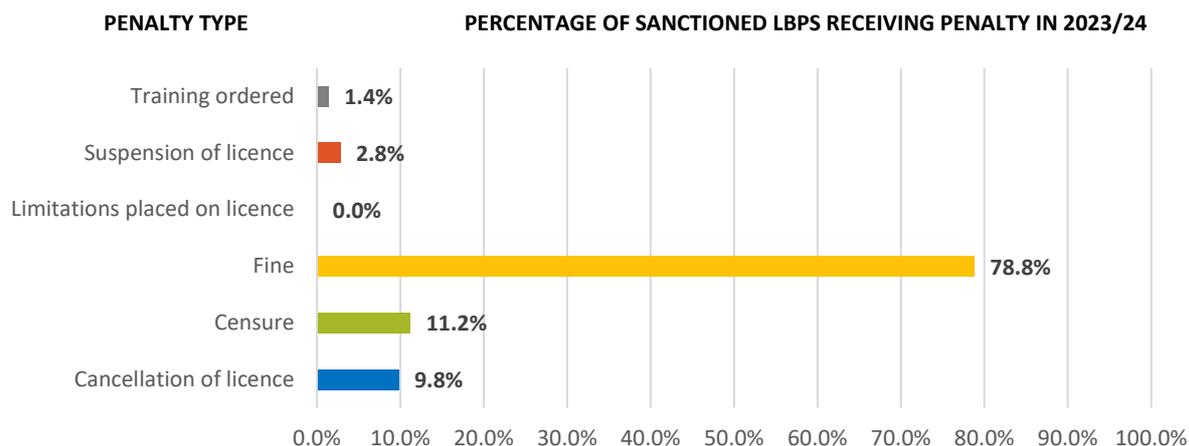
All LBPs sanctioned by the Board had the offence and penalty orders noted on the LBP Register.

Of those LBPs disciplined, the Board ordered that further publication of the decision be carried out for 15 LBPs to alert the industry and public to the severity of their offending. The Board only orders further publication of an LBP's name and offending when there is a perceived need for the public and/or profession to know the findings of the hearing.

The Ministry publishes a summary of the Board's disciplinary cases and findings in an LBP newsletter called the Wrapup.

PENALTY TYPE	No. OF PENALTIES IMPOSED IN 2023/24
Cancellation of licence	7
Censure	8
Fine	56
Limitations placed on licence	0
Suspension of licence	2
Training ordered	1
<b>TOTAL</b>	<b>74</b>

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



# Key themes in complaints

## Using Building Consent Authorities as quality control.

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

## Poor application of supervision.

Poor or inadequate supervision of non-licensed persons resulting in non-compliant building work continues to be a theme.

## Failure to obtain a building consent.

An LBP proceeds with work that requires a building consent without first ensuring that one is in place.

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

Record of work complaints continue to be disproportionately high, and some LBPs are still withholding them for payment reasons.

## Issues with workmanship of non-restricted building work.

LBPs are accountable for both non-restricted and restricted building work.

## 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.

## Negligent or incompetent building work.

This is the most common ground of complaint. It can include design work and unconsented building work.

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

leading to complaints regarding the conduct of individual LBPs.

## Increase in Code of Ethics and disrepute complaints.

A high number of complaints make multiple allegations and breaches of the Code and disreputable conduct are often included with other grounds of discipline, such as negligence or incompetence.

# 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

## **MEL ORANGE (CHAIR)**

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

Mr Orange is the Chair of the Electricity Rulings Panel and the Deputy Presiding Member of the Electrical Workers Registration Board.

Mr Orange was appointed in 2013. He became Deputy Chair of the Board in 2020 and then became Chair in late 2022.

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## **FAYE PEARSON-GREEN (DEPUTY CHAIR)**

Mrs Faye Pearson-Green is an Architectural Designer and a Licensed Building Practitioner (Design 2). She has over 40 years of experience in the industry and has been self-employed since 1996.

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

Mrs Pearson-Green was appointed in 2017 and became Deputy Chair in April 2023.

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## **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 of the Registered Master Builders Association (RMBA). Mr Fabish is a past National President and Board member of RMBA and is the Director on the ConCOVE Board.

Mr Fabish was appointed in 2018.

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## **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.

Mrs Clark has appeared as counsel at all levels of the NZ Court system and in numerous mediations and arbitrations. Her clients have included homeowners, developers, builders, contractors, engineers, and architects.

Mrs Clark has a BA in English and LLB (Hons) from Auckland University.

Mrs Clark was appointed in 2021.

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## **GRAHAM ANDERSON**

Mr Graham Anderson has operated his own residential construction business for 27 years and holds carpentry and building foreman qualifications. Mr Anderson is a Licensed Building Practitioner, holding Carpentry and Site 2 licenses.

Mr Anderson is a Member of the Registered Master Builders Association (RMBA). He was previously a Canterbury President and Board member of RMBA and a Judge of the House of the Year Competition.

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).

Mr Anderson was appointed in February 2022.

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## **KAREN REYNOLDS**

An experienced and accomplished construction, business, and board professional. Having successfully delivered construction and civil projects across Australia and New Zealand to the value of \$550 million.

Spanning a 20-year career, Mrs Reynolds excels in operational aspects such as bidding, contracts, procurement, project controls, construction management and project management. Having delivered under the framework of an array of organisational, contract and category types. Karen holds a Bachelor of Business and a Bachelor of Construction Management (Honours).

Mrs Reynolds was appointed in February 2022.

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## **PAUL THOMPSON**

Mr Paul Thompson is a qualified Carpenter, Quantity Surveyor and Construction Manager with over 20 years industry experience.

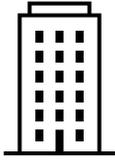
Mr Thompson has worked in multiple Senior Management positions across the building industry and owned and operated several private businesses.

Mr Thompson is a Licensed Building Practitioner (Carpentry and site area of practice 3), member of the New Zealand Institute of Quantity Surveyors and the New Zealand Certified Builders Association.

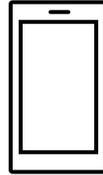
Mr Thompson was appointed in June 2023.

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# How to contact us



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