

Before the Building Practitioners Board

	BPB Complaint No. C2-01883
Licensed Building Practitioner:	Graeme Davies (the Respondent)
Licence Number:	BP 103437
Licence(s) Held:	Carpentry

Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner

Under section 315 of the Building Act 2004

Complaint or Board Inquiry	Complaint
Hearing Location	Auckland
Hearing Type:	In Person
Hearing Date:	6 November 2018
Decision Date:	3 December 2018
Board Members Present:	
	Chris Preston (Presiding)
	Mel Orange, Legal Member
	David Fabish, LBP, Carpentry Site AOP 2
	Faye Pearson-Green, LBP Design AOP 2

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Board Decision:

The Respondent **has** committed disciplinary offences under section 317(1)(da)(ii) and 317(1)(i) of the Act.

The Respondent **has not** committed a disciplinary offence under section 317(1)(b) of the Act.

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Introduction

- [1] The hearing resulted from a Complaint into the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations¹ to hold a hearing in relation to building work at [Omitted]. The alleged disciplinary offences the Board resolved to investigate were that the Respondent:
- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act);
 - (b) 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
 - (c) conducted himself or herself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute (s 317(1)(i) of the Act).

¹ The resolution was made following the Board’s consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

Function of Disciplinary Action

[2] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*² and in New Zealand in *Dentice v Valuers Registration Board*³.

[3] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*⁴ Collins J. noted that:

“... the disciplinary process does not exist to appease those who are dissatisfied The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community.”

[4] The Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. It does not have any jurisdiction over contractual matters.

Background to the Hearing

[5] The Respondent participated in the Registrar’s Report phase of the investigation. He indicated, however, that he would not attend the hearing. On 8 September 2018 the Respondent sent a letter to the Board further confirming that he would not be attending the hearing and putting forward written submissions. Those submissions have been taken into consideration by the Board.

Evidence

[6] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. Under section 322 of the Act the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.

[7] The procedure the Board uses is inquisitorial, not adversarial. The Board examines the documentary evidence available to it prior to the hearing. The hearing is an opportunity for the Board, as the inquirer and decision maker, to call and question witnesses to further investigate aspects of the evidence and to take further evidence from key witnesses. The hearing is not a review of all of the available evidence.

[8] In addition to the documentary evidence before the Board heard evidence at the hearing from the Complainant. The Complainant was summonsed as the evidence of

² *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

³ [1992] 1 NZLR 720 at p 724

⁴ [2016] HZHC 2276 at para 164

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

the Respondent and that of the Complained put forward in the Registrar's Report differed.

- [9] The Respondent was engaged to carry out alterations and repairs under a building consent. The building work included restricted building work, in that a window was replaced which comes within the scope of weathertightness.
- [10] The building work complained about related to the installation of new aluminium framed window to address moisture ingress issues. The Complainant raised the following issues with the Respondent on 15 November 2017:
- (a) The aluminium joinery has some manufacturing faults (screw bulge). There are numerous scratches that we would not expect on newly installed windows.
 - (b) One of the aluminium windows has a gap at the rubber seal on an opening sash. The front door also seals at the bottom but a gap is at top of the door when closed. None of the other windows/doors have this issue.
 - (c) There appears to be a leak causing dampness inside. This needs to be tracked down and stopped.
 - (d) An inspection needs to be arranged and the Code Compliance Certificate (CCC) needs to be obtained.
- [11] No response was received. On 6 December 2017 further correspondence was sent. On 11 February a request was made for a record of work. The Complainant alleged the Respondent's communications thereafter were abusive.
- [12] On 6 March 2018 the Respondent advised that he would provide a record of work if \$3,000 was deposited into his bank account. The sums related to amounts he stated he was owed. He also stated that if the money was paid, he would explain how to fix the leak in the window.
- [13] At the hearing the Complainant confirmed that the leak had been traced to a nib wall and that the leak stopped when the wall was sealed. She also stated that the damage to joinery was a minor matter. The Respondent's response to the complaint also indicated that the nib wall may have been the cause of water ingress.
- [14] The Respondent provided a written response to the complaint. He questioned the existence of the leaks and denied responsibility for damage to the window joinery. He also outlined background to the matter and personal issues including health issues.
- [15] The Respondent, in both his responses to the Complaint and to the Board, used language that brought the disrepute provisions of the Act into consideration. Examples include a response to the Complainant on 17 February 2018:

Let me give you some advice. You are stupid and grossly immature which is why you are a slave to a nutcase. Do you not realise your parents no this. this.

do you think your mother enjoys doing what [Omitted] the fuckwit should be doing around the house? He created this mess for you and you are such a devoted little asian wife. He once said to me that Asian woman make the best wives. This is the subservient theory. And you fill the roll. Why don't you tell him to sort it out after you have grabbed the kids and moved into a women's refuge. Simon is just another Clayton Weatherston [you can google that name]. You told me he was strange. Point two if you continue to pursue me, if I here from the Auckland Council or the Builders registration Board then you will force me to tell the other side of the story which will ruin your mistaken belief that you have the high moral ground. Grow up. [Omitted] is pissed off with you wasting his time. Ask him for a copy of all emails I have sent him. Grow up. If I have to explain my position then [Omitted], Your mother and father, and [Omitted] will all get copies. Stop being a slave. Have fun, Graeme.

[16] The Complainant explained the personal emotional impact the above had on her at the hearing. She stated that the racial references had deeply upset her as had the reference to Clayton Weatherston. She was visibly upset at the hearing when referring to those matters.

[17] In the Respondent's response to the Board he stated:

In reference to complaint for some unknown reason [Omitted] rung me on the 3rd May so there was a long discussion which covered all issues before i hung up. She now knows that all the issues have been created via the wonderful imagination of her husband who has mental health issues. She has accepted my answers as being consistent with what has been said. She said that the leaks appear to have stopped. She now understands why I was withholding info on this. There were no leaks. Her nutcase husband was using a hose to force water thro the window and up under the bottom weatherboard to come over the bottom plate. She defends him saying he has high standards.

[18] The Respondent went on to make veiled threats toward the Complainant. He also stated in relation to the record of work:

The real answer is if they pay me I still wont be signing any paperwork .

[19] The Respondent's submission for the hearing set out background on the Respondent's building career and details of his personal situation. He also provided specific detail about the job. In respect of the record of work he stated:

I believe this is the first permit job I have done under the new requirements. If the documents I am meant to sign have anything to do with me guaranteeing my work then I don't see that I am in a position to do this as this job is out of my control!. There is a responsibility of the [Omitted] to meet my requirements to be able to achieve this. They have not done this.

The BPB need to determine if they want me to fraudulently sign documents that the work is to standard or rule on the intent of the law where I am unable to comply.

Board's Conclusion and Reasoning

[20] The Board has decided that the Respondent **has**:

- (a) 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
- (a) conducted himself or herself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute (s 317(1)(i) of the Act)

and should be disciplined.

[21] The Board has also decided that the Respondent **has not** carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act).

Negligence and/or Incompetence

[22] The matter the Board was considering in relation to negligence and/or incompetence was the installation of the window and the possible leaks.

[23] Negligence and incompetence are not the same. In *Beattie v Far North Council*⁶ Judge McElrea noted:

[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.

[24] Negligence is the departure by a licensed building practitioner, whilst carrying out or supervising building work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired into. This is described as the *Bolam*⁷ test of negligence which has been adopted by the New Zealand Courts⁸.

[25] Incompetence is a lack of ability, skill or knowledge to carry out or supervise building work to an acceptable standard. *Beattie* put it as "*a demonstrated lack of the*

⁶ Judge McElrea, DC Whangarei, CIV-2011-088-313

⁷ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁸ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

reasonably expected ability or skill level". In *Ali v Kumar and Others*⁹ it was stated as *"an inability to do the job"*.

- [26] The evidence before the Board did not establish that the Respondent had departed from an acceptable standard or that he lacked the ability, skill or knowledge to carry out or supervise building work to an acceptable standard.

Record of Work

- [27] There is a statutory requirement under section 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the territorial authority on completion of restricted building work¹⁰.
- [28] Failing to provide a record of work is a ground for discipline under section 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.
- [29] The Board discussed issues with regard to records of work in its decision C2-01170¹¹ and gave guidelines to the profession as to who must provide a record of work, what a record of work is for, when it is to be provided, the level of detail that must be provided, who a record of work must be provided to and what might constitute a good reason for not providing a record of work.
- [30] The starting point with a record of work is that it is a mandatory statutory requirement whenever restricted building work under a building consent is carried out or supervised by a licensed building practitioner (other than as an owner-builder). Each and every licensed building practitioner who carries out restricted building work must provide a record of work.
- [31] The statutory provisions do not stipulate a timeframe for the licenced person to provide a record of work. The provisions in section 88(1) simply states "on completion of the restricted building work ...".
- [32] 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. Completion occurred in November 2017. A record of work has not provided. On this basis the Board finds that the record of work was not provided on completion as required and the disciplinary offence has been committed.
- [33] Section 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. Each

⁹ *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

¹⁰ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

¹¹ *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

case will be decided by the Board on its own merits but the threshold for a good reason is high.

- [34] In this instance there was an ongoing payment dispute. The Board has repeatedly stated that a Record of Work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, nor by contractual disputes. Licensed building practitioners should now be aware of their obligations to provide them and their provision should be a matter of routine.
- [35] The Respondent has also submitted that he could not have completed the record of work as to do so would have been fraudulent. The Respondent has failed to understand the function and purpose of a record of work.
- [36] A record of work is not a statement as to the quality or compliance of the building work. It is simply a statement as to who completed or supervised what restricted building work. There were no impediments to his completing it in a timely manner.

Disrepute

- [37] The disrepute disciplinary provision in the Act is similar to legislation in other occupations including medical professionals, teachers, lawyers and conveyancers, chartered accountants, financial advisors, veterinarians and real estate agents. The Board considered the disrepute provisions in Board Decision C2-01111¹² and discussed the legal principles that apply.
- [38] The Board, in C2-01111 considered whether the conduct complained of needs to be conduct carried out in the capacity of a licensed building practitioner. The Board notes that in the professions listed above there is no requirement for the conduct to have been in the course of carrying out that person's trade or profession. For example in the High Court held in *Davidson v Auckland Standards Committee No 3*¹³ a company director, who, in the course of his duties as a director was charged with offences under the Securities Act 1978, had brought the legal profession into disrepute. He held a lawyer's practising certificate at the time, however, he was not providing legal services. It was submitted in the case that when the acts are outside of the legal practice, only acts which exhibit a quality incompatible with the duties of the legal profession, for example dishonesty or lack of integrity, could bring the legal profession into disrepute. This was rejected by the Court.
- [39] Similarly in a determination of the Disciplinary Tribunal of the New Zealand Institute of Chartered Accountants¹⁴, convictions for indecent assault and being found without reasonable cause in a building was found to bring the profession into disrepute as it was inconsistent with the required judgment, character and integrity.
- [40] Turning to the conduct which brings or is likely to bring the regime into disrepute the Act does not provide guidance as to what is "disrepute". The Oxford Dictionary

¹² Board decision dated 2 July 2015.

¹³ [2013] NZAR 1519

¹⁴ 24 September 2014

defines disrepute as "the state of being held in low esteem by the public"¹⁵ and the courts have consistency applied an objective test when considering such conduct. In *W v Auckland Standards Committee 3 of the New Zealand Law Society*¹⁶ the Court of Appeal held that:

*the issue of whether conduct was of such a degree that it tended to bring the profession into disrepute must be determined objectively, taking into account the context in which the relevant conduct occurred. The subjective views of the practitioner, or other parties involved, were irrelevant.*¹⁷

- [41] As to what conduct will or will not be considered to bring the regime into disrepute it will be for the Board to determine on the facts of each case. The Board will, however, be guided by finding in other occupational regimes. In this respect it is noted disrepute was upheld in circumstances involving:
- criminal convictions¹⁸;
 - honest mistakes without deliberate wrongdoing¹⁹;
 - provision of false undertakings²⁰; and
 - conduct resulting in an unethical financial gain²¹.
- [42] It is also noted that there are a number of cases where the conduct related to specific or important tasks a licensed building practitioner is required to complete within their occupations. Often such behaviour is measured within the context of a code of conduct or ethics. A code is yet to be established within the Building Act although provision for one is made. What is clear from the cases though is that unethical or unprofessional conduct can amount to disreputable conduct.
- [43] The disrepute in this matter related to the manner in which the Respondent corresponded with the Complainant. His correspondence used various forms of abusive and offensive language.
- [44] The conduct relates to the manner in which the Respondent replied to and dealt with a commercial dispute. Managing disputes falls within the ordinary course of business. They should be managed in an appropriate manner using available mechanisms.
- [45] The Respondent did not use those mechanisms. Rather he resorted to personal attacks. The language and references he used were offensive and unnecessary. His conduct went well beyond what is considered to be acceptable.

¹⁵ Online edition, compilation of latest editions of *Oxford Dictionary of English, New Oxford American Dictionary, Oxford Thesaurus of English and Oxford American Writer's Thesaurus*, search settings UK English, accessed 12/05/15

¹⁶ [2012] NZCA 401

¹⁷ [2012] NZAR 1071 page 1072

¹⁸ *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

¹⁹ *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

²⁰ *Slack, Re* [2012] NZLCDT 40

²¹ *Colliev Nursing Council of New Zealand* [2000] NZAR 7

- [46] The Courts have stated that the threshold for disciplinary complaints of disrepute is high and the Board notes that when the disciplinary provision was introduced to Parliament the accompanying Cabinet paper noted:

This power would only be exercised in the most serious of cases of poor behaviour, such as repetitive or fraudulent behaviour, rather than for minor matters.

- [47] This is one of those cases. The Board finds that the conduct displayed has lowered the reputation of the licensing regime and, as such, that the Respondent has brought the regime into disrepute.

Penalty, Costs and Publication

- [48] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Act¹, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

- [49] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [50] The purpose 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. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*²² commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

[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.

- [51] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*²³ the court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act they have the advantage of simplicity and transparency. The court recommended adopting a starting point for penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.

²² HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²³ 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

- [52] There are two disciplinary offences that the Board has found have been committed. In respect of disrepute the Board notes the personal matters raised by the Respondent in his submissions and his previous history as a builder. The Board also considered that, given his personal circumstances, there is little chance of a reoccurrence.
- [53] Having taken those into consideration, in respect of disrepute, the Board considers that a censure is appropriate. A censure is a formal expression of disapproval.
- [54] The second disciplinary offence is the record of work matter. Failure to provide a record of work is at the lower end of the disciplinary scale. The Board's normal starting point for a failure to provide a record of work is a fine of \$1,500. It was clear to the Board that the Respondent was not aware of his obligations as regards records of work and that he withheld it for commercial reasons. As such the Board sees no reason to reduce the penalty from the starting point.

Costs

- [55] Under section 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."
- [56] 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 case²⁴.
- [57] In *Collie v Nursing Council of New Zealand*²⁵ 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.

- [58] Based on the above the Board's costs order is that the Respondent is to pay the sum of \$2,000 toward the costs of and incidental to the Board's inquiry.

Publication

- [59] 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 Licensed Building Practitioners' scheme as is required by the Act²⁶. The Board is also able, under section 318(5) of the Act, to order publication over and above the public register:

²⁴ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

²⁵ [2001] NZAR 74

²⁶ Refer sections 298, 299 and 301 of the Act

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.

- [60] As a general principle 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. This is in addition to the Respondent being named in this decision.
- [61] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990²⁷. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction²⁸. Within the disciplinary hearing jurisdiction the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive²⁹. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*³⁰.
- [62] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest³¹. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.
- [63] Based on the above the Board will not order further publication.

Section 318 Order

- [64] For the reasons set out above, the Board directs that:

Penalty: Pursuant to section 318(1)(d) of the Building Act 2004, the Respondent is censured in respect of the section 317(1)(i) matter and pursuant to section 318(1)(f) of the Act the respondent is ordered to pay a fine of \$1,500 in respect of the section 317(1)(da)(ii) matter.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$2,000 (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 section 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 and the Respondent being named in this decision.

²⁷ Section 14 of the Act

²⁸ Refer sections 200 and 202 of the Criminal Procedure Act

²⁹ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³⁰ *ibid*

³¹ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

- [65] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

Submissions on Penalty, Costs and Publication

- [66] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **15 January 2019**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received then this decision will become final. 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.
- [67] In calling for submissions on penalty, costs and mitigation the Board is not inviting the Respondent to offer new evidence or to express an opinion on the findings set out in this decision. If the Respondent disagrees with the Board's findings of fact and and/or its decision that the Respondent has committed a disciplinary offence the Respondent can appeal the Board's decision.

Right of Appeal

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

Signed and dated this 3rd day of December 2018


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:*

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- (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.*