

BPB Complaint No. C2-01362

IN THE MATTER OF

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315 of the Act

AGAINST

Stephen Bedford, Licensed Building Practitioner No. BP 128905

DECISION OF THE BUILDING PRACTITIONERS' BOARD

Introduction

- [1] [The Complainant] lodged a complaint with the Building Practitioners' Board (the Board) on 25 February 2016 in respect of Stephen Bedford, Licensed Building Practitioner (the Respondent).
- [2] The complaint alleged the Respondent has, in relation to building work at [omitted] Auckland carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act).
- [3] The Respondent is a Licensed Building Practitioner with a Carpentry Licence issued 3 June 2015.
- [4] The Board has considered the complaint under the provisions of Part 4 of the Act and the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations).
- [5] The following Board Members were present at the hearing:
- | | |
|----------------|-------------------|
| Chris Preston | Chair (Presiding) |
| Robin Dunlop | Board Member |
| Dianne Johnson | Board Member |
| Bob Monteith | Board Member |
- [6] The matter was considered by the Board in Auckland on 21 September 2016 in accordance with the Act, the Regulations and the Board's Complaints Procedures.
- [7] The following other persons were also present during the course of the hearing:
- | | |
|--------------------|---|
| Sarah Romanos | Board Secretary |
| Stephen Bedford | Respondent |
| William Hursthouse | Special Adviser to the Board (by telephone) |

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Members of the public were not present.

- [8] No Board Members declared any conflicts of interest in relation to the matters under consideration.

Board Procedure

- [9] The “form of complaint” provided by the Complainant satisfied the requirements of the Regulations.
- [10] On 20 June 2016 the Registrar of the Board prepared a report in accordance with reg 7 and 8 of the Regulations. The purpose of the report is to assist the Board to decide whether or not it wishes to proceed with the complaint. It included a report from William Hursthouse as a Special Adviser to the Board.
- [11] On 4 August 2016 the Board considered the Registrar’s report and in accordance with reg 10 it resolved to proceed with the complaint 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); and
 - (b) has breached s 314B of the Act (s 317(1)(h) of the Act).
- [12] On 2 September 2016 a pre-hearing teleconference was convened by Board member Mel Orange. The Respondent was present. The Respondent advised that he had moved and had not received the Notice of Hearing. The Presiding Member for the pre-hearing instructed the secretariat to issue a new notice to his current address and to email a copy of it to the Respondent.

Function of Disciplinary Action

- [13] 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 Kingdom¹.
- [14] In New Zealand the High Court noted in *Dentice v Valuers Registration Board*²:
- Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.*
- [15] It must also be noted that the Board has jurisdiction only with regard to “the conduct of a licensed building practitioner” and with respect to the grounds for discipline set out in s 317 of the Act. It cannot investigate matters outside of those grounds, does not have any jurisdiction over contractual matters and cannot deal with or resolve disputes between a complainant and the person who is the subject of the complaint.

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

² [1992] 1 NZLR 720 at p 724

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The Hearing

- [16] The hearing commenced at 1.10pm.
- [17] At the hearing, for the assistance of the Board, a written summary of the case prepared by Alastair Dumbleton Counsel for the Registrar was read into evidence by the Board Secretary.
- [18] Persons giving evidence were sworn in, their evidence was presented and they answered questions from the Board.

Substance of the Complaint

- [19] The complaint is in relation to building work to construct a timber deck and in respect of its attachment to an existing residential property owned by the complainants. The Complainants allege that the workmanship is poor, does not meet the requirements of the building code and the deck structure needs to be rebuilt.

Evidence

- [20] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed. The relevant authority is *Z v Dental Complaints Assessment Committee*³ where Justice McGrath in the Supreme Court of New Zealand stated:

[102] The civil standard has been flexibly applied in civil proceedings no matter how serious the conduct that is alleged. In New Zealand it has been emphasised that no intermediate standard of proof exists, between the criminal and civil standards, for application in certain types of civil case. The balance of probabilities still simply means more probable than not. Allowing the civil standard to be applied flexibly has not meant that the degree of probability required to meet the standard changes in serious cases. Rather, the civil standard is flexibly applied because it accommodates serious allegations through the natural tendency to require stronger evidence before being satisfied to the balance of probabilities standard.

[105] The natural tendency to require stronger evidence is not a legal proposition and should not be elevated to one. It simply reflects the reality of what judges do when considering the nature and quality of the evidence in deciding whether an issue has been resolved to “the reasonable satisfaction of the Tribunal”. A factual assessment has to be made in each case. That assessment has regard to the consequences of the facts proved. Proof of a Tribunal’s reasonable satisfaction will, however, never call for that degree of certainty which is necessary to prove a matter in issue beyond reasonable doubt.

- [21] The Respondent was contracted to carry out work to build a retaining wall and fence at the property. This work was undertaken by the Respondent’s staff under his supervision and to the satisfaction of the Complainants. That work is not the subject of this complaint.
- [22] A second project, a timber deck, was then discussed, quoted and commenced soon after the completion of the first project in January 2016. At the hearing the

³ [2009] 1 NZLR 1

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Respondent confirmed that there were no plans, specification or documents prepared for the building work.

- [23] It was the evidence of the Respondent that he was distracted by personal pressures at the time and did not attend site in relation to the deck project. He was familiar with the property and gave verbal instructions to his two second year apprentices and a labourer on what was to be built and where. It is not known who ordered the materials but when works commenced the foundation poles and bearers were not available for installation. The Respondent's evidence was that he instructed his staff to do what they could until the poles and structural framing was delivered.
- [24] The Respondent's staff worked for two days and the deck perimeter framing, balustrade and balustrade posts, and steps were in place. Works ceased. The Complainants became concerned and in early February 2016 engaged a consultant to prepare a report on the deck. The report outlined ten areas where the work did not meet building code requirements and/or the workmanship was poor. The author was of the view that as the deck height exceeded 1.5 metres it was not building work that is exempt from requiring a building consent. The contract was terminated and a complaint was laid with the Board.
- [25] The Special Advisor's report highlighted similar concerns with the workmanship and referred to missing bracing, inadequate bearers, under sized timber members, incorrect fixings at the connection with the house and post footings, and inadequate concrete foundations. The Special Adviser was also of the view that the deck, as constructed at 1.9 metres above ground level at the highest point, was not exempt under Schedule 1 of the Building Act from requiring a building consent and that the project possibly also required a resource consent.
- [26] The Respondent's oral evidence was that the building work was not complete, no invoice had been generated and that no opportunity had been given to return to install the structural parts of the deck and finish the project. The Respondent did not disagree with the Special Adviser's findings but explained that the work undertaken by his staff to the deck had been what they could do with the materials available at the time and that they had "suspended" the structure and braced it sufficient to keep it square and would have installed the foundation and bearers from above at a later time. He was adamant that it was not the design intention that the deck was to be supported by the boundary fence but that the connection was only a temporary one to help keep the deck braced until the foundations and bearers had been installed.
- [27] When this proposition was put to the Special Adviser he did not disagree that sequencing the construction in this way was possible but suggested that it introduced time and cost consequences and meant significant rework would be required to insure the structure met the requirements of the building code.
- [28] The Respondent confirmed that no building consent had been applied for. It was his evidence that at the time of the quote the deck was smaller in size but that during the set out the Owners asked for the outer line of the deck to be aligned with the existing house wall. The consequence of this dimensional change was that the height above ground line of 1.5 metres was exceeded and the deck was then changed from being an exempt structure to one requiring a building consent. The Respondent had not considered this at the time and had not discussed it with the Complainants.
- [29] The Respondent told the Board that the staff he had on this project were unlicensed but had worked for him for several years, were enrolled in an apprenticeship scheme and had done this type of work before. He explained that usually he would supervise

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the staff on a daily basis but had not done so at this project. He explained that he was distracted from his business because of personal concerns and had not followed his usual management practices. He accepted that this was his responsibility.

Board's Conclusion and Reasoning

Negligence or Incompetence

- [30] There are two aspects to the allegation of negligence that the Board needs to consider. The first is the adequacy of the supervision of unlicensed persons. The second related to the failure to obtain a building consent (if a consent was required)
- [31] In considering whether the Respondent has carried out or supervised building work in a negligent or incompetent manner the Board has had regard to the case of *Beattie v Far North Council*⁴. Judge McElrea provided guidance on the interpretation of those terms:

[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.

[44] In my view a "negligent" manner of working is one that exhibits a serious lack of care judged by the standards reasonably expected of such practitioners, while an "incompetent" manner of working is one that exhibits a serious lack of competence.

[46] The approach I have adopted recognises that the terms "negligent" and "incompetent" have a considerable area of overlap in their meanings, but also have a different focus - negligence referring to a manner of working that shows a lack of reasonably expected care, and incompetence referring to a demonstrated lack of the reasonably expected ability or skill level.

- [32] The Board has also considered the comments of Justice Gendall in *Collie v Nursing Council of New Zealand*⁵ as regards the threshold for disciplinary matters:

[21] Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.

⁴ Judge McElrea, DC Whangarei, CIV-2011-088-313

⁵ [2001] NZAR 74

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Supervision

- [33] In Board Decision C2-01143⁶ the Board found that the definition of supervise in s 7⁷ of the Act must be interpreted in such a way as to give effect to the purpose of the legislation which includes the regulation and accountability of licensed building practitioners and, as such, it includes work carried out without a building consent. The Board's position, therefore, is that under the disciplinary provision in s 317(1)(b) supervision applies to all building work carried out under the supervision of a licensed building practitioner and that where the work is carried out under a building consent an additional requirement applies in that it must also comply with the building consent under which it is carried out. The fundamental requirement in s 7 that the supervision of the building work is "*sufficient to ensure it is performed competently*" applies to all building work carried out under the supervision of a licensed building practitioner.
- [34] In C2-01143 the Board also discussed the levels of supervision it considers will be necessary to fulfil a licensed building practitioner's obligations, noting that the level of supervision required will depend on a number of circumstances including:
- (a) the type and complexity of the building work to be supervised;
 - (b) the experience of the person being supervised;
 - (c) the supervisor's experience in working with the person being supervised and their confidence in their abilities;
 - (d) the number of persons or projects being supervised; and
 - (e) the geographic spread of the work being supervised.
- [35] The Board also needs to consider whether the work met the requirements of the building code and if not the level of non-compliance.
- [36] On questioning by the Board the Respondent stated that he had not attended the site during the works and had only given verbal instruction to his staff. He had relied on their knowledge of NZS3604 and previous experience to be able to undertake the building work which he considered was an "easy job".
- [37] The Board found that the Respondent did not give adequate instruction to or provide sufficient onsite supervision of untrained staff for the work to proceed in an efficient manner. The Board is prepared to give the Respondent the benefit of the doubt that the sequencing adopted would not have prevented a code compliant structure being achieved by the end of the project. However, by leaving the site and not communicating with the Complainants the Respondent has found himself before the Board having to explain why so much rework will be needed to the building components which are already in place in addition to the foundation work planned but not yet implemented. The Respondent was unable to demonstrate that he had business processes in place for ordering materials, instructing staff or processing variations to contract works. In this the Board finds that the Respondent's conduct has fallen below the standards reasonably expected of a licensed building practitioner and, as such, he has been negligent.

⁶ Board Decision dated 14 April 2016

⁷ Section 7:

supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—

(a) is performed competently; and

(b) complies with the building consent under which it is carried out.

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Building Consent

[38] The Board has found in previous decisions⁸ that a licensed person who commences or undertakes building work without a building consent could, in such circumstances, be considered to be both negligent and incompetent and as such that the conduct can come within the provisions of s 317(1)(b) of the Act. Full reasoning was provided by the Board in decision C2-01068⁹.

[39] More recently the High Court in *Tan v Auckland Council*¹⁰ Justice Brewer in the High Court stated, in relation to a prosecution under s 40 of the Act:

[35] The building consent application process ensures that the Council can check that any proposed building work is sufficient to meet the purposes described in s 3 (of the Act). If a person fails to obtain a building consent that deprives the Council of its ability to check any proposed building work.

[37] ... those with oversight (of the building consent process) are in the best position to make sure that unconsented work does not occur.

[38] ... In my view making those with the closest connection to the consent process liable would reduce the amount of unconsented building work that is carried out, and in turn would ensure that more buildings achieve s 3 goals.

[40] The Board considers the Court was envisaging that those who are in an integral position as regards the building work, such as a licensed building practitioner, have a duty to ensure a building consent is obtained (if required). It follows that failing to do so can fall below the standards of care expected of a licensed building practitioner.

[41] The questions for the Board to consider are first whether, at the time the building work was undertaken by the Respondent, he knew or ought to have known that a building consent was required. If the Respondent knew or should have known, then the second question is whether the Respondent was negligent or incompetent in not first obtaining a consent.

[42] On questioning by the Board the Respondent stated that he considered that the deck originally quoted for did not require a building consent but that given the steep slope to the site and the increase in the size of the deck the position changed. At the time of the change he neither made enquiry or application to the Council, nor did he advise the Complainants to do so.

[43] The Board found that the Respondent knew about requirements for non-exempt building work to be undertaken under a building consent and took no steps to satisfy himself that a building consent needed to be or had been applied for. The building work became more extensive during the project and the reconsideration of the need for a building consent arose when the scope changed. In not doing so the Board finds that the Respondent's conduct has fallen below the standards reasonably expected of a licensed building practitioner and, as such, he has been negligent.

⁸ Refer for example to Board Decision C1030 dated 21 July 2014

⁹ Board Decision C2-01068 dated 31 August 2015

¹⁰ [2015] NZHC 3299 [18 December 2015]

Working within Competence

- [44] The matter for consideration is whether the Respondent has carried out or supervised building outside of his competence (s 314B(b) of the Act). When considering matters under s 314B(b) the provision can be read as pertaining to the common dictionary definition of “the ability to do something successfully or efficiently”. Accordingly a licensed building practitioner who holds a class of licence for the building work he or she is undertaking and who is not able to successfully or efficiently complete the building work, may be working outside of their competence. Such a situation could occur, for example, where a person holding a carpentry licence who has only ever built simple single level dwellings unsuccessfully undertakes a complex multi-level build.
- [45] The question for the Board to consider is whether the Respondent’s action in carrying out or supervising the design and construction of a deck which was not exempt from requiring a building consent was outside his competence as the holder of a carpentry licence.
- [46] It is not in dispute that the deck in its current position requires a building consent. The building consent process that ought to have been followed was that the building work be designed and documented by a practitioner holding a design licence and an application lodged with the Auckland City Council which would include the certificate of works (COW) from the designer. Once a building consent was received then a licensed building practitioner carpenter would carry out or supervise the construction of the restricted works and on completion of the works provide to the Owner and the Territorial Authority a copy of the Record of Work (ROW).
- [47] The process that was followed was that the Respondent was both the designer and the carpenter who carried out or supervised the project. Had the project not required a building consent this would not be a matter before the Board as there are no legislative restrictions on who can design or construct a project that is exempt from requiring a building consent.
- [48] The Board found that when this project changed from not requiring a building consent to one requiring a building a consent, the need for input from licensed persons also changed. At that time the Respondent’s design of the structure became building work which is to be carried out or supervised by a design licence holder. Design is a licence the Respondent does not hold. The situation arose because of changes to the scope during the works and has been addressed above under the charge of negligence and incompetence. In this factual situation the Board found that the Respondent had inadvertently acted outside his competence and the seriousness threshold for upholding a charge, as outlined in *Collie*, has not been met.

Board Decision

- [49] The Board has decided that Respondent has carried out or supervised building work in a negligent manner (s 317(1)(b) of the Act) and should be disciplined.
- [50] The Board has also decided that Respondent has not breached s 314B of the Act (s 317(1)(h)).

Disciplinary Penalties

- [51] The grounds upon which a Licensed Building Practitioner may be disciplined are set out in s 317 of the Act. If one or more of the grounds in s 317 applies, then the Board may apply disciplinary penalties as set out in s 318 of the Act¹.
- [52] The Board's Complaints Procedures allow the Board to either set out the Board's decision on disciplinary penalty, publication and costs or to invite the Respondent to make submissions on those matters.
- [53] As part of the materials provided to the Board at the Hearing the Respondent provided submissions which were relevant to penalty, publication and costs and the Board has taken these into consideration.
- [54] Given the nature of the disciplinary offending, the mitigation already heard and the level of penalty decided on, the Board has decided to dispense with calling for further submissions. The Respondent will, however, be given an opportunity to comment on the level of penalty, costs and on publication should he consider there a further matters which the Board should take into consideration.
- [55] The Board is aware that the common understanding of 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. Those purposes were recently reiterated by the Supreme Court of the United Kingdom:

The primary purpose of professional disciplinary proceedings is not to punish, but to protect the public, to maintain the public confidence in the integrity of the profession and to uphold proper standards of behaviour.¹¹

- [56] In New Zealand the High Court noted in *Dentice v Valuers Registration Board*¹²:

Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.

- [57] The *High Court in Patel v Complaints Assessment Committee*¹³ has, however, commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to uphold professional standards:

[27] Such penalties may be appropriate because disciplinary proceedings inevitably involve issues of deterrence. They are designed in part to deter both the offender and others in the profession from offending in a like manner in the future.

[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

¹¹ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

¹² [1992] 1 NZLR 720 at p 724

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

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punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.

- [58] In the circumstances of the complaint the Board considers a fine of \$1,000 to be the appropriate penalty.

Costs

- [59] Under s 318(4) the Board may require the Respondent “to pay the costs and expenses of, and incidental to, the inquiry by the Board.”

- [60] 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 case. The judgement in *Cooray v The Preliminary Proceedings Committee*¹⁴ included the following:

“It would appear from the cases before the Court that the Council in other decisions made by it has in a general way taken 50% of total reasonable costs as a guide to a reasonable order for costs and has in individual cases where it has considered it is justified gone beyond that figure. In other cases, where it has considered that such an order is not justified because of the circumstances of the case, and counsel has referred me to at least two cases where the practitioner pleaded guilty and lesser orders were made, the Council has made a downward adjustment.”

- [61] The judgment in *Macdonald v Professional Conduct Committee*¹⁵ confirmed the approach taken in *Cooray*. This was further confirmed in a complaint to the Plumbers, Gasfitters and Drainlayers’ Board, *Owen v Wynyard*¹⁶ where the judgment referred with approval to the passages from *Cooray* and *Macdonald* in upholding a 24% costs order made by the Board.

- [62] In *Collie v Nursing Council of New Zealand*¹⁷ 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. It is not hard to see that the award of costs may have imposed some real burden upon the appellant but it is not fixed at a level which disturbs the Court’s conscience as being excessive. Accordingly it is confirmed.

- [63] The Board considers that the sum of \$1,500 is a fair and reasonable contribution towards the costs and expenses incidental to the inquiry of the Board.

Publication of Name

- [64] 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 Act.

¹⁴ HC, Wellington, AP23/94, 14 September 1995

¹⁵ HC, Auckland, CIV 2009-404-1516, 10 July 2009

¹⁶ High Court, Auckland, CIV-2009-404-005245, 25 February 2010

¹⁷ [2001] NZAR 74

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[65] The Board is also able, under s 318(5) of the Act, to order publication over and above the public register:

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.

[66] 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.

[67] The Board does not consider further publication is required.

Penalty, Costs and Publication Decision

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

Penalty: Pursuant to s 318 (1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine \$1,000.

Costs: Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of \$1,500 (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 s 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.

Submissions on Penalty Costs and Publication

[69] The Board invites the Respondent to make written submissions on the matters of disciplinary penalties, costs and publication up until close of business on 9 November 2016.

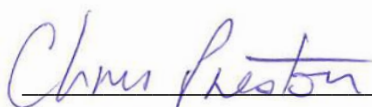
[70] If no submissions are received then this decision will become final.

[71] 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.

Right of Appeal

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

Signed and dated this 18th day of October 2016.



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:*
 - (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.*