

Before the Building Practitioners Board

	BPB Complaint No. CB26052
Licensed Building Practitioner:	Paula Katoa (the Respondent)
Licence Number:	BP138338
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 and Decision Date:	22 March 2023
Board Members Present:	
	Mr M Orange, Chair, Barrister (Presiding)
	Mrs F Pearson-Green, LBP, Design AoP 2
	Ms K Reynolds, Construction Manager

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.

Disciplinary Finding:

The Respondent **has** committed a disciplinary offence under section 317(1)(da)(ii) of the Act.

The Respondent is fined \$1,500 and ordered to pay costs of \$1,000. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary

- [1] The Respondent’s business was contracted to complete the installation of framing and trusses on a labour-only basis. The Respondent supervised the building work. A building inspection identified various non-compliance issues, including incorrect, incomplete or missing fixings, missing building elements, and incorrectly installed trusses. The Respondent’s engagement came to an end. He did not provide a record of work.
- [2] The Board found that trusses had been installed in a negligent manner but that the Respondent had not been negligent because his supervision failings were not serious enough to warrant a disciplinary outcome. The Board also found that the Respondent had failed to provide a record of work on completion of restricted building work, and it fined him \$1,500 for that offence and ordered that he pay costs of \$1,000.

The Charges

- [3] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. The Board sets the charges and decides what evidence is required.¹
- [4] In this matter, the disciplinary charges the Board resolved to further investigate² were that the Respondent may, in relation to building work at **Omitted**, have:
- (a) carried out or supervised building work in a negligent or incompetent manner contrary to section 317(1)(b) of the Act;
 - (b) carried out or supervised building work that does not comply with a building consent contrary to section 317(1)(d) of the Act; and
 - (c) failed, without good reason, in respect of a building consent that relates to restricted building work that he has carried out 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) of the Act contrary to section 317(1)(da)(ii) of the Act.
- [5] The Board gave notice that, in considering the allegations under sections 317(1)(b) and (d) of the Act, it would be investigating the matters set out in the Auckland City Council framing inspection dated 16 December 2021, cavity inspection dated 5 April 2022, and the matters in the Complainant's email to the Respondent dated 30 March 2022.
- [6] At the hearing, it was established that the Respondent had not carried out or supervised the building work relating to the 5 April 2022 cavity inspection, as his involvement in the build came to an end prior to the Christmas break. When the Respondent's engagement on the build ended, the building was wrapped, and the Respondent noted that there was pressure to get the building wrapped so as to protect the framing from the weather over the Christmas break.
- [7] The Board accepted that the only relevant inspection, as regards the Respondent's conduct, was the 16 December 2021 framing inspection. As such, this decision only deals with that building work.

¹ 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. The evidentiary standard is the balance of probabilities, *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

² The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with regulation 10 of the Complaints Regulations.

Evidence

[8] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed³. 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.

Negligence or Incompetence

[9] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,⁴ that the Respondent departed from an accepted standard of conduct when carrying out or supervising building work as judged against those of the same class of licence. This is described as the *Bolam*⁵ test of negligence.⁶ To make a finding of incompetence, the Board has to determine that the Respondent has demonstrated a lack of ability, skill, or knowledge to carry out or supervise building work to an acceptable standard.⁷ A threshold test applies to both. Even if the Respondent has been negligent or incompetent, the Board must also decide if the conduct fell seriously short of expected standards.⁸ If it does not, then a disciplinary finding cannot be made.

[10] The building work undertaken by the Respondent was completed on a labour-only basis as a subcontractor. The build took place over the covid lock-down periods in Auckland when there were regional borders in place. The main contractor (Sentinel Homes Waikato) sought a subcontractor in the Drury region with staff that could continue with the build. The foundations had already been constructed. Kanda Homes Limited were contracted. Kanda, in turn, contracted the Respondent and his company SPK Builders Limited, to provide carpentry services. Both Kanda and Sentinel provided project managers.

[11] The Respondent supervised the building work, except for the mark-out and initial standing of frames. He had a site foreman, who was a qualified builder, a fourth-year apprentice and two other apprentices on site. The Respondent had about six other large builds on at the time. He was supervising three of them. He had one other Licensed Building Practitioner whom he contracted who was supervising the other projects. Each project had a qualified builder on site. Overall, the Respondent had 25 building staff in his employ under his and one other Licensed Building Practitioner's

³ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

⁴ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1. 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.

⁵ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁶ Adopted in New Zealand in various matters including: *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

⁷ In *Beattie v Far North Council* Judge McElrea, DC Whangarei, CIV-2011-088-313 it was described as "a demonstrated lack of the reasonably expected ability or skill level". In *Ali v Kumar and Others*, [2017] NZDC 23582 at [30] as "an inability to do the job"

⁸ *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [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".

supervision at the time. The Board noted that this was a very low ratio of Licensed to unlicensed staff, and it advised the Respondent to obtain and review the Supervision Guidelines that are available on the Board's website.

- [12] With respect to the installation of the frames and trusses, the Respondent did so by reference to what he described as a Master Framing Plan that was supplied by the framing manufacturer. He stated that he had not seen or reviewed the building consent, which he stated was not on site. The Complainant stated it was. The Board expressed its concern that the Respondent had undertaken the build without reference to the complete building consent, and it cautioned him that, in future, he should ensure that he has reviewed the building consent and that the building work is proceeding in accordance with it.
- [13] Inspections were called by the Complainant. The Respondent stated that when the 16 December 2021 inspection was called, the work was not ready, and additional staff were put on the job to complete the work. The Respondent noted that they were under pressure to get the inspection completed so that the building could be wrapped and thereby protected from the weather.

Has the Respondent departed from an acceptable standard of conduct

- [14] When considering what an acceptable standard is, the Board must consider the purpose of the Building Actⁱ as well as the requirement that all building work must comply with the Building Code⁹ and any building consent issued¹⁰. The test is an objective one.¹¹
- [15] Also, with respect to supervision, the term is defined in the Act,¹² and there are various factors that the Board needs to consider when it determines whether a Licensed Building Practitioner's supervision has met an acceptable standard. The District Court has stated, albeit in the context of the Electricity Act, that at the very least, supervision requires knowledge that work is being conducted, visual and other actual inspection of the work during its completion, assessment of safety measures undertaken by the person doing the work on the site itself, and, after completion of the work, a decision as to the compliance of the work with the requisite regulations.¹³

⁹ Section 17 of the Building Act 2004

¹⁰ Section 40(1) of the Building Act 2004

¹¹ *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71 noted that the tribunal does not have to take into account the Respondent's subjective considerations.

¹² 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.

¹³ *Electrical Workers Registration Board v Gallagher* Judge Tompkins, District Court at Te Awamutu, 12 April 2011

[16] The issues raised in the 16 December 2021 building inspection fell into three categories:

1. incorrect, incomplete or missing fixings;
2. missing building elements; and
3. truss installation.

Fixings

[17] The fixings were described by the Building Consent Officer (BCO), who carried out the inspection as incomplete and not ready for inspection. His view was that the fixings were still being installed. The subsequent Licensed Building Practitioner thought that somewhere between 10 and 20 internal fixings were missing.

[18] The BCO also noted, on his inspection record, that the starting and finishing points for bracing elements needed to be marked out. The Respondent believed the brace fixings had been installed correctly and that the BCO was impatient with him in that the BCO would not allow him to show where the elements started and finished.

[19] The Board did not consider that the issues relating to the fixings amounted to either negligence or incompetence. It accepted that the work was incomplete, that the missing internal fixings were minimal and that the intention was to get the building closed in and protected from the weather. Further, with regard to brace elements, there was insufficient evidence to establish that they did not meet compliance requirements.

Missing Elements

[20] There were two missing building elements. The first was a missing lintel over a living room slider that should have been installed. It was structural. It was installed by the subsequent Licensed Building Practitioner, who stated that it was easy to install. The Respondent stated that the lintel was not supplied. The Complainant gave evidence that the material was on site but that the lintel that was intended for the laundry was cut and used elsewhere. Non-provision of materials was a general theme that the Respondent raised. The Complainant contested this, and it appeared there may have been an element of miscommunication over materials and a failure by the Respondent's staff to check what had been delivered to the site.

[21] The second missing element was a missing portico posts. The portico had been constructed, and the load was being carried by temporary propping. The Respondent stated that there was an issue over the provision of a pad for the posts. He did not consider it formed part of the work that he was contracted to do. The Complainant stated it was.

[22] Again, the Board does not consider that the failings amounted to either negligence or incompetence. It was incomplete work, and whilst the lintel should have been

installed in sequence, it was easily remediated, and the Board accepts that the Respondent (wrongly) considered he did not have the materials to do the work.

Trusses

- [23] The third non-compliance item was the manner in which a truss had been installed. A block of wood had been installed to span a gap. The Respondent stated the gap arose because the trusses had not been manufactured to the correct dimensions. The Complainant claimed it was a set-out issue. The Respondent did not engage with an engineer to ascertain if the solution used would meet building code requirements. The solution used after the Respondent left site was carried out under an engineer's direction.
- [24] The truss installation was carried out in a negligent manner. It was non-compliant and would not have met building code requirements. An engineer should have been consulted, and a specific design solution should have been developed before the work was undertaken. The work was carried out under the Respondent's supervision. The question, therefore, becomes was that supervision negligent.

Supervision

- [25] Turning to the Respondent's supervision, he carried out a daily check of the building work, which included quality assurance. He was available to his staff and had confidence in their capabilities.
- [26] Given that the Respondent stated he was attending the site as regularly as he was and that he stated he did quality assurance checks, the Board considered that a reasonable practitioner would have identified the non-compliance of the truss and that steps should have been taken to deal with it. Because the Respondent did not, the Board finds that his supervision was not conducted in an acceptable manner and that the Respondent was negligent.

Was the conduct serious enough

- [27] The Board has only found one item of negligence. Whilst the contravention itself was a serious non-compliance item, the extent of the Respondent's departure from acceptable supervision standards was not so serious that the Board considered he should be disciplined. As noted above, however, he is cautioned with respect to the supervision ratios in his business between licensed and unlicensed persons.

Has the Respondent been negligent or incompetent

- [28] The Respondent has not been negligent or incompetent.

Contrary to a Building Consent

- [29] Building consents provide detailed plans and specifications for building work. They are issued by Territorial or Building Consent Authorities on the basis that the building

work will meet the provisions of the Building Code.¹⁴ Once issued, there is a requirement that the building work be carried out in accordance with the building consent.¹⁵ Building consents also stipulate the number and type of inspections the issuing authority will carry out during the build.¹⁶ Inspections ensure independent verification that the building consent is being complied with.

- [30] If building work departs from the building consent issued, the Board can find that a disciplinary offence under section 317(1)(d) of the Act has been committed. The Board does not have to find that departure was deliberate or a result of negligent conduct.¹⁷ The Board does, however, consider that the seriousness of the conduct under investigation does have to be taken into account. As such, even if the Respondent's building work departed from the building consent, the Board must also decide if the conduct fell seriously short of expected standards.¹⁸ If it does not, then a disciplinary finding cannot be made.

Has the Respondent breached section 317(1)(d) of the Act

- [31] The manner in which trusses were installed differed from the building consent. Technically, the Respondent has carried out building work that was not in accordance with the building consent. However, as with the Board's findings in relation to negligence or incompetence, the Board does not consider that the departure was serious enough to warrant a disciplinary outcome.

Failure to Provide a Record of Work

- [32] A Licensed Building Practitioner must provide a record of work for any restricted building work that they have carried out or supervised to the owner and the Territorial Authority on completion of their restricted building work.¹⁹
- [33] 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 work²⁰ unless there is a good reason for it not to be provided.²¹

Did the Respondent carry out or supervise restricted building work

- [34] The Respondent accepted that he had supervised restricted building work, specifically framing, trusses, beams and bracing. As such, he did supervise restricted building work and was required to provide a record of work.

¹⁴ Section 49 of the Act

¹⁵ Section 40 of the Act

¹⁶ Section 222 of the Act

¹⁷ *Blewman v Wilkinson* [1979] 2 NZLR 208

¹⁸ *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [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".

¹⁹ Section 88(1) of the Act.

²⁰ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

²¹ Section 317(1)(da)(ii) of the Act

Was the restricted building work complete

[35] The Respondent was aware that his engagement had come to an end. He had been invoiced for remedial work and had been advised by phone in late January 2022 that he was no longer required. As he would not be returning to carry out any further restricted building work, his restricted building work had come to an end, and completion had occurred.

Has the Respondent provided a record of work

[36] The Respondent stated that he had not provided a record of work. Requests were made for one in May 2022. Notwithstanding, one was still not provided.

Was there a good reason for the Respondent to withhold his records of work

[37] The Respondent stated that he did not provide a record of work because he did not want to sign off on building work that he was not responsible for. That is not a reason for not providing a record of work. Providing a record of work is not “singing off”. It is not to be confused with a producer statement. It is not a statement as to the quality or compliance of restricted building work. It is, put simply, a statement of who did or supervised what in the way of restricted building work.

Did the Respondent fail to provide a record of work

[38] The Respondent has, without good reason, failed to provide a record of work.

Board’s Decisions

[39] The Respondent **has not** committed disciplinary offences under sections 317(1)(b) or 317(1)(d) of the Act.

[40] The Respondent **has** committed a disciplinary offence under section 317(1)(da)(ii) of the Act.

Penalty, Costs and Publication

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

[42] The Respondent made submissions at the hearing as regards penalty, costs and publication.

Penalty

[43] The Board has the discretion to impose a range of penalties.ⁱⁱⁱ Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or

aggravating factors present.²² It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:²³

- (a) protection of the public and consideration of the purposes of the Act;²⁴
- (b) deterring other Licensed Building Practitioners from similar offending;²⁵
- (c) setting and enforcing a high standard of conduct for the industry;²⁶
- (d) penalising wrongdoing;²⁷ and
- (e) rehabilitation (where appropriate).²⁸

- [44] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases²⁹ and applying the least restrictive penalty available for the particular offending.³⁰ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty³¹ that is consistent with other penalties imposed by the Board for comparable offending.³²
- [45] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.³³
- [46] The only matter under consideration in relation to penalty is the failure to provide a record of work. Record of work matters are 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, an amount which it considers will deter others from such behaviour.
- [47] The Respondent noted that he had paid for remedial work to be completed. The Board did not consider that this was a mitigating factor. As such, the Board sees no reason to depart from the starting point. The fine is set at \$1,500.

Costs

- [48] Under section 318(4) of the Act, the Board may require the Respondent to pay the costs and expenses of, and incidental to, the inquiry by the Board. The rationale is

²² *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

²³ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

²⁴ Section 3 Building Act

²⁵ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁶ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

²⁷ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²⁸ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

²⁹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³⁰ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

³¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³² *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³³ In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.³⁴

- [49] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings³⁵. The starting point can then be adjusted up or down, having regard to the particular circumstances of each case³⁶.
- [50] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings, simple, moderate and complex. The current matter was moderately complex. Adjustments are then made.
- [51] The scale amount for a half-day hearing is \$3,500. The Respondent has, however, been partially successful in his defence of the allegations. As such, and based on the above, the Board's costs order is that the Respondent is to pay the sum of \$1,000 toward the costs of and incidental to the Board's inquiry.

Publication

- [52] 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 Act³⁷ and he will be named in this decision. The Board is also able, under section 318(5) of the Act, to order further publication.
- [53] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.³⁸ Further, as a general principle, publication 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, and the courts have stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.³⁹
- [54] Based on the above, the Board will not order further publication.

³⁴ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

³⁵ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

³⁶ *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.

³⁷ Refer sections 298, 299 and 301 of the Act

³⁸ Section 14 of the Act

³⁹ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Section 318 Order

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

Penalty: Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$1,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,000 (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.

[56] 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.

Right of Appeal

[57] The right to appeal Board decisions is provided for in section 330(2) of the Act^{iv}.

Signed and dated this 5 day of April 2023



Mr M Orange
Presiding Member

ⁱ Section 3 of the Act

This Act has the following purposes:

- (a) *to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—*
- (i) *people who use buildings can do so safely and without endangering their health; and*
 - (ii) *buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
 - (iii) *people who use a building can escape from the building if it is on fire; and*

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- (iv) *buildings are designed, constructed, and able to be used in ways that promote sustainable development:*
 - (b) *to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.*

ii 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.”*

iii Section 318 Disciplinary Penalties

- (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.*

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- (2) *The Board may take only 1 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.*

^{iv} **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.*