

Before the Building Practitioners Board

	BPB Complaint No. 26551
Licensed Building Practitioner:	Kelvin Adrian Boyd (the Respondent)
Licence Number:	BP 134362
Licence(s) Held:	Design AoP 2

Penalty Decision of the Board under section 318 of the Building Act 2004

Complaint or Board Inquiry:	Complaint
Hearing Location:	Christchurch
Hearing Type:	In person
Hearing Date:	18 December 2025
Substantive Decision Date:	4 March 2026
Penalty Decision Date:	8 April 2026

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr G Anderson, LBP, Carpentry and Site AoP 2
Mr C Lang, Building Surveyor and Quantity Surveyor, Building Control Manager

Appearances:

Ben Saunders Counsel for the Respondent
Mikaela Sotutu Counsel for the Respondent

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)(b) of the Act.

The Respondent's licence is reduced from Design Area of Practice 2 to Design Area of Practice 1, and he is ordered to pay costs of \$4,150. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary of the Board’s Penalty Decision

- [1] The complaint related to the Respondent’s design work over three properties and four building consents. The Building Consent Authority complained that his design work was substandard. The Board found that the Respondent had carried out building work (design work) in a negligent and incompetent manner.
- [2] Because of the finding of incompetence, the Board decided to restrict the Respondent’s licence to design work within Design Area of Practice 1 until he demonstrates that he is competent to carry out Design Area of Practice 2 work. The Board also ordered that the Respondent pay costs of \$4,150 and that a record of the disciplinary offending be recorded on the public Register for a period of three years. A summary of this decision will be published by the Registrar. The Respondent will not be named or identified.

The Charges

- [3] This penalty decision arises out of the Board’s substantive decision in which it found that the Respondent had committed a disciplinary offence under section 317(1)(b) of the Act.
- [4] Having found that one of the grounds in section 317 applies, the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay costs and whether the decision should be published.
- [5] In its substantive decision, the Board set out its indicative position regarding penalty, costs, and publication and invited the Respondent to make written submissions on those matters.
- [6] On 24 March 2026, the Board received submissions from the Respondent’s Counsel. On 8 April 2026, the Board met and considered the submissions made.

Penalty

- [7] The Board’s initial view was that the Respondent’s licence should be reduced from AoP 2 to AoP 1.

- [8] Counsel brought various previous Board decisions to its attention and submitted that the proposed penalty was inconsistent with those decisions and overly harsh.
- [9] The first decision referenced was *C1007*¹. That matter was heard in 2014, soon after the licensing regime had come into force and at a time when the Board was taking a more lenient approach to penalties, whilst practitioners adjusted to being subject to a disciplinary regime. In the matter, which involved design work for one building consent, compared to four consents in the present matter, the practitioner, a Design AoP 2 licence holder, was censured. Unfortunately, the committee that heard the matter did not provide reasons for the penalty imposed. The decision did, however, note the practitioner's cooperation.
- [10] The second was *Mavroyannis*.² The matter was heard in 2020. It involved design work carried out under supervision. Mr Mavroyannis was a Design AoP 1 licence holder. Again, there was some acceptance of wrongdoing. The practitioner was fined \$3,500. Mr Mavroyannis license has since been cancelled as a result of further disciplinary action.
- [11] The third decision, that of *Konik*,³ which was heard in 2025. In that matter, the Respondent was fined \$2,500. It involved multiple properties and building consents, and a Design AoP 1 practitioner in relation to whom a downgrade of licence was not a penalty option. In its penalty discussion, the Board noted various mitigating factors, including a late acceptance of responsibility, improvements in his design work, and an employment relationship that affected his design work.
- [12] The Board considers that there are distinguishing factors regarding the above decisions. *C1007* was heard when the regime was new, and a downgrade of licence was not an option open to the Board for the other two matters because the practitioners held Design AoP 1 licences. Also, unlike the other matters, whilst there was some acceptance of design deficiencies and the Respondent has cooperated, the Respondent did not accept full responsibility for his design failings.
- [13] The Board has imposed a licence downgrade in other matters. In *Sharshenova*,⁴ for example, the Board reduced the practitioner's licence from Design AoP 3 to AoP 2. In the matter, the practitioner, who defended the charge, did not accept design failings. In other matters, the Board has suspended practitioners' licenses⁵ and cancelled licenses.⁶ As such, whilst the penalty may seem harsh compared to those referenced, it could be seen as lenient in comparison to other decisions.
- [14] Notwithstanding the above, the Board is mindful of the design work that the Respondent has carried out since and that this is the first time the Respondent has been disciplined. With respect to the former, Counsel has submitted that full credit

¹ Building Practitioner Board decision of 3 February 2025

² *Nicholas Mavroyannis* [2020] BPB 25328

³ *Michal Edwar Konik* [2025] BPB 26408

⁴ *Chinara Sharshenova* [2022] BPB 25906

⁵ See, for example, *Desmond Allen* [2022] BPB 25894, *Van Basten Batenburg* [2021] BPB 25507,

⁶ See, for example, *Nicholas Mavroyannis* [2023] BPB 26084 and [2023 BPB 25971, *Matthew Biddle* [2018] BPB 1932, *Feng C2-01768*

for design improvements has not been given. Counsel has noted that the Respondent has found the complaint process to be a humbling experience, that he has learned a lot from it, and that he will continue to improve. The submission also noted the impact on the Respondent of a license downgrade. Counsel submitted that a fine would be a more appropriate penalty.

- [15] Having considered the submission received, the Board has decided to uphold its initial view. The design work was not up to the quality or standard of a Design AoP 2 licence holder, and the Board does not have confidence that the consumer will be protected if he retains that AoP 2 Design Licence.
- [16] The Respondent should note that whilst the Board has made its decision to reduce his area of practice, it is open to him, at any time, to reapply for a Design Area of Practice 2. If he does, the Registrar will then assess his competency and, if the Respondent's competence has improved, he may well be able to regain the higher area of practice licence.
- [17] Further, the Respondent will be able to carry out design work on residential buildings that have a risk matrix of 12 or less or more complex residential buildings under the supervision of a Design Area of Practice 2 or 3 licence holder.
- [18] Finally, whilst the Board considered that the Respondent may have benefited from a training order as an alternative penalty, it notes that it is not aware of any suitable training programs currently available.

Costs

- [19] The Board's initial view was that \$4,150 in costs was appropriate. No submissions on costs received. The amount is confirmed.

Publication of Name

- [20] The same applied to the Board's publication decision. No submissions were received, and publication order is confirmed.

Section 318 Order

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

Penalty: Pursuant to section 318(1)(c) of the Building Act 2004, the Respondent's licence is restricted to carrying out or supervising of design work authorised under a Design Area of Practice 1 Licence and the Registrar is directed to record the restriction in the of Register of Licensed Building Practitioners by noting his licence as a Design Area of Practice 1 Licence.

The restriction is to remain in place until such time as the Respondent satisfies the Registrar that, on the balance of probabilities, he meets the requirements to hold a Design Area of Practice 2 Licence.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$4,150 (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(I)(iii) of the Act.

In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be published on the Board's website. The Registrar is also directed to publish an article summarising the decision. The Respondent is not to be named or identified in the article.

[22] 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

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

Signed and dated this 11th day of May 2026.



Mr M Orange
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.