

Before the Building Practitioners Board

BPB Complaint No. 26658

Licensed Building Practitioner: Brian Langdon (the Respondent)

Licence Number: BP 132831

Licence(s) Held: Roofing – Profiled Metal Roof and/or Wall Cladding

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 Type: On the Papers

Hearing and Draft Decision Date: 24 April 2025

Finalised Draft Decision Date: 28 May 2025

Board Members Present:

- Mr M Orange, Chair, Barrister (Presiding)
- Mr G Anderson, LBP, Carpentry and Site AoP 2
- Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director

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)(d) of the Act.

The Respondent is fined \$1,500 and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

Contents

Summary of the Board’s Draft Decision	2
The Charges	3
Regulation 10 Decision	3
Regulation 9 Decisions	3
Draft Decision Process	4
Evidence	5
Contrary to a Building Consent	6
Minor Variations.....	7
Was there building work that differed from the building consent?	9
Was the conduct serious enough?	9
Board’s Decision	9
Penalty, Costs and Publication	9
Penalty.....	10
Costs	11
Publication	11
Section 318 Order	12
Submissions on Draft Decision	12
Request for In-Person Hearing	13
Right of Appeal	13
This decision and the order herein were made final on 28 May 2025 on the basis that no further submissions were received.	13

Summary of the Board’s Draft Decision

- [1] The Respondent changed the methodology for installation of flashings without first ensuring that a change to the Building Consent had been approved. The Board found that, because of that failure, he had carried out building work that did not comply with the Building Consent and that he had breached section 317(1)(d) of the Act. The Complainant had made other allegations, which the Board decided it would not pursue, given its decision to deal with this matter by way of a Draft Decision process.
- [2] The Board fined the Respondent \$1,500 for the breach of section 317(1)(d) of the Act and ordered that he pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

The Charges

[3] Under regulation 10 of the Complaints Regulations, the Board must, on receipt of the Registrar's Report, decide whether to proceed no further with the complaint because regulation 9 of the Complaints Regulations applies. Having received the report, the Board decided that regulation 9 applied to some but not to all of the allegations.

Regulation 10 Decision

[4] In this matter, the disciplinary charges the Board resolved to further investigate¹ were that the Respondent may, in relation to building work at [OMITTED], have carried out or supervised building work that does not comply with a building consent contrary to section 317(1)(d) of the Act in that he changed building methodologies without first ensuring what were changes to the Building Consent had been approved.

Regulation 9 Decisions

[5] The complaint also contained allegations that the Respondent had:

- (a) carried out or supervised building 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 or supervise, or 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,
- (c) breached the code of ethics prescribed under section 314A of the Act (s 317(1)(g) of the Act); and
- (d) 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).

[6] With regard to the allegations made, the Board decided that regulation 9(f)(ii) of the Complaints Regulations applied. It provides:

Complaint not warranting further investigation

A complaint does not warrant further investigation if—

- (f) the investigation of it is—*
 - (ii) unnecessary;*

[7] In considering whether the investigation of a complaint is necessary, the Board must consider the directions of the courts regarding the threshold for matters to be dealt

¹ 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.

with as a disciplinary matter. In short, the conduct has to fall seriously short of expected standards of conduct.²

- [8] Looking at the specific allegations, the Board decided that it would not further investigate the Respondent's conduct under section 317(1)(b) of the Act (negligence or incompetence) because the more appropriate disciplinary provision to investigate was section 317(1)(d) of the Act, on which this Draft Decision is based. In the event that the Respondent disputes the findings in this Draft Decision, the Board may review whether it will further investigate his conduct under section 317(1)(b) of the Act at a hearing.
- [9] The Board decided that it would not further investigate the allegation that the Respondent had failed to provide a record of work on completion of building work (section 317(1)(da)(ii) of the Act) because it considered that the Respondent had provided a record of work to the Territorial Authority within a reasonable period of completion. In this respect, the Board applied its findings in *Hanif*,³ where it decided that the provisions of section 88(1) of the Act had been satisfied when a record of work was provided to the Territorial Authority but not the Owner in a timely manner.
- [10] Finally, regarding the allegations of a breach of the Code of Ethics (section 317(1)(g)) and disreputable conduct (section 317(1)(i)), the Board decided that whilst there was some evidence of conduct that may have come within the grounds for discipline, but which, on a Draft Decision basis, may not have reached the seriousness threshold as outlined by the courts. Again, however, in the event that the Respondent disputes the findings in this Draft Decision, the Board may review whether it will further investigate his conduct under section 317(1)(g) of the Act at a hearing.

Draft Decision Process

- [11] The Board's jurisdiction is that of an inquiry. Complaints are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers necessary prior to it making a decision.
- [12] Ordinarily, the Board makes a decision having held a hearing.⁴ The Board may, however, depart from its normal procedures if it considers doing so would achieve the purposes of the Act, and it is not contrary to the interests of natural justice to do so.⁵
- [13] In this instance, the Board has decided that a formal hearing is not necessary. The Board considers that there is sufficient evidence before it to allow it to make a decision on the papers. There may, however, be further evidence in relation to the matter that the Board was not aware of. To that end, this decision is a draft Board decision. The Respondent will be provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. If the

² *Collie v Nursing Council of New Zealand* [2001] NZAR 74

³ [2019] BPB 25132

⁴ Regulation 10 of the Complaints Regulations.

⁵ Under Clause 27 of Schedule 3 the Board may regulate its own procedure and it has summary jurisdiction, which allows for a degree of flexibility in how it deals with matters: *Castles v Standards Committee No.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

Respondent requests an in-person hearing, or the Board directs that one is required, this decision will be set aside, and a hearing will be scheduled.

Evidence

- [14] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed.⁶ 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.
- [15] The Board's investigations related to a change to the approved methodology for the installation of flashings.
- [16] The facts in this matter are that on 20 May 2024, a failed Whakatane District Council building inspection noted:

The roof/wall cladding installation is not complying, please rectify and advise when work is ready for reinspection.

And

No solution to tin/iron cladding system proposed today, please complete works as per the approved plans or book a Minor variation inspection for proposed changes, NOTE: no approval given to the current construction methodology of tin cladding installation. Pre line building booked and not carried out due to cladding remedial works required may affect water-tightness of building.

- [17] A further failed inspection on 22 May 2024, noted:

Joinery flashings reflections not in accordance with the approved plans, LBP has installed to the Metalcraft roofing system. Homeowners approval for this change required.

And

Roofer has setup flashings around joinery step by step which is generally in accordance with the metalcraft details which is an alternative solution from E2/AS1 using the compliance of the BRANZ 4Ds solutions, this system is in-line with 8.11 Metal wall cladding flashings in NZ metal roof and wall cladding code of practice. However, this is not as per the approved plans and specifications, the approved details show E2/AS1 detail using the roofing industries.

This change must be agreed to by the homeowners via a WDC minor variation form (signed) prior to continuing further OR simply continue works as per the approved plans, which may require another inspection by WDC for the installation.

⁶ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

- [18] On 24 May 2024, the Respondent filed a Minor Variation (MV) with the Whakatane District Council, the Building Consent Authority (BCA) for the build. The MV set out:

Window Jamb Flashing detail to Horizontal Profiled Metal Cladding only.

We have used a hybrid system that conforms with NZBC/AS1 guidelines and is supported by Metalcraft Roofing approved literature.

- [19] The MV also noted:

I believe the system we have used is far easier to perform remedial works on needed.

- [20] On 29 May 2024, a further inspection was carried out in relation to the cladding and was passed. The inspection noted:

Two minor variations approved today. Cladding substitution and some other framing changes.

- [21] The Respondent, in response to the complaint, set out various personal matters, noted there was an ongoing dispute with the Complainant and provided some background and details of that dispute, and noted:

I made an error with how I had set out my second flashings, (largely due to lack of sleep) they refused to let me review the issue before a scheduled inspection.

- [22] In a further response to the complaint, the Respondent set out:

I stick by my workmanship, skill and eagerness to deliver the best quality end product for my clients and building partners.

Unfortunately, the [OMITTED] were not happy, and were influenced by their builder who in my opinion, was not familiar with the current code of practice.

I admit the job could have turned out a lot better, but I was not prepared to go any further without some form of payment before remedial work took place.

I hope what I have said, makes sense. And that you can understand my perspective on this matter.

Contrary to a Building Consent

- [23] 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.⁷ Once issued, the building work must be carried out in accordance with the Building Consent.⁸

- [24] 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

⁷ Section 49 of the Act

⁸ Section 40 of the Act

does not have to find that departure was deliberate or a result of negligent conduct.⁹ 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.¹⁰ If it does not, then a disciplinary finding cannot be made.

Minor Variations

[25] Once a Building Consent has been granted, any changes to it must be dealt with in the appropriate manner. There are two ways in which changes can be dealt with: by way of a minor variation under section 45A of the Act or as an amendment to the Building Consent. The extent of the change to the Building Consent dictates the appropriate method to be used.

[26] Section 45A provides a more flexible approach to changes to a Building Consent for minor variations. Notably, it states:

45A Minor variations to building consents

- (1) *An application for a minor variation to a building consent—*
 - (a) *is not required to be made in the prescribed form; but*
 - (b) *must comply with all other applicable requirements of section 45.*
- (2) *Sections 48 to 50 apply, with all necessary modifications, to an application for a minor variation.*
- (3) *A building consent authority that grants a minor variation—*
 - (a) *must record the minor variation in writing; but*
 - (b) *is not required to issue an amended building consent.*

[27] Minor variation is defined in the Building (Minor Variations) Regulations 2009. Regulation 3 defines a minor variation as:

3 Minor variation defined

- (1) *A minor variation is a minor modification, addition, or variation to a building consent that does not deviate significantly from the plans and specifications to which the building consent relates.*
- (2) *The following are examples of minor variations and do not constitute an exhaustive list:*

⁹ *Blewman v Wilkinson* [1979] 2 NZLR 208

¹⁰ *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".

- (a) *substituting comparable products (for example, substituting one internal lining for a similar internal lining):*
- (b) *minor wall bracing changes:*
- (c) *a minor construction change (for example, changing the framing method used around a window):*
- (d) *changing a room's layout (for example, changing the position of fixtures in a bathroom or kitchen).*

(3) *The examples in subclause (2) are only illustrative of subclause (1) and do not limit it. If an example conflicts with subclause (1), subclause (1) prevails.*

[28] It is clear from section 45A of the Act that whilst the process for a minor variation is not as onerous as that required for an amendment to a Building Consent, there is, nevertheless, a requirement that the legislative provisions in the Act as regards compliance with the Building Consent still apply. Most importantly, the Building Consent authority retains the discretion to refuse a minor variation.¹¹ To aid the process of applying for a minor variation, most Building Consent authorities have a minor variation application form.

[29] The fact that a minor variation has to be applied for and can either be granted or refused implies that the building work that relates to it must follow rather than proceed the application. The legislative framework does not allow a minor variation to be carried out and then, once complete, to be retrospectively applied for. In this respect, it must also be borne in mind the potential consequences of a minor variation that has been completed but not yet applied for being refused. The associated building work would either have to be deconstructed, or an application for a Certificate of Acceptance sought.¹²

[30] It must also be noted, as regards a Licensed Building Practitioner's obligations, that section 89 of the Act places a positive burden on a Licensed Building Practitioner to notify a Building Consent authority of a breach of a Building Consent:

89 Licensed building practitioner must notify building consent authority of breaches of building consent

(1) *A licensed building practitioner must, if he or she is of the view that any building work carried out under a building consent does not comply with that consent, notify—*

- (a) *the territorial authority in whose district the building is situated;*
and
- (b) *the owner.*

¹¹ Sections 48, 49 and 50 of the Act provide for the processing, granting and refusal of building consents

¹² Section 96 of the Act allows a Territorial Authority to issue a certificate of acceptance for unconsented building work

- (2) *The notification must—*
- (a) *state that the licensed building practitioner is of the view that building work carried out under the building consent does not comply with that consent; and*
 - (b) *state how the building work does not so comply; and*
 - (c) *be given as soon as practicable after the licensed building practitioner forms that view.*

[31] In *Tan v Auckland Council*¹³ the High Court, whilst dealing with a situation where no Building Consent had been obtained, stated the importance of the consenting process as follows:

[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.

[32] The same applies to the ongoing verification of building work against the requirements of the Building Consent. A failure to notify the Council of changes to the consented documents prior to them being carried out defeats the purpose of the process.

Was there building work that differed from the building consent?

[33] On the basis of the facts, as presented, and the law as outlined above, it is clear that the Respondent carried out building work that was contrary to the Building Consent (a change in flashing methodology) prior to any changes to it being sought. It follows that there has been a breach of section 317(1)(d) of the Act.

Was the conduct serious enough?

[34] The Respondent proceeded with the building work in the manner that he felt was best. He did not notify the BCA or the Owner of the change he had made, and it was only when a building inspector identified the change that it became apparent that the Respondent had departed from the Building Consent. He did not consider the need for a consent change process before the change was made, and the Board doubts he would have had it not been for the BCA intervention. The Board, therefore, considers the conduct serious and that the Respondent should be disciplined.

Board's Decision

[35] The Respondent **has** carried out building work that departed from the Building Consent and **has** breached section 317(1)(d) of the Act.

Penalty, Costs and Publication

[36] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether

¹³ [2015] NZHC 3299 [18 December 2015]

the Respondent should be ordered to pay any costs and whether the decision should be published.

- [37] The matter was dealt with on the papers. Included was information relevant to penalty, costs, and publication. The Board has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [38] The Board has the discretion to impose a range of penalties.ⁱⁱ 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.¹⁴ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹⁵

- (a) protection of the public and consideration of the purposes of the Act;¹⁶
- (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;¹⁷
- (c) setting and enforcing a high standard of conduct for the industry;¹⁸
- (d) penalising wrongdoing;¹⁹ and
- (e) rehabilitation (where appropriate).²⁰

- [39] 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 cases²¹ and applying the least restrictive penalty available for the particular offending.²² In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty²³ that is consistent with other penalties imposed by the Board for comparable offending.²⁴

¹⁴ *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]

¹⁵ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹⁶ Section 3 Building Act

¹⁷ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁸ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²⁰ *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

²¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²² *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

²³ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

- [40] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to considering any aggravating and/or mitigating factors present.²⁵
- [41] The conduct is at the lower end of the disciplinary scale, and it has been dealt with by way of a draft decision. On that basis, the Board decided that a fine was the appropriate form of penalty. It adopted a starting point of \$2,000, an amount that is consistent with other penalties imposed by the Board for similar offending.
- [42] From the starting point of \$2,000, the Board has decided that the fine will be reduced to \$1,500 on the basis that the Respondent has accepted he did not follow the correct process.

Costs

- [43] 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 that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.²⁶
- [44] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings.²⁷ The starting point can then be adjusted up or down, depending on the particular circumstances of each case.²⁸
- [45] 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.
- [46] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$700 toward the costs of and incidental to the Board's inquiry. This is the Board's scale amount for a simple matter that has been dealt with by way of a Draft Decision. It is significantly less than 50% of actual costs.

Publication

- [47] 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,²⁹ and he will be named in this decision, which will be available on the Board's website. The Board is also able, under section 318(5) of the Act, to order further publication.

²⁵ 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.

²⁶ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

²⁷ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

²⁸ *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.

²⁹ Refer sections 298, 299 and 301 of the Act

- [48] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.³⁰ 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.³¹
- [49] Based on the above, the Board will not order any publication over and above the record on the Register, the Respondent being named in this decision, and the publication of the decision on the Board's website. The Respondent should note, however, that as the Board has not made any form of suppression order, other entities, such as the media or the Ministry of Business Innovation and Employment, may publish under the principles of open justice reporting.

Section 318 Order

- [50] 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 \$700 (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(l)(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.

- [51] 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 Draft Decision

- [52] The Board invites the Respondent to:

- (a) provide further evidence for the Board to consider; and/or
- (b) make written submissions on the Board's findings. Submissions may be on the substantive findings and/or on the findings on penalty, costs and publication.

- [53] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **27 May 2025**.

- [54] If submissions are received, then the Board will meet and consider those submissions.

³⁰ Section 14 of the Act

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

- [55] The Board may, on receipt of any of the material received, give notice that an in-person hearing is required prior to it making a final decision. Alternatively, the Board may proceed to make a final decision which will be issued in writing.
- [56] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

- [57] If the Respondent, having received and considered the Board’s Draft Decision, considers that an in-person hearing is required then one will be scheduled, and a notice of hearing will be issued.
- [58] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **27 May 2025**.
- [59] If a hearing is requested, this Draft Decision, including the Board’s indicative position on penalty, costs and publication, will be set aside.

Right of Appeal

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

Signed and dated this 7th day of May 2025.



Mr M Orange
Presiding Member

This decision and the order herein were made final on 28 May 2025 on the basis that no further submissions were received.

Signed and dated this 29th day of May 2025.



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 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.*

- (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.*

iii 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.*