

Before the Building Practitioners Board

	BPB Complaint No. 26276
Licensed Building Practitioner:	Mark Fielding (the Respondent)
Licence Number:	BP 109457
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 Type:	by audio-visual conference
Hearing Date:	5 September 2024
Substantive Decision Date:	9 September 2024
Penalty Decision Date:	22 May 2026

Board Members Present at the Hearing:

Mrs F Pearson-Green, Deputy Chair, LBP Design AoP 2 (Presiding)
Mrs J Clark, Barrister and Solicitor, Legal Member
Mr P Thompson, LBP, Carpentry, Site AoP 3, Quantity Surveyor

Board Members for Penalty Decision:

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

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 is censured and ordered to pay costs of \$2,150. 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 Board found that the Respondent had carried out building work (design work) in a negligent manner. The Board considered the Respondent's conduct to be at the lower end of the negligence scale and, as such, decided to issue the Respondent with a censure. A censure is a formal expression of disapproval.
- [2] The hearing was conducted by way of an audiovisual conference. The standard costs for such a hearing are \$2,150, and the Respondent is ordered to pay this amount. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.
- [3] The Respondent made penalty submissions after the issue of the substantive decision. Due to an administrative oversight, those submissions were not dealt with until now. Further, because of a change in Board membership, the committee members who considered penalty submissions were different to those who had the matter.
- [4] The Board apologises for the delay in finalising this matter.

The Charges

- [5] This penalty decision arises out of the Board's substantive decision in which it found that the Respondent had breached section 317(1)(b) of the Act.
- [6] 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 the Respondent should be ordered to pay any costs and whether the decision should be published.
- [7] 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.
- [8] On 31 October 2024, the Board received the Respondent's submissions. It has considered them and made the following decisions.

Penalty

- [9] The Board's initial view was that a censure was the appropriate penalty for the disciplinary offence.
- [10] The Respondent's submissions critiqued the Board's decision and set out his disagreement with it. The Respondent is reminded of his right to appeal, which is the appropriate way in which to challenge the Board's decision.
- [11] Having considered the submissions received, the Board has decided to uphold its initial view.

Costs

- [12] The Board's initial view was that \$2,150 in costs was appropriate. The amount is affirmed.

Publication of Name

- [13] The Board's initial view was that there were no good reasons to further publish the matter. That remains the case.

Section 318 Order

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

Penalty: Pursuant to section 318(1)(d) of the Building Act 2004, the Respondent is censured.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$2,150 (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(1)(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.

- [15] 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

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

Signed and dated this 6th day of June 2026.



Mr M Orange
Presiding Member for the Penalty Decision

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.*