

## Before the Building Practitioners Board

	BPB Complaint No. 26612
Licensed Building Practitioner:	Naveed Iqbal Sahi (the Respondent)
Licence Number:	BP 121889
Licence(s) Held:	Carpentry

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### Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

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Complaint or Board Inquiry	Complaint
Hearing Type:	On the Papers
Hearing and Draft Decision Date:	14 February 2025

#### Board Members Present:

Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2 (Presiding)  
Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director  
Mr G Anderson, LBP, Carpentry and Site AoP 2  
Mr T Tran, Barrister - Legal Member

#### 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 \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

## Contents

<b>Summary of the Board’s Decision .....</b>	<b>2</b>
<b>The Charges.....</b>	<b>3</b>
<b>Draft Decision Process.....</b>	<b>3</b>
<b>Evidence .....</b>	<b>3</b>
<b>Failure to Provide a Record of Work .....</b>	<b>3</b>
Did the Respondent carry out or supervise restricted building work .....	4
Was the restricted building work complete.....	4
Has the Respondent provided a record of work .....	4
Was there a good reason .....	5
Did the Respondent fail to provide a record of work .....	5
<b>Board’s Decision .....</b>	<b>5</b>
<b>Penalty, Costs and Publication .....</b>	<b>6</b>
Penalty .....	6
Costs .....	7
Publication.....	7
<b>Section 318 Order .....</b>	<b>8</b>
<b>Submissions on Draft Decision .....</b>	<b>8</b>
<b>Request for In-Person Hearing .....</b>	<b>9</b>
<b>Right of Appeal .....</b>	<b>9</b>
<b>This decision and the order herein were made final on 25 August 2025 on the basis that no further submissions were received. ....</b>	<b>9</b>

## Summary of the Board’s Decision

- [1] The Respondent failed to provide a Record of Work (ROW) after completing restricted building work at [OMITTED]. He is fined \$1,500 and ordered to pay costs of \$700. The disciplinary finding will be recorded on the Public Register for a period of three years.
- [2] If the Respondent provides evidence that he has provided a ROW to the Territorial Authority by the close of the submission period, as per the requirements of section 88(1) of the Act, the fine will be reduced to \$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.<sup>1</sup>
- [4] In this matter, the Board resolved to investigate a disciplinary charge that the Respondent failed, without good reason, to provide a ROW for restricted building work he carried out at [OMITTED] (the Property), as required under section 88(1) of the Act, contrary to section 317(1)(da)(ii) of the Act.

### **Draft Decision Process**

- [5] The Board's jurisdiction is that of an inquiry. Matters 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.
- [6] Ordinarily, the Board makes a decision having held a hearing.<sup>2</sup> 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.<sup>3</sup>
- [7] In this instance, the Board has decided that a formal hearing is not necessary. The Board considers 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 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**

- [8] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed.<sup>4</sup> 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.

### **Failure to Provide a Record of Work**

- [9] Section 88(1) of the Act requires that each LBP who carries out (other than as an owner-builder) or supervises restricted building work under a building consent must,

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<sup>1</sup> 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.

<sup>2</sup> Regulation 22 of the Complaints Regulations.

<sup>3</sup> 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.

<sup>4</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

on completion of that restricted building work,<sup>5</sup> provide a ROW in the prescribed form to:

- (a) The owner; and
- (b) The territorial authority for the district in which the restricted building work is situated.

[10] This obligation exists unless there is a good reason for it not to be provided.<sup>6</sup>

Did the Respondent carry out or supervise restricted building work

[11] The Board notes that the Respondent held a current LBP licence with Carpentry and Site (Site 1) classes at all relevant times when the restricted building work was carried out (from January 2023 to May 2023).

[12] The Respondent was engaged to carry out specific carpentry work at the Property, including building of the timber mid floors, fixing pre-nailed frames for the 3rd level for lot 5 only, fixing lower-level trusses for lot 5, fixing steel beams, and completing damp proofing work.

[13] This was restricted building work as it involved the primary structure and external moisture management systems of a residential dwelling.

[14] The Board finds that the Respondent was engaged in and carried out restricted building work on the Property.

Was the restricted building work complete

[15] The work undertaken by the Respondent was carried out between January 2023 and May 2023, at which point the Property was sold, and the Respondent states his services were no longer required.

[16] In his response, the Respondent acknowledged that he only completed the carpentry work up to the second level of the five lots, and once the property was sold, the remaining works were taken over by new contractors.

[17] Based on the evidence provided, the Board finds that the Respondent's portion of the restricted building work was completed by May 2023.

Has the Respondent provided a record of work

[18] The complaint was filed on 18 September 2024 by [OMITTED], who was acting as an agent for [OMITTED] (the new property owners) to assist with the CCC application process, stating that a ROW had not been provided despite requests from the Complainant.

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<sup>5</sup> Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011.

<sup>6</sup> Section 317(1)(da)(ii) of the Act.

- [19] The Respondent provided a ROW on 18 October 2024, after the complaint was filed and after discussing the matter with the Investigator. However, the Board notes there is no evidence that the Respondent's ROW has been provided to the Council.

Was there a good reason

- [20] In reply to an email request on 31 July 2024 by the Complainant to provide his ROW, the Respondent replied by email on 31 July 2024 explaining that the contractors were not willing to complete any paperwork until payment issues were resolved, noting that the previous owner had not paid an overdue balance of \$125,000.00 plus GST, and therefore he could not pay the contractors.
- [21] In his response, the Respondent noted that the Complainant was requesting ROWs for foundation work, block work, and steel work, which he had not performed. While this observation is correct, and the Respondent was only responsible for providing a ROW for the carpentry work he actually performed, this does not excuse his failure to provide the required ROW for his own carpentry work.
- [22] The Respondent acknowledged in his response that he was not fully aware of his obligations to provide a ROW to the Council and the homeowner regardless of payment disputes or whether the project was completed by him.
- [23] The Board has consistently stated that a ROW must be provided on completion of restricted building work, regardless of whether there is a payment dispute. The requirement is a statutory obligation that is not dependent on payment.
- [24] The Board, therefore, finds that no good reason has been established for the failure to provide a ROW for the restricted building work the Respondent carried out at the Property.
- [25] The Board, therefore, finds that no "good reason" has been established for the failure to provide ROWs for either property.

Did the Respondent fail to provide a record of work

- [26] For the reasons set out above, the Respondent failed to provide a ROW on completion of the restricted building work in breach of section 88(1) of the Act. While (according to the Respondent) he did eventually provide a ROW on 18 October 2024, this was after the complaint was filed and after discussing the matter with the Investigator.

**Board's Decision**

- [27] The Board finds that the Respondent **has** committed a disciplinary offence in failing to provide a ROW for the restricted building work he performed at the Property. The Respondent was required to provide a ROW upon completion of the restricted building work at the Property. He failed to do so within a reasonable timeframe.
- [28] The requirement to provide a ROW is a statutory obligation under section 88(1) of the Act. There is no discretion as to whether it must be done.

## Penalty, Costs and Publication

- [29] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Act,<sup>i</sup> consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [30] The matter was dealt with on the papers. Included was information relevant to penalty, costs and publication, and 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

- [31] The Board has the discretion to impose a range of penalties.<sup>ii</sup> 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.<sup>7</sup> It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:<sup>8</sup>
- (a) protection of the public and consideration of the purposes of the Act;<sup>9</sup>
  - (b) deterring other Licensed Building Practitioners from similar offending;<sup>10</sup>
  - (c) setting and enforcing a high standard of conduct for the industry;<sup>11</sup>
  - (d) penalising wrongdoing;<sup>12</sup> and
  - (e) rehabilitation (where appropriate).<sup>13</sup>
- [32] 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 cases<sup>14</sup> and applying the least restrictive penalty available for the particular offending.<sup>15</sup> In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty<sup>16</sup> that is consistent with other penalties imposed by the Board for comparable offending.<sup>17</sup>

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<sup>7</sup> *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].

<sup>8</sup> Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29].

<sup>9</sup> Section 3 Building Act .

<sup>10</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>11</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724.

<sup>12</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27.

<sup>13</sup> *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.

<sup>14</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354.

<sup>15</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818.

<sup>16</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

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

- [33] 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.<sup>18</sup>
- [34] 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 ROW is a fine of \$1,500, an amount which it considers will deter others from such behaviour.
- [35] The Board considers it appropriate to impose a fine of \$1,500.
- [36] The Board will provide the Respondent with an opportunity to provide a ROW for each property before it makes a final decision on the appropriate penalty. If a ROW is provided to the Territorial Authority in accordance with section 88(1) of the Act, and evidence of this is provided to the Board, this will be considered a mitigating factor. In such case, the penalty will be reduced by \$500 to \$1,000.

### Costs

- [37] 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.<sup>19</sup>
- [38] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings.<sup>20</sup> The starting point can then be adjusted up or down, having regard to the particular circumstances of each case.<sup>21</sup>
- [39] 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 a simple case. Adjustments are then made.
- [40] 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.

### Publication

- [41] 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,<sup>22</sup> 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.

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<sup>18</sup> 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.

<sup>19</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74.

<sup>20</sup> *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011.

<sup>21</sup> *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.

<sup>22</sup> Refer sections 298, 299 and 301 of the Act.

- [42] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.<sup>23</sup> 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.<sup>24</sup>
- [43] 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.
- [44] 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

- [45] 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 (but reduced to \$1,000 if a ROW is provided to the Territorial Authority)

**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(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.**

- [46] 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

- [47] 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.

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<sup>23</sup> Section 14 of the Act.

<sup>24</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055.



- [48] Submissions and/or further evidence must be filed with the Board **15 working days** from the date of this Draft Decision.
- [49] If submissions are received, then the Board will meet and consider those submissions.
- [50] 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.
- [51] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

#### **Request for In-Person Hearing**

- [52] 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.
- [53] A request for an in-person hearing must be made in writing to the Board Officer **15 working days** from the date of this Draft Decision.
- [54] 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**

- [55] The right to appeal Board decisions is provided for in section 330(2) of the Act.<sup>iii</sup>


Signed and dated this 1<sup>st</sup> day of August 2025.



**Mrs F Pearson-Green**  
Presiding Member

**This decision and the order herein were made final on 25 August 2025 on the basis that no further submissions were received.**

Signed and dated this 26<sup>th</sup> day of August 2025.



**Mrs F Pearson-Green**  
Presiding Member

<sup>i</sup> **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.”*

<sup>ii</sup> **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.*

<sup>iii</sup> **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.*