

Before the Building Practitioners Board

	BPB Complaint No. 26732
Licensed Building Practitioner:	Nicholas Seymour Greensill (the Respondent)
Licence Number:	BP 135555
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 Type:	On the Papers
Hearing and Draft Decision Date:	15 May 2026
Finalised Draft Decision date:	20 July 2026

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director
Mr C Lang, Building Surveyor and Quantity Surveyor

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)(g) of the Act.

The Respondent is fined \$2,500 and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for 3 years.

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Summary of the Board’s Draft Decision

- [1] The Board found the Respondent had breached clause 10 of the Code of Ethics for Licensed Building Practitioners (LBPs), which requires that LBPs comply with the Building Act and the Building (Residential Consumer Rights and Remedies) Regulations 2014.
- [2] The Respondent is fined \$2,500 and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for 3 years.

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

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.

- [4] In this matter, the disciplinary charge the Board resolved to further investigate² was whether the Respondent may have breached the Code of Ethics prescribed under section 314A of the Act contrary to section 317(1)(g) of the Act. The specific provisions of the Code that the Board decided to investigate are:

10. You must comply with the law

- (1) *When you carry out or supervise building work, you must ensure that the building work complies with the following:*
(a) *the Building Act 2004;...*

- [5] The specific matter to be investigated under Principle 10 is the alleged failure to comply with section 40(1) of the Act which prescribes a person must not carry out any building work except in accordance with a building consent.

Draft Decision Process

- [6] 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.
- [7] Ordinarily, the Board makes a decision after holding a hearing.³ The Board may, however, depart from its normal procedures if it considers that doing so would achieve the purposes of the Act, and it is not contrary to the interests of natural justice.⁴
- [8] 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

- [9] The Board must be satisfied on the balance of probabilities that the alleged disciplinary offences have been committed.⁵ Under section 322 of the Act, the Board has relaxed rules of evidence, which allows it to receive evidence that may not be admissible in a court of law.

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.

³ Regulation 10 of the Complaints Regulations.

⁴ 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*

⁵ *Z v Dental Complaints Assessment Committee [2009] 1 NZLR 1*

Code of Ethics

[10] The Code of Ethics for LBPs was introduced by Order in Council.⁶ It was introduced in October 2021 and came into force on 25 October 2022. There was a 12-month transition period to allow practitioners to become familiar with the obligations. Codes of Ethics have been a part of other regulatory regimes⁷ for some time, and the Board has taken guidance from decisions made in those regimes.

[11] The Code also differentiates between LBPs who are in business and those who are employed, in that some of the ethical obligations only apply to those who are in business. In this matter, the Respondent was in business.

[12] The disciplinary provision in the Act simply states, “has breached the code of ethics”. Most disciplinary regimes frame the charge as some form of malpractice or misconduct, and the Board has considered the allegations within such a framework and with reference to superior court decisions. Within this context, in *Dentice v Valuers Registration Board*,⁸ Chief Justice Eichelbaum stated the purposes of disciplinary processes are to:

Enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practice the profession in question; to protect both the public, and the profession itself, against persons unfit to practice; and to enable the professional calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.

[13] The Board also notes that the courts have applied a threshold test to disciplinary matters, and it has applied those tests. In *Collie v Nursing Council of New Zealand*,⁹ the test was stated as:

[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.

[14] Finally, when considering alleged breaches of the Code of Ethics, the Board needs to consider whether the conduct, if upheld as a breach of the Code, reaches the threshold for a disciplinary finding of disrepute, which is a more serious disciplinary finding.

The conduct under investigation

[15] The Code of Ethics provision under investigation relates to section 40 of the Act which mandates compliance with the building consents issued. In this case the New

⁶ Building (Code of Ethics for Licensed Building Practitioners) Order 2021

⁷ Lawyers, Engineers, Architects and Accountants, for example

⁸ [1992] 1 NZLR 720 at 724

⁹ [2001] NZAR 74

Plymouth District Council (the Complainant) alleges the Respondent built a residential dwelling inside an existing Pole Shed at [OMITTED], in contravention of a building consent. The Pole Shed was constructed under an exemption in October 2022.

- [16] Clause 10(1)(a) of the Code of Ethics requires compliance with the Building Act. Evidence provided to the Board makes it clear the Respondent has not complied with that legislative provision. It follows he has breached the Code of Ethics. The question then becomes one of whether the conduct was serious enough to warrant a disciplinary outcome.

Was the conduct serious enough

- [17] The Board has decided the conduct was serious enough.
- [18] The work was undertaken in 2024. The Complainant alleges the contravention of section 40 amounts to a breach of section 317(1)(b) of the Act in that failing to obtain a building consent amounted to incompetence or negligence. However, rather than considering the matter under section 317(1)(b), the Board is of the view that it is more appropriate to consider it under 317(1)g, as a breach of the Code of Ethics, specifically clause 10, which holds an LBP must comply with the law.
- [19] Three Tik Tok videos were anonymously provided to the Complainant that showed different stages of the construction of the residential dwelling inside the pole shed. Upon receiving the videos, the Complainant on 4 March 2025, issued a Notice to Fix (NTF) to the property owners (parents of the Respondent). The deadline for compliance was 1 May 2025.
- [20] The Respondent denied the existence of the residential dwelling and, in an email to the council, said the shed was built in accordance with the Building Code and plans approved by council. The Tik Tok video information provided to the council was incorrect and:

...does not show the shed that I constructed. My work was carried out properly and does not reflect negligence or incompetence in any way.

- [21] The matter was first considered by the Board on 25 July 2025. The Board noted then a Certificate of Acceptance (CoA) process was underway. The Board took the view the CoA process and outcome would be relevant to further consideration of the complaint and deferred the matter until the sooner of 3 months or the completion of the CoA process.
- [22] In evidence, the Complainant said the first NTF had generated a meeting between the Respondent's family. The NTF had expired but according to the Complainant they understood their responsibility to apply for a CoA for the work completed without obtaining a building consent.
- [23] Further NTFs were sent by the council on 7 August 2025, 27 November 2025 and 18 December 2025. A CoA was lodged by the Respondent on 30 January 2026 but by 12

May 2026 no assessment had been undertaken by the Council because the Respondent had not paid the fees.

- [24] The Board notes the CoA contained architectural plans for the residential dwelling inside the pole shed.

Board Decision

- [25] The Respondent has breached clause 10 of the Code of Ethics.

Penalty, Costs and Publication

- [26] Having found that section 317(1)(g) 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.
- [27] 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

- [28] 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.¹⁰ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹¹
- (a) protection of the public and consideration of the purposes of the Act;¹²
 - (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;¹³
 - (c) setting and enforcing a high standard of conduct for the industry;¹⁴
 - (d) penalising wrongdoing;¹⁵ and
 - (e) rehabilitation (where appropriate).¹⁶

¹⁰ *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]

¹¹ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹² Section 3 Building Act

¹³ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁴ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁵ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

¹⁶ *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] 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 cases¹⁷ and applying the least restrictive penalty available for the particular offending.¹⁸ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty¹⁹ that is consistent with other penalties imposed by the Board for comparable offending.²⁰
- [30] 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.²¹
- [31] In this matter, the Board adopted a starting point of a fine of \$3,000. In setting the starting point, the Board took into account that whilst the Code of Ethics is relatively new and the Board has been taking an educative approach towards its enforcement, the requirements have been in place since 2014, so practitioners should be well aware of them and be compliant. Having taken into consideration other penalty decisions made and the fact that this matter is being dealt with as a disciplinary matter following a complaint, the Board arrived at the starting point of \$3,000.
- [32] Aggravating factors in this case include the denial of the existence of the residential dwelling inside the shed, the number of NTFs the Council sent to the Respondent and the fact that as of last month the fees had still not been paid so the CoA could be considered.
- [33] Mitigating factors were that the matter has been dealt with by way of a draft decision process, there was no evidence of negligent or incompetent building work, the late CoA application and that the work was for family.
- [34] Balancing the aggravating and mitigating factors, the Board has decided the fine should be reduced by \$500 to \$2,500.

Costs

- [35] 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.²²

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

¹⁸ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

¹⁹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁰ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²¹ 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.

²² *Collie v Nursing Council of New Zealand* [2001] NZAR 74

- [36] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings²³. The starting point can then be adjusted up or down, depending on the particular circumstances of each case²⁴.
- [37] 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.
- [38] 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 moderately complex matter that has been dealt with by way of a Draft Decision. It is significantly less than 50% of actual costs.

Publication

- [39] 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,²⁵ 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.
- [40] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.²⁶ 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.²⁷
- [41] 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.

²³ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

²⁴ *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.

²⁵ Refer sections 298, 299 and 301 of the Act

²⁶ Section 14 of the Act

²⁷ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Section 318 Order

[42] 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 \$2,500.

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(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.

[43] 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

[44] 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.

[45] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **Friday, 17 July 2026**.

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

[47] 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.

[48] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

[49] 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.

[50] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **Friday, 17 July 2026**.

- [51] 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

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

Signed and dated this 9th day of June 2026.



Mr M Orange
Presiding Member

This decision and the order herein were made final on 20 July 2026 on the basis that no further submissions were received

Signed and dated this 20th day of July 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.*

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- (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.*