

Before the Building Practitioners Board	BPB Complaint No. CB26816
Licensed Building Practitioner:	[OMITTED] (the Respondent)
Licence Number:	BP [OMITTED]
Licence(s) Held:	Carpentry
Complaint or Board Inquiry	Complaint
Hearing Location	Remote
Hearing Date	29 July 2026
Decision Date	23 September 2026

Board Members:

G Pearson (Presiding Member)
G Anderson (Member)
S Hammond (Member)

SUPPRESSION ORDER APPLIES NOT TO BE PUBLISHED WITHOUT ANONYMISATION

DECISION OF THE BOARD

The disciplinary grounds under sections 317(1)(b), (d), (g), and (i) of the Building Act 2004 **are not upheld**. The Board makes no order under section 318 of the Act.

The interim suppression direction is made permanent. The Respondent's name and licence number, the Complainants' names, the property address, and any other information capable of identifying the Respondent, the Complainants, or the property must not be published.

The decision may be published only in an anonymised form consistent with that direction.

Introduction

- [1] This case concerns an alteration and extension at [OMITTED]. The owners, [OMITTED] and [OMITTED], complained about parts of the concrete floor work, window and door joinery and flashings, [OMITTED] cladding, additional concrete and piling costs, and the Respondent's conduct during the resulting dispute.
- [2] Some work was defective or unsatisfactory. The [OMITTED] cladding was the most significant example. That does not establish a disciplinary offence by itself. The Board must identify the work or conduct for which the Respondent was personally responsible and decide whether it proved one of the notified grounds of discipline.
- [3] The Board must answer the following questions:
- a) What was the Respondent responsible for under the labour-only engagement?
 - b) Did his work or supervision concerning the floor cuts, window flashings, front door, or [OMITTED] cladding amount to negligence or incompetence, or work contrary to the building consent?
 - c) Did he fail to explain the risks and available options concerning the additional excavation, concrete, and piling work, contrary to clauses 13 and 14 of the Code of Ethics?
 - d) Are the alleged threats and abusive conduct proved and, if so, did they breach clause 24 of the Code or bring the licensing regime into disrepute?
 - e) What follows on from the Board's conclusions?
- [4] The Board's short answers are (using the same subparagraph numbers as in the preceding paragraph):
- a) **Scope of Responsibility:** The Respondent remained responsible for work carried out by him and his employees and for its proper supervision. He was not responsible for every design, procurement, or trade-coordination decision on a project that the Complainants substantially managed.
 - b) **Negligence, Incompetence and Compliance with the Consent:** The floor cuts and front-door alignment were understandable or minor errors that were repaired promptly. The defective window flashings were installed during

another contractor's phase of work. The [OMITTED] installation was unsatisfactory, but the Respondent's omission, assessed in the unusual design, consent, supply, and project-management context, did not cross the disciplinary threshold. No particular consent non-compliance attributable to him was proved.

- c) **Cost and risks of foundation work:** The engineering evidence supported the need for the additional work and the use of concrete. The Board is not satisfied that the Respondent failed to investigate or explain a reasonably available alternative.
- d) **Behavioural allegations:** The critical allegations were met by a direct denial. Having heard both accounts, the Board had no sufficient basis for preferring one over the other. The serious threats were not proved.
- e) **Outcome:** No disciplinary ground is upheld and the Board makes no order under section 318 of the Building Act 2004.

The proceeding

- [5] On 23 April 2026, the Board decided under regulation 10 of the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 to hold a hearing. The formal decision was signed on 5 May 2026.
- [6] The notified building-work grounds were that the Respondent may have:
 - a) carried out or supervised building work in a negligent or incompetent manner, contrary to section 317(1)(b) of the Act; and
 - b) carried out or supervised building work that did not comply with a building consent, contrary to section 317(1)(d).
- [7] Those grounds were confined to placing or cutting the concrete floor, installing window and door joinery and associated flashings, and installing [OMITTED] cladding.
- [8] The notified conduct grounds concerned:
 - a) clauses 13 and 14 of the Building (Code of Ethics for Licensed Building Practitioners) Order 2021, in relation to amounts charged for additional concrete and piling work and, in particular, whether alternatives were investigated and put to the Complainants;

- b) clause 24 of the Code, in relation to alleged altercations with the Complainants; and
- c) whether the same conduct brought, or was likely to bring, the regime for licensed building practitioners into disrepute under section 317(1)(i).

- [9] The original notice also referred to an alleged interaction with the Complainants' neighbours, [OMITTED]. By Minute (3), dated 23 July 2026, the Board excused them from attending, discharged their summonses, and directed that their statements would not be relied on. The Board's inquiry did not extend to that alleged interaction, and the Board has taken no account of it.
- [10] The hearing was held on 29 July 2026, all participants appearing by video link. The Board heard from the Respondent, [OMITTED], [OMITTED], [OMITTED], [OMITTED], and [OMITTED]. Mr [OMITTED] was the supplier's technical expert and a designer of the [OMITTED] product. Mr [OMITTED] also gave evidence concerning the product and its installation. Mr [OMITTED] gave engineering evidence about the excavation, foundations, and concrete work.

The legal framework

- [11] The Board must be satisfied on the balance of probabilities before making a disciplinary finding. There is one civil standard of proof. The seriousness of what is alleged and the consequences of an adverse finding affect the cogency of the evidence required to satisfy that standard. A grave allegation must be proved by evidence of sufficient probative force.¹
- [12] Negligence is assessed objectively against the care and skill reasonably expected of a licensed practitioner in the same class, undertaking the work in the same circumstances. Incompetence concerns an absence of the ability, skill, or knowledge reasonably required for the work.²
- [13] Not every defect, error, or poor outcome is a disciplinary matter. Even if there has been a departure from proper practice, the conduct must be sufficiently serious to justify discipline. An isolated and understandable mistake, particularly one that is identified and remedied, will not necessarily reach that threshold.³

¹ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1 (SC) at [112]-[118].

² *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582; *Martin v Director of Proceedings* [2010] NZAR 333 (HC)

³ *Collie v Nursing Council of New Zealand* [2001] NZAR 74 (HC) at [21]

- [14] For section 317(1)(d), the Board must identify the relevant building-consent requirement and be satisfied that work carried out or supervised by the Respondent departed from it. A departure from a supplier's warranty requirements does not, without more, establish that ground. A code compliance certificate is relevant regulatory evidence, but it does not conclusively determine workmanship or compliance.
- [15] Clause 13 of the Code requires reasonable steps to discuss design and construction risks and available mitigation options. It also requires an LBP to advise the client in writing, as soon as practicable, of a risk that emerges during the work. Clause 14 requires sufficient information and advice to enable the client to make an informed decision about continuing the work. For a self-employed practitioner, clause 3(3)(b) limits those obligations to matters for which the practitioner is responsible in work for the person who engaged them.⁴
- [16] Clause 24 is separate. While carrying out or supervising building work, an LBP must take reasonable steps to respect the cultures and values of clients and workmates and must avoid intentionally causing offence. Section 317(1)(i) separately concerns conduct that brings, or is likely to bring, the LBP regime into disrepute.
- [17] The Board determines disciplinary responsibility. It does not decide the parties' contractual rights, apportion civil liability, or award the cost of remedial work. Those questions are outside this decision.

What was the Respondent responsible for?

- [18] The Respondent was engaged to provide labour and was paid fortnightly. He and his employees carried out carpentry and related installation work. He was responsible for their work and for its proper supervision.
- [19] This was not a conventional engagement under which the Respondent procured and controlled every element of the project. The Complainants procured materials, engaged a number of contractors directly, and dealt with the designer and product suppliers. In practical terms, they retained substantial project-management functions.
- [20] The Complainants said that they expected the Respondent to provide project-management support. The Board accepts that he had coordination responsibilities where his work intersected with work by others. But the evidence does not establish

⁴ Building (Code of Ethics for Licensed Building Practitioners) Order 2021, cls 3(3)(b), 13, 14, and 24.

that he assumed overall contractual or professional responsibility for the design, procurement, or work of every separately engaged contractor.

- [21] The engagement arrangements therefore do not excuse defective work by the Respondent or those he supervised. They do materially affect whether a particular project failure can fairly be treated as his personal disciplinary responsibility.

Did the building work cross the disciplinary threshold?

Cuts in the polished concrete floor

- [22] Openings were cut in the polished concrete floor to receive doors. The cuts proved wider than the joinery ultimately delivered required.
- [23] Before cutting, the Respondent obtained a sample of the relevant extrusion from the door supplier and used it to determine the expected fit. When the doors arrived, the interface did not require the full width that had been cut. The Respondent repaired the work and installed a finishing detail.
- [24] The width of the cuts was an error. It was understandable in the circumstances. The Respondent took a sensible step to obtain the relevant profile before making an irreversible cut, and the information supplied did not correspond with the doors as delivered. The consequences were limited and the work was repaired.
- [25] The evidence does not establish that a reasonably competent practitioner was required to take some further precaution before cutting, or that the repaired work departed from an identified term of the consent. The section 317(1)(b) and (d) particulars concerning the floor cuts are not upheld.

Window flashings

- [26] The window flashings as first installed were wrong and water entered the building. The Board does not minimise that failure.
- [27] The Respondent installed the windows. The exterior plasterer, who was engaged directly by the Complainants, installed the relevant flashings. The Respondent said that he installed the windows first because sufficient access would remain to install the particular flashing system.

- [28] The Board considers that the proper sequence was to install the required flashings before the windows. That would have reduced the risk arising at the interface between the two trades.
- [29] The leakage was nevertheless caused by the flashings installed during the plasterer's phase of work. The plasterer was not employed or supervised by the Respondent. The Respondent accepted shared practical responsibility and assisted with rectification.
- [30] Installing the windows first was open to criticism. On the evidence, however, access remained and the defective flashing work was carried out by another licensed contractor. The sequencing decision was not sufficiently serious to amount to disciplinary negligence. Nor is the Board satisfied that the Respondent carried out or supervised the defective flashing work necessary for a finding under section 317(1)(d). These particulars are not upheld.

Front door

- [31] An employee installed the front door approximately 5 mm out of level. The Respondent identified and corrected the error the following day.
- [32] This was a minor installation error. Proper supervision does not require the absence of every mistake. It requires reasonable oversight and an appropriate response when a defect is identified. The prompt correction demonstrates that the Respondent discharged that responsibility. The error did not cross the disciplinary threshold, and no continuing building consent non-compliance was proved.

[OMITTED] cladding

- [33] The [OMITTED] cladding was the most substantial workmanship issue. The Respondent accepted that there were problems with the installation. Mr [OMITTED]'s and Mr [OMITTED]'s evidence established that parts of the completed work were unsatisfactory and did not meet the supplier's installation and warranty requirements.
- [34] [OMITTED] is a proprietary cladding system selected by the designer. The Complainants, rather than the Respondent, dealt with the supplier about its purchase and supply. The Respondent did not receive project-specific installation advice before carrying out the work.
- [35] The BRANZ Appraisal incorporated in the project material stated that the system was to be installed only on vertical, flat surfaces. The consented design showed

[OMITTED] on the curved walls, but the consent documents did not provide a detail explaining how the straight aluminium panels were to be fixed around that curve.

- [36] Messrs [OMITTED] and [OMITTED] confirmed that the accessible written instructions and publicly available videos did not supply that missing method. An installer had to contact the supplier and obtain advice specific to the proposed curved-wall application.
- [37] The appropriate process was to obtain project-specific supplier and design advice, document the proposed alternative solution, and place it before the building consent authority for acceptance before installation. That process was not identified in the consent documents or communicated to the Respondent by the Complainants, who dealt with the designer and supplier.
- [38] The Respondent said that he attempted to contact the supplier during the holiday period but did not obtain assistance. He should then have stopped until the necessary technical direction was available. His evidence that he was pressed to complete the cladding quickly explains the setting, but client pressure does not excuse defective work.
- [39] That omission must be assessed in the circumstances that actually existed. The designer had specified the product for the curved walls without providing an applicable installation method. The consent process did not identify the need for an alternative solution. The parties who controlled the supplier relationship did not obtain or convey the necessary advice. The territorial authority inspected the work and later issued a code compliance certificate.
- [40] The certificate does not prove that the installation was sound, and it does not relieve the Respondent of responsibility for his own work. It is nonetheless relevant objective context: the design, consent, supply, and inspection processes did not expose or resolve the technical gap that led to the unsatisfactory installation.
- [41] The Board does not need to apportion the respective contributions of design, the consenting process, project management, installation, or inspections. Civil responsibility for the remedial cost is being addressed in the Disputes Tribunal under the law applicable there.
- [42] For disciplinary purposes, the Respondent's decision to proceed without bespoke advice was an error. In the full and unusual context, however, the Board is not satisfied that it fell seriously short of the standard expected of a carpentry LBP. Section 317(1)(b) is not established.

- [43] Section 317(1)(d) is also not established. The completed work did not meet the supplier's requirements, but the consented solution itself placed a flat-surface proprietary system on curved walls without supplying the necessary installation method. The Board cannot identify a coherent, project-specific consent requirement for fixing the panels around the curve and then find that the Respondent's work departed from it.
- [44] Those conclusions are confined to the Board's disciplinary jurisdiction. They do not endorse the cladding installation and do not determine contractual or civil liability.

Did the Respondent breach clauses 13 and 14?

- [45] The Complainants relied on a quantity surveyor's earlier estimate and said that the excavation and additional concrete or piling costs were excessive. The notified issue was whether the Respondent investigated and put alternative options to them.
- [46] Mr [OMITTED] observed the work at the relevant stage. He confirmed that substandard historic fill had to be removed and that the extent of excavation was necessary. He considered concrete, rather than alternative fill, to be appropriate.
- [47] Mr [OMITTED] also confirmed the consequences of the curved construction and the surveying input required to form it. The site conditions and form of construction required more concrete deliveries than a conventional pour and required pumping. Those matters materially increased both the material and placement costs and had minor effects on the width of excavation.
- [48] The quantity surveyor's estimate was not informed by the ground conditions later exposed or the full delivery and placement requirements. It therefore does not establish that the work undertaken was unnecessary or that a reasonably available, less costly alternative was overlooked.
- [49] The Respondent said that he explained the conditions and consequences as they arose. The Board accepts that evidence. It is consistent with Mr [OMITTED]'s independent explanation and the contemporaneous communications.
- [50] The Board is not satisfied that the Respondent failed to investigate or communicate a viable alternative, or withheld information required for an informed decision. The notified breaches of clauses 13 and 14, and therefore section 317(1)(g), are not established. Whether every amount was contractually recoverable is not for the Board to decide.

Are the behavioural allegations proved?

- [51] The remaining allegation concerned a telephone call between the Respondent and Ms [OMITTED]. As already explained, the alleged interaction with the neighbours was removed from the inquiry and has played no part in this decision. They were excused from attendance for reasons that require us to give no weight to evidence they were expected to provide.
- [52] Ms [OMITTED] said that the Respondent used deeply abusive language, threatened to kill her, and threatened to use a digger to demolish the home. She reported those allegations to Police.
- [53] The Respondent accepted that he was emotional during the call. He denied making either serious threat. He said that, when the Complainants refused to pay for concrete work, the only threat he made was to remove concrete steps for which he said he had not been paid.
- [54] The Police report records Ms [OMITTED]'s account. It does not independently verify the words used. The absence of a prosecution is also not determinative and is not affirmative evidence that the threats were not made.
- [55] In the Police material, Ms [OMITTED] was asked why she thought the Respondent had acted as alleged. She answered that he was a very angry man who would not take responsibility for his actions. That answer places the report in the context of the parties' wider dispute about responsibility for the project. It neither discredits nor independently corroborates her account.
- [56] A complainant's evidence can establish a fact without independent corroboration. The Board has therefore not applied a rule that corroboration was required. The question is whether, after hearing and assessing both accounts, the Board can be positively satisfied that Ms [OMITTED]'s account of the critical words is more likely than the Respondent's denial.
- [57] The Board cannot reach that state of satisfaction. There was no recording or independent evidence of the call. The Respondent's admission that he was emotional and referred to removing the steps does not establish that he also threatened to kill Ms [OMITTED] or demolish the home. The Board has no sufficient basis for preferring one account over the other.
- [58] The Board does not find that Ms [OMITTED] was dishonest or fabricated her complaint. It finds only that the serious allegations, with the consequences they

would carry, have not been proved on the balance of probabilities by evidence of sufficient probative force.

- [59] A threat to kill a client or demolish the client's home would plainly be capable of breaching clause 24 and bringing the LBP regime into disrepute. Because those threats are not proved, the notified clause 24 and section 317(1)(i) grounds are not established.
- [60] The admitted reference to removing unpaid steps was made during an emotional payment dispute and was ill-advised. Taken at its highest, it was not of the character or seriousness necessary to establish either notified disciplinary ground.

What follows?

- [61] The Board determines that:
- a) the ground under section 317(1)(b), concerning negligent or incompetent building work, is not upheld;
 - b) the ground under section 317(1)(d), concerning building work that did not comply with a building consent, is not upheld;
 - c) the ground under section 317(1)(g), concerning alleged breaches of clauses 13, 14, and 24 of the Code of Ethics, is not upheld; and
 - d) the ground under section 317(1)(i), concerning conduct bringing or likely to bring the LBP regime into disrepute, is not upheld.
- [62] As no ground of discipline is established, the Board makes no order under section 318 of the Act.

Publication

- [63] On 29 June 2026, the Board made an interim direction prohibiting publication of information identifying the parties pending its final decision. In deciding whether to make that direction permanent, the Board has taken account of the principle of open justice, the fact that none of the disciplinary grounds has been upheld, the seriousness of the allegations that were not proved, and the risk that identified publication would unfairly impugn the Respondent and other persons. The Board considers that the public interest in transparency is adequately served by publication of an anonymised decision. The interim direction is therefore made permanent. The

Respondent's name and licence number, the Complainants' names, the property address, and any other information capable of identifying the Respondent, the Complainants, or the property must not be published. The decision may be published only in a form that has been anonymised consistently with this direction.

Right of appeal

[64] Section 330(2)(b) provides a right of appeal to the District Court against a decision made by the Board under section 318. Because the Board has not found a ground of discipline and makes no order under section 318, that statutory appeal provision is not engaged.

Signed and dated this 23rd day of September 2026.

A handwritten signature in blue ink, appearing to read 'G Pearson', is written over a horizontal line.

G Pearson
Presiding Member