Before the Building Practitioners Board

	BPB Complaint No. 26780
Licensed Building Practitioner:	Taylor Kereopa Graham (the Respondent)
Licence Number:	BP 143380
Licence(s) Held:	Brick and Blocklaying – Veneer and Structural Masonry

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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

Complaint or Board Inquiry:	Complaint
Hearing Type:	On the Papers
Hearing and Draft Decision Date:	23 September 2025
Finalised Draft Decision Date:	31 October 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mr G Pearson, Barrister and Solicitor – Legal Member
Mr G Anderson, LBP, Carpentry and Site AoP 2
Ms E Harvey McDouall, Registered Architect

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

Summary of the Board's Decision

[1] The Respondent failed to provide a record of work on completion of restricted building work. 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 a record of work by the close of the submission period to both the owner and the Territorial Authority, as per the requirements of section 88(1) of the Act, the fine will be reduced to $1,000.

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 investigate[1] were that the Respondent may, in relation to building work at [OMITTED], have 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.

Regulation 9 Decisions

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

(a) breached the code of ethics prescribed under section 314A of the Act (s 317(1)(g) of the Act); and

(b) 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 those allegations, 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 with as a disciplinary matter. In short, the conduct has to fall seriously short of expected standards of conduct,[2] which, in the context of a failure to provide a record of work, the conduct did not.

[8] Also, the Board considers that it is more appropriate that the complaint be dealt with under the specific disciplinary provision in section 317(1)(da)(ii), which deals with records of work, rather than the more general provisions in sections 317(1)(g) and (i) of the Act.

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

Draft Decision Process

[9] 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.

[10] 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 to do so.[4]

[11] 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 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

[12] 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 allow it to receive evidence that may not be admissible in a court of law.

Failure to Provide a Record of Work

[13] A Licensed Building Practitioner must provide a record of work for any restricted building work that they have carried out or supervised to the owner and the Territorial Authority on completion of their restricted building work.[6]

[14] There is a statutory requirement under section 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the territorial authority on completion of restricted building work[7] unless there is a good reason for it not to be provided.[8]

<u>Did the Respondent carry out or supervise restricted building work</u>

[15] The Respondent was engaged to carry out and/or supervise building work on stage one of a new residential dwelling under a building consent. His work included the construction of a concrete block wall that would form part of a residential dwelling.

[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
[6] Section 88(1) of the Act.
[7] Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011
[8] Section 317(1)(da)(ii) of the Act

The building work was restricted building work because it would form part of the primary structure of a residential dwelling.[9]

Was the restricted building work complete

[16] A Council inspection for retaining wall and tanking was carried out on 3 October 2024, indicating that the Respondent's restricted building work had been completed by that date. Also, the Complainant provided a copy of the Respondent's invoice dated 27 September 2024, which was further evidence that completion had occurred in or about late September or early October.

Has the Respondent provided a record of work

[17] The Council file was obtained on 6 May 2025. It did not contain a record of work from the Respondent. The Council file was again checked on 18 August 2025 and there was still no record of work from the Respondent.

[18] The Respondent, in his response to the complaint on 18 July 2025, advised that he had sent "*the memorandum*" to the main contractor. There was no evidence he had provided a copy of the record of work to the owner (the Complainant) or the Territorial Authority (the Council).

[19] Given that the restricted building work was completed in or about October 2024, the Respondent's record of work was not provided on completion or soon thereafter as per the requirements of section 88(1) of the Act.

Was there a good reason

[20] The Respondent, in his response, advised that his "*life pretty got turned and flipped up side down I have had only 3 messages from hi(m) asking for the row to which I definitely understand I should have sent it to him earlier*". That was not a good reason. The record of work is a simple document, and it should have been provided on or soon after completion.

[21] The Respondent should note that it is his obligation to provide a record of work without delay on the completion of his restricted building work. He should not wait to be asked for it.

Board's Decision

[22] The Respondent **has** failed to provide a record of work on completion of restricted building work.

Penalty, Costs and Publication

[23] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Act[i], consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

[9] Clause 5 of the Building (Definition of Restricted Building Work) Order 2011

[24] 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

[25] 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]

[26] 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[17] 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 penalty [19] that is consistent with other penalties imposed by the Board for comparable offending.[20]

[27] 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]

[28] 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 record of work is a fine of $1,500, an

[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
[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.

amount which it considers will deter others from such behaviour. There are no aggravating or mitigating factors present. As such, the Board sees no reason to depart from the starting point.

[29] The Board will provide the Respondent with an opportunity to provide a record of work before it makes a final decision on the appropriate penalty. If one is provided to both the owner and the Territorial Authority as per the requirements of section 88(1) of the Act, it will be taken into consideration as a mitigating factor, and the penalty will be reduced by $500 to a fine of $1,000.

Costs

[30] 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]

[31] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings[23]. The starting point can then be adjusted up or down, depending on the particular circumstances of each case[24].

[32] 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 simple. Adjustments are then made.

[33] 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

[34] 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.

[35] 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

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

stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.[27]

[36] 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

[37] 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.**

[38] 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

[39] 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.

[40] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **Thursday 30th October 2025**.

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

[42] 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.

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

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

Request for In-Person Hearing

[44] 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.

[45] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **Thursday 30th October 2025**.

[46] 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

[47] The right to appeal Board decisions is provided for in section 330(2) of the Act[iii].

Signed and dated this 8th day of October 2025.

Mr M Orange
Presiding Member

This decision and the order herein were made final on 31 October 2025 on the basis that no further submissions were received

Signed and dated this 7th day of November 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.