

Before the Building Practitioners Board

	BPB Complaint No. 26711
Licensed Building Practitioner:	Timothy Ford (the Respondent)
Licence Number:	BP 123529
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
Draft Decision Date:	1 August 2025
Final Decision Date:	22 September 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Ms E Harvey McDouall, Registered Architect
Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director

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 \$1,000 and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for three years.

Contents

Summary of the Board’s Decision	2
The Charges	2
Regulation 10 Decision	3
Regulation 9 Decisions.....	3
Draft Decision Process	4
Evidence	4
Further Evidence and Submissions Received	4
Failure to Provide a Record of Work	4
Did the Respondent carry out or supervise restricted building work.....	5
Was the restricted building work complete	5
Has the Respondent provided a record of work.....	5
Was there a good reason	5
Did the Respondent fail to provide a record of work	6
Board’s Decision	7
Penalty, Costs and Publication	7
Penalty	7
Publication	9
Section 318 Order	9
Right of Appeal	10

Summary of the Board’s Decision

- [1] The Respondent failed to provide a record of work in a timely manner following completion of restricted building work. He is fined \$1,000 and is 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.

The Charges

- [2] 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 all of the allegations.

Regulation 10 Decision

- [3] In this matter, the disciplinary charges the Board resolved to further investigate¹ 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

- [4] The complaint to the Board also contained allegations that the Respondent had:
- (a) carried out or supervised building work in a negligent or incompetent manner (s 317(1)(b) of the Act);
 - (b) carried out or supervised building work that does not comply with a building consent (s 317(1)(d) of the Act);
 - (c) breached the code of ethics prescribed under section 314A of the Act (s 317(1)(g) of the Act); and
 - (d) 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).
- [5] With regard to the allegations made, 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;*
- [6] 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
- [7] The matters complained about were generally minor snag list items, minor in nature or related to contractual arrangements. On this basis, the Board has decided the matters raised did not reach the seriousness threshold as outlined by the courts.

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

- [8] 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.
- [9] Ordinarily, the Board makes a decision having held a hearing.³ However, the Board may 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.⁴
- [10] In this instance, the Board decided that a formal hearing was not necessary. The Board considered that there was sufficient evidence before it to allow it to make a decision on the papers. It noted, however, that there may have been further evidence in relation to the matter that the Board was not aware of. To that end, it issued a Draft Decision. The Respondent was provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. The Board further noted that if the Respondent requested an in-person hearing, then the Draft Decision would be set aside, and a hearing would be scheduled.

Evidence

- [11] The Board must be satisfied on the balance of probabilities the disciplinary offences alleged 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.

Further Evidence and Submissions Received

- [12] Following the Board issuing a Draft Decision, it received a submission from the Complainant, who contested evidence submitted by the Respondent. That difference in evidence has been recorded in this final decision.
- [13] The Respondent did not provide a submission or request a hearing.

Failure to Provide a Record of Work

- [14] 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
- [15] 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

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.

territorial authority on completion of restricted building work⁷ unless there is a good reason for it not to be provided.⁸

Did the Respondent carry out or supervise restricted building work

[16] The Respondent was engaged to carry out and/or supervise building work on alterations and additions to an existing dwelling under a building consent. His work included work on the primary structure and external moisture management of a residential dwelling, both of which are forms of restricted building work.⁹

[17] The work was undertaken between 28 August 2023 and 30 May 2024.

Was the restricted building work complete

[18] The Respondent, in his response to the Registrar, said his contract for the alterations and additions was cancelled in June 2024.

[19] The file shows the cancellation of the contract occurred at that time despite further interactions with the Complainant.

[20] On the basis of that cancellation, the Board has determined the June 2024 cancellation of the contract was the end of the Respondent's restricted building work and that was when he should have provided his record of work to the Owner and the Territorial Authority. In short, after that date, he would not have been able to carry out or supervise any further restricted building work.

Has the Respondent provided a record of work

[21] A complaint about the Respondent's failure to provide a record of work was made on 31 January 2025. (the wrong dated was noted in the Registrars report – page 26)

[22] The Respondent was notified of the complaint regarding his conduct as a Licensed Building Practitioner on 26 March 2025.

[23] Once the complaint was received, the Respondent provided a record of work to the Council but not to the Owner. It was signed 27 May 2024. It was provided to the Investigator on 4 June 2025, when the Council file relating to the property was obtained.

[24] Based on the above, the record of work was provided more than nine months after the cancellation of the contract (the completion date) and only following a complaint. Further, a copy was not made available to the Complainant.

Was there a good reason

[25] Correspondence indicates there was not a good reason for withholding the record of work. In his evidence, the Respondent wrote:

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

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

“At the time of the suspension of the Contract on 27 June 2024 (11. Email – 27.06.2024 Suspension of Works), the Contracted scope of works remained incomplete. As such, the Code Compliance Certificate (CCC) had not yet been obtained. The Contract specifies that the Registered Master Builders (RMB) was appointed as the Owner’s agent for the purpose of applying for the CCC. However, it has always been our intention to complete the work and submit all necessary compliance documentation once the project was finished. We understand now that this is unlikely to happen, and on receipt of the complaint we have submitted our record of work directly to the Council. It is our usual practice to complete our record of work at the end of a build, not partway through.”

“Although the Contract has been suspended due to the Client’s failure to make payment of outstanding invoices, we have made multiple good-faith attempts to regain access to the site...”

And from the Respondent’s legal counsel:

“The delays in the provision of compliance documentation stem from the Client’s own actions including:

(a) Persistent non-payment of valid invoices,

(b) Denial of site access;

(c) Breaches of Core Contractual Obligations.

- [26] The Complainant, in a post Draft Decision submission, disputed the above statements, and, in particular, items (a) to (c) and that the Respondent made good faith attempts to gain access on the basis that the attempts were conditional with, it was submitted, the conditions being impossible for the Complainant to comply with.
- [27] The correspondence shows the record of work may have been withheld for payment and/or contractual reasons, neither of which are good reasons. The Board has repeatedly stated that a record of work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, or by contractual disputes. Licensed Building Practitioners should be aware of their obligations to provide them and their provision should be a matter of routine.
- [28] The Board also notes that records of work are neither a quality assessment nor do they require access to a site to complete. They are simply a record of the fact that certain work has been carried out.

Did the Respondent fail to provide a record of work

- [29] The Respondent failed to provide a record of work in a timely way following the completion of restricted building work. It was only provided on notification of a

complaint, which was more than nine months after the effective cancellation of the contract.

Board's Decision

- [30] The Respondent **has** failed to provide a record of work on completion of restricted building work or soon thereafter in contravention of section 88(1) of the Act.

Penalty, Costs and Publication

- [31] 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.
- [32] The matter was dealt with on the papers. The Board made an indicative order in its Draft Decision. It has since received submissions and has made a final decision regarding penalty, costs, and publication.
- [33] The Board provided the Respondent with an opportunity to provide a record of work before it made a final decision. He provided one, and, on that basis, the penalty is reduced by \$500 to \$1,000.

Penalty

- [34] 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

- [35] 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
- [36] 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.²¹
- [37] Records 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 amount which it considers will deter others from such behaviour.
- [38] In this case, the Board will take into account the fact that a record of work has belatedly been provided. The fine was discounted by \$500 to \$1,000.

Costs

- [39] 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
- [40] 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.
- [41] 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.
- [42] 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.

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

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.

Publication

- [43] 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.
- [44] 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
- [45] 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

- [46] 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 \$1,000. |
| 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(I)(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.**
- [47] The Respondent should note 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.

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

Right of Appeal

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

Signed and dated this 23rd day of September 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.*