

## Complaints against LBPs

The 2014/2015 financial year has seen Licensed Building Practitioner (LBP) complaints increase by 40%, which represents significant growth and indicates greater consumer awareness of the LBP complaints function coupled with a boom in the construction sector.

The statistics provided below relate to a relatively small number of LBPs and most practitioners will end their working life without cause for defending a complaint.

Over the past financial year a total of 40 disciplinary sanctions have been handed down to LBPs by the Building Practitioners Board (the Board). This number represents approximately one LBP being disciplined every 10 days (the table below provides details on LBPs disciplined by licence class).

Carpenters feature highest in the complaints stakes, but they make up approximately 65% of the LBP population, so they are not overrepresented by any means. It should also be noted some LBPs were disciplined more than once during the same financial year.

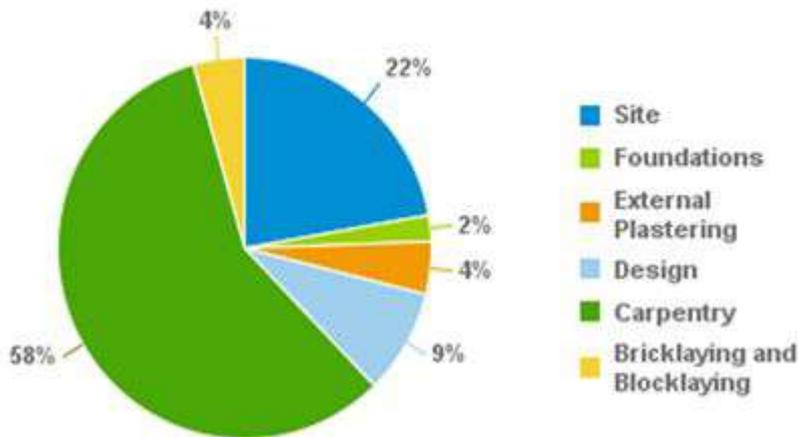
Some of those LBPs who appeared before the Board on more than one occasion have been suspended from the scheme while others had their licence(s) cancelled.

### LBPs disciplined by licence class

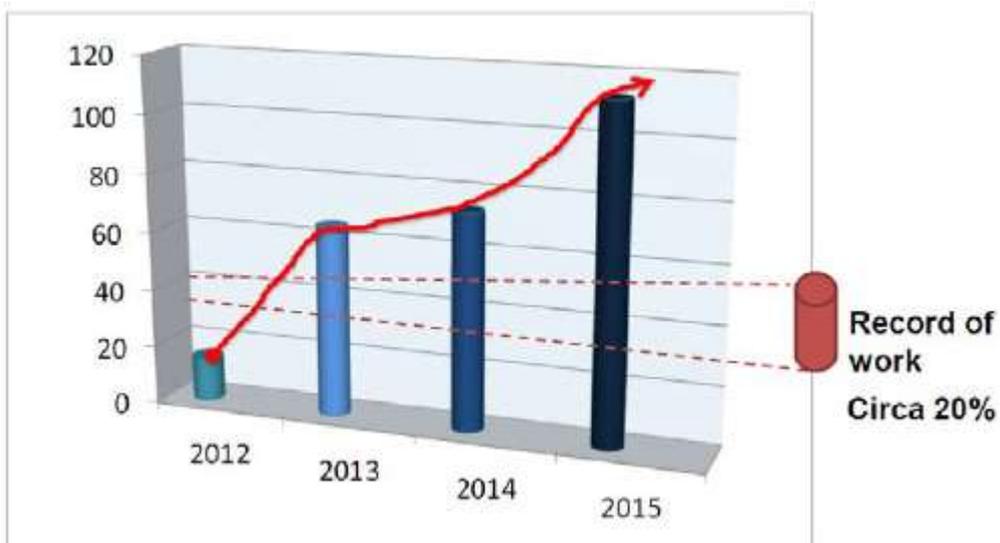
| Licence Class               | Number of LBPs disciplined |
|-----------------------------|----------------------------|
| Bricklaying and Blocklaying | 2                          |
| Carpentry                   | 26                         |
| Design                      | 4                          |
| External Plastering         | 2                          |
| Foundations                 | 1                          |
| Site                        | 10                         |
| <b>Total</b>                | <b>45</b>                  |

**Note:** Some LBPs hold licenses in more than one class

### LBP's DISCIPLINED BY LICENCE CLASS



### Complaints growth 2012–2015



In terms of the themes coming through the complaints function, the Board and the Ministry have observed the following:

- compliance with the requirements to issue a Record of Work are not well understood
- a high number of the complaints highlighted issues with contract administration and communication skills
- a high number of LBPs do not have a good grasp of the regulatory rules they are required to comply with. There is also a significant level of misunderstanding about individual responsibility and accountability
- LBPs are not good 'information seekers', that is, there is a tendency to proceed with non-complying work even though some level of doubt exists over compliance with the consented plans and/or the Building Code
- deviation from the consented drawings is also relatively common, which can lead to many issues downstream

- supervision was found to be not well understood or applied throughout the sector, discussed in greater depth below
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## Supervision

In Issue 65 of Codewords I pointed out that the terms ‘supervision’ or ‘to supervise’ are not well understood in the LBP context. It is worth reiterating that most LBP licence classes have a supervisory component designated in their competences. For your own protection, it is best you understand this designation. It indicates you have the ability to supervise others who are undertaking restricted building work (RBW). In terms of the legal implications of this in practice, the Building Act describes ‘to supervise’ as:

### **Section 7: supervise**

*supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—*

*(a) is performed competently; and*

*(b) complies with the building consent under which it is carried out*

In non-legal speak, this does not require a supervisor to be onsite at all times, but the supervising LBP must have sufficient contact with, and oversight of the building work to ensure the work is performed competently and in accordance with the building consent. You would not, for example, ask a first-year apprentice to set up the profiles for a new residential building without providing a suitable level of oversight and having confidence in their ability. Adequate supervision is as much about common sense as anything so please consider the above when you are undertaking this role.

In addition, practitioners should also be aware of Sections 14E and 14D of the Building Act which state-

### **Section 14E Responsibilities of builder**

(1) In subsection (2), builder means any person who carries out building work, whether in trade or not.

(2) A builder is responsible for—

(a) ensuring that the building work complies with the building consent and the plans and specifications to which the building consent relates:

(b) ensuring that building work not covered by a building consent complies with the [building code](#).

(3) A licensed building practitioner who carries out or supervises restricted building work is responsible for—

(a) ensuring that the restricted building work is carried out or supervised in accordance with the requirements of this Act; and

(b) ensuring that he or she is licensed in a class for carrying out or supervising that restricted building work

### **14D Responsibilities of designer**

(1) In subsection (2), designer means a person who prepares plans and specifications for building work or who gives advice on the compliance of building work with the [building code](#).

(2) A designer is responsible for ensuring that the plans and specifications or the advice in question are sufficient to result in the building work complying with the [building code](#), if the building work were properly completed in accordance with those plans and specifications or that advice.

As you can see, there is significant overlap in the themes from the LBP complaints function and the responsibilities outlined in the Building Act.