

Summary of Board decision on Penalty, Costs and Publication - C118

On 4 October 2022, the Board decided that there were grounds for disciplining Neville Saunders under section 25 of the Registered Architects Act 2005 (the Act), on the basis he had—

- breached Rule 46 of the code of ethics (failure to uphold the law having been convicted of criminal offence when registered as an architect); and
- been convicted of offences punishable by imprisonment for a term of 6 months or more; and the commission of those offences reflected adversely on his fitness to carry out the work of a registered architect.

The Board provided the following reasons for its decision:

- Whilst the nature of the offences did not relate directly to architectural practice and the provision of professional services, the Board agreed with the Investigating Panel that when associated with significant offending of the type that Mr Saunders was convicted of, fitness is a broader test that encompasses public confidence.
- The Board noted that professionals are expected to abide by the law and to demonstrate a reasonable standard of moral conduct. Mr Saunders' offending had a significant negative impact on the community generally, and by association public confidence in the architectural profession and those clients he had provided architectural services for.
- The nature and extended duration of Mr Saunders' offending combined with the gravity, which is supported by the number of convictions and significant sentence imposed by the court, reflected adversely on his fitness to carry out the work of a registered architect.

Mr Saunders elected not to have a disciplinary hearing. Therefore, the Board was asked to decide on penalty, costs, and publication.

Decision — Penalty, Costs, and Publication

On 15 June 2023, having considered a penalty recommendations report from the Investigating Panel (IP) and submissions received from Mr Saunders, the Board made the following orders—

1. The architect is to be censured in relation to his conduct - section 26(1)(c) of the Registered Architects Act 2005 (the Act).
2. The architect is to pay 80% of the costs of and incidental to the Board's investigation of the complaint - section 26(4) of the Act.
3. A summary of the disciplinary action taken against the architect (name disclosed) and consequent penalty is to be published on the NZRAB website.

Reasons

The Board considered the IP's recommendations and the range of penalties available under section 26(1) of the Act. The Board agreed that because Mr Saunders was no longer registered, and one of the breaches related to an offence for which he had been convicted by a court, the penalty options

were limited. The only penalty available to the Board was censure. It was noted Mr Saunders did not oppose censure.

The Board agreed with the IP that censure was appropriate since Mr Saunders had been convicted of criminal offences while a registered architect, and the nature of the offending reflected adversely on his fitness to carry out the work of a registered architect.

The Board noted the IP's recommendation that the architect be ordered to pay 50% of the costs of investigation of \$5,068.74 and decided on a higher amount of 80%. While the Board's policy is to recover 100% of costs from the architect, the Board agreed there were mitigating factors in this case which warranted a discount. The mitigating factors taken into consideration included, Mr Saunders had cooperated fully in the complaint process; he had acknowledged your offending; he provided all requested information; and he did not cause the Board any more expense than would have been necessary to carry out its investigation.

Regarding publication, the Board has a policy of public notification and considered it appropriate to publicly notify its action against the Mr Saunders on the NZRAB website, in accordance with section 26(5)(b) of the Act. The Board agreed it was appropriate to provide the public with information in which it has an interest. In this case, a person who was a registered architect has been through a disciplinary process having been convicted of serious criminal offences and found not to be fit to practice as an architect.

The Board noted that distress and damage to reputation are inevitable consequences of the disciplinary process and would not, on their own, displace the presumption in favour of publication. The public interest extends to ensuring public confidence in the integrity of the profession and the protection of its collective reputation.