

## Misleading contract results in disciplinary action

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A complaint was recently made to the Building Practitioners Board (the Board) about a misleading contract. A Licensed Building Practitioner (LBP) provided a contract to help a homeowner obtain finance for a build, despite knowing that the contract did not reflect the actual circumstances of their agreement.



Although the LBP involved told the Board the contract was produced with the best of intentions, to help a friend, ultimately the behaviour was fraudulent. The Board has chosen to publicise the details of the matter so that others may learn from the mistake and avoid similar conduct.

In this case, the LBP prepared a contract that did not reflect the agreement between the LBP and the homeowner. The LBP wrote up a comprehensive fixed-price contract, when in reality the LBP was engaged on a charge up labour and materials basis. The homeowner was going to project manage certain aspects of the build, arrange sub-contractors and carry out some of the work themselves. As the contract did not reflect the work taking place, the Board considered that the contract was essentially invalid.

By taking part in an agreement to deceive with the intent of obtaining a benefit this LBP acted in a way which is not only unethical but also illegal. This behaviour brings the LBP regime into disrepute and the Board considers this to be a very serious matter. Contracts are important documents in the construction process and are not to be abused for financial gain.

In this case the LBP was ordered to pay a large fine as well as costs associated with the inquiries of the Board.

### What we can learn from this behaviour

A contract is a legal document and must accurately reflect the agreement between the parties, even when doing a job for a friend.

You could be found to be committing an offence under the Building Act 2004 if you provide a false or misleading contract.

Contractors have obligations under the Building Act 2004 and the Construction Contracts Act 2002. It is useful to do some research before entering into a contract, and can be beneficial to seek professional advice.

[Why contracts are valuable \(https://www.building.govt.nz/projects-and-consents/why-contracts-are-valuable/\)](https://www.building.govt.nz/projects-and-consents/why-contracts-are-valuable/) has more information.