

Licences cancelled for criminal behaviour

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If a licensed building practitioner gets a criminal conviction it may be grounds for discipline by the Building Practitioners Board.

The Board may take action if the offending meets the following two criteria:

- the offence is punishable by imprisonment of a term of six months or more, and
- the offence reflects adversely on the person's fitness to work as a licensed building practitioner (LBP)

Section 317 of the Building Act (the Act) provides further details on the grounds for discipline.

Sometimes these criminal offences are related to the work carried out by the (LBP). On other occasions, however, the crime is committed off the job, yet it is so serious that it shows the individual is not fit to work as an LBP.

The two cases below illustrate both of these scenarios.

Lidong Xie (C2-01935)

Lidong Xie has been bankrupt twice, once in 2004 and again in 2010.

While still bankrupt, Mr Xie received approximately \$1.5 million in earnings through his business dealings and, rather than pay his creditors, he gambled that money. He then tried to board a flight to China before being arrested by police at Auckland Airport. He was brought before the District Court due to his behaviour while bankrupt, and was sentenced to a total of three years and four months' imprisonment.

Mr Xie deliberately ignored his obligations as a bankrupt individual and continued to actively run a business and front his building operation. His gambling incurred significant credit, but instead of paying his suppliers he continued to gamble, causing his victims substantial losses. He also concealed money and assets from the Official Assignee.

The judge noted there were no mitigating factors other than the plea of guilty, and was not satisfied that Mr Xie demonstrated any remorse.

The Board found Mr Xie should be disciplined under Section 317(1)(a) of the Act for his criminal behaviour. They also found Mr Xie had brought the LBP scheme into disrepute. As a result, he had his licence cancelled and cannot reapply for a minimum of five years. Mr Xie was also ordered to pay \$1000 towards the costs of the hearing.

Due to the seriousness of Mr Xie's offending, the Board decided to publicise this decision.

Joseph Ennis (CB24924)

The District Court in Auckland convicted roofing LBP Joseph Ennis of one charge of rape and sentenced him to seven years and eight months in prison.

The Board found that his ability to commit such a serious crime made Mr Ennis an unfit person to work as an LBP. Notes from the sentencing indicated that Mr Ennis defended the charge and misled the police during the investigation. The offending was noted by the judge as premeditated and deliberate, and there was a lack of genuine remorse shown by Mr Ennis.

Due to the seriousness of this offending, the Board has cancelled Mr Ennis's licence and ordered that he cannot reapply for 10 years. He has also been ordered to pay \$500 towards the costs of the Board inquiry. The cost of the inquiry was reduced because the decision was based on documentation and no witnesses were required. The Board also deemed it necessary to publicise this decision in the interests of the general public and the building profession.

What we can learn from these decisions

Unlike other licensing regimes, the LBP scheme does not assess the character of an applicant when granting a licence (what is commonly referred to as a 'fit and proper person' requirement). The Act, however, gives the Board the ability to assess the character of existing LBPs under Section 317(1)(a). It does not matter if the criminal offending happened before a person got a licence – the Board can still cancel an LBP's

licence if their criminal behaviour shows they are not fit to work as an LBP.

Read these and other past decisions in full on the [LBP website \(https://www.lbp.govt.nz/\)](https://www.lbp.govt.nz/)



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