

What you need to know about

Building Practitioners Board – Inquiries

What is a Building Practitioners Board inquiry?

The Building Practitioners Board (BPB) is an independent statutory body established under the *Building Act 1993* (the Act) that oversees the quality and standard of professional services in the Victorian building industry.

A BPB inquiry is a hearing into a registered building practitioners' conduct and/or ability to practise. The hearings concern building practitioners who are currently registered, as well as building practitioners who were registered at the time of the alleged offence or misconduct.

Once a written request for an inquiry is received, the information is officially recorded and referred to the BPB for consideration.

Need more information?

More information regarding the BPB can be found in the following brochure:
What you need to know about the Building Practitioners Board

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How does an inquiry begin?

The BPB begins an inquiry into the conduct and/or ability to practise of registered building practitioners in the following circumstances:

- On its own initiative or on the recommendation of a person appointed by the Board.
- By referral from the Building Commission, insurer or the Victorian Civil and Administrative Tribunal.
- At the request of any other person.

Once a written request for an inquiry is received, the information is officially recorded and referred to the BPB for consideration. The BPB will then decide whether to proceed with an inquiry based on the evidence provided to it.

What type of inquiries are conducted?

The Act identifies two types of inquiries.

1. Inquiry into conduct

At an inquiry into conduct, the BPB considers the unique circumstances of a matter and determines whether the building practitioner:

- Is guilty of unprofessional conduct as defined in the *Building (Interim) Regulations 2005* (the Regulations)
- Has failed to comply with the Act or Regulations
- Has failed to comply with a determination of the Building Appeals Board or a direction of the Building Commission
- Has been guilty of conduct in relation to his or her practise as a building practitioner which:
 - a) Is characterised by a pattern of conduct of gross negligence or gross incompetence
 - b) Shows that he or she is not a fit or proper person to practise as a building practitioner

- Has employed or engaged to do, on his or her behalf, work of a kind that can only be done by a person registered in a particular category or class, a person who is not so registered
- Has obtained registration and/or insurance by fraud or misrepresentation
- Has had their authority to practise as a building practitioner in a place outside Victoria cancelled or suspended
- Has failed to comply with an undertaking given to the Board.

The BPB may make any of the following decisions:

- Reprimand the building practitioner.
- Order the building practitioner to pay the costs associated with the inquiry.
- Require the building practitioner to give an undertaking not to do a specific thing.
- Impose a fine of up to \$5,240.50.
- Suspend registration for up to three years.
- Cancel registration.

2. Inquiry into ability to practise

At an inquiry into a building practitioner's ability to practise, the BPB may cancel the practitioner's registration or suspend registration for up to three years, if it is satisfied that he or she is incapable of practising.

Can a practitioner be suspended before the hearing?

The BPB may suspend a practitioner's registration prior to a pending inquiry if it considers it is in the interest of public safety to do so. The BPB will advise the person concerned in writing that they are suspended and are unable to practise as a registered building practitioner.

Is legal representation required at the inquiry?

A building practitioner may choose to have legal representation at an inquiry but it is not mandatory. Matters relating to the nature of this legal representation, witnesses and suitable hearing dates are discussed at a preliminary conference. If there is legal representation, the building practitioner must advise the Registrar of the BPB in advance of the inquiry. Failure to do so may result in the adjournment of the hearing and costs being incurred.

In conducting an inquiry, which is essentially a disciplinary hearing, the BPB proceeds with as little formality and technicality as possible.

Who can attend the inquiry?

All parties to an inquiry are encouraged to attend the hearing and present their case.

The inquiry may proceed in the absence of any party, if the BPB is satisfied that all parties have been given reasonable notice of the date, time and location of the inquiry. If neither party attends, the BPB may base its decision on the evidence before it.

How is the Board's decision conveyed?

In most instances, the Board's decision is verbally conveyed to the parties at the conclusion of the hearing. A written copy of the decision is also mailed to all affected parties following the inquiry.

Is the BPB's decision final?

A party may appeal to the Building Appeals Board against a decision of the BPB. In addition, where the BPB has failed to hold an inquiry in a reasonable time or refuses to hold an inquiry, then that person who requested or referred the inquiry, may also appeal to the Building Appeals Board.