



Electrical Workers Registration Board

SAFETY | COMPETENCY | COMPLIANCE

Formal Warning Policy

EWRB Reference Number	B-PO-21 Formal Warning Policy
Document Category: Board/Legislative/Operational	Board
Document Type: Rule/Policy/Procedure/Reference	Policy
Responsible: Board/Registrar	Board
Publication Status: Public/Private	Public
Board Approval Date	August 2025
Gazette Notice Date	N/A
Next Review Date	August 2027

Signed and dated this 31st day of January 2026

Russell Keys
Presiding Member

1 Overview

The Electrical Workers Registration Board

- 1.1 The Electrical Workers Registration Board (**Board**) is established pursuant to s 148 of the Electricity Act 1992 (**Electricity Act**). The Board is responsible for the regulation and control of electrical workers and others undertaking electrical work.
- 1.2 The Board's role includes to promote, monitor, and review the ongoing competency and safe work practices of electrical workers and others undertaking electrical work in New Zealand.
- 1.3 One of the Board's functions is to institute prosecutions against persons for breaches of the Electricity Act or any regulation relating to prescribed electrical work. To perform this function, the Board investigates potential breaches of the Electricity Act or associated regulations and, where appropriate, files charges in the District Court.
- 1.4 A prosecution will only be considered appropriate when the matter is sufficiently serious to warrant the intervention of the criminal law. Not all behaviour that the Board considers to be a breach of the law necessarily requires a prosecution response. If appropriate in the circumstances, the Board may instead decide to issue a formal warning (**warning**).
- 1.5 This policy should be read alongside the Board's prosecution policy.

Purpose of this policy

- 1.6 The purpose of this policy for the use of formal warnings is to:
 - (a) identify the objectives of the Board's formal warning activity;
 - (b) establish the principles to which the Board will adhere to when deciding to issue a formal warning to a person whose behaviour the Board considers amounts to a criminal offence;
 - (c) ensure that a consistent, proportionate and transparent approach is taken when responding to non-compliance with the criminal provisions of the relevant legislation;
 - (d) establish what content is to be included in the formal warning; and
 - (e) detail how the warning is administered.

Application of policy

- 1.7 This policy does not apply to the use of 'educational advice': that is, where no liability finding is made but the Board's objectives are achieved through an educative approach by informing parties of their legal responsibilities and obligations under the Electricity Act.
- 1.8 This policy builds on the principles contained in the *Solicitor General's Guidelines on the Use of Warnings*, available [here](#), by adding operational context and clarifying organisational decisions about when warnings will be issued.

- 1.9 The Board will take into account the requirements of natural justice and the principles of the Privacy Act 2020 when making any decisions about the use of formal warnings.
- 1.10 The Registrar of the Board will ensure a quality assurance process is undertaken to ensure MBIE's staff are adhering to this policy and there is consistency across all warnings. This will occur via peer review and sign off of all warning letters by the Investigations Manager.
- 1.11 This policy will be published on the Board's website.

Scope

- 1.12 This policy applies to the Board and to all staff, secondees and contractors employed or engaged on any basis by the Board who are involved in the preparation of or decision making about formal warnings. This includes any employees of the Ministry of Business, Innovation and Employment who provide assistance to the Board.
- 1.13 This policy applies to matters involving breaches of the Electricity Act and regulations made under the Electricity Act involving prescribed electrical work. This includes, but is not limited to:
 - (a) failure to comply with regulations and safety standards, including carrying out unsafe electrical work;
 - (b) carrying out unlicensed prescribed electrical work;
 - (c) providing false or misleading documentation in relation to any prescribed electrical work; and/or
 - (d) providing false or misleading documentation or representations for the purpose of obtaining any registration, licence, renewal of a licence or certificate.

Terms

- 1.14 In this policy, terms are defined as follows:
 - (a) **Investigation** means investigation of potential criminal conduct. It does not include investigation of potential disciplinary proceedings before the Board unless the investigation could also lead to a criminal prosecution.
 - (b) **Investigator** means a person engaged by the Board to assist with an investigation, including a person appointed as an Investigator by the chief executive of the Ministry of Business, Innovation and Employment.

2 The decision to warn

- 2.1 A warning can be given to a person and recorded in the Board's internal system. A warning can be capable of having ongoing or future negative consequences for the person (such as consequences for the person's licence status).
- 2.2 A warning should only be given in response to behaviour that the Board believes could amount to criminal conduct.

2.3 The purpose of a warning may be to:

- (a) hold the person to account;
- (b) mitigate the risk of further offending by deterring them from future non-compliant behaviour;
- (c) demonstrate to the person that the Board considers their conduct is serious and could have been prosecuted; or
- (d) provide an opportunity for remedial action or behaviour.

2.4 Warnings will only be issued by the Board where the following requirements are met:

- (a) The Evidential Test is met. This will occur where there is enough evidence available to establish an offence under the Electricity Act, the Electricity (Safety) Regulations 2010 or other legislation relating to the same behaviour and prescribed electrical work. This does not require the Board to be sure that a prosecution would succeed, but there should be credible evidence that, if a court accepted it, would prove the offence beyond reasonable doubt.
- (b) The Public Interest Test is met. This will occur where issuing a warning would be in the public interest. In most cases, a warning will be the appropriate outcome where the conduct is serious enough to warrant a regulatory response, but the public interest does not require a prosecution. Specific factors that may be relevant include:
 - (i) there is no risk to public safety arising from the unlawful conduct;
 - (ii) no harm was caused by the unlawful conduct;
 - (iii) the person has not previously been prosecuted or warned;
 - (iv) the person has changed their behaviour or has indicated that they will change their behaviour;
 - (v) the conduct was accidental or based on a genuine misunderstanding of the law;
 - (vi) a warning would be sufficient to deter similar conduct by others and set standards in the industry;
 - (vii) prosecution would not be a good use of the Board's limited regulatory resources;
 - (viii) there are special reasons why prosecuting the person would be a disproportionate response (for example, they are seriously unwell or are a company that has been put into liquidation); and/or
 - (ix) the Board can achieve its regulatory objectives without a prosecution.

2.5 These factors will be assessed and balanced on a case-by-case basis.

Natural justice

- 2.6 Before deciding whether to issue a warning, the Board will put the allegation to the person involved for comment. The person will be advised of their right to legal advice and given an opportunity to obtain legal advice before making any admissions or consenting to a warning being given.
- 2.7 In deciding whether to issue a warning, the Board will consider the person's view on whether a warning should be issued and whether the conduct is admitted or denied (although this will not be determinative).

3 Issuing a warning

- 3.1 If the Board decides to issue a warning, the warning will be issued in writing, by way of a letter, and contain the following information:
- (a) an accurate summary of the alleged facts underpinning the warning;
 - (b) a summary of any response the person has made to the proposed warning when engaged with (e.g. whether they admitted or disputed the facts and whether they consented to the matter being dealt with through a warning);
 - (c) the reasons that led to the issuing of the warning;
 - (d) the consequences related to the warning, including that the warning may be relied on by the Board in making future decisions;
 - (e) that the decision to issue a warning rather than prosecute may be revisited if further evidence comes to light suggesting the offending was more serious;
 - (f) that if the person engages in similar behaviour in the future, they may be subject to prosecution under the relevant provision; and
 - (g) the person's right to request a review of the warning.
- 3.2 The Investigator or anyone acting on behalf of the Board who issues a warning may engage with any complainant or anyone else harmed by the behaviour. The Investigator will advise any impacted parties of the outcome of the investigation and explain the decision to issue a formal warning and its potential consequences.

4 Review process

- 4.1 A person who is issued with a warning by the Board can request review of the decision to issue the warning. A review will be conducted by the Registrar or any person appointed by the Registrar who is independent of the original decision maker.
- 4.2 The reviewer may consider whether the decision to issue a warning is consistent with this policy. The reviewer will take into account any information provided by the person seeking review. The reviewer will seek legal advice as part of the review.

- 4.3 The review will be completed within 20 working days of the request for review being made. If it is not possible for the review to be completed within 20 working days, this will be communicated to the person seeking review along with an updated indicative timeframe.
- 4.4 The reviewer can either confirm the original decision to issue a warning or set aside the decision to issue a warning. Any decision made following an internal review is final.

APPENDIX 1 – formal warning letter content



Date

Complaint reference:

[Insert recipient's name and address]

Dear [XXX],

Decision to issue a Formal Warning

The Electrical Workers Registration Board (**the Board**) investigated an allegation(s) that you *[enter a summary of the complaint/issues investigated]*.

The investigation found *[enter a brief, accurate summary of the evidence gathered during the investigation and findings]* which, in the Board's view, may amount to the following offences:

[Insert Section, Act and penalty e.g.]

Sections 74 and 162 of the Electricity Act 1992

A person must not do any prescribed electrical work, or assist in doing any prescribed electrical work, unless that person is authorised to do so. This offence carries a maximum fine of \$50,000 in the case of an individual, or \$250,000 in the case of a body corporate.

The offence(s) have the potential to result in a criminal conviction if you were prosecuted (*or infringement if an infringement only offence*). However in this instance and after considering your response the Board have decided to issue you with a Formal Warning.

This letter serves as the Board's Formal Warning.

Who will be notified of this Formal Warning

Any victim of the offence(s) resulting in this Formal Warning may be informed. The details of this Formal Warning may also be shared as a result of a request received under the Official Information Act 1982. The details may also be shared with other government agencies if required by legislation.

How this Formal Warning impacts you

A record of this Formal Warning will be held by the Board and may be considered if any further complaints are received about you or if you apply for an electrical licence in the future.

In very rare cases the Board may reconsider its decision not to prosecute, if more evidence becomes available and the Board considers the matter was more serious and a warning was not an appropriate resolution.

If you are found to have engaged in similar conduct in the future, the Board is unlikely to issue a second warning. A criminal prosecution is more likely to be pursued. This warning may be cited in any future proceedings.

You have the right to seek legal advice and to dispute this Formal Warning decision. If you want to dispute this Formal Warning, you have 14 days from the date of this letter to file your dispute with the Board. If the Formal Warning decision is disputed, the Board will appoint an independent reviewer to review the decision to issue the Formal Warning.

Any dispute should be emailed to ewrb@mbie.govt.nz. Please also copy me into your email so I can ensure the matter is quickly addressed.

If you have any further questions about this matter, please feel free to contact me.

Yours sincerely,

[Insert name]

Snr / Investigator