

BPB Complaint No. C2-01168

IN THE MATTER OF

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315 of the Act

AGAINST

Angus Beattie, Licensed Building Practitioner
No. BP 107322

DECISION OF THE BUILDING PRACTITIONERS' BOARD

Introduction

- [1] [The Complainant] lodged a complaint with the Building Practitioners' Board (the Board) on 27 March 2015 in respect of Angus Beattie, Licensed Building Practitioner (the Respondent).
- [2] The complaint alleged the Respondent has, in relation to building work at [omitted]:
- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act); and
 - (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act).
- [3] The Respondent is a Licensed Building Practitioner with a Carpentry Licence issued 17 June 2011.
- [4] The Board has considered the complaint under the provisions of Part 4 of the Act and the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations).
- [5] The following Board Members were present at the hearing:
- | | |
|--------------------|--------------------------|
| Richard Merrifield | Deputy Chair (Presiding) |
| Mel Orange | Board Member |
| Bob Monteith | Board Member |
- [6] The matter was considered by the Board in Christchurch on 28 September 2016 in accordance with the Act, the Regulations and the Board's Complaints Procedures.
- [7] The following other persons were also present during the course of the hearing:
- | | |
|----------------|---------------------------|
| Claire English | Counsel for the Registrar |
| Sarah Romanos | Board Secretary |
| Angus Beattie | Respondent |

C2-01168

Warren Nevill	Special Adviser to the Board
[Omitted]	Witness, [Omitted] (by phone)
[Omitted]	Witness, [Omitted]
[Omitted]	Witness, [Omitted]

Members of the public were present.

- [8] No Board Members declared any conflicts of interest in relation to the matters under consideration.

Board Procedure

- [9] The “form of complaint” provided by the Complainant satisfied the requirements of the Regulations.
- [10] On 28 July 2015 the Registrar of the Board prepared a report in accordance with reg 7 and 8 of the Regulations. The purpose of the report is to assist the Board to decide whether or not it wishes to proceed with the complaint. It included a report from Warren Nevill as a Special Adviser to the Board.
- [11] On 27 August 2015 the Board instructed the Registrar to carry out further investigations and to provide an addendum to his report for the Board’s consideration.
- [12] On 23 June 2016 the Board considered the Registrar’s report and the addendum and in accordance with reg 10 it resolved to proceed with the complaint that the Respondent:
- (a) carried out or supervised building work in a negligent or incompetent manner (s 317(1)(b) of the Act);
 - (b) carried out or supervised building work that does not comply with a building consent (s 317(1)(d) of the Act); and
 - (c) failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).
- [13] On 12 September 2016 a pre-hearing teleconference was convened by Chris Preston with the Respondent. The hearing procedures were explained and the Respondent’s attendance at the substantive hearing was confirmed.

Function of Disciplinary Action

- [14] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom¹.

¹ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

C2-01168

[15] In New Zealand the High Court noted in *Dentice v Valuers Registration Board*²:

Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.

[16] It must also be noted that the Board only has jurisdiction with regard to “the conduct of a licensed building practitioner” and with respect to the grounds for discipline set out in s 317 of the Act. It cannot investigate matters outside of those grounds, does not have any jurisdiction over contractual matters and cannot deal with or resolve disputes between a complainant and the person who is the subject of the complaint.

The Hearing

[17] The hearing commenced at 10.15am.

[18] At the hearing the Board was assisted in the presentation of the case by the Counsel for the Registrar.

[19] Persons giving evidence were sworn in, their evidence was presented and they answered questions from the Board.

Substance of the Complaint

[20] The original complaint from the Complainant alleged that the Respondent’s building work did not meet the required standards and in particular that it was defective and failed to meet the performance criteria in clause E2 of the Building Code. This resulted in the territorial authority refusing to issue a Code Compliance Certificate. Subsequent investigations by the Board resulted in the disciplinary charges as set out in paragraph [12].

Evidence

[21] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed. The relevant authority is *Z v Dental Complaints Assessment Committee*³ where Justice McGrath in the Supreme Court of New Zealand stated:

[102] The civil standard has been flexibly applied in civil proceedings no matter how serious the conduct that is alleged. In New Zealand it has been emphasised that no intermediate standard of proof exists, between the criminal and civil standards, for application in certain types of civil case. The balance of probabilities still simply means more probable than not. Allowing the civil standard to be applied flexibly has not meant that the degree of probability required to meet the standard changes in serious cases. Rather, the civil standard is

² [1992] 1 NZLR 720 at p 724

³ [2009] 1 NZLR 1

flexibly applied because it accommodates serious allegations through the natural tendency to require stronger evidence before being satisfied to the balance of probabilities standard.

[105] The natural tendency to require stronger evidence is not a legal proposition and should not be elevated to one. It simply reflects the reality of what judges do when considering the nature and quality of the evidence in deciding whether an issue has been resolved to “the reasonable satisfaction of the Tribunal”. A factual assessment has to be made in each case. That assessment has regard to the consequences of the facts proved. Proof of a Tribunal’s reasonable satisfaction will, however, never call for that degree of certainty which is necessary to prove a matter in issue beyond reasonable doubt.

- [22] The Respondent was engaged by [Omitted] to provide labour for the construction of a new dwelling. The Respondent submitted the contract was with Dunbee Investments Limited (a company his wife is a director and shareholder of) and he noted the invoices submitted stated payment was to be made to Dunbee Investments Limited trading as Buildin. [Omitted] of [Omitted] gave evidence that the contract was with the Respondent and, following the hearing, he provided a copy of the cover page of the agreement.
- [23] The cover sheet of the agreement notes that it is between [Omitted] and Angus Beattie (Buildin CHCH). It is signed by both parties and notates the labour to be provided as including all carpentry labour up to and including installing internal hardware but excluding the ribraft foundation. [Omitted] confirmed the scope of the labour at the hearing.
- [24] A search of the Companies Office shows there is no company known as Buildin or Buildin ChCH. The Companies Office shows a company called Neville Windows (2008) Limited which the Respondent was a shareholder and director of was previously called Buildin Limited. It was removed from the Companies Office Register following its liquidation in 2012.
- [25] The Respondent provided a written response dated 22 June 2015 in it he stated:
- (a) He fitted the cladding and packed timber battens in accordance with the design plans and specifications. The Complainant was dissatisfied with fixing sheets on using clouts and asked [Omitted] to use pins with glue as this would achieve the look they were after. The Respondent was dissatisfied with the decision, but a James Hardie agent authorised the use of the pins and glue;
 - (b) He installed the window flashings and believes the work was done in accordance with the design plans and James Hardie standard flashing detail. In terms of the horizontal flashing applied to top tiers of the house, [Omitted] decided to make changes which were inconsistent with the Respondent's recommendations;
 - (c) Inspections of the cladding work were carried out by the Christchurch City Council, [Omitted], [Omitted] himself and an agent from James Hardie;
 - (d) The Respondent left the site without completing work on the dwelling;
 - (e) He was dissatisfied with decisions and changes made by [Omitted]. [Omitted] engaged other tradesmen to complete the cladding work to enable the CCC to be issued;

C2-01168

- (f) [Omitted] and James Hardie decided to remove timber battens and replace it with CLD Battens and reclad the building. He did not want to carry out the remedial work whilst [Omitted] were main contractors for the job. [Omitted] engaged other tradesmen to carry out the remedial work referred to in the report dated March 2015 prepared by consultant RM Hadley;
- (g) The Respondent believes the cladding is the incorrect product for this design;
- (h) The Respondent states: "I have agreed to contribute some funds to [Omitted] to redesign details correctly then engage a James Hardie certified to re clad and have cladding signed off by James Hardie, Christchurch City Council and [Omitted]."
- [26] At the hearing the Respondent maintained that he left the site and did not carry out any further building work when he became uncomfortable with the manner in which the cladding work was being carried out. He stated that after this time the two persons he had been working with on the site continued under the supervision of [Omitted] whilst in the employ of Dunbee investments limited.
- [27] Witnesses from [Omitted] disputed this. They did not consider they were supervising building work. They only provided project management.
- [28] The Respondent maintained he had written correspondence which substantiated his version of events but that the records were lost when a laptop was stolen.
- [29] The Board heard from the Special Adviser who confirmed his report. The Respondent did not question the Special Adviser or challenge his findings. When asked if he accepted the report he stated that he accepted 90% of it and that he only disagreed with some of the methodology but did not expand on this.
- [30] The Special Adviser's report noted detailed failings. He also noted, in summary, that:
- 5.2.1 The dwelling in its current state has not been issued with a Code Compliance Certificate due to ongoing failure of the Building Code clause B1 and E2 requirements. This failure, being at least in part, due to non compliance with both the consented plans/specifications and manufacturer's installation instructions.*
- 5.3.1 As constructed, aspects of the building fail to conform to a number of requirements of NZS 3604, the James Hardie Axon (cladding) specification, and represents detailing at a markedly downgraded level to those proffered as acceptable methods of contraction in the Acceptable Solution E2AS1.*
- [31] Reports completed by Kirk Roberts, Consulting Engineers were also provided to the Board. Kirk Roberts were involved in the remediation of building work that was carried out post the Respondent's involvement. Once again these reports noted extensive and very serious deficiencies and substandard work including issues as regards the fixing of portal beams.
- [32] The Board heard evidence at the hearing that during remedial work, which included removing all the cladding and linings, it was found that the fixings for structural beams and portals were either absent or else not correctly carried out (as per the Kirk Roberts reports). The Respondent, in questioning, stated the portal beams were not in place when they finished the framing and that it was done after his involvement ended. [Omitted] of [Omitted] noted [Omitted] had been invoiced for

C2-01168

fixing these items including a variation for extras and that they had photos showing they were in place prior to cladding occurring. These were later produced.

[33] The Respondent pointed out the invoices were to be paid to Dunbee Investments. He did not question that the portals were not fixed correctly. He maintained he was not responsible as it was after his involvement ceased.

[34] With regard to the record of work matter the Respondent stated that he was not asked for one.

Board's Conclusion and Reasoning

Negligence

[35] In considering whether the Respondent has carried out or supervised building work in a negligent or incompetent manner the Board has had regard to the case of *Beattie v Far North Council*⁴. Judge McElrea provided guidance on the interpretation of those terms:

[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.

[44] In my view a "negligent" manner of working is one that exhibits a serious lack of care judged by the standards reasonably expected of such practitioners, while an "incompetent" manner of working is one that exhibits a serious lack of competence.

[46] The approach I have adopted recognises that the terms "negligent" and "incompetent" have a considerable area of overlap in their meanings, but also have a different focus - negligence referring to a manner of working that shows a lack of reasonably expected care, and incompetence referring to a demonstrated lack of the reasonably expected ability or skill level.

[36] The Board has also considered the comments of Justice Gendall in *Collie v Nursing Council of New Zealand*⁵ as regards the threshold for disciplinary matters:

[21] Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.

[37] There was very clear evidence of building work that would meet the tests of negligence and incompetence in both the Special Adviser's report and in the Kirk Roberts' reports. The Board's view is that the building work was grossly negligent and it posed a very real risk to the safety of the building and persons who use it. In this respect it is noted that the stated purpose of the Building Act in s 3 includes "to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that ... people who use buildings can do so safely and without endangering their health".

[38] The question for the Board is whether the substandard work was that of the Respondent or whether it was carried out under his supervision.

⁴ Judge McElrea, DC Whangarei, CIV-2011-088-313

⁵ [2001] NZAR 74

C2-01168

- [39] The Board notes that the evidence of the Respondent was that he was not involved in past a certain point and that the work complained of was carried out under the supervision of [Omitted] staff. The Board does not accept this evidence.
- [40] The Respondent has tried to distance himself by way of legal structures. It notes the contract was in his name. The contract identified a Buildin CHCH but without any reference to it being a company. As such it is simply a trading name and the liability remains with the individual named. Moreover the company that previously used that name no longer exists. Whilst there may have been a reference on the invoices to Dunbee Investments Limited there was no evidence that the contract had been assigned or novated to Dunbee.
- [41] The Board also prefers the evidence of the [Omitted] witnesses who stated they were not supervising the work. This was consistent with their process and with the invoicing in relation to the job.
- [42] On the basis of the above the Board finds that the building work was carried out under the Respondent's supervision and that he has been both negligent and incompetent as regards that supervision noting that the definition of supervise in the Act states:
- supervise, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—*
- (a) is performed competently; and*
- (b) complies with the building consent under which it is carried out*
- [43] The evidence before the Board was that the work was not carried out competently or in compliance with the building consent.

Contrary to a Consent

- [44] The Board has already noted that the building work did not comply with the building consent and that the Respondent was responsible for the work which was carried out under his supervision.
- [45] The Board notes the building consent authority did pass some of the work. It also notes that there was evidence before it of work being covered in or closed over before being inspected and of the building consent authority relying on the Respondent's statements as to compliance. Moreover being passed at an inspection does not necessarily mean it is compliant. Building inspectors also make mistakes.

Record of Work

- [46] There is a statutory requirement under s 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the territorial authority on completion of restricted building work⁶.
- [47] Failing to provide a record of work is a ground for discipline under s 317(1)(da)(ii) of the Act. In order to find that ground for discipline proven, the Board need only consider whether the Respondent had "good reason" for not providing a record of work on "completion" of the restricted building work.
- [48] The Board discussed issues with regard to records of work in its decision C2-01170⁷ and gave guidelines to the profession as to who must provide a record of work, what

⁶ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

C2-01168

a record of work is for, when it is to be provided, the level of detail that must be provided, who a record of work must be provided to and what might constitute a good reason for not providing a record of work.

- [49] The starting point with a record of work is that it is a mandatory statutory requirement whenever restricted building work under a building consent is carried out by a licensed building practitioner (other than as an owner-builder). Each and every licensed building practitioner who carries out restricted building work must provide a record of work.
- [50] The statutory provisions do not stipulate a timeframe for the licensed person to provide a record of work. The provisions in s 88(1) simply states “on completion of the restricted building work ...”.
- [51] The Respondent’s work had been completed and he did not provide a record of work. The elements of the disciplinary offence are made out.
- [52] Section 317(1)(da)(ii) of the Act provides for a defence of the licensed building practitioner having a “good reason” for failing to provide a record of work. If they can, on the balance of probabilities, prove to the Board that one exists then it is open to the Board to find that a disciplinary offence has not been committed. Each case will be decided on its own merits but the threshold for a good reason is high.
- [53] The Respondent has submitted that he was not asked for a record of work. It must be noted that the requirement is on the licensed building practitioner to provide a record of work, not on the owner or territorial authority to demand one. A claim that the licensed building practitioner was not asked for a record of work is not a defence or a good reason. They must act of their own accord and not wait for others to remind them of their obligations.

Board Decision

- [54] The Board has decided that the Respondent has:
- (a) carried out or supervised building work in a negligent and incompetent manner (s 317(1)(b) of the Act);
 - (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act);
 - (c) failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act);
- and should be disciplined.

Disciplinary Penalties

- [55] The grounds upon which a Licensed Building Practitioner may be disciplined are set out in s 317 of the Act. If one or more of the grounds in s 317 applies, then the Board may apply disciplinary penalties as set out in s 318 of the Act⁷.

⁷ Licensed Building Practitioners Board Case Decision C2-01170 15 December 2015

C2-01168

- [56] The Board's Complaints Procedures allow the Board to either set out the Board's decision on disciplinary penalty, publication and costs or to invite the Respondent to make submissions on those matters.
- [57] As part of the materials provided to the Board for the Hearing the Respondent provided submissions which were relevant to penalty, publication and costs and the Board has taken these into consideration.
- [58] Given the nature of the disciplinary offending, the mitigation already heard and the level of penalty decided on, the Board has decided to dispense with calling for further submissions. The Respondent will, however, be given an opportunity to comment on the level of penalty, costs and on publication should he consider there a further matters which the Board should take into consideration.
- [59] As stated earlier the purpose of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct.
- [60] The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*⁸ has commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to uphold professional standards:
- [27] Such penalties may be appropriate because disciplinary proceedings inevitably involve issues of deterrence. They are designed in part to deter both the offender and others in the profession from offending in a like manner in the future.*
- [28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.*
- [61] The Board notes that the level of negligence and incompetence was very high and the consequences of the failings most likely put the safety of persons at risk. The Respondent has not been willing to take responsibility and appeared to the Board to have a cavalier attitude toward compliance and a desire to hide behind legal structures.
- [62] The Board considers the Respondent poses a very real risk to the public and that cancellation of his licence is the only option open to it to protect the public and to uphold the integrity of the licensing regime.

Costs

- [63] Under s 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."
- [64] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case. The judgement in *Cooray v The Preliminary Proceedings Committee*⁹ included the following:

⁸ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

⁹ HC, Wellington, AP23/94, 14 September 1995

C2-01168

“It would appear from the cases before the Court that the Council in other decisions made by it has in a general way taken 50% of total reasonable costs as a guide to a reasonable order for costs and has in individual cases where it has considered it is justified gone beyond that figure. In other cases, where it has considered that such an order is not justified because of the circumstances of the case, and counsel has referred me to at least two cases where the practitioner pleaded guilty and lesser orders were made, the Council has made a downward adjustment.”

[65] The judgment in *Macdonald v Professional Conduct Committee*¹⁰ confirmed the approach taken in *Cooray*. This was further confirmed in a complaint to the Plumbers, Gasfitters and Drainlayers’ Board, *Owen v Wynyard*¹¹ where the judgment referred with approval to the passages from *Cooray* and *Macdonald* in upholding a 24% costs order made by the Board.

[66] In *Collie v Nursing Council of New Zealand*¹² where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:

But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate. It is not hard to see that the award of costs may have imposed some real burden upon the appellant but it is not fixed at a level which disturbs the Court’s conscience as being excessive. Accordingly it is confirmed.

[67] The Respondent has been somewhat cooperative and did appear. The costs have, however, been high as a result of having to obtain expert evidence. In all the circumstances the Board considers the sum of \$3,000 to be a fair and reasonable contribution toward the costs of and incidental to the Board’s investigation and hearing.

Publication of Name

[68] As a consequence of its decision the Respondent’s name and the disciplinary outcomes will be recorded in the public register maintained as part of the Licenced Building Practitioners’ scheme as is required by the Act.

[69] The Board is also able, under s 318(5) of the Act, to order publication over and above the public register:

In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

[70] As a general principle such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.

[71] The board considers further publication is necessary to give effect to the Board’s orders and to ensure the industry as a whole learns from the matter. The Board will publish the matter in Code Words and on its website and in such other publications as it thinks is necessary. The Respondent will be named in the publication.

¹⁰ HC, Auckland, CIV 2009-404-1516, 10 July 2009

¹¹ High Court, Auckland, CIV-2009-404-005245, 25 February 2010

¹² [2001] NZAR 74

C2-01168

Penalty, Costs and Publication Decision

[72] For the reasons set out above, the Board directs that:

Penalty: Pursuant to s 318(1)(a) of the Act, the Respondent's licence is to be cancelled and the Board orders that the Respondent may not apply to be relicensed for a period of two (2) years from the date of this order.

Costs: Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of \$3,000 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

Publication: The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with s 301(1)(iii) of the Act.

In terms of section 318(5) of the Act, there will be action taken to publicly notify the Board's action, including the note in the register and the Respondent being named in this decision.

Submissions on Penalty Costs and Publication

[73] The Board invites the Respondent to make written submissions on the matters of disciplinary penalties, costs and publication up until close of business on 10 November 2016.

[74] If no submissions are received, then this decision will become final.

[75] If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

Right of Appeal

[76] The right to appeal Board decisions is provided for in s 330(2) of the Actⁱ.

Signed and dated this 19th day of October 2016



Richard Merrifield
Presiding Member

ⁱ Section 318 of the Act

- (1) In any case to which section 317 applies, the Board may
- (a) do both of the following things:
 - (i) cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and
 - (ii) order that the person may not apply to be relicensed before the expiry of a specified period:
 - (b) suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any

-
- case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:
- (c) restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:
 - (d) order that the person be censured:
 - (e) order that the person undertake training specified in the order:
 - (f) order that the person pay a fine not exceeding \$10,000.
- (2) The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).
 - (3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.
 - (4) In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.
 - (5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."

ii Section 330 Right of appeal

- (2) A person may appeal to a District Court against any decision of the Board—
 - (b) to take any action referred to in section 318.

Section 331 Time in which appeal must be brought

An appeal must be lodged—

- (a) within 20 working days after notice of the decision or action is communicated to the appellant; or
- (b) within any further time that the appeal authority allows on application made before or after the period expires.