

Before the Building Practitioners Board

	BPB Complaint No. C2-01576
Licensed Building Practitioner:	Arthur May (the Respondent)
Licence Number:	BP 103806
Licence(s) Held:	Site AOP 1

Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

Complaint or Board Inquiry	Complaint
Hearing Location	Palmerston North
Hearing Type:	In Person – Consolidated with C2-01577 and C2-01588
Hearing Date:	19 March 2018
Decision Date:	5 April 2018
Board Members Present:	
	Chris Preston (Presiding)
	Mel Orange, Legal Member
	Robin Dunlop, Retired Professional Engineer
	Bob Monteith, LBP Carpentry and Site AOP 2

Appearances:

John Bierre – Counsel for the Respondent

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Board Decision:

The Respondent **has** committed a disciplinary offence under section 317(1)(b) of the Act.

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Introduction

[1] The hearing resulted from a Complaint into the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations¹ to hold a hearing in relation to building work at [Omitted]. The alleged disciplinary offences the Board resolved to investigate were that the Respondent carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act).

Function of Disciplinary Action

[2] 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 Kingdom in *R v Institute of Chartered Accountants in England and Wales*² and in New Zealand in *Dentice v Valuers Registration Board*³.

[3] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a Respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*⁴ Collins J. noted that:

“... the disciplinary process does not exist to appease those who are dissatisfied The disciplinary process ... exists to ensure professional standards are

¹ The resolution was made following the Board’s consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

² *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

³ [1992] 1 NZLR 720 at p 724

⁴ [2016] HZHC 2276 at para 164

maintained in order to protect clients, the profession and the broader community.”

- [4] The Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. It does not have any jurisdiction over contractual matters.

Procedure

- [5] The matter proceeded, with the consent of the various Respondent’s, as a consolidated hearing with two other related complaints.

Evidence

- [6] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. Under section 322 of the Act the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.

- [7] The Board heard evidence from:

Arthur Peter May	Respondent
[Omitted]	Co Respondent C2-01577, Licensed Building Practitioner – Carpentry
[Omitted]	Co Respondent C2-01588, Licensed Building Practitioner – Roofing
[Omitted]	Witness for the Respondent
[Omitted]	Expert for the Respondent
[Omitted]	Witness, [Omitted]
Tony Kellerman	Building Consent Officer, Manawatu District Council
Chris Henry	Team Leader, Building Consenting, Manawatu District Council
Jon Astwood	Technical Assessor to the Board

- [8] The Complainant engaged the Respondent’s company to build a new dwelling. [Omitted] was contacted by the Respondent’s company to carry out the build. The Respondent acted as project manager.
- [9] The Complaint raised various issues and allegations with the build and the Respondent’s lack of project management leading to errors and quality issues.
- [10] The Complainant obtained a report from Kiwi Property Inspection. The report was based on a visual inspection carried out on 21 January 2017. It listed an extensive

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

number of observations with supporting photographs. The Complainant provided a copy of the report with the Complaint.

- [11] The Registrar, as part of the preparation of the Registrar's Report, sought a report from Jon Astwood as a Technical Assessor to the Board. The Technical Assessor's report dated 6 April 2017 set out a chronology of the build and a table of issues raised in the Complaint together with the Technical Assessor's comments and observations on the allegations.
- [12] The Respondent provided a response to the complaint post the issue of the Technical Assessor's report. In it he refuted the allegation that he had failed to manage the project competently stating that he attended the site regularly and at least once a week. He also responded to the specific allegations in the Technical Assessor's Report. Counsel for the Registrar summarised the responses as follows:

Concerns Raised by Complainant	Response
a) Site LBP failed to manage the project competently	I attended the site regularly, at least once a week, and do not consider this to be a valid complaint.
b) LBP failed to use consented plans	The consented plans were used, however in my experience it is common for changes to be made on site when constructing from the plans.
b) i. Veranda roof pitch is 5 degrees	This could be addressed by filing amended plans at the end of the build
b) ii. Missing gib bracing in the scullery and diaphragm ceiling in the garage.	Again, it is common for changes in gib bracing to occur. My practice is to visit the site and check whether the contractor has identified where the bracing was to go. Provided this is done and the LBP is an experienced person as [Omitted] is, I leave it to the LBP to do the bracing.
b) iii Batt R-values were under specification	I agree these were not in accordance with the plans. However they were consistent with the contractual obligation of Homebuild. All that needs to be done is for Council to be advised the

Concerns Raised by Complainant	Response
	values on the plan were incorrect.
c) Site LBP did not identify various errors in construction	Many" of these were picked up by me. [Omitted] was an experienced contractor and did not require day to day supervision. The head flashing endscapes is not something I could check unless I was on site the day they were installed.
d) Unauthorised substitution of rigid air barrier - Hardies RAB installed despite consented plans specifying ecoply	Unfortunately when ordering the materials I overlooked the requirement to use Ecoply barrier. I have already offered to the client to replace the RAB with the specified Ecoply RAB and Shadowclad at Homebuild Home's cost.
e) Roofing screws along the ridgeline have missed the purlins entirely. There was conflicting information as to whose responsibility this was and it was still unresolved as at 5 February 2017.	I raised this issue [of the screws not fixed to the purlins] with [Omitted] and it was for [Omitted] to address. [Omitted] advised me that the roof had been installed in accordance with the roofing code of practice.
f) Roof purlins installed at different heights.	The purlins were installed at 900mm centres. My practice is to check a sample and if the sample is installed correctly leave the contractor to it. The sample I checked had been installed to the correct centres.
g) Structural steel poles have not been installed straight therefore walls are not square and true, especially in the master bedroom, and to a lesser extent in the lounge. Work continued in these areas to closing stage despite this.	I checked the poles when they were installed and they were all level. Subsequently the master bedroom pole appears to have twisted.

Concerns Raised by Complainant	Response
h) Exterior cladding - CHH shadowclad has not been installed to product specifications included in plans	It was [Omitted] responsibility to supply the nails. I visited the site and noted the cladding was installed in an unsatisfactory fashion. I instructed [Omitted] to correct it.
i) Window flashings are not installed correctly - no stop ends installed as required by consented plans, exterior cladding gap above flashings varied and uneven, flashings installed unevenly.	I noted that some of the window flashings were unsatisfactory and asked [Omitted] to fix this. I also note that it was intended that scribes be used to close gaps between windows and cladding. Quite late in the job the owners advised they did not want scribes.
j) Windows have not been fixed properly	I told [Omitted] to fix the windows.
k) Gib board installation is not to specification, gib is cracking, and is sitting proud on many windows and doors	When I visited the site the ceiling gib was in and installed reasonably well. I noted that the walls were not straight and asked [Omitted] not to install the gib until they had straightened the walls.
l) Many walls are not plumb or straight and it appears the framing has not been straightened prior to work continuing.	This was picked up and I requested that [Omitted] fix the walls prior to attaching the gib.
m) Workmanship is very poor. There I agree some aspects of the workmanship were appears to be little or no quality poor control.	I agree some aspects of the workmanship were poor

Concerns Raised by Complainant	Response
n) Engineer's report not made available to Manawatu District Council	This refers to the PS4 required in respect of the ground safe bearing pressure of 100kPa. I expected [Omitted] to call out the engineer at the relevant points. He did not do this. However, the engineer provided an email to the Council confirming the bearing pressure on the soil was "within the limits". The Council was content with this.
o) Project variation conformation not complete in a timely manner	There are various reasons for the project taking such a long time, including rain, change of builder, owner directed variations, and a refusal of the owner to give [Omitted] access to site to fix defects.
p) Excessive variations in floor slab heights / missing control joint.	No excessive tolerances noted by Mr Astwood during his inspection. If 'missing control joint' means the construction joint was not built, I visited the site when the slab was poured. I would have noticed if the construction joint was not installed. The Council inspection sheet gave a pass to the "free joints" which is the construction joint.

[13] The Respondent also stated that he made multiple visits to the site, and that he did not consider that the level of supervision required of [Omitted] was high, given [Omitted] was such an experienced builder. His Counsel also submitted that the conduct did not demonstrate a serious lack of care so as to satisfy the requirements of section 317 of the Act.

[14] At the hearing the Respondent spoke of his long and successful history in the building industry and reiterated that he made regular visits to the site and was in constant contact with the on-site carpenter and that he was shut out of the site prior to being able to fix the issues or attend to remediation. He further noted that matters have now been resolved.

- [15] The Respondent elaborated on his relationship with the Carpenter, [Omitted]. He noted that he had engaged [Omitted] over a number of years and builds and that he had, in the past, done a good job. He stated that he had brought on-site issues up with [Omitted] who had assured him they would be attended to and his expectation was that they would be. Notwithstanding this, and contrary to his expectations of [Omitted], the matters raised were not dealt with. The Respondent also noted that the build had progressed well up until mid-December 2016 but that issues then arose over a reasonably short period between mid-December 2016 and mid-January 2017 and that [Omitted] and his staff were expelled from the site soon thereafter.
- [16] In support of the oral evidence and submissions the Respondent filed a written brief of evidence as well as briefs from [Omitted] and [Omitted]. The Respondent's brief further elaborated on the matters contained in his initial response to the Complaint and the Technical Assessor's report. In particular the Respondent detailed the reasons why he considered the carpenter, [Omitted], needed less supervision and of the actual visits he made to site. This later aspect was corroborated by evidence from [Omitted].
- [17] [Omitted] brief provided an opinion that it was reasonable for the Respondent to take into account the carpenter's experience in determining the appropriate level of supervision, that the actual supervision was adequate and that it was reasonable for the Respondent to expect matters brought to the carpenter's attention to be attended to.
- [18] The Board questioned the Respondent with regard to the process used to manage building consent changes and whose responsibility it was to ensure they were dealt with. The Respondent stated that it was his responsibility. The Technical Assessor gave his opinion that the RAB product change would not have been a minor variation under section 45A of the Act and that a consent amendment would have been required.
- [19] With respect to the build time, in addition to the evidence in the Respondent's brief he stated it was a complex site and design with numerous (38) variations and that a change in builder post foundations also caused delays. Adverse weather was also a factor. He submitted that, given those circumstances, the build time was not excessive.

Board's Conclusion and Reasoning

- [20] The Board has decided that the Respondent **has** carried out or supervised building work or building inspection work in a negligent manner (s 317(1)(b) of the Act) and should be disciplined.
- [21] The finding of negligence relates to the manner in which the Respondent dealt with changes to the building consent. The finding is not with regard to the supervision of the carpenter or of carrying out restricted building work.

- [22] With respect to the supervision⁶ of the carpenter, and of the restricted building work, the Board notes that section 84 of the Act provides:

All restricted building work must be carried out or supervised by a licensed building practitioner [who is licensed] to carry out or supervise the work.

- [23] Clause 5 of the Building (Definition of Restricted Building Work) Order 2011 (the RBW Order) stipulates that restricted building work is building work that relates to the primary structure or external moisture management system of a house or small-to-medium apartment building that is:

- (a) bricklaying or blocklaying work:
- (b) carpentry work:
- (c) external plastering work:
- (d) foundations work:
- (e) roofing work.

- [24] There is also a requirement, under clause 5 of the RBW Order, that a licence class for the building work above have been designated. The Building (Designation of Building Work Licensing Classes) Order 2010 (the Licensing Order) designated the licence classes. Carpentry is a designated class and a licensed building practitioner with a Carpentry License can carry out carpentry. The designation for the Site Licence states a licensed building practitioner with a Site License can only provide “co-ordination or oversight”. As such a licensed building practitioner with a Site Licence cannot carry out any restricted building work. It also follows that, because of section 285 of the Act, they cannot supervise it either.

- [25] It follows that the Respondent, who holds a Site AOP 1 licence, could not supervise the carpenter in so far as supervise is defined by that Act. He could, however, provide “co-ordination and/or oversight” of the build and it is with regard to the lack of co-ordination and oversight, especially as regards building consent changes, that the Board’s finding is made.

- [26] Co-ordination and oversight are not defined terms. The Licensed Building Practitioners Rules 2007 (the Rules) does, however, provide some guidance and whilst those Rules use the term supervise and supervision throughout the Board does not interpret this as the supervision of restricted building work for the reasons outlined above.

- [27] The Rules, in Competency 3 – Organise and Manage Building Projects, note the following competencies:

3.1.1 Read and interpret working drawings, specifications, schedules and quantity lists.

⁶ As defined by section 7 of the Act.

- 3.1.2 Identify need for, and seek clarification and/or additional design documentation from the Design Lead, as required.
- 3.1.3 Establish a building site and manage ongoing operations.
- 3.1.4 Monitor construction site performance.
- 5.1.1 Obtain site plans, design details and working drawings for building work under the practitioner's supervision, as required.
- 5.1.7 Identify and obtain appropriate documentation required by the owner/owner's agent to confirm compliance with the building consent.

- [28] From the above competencies it is clear that many of the issues that arose on site came within the Respondent's purview and in particular the use of the incorrect R-value insulation and the substitution of rigid air barrier product. In this respect the Act requires that building work must be carried out in accordance with a building consent⁷. If an amendment to a building consent is required then all building work must cease while it is processed by the responsible building consent authority. An exception is made for minor variations under section 45A of the Act.
- [29] It is also to be noted that the process of issuing a building consent and the subsequent inspections under it ensure independent verification that the Code has been complied with and the works will meet any required performance criteria. In doing so the building consent process provides protection for owners of works and the public at large. In *Tan v Auckland Council*⁸ the High Court put it as:
- [35] The building consent application process ensures that the Council can check that any proposed building work is sufficient to meet the purposes described in s 3 (of the Act). If a person fails to obtain a building consent that deprives the Council of its ability to check any proposed building work.*
- [30] The Board heard evidence that the change to the rigid air barrier was not a minor variation and that the substitution was a serious issue. It was not, however, dealt with as an amendment or even as a minor variation.
- [31] Turning to minor variations the Board considers that the correct process for them is that agreement with the owner is obtained and that the designer and building consent authority are consulted prior to building work being undertaken. The rationale for these latter steps is to ensure that the variation is actually minor before work is undertaken and that the variation will still meet Building Code and will not adversely affect other parts of the building work. Put quite simply the minor variation has to be agreed to by all the key parties prior to it being undertaken, not once it has already been done.

⁷ Section 40 of the Act.

⁸ [2015] NZHC 3299 [18 December 2015]

- [32] There was no evidence that such a process had been followed.
- [33] The Respondent has accepted that responsibility for building consent amendments and variations lay with him.
- [34] Looking at the test for negligence the Board has had regard to the case of *Beattie v Far North Council*⁹. 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.

- [35] The Board has also considered the comments of Justice Gendall in *Collie v Nursing Council of New Zealand*¹⁰ 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.

- [36] On the basis of the above and the evidence before it the Board, which includes persons with extensive experience and expertise in the building industry, considered the Respondent had displayed a lack of reasonably expected care in his direction and oversight of building consent changes.

Penalty, Costs and Publication

- [37] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [38] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

⁹ Judge McElrea, DC Whangarei, CIV-2011-088-313

¹⁰ [2001] NZAR 74

Penalty

[39] 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. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*¹¹ commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

[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.

[40] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*¹² the court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act they have the advantage of simplicity and transparency. The court recommended adopting a starting point for penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.

[41] The Board considers the matter to be serious as the building consent process is at the heart of the build process meeting the objectives of the Act. That said the Board considered the Respondent's negligence to be at the lower end of the scale and it has considered his conduct in the context of the conduct of the others involved in the related disciplinary matters.

[42] The Board also notes that the Respondent has taken responsibility for the issues that have arisen and is working toward remediation of them. This has been taken into consideration as mitigation.

[43] Taking all of the factors into account the Board considers a fine of \$2,000 is the appropriate penalty. The amount has been reduced from a starting point of \$3,000 on the basis of the mitigation heard.

Costs

[44] Under section 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."

[45] 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

¹¹ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

¹² 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

that the percentage can then be adjusted up or down having regard to the particular circumstances of each case¹³.

- [46] In *Collie v Nursing Council of New Zealand*¹⁴ 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.

- [47] A hearing was required as was a Technical Assessors report. The hearing was, however, consolidated. On this basis the Board's costs order is that the Respondent is to pay the sum of \$1,000 toward the costs of and incidental to the Board's inquiry.

Publication

- [48] 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 Licensed Building Practitioners' scheme as is required by the Act¹⁵. The Board is also able, under section 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.

- [49] 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.
- [50] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990¹⁶. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction¹⁷. Within the disciplinary hearing jurisdiction the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive¹⁸. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*¹⁹.
- [51] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest²⁰. It is,

¹³ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

¹⁴ [2001] NZAR 74

¹⁵ Refer sections 298, 299 and 301 of the Act

¹⁶ Section 14 of the Act

¹⁷ Refer sections 200 and 202 of the Criminal Procedure Act

¹⁸ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

¹⁹ *ibid*

²⁰ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.

[52] Based on the above the Board will not order further publication.

Section 318 Order

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

Penalty: Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$2,000.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,000 (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 section 301(1)(iii) of the Act.

In terms of section 318(5) of the Act, there will not be action taken to publicly notify the Board's action, except for the note in the Register and the Respondent being named in this decision.

[54] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

Submissions on Penalty, Costs and Publication

[55] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **27 April 2018**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received then this decision will become final. 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

[56] The right to appeal Board decisions is provided for in section 330(2) of the Actⁱⁱ.

Signed and dated this 5th day of April 2018



Chris Preston
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.*