

Before the Building Practitioners Board

	BPB Complaint No. CB25065
Licensed Building Practitioner:	Parata Ng-Shiu (the Respondent)
Licence Number:	BP 105954
Licence(s) Held:	Carpentry and Site AOP 2

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	Auckland
Hearing Type:	On the Papers
Draft Decision Date:	9 October 2019
Hearing Date:	28 January 2020
Final Decision Date:	6 March 2020

Board Members Present at Hearing:

Richard Merrifield, LBP, Carpentry and Site AOP 2 (Presiding)
Mel Orange, Legal Member
David Fabish, LBP, Carpentry and Site AOP 2
Faye Pearson-Green, LBP Design AOP 2

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)(da)(ii) of the Act.

The above decision was made following written submissions being received on the Board's Draft Decision and the Board hearing oral submissions and evidence from the Respondent.

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Disciplinary Offences Under Consideration

- [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 three separate Auckland addresses². The alleged disciplinary offence the Board resolved to investigate was that the Respondent 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).

Background

- [2] The Board's jurisdiction is that of an inquiry. Complaints are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers is necessary prior to it making a decision. In this respect the Act provides that the Board may regulate its own procedures³. It has what is described as a

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

² 421 Riddell Road, 23-2 Washington Avenue and 16 Howard Hunter Avenue

³ Clause 27 of Schedule 3

summary jurisdiction in that the Board has a degree of flexibility in how it deals with matters; it retains an inherent jurisdiction beyond that set out in the enabling legislation⁴. As such it may depart from its normal procedures if it considers doing so would achieve the purposes of the Act and it is not contrary to the interests of natural justice to do so.

- [3] In this case the Board decided that no further evidence was required. If a Respondent provides further evidence or submissions the Board takes them into account. If they request an in-person hearing this is given consideration. The matter was set down to be heard on 31 July 2019.
- [4] An in-person hearing was requested by Mr Gregory Bennett who was representing the Respondent. The representative noted that he would be filing submissions and documentary evidence and that an adjournment was required to allow time to obtain and file. The adjournment was granted. The matter was set down to be heard on 9 October 2019.
- [5] On 8 October 2019 the Respondent’s counsel requested a further adjournment of the matter on the basis of his inability to attend the hearing for health reasons.
- [6] The Presiding Member decided, given the history of the matter, that the hearing would proceed but that the Board would issue a draft decision and would invite submissions to be made on the draft decision prior to it making a final decision.
- [7] To that end this decision is a draft Board decision. The Respondent will be provided with an opportunity to make comment on the Board’s draft findings and to present further evidence prior to the Board making a final decision. If the Board directs or the Respondent requests an in-person hearing, then one will be scheduled.

Function of Disciplinary Action

- [8] 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*⁵ and in New Zealand in *Dentice v Valuers Registration Board*⁶.
- [9] 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*⁷ 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

⁴ *Castles v Standards Committee No.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

⁵ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

⁶ [1992] 1 NZLR 720 at p 724

⁷ [2016] HZHC 2276 at para 164

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

- [10] 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.

Evidence

- [11] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁸. 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.
- [12] The Complainant was a home builder, [Omitted]. It engaged [Omitted] as a sub-contractor to carry out three new builds. The Respondent was, in turn, engaged to carry out building work on those new builds. All of the building work was carried out under building consents and, as such, it included restricted building work which requires the issue records of work.
- [13] The building work started in May 2018 and came to an end on or about 30 October 2018 when the [Omitted] engagement on the projects was brought to an end. Following the termination, the Complainant sought records of work for each of the three address from the Respondent.
- [14] A complaint was made to the Board on 12 November 2019, just over a year after the work came to an end. The Complainant indicated that the Respondent’s records of work had been provided to [Omitted] but that they were being withheld due to a payment dispute.
- [15] The Respondent provided a response to the complaint. In it he stated that whilst he was prepared to “sign off” on his work he was not prepared to do so for the work of others.
- [16] On 19 February 2019 an application for a code compliance certificate was made.
- [17] On 21 March 2019 the Respondent provided records of work dated 12 March 2019 to the Complainant.
- [18] The Board was provided with a copy of an email to the Registrar from [Omitted] dated 21 March 2019 noting that the records of work had been provided to the owner on the basis that the complaint to the Board would be removed if they were provided. A copy of a records of work dated 12 March 2019 from the Respondent were included. The Complainant confirmed receipt of the same email and attachments.

⁸ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

- [19] The Respondent's representative indicated further evidence and submissions would be provided to the Board but none were received.

Draft Conclusion and Reasoning

- [20] The Board has decided that the Respondent **has** 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.
- [21] There is a statutory requirement under section 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 work⁹.
- [22] Failing to provide a record of work is a ground for discipline under section 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.
- [23] The Board discussed issues with regard to records of work in its decision C2-01170¹⁰ and gave guidelines to the profession as to who must provide a record of work, what 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.
- [24] 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 or supervised 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.
- [25] The statutory provisions do not stipulate a timeframe for the licenced person to provide a record of work. The provisions in section 88(1) simply states "on completion of the restricted building work ...".
- [26] In most situations issues with the provision of a record of work do not arise. The work progresses and records of work are provided in a timely fashion. This did not occur in the current case. The work came to a premature halt in later October 2018 and it has been completed by others. Because of this the Board finds that completion, for the purposes of providing a record of work occurred at the earliest on 31 October 2018 and at the latest on 12 November 2018 when a complaint was

⁹ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

¹⁰ *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

made as, at this point in time, there could have been no doubt that no further restricted building work would be carried out.

- [27] A record of work was not provided until 21 March 2019, some four months after a complaint had been made. Even then it was only on the basis that the Respondent was seeking to avoid being disciplined by the Board.
- [28] On the basis of the above the Board finds that the record of work was not provided on completion as required and the disciplinary offence has been committed.
- [29] Section 317(1)(da)(ii) of the Act provides for a defence of the licenced 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 by the Board on its own merits but the threshold for a good reason is high.
- [30] The evidence indicates that the record of work may have been provided to the company that contracted the Respondent. It is noted, however, that the date of the record of work that has been provided does not reflect this. Notwithstanding the Respondent should note that providing a record of work to a person other than the owner and the territorial authority does not satisfy the requirements of section 88 of the Act. The Respondent should also note that whilst this may be a pragmatic course of action it does run the risk of the Respondent being disciplined if it is not passed on in a timely manner.
- [31] It was noted that there was an ongoing payment dispute. The Board has repeatedly stated that a Record of Work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, nor by contractual disputes. Licensed building practitioners should now be aware of their obligations to provide them and their provision should be a matter of routine.
- [32] There was also reference to not “signing off” on work other persons carried out. In this respect it is to be noted that a record of work is not a statement as to the quality or compliance of restricted building work. It is simply a statement of who did or supervised what. There was no obligation nor need in providing a record of work to sign off any work. Nor was there are requirement or need to provide a record of work for anything other than what the Respondent did or supervised.
- [33] The Board therefore finds that there were no good reasons.

Draft Decision on Penalty, Costs and Publication

- [34] 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.

- [35] The matter was dealt with on the papers. Included was information relevant to penalty, costs and publication and the Board has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [36] 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.

- [37] 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.
- [38] Record of work matters are at the lower end of the disciplinary scale. The Board's normal starting point for a failure to provide a record of work is a fine of \$1,500 which is an amount that the Board considers provides a deterrence to others.
- [39] The Board notes that a record of work may have been provided earlier to another contractor and ordinarily the Board would see this as a mitigating factor. In this instance, however, this is offset by the continued refusal to provide records of work once a complaint was made and by the fact that it was only provided in an attempt to avoid being disciplined. There were also three records of work that were withheld. As such the fine will remain at \$1,500.

Costs

- [40] 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."
- [41] 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.

- [42] 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.

- [43] The Board notes the matter was dealt with on the papers. There has, however, been costs incurred investigating the matter, producing the Registrar's Report and in the Board making its decision. The costs have been less than those that would have been incurred had a full hearing been held. As such the Board will order that costs of \$500 be paid by the Respondent. The Board considers that this is a reasonable sum for the Respondent to pay toward the costs and expenses of, and incidental to, the inquiry by the Board.

Publication

- [44] 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.

- [45] 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.
- [46] 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

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

guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*¹⁹.

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

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

Draft Section 318 Order

[49] 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 \$1,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$500 (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.

[50] 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 Draft Decision

[51] The Board invites the Respondent to:

- (a) provide further evidence for the Board to consider; and/or
- (b) make written submissions on the Board's findings. Submissions may be on the substantive findings and/or on the findings on penalty, costs and publication.

[52] Submissions and/or further evidence must be filed with the Board by no later than the close of business on 17 December 2019.

[53] If submissions are received, then the Board will meet and consider those submissions.

¹⁹ *ibid*

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

- [54] The Board may, on receipt of any of the material received, give notice that an in-person hearing is required prior to it making a final decision. Alternatively, the Board may proceed to make a final decision which will be issued in writing.
- [55] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

- [56] If the Respondent, having received and considered the Board’s Draft Decision, considers that an in-person hearing is required then one will be scheduled, and a notice of hearing will be issued.
- [57] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on 17 December 2019

Submissions Made

- [58] On 16 December 2019 the Board received submissions from an advocate acting on behalf of the Respondent. In addition to the submission an in-person hearing was requested and was granted. The Respondent appeared together with his advocate.
- [59] The submissions noted an error in the Draft Decision. The Board accepted that the complaint was made some 13 days after the contract ended, not a year after as was stated.
- [60] A submission was made that, as a record of work had been provided within as short period to time to the main contractor, the Respondent had satisfied his obligations.
- [61] Whilst it may be common practice in some quarters of the building industry for records of work to be provided to main contractors it is a practice that carries with it the risk that the record of work will not be passed on to the required recipients, the owner and the territorial authority. It is also one that does not satisfy the strict requirements of the Act.
- [62] The Respondent should note that if a main contractor does not pass a record of work on to the final recipients it is the author of the record of work that will be held accountable by the Board, not the person or entity that they entrusted to fulfil their statutory obligation. It is also to be noted whilst, at times, a Respondent may not immediately know who the owner is there are ways and means of ascertaining such details²¹ and that there should be no impediments to a record of work being provided to a territorial authority.
- [63] The Respondent also raised a concern that the main contractor was seeking a record of work for all of the restricted building work and that he would become liable for the whole job. The Respondent was only required to provide a record of work for what he did or supervised. In this respect a record of work can also be used to stipulate what has not been done. The Respondent should also note that providing a

²¹ Ownership details of land are available on public registers.

record of work is not “signing off” work. A record of work is not a statement as to the quality or compliance of restricted building work. It is simply a statement of who did or supervised what in the way of restricted building work. In this respect it is to be noted that a record of work given by a licensed building practitioner does not, of itself create any liability, that would not otherwise exist as section 88(4) provides:

*(4) A record of work given under subsection (1) does not, of itself,—
create any liability in relation to any matter to which the record of work relates; or give rise to any civil liability to the owner that would not otherwise exist if the licensed building practitioner were not required to provide the record of work.*

- [64] A submission was made that the complaint was made within a very short period of time of completion and that it was being used to coerce provision of the record of work. Whilst this may have been the case it does not change the fact that the Respondent had an obligation to provide a record of work on completion.
- [65] Under regulation 9(c) of the Complaints Regulations the Board has a discretion to not further investigate a complaint if it is frivolous, vexatious, or not made in good faith.
- [66] In the context of a disciplinary hearing the frivolous complaints are those that do not have any serious purpose or value and that vexatious complaints are those which are improperly motivated such as where they lack merit or are instituted primarily to distress, annoy or embarrass and it will proceed on this basis.
- [67] There may, in any complaint made about a licensed building practitioner, be elements of regulation 9(c) or of it having those effects. That is not, of itself, enough to make the complaint frivolous, vexatious, or not made in good faith. The Board considers the complaint needs to have been made predominately for those purposes and to lack value or merit. That is not the case in the present matter.
- [68] Counsel submitted that promissory estoppel applied. The Board did not agree. The submission was made on the basis that the main contractor had stated that if a record of work was provided, they would withdraw the complaint but that when the record of work was provided the complaint was not withdrawn. This may well have been the case. Notwithstanding promissory estoppel applies between the parties to the promise, not to the Board. More importantly though the Board retains an Inquiry Jurisdiction. If a complaint is withdrawn, then the Board can continue with the matter as a Board inquiry. In this respect regulation 17 of the Complaints Regulations provides:

17 Application

- (1) This Part applies to an inquiry into a matter about the conduct of a building practitioner raised by the Board’s own inquiries.*
- (2) This Part also applies to an inquiry into a matter about the conduct of a building practitioner raised by a complaint where the Board carries*

on an inquiry into that matter on its own motion after the complainant decides not to proceed with the complaint—

- (a) as if every reference to a matter raised by the Board’s own inquiries included a reference to the matter raised by that complaint; and*
- (b) with all modifications necessary to take into account that there is no need for the Board to repeat any process already undertaken as part of the investigation of the complaint under Part 1 where a substantially equivalent process may be, or is required to be, undertaken as part of an inquiry under this Part; and*
- (c) with any other necessary modifications.*

[69] As a matter of policy, the Board tends to continue with complaints about records of work that are withdrawn where the reason for the withdrawal of the complaint is the provision, post a complaint being made, of the record of work. The reason is that the Board considers such action is necessary to ensure licensed building practitioners are deterred from withholding records of work and only providing them once a complaint has been made. The Board considers such conduct is contrary to the intents of the licensing regime and the intent the legislation requiring the provision of records of work.

[70] Counsel raised the decision in *Ministry of Business Innovation and Employment v Bell*²², an appeal with regard to record of work matters, and indicated that it may contain obiter dicta that applies. The decision has been reviewed. The Board does not consider that the decision assists the Respondent.

[71] Finally, Counsel, in a written submission, sought name suppression. The application was withdrawn at the hearing.

Final Decision

[72] For the above reasons the Board affirms its draft decision and penalty.

[73] As the Respondent sought and was granted a hearing and the decision has been upheld the Board considers a slight increase in costs is warranted. The amount is set at \$750.

²² [2018] NZHC 1662

Final Section 318 Order

[74] 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 \$1,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$750 (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.

Right of Appeal

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

Signed and dated this 6th day of March 2020



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.*