

Our Ref: 310809
Contact: Janis Adair - Chris Littlewood

16 October 2014

Mr Paul Gee
PO Box 249
Takaka
Golden Bay
Tasman 7142

By email: gasnolarservices@gmail.com

Dear Mr Gee

**Ombudsmen Act investigation
Plumbers, Gasfitters and Drainlayers Board**

I write further to my letters of 30 May 2014 and 13 June 2014 to you and your email response of 12 July 2014.

In your detailed response, you refer to a number of matters relating to complaints in respect of which I discontinued my investigation. The only outstanding complaint referred to in my letters was your complaint relating to the alleged failure of Board members and the investigator, Mr Hammond, to withdraw (see p 4 of my letter of 30 May 2014). I will summarise the position regarding your complaints under headings:

1. Board's finding against you

In my letter of 30 May 2014, I advised you that I had exercised my discretion to decline to investigate this complaint further.

2. Board's failure to investigate adequately complaints against John Darnley

In my letter of 13 June 2014, I stated:

"I have reviewed the information provided by both the Board and you concerning your allegations against Mr Darnley that he tampered with gasfitters' certificates in your name. I am satisfied that the Board has thoroughly investigated your concerns. Further, I consider that the Board's decision not to further investigate your complaints about Mr Darnley's gas installations was reasonably open to it. On that basis, I have discontinued my investigation into these matters."

3. Gasfitters' use of certificates belonging to others

In my letter of 13 June 2014, I sought your comments on this issue. In that letter, I stated:

"I enquired of the Board about the use by gasfitters of other gasfitters' certificates. As the Review acknowledged, that practice did exist. To put an end to that happening, the Board required gasfitters to complete certificates online. To do so, gasfitters had to input their registration number and their password. They then completed the certificate online.

The Board no longer has any role in issuing, receiving, or storing gas certificates. Instead, gasfitters keep their own copies of certificates and record high-risk gasfitting that they have done on a database operated by Energy Safety. Energy Safety is part of the new Crown entity, Worksafe New Zealand, and now oversees the gas certification system. Thus, the practice of gasfitters using other gasfitters' certificates should not recur."

In your email of 12 July 2014, you express continued concern about this issue. For example, at para 52 you state:

"In ever more double standards a person involved in yet another case, a situation where there was a pre-signing of some 560 blank certificates, which were on sold, including to unqualified lay persons, with 90% of the work covered by these blank certs done against regulation and non compliant ... with some 16 very dangerous, with the signatory on record as saying he signed and checked every job. What would you think if someone involved in this fiasco, probably the signatory of these blank certs ... still has charges before the Board some 5 years later? Is this fair? These double standards, this is where my complaint lies."

You complained to this Office about the Board's failure to provide you with information concerning this matter. On my behalf, Ms Janis Adair has notified your complaint to the Board. On receipt of the Board's response, we will contact you about this complaint.

I decided not to investigate further the general issue raised by this complaint, in the light of the steps the Board took to prevent the use by gasfitters of other gasfitters' certificates and the fact that Energy Safety now has responsibility for issuing, receiving, or storing gas certificates. Having regard to the circumstances of the case, I decided to exercise my discretion to decline to investigate this complaint further as, in terms of section 17(1)(b) of the Ombudsmen Act 1975, any further investigation is unnecessary.

4. Failure of Board members and investigator to withdraw

At para 19 of your email sent on 12 July 2014, you state:

"As you know, I did make an extensive written submission for my appeal, which I have provided to your Office, detailing my concerns that you say I did not try to submit. So in effect I did make a valid attempt to address this and other issues, and as I take it was read by Justice Kós I do not know why it isn't in his summing up."

I have re-read the submissions you made to the High Court and the judgment of Kós J. I accept that in your submissions, for example at paras 34 and 39, you criticise the way in which the investigator, Mr Anthony Hammond, conducted his investigation. However, as is clear from your submissions and the judgment, you did not raise as a ground of appeal the failure of Board members and the investigator to withdraw. Kós J identified three grounds:

- *"Ground 1: Investigator not proved minimum distance to minimise risk; Table 16 optional not mandatory; Australian practice: 500 mm standard";*
- *"Ground 2: United Kingdom 300 mm standard"; and*
- *"Ground 3: Mr Gee complied with clause 1.5.7 because no evidence of gas entering the building and no actual harm to persons."*

As I stated in my letter of 30 May 2014 at p 4:

"On the face of it, there is no reason why you could not have included as a ground of your appeal to the High Court the issue of perceptions of bias or actual bias."

You did not clearly raise this issue as a ground of appeal. Accordingly, I have decided to exercise my discretion not to investigate this complaint, as your ability to do so was an adequate remedy in terms of section 17(1)(a) of the Ombudsmen Act.

5. Summary

I have discontinued my investigation into, and closed this Office's file on, the four complaints identified in this letter. I appreciate that you remain distressed by the Board's prosecution of you, but I stress that I will not investigate the basis of the charges brought against you.

Yours sincerely



Professor Ron Paterson
Ombudsman