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## IN OTHER NEWS

### FROM THE FEDERATION'S CHAIRMAN

Here lies a big problem in that the Board has at times become defensive and certainly never admits liability for failures, carelessness or acts of bad faith.

I've been involved in the industry since 1976 and that time has opened my eyes to carelessness and bad faith by those regulating us and those who should be holding them accountable. I've seen how long their attitudes have been entrenched in the industry.

Things like changing from one registration class to two for no better reason than business owners didn't want practitioners qualifying and going into competition with them.

I've seen the implementation of registration exams that

## NEW YEARS HONOURS 2021



Congratulations to Colleen Upton who has become an Officer of the New Zealand Order of Merit. Colleen has been a member of the Federation's executive committee since the Federation's inception.

Colleen becomes an Officer of the New Zealand Order of Merit for services to the plumbing and gasfitting industry and women. She has been involved in the plumbing and gasfitting industry since the early 1990s and has been an advocate for female representation in the trades.

Our congratulations to Colleen for this well earned recognition of her efforts to improve the industry and the representation of females in the trades.

## CAN THE INDUSTRY ENDURE ANY MORE?



Congratulations to the Honourable Poto Williams on being appointed to the position of Minister for Building and Construction (the Minister), or should we be giving The Minister our condolences? We know the Government has done a good job over the Covid 19 pandemic and that levels of trust in them have risen, which is evidenced by their

re-election for another term - but what about the trust and confidence before the pandemic and the levels of trust and confidence moving forward?

We see in a recent response to a Parliamentary question that the Minister has already met with the Plumbers Gasfitters and Drainlayers Board (the Board) and we feel it would be amiss of us not to write and aid in balancing the perception of the plumbing, gasfitting and drainlaying industry (the industry) as all might not be

tested for subject matter that did not fall into the definition of plumbing gasfitting or drainlaying as defined in the Act.

The Board had to withdraw the exam but picked a single supplier to provide a business course and used it as a requirement for registration.

Of course there was the continuing professional development (CPD) being implemented illegally under the 1976 Plumbers Gasfitters and Drainlayers Act.

People being refused licensing over that same period because they hadn't done the illegal CPD. How many practitioners did that affect? No admission here either even after an independent investigation by a QC. The Board even rejected her initial recommendations.

Remember the unlawful taking of money from the industry where the Board claimed they would be bankrupt if they had to pay the money back to the industry but yet a couple of years later they spent a similar amount of money to upgrade their computer system for a second time in a decade.

I've seen an environment created by the Board's investigation and prosecution process where practitioners are pleading guilty because it is cheaper than defending their innocence.

A shocker investigation was the Paul Gee case

as portrayed to the Minister by the Board.

We feel the Minister as taken over a portfolio that for more than a decade has had three Ministers for Building and Construction that did not even reach a standard where, sadly, they could be classified as being incompetent. It was a decade of inaction where said Ministers failed to win the hearts and minds of most practitioners in the industry, and history has shown if people do not wish to participate then they will be forever resistant to any change. Alas the previous Minister was all but a ghost to our industry, seeming far more interested in her other portfolios. It would appear it wasn't just us that though this but perhaps the Prime Minister too given the fall from grace that she suffered in the cabinet reshuffle post election.

The Ministers failed to hold the Board accountable for their actions. Yes there have been accountability agreements to cover day to day functions but that is where they have stopped. We believe there continues to be no trust or confidence in the Minister, the Board, the Skills Organisation (Skills) or the Ministry of Business Innovation and Employment (MBIE)

The Federation has mentioned before that our industry is the "Forgotten Industry". What we mean by this is that there has been NO action and NO priority to issues that affect the industry. We believe this is due to the Government not having a financial input into the regulation of the industry, simply put, they have no skin in the game. They have simply forgotten about the industry and the rights of the practitioners. No one has been held accountable for industry regulation because it has been out of sight and out of mind.

A critical point has now been reached where it is believed the regulation of the industry is supporting anticompetitive behaviour and is hampering progression of the industry. For example in normal trade if you do something to prevent completion from entering a market then it is called anticompetitive behaviour. In our case we have a registration system where on completion of an apprenticeship the apprentice, although obtaining NZ Certificate, can not apply their trade unless supervised thus restricting their entry into the market.

There is an environment of the haves and have not's. Some in the industry have vast representation and influence while others have no say or representation We know that the less equal the majority of the industry becomes the less they trust in the regulation of the industry and that's a problem. The lack of practitioner representation and voice is a huge factor influencing the problem.

To add to issues the industry has been clumped in with other construction trades and treated the same in the one size fits all bureaucracy. We believe our industry is vastly different and is the only industry that 100% funds the regulation and subsequent discipline of the industry. The industry has no legitimate industry wide representation and has no representation on the Board.

Consecutive governments have left around 12,000 trades people to fund the regulation of the industry and made them responsible for

where over \$250,000 of practitioner money was spent to prosecute 44 charges and only 2 were successful. No one was held accountable for the withholding of evidence, the false statements recorded or the general conduct of the investigation. There was no follow up to find the real offenders. No admission of fault at all from the Board.

I can't forget about the Board Registrar/Chief Executive that was fired after various incidents only to be replaced by an acting CE and an acting Registrar. That CE and Registrar having to appear before a Parliamentary Select Committee where the Registrar gloated about the Board's 100% success rate in prosecutions.

Those people were replaced by another CE/Registrar who started off well and then once there was no use for the people who had worked with them they excluded them.

Yet again they were replaced by another CE/Registrar who followed down the same path. There now appears to be an environment of the Board being puppets

There have been breaches of privacy, false accusations against practitioners and of course there has been the expenditure of industry money for lawyers to send out letters threatening legal action to those who have criticized the Board and hurt someone's feelings. Bully tactics. They

policing of the entire population of New Zealand with regard to sanitary plumbing, gasfitting and drainlaying. No other industries have this responsibility or burden.

The regulation of the industry and the policing of the population have reached such an imbalance that the risk of being a registered practitioner now outweighs the risk of operating illegally in the industry. A registered person can face tens of thousands of dollars in costs and fines compared to a member of the public that only faces penalties of thousands of dollars.

There has been no industry oversight by the Ministers. MBIE's advisory role has by been left very much wanting even, to the extent of discrimination involved in the recruiting process for Board members. Then there is the review of the Plumbers Gasfitters and Drainlayers Act 2006 now being **SEVEN** years plus overdue, and it will be years before public consultation and then more years before any recommendations are passed and implemented. By that stage the chances are pretty good that it will all be out of date and the "Groundhog Day" process will start again. This is pure incompetence on behalf of MBIE and the Ministers who were and are responsible for this portfolio. It is effectively flipping the bird at practitioners.

Currently decisions and actions by the Board and Skills, who is the industry training organisation, appear to be unfairly influenced to benefit the aspirations of a few. We can't even remember when Skills did industry wide consultation on anything as it seems they operate solely with the opinions of the Board and one membership organisation.

Views of the wider industry appear to be ignored and some membership organisations are excluded. An unfair influence is dividing the industry and shows a bias by the Board, Skills, and MBIE when their actions should be impartial.

Practitioners need to be able to trust the regulation of the industry and those controlling the regulation. It seems the Board relies on the old bureaucratically designed adage that if people don't participate then they support what is being recommended as people are more likely to complain about actions than not.

This is certainly false in our case and we have no doubt a lot of practitioners in the industry simply accept what is imposed on them without argument, go into survival mode and endure the unpredictability and stress. Practitioner's views have been ignored so many times that they no longer trust or respect the Minister, the Board, Skills, MBIE or any of their decisions. A decade or more of being ignored would do that to you.

Some will be thinking this news letter is just another communication from an unhappy organisation but perhaps people should be asking the question as to why the Federation and a lot of others are unhappy and why the industry has not progressed since the findings detailed in the Office of the Auditor General Report in 2010. What has actually changed? Is it possible the date on the 2010 report could be changed to today's date and it would all still be applicable?

know practitioners don't have the endless funds that the Board has, ironically gained from practitioners in the first place.

Last year's exclusion of the Federation from the Stakeholder Liaison group based on false information is another example of legislation being abused.

The list goes on and all that time there have been numerous appointments to the Board that Ministers have put in place to resolve issues in the industry and all have failed. It is now a Board where if you stay long enough the chances are you will end up as the chair person, but if you hold people accountable you will be replaced.

I believe excluding people and groups who want to resolve issues is a form of corruption and where there is corruption there is no peace of mind for practitioners.

The Board and Skills have positioned themselves in such a way that practitioners won't engage with them and selected organisational voices have been excluded. Now the Board and Skills operate with impunity to meet the wishes of a minority.

One requirement of the Board is to keep evidence of decisions but for practitioners to get access to that evidence is near impossible. Even Official Information Act requests are limited in the information provided.

Minutes of Board meetings

The Government has portrayed itself as a transformational government but nothing will change until such time as the conversations are held with the wider industry to support the transformations. This needs to be with people who want industry wide improvement not just a few for selected change.

We know that the Government will sit back and say they want recommendations and solutions to support change, not just complaints, and we agree but if the recommendations are not listened to, without undue influence from others, then it's a waste of time.

Going forward the voices of the practitioners need to be heard about what needs to change. There needs to be real conversations about regulation and Section 32 of the Plumbers Gasfitters and Drain layers Act 2006 needs to be used as it was intended to protect the practitioners - not as a justification for regulation as it is currently been interpreted.

Regulation being used to support anti competitive behaviour is now a realization and is stifling practitioners progression to being fully qualified. If the registration class at completion of an apprenticeship only recognises partial qualification those practitioners are restricted in their activities and are unable to take on apprentices. The Government contributes to the training of an apprentice but in reality are not getting a fully qualified practitioner into the industry because of the registration classes. Is this a waste of money? As it stands a person can work in the industry on an exemption and have the same supervision requirements as a person who has National Certification! Is it just us that thinks this is ridiculous?

Past Ministers have been blinded by influencers and the incompetence of MBIE. They have ignored acts of carelessness and bad faith by the Board and have failed to take the opportunity to tap a broad range of experienced practitioners. Past Ministers have supported the carelessness and acts of bad faith by introducing retrospective legislation to make legal that which was illegal.

This news letter should NOT be interpreted as being negative as the Federation is not against regulation of the industry or up skilling. What it is against is legitimate concerns by industry practitioners and groups being ignored and legislation and power being used inappropriately.

Events over the last couple of years have undermined the credibility of the Board and some of its members who were sitting over that period. The new appointees to the Board have a tough road ahead to prove that their diverse backgrounds are worthy of their appointments. The influence of those who have remained from the previous Board is a danger as is the influence from the current Chief Executive.

The Board, some of its decisions and its exclusion tactics have done a huge amount of damage. The concern here is that the average practitioner who is an "employee" is not getting their view expressed around the table. The "registered licensed" practitioner,

basically only show an outcome not who was supportive and who was against decisions and for what reasons. If Board members aren't prepared to put their name beside their decisions then perhaps they shouldn't be on the Board.

For the Board to state they can't remember who bought a subject up for discussion at a Board meeting is totally incompetent.

The only recourse to practitioners is to lay complaints with the likes of the Ombudsman or the Regulation Review Committee and here lies an additional problem in that these organisations see the Board as a specialist Board and basically take their word as being beyond reproach.

And what happens if they are found to be at fault? Well history has shown us nothing happens and the Government and Ministries go into arse covering mode.

You may well ask the question "Why aren't people held accountable" Well I believe it's because those who appoint these people into positions of authority don't want to be seen as having made a bad selection.

We have to remember the Plumbers, Gasfitters and Drainlayers Act 2006 provides these people with protection under section 171 **Exclusion of Liability** unless anything is done or omitted in bad faith or without

the trainee practitioners do not have a voice as that voice has been excluded. That voice will be different to the voice of employers and certifiers possibly.

The industry has deteriorated into an environment of poor training and totalitarian regulation all of which practitioners have no control or say.

The analogy we would use to describe the current regulation and training is that of a septic tank. It is green and lush on top but is full of shit and unmentionables underneath. It is full of items that people want to forget, don't want to discuss and even items they want to hide.

When there's shit under the public's feet, no water, no heating or nothing to cook on it is not the Bureaucrats that are the salvation. They don't take the risks or fix the problems it's the practitioners that are the saviours and we do it without any help from the regulators or the government.

The Federation is been called all types of things by Ministers and others but no one has ever accused us of being two-faced. We have been up front and in people's faces. We have made numerous suggestions and recommendations and most have NOT been tried. Perhaps they should be tried because what's happening now isn't working for the majority of practitioners.

A decade ago the Federation questioned the need for the Board in its current format of simply being a regulator. This was again broached with the last Minister but the idea hasn't got anywhere. We suggest a board that is there for the practitioners as far better solution to a lot of issues than an organisation that is simply collecting revenue to police the registered practitioners and the few members of the public they catch for doing unauthorised plumbing, gasfitting and drainlaying. We suggested an overarching governance board that had representation from practitioners (not just Ministerial appointments) that could look at cradle to grave solutions to problems within our industry – and could also look forward to what would be possible.

We need a Board that is as diverse as the industry. A Board that will seek feedback from practitioners industry wide. A Board that has new ideas where Board members are not simply there to enhance their status in the business and government communities.

There is more than one way of doing things. It's about connection with the industry and we challenge others to explore those options. The Federation has been reaching out to communicate advancement but no one has been reciprocating. If just a few people would listen and really connect we would all be better off and may actually achieve change.

On 7 January 2021 the Prime Minister, Jacinda Ardern said with regard to events in the USA;

*"Democracy – the right of people to exercise a vote, have their voice heard and then have that decision upheld peacefully – should never*

reasonable care.

For practitioners to be able to hold people to account would result in a legal battle of major proportions and at a double cost.

The Act does not define bad faith or reasonable care so that would be the first things that need to be proved.

Perhaps it's time to put the Board and individuals on notice that they will be challenged and held accountable.

Repetitive chaos has reigned long enough. We heard during the pandemic the term "Unprecedented times" well perhaps it's time for some extraordinary actions. These actions could include a change in the manner in which the Federation operates to give practitioners a voice.

I have been discriminated against because I am a middle age heterosexual white male so I can only imagine what others in the group face.

Perhaps the forming of subgroups to represent the issues faced by females in the industry, members of the LGBT community, people with physical and learning disabilities and any other practitioners that are affected.

For me I can't wait for another decade for accountability. Sitting around a table talking about possibilities is no longer in my nature so perhaps the formation of

*be undone by a mob."*

What great rhetoric that poses the question "is the Board, MBIE, and Skills our Mob?"

A lot of us have been brave enough to step up and identify the issues only to be excluded by dubious means.

For the best outcomes to be achieved there needs to be a conversation about the industry and it's failing regulation.

To see legislation used as an exclusion tactic, to support discrimination and to support unfair competitive behaviour is repulsive.

Attitudes and protectionism are so entrenched we have no expectation of change unless the new Minister steps up and engages with the industry not just the influencers.

We see millions spent on other things around the country but not a cent spent by the Government on protection of the health and safety of the public with regard to plumbing, gasfitting and drainlaying.

The Industry needs something to aspire to otherwise they will always rebel.

Who is monitoring the enforcement or "policing the police" so to speak? The Police have a police complaints authority but what does our industry have -absolutely nothing! Who is ensuring that the discipline levy and prosecution fees are being spent to best effect?

Diversity in the Board is good and supported, but are the individuals able to stand up to influencers or are we scheduled to endure more of the same?

The Minister should be helping to protect practitioners and democracy.

We hear about meaningful and sustained discussion but where is it? We can't discuss issues if others won't engage. The review of the Act was to see if the Act was meeting expectations and obviously until that review is done the powers that be presume it does, or perhaps it just meets their needs and the needs of the practitioners don't matter.

There have been claims we now have a "Transformational Government" well let's transform. Apologies don't mean anything if there is no change. Accountability doesn't mean anything if there is no change.

Perhaps it is time to re-imagine the mandate of the Board as practitioners won't continue doing the same thing for decades if it is failing. A re-imagining could mean that so much more could be accomplished – a true governance board for our industry that looked after regulation, oversaw training and was a cradle to grave

an investigative accountability group is needed?

They could take on the responsibility of looking closely at Board activities such as Board expenditure, justification of Board decisions, the following of exact legislative responsibilities, the meeting of their responsibilities as a Registered Charity, the manner in which consultation with the entire industry occurs.

If the Government won't help then we will do it ourselves but the cost will eventually land on them through the Office of the Ombudsman, the Regulation Review Committee, the Office of the Auditor General to say a few.

One thing they need to remember is that if we don't like the way the industry is regulated we can just walk away. They can't force us to work in the industry, they can't force us to take on apprentices and they can't force us to like what they do.

entity. It could be done if there was a willingness across the industry to accept this sort of idea.

#### **FROM THE FEDERATION'S CHAIRMAN**

Firstly I want to personally congratulate Colleen Upton on becoming an Officer of the New Zealand Order of Merit.

It has been my pleasure to have worked with Colleen as part of the Federations Executive Committee for ten years. Her line of thought and no nonsense stance is very refreshing.

She has brilliant ideas and knows the difference between right and wrong setting high standards for those around her.

Colleen keeps a focus on the subject at which at times makes some people feel uncomfortable particularly if they are on the receiving end of her criticism.

It's pleasing to see Colleen's efforts are recognised by people outside the industry. For me she is the representation of a person who wants to make change for the betterment of the industry and practitioners.

Did you realise the Board is a perpetual Board? That means it is uninterrupted and is not stop start as new people are appointed. New members are required to take responsibility for the decisions of those that have gone before them. That includes taking responsibility for their decisions and making right any wrongs.

*Continued in the side column*

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