



BUILDING DEFECTS

Lodging a Complaint

The Queensland Building and Construction Commission

The QBCC is able to direct rectification of defective or incomplete building work by a person and/or company responsible for carrying out that work.

The QBCC exists under the Queensland Building and Construction Commission Act 1991 as amended ("the Act"). The QBCC's role is to:-

- (a) regulate the building industry-
- (b) ensure the maintenance of proper standards in the industry; and
- (c) achieve a reasonable balance between the interests of building contractors and consumers; and
 - provide remedies for defective building work; and
 - provide support, education and advice for those who undertake building work and consumers.

The BSA can direct that a contractor rectify any "defective or incomplete building work."

The term "building work" is defined in schedule 2 of the Act.



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Lodging a Claim Through the QBCC Dispute Resolution Service

Organise a defects/experts report.

To ensure that the Body Corporate will be in a position to effectively manage any building defect claims that may arise, it is imperative that a suitable expert is engaged who can prepare a report which will contain a list of what that expert believes are problems. If an initial report is properly carried out and done with clarity, a further detailed report can be completed in the future for use in litigation.

Timeframes for lodging a complaint with QBCC

The following timeframes apply when lodging a dispute with the QBCC for defective work:

- **Category 1 Defective Work** – these complaints can be lodged within 6 years 3 months after the completion of works, and should be lodged within 3 months of detecting the defect.
- **Category 2 Defective Work** – contractors are obliged to provide a 6 month statutory warranty for Category 2 defects from the date of practical completion of the works. If a defect is identified, the contractor should be notified in writing of the defect and asked to rectify. If the defect has not been fixed after six months you are able to lodge a Complaint Form. Complaints must be lodged no later than 7 months after the date of completion.

Note - A QBCC Complaint Form regarding any Category 2 defects must be lodged no later than 7 months following the date of practical completion. These claims usually apply to internal issues and need to be lodged by individual lot owners.

Category 1 defective building work means defective building work (other than residential construction work causing subsidence) that is faulty or unsatisfactory because it does one or more of the following:

- (a) adversely affects the structural performance of a building;
- (b) adversely affects the health or safety of persons residing in or occupying a building;
- (c) adversely affects the functional use of a building;
- (d) allows water penetration into a building.

Category 2 defective building work means defective building work (other than category 1 defective building work or residential construction work causing subsidence) that is faulty or unsatisfactory because:

1. reasonable standards of construction and finish have not been met
2. the defect is the result of settling by the building in the initial period

The new QBCC website provides a simple example of category 2 as - sticking doors, windows, or minor cracking of plasterboard.

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1. **Communication** - In relation to Category 1 defects, the contractor should be contacted initially by the body corporate to advise of defects or uncompleted work that the body corporate has identified. This should be noted in writing to the contractor. Reasonable access to the site should be given to the contractor so that he has an opportunity to address the issues.
2. **Written Notification** - If the initial approach is unsuccessful the concerns should be identified by writing to the contractor (copies will need to be provided to the QBCC if a complaint is lodged) giving a reasonable timeframe (e.g. 14 days) to rectify the defective work.
3. **Lodgement of Complaint** - If the contractor does not rectify the defective work or the negotiations are not successful you should complete a Complaints form. It is important that all the requested information and attachments are provided as failure to do so may result in processing delays - a checklist is provided on the form which identifies. www.qbcc.qld.gov.au/Homeowners
4. **[Residential and Commercial Construction Work Complaint Form](#)** (PDF)

The QBCC will require copies of the following when a Complaint Form is lodged:-

- Evidence of ownership of the property;
 - Copy of the written notification given to the relevant contractor with respect to the defective or incomplete building work;
 - Written details confirming that the contractor is actually responsible for the building work. This is generally done by providing a copy of the written contract together with any other relevant correspondence or documents.
 - The complaint form should specifically detail the defective or incomplete building works and if there is more than one item, each item should be separately numbered and sufficient details provided to allow a BSA Building Inspector to identify both the location and the problem.
5. **Negotiation** - Once the complaint is assessed by QBCC and accepted, a site inspection may be carried out by a QBCC Building Inspector or Technical Consultant. Note - both parties are encouraged to try to resolve the problems prior to a site inspection.
 6. **Resolution** - By assisted negotiation or direction to the contractor to rectify (in most cases this requires a 28 day minimum rectification period).

If a contractor fails to comply with a direction:

- QBCC may commence disciplinary action in the QCAT or Magistrates Court
- If residential construction work (covered by a Certificate of Insurance) have the work rectified as a claim under the relevant policy terms and conditions

Further information can be found under the Rectification of Building Work Policy on the QBCC website.

What is not Covered Under the QBCC?

A list of specific exemptions can be found in the *Queensland Building and Construction Commission Regulation 2003* - s5. Generally QBCC can not investigate complaints where:

- The work carried out is valued at \$3,300 or under. Note - plumbing, drainage, gas fitting, termite management system installation, building design and completed building inspections are exempt from this threshold and can be investigated regardless of the value of work.
- The work carried out was electrical work. Queensland Building and Construction Commission Regulation 2003 Schedule 1AA 20 exempts work performed under the Electrical Safety Act 2002 from the definition of 'Building Work'. Complaints should be referred to the [Electrical Safety Office](#).
- The complaint is over fulfilment of contract conditions or disputed payment of monies. These matters will need to be referred to [The Queensland Civil and Administrative Tribunal](#) (QCAT).
- [Rectification of Building Work Policy](#) (PDF).

