

Can I lodge a building service or home building work contract complaint?

As part of its function, Building and Energy provides an avenue for both consumers and builders to resolve disputes relating to workmanship issues in connection with a regulated building services and home building work contracts. These services are provided to parties as an alternative to the commencement of court proceedings. Building and Energy is impartial to the proceedings and may conduct an independent inspection of the items of complaint as part of the process. Building and Energy's decisions are legally enforceable.

This checklist provides preliminary guidance as to whether you will be eligible to lodge a complaint. Building and Energy can provide you with further guidance on the requirements and the process by phoning 1300 489 099 or emailing be.info@demirs.wa.gov.au.



Are you being or have you been adversely affected by the carrying out of a regulated building service?

Regulated building services include:

- any building service carried out by a registered building service provider (including builders, building surveyors and painters) or approved owner builder;
- home building work carried out under a contract for gain or reward (excluding work performed under a sub-contract arrangement);
- unauthorised work (being work that was performed in the absence of a building permit when one was required); and
- not only may a person who has directly contracted a building service lodge a complaint, but also any person adversely affected by that building service. This can include a neighbour whose property has been damaged as a result of unsatisfactory building services or some other third party.

Yes

No

If your complaint is contractual is the contract a lump sum building contract for home building work valued between \$7,500 and \$500,000?

Yes

No

If no, the contractual complaint is not within Building Commissioner's jurisdiction.

Have you read the Building complaint resolution guide?



[Building complaint resolution guide: A guide for consumers](#) outlines the steps involved in making a complaint about a building service or home building work. It is important to familiarise yourself with the process as well as possible outcomes to ensure you know what to expect.

Yes

No

Do you and the other party to the complaint reside in Western Australia?

The Building Commissioner, does not have jurisdiction to accept or continue with complaints where one of the parties resides or comes to reside in a state other than Western Australia.

Affected persons may wish to seek legal advice on their ability to pursue this through the Courts.

Yes

No



Are you within the time limits for lodging a complaint?

For specific home building work contract matters (contract variations, breach of contract, termination payments) the time limit for making a complaint is generally **three years** from when the contract was entered into or from when the cause of dispute arose.

In general, a workmanship complaint cannot be considered more than **six years** after completion of the work.

To ascertain the start of the six year period you should consider the following to determine the completion date of a regulated building service:

- If the work is not carried out under a permit, then the work is completed on the date that practical completion is achieved.
- If the work was done under a permit it is completed when the notice of completion (BA7) is provided to the local government.
- If the work was done under a permit and the person responsible for the work ceases their responsibility under the permit, the work is completed when the notice of cessation (BA8) is given.

Yes

No

Do you have sufficient evidence to substantiate your complaint?

- A person making a complaint is required to provide to the Building Commissioner sufficient evidence to substantiate that the complaint items are valid. Depending on the complexity and nature of the issue examples of evidence may include photographs, plans, permits and records of discussions.
- Owners are not required to obtain independent building inspection reports prior to the lodgement of a complaint. In most instances, if warranted Building and Energy will conduct an inspection of the complaint items and provide the parties with an independent report of its findings. Should further evidence be required Building and Energy will advise you of this during the complaint proceedings. The [Guide to the provision of evidence to support a building work complaint](#) publication can help in understanding what is required.

Yes

No





Have you given the service provider notice of your proposed complaint?

If after approaching the service provider you have not been able to resolve the matter to your satisfaction, you can consider making a formal complaint. Before you can do this you are required to give the party who is subject to the complaint written notice of the proposed complaint at least 14 days before a formal complaint is lodged.

A [Notice of proposed complaint form](#) is available on the Building and Energy website. Use of this form is not mandatory, however, the notice must include:

- details of the issue;
- details of the remedy you propose to seek;
- details of the evidence on which you propose to rely; and
- advice that you may lodge the complaint with Building and Energy.

Yes

No

Are you aware of the complaint fees?

You must pay a fee to lodge a complaint about a building dispute with the Building Commissioner. This is an administration fee for the lodgement of the complaint only. The rest of the complaint process is free to both you and the respondent.

Fees are prescribed and are available in the [Building and Energy fee schedule](#). A concession may be available to you, reducing the fee by 50%.

Yes

No