

What to do when a customer makes a **complaint against you?**

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All builders and contractors like to have happy customers but sometimes customers complain. In this article we explore the types of complaints that can be brought against builders and contractors and how one could deal with them in the most effective manner.

TYPES OF COMPLAINTS

Generally speaking, there are three categories of complaints. The first is a complaint to the Ministry of Building Innovation and Employment (MBIE). A second complaint mechanism is a complaint to the Building Practitioners Board if you are a Licensed Building Practitioner. The third complaint mechanism is by way of a civil claim against the builder or contractor direct through the courts or disputes process under the Construction Contracts Act.

COMPLAINT TO MBIE

A complaint can be lodged with MBIE if a building contractor has not provided the client with their disclosure statement, standard checklist or a written contract and the client has asked for this, or the building work cost $30,000 or more (including GST).

MBIE will investigate and determine whether to issue the contractor with an infringement fine. Each infringement can be subject to a fine of $500.

A key way to avoid such complaints being made is to make sure that your contract includes a clearly mapped out dispute resolution process. You should also make it clear to the customer that you are available to discuss any issues that they have and encourage open dialogue.

BUILDING PRACTITIONERS BOARD

If a customer is unable to resolve a problem with their LBP directly the customer can look at other options such as making a complaint. A customer can make a complaint where they believe the LBP was negligent, incompetent or in breach of the grounds for discipline in the Building Act.

The Building Practitioners Board can investigate and hear complaints about work or conduct (a disciplinary process with evidence given under oath), discipline and fine an LBP, and record any disciplinary action on the public register for LBP's for three years.

If you are facing a complaint to the Building Practitioners Board then you should seek some advice from a lawyer or other qualified representative.

This person will be able to assist you prepare your defence to the complaint. With the recent events in Christchurch and the alleged defective repairs

post-earthquake it has never been more important to make sure that the quality of workmanship is first rate. Like many other trades, builders pride themselves on having a good reputation. Therefore, it is important that every builder maintains a quality workmanship standard and communication with the customer to both avoid complaints and to assist the builder with defending a complaint that may on the face of it have no merit.

CIVIL CLAIM

Every day contractors and builders alike are involved in construction disputes that reach either court or the more informal process of an adjudication under the Construction Contracts Act.

We have explored in previous articles the pitfalls and getting into a dispute in this area but the important thing to note is that, notwithstanding receipt of a dispute of this kind, it is important for parties to continue transparent dialogue. There is always the ability to resolve disputes before they get to a judgment situation.

Disputes under the Construction Contracts Act or in Court are invariably expensive processes that can take time. The important factor in often determining the result of these disputes is accurate (or lack thereof) record keeping and good communication with the customer.

If one is served with a claim under the civil jurisdiction then it is important that advice is sought from a legal representative as soon as possible so that immediate steps can be taken to protect your legal position. To assist with that process and to give yourself the best chance of succeeding in your defence, it is important that you have all key documentation in an easy to locate place (and in order). You need to be able to provide your representative with clear outlines of what has occurred so that a good defence can be made on your behalf. Too often, contractors or builders sit on the documentation they receive from the customer and by the time it reaches the legal representative it is either too late to take any proper legal steps or quick steps must be taken that again may mean that your best legal position is not put forward in a thorough and timely way.

SUMMARY

Sometimes disputes are unavoidable. However, on receiving a complaint in any of the three scenarios above one should seek immediate advice to ensure that your legal position is best preserved. Do not take action directly against the customer by way of verbal or written 'angry' correspondence because that will only inflame the situation. It is important that in these situations your legal position is well prepared and set out in writing with all supporting documentation to give yourself the best chance of defending a complaint or claim against you. Throughout this time there are no reasons why you cannot continue to try and reach an amicable solution with the customer.



FOR MORE INFORMATION
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