

COMPLAINT AGAINST A BUILDING CERTIFIER

Legislation

The statutory requirements for investigation of complaints are outlined in Part 4, Division 1 and Division 2 of the *Building Act 1975* (the Act).

It is advisable that you obtain a copy of the Act and familiarise yourself with these relevant sections. This legislation may be obtained from the following website link: www.legislation.qld.gov.au/view/html/inforce/current/act-1975-011

Grounds for complaint

Section 190 of the Act states that "A person may make a complaint to QBCC about a building certifier if the person believes the building certifier has engaged in unsatisfactory conduct or professional misconduct."

A complaint may only be made against a building certifier or former building certifier (as an individual) and not a company or business name.



By lodging a complaint against a building certifier, the QBCC may investigate the conduct of the certifier.

The QBCC's investigation of a building certifier's conduct does not extend to enforcing refunds, rectifying defective work or becoming involved in matters of a contractual nature.

Examples of complaints

The below are examples only and are not inclusive of all matters for a complaint against a certifier:

- building certifier has not lodged the building approval documentation with local council
- building certifier has issued a frame inspection certificate when truss tie down was not installed on the northern wall of the dwelling
- Final inspection certificate issued but the storm water discharge not adequate
- Certificate of Occupancy issued when the building work does not comply with the approval and the building is not substantially complete.

Is the site safe?

Concerned about safety at the site? QBCC does not provide a 'make safe' service. If you have any immediate concerns and are the owner of the site, we recommend taking steps to mitigate any risk to occupants and visitors (e.g. restrict access to any unsafe areas).

The QBCC has no authority to take complaints regarding the safety practices on site, and also has no authority to inspect sites to ensure compliance with safe work practices under the *Work Health and Safety Act 2011* or the Work Health and Safety Regulation 2011.

To raise your concerns regarding the builder/s or site owner/s obligations or omissions in relation to site safety you will need to contact Work Safe Queensland.

For further information please visit worksafe.qld.gov.au.

Certifier's standard of conduct

According to the Code of Conduct for building certifiers, a certifier must:

- perform building certifying functions in the public interest
- maintain satisfactory levels of competence
- comply with legislative requirements
- not perform building certifying functions where there is the potential for a conflict of interest
- only perform building certifying functions permitted within the scope of their building certifier licence level
- maintain confidentiality
- abide by moral and ethical standards expected by the community
- take all reasonable steps to obtain all relevant facts when performing building certifying functions
- clearly document reasons for building certifying decisions
- ensure inspections are carried out to ensure building work complies with the *Building Act 1975* and the development permit.

Complaint procedures

Section 190 of the *Building Act 1975* contains details of the process for making a complaint against a building certifier.

Under the Act:

1. A person may make a complaint to the QBCC about a building certifier if the person believes the building certifier has engaged in unsatisfactory conduct or professional misconduct.

A complaint about conduct of a building certifier must be made before the cut-off day, unless the certifier's conduct has or may have caused significant financial loss or other serious harm.

2. A complaint must:
 - a. be in writing
 - b. contain particulars of the allegations on which it is founded
 - c. be verified by statutory declaration.

3. The cut-off day means:

» If the conduct relates to certification of building work the subject of a building development approval, the cut-off day is seven (7) years after:

- a. A certificate of occupancy or final inspection certificate is issued for the building work; or
- b. if the building development approval lapses before a certificate of occupancy or final inspection certificate is issued for the building work—the building development approval lapses; or

» If the conduct relates to building work for a building development application where the above does not apply:

- a. One (1) year after a private certifier is engaged for the application; or
- b. One (1) year after the application is received by the local government if a private certifier is not engaged for the application; or

Otherwise - One (1) year after the complainant becomes aware of the conduct.

4. QBCC may require the complainant to give further particulars of the complaint.

5. The QBCC may dismiss any complaint without taking further action under this division if—

- (a) QBCC has asked for further particulars under subsection (3) and the further particulars are not given or are not verified by statutory declaration; or
- (b) QBCC is satisfied the complaint—
 - (i) is frivolous or vexatious; or
 - (ii) lacks substance or credibility.

6. The building certifier must be advised of complaint.

Section 191 of the Act states the following: After receiving the complaint, the QBCC must, by notice:

- a. inform the building certifier of the nature of the complaint
- b. invite the building certifier to make representations to the QBCC about the complaint within a stated time.

7. The QBCC must not disclose to another person unproved complaints against a building certifier.

Note: Under section 192 of the Building Act the QBCC can recommend mediation if it considers this could achieve resolution.

What will happen after you lodge a complaint?

1. **Acknowledgement** – You will receive a letter and/or email confirming receipt which provides your unique case number.



At this step please wait until contacted by QBCC.

2. **Assessment** – Your complaint will be assessed to determine if the complaint has been properly made. During this step, the QBCC may request further information from you to complete the assessment.

Once the assessment has been completed you will receive correspondence to advise the outcome of the assessment. In addition, if the complaint has been properly made the QBCC will notify the certifier of the nature of the complaint.

Please note: the certifier may be provided information from your complaint such as: a list of complaint items, your name, your supporting documents and your declaration at page 3 of this form.

Upon consideration of the information provided by both parties the QBCC will complete the assessment. Once the complaint is deemed as properly made, QBCC will notify the parties and the complaint will progress to step 3.

It may take time for the complaint to progress, please be assured that cases are carefully tracked in our system.



At this step please wait until contacted by QBCC.

3. **Investigation** – The complaint will be referred to a Certification Officer for investigation. Under section 194(2) of the Building Act, the QBCC must conduct an investigation into the complaint as soon as practicable.

An exact timeframe to investigate cannot be provided

due to the nature and complexity of the complaint and the time it takes to review the information and documents provided. The timeframe to investigate a complaint can be lengthy.

Complaints will be dealt with in a confidential manner that is respectful to both the complainant and the respondent.

Reasonable steps will be taken to protect personal information from loss, unauthorised access, use, disclosure or any other misuse during the complaint handling process. However, the QBCC cannot give an assurance of absolute confidentiality, given statutory obligations and principles of natural justice.

NOTE: The lodgement of a complaint may not extend to QBCC undertaking a site inspection.

Under section 204 of the Act, the QBCC must give an information notice about its decision to the building certifier and if the decision is the result of a complaint, give the complainant a copy of the notice.

PRIVACY NOTICE: The QBCC is collecting the information on this form to investigate whether a breach of the *Building Act 1975* or other legislation has occurred. Some of the information you provide will be sent to the relevant building certifier, including the list of complaint items, your name, your supporting documents and your declaration at page 3 of this form.

This information may be used in taking disciplinary action or criminal proceedings. **You may be required to give evidence in Court or Tribunal about the information collected.** The information collected may be requested by other government agencies which have certain powers to request this information or disclosed by order of a Court or Tribunal of competent jurisdiction. All information held by the QBCC may be subject to application for access under the Right to Information and Privacy legislation or as authorised or required by law.

For further information visit the Privacy Policy on the QBCC website at qbcc.qld.gov.au

COMPLETING THIS FORM

This is an interactive PDF form that you may complete in the web browser or Acrobat Reader. Please save, then print and submit via post or in person.

- Use BLACK pen only
- Print clearly in BLOCK LETTERS
- DO NOT use correction fluid – cross out and initial amendments

Return your completed form and signed declaration with supporting documentation via post: PO Box 5099 Brisbane Qld 4101 or in person at a QBCC service centre. Service centres are listed on our website qbcc.qld.gov.au.



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1. YOUR COMMITMENT

Honest and complete information

It is important you are truthful about the information you provide, so we can review your submission quickly and fairly. We also need you to fully complete this form. Complainants who provide all of the requested information are most likely to avoid delays in getting their complaint assessed.

Your behaviour matters

The safety of our team members and all parties involved in your complaint is very important. We will not accept hurtful or abusive language, or threats to our staff, or anyone related to your complaint. Aggressive behaviour that puts others at risk will not be tolerated.



WARNING: Giving false or misleading documents to the QBCC is an offence under Part 4 section 203 of the *Building Act 1975* and may result a fine and your case being closed.

I understand the QBCC will not accept hurtful or abusive language, or threats to staff, or anyone related to my complaint and that aggressive behaviour that puts others at risk will not be tolerated.

I understand that documentation submitted with this form may be made available to other parties under the *Right to Information Act 2009* or *Information Privacy Act 2009*.

2. DECLARATION

Under s.190 of the Building Act a complaint must be verified by a Statutory Declaration.

I,
(full name)

of,
(address)

in the state of,

I do solemnly and sincerely declare the particulars in this complaint form and any accompanying statements are true and correct. I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

I declare the information provided in this complaint is correct to the best of my/our knowledge.

Signature
(signature of complainant)

Date D D M M Y Y Y Y
/ /

Taken and declared
before me at

(name of town or city and suburb where affidavit signed)

this day of year before me.
(date) (month) (year)

Full name of the person
before whom the
declaration is made

Signature of Justice of the Peace/Commissioner for Declarations/Notary Public/Lawyer

3. COMPLAINANT'S DETAILS

Title Mr Mrs Miss Ms Other

Surname

First name

Company name

Postal address

State

Postcode

Home phone

Mobile

Email

Are you the owner of the site?

Yes

▶ No - Please state:

4. SITE RELEVANT TO THE COMPLAINT

Lot no

Plan (e.g. RP/
SP/BUP/GTP)

Plan no.
(numeric)

Street address
(include no.,
street, suburb or
locality)

State

Postcode

Local government
area (LGA)

5. CERTIFIER'S DETAILS

PLEASE NOTE: A complaint must be lodged against an individual only

Name of
building certifier

Licence number

Postal address

State

Postcode

Business phone

Mobile

Email

6. OTHER HELP

Has a Form 11 (Certificate/Interim Certificate of Occupancy), Form 21 (Final Inspection Certificate Single detached class 1a buildings and class 10 buildings or structures) or Form 17 (Final inspection certificate – swimming pools) been issued?

Yes No

If yes – what is the date on the form/certificate?
(a copy of the form is to be provided with this complaint)

D D M M Y Y Y Y
 / /

Please state the form/certificate attached

If yes – what is the date on the form/certificate?
(a copy of the form is to be provided with this complaint)

D D M M Y Y Y Y
 / /

Please state the form/certificate attached

Have you asked any other organisation for help?

Yes No

If yes, which organisation was it?

Local Government
Authority/Council

Queensland Civil and
Administrative Tribunal

District or
Magistrates Court

What is the application /reference number? (if applicable)

Have they helped so far?

Yes No

If yes, what help have they provided you?

1. Enter the item number No.
2. Date you became aware of the conduct.
3. Outline the particulars of the allegations on which your complaint is founded for each complaint item.
4. List the evidence and documentation you have submitted to support your belief the building certifier has engaged in unsatisfactory conduct or professional misconduct

By ticking this box, I confirm that I have reviewed pages 1 and 2 of this form.

I understand that QBCC does NOT offer a make-safe service, and if I have any safety related concerns I will immediately refer these to Worksafe Queensland.

- List every item individually – even if they are included in a separate, attached report.
- A complete list of complaint items must be provided in the table below for your matter to be investigated, attaching emails, letters, building reports etc is considered insufficient unless referenced on this page.
- Failing to do this may delay our assessment of your complaint – you may have to repeat this step before we can progress your complaint, at which time a newly completed complaint form and Statutory Declaration may be required.

| ITEM NO. | DATE COMPLAINANT BECAME AWARE OF THE CONDUCT | OUTLINE THE PARTICULARS OF THE ALLEGATIONS ON WHICH YOUR COMPLAINT IS FOUNDED FOR EACH COMPLAINT ITEM | LIST THE EVIDENCE AND DOCUMENTATION YOU HAVE PROVIDED TO SUPPORT YOUR BELIEF THE BUILDING CERTIFIER HAS ENGAGED IN UNSATISFACTORY CONDUCT OR PROFESSIONAL MISCONDUCT |
|----------|--|---|---|
| e.g. | dd/mm/yyyy | Final inspection certificate issued but the storm water discharge not adequate. | eg. Certificate of Occupancy or Classification (Final Certificate), Development Approval, Building Certifier's Decision Notice. Refer to attached photos, hydraulic consultants report and approved drawings. |
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7. COMPLAINT ITEMS

| ITEM NO. | DATE COMPLAINANT BECAME AWARE OF THE CONDUCT | OUTLINE THE PARTICULARS OF THE ALLEGATIONS ON WHICH YOUR COMPLAINT IS FOUNDED FOR EACH COMPLAINT ITEM | LIST THE EVIDENCE AND DOCUMENTATION YOU HAVE PROVIDED TO SUPPORT YOUR BELIEF THE BUILDING CERTIFIER HAS ENGAGED IN UNSATISFACTORY CONDUCT OR PROFESSIONAL MISCONDUCT |
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