

Building Act 2000 - Part 4, Divisions 4 and 5.

COMPLAINT AGAINST AN ACCREDITED BUILDING PRACTITIONER

INFORMATION SHEET

Please Note: The following information should be read carefully before completing the Complaint Form - *Complaint: Unsatisfactory Professional Conduct / Professional Misconduct*).

The **Director of Building Control** (the Director) has powers provided by the *Building Act 2000* to investigate complaints regarding unsatisfactory professional conduct and professional misconduct by accredited building practitioners.

All conduct of accredited building practitioners is measured against a **Code of Conduct** (details on page 30 of the *Scheme for the Accreditation of Building Practitioners* July 2008. The *Scheme* is on the Building Control Branch website).

If you are aggrieved by an accredited building practitioner's conduct in carrying out the work of a building practitioner you may make a complaint to the Director. Please use the attached **Complaint Form - Unsatisfactory Professional Conduct/ Professional Misconduct**.

Copies of the Complaint Form and assistance in completing the Form are available from the Workplace Standards Tasmania Helpline: 1300 366 322

If an accredited building practitioner is found guilty of unsatisfactory professional conduct and/or professional misconduct, this may result in disciplinary proceedings that can include cautions, reprimands, fines and/or deregistration.

PLEASE NOTE THAT THE DIRECTOR OF BUILDING CONTROL CANNOT: -

- resolve contractual disputes;
- order the completion of any unfinished work;
- order any building work or repairs to be made;
- order a refund or compensation or the return of your progress payments

COMPLETING THE COMPLAINT FORM

PART 1 - COMPLAINANT DETAILS

The Director needs to know details of the person lodging the complaint in order to:

- to ensure all correspondence is delivered to the correct person;
- contact you should we require further details and advise of decisions.

PART 2 – ACCREDITED BUILDING PRACTITIONER DETAILS

To assist the Director to identify the accredited building practitioner, provide as much detailed information as you can. Include details such as their business and personal names and address, phone and fax numbers etc.

PART 3 – GROUNDS OF THE COMPLAINT

Making an allegation is a serious matter. Carefully compose brief factual information about the conduct and outline it in dot points. It should include the nature of the conduct complained about and the date and place when it occurred.

PART 4 - SUPPORTING EVIDENCE

Please provide copies of any supporting documents that support the allegations about the conduct of the practitioner made in Part 3. This could include copies of any relevant correspondence, reports or other documentation. This may include letters, faxes, emails, and photographs.

PART 5 - DECLARATION BY COMPLAINANT/S

All complaints of unsatisfactory professional conduct or professional misconduct of accredited building practitioners **must be dated and signed by the complainant before a Justice of the Peace or a Commissioner for Declarations as a Statutory Declaration.**

WHERE DO I SEND THE COMPLETED COMPLAINT FORM?

The completed and signed Complaint Form with any supporting documentation should be posted to:

**The Director of Building Control
PO Box 56
ROSNY PARK TAS 7018**

CONTACT DETAILS FOR ASSISTANCE

Phone: 1300 366 322 (in Tasmania) or (03) 6233 7657 within Tasmania
Fax: (03) 6233 8338
Email: wstinfo@justice.tas.gov.au

GENERAL INFORMATION

THE COMPLAINTS PROCESS – WHAT CAN I EXPECT?

The Director of Building Control will consider your complaint and may also invite a submission from the relevant accredited building practitioner. Where warranted the Director may commence a formal investigation and may appoint an investigator.

IS THERE A FEE TO MAKE A COMPLAINT?

No, this service is free.

HOW LONG WILL THE PROCESS TAKE?

All complaints will be considered as quickly as possible. Complaints of a complex nature may need special investigation and the collection of further evidence.

WHAT HAPPENS IF A COMPLAINT IS PROVEN?

After considering the evidence, or after receiving a report from an investigator, the Director of Building Control may decide that the Accredited Building Practitioner to whom the complaint relates:

- (a) Is guilty of unsatisfactory professional conduct; or
- (b) Is guilty of professional misconduct; or
- (c) Is not guilty of professional misconduct or unsatisfactory professional conduct.

Unsatisfactory professional conduct means conduct that:

- falls short of a reasonable standard of competence, diligence and integrity; or
- only partially fulfils requirements; or
- wilfully disregards relevant and appropriate matters; or
- fails to comply with the *Building Act 2000* or any other Act or prescribed law.

Professional misconduct means unsatisfactory professional conduct that is sufficiently serious as to justify suspension or cancellation of a building practitioner's accreditation.

If the Director of Building Control makes a decision that the Accredited Building Practitioner is guilty of *unsatisfactory professional conduct*, the Director may: –

- Caution or reprimand the accredited building practitioner; and
- Impose any conditions considered appropriate on the building practitioner's accreditation status; and
- Direct the accredited building Practitioner to complete any course or training as specified by the Director; and
- Direct the accredited building practitioner to report on his or her practice as a building practitioner in the manner specified by the Director; and

- Under section 40 (3) (e) of the *Building Act 2000*, impose a fine not exceeding \$6,000.

If the Director of Building Control makes a decision that the Accredited Building Practitioner is guilty of *professional misconduct*, the Director may: –

- Suspend the building practitioner's accreditation for any period considered appropriate; or
- Cancel the building practitioner's accreditation.

PRIVACY STATEMENT

Personal information is collected on the Complaints Form for the purposes of assisting the Director, or a complaints investigator, in determining whether or not an accredited building practitioner is liable for disciplinary action as a result of a complaint. The information is required to be collected under the *Building Act 2000*. The information on this form and documents supporting a complaint may be disclosed to the accredited building practitioner concerned, however this information will not be disclosed to any other 3rd party unless authorised or required by law.

DISPUTE RESOLUTION SERVICES

If you have a *building contractual dispute* there are other agencies that may be able to assist you:

OFFICE OF CONSUMER AFFAIRS AND FAIR TRADING

This office provides authoritative advice to consumers and business on consumer issues and legislation administered by the Office. It may provide guidance to consumers and business to enable them to negotiate a solution to their complaints without direct intervention by the Office.

Free call 1300 654 499

www.consumer.tas.gov.au/fair_trading/advice_and_complaints

CIVIL DIVISION OF THE MAGISTRATES COURT

The Civil Division deals with disputes involving amounts up to \$20,000 in value. Amounts in excess of \$20,000 can be dealt with if all parties agree. There are courts in Hobart, Launceston, Devonport and Burnie. Look in the phone directory in the State Government section under “Magistrates Courts”.

www.magistratescourt.tas.gov.au/divisions/civil

OTHER INFORMATION

WORKPLACE STANDARDS TASMANIA

For general advice regarding the interpretation of building laws, regulations, codes and standards, including the *Building Act 2000*. However Workplace Standards Tasmania staff cannot give advice on contractual disputes or legal advice.

Call 1300 366 322 (inside Tasmania) or (03) 6233 7657 (outside of Tasmania).

Web: www.wst.tas.gov.au/building **Email:** wstinfo@justice.tas.gov.au

Part 4 SUPPORTING EVIDENCE: - List the correspondence, reports, photographs etc that support the facts about the complaint made in Part 3 above. (Attach separate page if necessary).

1.	2.
3.	4.
5.	6.
7.	8.
9.	10.
11.	12.
13.	14.

**Part 5
STATUTORY
DECLARATION
BY THE
COMPLAINANT**

I do solemnly and sincerely declare that in making a complaint about the conduct of the accredited building practitioner, the information provided by me in Parts 1, 2, and 3 of this Complaint Form is true and correct. I make this solemn declaration under the *Oaths Act 2001*.

Complainant's signature: -----

(print the name, address and occupation of person making this declaration)

Declared at ----- **on** -----

(print the date and place where the declaration was signed)

Before me-----

(signature of Commissioner)

Commissioner for Declarations

(print the name of profession or employment of the Commissioner)

Please send this form with any supporting documentation to:

**The Director of Building Control
PO Box 56
ROSNY PARK TAS 7018
Phone 1300 366 322**