

Complaint against an accredited certifier

Section 21 *Building Professionals Act 2005*

The Building Professionals Board can only consider complaints against the conduct of accredited certifiers.

Making a complaint against a certifier requires evidence of unsatisfactory professional conduct.

A complaint takes time to investigate properly and should only be considered if other options to resolve the matter have been unsuccessful.

Visit www.bpb.nsw.gov.au and see the next page of this form for other ways to resolve your concern more effectively.

Did you know?

Most complaints relate to matters where a certifier had little/no power to act or enforce compliance with a development consent.

Certifiers have limited enforcement powers. While they can issue a notice to a builder or owner to comply with certain requirements, only the local council can enforce the notice or take further enforcement action.

The council can take independent enforcement action at any time, even when a private certifier has been appointed as the principal certifying authority.

What's required to make a complaint:

1. Complete the first and second pages of this form.
2. Attach a separate, typed (not handwritten) document:
 - a. setting out the details of your allegations against the certifier
 - b. outlining the actions you have taken to resolve the matter.
3. Attach each piece of evidence and correspondence relied on to support your allegations.
4. Email this form and attachments to bpb-investigations@bpb.nsw.gov.au – ensure your email (with attachments) is no larger than 10MB). You may post your complaint but email submission will be received more quickly.

A complaint that does not meet these requirements may be dismissed or not accepted.

Contact and development details – use BLOCK LETTERS to complete	
Your name	
Your address	
Phone number during work hours	
Your email	
Name of certifier: (Name the individual certifier, not just his/her company.*)	
Development site/address that the complaint relates to: (Full address including postcode)	

*Only name the company if the certifying authority for the development is an 'accredited body corporate', rather than an individual private certifier or the local council.

Important considerations and complaint checklist

A complaint about a certifier:

- will not stop work on the building site, nor result in unauthorised work being rectified (only the local council can order such action)
- will not lead to penalties against the builder or property owner (the Board can only take disciplinary action against certifiers)
- will not lead to financial compensation for property damage or poor-quality building work
- will be sent, with the supporting evidence, to the certifier for response.

✓	Complaint checklist – BEFORE you lodge your complaint...
	Is the complaint about events that occurred less than three years ago? The Board may dismiss complaints about events that occurred more than three years ago.
	Have you confirmed the certifier is responsible? A breach of development consent or other non-compliance doesn't necessarily mean the certifier is responsible. A certifier's role does not include organising building work, managing construction sites or supervising tradespeople.
	Have you contacted the certifier? Most concerns can be resolved through communication (keep a record of correspondence).
	Have you contacted the local council? Your council has power to take action at any time if a development is non-compliant. It does not have to wait for a certifier to act nor for a complaint to be determined.
	Have you contacted the Building Professionals Board? A Senior Investigator at the Board may be able to suggest a better solution. Call (02) 8522 7800 between 9:30-11:30am, Monday to Friday, to speak to a duty officer.
	Have you written each allegation precisely, concisely and objectively? The next page provides some examples. Allegations must be about the certifier's conduct – these are the only matters the Board has authority to investigate.
	Have you described how you tried to resolve the matter? The Board may dismiss a complaint if the complainant did not take reasonable steps to resolve the matter before making a complaint.
	Have you attached all supporting evidence? A complaint must be substantiated by evidence such as letters, emails, photographs, building plans, certificates and engineers' reports, as a true and accurate record of events.

I confirm that I have read and fully understand the above:

Your signature	Date
	/ / 201_

For complaints about:

- builders and tradespeople: contact NSW Fair Trading (www.fairtrading.nsw.gov.au)
- local councils: contact the council or the Office of Local Government (www.olg.nsw.gov.au)
- property owners: contact the local council and/or seek professional legal advice.

Examples: writing your allegations

✓	✘
<p>✓ Example of acceptable allegation</p> <p>The certifier approved final occupation certificate no.496/2010 on 4/9/10, before conditions 46 & 47 of development consent no.342/09, dated 2/11/09, were met.</p> <p>The landscaping certification hasn't been submitted to council (required by condition 46) and boundary fences haven't been built (required by condition 47). Both conditions had to be met before an occupation certificate was issued.</p>	<p>✘Example of unacceptable allegation</p> <p>The development next door has now been issued with an occupation certificate and people have moved in.</p> <p>However, the landscaping is still not finished and there's no dividing fence between my property and my neighbour, as required, so their dog keeps coming into my yard. Also, the builder refuses to answer my phone calls.</p>
<p>✓ Example of acceptable allegation</p> <p>The certifier issued complying development certificate no.072/15 on 1/3/15. The gross floor area of the house was larger than the limit under the Codes SEPP's Housing Code (clause 3.9), so it couldn't be approved as complying development.</p>	<p>✘Example of unacceptable allegation</p> <p>The certifier issued a complying development certificate on 1/3/15 for a house that didn't meet the complying development standards.</p>