

# Documentation

## Overview

BSA's Resolution Services provides a dispute resolution process for owners who have had either defective or incomplete work performed by a contractor on their property.

The owner must complete a Complaint Form to access the resolution process. When a Complaint Form is received by BSA, the documentation must be date stamped (or the equivalent) and should be checked to ensure all areas have been completed and it contains the owners' signature/s.

In the instance where the dispute relates to a Unit Complex, the following applies in relation to the number of Complaint Forms to be lodged with the BSA.

- One Complaint Form for the common areas of the Unit complex or any part of the units or property deemed to be the responsibility of the Body Corporate
- A Complaint Form for each unit that has internal defects i.e. defects to what is deemed to be the owner's private property.



***The minimum paperwork required to create a case on the system is the Complaint Form signed and dated, list of the defect items and location, details of who the complaint is against and evidence of property ownership***

For every complaint lodged, BSA must have:-

## Complaint Form

A completed Complaint Form must be submitted to BSA. It must be dated and signed and include all the information requested in the form. The File Manager must check all the information on the form and request any further necessary information or documents that have not been provided.

## Ownership

The complainant must always provide evidence of their ownership of the property. Acceptable proof of ownership includes:-

- Rates Notice or Water Rates Notice (current at the time of the complaint lodgement)
- Title Search

The assessing officer must check the lot and plan number against the contract, the Construction Notification and the Complaint Form to ensure the property details are the same throughout. In addition to this the assessing officer must check the owner's name against the contract and Complaint Form to ensure they are the same person.

## Contact with Licensee

The complainant must provide evidence that they have attempted to contact the builder regarding the compliant items and provided an opportunity for the licensee to rectify or complete the work. In most instances this evidence will be a copy of a letter sent to the licensee.

The following documents are required depending on the case:

### Contract

A copy of the building contract is required to verify an agreement was in place between the owner and licensee to carry out building work. If there is no written contract and only a quote available this would be treated as a contract. If there is no quote or contract and only an arrangement, BSA can still assess the complaint but will need to determine if the work has been carried out by the contractor or if he has engaged other contractors to carry out work and taken the role of a builder. Once a copy of the contract or quote is received or confirmation of the arrangement between the parties is proved the File Manager must check to determine:-

- Compliance with the DBCA requirements. If not compliant, ensure the checklist is updated in CMS and if there is evidence of the contractor not complying on many cases; identify it to the Manager to refer the matter to the Compliance Branch
- The licensee and complainant are both parties to the contract. If they are not a party to the contract the File Manager needs to revert back to the owner and gather further information and confirm if BSA can pursue the matter against the contractor
- The date the contract was signed and or the work has been completed
- Both parties have signed the contract. If both parties have not signed the contract it will be the responsibility of the File Manager to talk to both parties and determine the person responsible for contracting and carrying out the actual work
- The full contract terms and conditions required when it involves a non completion claim or if either of the parties do not agree what work was actually carried out under the contract

### Variations

Copies of all agreed variations to the contract are required to be provided to determine the actual work that was agreed upon and performed. All variations must be signed and agreed to by both parties. If variations are not signed by both parties we do not accept them for the purpose of an insurance assessment. This is very important for a non-completion complaint but is also needed for a defects complaint if there is no other evidence available to confirm work was to be carried out under the original contract.

### Plans

A copy of the approved plans is required to verify the complaint items and confirm if the work carried out by the contractor is included in the plans. This is a very important document when lodging a non completion and subsidence related complaint. It is needed for a defects complaint if there is no other evidence available to confirm work was to be carried out by the contractor. In case of subsidence the File Manager may need to request some or all of the following documents:

- Copy of council approved plans (engineer designed)
- Copy of drainage plan
- Copy of engineering inspection certificates
- Copy of soil report and classification
- Copy of compaction certificate or inspection report - if a Cut and Fill site

## **Specifications**

A copy of the approved specifications is required to verify the complaint items were included in the contract and were to be provided by the contractor. If an item in dispute is not included in the specifications it may indicate the owner was responsible for the item. Each page of the specifications must be signed by both parties to ensure there are no amendments made to the original documents.

## **Payment**

Evidence of the payments made to the licensee is required to verify the contract amount, amounts owing and any possible pre-payments made under the contract terms. Evidence of payment is more important to determine who carried out the work in the absence of a written contract or quote. In instances where the owner holds a retention, (money owing under the contract), the owner will be required to pay this amount towards completion and/or rectification, before their BSA insurance entitlement is paid.

Acceptable evidence of payment include:-

- Contractor's receipts
- Statement from the contractor detailing the payments made
- Letter from a bank or lending institution detailing the payments made
- Copies of presented cheques
- Tribunal determination

Cheque butts and copies of bank statements are unacceptable as proof of payment.

## **Contract Termination**

A copy of the contract termination is required for Non Completion and Refund of Deposit claims. In these cases the validity of the termination must be determined. In all instances the File Manager must make their determination then for confirmation, refer to their Manager who may then refer to the Legal Branch.

## **Agent Authority**

In some instances the owner may nominate an agent to act on their behalf. In these instances the agent's details listed on the Complaint Form is sufficient for BSA's purposes. If the agent is not identified on the Complaint Form the owner will need to provide BSA with written authority for the agent to act on their behalf.

## Subsequent Purchaser Complaint

The following documents are to be provided by a complainant who has purchased a house previously built.

### Contract of Sale

A full copy of the Contract of Sale including any special conditions is required to be provided. The Contract of Sale confirms the complainant purchased the house. The Special Conditions also need to be checked to determine whether any of the complaint items were apparent at the time of the sale and whether the owner was compensated for the apparent defects.

The Special Conditions will also identify whether the contract was subject to the purchaser obtaining a pre-purchase inspection report. Copies of any pre-purchase inspection reports are to be provided to BSA as these may also determine whether the complaint items were evident at the time of purchase.

The Contract of Sale must be dated and signed and the purchaser (name on the contract) must be the same person as the owner listed on the Complaint Form.

### Pre Purchase Inspection Reports

- Consider the date of the pre purchase inspection report to determine whether the complaint items were apparent prior to entering/completing the contract
- Consider whether the complaint items listed in the Complaint Form are listed in the pre purchase inspection report

It is important to note BSA can inspect work and direct the contractor for items that may have been identified as a special condition on a Contract of Sale or pre purchase inspection report; however it will have an impact on their entitlement under an insurance claim if they have been compensated for the items.



**Any documents received on site or in office via fax or over the counter must be forwarded to Records for scanning. BIs may have the CSO do so upon their return to the office or place the documents themselves in the relevant tray for Records, noting the Case ID on the top of the document. Documents received via email are to be declared by the recipient**

## Required Documentation

BSA requires thorough documentation to be able to assess the complaint. The required documentation depends upon the nature of the complaint. The following table depicts the required documentation for each complaint type.

Defective Work, Subsidence or Inspection Complaints	Non-Completion	Complaints from a Body Corporate or a Unit Owner
<ul style="list-style-type: none"> <li>● Copy of the Building Contract</li> <li>● Copy of an invoice or other evidence which identifies the responsible contractor for the work</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of the complete Building Contract including the General Terms and Conditions</li> <li>● Copy of the original quote and or building agreement</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of the complete Survey Plan</li> </ul>
<ul style="list-style-type: none"> <li>● Evidence of payment (copies of receipts, presented cheques or a statement from a bank or lending authority or contractor detailing the payments made ) if Practical Completion was less than 12 months ago or there is money outstanding under the contract</li> </ul>	<ul style="list-style-type: none"> <li>● Copies of all approved plans</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of a current Rates Notice, Water Rates Notice or current Title Search</li> </ul>
<ul style="list-style-type: none"> <li>● Copy of a current Rates Notice, Water Rates or current Title Search</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of approved specifications and/or list of inclusions</li> </ul>	<ul style="list-style-type: none"> <li>● A Certificate of Classification</li> </ul>
<ul style="list-style-type: none"> <li>● Copy of the written notification sent to the contractor detailing the complaint items</li> </ul>	<ul style="list-style-type: none"> <li>● Copies of all approved variations</li> </ul>	<ul style="list-style-type: none"> <li>● The Community Title Scheme (if applicable)</li> </ul>
<ul style="list-style-type: none"> <li>● A specific list of complaint items providing sufficient detail to identify the location, nature and age of the items</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of a current Rates Notice, Water Rates Notice or current Title Search</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of the written notification sent to the contractor detailing the complaint items</li> </ul>
<ul style="list-style-type: none"> <li>● If the owner is a subsequent purchaser, a copy of the Contract of Sale including all Special Conditions</li> <li>● Copies of any pre purchase inspection reports</li> </ul>	<ul style="list-style-type: none"> <li>● Copy of all correspondence relating to the contract termination</li> </ul>	
<ul style="list-style-type: none"> <li>● If the complaint is in relation to an inspection report or sub standard design a copy of the design or inspection report must be provided</li> <li>● For subsidence the documents required are:               <ul style="list-style-type: none"> <li>○ Copy of council approved plans (engineer designed)</li> <li>○ Copy of drainage plan</li> <li>○ Copy of engineering inspection certificates</li> <li>○ Copy of soil report and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● Evidence of payment (copies of receipts, presented cheques or a statement from a bank or lending authority or contractor detailing the payments made )</li> <li>● Copies of quotes obtained from other builders if obtained by the owner</li> </ul>	<ul style="list-style-type: none"> <li>● For unit owners, a copy of the Contract of Sale including all Special Conditions</li> </ul>

classification

- Copy of compaction certificate or inspection report – if a Cut and Fill site

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