

Building Disputes

The role of the Commissioner of Residential Building Disputes (the Commissioner) is to be an impartial and independent umpire between builders and owners. The Commissioner may mediate or conciliate disputes when a complaint is received from an owner who alleges residential building work is defective.

The Commissioner can make binding decisions in relation to consumer guarantees within the contract between the builder and the owner. If applications are upheld, orders made may require the builder to rectify the defective work or pay compensation to the owner. If either party requires a technical report in regard to alleged defective work, an Application for Technical Inspection can be made. If allegations do not relate to consumer guarantees, the Commissioner can mediate disputes between parties but cannot make binding decisions, unless both parties agree.

Who can come to NT Consumer Affairs (Commissioner of Residential Building Disputes) with a building dispute?

You can apply to the Commissioner of Residential Building Disputes if you are a current owner or builder and you entered into a contract on or after 1 January 2013 and you have a dispute regarding defective work in relation to either:

- structural defects
- non-structural defects
- non-completion of building work
- or consumer guarantee disputes

If your builder is still working on your build or has finished and is still contactable, solvent and not de-registered, contact NT Consumer Affairs. The *Building Act* has provision for dispute resolution which includes mediation, technical inspections and binding Orders.

If you have a current contract in place with the builder and the residential building work has either not been completed or has defective work, then you can apply to the Commissioner for mediation or conciliation, a decision or a technical report.

If there is no current contract you may still be able to apply to the Commissioner for mediation or conciliation.

Please contact NT Consumer Affairs for further information.

Have you tried to contact the builder to advise of your concerns in writing?

As with any dispute, it is recommended you contact the other party in writing to attempt to work out or settle the matter between yourselves. The correspondence should contain the facts of the matter, detailing who has said and done what and when. You will then need to state what you want the outcome of the matter to be, be it either rectification or monetary compensation. Ensure you request a written response from the other party; allow a reasonable amount of time, for example 7 to 10 business days. If the other party does not respond or does not offer you a suitable recourse, or if you are unsure about your next course of action contact NT Consumer Affairs.

The following are the types of buildings or structures for which the Commissioner can accept an application for mediation, decision or technical inspection:

Class 1a Buildings:

Are one or more buildings which in association constitute -

- a) a single dwelling being -
 - i. a detached house; or
 - ii. one of a group of two or more attached dwellings, each being a building, separated by a *fire-resisting* wall, including a row house, terrace house, town house or villa unit.

Includes extensions to Class 1a detached houses that increase the internal floor area (note that it does not have to be a habitable floor area but rather the addition of an internal floor area).

Only detached Class 1a buildings require a residential building contract.

Class 2 Buildings:

Are buildings that contain two or more sole-occupancy units each being a separate dwelling.

(Class 2 buildings do not require a contract but are covered by Residential Building Cover¹ for non-compliance and other defects, but only if the Class 2 building is three storeys or less).

¹ Residential Building Cover is insurance or a similar kind of cover that is taken out by the builder that protects the owner of the residential building against financial loss due to the builder dying, becoming insolvent, disappearing or being deregistered.

Class 10 Buildings:

Are non-habitable buildings or structures -

- (a) **Class 10a** — a non-habitable building being a private garage, carport, shed, or the like; or
- (b) **Class 10b** — a structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool, or the like; or
- (c) **Class 10c** — a private bushfire shelter.

What if the complaint is in relation to a builder's conduct, negligence or incompetence?

If you believe that your builder has performed work negligently or incompetently, is guilty of professional misconduct or has committed an offence under the *Building Act* or Regulations, you can make a written complaint to Building Advisory Services. Please note that this process relates to professional disciplinary issues and will not result in the payment of money, or ordering of rectification of building works.

Building Advisory Services can be contacted by telephone on (08) 8999 8985 or via their web page: <http://www.lands.nt.gov.au/building/index>.

Do you need legal advice in regard to this matter?

NT Consumer Affairs staff are unable to provide legal advice due to legislative restrictions, therefore if the complaint relates to part of the contract or ending a contract, you are strongly encouraged to seek independent legal advice.