

Builders

Before you can deal with a building problem, you will need to work out who you have the contract with. This will be:

- the **builder**, if you made an agreement with a building firm that was to carry out the work itself or agreed to subcontract part of the work to other workers; *or*
- the **architect/structural engineer**, if you employed an architect or structural engineer to supervise the work who took responsibility for employing the builders; *or*
- the **individual contractors**, if you employed each worker yourself; *or*
- the **subcontractor** if you have agreed for them to carry out **additional work**. For example, if you ask a plumber who is contracted by your architect or builder to install plumbing in your kitchen to service your central heating system, you have a contract with that subcontractor for the extra work.

If you are unsure who you have the contract with, any action you take should be against all the builders and subcontractors involved.

What the law says

When you have building work done, the law says the work must be:

- **carried out with reasonable care and skill**. This means to a proper standard of workmanship; *and*
- **finished in a reasonable time**, unless a specific time has been agreed. What is reasonable would depend on the work involved, unless the delay was due to circumstances outside the trader's control; *and*
- **provided at a reasonable cost**, unless a definite price has been agreed.

Any goods or materials provided as part of the work must:

- **match their description**. This means they must be as described by the seller. This includes any written description in a brochure or catalogue. In most circumstances, it also means that they must conform to any advertising claims made about them; *and*
- **be of satisfactory quality**. This means that goods or materials must be fit for their purpose and must meet the standards any reasonable person would expect, taking into account the description, the price and all other relevant information. This includes the appearance and finish of the goods, whether they are safe and durable and free from defects (including minor defects). It covers the normal use associated with the goods or materials and also any purpose you may have **specifically pointed out** to the trader. For example, if you tell a builder that you require a block paved drive that will withstand the weight of vehicles, it should not crack when you drive on it.

Guarantees

If the service and/or equipment was sold with a guarantee, you may have additional rights under the guarantee. The guarantee cannot take away your statutory rights.

Special rules if you have paid by credit

If you used your **credit card** or the trader arranged the finance for you and the cost of the work is over £100 and under £30, 000, the credit company may be **equally liable** for any breach of contract (for example, if there was any damage to your property during the fitting).

Cancellation

If you have very recently signed a credit agreement away from the trader's business premises (for example, in your own home) and the contract was signed after face-to-face discussion with the trader, you may have a short period in which to cancel the agreement. If the contract was signed on the trader's business premises, you may be able to **withdraw** from the contract if you notify the credit company before they have signed their part of the agreement. Such rights last a very short time. If you wish to exercise these rights, you should telephone the credit company immediately and confirm the withdrawal in a letter sent by recorded delivery. Keep a copy of the letter.

If you are not buying on credit but have signed a contract in your own home and wish to cancel, you should check the contract for cancellation rights. If there are no cancellation rights given, see fact sheet **Buying on the doorstep** to check whether you should have been given these rights.

Remember:-

- You **cannot usually cancel** the work because you have changed your mind or have found a builder who will do the work more cheaply. However, you may be given cooling-off rights in certain circumstances. See notes on cancellation above
- Only pay the final amount when the work has been completed to your reasonable satisfaction
- **Do not sign any document that states you are satisfied with the work until you have had sufficient time to test it.**

Your rights if the work or goods and materials supplied are unsatisfactory

Refund

If you have paid a deposit, the work has not started and the trader is in breach of contract you should be entitled to a refund, for example, if it was a condition that work would commence before a certain date and that date has passed. If work has started, you would usually be expected to allow the trader to rectify the problem, unless you can justify why they should not return, for example, if has work has been left in a dangerous condition.

Replacement or repair

If you buy goods from a trader who also installs them for you, you can ask the trader to replace or repair the goods free of charge if they are faulty, or if they were installed without reasonable care or skill.

If:

- it is impossible to replace or repair the goods; *or*
- replacement or repair would be unreasonably costly for the trader when compared with alternative remedies; *or*
- the trader fails to replace or repair the goods within a reasonable time of having agreed to do so, or causes you significant inconvenience; *or*
- the goods have worked for some time before they go wrong, or only one of their functions has gone wrong

then:

- you can ask for a partial or full refund. The amount of money you get back may be reduced to take account of any use that you have had out of the goods.

Compensation

You may be entitled to compensation if:

- the work was not carried out with reasonable care and skill, or finished within a reasonable time; *or*
- the trader has been **negligent**, for example, has put in new windows which let in water when it rains and you have to redecorate; *or*
- you have accepted a repair, which turns out to be **unsatisfactory**; *or*
- the goods or services are **unsafe** and someone has suffered injury.
You should always take legal advice before accepting compensation for personal injury
- you have incurred **additional expenses** or suffered **inconvenience** because of the breach of contract, for example, the cost of employing someone else to rectify faults, when the original trader was unable or unwilling to do so.

How to solve your problem

Once you have decided what your rights are, you will need to contact the trader that carried out the building work and is responsible for dealing with your complaint. The following steps should resolve your problem:

- **collect all your documents together** including your estimate, contract, credit agreement, if there is one, and any guarantee you were given at the time the work was done
- if someone has been **injured** or you think a **criminal offence** has been committed, for example, the trader has described glass as safety glass and you believe it is not, you should contact Consumer Direct on 0845 404 0506, before allowing the trader to rectify the work. Strict rules apply to the construction of new buildings and extensions, and you should also discuss your concerns with your local Building Regulations Department. You should find numbers for these services in your telephone directory
- **otherwise, contact the trader** as soon as you discover the problem. If you visit, take a copy of all your documents and ask to speak to the manager or owner. Alternatively, write to the manager or owner, and keep a copy of your letter. Explain your problem calmly but firmly and ask for a **refund**, a **repair**, a **replacement** or **compensation** and set a time limit
- **if you cannot agree on who is responsible**, try to arrange for the trader to visit your home and examine the work. This should be done within 7-14 days. The trader may send one of its managers or an independent expert. Be sure to take the person's name and company and make a note of anything that is said
- **if you are still dissatisfied**, find out whether the trader is a member of a **trade association** with a **conciliation**, **mediation** or **arbitration** service that can help sort out your complaint. You may have to pay for using the arbitration service but conciliation is usually free. If you use an arbitration service, any decision will usually be **legally binding** and will prevent you from taking court action except to enforce an award. If you would like more information on the implications of using these services, you should contact the appropriate trade association before you commit yourself
- **if you choose not to use a trade association** and if the cause of the problem is in dispute, it may be necessary to obtain an expert opinion. An independent expert could be anyone unconnected to the dispute who is suitably qualified, and who is prepared to put their findings in writing. Reports of this nature must usually be paid for. You may be able to get the trader to meet half the cost of the report. If you have to

pay part or all of the cost of the report, you should reach agreement in advance with the trader on the choice of expert and confirmation that you will **both** be bound by the expert's findings. You should then be able to recover your contribution if the complaint is upheld. You should try and keep the cost of the report in proportion to the issue in dispute - it is unlikely to be reasonable to appoint a surveyor to carry out a £200 report on a fault that would only cost £20 to rectify. If your claim may be in excess of £5,000, you should consult a solicitor before you appoint an expert

- **if the matter is still not resolved**, write to the trader and/or the credit company, if applicable, repeating your complaint and the steps that have been taken. Say you are giving them fourteen days to resolve the problem or you will ask another trader to carry out the work and you intend to recover these charges from them. You can say you will consider legal action. Send your letters by **recorded delivery** with a copy to the head office, if applicable. Be sure to **keep copies** of all correspondence
- **if the builder makes an alternative offer**, you can either accept or continue to **negotiate**. Be realistic in what you will accept. You may not get an improved offer by going to court
- **if you do not receive a reply to your letters**, or the trader refuses to do anything, or makes a final offer you are unwilling to accept, you will have to consider going to court. **Remember court is your last resort.** Before going to court, you need to consider whether you have sufficient evidence. You will have to prove that the trader is responsible for the problem and you may have to provide expert evidence. You will also need to find out whether the trader is **solvent**. It's not worth suing a person or a company with no money. In Scotland a commercial attorney can represent you in court. You can get more information at www.commercialattorneys.org.

If you have lost money on shoddy building work, don't waste more money on a case you can't win.

Organisations that deal with complaints about builders

Architects' Registration Board (ARB)

All architects must belong to the Architects' Registration Board and follow the Architects' Code. The ARB will deal with complaints against architects and can be contacted on 020 7580 5861. You can also check their register at www.architects-register.org.uk.

Royal Institute of British Architects (RIBA)

Most architects belong to the RIBA and follow its Charter and Byelaws. RIBA has an internal conciliation and arbitration scheme to deal with complaints

against its members. You can contact the RIBA on their public information line: 0906 302 0400 (premium rate).

Federation of Master Builders (FMB) and the MasterBond scheme

The **FMB** gives advice on how to choose a builder and details of its members in your area. It has a complaints procedure to deal with disputes with its members. There is also an independent arbitration service which uses the rules laid down by the Chartered Institute of Arbitrators.

The **MasterBond scheme** is part of the FMB. Builders who are members of the scheme are committed to carrying out work according to its principles and rules. Their work is covered by a warranty scheme called the MasterBond Warranty Scheme, which is backed by an insurance company. You will have to pay 1.5% of the contract price for this warranty and, in return, are covered for faulty materials or work and against structural damage, as well as having the work completed by another member of the scheme if your builder dies or goes out of business. To find out more about the FMB or the MasterBond Warranty Scheme, visit the FMB's website at: www.fmb.org.uk or phone them on: 020 7242 7583.

Other fact sheets that might be helpful

- Buying on the doorstep
- Safety
- Services
- Starting court action
- Supplier goes out of business
- Guarantees
- Credit

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