



Purpose

The purpose of this document is to describe the procedure for investigating and resolving a customer complaint relating to building works or illegal structures.

Scope

This document covers the procedure for identifying, investigating and resolving a complaint relating to building works or illegal structures.

References

- BLD-29.2-PROC, Notice to fix
- BLD-43.0-POL, Insanitary and dangerous buildings
- Building Act 2004 Section 40
- Building Amendment Act 2005

Roles and responsibilities

The roles and responsibilities of each person involved in the process is listed as follows.

Building control manager: Ensures that the appropriate staff understand the process/procedure for efficiently investigating complaints and resolving them appropriately.

Team leader - inspections residential or commercial: Investigates any complaint regarding building works associated with an approved building consent.

Building official: Receives and logs any complaints. This individual may be a building support team member or any other member of the Building control team.

Case manager: A building official responsible for managing an RFS investigation, from receipt of the request for service, through to its appropriate resolution.

Customer: Lodges complaint, verbally or in writing.

Abbreviations and acronyms

- BCA Building consent authority
- RFS Request for service
- TA Territorial authority
- W/B Workbench
- W/S WorkSmart

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Procedure

The following table outlines the request for service for building incidents procedure:

Step #	Description	Responsibility
<p>1</p>	<p>Lodge complaint</p> <p>The customer contacts the council and makes a complaint about building works in progress or illegal structures at a site address. This complaint may be made verbally or in writing. The complainant needs to provide the following details:</p> <ul style="list-style-type: none"> • Name • Address • Contact number (if available) • Site address • Details of building works and the nature of the complaint. 	<p>Customer</p>
<p>2</p>	<p>Receive complaint and assess</p> <p>The complaint may be received by any officer verbally or in writing.</p> <p>The officer needs to consider whether the matter is one which falls within the ambit of services provided by the TA or BCA or whether the matter is the responsibility of another team/agency. Complaints that relate to potential breaches of the BA2004/Fencing of Swimming Pools Act are the responsibility of the building incidents team.</p> <p>If the officer is unsure/ or they feel the matter is not the responsibility of the building incidents team they should discuss with the co-ordinator building support or building incidents team leader.</p> <p>If there is evidence of a potential breach the officer is required to conduct a search of the site address in the appropriate databases (W/B and W/S) for an approved building consent.</p> <p>Staff may initiate the complaint themselves by logging the complaint in the complaint module of Worksmart (refer to training manual) and assigning to the building support team or may email the details of the complaint to the coordinator building support who will log the complaint and allocate appropriately.</p> <p>Note: Where a complaint involves a variety of issues, affecting a range of disciplines, the request for service is logged as a complaint against what appears to be the most significant issue. The case manager is then expected to coordinate the involvement of the appropriate disciplines to affect the best outcome.</p> <p>If there is an approved building consent: Go to step 3</p> <p>If the site address is the subject of an approved building consent the development will already be the subject of a construction monitoring programme. It is thus transferred to the team leader inspections to investigate.</p> <p>If there is not an approved building consent: Go to step 4 In this case it will be logged as an RFS to be investigated by the building incidents team.</p>	<p>Building official</p>



Step #	Description	Responsibility
3	<p>Forward to team leader</p> <p>Document the following complainant details:</p> <p>Full name</p> <ul style="list-style-type: none">• Address• Contact details• Site address• Type of building works• Nature of complaint• Approved building consent number• Description of works• Approval date• Issue date. <p>Forward the particulars to the team leader by e-mail and update record with details of the complaint.</p> <p>Then proceed to step 5.</p>	Building official
4	<p>Log and allocate</p> <p>Log the incident as a request for service.</p> <p>All RFS that involve a complaint of illegal building works or an illegal structure shall be allocated to the building incidents team</p>	Building official
5	<p>Receive/assess request for service</p> <p>The request for service is received by the assigned case manager [a building officer attached to the building incidents team]/ team leader where an approved building consent exists.</p> <p>The complaint is assessed for:</p> <ul style="list-style-type: none">• Nature and context of complaint• Priority ie. is it a priority 1 requires response within two hours, or priority 2 response within 24 hours. <p>Any requirement for an immediate response to site.</p>	Case manager/ Team leader



Step #	Description	Responsibility
<p>6</p>	<p>Conduct background enquiries</p> <p>This will typically include:</p> <ul style="list-style-type: none"> • Clarification of complaint details with complainant. • Review of W/S and W/B record for details of building consents approved for the site. <p>As a rule, the complainant should be contacted prior to any further action being taken.</p> <p>The following information should be obtained:</p> <ul style="list-style-type: none"> • Clarification of any pertinent elements of the complaint. • Confirmation that the complaint relates to a matter that the T.A or the BCA is responsible for. If it isn't the RFS should be closed with appropriate notes, and the customer directed to the appropriate agency. • Where an RFS has been logged, confirmation that the priority rating of the RFS is appropriate. If it is not appropriate it should be amended accordingly. • Obtain information to determine best approach to investigation. <p>Update W/S complaint record.</p> <p>If it transpires that the works in question are connected to the approved building works under the consent, the case manager shall liaise with the team leader Inspections and arrange transfer of the complaint. The case manager shall advise the complainant of the transfer of the complainant and the details of the team leader, update the W/S complaint record and then close the RFS.</p>	<p>Case manager/ Team leader</p>
<p>7</p>	<p>Conduct site inspection</p> <p>Visit the site address to determine if there are non-compliant activities/building works on site. The owner/applicant should be contacted prior to visiting the site and advised of the reason for any visit unless there is a good reason not to do so ie. removal of evidence or concerns over likelihood of obstructive behaviour.</p> <p>The site visit should include:</p> <ul style="list-style-type: none"> • A review of works against any existing building consent. • Identification of any non-compliance. • Obtaining and recording of any necessary admissions or explanation by owner/occupier/builder. • In most cases, it would be expected that photographs of any disclosed areas of non-compliance shall be taken. <p>After the site inspection is complete, determine whether there is any non-compliance.</p> <p>Update W/S complaint record.</p> <p>If no non-compliance is identified: Proceed to step 8.</p> <p>If non-compliance is identified: Proceed to step 9.</p>	<p>Case manager/ Team leader</p>



Step #	Description	Responsibility
8	<p>Advise complainant and update record</p> <p>Notify complainant in writing and in person, if required. Record the details of the enquiry justifying the course of action taken in the appropriate system (W/S consent record – if an existing approved building consent/RFS record in the event there is no approved building consent).</p>	<p>Case manager/ Team leader</p>
9	<p>Determine enforcement approach</p> <p>Consider the appropriate course of action to resolve.</p> <p>In the case of minor non-compliance that does not relate to works under an approved building consent it may be appropriate to issue a requested action letter. This is a letter that requires specified actions to be taken within a defined timeframe. In such an instance the case manager shall place the matter on a 'bring-up' and follow up after the specified date to ensure requisite action has been taken. If it has not escalated enforcement action, involving one of the tolls detailed below should be undertaken.</p> <p>If the non-compliance relates to works under an approved building consent or if the non-compliance is significant or if the owner/occupier has failed to comply with an earlier issued requested action letter, a notice to fix should be issued (refer to BLD-29.2-PROC).</p> <p>If the non-compliance is of such a nature as to endanger the public (including construction staff), it may be appropriate to issue a dangerous building notice or a CEO Warrant (refer BLD-43.0-POL).</p> <p>There are also a number of other actions that may be appropriate including:</p> <ul style="list-style-type: none"> • Obtaining a court injunction to prevent or require specific actions to remediate an issue. An injunction involves the obtaining of a court order requiring a named party to carry out certain actions or desist from certain activities within a specified period. An injunction may be <i>ex-parte</i> where all the parties to the matter in question are not required to be present for the matter to be progressed. An injunction may be issued within the same day of application where there is a risk to life or property is shown to the satisfaction of the court. An officer contemplating such an action is required to discuss with their team leader or manager prior to liaising with the legal team. • Initiating prosecution action in the case of non-consented/illegal building works (refer to Manage prosecution/Defended hearing.) <p>Note: A prosecution may be initiated independent, of any compliance that may be achieved through the issue of a notice to fix or dangerous building notice</p>	<p>Case manager/ Team leader</p>