

UPDATED MEDIA RELEASE UPDATED MEDIA RELEASE

This updates a previous release and provides further details on the complaint, the Ombudsman's investigation and impact on the complainant

Is your builder 'fit and proper': the weaknesses of the home building licensing scheme in NSW

The NSW Ombudsman, Michael Barnes, tabled a report in Parliament yesterday following his office's investigation into complaints about Fair Trading's Home Building Service.

"The investigation found that a number of home owners lost many hundreds of thousands of dollars due shoddy workmanship by a home builder they had engaged after searches of the home building license check public register failed to reveal issues of serious concern known to Fair Trading" said Mr Barnes. "Complaints had previously been upheld against the builder and companies he was involved with, the builder had failed to comply with rectification orders made by the NSW Civil and Administrative Tribunal and he had previously been declared bankrupt. These are exactly the type of things the public register is designed to alert prospective home owners to".

The main complainant to the Ombudsman had entered into a contract with the builder in 2013 to build a new home. He soon became concerned that the work had many defects and did not comply with the contract. The complainant terminated the contract in 2015 after a number of unsuccessful attempts to resolve the dispute with the assistance of Fair Trading's mediation service.

When he contacted the Ombudsman's office, the complainant pointed to a long history of complaints against the builder and a demonstrated failure to adhere to agreements and questioned why compliance action was not taken by Fair Trading.

A later investigation by Fair Trading into the concerns about the builder identified 28 defects in the complainant's property and 20 in another family's property. Of these 48 defects, 18 were serious in nature, including structural problems, fire hazards, water damage and health and safety concerns. The complainant was quoted over \$500, 000 to rectify the shoddy work of the contracted builder but could not find another builder willing to take on the rectification work. The owner had to resort to do the work himself as an owner builder.

The Ombudsman's investigation found that the complainant's concerns were justified and that the company's licence should not have been renewed by Fair Trading. The complainant has suffered the distress associated with attempting to resolve the building issues, interruption to his and his family's normal life, detriment to his health and time away from his employment occasioned by the need to work on the home he contracted the company to build. Five other customers signed contracts with the company after the time the company's licence was wrongly renewed. These customers may also have suffered financial and emotional impacts that could have been avoided if the licence renewal had not been approved.

"The home building sector has been the subject of a previous Ombudsman investigation and a parliamentary inquiry, and the legislation has undergone multiple, significant reforms since its introduction. Our decision to investigate this complaint was made in the context of these earlier reports, which had identified weaknesses in the regulatory system and suggested improvements to better protect customers. It seems that despite well-documented systemic problems and repeated attempts to address them, the same issues continue to arise" Mr Barnes said.

The investigation found that there were serious and systemic issues with both the public register and the home building licensing system. The information that Fair Trading records on the public register does not have sufficient detail and contemporaneous information to provide consumer protection and help stop the actions of unscrupulous builders.

The current Customer Assistance System database requires improvement to enhance its intelligence gathering and analytical capacity to better manage information and alerts on builders of interest who should be subject to increased scrutiny earlier.

“Members of the public should be able to rely on the accuracy and completeness of the information available on the public register” Mr Barnes said.

Our report makes a range of recommendations, including making changes to the public register; improving intelligence sharing to assist Fair Trading’s licence assessment processes; and making changes to internal guidance for staff.

The Commissioner for Fair Trading and the responsible Minister have indicated that the recommendations arising from the report were appropriate, but requested that our office refine the wording of some of the recommendations in line with work that Fair Trading has already commenced to enhance its licensing database. The Ombudsman agreed to this request.

Read the [report](#) on the NSW Ombudsman’s website.