

RELEASED UNDER RTI

# Claims Procedures Manual

Resolution Services

V2.1 July 2020

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# Document Control

## Document Information

Document Owner	Director Resolution Services & Strategy
File Name	Resolution Services – Claims Procedures Manual
Review Period	12 months from Issue Date

## Document History

Version	Issue Date	Changes
1.0	February 2017	Created
1.1	January 2018	Amended due to realignment
	February 2018	Removed GS Notification to Builder is Notification to QBCC; new GS-030; added to Section 3 when a contractor review DTR or Scope.
	March 2018	Removed GS 23
	All further changes	<a href="#">Document History Record</a>

## Document Approvals

Role	Name	Signature	Date
Director Insurance Services			February 2017
Director Industry Quality			May 2018
Manager Resolution Services (Strategic)			September 2019

# 1 Queensland Home Warranty Scheme Overview

## 1.1 History

In 1977, Queensland introduced a system of home warranty insurance administered by the Builders' Registration Board. This followed similar schemes which were launched interstate.

Queensland progressively enhanced the level of protection provided for home owners with substantial increases in cover in 1992 following the formation of Queensland Building Services Authority (QBSA) which took over management of the Scheme, and again in 1999 as part of the Better Building Industry Reforms Package.

The QBSA was abolished on 1 December 2013 the Queensland Building and Construction Commission (QBCC) became responsible for the administration of the Queensland Home Warranty Scheme.

Cover was further expanded on 28 October 2016.

## 1.2 Establishment of the Queensland Home Warranty Scheme

The *Queensland Building and Construction Commission Act 1991* (QBCC Act) establishes a statutory insurance scheme which is to be administered by the QBCC.

The QBCC Act gives the statutory insurance scheme the name "Queensland Home Warranty Scheme" (Scheme). The Scheme is to be referred to as the Queensland Home Warranty Scheme in all correspondence and publications.

## 1.3 Cover Provided by the Scheme

The Scheme provides warranty cover in relation to residential construction work carried out in Queensland. The QBCC is the monopoly provider of home warranty insurance in Queensland.

The cover provided by the Scheme is determined by the QBCC Act, *Queensland Building and Construction Commission Regulation 2018* for contracts from 26 October 2016 or for contracts dated before 28 October 2016 the applicable Insurance Policy Conditions made by the Queensland Building and Construction Board.

Queensland is the only State to offer first resort home warranty cover. Being a first resort Scheme, the QBCC is the first port of call for consumers. If QBCC cannot resolve the issue, and the contractor is at fault a claim is paid. This process means that consumers are not required to take expensive and lengthy legal action against contractors. Instead, the QBCC pays a claim, and takes recovery action against the persons responsible.

Where a licensed contractor enters into a contract to perform residential construction work in Queensland they are required to collect the premium from the customer and pay it to the QBCC.

Contractors undertaking speculative residential construction work are also required to pay a premium. A Building Certifier must not give approval for residential construction work until they have sighted evidence a premium has been paid for the proposed work.

The Scheme provides homeowners with a statutory entitlement to compensation which is effective in ensuring that more than 95% of Queensland residences are complete and free of defects. For the remaining claims compensation of at least \$200,000 is paid to assist the homeowner.

The Scheme covers home owners for loss suffered in the event of:

- a contractor failing to complete a contract for residential construction work (non-completion)
- a contractor carrying out defective residential construction work (defects)
- movement in the foundations of the residence which adversely affects its structural performance or the functional use of the building (subsidence).

Where a non-completion claim is made the following additional cover is available:

- loss caused by theft or vandalism to the incomplete work; and
- damage caused by fire, storm and tempest to the incomplete work.

To provide enhanced consumer protection the subsidence cover under the Scheme does not rely on the building work being defective. The Scheme responds where the subsidence was caused by poor footing design or inaccurate site classification, even though the QBCC does not regulate these service providers.

With the exception of claims for fire, storm and tempest, the QBCC may seek to recover the costs of any claim paid from the person or persons responsible. While this is typically the contractor, it also extends to others such as engineers, design drafters, architects and certifiers. When recovering claims, the QBCC has a statutory ability to pierce the corporate veil and seek recovery from directors of the company at the time the claim arose.

An Insurable Work page is on the QBCC website to assist in determining if something is Insurable Work, both pre and post 28 October 2016 and the below Guide to What is RCW can also be reference when determining if something is residential construction work.



### **Insurable Work**



### **A Guide to What is RCW**

The *Queensland Building and Construction Commission Regulation 2003* was remade commencing on 1 September 2018, becoming the *Queensland Building and Construction Commission Regulation 2018*. This regulation replaces the previous and is applicable to contracts from 26 October 2016. Below is a comparison table of the regulations.



### **QBCC Regulations Comparison Table**



## 2 Legislation and Policy Overview

### 2.1 Introduction

The Scheme covers consumers for loss suffered if a contractor (or an individual where fraud or certain representations are made) fails to complete a contract for residential work or fails to rectify defective work. The terms of cover, however, contain certain limitations and restrictions. Assistance is also provided in specific circumstances for loss associated with incomplete work which has been damaged by fire or storm, vandalism or theft.

### 2.2 Contracts Prior to 28 October 2016

The terms and conditions that set out the requirements that must be satisfied for a claim to be approved, fall under the Insurance Policy Conditions.

### 2.3 Contracts From 28 October 2016

The legislation incorporates the terms and conditions for the Home Warranty Scheme cover, in the *Queensland Building and Construction Commission Regulation 2018* (replacing the *Queensland Building and Construction Commission Regulation 2003*).

### 2.4 Key Differences between Cover Pre and From 28 October 2016 Reforms

#### Expansion of Cover

The Scheme has been expanded to include the following work (providing it is carried out by a licensed contractor (or by an individual where fraud or certain representations are made) and is for a value over \$3,300):

- the erection, construction or installation of a residential swimming pool
- in relation to a residence or related roofed building (e.g. shed):
  - all building work performed within the building envelope (internal or external parts of the building), for example, painting, tiling, plastering, roof restoration and repair work, rendering of walls, floor restoration, and glazing work
  - anything attached to the building if it requires building approval or plumbing approval
  - any structure attached to the external part of the building where there is no other supporting structure (e.g. awning or handrail)
  - stairs or an access ramp which are permanently attached to the building
- in relation to plumbing and drainage for a residence or related roofed building:
  - building work for the primary water supply (e.g. install water tank for primary water supply)

- building work for sewerage or drainage (e.g.: work on a sanitary drain connecting a residence to the sewerage main)
- stormwater drainage (e.g. repair of downpipe or gutter)
- the installation of a manufactured home fixed to land in a residential park which includes a residential park within a caravan park.

## 2.5 Cover for Swimming Pools (from 28 October 2016)

### Contract to Construct Pool Only

Under the QBCC Act the appropriate insurance premium must be paid for residential construction work.

The term “residential construction work” is defined in the QBCC Act as primary insurable work and associated insurable work.

Primary insurable work is defined (QBCC Act, section 67WC (1)) as building work carried out by a licensed contractor, where the value of the work is over \$3,300 and the work is included in the list of building work that is set out in section 67WC (1).

One of the items included in this list is “the erection, construction or installation of a swimming pool”. Note: the definition of “swimming pool” includes a spa pool.

**Conclusion:** where the contract is only for the construction of a pool, the pool is primary insurable work, and is therefore covered for non-completion and defects.

### Contract to Construct House and Pool

Both the house and pool are primary insurable work.  
Both are covered under QHWS for non-completion and defects.

### Contract to Repair/Rectify Pool

A contract only to carry out repairs or renovations to a pool is not insurable.

Section 67WC(1)(d) provides that primary insurable work is “the erection, construction or installation of a swimming pool....”

There is no provision in the QBCC Act or the QBCC Regulations that includes repair or renovation of a pool as primary insurable work.

And yet, there is insurance cover for structural defects in a swimming pool.

The following is the consequence:

- a premium is paid for the initial construction/installation of the pool
- if there is a structural defect in the pool, it will be rectified under QHWS
- however, no premium is payable on this rectification work, since it is not primary insurable work and therefore not residential construction work
- so this rectification work will not be covered under QHWS.

## Contract to Repair a Pool and Carry Out Other Primary Insurable Work

A contract for renovation and/or repair to a pool which is combined with other primary insurable work over \$3,300 is insurable because:

- the renovation of the pool is not primary insurable work, but it is building work
- when it is included in a contract for primary insurable work, the pool renovation becomes associated insurable work.

As such, the cover for the pool renovation is as follows:

- it is covered for non-completion – reason: non-comp claims cover RCW (i.e. both primary and associated insurable work)
- it is not covered for defects (QBCC Regulation: QHWS only covers defects in primary insurable work).

## What is Covered in Relation to Pools

- QBCC Regulation provides that we will pay to rectify defects in primary insurable work.
- However, this cover is limited. If the primary insurable work was the construction of a pool, then the following is **not** covered:
  - (i) a defect that is not a structural defect
  - (ii) surfacing of an area outside the coping for the swimming pool
  - (iii) work associated with the construction of the pool e.g.
    - paving
    - water features
    - swimming pool slides
    - diving boards
    - swimming pool equipment and housings
  - (iv) steps for the swimming pool that are not fixed structures.

The term “structural defect” is defined for pools by the QBCC Regulation as:

*“(b) a defect in the work that allows water to escape through the shell of the swimming pool; or*

*(c) a defect in the work that adversely affects the health or safety of persons who occupy or use the pool.”*

## Exceptions

### Spas

As noted above, the definition of “swimming pool” includes a spa pool.

In order for work to be primary insurable work, it must first of all be “building work”. This term is defined as the erection or construction of a building. The term “building” is defined as “any fixed structure”.

So, in order for work to be classified as primary insurable work, it must be a fixed structure.

The QBCC Regulation provides, that the following work is not covered under the statutory insurance scheme.

*“work for the erection, construction or installation of a structure that is not fixed.*

*(Example for paragraph (h)*

*—work for installing a portable spa pool)”*

From this we can conclude in relation to spas:

- the installation of a fixed spa by a licensed contractor where the value of the work is over \$3,300 is primary insurable work and is therefore residential construction work for which the QBCC premium must be paid
- the installation of a portable spa by a licensed contractor where the value of the work is over \$3,300 is neither primary insurable work nor associated insurable work and is therefore not residential construction work and no QBCC premium is payable.

## Public Pools

QBCC Regulation provides only residential pools are covered by the Scheme, not public pools.

## Summary

- Construction of a pool only is primary insurable work.
- Construction of a house and pool are both primary insurable work.
- Rectification of a pool is not primary insurable work and no premium is payable.
- Rectification of a pool which is combined with other primary insurable work is associated insurable work and a premium is to be paid on the total insurable value.
- Only structural defects in a pool are covered by the Scheme, water features etc. are not covered.
- A “structural defect” in a pool is leaking through the pool shell or a defect that adversely affects health and safety.
- Installation of a fixed spa is insurable; installation of a portable spa is not insurable.
- Only residential pools, not public pools are covered by the Scheme.

## Calculation of Premium

Previously the QBCC premium was calculated based on the contract price, or the value of the work.

Now the premium is based on the insurable value of the work.

The term “insurable value” is the amount which represents the reasonable cost of having the work carried out by a licensed contractor on the basis that all materials are to be supplied by the contractor, whether or not the work is carried out on this basis.

Examples of work that may be included in calculating the insurable value are relocating, transporting and re-siting a residence to another site, scaffolding, transporting materials to the building site and the construction of a residence offsite.

### Optional Additional Cover

The standard insurance cover is a maximum of \$200,000 however, a consumer may increase this cover to \$300,000 by paying an additional premium to QBCC. Also, coverage for accommodation, removal and storage costs is \$5,000 increasing to \$10,000 if optional additional cover is obtained.

In order to be eligible for this additional cover, the standard premium for the work must first be paid by a licensed contractor, and the consumer must then pay the additional premium within 30 days of entering the contract, or prior to the work starting (whichever is earlier).

### Timeframes for Lodgment of a Complaint

For any contracts signed prior to 28 October 2016, the Insurance Policy Conditions allow the QBCC to use discretion in relation to the date the owner made their complaint to the QBCC. For any contracts from 28 October 2016, the QBCC is unable to exercise discretion on this.

## 2.6 Licensee Register to Show Claims Approved

The *Queensland Building and Construction Commission Act 1991* states:

### “99 Licensee register

- (1) A register of licensees (the **licensee register**) must be kept by the commission.
- (3) The register must also contain against the name of each licensee a note of—
  - (j) the number and cost of claims approved under the statutory insurance scheme that relate to residential construction work for which the licensee paid, or ought to have paid, an insurance premium.”

On 28 February 2019, the QBCC Director Insurance Services advised a decision has been made about when it would be appropriate for QBCC to remove a claim from the register, or reduce its value. Such an action could only be approved by the Director Insurance Services.

### Non-Completion

Removal – where there is an IRU or QCAT decision that the claimant was not entitled to a claim because, for example, the contract was not validly terminated.

Reduce value – where there is an IRU or QCAT decision that the scope of work was excessive.

## Defects

Removal – where there is an IRU or QCAT decision that the work the subject of the claim was not, at any time, defective.

Reduce value - where there is an IRU or QCAT decision that:

- the scope of work was excessive
- some, but not all, of the work the subject of the claim was not, at any time, defective.

To clarify, an IRU or QCAT decision that it was not fair to issue a DTR will not justify removal or reduction of value.

## Subsidence

Removal – where there is an IRU or QCAT decision that the work the subject of the claim was not, at any time, defective (or subsiding).

Reduce value - where there is an IRU or QCAT decision that the scope of work was excessive.

# 3 Claims Processing – Overview

## 3.1 Documentation

The customer must complete the relevant complaint form to access the Resolution Services Claims process i.e. a Non-Completion of Construction Work Complaint Form for Non-completion and Refund of Deposit claims or a Residential and Commercial Construction Work Complaint Form for Defective Work and Subsidence claims. The latter will be managed via the Disputes process prior to being assessed as a claim.

When submitting the Complaint Form, the customer must also provide the minimum mandatory documents. When assessing the case, the Assessment Officer (AO) must ensure all areas of the Complaint Form have been completed, perform various checks of the information provided and ensure the necessary documents have been provided.

If further information or documents are required to complete an assessment, generally 7 days is allowed for the claimant to provide them. If at the end of this time, the request has not been

fulfilled, contact should again be made e.g. phone call, email, prior to closing the case on this basis. The appropriate request and closure letters are available in ActiveDocs.

## 3.2 Verifying Customer Details and Updating Customer Records

When first contacting the parties of the complaint, it is important to verify their details and ensure you are discussing the case with the appropriate person/s.

- The claimant details can be verified against their Customer record in Salesforce and the information provided on the Complaint Form. If any details require updating, this can be done in Salesforce by the AO/BI etc. with the verbal notice of such documented in the CAFN or Case Comment.
- If you make contact with the respondent, it is essential that you verify their identity. If they then advise you of an alternative address, contact number etc. their verbal notification of this change of details is sufficient to provide to Licensing who are then able to update their Customer Record.

Verification is to be completed against the caller's individual profile within Salesforce. For a company, we can only discuss the matter and take alternative contact details from a Director.

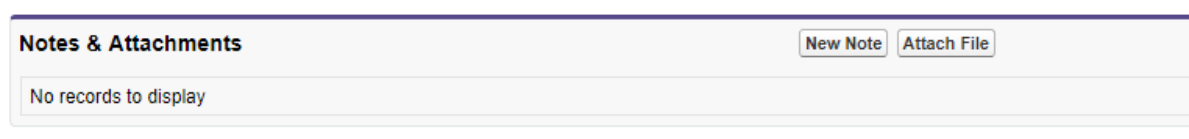
### Verify the following:

- Full Name - including middle name
- Date of birth
- Email address - including domain name.

**If one of the above components are missing from the profile, or the email is incorrect, the following can be asked instead:**

- Phone number - mobile, business or home
- Address - postal, business or residential.

Any such information should be recorded in the **Case Comments** in Salesforce and a New Note added to the **Notes & Attachments** section in Customer's Record in Salesforce.



**An email with this information should then be sent to Licensing who are able to update the Customer's Record.**

## Communicating with Our Non-English Speaking Customers

To assist with communicating with our non-English speaking customers, QBCC has an account with a company called Ezispeak, a translating and interpreting service. If you would like to use their services, please refer to the User Guide below and ensure the Resolution Services Team PIN is used, as Business Units are invoiced individually for the service.



## Ezispeak User Guide and Resolution Services Team PIN



## Ezispeak Customer Language Aid and Language Selection Codes

### 3.3 Data Validation

It is important the correct details are entered in the Salesforce system. In particular, checking the Customer and Respondent's details and the Site Details are correct.

The following should also be checked:

- The two parties involved in the claim are the same two parties in the contractual documentation i.e. no "trading as" names, individuals or their company only.
- If the customer or contractor has an agent, ensure their details are entered in the relevant agent fields.
- If the contractor is a company that no longer holds an Active licence e.g. cancelled /suspended, a "free" ASIC search should be carried out to establish if the company is in liquidation etc. and is still registered. ASIC also have a [Published notices](#) site where you can Browse/Search Notices for a company which may assist with determining their status.
- If the individual licensee is deceased, the participant's records should be checked for recovery documentation regarding estate recovery. If no such documentation is found, the matter will need to be discussed with Debt Recovery to determine if recovery correspondence should be issued.

### 3.4 Claim Assessment Reasons for Decision

There is a pro-forma assessment document for each type of claim. This is designed to assist in undertaking the insurance assessment and to ensure that all relevant policy and legislative requirements have been considered.

The documents are to be utilised when requesting advice and claim approvals that are above the officer's delegation. All documents are available in ActiveDocs.

### 3.5 Non-Completion Claim Overview

A non-completion claim arises when a licensed contractor fails to complete the work they were contracted to do. The Scheme will pay for loss arising from their failure to complete the work.

#### Requirements



The contract must be a fixed price contract (i.e. it must be clear from the contract how much the work will cost) and the contract with the licensed contractor must have ended in one of the following ways:

- the consumer terminates the contract with the licensed contractor based on the contractor's default
- the licensed contractor has died
- the licensed contractor is a company and no longer exists (e.g. deregistered)
- the licensed contractor is bankrupt and their licence has been cancelled.

### Other Considerations

Any potential approval amount by QBCC will be reduced if the consumer pays for work which has not yet been carried out (a "prepayment").

Also, the claim approval will be reduced if the value of the work exceeds the contract price by more than 30% e.g. where the contract price is \$200,000 but the actual value of the work is \$270,000 the claim will be reduced by \$70,000. This is known as under-pricing.

### Time Limits

The contract must end within 2 years of the day work starts. The consumer must make their claim with the QBCC within 3 months after the date the contract ends.

### Extent of Cover

If works have started i.e. physically started on site, the QBCC will pay the difference between the amount held under the contract and the actual cost to complete the home. If no works have started, the QBCC will provide a refund of the insurable deposit.

There is also provision for rectification of incomplete work which is damaged by fire and storm, or which is damaged as a consequence of vandalism to, or theft from, the incomplete works. However, in order to be eligible for this cover, the non-completion claim must be accepted by QBCC, and claim for this cover must be made within 14 days of the event.

Also the damage must have happened as a consequence of the work being incomplete. Further, in relation to vandalism and theft, QBCC will only pay for loss in excess of \$2,500, and the consumer must report it to the police.

If the claim for non-completion is approved by QBCC, the consumer may have entitlement to alternative accommodation expenses.

In general, they can claim for accommodation expenses incurred from the date the complaint is lodged until 7 days after the non-completion claim is approved. The consumer must claim these accommodation expenses within 28 days of the non-completion claim being approved.

### Infrastructure Charges

If the contract includes items such as Council Infrastructure charges, Strata Titling charges or the like, that have not been paid for and obtained, they should be excluded from the contract to complete. The relevant amount must therefore be deducted from the consumer's retention and they should be advised they will have to arrange and satisfy these requirements with the council etc. directly.

### 3.6 Defects Claim Overview

The QBCC provides cover for rectification of defects in residential construction work.

#### What is a Defect

There are two types of defect, structural and non-structural. Structural defects include movement in the footings of the building, or non-compliance with certain parts of the building code, or any defect that makes the residence unsafe or uninhabitable.

Other examples include a leaking pool, or water penetration into a residence (e.g. from a leaking shower or leaking roof). Non-structural defects are cosmetic in nature or not categorised as a structural defect.

#### Time Limits

Structural defects are covered for 6 years 6 months from the date of payment of the premium, and complaints must be lodged within 3 months of noticing the defect. Non-structural defects are covered if the consumer becomes aware, or ought reasonably to have become aware of the defect within 6 months after the day the work is completed. The complaint must then be lodged within 7 months of the completion date.

#### Extent of Cover

The Scheme provides cover for a residence and some other buildings on the same site (e.g. a shed). A residence is a building which is fixed to land and in which a person lives. It includes a single detached dwelling, a duplex, a unit in a multi-storey building which is not more than 3 storeys and a manufactured home.

A residence does not include a boat, caravan, car, tent, trailer, train, or a temporary building such as a demountable.

QBCC will pay to rectify defects in the residence or other building on the site. QBCC will also pay to rectify defects to either of these buildings which involve any of the following:

- anything attached to these buildings which requires building or plumbing approval
- anything attached to these buildings and which is not supported by anything else e.g. awning or handrail
- anything attached to these buildings that is used for water supply, sewerage, drainage or stormwater
- a verandah or deck attached to these buildings

- stairs or a ramp providing access to these buildings
- work to support these buildings e.g. replacing stumps
- QBCC will also pay to rectify defects in the erection, construction or installation of a swimming pool.

### Work Not Covered for Defects

- Fire alarm system, scaffolding, curtains, blinds, internal shutters, carpets, floating floors, vinyl, earthmoving and excavating, laying asphalt or bitumen, insulation, insect screens.
- Electrical appliances.
- Cubbyhouse, doghouse, shade sail, phone or data cables, water meter, water tank not used for primary water supply.
- Construction of a slab which does not include construction of a building on top of it.
- Any other work associated with the primary construction of the residence.

If the claim for defects is accepted, the consumer may be entitled to alternative accommodation expenses incurred while the rectification work is carried out. The consumer can claim this if their home is uninhabitable because the work is defective or will become uninhabitable while the rectification work is carried out.

### Exclusions

If the defect is not significant and the work complies with the building code but not with the plans or specifications, then QBCC will pay the consumer for the loss in value of the work e.g. where the ceiling height is 2.9 m but the plans say it should be 3 m.

### When There is No Claim for Defects

- If the consumer unreasonably refuses to allow the licensed contractor (who carried out the defective work) to come back and fix it.
- If under the contract, the contractor still has an obligation to complete the work.

## 3.7 Subsidence Claim Overview

The scheme provides protection for subsidence and settlement related defects in residential construction work that is primary building work.

### What is Subsidence

Subsidence or settlement means movement in the foundations of the residential construction work which adversely affects the structural adequacy or serviceability, performance or functional use of that work.

## Time Limits

Cover for subsidence or settlement damage runs for subsidence that becomes evident within 6 years and 6 months from the contract date (or payment of the insurance premium if earlier, or commencement date of work if no insurance or contract). However, if the work takes more than 6 months to complete the cover is extended and becomes in effect 6 years from practical completion or when the work was substantially complete.

## Extent of Cover

The Scheme provides cover for a residence and some other buildings on the same site (e.g. a shed). A residence is a building which is fixed to land and in which a person lives. It includes a single detached dwelling, a duplex, a unit in a multi-storey building which is not more than 3 storeys and a manufactured home.

A residence does not include a boat, caravan, car, tent, trailer, train, or a temporary building such as a demountable.

## Exclusions

The QBCC is not liable for the cost of remedying subsidence or settlement damage for residential construction work that is associated building work.

## When There is No Claim for Subsidence

- If the consumer unreasonably refuses to allow the licensed contractor (who carried out the defective work) to come back and fix it.
- For a subsequent purchaser, where the subsidence or settlement was, in the opinion of the QBCC, evident prior to completing the contract to purchase the land.
- If in the opinion of the QBCC, the consumer is solely responsible for the subsidence or settlement.

## 3.8 General Exclusions and Limitations

As with any policy of insurance, there are some matters that are excluded from cover, and there are some limitations on the extent of cover provided under the Scheme.

### Building Work Not Covered Under the Scheme

- Backpacker's accommodation, boarding house, caravan park, guest house, holiday accommodation, hostel, hotel, lodging house or motel.
- Prisons or reformatories.
- Hospitals.

- An orphanage or children's home.
- A retirement village.
- An educational institution.
- Accommodation for persons with disabilities.
- Commercial or industrial premises.
- Owner-builder work.
- Loading, unloading or transporting a building.
- Loading, unloading, transporting or off-site prefabrication of the whole of a building.
- A multiple dwelling of more than 3 storeys.
- Construction of a carport or shed for a duplex or multiple dwelling over 3 storeys.
- Work involving offices or shops.
- Work for a carpark, unless it is for a building containing 2 or more units.
- A pool that is not used for residential purposes.
- Construction or installation of something that is not fixed e.g. a portable spa.

### People Not Covered Under the Scheme

- A licensed contractor who builds a residence for himself on his land.
- A developer who engages a licensed contractor to construct 3 or more residences  
**Note:** A subsequent purchaser of either of the above residences can claim e.g. if a developer builds a block of 6 units, the developer is not covered for completion or defects but the subsequent purchaser of a unit is covered for defects in their unit.
- A person who is an associate of a licensed contractor cannot claim e.g. the spouse or child of the licensed contractor or executive officer of a licensed contractor that is a company.
- A claim by a mortgagee in possession of the property. As the mortgagee in possession is not an owner of the property and only has charge over the property, it has no entitlement to a claim.

### Defects Not Covered Under the Scheme

- Caused by defective design, however items may be covered if the design was prepared by an appropriately qualified person e.g. an engineer, architect or building designer.
- Caused by deterioration through fair wear and tear.

- Caused by failure to undertake maintenance, inspections and treatment of the property.
- Caused by aircraft pressure waves.
- Caused by earthquake, erosion, flood, landslip.
- Caused by accidental damage.
- Caused by a defective product.
- Caused by the act or omission of anyone other than the licensed contractor, or the licensed contractor's subcontractor or invitee.
- Caused by a terrorist act.
- In electronic data.
- In electrical appliances.
- Which are covered by another policy of insurance.

#### **Actions which may Prevent the consumer being Eligible for a Claim**

- If they release or indemnify the responsible contractor from liability for their work.
- If they refuse to allow access to the QBCC to assess the claim.
- If they were aware of the defect before the works were completed.
- If they were aware of the defect before they purchased the property.
- If they demolish the work or rectify the defect without the prior written approval of QBCC.

#### **Limitations that Apply to all Claims**

- As far as reasonably possible, QBCC will try to match materials when completing or rectifying work, but will not pay to replace adjoining work to achieve this.
- QBCC will provide certification for the rectification or completion work carried out under the Scheme, but will not pay the cost of obtaining certificates in relation to the work carried out by the original licensed contractor.
- QBCC cover certain work e.g. the construction of a residence, for both defects and completion claims, however in relation to other work associated with the construction of the residence e.g. fencing, driveways, the cover is for completion only, not defects

### **3.9 Maximum Entitlement**

In general terms, the following is the maximum amount payable under the Scheme.

#### **Prior to Practical Completion Non-completion, Defects, Vandalism and Theft**

- \$300,000 if optional additional cover is in place.
- \$200,000 for standard cover.

**NOTE:** both of these amounts include alternative accommodation removal and storage costs.

#### **Fire or Storm**

- \$300,000 if optional additional cover is in place.
- \$200,000 for standard cover.

**NOTE:** this is subject to the non-completion claim being accepted by QBCC.

#### **After Practical Completion Defects and Subsidence**

- \$300,000 if optional additional cover is in place.
- \$200,000 for standard cover.

**NOTE:** both of these amounts include alternative accommodation removal and storage costs.

#### **Common Property**

Each unit has its own maximum entitlement and all unit owners will contribute equally towards the cost of rectification of common property work.

#### **Alternative Accommodation**

- \$10,000 if optional additional cover is in place.
- \$5,000 for standard cover.

**Note:** these amounts are subject to the claim being accepted by QBCC, and if the home is not habitable.

### **3.10 Communicating with the Customer**

It is important the customer has comfort in knowing we have received their claim and will assess it as soon as possible. Our customers are going through a difficult time and the events surrounding each claim whilst unique, can cause a lot of stress for the customer.

When a claim is assigned, where possible, the Assessment Officer should aim to phone the customer to introduce themselves, provide their contact details and answer any general questions they may have about the claim process.

The officer can then also send the **Case Assignment – Non-Completion – Claimant** letter as a follow up to the phone conversation. Note: this letter is only required for a Non-Completion case as a Defects case will have followed on from the Disputes process.

The Assessment Officer must ensure the Two Day KPI Task that is automatically created by Salesforce is then completed.

### 3.11 Body Corporate Complaints

In the instance where the dispute relates to a multiple unit complex, the following applies in relation to the number of Complaint Forms to be lodged with the QBCC.

- One Complaint Form for the common areas of the 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.

### 3.12 Unapproved Building Work

- Approved plans are required for non-completion claims and in some instances defect claims.
- In most cases the original contractor is responsible for obtaining the approved plans, however it can be the customer, the contract will note who is responsible.
- It would be rare to **not** have approved plans because of the involvement of the certifier but there have been cases where approved plans have not been obtained.



#### RES-014 – Unapproved Building Works

### 3.13 Where No Policy Exists

There are a number of circumstances under which a policy, or cover under the Queensland Home Warranty Scheme, is deemed to come into force, even where premium was not, or could not be paid.

Assessment and confirmation of whether a deemed policy should be created should only occur if the work is residential construction work. The assessment should occur before assessing a claim.

If cover was not taken out, and the circumstances of the case do not establish that a deemed policy should be created, the matter should not be referred for assessment as a claim. If it is already being assessed as a claim, the claim must be declined.

Refer to **Guidance Statement – Deemed Policy including Fraudulent Misrepresentation** for full details on the circumstances under which a deemed policy may be created, who has delegation to make the determination, and the process for having the policy created and processing the premium.



#### Deemed Policy Request



### 3.14 Verbal Contracts

If there is no written contract, the **Verbal Contract Questionnaire** should be sent to all parties involved. The questionnaire is available in ActiveDocs.

Based on the response provided, the Assessment Officer will then need to determine whether or not there was a contract in existence.

### 3.15 Insured Registered for GST Purposes

If a claim is made in the name of a business, entity, trust, or if an ABN or ACN is listed on the Complaint Form, the Insured should be asked if they are “registered for GST purposes”.

An Assessment Officer must request information, or conduct further investigations (such as an ASIC search) into the normal business operations of the Insured, if it is suspected they would be registered for GST purposes.

This means that for any expenses the Insured incurs, they are able to claim that portion of the expense that is GST as an input tax credit.

QBCC cannot offer taxation advice to the Insured, and if queried, the Assessment Officer should advise the Insured to seek their own expert financial advice. Our assessment of their claim requires us to deduct the GST component from any claim approval, as they are able to then claim an input tax credit (GST reduction or credit) for the GST costs, paid by themselves or QBCC for the completion or rectification. This requires the Assessment Officer to manually reduce the Quote to be approved which will then reduce the claim approved amount.

Refer to [Guidance Statement – Insured Registered for GST Purposes](#) for full details.

### 3.16 Claim Approval Above Your Delegation

In line with the Delegations Manual officers can approve claims up to a certain amount. Anything above that amount will need to be referred up to the person with the appropriate delegation. The Salesforce Claims case is designed to refer the approval request to the appropriately delegated person/s when the officer submits the claim for approval.

**PRIOR** to selecting **Submit for Approval**, in all instances where the claim approval amount is above the officer’s delegation, the officer must first seek approval from their direct line manager (SL/OTL/RM) by sending them an email containing:

- a completed **Submission for Approval** - available in ActiveDocs
- a completed **Claim Assessment Reasons for Decision** - available in ActiveDocs
- a copy of the Service Provider’s **Tender Report** and any other relevant documents e.g. underpricing report, quotes
- any other documentation that is relevant and helpful under the circumstances.

The **manager** must then:

- complete the **Claim Approval Checklist** - available in ActiveDocs
- respond via email to the requesting officer advising of the outcome e.g. Submit for Approval in Salesforce, further information required
- if the approval is to proceed and the Salesforce approval request exceeds the manager's (SL/OTL/RM) delegation and will go to the person/s with the next delegated approval amount or above, ensure your direct line manager (Director Regional Services North or South/Manager Resolution Services Strategic or Operational) are cc'd in the email response.

### 3.17 Declining a Claim

It is important the **Claim Assessment Reasons for Decision** template adequately details the reasons for declining the claim and references the relevant policy clause and/or legislation. The decision to decline a claim is reviewable and therefore it is vital the assessment and reasoning are thorough and clear.

When a claim is to be declined, this decision should be communicated to the customer via telephone and also in writing.

If the reasons for the decision are clearly communicated to the customer, they are more likely to understand the reasons for the decision and potentially review the decision.

### 3.18 Reviewable Decisions

The decision to disallow a claim wholly or in part, the decision that a contract has been validly terminated and the decision about the scope of works to be undertaken are all reviewable decisions under Section 86 of the *Queensland Building and Construction Commission Act 1991*.

The consumer and contractor have the right to review these decisions via the QBCC's Internal Review process or at the Queensland Civil and Administrative Tribunal. In such instances the decision maker and their manager will be advised.

Under Section 158 of the *Queensland Civil and Administrative Tribunal Act 2009*, a person who may apply to the tribunal for a review of a reviewable decision may ask the decision-maker of the reviewable decision to give the person a written statement of the reasons for that decision.

If this occurs, the QBCC officer (decision-maker) should submit a Request for Legal Advice, available in ActiveDocs or on Trevor. A QBCC legal officer will then assist with drafting a written statement of reasons and enclosing all relevant documentation.

When completing the Request for Legal Advice, please ensure it contains links to the documents you consider relevant to the decision to ensure there are no delays in completing the request. The written statement of reasons for the decision must be provided within a reasonable period of not more than 28 days after the request is made.

### 3.19 When the Contractor Reviews the Direction

Should the contractor choose to review the Direction to Rectify and the complaint items are insurable work, a claims case will be created for a claim assessment.

The claim is not to be put on hold pending the review. The claim should be assessed as usual however should not be approved until the original Direction period has lapsed.

If the review's decision requires a new direction to be issued, the claim should not be approved until the new Direction has expired.

If the contractor reviews the Direction and the work is found not to have been defective, i.e. the Direction should not have been issued, the debt will not be recovered.

### 3.20 When a Contractor Reviews the Scope of Works

There may be situations where QBCC has progressed to approving a claim whilst the contractor is reviewing the Scope of Works. If the review results in a change to the Scope of Works or even the owner's right to a claim at all, QBCC can reverse the approval, if a contract for the work has not yet been signed.

In such instances, the owner must be advised immediately of the effect of the review decision, as should Sedgwick Building Consultancy Division so they can instruct the tendering builder not to provide a contract to the owner.

### 3.21 Consideration of Further Documents or Information Provided

It is imperative that all primary decision makers consider all evidence both prior and post decision-making. Once a decision has been reached based on evidence to hand, should further documentation/information be provided by either party this must be reviewed and determined if it alters or supports the original decision.

If the decision maker believes the information is credible for a decision (significant or adverse to both parties), the parties must be given the opportunity to answer to that. Where relevant, this information should also be vetted against the affected party to validate or not e.g. issues with site access.

**NOTE:** Once an application for review is lodged with IRU or QCAT, you cannot change your decision.

Where evidence being relied on in the decision making process was commissioned by QBCC e.g. engineer report, QS report etc. both parties can be provided a copy. Where the evidence has been provided by another party e.g. Sedgwick provides QBCC with tender documents, only the relevant details can be provided (rather than the entire document) without the consent of the party who provided the evidence. Permission to share the evidence can be sought from the providing party but if they do not consent, the other party must apply through RTI.

## 3.22 Settlement of Claims including Cash Settlements

### Background

The Scheme exists not only to compensate owners who have suffered a loss, but also to address broader public concerns regarding the quality of housing. The purpose of the QBCC is to provide peace of mind, not just to a particular claimant, but to Queenslanders.

The Scheme doesn't just exist to compensate particular claimants for their loss, it also has a broader role in society of ensuring homes are completed and free of defects. This is one of the reasons why home warranty is mandatory in most jurisdictions.

The QBCC's policy position regarding settlement of claims was endorsed by the Insurance and Risk Committee on 19 November 2014, and approved by the Board on 21 November 2014. It has also been the subject of numerous briefing notes to the Minister for Housing and Public Works.

### How Claims Should Be Settled

The QBCC's policy position regarding settlement of claims is that the most appropriate way to settle claims is to pay an appropriately licensed contractor, appointed by the QBCC following a tender process, to complete or rectify the works.

Typically, the appointed contractor is the lowest tenderer, and by awarding the works to that contractor the QBCC is rewarding the contractor for providing the most competitive quote, and promoting competition amongst the panel of tendering contractors.

By settling claims by appointment of a contractor, the QBCC is able to ensure, as far as reasonably possible, that all residential construction work is completed and free of defects.

Most owners want nothing more than for the QBCC to get a contractor to fix and finish works. Some however prefer the QBCC to pay them the claim amount, so they can choose what to do with the claim money.

Experience has shown the QBCC that peace of mind is not achieved by cash settling owners. We have seen occasions where owners have used the money to mask the defects and sell the property to an unsuspecting purchaser. In others we have had owners use the money to do different work and not fix the defects the subject of the claim.

In an extreme case after receiving a cash settlement of the full amount of the claim, the owner sold the property assuring the purchaser the defects would be fixed as a claim under the Queensland Home Warranty Scheme (showing them some of the claim paperwork).

Post settlement of the sale the owner asked for the work to be done and the QBCC had no option but to decline the claim under clause 7.2 as the defect was evident at the time of purchase.

### Why QBCC Typically Require the Owner to Use the Appointed Contractor

Tenders are called from a panel of contractors managed by our Service Provider, Sedgwick Building Consultancy Division. Where a panel contractor is appointed to perform the rectification or completion work Sedgwick Building Consultancy Division will manage that work to ensure the scope is carried out to a satisfactory standard.

Panel contractors are required to meet certain requirements for inclusion on the panel, including:

- has not been issued with a Direction to Rectify (Directions more than 5 years old not displayed on the public register are permitted)
- is not, and never has been banned for tier 1 defective work, disqualified for demerit offences or excluded. Note: this does not apply to a panel member who has been categorised as a permitted individual for the relevant event
- the number of any complaints to the QBCC regarding the contractor must be less than 5% of contract notifications for that contractor. This is assessed based on complaints where the contractor was found responsible, even if no direction was issued, for the previous 5 years.

Either Sedgwick Building Consultancy Division or the QBCC can remove contractors from the panel where the conduct of the contractor is deemed unsatisfactory.

This includes unprofessional conduct, poor quality work, excessive prices, and claiming inappropriate variations e.g. work included in the scope.

Where a panel contractor is used, Sedgwick Building Consultancy Division manage the rectification or completion works and both the QBCC and Sedgwick Building Consultancy Division hold the successful panel builder accountable for the work performed. The control which Sedgwick Building Consultancy Division and the QBCC have over panel members is considered vital to holding contractors accountable.

For this reason, and to promote competition, the general policy is that the lowest tenderer from the approved panel is awarded the job and is required to be used by the owner for the completion or rectification works. Experience has also shown peace of mind is not achieved by letting owners decide who should fix defects. We have had claims where the defect was not fixed and instead some other work was done.

### When a Cash Settlement is Appropriate

The QBCC recognises that there are some cases where it is appropriate to cash settle the claim amount directly to the owner. Such situations include:

- where the cost of rectification exceeds the maximum amount of compensation available
- where the approved amount is not sufficient to complete or rectify the works, and the owner is unable or unwilling to fund the retention amount or provide additional funding required for completion or rectification
- where the rectification work was completed and paid for by the owner with the QBCC's prior written approval
- where the claim is quantified on the basis of loss in value
- for other approved amounts, not directly related to the rectification work e.g. refund of deposit or compensation for alternate accommodation and storage costs
- where there are missing certificates impeding the owner from obtaining a Form 21 and the owner's bank/lender will not provide a written guarantee that they will release the final payment in the absence of a Form 21. In the interest of safeguarding the panel builders, we should cash settle these claims

- where there are good reasons for allowing the owner to use their preferred contractor, rather than the appointed contractor, for example where:
    - the owner is permitted to call their own tenders and the lowest tender which is used to quantify the claim is obtained by them. In such cases the service provider will not be required to manage the completion or rectification works
    - where the owner has obtained their own prices from appropriately licensed contractors, with or without the QBCC's permission and there is a shortfall and the owner has obtained cheaper tenders than those obtained by QBCC which allows the owner to have more work done for the claim amount. In all cases the owner will be required to follow the QBCC approved scope of works for structural defects, and where there are concerns that the owner will not, it is appropriate to have these works done by a panel builder and the balance cash settled.
- The service provider will not be required to manage the completion or rectification works done by a contractor who is not a member of the panel
- where the owner is in a remote location and a local contractor not on the service provider's panel is used. In such cases the service provider will not be required to manage the completion or rectification works.

### Approval of a Cash Settlement

Under the Policy there is discretion to approve cash settlement of a claim. Under the Delegations Manual, the below persons may exercise that discretion.

- Commissioner
- Director Industry Quality
- Manager Resolution Services (Strategic)
- Manager Resolution Services (Operations)
- Director Insurance Services
- Underwriting Manager
- Insurance Manager
- Executive Director Regional Services
- Director Regional Services Queensland North
- Director Regional Services Queensland South.

### Deed of Settlement and Release

In most cases where cash settlement is approved it will be subject to the owner signing a Deed of Settlement and Release whereby the claimant agrees:

- to use the money to appoint an appropriately licensed contractor to complete or rectify
- to inform prospective purchasers of the claim for at least the remaining period of cover under the policy. This is to ensure that any buyers of the property make an informed choice. Note: prospective purchasers are entitled to obtain an insurance information statement (insurance search) to tell them about claims under the Queensland Home Warranty Scheme. The prospective purchaser is entitled to this information, but the Deed requires the claimant to proactively inform the purchaser
- that the claim is fully settled by the cash payment. The owner will not be able to make further claims in respect of the incomplete or defective work including, for example, where in the course of undertaking rectification work it is discovered the extent of the damage is greater than originally thought

- any other terms which are appropriate depending on the circumstances of the claim.

Deeds are not required for cash settlements related to loss in value, compensation for alternate accommodation and storage costs, or where the payout is the maximum amount.

### Process for Requesting a Cash Settlement

Should it be established that a cash settlement is appropriate, approval must be sought from the appropriate person.

A Salesforce task should be sent to the appropriate person.

The submission should include the following:

- a summary of the reasons why a cash settlement is appropriate
- Claim Assessment Reasons for Decision template
- the service provider's tender report and any other relevant reports e.g. under-pricing report, quotes
- written cash settlement request from the owner (if applicable)
- any other documentation that is relevant and helpful under the circumstances.

### Getting the Deed Signed and Finalising the Process

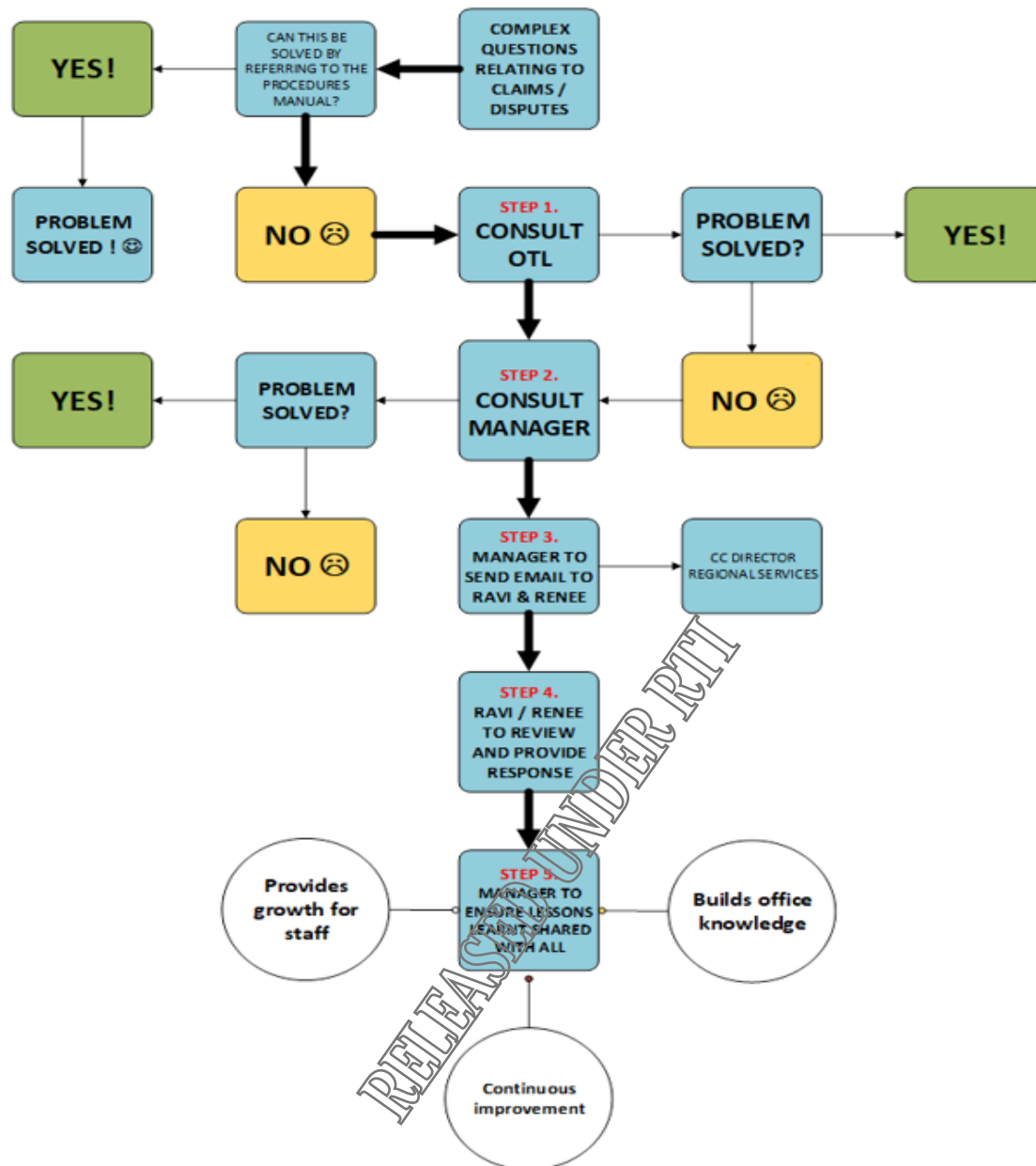
The owner/s will be required to sign the Deed and return a signed copy to the QBCC. This can be done in person or via post, email or fax.

QBCC will then sign the Deed. Only those with delegation as stated above (except the Underwriting Manager and Insurance Manager), can sign the Deed of Settlement and it is required to simultaneously have a Justice of the Peace sign as a witness. Ensure the signature page is stamped with the Common Seal, found in the Legal Services area, and that it is recorded in the "Legal Common Seal Register" also found in Legal Services.

Once the Deed has been executed, a copy of the executed Deed is provided to the owner and any other parties to the Deed. A copy must also be saved to ECM and the original document is to go to Records.

## 3.23 Seeking Advice from Resolution Services

If it is necessary to seek advice in the course of actioning a case, the below diagram depicts the process to be followed. This diagram relates to regional offices specifically, however the equivalent process should be followed by officers in Brisbane.



## 4 Claim Assessment – Refund of Deposit

### 4.1 Introduction

A Refund of Deposit claim is only applicable where it is determined the works have not started. The consumer is only entitled to a claim for a refund of deposit if the contract has been properly terminated.

#### Key Requirements



- A contract for the performance of residential construction work must exist. A “Preliminary Agreement” is generally not considered a contract to perform residential construction work.
- Evidence must be provided to confirm that no work has started on the site. This may be the Complaint Form Declaration by the customer and/or dated photographs of the site. If any doubt exists, an inspection of the site may be required.
- The contract must be properly terminated in accordance with the policy or legislative requirements.

## 4.2 Fixed Price

The residential construction work must be for a fixed price.  
The following types of contracts are not considered fixed price contracts:

- Construction Management Contract
- A Cost-Plus Contract.

## 4.3 Timeframes

### Pre 28 October 2016

There are two key timeframe requirements that must be satisfied.

- The consumer has properly terminated the contract with the contractor within 2 years from the date of payment of the insurance premium or the date the of entering into the contract (whichever is earlier).
- The consumer has made the claim to the QBCC within 3 months of properly terminating the contract or within such further time as the QBCC may allow.

### From 28 October 2016

For contracts dated from 28 October 2016, the consumer must make their claim within 3 months of the termination date. There is no discretion on this.

There are two key timeframe requirements that must be satisfied.

- The consumer has properly terminated the contract with the contractor within 2 years from the contract date.
- The consumer makes their claim before the day that is 3 months after the day the contract ends.

## 4.4 Works Started

Generally speaking, works are deemed to have started when:

- construction of the permanent footing system of a building comprising residential construction work is commenced or
- in the case of a contract for residential construction work where no footing system is to be constructed - when change to the existing structure is physically commenced.

Physically starts, does not include starting any of the following:

- the preparation of plans or specifications for the performance of the work
- design work
- administration services
- earthmoving or excavating
- site work related to the residential construction work.

## 4.5 When Work Has Started for a Swimming Pool

In relation to the construction of swimming pools the digging of the hole is not the start of a footing system. This is consistent with the QBCC Regulation which states that **physically starts** does not include starting of excavation.

### For a Fibreglass Pool

- The shell is normally delivered to site, before the excavation starts.
- Once excavation is carried out, the next step is to install the 'screed'.
- The screed is the sand that is put in the hole to stabilise the pool.
- The installation of the screed is the footing system for the pool.

Therefore, works will start when the screed is installed because this is physically starting the footing system for the pool.

### For a Concrete Pool

- Once excavation is completed the next step is to install reinforcing.
- The installation of the reinforcing is commencement of the footing system for the pool.

Therefore, works will commence when the reinforcing is installed because this is physically starting the footing system for the pool.

## Drainage

- Most pools will have drainage systems – so the commencement on drainage would come within s26L (1).
- However, in fibreglass pools, the drainage system is normally attached to the shell.

Therefore, the provision of drainage will not commence until the pool is inserted into the hole.

## 4.6 Termination

### Assessment

For further guidance on contract termination and assistance to determine valid termination, refer to the Legal Guidance Statement and Termination Checklists in section 16.

### Pre 28 October 2016

All editions of the Insurance Policy Conditions are consistent in that the policy requires that the contract be terminated lawfully under the contract or otherwise at law upon the contractor's default.

For example, Insurance Policy Conditions Edition 8, PART 1: NON-COMPLETION, clause 1.2 states:

*"The QBCC is only liable to pay for loss under this Part when the contract is for a fixed price and the consumer has properly terminated the contract with the contractor."*

PART 11: DEFINITIONS AND INTERPRETATION, 11.1 Definitions, further provides:

*"properly terminated" means lawfully under the contract or otherwise at law, upon the contractor's default which extends to, but is not limited to:*

- (a) the cancellation or suspension of the contractor's licence; or*
- (b) the death or legal incapacity of the contractor; or*
- (c) the insolvency of the contractor; or*
- (d) any breach of the contract by the contractor."*

### Termination – Insolvency

In circumstances where the contractor is bankrupt or insolvent, it is still important the consumer has terminated the contract in accordance with the conditions of their contract.

This type of termination is usually straight forward and all standard contracts have a termination clause for insolvency. Simply check to ensure the customer has adhered to the contract conditions.

## Termination – Common Law

This type of termination is more complex and it may be necessary to seek a manager's advice. Should this be the case, a Request for Advice form should be completed. The manager may then decide the termination needs to be looked at by QBCC's Legal Department. If so, the manager will then complete a Request for Legal Advice. Both of these documents are available in ActiveDocs.

Legal advice generally takes up to 10 business days depending on the urgency.

## From 28 October 2016

For contracts entered into from 28 October 2016 the *Queensland Building and Construction Commission Regulation 2018* (replacing the *Queensland Building and Construction Commission Regulation 2003*) sets out the requirements for when a contract ends:

### **"4 When fixed price residential contract ends**

- (1) A fixed price residential contract ~~ends~~ if—
  - (a) the contract is validly ~~terminated~~ on the default of the licensed contractor; or
  - (b) the licensed contractor dies; or
  - (c) the licensed contractor is a company and the company no longer exists; or
  - (d) both of the following apply—
    - (i) the licensed contractor is bankrupt or insolvent, or takes advantage of the laws of bankruptcy as a debtor under the Bankruptcy Act 1966 (Cwlth) or a similar law of a foreign jurisdiction;
    - (ii) the licensed contractor's licence is cancelled.
- (2) In this section—

**validly terminated**, for a fixed price residential contract, does not include mutual abandonment of the contract by the parties to the contract."

## Termination – Insolvency

In order for the above to apply, the contractor must be insolvent and have a cancelled licence.

In circumstances where the contractor is bankrupt or insolvent and their licence is cancelled, the contract is deemed to be at an end. The consumer is not required to issue a termination notice.

Care should be taken using this clause, as there is a clear definition of insolvent.

The QBCC Regulation states:

*“insolvent includes external administration (for example, liquidation, receivership or compromise entered into with creditors) under the Corporations Act or similar law of a foreign jurisdiction.”*

## Termination – Common Law

This type of termination is more complex and it may be necessary to seek a manager's advice. Should this be the case, a Request for Advice form should be completed. The manager may then decide the termination needs to be looked at by QBCC's Legal Department. If so, the manager will then complete a Request for Legal Advice. Both of these documents are available in ActiveDocs. Legal advice generally takes up to 10 business days depending on the urgency.

## Termination Decision

QBCC must communicate the decision about the termination with both parties and ensure review rights are provided.

If it is determined the consumer has properly terminated the contract, the **Termination Valid Letter** is issued to the contractor or liquidator. This letter should summarise the key reasons for the decision and provide review rights.

If the claim must be declined due to the consumer not properly terminating the contract, a **Declinature Letter** must be sent to the customer detailing the reasons for the decision and provide review rights. All letters are available in ActiveDocs.

## Communicating with the Contractor

### 7 Day Termination Letter

Correspondence must be sent to the contractor or liquidator (if insolvent) inviting them to make submissions or provide documents regarding the contract termination.

This ensures that the QBCC complies with its procedural fairness obligations. This applies to all contractors, including those who are bankrupt or insolvent.

The **7 Day Contract Termination** letter is to be sent as soon as it is established the contract has been terminated (prior to full termination assessment).

Where the contractor is insolvent or bankrupt, there is no need to wait the 7 days before assessment of the termination/seeking advice in relation to the termination.

## 4.7 Amount of Payment

### Pre 28 October 2016

Where works have not commenced, the insurance entitlement is limited to, and subject to the policy terms and conditions, the unrefunded deposit paid and interest on the amount payable. The **Non-Comp - Interest Calculation** spreadsheet can be used to calculate this.

Where the customer has paid an excessive deposit, they will only be entitled to a partial refund for the amount set out under the policy.

*“The amount of the payment is limited to the total of:*

*(a) the lower of:*

- (i) the amount of any unrefunded deposit paid by or on behalf of the consumer to or on behalf of the contractor, or*
- (ii) if the contract price is equal to or more than \$20,000 – 5% of the contract price (limited to \$200,000)*
- (iii) if the contract price is less than \$20,000 – 10% of the contract price; and*

*(b) interest on the amount payable under paragraph (a) at the rate stated in in the certificate for the period from when the deposit was paid until the date when the contract was properly terminated by the consumer.”*

### From 28 October 2016

No interest applies for contracts entered into from 28 October 2016.

### QBCC Act

The QBCC Act, Schedule 1B provides for domestic building contracts, and defines “deposit” for a regulated contract, to include any payment for domestic building work demanded or received by the building contractor prior to work commencing on site – this includes any insurance premium paid under the Scheme.

Section 33(1) sets out the amount of deposit a contractor is entitled to claim.

- For a contract below \$20,000 – 10%.
- For a contract above \$20,000 – 5%.
- Contract where the value of off-site work is more than 50% of the contract price – 20%.

Section 33(3) defines “off-site work” as work performed at a place that is not the place at which the domestic building work is to be finally installed or constructed under the contract.

### QBCC Regulation

The QBCC Regulation, Terms of cover for the statutory insurance scheme, provides the following:

**“insurable deposit**, for a fixed price residential contract means the least of the following amounts:

- (a) the deposit paid by the consumer to the licensed contractor under the contract;*
- (b) if the insurable value of the off-site work is more than 50% of the contract price—20% of the contract price;*
- (c) if the contract price is less than \$20,000—10% of the contract price;*

(d) if the contract price is \$20,000 or more—5% of the contract price.

**deposit**, for a fixed price residential contract, includes any payment for residential construction work received by the licensed contractor prior to work under the contract starting at the place where the work is to be completed under the contract, including, for example, any insurance premium paid.

**off-site work**, for a fixed price residential contract, means work under the contract performed at a place that is not the place where the residential construction work is to be completed under the contract.”

## Off-site Work

Both the Act and the Regulation provide for payment of a deposit where more than 50% of the work is carried out off-site.

Under the Act and the Regulation, if more than 50% of the work is performed away from the actual site, then the contractor may charge a deposit payment which is 20% of the contract amount.

However, the consumer can still only claim back the least of all the amounts listed in the section. If the deposit under the contract is less than 20% of the contract price, then this lesser amount is all the QBCC can pay to the consumer. While the legislation allows the contractor to require payment of a larger amount as deposit, this does not mean that the homeowner will be compensated for this larger amount.

## Check Measure Example

An owner paid \$2,680 as a deposit and then paid a further \$24,100 as a “check measure” payment. The check measure payment was listed separately on the progress payments schedule in the contract.

The total amount paid by the owner under the contract, and prior to works commencing on site was \$26,780.00.

The check measure payment is included in the definition of deposit in the Act as it is a payment received by the contractor prior to work commencing on site.

The Regulation definition of deposit would also include the check measure amount. However, the Regulation makes it clear that the only amount QBCC can refund is the least of the amounts listed in the definition of insurable deposit. So even if the check measure amount forms part of the deposit as defined, if the deposit noted as payable under the contract is less than this, then it is the lesser amount that is payable by QBCC.

## Insurable Deposit

If the insurable deposit is less than the deposit as defined in the QBCC Act Schedule 1B, then the amount that must be refunded is the least of the amounts noted in the QBCC Regulation, despite what Schedule 1B may provide for domestic building contracts.

## Conclusion

- If more than 50% of the work is done offsite, the contractor can charge 20% deposit under Schedule 1B of the QBCC Act.

- Where a deposit is paid and a separate payment is made for check measure the amount to be refunded to the consumer under the Regulation is the deposit payable under the contract, providing this is the lowest amount on the list. It does not include the check measure amount where this is listed separately as a payment under the contract.
- Of the amounts listed in the Regulation, if one of these amounts is less than the deposit provided for in Schedule 1B, then it is the lesser amount that must be refunded.

## 4.8 Documents Required

At a minimum, the following documents are required from the customer in order to assess their refund of deposit claim:

- Non-Completion Complaint Form
- no works started statement/evidence
- termination documentation
- proof of payment
- copy of the contract including the general conditions

If the required documents have not been provided, or further information or documents are required to complete an assessment, generally 7 days is allowed for the customer to provide them. If at the end of this time, the request has not been fulfilled, contact should again be made e.g. phone call, email, prior to closing the case on this basis. The appropriate request and closure letters are available in ActiveDocs.

## 4.9 Entitlement Exhausted

Once the claim has been approved and the customer reimbursed, the policy must be exhausted so it cannot be accessed in any subsequent claim relevant to that particular site.

The Assessment Officer must go and edit the **Policy** and in the Comments field enter **"ENTITLEMENT EXHAUSTED"**. A note can also be added to the **Notes & Attachments** section.

# 5 Claim Assessment – Non-Completion

## 5.1 Introduction



During the course of a contract, the Queensland Home Warranty Scheme may assist a customer if:

- the contractor becomes bankrupt or goes into liquidation
- the contractor fails to complete the contracted works for reasons that are not the customer's fault.

These types of claims are called non-completion claims which means:

- where no works have started, the QBCC may reimburse the deposit paid under the contract
- where work has started, the QBCC may cover the difference between the monies held in retention by the consumer and the cost of the completion of the works to a maximum liability of \$200,000.00 or \$300,000.00 if additional cover has been purchased
- defects identified prior to practical completion, alternative accommodation and vandalism and forcible removal are included in the pre-practical completion entitlement.

## 5.2 Fixed Price

The residential construction work must be for a fixed price.

The following types of contracts are not considered fixed price contracts:

- Construction Management Contract
- A Cost-Plus Contract.

## 5.3 Time frames

### Pre 28 October 2016

There are two key timeframe requirements that must be satisfied.

- The consumer has properly terminated the contract with the contractor within 2 years from the date of payment of the insurance premium or the date the of entering into the contract (whichever is earlier).
- The consumer has made the claim to the QBCC within 3 months of properly terminating the contract or within such further time as the QBCC may allow.

### From 28 October 2016

For contracts dated from 28 October 2016, the consumer must make their claim within 3 months of the termination date. There is no discretion on this.

There are two key timeframe requirements that must be satisfied.

- The consumer has properly terminated the contract with the contractor within 2 years from the contract date.
- The consumer makes their claim before the day that is 3 months after the day the contract ends.

## 5.4 Residential Construction Work – Primary Insurable Work

For contracts pre 28 October 2016, the QBCC Insurance Policy Conditions refer to **‘primary building work’** defined as primary building work as defined in Section 11 of the Regulation. The Regulation it refers to was rescinded and replaced by the *Queensland Building and Construction Commission Regulation 2018*. The term **‘primary insurable work’** is used in the QBCC Regulation and must therefore be referenced.

Section 67WC of the QBCC Act sets out what is primary insurable work and section 67WD what is associated insurable work.

### **“67WC Meaning of primary insurable work**

- (1) **Primary insurable work** is any of the following building work if carried out by a licensed contractor and the insurable value of the work is more than the regulated amount—
  - (a) the erection or construction of a residence or related roofed building;
  - (b) building work within the building envelope of a residence or related roofed building;
  - (c) building work for anything attached or connected to a residence or related roofed building that requires building development approval under the [Building Act 1975](#) or a permit under the [Plumbing and Drainage Act 2018](#);
  - (d) the erection, construction or installation of a swimming pool within the meaning of the [Building Act 1975, schedule 2](#);
  - (e) other building work prescribed by regulation.
- (2) However, the following is not primary insurable work, but may be associated insurable work—
  - (a) fencing;
  - (b) landscaping;
  - (c) electrical work under the [Electrical Safety Act 2002](#);
  - (d) installation, renovation, repair or replacement of any of the following—
    - (i) air conditioning;
    - (ii) driveways or paths;
    - (iv) units for heating water regardless of the source of energy for heating, and including units for heating swimming pools;

- (iv) refrigeration;
- (v) roller shades and shutter screens;
- (vi) security doors and grills;
- (vii) solar power units and associated electrical components;
- (viii) water tanks that are not part of a primary water supply for a residence or related roofed building;
- (e) other work prescribed by regulation.

(3) *In this section—*

**building envelope**, for a residence or related roofed building, means the outermost sides of the aggregation of the components of a building that have the primary function of separating the internal part of the residence or related roofed building from the external environment.

*Example of a building envelope—  
the slab and footings system, an external wall and a roof*

**regulated amount** means \$3,300 or the higher amount, if any, prescribed by a regulation.

#### **67WD Meaning of associated insurable work**

- (1) **Associated insurable work** is any additional work that may be contracted to be carried out under a contract for primary insurable work if—
  - (a) for primary insurable work relating to a residence—the work is carried out on the site of the residence or proposed residence and is for residential purposes; or
  - (b) for primary insurable work relating to a related roofed building—the work is carried out on the site of the building or proposed building and is for residential purposes.
- (2) To remove any doubt, it is declared that associated insurable work may include work that is not building work.

*Examples for subsection (2)—  
electrical work under the [Electrical Safety Act 2002](#), erecting scaffolding, or earthmoving and excavation work.”*

## **5.5 Termination**

### **Assessment**

For further guidance on contract termination and assistance to determine valid termination, refer to the Legal Guidance Statement and Termination Checklists in section 16.

**Pre 28 October 2016**

All editions of the Insurance Policy Conditions are consistent in that the policy requires that the contract be terminated lawfully under the contract or otherwise at law upon the contractor's default.

For example, Insurance Policy Conditions Edition 8, PART 1: NON-COMPLETION, clause 1.2 states:

*"The QBCC is only liable to pay for loss under this Part when the contract is for a fixed price and the consumer has properly terminated the contract with the contractor."*

PART 11: DEFINITIONS AND INTERPRETATION, 11.1 Definitions, further provides:

*"properly terminated" means lawfully under the contract or otherwise at law, upon the contractor's default which extends to, but is not limited to:*

- (a) the cancellation or suspension of the contractor's licence; or*
- (b) the death or legal incapacity of the contractor; or*
- (c) the insolvency of the contractor; or*
- (d) any breach of the contract by the contractor."*

## Termination – Insolvency

In circumstances where the contractor is bankrupt or insolvent, it is still important the consumer has terminated the contract in accordance with the conditions of their contract.

This type of termination is usually straight forward and all standard contracts have a termination clause for insolvency. Simply check to ensure the customer has adhered to the contract conditions.

## Termination – Common Law

This type of termination is more complex and it may be necessary to seek a manager's advice. Should this be the case, a Request for Advice form should be completed. The manager may then decide the termination needs to be looked at by QBCC's Legal Department. If so, the manager will then complete a Request for Legal Advice. Both of these documents are available in ActiveDocs. Legal advice generally takes up to 20 business days depending on the urgency.

## From 28 October 2016

For contracts entered into from 28 October 2016, the *Queensland Building and Construction Commission Regulation 2018* (replacing the *Queensland Building and Construction Commission Regulation 2003*) sets out the requirements for when a contract ends.

### **"4 When fixed price residential contract ends**

- (1) A fixed price residential contract *ends* if—**
  - (a) the contract is validly terminated on the default of the licensed contractor; or*
  - (b) the licensed contractor dies; or*

- (c) *the licensed contractor is a company and the company no longer exists; or*
  - (d) *both of the following apply—*
    - (i) *the licensed contractor is bankrupt or insolvent, or takes advantage of the laws of bankruptcy as a debtor under the Bankruptcy Act 1966 (Cwlth) or a similar law of a foreign jurisdiction;*
    - (ii) *the licensed contractor's licence is cancelled.*
- (2) *In this section—*
- validly terminated***, *for a fixed price residential contract, does not include mutual abandonment of the contract by the parties to the contract.”*

## Termination – Insolvency

In order for the above to apply, the contractor must be insolvent and have a cancelled licence. In circumstances where the contractor is bankrupt or insolvent and their licence is cancelled, the contract is deemed to be at an end. The consumer is not required to issue a termination notice.

Do be careful using this clause, as there is a clear definition for insolvent. The definition for insolvent is set out under QBCC Regulation:

***“insolvent*** *includes external administration (for example, liquidation, receivership or compromise entered into with creditors) under the Corporations Act or similar law of a foreign jurisdiction.”*

## Termination – Common Law

This type of termination is more complex and it may be necessary to seek a manager's advice. Should this be the case, a Request for Advice form should be completed.

The manager may then decide the termination needs to be looked at by QBCC's Legal Department. If so, the manager will then complete a Request for Legal Advice. Both of these documents are available in ActiveDocs.

Legal advice generally takes up to 20 business days depending on the urgency.

## Termination Decision

QBCC must communicate the decision about the termination with both parties and ensure review rights are provided.

If it is determined the consumer has properly terminated the contract, the **Termination Valid** letter is issued to the contractor or liquidator. This letter should summarise the key reasons for the decision and provide review rights.

If the claim must be declined due to the consumer not properly terminating the contract, a **Declinature** letter must be sent to the customer detailing the reasons for the decision and provide review rights. All letters are available in ActiveDocs.

## Communicating with the Contractor

### 7 Day Termination Letter

Correspondence must be sent to the contractor or liquidator (if insolvent) inviting them to make submissions or provide documents regarding the contract termination.

This ensures that the QBCC complies with its procedural fairness obligations. This applies to all contractors, including those who are bankrupt or insolvent.

The **7 Day Contract Termination Letter** is to be sent as soon as it is established the contract has been terminated (prior to full termination assessment). Where the contractor is insolvent or bankrupt, there is no need to wait the 7 days before assessment of the termination/seeking advice in relation to the termination.

## 5.6 Evidence of Payment and Calculating Retention

Payments made against the original contract payment schedule must be reconciled to determine the customer's retention. The **Non-Completion – Payment Reconciliation** spreadsheet should be used to calculate the retention.

The retention assessment outcome should be communicated to the customer as soon as possible. It is very important the customer understands they must contribute this amount towards the new contract.

### Infrastructure Charges

If the contract includes items such as Council Infrastructure charges, Strata Titling charges or the like, that have not been paid for and obtained, they should be excluded from the contract to complete. The relevant amount must therefore be deducted from the consumer's retention and they should be advised they will have to arrange and satisfy these requirements with the council etc. directly.

### Key Points

- Payments made for invoiced variations are regarded as payments under the contract.
- Any payments made to subcontractors and suppliers may be considered as payments under the contract if the customer has paid these on behalf of the contractor and they formed part of the contract.
- If the customer does not agree with QBCC's reconciliation, they should be allowed the opportunity to provide further information which may assist in the calculation.

In order to calculate the customer's retention and entitlement to a claim, they must provide sufficient evidence of all payments made under the contract.

The only acceptable forms of evidence are:

- copies of receipts from the contractor
- a statement from the contractor detailing the payments made
- a letter from their Bank or Lending Institution detailing the payments made
- copies of presented cheques
- a Tribunal determination.

Cheque butts are not acceptable as they do not verify payments actually made, or that there were sufficient funds to honour the cheque. Additionally, bank account statements are generally unacceptable as they do not verify all of the necessary details.

## 5.7 Prepayment

A prepayment is when the consumer pays money to the contractor before the payment has become due in accordance with the contract payment schedule.

Any amount of prepayment is to be deducted from the claim approval and the customer is to be advised and given review rights for this decision.

### Key Points

- The service provider should be requested to investigate prepayments for all non-completion claims.
- The service provider will provide information about prepayment in their Non-Completion Report including the estimated value of the prepayment. This should be noted in the **Case Assessment Reasons for Decision** template.
- It is important any prepayment advice is communicated to the customer prior to approval. This ensures the customer understands they will be required to contribute an additional amount, above their retention, and it isn't a last minute surprise at approval stage.



### Guidance Statement – Prepayment

## 5.8 Underpricing

Underpricing is where the contract price for the residential construction work is understated, and does not reflect the true value of the work to be performed.

Underpricing must be applied in line with the QBCC Regulation, which states:

***“7 Assistance for completion of work***

- 5) *The assistance mentioned in subsection (1) or (3) the consumer is entitled to claim in relation to the residential construction work must be reduced by—*
- (c) *if the insurable value of the work exceeds the contract price for the work by more than 30%—the amount by which the insurable value of the work exceeds the contract price.”*

## How this is Determined

- Once the tender documentation is received from the service provider, it first needs to be determined if the value to complete is more than 30% higher than the contract price.
- All the relevant figures are to be entered into the **Underpricing Calculation** spreadsheet ensuring the defects (where relevant) are not included in the calculation.

If the calculator identifies underpricing needs to be investigated:

- the service provider should be requested to provide an Underpricing Report
- the Underpricing Report is then used to make a final decision as to whether underpricing should be applied and the value.

**Note:** The Underpricing Report (QS Report) excerpt below, will always specify a % tolerance margin (example below of 10%). The Assessment Officer should then **always** deduct this % from the Adjusted Total Sedgwick Cost Assessment amount, taken from the Total Estimate Summary in the Underpricing Report.

This amount is then to be reduced from the amount payable.

## Special Notes & Considerations & Allowances

- Sedgwick Building Consultancy division estimate has been developed in a 'Trade' format. We note that our Preliminaries, Overheads, Profit margins are to an industry standard and are considered fair and reasonable for the type and size of the project.
- When utilising this estimate as a comparison or negotiating tool, a degree of variance should be taken into consideration. Sedgwick Building Consultancy division believes a tolerance margin of within +/- 10% would be acceptable for a project of this type, size and complexity.
- This estimated cost should be viewed as a total cost only and not necessarily on an individual item/trade basis.
- Provisional sums and variations are as per original contract.



## 9. Estimated Cost

### Total Estimate Summary:

- Below is a summary of the total rectification cost, as estimated by Sedgwick Building Consultancy division. For a full cost breakdown refer to Appendix A.

Job	Cost (\$) (incl GST)
<b>Original Contract Builders Price</b> <i>Builders Contract date - June 2018 - Builders Margins Included</i>	<b>\$325,000.00</b>
<b>Sedgwick Building Consultancy</b> <i>Contracted Building Works (as at September 2019)</i>	<b>\$620,860.00</b>
<b>Depreciated to June 2018 (-3.51%)</b>	<b>\$21,792.19</b>
<b>Adjusted Total Sedgwick Cost Assessment</b> <i>(as at Contract date - June 2018)</i>	<b>\$599,067.81</b>
<b>Total Cost Variance</b> <i>(Difference between Original Contracted Builders Price and the Adjusted Total Sedgwick Cost Assessment)</i>	<b>\$274,067.81</b>
<b>Variance %</b>	<b>54.25%</b>



### Guidance Statement – Underpricing

## 5.9 Documents Required

At a minimum, the following documents are required to assess the claim:

- Non-Completion Complaint Form
- termination documentation
- proof of payment
- copy of the contract including the general conditions.

The following documents will also be required for the service provider should the claim be accepted:

- contract specifications
- approved plans (must be stamped approved plans)
- building approval documents (includes Decision Notice)

- copies of certificates for works completed to date
- engineering plans may also be required
- any additional documents referred to in the contract.

This list is not exhaustive. Each claim is to be treated on a case by case basis.

If the required documents have not been provided, or further information or documents are required to complete an assessment, generally 7 days is allowed for the customer to provide them. If at the end of this time, the request has not been fulfilled, contact should again be made e.g. phone call, email, prior to closing the case on this basis. The appropriate request and closure letters are available in ActiveDocs.

## 5.10 Alternative Accommodation, Removal and Storage Costs

Pre 28 October 2016

Where a claim is admitted, the consumer may be covered for alternative accommodation, removal and storage costs subject to the provisions of the Policy. This is alternative accommodation costs incurred by the consumer as a result of the non-completion of the residential construction work. 1.5(b) of the Policy states:

*“Any such payment will be limited to those reasonable alternative accommodation, removal and storage costs incurred for the period from:*

- *the date nominated or stated in the contract for practical completion; or*
- *the date when the consumer has properly terminated the contract with the contractor; or*
- *the date the consumer gives notification of the claim to QBCC;*

*whichever is the latest, until the date that the residential construction work is substantially complete in the opinion of the QBCC.*

*For the period between receipt of the formal claim approval from QBCC, and the making of a contract for recommencement of construction, the payment is limited to those expenses incurred over a maximum period of 7 days.*

### Key Points

- The maximum entitlement is \$5,000.00 or \$10,000.00 if additional cover is purchased, which is included within the policy limit. If QBCC has approved the maximum entitlement for a non-completion claim, there is no remaining entitlement to pay for accommodation, removal and storage costs.
- It is only the consumer's alternative accommodation that is covered, not the alternative accommodation of the consumer's tenants.
- Alternative accommodation for pets is included in this entitlement, provided the pet would normally reside in the dwelling and the alternative accommodation refuses pets.



## Guidance Statement – Accommodation Non-Completion

From 28 October 2016

The following also applies as per the QBCC Regulation:

*“(3) However, no assistance can be given to the consumer for the accommodation, removal and storage costs unless the consumer makes the claim for the costs within 28 days after the day the claim period for the completion claim ends.”*

### Reimbursement

In order to reimburse the customer, where applicable we require:

- a copy of rental/lease agreement
- a copy of the hotel or apartment invoice/s
- evidence of payment e.g. hotel or rental receipts, bank statements.



### Accommodation Calculation Spreadsheet

### Technology One Creditor Form

A Technology One creditor ID needs to be created to reimburse the customer for accommodation costs. This can be done by completing the [New Creditor for Technology One Form](#) and emailing it to the Finance Payments and Receipting team for processing.

### 5.11 Scope of Works

The service provider is responsible for providing a Scope of Works for non-completion claims.

#### Standard Scope of Works

In the instance where there are sufficient contract documents and only a standard Scope of Works is requested and provided by the service provider, the Assessment Officer should approve the Scope of Works.

#### Itemised Scope of Works

In cases where the contract documents are inadequate, we would request that the service provider arranges an itemised Scope of Works.

Itemised Scope of Works should be reviewed and approved by the Senior Building Inspector, Manager or Building Inspector for the relevant area.

The Assessment Officer is responsible for communicating with the service provider in relation to the approval of the scope.

## 5.12 Cost for Certificates

The completing contractor is responsible for providing certification for any work carried out under the Scheme, however the QBCC will not pay the cost of obtaining certificates in relation to the work carried out by the original contractor.

## 5.13 Variations After Approval

Variations are changes and/or additions to the Scope of Works after the claim has been approved.

Any variations must be submitted to the QBCC for review. It is important to ensure the variation works form part of the original contract works. It is also important to check the remaining entitlement to ensure there are enough funds to cover the variation. Any shortfall must be paid by the consumer.

Variations submitted by the service provider will first go to the Assessment Officer for review then to the relevant Senior Building Inspector, Manager or Building Inspector to review and either Accept or Reject. They are then to be treated like any other claim approval i.e. with a Scope of Work being approved, sent to the owner and original contractor, and an approval to all relevant parties.

### Declining a Variation

If the Senior Building Inspector, Manager or Building Inspector declines a variation, they should provide their reasoning. This will need to be communicated to the customer and service provider.

The decision to decline the variation must be put in writing to the customer and should include a summary of the reason/s it has been declined and provide review rights.

## 5.14 New Item Identified After Approval

Where a claim has been approved and the Claimant notifies either Sedgwick Building Consultancy Division or QBCC of a new complaint item, the Claimant should be instructed to lodge a new Complaint Form to QBCC.

For example, a claim has been approved to rectify cladding along one elevation of the property, and the Claimant now has concerns about cladding on a different elevation, this **should not** be treated as a variation to the current claim. They should be instructed to submit a new Complaint Form for investigation. The usual defective work process is then to be followed to ensure procedural fairness prevails.

A QBCC Building Inspector will then make the determination at a site inspection as to whether the new item is actually defective work or not, and who the responsible party is. This applies regardless of the Respondent being Active, Cancelled or Liquidated etc.

## 5.15 Vandalism, Forcible Removal, Fire, Storm or Tempest

### The legislation

For contracts from 28 October 2016, the *Queensland Building and Construction Commission Regulation 2018* (QBCC Regs), Schedule 6 Terms of cover provides the following in relation to assistance for a defined event.

**“defined event”** means—

- (a) *vandalism or forcible removal of built work; or*
- (b) *fire, storm or tempest.*

**fire** means a fire or explosion other than the following—

- (a) *a fire or explosion with no flame;*
- (b) *a fire that has not escaped the normal confines of a cooking, heating or electrical appliance;*
- (c) *a fire or explosion caused by—*
  - (i) *spontaneous fermentation or heating or a process involving the application of heat; or*
  - (ii) *earthquake or subterranean fire; or*
  - (iii) *riot, civil commotion, war, invasion, act of foreign enemy, a terrorist act, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection or military or usurped power; or*
  - (iv) *arson, vandalism or forcible removal of built work or another unlawful act;*
- (d) *an explosion that results in built work being damaged from exposure to water or another liquid, including, for example, petrol or oil but not including water from a pipe damaged by the explosion or water used to extinguish a fire.*

**forcible removal**, of built work—

- (a) *means the removal by force of built work that is fixed by a person—*
  - (i) *acting without the consent of the consumer for the residential construction work; and*
  - (ii) *who is not the invitee of the consumer; but*
- (b) *does not include the removal of the built work as a result of a terrorist act.*

**storm** does not include the following—

- (a) *heavy or persistent rain by itself;*
- (b) *water rising up from the ground, including from natural causes;*
- (c) *an increase in sea level, including a tsunami or other storm surge.*

**vandalism**, of built work—

- (a) *means vandalism of the work by a person—*
  - (i) *acting without the consent of the consumer for the residential construction work; and*
  - (ii) *who is not the invitee of the consumer; but*
- (b) *does not include vandalism of built work as a result of a terrorist act.*

**Part 2** **Incomplete residential construction work**  
**Subdivision 3** **Vandalism, forcible removal, fire, storm or tempest**  
**10 Assistance for defined event**

- (1) This section applies if—
  - (a) the built work the subject of an allowed completion claim is damaged or destroyed as a result of a defined event; and
  - (b) the damage to or destruction of the built work happened—
    - (i) during the claim period for the allowed completion claim; and
    - (ii) as a consequence of the work being incomplete.
- (2) The consumer is entitled to claim assistance for the reasonable cost of work (**reinstatement work**) necessary to reinstate the built work to the same state it was in immediately before the defined event.
- (3) The assistance mentioned in subsection (2) must be reduced by the amount, if any, by which the consumer's liability amount for the residential construction work the subject of the allowed completion claim exceeds the reasonable cost of completing the work.
- (4) However, no assistance can be given to the consumer unless the consumer makes the claim for the reinstatement work within 14 days after the day the damage to or destruction of the built work would have come to the attention of the consumer if the consumer was taking reasonable steps to monitor and protect the built work.
- (5) In this section—

**allowed completion claim** means a claim for assistance mentioned in section 7(1) if the commission—

- (a) allows the claim; or
- (b) disallows the claim only because either or both of the following apply—
  - (i) the maximum amount the commission may pay under part 4 in relation to the claim has been reached;
  - (ii) the consumer's liability amount for the residential construction work the subject of the claim exceeds the reasonable cost of completing the work.

**claim period**, for an allowed completion claim, means the period—

- (a) starting on the day the claim is made; and
- (b) ending on the earliest of the following—
  - (i) 6 months after the day the contract for the residential construction work the subject of the claim ends;
  - (ii) the day the consumer contracts with a licensed contractor to complete the residential construction work the subject of the claim;

(iii) 7 days after the day the consumer is given written notice that the claim has been allowed or disallowed.”

**11 No entitlement to assistance for particular loss**

The consumer is not entitled to claim assistance mentioned in section 10(2) for—

- (a) damage to or destruction of built work caused gradually as a result of repeated exposure of the work to fire or smoke; or
- (b) residential construction work carried out using goods or materials not supplied by the licensed contractor, or the licensed contractor’s agent, under the contract; or
- (c) damage to or destruction of property, other than the built work, as a result of a defined event, including, for example, damage to or destruction of a building that exists on the site of the residential construction work before the work starts; or
- (d) the cost of removing a tree stump, or any part of a tree that has not fallen or caused damage to the built work; or
- (e) building work services.

**12 Threshold for vandalism or forcible removal**

For each occurrence of vandalism or forcible removal of built work, the consumer is entitled to claim only the reasonable cost of reinstatement work mentioned in section 10(2) that is more than \$2,500.

**13 Requirement to report vandalism or forcible removal**

Before making a claim for assistance mentioned in section 10(2) relating to vandalism or forcible removal of built work, the consumer must report the vandalism or forcible removal to the Queensland Police Service.

*Note—See section 65(3) for the evidence that must be included in a notice of claim in relation to vandalism or forcible removal of built work.”*

## Summary

Ancillary cover commences when QBCC receives a claim for non-completion. Claims for ancillary cover must be lodged with the QBCC within **14 days** of the event which caused the loss (the defined event).

For vandalism and forcible removal, the consumer must make a formal complaint to police about the defined event and must provide evidence of this to QBCC when making a claim.

The ancillary cover ceases on the earliest of the following:

- 6 months from the date of contract termination
- the date the consumer enters into a contract to complete the work
- 7 days after the QBCC’s written approval of the related non-completion claim.

All timeframes are fixed. The QBCC **does not** have discretion to extend the timeframes.

Subject to the applicable maximum entitlement limits, a consumer may make multiple claims under these sections relating to the period of ancillary cover.

The QBCC is only liable for a claim for ancillary cover where the consumer has a valid non-completion claim.

Generally, the QBCC will not be liable for a claim for ancillary cover if either:

- the QBCC is not liable for a non-completion claim
- the consumer is otherwise not entitled to a non-completion claim where the consumer has failed to lodge a claim within the prescribed timeframe.

The main exception to the above arises where the consumer is otherwise entitled to a non-completion claim but for the fact that a retention held by the consumer is sufficient to complete the work. In this case, the consumer remains eligible for ancillary cover.

As ancillary cover is dependent upon a valid non-completion claim having been made, any retention held by the consumer must first be deducted as part of the assessment of the non-completion claim. In the instance where the retention exceeds the cost to complete the work any remaining retention is to be deducted as part of the assessment of any ancillary cover claim.

Ancillary claims will require a separate Scope of Works and Schedule for processing in Salesforce and for vandalism and forcible removal, an excess of \$2,500 is payable by the consumer for each defined event for which loss is claimed. This amount will be automatically deducted from the claim approval amount when approval is processed in Salesforce.

Liability for a claim for vandalism or forcible removal is included in the existing maximum for non-completion. That is, a total maximum of \$200,000 or \$300,000 (where additional cover is purchased) is available for all claims for non-completion and loss arising from vandalism and forcible removal.

Liability for a claim for fire, storm or tempest is provided by a separate and additional \$200,000 or \$300,000 (where additional cover is purchased). Accordingly, a potential maximum of \$400,000 or \$600,000 (where additional cover is purchased) is available for all claims in the aggregate for a non-completion claim and loss arising from fire, storm or tempest.

For assessment purposes, the non-completion claim is to be assessed prior to the assessment of an ancillary cover claim.

## 5.16 Payments

### Paying the Completing Contractor

The service provider will recommend payment when the relevant stage of the contract works has been reached. Payment can be made directly to the completing contractor upon receipt of the following documents:



- payment report
- copy of contract to complete
- copy of the QBCC Insurance Confirmation
- valid invoice - including ABN/ACN, invoice number and invoice date
- any relevant certificates and/or reports as required.

### Service Provider Fees

The service provider will submit an initial invoice for the processing of the claim. They will also submit invoices during the completion process which are for their management fees. Check these invoices to ensure they appear correct and process accordingly through Salesforce.

## 6 Claim Assessment – Non-Completion with Defects

### 6.1 Introduction

In addition to a non-completion claim as outlined in Section 5 above, there may be defects present in the incomplete works, which may also be covered by the Scheme.

### 6.2 Defect Items

Any defects identified prior to practical completion are included in the maximum entitlement of \$200,000.00 or \$300,000 (where additional cover is purchased). The customer should provide a list of defects as part of their complaint so that these can be investigated by the service provider.

The service provider may also identify new defects when they conduct their site visit to prepare the Scope of Works.

It is important to ensure the defect items are considered insurable under the policy or regulation. Any defect items to be declined must be notified to the customer in writing and review rights provided.

The service provider will provide 2 separate Scope of Works where there are defect items.

**Defect items will have their own Scope of Works and Schedule.** We require a separate costing for defect items for this reason, example below.

Schedules								
New Schedule								
Action	Schedule Number	Schedule Type	Scope of Work	Rectifying Builder	Claim Approval Date	Claim Approval Status	Authorised by	Schedule Approval Amount
<a href="#">Edit</a> <a href="#">Delete</a>	s73 RTI	Non-Completion Non-Completion - Defects	s73 RTI	s73 RTI	s73 RTI	Approved		\$52,975.05
						Approved		\$13,425.00
Total Payments								
\$52,975.05								
\$13,425.00								

Scope of Works						
New Scope of Work						
Action	Scope of Work Name	Record Type	Estimated Cost	Scope of Work Type	Scope Approval Status	Schedule
<a href="#">Edit</a> <a href="#">Delete</a>	s73 RTI	Scope of Work	\$20,000.0	Non-Completion	Approved	
		Scope of Work	\$14,240.0	Non-Completion with Defects		

## 7 Day Letter to Contractor for Defects

If the contractor has an active, suspended or cancelled licence, they should be sent the **7 Day Defects Notice for Non-Comp** letter along with a Defects Report provided by the service provider. The claimant should be contacted verbally or via email and advised this is occurring and the process that will follow.

Discretion should be exercised in relation to progressing the claim after this letter is issued. Generally, the contractor should be allowed 7 days to respond before instructing the service provider to go to tender. If the contractor does not respond the service provider can arrange quotes for the defect items also.

If the contractor is willing to rectify the defects, a Dispute case should be created and the **Sub Status** changed to **Awaiting BI Allocation**. A task should then be sent to the Senior Building Inspector, Manager or OTL requesting the Direction be issued and the case be prioritised as it is associated with a non-completion claim.

The service provider should be instructed to go to tender on the non-completion component so that the claim is not delayed. Should the contractor not rectify the defects, we can request that the service provider arrange quotes for the defect items.

## 6.3 When Non-Completion Is Declined but there are Defects

When a claim has been declined for non-completion and the customer wishes to continue with a defects only complaint, the following should occur.

- The claim should be declined in full and the case finalised. The claimant should be notified verbally and in writing.
- The Assessment Officer will then open a Dispute case. The owner is not required to complete a Disputes Complaint Form, but will need to provide evidence of written notification to the contractor of the items and a list of complaint items in our required format.
- On a case-by-case basis, advice should be sought from the Manager Resolution Services (Operational) as to if any retention under the contract is to be considered during the Dispute case investigation and/or a Defective Work Claim should it come to that.
- If at the end of the Disputes process, a claim is to follow, a Non-Completion with Defects claim will be created.

## 6.4 Documents Required

At a minimum, the following documents are required to assess the claim:

- Complaint Form (including list of defect items)
- termination documentation
- proof of payment
- copy of the contract including the general conditions.

The following documents will also be required for the service provider, should the claim be accepted:

- contract specifications
- approved plans (must be stamped approved plans)
- building approval documents (includes Decision Notice)
- copies of certificates for works completed to date
- engineering plans may also be required
- any other documents referred to in the contract

This list is not exhaustive. Each case is to be treated on a case by case basis.

If the required documents have not been provided, or further information or documents are required to complete an assessment, generally 7 days is allowed for the customer to provide them.

If at the end of this time, the request has not been fulfilled, contact should again be made e.g. phone call, email, prior to closing the case on this basis. The appropriate request and closure letters are available in ActiveDocs.

## 6.5 Alternative Accommodation, Removal and Storage Costs

### Pre 28 October 2016

Where a claim is admitted, the consumer may be covered for alternative accommodation, removal and storage costs subject to the provisions of the policy. This is alternative accommodation costs incurred by the consumer as a result of the non-completion of the residential construction work.

The Policy 1.5(b) states:

*“Any such payment will be limited to those reasonable alternative accommodation, removal and storage costs incurred for the period from:*

- *the date nominated or stated in the contract for practical completion; or*
- *the date when the consumer has properly terminated the contract with the contractor; or*
- *the date the consumer gives notification of the claim to QBCC;*

*whichever is the latest, until the date that the residential construction work is substantially complete in the opinion of the QBCC.*

*For the period between receipt of the formal claim approval from QBCC, and the making of a contract for recommencement of construction, the payment is limited to those expenses incurred over a maximum period of 7 days.”*

## Key Points

- The maximum entitlement is \$5,000.00 or \$10,000.00 if additional cover is purchased, which is included within the policy limit. If QBCC has approved the maximum entitlement for a non-completion claim, there is no remaining entitlement to pay for accommodation, removal and storage costs.
- It is only the consumer's alternative accommodation that is covered, not the alternative accommodation of the consumer's tenants.
- Alternative accommodation for pets is included in this entitlement, provided the pet would normally reside in the dwelling and the alternative accommodation refuses pets.



### Guidance Statement – Accommodation Non-Completion

From 28 October 2016

The following also applies per the QBCC Regulation:

*“(3) However, no assistance can be given to the consumer for the accommodation, removal and storage costs unless the consumer makes the claim for the costs within 28 days after the day the claim period for the completion claim ends.”*

## Reimbursement

In order to reimburse the customer, where applicable we require:

- a copy of rental/lease agreement
- a copy of the hotel or apartment invoice/s
- evidence of payment e.g. hotel or rental receipts, bank statements.



### Accommodation Calculation Spreadsheet

## Technology One Creditor Form

A Technology One Creditor ID needs to be created to reimburse the customer for accommodation costs. This can be done by completing the [New Creditor for Technology One Form](#) and emailing it to the Finance Payments and Receipting team for processing.

## 6.6 Scope of Works

The service provider is responsible for providing a Scope of Works for non-completion with defects claims. They will provide 2 separate scopes for the incomplete and defect items.

The owner must be notified of the decision to decline any defect items.

### Non-Completion Component – Standard Scope of Works

In the instance where there are sufficient contract documents and only a standard Scope of Works is requested and provided by the service provider, the Assessment Officer should approve the Scope of Works.

### Itemised Scope of Works

In cases where the contract documents are inadequate, we would request that the service provider arranges an itemised Scope of Works.

Itemised Scope of Works should be reviewed and approved by the Senior Building Inspector, Manager or Building Inspector for the relevant area.

### Defects

Please refer to the above section, 6.2 Defect items, for the process if the contractor has an active, suspended or cancelled licence.

The Scope of Works for the defect items should be reviewed and approved by the Senior Building Inspector, Manager or Building Inspector for the relevant area. Whilst the Assessment Officer is able to approve the Scope of Works for a standard non-completion scope, the Senior Building Inspector, Manager or Building Inspector for the relevant area should approve the defects scope before instructing the service provider.

Once the Senior Building Inspector, Manager or Building Inspector for the relevant area has approved the defects scope, the Assessment Officer is responsible for communicating the scope decision to the service provider.

## 6.7 Cost for Certificates

The completing contractor is responsible for providing certification for any work carried out under the Scheme, however the QBCC will not pay the cost of obtaining certificates in relation to the work carried out by the original contractor.

## 6.8 Variations After Approval

Variations are changes and/or additions to the Scope of Works after the claim has been approved.

Any variations must be submitted to the QBCC for review. It is important to ensure the variation works form part of the original contract works.

It is also important to check the remaining entitlement to ensure there are enough funds to cover the variation. Any shortfall must be paid by the consumer.

Variations submitted by the service provider will first go to the Assessment Officer for review then to the relevant Senior Building Inspector, Manager or Building Inspector to review and either Accept or Reject.

They are then to be treated like any other claim approval i.e. with a Scope of Work being approved, sent to the owner and original contractor, and an approval to all relevant parties.

### **Declining a variation**

If the Senior Building Inspector, Manager or Building Inspector declines a variation, they should provide their reasoning. This will need to be communicated to the customer and service provider.

The decision to decline the variation must be put in writing to the customer. This letter should include a summary of the reason/s it has been declined and their review rights.

## **6.9 New Item Identified After Approval**

Where a claim has been approved and the Claimant notifies either Sedgwick Building Consultancy Division or QBCC of a new complaint item, the Claimant should be instructed to lodge a new Complaint Form to QBCC.

For example, a claim has been approved to rectify cladding along one elevation of the property, and the Claimant now has concerns about cladding on a different elevation, this should not be treated as a variation to the current claim.

They should be instructed to submit a new Complaint Form for investigation. The usual defective work process is then to be followed to ensure procedural fairness prevails.

A QBCC Building Inspector will then make the determination at a site inspection as to whether the new item is actually defective work or not, and who the responsible party is. This applies regardless of the Respondent being Active, Cancelled or Liquidated etc.

## **6.10 Payments**

### **Paying the Completing Contractor**

The service provider will recommend payment when the relevant stage of the contract works has been reached. Payment can be made directly to the completing contractor upon receipt of the following documents:

- payment report
- copy of contract to complete

- copy of the QBCC Insurance Confirmation
- valid invoice - including ABN/ACN, invoice number and invoice date
- any relevant certificates and/or reports as required.

### Service Provider Fees

The service provider will submit an initial invoice for the processing of the claim. They will also submit invoices during the completion process which are for their management fees. Check these invoices to ensure they appear correct and process accordingly through Salesforce.

## 7 Claim Assessment – Defects

### 7.1 Introduction

After a property has reached practical completion, we may receive a claim for defective building work when:

- the contractor is bankrupt or deceased
- a direction has not been complied with
- defects exist and under the dispute process discretion has been applied to not issue a direction
- where a direction has been issued and the contractor is reviewing the Direction decision through Internal Review or QCAT.

In the instance where a claim has been generated from a dispute case closed prematurely; e.g. when no direction was issued or further investigation is required, the Assessment Officer should discuss the matter with the Building Inspector on the case and action accordingly.

### 7.2 Residential Construction Work – Primary Insurable Work

The Scheme only covers defects in residential construction work that is primary insurable work.

For contracts pre 28 October 2016, the QBCC Insurance Policy Conditions refer to '**primary building work**' defined as primary building work as defined in Section 11 of the Regulation. The Regulation it refers to was rescinded and replaced by the *Queensland Building and*

*Construction Commission Regulation 2018*. The term ‘**primary insurable work**’ is used in the QBCC Regulation and must therefore be referenced.

Section 67WC of the QBCC Act sets out what is primary insurable work and section 67WD what is associated insurable work.

**”67WC Meaning of primary insurable work**

- (1) **Primary insurable work** is any of the following building work if carried out by a licensed contractor and the insurable value of the work is more than the regulated amount—
  - (a) the erection or construction of a residence or related roofed building;
  - (b) building work within the building envelope of a residence or related roofed building;
  - (c) building work for anything attached or connected to a residence or related roofed building that requires building development approval under the [Building Act 1975](#) or a permit under the [Plumbing and Drainage Act 2018](#);
  - (d) the erection, construction or installation of a swimming pool within the meaning of the [Building Act 1975, schedule 2](#);
  - (e) other building work prescribed by regulation.
- (2) However, the following is not primary insurable work, but may be associated insurable work—
  - (a) fencing;
  - (b) landscaping;
  - (c) electrical work under the [Electrical Safety Act 2002](#);
  - (d) installation, renovation, repair or replacement of any of the following—
    - (i) air conditioning;
    - (ii) driveways or paths;
    - (v) units for heating water regardless of the source of energy for heating, and including units for heating swimming pools;
    - (iv) refrigeration;
    - (v) roller shades and shutter screens;
    - (vi) security doors and grills;
    - (vii) solar power units and associated electrical components;
    - (viii) water tanks that are not part of a primary water supply for a residence or related roofed building;
  - (e) other work prescribed by regulation.



(3) *In this section—*

**building envelope**, for a residence or related roofed building, means the outermost sides of the aggregation of the components of a building that have the primary function of separating the internal part of the residence or related roofed building from the external environment.

*Example of a building envelope—  
the slab and footings system, an external wall and a roof*

**regulated amount** means \$3,300 or the higher amount, if any, prescribed by a regulation.

### **67WD Meaning of associated insurable work**

- (1) **Associated insurable work** is any additional work that may be contracted to be carried out under a contract for primary insurable work if—
  - (a) for primary insurable work relating to a residence—the work is carried out on the site of the residence or proposed residence and is for residential purposes; or
  - (b) for primary insurable work relating to a related roofed building—the work is carried out on the site of the building or proposed building and is for residential purposes.
- (2) To remove any doubt, it is declared that associated insurable work may include work that is not building work.

*Examples for subsection (2)—  
electrical work under the [Electrical Safety Act 2002](#), erecting scaffolding, or earthmoving and excavation work.”*

## **7.3 Time Frames**

### **When the Defect Became Evident**

#### **Pre 28 October 2016**

Category 1 defects may be covered where the defect is first evident within 6 years and 6 months from the contract date (or payment of the insurance premium if earlier, or commencement date of work if no insurance or contract). However, if the work takes more than 6 months to complete the cover is extended and becomes in effect 6 years from practical completion.

Category 2 defects may be covered where the defect is first evident within 6 months from practical completion.

There is no discretion under this part of the policy. If the defect did not become evident within the prescribed timeframes, it must be declined.

## From 28 October 2016

The QBCC Regulation Schedule 6, section 16 states that a defect must become evident within the following timeframes:

- Structural defect (more than 6 months to substantially complete the works)
  - a) Work out the earliest of contract date, premium payment, works commenced.
  - b) Measure 6 months from (a) – this is the date cover starts.
  - c) Cover ends 6 years 6 months from the date in (b).
- Structural defect (works substantially complete within 6 months)
  - a) Work out the earliest of contract date, premium payment, works commenced.
  - b) Cover ends 6 years 6 months from the date in (a).
- Non-structural defect
  - a) Work out the date the works were substantially complete.
  - b) Cover ends 6 months from the date in (a).

## Practical Completion

### Pre 28 October 2016

The policy provides the following definition:

***“practical completion means when the works are complete in accordance with the contract and all relevant statutory requirements and inspections have been satisfactorily completed or the works are occupied, whichever is first;”***

A Final Inspection Certificate (Form 21) or Certificate of Classification (Form 11) can be used as the practical completion date, provided the consumer has not occupied the works sooner.

If the final certificate is not available, further documentation may need to be requested to determine when the consumer occupied the property.

If the complaint has been lodged outside of policy timeframes, check to see if the complaint items were the subject of a previous complaint. The completion date of the earlier rectification work may be used as the new completion date, provided that the current complaint items directly relate to the previous rectification work.



## Guidance Statement – Recurring Defects and Recurring Subsidence

### From 28 October 2016

#### Substantially Complete

The QBCC Regulation provides the following definition:

***“substantially complete, for residential construction work, means at least 1 of the following applies in relation to the work—***

- (a) *the final payment under the contract for the work is made;*
- (b) *if the residential construction work is for the erection or construction of a residence—the residence is occupied;*
- (c) *the built work is able to be used for its intended purpose despite the work not complying with the contract because of a cosmetic difference.”*

## Lodgement of a Complaint

### Pre 28 October 2016

In the case of a Category 1 defect, the policy requires that the customer lodge their complaint within 3 months of the defect becoming evident or within such further time as the QBCC may allow.

Category 2 defects require the customer lodge their complaint within 7 months from practical completion or within such further time as the QBCC may allow.

The QBCC will generally exercise discretion to increase the time frame for making a claim where the delay has not resulted in significant prejudice to the QBCC.



### Guidance Statement – Prejudice to QBCC

### From 28 October 2016

For a structural defect - the claim must be made within 3 months after the day the consumer first becomes aware, or ought reasonably to have become aware, of the defect. There is no discretion on this.

For a non-structural defect - the claim must be made within 7 months from practical completion. There is no discretion on this.

## 7.4 Retention

If the customer is withholding money under the contract, the claim must be reduced by the retention amount. It is important the service provider is notified of any retention amount. This amount will be paid by the customer to the rectifying builder.

If the customer has been declined for non-completion and we have accepted a claim for defects only, on a case-by-case basis, advice should be sought from the Manager Resolution Services (Operational) as to if any retention under the contract is to be considered.

## 7.5 Subsequent Purchasers

If the customer is a subsequent purchaser, they must provide a copy of their Contract of Sale, including the Special Conditions and any pre purchase building reports.

Any defect item that is listed in the pre purchase report must be declined where the Assessment Officer is of the opinion the defect was evident prior to completing the purchase.

## 7.6 When the Contractor Reviews the Direction

Should the contractor choose to review the Direction decision, a claims case will be created for an insurance assessment.

The claim is not to be put on hold pending the review. The claim should be assessed as usual however should not be approved until the original Direction period has lapsed.

If the review's decision requires a new direction to be issued, the claim should not be approved until the new Direction has expired.

If the contractor reviews the Direction and the work is found not to have been defective, i.e. the Direction should not have been issued, the debt will not be recovered.

## 7.7 Documents Required

At a minimum, the following documents are required to assess the claim:

- Complaint Form
- written notification to the contractor
- copy of the contract including the general conditions
- copy of Contract of Sale including the Special Conditions and pre purchase building reports (if subsequent purchaser)
- proof of payment (where there is a retention or the contract was signed less than 12 months ago).

The following documents may also be required for the Service Provider depending on the nature of repairs, should the claim be accepted:

- approved plans (must be stamped approved plans)
- building approval documents (includes Decision Notice).

This list is not exhaustive. Each claim is to be treated on a case by case basis.

If the required documents have not been provided, or further information or documents are required to complete an assessment, generally 7 days is allowed for the customer to provide them.

If at the end of this time, the request has not been fulfilled, contact should again be made e.g. phone call, email, prior to closing the case on this basis. The appropriate request and closure letters are available in ActiveDocs.

## 7.8 Uniform Appearance/Matching Décor

As far as reasonably possible, the QBCC will try to match materials when completing the remedial rectification work to create a uniform appearance. However, QBCC will not pay to replace undamaged adjoining work to achieve this.

For example, where several tiles are cracked due to the subsidence and require replacement, we will only replace the damaged or defective tiles with the closest match possible.

## 7.9 Alternative Accommodation, Removal and Storage Costs

Where a claim is admitted, the consumer may be covered for alternative accommodation, removal and storage costs subject to the provisions of the policy.

This is alternative accommodation, removal and storage costs incurred by the consumer as a result of the need to rectify the defects and because the residential construction work is, in the opinion of the QBCC, uninhabitable.



### Guidance Statement – Accommodation Defects and Subsidence

#### Key Points

- The maximum entitlement is \$5,000.00 or \$10,000.00 if additional cover is purchased, which is included within the policy limit.
- It is only the consumer's alternative accommodation that is covered, not the alternative accommodation of the consumer's tenants.
- Alternative accommodation for pets is included in this entitlement, provided the pet would normally reside in the dwelling and the alternative accommodation refuses pets.

#### Reimbursement

In order to reimburse the customer, where applicable we require:

- written notification from the rectifying contractor detailing the dates the customer must vacate the property due to it being uninhabitable
- a copy of the rental/or ease agreement
- a copy of the hotel or apartment invoice/s
- evidence of payment e.g. hotel receipts, bank statements, rental receipts.



### Accommodation Calculation Spreadsheet

#### Technology One Creditor Form

A Technology One Creditor ID needs to be created to reimburse the customer for accommodation costs. This can be done by completing the **New Creditor for Technology One Form** and emailing it to the Finance Payments and Receipting team for processing.

## 7.10 Variations After Approval

Variations are changes and/or additions to the Scope of Works after the claim has been approved.

Any variations must be submitted to the QBCC for review. It is important to ensure the variation works form part of the original contract works.

It is also important to check the remaining entitlement to ensure there are enough funds to cover the variation. Any shortfall must be paid by the consumer.

Variations submitted by the service provider will first go to the Assessment Officer for review then to the relevant Senior Building Inspector, Manager or Building Inspector to review and either Accept or Reject. They are then to be treated like any other claim approval i.e. with a Scope of Work being approved, sent to the owner and original contractor, and an approval to all relevant parties.

### Declining a Variation

If the Senior Building Inspector, Manager or Building Inspector does not believe the variation to be necessary and/or the cost unreasonable, they must provide details of such and give their recommendation to decline the variation or further action required.

The decision to decline the variation must be put in writing to the customer and should include a summary of the reason/s it has been declined and provide review rights. The service provider must also be advised of the declination.

## 7.11 New Item Identified After Approval

Where a claim has been approved and the Claimant notifies either Sedgwick Building Consultancy Division or QBCC of a new complaint item, the Claimant should be instructed to lodge a new Complaint Form to QBCC.

For example, a claim has been approved to rectify cladding along one elevation of the property, and the Claimant now has concerns about cladding on a different elevation, this should not be treated as a variation to the current claim. They should be instructed to submit a new Complaint Form for investigation. The usual defective work process is then to be followed to ensure procedural fairness prevails.

A QBCC Building Inspector will then make the determination at a site inspection as to whether the new item is actually defective work or not, and who the responsible party is. This applies regardless of the Respondent being Active, Cancelled or Liquidated etc.

## 7.12 Payments

### Paying the Completing Contractor

The service provider will recommend payment when the relevant stage of the contract works has been reached. Payment can be made directly to the completing contractor upon receipt of the following documents:

- payment report
- copy of contract to complete
- copy of the QBCC Insurance Confirmation
- valid invoice - including ABN/ACN, invoice number and invoice date
- any relevant certificates and/or reports as required.

### Service Provider Fees

The service provider will submit an initial invoice for the processing of the claim. They will also submit invoices during the completion process which are for their management fees.

Check these invoices to ensure they appear correct and process accordingly through Salesforce.

## 8 Claim Assessment – Subsidence

### 8.1 Introduction

The scheme provides protection for subsidence and settlement related defects in residential construction work.

Subsidence or settlement means movement in the foundations of the residential construction work which adversely affects the structural adequacy or serviceability, performance or functional use of that work.

### Contributing Factors by Licensee

- Incorrect or non-installation of articulation joints in masonry.
- Non articulation of sewer/storm water lines.
- Inadequate drainage and falls.
- Non-compliance with QBCC Policy.

## Contributing Factors by Customer

- Actions of the customer's major contributing factors.
- Customers may be responsible for certain works e.g. a big tree planted by the customer or landscaping done by the customers.

## Directions

- In subsidence claims where the contractor has been proven to not be responsible a direction will not be issued.
- When the Building Inspector has determined that the contractor is responsible for the subsidence, then a Direction will be issued to the responsible contractor.
- A Direction will not be issued when:
  - the contractor is insolvent
  - the contractor is deceased or deregistered
  - the contractor is deemed to have fully complied with the subsidence policy.

## Engineer's Report

The following must be considered when reading the Engineer's Report:

- cause of the subsidence
- how to rectify of the subsidence
- who is responsible for the subsidence.

## Subsidence File Summary

The **Subsidence File Summary** template is used to document:

- the cause and contributing factors of the movement and/or subsidence
- who is responsible
- the proposed method of rectification
- any other information that the Building Inspector may deem relevant.

## Determining Liability

For the purposes of determining the customer's entitlement to insurance assistance and the contractor's liability, the following needs to be established:

- who supplied the footing design and soil test



- did the contractor build in accordance with this design
- is the design defective
- have the actions of the customer contributed to or caused the subsidence.

The **Subsidence File Summary** should clearly define who is responsible for the cause of the subsidence, if not the Assessment Officer should refer to the Building Inspector for further clarification.

## Rectification

Most subsidence claims will be rectified in 3 stages.

- Stabilisation – including tree removal and/or plumbing rectification, underpinning and cut-off walls.
- Monitoring – taking of levels at intervals recommended by the engineer.
- Cosmetics – once the site has stabilised, the subsidence related damage can be rectified.

## 8.2 Residential Construction Work – Primary Insurable Work

Subsidence defects in associated building work are not covered by the Scheme.

For contracts pre 28 October 2016, the QBCC Insurance Policy Conditions refer to '**primary building work**' defined as primary building work as defined in Section 11 of the Regulation. The Regulation it refers to was rescinded and replaced by the *Queensland Building and Construction Commission Regulation 2018*. The term '**primary insurable work**' is used in the QBCC Regulation and must therefore be referenced.

Section 67WC of the QBCC Act sets out what is primary insurable work and section 67WD what is associated insurable work.

### **"67WC Meaning of primary insurable work**

- (1) **Primary insurable work** is any of the following building work if carried out by a licensed contractor and the insurable value of the work is more than the regulated amount—
- (a) the erection or construction of a residence or related roofed building;
  - (b) building work within the building envelope of a residence or related roofed building;
  - (c) building work for anything attached or connected to a residence or related roofed building that requires building development approval under the [Building Act 1975](#) or a permit under the [Plumbing and Drainage Act 2018](#);

- (d) the erection, construction or installation of a swimming pool within the meaning of the [Building Act 1975, schedule 2](#);
  - (e) other building work prescribed by regulation.
- (2) However, the following is not primary insurable work, but may be associated insurable work—
  - (a) fencing;
  - (b) landscaping;
  - (c) electrical work under the [Electrical Safety Act 2002](#);
  - (d) installation, renovation, repair or replacement of any of the following—
    - (i) air conditioning;
    - (ii) driveways or paths;
    - (vi) units for heating water regardless of the source of energy for heating, and including units for heating swimming pools;
    - (iv) refrigeration;
    - (v) roller shades and shutter screens;
    - (vi) security doors and grills;
    - (vii) solar power units and associated electrical components;
    - (viii) water tanks that are not part of a primary water supply for a residence or related roofed building;
  - (e) other work prescribed by regulation.
- (3) In this section—

**building envelope**, for a residence or related roofed building, means the outermost sides of the aggregation of the components of a building that have the primary function of separating the internal part of the residence or related roofed building from the external environment.

Example of a building envelope—  
the slab and footings system, an external wall and a roof

**regulated amount** means \$3,300 or the higher amount, if any, prescribed by a regulation.

#### **67WD Meaning of associated insurable work**

- (1) **Associated insurable work** is any additional work that may be contracted to be carried out under a contract for primary insurable work if—
  - (a) for primary insurable work relating to a residence—the work is carried out on the site of the residence or proposed residence and is for residential purposes; or

- (b) *for primary insurable work relating to a related roofed building—the work is carried out on the site of the building or proposed building and is for residential purposes.*
- (2) *To remove any doubt, it is declared that associated insurable work may include work that is not building work.*

*Examples for subsection (2)—  
electrical work under the [Electrical Safety Act 2002](#), erecting scaffolding, or earthmoving and excavation work.”*

## 8.3 Time Frames

### When the Subsidence became Evident

#### Pre 28 October 2016

Cover for subsidence or settlement damage runs for subsidence that becomes evident within 6 years and 6 months from the contract date (or payment of the insurance premium if earlier, or commencement date of work if no insurance or contract). However, if the work takes more than 6 months to complete the cover is extended and becomes in effect 6 years from practical completion or when the work was substantially complete.

#### From 28 October 2016

The QBCC Regulation Schedule 6, section 16 states that a defect must become evident within the following timeframes:

- Structural defect (more than 6 months to substantially complete the works)
  - a) Work out the earliest of contract date, premium payment, works commenced.
  - b) Measure 6 months from (a) — this is the date cover starts.
  - c) Cover ends 6 years 6 months from the date in (b).
- Structural defect (works substantially complete within 6 months)
  - a) Work out the earliest of contract date, premium payment, works commenced.
  - b) Cover ends 6 years 6 months from the date in (a).
- Non-structural defect
  - a) Work out the date the works were substantially complete.
  - b) Cover ends 6 months from the date in (a).

### Lodgement of a Complaint

#### Pre 28 October 2016

In the case of subsidence or settlement related defects, the policy requires the customer lodge their complaint within 3 months of the subsidence or settlement related defects first becoming evident or within such further time as the QBCC may allow.

In most instances the customer is likely unaware they have subsidence, due to subsidence related defects becoming worse over time and the need for the involvement of engineers to diagnose. Discretion should be exercised in these instances and a timeline of events should be gathered from the customer. The QBCC will generally use discretion to increase the time

frame for making a claim where the delay has not resulted in significant prejudice to the QBCC.



### **Guidance Statement – Prejudice to QBCC**



### **Guidance Statement – Recurring Defects and Recurring Subsidence**

**From 28 October 2016**

For a structural defect – the claim must be made within 3 months after the day the consumer first becomes aware, or ought reasonably to have become aware, of the defect. There is no discretion on this. For a non-structural defect – the claim must be made within 7 months from practical completion. There is no discretion on this.

## **8.4 Subsequent Purchasers**

If the customer is a subsequent purchaser, they must provide a copy of their Contract of Sale including the Special Conditions and any pre purchase building reports.

If there is any indication that the subsidence was evident to the consumer prior to completing the Contract of Sale, the claim may be declined.

## **8.5 Documents Required**

At a minimum, the following documents are required to assess the claim:

- Complaint Form
- written notification to the contractor
- copy of the contract including the general conditions
- copy of Contract of Sale including the Special Conditions and pre purchase building reports (if subsequent purchaser)
- copy of building and engineering plans (must be stamped approved plans)
- building approval documents
- soil test report and drainage plan.

The above documents will be gathered as part of the Dispute case subsidence investigation. Ensure all relevant documents are provided to the service provider as they will manage the claim from stabilisation through to cosmetic repairs.

## 8.6 Monitoring

Once the stabilisation rectification works have been completed, all payments have been made and if cosmetic works are to be performed, the site is to be monitored. If the Engineer's Report does not provide a specific time period for monitoring, instructions should be sought from the Building Inspector.

To inform the customer of this the **Subsidence Monitoring Begins** letter is to be issued. This letter advises the site will be monitored for a period of time and that they will be contacted further for the service provider to arrange site meetings for levels to be taken during this period.

Each time levels are taken the **Continued Monitoring** letter should be sent to the customer providing them with updated advice and a copy of the service provider's monitoring report.

If at the end of the monitoring period and if the service provider has provided advice that the property has stabilised, the cosmetic repairs may be undertaken.

### Further Movement

If the service provider has identified movement outside the parameters, they will seek instruction from the QBCC on how to proceed. It is likely the same engineer will need to investigate the matter and provide further advice.

## 8.7 Cosmetics

Once the property has stabilised, the cosmetic repairs can be carried out. This is the remedial rectification of any subsidence related defects e.g. cracked cornices and tiles. It is important to note that associated insurable work is not covered and will not be repaired.

## 8.8 Uniform Appearance/Matching Décor

As far as reasonably possible, the QBCC will try to match materials when completing the remedial rectification work to create a uniform appearance. However, QBCC will not pay to replace undamaged adjoining work to achieve this.

For example, where several tiles are cracked due to the subsidence and require replacement, we will only replace the damaged or defective tiles with the closest match possible.

## 8.9 Alternative Accommodation, Removal and Storage Costs

Where a claim is admitted, the consumer may be covered for alternative accommodation, removal and storage costs subject to the provisions of the policy.

This is alternative accommodation costs incurred by the consumer as a result of the need to remedy the subsidence or settlement related defects and because the residential construction work is, in the opinion of the QBCC, uninhabitable.



## Guidance Statement – Accommodation Defects and Subsidence

### Key Points

- The maximum entitlement is \$5,000.00 or \$10,000.00 if additional cover is purchased, which is included within the policy limit.
- It is only the consumer's alternative accommodation that is covered, not the alternative accommodation of the consumer's tenants.
- Alternative accommodation for pets is included in this entitlement, provided the pet would normally reside in the dwelling and the alternative accommodation refuses pets.

### Reimbursement

In order to reimburse the customer, where applicable we require:

- written notification from the rectifying contractor detailing the dates the customer must vacate the property due to it being uninhabitable
- a copy of the rental/ lease agreement
- a copy of the hotel or apartment invoice/s
- evidence of payment e.g. hotel receipts, bank statements, rental receipts.



## Accommodation Calculation Spreadsheet

### Technology One Creditor Form

A Technology One Creditor ID needs to be created to reimburse the customer for accommodation costs. This can be done by completing the [New Creditor for Technology One Form](#) and emailing it to the Finance Payments and Receipting team for processing.

## 8.10 Variations After Approval

Variations are changes and/or additions to the Scope of Works after the claim has been approved.

Any variations must be submitted to the QBCC for review. It is important to ensure the variation works form part of the original contract works. It is also important to check the remaining entitlement to ensure there are enough funds to cover the variation. Any shortfall must be paid by the consumer.

Variations submitted by the service provider will first go to the Assessment Officer for review then to the relevant Senior Building Inspector, Manager or Building Inspector to review and either Accept or Reject. They are then to be treated like any other claim approval i.e. with a Scope of Work being approved, sent to the owner and original contractor, and an approval to all relevant parties.

## Declining a Variation

If the Senior Building Inspector, Manager or Building Inspector does not believe the variation to be necessary and/or the cost unreasonable, they must provide details of such and give their recommendation to decline the variation or further action required.

The decision to decline the variation must be put in writing to the customer and should include a summary of the reason/s it has been declined and provide review rights. The service provider must also be advised of the declination.

## 8.11 New Item Identified After Approval

Where a claim has been approved and the Claimant notifies either Sedgwick Building Consultancy Division or QBCC of a new complaint item, the Claimant should be instructed to lodge a new Complaint Form to QBCC.

For example, a claim has been approved to rectify cladding along one elevation of the property, and the Claimant now has concerns about cladding on a different elevation, this **should not** be treated as a variation to the current claim. They should be instructed to submit a new Complaint Form for investigation. The usual defective work process is then to be followed to ensure procedural fairness prevails.

A QBCC Building Inspector will then make the determination at a site inspection as to whether the new item is actually defective work or not, and who the responsible party is. This applies regardless of the Respondent being Active, Cancelled or Liquidated etc.

## 8.12 Payments

### Paying the Completing Contractor

The service provider will recommend payment when the relevant stage of the contract works has been reached. Payment can be made directly to the completing contractor upon receipt of the following documents:

- payment report
- copy of contract to complete
- copy of the QBCC Insurance Confirmation
- valid invoice - including ABN/ACN, invoice number and invoice date

- any relevant certificates and/or reports as required.

## Service Provider Fees

The service provider will submit an initial invoice for the processing of the claim. They will also submit invoices during the completion process which are for their management fees. Check these invoices to ensure they appear correct and process accordingly through Salesforce.

# 9 General Exclusions

When conducting a claim assessment, any general exclusions that may apply should be considered, including the following.

## 9.1 Completion or Rectification Without Approval

This is where the owner has either finished or rectified the work (in full or part) to which the claim is subject to. This may have an impact on the QBCC's ability to quantify the claim and therefore cause prejudice to the QBCC.

This exclusion is discretionary under Policy 8 but is not under the Terms of cover in the QBCC Regs. Proper consideration should be given before declining a claim under this condition and if unsure a manager's advice should be requested. Under certain circumstances, such as emergency plumbing repairs, discretion may be applied in the owner's favour.



### Guidance Statement – Completion or Rectification Without Approval

## 9.2 Subsequent Purchasers

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

### Contract of Sale

A full copy of the Contract of Sale including the 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 QBCC as these may also identify 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 or completing the contract.
- Consider whether the complaint items listed in the Complaint Form are listed in the pre purchase inspection report.

## 9.3 Alterations and Additions

Where the claim relates to an extension and/or renovation to an existing property, any defects in the original building work are not covered by the policy.

## 9.4 Insured as a Contractor or an Associate of the Contractor

There are specific exclusions if the claimant is the contractor or the claimant is an associate of the contractor.

In the case of the contractor being a company an associate may be:

- an officer of the company
- a person who is in position to control or influence
- the spouse or child of an officer of the company
- a trustee or trust
- another company with a majority voting interest.

In the case of the contractor being an individual the following persons are not entitled to a claim under the Scheme:

- the spouse including a de facto spouse or child of the individual
- a trustee of the trust to which the contractor is a beneficiary
- a company whose majority voting interest is held by the individual
- a company in which the individual, individual spouse including a de facto spouse or child is in a position to substantially influence the conduct of the company.

## 9.5 Entitlements Subject to the Act

Section 68(2) of the *Queensland Building and Construction Commission Act 1991* states:

***“Persons not entitled to assistance under statutory insurance scheme***

- (1) *A licensed contractor who carries out speculative residential construction work is not entitled to assistance under the statutory insurance scheme for the work.*

*Note— See section 68A (Licensed contractor pays insurance premium on behalf of consumer)*

- (2) *If a person enters into 1 or more building contracts, in force at the same time, to construct 3 or more living units, the person is not entitled to assistance under the statutory insurance scheme for the work carried out under the contracts.*
- (3) *For subsection (2)—*
- (a) *a single detached dwelling is taken to be 1 living unit; and*
- (b) *a residential unit is taken to be 1 living unit; and*
- (c) *a duplex is taken to be 2 living units.*
- (4) *A regulation may prescribe other circumstances under which a person is not entitled to assistance under the statutory insurance scheme.*
- (5) *Nothing in section (1), (2) or (4) affects the right of a subsequent owner of residential construction work mentioned in this section to make a claim for assistance under the statutory insurance scheme.”*

## 10 Sending Correspondence

### 10.1 Overview

The below **Quick Guide - Issuing Correspondence** is a summary of the detailed instructions provided in this section. The **Insolvency: a glossary of terms** document is from the ASIC website and helps to explain the different terminology.



**Quick Guide – Issuing Correspondence**



**Insolvency: a glossary of terms**

The detailed instructions below should be followed when issuing required correspondence. **Note: letters may also be emailed but only in addition to the posted correspondence, not in lieu of.**

### 10.2 Issuing Correspondence to Individuals

Before issuing any correspondence to the contractor, it is essential to check the current licence and solvency status of the licensee.

## Active or Inappropriate Licence

### **\*Inappropriate Licence = Suspended, Cancelled or Inappropriate Class.**

All standard correspondence should be issued. The correspondence should be posted to all known addresses on the customer record.

## Bankrupt Contractor

Even though an individual is bankrupt, they may still hold a licence, such as a Site Supervisor or Fire Occupational Licence. Alternatively, they could be in the process of becoming an excluded individual or in rare cases may be a permitted individual and therefore still hold an active licence.

In any instance, all standard correspondence should still be issued to the bankrupt individual or their Trustee (if applicable).

## Deceased Contractor

If the contractor is deceased a direction will not be issued. In this instance contact the Debt Recovery Manager who will determine if any correspondence is required. Generally, no correspondence will be issued at all. The Debt Recovery Manager will confirm and update the address as “Deceased – No Correspondence Required – Refer Debt Recovery Manager”. Any required correspondence will be produced by the Debt Recovery Manager.

## 10.3 Issuing Correspondence to Companies

### Active or Inappropriate Licence

#### **\*Inappropriate Licence = Suspended, Cancelled or Inappropriate Class.**

All standard correspondence should be issued. The correspondence should be posted to all known addresses on the customer record.

## External Administration

External Administration is a term which covers all types of insolvency arrangements. An external administrator is a general term for an external person formally appointed to a company or its property and includes a provisional liquidator, liquidator, voluntary administrator, deed administrator, controller, receiver and receiver and manager. An external administrator is sometimes also referred to as an insolvency practitioner.

An ASIC company search may show a status of **External Administration**. This can include:

- Voluntary Administration
- Deed of Company Arrangement
- Receiver/Controller Appointed

- Provisional Liquidation.

## Voluntary Administration

Voluntary administration is a process under the Corporations Act, where a caretaker (the voluntary administrator) takes control of the affairs of a company while it is given a chance to propose a resolution of its financial problems to its creditors.

The period of voluntary administration runs for about 4 to 6 weeks and results in a meeting of the company's creditors who decide on the future of the company.

**Follow instructions for Active or Inappropriate Licence and also send a copy of all correspondence to the Administrator.**

## Receiver/Controller Appointed

Receivership is when a receiver is appointed by a secured creditor because the company has defaulted on a loan repayment.

A secured creditor is someone to whom the company has given a "charge", such as a mortgage, over all or part of its assets in return for loan funds.

The court does not need to approve of the appointment of a receiver, the procedure is simple and the appointment is usually done quickly. Receivers usually known as "receivers and managers" can carry on the business, or close it down, or sell it off. Their principal task is to release sufficient funds to repay the secured creditor and they are not there to deal with claims from creditors.

A Receiver/Controller acts for a single secured creditor of the company to sell property over which that creditor holds security such as a mortgage over real estate.

As it does not affect the complaint process, the appointment of a Receiver/Controller is ignored for the purpose of determining whether a direction is required and where correspondence should be forwarded.

**Follow instructions for Active or Inappropriate Licence.**

## Provisional Liquidation

The process of Liquidation was commenced by either the Directors or Shareholders of the company through the appointment of a Liquidator directly or by the order of a Court.

**Follow instructions for Active, Cancelled or Suspended Licence and also send a copy of all correspondence to the Liquidator.**

## Liquidation

Liquidation is a process for the winding up of a company's financial affairs in order to provide

for an orderly dismantling of the company's structure, the undertaking of appropriate investigations and a fair distribution of the company's assets to creditors.

This occurs either because the company can't pay all of its debts (i.e. it is insolvent), or its members want to end the company's existence.

**All correspondence is sent to the Liquidator.**

### Deregistered Company

Deregistered effectively means that the company no longer exists, there is no Director and nothing to hold responsible for the works under taken by that company. It is effectively dead. **In this instance no correspondence should be issued.**

## 10.4 Return through Post

Any correspondence returned to sender will be notified to the issuing officer (generally the Case Owner) in the first instance, via an ECM Workflow (task). If the issuing officer was a Building Inspector, the task should be forwarded to the appropriate CSO/AO (as per process established in your office/team) for actioning.

If the correspondence is returned through the post marked "unknown at address", "left address" or any other reason that suggests that the intended recipient may not be at the address provided, the officer should make all reasonable enquiries to locate an alternative address for delivery of the correspondence.

Such enquiries should include:

- reviewing all documents in the Case records
- conducting a Salesforce Customer Record search (in case there has been a change of address)
- making a telephone call to the intended recipient asking them to confirm their address.\*see section below Verifying Customer Details
- sending an email to the intended recipient's email address on their record, if available
- conduct an RP Data search (if not done already)
- conducting a search of the White Pages, Google etc.
- conducting a CITEC, ASIC or business names search (if not done already). If a cost is to be incurred, first check with your manager.

If you are unable to find an alternative address, you can also contact Debt Recovery who may be able to assist with finding an alternative address.

### Verifying Customer Details and Updating Customer Records

When first contacting the parties of the complaint, it is important to verify their details and ensure you are discussing the case with the appropriate person/s.

- The claimant details can be verified against their Customer record in Salesforce and the information provided on the Complaint Form. If any details require updating, this can be done in Salesforce by the AO/BI etc. with the verbal notice of such documented in the CAFN or Case Comment.
- If you make contact with the respondent, it is essential that you verify their identity. If they then advise you of an alternative address, contact number etc. their verbal notification of this change of details is sufficient to provide to Licensing who are then able to update their Customer Record.

Verification is to be completed against the caller's individual profile within Salesforce. For a company, we can only discuss the matter and take alternative contact details from a Director.

#### Verify the following:

- Full Name - including middle name
- Date of birth
- Email address - including domain name

**If one of the above components are missing from the profile, or the email is incorrect, the following can be asked instead:**

- Phone number - mobile, business or home
- Address - postal, business or residential

Any such information should be recorded in the **Case Comments** in Salesforce and a New Note added to the **Notes & Attachments** section in Customer's Record in Salesforce.



**An email with this information should then be sent to Licensing who are able to update the Customer's Record.**

## 10.4 Communicating with the Customer

### MyQBCC - under review due to system changes

Whilst there are a number of mechanisms for communicating with the customer, a new approach is via the myQBCC online portal.

Customers are able to communicate directly with the QBCC using the online portal using their computer, smartphone and/or tablet. Via the online portal, they can:

- view and update their personal details maintained by QBCC
- view their records
- submit feedback and enquiries
- submit additional documents
- view the progress of their Claims case
- submit comments to the QBCC in relation to their Claims case
- read communications and comments from the QBCC.

Information provided and uploaded by the customer via myQBCC is located in Salesforce in the following sections on the Case Details screen:

- files and documents are displayed under the Attachments section
- comments and responses to public comments are displayed under the Case Comments section.

Documents and comments submitted via myQBCC display on the Case record. The documents will display the name the customer has provided. The Case Owner of the submissions is notified by a task that contains myQBCC as the Subject.

To share a document with the Customer for them to view on myQBCC, a Public Comment is created and the document/s attached to the Comment. This will allow both the Comment and the document to be visible to the customer.

Customers should be encouraged and if necessary, assisted to register for myQBCC so that they are able to submit documents and make comments directly to their Claims case.

This approach reduces manual processes for document management outside of Salesforce and allows direct interaction between the Assessment Officer and the customer, allowing faster processing of the Claim.

The customer is informed about myQBCC on the Case Assessment notification email, however they can also be encouraged to register on the online portal when the initial phone contact is made.

There is a Public checkbox that can be select when entering comments on a Claims case that will also make the comment display on the Claims case for the customer in myQBCC. The default setting on this checkbox is Private, however if the Comment is accidentally made Public, the Comment can be made Private again.

Please note that the customer will not be notified of Public comments made of the case and it is up to them to regularly check their case in myQBCC for any updates.

### **Sending Letters**

ActiveDocs includes template letters for formal correspondence sent throughout the Claims process. The letters can then be sent via post and also email. Any letters issued must be saved to ECM.

Refer to the [Salesforce Claims Processing Guide](#) for a full list of letters.

### **Telephone**

Contacting customers and contractors by telephone is also a valid form of communication. When using this method, it is important to create comments and/or notes to record these interactions on the case.

### **Emailing from Salesforce (Case Contact)**

From 21 January 2019, this function is not to be used.

## **11 Service Provider Engagement**

## 11.1 Introduction

QBCC uses an external Service Provider to provide the following functions:

- Non-Completion claims – to report on the state of works, provide a scope of works for the incomplete and any defective works, and arrange tenders. Additionally, the Service Provider oversees the completion of the works.
- Defects claims – to arrange tenders and oversee the rectification works.
- Subsidence claims – to provide a scope of works for the stabilisation works, monitor, provide a scope of works for the cosmetic works and to arrange tenders throughout this process.

Claims should be referred to the Service Provider through the Scope of Works record (SW screen) in Salesforce by changing the owner of the SW record to the 'Service Provider Assignment Queue' and ensuring that as a minimum the following documents are uploaded to the SW screen:

- Non-Completion claims – complaint form, contract and conditions, specifications, approved plans, building approval, proof of payments, Sedgwick Building Consultancy Division Engagement Form – Non-Completion.
- Defects claims – complaint form, Building Inspector's report, Sedgwick Building Consultancy Division Engagement Form.
- Subsidence claims – complaint form, Building Inspector's report, engineer's report, original approved plans and engineering plans, Sedgwick Building Consultancy Division Engagement Form – Subsidence Stabilisation.

**\*\* Documents such as the Complaint Assessment Reasons for Decision, letters to the claimant etc. should not be shared with Sedgwick or tendering builders.**

**NOTE:** When completing the **Sedgwick Building Consultancy Division Engagement Form** be mindful when selecting the **Priority Customer** tick box. By ticking the Priority Customer tick box, you are instructing Sedgwick to follow their **Priority Customer** process. This process involves fortnightly inspections by the Sedgwick consultant to manage the customers on an ongoing basis. Consideration should be given as to whether a case warrants this additional on site management.

If you are selecting Priority Customer in your engagement instructions, please provide details to Sedgwick as to why you consider it necessary for the claim to follow their Priority Customer process.

**All documents should be in a zipped folder, rather than uploaded individually.**

All further to and from the Service Provider are to be sent via email and saved to ECM.

Below is a copy of the current performance requirements for Sedgwick Building Consultancy Division.





## Sedgwick Building Consultancy Division Performance Requirements

### 11.2 Sedgwick Rectification Panel Register

In September 2019, a process was developed to support QBCC taking responsive action against Sedgwick's panel contractors where it is found they fail to meet QBCC's performance expectations.

Process documents have been developed to ensure procedural fairness is afforded to all the panel contractors and a Register has been developed to track issues and to record identified breaches as they occur. A review team will regularly evaluate any logged incidents and recommend appropriate actions in response.

Prior to the implementation of this process, Sedgwick communicated to all of their panel contractors, providing clarification of the performance expectations. The below **Sedgwick Rectification Panel Service Agreement** outlines the criteria and disciplinary action applicable when working on Sedgwick's Rectification Panel for the QHWS.



#### Sedgwick Rectification Panel Service Agreement

A breach of any of the following criteria will prompt QBCC to consider action against the relevant panel contractor.

- Excessively priced tenders
- Variations - excessively priced, unnecessary or completing variations without QBCC approval
- Inappropriate conduct on site and/or behavioral concerns;
- Direction to Rectify issued to the panel contractor to rectify defects
- Termination of rectification contracts due to the default of the rectification panel contractor.

#### Notification of incidents

All staff across the state performing the Resolution Services functions are to firstly notify their direct supervisor through a discussion and completion of the **Sedgwick Rectification Panel Incident Template**.



#### Sedgwick Rectification Panel Incident Template

Managers then need to evaluate the breached criteria and if satisfied it warrants review, email the completed form to the **Sedgwick Rectification Panel Register** inbox.

#### Sedgwick Rectification Panel Register

The details of each incident submitted will be logged and tracked in the Register.

## Sedgwick Rectification Panel Review Team

- A review team will convene each month to evaluate the logged incidents.
- Any responsive or disciplinary action will be guided by a process document developed specifically for QBCC action against panel contractors performing work under the QHWS.

The above documents are also available on Resolutions Services Team site in the [Sedgwick Rectification Panel Register](#) folder.

## 11.3 Clarity Connect Communication

Clarity Connect allows QBCC Building Inspectors (BIs) to view unforeseen issues remotely by using an on-site representative's tablet or smart phone and the BI's smart phone.

Clarity Connect creates a secure video link enabling real time visibility of on-site matters identified during the rectification or at Tender. The link will allow the BI to direct the on-site representative to provide vision of the rectifying builders concerns and allow the BI to gain a clear understanding of the site related issues in real time.

It is expected that the introduction of this technology will assist the parties in:

- the assessment of variations
- resolution of Scopes of Work issues during tendering
- progress and final stage claims.

Clarity Connect is compatible with the Commission's smart phones and there is no training required to use the software. The app does, however, use a significant amount of battery power, BIs must ensure a minimum of 40% charge prior to utilising the function.

BIs will be contacted prior to the proposed site inspection for an agreed time to carry out the Clarity Connect inspection.

The BI will receive a text message just prior to the Clarity Connect inspection containing a link to the inspection conference call which will allow the live feed to display on their phone. Audio is maintained throughout the link allowing discussions to continue during the session.

If there is sufficient information provided at the Clarity Connect meeting, BIs are able to determine a decision which will be recorded on the Clarity Connect recording.

At the conclusion of the meeting, the BI is to request a copy of the recording.

All video and voice recording captured by the software is to be saved to the Claims case in ECM.

The **Clarity Connect Point of Contact Escalation Chart** below outlines the contact points within the QBCC inspectorate.

The use of Clarity Connect can assist BIs in considering issues raised at a Tender meeting or variations to the rectification works contract, however there will still be circumstances where

the BI will be required to attend site to satisfy themselves that the additional rectification works are required and not a new complaint item.

In instances where the Clarity Connect call proceeds without the involvement of QBCC, Sedgwick will upload the video to the Claims case in Salesforce and send a Task to the BI. The BI must then save the video to ECM and communicate with the Assessment Officer accordingly.



### **Clarity Connect Point of Contact Escalation Chart**

This information is also available in the Disputes Procedures Manual Section 7.

## **11.4 Service Provider Fees**

The Service Provider will invoice their fees for services at varying intervals, dependent on the type of claim. Assessment Officers should familiarise themselves with the current fee table. Service Provider invoices should be paid through the case details screen of the relevant Salesforce case.

At times, it may be necessary for the Service Provider to engage a technical specialist such as engineer or plumber to investigate and report in order for the Service Provider to adequately undertake their duties. The Financial section of the Delegations Manual sets out who is delegated to authorise these requests.

Below is a copy of the Sedgwick Building Consultancy Division fees applicable for instructions sent on or after 1 August 2018.



### **Sedgwick Building Consultancy Division Fees**

# **12 Legal**

## **12.1 The Role of the Legal Services Branch**

- to provide advice to managers and staff on all legal issues including legislation relevant to QBCC, contract law, corporations law and litigation
- to represent QBCC in the Tribunal and the Magistrates and Districts Court in litigation involving QBCC - including administrative reviews, disciplinary proceedings, prosecutions, debt recovery proceedings, insolvency proceedings and appeals.
- represent QBCC in mediations.

QBCC's Legal Branch operates effectively as an in-house legal practice in discharging its duties. The role of individual Legal Officers includes:

- providing accurate and timely advice to QBCC Officers

- conducting litigation in the appropriate courts and tribunals on behalf of QBCC, including acting as an advocate and instructing Counsel in more complex matters
- drafting originating applications, statements of reasons and statements of evidence for filing in the appropriate courts and tribunals
- interviewing witnesses for the purposes of drafting statements of evidence for use in litigation before the appropriate courts and tribunals
- representing QBCC in mediations
- drafting and interpreting contracts, deeds of settlement and other documents of a legal nature.

## 12.2 Requests for Legal Advice

All requests for legal advice must be made through your manager. The requests are then to be submitted to Legal on a Request for Legal Advice template, available in ActiveDocs or on Trevor. This form should be completed by your Manager.

The form provides the legal staff with an understanding of precisely what advice is required and the documents that are relevant to the request.

Requests for legal advice are to be forwarded by email to [legal@qbcc.qld.gov.au](mailto:legal@qbcc.qld.gov.au) which is constantly monitored, logged and allocated for action.



**DO NOT send requests for Legal Advice to any individual people in Legal.**

## 12.3 Process for Legal Advice Requests

Once the request for advice is received by Legal, it is logged into the system for the purposes of reporting and monitoring of workloads. The requests are then reviewed by the Team Leaders once a week (every Monday) and allocated to a Legal Officer for action. Legal Officers will strive to action the request within two (2) weeks from the date of allocation.

## 12.4 Subpoenas and Summonses

In the course of conducting hearings, Courts and Tribunals have powers to compel people to attend and testify about the issues in the hearing. Although there are some grounds to object to testifying (for example, because testifying might incriminate the witness in some illegal activity) these are rarely applicable in matters involving QBCC.

As QBCC is both a model litigant and an independent regulatory body, testimony from QBCC witnesses – especially technical experts – is highly regarded by Courts and Tribunals, and QBCC generally does not object to having its staff appear in Courts and Tribunals to assist the person hearing the matter. Naturally, in matters in which QBCC is involved as a party (such as reviews or prosecutions) QBCC witnesses always attend to support QBCC's position.

It should be noted that whilst QBCC witnesses will appear (if properly directed) in matters which do not involve the QBCC, QBCC officers do not give affidavits or statements in such proceedings, as being the independent regulator QBCC cannot be seen to be assisting one private party against another.

There are various ways in which a QBCC officer may be directed to attend a Court or Tribunal, and each way is dealt with in turn below.

## 12.5 Queensland Civil and Administrative Tribunal (QCAT)

QCAT has the power to direct QBCC officers to attend hearings and give evidence, or to produce a particular document or piece of evidence, either at the direction of the Tribunal or the request of a party to a matter. Those powers are outlined in the *Queensland Civil and Administrative Tribunal Act 2009*.

Under Section 158 of the *Queensland Civil and Administrative Tribunal Act 2009*, a person who may apply to the tribunal for a review of a reviewable decision may ask the decision-maker of the reviewable decision to give the person a written statement of the reasons for that decision.

If this occurs, the QBCC officer (decision-maker) should submit a Request for Legal Advice, available in ActiveDocs or on Trevor. A QBCC legal officer will then assist with drafting a written statement of reasons and enclosing all relevant documentation.

When completing the Request for Legal Advice, please ensure it contains links to the documents you consider relevant to the decision to ensure there are no delays in completing the request. The written statement of reasons for the decision must be provided within a reasonable period of not more than 28 days after the request is made.

### Witness at QCAT

Witnesses who appear at a hearing are generally entitled to witness expenses, currently in the sum of \$66.00. Those expenses are paid subsequent to the giving of evidence, and for QBCC officers the expenses are paid directly to QBCC; individual officers are not entitled to collect the sum personally.

However, prior to attending witnesses must be paid conduct money, which is an amount sufficient to meet the reasonable expenses of complying with the attendance notice. This includes the expense of travelling to the location of the hearing, and accommodation if necessary. Conduct money must be paid either at the time the witness receives the notice, or within a reasonable time prior to the date on which the witness is to attend. In most cases, conduct money will be delivered to the witness at the same time the notice is served on the witness.

If conduct money is not served on the witness named in the attendance notice, there is no obligation on the witness to attend the hearing. However, prior to taking that course of action, witnesses should consult their manager as to how to proceed.

On receiving a notice of attendance, officers should immediately ensure that they are free to attend on the day and book time in the diary.

Officers should bear in mind that the Tribunal will not accept prior appointments, work pressures and the like as a reasonable excuse not to attend.

If an officer is unable to attend a hearing, the officer should contact the legal services manager to discuss their options and determine whether or not the reason for the unavailability will be accepted by the Tribunal. It is vital that this consultation occur, as the Tribunal has the power to fine witnesses up to \$10,000.00 for failing to attend as required by an attendance notice.

### **Example Notice to Appear from the Tribunal**

On receipt of an attendance notice in a Tribunal matter, officers should follow the following process. Ensure that they are able to attend on the given date, and enter the appointment in their personal diary, Microsoft Scheduler and team calendar on portal.

Inform their manager of the fact that they have received the notice and will be required to attend on the given date and at the particular time.

Contact the law firm or party responsible for having the notice issued, and confirm the exact date and time they will be required to give evidence. This is particularly important in multiple day hearings, as the Tribunal does not expect witnesses to be available for the entire length of the hearing, and the party requiring the witness's attendance should provide further detail in this regard.

If conduct money has not been provided with the notice, contact the person requiring the officer's attendance and advise that QBCC generally requires conduct money 14 days prior to the date of attendance.

If the officer has had some prior involvement in the dispute, the officer should ensure that prior to the hearing, they have familiarised themselves with the details of the case.

If the officer believes that there is some reason they should not be providing evidence in relation to the hearing, the officer should immediately raise their concerns with their manager and the legal services manager.

## **12.6 QCAT Attendance**

From 1 March 2019, pursuant to the decision of the SLT on 9 November 2018, in relation to the Ebsworth recommendations for the Internal Review Unit, a meeting has been held with relevant Directors and Managers to discuss appropriate officers to attend QCAT.

The following general principles were agreed:

- Where an internal review decision is the subject of an external review before QCAT, the Internal Review decision-maker is, subject to the below, the best person to instruct the legal officer with carriage of the QCAT matter and attend a compulsory conference.
- There is no requirement for the internal review decision maker to be an AO7 level or above to attend a compulsory conference or appear at a QCAT hearing. The decision-maker with the most knowledge of the reasons for making the decision is the best person to attend. However, where mentoring / training considerations suggest a more senior officer should attend with the decision-maker, this should occur.

- Where the internal review decision is a 'deemed decision' – i.e. not decided within the statutory period and automatically decided on the same basis as the original decision – the original decision-maker is the best person to instruct the legal officer with carriage of the matter and attend a compulsory conference.
- Where the internal review decision is not a deemed decision, but the same as the original decision for the same reasons, on the same evidence including the original inspection report, the IRU decision-maker is still the first point of contact for the legal officer with carriage of the QCAT matter.
- However, where it becomes apparent that the original decision-maker should also have involvement, or should have primary involvement, this is to be negotiated. Where agreement cannot be reached, the matter is to be escalated to the Chief Legal Officer to discuss with the appropriate Manager/Director/SLT member.
- Where the internal review decision varies or overturns the original decision, or an inspection or technical advice is provided during internal review, the IRU decision-maker, with IRU technical support as required, is the best person to instruct the legal officer and attend a compulsory conference.
- Where the compulsory conference is at a location different to the office of the decision-maker required to attend, application will be made by the legal officer for attendance by telephone for that person, unless travel arrangements are agreed to be made. (Note attendance by telephone cannot be guaranteed)
- The legal officer with carriage of the QCAT matter will determine who should attend a QCAT hearing as a witness and/or to give instructions and advice for the hearing.
- Statements of reasons are to be prepared by Legal Services on instruction from the decision-maker with the most knowledge of the matter, as per the above. SORs are to be signed for and on behalf of the QBCC by the decision-maker where practicable, and where that person is not available by the legal officer or other appropriate officer.
- Documents required for SOR/QCAT – Legal Services to discuss with Res Services (at BI/Legal officer level) to determine appropriate wording for the request. IRU are commencing links to documents read and relied on when making decisions.

## 12.7 Magistrates Court

Magistrates Courts can issue summonses, both in relation to a defendant charged with an offence and to witnesses who may be required to prove that offence. It is highly unlikely QBCC officers will receive a summons from a Magistrates Court in relation to a QBCC matter – QBCC officers will most likely attend a Magistrates Court in relation to a QBCC prosecution and are required by the terms of their employment to attend and give evidence, so QBCC would not be likely to issue summons against its own staff.

In the event an officer does receive a summons from a Magistrates Court (or, for that matter, a subpoena from a higher Court) the officer should – if the matter relates to the officer's discharge of his/her duties during the course of their employment at QBCC – immediately contact the legal services manager to establish a course of action. Should an officer receive a summons from a Magistrates Court unrelated to their employment with the QBCC, it would be advisable for the officer to seek independent legal advice.

## 13 Delegations

The Delegations Manual contains administrative, legislative, financial and human resource delegations for powers and functions delegated by the Commissioner. The manual defines the levels of expenditure limits and legislative powers applicable for all employees.



[Delegations Manual](#)

## 14 Salesforce Processing



[Salesforce Claims Process Guide](#)

## 15 Accessing Documents and Record Keeping

Dispute case related documents that are needed as part of the Claims case are contained in and accessed from ECM.

Only the contract documents required to be provided to the Service Provider at the time of engagement are to be uploaded to Salesforce.

When physical documents such as mail or facsimiles are received, these will be declared by Records and an ECM Action sent to the relevant officer.

The button to access ActiveDocs is located at the top of the relevant screen. Once created these letters can be declared into ECM. All other documentation received or sent during the processing of a case must be saved to ECM at the time.

## 16 Guidance Statements and Termination Checklists

### 16.1 Claims Guidance Statements



[CLAIM-001 – Accommodation Non-Completion](#)







-  **CLAIM-002 – Accommodation Defects and Subsidence**
-  **CLAIM-004 – Reviewable Decisions and Closure Letters**
-  **CLAIM-005 – Completion or Rectification Without Approval**
-  **RES-002 – Practical Completion and Defects Documents**
-  **CLAIM-007 – Deemed Policies including Fraudulent Misrepresentation**
-  **CLAIM-008 – Insurance and Owner Builders**
-  **CLAIM-009 – Insured Registered for GST Purposes**
-  **CLAIM-010 – Matching Decor**
-  **CLAIM-012 – Multiple Contracts Exclusion**
-  **CLAIM-015 – Non-Completion - Variations**
-  **CLAIM-016 – Non-Completion – Work Started**
-  **CLAIM-018 – Owner Taking Early Possession and Securing the Site**
-  **CLAIM-019 – Prejudice to QBCC**
-  **CLAIM-020 – Prepayment**
-  **CLAIM-021 – Prime Cost and Provisional Sum Items**
-  **CLAIM-022 – QCAT Awarded Compensation**
-  **CLAIM-024 – Subsequent Purchaser Entitlement for Active Insurance Claim**
-  **CLAIM-026 – Treatment of Painting Complaints as Insurance Claims**

-  **CLAIM-027 – Underpricing**
-  **CLAIM-028 – Unlicensed Contractors**
-  **CLAIM-029 – Valid Invoice for Payment by QBCC**
-  **CLAIM-030 – Holiday Accommodation Exclusion from Cover**
-  **CLAIM-031 – Non-Completion Frame Deterioration**
-  **CLAIM-032 – Retaining Walls – Primary or Associated Insurable Work**
-  **RES-014 – Unapproved Building Works**

## 16.2 Legal Guidance Statements

-  **Contract Termination**
-  **How to Protect Legal Professional Privilege**

## 16.3 Termination Checklists

-  **HIA New Homes Construction Contract**
-  **MBA Residential Building Contract**
-  **QBCC New Homes Construction Contract**
-  **SPASA Contract**

# 17 COVID-19 Processes

## 17.1 COVID-19 Scenarios and QBCC Responses

On 25 March 2020 the QBCC SLT approved the following tabled 10 scenarios and QBCC responses relating to site inspections, Directions to Rectify and approved claims.

-  **Resolution Services Scenarios and Proposed Responses to Regulatory Processes**

## 17.2 Placing a Case On Hold for COVID-19 Reasons

During the processing of a case, there may be circumstances where it is reasonable for the case to be placed on hold for a period due to COVID-19 related reasons.

Situations where this may be relevant could be if the claimant advises they are unwell or cannot provide site access as they are self-isolating or perhaps a Sedgwick rectifying builder is unwell or self-isolating.

Each case and situation will need consideration prior to placing a case on hold due to COVID-19 reasons, so please consult with your manager prior to doing so.

The following Sub Status options can be utilised in such circumstances. The case **Status** should be **On Hold** in conjunction with using one of the below Sub Status options.

- On Hold – Claimant Request – COVID-19 Reasons
- On Hold – Sedgwick Request – COVID-19 Reasons
- On Hold – QBCC Process – COVID-19 Reasons

RELEASED UNDER RTI