

Consumer guide C03

Complaints, disputes and your rights

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Introduction

This guide is for consumers who wish to complain about a service or formally raise a dispute. This guidance does not constitute legal advice and where appropriate, independent legal advice should be sought. This advice does not affect your Statutory Rights.

This guide covers the following areas:

- Complaints
- Alternative Dispute Resolution
- Recovery of costs
- Trading Standards
- Collecting evidence and claiming costs
- Small Claims Court
- Making a complaint to us

Further information

More useful information can be found on the BiKBBI website – www.bikbbi.org.uk or by writing to:

The British Institute of Kitchen, Bedroom & Bathroom Installation
Thames Enterprise Centre
Princess Margaret Road
Essex
RM18 8RH

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Complaints, disputes and your rights

Complaints

It is important that you don't confuse constructive feedback on areas of dissatisfaction with more formal proceedings such as complaints or disputes. However, there may become a situation, where your feedback has not resulted in an satisfactory outcome and, in these cases, a more formal complaint may be necessary.

Simple steps to overcome complaints should include:

- **Talk to your installer:** You have Statutory Rights when you enter into a contract for service. As a minimum, you can expect any service you have agreed upon with a tradesperson to be supplied with reasonable care and skill. Materials should be of satisfactory quality, as described and fit-for-purpose. When you communicate with your installer, explain the issue, how you feel that they can resolve it, and give them a realistic timescale within which to do so.
- **Keep a record:** Ensure you keep a record of all conversations relating to the area of dissatisfaction. Be that emails, conversations or otherwise.
- **Agree a date by which they need to complete the work.** If they fail to attend on the agreed date, contact them again to agree a final date by which all the work needs to be done. Make it clear that if they fail to meet that deadline, you will instruct another tradesperson to complete the works and that you will be claiming the costs back from them.

Should you withhold payment?

In some situations, withholding payment may help with leverage, but it is something that should be undertaken with caution. Withholding payment could have the opposite effect and put you in a deadlock situation. It could also put you in breach of your contract. This could encourage a tradesperson to take legal action against you, which could jeopardise your own position, should the matter go to court.

If you used a finance option to fund the work, withholding money could also affect your credit record.

If resolving things amicably hasn't worked, you should refer to your contract with them, or ask them for their complaint procedure. If they don't have one, find out whether they are a member of a trade association, as there may be a dispute resolution scheme that you can use.

To use any resolution scheme, you'll need to demonstrate that you have tried to resolve the issue with the tradesperson first. If they have a complaint procedure, you'll need to prove that you've used it and have come to a deadlock situation.

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Alternative Dispute Resolution

Tradespeople and businesses are not required to be part of an ADR scheme, or even to use one for the purposes of your disagreement. However, tradespeople are legally obliged to point you in the direction of an accredited scheme and specify whether or not they are willing to use one.

There are different types of ADR:

- Conciliation and mediation services try to help you and the trader come to an amicable solution by talking through the issues. These are voluntary, usually free, and can be initiated by you or the installer.
- Adjudication and arbitration involve an independent expert in that field examining paper evidence from you and the installer. The decision of the arbiter is usually legally binding, and you won't be able to go to court afterwards if you don't like the decision. Arbitration services often charge a fee.
- Ombudsman services are free for consumers, but not tradepeople. An ombudsman's decision is usually binding on the installer, but only if they are part of the scheme. You can go to court if you're not happy with the decision.

Recovery of costs

If a tradesperson or company is not willing to use an ADR scheme, there are a few other ways in which you can try to recover any money you have lost.

- **Section 75:** If you used a credit card, it's worth looking at whether you could recover the money using Section 75 of the Consumer Credit Act. If the job cost more than £100 and less than £30,000, your card company is jointly liable if something goes wrong.
- **Chargeback:** If you paid on a debit or prepaid card, or the cost was outside the limits for Section 75, making a chargeback claim is another option. It isn't a legal obligation, so banks have to agree liability, but it's worth looking into. There is a 120-day time limit from noticing the issue to making a claim.
- **Financial Ombudsman Service:** If you made a payment using PayPal or a finance agreement, you might be able to complain and get your money back through the Financial Ombudsman Service.

Trading Standards

If you are concerned that the tradesperson might not be acting lawfully, you could report the issue to your local Trading Standards team. Some local Trading Standards offices also offer conciliation services.

While few local Trading Standards allow you to report issues directly, for most you'll usually have to report your concerns through Citizens Advice. Nationally, Trading Standards collates data from local branches across the UK and works with the police and Action Fraud to help spot and deal with emerging threats.

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Collect evidence and claim costs

If none of this works, it may be time to seek a resolution through legal action. The Ministry of Justice Practice Direction on Pre-action Conduct sets out the steps the involved parties must take before going to court.

Think about the evidence you will need to prove your claim if you go to court. This may include photographs of the poor workmanship. You may need to get an independent report on the work. Try to reach an agreement with the tradesperson as to who should provide this report.

Wherever possible, this should be someone you both agree has the expertise to assess the issues and advise on what steps are necessary to put them right. The British Institute of KBB Installation offers an independent inspection service – details of which can be found at www.bikbbi.org.uk/consumer

Small Claims Court

If they reimburse you, you will have to start court proceedings to claim the money back.

If the amount involved is less than the limit of £10,000 in England and Wales or £5,000 in Scotland and Northern Ireland, you'll be able to use the small claims court. The small claims court is a quick and simple way of using the courts to settle disputes - you don't need a solicitor, and the hearing itself is fairly informal. But it should only be used as a last resort.

If you do decide to go to small claims court, you'll be asked if you want to use the Small Claims Mediation Service first. This is free and will be provided by the court. If it doesn't work, the case will be put forward for a hearing in court.

See: <https://www.gov.uk/make-court-claim-for-money>

Making a complaint to us

The British Institute of Kitchen, Bedroom & Bathroom Installation can only accept complaints relating to the service provided by either one of our Retail Installation Standards Partners or registered installation businesses. Unfortunately, we have no jurisdiction over any business that is not currently registered or partnered with us and therefore Citizens Advice will be your best option in this instance.

If your complaint does relate to one of our partners or registered businesses, you should [complete our online form here](#). We are unable to accept complaints by phone, post or email.

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Useful links

LEGAL

Citizens Advice

<https://www.citizensadvice.org.uk>

Government website

<https://www.gov.uk/consumer-protection-rights>

The Law Society

<https://www.lawsociety.org.uk/en>

OMBUDSMAN

QASSS

<https://www.qasss.co.uk>

Dispute Resolution Ombudsman

<https://www.disputeresolutionombudsman.org/dispute>

INDEPENDENT INSPECTION

The British Institute of KBB Installation

<https://www.bikbbi.org.uk/inspection>