

# Residential Projects: Building Problems and How to Avoid Them



During your building project the relationship you have with your builder is crucial. At the outset, you can minimise risk by taking out references and visiting other projects the company has worked on both completed and in progress. Would previous clients recommend them? Did they complete on time and budget?

From the start, both you and your builder must be clear about what you want from each other. You want your house built to your specification, in an agreed programme, for the agreed cost. Builders have gained, in many instances, an unfair reputation as being cowboys. But there are many difficult customers who frustrate builders by being indecisive and disorganised, constantly changing the

spec, making late payments – or sometimes refusing to pay.

## Poor workmanship

This is fortunately not as common an occurrence as it seems, but if it does happen, you need to act promptly, speak to your builder, explain why you are unhappy and what you want done about it. In the vast majority of instances this is all that is needed, but if it is not resolved, you should write to your builder and record the problem. If you feel strongly about it, you can withhold money until the work is rectified to a satisfactory standard, but to avoid potential legal problems, you must make sure that the reasons why are clearly stated in a letter. If still unresolved, you should consider employing an

independent expert to act on your behalf – for example an architect or project manager.

## Poor timekeeping

Unless you are very lucky in finding a builder who completes one job before starting another, this is often unavoidable, as nearly all builders juggle projects and try to keep different clients happy. Try not to get too concerned about the odd day of absence, but if days mount up, then you should speak to your builder and stress your concern.

Keep a full record of who was on site, and when, so that if a dispute escalates, you have evidence. Having a contract with a fixed completion date will certainly help you maintain progress.





## Over-running

It is a common perception that no builder finishes on time. When you are living in rented accommodation, every month that eats into your budget is infuriating and expensive.

It's best to have a formal contract with your builder that clearly states both a start and a completion date. It should include a clause that if the builder fails to complete on the agreed date, then he will pay damages to recompense you for any reasonable costs you incur as a result of the delay. These damages are usually expressed in a set amount per day or per week. For example, if you are living in rental accommodation during your build that costs you £200 per week, it is reasonable to include a damages amount of £250 per week to cover

accommodation and any travel costs you may have on weekly basis to the site. Be careful not to include an unreasonable amount, as if it is disputed and goes to court, a judge may decide that the amount is excessive and it will be unenforceable.

In addition, it is advisable to have an agreed programme or schedule of works for your build. This is sometimes known as a Gantt chart (if Microsoft Project Office is used) and sets out graphically, what tasks need to be done, in what order and by when, for the successful completion of the project. Having a Gantt chart is great for quickly comparing what should have been done on a particular day with what actually has been completed.

## Over-charging

This fortunately is rare, but it can and does happen when you do not agree a fixed price and your builder looks to be paid on a day work rate, with materials being reimbursed at cost. If you are not happy with the price your builder is charging you for materials, ask to see the original invoice from his supplier and agree to pay him this amount plus a small percentage (normally 5-10%) on top for his profit. Don't pay the listed price for materials, as most builders will open accounts with builders' merchants and receive discounts of between 10-60% off the list price.

If you are unhappy with the prices on an ongoing basis, your best solution is to open a trade account with a builders' merchant yourself.

## Changing quotes

You should have a written quote from your builder before commencing the works. This should state what is included and what is not – check for things like VAT, supply of particular materials or the provision of scaffolding.

When you have received your quotation and are happy with it, you should write back confirming that you accept it and asking him to proceed with the works as detailed. This creates a legally binding agreement.

A builder should only change his quote if there has been a change in the work that he has been asked to do. As the client, you are the only one who can ask him to change his work. If a builder comes to you and claims additional money for reasons that you don't agree with, then you need to be strong and let him know that you don't agree and that you won't be paying.

But if this happens, think about the items he has charged you more for – did you delay him by not choosing a paint colour or floor tile in time, did you specify a more expensive product, or did you change the spec in any way? It is very easy to forget about discussions and instructions that you have given to your builder.

To avoid this, keep accurate records of what happened on your build at the time. Record key instructions and discussions and date them. Should any dispute develop, this will prove invaluable in proving your case.

## Charging VAT

Current legislation dictates that all new build housing is VAT free and some conversions also. This means that you can recover some of the VAT that you have paid out during your build. HM Revenue & Customs explain this on their website: <https://www.gov.uk/vat-building-new-home/overview>.

If you are using a VAT-registered builder this should all be very simple, as when he submits his invoice it should not include VAT, as it is his responsibility to recover the VAT he has spent from HMRC. If he does charge you VAT, then you should not pay it and should ask him to resubmit it without VAT. Do not be tempted to pay the VAT and then try to claim it back yourself from HMRC. It is almost impossible to achieve and could result in you losing thousands of pounds.



## Paying your builder

There are some key rules that you follow:

- Never pay in advance of works being carried out, for example, "for materials". It is very easy to open an account with a builders' merchant and receive over 30 days' credit, so he shouldn't need money up front.
- Avoid paying in cash. If your builder wants cash, he may be trying to avoid paying tax and national insurance, which is illegal. Only pay by cheque, to an invoice. That way, if there is a dispute, you have a record of what was paid,
- and for what goods or services.
- Pay promptly. Nothing helps the relationship flow better than receiving money. You should aim to pay the invoice 7 to 14 days after receiving it.
- Communicate. If you are unhappy about paying for something, explain why. Don't just withhold money in silence, as this will be seen as a breakdown in communication and your relationship will suffer.
- Agree stage payments. One of the best ways to manage cash flow and incentivise progress is to

agree to pay the builder agreed sums when he reaches certain stages of the build. For example:

1. Site clearance and foundations
2. Up to first floor level
3. Up to wall plate level
4. Roof carpentry
5. First fix electrical, plumbing and heating
6. Second fix
7. Completion

Once a stage is completed to your satisfaction, then you should pay the builder the agreed amount.



## Insurance

You need to make sure that your site is insured. If you are employing a single builder, then it will be his responsibility to insure the project to cover theft, damage and personal liability. Ask for a copy of his insurance certificate before works commence, as there may be items which may not be covered – for example if you supply some of the materials are they covered? Does it cover subcontractor's plant and tools? If in doubt ask your insurance broker.

If you are project-managing your build, employing subcontractors and supplying some or all of the materials, then you need to cover the project with insurance. There are a number of specialist insurers who can provide you with the appropriate cover. A good start would be Buildstore, who can arrange a policy for approximately 0.75% of your build costs.

## Have a contract

Problems that regularly occur can be reduced by incorporating all of your requirements in an agreed contract. This can be as simple as a letter, listing your requirements and the agreed price, which you both sign and keep a copy of.

Or you can use a formal contract, the most common of which are produced by the Joint Contracts Tribunal (known as the JCT). This is an industry body, whose aim is to produce standard contract documents, which are readily accepted by the industry and, importantly, are fair to both contracted parties. The JCT produces a number of contracts for different situations but the three most relevant that you could consider are:

- JCT Building Contract for the Home Owner/ Occupier

This has been produced specifically for the domestic

home market and particularly for smaller projects like an extension or a loft conversion. However, it is not really appropriate for a new complete home build.

- JCT MW98 Agreement for Minor Works

Whilst there are no real restrictions on the maximum contract value that a minor works contract can cover, the general rule of thumb is for works under £250,000. So for the majority of new home self-builds, this is the best contract to use.

- JCT 1998 Intermediate Form Of Building Contract

The Intermediate Form Of Contract (or IFC as it is more commonly known) is for larger scale projects. Again there is no published guideline, but best suited for projects between £250,000 and £750,000.



## JCT contracts

If you are not used to working with JCT contracts it may be worthwhile to employ a professional to complete these documents for you. If you make a mistake and the contract is signed, you are bound by the mistake.

Employing a RICs qualified quantity surveyor/commercial manager, project manager, or architect to complete this document for you will not cost a huge sum, around £500, but the comfort that it has been done correctly will be worth considerably more.

Some builders may resist using a formal contract. If so, reassure them that you are not expecting problems but the contract is there to protect both of you equally. If your builder is still resisting, then you really need to consider if you wish to use this builder.

The JCT contracts require the appointment of a contract administrator, who will ensure that the contract is fairly and properly administered. If you are already using a commercial manager, architect or a project manager, (s)he will probably already be doing this for you, but they will have to be named in your contract. Expect to pay approximately 3% of your build costs for this service.

## Resolving disputes

The vast majority of disputes can be resolved by talking them through. Both parties normally reach a compromise, which is the most sensible option. Should this not be possible, then it may be necessary to bring legal action against your builder or it might be brought against you. If you have a JCT contract in place, then there is a clear dispute

resolution process to follow, but this can be time-consuming and you will incur costs which may not be recoverable should you win the dispute.

In times like this, it is best to get professional help to see if the problem can be resolved. You could discuss this with a specialist solicitor, but the best starting point would be to employ a chartered quantity surveyor (who are experts in construction contracts) and discuss the problem with him/her.

If you do not have written contract, then you should attempt to reach an amicable solution but if this does not work, speak to a specialist solicitor or quantity surveyor.



For further advice please contact John Shaw on 01780 755 751  
Alternatively, email [john.shaw@fourgroup.co.uk](mailto:john.shaw@fourgroup.co.uk)



## Residential Projects: 10 Tips on Building Problems and How to Avoid Them

1

Choose your builder carefully  
talk to previous clients, visit his sites and make sure that you are happy with working with him.

2

Get a fixed price  
Provide a detailed specification and drawings and get a fixed price for your build.

3

Use a formal contract  
This reduces your risk immeasurably. Unless you are confident in completing one, employ an expert to help.

4

Get expert advice  
If you are not comfortable with dealing with your builder over technical matters, then get independent advice from a professional.

5

Build a relationship  
The better your relationship with your builder, the less likely that problems are likely to occur and if they do, they can normally be resolved quickly.

6

Be the boss  
Always remember that you are the boss and without being dominant, always make sure that the builder knows he is working for you.

7

Don't let problems mount  
Deal with each one as soon as they arise, don't wait until the end of your build and have a long list of complaints.

8

Pay promptly and regularly  
If you are happy with the work done, then pay promptly. Agree stage payments and never pay in advance.

9

Keep records  
Whenever you are on site or talk to someone related to the build on the phone, keep a dated record of what was said and what was agreed.

10

Enjoy it!  
Make your site a happy one, where people enjoy working. Clear, regular and friendly communication, supported by tea, biscuits and doughnuts cost very little but will go a long way to making your build enjoyable for all.

