

Consumer Guidance Hiring a Builder

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Background

As part of its 2022 Consumer Awareness Programme, the Office of Fair Trading (OFT) is issuing guidance with practical information to assist local consumers when contracting with a builder for small building works or refurbishments. These works often run into the many thousands of pounds and can cause severe stress and financial loss for consumers.

The small building works and refurbishments sector locally is generally informal and this culture can give rise to issues during or after works are carried out. Without the formation of proper written contracts, it is hard to establish what was agreed with builders and this leads to discrepancies with expectations.

The OFT also receives complaints in relation to unlicensed and unregistered non-Gibraltarian workers carrying out sub-standard works locally. They can often undercut prices from well-established and trustworthy businesses, however when things go wrong there is often little that can be done to rectify the issues or recover consumers' losses.

Common complaints received by the OFT relating to home improvement contracts, concerning, but not limited to, breach of contracts and bad workmanship have been used to compile this guidance. This guidance will focus on:

- Finding the Right Builder
- Getting Quotes from Builders
- Contracts and Payments
- Check list before going ahead with the works

Finding the Right Builder

When looking for a builder, some background research will help you make the right choice. Note that good builders are often in demand and there is a lot of work for them in Gibraltar. It may therefore take some time before they can make themselves available to you. It may nevertheless be worth waiting rather than rushing into a contract with a business who may not have good credentials. You may therefore wish to take the following points into consideration:

1. Ask friends and family for recommendations. Speak to those who have had similar works done and ask them about any problems they experienced;
2. Ask to see the works carried out by a builder for other clients and scrutinise these to see if you would be happy with the same quality workmanship;
3. Check the business is well established in Gibraltar. Ideally it should have a physical local address and has been trading in Gibraltar for some time. Be wary if the business just gives you a mobile number;
4. Check that the business holds an up to date Business Licence that covers the area of work they will be conducting for you. This applies to any foreign businesses that will be carrying out works for you locally. (Ask them for a copy of their Business Licence or conduct a search at the OFT for £5.00). This will go some way to ensure you are contracting with a properly formed and accountable businesses in case things go wrong;

5. Check the builders have appropriate qualifications or experience for the works to be carried out. They should be able to show you a portfolio of previous works they have conducted to ensure competency with the works they will be undertaking for you;
6. If the builder will be conducting electrical works for you, check that they have the necessary certification from the Gibraltar Electricity Authority. An unqualified electrician is not only dangerous, but it may require you to engage with a qualified electrician in the future to get the works approved;
7. Check the business has appropriate insurance for the works to be conducted. If a business is not properly established it may invalidate any insurance, including your own household insurance;
8. A good builder should be able to give you options, solutions and advice on your proposed works.

Getting Quotes from builders

As Gibraltar is a small community we often have a level of personal relationship with the businesses we engage with. As a consequence, we may at times compromise the fundamentals of forming a solid contract that offers appropriate protections to both parties. It is therefore important that your contract with the builder is based on an appropriate and accurate quote or estimate irrespective of the level of relationship you have with them. This will help reduce problems in the future.

The OFT has dealt with numerous disputes where WhatsApp has been the only means of written communication between the parties. As a result, it is hard to establish what exactly was agreed between them. We therefore recommend that you consider the following:

1. Ask your chosen builder to give you a **written** quotation itemising all of the work which they are going to carry out. It is preferable to have a firm price rather than an estimate as it will give you certainty.
2. Ensure that the full scope of works you require, including cost of materials, scaffolding, disposal of rubble, 'making good' etc. (no matter how small), are set out in writing otherwise these can be disputed as not included in the price in the future and may lead to further unexpected expenses. Query any expenses that you do not understand;
3. Whatever the size or nature of the job, obtain more than 1 quote or estimate (preferably 3) from different businesses;
4. An accurate quote or estimate can usually only be provided with a visit to your property, so be wary of any pricing provided without an organised visit first. Use the visit to know more about the people who'll be spending days, weeks or even months in your property;
5. Take time to carefully consider your options. A reputable business would never pressurise you into a contract;
6. Be wary of requests to pay for the works in Euros. You will be susceptible to changes in exchange rate and such requests could indicate that the builder is not adequately established, licensed and/or registered in Gibraltar.
7. You may need permission from the Department of Town Planning & Building Control for the works you want to carry out. Be clear as to who will deal with any permissions required. If you already have plans or drawings with town planning and/or building control approval, supply these to the builders so they can prepare the quotes accurately. For more information about the Department of Town Planning & Building Control's requirements [visit their website](#);

8. The cheapest estimate/quote may not necessarily be the best. If an estimate/quote from one builder is considerably cheaper than others provided, ask about the disparity in pricing. Think about whether there is a misunderstanding about the nature of the works to be carried out or if the quality of works is being compromised as a result of the low price;
9. Make sure that estimates/quotes indicate the time for completion of works. This information should also be included in the contract. If completion by a certain date is of the essence, make sure this is included in the contract;

Contracts and Payments

When you appoint the services of a building contractor you are entering into a legally binding contract with them, even when there is no signed written contract. The OFT would nevertheless strongly recommend that any contracts are provided in writing (even if it's by e-mail) so there is no room for ambiguity and as such mitigate any potential problems. Do however note that you will be legally bound by whatever is stipulated in the contract.

The OFT has noted that many communications between businesses and consumers are now conducted by WhatsApp and other social media platforms. It is therefore important that these messages are not deleted inadvertently and that the final agreement / contract is sent by email or other written form.

The OFT recommends that the following points are taken into consideration before entering into a contract with a builder:

1. It is automatically implied in all contracts that the business owes you, the client, a duty of care and that works done will be free from defects or hindrance for a reasonable period of time. This does not need to be in writing as it is a right afforded to you in law;
2. Any guarantees offered by the builder should be offered to you in writing as part of the contract;
3. Make sure the contract clearly sets out who is responsible for the management and payment of any materials and any subcontractors that may be required;
4. Agree on the payment arrangements before the works start and make sure these are stipulated in the contract. It is common for a builder to ask you for interim payments as the job progresses. If this is the case, you may want to negotiate and introduce some form of retention of monies to safeguard your position in the event that works are not completed adequately. This could be a certain percentage of interim payments, that is paid upon completion if the works have been effected as per contract. The OFT recommends that you never pay the whole amount up front;
5. Insist on a receipt for every payment you make and/or avoid paying in cash;
6. Although it is expected within any contract that the job is to be completed within a reasonable amount of time, it is important that a completion date is agreed and stipulated in the contract. When time is of the essence, consider introducing penalties for every week that the works being carried out are delayed without reasonable cause.

Checklist before going ahead with the works

- ✓ Is the business well established locally and does the business hold an appropriate business licence?
- ✓ Can they be reached in case of a problem?
- ✓ Have you checked their competency for the works they are to conduct?

- ✓ Do they have appropriate insurance?
- ✓ Do you have a written contract with them that includes a breakdown of works and costs, payment schedule and completion date?
- ✓ Do you need approval for the works from the Department of Town Planning & Building Control?

Contact us

We hope the above is of assistance. Please contact the OFT's Consumer Protection Team if you:

- have any queries;
- have encountered any problems; and
- feel that we have omitted anything important from this guidance.

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