

Submission  
No 136

**INQUIRY INTO REGULATION OF BUILDING  
STANDARDS, BUILDING QUALITY AND BUILDING  
DISPUTES**

**Name:** Name suppressed  
**Date Received:** 1 August 2019

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Partially  
Confidential

1 August 2019

Mr David Shoebridge,  
Chair  
Parliamentary Inquiry into the Regulation of building standards, building quality and  
building disputes,

Dear Mr Shoebridge,

We wish to lodge a case to the Parliamentary Inquiry, to draw attention to our situation as we have been treated unfairly by NSW Fair Trading, NSW Government Agency, SiCorp, now ICare and the NSW Ombudsman.

A brief history follows and further details are found in the two attachments. The attachments are our letter to NSW Ombudsman, 4 July 2018, and Ombudsman response letter, 5 June 2019. We wish to keep the two attachments confidential due to the detailed personal information about ourselves. We also request that our personal details (name, address and telephone number) in this submission be kept confidential.

When we started on a house renovation we contracted a builder for a six month build. Our builder took sixteen months to build half the project, which we later discovered had dozens of defective issues. He abandoned the build, stealing tens of thousands of dollars from us. The builder went bankrupt and consequently our NSW Civil and Administrative Tribunal case had to be withdrawn. The appointed Trustees dropped the case against the builder due to insufficient funds and the volume of claimants. We lodged our home warranty insurance case with Calliden Insurance. Two long years later we received the capped maximum pay out.

Unbeknownst to us our "builder" was being "managed" by a consultant appointed by NSW Icare under the "Managed Builders Program". At the beginning, the consultant alerted Icare to the lack of a builders licence, no home warranty insurance and that the builder had previous building infringements. At the time we engaged the builder NSW Fair Trading did not have these infringements listed on their website, consequently we were not alerted to his previous form.

The further our builder engaged on our project the more damage he caused. Icare knew our project was heading for a disaster. No one in Icare alerted us or alerted Fair Trading. You can see in the confidential attached letter the abhorrent problems we experienced during the five years it took for us to get into our renovated house.

On 4 July 2018 we submitted a complaint to the NSW Ombudsman regarding NSW Fair Trading and NSW Self Insurance Corporation (SI Corp now part of Insurance and Care NSW or ICare) and their inactions and inadequacies in regards to our case. We received a response on 5 June 2019 (see attached). The Ombudsman came to the decision there was not a level of maladministration by ICare or Fair Trading to warrant further involvement by their office. We believe the Ombudsman decision is incorrect as ICare knew from the start how bad our builder was performing and our builders' deficient status and decided to intervene only to ensure the contractor had home warranty insurance. We are of course very grateful for this intervention. The Ombudsman believed there was no duty or moral obligation to do anything else of substance. Therefore an act-of-grace payment was not recommended. The Ombudsman's letter shows flawed logic. If ICare had notified us in a timely manner of the deficiencies in the contractor's licensing and performance, we could have stopped the builder working on

our site long before he did all the illegal, bad work and long before he took all our money and spent the money on items unrelated to our contract, in effect stealing tens of thousands of dollars.

The Ombudsman merely speculated about what our response or Fair Trading response would have been if ICare had passed on the information to Fair Trading and, because there was no evidence of what then would have occurred, the Ombudsman deemed it all to be inclusive and speculative. We should not have been denied compensation (through an act-of-grace payment) for such a superficial analysis of the abhorrent circumstances of our case. It is not for the Ombudsman to engage in a pre-emptive supposition, based on unsupported assumptions about the anticipated reaction of Fair Trading or ourselves, when our losses are so large and the wrongdoing so obvious and easily stopped through urgent action by Fair Trading or ICare.

We sincerely request that the NSW Government move to pass legislation to require NSW Fair Trading and ICare to act more responsibly and rapidly, when becoming aware of deficient work or illegal activity and a consumer like ourselves is being harmed or will be harmed if there is no intervention, such as a case like ours. There is currently no protection or adequate remedy for a homeowner disadvantaged and caused much loss by Government agency negligence or omission, only an unsatisfactory act-of-grace process.

We can provide further evidence to support our case including all materials provided to the Ombudsman, which included all documents from ICare that we received under "freedom of information" back in 2014. We sincerely hope the NSW Parliamentary Inquiry will accept our case as part of the Investigation.