

## BALI Dispute Resolution Service



### Dispute Resolution Procedure

When you engage a designer, landscaper or grounds maintenance contractor, it is reassuring to know that should a dispute arise from the work they have been asked to perform, both parties have the support of a professional trade association to ensure lines of communication are kept open and there is somewhere to turn to resolve those issues that are causing concern.

- N.B.
- BALI membership does not provide insurance cover for any potential or actual liability that may arise as part of a dispute. Immediately BALI receives notification of a complaint, the following procedure is invoked.
  - If legal proceedings or third party investigation have already been instigated, this service cannot be used.

#### Mediation

On receipt of a telephone call to BALI Landscape House (02476 690333), or a BALI Complaint Form downloaded from the BALI website at [www.bali.org.uk](http://www.bali.org.uk), completed and sent to BALI, Landscape House, Stoneleigh Park, Kenilworth, Warwickshire CV8 2LG, the complaint is logged. In the first instance, and with the agreement of the client, BALI will attempt to facilitate communication between both parties about the dispute; most complaints escalate because of poor communication between the client and contractor/designer. This initial mediation will often help the parties to agree a way forward and no further involvement from BALI is required. However, if mediation fails, BALI will instigate the full Dispute Resolution service, which is available free of charge to both parties.

#### Complaints Committee

Dispute Resolution – BALI Complaints Committee

The client must first submit a completed BALI Complaint Form together with the appropriate supporting evidence, e.g.

- Scheme design
- Photographs
- Contractual evidence
- Specification
- Any other information that will support the complaint

Once received at Landscape House the information is copied in its entirety, and forwarded together with a BALI Complaint Response Form, to the contractor/designer, who has 14 days in which to respond. BALI staff then undertake a desk review of the client's complaint and the contractor/designer's defence material. No site visit to inspect works is available as part of this free process. Following this review, a case is put to the BALI Complaints Committee, which is chaired by the Chief Executive and comprises the Quality Standards Officer and a BALI Board Member with experience/expertise appropriate to the nature of the complaint. The Complaints Committee's Findings and Recommendations report is then sent to the client and copied to the contractor/designer. Whilst the recommendations are not legally binding on the parties, BALI would expect the BALI member to be ready to comply with those that require the member's action.

#### Adjudication

If the Complaints Committee's recommendations for resolution are not accepted by the client, independent third party adjudication is available to them (this is not part of the free service offered by BALI). It should also be noted that if the client requests adjudication the BALI Code of Conduct requires the BALI member to comply with that request. Once appointed by BALI, the adjudicator, who is entirely independent of the Association, makes direct contact with both the client and the contractor to agree terms; his fee and expenses are borne jointly by both parties. At this stage, BALI steps back from the process entirely until a copy of the Adjudicator's report is delivered to both parties in the dispute and to the BALI Complaints Committee. Subject to the outcome of independent adjudication a recommendation can be made in the report for all costs to be subsequently awarded to one or either of the parties as appropriate and the contractor/designer may, in the event of proven negligence, be required to appear before the BALI Complaints Committee to determine whether continued Registered Membership of the Association is permissible.

#### What happens if the Client or Contractor/Designer challenges the Adjudicator's findings/recommendations?

There may be instances where the findings/recommendations of the Adjudicator are challenged by one or other of the parties involved. Should this be the case, it is not possible to enforce a ruling on either party. However, the client or the BALI member is still free to pursue the matter through litigation. In such cases the court will, it is believed, take into account efforts made to resolve the dispute through BALI's Adjudication Procedure.

**THIS PROCESS CANNOT GUARANTEE COMPLETE SATISFACTION WHERE THE CLIENT HAS UNJUSTIFIED CAUSE FOR COMPLAINT OR WHERE EITHER PARTY HAS UNREALISTIC EXPECTATIONS.**

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