



Government of **Western Australia**
Department of **Commerce**
Plumbers Licensing Board

Building
Commission

Plumbing

Compliance report

INVESTIGATION into licensed plumbing contractors'
compliance with notifications and certifications 2014





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1. Executive summary

In Western Australia plumbing work and those undertaking plumbing work are regulated by the Plumbers Licensing Board (the Board). The Board regulates the State's plumbing trade by issuing licences to suitably qualified and experienced plumbing contractors and their tradespersons and it is illegal for a person to carry out plumbing work without a licence.

In keeping with the national trend to place greater accountability on contractors, the Plumbers Licensing and Plumbing Standards Regulations 2000 (the Regulations) set out a system of self-certification as the basis of the regulatory framework. Contractors must notify the Board of the work they are doing and in some cases this must be done before the plumbing work is carried out. They must also certify that work is complete and complies with all of the relevant regulations and standards. Contractors are responsible for all plumbing work that they and their employees perform and a rectification notice may be issued up to six years from the time the work is completed.

The Building Commission provides services to the Board to ensure the system of self-certification works as it is intended to. Services provided by the Building Commission include a program of contractor audits, inspections of water, sanitary and drainage plumbing work, and a formalised booking system to ensure a specified number of drains are inspected. The costs associated with providing these services are met through the sale of books and forms to submit notices and certificates and the payment of installation fees. It is important, not only to the Building Commission who provides services to ensure consumer confidence in the plumbing industry remains high, but to contractors who are doing the right thing, to ensure all contractors are operating by the rules.

In 2014, as part of its compliance monitoring activities, the Building Commission's Enforcement Branch undertook a Compliance Investigation into the number of Notices of Intention, Certificates of Compliance and Multi-entry Certificates (notices and certificates) submitted by each contractor in 2013.

The investigation found that of the 4,046 contractors licensed in WA in 2013, 2,589 (64%) did not submit any notices or certificates to the Board in 2013. In fact, 85% of contractors lodged 10 or less notices and certificates and 80% lodged less than five.

Overview

At the commencement of this investigation there were 4,046 contractors in WA and the Board recognises that many contractors perform work for other contractors and some contractors do not undertake plumbing work for a variety of reasons.

All major plumbing work, except emergency work, will require the lodgement of a Notice of Intention (NOI) to the Board at least 24 hours prior to any work being undertaken.

A contractor must not carry out or permit or arrange for major plumbing work to be carried out unless a NOI for the work has been lodged with the Board. This system communicates to the Board where plumbing work is about to be undertaken so it can be inspected as part of the Board's compliance monitoring activities. When major plumbing work is completed, the contractor who lodged the NOI for the work must, within five working days of completing the work:

- give the Board a completed Certificate of Compliance (COC) for the work;
- give a copy of the COC to the owner or occupier of the place where the work was carried out;
- give a copy of the COC to the local government authority of the district in which the work was carried out if the work is drainage plumbing and the drainage plumbing is not, and is not intended to be, connected to a sewer; and
- keep a copy of the COC at his or her principal place of business for at least six years.

All minor plumbing work carried out must be certified by a contractor on a Multi-entry Certificate (MEC). A MEC will record up to 25 individual jobs and will need to be lodged with the Board within five working days after the end of each calendar month.

The scheme established to monitor the plumbing industry in WA is funded via a combination of occupational licence fees and the purchase of forms required for submission of NOIs, COCs and MECs. As at 1 July 2014, the fee for a single NOI and accompanying COC was \$22.40 and the fee for a single MEC was \$16.90. There are additional costs associated with new plumbing installations and these vary according to the number of fixtures from one fixture costing \$66 to 30 fixtures costing \$294.90.

Conclusion

In today's competitive market some licensed plumbing contractors may feel pressure to 'cut corners' and save money by not submitting the requisite notices and certificates and not paying the associated fees in relation to plumbing work. When a contractor fails to notify the Board about plumbing work that is to be undertaken the Board is not able inspect that work and this is likely to jeopardise the health and safety of the community and the environment. For example, a plumber who incorrectly connects a sewerage outlet to a potable water system can spread disease-causing, and sometimes life threatening, bacteria, viruses and parasites.

The monitoring and enforcement regime in operation in WA is an important tool to protect against health and environmental harm and to ensure consumer confidence in the plumbing industry remains high.

This investigation raises concerns about the extent of compliance with the existing system of self-certification. A well designed system needs to be fair and this means all contractors must abide by the same rules and not gain a competitive advantage by cutting corners. It is important that the Board maintains a high level of visibility in monitoring compliance with the submission of notices and certificates as this will act as a greater incentive for plumbers to comply with plumbing standards and licence obligations.

2. What did we do?

Phase 1

The compliance investigation initially focused on those contractors who were actively advertising for plumbing work but who had not submitted any notices or certificates in 2013. The investigation collected information from the relevant sections of the Yellow Pages directory, Gumtree website and community newspapers. This information was analysed against the notifications data to establish a list of 20 contractors who were actively advertising for plumbing work but who had not submitted any notices or certifications in 2013.

The compliance history for each contractor was reviewed. Under the previous scheme of monitoring compliance a plumbing inspector would visit each new contractor and carry out a compliance audit. While the plumbing inspector would audit notices and certificates submitted by the contractor, they did not review records of plumbing work to ensure the system of self-certification was working as it should. To demonstrate the importance of checking records of plumbing work, this investigation found that all but two contractors had been audited in the preceding five years and three contractors had been audited twice. While some minor non-compliance had been identified during the earlier audits, the extent of the non-compliance identified during this investigation had not been exposed as a result of previous plumbing audits.

Each contractor was notified in writing about the investigation and arrangements were made to allow the Investigator to undertake an examination of records as part of the compliance investigation.

Phase 2

The second phase of the investigation targeted contractors who had submitted very few or no notifications, certificates or fees over approximately a five-year period where there was some evidence that the contractor had been advertising for plumbing work during that period.

Phase 2 was designed as a desk top investigation during which the investigator wrote to the contractors asking them to complete a compliance declaration stating they had submitted all notices and certifications for plumbing work undertaken by them or tradespersons working under their direction. Declarations were assumed to be correct unless there was an obvious discrepancy or error in those notifications.

On 30 July 2014, letters were sent to 20 contractors inviting them to submit a compliance declaration and any corresponding notifications by 27 August 2014.

All 20 contractors ultimately submitted compliance declarations:

- 15 of the 20 contractors submitted their declarations by 27 August 2014.
- Seven of the contractors declared that they did not have any outstanding notifications.
- Three of the contractors submitted their declarations within two weeks of 27 August 2014.
- The two remaining contractors submitted their declarations approximately six weeks after 27 August 2014.
- Of the five contractors who did not submit declarations by 27 August 2014, three had to be contacted six or more times before they complied with the written request.

On 2 September 2014, letters were sent to a further 20 contractors inviting them to submit compliance declarations by 1 October 2014.

By 24 October 2014, all 20 contractors had submitted declarations:

- 14 of the 20 contractors submitted compliance declarations by 1 October 2014.
- Eight of the contractors declared that they did not have any outstanding notifications.
- Three of the contractors submitted compliance declarations within one week of 1 October 2014 and one of the contractors submitted the compliance declaration within three weeks of 1 October 2014.
- Of the six contractors who did not submit their declarations by 1 October 2014, three had to be contacted up to three or more times before they complied with the written request.

3. What did we find?

Summary

The investigation found that of the 4,046 contractors, 2,589 (64%) did not submit any notices or certificates to the Board in 2013. In fact, 85 per cent of contractors lodged 10 or less notices and certificates and 80% lodged less than five.

As a result of Phase 1 of the Compliance Investigation, contractors:

- Lodged 2,208 forms.
- Purchased forms costing a total of \$31,349.70.
- Paid new installation fees of \$1,527.70.
- Were issued 20 warning letters.
- Were issued 35 infringement notices that attracted total penalties of \$11,800.

As a result of Phase 2 of the Compliance Investigation, contractors:

- Lodged 680 forms.
- Purchased forms costing a total of \$9,476.20.
- Paid new installation fees of \$1,254.
- Were issued 20 educational letters.

Detailed findings – Phase 1

Of the 20 contractors who were investigated during the first phase of the investigation, 19 were found to have been non-compliant with the obligation to submit notices and certificates. Table 1 sets out the details of notices, certifications and new installation fees that had not been submitted based on the records of plumbing work examined.

Detailed findings – Phase 2

Of the 40 contractors who were investigated during the second phase, all contractors submitted compliance declarations. Of those, 25 declared themselves to have been non-compliant. Table 2 sets out the details of the notices and certifications that were submitted by the 25 non-compliant contractors.

4. What action did we take?

The Enforcement Branch of the Building Commission draws upon the Department of Commerce Compliance Strategy Model when determining a suitable enforcement action when it discovers non-compliance.

Enforcement options include a formal warning, issue of an infringement notice(s), prosecution and disciplinary action. Offences carry penalties ranging from \$2,000 to \$5000 with modified penalties ranging from \$200 to \$500. In serious cases of non-compliance, the Board may make an allegation about a disciplinary matter to the State Administrative Tribunal.

Phase 1

Table 3 sets out the enforcement action applied to contractors who were found to be non-compliant.

Phase 2

Phase 2 of the Compliance Investigation was a desk top review and in order to engage the cooperation of contractors an assurance was provided that no enforcement action would be taken in respect to non-compliance. However, in every instance of non-compliance the contractor was required to submit outstanding notices and certifications and pay the associated installation fees. In addition, all contractors were issued educational letters reminding them of their legislative requirements and providing advice as to what enforcement action is available to the Board should they fail to comply in the future. Tables 4 and 5 capture the total cost of fees collected as a result of the Compliance Investigation.

Table 1 – Summary of notices and certification not submitted – Phase 1

	MECs	NOIs	COCs	Installation fees
Contractor 1	19	3	6	0
Contractor 2	32	31	31	0
Contractor 3	7	1	1	0
Contractor 4	2	0	0	0
Contractor 5	1	0	0	0
Contractor 6	69	84	81	18
Contractor 7	6	2	2	0
Contractor 8	33	15	14	0
Contractor 9	34	33	33	0
Contractor 10	15	3	3	0
Contractor 11	46	41	41	0
Contractor 12	14	51	49	0
Contractor 13	84	46	47	3
Contractor 14	0	0	0	0
Contractor 15	9	13	13	0
Contractor 16	21	0	0	0
Contractor 17	85	212	212	0
Contractor 18	15	22	22	0
Contractor 19	34	178	178	0
Contractor 20	0	107	107	0
Total	526	842	840	21

Submission of notices and certificates and payment of fees

All contractors who were found to have been non-compliant during the Compliance Investigation were required to submit notices and certificates and pay the associated installation fees. Tables 4 and 5 summarise the value of forms and fees collected as a result of the Compliance Investigation.

Table 2 – Summary of notices and certification not submitted – Phase 2

	MECs	NOIs	COCs	Installation fees
Contractor 1	0	0	2	0
Contractor 2	0	0	0	0
Contractor 3	0	26	26	0
Contractor 4	29	14	14	0
Contractor 5	0	0	0	0
Contractor 6	2	2	2	0
Contractor 7	29	44	44	0
Contractor 8	23	1	1	0
Contractor 9	0	0	0	0
Contractor 10	6	0	0	0
Contractor 11	0	0	0	0
Contractor 12	0	1	5	1
Contractor 13	0	11	11	0
Contractor 14	3	0	0	0
Contractor 15	0	0	0	0
Contractor 16	0	0	0	0
Contractor 17	21	0	0	0
Contractor 18	0	0	0	0
Contractor 19	30	1	1	0
Contractor 20	37	20	17	2
Contractor 21	0	0	0	0
Contractor 22	0	0	0	0
Contractor 23	0	0	0	0
Contractor 24	0	0	0	0
Contractor 25	0	0	0	0
Contractor 26	0	0	0	0
Contractor 27	0	0	0	0
Contractor 28	8	3	3	0
Contractor 29	11	2	4	0
Contractor 30	14	0	0	0
Contractor 31	0	5	0	0
Contractor 32	0	3	4	3
Contractor 33	0	1	0	1
Contractor 34	3	0	0	0
Contractor 35	0	0	0	0

	MECs	NOIs	COCs	Installation fees
Contractor 36	17	6	10	3
Contractor 37	11	5	5	0
Contractor 38	25	9	10	0
Contractor 39	2	9	9	0
Contractor 40	0	7	71	0
Total	271	170	239	10

Table 3 – Penalties

Warning letters	Infringement notices – number	Infringement notices – penalties
20	35	\$11,800

Table 4 – Summary of fees collected – Phase 1

Forms	New installation fees	Total
\$31,349.70	\$1,527.70	\$32,877.40

Table 5 – Summary of fees collected – Phase 2

Forms	New installation fees	Total
\$9,476.20	\$1,254.00	\$10,730.20

Tables 6 and 7 show a general rise in notices and certificates received and book sales during the period of the Compliance Investigation. This indicates that information about the Compliance Investigation was reaching the broader plumbing industry with a positive impact on compliance.

Table 6 – Notices and certificate trends

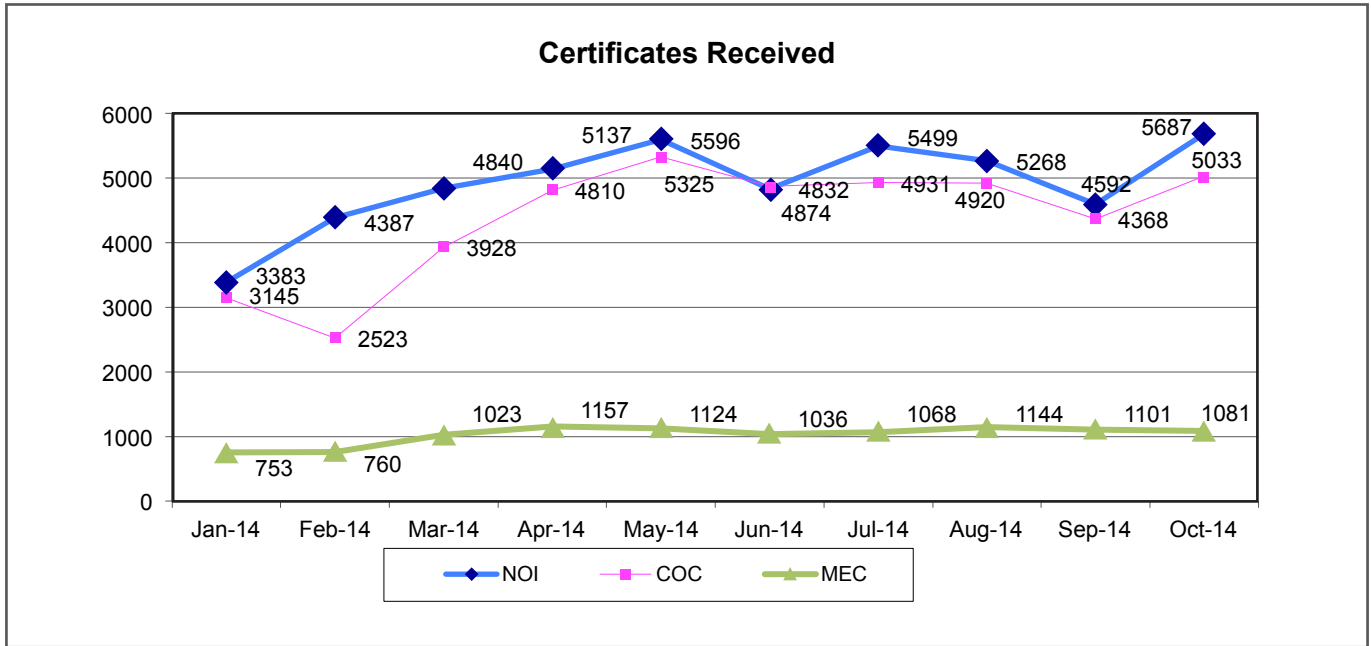
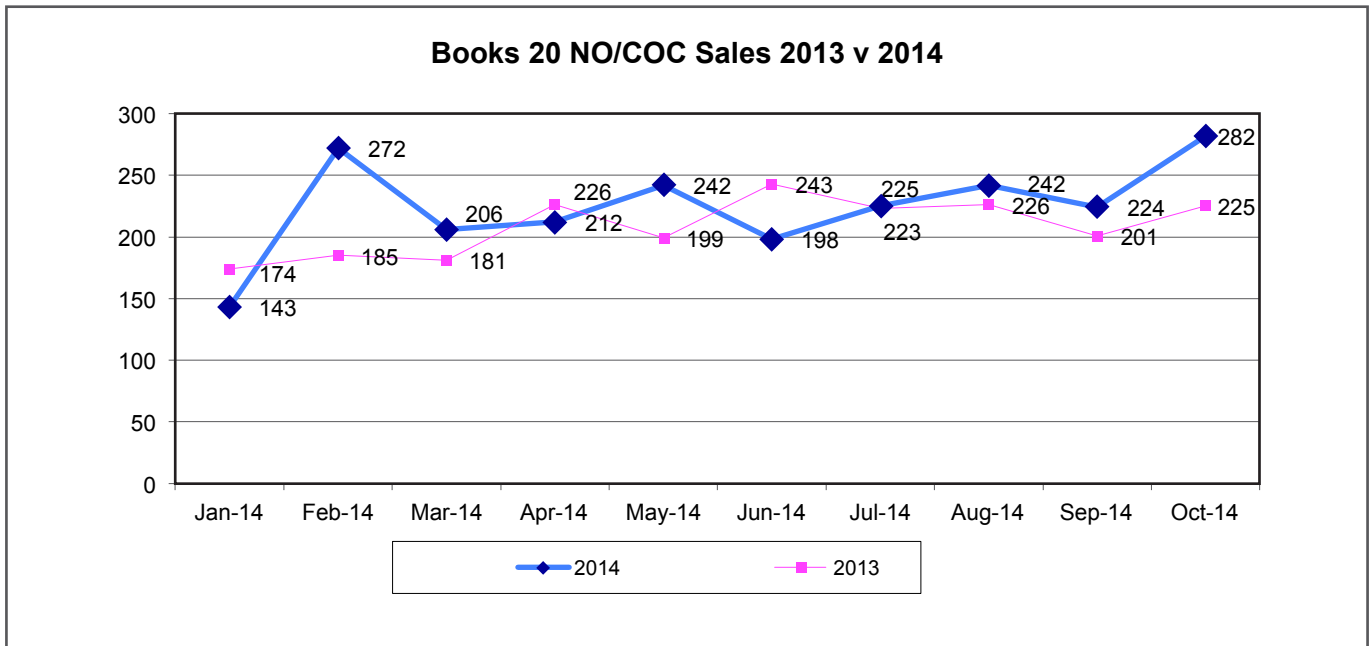


Table 7 below shows the comparative book sales between 2013 and 2014. The sale of books increased significantly when the Compliance Investigation commenced in February 2014 and increased again at the commencement of Phase 2 in late June 2014.

Table 7 – Book sale trends



5. Further compliance actions

- ✓ On 9 April 2014, the Building Commission issued a newsletter informing plumbing subscribers about the Compliance Investigation and reminded those who fail to submit the relevant notices and certificates about the risk of detection and prosecution.
- ✓ On 6 June 2014, a similar article to the one published above was published in the Master Plumbers Magazine, Issue 6.
- ✓ On 12 September 2014, the Building Commission published an article on the outcome of the Compliance Investigation on its website.

6. Where to next?

The Building Commission and Plumbers Licensing Board recognise that the current system for notification of plumbing work, including the payment of installation fees, is outdated and contributing to the unacceptable levels of non-compliance to notification requirements.

The recent independent review of WA's plumbing laws, undertaken by ACIL Allen Consulting (ACIL Allen), considered how plumbing regulation should be funded, as well as the effectiveness of the existing notification requirements. ¹The review found the current practice of collecting notifications about all plumbing work to be counter-productive. Instead, it was recommended that the plumbing regulator should have the ability to identify plumbing work of varying risk to public health and target inspections accordingly, as currently occurs. Notification requirements could then be tailored to this targeted inspection regime.

The Building Commission is currently progressing the reforms recommended made by ACIL Allen. A Consultation Regulation Impact Statement will be released in the first half of 2015 seeking further discussion on the regulation of plumbing in WA, including requirements to notify of plumbing work and how plumbing regulation should be funded.

In addition to the reforms that will be delivered as a result of the ACIL Allen recommendations, the Building Commission appreciates the benefits to the plumbing industry of an online, electronic lodgement and payment system for plumbing notices. Such a system will allow contractors to submit notices and certifications at any time and from anywhere and online payments will provide a quicker and more convenient alternative to existing payment options. The Building Commission is currently investigating the feasibility of an electronic lodgement system for plumbing notices with an online payment gateway.

There can be little doubt that these reforms will drive greater efficiency by reducing the red tape burden that is currently overwhelming the plumbing industry. In the interim, the Building Commission will continue its program of compliance investigations into the self-certification system to ensure compliance obligations are met.

¹ ACIL Allen Consulting (2013). Report to Minister for Commerce, Western Australia. *Review of Plumbing Regulations in WA*.