

WHY YOU SHOULD BE SIGNING ON THE DOTTED LINE

FMB research revealed that 40% of members don't use a written contract, but failing to record details of a project can lead to issues for contractor and client alike

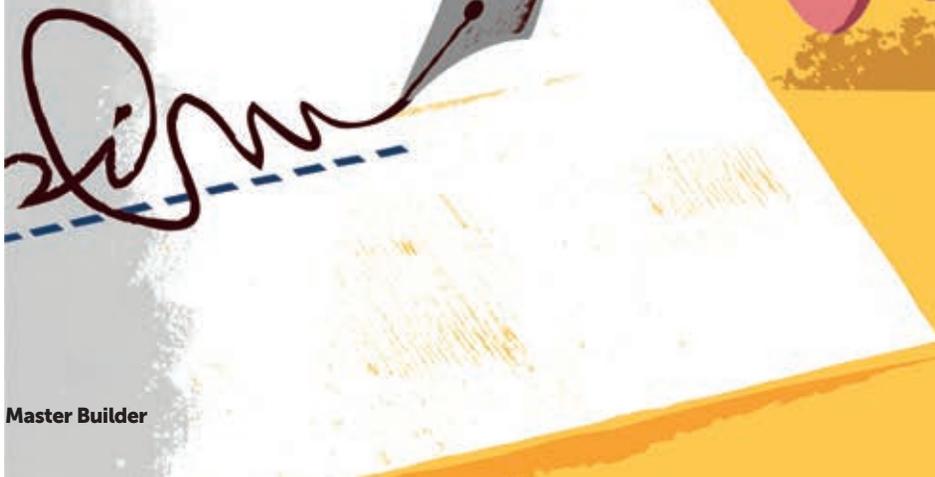


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There seems to be a reluctance among some SME construction firms to use written contracts, with FMB research revealing that 40% of members don't use them.

Contracts may seem too restrictive but failing to write down the particulars of a project can lead to confusion and often disputes between contractors and clients further down the line.

"The benefits of a contract are that it sets expectations and means that nothing is assumed between the parties," explained Contract Strategist Sarah Fox, who recently worked with the FMB to improve and simplify its suite of contracts.

She said people are used to agreeing to terms and conditions and contracts can help give builders a professional edge. "When you are having a building project done you are spending a lot of money," she said. "Having a clear contract is a really good way of establishing that you are a professional Master Builder rather than a rank amateur because people expect to see contracts nowadays."

While, to a builder, the way in which a project will unfold is fairly obvious, a client who hasn't had building work done before often has a limited understanding of the process.

"The best thing about a contract is that it helps to bridge the gap between what the builder knows and what the client knows," said Sarah, who specialises in helping companies write contracts in 500 words.

A contract should clearly identify the roles of each party, detailing what both the contractor and client are responsible for.

"If you have got a written contract then everybody's expectations are clearly outlined, down to such details as whether you are providing your own toilet and washing facilities, and things like how any special materials orders will be handled," said Hayley Lorimer, Director of Membership Services at the FMB.

Where a written contract doesn't exist both clients and contractors make assumptions and it is likely these won't be the same.

"As soon as you have mismatched expectations you have an opportunity for the relationship to get a bit sticky," said Sarah.

"This can end up in complaints, people being rude on social media or putting bad reviews on

websites, or bringing claims and we can avoid some of this nasty stickiness at the end by just being really clear at the beginning about the process and what the client can expect."

Contracts can also cover what will happen if projects are delayed by weather, for example, or if clients change their mind about the spec, or request additional works.

"It is about having clear paths for anything that might happen because we all know that when a construction project starts, it is the first time that someone has done a project on that site, for that client, in that weather and things will not go according to plan but at least if you have a contract you know what happens next... you don't need to be constantly tearing your hair out saying I wonder what is going to happen now," said Sarah.

"If you didn't have a proper contract, every time the client changed their mind about what they want to do you would need another bunch of terms to deal with that change. If you have a contract, you can have a clause which says if you are going to change your mind this is how we want to deal with it."

If a dispute does arise, a written contract can make it much easier to deal with, as it provides a record of what was agreed, rather than relying on people's recollections.

"Managing disputes becomes much more difficult if there is no written contract because it is basically just 'he said, she said, I thought they were going to do

this' and it becomes a bit vague," said Hayley.

"A lot of members shy away from contracts because they think they will be bound by the terms of the contract and it will be less easy to walk away from the job if things go wrong but actually it makes it easier."

A contract offers protection to both sides and while it holds contractors accountable to meeting certain terms and conditions, it also dictates payment terms and client behaviour.

"We have got to stop thinking of contracts as being sticks to beat each other with," said Sarah. "They are in fact tools that help people do business and that help projects run as smoothly as they can".

"Rather than being an annoyance, a hurdle, a barrier to doing business, contracts are actually good and help us to do business and be more successful"

SARAH FOX, Contract Strategist



You can read more about the FMB's new and improved user-friendly contracts on **page 37**.