

# Consumer Code for Home Builders

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This document contains the  
Consumer Code requirements  
together with non-mandatory  
good-practice guidance for  
Home Builders

Clear Print Edition



Third Edition – April 2013

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## **Meaning of words**

In this document, the following words have special meanings:

- **Agent** – a person, firm or company used by a Home Builder to deal with any matter on their behalf (for example, an estate agent or contractor).
- **Consumer Code** or **Code** – a set of requirements to be adopted by Home Builders.
- **Contract of Sale, Contract Exchange, Legal Completion** – the legal document and the formal stages used during the sale of a property.

In Scotland these documents and stages are known respectively as **Missive** (or **Builder’s Missive**), **Conclusion of Missive** and **Settlement**. In Northern Ireland they are known respectively as **Contract of Sale, Formation of Contract** and **Completion**.

Where this document uses the terms for England and Wales, the terms for the other countries are implied.

- **Dispute Resolution Scheme** – an independent process set up to deal with Code disputes that fall outside the Home Warranty Body’s cover.
- **Home** – a property that a Home Builder registers with a Home Warranty Body to obtain Home Warranty cover, excluding those properties listed in the Scope on page 6.
- **Home Builder** or **you** – a builder or developer of new or newly converted Homes for sale to the public, and who is registered with a Home Warranty Body.
- **Home Buyer** – a person who Reserves or buys a Home, excluding those listed in the Scope on page 6. For Homes Reserved or bought jointly by two or more people, the Home Buyer’s rights will be joint.

- **Home Warranty Body** – any organisation that:
  - has agreed to support the Consumer Code for Home Builders Scheme;
  - maintains a register of builders and developers;
  - provides Home Warranty cover;
  - has undertaken to enforce the Code.

Details of participating Home Warranty Bodies are available from the Consumer Code web site:

**[www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)**.

- **Home Warranty** – an insurance-backed warranty that a Home Warranty Body issues to protect Home Buyers.
- **Reservation** – when a Home Buyer and a Home Builder jointly make a written statement of intent (subject to contract and whether or not a fee is paid) to buy and sell a Home. **Reserved** and **Reserve** carry the corresponding meaning.

### Further information

You can get more information, including copies of the code documents and advice on frequently asked questions and the results of audits, surveys and adjudications from the Consumer Code web site: **[www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)**.

You can contact the Consumer Code for Home Builders secretariat by emailing: **[secretariat@consumercodeforhomebuilders.com](mailto:secretariat@consumercodeforhomebuilders.com)**.

## **Introduction**

- 1 The Consumer Code came into force on 1 April 2010. This third edition applies to all Reservations signed on or after 1 April 2013. It sets mandatory requirements that all Home Builders must meet in their marketing and selling of Homes and their after-sales customer service.
- 2 Home Builders must adopt the standards of good practice, procedures and information detailed in the Guidance against each requirement, unless they take a different approach that also satisfies the requirements. More advice is available on the consumer code web site **[www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)**.

If they take a different approach to satisfying the Guidance, Home Builders must provide a similar level of information and achieve a similar outcome to what the Guidance says.

- 3 The purpose of the Code is to ensure that Home Buyers:
  - are treated fairly;
  - know what service levels to expect;
  - receive reliable information on which to make their decisions; and
  - know how to access speedy, low-cost dispute resolution arrangements if they are dissatisfied.
- 4 The Code applies to all the Home Buyers and Homes stated in the Scope on page 5.
- 5 The Home Warranty Bodies have agreed to require all their registered builders to adopt and comply with the Code as a registration condition. If a Home Builder is found to be in serious breach of the Code, Home Warranty Bodies can apply a range of sanctions. These include removal from the relevant Home Warranty Body's register and exclusion from all registers run by other Home Warranty Bodies that take part in the Code scheme.

- 6 Home Buyers who think they have a dispute because a Home Builder has failed to meet the Code requirements, may refer their dispute to an independent Dispute Resolution Scheme. See Appendix A for details.
- 7 The Consumer Code Management Board will arrange for surveys to check how well the Code is working and measure consumer satisfaction. In carrying out the surveys, the relevant sections of the Data Protection Act will be complied with.
- 8 To establish how well the Code is being applied, or whether it needs to be amended or updated, there may also be:
  - random audits;
  - mystery shopping surveys;
  - reviews and assessments of customer satisfaction feedback and complaints;
  - training for Home Builders.
- 9 Nothing in the Code affects Home Buyers' existing legal rights.

### Scope

Please bear in mind the following provisions and limitations:

- 1 This third edition of the Code applies to all home buyers who have signed a Reservation Agreement for a new or newly converted Home on or after 1 April 2013 that has been built by a Home Builder registered with one of the Home Warranty Bodies.
- 2 The Code covers complaints made in writing to the Home Builder within two years from the Home Warranty cover's start date.
- 3 Second or subsequent Home Buyers benefit from the Code Requirements but only on after-sales matters they report within two years from the Home Warranty cover's start date.

- 4 The Code and the associated Dispute Resolution Scheme do not apply to:
  - second-hand properties (for example, properties taken by Home Builders in part exchange and re-sold);
  - properties acquired by registered social landlords for rent;
  - properties acquired by corporate bodies, partnerships and individuals buying several properties for investment purposes;
  - properties built by self builders for their own occupation;
  - Homes assigned or sub-sold by an investor to a third party before Legal Completion;
  - personal injury claims;
  - loss of property value or blight;
  - claims about the land conveyed and its registered title;
  - claims that exceed the Dispute Resolution Scheme’s limits.
  
- 5 Matters better dealt with by other dispute resolution or ombudsman schemes should be referred to the relevant organisation. In such cases, these other schemes will take precedence over this Code and the associated Dispute Resolution Scheme.

# **The Consumer Code for Home Builders – builder guidance**

## **1. Adopting the Code**

### **1.1 Adopting the Code**

#### **Requirement**

**Home Builders must comply with the requirements of the Code and have regard to the good-practice guidance.**

#### **Guidance**

You are expected to comply with all the Code requirements. You could incorporate the Code requirements into your own customer charter.

The guidance aims to help you understand and apply the requirements. You do not have to follow the guidance but if you take a different approach, you should provide a similar level of information and achieve a similar outcome to the same or better level or standard than the guidance says.

### **1.2 Making the Code available**

#### **Requirement**

**The Home Builder must display the Code and give, without charge, a copy to customers who ask for it and to all Home Buyers who reserve a Home.**

**The Home Builder should also inform their customers that further guidance is available and how they can get this.**

#### **Guidance**

You should give customers a free copy of the Code. You should make it available on your first contact with a Home Buyer, give it to anyone who asks for it, and give it automatically to any Home Buyer who Reserves a Home.



The Code should also be clearly displayed. For example, it may be:

- contained in sales packs, brochures or Home Buyer reservation packs;
- displayed in public places such as site sales offices;
- made available on your website.

You may download the Code requirements from the Code website and provide copies to customers.

For Home Buyers who have special needs (for example, their first language is not English or they have impaired sight), you should consider providing the Code in alternative formats.

This document's guidance for builders on how to operate the scheme is freely available to Home Buyers. They can download it from the Consumer Code web site at [www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com).

### 1.3 Customer service

#### **Requirement**

**The Home Builder must have suitable systems and procedures to ensure it can reliably and accurately meet the commitments on service, procedures and information in the Code.**

#### **Guidance**

You should have formal processes to provide reliable and consistent service to Home Buyers and to resolve issues that may arise with them and their Home.

## **1.4 Appropriately trained customer service staff**

### **Requirement**

**The Home Builder must provide suitable training to all staff who deal with Home Buyers about their responsibilities to them and what the Code means for the company and its directors.**

### **Guidance**

You should train your staff to understand:

- the detail of the Code;
- the company's key legal responsibilities; and
- Your staff's own responsibilities to Home Buyers.

Not all staff need the same level of training. Its extent will depend on their role and how much they are involved with Home Buyers.

If you use Agents to sell your Homes, you should ensure they are trained to the same level as above. You should also ensure that Agents' responsibilities are clearly explained in their contract arrangements with you.

## **1.5 Sales and advertising**

### **Requirement**

**Sales and advertising material and activity must be clear and truthful.**

### **Guidance**

Your sales and advertising material should be clear and truthful, and comply with the law.

The Property Misdescriptions Act 1991 says that any services offered must not be wrongly described and information must not be false or misleading. The Consumer Protection from Unfair Trading Regulations 2008 requires all traders to deal fairly with consumers and not to use aggressive or misleading practices.

You can get further guidance from your local Trading Standards.

## **2. Information: pre-contract**

### **2.1 Pre-purchase information**

#### **Requirement**

**Home Buyers must be given enough pre-purchase information to help them make suitably informed purchasing decisions.**

**In all cases this information must include:**

- **a written Reservation agreement;**
- **an explanation of the Home Warranty cover;**
- **a description of any management services and organisations to which the Home Buyer will be committed and an estimate of their cost.**

**Also, if a Home is not yet completed, the information must include:**

- **a brochure or plan reliably showing the layout, appearance and plot position of the Home;**
- **a list of the Home's contents;**
- **the standards to which the Home is being built.**

#### **Guidance**

During the pre-reservation, Reservation and pre-contract periods, you should give the Home Buyer appropriate information about the Home to help them make informed decisions about the purchase before they make a binding commitment to it.

The information should be fair and reliable, in plain language and without jargon, and include:

- **a Reservation agreement in writing setting out the key terms and price (see 2.6 below for the minimum required content);**
- **a list and, where relevant, plans of the contents – the fixtures and fittings that are included in the sale price (for example white goods, curtains, carpeting, wall tiling, door entry systems, power points, sanitary-ware fittings);**
- **the standards to which the Home is being built (for example, the relevant Building Regulations, Planning conditions and Home**

- Warranty Body’s technical requirements);
- brochures or plans reliably showing the Home’s layout, appearance and plot position;
  - the nature of the Home Warranty cover provided (see 2.3 below);
  - a description of any management services (Scotland: ‘factoring’) and organisations to which the Home Buyer will be committed, with an itemised estimate of the management service charges, maintenance costs and fees. The information should also state on which terms the charges and fees may alter.

If the Home is complete and the Home Buyer has had the opportunity to view the finished property, you do not need to provide plans or a list of contents.

When a Reservation agreement has been signed, your legal advisor should send the Home Buyer’s legal representative the proposed contract, legal title and any other relevant documents and approvals, including information about town planning and other statutory approvals and consents.

## 2.2 Contact information

### Requirement

**Home Buyers must be told how their questions will be dealt with and who to contact during the sale, purchase and completion of the Home.**

### Guidance

You should tell Home Buyers how you will deal with their questions and who to contact during the Home’s sale, purchase and Legal Completion.

This information should show how they can contact you – email, phone, letter or SMS text, for example.

## **2.3 Warranty cover**

### **Requirement**

**Home Buyers must be given accurate and reliable information about the insurance-backed warranty provided on the Home.**

### **Guidance**

Before exchange of contracts, the Home Buyer should receive:

- the name and contact details of the provider of the insurance-backed Home Warranty that is included in the transaction;
- a summary of the insurance cover protection that the insurance-backed Home Warranty provides. The Home Warranty Bodies may assist by providing literature for this purpose.

## **2.4 Health and safety for visitors to developments under construction**

### **Requirement**

**Home Buyers must be informed about the health-and-safety precautions they should take when visiting a development under construction.**

### **Guidance**

You should inform all Home Buyers who visit a working building site about the health-and-safety precautions that you and they should take.

You should make clear to visitors that they are personally responsible for following health-and-safety procedures and signs.

## **2.5 Pre-contract information**

### **Requirement**

**Home Builders must advise Home Buyers to appoint a professional legal adviser to carry out the legal formalities of buying the Home and to represent their interests.**

### **Guidance**

You should advise Home Buyers to choose and appoint an independent professional legal adviser when they reserve a Home, to look after their interests in all aspects of the transaction.

You must not restrict the home buyers' choice of legal representative.

## **2.6 Reservation**

### **Requirement**

**Home Buyers must be given a Reservation agreement that sets out clearly the terms of the Reservation, including, but not limited to:**

- **the amount of the Reservation fee;**
- **what is being sold;**
- **the purchase price;**
- **how and when the Reservation agreement will end;**
- **how long the price remains valid;**
- **the nature and an estimated cost of any management services the Home Buyer must pay for.**

**The Reservation fee must be reimbursed if the Reservation agreement is cancelled. The Home Buyer must be told of any deductions that may be made.**

**While the Reservation agreement is in force, the Home Builder must not enter into a new Reservation agreement or sale agreement with another customer on the same Home.**

### Guidance

You should provide enough information for the Home Buyer to fully and properly understand the Reservation agreement.

Among other matters, the Reservation agreement should clearly state:

- the amount of the Reservation fee;
- what is being sold – for example plot number, postal address (if available), garage or parking space;
- the purchase price;
- the deadline date when the Reservation agreement will end if contracts are not exchanged;
- how long the price will remain valid;
- a reasonably reliable estimate of the costs and a summary of the management services (Scotland: ‘factoring’) that the Home Buyer will be asked to agree to and pay for;
- that it is ‘subject to contract’;
- any dependent or conditional matters, for example part-exchange terms.

The Reservation agreement should be signed by you and the Home Buyer in recognition and acceptance of the stated terms.

Once the Reservation agreement is signed, you should not sell or try to sell the Home to another buyer before the deadline date when the Reservation Agreement will end, or before the date when the buyer cancels the Reservation Agreement, whichever occurs first.

The Home Buyer has the right to cancel the Reservation agreement at any time during the Reservation period ending with the deadline stated for exchange of contracts. The Reservation deadline may be extended by agreement between you and the Home Buyer. You should confirm this agreement in writing.

You do not have the right to cancel a Reservation agreement. However, if the deadline date is not extended and the contract not exchanged, the Reservation agreement expires automatically.

When the Reservation agreement is cancelled or expires, you should return the Reservation fee to the Home Buyer, less any reasonable costs you have genuinely incurred in processing and holding the Reservation.

The nature and extent of the likely cost of deductions from the Reservation fee should be set out in the Reservation agreement. Such costs may include, but are not limited to, those incurred in providing the contract documents and the administrative costs of processing the Reservation. Setting or deducting a fixed percentage or fixed amounts from the Reservation fee is not acceptable.

It may be that the terms of a Reservation agreement relating to incentives (for example, discounts, part exchange or similar) have to be altered due to a change in mortgage scheme proposals (for example, from a straight mortgage to 'New Buy'). If so, the Home Builder and Home Buyer should cancel the existing Reservation agreement and enter into a new agreement without any deduction from the Reservation fee.

Clause 3.4 below gives further guidance on handling and protecting deposits, refunds and pre-payments.

Arrangements with prospective Home Buyers that provide a right of first refusal on a Home (for example, early-bird or pre-reservation waiting lists) are not recognised as Reservation agreements and are not covered by the Code.

### **3. Information: exchange of contract**

#### **3.1 The Contract Requirement**

**Contract of sale terms and conditions must:**

- **be clear and fair;**
- **comply with the Unfair Terms in Consumer Contracts Regulations 1999;**
- **clearly state the contract termination rights.**



## **Guidance**

You should ensure that the contract terms are clear and fair and comply with the Unfair Terms in Consumer Contracts Regulations 1999. In particular:

### **a) Spoken and written statements**

To avoid disputes over spoken statements, you should ensure that, immediately before exchange of contracts, the Home Buyer through their legal representative states in writing what spoken statements they are relying on when entering into the contract.

You should then confirm these spoken statements in writing, or resolve any problems as appropriate, before contracts are exchanged.

### **b) Changes you make to the Home's design or construction**

After Contract Exchange, if there is a change to the design, construction or materials to be used in the Home that would significantly and substantially alter its size, appearance or value, you should formally consult the Home Buyer and get their agreement.

Before Legal Completion, the Home Buyer has the right to end the contract and get their deposit and Reservation fee back without deductions if these significant and substantial changes are unacceptable to the Home Owner, acting reasonably. You should tell them of this right and the specific circumstances when they could exercise it. (See 3.3 below).

Minor changes to the Home's appearance that do not significantly and substantially alter its size, appearance or value still need to be notified to the Home Buyer. But they do not give the Home Buyer the right to cancel the contract and the Home Buyer's agreement to them is not required.

You do not need to notify the Home Buyer of changes of construction materials that do not affect the Home's size, appearance or value.

### **Important note on extra work and extra items**

If you agree to do extra work or incorporate extra items that the Home Buyer will pay for, and these are not specifically included in the Reservation agreement or sale contract, they should be set out and agreed in writing using a separate quotation and written order signed by the parties. You should make clear the terms of this agreement, including cancellation and refund rights.

If, as a result of this extra work, you need more time to complete the Home beyond that originally stated in the Contract of Sale, this should be agreed and recorded by the legal advisers acting for the parties. (See also 3.2 below.)

The Code does not cover agreements for extra work or agreements between the Home Buyer and other contractors.

## **3.2 Timing of construction, completion and handover**

### **Requirement**

**The Home Buyer must be given reliable and realistic information about when construction of the Home may be finished, the date of Legal Completion, and the date for handover of the Home.**

### **Guidance**

#### **a) Information given to the Home Buyer before Exchange of Contracts**

You should warn Home Buyers that weather and other matters beyond your reasonable control make the time needed to construct a Home difficult to predict.

It is unreasonable to give or expect to be given a definite date months in advance; however, certainty should increase as the Home nears completion.

What you tell the Home Buyer about when the Home is likely to be ready will depend on what stage it is at when you provide the

information. You may follow your own process and methods. However, you may wish to use the following approach:

- Before completing the foundations and ground floor – give the **calendar quarter** when the Home is likely to be ready.
- When the roof is completed and the building weatherproof – give the **month** when the Home is likely to be ready.
- When the Home is decorated and main services are connected – say what **week** the Home is likely to be ready.

The construction stages and time periods will vary according to the type of development; for example, whether you are building flats or houses.

### **b) Information given to the Home Buyer at Contract Exchange**

It is important that you consider carefully the expected date given in the Contract of Sale and that it is consistent with the information you give the Home Buyer before Contract Exchange. The Home Buyer has the right to withdraw from the contract if there has been unreasonable delay beyond the date given in the Contract of Sale. (See 3.3 below.)

In the Contract of Sale, you should give the anticipated date by which notice of Legal Completion should be served. This date should be based on the guidance in **a)** above, or follow similar guidelines.

The Contract of Sale should clearly define the notice period within which Legal Completion will occur; for example:

*‘14 days from the serving of notice to complete’.*

If a Home is complete, the contract may state a fixed date for Legal Completion.

### **c) Handover and occupation**

You should arrange to hand over the Home to the Home Buyer and to show its facilities and how they work.

You may ask the Home Buyer to sign a document to confirm they have had a demonstration and have received keys and other items.

**d) Completeness of the Home and building work**

You should explain to the Home Buyer the arrangements to complete any works that remain outstanding at handover, including things like roads, footpaths, landscaping and children's play areas.

On large developments, the information should relate to the relevant phase of the development for that Home and the facilities directly affecting the Home.

You should tell the Home Buyer about any warranty protection and bonds that provide security for the completion of such work.

If, by agreement with the Home Buyer, you do extra work that affects the date of Legal Completion, you and the Home Buyer's legal advisers should agree and record such a date change. (See 'Important note' under 3.1 above.) If such an agreement is made, this will also amend the long-stop date (see 3.3 below).

**3.3 Contract termination rights**

**Requirement**

**The Home Buyer must be told about their right to terminate the contract.**

**Guidance**

You should tell the Home Buyer about when they have the right to end the contract.

The Home Buyer may serve notice to end the contract if there is:

- a substantial and significant change to the Home that the Home Buyer has not agreed to (see 3.1 above);
- unreasonable delay in finishing the construction of the Home and serving the notice to complete.

Unreasonable delay may be defined by including a long-stop date in the Contract of Sale, for example by using the following clause :

‘The Home Buyer may terminate the contract if the Home Builder fails to serve notice on the Home Buyer to complete the sale within [x] months from the anticipated date stated in the Contract of Sale.’

The period [x] months must be no more than 6 months for houses or 12 months for apartments if the Contract of Sale is exchanged before the roof is completed and the building weatherproof. This period should be no more than 2 months for houses or 4 months for apartments if the Contract of Sale is exchanged at an advanced stage of construction.

The aim of the long-stop date is to take into account possible delays in things like third parties providing services or facilities to the development that are essential to occupation (for example, electricity substations or sewerage plant and other matters outside your reasonable control).

If you fail to serve notice on the Home Buyer to complete the sale before the long-stop date, the Home Buyer may have the right to cancel the contract as well as being able to seek out-of-pocket expenses through the independent Dispute Resolution Scheme.

### 3.4 Contract deposits and pre-payments

#### **Requirement**

**The Home Builder must clearly explain how Home Buyers’ contract deposits are protected and how any other pre-payments are dealt with.**

#### **Guidance**

You should have arrangements to protect contract deposits paid by Home Buyers. The Home Warranty Body’s insurance cover may include this protection.

If a Reservation is cancelled, you should repay the Reservation fee to the Home Buyer, less any reasonable administrative or other costs you have genuinely incurred in processing and holding the Reservation.

If the Home Buyer ends the contract because of substantial and significant change in design, or for unreasonable delay as defined in the Contract of Sale (see 3.3 above), then you should repay the contract deposit and Reservation fee in full without deductions.

You should repay Home Buyers as quickly as possible, preferably

## **4. Information: during occupation**

### **4.1 After-sales service**

#### **Requirement**

**The Home Builder must provide the Home Buyer with an accessible after-sales service, and explain what the service includes, who to contact, and what guarantees and warranties apply to the Home.**

#### **Guidance**

You should provide an after-sales service and let Home Buyers know what it is and how to use it.

You should, for example:

- say who to contact during the first two years of the Home Warranty cover, including names, addresses and telephone numbers;
- explain the process for handling emergencies – you may wish to give examples of what qualifies as an emergency that you will deal with;
- make clear how long the after-sales service is available for;
- give details of any other standard guarantees (for example for electrical appliances, central heating systems and boilers) that are

included in the transaction together with any relevant contact details.

You should also tell Home Buyers about the dispute resolution services provided by the Home Warranty Body.

The above obligation to inform does not apply to second and subsequent owners. However, you should still take responsibility for after-sales matters that they report within two years from the start date of the Home Warranty cover, if the warranty covers these matters.

## **4.2 Health and safety for Home Buyers on developments under construction**

### **Requirement**

**Home Buyers must be told about the health and safety precautions they should take when living on a development where building work continues .**

### **Guidance**

You should inform Home Buyers who move into a Home on a development that is still under construction about the health-and-safety precautions they should take.

You should give the Home Buyer the health-and-safety file for the Home thus complying with the relevant Construction (Design and Management) Regulations 2007.

## **5. Complaints and disputes**

### **5.1 Complaints handling**

#### **Requirement**

**The Home Builder must have a system and procedures for receiving, handling and resolving Home Buyers' service calls and complaints.**

**The Home Builder must let the Home Buyer know of this, and of the dispute resolution arrangements operated as part of this Code, in writing.**

#### **Guidance**

The information you give the Home Buyer must explain the complaints procedure.

You should deal with all complaints within a reasonable time. The time may vary depending on the nature of the issues raised and the preparation work needed. You should let the Home Buyer know the likely timescale.

If you do not deal with the complaint in a reasonable time or the Home Buyer is not satisfied, they may refer the complaint to their Home Warranty Body. If appropriate, the Home Warranty body may refer the Home Buyer to the Consumer Code's independent Dispute Resolution Scheme. A summary of this scheme is given in Appendix A.

You should tell the Home Buyer that using the complaints procedure or the Dispute Resolution Scheme does not affect their normal legal rights.



## **5.2 Co-operation with professional advisers**

### **Requirement**

**The Home Builder must co-operate with appropriately qualified professional advisers appointed by the Home Buyer to resolve disputes.**

### **Guidance**

There should be proper, prompt and professional co-operation between you and the Home Buyer's appropriately qualified professional advisers.

Such advisers will include trading standards departments, Citizens Advice, consumer centres and professional advisers formally appointed under a relevant professional institute's rules

## **Appendix A**

### **Consumer Code independent Dispute Resolution Scheme**

Disputes are resolved by adjudication. This means a trained adjudicator will review written submissions from both parties and issue an award based on his or her conclusions. The adjudicator will decide whether or not a Home Buyer has a legitimate dispute and has suffered financial loss because their Home Builder broke the Consumer Code's requirements .

The following is a summary of this process. More detailed information will be given with each application for adjudication. You can also find out more from the Consumer Code web site.

#### **Complaint and response**

1. A Home Buyer must first complain to their Home Builder and give the Home Builder the opportunity to investigate and put things right.
2. If the Home Buyer is not satisfied with the Home Builder's response, the Home Buyer should contact the Home Warranty Body that issued the warranty on their Home.

#### **Action by the Home Warranty Body**

3. The Home Warranty Body will:
  - 3.1 deal with the complaint under the terms of their Home Warranty policy; or
  - 3.2 if the complaint falls outside its own dispute resolution scheme, offer the Home Buyer the opportunity to refer the complaint to the independent Dispute Resolution Scheme. They must bring the claim within three months of the date after the Home Builder's final response to the original complaint, or within three months after the date of the original complaint, whichever is the later.

**Going to the Dispute Resolution Scheme: adjudication process**

- 4 If a Home Buyer decides to refer a complaint to the independent Disputes Resolution Scheme provider, the following adjudication process happens:
- 4.1 The Home Buyer must complete an application form and send it to the independent Disputes Resolution Scheme with their statement of evidence and a case registration fee of £100 plus VAT(\*). Their statement must contain all the information relevant to the complaint and copies of receipts or other evidence of expenditure.
  - 4.2 The independent Dispute Resolution Scheme will ask the Home Builder to respond to the Home Buyer’s statement. At this stage the Home Builder may resolve the complaint without a formal adjudication – this is called ‘early settlement’ and costs the Home Builder a reduced case fee of £100 plus VAT(\*).
  - 4.3 If early settlement does not happen, the Home Builder must submit their response to the Home Buyer’s statement along with a payment of £300 plus VAT(\*). The Home Buyer will be given a copy of the Home Builder’s response and asked to respond if they wish. At this stage, the Home Buyer may not make any further new complaints about this adjudication.
  - 4.4 The adjudicator will consider both submissions and decide whether or not the Home Buyer has suffered financial loss as a result of the Home Builder’s alleged failure to comply with the Consumer Code. Both parties will be expected to have acted reasonably and to have controlled their costs.
  - 4.5 The adjudicator will make a decision and send it to both parties. The decision may be a performance award (where the Home Builder has to do something) or a financial

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(\* ) Case fees subject to annual review

award (where the Home Builder has to pay the Home Buyer money) or a combination of the two. The maximum value of the combined award available under this adjudication scheme is £15,000 including VAT.

- 4.6 As well as making such an award, the adjudicator may make a discretionary award up to a maximum of £250 for any inconvenience a Home Buyer may have suffered as a result of how the Home Builder handled their complaint. The £15,000 maximum award would include any award for inconvenience. A Home Buyer may not receive an award for inconvenience alone.
- 4.7 The adjudicator will also decide whether or not the Home Builder must reimburse the Home Buyer their case registration fee. This will be in addition to the award referred to in 4.6 above.
- 4.8 The adjudicator's decision cannot be appealed; it can only be accepted or rejected by the Home Buyer.

### **Awards: acceptance, refusal and liability**

5. Under the rules of registration, the Home Warranty Bodies require each registered builder to honour any award made against them under the Dispute Resolution Scheme. If the Home Buyer accepts the award, the courts will usually recognise this as evidence that the Home Buyer's claim was valid.
6. If a Home Buyer refuses to accept the award, any subsequent legal action is likely to take account of the adjudication decision.
7. A Home Builder remains liable for an award, even if they are removed from a Home Warranty Body's register.
8. The Consumer Code's Dispute Resolution Scheme is independent of the Home Warranty Bodies. Adjudication decisions made under the Consumer Code's independent Dispute Resolution Scheme are not insured under the Home Warranty Bodies' Home Warranty schemes.









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Scottish Building Federation



RETIREMENT HOUSING GROUP



## Consumer Code for Home Builders Scheme

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