

**CONSUMER
CODE FOR
HOME BUILDERS**

www.consumercode.co.uk

Consumer Code
Annual Report
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Introduction from the Chairman

The new homes market continues to sit at the centre of the political agenda. The Government has continued to provide strong political support to the industry to encourage the growth of new homebuilding in the UK. The Government has also continued to underline its support through the Help to Buy scheme.

As the industry grew over the last few years customer satisfaction fell from a historical high point in 2013. While this is disappointing, the Industry has been responding positively with a number of initiatives designed to recover its previous position. The 2016 New Homes Customer Satisfaction Survey still showed that 84% of new Home Buyers would recommend their builder to a friend.

The Code continues to be a central component of consumer protection at the point of sale to ensure consumers are treated fairly and are fully informed about their purchase both before and after they sign a contract. It continues to enjoy wide support from the Industry and underpins the Help to Buy schemes operating throughout the UK sponsored by Government and the devolved administrations.

We were disappointed not to be consulted during a study into the Quality in New Build Housing in England undertaken by the All Party Parliamentary Group for Excellence in the Built Environment, despite expressing our willingness to do so. Some of the findings were, as a result, inaccurate and based on limited analysis which we have made the group aware of retrospectively.

It has been an important priority during my period of Chairmanship to ensure the Code operates independently whilst engaging all the key stakeholders. In pursuit of this objective we have over the last year welcomed Frances Harrison to the Code Management Board. She is a highly experienced consumer advocate representing the Citizens Advice network. We have also invited the head of housing policy from the Law Society and the Chief Executive of Propertymark to join our Advisory Forum.

Over the last year we have completed our second review of the Code and introduced a number of important changes to take effect from 1st April 2017. We are also implementing more rigorous compliance monitoring supported by an independent Disciplinary and Sanctions Panel.

Many consumers have little or no experience of purchasing a new Home although it is likely to be the most significant purchase they will ever make. An important priority for us going forward will be to increase the awareness of the Code with Home Buyers to ensure the protection it offers is well understood. To support them the Code logo now needs to be displayed in sales offices and in brochures. A copy of the Code also has to be provided at reservation either in hard copy or electronic format. We have re-designed our website to increase its appeal and accessibility for new Home Buyers, builders, agents and lawyers. We have also added a decision tree to assist consumers to navigate the complaints process.

We have introduced a new electronic training module developed in partnership with the Construction Industry Training Board and the Industry, which will be an important contribution to achieving compliance with the Code. For the first time, we have included training on the requirements of the Consumer Protection from Unfair Trading Regulations; criminal law which has a synergy with the Code and which places important obligations on the seller. The training is also being made available to lawyers and conveyancers dealing with home purchases.

I have been encouraged by the priority that the professional bodies and their members have given to embedding this training within their internal training processes and we will continue to work closely with the Industry and Estate Agents over the next year to ensure it is effective and makes a real difference for Home Buyers.



Noel Hunter, OBE

Who we are and what we do

Who we are

The Consumer Code for Home Builders (“the Code”) is a voluntary Code that was developed and led by the Industry to provide additional consumer protection.

The purpose of the Code is to provide protection and rights to purchasers of new homes, and requires that all new Home Buyers are treated fairly and are fully informed about their purchase before and after they sign the contract.

Since its launch in April 2010, the Code has gone from strength to strength. The principles of the Code have been firmly adopted and embedded into the processes of many Home Builders while raising the standard of service and support provided to Home Buyers.

The Code reinforces best practice among Home Builders to make sure the level of information and customer service provided by all Home Builders is consistently high and provides for a speedy, low cost dispute resolution scheme to deal with complaints.

Governance

A Management Board is responsible for operating the Code and is chaired by Noel Hunter OBE, who brings unrivalled expertise in consumer protection, gained through a wide variety of organisations.

He is a previous Vice Chair of the Council of The Property Ombudsman, non executive director of the Board of the Chartered Trading Standards Institute, and Chairman of a third sector hospice.

Noel is supported by other Board members Ian Davis, Gary Devaney and Mike Freshney.

During this time, the Management Board was strengthened by the appointment of Nicola Barclay and Frances Harrison.



Noel Hunter OBE

Chairman of Consumer Code Management Board



Ian Davis

Operations Director at NHBC



Gary Devaney

Group Chairman and Chief Executive Officer of MD Insurance Services Ltd



Mike Freshney

Chairman of the Code’s Advisory Forum



Nicola Barclay

Chief Executive for Homes for Scotland



Frances Harrison

Chair of Brighton and Hove Citizens Advice

The Code has an operating budget of circa £290,000 per year. While the principal costs are for the expenditure on governance and administration, these costs also incorporate any necessary expenditure on monitoring/auditing of Code compliance; promotion of the Code such as the development of the new website and supportive material, and the development and provision of the on-line training material.

Advisory Forum

The Management Board is supported by an Advisory Forum that is chaired by Mike Freshney. The Advisory Forum is an industry-wide body that represents, consults and advises on Code content; its practical application and operation, through which changes and improvements are channelled.

Independent voices from organisations who have an affiliation with the new home building industry are also making themselves heard and contributing to the deliberations of the Code's Advisory Forum. Joining the Chartered Trading Standards Institute and Citizens Advice we were delighted to appoint Mark Hayward from NAEA Propertymark and Diane Latter from the Law Society (England) to the Advisory Forum.

Members of the Advisory Forum include:

- Chartered Trading Standards Institute
- Citizens Advice
- Construction Employers Federation (NI)
- Council of Mortgage Lenders
- Home Builders Federation
- Homes for Scotland
- House Builders' Association
- LABC Warranty
- Law Society
- NAEA Propertymark
- NHBC
- Premier Guarantee
- Retirement Housing Group

Our Aims

The aim of the Code is for all new Home Buyers to:

- Be treated fairly at all times;
- Be given reliable information about their purchase and consumer rights before and after they move in to their new home;
- Know what levels of service to expect and
- Know how to access an independent, speedy, low-cost dispute resolution scheme to deal with any complaints.

The Code reinforces best practice among Home Builders to encourage a consistently high level of information and customer service. It builds on successful efforts already made by the Industry to improve consumer satisfaction in recent years.

Code Review

After its launch, the Code was originally reviewed in 2012 and changes were made as a result of the feedback received.

In light of further years' experience of operating the Code and feedback from our mystery shopping; adjudications from our Independent Dispute Resolution Scheme; discussions with stakeholders and applicants to become a User of the Code, the Code's Management Board committed to a further review which was carried out during the latter part of 2015 and throughout 2016, for implementation of any changes required in 2017.

The review, which was overseen by an Independent Chairman, John Bridgeman CBE, a former Director General of Fair Trading, was to seek the widest possible perspective on the Code to ensure it retains and builds upon the strengths of the current requirements and support of the Industry.

Views were sought from Home Builders, trade bodies, consumers and all other stakeholders on the overall scope, operation and impact of the Code. Responses were received from across our stakeholder landscape, including from Government; the legal profession; consumer representatives and the home building industry membership organisations that collectively, represent over 9,500 Home Builders.

In light of the responses, the Code was revised in a number of areas and in particular:

- **Improving consumer awareness of the Code by encouraging its greater prominence in sales offices;**
- **Supporting on line training for front line sales staff to improve overall compliance with the Code at the point of sale;**
- **Improving the pre-purchase information Home Buyers receive when making purchasing decisions, such as information on event fees.**

The revisions also take into account good practice within the consumer landscape requiring Home Builders to specifically consider the evident needs of vulnerable consumers; not to use any high pressure selling techniques and changes to the Independent Dispute Resolution Scheme to reflect the Alternative Dispute Regulations.

New on-line e-learning training

To support the home building industry and their Agents to comply with the revised Requirements of the Code, a new on-line e-learning module was developed and piloted with a number of Home Builders across England and Scotland.

Following feedback from the pilot, the course has been adapted and is now accessible to all staff who need to have an understanding of the Code. A unique feature of the training, and to further assist the Industry, it marries the importance of complying with the Code Requirements with the Consumer Protection Regulations.

The training has received grant funding from the Construction Industry Training Board and support from the Home Builders Federation and Homes for Scotland.

Further support for Home Builders

To further encourage Home Builders to adopt the Code, and in particular in relation to the promotion of the Code at site and sales offices, the supporting Home Warranty Bodies have made freely available office and window stickers/clings.

In addition, they have provided Code stickers which can be used on existing sales brochures.

Other material has also been made available for Home Builders and their Agents to use, all of which is freely available from the Code website and includes:

- **A sample Reservation agreement and**
- **A compliance checklist.**

New Code Website

The Code's website continues to be the main source of information relating to the Code: <http://www.consumercode.co.uk/> and is regularly updated with key information, including summaries of all adjudications from our Independent Dispute Resolution Scheme.

To coincide with the revisions to the Code, the Code's website was re-launched, making the information for both Home Buyers and Home Builders more readily accessible.

Home Buyers can now see at a glance the Requirements of the Code and there is a simplified complaints process summary explaining how a complaint for either a breach of the Code and/or defects with their new Home can be raised.

The website will be further enhanced during 2017 to provide information for those affiliated with the new home building industry such as Estate Agents and solicitors/licenced conveyancers.

Revised Code Logo and Branding

The Code aims to make a positive difference to the service Home Builders provide to new Home Buyers.

Some of the revisions made to the Code have been to improve the awareness and requires the Code logo to be prominently displayed in both Home Builders' and Agents' sales offices and in sales brochures.

To marry with the changes, and along with the relaunched website, the Code has refreshed its Logo and Branding Guidelines. Both of which can be downloaded from the Code's website at: <http://www.consumercode.co.uk/downloads/fourth-edition-2017/>

Market Research

To encourage Home Builders to adopt the Code and to enable the Consumer Code's Management Board to check how well it is being applied, or whether it needs to be amended or updated further, the following activities may be carried out:

- **Research**
- **Audits, which may include audits of Home Builders' systems and documents**
- **Mystery-shopping surveys**
- **Annual returns or reports from Home Builders**
- **Reviews and assessments of customer satisfaction feedback and complaints**
- **Training for Home Builders.**

Over recent years, the Code's Management Board have undertaken a programme of mystery shopping but with the changes to the Code, felt that this element of the monitoring could be improved upon, as there was some concern that it may be measuring that which can be easily measured, rather than that which ought to be measured.

Therefore, for the first time in 2016, the mystery shopping surveys were not conducted while the review of the Code was underway.

Other elements of Code monitoring however continued and in particular, in relation to customer feedback and complaints through the Code's Independent Dispute Resolution Scheme.

Customer Satisfaction

Albeit a slight decline in the levels of customer satisfaction over recent years, Home Builders still continue to achieve high levels of customer satisfaction for new built homes. The Home Builders Federation's (HBF) National New Homes Survey of Homeowners (published March 2017) showed that 84% of Home Buyers were satisfied with the overall quality of their new home and with 84% saying they would recommend their Home Builder to a friend.

The HBF survey, now in its twelfth year, is a self-completion census of new home purchasers and some 52,290 responded to the latest survey. The results show continued high levels of home owner satisfaction with the quality of new homes and the service they receive before, during and after moving in.

79% of home owners were very, or fairly satisfied, with the service they received during the home buying process, while 91% of home owners said they would buy a newly built or newly converted home again.

The full results of the survey, which we take into consideration when monitoring the effectiveness of the Code, can be seen here: <http://www.hbf.co.uk/policy-activities/customer-satisfaction-survey/2017-results/>

Independent Dispute Resolution Scheme

If things go wrong

If a Home Buyer believes they have a dispute because a Home Builder has failed to meet the Requirements of the Code and which falls outside of the scope of their new home warranty, they may refer their dispute to the Code's Independent Dispute Resolution Scheme (IDRS). This Scheme is run by the Centre for Effective Dispute Resolution (CEDR Ltd).

Under the Code, Home Builders are required to have a system for dealing with complaints and a Home Buyer must firstly give a Home Builder the opportunity to rectify any matters. However, if a Home Buyer is not happy with the response of their Home Builder, they can apply to the warranty provider to resolve the issue. On matters which are not covered by the warranty, the Home Buyer can apply to the Independent Dispute Resolution Scheme to have the dispute, which the Home Buyer thinks is a breach of the Code, considered and if it has caused the Home Buyer to be disadvantaged and to have suffered financial loss.

Further details of the scheme and summaries of case adjudications can be found on the Code's website at: <http://www.consumercode.co.uk/home-buyers/how-are-complaints-dealt-with/adjudication-case-summaries/>

Adjudication facts and figures

Between 1 January 2016 and 31 December 2016 there were a total of 102 cases referred to the IDRS, which represents an increase of 55% on the amount of cases referred to the Scheme in 2015.

However, to put this in to context, given the many thousands of Home Buyers that are covered by the Code¹, the numbers seeking assistance through the Scheme are still very low, equating to approximately just 0.06% of the home buying population.

A summary of the cases over the past six years are broken down as follows:

	2016	2015	2014	2013	2012	2011	2010
Number of cases found fully in favour of the Home Buyer	7	3	1	0	1	0	1
Number of cases found partly in favour of the Home Buyer	59	43	21	10	5	6	0
Number of cases found fully in favour of the Home Builder	20	5	10	9	8	6	0
Number of cases settled	8	6	6	0	1	0	0
Number of cases withdrawn from the Scheme or deemed invalid	8	9	5	3	2	2	2
Total cases	102	66	43	22	18	14	3

Claims

While there has been an increase in the overall case numbers, which has led to a rise in the total sum awarded to Home Buyers, the average amount awarded to Home Buyers by the independent Adjudicators has been consistently falling for a number of years.

In 2016, the average sum awarded by Adjudicators in cases where the Home Buyer's claim was successful was £986.49. This continues a trend of declining average awards in previous years, from £2,031.67 in 2015, £2,219.66 in 2014 and £2,651.25 in 2013.

	2016	2015	2014	2013	2012	2011	2010
Total sum awarded	£65,108.42	£93,456.78	£48,832.52	£26,512.47	£4,680.00	£18,205.70	£5,000.00

Acceptance or rejection of decisions

Decisions made by Adjudicators can only be accepted or rejected by the Home Buyer under the Scheme. Decisions are not open for review or appeal. Below is a breakdown of the cases that have been accepted or rejected by Home Buyers over the last seven years.

	2016	2015	2014	2013	2012	2011	2010
Decision accepted	51	42	19	8	6	7	1
Decision rejected	17	6	11	6	5	3	0
No response	18	3	2	5	3	2	0

In 2016, 59% of decisions were accepted by Home Buyers and as in previous years, findings show that Home Buyers generally accept an Adjudicator's decision where they have succeeded in their claim against a Home Builder, whereas decisions in which the Home Buyer is unsuccessful, are generally rejected.

Ten cases were dealt with in 2016 where the Adjudicator found the Home Buyer's claim to be successful, but the Home Buyer did not accept the decision. This most often occurs where the redress awarded by the Adjudicator has been a very small fraction of that sought by the Home Buyer.

As an illustration, in seven of these ten cases the Home Buyers chose not to accept a decision in which they were awarded £250 or less as they had claimed £15,000, being the maximum amount that can be claimed through the Scheme.

Sanctions

Sanctions for Home Builders not adhering to the Code can include financial penalties, re-training or suspension from the new Home Warranty Bodies' registers.

In 2016, there were three instances of the Home Builder's registration being suspended by the Home Warranty Body for failure to comply with the Adjudicator's award.

Main issues of dispute

Given the volume of new home sales within the UK, the number of Home Buyers that use the Code's Independent Dispute Resolution Scheme is low by comparison. It is difficult therefore to undertake any meaningful analysis and draw trends and themes given the lack of statistical significance.

However, of the 66 decisions in which an adjudicator found the Home Builder to have breached the Code during 2016, the most common sections of the Code found to have been breached were:

- **2.1: a total of 32 decisions (48%) identified a breach of the Home Builder's duty to provide the Home Buyer with enough pre-purchase information to help them make a suitably informed purchasing decision;**
- **5.1: a total of 31 decisions (47%) identified a breach of the Home Builder's duty to provide appropriate procedures for handling calls and complaints;**
- **3.2: a total of 22 decisions (33%) identified a breach of the Home Builder's duty to give the Home Buyer reliable and realistic information about the construction, legal completion and handover date of the home;**
- **1.5: a total of 18 decisions (27%) identified a breach of the Home Builder's duty to ensure that sales and advertising material is clear and truthful;**
- **2.6: a total of 17 decisions (26%) identified a breach of the Home Builder's duty to reimburse the Home Buyer's Reservation fee upon the cancellation of the Reservation agreement.**

It had been noted in the 2015 Annual Report that the amount of disputes about a Home Builder's failure to reimburse the Home Buyer's reservation fee (under Code section 2.6) had declined. However, in 2016 this dispute arose across a total of 22 cases, which represented an increase from the previous year.

Requirements in relation to Reservation agreements have been revised in the latest edition of the Code and it is hoped that by doing so, Home Buyers will have less cause to raise complaints.

Communications and partnerships

We make full use of a range of communication channels to inform, assist and exchange views with a wide variety of organisations with an interest in the Code. Effective and regular communication with the Industry, consumers and stakeholders remains an important element of articulating our aims, role and achievements.

Working with other organisations

We have continued to build upon the strong relationships the Code has with a range of our stakeholders including Industry bodies; Government departments, UK Law Societies, consumer groups and other interested organisations.

We continue to work in partnership with the NAEA Propertymark and were pleased to see them join as a member of our Advisory Forum. In return, the Code is represented on their Land and New Homes Committee.

Lawyers and licensed conveyancers remain important players in the home buying process whether representing the Home Builder or the Home Buyer. We continue to work closely with the three United Kingdom Law Societies and, as with NAEA Propertymark, are delighted that the Law Society now has a seat at our Advisory Forum. We will continue to work with them in providing material and training for those instructed in the conveyancing of a new property.

Consumers are also a key target audience in relation to raising awareness of the Code and we remain engaged with the Chartered Trading Standards Institute through their Consumer Codes Approval Scheme and Citizens Advice, who remain represented on our Management Board through the appointment of Frances Harrison.

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