

THE CONSUMER CODE FOR HOME BUILDERS

INDEPENDENT DISPUTE RESOLUTION SCHEME



CENTRE for EFFECTIVE
DISPUTE RESOLUTION

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THE CONSUMER CODE FOR HOME BUILDERS INDEPENDENT DISPUTE RESOLUTION SCHEME (IDRS)

The Consumer Code for Home Builders (the Code) is an industry-led code of conduct for builders, which was developed to make the home buying process fairer and more transparent for purchasers. The Code, which came into effect in April 2010, applies to all Home Builders registered with the UK's main new home warranty providers; NHBC, Premier Guarantee, LABC Warranty and Checkmate, and consists of 19 requirements and principles that Home Builders must meet in their marketing and selling of homes and their after-sales customer service. The Code is now in its fourth edition, which came into force in April 2017.

Under the Code, Home Builders are required to have a system for dealing with complaints. However, if a Home Buyer is not happy with their response, they should contact the home warranty provider no later than 12 months after the Home Builder's final response to the original complaint. The home warranty body will either deal with the complaint under the terms of the warranty or provide the Home Buyer with an application form and a set of the Independent Dispute Resolution Scheme (IDRS) rules so that the complaint can be referred to independent adjudication.

IDRS is provided independently by Centre for Effective Dispute Resolution (CEDR) for resolving disputes between Home Builders and Home Buyers covered by the Code. The scheme can consider a dispute arising from anything a Home Builder does or does not do that the Home Buyer thinks is a breach of the Code and which may have caused the Home Buyer disadvantage or financial loss. A Home Buyer can make a claim for up to £15,000, including any consequential damages and VAT. This also includes any amount for inconvenience, which is limited to £500 per claim.

An independent, experienced Adjudicator will make a Decision on disputes by considering written evidence received by the parties. The Adjudicator's Decision will become binding on a Home Builder if the Home Buyer tells the administrator that they accept the Decision. If a Home Buyer rejects the Decision or does not tell the administrator that they have accepted the Decision within six weeks, the Decision will not take effect and will not be binding on either party.

Further details of the adjudication process can be found within the Scheme Rules section of this report.

FACTS & FIGURES

Caseload

This report covers the period 1 January 2019 to 31 December 2019. During this period, a total of 178 cases were referred to IDRS, an increase of 68% on the amount of cases (106) referred to the Scheme in 2018.

Since the Scheme began functioning in 2010, case numbers have steadily increased year on year, with a slight reduction noted in 2017. However, the total volume of cases referred to IDRS increased dramatically in 2019. Indeed, 2019 was the year in which the highest ever amount of cases were referred to the Scheme, surpassing the previous year's high water mark. This trend of increasing case numbers is reflected in other industries which use ADR, where the amount of cases is increasing year on year as consumer awareness of ADR grows.

In the context of the increasing case numbers, it is interesting to note that, during the 12-month period from 1 July 2018 to 30 June 2019, a total of 173,660 new homes were completed in the UK. This is a drop of 10% from the 192,090 completed new homes as noted in last year's annual report. Therefore, despite the fact that fewer homes have been built in the UK in the past year, many more disputes have arisen which have come to IDRS. It is important to note that just 0.1% of new homes built in the UK end up subject to a dispute brought to IDRS, showing that an extremely small proportion of disputes arise in the new homes sector.

The cases referred to the Scheme in this reporting period can be broken down as follows:

	2019		2018		2017		2016		2015	
	QTY	%								
Number of cases found fully in favour of the Home Buyer	36	20%	7	6%	5	6%	7	6%	3	5%
Number of cases found partly in favour of the Home Buyer	45	25%	65	60%	47	52%	59	58%	43	65%
Number of cases found fully in favour of the Home Builder	62	35%	23	23%	25	28%	20	20%	5	7%
Number of cases settled	27	15%	5	5%	5	6%	8	8%	6	9%
Number of cases withdrawn from the Scheme or deemed invalid	8	5%	6	6%	7	8%	8	8%	9	14%
TOTAL CASES	178		106		89		102		66	

Case outcomes

2019 has continued to see a clear majority of Home Buyers being successful in their claims against Home Builders, a trend noted for many years. Of the 178 cases dealt with by the Scheme in 2019, Home Buyers achieved a positive outcome (ie. a decision either fully or partly in their favour, or a settlement reached by agreement with the Home Builder) in 107 of them (representing 60% of cases). This is a decrease from the 73% of Home Buyers who obtained a positive outcome in 2018, but it is akin to the 64% of Buyer-positive outcomes in 2017. This confirms that the majority of Home Buyers consistently achieve a positive result from their engagement with the Scheme.

When considering the 143 cases that went all the way to a final decision from an Adjudicator in 2019, Adjudicators found in favour of the Home Buyer (either fully or partly) in 57% of decisions. This is a decrease from the 76% of decisions found in favour of Home Buyers in 2018 and the figure of 68% in 2017. This reduced figure can be attributed to the very high amount of decisions (43%) found wholly in favour of Home Builders in 2019, which is proportionally far higher than in any previous year since 2013.

Furthermore, 36 of the 143 decisions (representing 25% of decisions) made by Adjudicators in 2019 succeeded in full for the Home Buyer - meaning the Adjudicator gave the Home Buyer everything they asked for. This is by far and away the highest proportion made fully in the Home Buyer's favour since statistically significant numbers of cases have been dealt with by the Scheme, eclipsing the 7% of decisions found fully in the Home Buyer's favour in 2018.

Therefore, in 2019 more decisions than ever before have been found either wholly in the Home Buyer's or the Home Builder's favour, with a comparatively smaller proportion of decisions being found partly in the Home Buyer's favour than in previous years.

Settlements

Rule 4.4 of the Scheme Rules allows the Home Buyer and the Home Builder to reach a settlement by mutual agreement before an Adjudicator is appointed to make a decision. Where a settlement is reached, the Home Builder pays a reduced administration fee to the Scheme.

In 2019, 27 cases (representing 15% of all cases dealt with) were settled between the parties prior to the appointment of an Adjudicator. This level of settlements, which is the highest since the Scheme began, represents a reversal in a trend noted annually since 2015 of a declining proportion of disputes being resolved by mutual agreement between the parties, reaching a low of 5% in 2018. This statistic is encouraging, as it shows that parties are much more willing to compromise and reach an agreement that both can be satisfied with, thus avoiding the need to go through the full adjudication process.

Withdrawn and invalid cases

A total of eight cases were withdrawn or were deemed to be invalid (ie. outside the scope of what the Scheme can deal with) in 2019, representing just 4.5% of all applications to the Scheme. This proportion is a slight reduction from 2018, when 5.6% of cases were withdrawn or were deemed invalid.

Of the eight cases that did not proceed to adjudication in 2019:

- Four were withdrawn because the Home Buyers' claims were not about an alleged breach or breaches of the Code, which brought the dispute outside the scope of the Code and the Scheme (as set out at Scheme Rule 2.2);
- Two were withdrawn because the Home Builder against which the claim was brought was not registered with a home warranty body, which brought the dispute outside the scope of the Code and the Scheme (as set out at Scheme Rule 2.1);
- One was withdrawn because the dispute between the parties was subject to active court action (which is prohibited by Scheme Rule 2.7);
- One was withdrawn because the Home Buyer was claiming a total sum that exceeded £15,000.00 (which is prohibited by Scheme Rule 2.6).

Alleged and identified breaches of the Code

Where a Home Buyer alleges in their application to the Scheme that a particular part of the Consumer Code for Home Builders has been breached, the most commonly alleged sections are 2.1 (ie. pre-purchase information), 5.1 (ie. procedures for handling calls and complaints), 1.5 (ie. clear and truthful sales and advertising material), and 4.1 (ie. an accessible after-sales service). These have consistently been the most commonly alleged breaches of the Code since the Scheme began operating.

The proportion of disputes about Home Builders' failure to reimburse a registration fee (under Code Section 2.6) is comparable to the previous year, with 25 cases of this type dealt with in 2019 and 18 cases in 2018.

Of the 81 decisions in which an Adjudicator found the Home Builder to have breached the Code during 2019, the most common sections of the Code found to have been breached were:

- 2.1: a total of 49 decisions (60%) 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 38 decisions (47%) identified a breach of the Home Builder's duty to provide appropriate procedures for handling calls and complaints;
- 4.1: a total of 23 decisions (28%) identified a breach of the Home Builder's duty to provide an accessible after-sales service;
- 1.5: a total of 20 decisions (25%) 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 13 decisions (16%) identified a breach of the Home Builder's duty to reimburse the Home Buyer's reservation fee upon the cancellation of the reservation agreement.

Money claims

In 2019, the Home Buyers who applied to the Scheme claimed a total combined sum of £1,066,715.23. This sum is an increase of 54% on the total amount claimed by Home Buyers in 2018, and is by far the highest total sum of money claimed within a calendar year since the Scheme began operating. This increase is of course an expected reflection of the increase of 68% in the total amount of cases dealt with by the Scheme in 2019 when compared with the previous year.

The average sum claimed by Home Buyers in 2019 was £8020.42. This is an increase of 8% on the average of £7310.95 claimed in 2018, indicating that although the total sum claimed has greatly increased, this does not reflect a significant increase in the sums being claimed per case by Home Buyers.

	TOTAL SUM CLAIMED	TOTAL SUM AWARDED
2019	£1,066,715.23	£79,963.37
2018	£694,540.02	£64,984.63
2017	£555,893.98	£77,043.06
2016	£695,012.57	£65,108.42
2015	£584,514.46	£93,456.78
2014	£304,899.93	£48,832.52
2013	£133,845.40	£26,512.47
2012	£139,615.30	£4,680.00
2011	£70,023.92	£18,205.70
2010	£5,000.00	£5,000.00

The total amount awarded to Home Buyers by Adjudicators in 2019 was £79,963.37. Therefore, despite the total sum claimed increasing by 54% when compared to 2018, the total sum awarded only increased by 23%. As just 7.5% of the total sum claimed by Home Buyers was awarded by Adjudicators, this may indicate that Home Buyers have unrealistic expectations of the financial awards that they may obtain by using the Scheme.

Many Home Buyers claim the maximum amount of compensation available under the rules of the Scheme, on the premise that if a figure is not claimed for then it cannot be awarded. However, the Independent Adjudicator's role is to give an objective assessment of the value of a Home Buyer's claim based on the evidence that has been provided. Therefore, it is inevitable that every year the amount awarded by Adjudicators is significantly lower than the amount claimed by Home Buyers.

The average amount of compensation awarded by Adjudicators in cases where the Home Buyer's claim was successful was £987.20, which is comparable to 2018's average of £902.56. It is interesting to note that the average sum claimed by Home Buyers in 2019 increased by 9.7%, while the average amount awarded increased by 9.4%. This shows that these figures increased in almost exact proportion with one another.

There were 15 decisions made by Adjudicators in 2019 in which the Home Buyer was awarded more than £1000.00. This is comparable to the 16 decisions in 2018 in which this occurred. Of the 15 higher-value awards in 2019, one was for the maximum financial limit under the Scheme of £15,000, and one was for £14,500. In 2018, no Home Buyers were awarded sums this high. At the other end of the scale, 17 decisions awarded the Home Buyer £250.00 or less. 2019 therefore appears to have followed the trend noted in 2018 of Home Buyers receiving a higher number of low-value financial awards through the Scheme in 2019 than in previous years.

Accepted or rejected

Any decision made by an Adjudicator through the Scheme will only be binding on the parties if the Home Buyer chooses to accept it within six weeks of its publication. Where a Home Buyer chooses to reject a decision, or where a Home Buyer fails to respond within six weeks of the decision being made, the decision has no effect whatsoever on either party. Decisions are not open to review or appeal under any circumstances.

Below is a breakdown of the cases that have been accepted, rejected and not responded to by Home Buyers:

	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
Decision accepted	65	61	42	51	42	19	8	6	7	1
Decision rejected	39	21	27	17	6	11	6	5	3	0
No response	39	13	8	18	3	2	5	3	2	0

In 2019, 45% of decisions were accepted by Home Buyers, which is a reduction from the 64% of decisions accepted in 2018. This is most likely due to the decrease in decisions found in Home Buyers' favour from 76% to 57% between 2018 and 2019. As is the case every year, the majority of Home Buyers whose claims are successful accept the Adjudicator's decision, while those who are unsuccessful either reject the decision or provide no response to it.

19 cases were dealt within 2019 where the Adjudicator found the Home Buyer's claim to be successful, but the Home Buyer did not accept the decision and therefore lost out on the redress awarded by the Adjudicator. As noted in previous years, 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 illustration, in 10 of these cases the Home Buyers chose not to accept a decision in which they were awarded £500 or less while they had claimed more than £10,000.

There were no instances this year of Home Buyers rejecting decisions where they were awarded significant sums of compensation. All of the decisions in which Adjudicators awarded at least £1000.00 were accepted by Home Buyers.

There were four decisions in 2019 which were accepted by the Home Buyer where the Adjudicator had found their claims to be entirely unsuccessful. This occurred once in 2018, and not at all in 2017 or 2016.

Service statistics

Of the 143 cases from 2019 that went to adjudication, 115 of them (representing a total of 80%) were completed within eight weeks of the date on which the Home Buyer's application was received. This is an increase from the 75% of decisions completed within eight weeks in 2018.

As in the previous report, the statistics here are strongly influenced by the introduction in October 2018 of a new process by which the appointed Adjudicator prepares and issues a 'Proposed Decision' containing their preliminary conclusions on the dispute, which both parties have 10 working days to provide their comments on, and then the Adjudicator has a further five working days to finalise and issue their Final Decision. This process has added an average of three weeks to the case process, and means that in the long term the time required for a case to be fully completed will be longer than in previous years.

Of the 28 cases from 2019 which took more than eight weeks to complete, 25 were late because they contained a particularly high volume of documents and information, which took the Adjudicators longer than usual to analyse and render a final decision, while three cases were late due to the Adjudicator granting one or both of the parties an extension of time to make submissions or provide evidence.

It is important to note that 25 cases were finalised within a further one week after the expiry of the eight-week timescale, with only three cases requiring longer than an additional week to complete.

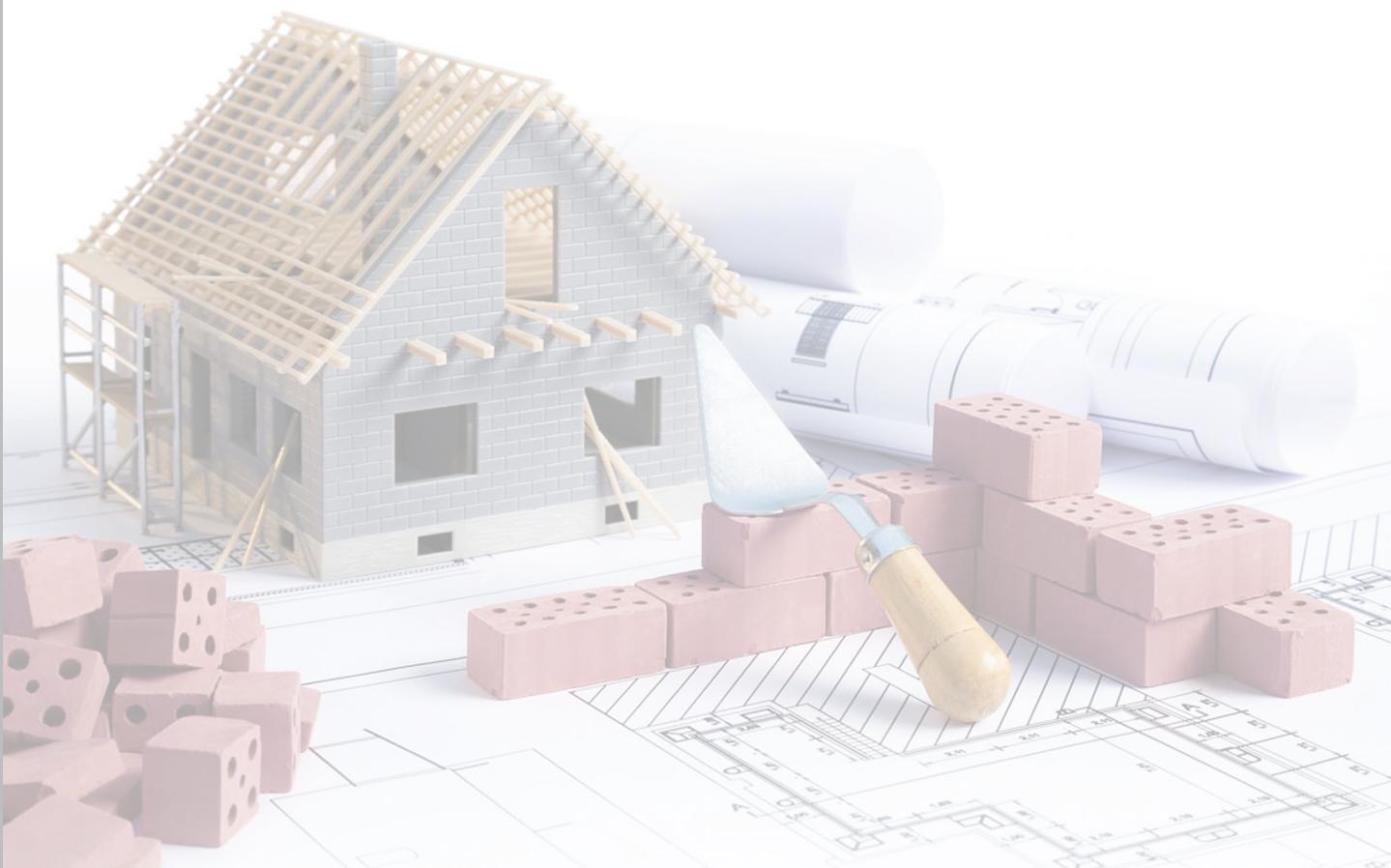
It must also be highlighted that none of the cases dealt with during 2018 exceeded the statutory timeframe of 90 calendar days mandated by the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 for all consumer dispute resolution schemes in the UK.

CASE STUDIES

Summary versions of every case that has been dealt with by the Scheme and gone all the way to an Adjudicator's decision can be found at the following link:
<https://consumercode.co.uk/home-buyers/how-are-complaints-dealt-with/adjudication-case-summaries/>

SCHEME RULES

The latest version of the Scheme Rules (11 July 2019 edition) can be accessed here:
<https://mk0cedrxdkly80r1e6.kinstacdn.com/app/uploads/2019/11/CCHB-Rules-July-19.pdf>



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