

Consumer Code of Practice

Consumer Code for Home Builders

26th April 2021

Background information

The Consumer Code for Home Builders (CCHB) was developed in conjunction with the Office of Fair Trading and launched in 2010 to address issues identified in the Barker Report of 2008 that related to the sale and purchase of new homes. The Barker Report and the OFT Review identified that customer satisfaction with the quality of new homes was at 47%. Customer satisfaction is now at a rate of 91%.

The Code exists to make the home buying process fairer and more transparent. The Code sets mandatory Requirements that home builders must meet in their marketing and selling of new homes and their after-sales customer service. The Code applies to homes covered by the UK's main home warranty bodies NHBC, Checkmate, Premier Guarantee and LABC Warranty and it represents approximately 95% of the new homes market. The Code includes an independent dispute resolution scheme, an independently audited compliance regime and the power to apply sanctions that includes removing builders from home warranty schemes if they do not comply with the Code.

The Code's Independent Dispute Resolution Scheme is provided by the nationally accredited organisation, the Centre for Effective Dispute Resolution. This provides home buyers with a fast, free and fully independent route for redress should something go wrong with the home buying process.

The Code is overseen by a Management Board, independently chaired by Noel Hunter OBE. The Management Board is supported by an Advisory Forum, which includes representatives from the Chartered Trading Standards Institute and Citizens Advice.

Following several years of review, recommendations and consultation, in July 2020 the Government published the Building Safety Bill which included provision for the creation of a New Homes Ombudsman and outlines the content of a new single Code across the new homes industry. CCHB have, at the request of the New Homes Quality Board, been engaged with the development of the new unified Code. The draft, completed in September 2020, is still to be finalised. This new Code and Ombudsman will have implications on the governance of CCHB. CCHB are already considering their transition arrangement and the legacy issues that would flow from a new single Code and Ombudsman and may result in the cessation of the CCHB. This situation has meant that the three-yearly cycle of review of the Code has, justifiably, been put on hold. CCHB have kept CTSI informed of these developments.

Audit Process

The focus of the audit was on

- Code management, processes and procedures
- Guidance to support members to implement the code
- Documents provided by members relevant to the code
- The mechanisms in place for dealing with consumer feedback
- Support for vulnerable consumers
- Issues relating to pressure selling
- Mediation and ADR
- The disciplinary & sanctions process

Summary

The Consumer Code for Home Builders has been a member of the CTSI Consumer Codes Approval Scheme since November 2018. There are currently around 12,600 builders signed up to the Code through registration with the warranty bodies, this represents approximately 95% of the new homes market. The member warranty bodies are NHBC, Premier Guarantee, LABC Warranty and Checkmate.

The effects of the pandemic and reoccurring national lockdowns are still being felt across the new homes sector. The sector and the CCHB have adapted to the situation and made any changes appropriate to the operation of the Code.

Member Application Process

Each member warranty body has its own system, developed in conjunction with the Code, for assessing membership applications. The members of the Code carry out various checks to assess the solvency and capability of the builder before accepting them into their scheme. The checks include finance checks, covering insurance risks, directors checks and the members use external credit reference agencies e.g., Credit Safe; D&B Credit.

Checkmate have reported 291 new registered developers, rejecting none. NHBC 445 new registered developers, and 10 rejected. New applicants received by MDIS (Premier Guarantee and LABC Warranty) during 2020 was 3027 and of those, 314 were rejected.

All members (builders) must renew membership of their warranty scheme each year for ongoing developments. The risk assessment includes any complaints received, any claims against the warranty, a reaffirmation of compliance with the Code and the new premium will be calculated accordingly.

Member Monitoring

To encourage home builders to follow the Code, to enable the Management Board to establish how well it is being applied and whether it needs to be amended or updated further, a number of monitoring activities are carried out. The monitoring process is the same for all warranty bodies.

The technical requirements at every new home building site will be inspected at each stage of the build, which is generally six times per plot, though this can be more in the case of an inexperienced builder.

All developments are checked on a regular basis by the warranty body's Building Inspectors for build quality and compliance with building regulations. The building inspectors for Checkmate check Code compliance when on site, the other Code members have separate auditors for each task.

Each month 30 builder members are randomly selected to complete a six-page desk-top self-assessment questionnaire. These survey forms are sent to a selection of home builders from a cross section, ranging from large to small and from across the UK, ensuring those who build homes in Scotland, Wales and Northern Ireland are included.

In the main, the responses provided found that home builders deemed to be medium to large in size were aware of the Code and had processes and systems in place to comply with its Requirements. Smaller home builders were less likely to be aware of the Code and therefore found the process helpful in terms of raising awareness and what needed to be done to bring them into compliance.

Any issues that arise from the questionnaire will be followed up until they are resolved.

The Code's Disciplinary and Sanctions Panel reviews all questionnaire responses and considers what action, if any, needs to be taken. This will include a more focused audit, including a site visit, if necessary.

In addition, 200 are subject to on-site audits, this figure was slightly down in 2020 due to the pandemic and sites being closed. These audits are carried out by externally appointed auditors. The auditors have identified evidence of good practice in many areas, including availability of Code packs for potential customers, visibility of the Code logo on sales literature, utilisation of Code online training material, good working knowledge of the principles of the Code regarding responsibilities of the builder and the home warranty company. Other positive findings included regular staff meetings to ensure staff are aware of any issues/changes, site compliance with the Code's health and safety requirements and meetings with home buyers before completion to identify and resolve snagging issues.

Good Practice:

CCHB provided a document containing comments made by developers about the results of their desk-top self-assessment audit. The comments were very positive, they demonstrated commitment to the Code by members and willingness to make all necessary changes.

The Code secretariat, at the request of the Code's Disciplinary and Sanctions Panel, has recently reviewed the Reservation Agreements of builder members. The Panel focussed on this area as a source of potential consumer detriment because it

represents the initial financial exposure of the consumer and, unlike the rest of the house buying process, it does not have the oversight of the legal representative of the buyer.

The latest revision of the Code tightened the requirements around reservation fees. The builder cannot withdraw from any agreement to sell where a reservation agreement has been signed and a fee paid. However, the buyer can pull out of the agreement, but a proportion of the fee may be retained. Any such retention must be capable of substantiation by the builder. Reservations may expire and the consumer should be made aware of this.

Good Practice:

Auditors have observed members going beyond the requirements of the Code by using the Code's model Reservation Agreement for all new sales, not just those covered by the Code.

The Code auditors have found weaknesses in the standard of service in relation to knowledge and understanding of the Code where Estate Agents are used. CCHB have raised this with Propertymark, one of the UK's professional bodies for Estate Agents with a view to supporting an increase in compliance.

Withdrawal from membership and non-compliant businesses

So far, for 2021, there are no members who have failed to comply with the Code and are therefore at risk of being removed from the Code. For 2020, there were nine cases of non-compliance, all of which were resolved with either the intervention of the Code and/or the supporting home warranty bodies. In 2019, two companies were removed. These two companies were listed on the CCHB website and featured in the Annual Report.

Should a developer be removed from the register of one of the supporting home warranty providers, it also removes them from all of the CCHB supporting warranty providers and as such, prevents a home builder from selling their home. The threat of the removal is therefore often enough to gain compliance.

Any action taken is in accordance with the Code's non-compliance procedure. It is overseen and agreed via the Disciplinary and Sanctions Panel and reported to the full Code Management Board.

Marketing and Advertising by Member Business

Code promotion is essential to the success of the Code as it informs consumers of their enhanced protection. Home builders are required to display the Code logo in their site sales offices and on their sales brochures. As many developers are moving to on-line interactions with their customers, they are being encouraged to display details of the Code on their websites. Home builders are provided with the Code logo in a variety

of formats (free to download from website), along with the branding guidelines. They are also able to obtain, free of charge, window clings to use in their site sales offices.

The promotion of the Code is audited both in the desk-top self-assessment audits and during site visits.

Terms and Conditions and other Pre-Contractual Information

The Code website has template reservation agreements that can be adopted by builder members of the Code. The Code does not provide standard Terms and Conditions but does list requirements of what needs to be included in them. There have been ADR rulings in the past due to shortcomings in builder members Ts&Cs e.g. non or insufficient details of rights of termination.

Customer Service Provisions

Following a successful pilot, CCHB have made their customer helpline permanent. The helpline gives guidance to consumers, home builders and others involved in the selling of new homes. CCHB are working with an established and independent contact centre to provide this service. The contact centre team provide help with general queries about what the Code covers and how its requirements apply in the purchasing process. Though the helpline team does not advise consumers on Code breaches or individual cases, it will advise on how to raise a complaint through the Code's Independent Dispute Resolution Scheme.

With effect from April 2019, the fee to bring a complaint through the Code's Independent Dispute Resolution Scheme was removed. This gives home buyers easy access to redress should something go wrong with their purchase. Prior to the change, the claim fee was refunded in most cases where a claim was upheld. However, removing the fee has eliminated a potential barrier for home buyers, giving more confidence in their purchase decision. Builders still must pay a fee when a complaint is raised against them, this is intended to incentivise them to provide a good service and encourage them to resolve issues quickly and thoroughly removing any need for escalation.

Consumer Complaints Process

In 2019 there was a total of 178 cases referred to the Code's Independent Resolution Scheme, this is an increase of 68% compared to 2018. CCHB are not overly concerned by this increase stating that a similar pattern is observed by other providers of ADR as the usefulness of the service becomes more widely understood by consumers. Further as the profile of the Code is raised this is an inevitable consequence.

The Code CEO follows up on all ADR rulings with a letter to the CEO of the company in question. Each year a document is produced by The Code, of lessons learnt from the findings of the ADR process.

Good Practice:

The Code continues its programme of identifying common breaches of the Code and producing useful factsheets covering these areas. This helps Code members learn from the mistakes of others, enhancing their customer service and thus reducing the risk of consumer detriment.

Customer Satisfaction and Feedback

The Consumer Code for Home Builders has one of most extensive customer satisfaction surveys in this sector. NHBC sends (by post) every home buyer in its scheme, a customer satisfaction survey six weeks after they have moved into their new home. The last survey was sent to 76,000 homes and the response rate was 62%.

The survey is entirely independent of any builder or builder group and is independently validated by Reading University with IPSOS and MORI having previously acted as consultants on the survey methodology. The results are published annually by the Home Builders Federation which includes ratings of the builders.

Conclusion

Despite the challenges of the pandemic and lockdowns, and the uncertainty around the development of a single Code with the introduction of a New Homes Ombudsman CCHB have maintained their high standards and continue to drive compliance and thus consumer protection.