



LEARNING FROM CODE ADJUDICATIONS: AN OVERVIEW FOR HOME BUILDERS

Reviewing complaints is an essential component of customer service and business success. It enables a business to gather valuable customer insight, and take action to improve quality and customer satisfaction.

To help all developers improve customer service, we've summarised the learning from some of the recent adjudication decisions, including the most common areas where complaints arise, as well as a reminder of how the process works.

LESSONS LEARNED AT A GLANCE

THE MOST COMMONLY IDENTIFIED BREACHES OF THE CODE

Recently, the most commonly breached Code Requirements have been:

- Section 1.5 Sales and advertising material and activity must be clear and truthful.
- Section 2.1 Home Buyers must be given enough pre-purchase information to help them make suitably informed purchasing decisions.
- Section 2.6 The Reservation fee must be reimbursed if the Reservation agreement is cancelled. 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.
- Section 4.1 The Home Builder must provide the Home Buyer with an accessible after-sale service, and explain what the service includes, who to contact, and what guarantees and warranties apply to the Home.
- Section 5.1 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.



See our 'Lessons learned factsheets' for examples of common breaches of each of these requirements and ways to prevent them.

LEARNING AND IMPROVING

The most common lessons to learn from these breaches are:

KEEP BUYERS INFORMED:

If you make changes to a home or garden which differ from the information shown to the home buyer at pre-contract stage, make sure you bring these to the home buyer's attention and document that you did so. Even if changes relate to landscaping where designs may only have been indicative, it is good practice to ensure any material changes are shared in writing with potential buyers.

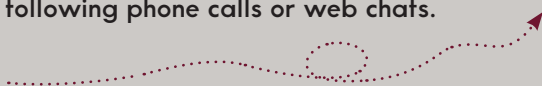


PROVIDE THE RIGHT INFORMATION AT THE RIGHT TIME:

The Code provides a checklist which helps you provide the information buyers need to make suitably informed decisions and help you comply with the Code. You can also download the Code's sample Reservation Agreement free of charge which includes a checklist to prompt you to provide the relevant information.

KEEP AN AUDIT TRAIL:

Keep a record of conversations with home buyers, including details of any concerns raised and how they were resolved. Follow up discussions in writing to reduce the risk of misunderstandings, particularly following phone calls or web chats.



MAKE YOUR AFTER SALES SERVICE ACCESSIBLE:

Make sure your after sales service is accessible and timely. Consider agreeing set timescales by when any issues will be remedied and then comply with them. Where an issue takes longer to fix, keep the home buyer apprised of the situation and where appropriate, consider whether there is a suitable alternative remedy.



THE CODE'S INDEPENDENT DISPUTE RESOLUTION SCHEME

The Consumer Code for Home Builders (the 'Code') has 19 Requirements that you are required to comply with. We provide a free and speedy Independent Dispute Resolution Scheme (IDRS) for home buyers who believe such Code Requirements have been breached

This reduces the need for home buyers to take costly, and often lengthy, legal action if things go wrong.

HOW DOES THE IDRS WORK?

A dispute may arise where a home buyer believes you have failed to meet the Code's Requirements but it falls outside the Home Warranty Body's resolution scheme for defects or damage.

Under the Code's IDRS, a trained Adjudicator reviews written submissions from both parties and considers the evidence before issuing a decision based on their conclusions.

The Adjudicator decides whether or not a home buyer has a legitimate dispute under the Code and whether they have suffered financial loss as a result of any breach of the Code Requirements.

Adjudicators can require you to do any or all of the following:

- Give the Home Buyer an apology or explanation
- Take some practical action that will put right the matters complained of
- Pay the Home Buyer the cost of putting right the matters complained of
- Pay the Home Buyer the expenses reasonably incurred as a result of the Home Builder not complying with the Code
- Pay the Home Buyer an amount for inconvenience

Adjudication decisions are marked private and confidential and should not be shared with anyone not directly involved unless necessary to enforce the decision.

WHAT REMEDIES HAVE ADJUDICATORS AWARDED?

Breaches of the Code often lead to financial and time costs for home builders, and risk having a negative impact on reputation.

In the majority of recent cases, home buyers were awarded compensation for the inconvenience they had been caused as a result of the breach, and these can amount up to £500 per claim, along with an apology.

In 2020, the total amount of money awarded to home buyers for the inconvenience they had suffered as a result of the breaches to the Code was £15,270.

In addition, the Adjudicators determined that financial losses to the value of £71,784.07 should be repaid. This was in addition to some other form of remedial action such as completing garden landscaping, re-tiling, repositioning toilet and basin and making good, taking steps to resolve issues with doors, boilers etc.

Home buyers can choose to take legal action to recover any further outstanding costs over and above anything awarded through our IDRS.



THE IDRS PROCESS

After 56 days have elapsed having registered a complaint with the home builder, home buyers can raise a complaint with the Code's IDRS free of charge, if they are unhappy with the response provided.

If you receive an application form from the IDRS administrators (CEDR Ltd), here are some tips to make sure the investigation is fair and accurate:



RESPOND

Do not ignore an application form from CEDR - there are strict timeframes for response which must be adhered to. The Adjudicator can continue to make a decision just on the evidence provided by the home buyer, without receiving any defence or evidence from you. Once the decision is accepted by the home buyer, under the Rules of the Code and your home warranty body you are required to comply with it.

Failure to engage with the IDRS could in itself be a breach of the Code at Section 1.1 and of the Rules of Registration with your warranty provider for which they could take enforcement action.

Don't ignore an application from the Code's IDRS



PROVIDE EVIDENCE

When making their decision, the Adjudicator will base their decision on the "balance of probability" i.e. in their view, on that evidence, what do they consider was more likely to have incurred than not.

The Adjudicator will send out a "Proposed Decision" which will inform you what they are minded to determine in their "Final Decision". Now is the time to correct any misinterpretations or provide missing evidence.

If you are unable to provide any supporting evidence, then you are unlikely to be able to defend the claim and the home buyer's case is more likely to be accepted as proven.

In response to the 'proposed decision', check you have provided all the relevant facts and evidence



USE OF AGENTS

If you use Agents to sell your Homes, you should ensure they are trained on the Code Requirements (<https://consumercode.co.uk/home-builders/what-training-is-available/>) and have an understanding of the good practice guidance. You should ensure that Agents' responsibilities are clearly explained in your contract arrangements. Download our Starter Pack for Agents for model contract terms and other guidance.

Under the Code, your business is liable for the actions of any Agents you use. This includes any statements they make and applies not only under the Code, but potentially under the Consumer Protection Regulations enforced by local authority Trading Standards Departments. Breaches of the Code have been made by Agents acting on behalf of home builders.

Did you know you are liable for your Agent's actions in relation to the Code?

TOUGHENING UP ON ADJUDICATION COMPLIANCE

In the majority of cases, the Adjudicator's decision is complied with and the required action undertaken. However, in a very small minority of cases, this doesn't happen, impacting on confidence in the IDRS and the industry.

Since April 2020, any builder that has been removed from one of our supporting home warranty body's register for not complying with an IDRS Adjudicator's decision, is named on our website and in our annual report.



OPPORTUNITIES TO IMPROVE

In 2020, IDRS Adjudicators found that the Code had been breached in 60% of the cases raised.

We want to help you continue to learn from these cases and drive up consumer confidence in the new homes market by:

- Following up all breaches with home builders to highlight the issues and request remedies to prevent a repeat
- Providing free online training for your staff and agents
<https://consumercode.co.uk/home-builders/what-training-is-available/>
- Giving you access to our free Train the Trainer package which has been designed to help you improve customer service, and provides all the resources required to run in-house group training sessions to help you share knowledge and skills across your organisation more efficiently. The comprehensive suite of course materials features a presentation, delegate handouts and full tutor guidance notes.
- Creating an Agents' Starter Pack in partnership with Propertymark to help agents support builder compliance.
- Publishing an annual summary of our IDRS on our website as well as anonymised case summaries to share learning and best practice.



FEEDBACK

If you have any suggestions on what information you would like to receive to help you drive up customer service standards and comply with the Code, please let us know by emailing: secretariat@consumercode.co.uk

You can also subscribe to our mailing list at <http://eepurl.com/dFcEJT> to receive the latest news about the Code and our members.