



## **Adjudication Case Summaries**

This paper provides a brief summary of cases that have been referred to the independent dispute resolution scheme available under the Consumer Code for Home Builders scheme and are written by the adjudicator undertaking the decision.

### **Adjudication Case 1– January 2022 – 117200273**

#### **Complaint**

The Home Buyers submitted that they entered into a reservation agreement with the Home Builder for a Property. There were several extensions for the reservation period. However, the Home Builder did not agree to a further reservation period extension and the reservation agreement lapsed into cancellation. The Home Buyers asserted that section 2.6 of the Code had been breached because the Home Builder did not agree to a further reservation period extension and did not refund the £1000.00 reservation fee upon cancellation of the reservation agreement. The Home Buyers therefore sought a payment of £1630.00 from the Home Builder (£1000.00 for the reservation agreement fee, £300.00 for solicitor's fees and £330.00 for a "request to pay outstanding balance").

#### **Defence**

The Home Builder did not accept that it had breached the Code. In particular, the Home Builder submitted that it had already provided several reservation period extensions and was not obliged to agree to any further extensions. The Home Builder submitted that it retained the reservation fee in line with the terms of its reservation agreement. The Home Builder submitted that it is difficult to calculate the genuine costs it had incurred in relation to the reservation agreement but the agreement details some guidance on what it believes to be reasonable.

#### **Findings**

The adjudicator examined the issues carefully and considered the Code requirements under section 2.6. It was explained that section 2.6 does not oblige the Home Builder to always agree to reservation period extensions upon request. As such this element of concern did not amount to a breach of the Code. However, the adjudicator noted that the Home Builder had retained the entire £1000.00 reservation agreement fee but provided little more than broad examples of the costs it may have incurred in relation to the reservation. Accordingly, based on the available evidence, the adjudicator was not satisfied that the Home Builder had genuinely incurred £1000.00 of costs in relation to holding the reservation agreement. Under the circumstances, the adjudicator directed that a reservation fee refund in the sum of £750.00

would be reasonable. The adjudicator went on to consider the Home Buyers' additional claims for compensation but explained that these claims were not covered by section 2.6 of the Code.

### **Decision**

The Home Buyers' claim succeeded. The Home Builder was directed to refund £750.00 to the Home Buyers.

## **Complaint**

The Home Buyer submitted that the Home Builder had refused to pay storage costs beyond the long stop date in the contract of February 2020. She lost income due to the delay in completion on the Property. The Home Builder had failed to refund the cost of an extra electrical socket in the kitchen. The Home Builder had not refunded expenses relating to plumbing for a washing machine in the kitchen cupboard. She argued that the Home Builder had breached Sections 3.2, 3.3, 4.1 and 5.1 of the Code.

The Home Buyer sought an unspecified practical action and compensation of £15,000.00.

## **Defence**

The Home Builder submitted that contracts were exchanged on 8 May 2019, with an estimated completion date provided of the end of August 2019, and a long stop date of February 2020. On or around February 2020, the Home Builder notified the Home Buyer that completion of the Property would be delayed until after the long stop date, due to additional work required by the local council.

The Home Builder agreed to pay compensation of £2,500.00 for this delay, and this offer was accepted by the Home Buyer. It was subsequently agreed that additional compensation of £500.00 per month would be paid until completion. Completion occurred on 14 August 2020. There was never any agreement to pay storage costs, which would nonetheless have been covered by the agreed compensation.

The Home Buyer was kept informed regarding completion dates, and would have been told of her right to terminate by her solicitor. The Home Buyer had already turned down the offer of employment when she agreed to the compensation. The Home Buyer did not pay for an extra electrical socket in the kitchen, as that socket would have been required whichever option of microwave she selected. The other cost referenced by the Home Buyer related to a base cupboard, not plumbing for a washing machine.

## **Findings**

The adjudicator found that the Home Builder breached Section 5.1 of the Code by failing to respond to a complaint raised by the Home Buyer about the lack of plumbing for a washing machine in the kitchen.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay compensation of £227.50 to the Home Buyer.

## **Complaint**

The Home Buyer believed that the Home Builder had breached the Code because various Lorry vehicles continue to damage the pavement outside his Property (as a result of mounting the kerb). The Home Buyer felt that this matter should somehow amount to a breach of sections 1.1, 1.4, 4.1, 4.2, 5.1 and 5.2 of the Code. Accordingly, the Home Buyer sought for the Home Builder to provide an apology, an explanation, a permanent fix to the issue with no further re-occurrence and compensation for distress/inconvenience.

## **Defence**

The Home Builder did not accept that it had breached the Code. In particular, the Home Builder submitted that the issue of Lorries driving over the kerb outside the Property is not itself an issue justiciable under the Code or the Independent Dispute Resolution Scheme. However, in good faith, the Home Builder confirmed that any damage to the pavement had been repaired on each occasion and that it will be remediated within 48 hours of being damaged should this happen again. Further, the Home Builder submitted that it had installed kerb protection blocks in an effort to reduce the chance of this happening again. The Home Builder submitted that it has provided evidence of the most recent repair and the shown that the barriers have been put in place.

## **Findings**

Following careful consideration of all the available evidence, the adjudicator proceeded to explore and explain each highlighted section of the Code and its requirements. It was explained that Lorry vehicle damage to street kerbs (as a result of vehicles opting to mount the kerb) did not amount to a breach of sections 1.1, 1.4, 4.1, 4.2, 5.1 or 5.2 of the Code. The adjudicator appreciated the Home Buyer's personal frustration with this matter but explained that no material breaches of the Code had occurred.

## **Decision**

The Home Buyer's claim was unable to succeed.

### **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the Home Builder has failed to resolve the Property's noise issues within a reasonable time and has not been prepared to appoint an appropriately qualified professional to investigate the root cause of the noise.

### **Defence**

The Home Builder has investigated the issue with the noise on multiple occasions since the Home Buyer has occupied the Property and made various attempts to resolve the issue. The Home Builder has requested the attendance of their Associated Director for Technical Standards to carry out further investigative works to establish and eliminate the root cause of the noise the Home Buyer has been experiencing.

### **Findings**

The Home Builder has not breached clauses 5.1 and 5.2 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder rectify the noise issue with the Property or provide in writing an explanation of why this is not possible and a commitment for any future repairs to resolve the issues if it impacts on the Property's integrity.

### **Complaint**

The Home Buyers stated that Home Builder breached Code Section 4.1 because it poorly constructed two manholes at the Property and this poor construction resulted in an accident involving the manholes.

### **Defence**

The Home Builder denied the alleged breach of Code Section 4.1. It stated that the Home Buyers have been able to access its after sales service after around eight years of purchasing the Property. The manholes form part of the private drainage which is the Home Buyers' responsibility and the Home Buyers did not provide any evidence to show that it constructed the manhole poorly. As a gesture of goodwill and without admitting liability, it offered to inspect and repair the manholes.

### **Findings**

The Adjudicator found that the Home Buyers' complaint about the poorly constructed manholes was a complaint about poor workmanship, which fell outside the scope of the Scheme. The Adjudicator was therefore unable to direct the Home Builder to securely fit the rims for the manholes at the Property, as the Home Buyers had requested. Other than the alleged poor construction which fell outside the scope of the Scheme, the Home Buyers did not raise any other allegations under Code Section 4.1 and there was no evidence to indicate a breach of Code Section 4.1.

### **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

### **Complaint**

The Home Buyer stated that Home Builder breached Code Section 2.6 because it offered and sold the Property before the expiry of the reservation agreement which caused him financial loss and additional costs.

### **Defence**

The Home Builder submitted that the Home Buyer was in anticipatory breach of the agreement because he confirmed on 19 March 2021 that he could not complete the purchase before the reservation expired. It accepted the Home Buyer's anticipatory breach and proceeded to market the Property, though the Property was still available for the Home Buyer to purchase two weeks after the reservation expired on 31 March 2021.

### **Findings**

The Adjudicator found that the reservation period expired on 30 April 2021. There was no evidence that the Home Buyer had issued a written cancellation of the reservation and the evidence did not show that the circumstances were such as should have led the Home Builder to conclude that the Home Buyer had cancelled the reservation. The Home Builder breached Code Section 2.6 because it entered into a new reservation agreement with another customer on the Property while the reservation agreement was in force.

The Home Buyer's claim for compensation appeared to be made on the basis that he could have obtained alternative funding and he would have completed the purchase within the reservation period. However, it was not within the Adjudicator's remit to find that the Home Buyer would have obtained alternative funding. The effect of the breach in this case was that the Home Buyer was not given the opportunity to fully consider his position in respect of the purchase, which caused the Home Buyer inconvenience.

### **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £400.00 in compensation for inconvenience.

### **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the Home Builder failed in its after-sales service as it did not correctly turf and then repair the Property's garden.

### **Defence**

The Home Builder did not provide any defence to the Home Buyer's claim.

### **Findings**

The Home Builder has not breached any clause of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder refund the additional £1,700.00 paid to turf the Property's rear garden.



## **Complaint**

- The Home Buyer completed the purchase of the property in August 2019.
- Upon taking possession he identified 4 major problems at the property.
- The Home Builder further damaged the property when undertaking remedial works.
- The Home Buyer says he has estimated costs of all remedial works to be in the approximate amount of £96,999.00, and requested this amount from the Home Builder. The Home Buyer says his request was refused.
- The Home Buyer states that the Home Builder provided a goodwill payment of £2,000.00 but this is unacceptably low to cover the amount of remedial works necessary.

## **Defence**

- The Home Builder says it understood all problems had been rectified and was thus surprised that the Home Buyer escalated his complaint to the Scheme.
- The Home Builder states that the Home Buyer has not complied with the Rules of the Scheme in that he has not submitted any evidence to support the compensation claim.
- The Home Builder says that the Home Buyer had never previously raised the issue of financial loss.
- The Home Builder says that the Home Buyer had never previously raised the issue of patio flooding prior to his escalation to the Scheme.
- The Home Builder rejects the application for compensation.

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed, with the Home Builder not being in breach of any Section of the Code. The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder was in breach of the Code. The Adjudicator found that the amount of compensation claimed is an estimate of costs for works to be done and not a recovery of costs incurred. The adjudicator found that the Home Buyer had not provided evidence to support his claim.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer submits that she has complained to the Home Builder in attempts to achieve a resolution to the issue with the lawn at the Property and to bring it up to NHBC standard. The Home Buyer asserts that an independent survey, commissioned by the Home Builder, revealed that the ground had not been prepared sufficiently, prior to turf being laid; as a result, the turf died. The Home Buyer is claiming the cost of carrying out the works proposed in the independent survey. The Home buyer also claims that she was never provided with details of the dispute resolution service.

## **Defence**

The Home Builder submits that the lawn is evidenced to be a in a very good condition, therefore no works are required; and that it has acted diligently in communicating with the Home Buyer at all times during the resolution of the complaint.

## **Findings**

The adjudicator found a breach of 4.1 as it had not been evidenced that details of the dispute resolution service had been provided. Additionally, after commissioning a report to investigate the condition of the turf, the Home builder did not complete any of the recommended works. The adjudicator found that the Home Builder did not provide an appropriate remedy in the circumstances.

## **Decision**

The claim succeeded. The Home Builder was ordered to apologise for the breaches of the Code and pay the cost of remedial works as per the Home buyer's quotation.

## Complaint

The Home Buyer submits that the Home Builder has breached Section 2.1 of the Code. Specifically, the Home Buyer submits that “plans were not shown” detailing that fencing was to be erected “well within” the Property’s boundaries and that as a result, the Home Buyer has “lost access” to an area of the exterior which has been “left open to the public”.

The Home Buyer states further that they believe that the issue is due to an “error” on the “legal plans” or the plans have been amended and the Home Buyer was not “made aware”. The Home Buyer has provided evidence in support of their submission, including, for example, plans, photographs, copy correspondence and a copy of the Reservation Agreement.

The Home Buyer states further that whilst they have “asked for the fencing to be put back to the boundary”, the Home Builder declined to do so.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders.

Specifically, the Home Builder submits that the “legal plan REF:150-03 Revision F and the Site

Plan RF: GA-001 Revision 14...were shown to the [Home Buyer] on the reservation day 18.12.2020 by [the] New Home Advisor.” The Home Builder submits further that the plans have not been amended “since the Legal Plan was shown to [Home Buyer] and by their solicitor” prior to entering into contract.

In relation to the fencing and planting of trees, the Home Builder submits further that “the Fencing plan 150-06-04 Revision D...was also shown on the reservation day dated 18.12.2020” and it has “not been altered since 12.07.2019”, whilst the “landscaping layout plan 150-04-04 REV D and path and drives layout plan 150-07-04 Rev D were also shown”.

In summary, the Home Builder submits that the “plans all mirror one another and clearly all show that there was always the intention for trees to be along the right boundary as well as the back” and the “six-foot close board fencing was erected as per the fencing plan 150-06-04 REV D to offer privacy against the public footpath”.

The Home Builder states further that “as per the development’s planning permission we have planted a row of laurel hedges and once these have matured this will form a clear boundary against the public footpath which is highlighted on the landscaping layout 150-04-04 Revision D”.

The Home Builder further submits that the “Customer Checklist” provided supports the submission that “these plans were all shown to [the Home Buyer]”. The Home Builder

queries further the sum claimed as compensation and states that it can “confirm that the hedge line is the responsibility of [the Home Buyer] and is within his boundary”, however, the “boundary has remained unchanged, and the land identified on the plans shown remains the ownership of [the Home Buyer]”.

### **Findings**

The adjudicator found that the Home Builder did not breach a section of the Code.

### **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyers stated that Home Builder breached Code Sections 2.1 and 3.1, because it provided them with incorrect information regarding the extent of the rear boundary to the rear of the Property and it did not inform them (until around 6 months after completion) that a gas easement run through the Plot. The Property had been devalued due to the location of the gas easement on the Plot.

## **Defence**

The Home Builder submitted that the information it provided the Home Buyers at the pre-purchase stage clearly showed the location of the rear boundary and there was no evidence that the Home Buyers had discussed the rear boundary with it prior to the exchange of contract. It had disclosed the location of the gas easement in relation to the Property because at the pre-purchase stage, it disclosed the conveyance plan for the Property and a plan to the Deed of Variation which defined the Rights Strip including the gas easement. It was clear from a comparison of the Plot Plan and the plan to the Deed of Variation that the gas easement ran through the Plot.

## **Findings**

The Adjudicator found that the claim concerning the reduction in the value of the Property fell outside the scope of the Scheme. There were also matters raised in the claim concerning the land conveyed and its registered title which fell outside the Scheme and could not be adjudicated upon. In relation to the rear boundary, the Adjudicator found on a review of the relevant Plan that the Plan contained sufficient information about the location of the rear boundary.

There was no evidence that the Home Builder had provided the Home Buyers with information that was inconsistent with the information in the Plan regarding the location of the rear boundary. In relation to the location of the gas easement, the Plot Plan that the Home Builder provided the Home Buyers with at the pre-purchase stage did not contain sufficient information about the location of the gas easement in relation to the Property and was therefore unclear regarding a term of the contract.

It was reasonable for the Home Buyers to rely on the Plot Plan which the Home Builder provided them with and to reach the conclusion from the Plot Plan, that the gas easement was not located on or running through the Plot. The Adjudicator found that the Home Builder caused the Home Buyers inconvenience and the inconvenience caused was severe.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £500.00 in compensation for inconvenience.

## **Complaint**

The Home Buyers submitted that the Home Builder had failed to resolve a number of ongoing problems with the Property. There were delays in completion on the Property, resulting in additional costs being incurred. They were not provided information on manhole covers, the slope in the garden or management company costs until late in the purchase process. They were forced to wait outside the Property for over an hour to collect the keys.

They had not been treated with respect and had experienced substantial inconvenience and distress. They had experienced poor customer service. They argued that the Home Builder had breached Sections 2.1, 3.2, 4.1 and 5.1 of the Code.

The Home Buyers sought compensation of £15,000.00.

## **Defence**

The Home Builder submitted that the Home Buyers' claim had been brought too long after the Home Builder provided its final response. No evidence had been provided of any actual financial losses incurred.

The Home Builders had previously paid the Home Buyers compensation of £3,777.86 for actual losses incurred and had given two reductions in the purchase price of the Property, totalling £2,500.00, in recognition of the delay to completion on the Property.

## **Findings**

The adjudicator found that the Home Builders had breached Section 3.2 of the Code by failing to provide the Home Buyers with "reliable and realistic information about when construction of the Home may be finished", but that as the Home Builder had already paid compensation in this respect to the Home Buyers no additional compensation should be awarded.

The adjudicator also found that the Home Builder had breached Section 4.1 of the Code by failing to "provide the Home Buyer with an accessible after-sale service".

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay compensation of £200.00 to the Home Buyer for the inconvenience caused by the Home Builder's breach of Section 4.1 of the Code.

## **Complaint**

The Home Buyer submits that the development, in which the Property is located, does not have adequate security features and that this has resulted in multiple burglaries and theft from communal areas. The Home Buyer asserts that this results in a breach of section 4.1 (and potentially 1.5 and 2.1) of the Code as the Home Builder has not provided an accessible after-sale service by not solving the problems with the security of the block.

## **Defence**

The Home Builder accepts that a recent break in occurred to the block cycle store which was investigated by the management company who confirmed that the “entrance doors were secure and that there was no evidence to suggest that the [equipment] were taken by criminals”.

## **Findings**

The adjudicator found that the Home Builder has not demonstrated that it has provided an accessible after-sales service in explaining how the Home Buyer could enquire about the security situation at the building. No breach of sections 1.5 and 2.1 was found.

## **Decision**

The claim succeeded. As Building Regulations require specific security of doors at properties and outer communal areas, the adjudicator directed the Home Builder to inform the Home Buyer of how these requirements under UK Building Regulations have been met in relation to the outer doorsets only. Where these do not meet UK Building Regulations, the Home Builder is required to upgrade the doorsets in accordance with the Regulations.

## **Complaint**

- The Home Buyer signed a Reservation Form and paid a reservation Fee of £1,000.00.
- After searches, the Home Buyer identified that the location of the Property was in an area with a moderate to high potential for natural ground subsidence.
- The Home Buyer advised the Home Builder that she was not proceeding with the purchase of the Property and requested the refund of the Reservation Fee.
- The Home Builder refused to refund the Fee, stating her cancellation of purchase came too late to permit a refund.

## **Defence**

- The Home Builder denied it has breached any section of the Code.
- The Home Builder says that the Reservation Period was extended twice, and the notice of cancellation came in the final week of the second extension.
- The Home Builder says it has complied with the stated rules in respect of refunding a Reservation Fee.
- The Home Builder states it was not aware of the development being in an area prone to instability and it notes it complies with all NHBC regulations.
- The Home Builder denies it misled the Home Buyer.

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed, with the Home Builder not being in breach of any Section of the Code.

The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder was in breach of the Code, or that it misled the Home Buyer at the time of Reservation. The Adjudicator found that the Home Builder guided the Home Buyer to retain qualified legal advisors and it was such advisor that discovered the potential for subsidence. As the Code recommends the Home Builder to make such guidance the Adjudicator found the Home Builder had acted correctly and reasonably.

## **Decision**

The claim does not succeed.



### **Complaint**

- The Home Buyer identified problems to the roof and guttering to the property.
- The Home Buyer says the Home Builder did not take her complaint seriously.
- As a result, she escalated the complaint to NHBC. She was disappointed that NHBC accepted photographs from the Home Builder as evidence the repair works had been completed.
- The Home Buyer retained a building contractor that confirmed the roof and guttering should be replaced.
- The Home Builder has refused to undertake any further remedial work to the roof and guttering.

### **Defence**

- The Home Builder denied it has breached any section of the Code and refutes the Home Buyer's contention that it did not take her complaints seriously.
- The Home Builder says that the NHBC stated that it believed repairs had been successfully completed.
- The Home Builder says it believes no dispute exists between the parties.
- The Home Builder states it has not had sufficient time to study the report prepared by the contractor retained by the Home Buyer.
- The Home Builder says the complaint is not supported by evidence.

### **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed, with the Home Builder not being in breach of any Section of the Code. The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder was in breach of the Code, or that it did not respond reasonably to the Home Buyer's complaints.

The Adjudicator found that the evidence did not support the claim that the roof and guttering need replacing.

### **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyers indicated that they experienced various NHBC snagging/construction defect related issues with the Property and, whilst these issues were addressed through the NHBC process, they are displeased with the time taken for the remedial snag/construction works and some of the outcomes following NHBC resolution process.

The Home Buyers did not specifically cite any sections of the Code. However, based on their submissions, it was evident that the Home Buyers inferred a breach of section 4.1 the Code. The Claim, as detailed in the Home Buyers' application form, was for the Home Builder to send in an expert to fix their mould issue and to provide them with compensation in the sum of £4949.45 (for elements such as mortgage payments, compensation for time taken off work and paint).

## **Defence**

The Home Builder submitted that it has fully and correctly complied with the actual requirements of the Code. In particular, it confirmed that it has the processes in place as required by section 4.1 of Code and noted that the Code does not cover snagging/construction concerns of this nature.

The Home Builder confirmed that the NHBC snagging/construction defect issues were addressed as required. In particular, with regards to an allegation of yellowing gloss work, the Home Builder confirmed that this matter was investigated through the NHBC process and it concluded that no further action as necessary. Furthermore, in relation to the issue of mould, the Home Builder submitted that it attended the Property on several occasions and took significant remedial action (using independent contractors) to address this issue. Accordingly, the Home Builder did not accept it has breached the Code and did not accept any liability to provide the Home Buyers with the redress claimed.

## **Findings**

After careful consideration of all the available evidence, the adjudicator proceeded to explore and explain section 4.1 of Code and its requirements. It was explained that the Home Buyers' dissatisfaction with the NHBC process outcomes in relation to their snagging concerns did not amount to a breach of section 4.1 of the Code.

The adjudicator appreciated the Home Buyers' personal frustration with this matter but explained that no material breaches of the Code had occurred.

## **Decision**

The Home Buyers' claim was unable to succeed.

### **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the design drawings shown at the reservation stage did not accurately represent the kitchen as installed.

### **Defence**

The Home Builder said that the floor plans provided at the time of the reservation stated that they were for illustrative purposes only and that each room had a tolerance of +/- 50mm. Furthermore, the sales brochure highlights that “slight variations may occur during construction” and that the Home Builder reserves the right to change the specification details. Before completion, it was discovered that the kitchen dimensions were 50mm smaller than initially anticipated, which meant that the kitchen layout had to be reconfigured.

### **Findings**

The Home Builder has not breached clause 2.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and reinstall the kitchen as set out in the original drawings.

### **Complaint**

The Home Buyer stated that the Home Builder has breached section 2.1 as it did not provide sufficient information relating to the Property's boundary. Additionally, the Home Buyer submits that the Home Builder has breached section 5.1 of the Code as it has not provided satisfactory responses to various issues at the Property; namely, issues with the showers and screen, snagging issues and cleanliness.

### **Defence**

The Home Builder submits that it has acknowledged and provided responses to the Home Buyer's complaints and therefore, there has not been a breach of the Code.

### **Findings**

The adjudicator found that the claim under section 2.1, whilst due to a purported omission of information, was fundamentally a claim about the land conveyed and the registered title, and was therefore out of scope. In consideration of the complaints raised, the adjudicator found that the Home builder has provided appropriate remedies and had therefore dealt with the complaints.

### **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1 because on 3 July 2019, it agreed to repair a gravel board in his garden but it did not complete the works despite various correspondence from the Home Buyer. In March 2021, it informed the Home Buyer that it would not carry out the works and that it had mistakenly accepted responsibility for the works in July 2019.

## **Defence**

The Home Builder submitted that its contractor that attended the Property in November 2020 identified that the issue concerned the garden path gravel strip, not the gravel board as reported. On this basis, it decided that no further action was required from it. In March 2021, it informed the Home Buyer that the gravel path edging strip is not covered under the home warranty as it is a perishable item in the ground. It accepted that there was confusion caused by the description of the issue, it apologised to the Home Buyer, and it offered the Home Buyer £250.00 in compensation.

## **Findings**

The Adjudicator found that the claims concerning defects and poor workmanship fell outside the scope of the Scheme and could not be adjudicated upon. The evidence did not show a breach of Code Section 4.1, but the Home Builder breached Code Section 5.1 because there was a delay of approximately 2 years in confirming its final position on the Home Buyer's complaint which caused the Home Buyer significant inconvenience. There was no evidence to suggest that the Home Builder's delay was justified.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £350.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submits that the Home Builder did not make the Code available nor explain it pre-sale which indicted a lack of suitable systems and procedures.

The Home Buyer submits that the Home Builder employed high pressure sales techniques and required the Home Buyer to sell her previous property within three weeks in order to secure the reservation which resulted in 22 months' private rental charges.

The Home Buyer submits the Home Builder did not resolve various complaints and that there was no complaints procedure in place.

## **Defence**

The Home Builders denied liability on the basis that a copy of the Code was sent to the buyer in an email; that its staff are aware of the Code and have completed the relevant training; that it requires an Agreement in Principle or a letter of comfort if the funding source is from the process of a sale and that the sale package has a "long stop date which allows a reasonable marketing time of six weeks" not the three purported by the Buyer. Finally, the Home Builder acknowledges a lack of a complaints procedure.

## **Findings**

The adjudicator found the Home builder had not submitted any evidence to demonstrate that the Code logo was displayed in its office; that the Code had been provided to the buyer; that no evidence of high pressure selling techniques were used; that the Home Builder did not have a complaints procedure in place.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer for the breaches of the code and to undertake to implement a complaints procedure and to respond to the Home Buyer's complaint in accordance with section 5.1 of the Code, as requested by the Home Buyer. The adjudicator further directed the Home Builder to explain why the Code logo was not prominently displayed at the sales office.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 1.5 because it advertised the Property as a premium plot with a tiered garden but it subsequently informed her that it could no longer provide a tiered garden; it told her that if she did not complete the purchase of the Property she would lose the reservation fee of £500.00; it placed the fence at the rear of the Property less than two thirds of the way down the garden which has rendered a proportion of her land unusable; and it was stressful dealing with the Home Builder's customer services team.

## **Defence**

The Home Builder submitted that the Property was a premium plot due to its location and it had informed the Home Buyer at the reservation that the garden would not be tiered as this was an unpopular choice, and the plans for the Property which it provided the Home Buyer with showed an untiered garden.

It had a number of discussions with the Home Buyer regarding why it was unable to sit the boundary fence line on the edge of the boundary. The Home Buyer had viewed the Property a number of times and she had seen the fence in position. The amount of usable garden was taken into account when agreeing the price of the Property. It disputed that it informed the Home Buyer that she would lose the reservation fee if she did not complete the purchase.

The Reservation Agreement confirmed that the £500.00 reservation fee would be refunded less reasonable expenses if the Home Buyer did not proceed with the purchase.

## **Findings**

The Adjudicator found that there was no evidence to indicate that the Home Builder provided the Home Buyer with information that was inconsistent with the terms of the Reservation Agreement regarding the refund of the deposit.

The Home Buyer did not dispute that she had been provided with the plans for the Property at reservation or that the Home Builder had told her at reservation that the garden would not be tiered. The Home Builder had provided the Home Buyer with clear and truthful information upon which to make her reservation and purchasing decisions, and the contract was not formed on the basis of a tiered garden. The plans for the Property showed the location of the rear fence and whilst there was an area at the rear of the garden that the Home Buyer stated that she cannot use, the Home Builder had disclosed the extent of the garden to the Home Buyer during the purchase process.

The Adjudicator considered the Home Buyer's complaint about its customer service under Code Section 5.1. The Home Buyer did not provide details and documentary evidence concerning her experience with the Home Builder's customer service team to enable the

Adjudicator consider this complaint in detail. There was insufficient information regarding this aspect of the complaint and the Adjudicator did not find a breach of Code Section 5.1.

**Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.



## **Complaint**

The Home Buyer asserts that the Code was never provided and the logo was not shown in the sales office and that the Home Builder's customer service was inadequate throughout the process and that the Home Builder failed to attend arranged meetings. As a result, the Home Buyer avers that the Home Builder has breached section 1.3 and 1.4 of the Code.

The Home Buyer complains that the Home Buyer breached section 1.5 of the code by failing to complete the advertised courtyard and bin store; the Code was only discovered from her solicitor's client guide and that the Factors will be responsible for gardens and insurance; however, the Home Builder only informed the Home Buyer that the Factors were responsible for buildings insurance; that the Home Builder repeatedly gave unrealistic entry dates while simultaneously putting pressure on the Home Buyer to sell their old property; and that there are no systems or procedures in place to resolve, or attempt to resolve issues; with calls and emails being ignored.

## **Defence**

The Home Builder did not respond to the claim.

## **Findings**

The adjudicator found that the Home Builder failed to demonstrate that it complied with sections 1.2, 1.3 and 1.4; that the Home Builder failed to complete works to the courtyard and bin store and therefore breaching 1.5; that the Home Builder breached 2.1 by failing to demonstrate the information on factoring provided to the buyer.

In the absence of any submission from the Home Builder, or an explanation or clarification as to its processes or actions in managing expectations, or any information to demonstrate how this section of the Code was complied with, in respect of the Home Buyer's claim, the adjudicator found the Home Builder to be in breach of section 3.2 of the Code.

The adjudicator found that the Home Builder did not demonstrate that it provided any warranty information or usage instructions and therefore breached section 4.1. Finally, that the Home Builder breached section 5.1 for failing to deal with the various complaints.

## **Decision**

The claim succeeded. The Home Builder was ordered to pay the quoted sums to complete the works to the courtyard and bin store; to apologise to the Home Buyer for the breaches of the code and pay £250 for inconvenience.

### **Complaint**

- After taking possession, the Home Buyer identified that the rear garden contained a large amount of debris, include steel bar, bricks, concrete, etc.
- The Home Buyer says after complaining to the Home Builder it attended and removed a small amount of debris, but that the garden was still unsuitable for planting flowers, grass, turf, etc.
- The Home Buyer says that despite further complaints the Home Builder stated it would not take any further action.
- The Home Buyer consulted the NHBC and it advised her to escalate her complaint to the Code.
- The Home Builder has refused to undertake any further clearance work to the garden.

### **Defence**

- The Home Builder denied it has breached any section of the Code.
- The Home Builder says that the customer was made aware prior to purchase that the house was built on what was previously a pub car park and garden area.
- The Home Builder says it has no obligation to clear the customer's garden as it was not aware of the debris existing under a grassed surface.
- The Home Builder states that as a gesture of goodwill it attended the property and removed a small amount of debris.
- The Home Builder says it was willing to revisit the garden, but the Home Buyer preferred to continue with her claim to the Code.

### **Findings**

The Adjudicator found that the Home Buyer's claim succeeds, with the Home Builder being in breach of Section 2.1 of the Code. The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder advised the Home Buyer before purchase that the property was built on an existing car park and garden and that it did not know the condition of the garden under the grassed surface.

The Adjudicator found that the evidence supported that the Home Builder had not complied with the applicable NHBC standard for Garden Areas 10.2.9.

### **Decision**

The claim succeeds. The Home Builder shall put the rear garden at the property into a condition whereby it complies with the appropriate NHBC Standards (Garden Areas 10.2.9.) and have an authorised representative issue a written apology to the Home Buyer for the breach of the Code identified.

## **Complaint**

The Home Buyer indicated that she experienced various snagging/construction defect related issues with the Property. In connection with this matter, the Home Buyer felt that the Home Builder had breached sections 4.1 and 5.1 of the Code. Accordingly, the Home Buyer sought an apology and compensation in the sum of £3529.00.

## **Defence**

The Home Builder submitted that they were astonished by the Home Buyer's claims. The Home Builder submitted that it has been dealing with Home Buyer in relation to her snagging/construction related concerns (and has treated her with the utmost respect). However, she has been dismissive and needy in relation to unreasonable requirements. The Home Builder submitted that her communications are often unclear and erratic. The Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

Following a full review of all the available evidence, the adjudicator explained sections 4.1 and 5.1 of Code and the service requirements they impose on the Home Builder. It was explained that the Home Buyer's complaints in relation to snagging concerns did not amount to a breach of sections 4.1 or 5.1 of the Code.

However, the company's failure to implement set systems and processes for the handling of Home Buyer concerns/complaints (and its failure to explain its after-sales services) did amount to a breach of sections 4.1 and 5.1 of the Code. Given the inherent inconvenience that would have been caused by this matter, the Home Builder was directed to provide the Home Buyer with an apology and compensation in the total sum of £250.00.

## **Decision**

The Home Buyer's claim succeeded. The Home Builder was directed to provide the Home Buyer with an apology and compensation in the total sum of £250.00.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that upon purchasing the Property, they provided the Home Buyer with a snagging list, which “included multiple items, one of which covered multiple areas of flooring that had damage with silicone, scratches or items stuck under the flooring creating lumps”. As the flooring is the “same throughout” and as the Home Buyer was advised that the vinyl-flooring was laid “plank by plank”. the Home Buyer submits that they were “assured verbally” that the flooring issue would be “taken care of” and “either cleaned, replaced or lifted and re-laid”.

Whilst the Home Buyer states further that the issues were sent to the Home Builder in May 2019, they submit further that “no action or remedial works were suggested” and as such, they chased the matter up with the Home Builder, however, the “process went on for some time” and was aggravated as the Home Builder “did not have any procedures in place to deal with this”.

The Home Builder states further that they communicated with a director of the Home Builder via email, telephone and SMS, however, to date the flooring issues are still outstanding and the Home Builder submits that they have encountered significant delay.

The Home Buyer states further that the issue was aggravated as due to a separate issue - a leak caused by the incorrect installation of the bifold doors - the flooring was further damaged by water. Despite raising the issues again with the Home Builder, however, the Home Buyer submits that they encountered further delay, which aggravated the issues further until the Home Builder agreed to instruct a contractor to address the issues. The Home Buyer states further that whilst the relaying of certain sections was proposed, given the passing of time (almost three years), when the new flooring arrived, the Home Buyer states that it “was obvious” that the new planks would stand out and as such, the whole flooring needed relaying (and the contractor advised that the old planks could not be used).

The Home Buyer states further that the Home Builder has declined to carry out the necessary works and that whilst the Home Builder has made offers to settle the matter, the offers are inadequate as they do not cover the cost/works required to relay the whole flooring using new materials. The Home Buyer states further that the issue was aggravated further as if the Home Builder had agreed to replace the individual affected planks earlier, full replacement would not have been required.

In relation to s.4.1 of the Code, the Home Buyer submits that the requirements were not carried out and that whilst they did receive documents detailing warranties and guarantees, they did not receive details of who to contact nor details of what “was or was not included”. In relation to s.5.1 of the Code, the Home Buyer submits further that the Home Builder did not carry out its obligations, did not provide details of its complaints procedure or reference to disputed resolution arrangements in writing. The Home Buyer states further that the issues have caused them and their household significant stress/inconvenience and that they have spent a lot of time pursuing the issues with the Home Builder.

## **Defence**

The Home Builder's position is that it denies breaching the Consumer Code for Home Builders. Specifically, whilst the Home Builder acknowledges that there "are some areas of repair and replacement that need attention", the Home Builder disputes that "this needs to be a complete replacement of the whole ground floor". The Home Builder submits further that the flooring was subject to wear and tear over time and that the manufacturer specification states that "significant colour and design variation is normal". Whilst the Home Builder acknowledges further that works to the flooring were delayed due to the leak issue with the doors, the Home Builder submits that diagnosing and resolving the leak was agreed to be required first before the flooring was addressed.

The Home Builder states further that it has made reasonable offers to resolve the issue, including an offer to relay/repair the affected areas, however, the Home Buyer has not accepted the offers and that it has advised the Home Buyer that it is "not expecting a distinctive" in terms of appearance if only the affected areas are replaced/relaid.

The Home Builder states further that the snagging list "provided initially back in April 2019 is acknowledged and some of the items have been dealt with so [the Home Builder believes] are no longer relevant". The Home Builder states further that some of the delay incurred was due to the Covid-19 civil emergency and that the director dealing with the Home Builder's complaint fell ill with the virus and this information was communicated to the Home Buyer.

## **Findings**

The adjudicator found that the Home Builder breached s.5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer stated that Home Builder breached: Code Section 1.2 because it did not bring the Code to his attention and it did not provide him with a copy of the Code at reservation; Code Section 1.5 because there were recurring failures to meet the claims regarding high quality workmanship which it made in its sales materials.

There were also hazardous items left just below the surface of the rear lawn, including rocks, glass and a pick head. It breached Code Sections 2.1 and 2.3 because it did not inform him that the warranty for the Property was an insurance policy with an excess charge payable by him for each claim made under the policy. It breached Code Section 5.1 because it seemed reluctant to inconvenience its subcontractors and issues at the Property took longer to resolve due to its customer service.

## **Defence**

The Home Builder submitted that the Home Buyer signed the Reservation Agreement confirming that he had received a copy of the Code. It disputed that any of the statements it made in its sales and advertising material regarding the high quality of its design and customer service were misleading and untruthful. The Home Buyer's subjective views did not make its advertising materials false or misleading.

Snagging items at the Property were addressed and the Home Buyer confirmed that snags were resolved. The claim did not distinguish between defective and desirable matters, and it was not liable to compensate the Home Buyer for works he chose to carry out. It denied that it breached Code Section 2.1. It stated that it provided the Home Buyer with a Reservation Agreement, warranty information, cost information, brochure plans and details of the home specification.

It admitted that its sales team was not aware of the £1,000.00 excess payable on the warranty and that when the Home Buyer asked about the excess after completion, it incorrectly informed him that there was no excess payable. It denies that it breached Code Section 5.1, given its extensive procedures for handling complaints, the timescales taken to respond to the complaint, and the significant amount of time its team members spent trying to address the Home Buyer's concerns.

## **Findings**

The Adjudicator found that the Home Buyer's complaints concerning defects, snags and poor workmanship fell outside the scope of the Scheme and could not be adjudicated upon.

The Adjudicator did not find a breach of Code Sections 1.2, 1.5, and 2.1. There was no evidence to dispute the Reservation Agreement which the Home Buyer signed confirming that he received a copy of the Code at Reservation. Apart from the issues concerning poor workmanship, defects and snags which fall outside the Code, there was no evidence to

indicate that the Home Builder made representations regarding the Property in its sales and advertising material and activity which were unclear and untruthful.

There was no evidence that the Home Builder had the structural warranty information available to it at the time the Home Buyer asked for a copy of the warranty or that it withheld information about the excess from the Home Buyer at the pre-purchase stage.

However, the Home Builder breached Code Section 2.3 because after the sale, it provided the Home Buyer with incorrect information about the excess payable on the warranty. It also breached Code Section 5.1 because it did not show that it had fully investigated and responded to the specific complaint the Home Buyer raised about hazardous items found in the rear lawn.

### **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £500.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer said that he chose the Home because it had a large flat garden. This was important because his son suffers from severe hypermobility and struggles to walk on uneven and ungraded surfaces.

On moving in, the Home Buyer found that the garden had a large bank which was not suitable for children. Therefore, an exchange of emails took place. However other structural and drainage matters took a more urgent role. The Home Buyer arranged and paid for the garden to be flattened and a retaining wall built.

The Home Buyer asked the Home Builder to pay for the works, but it refused. The Home Buyer says that there was no prior notice of this and that a company has not taken appropriate steps to resolve it.

## **Defence**

The Home Builder said that the Home Buyer has not produced any written evidence that he was promised a 'flat garden'. Plot 33 was never designed to have a level garden nor a retaining wall. There were two plan revisions for Plot 33 displaying a sloped bank at the rear of the garden. The first revision is dated 27 April 2018 and the second and final revision on 11 March 2019. The site layout plan shown in the Home Buyer's evidence was indicative and for illustration purposes only as well as not being to scale. The plan produced by the Home Buyer has his property and garden blanked out with no illustration detail.

The Home Buyer attended a Meet the Builder appointment at his property on 15 April 2019 when he was shown the property and curtilage. Nothing was mentioned on the form about the garden levels. A week before completion, on 24 June 2019 the Home Buyer attended Plot 33 for a new home demonstration – nothing was recorded about the garden in the appropriate space on that form. The Home Buyer legally completed on his property on 30 June 2019. He does not mention anything about his garden amongst the list of defects reported on that form.

## **Findings**

The adjudicator found that the Home Buyer was told at the reservation stage that the garden would be gently sloping and he did not see the revisions to the plan. The Buyer did not consider that it was necessary to do anything about the presence of the bank, despite the medical condition of his son because he was concerned about other issues. He changed his mind about whether the Home Builder should be asked to pay for the flattening of his garden when this was done in a neighbouring garden on or after 1 August 2020. This explains why no reference was made to this issue in the new home demonstration, completion and 14 day review forms or in the correspondence to 1 August 2020.

As for the "Meet the Builder" event, the Home Buyer's evidence and photographs showed that the bank either was concealed or had not then been constructed. The Buyer also



indicated at that time that he would not make a claim even though he complained. He later changed his mind. While I find that delay in mentioning the problem with the bank was a relevant consideration, it did not follow that the Home Buyer was not entitled to any redress if there was a breach of the Code.

As the presence of a steep slope in the garden is the sort of matter that would influence a purchasing decision, the presence of the bank should have been disclosed. There was a breach of section 1.5 and 2.1 of the Code but no evidence that the Builder had failed to put in place a system and procedure for dealing with complaints.

The Buyer was not entitled to compensation for inconvenience because this complaint could have been dealt with at the same time as the Home Buyer's earlier complaint to this Scheme about his other concerns. Following the provision of additional evidence about the cost of rectification following the adjudicator's proposed decision, the adjudicator accepted that the cost of rectification was £4,500 but due to the delay in raising the issue and stating that the Buyer was not asking for the bank to be remedied, the Buyer had contributed to the loss.

The adjudicator found that a contribution of £3,600 to the Buyer's costs of rectification was fair and reasonable.

### **Decision**

The claim succeeded. The Builder was required to pay compensation of £3,600.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that a bathroom mirror purchased as an extra was replaced (as it was the wrong size), however, the replacement provided was damaged (chipped). Despite twice requesting details as to how to raise a complaint in relation to this issue, however, the Home Buyer submits that they have received no response (albeit noting that the “latest communication...was that [the Home Builder was] waiting to hear back from the glazing company”).

The Home Buyer submits further that the Property was to be jet-washed prior to handover, however, this was not actioned and whilst an engineer was booked in to perform an “acid wash” earlier in the year, the engineer advised that an acid wash was not sufficient and fed back to the Home Builder. Whilst the Home Builder has now advised that it has booked a jet wash, the Home Buyer submits that they were not provided with time/date for the booking and over a month has now passed.

Thirdly, the Home Buyer submits that they have found a fragment of roof tile in their garden, which they suspect is from their roof, however, despite reporting this and despite being advised by the Home Builder that it had booked “someone to investigate”, the Home Builder has not provided a date/time and the issue remains outstanding.

## **Defence**

The Home Builder has not responded to the Home Buyer’s claim. .

## **Findings**

The adjudicator found that the Home Builder breached ss. 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer stated that when the Home Builder built the Property, it did not build a retaining wall as a result of which there is land movement at the Property. The Home Builder refused to address the issue of land movement at the Property. The Home Buyer also requested that the Home Builder should fix a shower at the Property.

## **Defence**

The Home Builder submitted that the claim fell outside the scope of the Scheme, because the warranty in respect of the Property expired on 4 July 2021 and it did not receive the claim until 10 November 2021. The land slip at the Property occurred as a result of works carried out at a neighbouring property. It did not participate, encourage or request the works carried out at the neighbouring property, and it was therefore not liable for the effect the works had on the Property. It denied the alleged breach of Code Sections 4.1, 4.2, 5.1 and 5.2 on the basis that it provided the original home buyer with information about its after sales service and the Home Buyer did not particularise any complaint in respect of its complaints policy.

## **Findings**

The Adjudicator found that the claim under the Code and to the Scheme had been made within time, because the case papers suggested a warranty start date of 4 July 2019 and the Home Buyer complained to the Home Builder in 2020 which was before the warranty expired on 4 July 2021.

The complaint about unsuitable fencing fell outside the scope of the Code and the Scheme because the complaint concerned poor workmanship. Any complaint about defects or poor workmanship in respect of the shower at the Property also fell outside the scope of the Scheme.

There was no indication from the case papers that the Home Builder did not respond adequately or at all to any request from the Home Buyer for information regarding its after-sales service and the guarantees/warranties for the Property, or that Code Section 4.2 was engaged in the case.

There was limited information regarding the Home Builder's complaints handling, and there was no breach of Code 5.1 and 5.2 evident on the limited information available.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Section 4.1 because It sent out the “incorrect people” to attend to a leaking washing machine at the Property. It breached Code Section 5.1 because its response to her complaint about the washing machine was delayed, it did not call her back a number of times, she had to chase the Home Builder for a response and it disputed the fault with the washing machine.

## **Defence**

The Home Builder disputed the alleged breaches of Code Sections 4.1 and 5.1. It submitted that it does not offer any warranties or guarantees for white goods such washing machines. It informed the Home Buyer on contact that the 12 months manufacturer warranty for the appliance had expired. It sent one of its employees in the after-sales team to investigate the issue as a gesture of goodwill. It offered to pay the Home Buyer £141.48 as a goodwill gesture, but she declined the offer. It also asked for complaints to be sent to it in writing, which were then sent to its Managing Director.

## **Findings**

The Adjudicator found that any complaint about the quality of the washing machine or a defect with the washing machine fell outside the scope of the Code, because the Code did not set requirements for the Home Builder in respect of the quality of materials supplied to the Property.

The evidence showed that (overall) the Home Buyer was able to access the Home Builder’s after-sales service in respect of her complaint, and there was no evidence of a failing in the provision of information under Code Section 4.1.

However, the Home Builder breached Code Section 5.1 because it did not provide the Home Buyer with an update after it inspected the washing machine and therefore it did not respond to the Home Buyer’s complaint within a reasonable period of time given the nature of the fault (a leak) reported in this case. The Home Builder had also not shown that it had informed the Home Buyer of its complaints procedure before or at handover or at the time when the Home Buyer needed to make a complaint.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: issue the Home Buyer with a written apology for the inconvenience it caused her; a written document setting out the details of its process for dealing with complaints; and pay the Home Buyer £100.00 in compensation for inconvenience.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 2.1, 3.1, 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that they were assured by the Sales Advisor that the adopted and private roads “would be upgraded after the heavy lorries were not using them for continuing building work. The adopted road would be upgraded first and then the private road” and the “private road would be bonded gravel rather than just the existing loose layer of gravel”. Despite this, the Home Buyer states further that the “adopted roads were not brought up to Highways specification until early 2020” and after this, Home Builder “added extra loose gravel onto [the] private road because the loose gravel had moved downhill with heavy rain and cars travelling over it”, however, the Home Builder did not install a bonded gravel surface.

The Home Buyer states further that they/their household requires wheelchair access as “there is no footpath provided” and they were concerned in relation to increased maintenance costs for a loose gravel surface and as such, they complained to the Home Builder that the private road was not compliant with “Building Control Regulations Part M4(1) and Part H(6)”. I

In response, the Home Buyer submits that the Home Builder advised that “the planning department insisted on gravel roads and driveways so that the development was ‘in keeping’ with the surrounding areas”, however, when the Home Buyer “contacted [planning] ...they provided the surfacing specification that [Home Builder] had said they would use”.

Upon requesting that the Home Builder bring the private road up to the specification in the plans, the Home Buyer submits that the Home Builder advised that “the specifications were based on old design drawings which were superseded prior to construction.” The Home Buyer states further that planning advised them that the “changed specification has not been submitted or approved and therefore planning conditions have not been satisfied”. The Home Buyer raises a number of secondary allegations, including in relation to complaint handling.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, in relation to the private road, the Home Builder “does not accept any failure to use its own specification when surfacing” the private road and that “in order to achieve an appropriate balance in regard to the material palette”, the Home Builder “was guided by the [planning’s] conservation officer to use a loose gravel drive, in keeping with the National Parks”.

Whilst the Home Builder acknowledges that “a previously existing engineer’s drawing included a specification for a gravel drive with an eco grid surface, this design drawing was superseded prior to construction with the current specification” and “this current drawing omitted the eco grid in favour of a loose gravel drive, as per the planner’s request to be in

keeping with the National Parks”. The Home Builder states further that the “planner has confirmed with both [the Home Builder] and the Customer that this change was approved, and therefore that the surfacing in gravel is what was agreed and per the specification”. The Home Builder further disputes the secondary claims.

### **Findings**

The adjudicator found that the Home Builder breached s. 5.1 of the Code.

### **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the documents shown at the reservation stage did not accurately represent the installed brickwork, toilets and the pavement.

## **Defence**

The Home Builder said the brickwork used for the Property was the same as stated within the reservation paperwork. However, after the reservation, the Home Buyer was incorrectly provided photographs of a different type of brickwork as an example of the brick colour for which the Home Builder has apologised.

The show home the Home Buyer viewed did have wall-hung toilets, but issues during the pandemic with availability meant the sanitaryware was substituted. The Home Builder's marketing materials do explain that such items can be varied, and the contracts allow for such occurrences without entitlement to compensation. Nevertheless, as a gesture of goodwill, the Home Builder agreed to supply and fit luxury vinyl tile flooring to the wet rooms at no additional cost to the Home Buyer.

As part of the approvals process for the road adoptions, the relevant Authority dictated that to aid road safety, part of the footpath fronting the Property must be made wider. This did not significantly or substantially alter the Home's size, appearance, or value and was, therefore, a minor change that the Home Buyer was notified of.

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder pay compensation of £15,000.00.

### **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the design drawings shown at the reservation stage did not accurately represent the number of radiators installed within the second bedroom.

### **Defence**

The Home Builder said the heating and plumbing drawings within the reservation form show only one radiator in the second bedroom. The design drawings the Home Buyer refers to were general plans used to mark-up any extras requested by the Home Buyer and were not presented as a definitive plan of the Home Buyer's Property.

### **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and install another radiator within the Property's second bedroom.



## **Complaint**

- Before signing the Reservation Agreement, the Home Builder confirmed that it would not be building further homes on adjacent land, and would erect a fence along the side of the property being purchased.
- Subsequently, the Home Buyer understood that more homes would be built on the adjacent land and a fence would not be erected.
- Consequently, the Home Buyer decided not to proceed to purchase the dwelling and requested the return of the Reservation Fee.
- The Home Buyer says the Home Builder has refused to return the Fee.

## **Defence**

- The Home Builder denied it has breached any section of the Code.
- The Home Builder says that it does not own the land adjacent to the property reserved by the Home Buyer.
- The Home Builder says it has not changed its intention to erect a fence alongside the property.
- The Home Builder states that the procedure for returning a Reservation Fee is clearly set out on the Agreement form, and it has complied with the procedure. It states that costs incurred in its dealings with the Home Buyer actually exceed the original Fee.

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed, with the Home Builder not being in breach of any Sections of the Code. The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder misled the Home Buyer before purchase that it owned the adjacent land and planned to develop it.

The Adjudicator found additionally that the evidence did not support that the Home Builder should refund the Reservation Fee.

## **Decision**

The claim does not succeed.

### **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the design drawings shown at the reservation stage did not accurately represent the plaster finish provided as the Home Builder changed from skim plastering to tape and joint.

### **Defence**

The Home Builder said that the changes from skim plastering to tape and joint is solely a change of construction materials, and that change of approach would have no impact on the Property's size, appearance or value. The Home Builder accepts workmanship issues with the tape and joint plasterwork, which is being resolved through the NHBC process.

### **Findings**

The Home Builder has not breached clause 3.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder skim plaster the internal walls of the Property or pay compensation of £15,000.00

### **Complaint**

The Home Buyer submits that the Home Builder has breached section 2.6 for retaining a fee of £2,500.00 from the reservation fee, which is excessive.

The Home Buyer submits that the Home Builder breached section 5.1 of the Code as a result of not having informed the Home Buyer of the dispute resolution arrangements, nor having a “proper system for receiving, handling and resolving service calls and complaints”.

### **Defence**

The Home Builder submits that its fees retained from the reservation fee reflect the property’s removal from the “open market and losing market opportunities, together with abortive costs”.

### **Findings**

The adjudicator found that the Home Builder had not satisfied the requirement to justify the amount of the reservation fee retained, as required by 2.6 of the Code. Additionally, the did not consider that the Home builder had demonstrated that it had suitable provisions in place to comply with section 5.1 of the Code. As a result breaches of 2.6 and 5.1 were found.

### **Decision**

The claim succeeded. The Home Builder was directed to return £1500 of the retention, leaving a fee retained of £1000.00. Additionally, the Home Builder was directed to apologise for the breach of 5.1.

## **Complaint**

The Home Buyer states that a road was damaged by the Home Builder and its contractors whilst building and that the Home Buyer complained to the Home Builder about the issue in 2018, after moving into the Property. On 8 January 2020, the Home Buyer submits further that they were advised by the Construction Director of the Home Builder that works to repair the road would be carried out in March 2020. Despite this - and despite numerous complaints/chasers sent in the interim, the Home Buyer states that the Home Builder has failed to repair the road to date.

The Home Buyer submits further that the Home Builder failed to explain “what service was available to complain to, the correct procedures to follow or how they would be followed” and that there was “no complaints department” to escalate the issues to. The Home Buyer states further that they have felt “ignored” by the Home Builder and the issues with the road remain and are getting worse.

The Home Buyer requests that the Home Builder take a practical action; specifically, for the Home Builder to repair the road.

## **Defence**

The Home Builder disputes the claim. Specifically, in relation to the road, the Home Builder submits that the non-metallic private road is not owned by the Home Buyer (or the Home Builder), albeit noting that an easement agreement exists between “[company]” and the Home Buyer (and other property owners).

The Home Builder states further that “All buyers were on notice that the road was private and that they would be liable to pay toward its future maintenance as agreed with the landowners”.

Whilst the Home Builder acknowledges that its “construction staff have wrongly been drawn into a conversation with the Home Buyer regarding road maintenance/surfacing etc”, it submits that the conclusions drawn are “unfortunate but nonetheless wrong – [company] has no responsibility for this private road.”

The Home Builder submits further that it did make the Home Buyer aware of the complaints procedure (including in a home demonstration and via its User Guide) and that “the Home Buyer was clearly aware of the process to use and achieved satisfactory outcomes in doing so”, further to the evidence it has provided.

The Home Builder states further that “as evidenced in the email chain dated 1st August 2019, The Home Buyer and [company] have already agreed and reached a settlement, specifically monetary compensation regarding disruption and time delays”.

**Findings**

The adjudicator found that the Home Builder breached s. 5.1 of the Code.

**Decision**

While the adjudicator found a breach of the Code, they did not find a remedy was warranted for the breach.

## **Complaint**

The Home Buyer's claim is that the Home Builder has breached the Consumer Code for Home Builders ("the Code") at Sections 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.4, 2.6, and 3.1.

## **Defence**

The Home Builder's position is that it denies liability for the claim and / or that it denies the alleged breaches of the Code.

## **Findings**

The Adjudicator found that on the basis that the Home Builder has not provided the Home Buyer with any refund of the reservation fee, subject to the deductions it is entitled to deduct in accordance with the requirement of the Code that the Home Builder has breached a requirement of Section 2.6 of the Code and that by failing to comply with the Code at Section 2.6 that the Home Builder also failed to comply with the requirements with the Code at Section 1.1.

However, the Adjudicator was unable to find that the Home Buyer has breached a requirement of Section 1.2 of the Code, was also unable to find that the Home Builder failed to comply with a requirement of the Code at Section 1.3, 1.4, 1.5, 2.1, 2.2, 2.4 and 3.1, and was unable to find that the Home Builder has disregarded the Code or that there is any evidence of mis-selling.

## **Decision**

The claim succeeded in part. The Adjudicator found that the Home Builder has breached a requirement under the Consumer Code for Home Builders at Section 1.1 and 2.6 and therefore the reasons given by the Home Buyer are sufficient to justify the Home Builder reimbursing the Home Buyer the amount of £450.00 for the reservation fee and providing the Home Buyer with compensation in the amount of £200.00.

## **Complaint**

The Home Buyer stated that the Home Builder informed her that the Property would be fitted with a specific wired alarm system, but it fitted an alarm system with a different specification at the Property and the alarm was fitted months after she moved into the Property. In addition, the Home Builder did not respond to all her emails and calls regarding her complaints.

## **Defence**

The Home Builder filed a copy of the brochure the Home Buyer order the alarm system from was ordered from and submitted that the product was described simply as “alarm”; there were no brand names or specifications provided. There is no difference between the alarm it installed at the Property and the alarm installed in other properties on the development. On 4 March 2020, the Home Buyer reported an issue with the alarm which it investigated and it provided the Home Buyer with a response on 12 March 2020. The Home Buyer remained dissatisfied and on 24 March 2020, it advised the Home Buyer of its escalation process.

## **Findings**

The Adjudicator considered the complaint under Code Sections 1.5, 3.1, and 5.1. The Adjudicator found that there was no evidence in the case papers to show that the Home Builder had either informed the Home Buyer or led the Home Buyer to believe that a specific wired alarm system would be fitted at the Property. The Home Builder provided a copy of the brochure which it stated that the Home Buyer ordered the alarm from.

The product was described as “alarm” and there were no further specifications and descriptions of the product and no reference made to a specific alarm brand. The evidence also did not show that it was a term of the contract that the Home Builder would supply and install a specific alarm system at the Property.

The Adjudicator did not therefore find a breach of Code Sections 1.5 and 3.1.

However, the Adjudicator found that the Home Builder breached Code Section 5.1 because it did not respond to the Home Buyer’s email of 2 October 2020 which delayed the resolution of the Home Buyer’s complaint.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £100.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer complained that Home Builder breached Code Sections because it did not provide him with an explanation of the home warranty cover, the management services and amenities. It breached Code Sections 2.2, 2.3 and 2.6 because it cancelled the Reservation four days after reserving the Property to him.

## **Defence**

The Home Builder submitted that although the Home Buyer signed the reservation form and paid the reservation fee, he did not complete the reservation process because he did not provide details for his Solicitors and proof of funds, and the reservation could not proceed without these details.

## **Findings**

The Adjudicator found that there was no breach of Code Section 2.1 on the evidence. Code Section 2.1 does not state that all the information listed in that Section must be provided at Reservation. The purchase was within the early stages of the pre-purchase stage and the Home Builder still had the opportunity to disclose information as matters progressed within the pre-purchase period. However, the Home Builder breached Code Section 2.6 because the evidence did not show that the Home Buyer's conduct in respect of the provision of information was such that the Home Builder was entitled to treat the Reservation as having been cancelled by the Home Buyer.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £300.00 in compensation for inconvenience.



## **Complaint**

The Home Buyer stated that Home Builder breached Code Section 4.1 because it did not register the warranty for the worktop installed in the kitchen at the Property. It also did not supply him with the warranty information so that he could register the warranty. The warranty was not registered within six months from completion of the purchase, and the worktop manufacturer would not issue him with a 25-year warranty which he would have received if the warranty was registered within six months.

## **Defence**

The Home Builder submitted that all warranty details were provided in the plot box which was left in the Property on the day of legal completion. The Home demonstration covered the requirement to register all warranties. The Home Buyer has not suffered any loss as no issues have arisen. If there is a perceived difference in value between the worktop and a worktop with a warranty, this is a nominal difference of no more than £500.00.

## **Findings**

The Adjudicator found that there was limited information regarding what was discussed about the warranty and the information that the Home Builder provided the Home Buyer regarding the warranty for the worktop.

However, the Home Builder breached Code Section 4.1 because on balance, the available information indicated that the Home Builder did not provide the Home Buyer with sufficient information about the warranty for the worktop. A refund of fees or replacement worktop was not a proportionate remedy for the breach of Code Section 4.1 found. Any claim for the reduction in the value of the worktop being a worktop without a 25-year warranty fell outside the scope of the Scheme because claims for loss of property value or blight are excluded from the scope of the Code. An apology and compensation for inconvenience was appropriate in the circumstances.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £200.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submits that the Home Builder has breached section 2.1 of the Code as it failed to provide complete responses to information requests, in relation to energy efficiency, in a timely manner.

Additionally, the Home Buyer submits that the Home Builder breached section 2.6 of the Code by failing to issue draft contracts before the expiry of the Reservation Agreement and therefore, the Home Builder effectively cancelled the reservation by allowing it to expire.

## **Defence**

The Home Builder submits that it responded to all the Home Buyer's enquiries, by obtaining and providing information not normally provided. Furthermore, the Home Builder submits that the Home Buyer allowed the reservation to expire and then withdrew from the sale, therefore, the retention of the reservation fee is justified.

## **Findings**

The adjudicator found that the Home Builder had provided the Predicted Energy Assessment in a reasonable time and that there was no obligation under section 2.1 for the Home Builder to provide SAP calculation. The adjudicator further found that the Home Buyer had withdrawn from the sale and a retention of the deposit was justified, however, the whole amount was not and that the Home Builder had not complied with 2.6 as it had not fully justified the retention.

## **Decision**

The claim succeeded. The Home Builder was directed to return £2500 from the reservation fee.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 1.5, 2.1 and 5.1 of the Code. Specifically, the Home Buyer submits the pre-purchase information “did not disclose that there is a gradient” in the back garden and that all the Home Buyer was advised was that “the garden is rhomboid in shape and [the Home Buyer] is responsible for the back fence”. The Home Buyer submits further that they were “not allowed to view the plot”, pre-purchase, however, did view a show-home (which did not have a gradient to the back garden) and were advised that the Property would be “an exact copy”).

Upon moving into the Property and discovering the gradient, the Home Buyer submits that they complained to the Home Builder, however, were advised that the “gradient is correct according to the plans”. When the Home Buyer continued to raise concerns, however, the Home Buyer states further that the Home Builder then acknowledged that the gradient was not as per the plans and “agreed to fix [the garden] to the 1:12 gradient that was on their drawing”.

The Home Buyer states that this was unacceptable, however, as they were “not informed of that gradient prior to purchase”. Upon raising the issue further, the Home Buyer submits that they were then provided with inconsistent replies, advising them that no works would be carried out as the gradient and garden were as per the plans/drawings.

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders.

Specifically, the Home Builder submits that the signed reservation documents show that the Home Buyer was shown the gradient to the garden - and the Home Builder highlights “engineering plan 15027-104”.

Whilst the Home Builder acknowledges that “some areas” of the garden have an “incorrect” gradient that is not commensurate with plan 15027-104, it submits that “an offer was made by the home builder to correct this to ensure the garden was installed as per the drawing”, however, the offer was declined by the Home Buyer.

## **Findings**

The adjudicator found that the Home Builder breached s. 5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer submits that the Home Builder “consistently and persistently provided untrue information, despite been given the opportunity to verify the statements made”, placing all importance on the “working drawings” which was unclear, misleading and untruthful.

Additionally, the Home Buyer asserts that he was given “false pre-purchase information” which prevented him from making suitably informed purchasing decisions. Differences in the brochures, plans showing the general layout differed, all of which differ from the Property. The Home Buyer claims not to have received a copy of the reservation agreement, nor to have been provided with the complaints process until after completion, implementation of which was hindered by “obstacles, discourtesy and aggression”.

Finally, the Home Buyer claims not to have been provided with a copy of the Code Scheme with the reservation agreement and the scheme logo was not prominently displayed in the Home Builder’s sales office.

## **Defence**

The Home Builder acknowledges that the top three steps of the stairs were shown as kited and that the graphic was taken from an earlier development; however, the construction working drawings were prepared in accordance with the local authority’s requirement to comply with the Lifetime Homes Standard, allowing for a simpler installation of a stair lift.

The Home Builder avers that the Code scheme documents were provided to the Home Buyer on 27 August 2020, receipt of which was recorded on the reservation checklist, which was separate to the reservation form, which was completed at 15:22 in 27 August 2020.

## **Findings**

The adjudicator found where such brochure illustrations may be present, unless it is a specified requirement of the contract, its inclusion cannot be presumed and consideration to the disclaimer, which states that it is for illustrative purposes, may be relied upon. Therefore, as the correct drawing, at least in the context of the staircase, was provided at the point of reservation, the Home Builder was not found to have provided untrue or misleading information.

Regarding the ethernet points, using sources of information publicly available, the adjudicator was satisfied that a single pair ethernet uses two wires, hence the use of the term “pair”. As a result, while this represents technical terminology, it was not found that the language used on the Extras form to be misleading.

The Home Builder has not demonstrated that it provided a copy of the complaints procedure to the Home Buyer, or that it had the scheme logo visible at the sales office.

**Decision**

The claim succeeded. The Home builder was directed to apologise for breaches of 1.2 and 5.1 of the Code.

## **Complaint**

The Home Buyer submits that the Home Builder has breached sections 4.1 and 5.1 of the Code as a leak, initially reported in June 2016, was not fully repaired for three years, with various cancellations and incomplete jobs undertaken throughout. The Home Buyer asserts that this resulted in wasted leave from work and lost earnings, which have not been itemised but form part of the financial remedy sought, together with an unspecified amount of compensation for finishing issues outstanding following the repair to the faulty en-suite.

## **Defence**

The Home Builder accepts that the time taken to diagnose and resolve the Home Buyer's complaint has resulted in frustration, inconvenience and upset to the Home Buyer, and that this was unacceptable. The Home Builder has offered £500.00 to the Home Buyer, which has not been accepted.

## **Findings**

The adjudicator found that the time taken to diagnose the leak and rectify the issues resulting from it constituted a breach of section 5.1 of the code.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer, explain why it did not provide a reasonable remedy to the complaint, rectify the outstanding issues in the en-suite and pay £1500 for lost earnings, works carried out and inconvenience.

### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the plans provided pre-purchase did not reliably illustrate the size of the property's parking spaces.

### **Defence**

The Home Builder said that the property and its visitors' parking spaces are an adequate width and accord with the Home Builder's sales material, including site plans. However, to resolve this dispute, the Home Builder has offered to remove the boundary fence, which would provide additional door opening space for cars parked in the property and its visitors' parking spaces.

### **Findings**

The Home Builder has not breached clause 2.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder provide a written acceptance that there has been a significant deviation from the plans provided as the driveway is clearly narrower than the plot plans show and to re-site the new fence as close to the existing fence as is practically possible.

### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the design drawings shown at the reservation stage did not accurately represent the drainage that has been constructed within the Plot

### **Defence**

The Home Builder says that it has not breached any section of the Code. However, it does admit that there has been an increase in the number of manholes on the Property from the original drainage plans due to Building Control requiring individual inspection chambers

### **Findings**

The Home Builder has breached clause 2.1 and 3.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder pay, on receipt of invoices, the Home Buyer's reasonable costs up to £6,500.00 to have the front lawn landscaped.



## **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code by providing incorrect sales and marketing information as the Home Builder failed to install solar panels on the Property as indicated at the time of the reservation.

## **Defence**

The Home Builder said that they have not breached any section of the Code. The Reservation Checklist confirms that solar panels were not applicable for the Property. No statements or representations were made that the Property would be fitted with solar panels and that the planning permission does not stipulate that specific Property needed to include solar panels.

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder install solar panels for the Property or pay compensation of £15,000.00 if the Home Builder cannot install the solar panels.

## **Complaint**

- When originally purchasing the property, the Home Buyer understood the front garden would be handed over turfed and with trees.
- Upon completion the garden contained neither turf nor trees and upon complaint to the Home Builder it denied that landscaping works were to be provided.
- That other properties on the development have been landscaped.
- The Home Buyer declined to accept an offer of just trees and no turfing.
- The Home Buyer further contends that the Home Builder does not have a formal complaint handling process.

## **Defence**

- The Home Builder denied it has breached any section of the Code.
- The Home Builder says that the nature of the ground conditions at the property does not permit turfing to be successfully laid. It further says the sales contract permits the use of alternative materials and thus it has acted correctly in replacing the turf with crushed stone as is used throughout the development.
- The Home Builder refutes it does not have a formal complaint handling process, and notes that it is clearly set down on its website.

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed, with the Home Builder not being in breach of any Sections of the Code.

The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder misled the Home Buyer before purchase in respect of the landscaping of the front garden.

The Adjudicator found additionally that the evidence did not support that the Home Builder did not have a formal complaint handling procedure.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer submits that at the point of reservation, the Home Builder confirmed verbally, that the en-suite shower at Property would be thermostatic, not electric. However, following completion, the Home Buyer discovered that an electric shower had been installed. The Home Buyer asserts that the specification at the point of reservation was for a thermostatic shower and that the Home Builder has not been forthcoming following a request for brochure applicable to the time of reservation.

## **Defence**

The Home Builder submits that at the point of reservation, the drawing provided to the Home Buyer referenced a 9.5kw electric shower to the en-suite.

## **Findings**

The adjudicator found that as the brochure did illustrate an electric shower, unless listed as a specified requirement of the Contract of Sale, the inclusion of an alternative should not be presumed.

The Home Buyer did accept that the inclusion of a thermostatic shower was only ever referred to verbally by the Home Builder. As this was disputed by the Home Builder and as there was no record of any discussion, no weight was attached to any such agreement. Additionally, the Home Buyer was provided with a first floor plan representing the electrical layout relating to various plots, including Plot 001. This plan shows the en-suite with an annotation which states “double pole pull switch for 9.5kW electric shower

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer stated that the Home Builder refused to take adequate steps to address draught entering the Property through gaps in the window which had affected the energy efficiency of the Property and increased her heating bills. The Home Builder breached Code Section 5.1 because it did not provide her with details of its complaints procedure which she requested and it did not treat her complaint as a formal complaint. It “ignored, minimised, and dismissed” her complaints, which led her to escalate her complaint to the NHBC and to live with the defects for a further 10 months at considerable impact to her health.

## **Defence**

The Home Builder submitted that following the involvement of the NHBC, it agreed to replace the windows sashes. However, it denied that it breached Code Section 5.1, because it informed the Home Buyer of its complaints policy on request. The Home Buyer had not evidenced that she had suffered any loss as a result of its actions and no loss consequent on any breach was established.

## **Findings**

The Adjudicator found that the complaint about the drainage in the garden and defective windows raised snagging issues which fell outside the scope of the Scheme and could not be adjudicated upon. The Home Builder breached Code Section 5.1 because the Home Buyer asked the Home Builder for information a number of times and the Home Builder did not respond to the request for information, it did not show that it had fully investigated the Home Buyer’s complaint, and the Home Builder did not resolve the complaint within a reasonable period of time. The breach of Code Section 5.1 caused the Home Buyer inconvenience of a severe nature and £500.00 in compensation for inconvenience was justified on the evidence.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £500.00 in compensation for inconvenience.

## **Complaint**

The Home Buyers submitted that ten separate broad complaints have been raised to the Home Builder. Despite protracted communications, no resolution had been reached. They argued that the Home Builder had breached Sections 1.3, 1.4, 1.5, 4.1, 5.1, and 5.2 of the Code.

The Home Buyer sought that the Home Builder, fulfil the guarantee that the Property will be “of the highest quality”; answer the questions asked in their formal letters of complaint; confirm that certain inspections were performed; provide a copy of the Foundation Record Sheet; replace the damaged sections of the oak bannister; replace the veneered oak doors with the solid oak doors that were ordered; explain and apologise; and pay compensation of £2,345.00.

## **Defence**

The Home Builder submitted that it had not breached the Code. It agreed to pay the Home Buyers the requested compensation of £690.00 for the fitting of an incorrect wardrobe and £345.00 for chimney flue boxing not being located within the wardrobe.

## **Findings**

The adjudicator found that the Home Builder breached Section 5.2 of the Code by failing to fully cooperate with the Home Buyers’ advisers.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to apologise to the Home Buyers for failing to fully cooperate with their advisers, and to pay the Home Buyers total compensation of £1,135.00.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 3.2 and 5.1 of the Code. Specifically, the Home Buyer submits that - in August 2018 - the Home Builder “wrote to [home buyer] requesting that the Original Agreement be varied so that the long stop date for completion of the construction of the property was changed from 31 December 2019 to 31 December 2020”. In the same correspondence, the Home Buyer submits that the Home Builder further offered, as a gesture of goodwill, “monthly interest on the funds you have already paid towards your property calculated at a rate of 4%. This interest would commence from the current longstop date of 31 December 2019 until Practical Completion has been reached. Any interest which is accrued would be deducted from your final balancing payment due on Practical Completion”.

Whilst the Home Buyer submits that they accepted the offer and signed a Deed of Variation to that effect (and completion was not achieved until March 2021), the Home Buyer states further that the Home Builder has failed to pay the interest due on the monies held by the Home Builder, as agreed. The Home Buyer submits further that “between the dates of completion on 5 March 2021 to the present date, [their] conveyancers have contacted [Home Builder] on 4 separate occasions for payment of the accrued interest and have not received any substantive response or payment of the accrued interest”.

The Home Buyer submits that they then, thereafter, via their representative, approached the Home Builder directly “with details of all of the relevant information (including copies of the Purchase Agreement, Deed of Variation and emails from the conveyancers demonstrating that they had attempted to contact [the Home Builder] on multiple occasions)”, however, the Home Buyer states that “[the Home Builder] have entirely [failed] to address the matter or to provide the details of any complaints scheme they have and the complaint was passed to multiple individuals who simply have not dealt with the issue at all”.

The Home Buyer states further that as a pensioner, they are a vulnerable person within the meaning of the Code and that they - and their representative - have spent a lot of time and effort pursuing the matter without resolution to date.

## **Defence**

The Home Builder has not provided a defence to dispute the claim.

## **Findings**

The adjudicator found that the Home Builder breached s. 5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 4.1, 4.2 and 5.1 of the Code. The Home Buyer refers further to Section 3.2 of the Code. Specifically, the Home Buyer submits, in relation to Section 4.1, that a number of snagging issues have been left unfixed (and that they incurred financial cost remedying the matters themselves), that others took a long time to fix and that they experienced “unfair treatment”.

The Home Buyer further submits that the Home Builder did not treat them or their Property/chattels with respect (including the bath) and that the Home Builder failed to take theirs and their late husband’s vulnerable status into account.

The Home Buyer submits further parts of the flooring were left uneven, a part of the floor was damaged/incorrectly treated, that the garage door mechanism did not work properly (due in part as the door was too heavy to move) and that the Home Buyer was injured when the door fell on them/hit them when moving.

The Home Buyer states further that gapping is evident to the garage door surround. In relation to Section 3.2, the Home Buyer submits that the Property was left unfinished (and they list a number of examples in the evidence) and that they were not advised of the arrangements for completing the unfinished items, contrary to the Code’s requirements.

In relation to Section 5.1, the Home Buyer further refers to a number of alleged customer service/complaint handling failures and states further that the issues have caused them significant stress/inconvenience and financial cost - and that they have spent a lot of time pursuing the issues with the Home Builder.

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, whilst the Home Builder acknowledges that “ the Home Buyer has had to endure remediation works under such difficult circumstances”, however, it disputes that it breached a Section of the Code.

The Home Builder submits further that it was mindful of the Home Buyer’s and the Home Buyer’s late husband’s situation and that it “was not made aware of any further needs of the Home Buyer for which further allowances needed to be made”.

The Home Builder states further that snagging issues are beyond the remit of the Code and that - in any event - it has engaged with the Home Buyer on the alleged issues, has carried out works on some of the issues and was also adversely impacted by the Covid-19 civil emergency. In relation to the garage door, however, the Home Builder submits that the Home Buyer has elected to install an electric opener, however, it disputes that the door is not as per specification and submits further that the incident which caused the door to hit the Home Buyer was due to “user error”.

The Home Builder further disputes that it did not comply with the Code's health and safety requirements and submits, in relation to the Property floor, that it "remedied the issues in relation to the flatness of the ground floor, which was then further investigated by the NHBC (as evidenced by the attached Resolution report dated 30/9/2021). The said report concluded that the flatness of the floor fell within the allowable tolerances and no further action by the Home Builder was required".

The Home Builder states further that it provides a copy of the complaints procedure on its website, refers to it in the Home Information File and that it responded to the Home Buyer's complaints and acknowledged them appropriately.

### **Findings**

The adjudicator found that the Home Builder breached s. 5.1 of the Code.

### **Decision**

The claim succeeded (in part)



### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the stud wall at the end of the wardrobe in the bedroom did not accurately represent the design drawings shown at the reservation stage.

### **Defence**

The Home Builder said that they have not breached any section of the Code. The design drawing shows the presence of a stud wall or end panel to the end of the wardrobe but does not confirm what this will be constructed of. The Home Buyer received an end panel. Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders. However, to resolve the dispute, the Home Builder has offered to install a stud wall in the bedroom retrospectively and make good any areas that require attention.

### **Findings**

The Home Builder has breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder apologise, explain the error with the stud wall and install a stud wall in the bedroom retrospectively and make good any areas that require attention.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Sections 4.1 and 5.1 because he reported an issue concerning significant mould at the Property, and the Home Builder did not provide him with an adequate after-sales service neither did it properly deal with his complaint about mould. The presence of mould at the Property indicated that there was a defect in the construction of the Property.

## **Defence**

The Home Builder submitted that the presence of mould at the Property did not indicate a defect. It took reasonable steps to treat the mould in accordance with the information it provided in the documents it disclosed to the Home Buyer. The NHBC closed the Home Buyer's query regarding this issue because it was happy with how it was dealing with the matter. The kitchen facilities at the Property were usable, with the exception of one day when it offered to pay for the Home Buyer's food expenses. It refunded the cost of dehumidifiers to the Home Buyer, it offered to arrange alternative accommodation for the Home Buyer but the Home Buyer confirmed that he did not want to move out, it accepted that the mould issue in this case fell outside what was reasonable, it apologised to the Home Buyer and offered the Home Buyer compensation.

## **Findings**

The Adjudicator found that the claim that the Home Buyer's complaint that the mould issue amounted to a defect in the Property fell outside the scope of the Scheme and could not be adjudicated upon. There was no breach of Code Section 4.1 on the evidence. The correspondence between the parties showed that overall, the Home Builder's after-sales service was accessible and there was no indication of a failing in respect of the provision of contact and guarantees/warranties information.

However, the Home Builder breached Code Section 5.1, because it did not acknowledge the Home Buyer's email correspondence, it did not proactively communicate and update the Home Buyer on the resolution of the mould issue, and it did not respond to the Home Buyer's specific concerns about living in the Property when bleach was being used in the cleaning process.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £250.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submits that the Home Builder has breached the aforementioned sections of the Code as it caused delays to completion resulting in the Home Buyer missing the deadline to benefit from the stamp duty holiday; and that the cause of the delay was not a good enough reason for this. Additionally, the Home Buyer asserts that the Home Builder advertised a 5% deposit contribution to NHS staff members; however, this was not available in full. The Home Buyer asserts that the Home Builder misinformed her in relation to the cost of extras and that the neighbouring garage did not represent the plans provided. Finally, the Home Buyer submits that the Home Builder did not respond to her complaint letter.

## **Defence**

The Home Builder avers that the “anticipated completion at the point of reservation was within the Autumn 2021 timeframe and, as such, September was at the earlier end of that scale and could not be (and was not) promised” and that “the Home Builder never gave any guarantee that the Customer would save on stamp duty during the purchase process. Additionally, that it communicated all build changes with the Customer and explained that the delay was due to a shortage in bricklayers. This was outside the Home Builder's control and a valid reason for delay in line with Clause 11.2.1 of the Contract which allows for delays due to difficulties with "trades".

The Customer was also aware at all times that anticipated completion was in Autumn 2021. Therefore the Customer was given reliable and realistic information about when construction of the Property should be finished, the date of legal Completion and the date for handover of the Home.”

## **Findings**

The adjudicator found that while the Home Builder is not expected to provide technical information relating to the standards to which the Home is being built, the choices list was presented to the Home Buyer and therefore, the Home Builder does have a responsibility to ensure the accuracy of the information. Consequently, the Home Builder was found to be in breach of section 1.5 of the Code.

As a result of the breach of section 1.5 of the Code, the Home Builder was also found to have breached section 1.1 which requires compliance with the requirements of the Code.

## **Decision**

The claim succeeded. The Home Builder was ordered to apologise for the breaches of the Code.

### **Complaint**

- At the time of reservation, the Home Buyer understood that the kitchen would contain a fitted island unit and that the downstairs toilet would be half tiled. The Home Buyer states that the Home Builder has not addressed either of these two problems.
- Subsequently, the Home Buyer understood that the Home Builder would not tile the downstairs toilet and would not provide the island unit in the kitchen.
- Overall, the Home Buyer believes the Home Builder has not supplied the property according to the data and information it provided to him at the time of sale.
- The Home Buyer further asserts that the information provided at the time of Reservation did not permit him to make a fully informed decision as to whether to proceed to purchase.

### **Defence**

- The Home Builder denied it has breached any section of the Code.
- The Home Builder notes that the Home Buyer has not suffered any financial loss.
- The Home Builder says that at no time did it advise the Home Buyer the downstairs toilet would be tiled, and it notes that its offer to do the tiling at a reduced cost was rejected.
- The Home Builder acknowledges that the Home Buyer was given incorrect information at the time of reservation, and confirms that the island unit was not intended to be installed in the kitchen.
- The Home Builder states that the Home Buyer was aware prior to completion that the island unit would not be installed but proceeded to complete the purchase on this understanding.

### **Findings**

The Adjudicator found that the Home Buyer's claim succeeds in part, with the Home Builder being in breach of Section 1.5 of the Code. The Adjudicator is not persuaded that the evidence has established that the downstairs toilet was ever intended to be tiled by the Home Builder. However, the adjudicator found that it was reasonable for the Home Buyer to understand from pre-reservation information supplied to him that an island unit would be installed in the kitchen.

### **Decision**

The claim succeeds in part.

The Home Builder shall install an island unit in the kitchen of the property.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Section 3.2 because it advertised the Property with a completion window of May/June 2021, but it did not meet this completion date or provide him with reliable or realistic information regarding the timing of completion. The delayed completion cost him £9,750.00 because he missed the stamp duty holiday.

It breached Code Section 3.4 because it requested the payment of £2,406.92 for optional extras for the Property, but this payment should have been covered by the key workers' incentive on the Property.

It breached Code Section 5.1 because it did not handle his complaint properly, including failing to acknowledge his complaint within the specified timeframe set out in its own complaints procedure.

## **Defence**

The Home Builder denied the alleged breach of Code Sections 3.2, 3.4 and 5.1. It submitted that at the time of the reservation, the likely build completion window was identified as May/June 2021 but the construction was delayed due to the extensive works required to convert the Property into a residential property.

The Home Buyer was given a full explanation of the delays, and he was given the opportunity to reconsider his choice of optional extras and to cancel the reservation and receive a full refund.

## **Findings**

The Adjudicator found that the Home Builder breached Code Section 3.2, because the evidence did not show that it provided the Home Buyer with full details of the reasons why the construction and handover of the purchase of Property did not complete within the completion window of May/June 2021.

The Home Builder also breached Code Section 5.1 because it did not respond to specific questions the Home Buyer raised in his complaint.

However, the Home Builder did not breach Code Section 3.4, because the Reservation Checklist which he signed and agreed to stated that he would pay a 50% deposit towards the optional extras if contracts had not been exchanged.

In relation to the Home Buyer's claim for compensation, the breach of Code Section 3.2 did not lead to the conclusion that the Home Builder was liable to refund the Home Buyer's stamp duty costs. It was particularly relevant that the Home Buyer reserved the Property in the knowledge that stamp duty was payable, and there was no evidence of a contractual

agreement that the purchase must complete within the period when the stamp duty relief was in force. The breach of Code Section 3.2 justified a full refund of the reservation fee.

### **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology, refund the full reservation fee to the Home Buyer, and pay the Home Buyer £250.00 in compensation for inconvenience.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.2, 2.6, 3.2, 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits, in relation to Section 1.2, that the Home Builder did not provide them with a copy of the Code at reservation.

In relation to Section 2.6, the Home Buyer submits that the Home Builder cancelled the reservation, unilaterally, without notice and without returning the £2000.00 reservation fee - and then attempted to increase the purchase price by £15000. The Home Buyer acknowledges, however, that “after multiple emails and a very stressful time, the continued existence of [the] reservation was finally acknowledged”.

The Home Buyer further submits further, in relation to Section 3.2, that they were provided with only “sporadic newsletters with general updates but no concrete dates” from 2016 until January 2018 and then were advised “timescales were now Summer 2019 for the start of construction with completion in Summer 2020”. In Autumn 2019, however, the Home Buyer states that they were contacted by the sales agent - over the telephone - and were “pressured into selling [their] house” - specifically, the Home Buyer states that “it was advised that head office only wanted to take reservations from individuals who had sold their properties and strongly suggested [they] needed to sell to keep [the] reservation”....”This came with a promise that the property would be ready in March/April 2020”. The Home Builder states that they, therefore, subsequently sold their house in October 2019.

The Home Buyer states further, however, that the Home Builder then missed the March/April 2020 date (with no notice to help mitigate the change of date) and then missed a new promised date of August 2020. In the interim, the Home Buyer submits that they suffered financial loss and significant inconvenience as they had to rent a property up to completion and had to reduce the price of their house by £3500.00 given the issues and given the proposed extension to August 2020 (as their buyer had agreed to complete on 30 April 2020). The Home Buyer states further that their personal circumstances (they were 37 weeks pregnant) further aggravated the issues caused by the Home Builder.

In relation to Section 4.1 of the Code, the Home Buyer submits that they were provided with no information on after-sales service and as such, they commissioned a private snagging report which found over two hundred issues. Works - including to the external courtyard area - were ongoing, however, until July 2021, when, the Home Buyer submits, the works stopped as, they were advised, “the Developer had not paid the contractor who was installing the courtyard and who was due to install a bin store”. The Home Buyer submits, therefore, that they and their neighbours sourced quotes to complete the works to the courtyard and bin store area and they submit further that “these areas are not covered by our Home Warranty provider given they are external.”

In relation to Section 5.1, the Home Buyer further refers to a number of alleged customer service/complaint handling failures and states further that the issues have caused them

significant stress/inconvenience and financial cost - and that there was no complaints process and they spent a lot of time pursuing the issues with the Home Builder.

### **Defence**

The Home Builder has not provided a defence to dispute the claim.

### **Findings**

The adjudicator found that the Home Builder breached ss. 1.2, 3.2, 4.1 and 5.1 of the Code.

### **Decision**

The claim succeeded (in part).



## Complaint

The Home Buyer complains as follows: “1.5 - Sales and advertising - They advertise a "Dream home", "high quality home"; they show a show-house very beautiful and with very quality. The house delivered is very different with what is advertised, it was in very bad conditions with very bad quality. The show-house is semi-detached with the house we bought, we were expecting the same finishing quality that the show house. It is advertised that the house is LABC compliant but the house is not LABC compliant as it is possible to see in several photos and shown by the LABC report after to visit the house

2.1 - Pre-purchase information - The brochure plans illustrates the room 3 with 1.95m wide and in reality has 1.46m. This difference makes infeasible to fit there the furniture we had for that room and makes infeasible the use of that space as a room as planned. A list of the Home's contents was not provided. It was told us that our house would be the same as the show house with the exception of the decoration that was not included. The doors fridge were not included but the fridge cabinet yes. It was told us that the house would be with the same standards or better than the show house, and in accordance with the LABC rules. The house was in very bad conditions and not in accordance with the LABC rules (see LABC Report.pdf). Some items were missing and other (Fence) was changed for a worst after the Reservation agreement.

2.4 - Health and safety for visitors to developments under construction - For several times was solicited to visit the house before the completion date. Several excuses were given by the sales team and the visits did not happen before the completion date (before to transfer the money). It was discovered posteriorly that was agreed by the developer and the sales team that clients visits would not happen, but it was not that that was told us.

2.5 Pre-contract information - It was highly recommended to use a specific solicitor, we have used that one and when we tried to cancel the purchase that solicitor did not help us.

4.1 After-sales service - it is advertised that is included in the price house a “24h customer care for one year”, that service does not exist. There is not any 24h phone number. Several emails are not replied. After some interventions some walls got worse than it was before.

5.1 Complaints handling - The Home Builder does not have a system and procedures for receiving, handling, and resolving Home Buyers' service calls and complaints. From the completion day, we already show the problems to several construction managers that after some time left the company, letting several e-mails to reply.”

## Defence

The Home Builders did not submit a defence.

## Findings

The adjudicator was persuaded on a balance of probabilities, that the room was 0.5m smaller in width than that indicated in the brochure, resulting in a difference of 1.63m<sup>2</sup>. As a result, I find the Home Builder to be in breach of section 1.5 and 2.1 of the Code due to the accuracy of the marketing information provided to the Home Buyer.

Whilst it is not a requirement under this section of the Code for the Home Builder to provide a 24 hour care line, the Home Builder has not sought to provide any evidence to demonstrate that it provided any level of after-sale service to the Home Buyer; accessible or otherwise. As a result, I find the Home Builder to be in breach of section 4.1 of the Code.

In the absence of any evidence from the Home Builder to demonstrate that it rectified, considered or responded to the Home Buyer's complaint in relation to the snagging list, I do not find the Home Buyer to have dealt with the complaint within an appropriate time. Therefore, I find the Home Builder to be in breach of section 5.1 of the Code

## **Decision**

The claim succeeded.

The Home Builder was also directed to take practical action in addressing the defects and following the recommendations in the MD Report and Lively Report and to apologise to the Home Buyer.

### **Complaint**

The Home Buyer says that the standard of the Property did not reflect the Home Builder's marketing or sales information and once this issue was raised the Home Builder provided poor customer service.

### **Defence**

The Home Builder said that they have not breached any section of the Code. The marketing material and all information provided to the Home Buyer at reservation was clear and accurate, and inclusive of a disclaimer where necessary. The Property was completed, on time and in line with all communicated dates, despite the country entering a national lockdown.

### **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and pay £9,413.71 compensation to allow the Property to be brought up to an acceptable standard.

### **Complaint**

The Home Buyer submits that the garden to the Property has no drainage due to a debris filled clay base. As a result, the turf which has subsequently been laid is impossible to keep in an acceptable condition. The Home Buyer accepts that the Home Builder has investigated; however, disputes that no problem exists and therefore, asserts that the Home Builder has not resolved the complaint.

### **Defence**

The Home Builders denied liability, on the basis that it arranged for the garden to be inspected by the excavation of three trial pits which confirmed that the garden were installed in accordance with NHBC standards. The NHBC report confirmed that no action was required of the Home Builder in this regard.

### **Findings**

The adjudicator found that the Home Builder had provided an appropriate remedy to the Home Buyer's complaint.

### **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that rain water does not drain from the garden, rendering it unusable. The Home Buyer asserts that this was raised immediately after moving in, but he was told the ground and grass would “take some time to take”; however, the situation worsened with no subsequent response from the Home Builder. The Home Buyer accepts that the Home Builder did attend to assess the situation and undertook drilling works in attempts to alleviate the problem; however, this did not work.

## **Defence**

The Home Builder submits that while water does pool “after heavy rain at the base of the patio” it “does disperse allowing the garden to be useable during fair weather”. The Home Builder asserts that LABC have confirmed that this issue is not a defect and does not covered by the warranty.

## **Findings**

The adjudicator found that the Home Builder has not presented any evidence to demonstrate that the Home Buyer was provided with the relevant information prior to exchange before exchange, as required by the Code. Consequently, I find the Home Builder to be in breach of section 2.3 of the Code.

While telephone numbers were provided to the Home buyer in the context of section 4.1 of the Code, the adjudicator found that the requirement goes beyond the provision of contact details. It requires home builders to provide an “accessible after-care service and explain what the service includes”. In the absence of any comment or evidence from the Home Builder to demonstrate how this part of the requirement was complied with, I find the Home Builder to be in breach of Section 4.1 of the Code. Consequently, I direct the Home Builder to apologise to the Home Buyer for this breach.

It was also established that there is a drainage issue in the garden to the Property, which is in excess of the tolerance reasonably expected by a home buyer and I do consider this to constitute a snagging issue which falls to the Home Builder to rectify. As no appropriate remedy had been proposed, the Home Builder was found to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home builder was directed to apologise for the breaches of 2.3 and 4.1 of the Code and to pay £6000 for the completion of works following the breach of section 5.1.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 1.5, 2.1, 3.2 and 5.1 of the Code. Specifically, the Home Buyer submits that the Home Builder provided “inaccurate information” in relation to the completion date/handover date and that the Home Buyer incurred financial loss and inconvenience as a result.

Specifically, the Home Buyer submits that upon signing the reservation documents, they were advised, verbally, that the Property would “probably be ready in April” but “to be on the safe side”, the Reservation Agreement would state May 2021. Notwithstanding this, however, when the time came to exchange contracts (which, the Home Buyer states, they did as they were “receiving pressure” to do so), in February 2021, the contracts referred to a “Summer” completion date.

The Home Buyer submits further that they had no reason to think this was not commensurate with the May date in the reservation documents, however, despite assurances that the works were “on track”, the Home Buyer then became increasingly aware - following site visits - that the Property would not be ready by May 2021. When they attempted to raise the issue, however, the Home Buyer submits that they encountered “no set procedure” for complaints and that when the Home Builder did respond, it stated a completion date of August 2021.

The Home Buyer states that they then had to chase up their complaint on a number of occasions and that the Home Builder failed in its obligations under Section 5.1 in relation to complaint handling. As a result of the inaccurate information, the Home Buyer states that they lost out on a Stamp Duty reduction and incurred additional rental and moving costs. .

## **Defence**

The Home Builder’s position is that it disputes the claim. Specifically, whilst the Home Builder acknowledges that “there had been a misunderstanding regarding the estimated completion date when the purchaser reserved”, it submits that the May date was based “on the information available to the sales consultant at the time”.

The Home Builder submits further that the completion date of “Summer” 2021 was “further clarified to the purchaser’s solicitor prior to exchange of contracts on 18/02/2021 before the purchaser became contractually obligated to proceed with their purchase” and that the Summer 2021 (i.e. June/July/August) timeframe was communicated to and acknowledged by the Home Buyer’s solicitor.

The Home Builder further disputes that it breached the Code in relation to complaint handling and submits that it responded to the Home Buyer’s complaint in a timely manner and further to its complaints charter.

## **Findings**

The adjudicator found that the Home Builder breached s 5.1 of the Code.

### **Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyers raised a structural construction defect concern because the gradient in a section of their garden lawn was greater than expected. The Home Buyers submitted that they believed the overall 1/15 gradient as detailed in the plans meant that the garden would have an overall gradual gradient. However, this was not the case and they felt that the gradient in their garden is greater than that of their neighbours.

The Home Buyers felt that this issue amounted to a breach of sections 1.5 and 5.1 of the Code. Accordingly, the Home Buyers made a claim for the Home Builder to provide them with practical action to resolve their concern or pay them the money required to resolve the issue.

## **Defence**

The Home Builder did not accept that it had breached the Code. However, it submitted that it would be attending the development to carry out surveys so that the issue can be addressed.

## **Findings**

Following careful review of all the available submissions, the adjudicator detailed the actual requirements of sections 1.5 and 5.1 of the Code. It was made clear that the Home Buyers' complaint in relation to defective structural construction did not amount to a breach of sections 1.5 or 5.1 of the Code. It was also explained that the scheme was not the same as the NHBC warranty resolution service.

Furthermore, having regard for the actual requirements of sections 1.5 and 5.1, the adjudicator explained that the evidence provided did not show that the Home Builder had failed to meet its overall obligations. Consequently, although the adjudicator empathised with the Home Buyers' strong sense of frustration with their construction defect concerns, it was explained that no material breaches of the Code had occurred. The adjudicator confirmed that this outcome did not affect the Home Buyers' NHBC warranty rights.

## **Decision**

The Home Buyers' claim did not succeed.



### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the standard of the Property did not reflect the Home Builder's marketing or sales information, and once this issue was raised, the Home Builder provided poor customer service, all of which led to considerable disruption and stress.

### **Defence**

The Home Builder said that the marketing material and all information provided to the Home Buyer at reservation were clear and accurate. While the Home Builder could not offer the Home Buyer a plot visit before formal sign off by the NHBC, this is not something the Home Builder offered at the time and has only been recently introduced. Furthermore, the Property was completed within eight days of the estimated completion date. However, the Home Builder admits some failures in customer service when resolving the snagging issues. However, these delays were due to the COVID 19 Pandemic

### **Findings**

The Home Builder has breached clause 3.2 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder apologise and pay compensation of £50.00

## **Complaint**

The Home Buyer says that the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with a complaint that his boiler flue was venting towards his neighbour's property and his sewerage pipework ran underneath his neighbour's staircase.

## **Defence**

The Home Builder said that It accepts that its plumbing sub-contractor incorrectly routed the boiler flue. However, it has offered to reroute the boiler flue to vent at the front of the Property, which has been declined. Furthermore, whilst the sewerage pipe runs underneath his neighbour's footpath and staircase, this was always intended as set out in the drawings shown to the Home Buyer before and after reservation. The Home Buyer's contract specifically allows the Home Buyer access to maintain the sewer pipework, which runs underneath his neighbour's footpath and staircase.

## **Findings**

The Home Builder has not breached clause 4.1 or 5.1 of the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder's rectifying the outstanding issues with his property or providing a rescission of the property purchase agreement and a complete refund.

## **Complaint**

The Home Buyers submitted that the design of the shared driveway of the Property has created safety issues and inconvenience. The design has also limited the number of cars that can be parked on the drive, due to concerns regarding possible damage. Members of the public routinely use the driveway to turn around and for parking, particularly since construction of the play area across the road. Visibility problems raise safety concerns.

The company has not responded appropriately to their complaints, merely insisting that the driveway has been built in accordance with specifications. Their concern is with the real-world reality of the driveway. They argue that the Home Builder has breached Sections 1.5, 2.1 and 5.1 of the Code.

The Home Buyer sought that the Home Builder apologise, dissolve the shared drive and create three separate drives.

## **Defence**

The Home Builder submitted that the adjudicator cannot, and certainly should not, award the remedy requested even if a breach of the Code is found. The Home Buyers were accurately informed regarding the driveway prior to purchase, and the driveway has been built to specification. The Home Builder has responded appropriately to the Home Buyers' complaint. The Home Builder denies that it has breached the Code.

## **Findings**

The adjudicator found that the Home Builder breached Section 5.1 of the Code by failing to "deal with" the Home Buyers' complaint within an "appropriate time".

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to apologise to the Home Buyers for failing to fully investigate their complaint; coordinate with the Home Buyers to investigate fully the Home Buyers' complaint, including attending the Property at a time agreed with them to examine the matters about which they have complained, and to determine whether any remedy should be provided; and provide the Home Buyers with contact information for the management company that owns the area between the drive and footpath.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 1.5 because it exerted pressure on him to purchase [specific] flooring, and it breached Code Section 3.1 because it did not allow him to view the Property until he made a large financial commitment, and it breached Code Section.

It also breached Code Section 3.4 because it did not refund the full reservation fee to him and it ought to have returned the full reservation fee to him because he cancelled the reservation due to the risk posed by falling trees in the area.

Further, it did not inform him that the deposit he paid for flooring was non-refundable. No invoice, agreement or contract was produced or signed for at the time of the order for the flooring explaining his refund/cancellation rights.

## **Defence**

The Home Builder submitted that it was not liable to issue the Home Buyer with any further refund, because the terms of the reservation stated that 50% of the reservation fee was not refundable, and the terms regarding refunds and cancellations were explained at the reservation stage and in a finishing touches document it sent to the Home Buyer subsequently.

## **Findings**

The Adjudicator found that the Home Builder did not breach Code Section 1.5 because the correspondence did not show that it exerted pressure on the Home Buyer. The Adjudicator considered the claim for a refund of the reservation fee under Code Section 2.6, and found that the Home Builder did not breach Code Section 2.6 because there was no evidence that at the reservation/pre-purchase stage, the Home Builder withheld information regarding the location of the Property and the vegetation around the Property.

However, the Home Builder breached Code Section 3.1 because the evidence did not show that it provided the Home Buyer with the full terms and conditions relevant to the flooring order. It also breached Code Section 3.4 because it did not fully explain to the Home Buyer how it would deal with the refund of the deposit the Home Buyer paid towards flooring tiles and it did not fully explain why it considered that it was entitled to retain the deposit.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £3,462.00 (comprising a refund of £3,062.00 and £250.00 in respect of flooring costs and flooring tiles respectively, and £150.00 for inconvenience.)

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 1.5 and 2.1 because the advertisement for the Property stated that the Property would have a garage and two parking spaces, however he discovered two days before the moving in date that the Property did not have two parking spaces.

The Home Builder breached Code Sections 4.1 and 5.1 because of its handling of the matter regarding the issue with the parking space, including delaying to register the land with the Land Registry, and failing to respond to his correspondence.

## **Defence**

The Home Builder did not accept that it misled the Home Buyer in relation to the available parking space at the Property, but as a goodwill gesture it agreed to purchase some additional land so that additional parking could be provided for the Home Buyer. The estate layout needed to be amended as a result of the agreement and registered with the Land Registry, and planning agreements with the Local Authority needed to be amended. There were delays in implementing the agreement due to the involvement of third parties and works the Home Buyer carried out. There were also gaps in its communication with the Home Buyer due to external third-party influences.

## **Findings**

The Adjudicator found that the Home Builder breached Code Section 1.5 because the sales and advertising materials were unclear as to the available parking at the Property. The Home Builder's agreement to provide additional parking for the Home Buyer was a reasonable remedy for this breach in the circumstances.

The Home Builder also breached Code Section 5.1 because there was a delay in its communication with the Home Buyer regarding the works the Home Buyer carried out which it considered prevented it from progressing the agreement. This contributed to the delay in the resolution of the Home Buyer's complaint.

## **Decision**

T

he claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £350.00 in compensation for inconvenience, and make reasonable endeavours to ensure that it implements its agreement to provide additional parking space for the Home Buyer, including - from the date of the Home Buyer's acceptance of this decision - providing the Home Buyer with updates every three weeks (at the minimum) on the progress of the works to provide additional parking.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Sections 2.1, 2.2, and 2.6 because the reservation form was the only paperwork it provided him with in relation to the Property and it did not provide him with any assurance as to when the construction would commence and complete.

It breached Code Section 5.1 because it did not provide him with any information regarding Code Section 5.1 or the other information required under the Code.

## **Defence**

The Home Builder submitted that the reservation fee was non-refundable, it provided the Home Buyer with the details of the Property via his solicitors, it provided the Home Buyer with information regarding the fittings for the Property, and the Property would have been available within the legal timescales.

## **Findings**

The Adjudicator found that the Home Builder breached Code Sections 2.1, 2.2 and 2.6 because the evidence did not show that it provided the Home Buyer with sufficient information regarding the likely duration of the Reservation and the purchase to enable the Home Buyer make an informed purchasing decision or that it provided the Home Buyer with contact information and information about the Code Scheme.

In circumstances where the reservation form did not contain the complete information required under Code Section 2.6 and sufficient information to enable the Home Buyer make an informed purchasing decision, the term in the reservation form that the reservation fee was non-refundable was tantamount to an unfair contractual term and the Home Builder was precluded from enforcing the term.

The Home Builder breached Code Section 5.1 because the evidence did not show that it provided the Home Buyer with information about its complaints procedure and the Code Scheme.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology, refund the full reservation fee of £1,000.00 and pay the Home Buyer £250.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submits that the Home Builder has not provided the aftercare expected, as it has failed to rectify various snagging issues identified at the Property, despite numerous requests from the Home Buyer to do so. The Home Buyer requests that the Home Builder rectify the issues identified at the Property.

The Home Buyer submits that a “significant part of the garden was not to plan” with a large mound of excess soil present, which was different to the plan and therefore misleading and inaccurate information was provided at, and prior to, reservation.

The Home Buyer asserts that the land along the rear of the Property is above the damp proof course (DPC) and is therefore not compliant with Building Regulations.

## **Defence**

The Home Builder submits that the Home Buyer has not submitted sufficient evidence to demonstrate a breach of the Code.

## **Findings**

The adjudicator found that the complaint involving the snagging issues nor the complaint on the DPC and ground level had not been dealt with by the Home Builder and therefore, the Builder was found to be in breach of section 5.1.

Additionally, the adjudicator found that information on the gradient had been omitted where there was a reasonable expectation for its provision and that the garden differed to that marketed. As a result, the Builder was found to be in breach of section 1.5.

The home builder was found to be in breach of 2.1 of the Code as the plan did not reliably illustrate the property gradient provided.

## **Decision**

The claim succeeded. The Home Builder was directed to completed the outstanding snagging issues and to appoint a third party to investigate the DPC line as a result of the breach of 5.1.

The Home builder was directed to rectify the gradient discrepancy in the garden and bring it in line with the plan.

### **Complaint**

The Home Buyer says that the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with a complaint with the sills and lintels of the property, the aerial socket and the mounds of soil from behind the property's garden from elsewhere on the site.

### **Defence**

The Home Builder did not provide a defence

### **Findings**

The Home Builder has breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder pay the Home Buyer the sum of £400.00.



## **Complaint**

The Home Buyer says the heating system installed in the apartment is not fit for purpose. The Home Buyer contends that the Home Builder mis-sold her the property by stating that the heating was cost effective and fuel efficient.

The Home Buyer contends that the Home Builder has mis-sold the apartment, as many promised features have either been omitted or replaced with lesser quality items.

The Home Buyer says the Home Builder has not adequately addressed the items on the snagging lists she has produced, and was late in providing evidence of the home warranty.

The Home Buyer says the conduct of the Home Builder changed when she completed the purchase of her apartment.

## **Defence**

The Home Builder says it undertook a thorough investigation of the heating system after the Home Buyer complained and it liaised with the manufacturer of the heating system and following its recommendations it proposed to fit an additional 1.5kw heater in the Home Buyer's apartment.

The Home Builder disputes the Home Buyer's claim that it has mis-sold her the apartment. The Home Builder says that the apartment is fitted out in complete accordance with the show apartments that the Home Buyer visited on at least three occasions

The Home Builder says that it rejects the Home Buyer's claims regarding its attention to the snagging items she has identified at her apartment

The Home Builder acknowledges that the Home Warranty was not made immediately available to the Home Buyer, but notes that its ten-year validity will commence from the date she received it. The Home Builder refutes the Home Buyer's complaints about its conduct

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed.

The Adjudicator did not accept that the evidence supported that the Home Builder was in breach of all Sections of the Code as claimed by the Home Buyer. The Adjudicator found the Home Builder was in breach of Sections 1.2, 2.1, and 4.1 of the Code. The Adjudicator found that the evidence did not support that the breaches of these three Sections caused any direct financial loss to the Home Buyer. The Adjudicator did not find that the evidence supported the Home Buyer's claim for financial compensation.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, in relation to Section 4.1, the Home Buyer submits that the Home Buyer failed to “take responsibility for after-sales matters related to cold spots, reported within two years” and that the Home Buyer had to subsequently “put in a lot of effort over the [next] 7.75 years” to “eventually get [the Home Builder’s] agreement to diagnose and resolve the problems”.

The Home Buyer submits further that they incurred costs and “consequential losses” as a result. In relation to Section 5.1, the Home Buyer states that the Home Builder failed to deal with complaints “within an appropriate time” and failed to deal with the Home Buyer’s complaints in relation to the cold spots issue.

The Home Buyer submits further that some of the issues still remain outstanding and that the Home Builder has failed to act in accordance with its own complaints procedure.

## **Defence**

The Home Builder’s position is that it disputes breaching the Code. Specifically, the Home Builder submits the claims relating to defects or outstanding works covered under the warranty are beyond the scope of the Code and that - in any event - the Home Buyer was obliged to report any issues within two years. Following the involvement of the NHBC, the Home Builder states that it undertook works to address the insulation issues in July 2021, however, it acknowledges that “delays in completing the works were inevitable during 2020/2021 due to the pandemic”.

The Home Builder accepts further that it has not undertaken a thermal imaging report, however, it submits that it is not obliged to do so and that it has provided a Completion Report.

The Home Builder comments further that it paid the Home Buyer £3220.00 for alternative accommodation whilst the works were carried out (whilst further noting that the Home Buyer retained approximately £732.00 for periods not used) and it denies that there are any outstanding issues.

The Home Builder states further that some of the issues referred to by the Home Buyer were adjudicated on previously in a separate claim and the Home Builder submits that it has already offered compensation for some of the issues alleged in excess of what it believes the Home Buyer is entitled to.

The Home Builder states further that - in any event - the Home Buyer’s claim for stress/inconvenience is limited to £250.00 as a previous version of the Code applies given the date the Property was purchased.

**Findings**

The adjudicator found that the Home Builder breached s 5.1 of the Code.

**Decision**

The claim succeeded (in part).

## Complaint

The Home Buyer lists a number of outstanding issues, including, for example, with the cladding, the kitchen, the appliances, the glazing, the decor, the fixtures/fittings and the bathroom. Whilst the Home Buyer acknowledges that some issues were resolved (e.g. the fixings to the patio doors), the Home Buyer submits that the majority of the issues listed in their complaint letter of 2 February 2021 remain unresolved, despite the assurances/promises of a Managing Director of the Home Builder and despite the involvement of the NHBC.

The Home Buyer states further that they have been overcharged for a worktop choice (£202.00) and in relation to a “client’s choice that we decided not to proceed with”. The Home Buyer states further that they experienced issues with the after-sales service (including revocation of assurances/backtracking on promises made), issues with subcontractors (including damage caused to the Property) and poor complaint handling.

## Defence

The Home Builder’s position is that it disputes breaching the Code. Specifically, in relation to the cladding issues, the Home Builder submits that “this matter has now been resolved by way of a NHBC Rule 27 notice and as such we do not intend to comment any further on this issue”.

In relation to the handover and other issues, the Home Builder submits that the Home Buyer was aware that a number of issues were outstanding upon their moving in, however, the Home Builder submits that they encountered delays caused by the Covid-19 pandemic, the Home Buyer’s approach and the Home Buyer’s wife’s diabetes (which meant that on occasion, contractors could not attend as the Property was not empty).

In relation to the kitchen subcontractors, whilst the Home Builder denies any specific breaches, it submits that “we do take reports of poor customer service by subcontractors seriously and have spoken to the company regarding the allegation”.

In relation to the electric subcontractors, however, the Home Builder acknowledges that “there were issues regarding the service provided by our subcontractor [name] however every effort was made to address these issues as they arose” and whilst the Home Builder acknowledges that the Home Buyer may have incurred costs as a result, it invites the Home Buyer to provide evidence in support (e.g. invoices) so that the claim can be considered.

In relation to the alleged overcharged items, however, the Home Builder submits that whilst offers were made, on the basis that the Home Buyer carried out the works themselves and kept/utilised the parts, the Home Builder submits that the Home Buyer’s unilateral “decision to dispose of the units cost the company an additional £674. Rather than get into a dispute regarding this sum, we took the view that we would instead withdraw the offer of reimbursement of the sink and kitchen worktop but also write off our additional costs. If the customers remain dissatisfied with this approach we would propose instead reimbursing the £285 and invoicing them the cost of the units”.

**Findings**

The adjudicator found that the Home Builder breached ss 4.1 and 5.1 of the Code.

**Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyer submits that it was noticed, soon after completion, that the electricity consumption at the Property was very high. Separately, a drainage company attended on a related matter and discovered the drain was full and while the pumps were running, the system was not discharging and the high water alarm failed to sound.

The Home Buyer accepts that the Home Builder agreed to resolve the problem and a new pump was installed and the driveway lifted to install access chambers which solved the energy consumption issue.

The Home Buyer highlights two issues which he alleges are unresolved. The first is the issue of the leaking sewage tank under the drive, which “still has ground water running in to it”. The Home Buyer asserts that the drainage company investigated and advised that the tank needs sealing from the outside, which would mean lifting part of the block paved driveway to access the defective part of the tank.

## **Defence**

The Home Builder submits that the Home Buyer has exaggerated complaints, all of which have been attended to.

## **Findings**

The adjudicator found that while the Home Builder has engaged with the Home Buyer, by failing to resolve the issues, it has not demonstrated that it provided an appropriate remedy to the Home Buyer’s complaint and has therefore not “dealt with” the complaint, as per the requirement in the Code. I therefore find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. Home Builder is to commission an independent third party drain specialist, to survey the drainage system at the Property and provide their findings to the parties.

Furthermore, the Home Builder is to undertake any recommendations made by the appointed drainage specialist in relation to the two issues forming the Home Buyer’s complaint; specifically, the leaking sewage tank under the drive and the intermittent sewage gas smells that come from both the downstairs cloakroom toilet and downstairs ensuite.

## **Complaint**

The Home Buyers stated that the drainage at the rear of the Property is inadequate which resulted in flooding at the rear garden and subsidence to the Property. They reported the matter to the Home Builder, but it did not resolve this issue at the Property.

## **Defence**

The Home Builder submitted that the reported drainage issue is not a defect and has arisen as a result of extensive works the Buyers carried out at the Property.

## **Findings**

The Adjudicator found that the claim concerning inadequate drainage at the Property fell outside the scope of the Scheme and could not be adjudicated upon. In relation to the Home Builder's handling of the Home Buyers' complaint, the Home Builder did not breach Code Section 5.1 as the available evidence indicated that the Home Builder responded to the Home Buyers' complaint, and it set out its position in respect of the complaint such that the Home Buyers could understand its position.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer experienced a structural construction defect concern because the gradient in a section of their garden lawn was greater than expected. The Home Buyer believed the overall 1/12 gradient as detailed in the plans meant that the garden would have an overall gradual gradient. However, they felt that the gradient in their garden is greater than that of their neighbours.

The Home Buyer also highlighted a construction defect snag in relation to a gap in their boundary wall. Therefore, the Home Buyer felt that these issues amounted to a breach of sections 1.5 and 5.1 of the Code. Consequently, the Home Buyer made a claim for the Home Builder to provide them with practical action to resolve their concerns or pay them the money required to resolve the issues.

## **Defence**

The Home Builder did not accept that it had breached the Code. However, it submitted that it would be attending the development to carry out surveys so that the issue can be addressed.

## **Findings**

After close examination of all the evidence provided, the adjudicator provided an explanation of the actual requirements of sections 1.5 and 5.1 of the Code. It was made clear that the Home Buyer's complaints in relation to defective structural construction did not amount to a breach of sections 1.5 or 5.1 of the Code. It was also explained that the scheme was not the same as the NHBC warranty resolution service.

Moreover, having regard for the actual requirements of sections 1.5 and 5.1, the adjudicator explained that the evidence provided did not show that the Home Builder had failed to meet its overall obligations.

Consequently, although the adjudicator empathised with the Home Buyer's strong sense of frustration with their construction defect concerns, it was explained that no material breaches of the Code had occurred. The adjudicator confirmed that this outcome did not affect the right of the Home Buyer to seek redress through other appropriate forums.

## **Decision**

The Home Buyer's claim did not succeed.



## **Complaint**

The Home Buyer indicated that he experienced various snagging/construction defect related issues with their Property (specifically, defects with windows and doors). Based on the submissions provided, the Home Buyer appeared to suggest that the Home Builder had breached section 4.1 of the Code as a result of this matter. Accordingly, the Home Buyer was seeking for the Home Builder to provide an apology, resolve all snagging/construction concerns to his satisfaction and pay compensation in the sum of £8000.00 (in particular, the Home Buyer submitted that they were seeking a £2000.00 payment for extreme stress).

## **Defence**

The Home Builder submitted that it was compliant with the actual requirements of the Code. Furthermore, it indicated that the Home Buyer's issues (which point to a section 4.1 Code breach allegation) do not amount to breaches of the Code but are construction defect issues under the NHBC warranty (which should be referred to the NHBC warranty resolution service and not this scheme). Therefore, the Home Builder did not accept it has breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

Following careful review of all the evidence provided, the adjudicator set out the actual requirements of section 4.1 of the Code (namely, the requirement for the Home Builder to provide an accessible after-sale service). It was explained that the Home Buyer's concerns regarding snagging and defective structural construction did not amount to a breach of the requirements of section 4.1 of the Code.

Furthermore, it was made clear that this scheme was not the same as the NHBC warranty resolution service for snagging/construction complaints. It was also explained that the Home Buyer's claim for £2000.00 in stress compensation could not be considered because the Code expressly states "The Home Buyer may not receive an award for emotional upset and stress as awards will be judged as a matter of fact and on the resulting financial loss".

Having regard for the actual requirements of section 4.1, the adjudicator explained that the evidence provided did not show that the Home Builder had failed to meet its overall obligations. Subsequently, whilst the adjudicator empathised with the Home Buyer's strong sense of frustration with their snagging/construction defect concerns, it was made clear that no material breaches of the Code had occurred.

## **Decision**

The Home Buyer's claim did not succeed.

### **Complaint**

The Home Buyer says that the Home Builder breached the Code by failing to provide a correct sized and level garden, good customer and after-sales service when dealing with the complaint with the property's garden.

### **Defence**

The Home Builder's position is that it has not breached any section of the Code. There was no agreement before the exchange of contracts to have the garden levelled. Furthermore, the property's boundaries are as set out within the contract, with the reason for the fence being situated within the boundary rather than on it is that the fence would otherwise interfere with the adjacent landowner's tree roots. Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable time period.

### **Findings**

The Home Builder has breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder pay the Home Buyer the sum of £150.00.

## **Complaint**

The Home Buyer submits that due to the presence of a parking bay in front of the driveway, there is not enough space to turn out of the driveway without mounting the kerb. As a result, the Home Buyer asserts that the driveway is not fit for purpose and the Home Builder's failure to resolve the issue is a breach of sections 4.1 and 5.1 of the Code.

## **Defence**

The Home Builder submits that the Home Buyer purchased the Property as seen and therefore there has not been any breach of sections 4.1 and 5.1 of the Code.

## **Findings**

The adjudicator found that in the photographs submitted by the Home Buyer, it is clear that the Home Buyer's car, when parked on the driveway, cannot exit to the left onto the road when the space directly in front is occupied. While both parties seek to rely on either the inclusion or omission of the "sold as seen" annotation, this would not override the obligation for the Home Builder to design the driveway in a way that allowed it to be used as intended.

As a result, I do not find that the driveway is fit for purpose as it cannot be used when the bay opposite is occupied.

Therefore, I do not find the Home Builder to have dealt with the Home Buyer's complaint as no appropriate remedy has been proposed. Consequently, I find the Home Builder to be in breach of Section 5.1 of the Code

## **Decision**

The claim succeeded. While the Home Buyer has not submitted any evidence to demonstrate costs, in the form of a quotation for the proposed works, I find the Home Buyer to be entitled to a functional driveway and therefore, I direct the Home Builder to complete works, subject to the relevant planning consents, which will enable the Home Buyer's vehicle to exit the driveway without having to mount the kerb.

This does not mean the Home Builder is obliged to carry out the full works detailed by the Home Buyer, but to make the necessary changes to facilitate the intended use and exit of the driveway.

## **Complaint**

- After purchasing the house, the Home Buyer identified that the bedroom above the garage at the property was considerably colder than any other room in the house.
- The Home Buyer says that because of the lack of full insulation his energy bills have risen from £120.00 to £200.00 per month.
- The Home Builder subsequently installed additional insulation but not in the areas recommended in a thermal imaging report.
- Following further complaints, the Home Builder advised him that it believed it had taken all necessary measures and that it did not agree with all of the recommendations contained in the report.
- The Home Buyer says the Home Builder has refused to implement all the recommendations in the report.

## **Defence**

- The Home Builder confirms that the Home Buyer's property has been constructed in compliance with the building regulations and energy performance and air test certificates have been issued.
- The heating design for the Home Buyer's house type was undertaken by a specialist heating contractor and the Home Builder confirms that the radiator specified for the bedroom above the garage has been correctly installed.
- The Home Builder organised a thermal imaging report to be prepared by a third-party independent company. The report was submitted to the Home Builder and two further actions were undertaken and it confirms that insulation is correct in all areas, including those identified by the report.
- The Home Builder believes no further action is required.
- The Home Builder denies that it is in breach of the Code.

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed, with the Home Builder not being in breach of any Section of the Code. The Adjudicator is not persuaded that the evidence has established on a balance of probabilities that the Home Builder misled the Home Buyer before purchase or that the heating system has not been installed according to the applicable design and specifications. The Home Buyer does not submit any evidence to show that the system was incorrectly installed and is not in compliance with the intentions of the Home Builder at the time of Reservation. The Adjudicator found additionally that the evidence did not support that the Home Builder should take any further action.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer's claim is that the Home Builder has breached a requirement of the Consumer Code for Home Builders ("the Code") at Sections 1.5, 2.1 and 3.2.

## **Defence**

The Home Builder's position is that it denies liability for the claim and / or that it denies the alleged breaches of the Code.

## **Findings**

The Adjudicator found that find that resultant to the error in the Reservation Form, the Home Builder has indeed breached a requirement of Section 1.5 of the Code, by providing incorrect sales and advertising information to the Home Buyer.

The Adjudicator was, however, unable to find that the Home Builder has breached a requirement of Section 2.1 of the Code in relation to pre-purchase information nor that that the Home Builder has breached a requirement of Section 3.2 of the Code.

## **Decision**

The claim succeeded in part. Given that the Adjudicator found that the Home Builder has breached a requirement of Section 1.5 of the Code, the Adjudicator found that that it would be reasonable for the Home Builder to provide the Home Buyer with compensation in the amount of £500.00 for the inconvenience caused as a result of this breach.

## **Complaint**

The Home Buyer's claim is that the Home Builder has breached the Consumer Code for Home Builders ("the Code") at Sections 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.4, 2.6, and 3.1.

## **Defence**

The Home Builder's position is that it denies liability for the claim and / or that it denies the alleged breaches of the Code.

## **Findings**

The Adjudicator found that the Home Builder has breached a requirement of the Code at Section 1.5 Sales and Advertising and a requirement of the Code at Section 2.1 Pre-purchase Information.

## **Decision**

The claim succeeded in part. The Adjudicator found that the Home Builder has breached a requirement of the Code at Section 1.5 Sales and Advertising and a requirement of the Code at Section 2.1 Pre-purchase Information and that as a result it would be reasonable for the Home Builder to provide the Home Buyer with compensation in the amount of £500.00 for the inconvenience caused as a result of these breaches.

## **Complaint**

The Home Buyer submitted that she experienced various snagging/construction defect related issues with the Property (such as with defective windows, mortar work and floorboard construction). The Home Buyer indicated that she has already gone through the NHBC resolution process but her construction defect/snagging concerns have not yet been fully resolved.

Therefore, the Home Buyer referred her unresolved snagging/construction defect related issues to the scheme citing sections 4.1 and 5.1 of the Code. The Home Buyer was seeking for the Home Builder to provide an apology, resolve all her snagging/construction concerns and pay compensation in the sum of £248.00.

## **Defence**

The Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed. The Home Builder highlighted that the Home Buyer's issues have already been through the appropriate NHBC resolution process but they were not fully satisfied with the outcome of that process, so she applied to this scheme.

## **Findings**

At the outset, the adjudicator acknowledged and examined the submissions from the respective parties. The adjudicator proceeded to detail the actual requirements of sections 4.1 and 5.1 of the Code (which outline the Home Builder's obligations to have accessible/set aftersales and complaint handling services). It was explained that the Home Buyer's specific complaints about defective structural construction/snagging did not amount to a breach of sections 4.1 or 5.1 of the Code.

It was also made clear that the scheme was not the same as the NHBC warranty resolution service and could not be used as an appeal process for matters falling under that service. Furthermore, it was explained to the Home Buyer that conducting a mediation to resolve her snagging/construction complaints (as requested) was not a process that exists under the CCHBIDRS.

Therefore, whilst the adjudicator acknowledged the Home Buyer's displeasure with their snagging/construction defect concerns, it was explained that no material breaches of the Code had taken place based on the evidence put forward for adjudication.

## **Decision**

The Home Buyer's claim did not succeed.

## Complaint

- The Home Buyer says that since taking possession he has identified several serious issues with the property, viz :-
  - Ten year new-build warranty provided for less than ten years
  - Home Builder's refusal to install power to car port
  - Broadband and power services located on the property
  - Issues with the timber frame construction of the property
  - Issues with landscaping to the property
  - Outstanding defects
- In addition to the major problems individually identified the Home Buyer has an ongoing list of defects that still await rectification by the Home Builder.
- The Home Buyer contends that the Home Builder has not responded adequately to his numerous complaints.

## Defence

- The Home Builder says the two-year warranty period commenced when it took receipt of the completed house from the building contractor.
- The Home Builder states that the Home Buyer was aware that the property had been handed over to it when he completed the purchase procedure.
- The Home Builder says it cannot respond to all the Home Buyer's claims to the CCHB Scheme because certain of them were never brought to its attention before.

## Findings

The Adjudicator found that the Home Buyer's claim succeeds in part. The Adjudicator noted that the Home Builder did not dispute that it was in breach of all the Sections of the Code identified by the Home Buyer.

The Adjudicator found that the evidence did support that the two-year Warranty should commence as from when the Home Buyer took possession of the property and not commence as from when the Home Builder received the completed house from its contractor. The Adjudicator identified that the Warranty period expires on 28 January 2023, and the Home Builder has to the expiry of the warranty period in 2023 to remedy any defects reasonably identified by the Home Buyer. The Adjudicator identified that the Home Buyer did not claim for financial compensation.

## Decision

The claim succeeds in part. The Home Builder is directed to implement the full two-year Defects Liability Period commencing as from 29 January 2021.



## **Complaint**

The Home Buyer submits that there is a boundary issue at the Property as the Home Builder did not lay the driveway boundary in line with the TP1.

The Home Buyer submits that the driveway was to be large enough to accommodate five cars. However, that this was not the case and the driveway would not stand up to local authority planning consent.

The Home Buyer asserts that when the specification was received confirmed “double garage and five car parking spaces” and did not indicate that two spaces would be within the garage. The Home Buyer asserts that the issue diminishes the value of the Property.

## **Defence**

The Home Builder avers that the Property can accommodate five car parking spaces. The Home Builder submits a plan which is the same document submitted by the Home Buyer entitled Schematic above, which shows five cars parked on the driveway. The Home Builder adds that the reference to five spaces included two cars parked within garages.

## **Findings**

The adjudicator was persuaded that while five cars could be parked, with the use of the garage, the Key Features/Included Specification document uses a description which suggests, by use of the words “additional parking spaces”, that the driveway parking would be supplementary to the garage parking.

While the Home Builder avers that five cars can be parked on the driveway, the correspondence from the Council suggests that this is not the case. Consequently, it was found that the information provided to the Home Buyer was misleading and therefore, that the Home Builder was in breach of section 1.5 of the Code. The boundary issue was found to be out of scope.

## **Decision**

The claim succeeded; however, due the scope of the Code, the only remedy available in relation to this issue under the scheme rules, was an apology, which was ordered.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Section 2.1 because it ought to have informed him that a commercial unit adjoined to the Property (the unit) was to be used as a machine room. The Home Buyer stated that by the time the purchase of the Property completed, the doors of the unit had been specially designed to cater for the use of heavy machinery inside the unit and the Home Builder would have been aware of the intended use of the unit.

## **Defence**

The Home Builder submitted that it was unaware of the end use of the unit at the time of the purchase and after the purchase completed, a third party had gained planning consent for a store which included the provision of machinery in the unit. The price of the Property was also reduced to reflect the proximity to the unit.

## **Findings**

The Adjudicator found that there was no evidence to suggest that the Home Builder had withheld information regarding the location and use of the unit and the Home Builder had provided the Home Buyer with sufficient information about the use of the unit to enable the Home Buyer carry out his own due diligence before purchasing the Property. In particular, the plan for the site clearly described the area where the unit was located as a commercial unit and the reference to use of the unit for commercial purposes was sufficient information to enable the Home Buyer raise further enquiries.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyers stated that the Home Builder breached Code Section 5.1 because it did not construct a boundary wall at the Property in line with the deeds for the Property and it has not reinstated the boundary wall in line with the agreement between them, the Home Builder and a neighbour.

## **Defence**

The Home Builder accepted that the original boundary wall at the Property had not been constructed in accordance with the plan for the Property. A joint visit between it, its contractor and the neighbour was arranged and the remedial works to the wall was agreed by all parties.

It carried out further works at the Property as compensation to the Home Buyers and it was happy to reimburse a surveyor's bill of £216.00 the Home Buyers incurred. It is not responsible for carrying out enforcement action on behalf of any homeowner.

## **Findings**

The Adjudicator considered that Code Section 3.1 was relevant to the complaint. The Adjudicator found that the issues regarding the remedial works to the boundary wall concerned a collective agreement with a neighbour, and these issues including the claim for enforcement action fell outside the scope of the Scheme.

The Home Builder had admitted that it did not construct the original wall in line with the plan for the Property and this alteration to the contract without prior consultation with the Home Buyers amounted to a breach of Code Section 3.1. The available correspondence showed that the Home Builder had carried out reasonable steps to resolve the issue regarding the original boundary wall, and there was no evidence of a breach of Code Section 5.1.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £250.00 compensation for inconvenience and reimburse to the Home Buyers, £216.00 in costs incurred.

## **Complaint**

The Home Buyer submits that the Home Builder did not inform him that he would not be able to continue using his existing broadband and that he would have to use another, which had been unavailable until 24 December 2021, resulting in a breach of sections 1.5 and 2.1.

The Home Buyer asserts that the Home Builder has breached section 4.1 of the Code as staff at the Home Builder started by “saying all the right things, and promising to resolve issues, but ultimately letting us down”.

The Home Buyer submits that the complaints process has “failed completely” as promises of goodwill gestures have not materialized and there has been “nothing by way of compensation”.

## **Defence**

The Home Builders denied liability, on the basis that it provided accurate information to the Home Buyer and has either completed, or is in the process of completing, the snagging issues identified.

## **Findings**

The adjudicator found that while the Home Builder has resolved some snagging issued, it has not demonstrated that it has provided an appropriate remedy to the issues raised and therefore has not dealt with the complaint to date. I therefore find the Home Builder to be in breach of section 5.1 of the Code and I direct the Home Builder to complete the outstanding snagging issues identified.

## **Decision**

The claim succeeded. The Home Builder was directed to complete the outstanding snagging issues identified.

## **Complaint**

The Home Buyer submits that the reservation form was signed by the Home Builder and not adhered to with every indication that exchange could happen after the survey was completed.

The Home buyer adds that it was the price increase and lack of transparency in relation to the deposit that caused the sale to fall through. Additionally, that the Builder retained an unreasonable amount of the reservation fee.

## **Defence**

The Home Builder submits that the Home Buyer did not exchange within the reservation period and that the fee retained had been incurred.

## **Findings**

As the initial and extended periods of reservation had expired, it was found that the seven day time limit, imposed on 23 February 2022, constituted a final extension to the period and not an action amounting to a high pressure selling technique.

The Home Buyer signed in agreement to the exchange period at reservation and any subsequent extension would be with the agreement of both parties and at the Home Builder's discretion. As a result, no breach of section 1.5 of the Code was found.

Additionally, the Home Builder submitted a copy of the solicitor's invoice and a breakdown of time spent on the sale, while it was agreed. As a result, it was found that the amount retained was genuinely incurred and reasonable.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer complained that he was not given various documents and warranties on handover or told how to make a complaint. Moreover, when he did so, he raised various matters (set out) which the Home Builder agreed to do but did not do so. Additionally, the Home Builder refused to consider his complaint about settlement cracks on the basis that it did not have to deal with these. The Home Buyer complained that the Home Builder was not taking action for a discriminatory reason.

## **Defence**

The Home Builder submitted that it provided documents and the Home Buyer was talked through how to complain. It is also willing to address the snagging complaints but not settlement cracks.

## **Findings**

The adjudicator found that the Home Builder had not provided documentation on handover and had not given information to the Home Buyer in writing as to how to raise a complaint and as to the Home Builder's complaints handling process. This was a breach of section 4.1 and 5.1 of the Code.

As the Home Builder had agreed to do certain work but then not done it, this was a further breach of section 5.1 of the Code. In respect of the settlement cracks, the Home Builder had argued that this was not snagging whereas large cracks can be: the Home Builder had not paid attention to this difference and had therefore not addressed the Home Buyer's complaint.

The Home Builder was required to address large cracks. There was no evidence that the Home Builder had behaved towards the Home Buyer in a discriminatory way and no reason to believe that it would not carry out the remedial works to a good standard in consequence of racial discrimination.

## **Decision**

The claim succeeded. Directions were given to the Home Builder that it should:

- a. Undertake the remedial actions referred to [in the decision] to a good and workmanlike standard. Alternatively, if the Home Builder indicates that it wishes not to carry out the work referred to in paragraph 8.y, it shall pay £5,000.00 to the Home Buyer so that he can undertake the work.

and

- b. Pay compensation to the Home Buyer of £500.00 for inconvenience.

## **Complaint**

The Home Buyer complained that snagging issues had been raised but the Home Builder had not been addressing these. the kitchen needs refitting, the floors need to be re-laid, the staircase needs repair and the brickwork outside needs replacing. She has added that in a recent visit by the Home Builder to carry out work to the stairs, she has returned home to find that these still creak.

The Home Buyer says that she has suffered a loss of earnings because she has needed to take off days to allow trades to come into the Home and has used days of leave. She says she has suffered stress because of the way her complaint has been dealt with. She has also instructed a snagging expert to provide a report.

## **Defence**

The Home Builder explains that it has investigated the case with its principal contractor and sale and marketing agents and agrees that it is disappointing that it has not concluded all the issues sooner.

The Home Builder said that it is committed to ensuring that all matters all resolved to the satisfaction of the homeowner”.

The Home Builder says that it is attempting to gain access to the Home to investigate the remaining issues including concerns about the stair treads, kitchen unit quality and ground floor concrete.

## **Findings**

The adjudicator found that there were breaches of sections 2.1, 2.3, 4.1 and 5.1 of the Code, Sections 2.1 and 2.3 related to the lack of prepurchase information especially about LABC and other warranties. Sections 4.1 and 5.1 related to lack of information about how to raise service issues and complaints and the Home Builder’s failure to address these within a specified timetable.

## **Decision**

The claim succeeded. Directions were given to the Home Builder that it should pay compensation to the Home Buyer of £500.00; identify in writing in clear terms to the Home Buyer (including stating what outcome is intended to be achieved) such as the work that will be undertaken and explaining any work that the Home Builder declines to undertake and timescales; carry out the work within the stated time scale and apologise to the Home Buyer in writing for the breaches of the Code.

## **Complaint**

The Home Buyers complained of inaccurate sales and advertising information, inaccurate pre-purchase information, poor after-sales service and lack of complaints procedure, which was never provided willingly after the complaint and lack of professionalism when handling their complaint over a period of approximately one year.

They said that they were not told about the Code, were promised a flat base on which to build sheds for storage and they would not have purchased the property without this. Although an area had been paved, it was not level but sloped.

Also a dwarf wall and pillars from a preceding structure were left. The pillars formed part of the fence line and the dwarf wall obstructed the Home Buyer from exiting the car on one side.

The Home Buyer had been promised granite worksurfaces and Quartz had been provided instead. She also complained that PIR sensors and a dimmer switch had not been provided.

## **Defence**

The existing site boundaries have remained throughout the entire development and contained specifically the existing low level retaining wall (300mm high with coping stone) which separates the raised ground level of the development site from the parent dwelling. The inter plot fencing with brick piers which divides the garden areas was also an existing boundary which remained unchanged throughout the development as observed by the Home Buyers.

This has remained as viewed and accepted by the Home Buyers. The Buyers also accepted certain upgrades, namely from tarmac to block paving and from granite to Quartz work surfaces.

A full and final settlement of all matters was reached on 28 February 2022 including PIR lights and the dimmer switch but the Home Builder agreed to pay £400 as a matter of goodwill.

## **Findings**

The adjudicator found that the reservation agreement confirmed that a copy of the Code had been provided, that the information given to the Buyer was unclear about what it would do but that it agreed that it would provide a firm area, not one that was completely flat.

The images that the Home Buyers relied on as evidence that there would be no brick pillars was an electronic impression which reasonably have been understood as indicative only. As the pillars formed part of the fence line their inclusion did not give rise to a breach of the Code.



As for the wall, the Buyers said that they had been told that this would be removed. Even if they were not, the Home Builder would reasonably have been expected to explain to a Home Buyer that there would be a small wall on the inner side of their fence which took up several centimeters of a 2.6m parking space.

There was a dispute about whether the Buyers had in fact chosen a Quartz worktop rather than granite, but in any event, as Quartz is generally understood to be a more expensive product and superior, this was an upgrade and a matter about which the Home Builder was entitled under the Code to make a change to the specification without giving rise to a cancellation right.

### **Decision**

The claim succeeded. The Builder was directed to pay £2,150 to the Buyers.

## **Complaint**

The Home Buyers complained of breaches of section 2.6 of the Code because reservation conditions were not fully explained to them and of section 3.4 of the Code because the protection of payments made when a Home Builder withdraws from the agreement was not defined.

They complain that payments have not been refunded after the Home Builder withdrew from sale. This led to intense stress in order to try to obtain a new offer on their sale in short notice and refusal to proceed even after this had been achieved.

They complain of loss of money paid relating to the house purchase through no fault of their own by way of additional extras and legal fees. The total claim is £1,806.000 comprising £931.00 for the additional extras paid for, £375.00 full legal costs relating to the purchase and £500.00 for inconvenience and emotional distress.

## **Defence**

The Home Builder said that it had waited for 6 months for the Home Buyers to be ready and then they lost their Buyer. The Home Builder then re-marketed the property. It has refunded the reservation fee but is not liable for the additional charges.

## **Findings**

The adjudicator found that the Home Builder had agreed that the Reservation would continue to be observed by the Home Builder if the Home Buyers found a new first-time buyer before 17 January 2022 even though the Builder did not agree that it would remarket. The sale would continue, however, at that stage, it may have seemed improbable that the Home Buyers would be able to meet the condition set but, as they did, the Reservation agreement was still in place and binding on the Home Builder as it applied by way of the modification on 13 January 2022.

The Home Builder was in breach of this because it did not honour that extension. The Home Builder was in breach of section 2.6 of the Code in that it cancelled the Reservation agreement at a time when it was partially continuing by agreement. Although ordinarily the Home Builder would not pay the transaction expenses of the Home Buyer, these were incurred in reliance on the existence of a transaction which was cancelled in breach of the Code. The Scheme rules permit the cost of putting right the matter complained of and expenses reasonably incurred as a consequence of non-compliance with the Code

## **Decision**

The claim succeeded. The Buyers were entitled to compensation of £1,556.

## **Complaint**

The Home Buyer complained that she had entered into a reservation agreement which had mis-stated the date when the property would be available because, although she had moved into the home in September 2021 (within the time specified at reservation) her driveway and garage was not complete. In March 2022 the garage has been built but the driveway has not been.

The Home Buyer said that this is causing stress and has damaged her mental health and she claimed £15,000. Also the Home Buyer says that she has repeatedly emailed the Home Builder in accordance with its complaint procedure but received no reply.

## **Defence**

The Home Builder says that the information in the reservation agreement was correct at the time that this was given but that due to a problem affecting the construction of the property next door, the garage and driveway could not be completed. The Home Builder would have delayed completion of the property (which is not prohibited by the Code) when this problem emerged, but the Home Buyer was the subject of an eviction notice at her previous address and the Home Builder therefore agreed with the Home Buyer that she could take possession of the Home but she would have to await completion of the garage.

On 18 September 2021 the Home Buyer signed an acknowledgment to that effect and agreed that temporary fencing would be erected. The Home Builder also arranged for the Home Buyer to have the use of a nearby garage. As for the alleged failure to respond to emails, the Home Builder says that it is not able to find the emails said to have been sent and points out that the Home Buyer has repeatedly mis-spelt the name of the Home Builder in her submission and therefore submits that this is likely to have prevented the emails from being received.

## **Findings**

The adjudicator recognised that following exchange of contracts, the parties entered into a special arrangement that delayed the Home Builder's obligation to hand over the remaining incomplete area (the garage). This was for the benefit of the Home Buyer and the Home Buyer was also given the use of a garage a short distance away. This was not a breach of section 2.1 of the Code.

It did not follow, however, that the Home Builder was relieved of its obligation to provide information about when the construction would in due course be completed after the handover of the property to the Home Buyer. The Home Builder did not explain fully the reason for the delay in the construction of the neighbouring property save that there were "problems with the piling for the foundations" and it could not be said when this would be finalised. There was no evidence that demonstrated that the Home Builder had provided

“reliable and realistic information” as to this and to this extent the adjudicator found that there has been a breach of section 3.1 of the Code.

In light of the repeated mis-spelling of the Home Builder’s name there was cause for doubt about the emails sent to the Home Builder and no evidence had been provided that these were sent to the correct address. As the Home Builder appeared to have given the Home Buyer information about its complaints handling, there was no breach of section 5.1 of the Code. Compensation for stress and mental ill-health cannot be given under this Scheme.

### **Decision**

The claim succeeded. Directions were given to the Home Builder that it should:

- Apologise to the Home Buyer for the breach of the Code; and
- Supply to the Home Buyer in writing accurate and reliable information about the date when the completed garage and driveway may reasonably be expected to be handed over to her.

## **Complaint**

The Home Buyer submits that he was misinformed in relation to the ventilation system and that the Mechanical Ventilation System (MEV) runs at excessive volumes. The Home Buyer asserts that the installation of the MEV does not comply with the installation plan or Part F of the building regulation relating to sound. The Home Buyer submits that the Home Builder has failed to rectify latent defects and has failed to act upon evidence of issues with the Home which were affecting the occupants' health and wellbeing.

## **Defence**

The Home Builder submits that the Reservation Agreement did record that "a passive ventilation system will be installed in all properties in Phase 1". The Home Builder accepts that this statement was recorded in error during drafting and that it has apologised to the Home Buyer. The Home Builder adds that a Mechanical Ventilation System was also installed, as per planning requirements and that this was recorded on the plans.

## **Findings**

The adjudicator found that the Home builder had breached section 2.1 of the Code as it provided incorrect information to the Home buyer in relation to the installation of a MEV. While the Home Builder averred that the MEV was a requirement of planning, this was not demonstrated. Conversely, the Home Buyer submitted evidence from the local authority confirming that noise mitigation was not required.

## **Decision**

The claim succeeded. The Home Builder was ordered to remove the MEV and pay £250.00 for inconvenience.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Sections 1.5 and 2.1 because it did not resolve the issue with a drain pipe and side passage at the Property, and it did not communicate with him on these issues.

## **Defence**

The Home Builder disputed the claim. It submitted that the issues complained about concern the quality or suitability of the Property and complaint of this nature falls outside the scope of the Scheme. In any event, it built the Property in accordance with the building regulations.

## **Findings**

The adjudicator found that the Home Buyer's complaint concerned alleged poor workmanship, snags and defects at the Property, which are issues that fall outside the scope of the Scheme and could not be adjudicated upon.

In relation to Code Sections 1.5 and 2.1, the available evidence did not show that the sales and marketing materials in relation to the side passage and the drainpipes at the property were unclear and untruthful, neither was there evidence that the Home Builder had breached Code Section 2.1.

The Adjudicator considered that Code Section 5.1 was relevant to the complaint. The available correspondence did not show that the Home Builder was not willing to communicate with the Home Buyer in relation to the issues he complained about. The correspondence showed that the Home Builder investigated the Home Buyer's complaint, it responded to the complaint in a manner that clearly communicated its position to the Home Buyer, and it informed the Home Buyer that the complaint could be escalated to the resolution service offered by the NHBC. The adjudicator did not find a breach of Code Section 5.1.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer submits that the Home Builder has breached section 1.5 of the Code as the sales brochure was not clear or truthful in parts. Additionally, that the Home Builder has breached section 2.1 by not providing the finish stated in the brochure specification and for not informing the Home Buyer of the changes until they had been implemented.

The Home Buyer submits that the Home Builder does not have a suitable system in place for dealing with complaints, resulting in a breach of sections 5.1 and 5.2 of the Code.

## **Defence**

The Home Builder submits that following the NHBC resolution meeting, a small number of issues were identified, however, that these are nearing completion.

## **Findings**

The adjudicator found that the Home Builder had installed newel posts in a different material to that advertised and located the septic tank in a location different to that advertised. Additionally, that the Home Builder had not dealt with the Home Buyer's complaints.

## **Decision**

The claim succeeded. The Adjudicator ordered the relocation of the septic tank and completion of works identified in the NHBC report. Additionally, for the Home builder to replace items incorreced advertised pre-reservation.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5, 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that they are unable to fully access the washer/dryer due to “the location of a radiator meaning that the door did not open fully to give access to the washer/dryer”, contrary to M4(2) of the Building Regulations.

Whilst the Home Buyer acknowledges that the Home Builder has offered to remove the radiator, they submit that “it’s needed and part of the design of the building” and as such, they declined the offer. The Home Buyer states further that whilst they have suggested that the Home Builder provide an alternative machine that is not integrated (and for this to be installed with surround made good etc.), this suggestion was rejected by the Home Builder.

The Home Buyer submits that the Home Builder has breached Section 1.5 of the Code by selling the Property as “fully adaptable”, however, the design of the Property means that elements of it (i.e. the washer/dryer) are not fully accessible.

The Home Buyer submits further that the Home Builder breached Section 4.1 of the Code by failing to provide an adequate after-sales service and breached Section 5.1 of the Code by failing to provide adequate complaints handling, noting that the issue has been outstanding for over two years.

The Home Buyer requests that the Home Builder take a practical action: specifically, either “move the integrated appliance to the other end of the run so that the cupboard door functions properly, and the machine is accessible and maintainable” or “re-do the kickboard so that it finishes before the washing machine, make good any of the surrounding joinery and flooring and provide a freestanding appliance to go in that space which removes the integrated door and issue.”)

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, whilst the Home Builder acknowledges the issue, it submits that it “previously offered to move the radiator located on the left hand side of the wall in order to allow the draw to be fully opened, to amend the fixings on the washing machine décor door so that this opens the other way, or provide a payment of £150 in lieu if doing these works”, however, these options were declined by the Home Buyer.

The Home Builder states, therefore, that it has complied with the terms of the warranty and the “customer is required to contact the NHBC for further resolution if...we are unable to resolve defects within the home. This claim is therefore in the wrong forum”.

The Home Builder further disputes that it failed in after-sales service and complaint handling and submits that the “complaints process was defined to the customer and each step of the process has been followed. [The Home Builder] has acknowledged the customers complaint



and responded where possible within our service level agreements or sent the appropriate acknowledgments to further email correspondence. The complaint was initially logged by our customer service team and has been escalated through the appropriate channels to the Customer Support Manager and Head of Customer Services, who acts as the final point of escalation.”

### **Findings**

The adjudicator found that the Home Builder breached s.5.1 of the Code.

### **Decision**

The claim succeeded (in part)

### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the Property's staircase did not reflect the Home Builder's marketing or sales information and once this issue was raised the Home Builder provided poor customer service.

### **Defence**

The Home Builder says it has always complied with the requirements of the Code, the marketing material and all information provided to the Home Buyer at reservation was clear and accurate, and inclusive of a disclaimer where necessary. The Property's staircase was built to NHBC guidelines and as shown in the Home Builder's marketing material and plans.

### **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and rectify the Property's staircase to meet the NHBC and health and safety guidelines.

### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the Home Builder failed in its after-sales service as it did not correctly and promptly repair the roof's guttering and flashing, leading to the scaffold being up for longer than necessary. Furthermore, the Home Builder failed to fix the noisy trickle vents.

### **Defence**

The Home Builder says it has always complied with the requirements of the Code, in particular with the after-sales service and complaints handling. The delay in repairs to the Property's lead flashing was due to the weather preventing the scaffold from being used. The Home Builder inspected all the window trickle vents and found only one vent faulty, which was replaced within 28 days, in line with the Home Builder's service level agreement.

### **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise, correctly repair the roof's guttering and flashing, as well as the Property's trickle vents and pay £5,000.00 compensation for the inconvenience and time lost.

## **Complaint**

The Home Buyers stated that the placement of a boundary fence running parallel to the dyke on the northern perimeter of their property is different from the plan drawings provided by the Home Builder. They submitted that the measurement of 2.5m is actually 1.85m and so approximately 12.48m<sup>2</sup> of property value has been lost (as a result of the loss of land).

The Home Buyers also submitted that the Home Builders have not followed their own complaints procedures. Accordingly, the Home Buyers believed that the Home Builder had breached sections 1.5, 2.1 and 5.1 of the Code and were seeking for the Home Builder to provide the land area in dispute or to agree to compensation for loss in property value (due to the loss of land). The Home Buyers also sought compensation for the inconvenience this matter had caused.

## **Defence**

The Home Builder submitted that it is compliant with the actual requirements of the Code. The Home Builder stated that the terms of contract permit it to make changes under certain circumstances (and the fence placement change was carried out due to construction/health and safety necessities). Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyers with the redress claimed.

## **Findings**

At the outset, the adjudicator detailed the actual requirements of sections 1.5, 2.1 and 5.1 of the Code. In particular, the adjudicator explained the Home Builder's obligations in relation to information provision at the sales and pre-purchase stages (sections 1.5 and 2.1). It was highlighted that these sections of the Code did not state that modifications to the property could not be made at a later stage.

Furthermore, the adjudicator reviewed the requirements of section 5.1 of the Code (relating to service provision requirements for customer complaints/calls) and noted that the Home Builder was compliant with the actual requirements of the Code. In any event, it was also highlighted that complaints relating to loss of property value could not be examined under the Code. Therefore, whilst the adjudicator acknowledged the Home Buyer's displeasure with the issues they had encountered, it was explained that no material breaches of the Code had taken place based on the evidence put forward for adjudication.

## **Decision**

The Home Buyers' claim did not succeed.

## Complaint

Specifically, the Home Builder submits that “the issue is centred on the siting of a flue terminal”, which is attached to a neighbouring property. The Home Buyer states that the “flue is discharging products of combustion into a private walkway” and the “flue position is sub-optimal and presents a risk/ has resulted in property damage.”

Whilst the Home Buyer states further that the Home Builder, initially, agreed to “corrective work”, the Home Buyer submits that the Home Builder (around 9 months) later retracted the offer. The Home Buyer submits further that the flue is “sited on land within plot ownership and its location, as it relates to proximity to adjacent property, does not meet a broader range of tradesmanship standards”.

Whilst the Home Buyer acknowledges further the involvement of the NHBC, it submits that the NHBC concluded that its “basic technical/safety standards have been met” but further recorded a “contractual issue” linked to the Property and that “any resulting nuisance/annoyance issue...sits outside of [its] remit”.

Notwithstanding this, however, the Home Buyer states further that the Home Builder has dismissed concerns, including the concerns of “several external organisations”, alongside a commissioned survey relating to property damage and nuisance. The Home Buyer submits further that they experienced issues with the after-sales experience and complaint handling, that they were referred to the Housing Ombudsman in error (wasted time) and submits that the issue has been left unresolved over a period of almost 4 years.

## Defence

The Home Builder’s position is that it disputes breaching the Code. Specifically, the Home Builder submits that the “flue is positioned in accordance with the manufacturer’s instructions...and in accordance with Building Regulations”.

The Home Builder states further that the transfer document (TP1) “clearly states what is known as a ‘right of overhang’”, relating to the flue and that there is no evidence of nuisance as the flue was in situ when the Property was purchased, it is above head height, it projects out onto a “secondary route” and is not causing damage to the Property.

Whilst the Home Builder acknowledges that an “‘elbow’ diversion kit could be attached to the flue to divert the plume down the side of the access route”, it submits that if actioned, this “could negatively impact upon the side window of plot [number]”. Whilst the Home Builder acknowledges further that it “should not have referred [Home Buyer] to the Housing Ombudsman and this is an error on our part” and that “it has taken longer [than it] would have wanted to resolve the complaint”, it submits that it has “previously apologised...and offered £150” as compensation.

**Findings**

The adjudicator found that the Home Builder breached ss. 4.1 and 5.1 of the Code.

**Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyers stated that Home Builder installed the oven in the kitchen at the Property at an incorrect level well above eye level which was not fit for purpose. The Home Builder breached Code Section 2.1, because it advised them that they could select the internal finishings at the Property but they were not given this opportunity, and it breached Code Section 4.1 because it did not take any action to address the issue concerning the oven.

## **Defence**

The Home Builder submitted that due to the build stage of the Property at reservation, the kitchen was already on order and the Home Buyers did not have the opportunity to select the fittings. It explained this to the Home Buyers at reservation. The Home Buyers viewed the Property on three occasions when the oven had been installed, but they did not raise any issues with the oven. The oven was installed correctly and in line with the contract. It responded to the Home Buyers' complaint.

## **Findings**

The Adjudicator found that the complaint that the Home Builder fitted the oven incorrectly was a complaint about poor workmanship, which fell outside the scope of the Scheme and could not be adjudicated upon.

The Adjudicator did not find a breach of Code Section 2.1, because the evidence did not show that the Home Builder promised the Home Buyers that they could choose the fittings for the kitchen, and the Home Buyers had the opportunity to view the Property to satisfy themselves regarding the suitability of the fittings at the Property.

The Adjudicator considered that Code Sections 4.1 and 5.1 were relevant to the complaint. The Adjudicator did not find a breach of Code Sections 4.1 and 5.1, because the evidence showed that the Home Buyers were able to access the Home Builder's after-sales service and the Home Builder responded to the Home Buyers' complaint.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

- The Home Builder has not responded to all complaints and many defects have taken more than 90 days to remedy
- Inferior landscaping has been provided, with both trees and lawn area dying and the rear garden being prone to waterlogging
- The actions of, and the lack of contact from, the Home Builder caused the Home Buyer to feel unsettled and uneasy and he was unhappy that no apology has been forthcoming
- The public open spaces on the development that adjoin his property either remain unfinished or are done to a poor standard
- The Home Builder has erected a play area close to the property but failed to advise the Home Buyer if this prior to purchase.

## **Defence**

- The Home Builder says it has not received at any time prior to 22 April 2022 a formal complaint from the Home Buyer on any issue.
- In respect of the issues raised regarding public open spaces, the Home Builder confirms that the relevant plans were available to be viewed at the appropriate local authority since 2019 and were thus available to be inspected by the Home Buyer at the time of reservation in May 2021
- The Home Builder confirms that all open spaces and the play area are being constructed in compliance with planning permissions
- The Home Builder refutes the Home Buyer's contention that the play area is not as he was originally advised verbally
- The Home Builder declines to pay the compensation claimed by the Home Buyer, except for a £250 contribution towards his legal costs.

## **Findings**

The Adjudicator found that the Home Buyer's claim does not succeed in part. The Adjudicator found that the Home Builder was in breach of sections 2.1 and 3.2 of the Code but was satisfied that the Home Buyer was made reasonably aware before purchase that a play area would be constructed on the development.

## **Decision**

The claim succeeds in part. The Home Builder shall pay the Home Buyer the sum of £500 and issue an apology.



### **Complaint**

The Home Buyer says that the Home Builder breached the Code by miss-selling the description of the land to the side of the Property and installing roof trusses different to that provided in the pre-purchase information.

### **Defence**

The Home Builder says it has always complied with the requirements of the Code. The Home Builder admits that the land layout plans shown at the time of reservation were unclear as that show a house plot to the side of the Property. This was picked up before exchanging contracts, and the plans were amended to show a parking area and an apartment block.

The Home Buyer exchanged and completed on the amended plan. After completion, the Home Buyer raised a complaint concerning the land to the side of the Property, and the Home Builder has offered to change the Property's boundary fence to a wall, to which the Home Buyer has agreed. Concerning the roof trusses, the Home Builder has never specified the roof trusses used, and it was explicitly stated to the Home Buyer at the time of reservation that they cannot use the loft for storage.

### **Findings**

The Home Builder has breached Clause 1.5 and 2.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder apologise and change the Property's boundary fence to a wall as agreed.

### **Complaint**

The Home Buyer says that the Home Builder breached the Code as the Property's boundary fence was poorly constructed, which led to it failing within 11 days of the Property being occupied. Once this issue was raised, the Home Builder provided poor customer service, and in doing so, the Home Builder breached the Consumer Code for Home Builders

### **Defence**

The Home Builder has not provided a defence.

### **Findings**

The Home Builder has breached Clause 5.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder pay £100.00

### **Complaint**

The Home Buyer stated that Home Builder breached Code Section 5.1 because the soundproofing at the Property is inadequate.

### **Defence**

The Home Builder submitted that it dealt with the complaint within a reasonable period of time and the walls and floors at the Property were constructed in accordance with the Robust Details Scheme.

### **Findings**

The Adjudicator found that the complaint about inadequate soundproofing at the Property could not be adjudicated upon because the complaint concerned snags and defects, which are issues that fall outside the scope of the Scheme.

The Adjudicator could consider the manner in which the Home Builder handled the Home Buyer's complaint. The correspondence between the parties showed that the Home Builder responded to the complaint within a reasonable a period of time, and the evidence did not show a breach of Code Section 5.1.

### **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Section 1.5 because they reserved the Property on the basis of incorrect information which it provided them with. It breached Code Sections 2.4 and 4.2 because it did not provide them with health and safety information relevant to visiting and living in a site where construction works are ongoing. It breached Code Section 3.3 because it did not inform them of their right to terminate the contract. It breached Code Section 4.1 because it did not provide them with an after-sales service. It breached Code Section 5.1 because it did not take any action in respect of their complaint.

## **Defence**

The Home Builder submitted that the Home Buyers did not provide any evidence to support the allegation of misselling, the Reservation Agreement contained the Home Buyers' express confirmation that health and safety information was supplied and at completion, it supplied the Home Buyers with a welcome pack which contained relevant health and safety warnings. The Reservation Agreement clearly set out the Home Buyers' cancellation rights.

The Home Buyers were able to access its after-sales service, it replied to the Home Buyers regularly and factually on every occasion, and it provided the Home Buyers with details of its complaints procedure and the Home Buyers utilised the information regularly and consistently.

## **Findings**

The Adjudicator found that the claims concerning defects and poor workmanship fell outside the scope of the Scheme and could not be adjudicated upon.

The Home Builder breached Code Sections 1.5, because the evidence showed that the Home Buyers were led to believe at reservation and thereafter, that Velux windows would be installed at the Property.

It also breached Code Section 5.1, because it did not fully address all the issues the Home Buyers raised in their formal complaint. However, the evidence did not show a breach of Code Sections 2.4, 3.3, and 4.2. It was evident that the Home Builder had provided the Home Buyers with relevant health and safety information at handover, and the Home Buyers' termination rights were clearly set out in the Reservation agreement and the contract of sale.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: pay the Home Buyers £2,263.20 (including £200.00 for inconvenience); and investigate the Home Buyers' complaint and provide the Home Buyers with a written response

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that the Property has suffered a large number of “outstanding snagging” issues and whilst the Home Buyer acknowledges that some have been resolved by the Home Buyer or otherwise resolved, as of 26 April 2022, “116 issues” remain outstanding, including some that relate to health and safety. Examples of the issues include, carpets, wet paint and dust present on completion day, damage to the decor and fittings/fixtures, missing upgrades (e.g. the door mat), a “sewer” odour from the master ensuite (which the Home Buyer acknowledges was rectified in March 2022) and patchy grout colouration to a tiled flooring.

The Home Buyer states further that the Home Builder failed to install the “lawn upgrade” and as such, they incurred “financial loss” relating to the purchase of artificial grass strips. In relation to Section 4.1 of the Code, the Home Buyer submits that they had to contact “numerous people” regarding fixing the issues and they “kept getting passed on to different people, with “no action taken by anyone”.

The Home Buyer states further that the Home Builder has failed to treat their personal effects with respect (for example, in relation to gym equipment in the garage) and that it has failed to consider the evident needs of a vulnerable customer by allowing unannounced visits to occur causing stress.

In relation to Section 5.1, the Home Buyer submits that upon submitting a formal complaint, it became clear that “no one really knew what the complaints process was” and that they have not had any confirmation that a formal complaint has been logged. The Home Buyer states further that they have wasted a lot of time on the issues and - for example - have had to take “2 weeks each of Annual Leave” in order to be at home for works and arranged appointments when no-one turned up.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, whilst the Home Builder acknowledges that snagging issues remain, it invites the Home Buyer to submit an updated snagging list and offers to provide a scope of works on receipt.

The Home Builder submits further that they are “committed to resolving” the tiled flooring issue, however, the Home Builder submits that it has encountered difficulty in being permitted access to the Property previously and it submits further that the Home Buyer is obliged to provide access for remedial/snagging works, further to the contract. The Home Builder states further, however, that if the “Home Buyer remains unhappy with the flooring once the works have been undertaken then the NHBC resolution service would be the appropriate recourse who will advise on whether the Home Builder is in breach of the technical requirements in respect of the flooring”.

In addition, the Home Builder submits that the Home Buyer has failed to provide receipts to evidence expenses for alleged missing upgrades and that the Home Buyers were provided with “all of these sales extras or they were reimbursed for the costs of sales extras that the Home Builder was either unable to source or which were due to be provided post completion and which the Home Buyers decided they no longer required”.

The Home Builder, however, acknowledges the doormat issue but clarifies that the “Home Buyers have denied the Home Builder the opportunity to replace this item and therefore should not be entitled to recover the costs as it could have been replaced without charge under the Warranty had they not cancelled the appointment scheduled for 25 May 2022”.

In relation to the turf issue, the Home Builder submits further that “whilst the Home Buyers state ‘they did not receive the upgrade they paid for’ in reality the rear garden was turfed however they decided they only wanted part of the garden turfing as they were extending the patio area and as a result, the Home Buyers received a refund equating to the value of the un turfed area”. In relation to the plinth lighting, the Home Builder states that “at the beginning of February 2022, the Home Builder offered...reimbursement for the costs of installing plinth lighting in the kitchen at the Property as this sales extra was omitted in the original construction”.

The Home Builder further challenges the detail of the Home Buyer’s claim and submits that the Home Buyer has “failed to provide any evidence to support their allegations of a breach of the Code by the Home Builder and/or that they have suffered a financial loss as a result”. The Home Builder further disputes the claims in relation to complaint handling and after sales service and submits, for example, that the Home Buyer was allocated a specific customer care representative and has taken responsibility for and dealt with a number of snagging issues (including, for example, appointing a plastic surgeon to deal with furniture and fittings issues).

Whilst the Home Builder acknowledges that in this case, the level “of snagging defects is unfortunately high”, it submits that “whilst the Home Buyers have utilised the Home Builder’s complaints procedure in part, they have failed to escalate their complaint further with the Home Builder or allow sufficient time for the relevant stages of the complaints procedure to be followed” and that the “the Home Builder requires the Home Buyers’ patience as it works through these [snagging issues]”. The Home Builder disputes that it has not considered the evident needs of a vulnerable customer and submits further that - in any event - the Home Buyer has not “provided any evidence to demonstrate that [they] was/is a Vulnerable Customer in line with the definition submitted above which is taken from the glossary of terms used in the New Homes Quality Code as drafted by the New Homes Quality Board.”

## **Findings**

The adjudicator found that the Home Builder breached ss. 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer submits that the drainage to the back garden at the Property is not sufficient and leaves an excess of water even in the absence of heavy rainfall. The Home Buyer accepts that attempts to resolve the issue have been made, in the form of French drains, however, that this has not worked as they are too shallow.

## **Defence**

The Home Builder submits that when it inspected in July 2021 “no issues were identified in relation to water ponding or drainage concerns. In 2021 the rear garden was weed killed and rotovated on two separate occasions in preparation for the customers own landscaping works. No ponding or drainage issues were evident during either rotovation. Following these works the customer did not carry out any landscaping and left the garden unattended.

Due to long periods of absence as the customers main home is another property, the customer covered the garden area with heavy duty weed suppressant material as a method of weed suppression.” Further, that in March 2022 “the Customer Relations Manager inspected and in the interest of good customer relations offered installation of drainage at three metres to protect the habitable part of the property as laid out in the NHBC (National House Building Council) Guidelines. Customer declined this offer and was insistent the drainage offered would not suffice. We directed the customer to the NHBC for further guidance and assistance and as a responsible house builder we will always abide by the decision of NHBC. Our records indicate the customer did not contact NHBC in relation to ponding or drainage concerns in the garden.”

## **Findings**

The adjudicator found that the the Property was handed over to the Home Buyer without the advertised rotovation; however, that this was completed in September 2021, following a complaint by the Home Buyer. Additionally, the adjudicator was persuaded that the Home Builder did attempt to act on the complaint raised by digging a French Drain to the garden.

In the absence of sufficiently substantive evidence to demonstrate that an issue persisted as alleged, it was found that the Home Builder provided an appropriate remedy to the complaint, with the actions undertaken and had therefore “dealt with” the complaint.

## **Decision**

The claim did not succeed. No remedy due.

## **Complaint**

The Home Buyer stated that Home Builder breached: Code Section 1.5 because its sales material was untruthful in relation to extras for the Property; Code Sections 2.1 and 3.1 because it did not raise the retention scheme with her solicitors; Code Section 3.2 because it provided inadequate and unreliable information regarding the date for completion; Code Section 4.1 because of the delays in resolving issues regarding the Property; Code Section 4.2 because it did not respond to health and safety concerns that she raised; Code Section 5.1 due to its handling of her complaint; and Code Section 5.2 because it did not co-operate with her snagging adviser.

## **Defence**

The Home Builder disputed the alleged breaches on the basis that it updated the Home Buyer throughout the build process, the Covid-19 pandemic impacted the timescales for the build, the Home Buyer fully utilised its after-sales service, and it responded to the Home Buyer's complaints.

## **Findings**

The Adjudicator found that a number of issues raised in the complaint fell outside the scope of the Scheme and could not be adjudicated upon. These issues included the complaint about personal injury and outstanding snags at the Property.

The Adjudicator found that the Home Builder breached Code Sections 3.1, because the evidence indicated that it did not supply and install a product that the Home Buyer ordered, it breached Code Section 3.2 because the information it provided the Home Buyer about the completion date was not reliable, and it breached Code Section 5.1 because it did not respond to the Home Buyer's complaints about solar lights and strong winds in relation to the Property.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: pay the Home Buyer £2,830.00 in compensation; and investigate the Home Buyer's complaints concerning solar lights and strong winds in relation to the Property, and provide the Home Buyer with a written response detailing the outcome of its investigations.



## **Complaint**

The Home Buyer's claim is that the Home Builder has breached a requirement of the Consumer Code for Home Builders ("the Code") at Sections 4.1, 4.2 and 5.1.

## **Defence**

The Home Builder's position is that it acknowledges that there have been issues with the site team in relation to the Code and Section 4.2 in particular. The Home Builder however denies liability for the claim and denies the alleged breaches of the Code at Sections 4.1 and 5.1, since the customer did not follow the dispute process set out in the pre-reservation agreement, the new home booklet and the new home demonstration form.

## **Findings**

The Adjudicator found that find that by failing to inform the Home Buyer of the groundworks required post completion and the applicable safety precautions, the Home Builder has breached a requirement of Section 4.2 of the Code.

The Adjudicator also found that the Home Builder has not provided the Home Builder with an accessible after sales service and has therefore breached a requirement of Clause 4.1 of the Code.

Since the Home Builder does indeed have a system and procedure for complaints and that the Home Buyer was notified of this process within the pre-reservation agreement, the new home booklet and the new home demonstration form, the Adjudicator was, however, unable to find that the Home Builder has breached a requirement of Section 5.1 of the Code.

## **Decision**

The claim succeeded in part. Whilst the Adjudicator was unable to find that the Home Buyer is entitled to compensation in the amount of £8,000.00 for the paving, fencing and inconvenience caused.

Given that the Home Builder has previously offered to provide paving flagstones for the Home Buyer as a result of failing to inform the Home Buyer of the groundworks required post completion, which resulted in a breach of a requirement of Section 4.2 of the Code, the Adjudicator found that it would be reasonable for the Home Builder to honour that offer.

The Adjudicator therefore found that the Home Builder shall provide the Home Buyer with the paving flagstones it offered to provide (if these have not already been delivered to the Home Buyer's Home) and to provide the Home Buyer with further compensation in the amount of £200.00 for the inconvenience caused by not providing an accessible after sales service, which I resulted in a breach of a requirement of Section 4.1 of the Code.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.6, 3.1, 3.2, 3.3, 3.4, 4.1, 5.1 and 5.2 of the Consumer Code for Home Builders, as follows:

- Section 1.1 - for not complying with the requirements of the code and not having due regard to good practice / guidance.
- Section 1.2 - for not providing a copy of the Code.
- Section 1.3 - for not having suitable systems and procedures in place to meet the commitments on service, procedures and information, particularly in relation to pre and post completion documentation and complaints handling / resolution.
- Section 1.4 - for not training staff to comply with the Code (complaints, emails and texts being ignored).
- Section 1.5 - for providing misleading sales literature and not providing the final property in line with the agreed designs (and failing to rectify faulty fittings).
- Section 2.1 - for not providing the pre-purchase information in the required detail and accuracy (plan, appearance, contents) and providing misleading information on the home warranty guarantee. Poor standards of workmanship are also claimed (significant snagging) and communications being ignored.
- Section 2.2 - for providing poor contact information and accessibility, including at Director level, where complaints have been ignored.
- Section 2.3 - for not providing accurate and reliable information about the home warranty and not responding to obligations under the insurance policy.
- Section 2.6 - for not providing a copy of the scheme, sufficient information, booklets, manuals, insurance and a reservation agreement.
- Section 3.1 - for not making them aware of the changes to the house design (affecting the appearance) until after legal completion. Furthermore, no cancellation rights were given.
- Section 3.2 - for not providing information on the long stop / Covid clause inserted into the purchase agreement in advance.
- Section 3.3 - for not providing cancellation rights or rights to seek out of pocket expenses for changes in the house design.
- Section 4.1 - for not providing the required after sales information or providing misleading information (particularly around the warranty). The slow responses or ignored correspondence and failure to provide an address is also cited.
- Section 5.1 - for not providing a complaints process or procedure and for slow responses / actions.
- Section 5.2 - for ignoring contact and reports provided by an independent snagging company.

The Home Buyer sought:

- The Home Builder to complete the outstanding snagging / defects as itemised in an independent snagging report.

- The Home Builder to apologise to the Home Buyers for the 'shortcomings and poor service / no response to complaints made' and provide an explanation.
- The Home Builder to rectify the property to the original plans / designs and planning at the time, based on the Contract entered into and if not able to do so, provide financial recompense to allow the Home Buyers to rectify.
- The Home Builder to 'complete any other aspects under the snagging defects period (2 years) per the insurance policy .... should additional items become an issue.'
- If the Home Builder cannot complete the snagging work, then it should pay the Home Buyers to complete the same up to the limit of £15,000.
- The Home Builder to pay the Home Buyers compensation for 'stress / inconvenience caused.'

## Defence

The Home Builder denied liability, on the basis that:

- Section 1.1 - it has 'complied with the Code to the best of our (its) ability and endeavoured to comply with good practice / guidance.'
- Section 1.2 – Liability accepted.
- Section 1.3 – Plans, elevations, and a specification were provided pre-contract and certificates and warranty information were provided on completion.
- Section 1.4 - it prefers to discuss issues raised face to face and has met with the Home Buyers on several occasions to go through the independent snagging report, explaining what would and would not be rectified with good reason.
- Section 1.5 - any changes made would have been discussed in person and agreed to before being acted on and that the reason for the change to the front of the property was discussed with the buyers to save cost as they could not afford the full asking price.
- Section 2.1 - any changes made would have been discussed in person and agreed to before being acted on.
- Section 2.2 – the Home Buyer had contact the entire way through the build up until he filed a claim. The Home Builder was then advised not respond until they had seen the report filed against them.
- Section 2.3 - the Home Buyer still believes that the Home Builder should be liable for a period of 24 months due to a misinterpretation of the literature provided by the Insurer.
- Section 2.6 - Liability accepted.
- Section 3.1 - the reason for the change to the front of the property was discussed with the buyers to save cost as they could not afford the full asking price. Internal changes would have only been made with the buyers' permission. The Home Buyer prefer to deal with customers face to face on site so it is easy for everyone to understand the impact their decisions will make on the property.
- Section 3.2 - the long stop date in a sales contract is standard procedure. The Covid clause was entered into the contract to protect the Home Builder due to pandemics unknown repercussions.
- Section 3.3 - this is not applicable as you 'cannot cancel a reservation that does not exist.'

- Section 4.1 – this is answered by the above points. The Home Builder also stated that the address was on the bottom of every email.
- Section 5.1 - it has been in constant contact with The Home Buyers from when they moved in until the Home Builder was advised to no longer respond. The Home Builder submits that all defects raised that that are deemed valid have been or are in the process of being remedied.
- Section 5.2 – it has dealt with these issues face to face with the Home Buyers.

## **Findings**

The adjudicator found that:

- The Home Builder has breached requirements under the Consumer Code for Home Builders sections 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.3, 2.6, 3.1, 4.1, and 5.1.
- The reasons given by the Home Buyers are not sufficient to justify the remedial works sought as they relate to defects/snagging which are outside the scope of this adjudication.
- The reasons given by the Home Buyer are not sufficient to justify the £15,000 sought as this relates to defect/snagging rectification which is outside the scope of this adjudication.
- The reasons given by the Home Buyer are sufficient to justify the apology and explanation sought from the Home Builder.
- The reasons given by the Home Buyer are sufficient to justify the award of £500 in compensation for the inconvenience caused.

## **Decision**

The claim succeeded.

In view of the breach of sections 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.3, 2.6, 3.1, 4.1, and 5.1. of the Code, the adjudicator directed the Home Builder to:

- write to the Home Buyers within 20 working days of this decision, to apologise for not responding to complaints made since November 2021 and to explain why this has happened and why they have no formal complaints handling procedure in place.
- set up a system and procedures for receiving, handling and resolving Home Buyers' service calls and complaints and must let the Home Buyers know of the procedures within 20 working days of this decision.
- pay the Home Buyer £500 in compensation within 20 working days of this decision, for the inconvenience caused by the lack of a formal complaints handling procedure and the failure to respond to numerous pieces of correspondence and complaints.

## **Complaint**

The Home Buyers indicated that they experienced snagging/construction defect issues with the floorboards in the Property. The Home Buyers felt that this should amount to a breach of section 4.1 of the Code. Accordingly, the Home Buyers claimed for the Home Builder to provide an apology, an explanation, take remedial action and pay compensation in the sum of £840.00.

## **Defence**

The Home Builder submitted that it is compliant with the actual requirements of the Code. Furthermore, it indicated that the Home Buyers' issues did not amount to breaches of the Code but were snagging/construction defect issues which could not be examined under this scheme. Therefore, the Home Builder did not accept it has breached the Code and did not accept any liability to provide the Home Buyers with the redress claimed.

## **Findings**

The adjudicator carefully reviewed all the submissions from both of the parties. The adjudicator progressed onto detailing the actual requirements of section 4.1 of the Code (which outlines the Home Builder's obligations to have accessible/set aftersales services).

It was made clear that the Home Buyers' specific complaints about defective structural construction/snagging did not amount to a breach of section 4.1 of the Code. It was also explained that the scheme was not the same as the NHBC warranty resolution service and could not be used as an appeal process for matters falling under that service. Consequently, whilst the adjudicator appreciated the Home Buyer's displeasure with their snagging/construction defect concerns, it was explained that no material breaches of the Code had taken place based on the evidence put forward for adjudication.

## **Decision**

The Home Buyers' claim did not succeed.

## **Complaint**

The Home Buyer indicated that they had experienced snagging/construction defect issues with kitchen cabinet doors becoming distorted/bending. The Home Buyer felt that this matter (along with customer service issues) should amount to a breach of sections 4.1 and 5.1 of the Code. Accordingly, the Home Buyer sought for the Home Builder to pay a third-party organisation who supplied the kitchen for 12 kitchen cabinet doors to be supplied and fitted.

## **Defence**

The Home Builder did not submit a defence within the set timeframe.

## **Findings**

The adjudicator carefully reviewed all the submissions and detailed the actual requirements of sections 4.1 and 5.1 of the Code. It was made clear that the Home Buyer's specific complaints about defective kitchen cabinet door construction/snagging did not amount to a breach of sections 4.1 or 5.1 of the Code.

It was also explained that the scheme was not the same as the warranty resolution service and could not be used as an appeal process for matters falling under that service. However, the adjudicator confirmed that sections 4.1 and 5.1 of the Code place an obligation on the Home Builder to have an accessible after-sales service and a system and procedures in place for handling Home Buyer complaints and service calls (and this must be explained to the Home Buyer).

Following careful examination of all the evidence, the adjudicator was unable to objectively verify that the Home Builder had adequately discharged its obligations in relation to sections 4.1 and 5.1 of the Code. In particular, there was no substantive evidence of a set system/procedure in place or that the required information was provided to the Home Buyer. As such, based on the evidence, the adjudicator concluded that the Home Builder had failed to meet its obligations under section 4.1 and 5.1 of the Code. The adjudicator was satisfied that the Home Buyer would have inherently experienced a degree of inconvenience as a result of the identified Code breaches. Accordingly, in line with section 2.6 of the scheme rules (which provide for an adjudicator to make a discretionary award for inconvenience up to a maximum of £500.00), the adjudicator directed that the Home Builder provide the Home Buyer with a payment in the sum of £250.00.

## **Decision**

The Home Buyer's claim succeeded. The Home Builder was directed to provide compensation in the sum of £250.00 for the inconvenience caused by the identified Code breaches.

## **Complaint**

The Home Buyer submits that the Home Builder took an excessive amount of time to deal with issues and defects at the Property; namely, some 8 months, despite being recorded as urgent by the Home Builder.

Additionally, the Home Buyer complains that the Home Builder has not treated with respect due to the way he was treated by the Home Builder, as well as having a “extremely poor” after sales service.

Finally, the Home Buyer submits that the master bedroom was smaller than that advertised in the plans.

## **Defence**

The Home Builder submits that some defects took longer to resolve that would normally be the case, however, that this was due to Covid-19 protocols. The Home Builder avers that all defects have now been resolved.

The Home Builder avers that it endeavours to ensure communications between its divisions and its customers are polite and constructive. The Home Builder therefore rejects any complaint of a poor aftercare service.

The Home Builder accepts that the Home Buyer was provided with incorrect plans following completion, however, that the Property was built to the specification and size shown on the plans provided at reservation.

## **Findings**

The adjudicator found that as the Property was built to the plans which were shown to the Home Buyer at reservation, there was no breach of the Code. While the parties accept that amended plans were presented, this was after exchange and the Property was still built to the original specification.

The adjudicator did not find that the language used by the Home Builder demonstrated that it failed to treat the Home Buyer with respect. However, it was found that the complaint arising from the snagging issues was not dealt with within an appropriate time and therefore that the Home Builder breached section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer and pay £250 for inconvenience.

## **Complaint**

The Home Buyers stated that Home Builder breached Code Section 3.1 because it did not install a gated side access and a walkway at the Property which were features that were shown in the drawings that they were shown at Reservations. Further, the Home Builder's settlement offer was inadequate.

## **Defence**

The Home Builder submitted that it was permitted to make changes to the design, construction or materials for the Property and the omission of the gated side access did not significantly and substantially affect the size, appearance or value of the Property. In an attempt to resolve the issues, it offered to install a gate and a set of metal steps or, in the alternative, to pay the Home Buyers £1,000.00 in compensation. The Home Buyers rejected its offer.

## **Findings**

The Adjudicator found that the Home Builder breached Code Section 3.1 because it did not install a gated side access and a walkway at the Property in accordance with the terms of the contract and it did not notify the Home Buyers about this minor alteration to the design of the Property.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyers with a written apology; and pay the Home Buyers £1,500.00 in compensation comprising £1,000.00 in compensation for the alteration to the Property and a refund of the Reservation fee of £500.00.



## **Complaint**

The Home Buyers stated that Home Builder breached Code Section 1.5 because the sales brochure led them to believe that they would have the option to open the garage door at the Property manually with a key as well as with an electric control. However, they discovered on moving into the Property that they could open the garage door only by an electric control. The Home Builder also breached Code Sections 4.1 and 5.1, because its handling of their complaint was very poor.

## **Defence**

The Home Builder denied the alleged breach of the Code. It submitted that its sales brochure provided the Home Buyers the option to purchase an electric control opener as an extra, which meant that the electric control option would replace the option to open the garage door manually. It was somewhat limited by the effects of the Covid-19 pandemic in its attempts to resolve the fault with the electric control fobs which the Home Buyers reported. However, it made attempts to resolve the matter amicably with the Home Buyers, including arranging for its staff to attend the Property at a time when the manufacturer was not carrying out home visits and making a goodwill offer, which the Home Buyers declined.

## **Findings**

The Adjudicator found that having reviewed the option for the Home Buyers to add an electric control to the garage door within the context of the sales brochure as a whole, the information in the sales brochure did not indicate that the electric control was being provided as an extra feature in addition to the option to open the garage door manually with a key. The correspondence between the parties indicated that the Home Buyers were able to access the Home Builder's after-sales service, and there was a reasonable level of engagement from the Home Builder with the Home Buyers in relation to their complaint.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer indicated that he has experienced snagging/construction defect issues with the Property (specifically, defects with the carpets in the Property). The Home Buyer confirmed that he had aptly communicated with Home Builder in relation to this issue and it had taken numerous steps to address his concerns (including replacing the carpet).

However, the Home Buyer submitted that the same snagging/construction defect issue re-emerges. Based on the submissions provided, the Home Buyer suggested that this matter should amount to a breach of sections 4.1 and 5.1 of the Code. Accordingly, the Home Buyer claimed for the Home Builder to resolve the snagging/construction defect concerns to his satisfaction or pay compensation in the sum of £2000.00.

## **Defence**

The Home Builder did not accept that it had breached the actual requirements of the Code. Furthermore, and in any event, it indicated that it had taken appropriate action in response to the Home Buyer's snagging/construction defect concerns. Therefore, the Home Builder did not accept that it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

The adjudicator carefully examined the submissions from the respective parties and proceeded to detail the actual requirements of sections 4.1 and 5.1 of the Code (which outline the Home Builder's obligations to have accessible/set aftersales and complaint handling services). It was explained that the Home Buyer's specific complaints about defective structural construction/snagging did not amount to a breach of sections 4.1 or 5.1 of the Code.

It was also made clear that the scheme was not the same as the warranty resolution service and could not be used as a substitute process for matters falling under that service. Therefore, whilst the adjudicator empathised with the Home Buyer's discontent with their snagging/construction defect concerns, it was explained that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyer's claim did not succeed.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 4.1, 5.1 and 5.2 of the Consumer Code for Home Builders, as follows:

- Section 4.1 - for not providing an acceptable after sales service. This is based on the length of time taken to deal with the 'sinking' and 'uneven' garden issue (19 months), the lack of communication, the incorrect information provided and the poor service from the customer care team.
- Section 5.1 - for not following an acceptable complaints handling procedure after the Home Buyers had to 'ask several times for a 'site manager' to attend' and because the Home Buyers 'were the ones trying to chase this up constantly' with the builders and landscapers.
- Section 5.2 - for not co-operating with professional advisors (the landscapers and builders).

The Home Buyer sought:

0. The Home Builder to resolve the issue with the sinking garden by correcting the levels to those specified in the agreed technical drawings.
1. The Home Builder to pay £15,000 if they are unable to resolve the issue of the sinking garden.
2. The Home Builder to apologise to the Home Buyers for the 'appalling service' received.
3. The Home Builder to provide the Home Buyers with an explanation for the sinking garden and for the 'appalling service' received.
4. The Home Builder to pay the Home Buyers compensation for stress / inconvenience caused.

## Defence

The Home Builder denied liability, on the basis that:

- Section 4.1 – it has attempted to mitigate the issues, however the clients requests fell beyond what was sold to them or that was deemed to be reasonable.
- Section 5.1 – it has attempted to mitigate the issues, however the clients requests fell beyond what was sold to them or that was deemed to be reasonable.

The Home Builder is silent on the claim under section 5.2.

## Findings

The adjudicator found that:

- The Home Builder has breached requirements under the Consumer Code for Home Builders sections 4.1 and 5.1.
- The reasons given by the Home Buyers are not sufficient to justify the remedial works sought as they relate to defects/snagging which are outside the scope of this adjudication. It is however noted that the Home Builder has made an offer in its Response to remedy the defective garden. Should the parties reach an agreement on the offer to remedy the defective garden, then this will need to be concluded outside this adjudication.
- The reasons given by the Home Buyer are not sufficient to justify the £15,000 sought as this relates to defect/snagging rectification which is outside the scope of this adjudication.
- The reasons given by the Home Buyer are sufficient to justify the apology and explanation sought from the Home Builder.
- The reasons given by the Home Buyer are sufficient to justify the award of £500 in compensation for the inconvenience caused.

## **Decision**

The claim succeeded.

In view of the breach of sections 4.1 and 5.1. of the Code, the adjudicator directed the Home Builder to:

- write to the Home Buyer to apologise for not responding to numerous written requests / complaints made in relation to the garden defects since October 2020 and to explain why responses were not provided and to explain why the garden issues have arisen.
- pay the Home Buyer £500 in compensation for the inconvenience caused by the failure to respond to numerous pieces of correspondence and to complaints, which have 'taken so many hours and effort chasing up' and left the Home Buyers without the use of the majority of their garden for 18 months.

## **Complaint**

The Home Buyer stated that Home Builder breached Code Sections 4.1 and 5.1 because he raised a number of complaints regarding outstanding defects at the Property, but the Home Builder did not acknowledge his complaints and it did not address the issues that he raised.

## **Defence**

The Home Builder did not submit a defence to the Claim.

## **Findings**

The Adjudicator found that the claim concerning alleged defects at the Property fell outside the scope of the Scheme and could not be adjudicated upon. The Home Builder breached Code Section 4.1, because the evidence did not show a reasonable level of engagement from the Home Builder with the Home Buyer, such that, in the Adjudicator's view, its after-sales service was inaccessible. The Home Builder breached Code Section 5.1, because there was no evidence that it responded to the complaints the Home Buyer made in December 2020 and September 2021.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: issue the Home Buyer with a written apology; pay the Home Buyer £500.00 in compensation for inconvenience; and investigate the Home Buyer's complaints and provide him with a written response detailing the outcome of its investigations.

## **Complaint**

The Home Buyer stated that the Home Builder breached: Code 1.2 because it did not provide him with a copy of the Code at Reservation; Code Section 2.6 because it did not refund the Reservation fee without delay; and Code Section 3.2 because it amended the previously advised completion date on the day of exchange therefore it did not provide him with reliable and realistic information about the completion of the construction, legal completion, and handover.

## **Defence**

The Home Builder disputed the alleged breaches of the Code. It submitted that it refunded the Reservation fee to the Home Buyer in June 2022. The Code was discussed and a copy provided at Reservation and the Home Buyer acknowledged in the Reservation Agreement that he had received a copy of the Code.

The sections of the sale contract regarding the Anticipated Completion Date and Extended Date were deliberately not completed at the time that the draft contract was sent to the Home Buyer's solicitors because those sections would have needed to be filled with up-to-date information immediately prior to completion. At the time the parties were ready to exchange contracts, the Property was not watertight and an Extended Date of six months from the Anticipated Completion Date was inserted in the sale contract.

## **Findings**

The Adjudicator found that a direction for the Home Builder to make changes to its wider business processes was not a direction that could be made under the Scheme Rules and fell outside the scope of the Scheme. The Adjudicator did not find a breach of Code Section 1.2 because the Home Buyer signed the Reservation agreement confirming that he had received a copy of the Code, and there was insufficient evidence to dispute this confirmation within the Reservation agreement.

There was also no breach of Code Section 3.2 because the Home Builder was entitled to amend the Anticipated Completion Date indicated in the Reservation agreement by inserting the updated Anticipated Completion Date in the draft contract. The evidence did not show that the Home Builder amended the Anticipated Completion Date in a manner that breached the Code.

However, the Home Builder breached Code Section 2.6 from the time that the Reservation was cancelled to the time it refunded the Reservation fee, and the Home Buyer needed to contact it a number of times to request a refund of the Reservation fee which he did not have to do. This breach caused the Home Buyer inconvenience.

**Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology and pay the Home Buyer £100.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submits that the extractor unit in the kitchen is not fit for purpose as it fails to remove any droplets which are created when the kitchen is in use. The Home Buyer asserts that the issue was raised in December 2021 and apart from arranging for an engineer to attend, the Home Builder has not taken any further action in attempting to resolve the issue.

## **Defence**

The Home Builder submits that carried out inspections, consulted with the appliance manufacturer and dealt thoroughly with the Home Buyer's issue and subsequent complaint. The Home Builder avers that "it is the Home Buyer's dissatisfaction with the outcome of their complaint about the performance of an appliance that has prompted this application, as no breach of the Code has been identified or evidenced".

## **Findings**

The adjudicator that the Home Builder had arranged an inspection which confirmed that the extractor hood was installed correctly and was providing adequate suction. Therefore the Home Builder was found to have provided an appropriate remedy to the complaint and therefore to have dealt with it.

## **Decision**

The claim did not succeed. No breach of section 5.1 was established as the Home Builder was found to have dealt with the complaint.



## **Complaint**

The Home Buyer submits that the Property was handed over on completion with numerous defects, including tolerances of various walls, floors and ceilings; and that the shower tray and ensuite furniture which were not installed to manufacturer's specifications, thereby falling outside of "NHBC and British Standards".

The Home Buyer adds that the Home Builder refused to rectify these defects and refused to attend the Property to investigate, thereby breaching section 4.1 on aftercare and 5.1 on complaints handling. As a result, the Home Buyer is seeking an apology, an explanation and £15,000.00 to rectify the issues identified at the Property.

## **Defence**

The Home Builder submits that the Property has been "thoroughly inspected" by its After Sales Team and that it does not agree that the tolerances to the walls and ceilings are notifiable defects. The Home Builder submits that it has attended the Property over one hundred times and that 41 defects have been rectified; however, that four defects remain outstanding, which are due to be completed imminently.

## **Findings**

While the Home Builder has not demonstrated the findings of its quality and design team, the Home Buyer has not provided evidence to demonstrate or indicate that walls, ceilings or floors were outside of the tolerances required by NHBC. Therefore, I find that the Home Builder's response to this complaint and to the complaint on the shower tray were appropriate remedies in the circumstances. Consequently, I find the Home Builder to have dealt with this part of the complaint.

While the Home Builder has demonstrated that it undertook numerous repairs at the Property, the repairs schedule does record issues outstanding. In consideration of the report dates, I do not find the Home Builder to have provided a remedy to these issues with an appropriate time and therefore to have dealt with them as required by the Code. Therefore, I find the Home Builder to be in breach of section 5.1 of the Code

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer and explain why the breach of section 5.1 of the Code occurred.

### **Complaint**

The Home Buyer claimed that a number of defects and snags has not been remedied within the two years defects correction period and sought £10,000 for the necessary remedial works or for the works to be completed within an appropriate period.

### **Defence**

The Home Builder denied liability on the basis that the Home Buyer had carried out some works himself causing some of the damage complained of. The Home Builder complained that the Home Owner had become aggressive and abusive towards trades people seeking to carry out remedial works. The Home Builder argues that issues identified in a third party report fall outside the two year defects correction period.

### **Findings**

The Adjudicator found that the Home Builder breached section 5.1 of the Code by failing to respond to the Home Buyer's complaint within a reasonable timeframe. An independent third party report of defects and/or snags was produced within the two years defects period and the issues identified should be resolved within an appropriate period.

### **Decision**

The claim succeeded and the Home Builder is required to attend to the identified issues within an appropriate time period (determined as 3 months).

## **Complaint**

The Home Buyer complained that the Home Builder had represented that there would be a fence in front of her Property. It also represented that the northern boundary of the housing development in which the Property was located would be screened or fenced off from the adjacent commercial complex and that the private road in the development would be closed at the north boundary, with traffic accessing the development from the south. The Home Builder did not say that the road was going to be a one-way. These representations were untrue, and the Home Buyer has suffered inconvenience as a result.

## **Defence**

The Home Builder denied that these representations were made. It said that planning restrictions applicable to the development meant that it would not have been possible to close the road, which was required to be a one way. The Home Builder also said that the contract between it and the Home Buyer allowed it to make changes to the layout of the development, and also said that the Home Buyer could not rely on pre-purchase statements. The Home Builder therefore denied that there has been any breach of the Code, but as a gesture of goodwill proposed to install a traffic management solution and a fence behind certain parking bays.

## **Findings**

The adjudicator found that the Home Builder did in fact make these representations, which were incorrect, and has thus breached the Code. The Home Buyer has suffered inconvenience as a result.

The Home Builder should pay compensation and should also take certain steps (as described above) to mitigate the issues that have arisen. The Home Builder was not, however, required to provide an apology as this was not necessary.

## **Decision**

The claim succeeded.

## **Complaint**

The Home Buyer complained that the Home Builder had represented that the northern boundary of the housing development in which the Property was located would be screened or fenced off from the adjacent commercial complex and that the private road in the development would be closed at the north boundary, with traffic accessing the development from the south. The Home Builder did not say that the road was going to be a one-way. These representations were untrue, and the Home Buyer has suffered inconvenience as a result.

## **Defence**

The Home Builder denied that these representations were made. It said that planning restrictions applicable to the development meant that it would not have been possible to close the road, which was required to be a one way. The Home Builder also said that the contract between it and the Home Buyer allowed it to make changes to the layout of the development, and also said that the Home Buyer could not rely on pre-purchase statements. The Home Builder therefore denied that there has been any breach of the Code, but as a gesture of goodwill proposed to install a traffic management solution and a fence behind certain parking bays.

## **Findings**

The adjudicator found that the Home Builder did in fact make these representations, which were incorrect, and has thus breached the Code. The Home Buyer has suffered inconvenience as a result.

The Home Builder should pay compensation and should also take certain steps (as described above) to mitigate the issues that have arisen. The Home Builder was not, however, required to provide an apology as this was not necessary.

## **Decision**

The claim succeeded.

## **Complaint**

The Home Buyer complained that the Home Builder had represented that the northern boundary of the housing development in which the Property was located would be screened or fenced off from the adjacent commercial complex and that the private road in the development would be closed at the north boundary, with traffic accessing the development from the south. The Home Builder did not say that the road was going to be a one-way. These representations were untrue, and the Home Buyer has suffered inconvenience as a result.

## **Defence**

The Home Builder denied that these representations were made. It said that planning restrictions applicable to the development meant that it would not have been possible to close the road, which was required to be a one way. The Home Builder also said that the contract between it and the Home Buyer allowed it to make changes to the layout of the development, and also said that the Home Buyer could not rely on pre-purchase statements. The Home Builder therefore denied that there has been any breach of the Code, but as a gesture of goodwill proposed to install a traffic management solution and a fence behind certain parking bays.

## **Findings**

The adjudicator found that the Home Builder did in fact make these representations, which were incorrect, and has thus breached the Code. The Home Buyer has suffered inconvenience as a result.

The Home Builder should pay compensation and should also take certain steps (as described above) to mitigate the issues that have arisen. The Home Builder was not, however, required to provide an apology as this was not necessary.

## **Decision**

The claim succeeded.

## **Complaint**

The Home Buyers indicated that they experienced various snagging/construction defect issues with the Property (relating to elements such as flooring, walling, windows, worktops, toilet seat and nail pops). The Home Buyers indicated that they have been communicating with Home Builder in relation to these snagging/construction defect issues but they have not all been addressed/fully resolved to their satisfaction (and they have suffered extreme stress as a result). Based on the submissions provided, it was clear the Home Buyers feel that this matter should amount to a breach of sections 4.1 and 5.1 of the Code.

Accordingly, the Home Buyers were seeking for the Home Builder to provide an apology, an explanation and to resolve their various snagging/construction defect concerns to their satisfaction (by obtaining a satisfaction sign-off from both Home Buyers).

## **Defence**

The Home Builder did not accept that it had breached the actual requirements of sections 4.1 or 5.1 of the Code. Furthermore, and in any event, it indicated that it has taken appropriate action in response to the Home Buyers' snagging/construction defect concerns. In particular, the Home Builder submitted that it paid the Home Buyers as requested for damaged flooring, it installed the piers walling as required and it took appropriate action in relation to the windows, worktop and toilet seat. Therefore, the Home Builder did not accept it has breached the Code and did not accept any liability to provide the Home Buyers with the redress claimed.

## **Findings**

The adjudicator closely reviewed the positions of the respective parties. The adjudicator then proceeded to explain the actual requirements of sections 4.1 and 5.1 of the Code (these sections of the Code outline the Home Builder's obligations to have accessible/set aftersales and complaint handling services). It was made clear that the Home Buyers' various complaints regarding defective structural construction/snagging did not amount to a breach of sections 4.1 or 5.1 of the Code.

Moreover, it was explained that the scheme was not the same as the warranty resolution service and could not be used as a substitute process for matters falling under that service. Consequently, whilst the adjudicator expressed empathy with the Home Buyers' discontent with their snagging/construction defect concerns, it was explained that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyers' claim could not succeed.

### **Complaint**

The Home Buyer stated that the Home Builders breached section 2.1 of the Code by failing to inform the Home Buyer of a change to the boundary of the garden of the property prior to completion, relating to the exclusion of land used for a pathway to a neighbouring property.

The Home Buyer sought compensation of £2,267.46 being the value of the land not conveyed.

### **Defence**

The Home Builders denied liability, on the basis that the property was constructed in accordance with the conveyance plan and the Home Buyer was provided with sufficient information to enable them to make a suitably informed purchasing decision.

### **Findings**

The adjudicator found that the Home Builders did not breach section 2.1 of the Code. The plans attached to the reservation agreement accurately described the boundary of the property and that the Home Buyer expressly acknowledged the existence of the pathway in the reservation agreement.

### **Decision**

The claim failed.

## **Complaint**

The Home Buyer indicated that they had experienced various snagging/construction defect issues with the Property. Specifically, the Home Buyer submitted that the floors in the Property have become creaky and she can hear noise from neighbouring properties.

The Home Buyer indicated that she has been able to communicate with Home Builder in relation to these snagging/construction defect issues but they have not all been fully addressed/resolved to their satisfaction (and this has caused emotional upset/stress). Based on the submissions provided, the Home Buyer felt that this matter should amount to a breach of section 5.1 of the Code. Accordingly, the Home Buyer claimed for the Home Builder to either: fix their snagging/construction defect issues, agree to pay for this to be done or pay £15000.00.

## **Defence**

The Home Builder did not accept that it had breached the actual requirements of section 5.1 of the Code. Furthermore, and in any event, it indicated that it had taken appropriate steps to assist with the Home Buyer's snagging/construction defect concerns. Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

The adjudicator carefully reviewed all the submissions provided. The adjudicator went on to outline the actual requirements of section 5.1 of the Code. It was explained that the Home Buyer's specific complaints about defective structural construction/snagging did not amount to a breach of section 5.1 of the Code.

In this vein, it was also explained that the scheme was not the same as the warranty resolution service and could not be used as a substitute process for matters falling entirely under that service. Accordingly, whilst the adjudicator empathised the Home Buyer's displeasure regarding their snagging/construction defect concerns, it was explained that no material breaches of the Code had taken place based on the evidence put forward for adjudication.

## **Decision**

The Home Buyer's claim did not succeed.



## **Complaint**

The Home Buyer submits that following works carried out to the garden, the level was raised “a considerable amount” making it unsafe. The Home Buyer adds that the garden has been raised by up to 12 inches in some places.

The Home Buyer submits that due to the raised garden, the gravel boards are now submerged beneath the turf, making them more susceptible to rot and therefore decreasing their lifespan. Additionally, the Home Buyer submits that the DPC line is now also below the turf for one side of the building.

The Home Buyer submits that the front gate post was damaged prior to exchange and that the Home Builder agreed to replace it. However, following an unsatisfactory repair, the Home Builder agreed to replace the post again.

Finally, the Home Buyer asserts that the front door needs replacing as it is warped and the squeaky stairs need repairing; neither of which have been completed, despite being raised.

## **Defence**

The Home Builder submits that it “has been in contact with the Applicant and an appointment has been arranged to attend and carry out further inspections for the following items: rear garden level, fence gravel board, front gate, front door and squeaking stairs. The Home Builder will return the garden to the original level it was following works to the garden for the garage cables to be buried and the front gate will be put right”.

Additionally, the Home Builder submits that that “The Property purchased was a Show-home ‘sold as seen’. At the point of purchase the garden was open to the neighbouring property and the fence-lines were to be installed pre-completion. On installing the fence it was identified that the power cable to the garage needed lowering and this required more invasive works to the garden to rectify. As these works were carried out, we were not made aware by our contractor that the garden levels had been re-implemented at a different position and so this was not brought to the Applicant’s attention.

The Applicant was aware fencing was to be re-installed to the correct position post exchange and pre completion.”

## **Findings**

The adjudicator found that the Home Builder accepted that the garden level had been altered following the adjustment to the electrical cable. As a result, the Home Builder was found to be in breach of sections 1.5 and 3.1 of the Code. Additionally, the Home Builder was found to be in breach of section 5.1 for a failure to deal with the Home Buyer’s complaint.

## **Decision**

The claim succeeded. The Home Builder was directed to return the garden to the same level that it was prior to the works. Additionally, the Home Builder was directed to repair the gate post, investigate and repair the warped door and squeaky stairs.

### **Complaint**

The Home Buyer complained that there was a breach of sections 4.1 and 5.1 of the Cde because, although he had complained that the Home Builder had mixed batches of tiles on his roof and created a patchwork effect, the Home Builder had taken no action. He claimed that there had been a non-compliance with an NHBC standard.

### **Defence**

The Home Builder said that it had investigated and had been advised that although there was now a difference in appearance, the tiles would soon weather in. The Home Builder had engaged with the NHBC which had described the colour variation as marginal.

### **Findings**

The adjudicator found that in the absence of a breach of the Code the adjudicator could not make a decision about snagging and in any event could not make a decision about compliance with an NHBC standard which the NHBC had described as “marginal”. There was no breach of the Code.

The Home Buyer had been provided with necessary information about the Builder’s after-sales service and the Home Builder had promptly investigated the Home Buyer’s complaint about the roof covering with NHBC and the manufacturer, which had said that the tiles would weather to the same colour. There was no evidence that this would take a long time and the Home Builder had decided that it would take no further action.

### **Decision**

The claim did not succeed.

### **Complaint**

The Home Buyer complained that he had been wrongly informed that his Home was not a show home. He experienced a number of snagging issues which have required rectification and this is still going on and has caused inconvenience. He says that this would not have happened if his home had not been a show home.

He says that the Home Builder has confirmed to him that his Home was a show home and he claims a breach of section 2 and another resident has also stated this.

### **Defence**

The Home Builder says that says that as a result of an error it incorrectly told the Home Buyer in correspondence that the Home had been a show home. It submitted evidence that the Home was not in the area where the show homes were located, and submitted a copy of the brochure which explained where the show homes could be found.

Moreover, where a show home is sold, it is the company's practice to record this in the reservation agreement. This did not occur. The Home Builder had thrown in curtains and carpets as a marketing incentive but had not used the property in the way the home Buyer alleged.

### **Findings**

The adjudicator found on the evidence that the Home had not been used as a show home and there was no breach of section 2. However, the Home Builder had incorrectly informed the Home Buyer that the Home had been used as a show house in response to the customer's complaint.

This was a breach of section 5.1 of the Code, when read with the Guidance and had caused inconvenience and confusion. Compensation of £175.00 was awarded for this but it could not be awarded for the inconvenience caused by snagging works because there was no promise in the Code to provide a property that was free of snagging and the Home Buyer had not succeeded in showing that there had been a breach of either section 2.1 or 1.5 of the Scheme.

### **Decision**

The claim succeeded. Directions were given to the Home Builder that it should pay compensation of £175. An apology for the error had already been given and an explanation provided in the defence.

## **Complaint**

The Home Buyer raised complaints that the Home Builder did not explain how the after-sale service worked, repeatedly failed to log issues reported to it as faults (both by phone and by email), failed to book in tradespeople even once issues were logged, and used inexperienced or poorly skilled tradespeople which have then required repairs up to a further five or six times on the same issues. Due to the lack of customer care, they have had to spend their own money to address safety issues with the property.

In addition, due to repeated water leaks in the Property they have lost personal goods. The Home Buyer explained that they had spent a significant amount of time: over 300 emails and 80 phone calls plus over 10 weeks off work to allow tradespeople to access the Property.

The Home Buyer sought £12,393.00 for the loss incurred (including £500.00 for inconvenience), an apology and practical action.

## **Defence**

The Home Builder denied liability although it acknowledged that due to an error on its part its Customer Care Department did not introduce itself to the Home Buyer and was not aware of any issues until nine months after legal completion.

## **Findings**

The evidence did not support the Home Builder's statements that it was not aware of any issues until nine months after legal completion. The evidence showed that the Home Buyer had repeatedly contacted the Customer Care Department for seven months before Home Builder explained how the after-sales process works and began to take action. The adjudication also found that Home Builder did not provide the Home Buyer with a copy of its complaints procedure when requested in August 2021, and that this was only provided in May 2022; some nine months later. The Home Builder breached sections 4.1 and 5.1 of the Code.

However, the Home Buyer's complaints about the construction of the property - faulty items, poor design, quality of workmanship and/or snagging issues fell outside the scope of adjudications under CCHBIDRS. In addition, most of the remedies sought related directly to the Home Buyer's complaints about the poor design, quality of workmanship and/or snagging issues and could not be considered.

## **Decision**

The claim succeeded. The Home Builder breached sections 4.1 and 5.1 of the Code. The adjudicator directed the Home Builders to pay the Home Buyer £500.00 for the inconvenience caused.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Section 1.5 of the Consumer Code for Home Builders, as follows:

- for not providing clear and truthful sales and advertising material because the 'deviation to the advertised floor plan was not made clear .... at any point of the sales process.' The Home Buyers claim that when they initially made inquiries about the property all the bathrooms had a window on the floor plan and at no stage were they made aware that the property they were reserving differed to the property floor plan advertised. The Home Buyers state that the choice to make an informed decision about the house purchase was taken from them due to not being made aware of the missing window until after the exchange of contracts.

The Home Buyer sought:

5. The Home Builder to pay up to £15,000 to cover distress and inconvenience caused (£500), a new window/opening (£2,500), removal/re-fitting/replacement of the current bathroom fittings, plumbing, electrics, radiator, door and tiles to allow the window to be installed (quote not provided).
6. The Home Builder to apologise to the Home Buyers for not installing the bathroom window.

## **Defence**

The Home Builder denied liability, on the basis that:

- the post-reservation checklist, signed by the Home Buyers, records the specific drawings and plans shown to them on 25 July 2021, which either show no window in the family bathroom or a note to indicate no window on that plot. The Home Builder also submits that on the 15 August 2021, the Home Buyer attended site (prior to the exchange of contracts) and the window openings would have been constructed and visible.

## **Findings**

The adjudicator found that:

- The Home Builder has not breached requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyers are not sufficient to justify the remedies or payments sought.

## **Decision**

The claim did not succeed.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5, 2.1 and 5.1 of the Consumer Code for Home Builders, as follows:

- for ‘the mis-selling and avoidance of information in conveyancing searches sold by builders agent leading to a devaluation in our purchase’ and that ‘if we had known regarding the large roundabout and development (within 30 metres of our property) we would not have purchased the property or paid for garden landscaping, garden office and internal works.’

The Home Buyer sought:

- The Home Builder to pay £15,000 to the Home Buyer to compensate them for the losses caused by the development and roundabout constructed near their garden but not identified at purchase stage. These costs comprise the devaluation of their property, the garden landscaping expenditure, the garden office expenditure, the internal works expenditure and the ‘stress and anxiety’ caused.
- The Home Builder to apologise to the Home Buyer for not disclosing the development and roundabout at the purchase stage.
- The Home Builder to provide the Home Buyer with an explanation for not disclosing the development and roundabout at the purchase stage.
- The Home Builder to take some practical action (although the Home Buyer does not state what this action is).

## Defence

The Home Builder denied liability, on the basis that:

- ‘the Application should be dismissed due to (a) a failure to provide evidential documentation (b) a failure to substantiate his complaint and (c) a failure to complete the internal complaints procedure. Alternatively, the Respondent asks that the Application be dismissed as ‘the obligation is on the buyer of a property to find out everything they want or need to know about a property before purchase.’
- the Contract for Sale states: ‘You confirm to us by entering into this legally binding Contract that in making your decision to purchase the New Home and the Property you have...taken all reasonable steps to satisfying yourself that the Estate and the wider neighbourhood is a suitable place for you to live.’ It is therefore clear, that the Applicant agreed that he had taken all reasonable steps to satisfy himself that the neighbourhood was a suitable place to live. The onus is clearly on the Applicant to take all reasonable steps it believes.’

## **Findings**

The adjudicator found that:

- The Home Builder has not breached requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyers are not sufficient to justify the remedies or payments sought.

## **Decision**

The claim did not succeed.



## **Complaint**

The Home Buyer says that the Home Builder breached the Code by failing in its after-sales service as the Home Builder failed in its after-sales service as it did not correctly and promptly install the correct garden drainage, leading to flooding in the garden.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. Furthermore, it has previously offered to complete land drainage within the garden, which was initially agreed by the Home Buyer. However, the Home Buyer later requested additional sleepers to be installed and the Home Builder when declined this the customer Home Buyer would not allow access to the property to complete the land drainage works

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home apologise, correctly resolve the garden drainage issues or pay £15,000.00 compensation for the Home Buyer to use their own contractors to resolve the garden drainage issues.

### **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the Home Builder failed in its after-sales service as it did not correctly install and then repair the Property's front door, and bedroom two was left with cold spots on the angled ceiling. The Home Buyer seeks the Home Builder to apologise and thoroughly repair the front door and ceiling in bedroom two.

### **Defence**

The Home Builder says it has always complied with the requirements of the Code, in particular with the after-sales service and complaints handling. The Home Buyer has made full use of the Home Builder's after-sale service, and the Home Builder investigated the Home Buyer's alleged defect with the front door extensively before concluding the door was not defective. The Home Builder is not aware of an issue within bedroom two, and there is no record on the Home Builder's systems of this matter ever having been raised. Therefore, it cannot comment on this aspect of the Home Buyer's claim.

### **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and thoroughly repair the front door and ceiling in bedroom two.

### **Complaint**

The Home Buyer said that following a previous application, a further defect emerged. Her downstairs toilet repeatedly blocked. The company sent someone to repair this on 5 occasions. On the last occasion it was discovered that the pipework had not been connected properly and needed replacement. This discovery was made on 4 March 2022 but no-one had attended to carry out the work and a further blockage happened in May 2022. By the date of the application, nothing had been done. This cause considerable inconvenience to the applicant and her young family.

### **Defence**

The Home Builder said that it was unable to find a contractor to carry out the work until 22 July 2022.

### **Findings**

The adjudicator found on the basis of the evidence put forward by the Buyer that although the Home Builder had now altered the pipework, it had not made good and left an unfinished area in her garden surrounded by plastic barriers. The adjudicator found that a direction should be made that the work should be completed and that compensation for inconvenience of £200 should be awarded.

### **Decision**

The claim succeeded. Directions were given to the Home Builder that it should:

1. Complete the making good of the area of the garden of the Home that was affected by the alterations to the pipework, and
2. Pay compensation of £200

## **Complaint**

The Home Buyers purchased a freehold new-build home. At around the same time, they also entered into a separate and distinct leasehold agreement for a garage. The Home Buyers submitted that the subject-matter of their complaint related entirely to this separate leasehold agreement for the garage (not the newbuild home agreement). Specifically, the Home Buyers raised a dispute relating to the fact that the garage did not have a door. The Home Buyers submitted that this matter should amount to a breach of the leasehold agreement for the garage.

Whilst the Home Buyers did not cite any specific sections of the Code, based on the submissions provided, it was clear they were alleging that the Home Builder's actions should amount to a breach of sections 4.1 and 5.1 of the Code. Accordingly, the Home Buyers claimed for the Home Builder to install a door for their garage and pay compensation in the sum of £10000.00.

## **Defence**

The Home Builder did not accept that it has breached the actual requirements of the Code. Furthermore, and in any event, it indicated that it had taken appropriate action in response to the Home Buyers' concerns relating to the leasehold agreement for the garage. In particular, it had already explained why a garage door could not be installed. Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyers with the redress claimed.

## **Findings**

Following careful examination of all the submissions provided, it was explained that the Code only applies to newbuild home agreements and not to separate and distinct lease agreements for garage structures. Moreover, looking to the actual requirements of sections 4.1 and 5.1 of the Code (the sections of the Code which outline the Home Builder's obligations to have accessible/set aftersales and complaint handling services), it was made clear that the Home Buyers' various complaints regarding defective structural construction connected to a garage lease purchase agreement (separate from a newbuild home agreement) could not inherently amount to a breach of sections 4.1 or 5.1 of the Code.

Furthermore, following review, it was confirmed that the Home Builder was in compliance with its overall Code obligations under sections 4.1 and 5.1 (as it had set/accessible services in place as required and the Home Buyers were able to make use of them). Consequently, whilst the adjudicator acknowledged the Home Buyers' discontent in relation to concerns falling under their garage lease contract, it was explained that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyers' claim could not succeed.

## **Complaint**

The Home Buyer stated that they had experienced construction defect issues with the roof of the Property which caused leaks. Therefore, the Home Buyer felt that this matter should amount to a breach of sections 2.1 and 4.1 of the Code. In particular, the Home Buyer highlighted that he had suffered mental anguish/stress as a result of this issue. Accordingly, the Home Buyer claimed for the Home Builder to provide an apology and a payment in the sum of £15000.00.

## **Defence**

The Home Builder confirmed that there had been construction defect issues with the roof of the Property which needed to be addressed. However, as soon as the issue was raised, the construction defect issue was addressed and any resulting damage was made good. The Home Builder did not accept that it had breached the actual requirements of sections 2.1 or 4.1 of the Code. It indicated that it had taken the appropriate steps to assist with the Home Buyer's construction defect concerns (as part of the warranty process). Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

Following careful examination of all the submissions provided, it was made clear that the Home Buyer's complaints regarding defective structural roof construction could not inherently amount to a breach of sections 2.1 or 4.1 of the Code. Specifically, it was explained that section 2.1 of the Code outlines the Home Builder's obligations in relation to the provision of pre-purchase information (and does not cover warranty issues relating to defective roof construction).

Furthermore, following review, it was confirmed that the Home Builder was in compliance with its overall Code obligations under section 4.1 (as it had set/accessible after-sales services in place as required and the Home Buyer was aptly able to utilise these services). Moreover, it was also explained that the Home Buyer's claims for financial compensation for mental anguish/stress could not be considered under the Code.

Consequently, whilst the adjudicator acknowledged the Home Buyer's discontent in relation to their construction defect concerns, it was explained that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyer's claim could not succeed.

## Complaint

The Home Buyer submits that the Code documentation was not provided in an accessible format; specifically in a large print version, which demonstrated a lack of staff training. The Home Buyer asserts that this was therefore a breach of section 1.2 of the Code.

The Home Buyer submits that he made it clear at the start of the sale that he intended to have a professional snagging inspection carried out prior to legal completion on the grounds of safety, so that the home demo could be followed visually. As a result, the Home Builder has not considered the needs of vulnerable customers under sections 1.3 and 1.5 of the Code.

The Home Buyer submits that the Home Builder did not “mention anything related to building regulations during the sales process. As the NHBC warranty did not cover building regulations I believe the developer was required to show the local authority was responsible for Building Regulations compliance. This is critical considering my property was sold without a 'Building Control Completion Certificate', 'Final Building Control Inspection' and 'Electrical Installation Test Certificate'”, thereby breaching section 2.1 of the Code.

The Home Buyer submits that the Home Builder did not inform him of the NHBC minimum claim value, or how much the policy costs as it is included within the purchase price. The Home Buyer asserts that this is a breach of section 2.3, as the policy has various exclusions which were not explained.

The Home Buyer submits that the Home Builder attempted to “heavily push” him into using one of their preferred solicitors, which was not in his best interests and amounted to a breach of section 2.5 of the Code.

The Home Buyer asserts that the Home Builder breached section 2.6 of the Code following a refusal to provide working drawings in an electronic format. The Home Buyer submits that he therefore did not sign to confirm that the drawings had been seen. Additionally, that there are 13 other items left unticked on the reservation form.

## Defence

The Home Builder submits that the Home Buyer did not request that the Code be provided in a large format and it is not appropriate for the Home Builder to make assumptions on the needs of the Home Buyer.

The Home Builder submits that it cannot find any record of any request from the Home Buyer for a professional snagger to attend the Property prior to legal completion, or any refusal of the same from the Home Builder. The Home Builder adds that a professional snagging list was completed after legal completion.

The Home Builder avers that there is no requirement under the contract in relation to the Building Control certificate being required. The Home Builder acknowledges the delay in obtaining the certificate.

The Home Builder submits that the policy documentation provided by NHBC following completion contains all the information regarding the scope of cover provided by NHBC including the minimum claim value. The Home Builder adds, that the warranty is provided by NHBC and not sold directly by the Home Builder, as suggested.

The Home Builder accepts that it does recommend solicitors to purchasers who are familiar with the development; however, that it did not “heavily push” the Home Buyer in this regard and that the solicitor remained independent.

The Home Builder accepts that some boxes remained unticked at reservation; however, that it was company policy not to provide working drawings to purchasers, but to provide a brochure showing the dimensions of the property.

## **Findings**

The adjudicator found that the Home Builder breached: section 1.2 and 1.3 by failing to provide an accessible version of the Code and failing to facilitate an inspection to meet the needs of the vulnerable customer; section 2.1 for not providing adequate pre-purchase information; section 2.3 for not evidencing provision of the information relating to home warranty provider; and 2.6 for not confirming with the buyer the all information was provided at reservation.

## **Decision**

The claim succeeded. The Home builder was directed to explain why the breaches of the Code occurred and confirmed practical steps to ensure procedures were updated to prevent future breaches.

## **Complaint**

The Home Buyer submits that as soon as the Property was occupied, the Home Builder has been repeatedly chased to rectify snagging issues identified at the Property. The Home Buyer adds that no complaints procedure has been provided, despite being requested. The Home Buyer does accept that some urgent issues were eventually resolved; however, over 200 snagging items remain unresolved; as a result, the Home Buyer avers that the Home Builder has breached sections 4.1 and 5.1 of the Code.

## **Defence**

The Home Builder has not submitted a defence, nor provided any comment on the Home Buyer's Application.

## **Findings**

The adjudicator found that email correspondence submitted did demonstrate that the Home Buyer was aware of who to contact for after sales care. Therefore no breach of section 4.1 of the Code was found. However, the emails provide a strong confirmation that the Home Buyer waited an excessive amount of time for resolution of various issues and for responses in relation to numerous other issues; thereby demonstrating a lack of a complaints procedure, or at least not one which was followed. As a result a breach of 5.1 was found.

## **Decision**

The claim succeeded. However, as the claim was to fund issues of snagging, no award was made in accordance with the scope of the code; instead an award of £500.00 was made for inconvenience.



## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 2.1, 3.1, 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that gradients to the front and rear of the Property have not been constructed “in accordance with the drawings shown and signed for” and that whilst a gradient of 1:43 was signed for, the actual gradient used in the disputed areas is 1:22.

The Home Buyer expands further that they attended a “Levels and Drainage” meeting and were asked to sign a “pre-purchase questionnaire” to confirm that they had been shown the drawings, however, “at no point was there any conversation to state that any version changes had occurred in the few days between the meeting and form being sent to [the Home Buyer] for signing”. The Home Buyer holds that this was “misleading” and they submit further that they were only able to make decisions on the basis of what they advised in meetings like the Levels and Drainage meeting as the Property was bought “off plot”.

The Home Buyer states further, however, that the gradient issue was “key and pivotal” in their decision to purchase the Property and that overall, the gradient issue constitutes a breach of Section 2.1 and Section 3.1 of the Code.

The Home Buyer states further they suffered an additional breach of Section 2.1, in relation to the incorrect colour of the kitchen carcasses (white, as opposed to grey) and that the Home Builder “has accepted liability for this”. In relation to the Kitchen carcass colour issue, whilst the Home Buyer acknowledges that the Home Builder offered, initially, to “rectify the carcasses”, the Home Buyer states that the Home Builder, thereafter, back-tracked on the offer and has failed to rectify the issue to date.

The Home Buyer further claims for issues with the boundaries. Specifically, the Home Buyer submits that the Home Builder breached Sections 2.1 and 3.1 of the Code by failing to construct the fencing correctly and by failing to rectify boundary issues. The Home Buyer states, in relation to the fencing issues, that they “have lost 32cm between [their] plot and A13 plot” as a result. Whilst the Home Buyer acknowledges that the Home Builder “rectified the deficiency in the bin collection point”, the Home Buyer states that the Home Builder has failed to rectify the other, “various boundary breaches”, including the fencing issue and the planting of a tree in the wrong plot, “in accordance with the as built survey”.

The Home Buyer submits further that the Home Builder breached Sections 4.1 and 5.1 of the Code by providing a “poor after sales service”, including in relation to incorrect information, delays and a failure to complete “numerous defects” which remain outstanding to date.

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders (but for a breach “in part”) of Section 2.1. In relation to Section 2.1, the Home Builder admits that it did not provide the carcasses in the correct colour as chosen by the Home Buyer, however, it disputes the sum(s) claimed as it submits that it has offered a “suitable resolution

to this issue". The Home Builder states it offered, specifically, to "spray the carcasses grey to apologise for our error and provide the claimants with grey carcasses", however, the offer was declined.

In relation to the alleged gradient issue, the Home Builder disputes any liability under Section 2.1 or 3.1 of the Code (or at all) and submits that the gradient is as per the drawing "signed for by the [Home Buyer]", i.e. 1:22.

In relation to the other alleged boundary issues, the Home Builder submits that "the red edged boundary of the property of plot 14 is clearly defined on page 7 of the transfer document", however, as the Home Buyer raised a query with regard to their boundaries, the Home Builder instructed an 'as built' survey to be completed using the planning layout for comparison. The Home Builder submits that the outcome of the as built survey was that "the only boundary that required any remedial work was to the turning head opposite the property, ensuring this was rectified to the correct depth" and that this "has now been rectified as agreed by the [Home Buyer] in their application". The Home Builder states further that it "does not denote the boundary of neighbouring properties on front gardens", as it is not a service it offers and that it is "a planning requirement to leave the front of all properties as open as possible".

The Home Builder comments further that "the landscaping at this development is not yet complete and therefore the location of any trees may move, once inspected by the management company". The Home Builder comments further that "planning layouts are not construction drawings" and that the Home Buyer signed for the "External Works, 17068/10/4 G" drawing which "details a garden gradient for this property of 1:22". In relation to Sections 4.1 and 5.1 of the Code, the Home Builder submits that it provided a copy of the Code and access to its complaints procedure, escalated the customer's complaint appropriately and dealt with queries within timescales.

Whilst the Home Builder acknowledges that "the quality of this property at handover was not up to [its] usual standard", it submits that it offered the Home Buyer "the option to delay their completion into January 2022, however [the Home Buyer] declined and proceeded with legal completion on 22<sup>nd</sup> December 2021".

The Home Builder accepts further that whilst the Home Builder has suffered inconvenience as a result, it submits that it has apologised and its "Customer Service team has been in regular communication...with the intention of resolving any outstanding issues as swiftly as possible" and such, no compensation for the inconvenience or the Home Buyer's time is justified. The Home Builder comments further, in relation to the cost of professional reports, that no award is justified as "within the 2 year [name] warranty and the 10 year NHBC warranty period, there has been no requirement for the [Home Buyer] to seek and incur costs of additional professional reports."

## **Findings**

The adjudicator found that the Home Builder breached ss. 1.5, 2.1 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyer indicated that they had experienced various snagging/construction defect issues with the Property (approximately 80 snagging/construction defect issues such as poor finish of plastering/paintwork).

The Home Buyer confirmed that they have been communicating with Home Builder in relation to these snagging/construction defect issues but they have not all been addressed/fully resolved to their satisfaction (and they have suffered extreme stress as a result). Based on the submissions provided, the Home Buyer felt that this matter should amount to a breach of section 4.1 of the Code. Accordingly, the Home Buyer claimed for the Home Builder to: provide an apology, an explanation, take some practical action and pay compensation in the sum of £15000.00.

## **Defence**

The Home Builder did not accept that it has breached the actual requirements of section 4.1 of the Code. Furthermore, and in any event, it indicated that it has taken appropriate action in response to the Home Buyer's snagging/construction defect concerns. Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

Upon close inspection of all the available evidence, it was evident that the Home Buyer's complaints regarding snagging/construction defects could not inherently amount to a breach of section 4.1 of the Code. It was noted that the Home Buyer confirmed she had been through the NHBC warranty resolution service but was not satisfied with the outcome of her snag/construction defect concerns so applied to this scheme as an appeal to the NHBC warranty resolution service's outcome. In this vein, it was explained that this scheme is separate from NHBC warranty resolution service and cannot be used as an appeal stage for unsuccessful NHBC warranty complaints.

Following a review, it was confirmed that the Home Builder was in compliance with its overall Code obligations under section 4.1 (as it had the required after-sales services in place and the Home Buyer was aptly able to make use of these services). Consequently, whilst the adjudicator acknowledged the Home Buyer's discontent in relation to their snagging/construction defect concerns, it was explained that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyer's claim could not succeed.

## **Complaint**

The Home Buyer alleged that there was a construction defect issue with their driveway because they feel it is too narrow (and they need to park up against the kerb on each side). As such, the Home Buyer submitted that the driveway is awkward to park on. The Home Buyer felt that this matter should amount to a breach of sections 4.1 and 5.1 of the Code. Accordingly, the Home Buyer claimed for the Home Builder to take some practical action to resolve this matter.

## **Defence**

The Home Builder did not accept that it had breached the actual requirements of the Code. Furthermore, and in any event, it explained that the Property was constructed and complete when the Home Buyer viewed it and opted to purchase it. As such, the Home Buyer purchased the Property with the full knowledge of the actual dimensions of the driveway. Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

Looking to the actual requirements of sections 4.1 and 5.1 of the Code (which outline the Home Builder's obligations to have accessible/set aftersales and complaint handling services), it was made clear that the Home Buyer's allegation of defective structural construction in relation to a driveway could not inherently amount to a breach of sections 4.1 or 5.1 of the Code. It was also explained that this scheme could not be used as an alternative to the warranty resolution service (which covers complaints relating to construction defects). In any event, it was confirmed that the Home Builder was in compliance with its overall Code obligations under sections 4.1 and 5.1 (as it had the set/accessible services in place as required and the Home Buyer was able to make use of them).

Consequently, whilst the adjudicator acknowledged the Home Buyer's discontent in relation to their construction defect concerns, it was confirmed that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyer's claim could not succeed.

## **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as the Home Builder failed in its after-sales service as it did not correctly install and then repair the Property's flooring within the open plan kitchen living area. The Home Buyer seeks the Home Builder to apologise, pay for the replacement flooring works of £6050.00 and pay £853.00 for additional accommodation costs and time off work..

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The Home Buyer has made full use of the Home Builder's after-sale service, and the Home Builder investigated the Home Buyer's alleged defects with flooring and is of the view that the damage was done during the moving process by the Home Buyer's removal team and subsequently later due to water and impact damage. However, as a gesture of goodwill, the Home Builder has repaired the initial damage to the flooring and offered to pay for the labour charges, whilst its supplier has offered to provide new flooring at no cost.

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise, pay for the replacement flooring works of £6050.00 and pay £853.00 for additional accommodation costs and time off work.

## **Complaint**

The Home Buyer complained that since moving into the Home, he has had issues that are not being resolved. At no point in over a year has he had all the toilets, showers, bathrooms and kitchen in working order at the same time. He said that the Home Builder is in breach of section 4.1 of the Code because since he moved in, the Home Builder has been unable and/or unwilling to fix obvious defects and refused to address issues. He says that the property was not ready for completion. He also claims that the Home Builder is in breach of section 5.1 of the Code because the Home Builder has refused to put things right, does not respond to points that have been made to it or communicate in a reasonable manner.

## **Defence**

The Home Builder said that it has declined to carry out works to remediate a leak from the bathroom and moving tiles because this was due to defective sealant, which was due to the homeowner's failure to maintain and not covered under the warranty which lasted for 6 months only in respect of sealant. It denies that the Home Buyer's sealant was installed in August 2021 as alleged by the Home Buyer but said that the sealer had installed this before completion and/or in April 2021. It agrees that it did not respond to certain of the Home Buyer's correspondence but says that this was because it had already replied.

## **Findings**

The adjudicator found that the Home Builder was in breach of section 5.1 of the Code in that it did not reply to correspondence and explain what it said about the Home Buyer's suggestion that work had been done in August 2021, nor did it explain whether or not the warranty would apply in these circumstances. It therefore did not resolve the Home Buyer's service calls and complaints.

On the evidence, which was disputed and inconsistent, on balance it was more likely than not that the Site Manager had arranged for a contractor to attend to carry out sealant work to the shower in August 2021, although this may not have been done by the Home Builder's sealant contractor. The work had therefore been carried out within 6 months of the leak. The Home Builder in its Defence did not deny that if it had been satisfied that the sealant was installed 6 months before the leak, it would have carried out remediation under the warranty. This should now be directed together with an apology and some compensation.

## **Decision**

The Home Builder was directed to undertake repair work to the Home Buyer's shower in respect of both the sealant and tiles that require remediation; apologise to the Home Buyer for the Home Builder's failure to respond to his correspondence of 24 January and 17 and 18 March 2022 and pay compensation to the Home Buyer of £200.00.

## **Complaint**

The Home Buyer stated

- the Home Builders have changed the boundary of the plot from that shown on the plan that was the basis of their reservation of the property (the “Original Plan”), and as a result the area of the plot has been reduced.
- the Home Buyer denies that they consented to this change.

The Home Buyer sought:

- an order requiring the Home Builders to convey additional land at the front of the property, to replace the land at the side which has been lost as a result of the change to the boundary; or
- compensation for the loss of value as a result of the change to the boundary

## **Defence**

The Home Builders initially denied liability, on the basis that the change to the boundary had been included in a revised transfer of the property, which was accepted by the Home Buyer’s solicitor. Subsequently the Home Builders offered the customer £750.00 as compensation for the reduction of the size of the plot by 13 square metres.

## **Findings**

The adjudicator found that the pre-contract information provided by the Home Builders included the Original Plan, which the Home Buyer was not made aware of the change in the boundary of the property until after completion of the purchase and it is therefore clear that the Home Buyer’s purchase decision was not based on accurate information.

As a result, the Home Builders were in breach of Section 2.1 of the Code.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builders to pay compensation of £750.00 to the Home Buyer.

## **Complaint**

The Home Buyer complained that when he took possession of the Home, he discovered that no electricity supply had been provided in the garage. He had not been told that there would be no supply and he had seen that other homes have an electricity supply. This became particularly important when he wanted to have an electric car. The Home Buyer asked for:

- o Practical action to supply electricity to his garage and/or
- o Compensation of £15,000.00.

## **Defence**

The Home Builder said that the plot did not come with power in the garage and it had never been stated to the Home Buyer that this would be supplied. Moreover, the brochure said that electricity would be supplied only when the garage was on the plot, whereas this was a remote garage and a power supply had not been shown in any plans. The Home Builder denied liability for the claim.

## **Findings**

The adjudicator found that the Home Builder was not in breach of the Code. The garage did not form part of the plot and was separated from the Home by another property and a garage. It was therefore remote, It would not reasonably have been assumed by an average customer that a remote garage would have a power supply, any more than this would have been assumed if there had merely been a parking space.

The customer was given information that he had a garage and I find that if it was important to him at the time of negotiation of his purchase that the garage was served by electricity, he would reasonably have been expected to have asked about this. There is no evidence that any incorrect evidence was given to the purchaser.

## **Decision**

The claim did not succeed.



## **Complaint**

The Home Buyer explained that they had experienced numerous snagging/construction defect issues with the Property (with over 150 snagging defects including flooring scuffs/marks, poor quality thresholds and incorrectly connected appliances). As a result of these snagging/construction defect issues, the Home Buyer stated that her home buying experience was not stress-free.

The Home Buyer felt that this matter should amount to a breach of sections 1.5 and 4.1 of the Code. In particular, the Home Buyer highlighted that she suffered significant anxiety and stress as a result of this matter. Accordingly, the Home Buyer claimed for the Home Builder to acknowledge their shortcomings/poor service and pay compensation in the sum of £6357.79.

## **Defence**

The Home Builder did not accept that it has breached the actual requirements of sections 1.5 or 4.1 of the Code. It indicated that it has taken appropriate steps to assist with the Home Buyer's snagging/construction defect concerns. Due to the nature of some of the required works there was some unavoidable disruption; however, the Home Builder did not accept that this breached sections 1.5 or 4.1 of the Code. Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyer with the redress claimed.

## **Findings**

After a close review of the evidence provided, it was explained that the Home Buyer's complaints regarding snagging/defective structural construction could not inherently amount to a breach of sections 1.5 or 4.1 of the Code. In particular, it was explained that section 1.5 of the Code outlines the Home Builder's obligations in relation to the provision of sales and marketing information (and does not cover warranty complaints such as snagging/defective construction).

Moreover, it was found that the Home Builder was in compliance with its overall Code obligations under section 4.1 (as it had set/accessible after-sales services in place as required and the Home Buyer was aptly able to utilise these services). Additionally, it was also confirmed that the Home Buyer's claims for financial compensation for mental anguish/stress could not be considered under the Code. Therefore, although the adjudicator recognised the Home Buyer's discontent in relation to their snagging/construction defect concerns, it was explained that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyer's claim could not succeed.

## **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as it failed in its after-sales service by not ensuring the internal doors were complete and fitted, and that the damaged flooring within the Property and its garage was replaced. The Home Buyer seeks the Home Builder to apologise, fix the outstanding snagging issues and pay for the replacement flooring works of £2,500.00

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The Home Buyer has made full use of the Home Builder's after-sale service, and the Home Builder thoroughly investigated the Home Buyer's alleged defects with the doors and flooring and fixed any issues raised by the NHBC.

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise, fix the outstanding snagging issues and pay for the replacement flooring works of £2,500.00.

## **Complaint**

The Home Buyer claimed that mis-leading and inaccurate pre-purchase information concerning the position of an adjacent wall and the extent of proposed remedial works to the wall caused stress as the wall is unsightly. The Home Buyer purchased a tree to screen the view of the wall for which they seek reimbursement and sought the Home Builder undertakes further remedial works to the wall.

## **Defence**

The Home Builders accept that initially the position of the wall in relation to the position of the plot being purchased was inaccurately described however the details of the site layout shown on drawings provided to the Home Buyer, and position of the wall during construction phases, clearly show the relative positions and this was known to the Home Buyer. The adjacent wall is not part of the development and is owned by an adjacent property. Remedial works have been carried out.

## **Findings**

The adjudicator found that The Home Buyer has not shown that it proceeded with the purchase in reliance on the initial information provided by the Home Builder in relation to the position of the wall relative to their plot or that the extent of remedial works carried out did not meet the standard required as part of the development proposal, i.e. the contract or planning permission etc. The plan details provided by the Home Builder clearly show the position of the wall relative to the plot for the property and the Home Buyer witnessed the progress of the construction works and so was aware of the actual position for the wall and the plot.

## **Decision**

The claim does not succeed. The Home Builder is not required to take further action.

## **Complaint**

The Home Buyers stated that their complaints centered on the issue of snagging/construction defects (such as tiling and USB socket installation). The Home Buyers felt that these matters should amount to a breach of sections 4.1 and 5.1 of the Code. Accordingly, the Home Buyers claimed for the Home Builder to provide an apology and to agree to pay for snag/construction defects to be repaired by tradesmen selected by the Home Buyers on payment terms within 7 days.

## **Defence**

The Home Builder did not accept that it had breached the actual requirements of the Code. Furthermore, and in any event, it indicated that it had taken appropriate action in response to the Home Buyers' snagging/construction defect concerns. Therefore, the Home Builder did not accept it had breached the Code and did not accept any liability to provide the Home Buyers with the redress claimed.

## **Findings**

Following careful review of all the evidence provided, the adjudicator explained the requirements of sections 4.1 and 5.1 of the Code (which outline the Home Builder's obligations to have accessible/set aftersales and complaint handling services) and made it clear that complaints about snagging/defective structural construction could not inherently amount to a breach of sections 4.1 or 5.1 of the Code.

In this vein, it was explained that this scheme could not be used as an alternative to the warranty resolution service (which covers complaints relating to snagging/construction defects). In any event, it was noted that the Home Builder was in compliance with its overall Code obligations under sections 4.1 and 5.1 (as it had the set/accessible services in place as required and the Home Buyers were able to make use of them). Accordingly, whilst the adjudicator recognised the Home Buyers' dissatisfaction in relation to their snagging/construction defect concerns, it was confirmed that no material breaches of the actual Code had taken place.

## **Decision**

The Home Buyers' claim could not succeed.

## Complaint

The Home Buyer submits that the Home Builder has breached Section 3.2 of the Consumer Code for Home Builders, as follows:

- The breach was caused by the unrealistic property completion date (June/July 2022) provided during the exchange of contracts on 9 February 2022. The Home Buyer confirms that on 16 July 2022, the Home Builder notified them that completion will now be mid October 2022 at the earliest and they 'consider this unacceptable'.

The Home Buyer sought:

- The Home Builder to pay £2,625 to the Home Buyer to compensate them for the alternative accommodation rental losses caused by the late completion of the property.
- The Home Builder to pay £600 to the Home Buyer to compensate them for the storage costs incurred due to the late completion of the property.
- The Home Builder to pay £47.99 to the Home Buyer to compensate them for the postal redirection incurred due to the late completion of the property.
- The Home Builder to pay £500 to the Home Buyer to compensate them for the 'emotional hardship' incurred due to the late completion of the property.
- The Home Builder to take some practical action (although the Home Buyer does not state what this action is).

## Defence

The Home Builder denied liability, on the basis that:

- 'Due to national material shortages the build completion moved, this was pre-exchange and therefore a revised completion window of July/August 2022 was included in the contract for sale and was exchanged on the 9th February 2022. Since the exchange in February, the build completion window has moved to September/October 2022, we communicated this on the 18th June 2022. Whilst we appreciate how frustrating this has been for the applicant, we do not believe the Code has been breached as the completion is still anticipated to be within 6 Months of the 2 Month window agreed upon exchange.' The Home Builder submits 'that the Applicant has not substantiated a claim against it' and 'requests that the Applicant's Application be dismissed'.

## Findings

The adjudicator found that:

- The Home Builder has not breached requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyers are not sufficient to justify the remedies or payments sought.

**Decision**

The claim did not succeed.

### **Complaint**

The Home Buyer says the Home Builder breached the Code as the marketing material incorrectly stated there would be a second parking space available. The Home Buyer is seeking the Home Builder to pay compensation of £25,000.00 due to the lack of a second parking space at the Property.

### **Defence**

The Home Builder says it has not breached any section of the Code. The Property was always intended to have one parking space. However, the Home Builder admits there was confusion due to the marketing material implying that the Property has two spaces. However, the Home Buyer was always aware there was one parking space for the Property as it was explained to the Home Buyer multiple times at the time of reservation and before exchange and completion. Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders.

### **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home paying compensation of £25,000.00 due to the lack of a second parking space at the Property and being provided incorrect information about the Property.

### **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with the complaint about the property's snagging issues.

### **Defence**

The Home Builder says it has always complied with the requirements of the Code. All snagging issues highlighted by the Home Buyer have now been resolved. Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable time period.

### **Findings**

The Home Builder has breached Clause 5.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify the Home Builder pay the Home Buyer the sum of £150.00.



## **Complaint**

The Home Buyer submits that under previous adjudication, the adjudicator found that the Home Builder had breached section 1.5 of the Code for failing to provide clear and truthful sales and advertising material in relation to the installation of the roof windows. As a result, the Home Buyer accepts that he was awarded financial compensation to place him in the position that he should have been in had he not been mis-sold.

The Home Buyer asserts that the award made in the previous adjudication did not absolve the Home Builder of its obligation to remedy the defects with the roof windows, which remain installed.

The Home Buyer asserts that this claim relates to the Home Builder's promise to remedy the defects with the windows, only to cancel the appointments; thereby failing to provide an accessible after sale service and failing to deal with the complaint.

As a result, the Home Buyer submits that the Home Builder has breached sections 4.1 and 5.1 of the Code.

## **Defence**

The Home Builder submits that this claim was the subject of a previous adjudication through which the issues being claimed have been resolved, as the Home Buyer was awarded financial compensation to replace the existing roof windows with another brand. The Home Builder submits that this claim is therefore outside the scope of the Scheme and any award would constitute double recovery.

## **Findings**

In consideration of Rule 2.8 of the Scheme Rules and the findings of the Previous Decision, I do not agree with the Home Buyer's interpretation of the position regarding the windows. I am persuaded by the wording of the Previous Decision, that the award made to the Home Buyer was for the replacement of the windows, following breach of section 1.5 of the Code.

This issue of the windows has therefore been conclusively dealt with in the Previous Decision and as such, I do not find this claim to be within the Scope of the Scheme as the issue in dispute was clearly the subject of a previous adjudication involving the same parties and property. Additionally, to make any direction for the Home Builder to remedy the defects would not only be outside of the Scope of the Code, but would indeed constitute double recovery, in view of the award made in the Previous Decision.

## **Decision**

The claim did not succeed.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.3, 1.5, 2.1 and 5.1 of the Code. Specifically, the Home Buyer submits that they were sold the Property “under false pretences” and that part of the Property’s boundary is delineated by a fence as opposed to a wall.

The Home Buyer states further that the Home Builder “knew in April 2017 that the boundary line in question was planned as a fence”, however, at the time of reservation, the Home Buyer had “been shown drawings that showed this as a wall and these drawings had been confirmed as correct by senior management”.

The Home Buyer states further, however, that from July 2017 through to 18 May 2018 they were advised by the Home Builder that it “did not know what was happening with the wall”, when, in fact, it “had known 13 months prior to this date that the wall was to be a fence”. The Home Buyer states further that whilst the Home Builder did make them aware of the fence, eventually, it did so only five working days prior to the planned completion of the Property (and ten working days to actual completion) and at a stage where the Home Buyer had already committed, financially and practically, to buying the Property.

The Home Buyer states further that the Reservation Agreement was never fully completed and “no drawings were provided or signed off”.

In relation to Section 5.1 of the Code, the Home Buyer submits that the Home Builder does not “have any complaints procedures” and “failed on numerous occasions and requests to provide [the Home Buyer] with [its] complaints policy”. The Home Buyer states further that the Home Builder does not “respond or acknowledge complaints at all”.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, the Home Builder submits that the Home Buyer was “made aware of the material specification of the boundary line prior to purchase, and it is therefore denied they were mis sold the specifications of the plot”.

Whilst the Home Builder acknowledges that the “brochure for the [name] development” indicates that a wall and not a fence would delineate the boundary, it submits that a disclaimer in the brochure states “every care has been taken to ensure the accuracy of these particulars but the contents shall not form part of any contract and the vendors reserve the right to alter the specification and/or design without notice”.

The Home Builder states further that the Property is “not substantially different from that specified prior to completion and the Claimants have suffered no loss”. The Home Builder submits further that the Home Buyer was compensated in the sum of £1000.00 for the issue and that “despite an agreement having been reached, at the request of and with the consent

of the Claimants, the Defendant undertook works to alter the position of the fence line for the Claimants in October 2019". The Home Builder disputes further the Home Buyer's claims in relation to Sections 1.3 and 5.1 and submits that the formal Reservation Agreement was completed and that "it does have a system and procedures for receiving, handling and resolving service calls and complaints" and "has been liaising with the Claimants in relation to their complaint since 2018 to try and bring this matter to a satisfactory conclusion".

### **Findings**

The adjudicator found that the Home Builder breached ss. 1.5, 2.1 and 5.1 of the Code.

### **Decision**

The claim succeeded (in part).

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.1, 1.5, 2.1, 2.2, 2.4, 2.6 and 4.1 of the Code. The Home Buyer refers, specifically, to four issues: (i) Soffit Damage, (ii) the internal/external doors and bath issue, (iii) the bathroom and ensuite tiles issue and (iv) damage to their vehicle.

In relation to the alleged soffit damage, the Home Buyer submits that the soffit board was found to be damaged when the Home Buyer moved in and it was listed as an issue on their snagging list. Whilst the Home Buyer acknowledges that the Home Builder replaced the soffit board (on 25 February 2022), they submit that a number of appointments were missed (causing business and personal inconvenience to the Home Buyer) and that the works commenced when the Home Buyer was not present (despite the Home Buyer requesting that they be present). The Home Buyer states further that after the soffit board was replaced, “mess” was “left around” the Property and damage was caused to the Home Buyer’s car which was parked on the driveway.

Further, the Home Buyer states that the Home Builder broke a section of the render when it attended to the soffit board issue and that the Home Builder has failed to address the damage to the render to date (however, the Home Buyer accepts that they were offered £250.00 as a goodwill gesture, however, the “payment was only in relation to the soffit board complaint 0012842 and no other issue”).

In relation to the internal/external doors and bath, the Home Buyer submits that a number of doors throughout the Property were found to be damaged upon move in and the “main bathroom bath tub also had dried silicone within which we could not [be] removed by hand”. Whilst the Home Buyer acknowledges that the Home Builder attended to repair the doors and the bath, the Home Buyer states that they were dissatisfied with the repairs to the doors and the Home Builder was “unable to remove the silicone from the bath after trying several products”.

Whilst the Home Buyer acknowledges further that additional repair work has taken place to the doors, they submit that some of the work is outstanding. The Home Buyer states further that whilst the excess silicone was, eventually, removed by a contractor of the Home Builder, the contractor damaged the enamel and surface of the bath when doing so and this issue remains outstanding.

In relation to the main bathroom and ensuite tiling, the Home Buyer submits that the Home Builder has failed to provide the tiling configuration agreed at reservation. Specifically, the Home Buyer submits that the main bathroom was to have Shine Platino wall tiling and Madagascar Natural floor tiling and the ensuite was to have Cubica Blanco wall tiling and Madagascar Natural floor tiling. Despite this, upon receiving photographs of the build in July 2022, the Home Buyer noticed that incorrect tiling (and spotlighting) was shown in the bathroom and ensuite areas. The Home Buyer states further that despite raising the issue pre-completion, they were advised to raise the issue on their snagging list when they moved

in - which they did and were then advised by the Home Builder that “the previous buyer amended the tile options 16th March 2020 however a system error she is told on the day prevented the sales staff to update Touchpoint/ plot options”. The Home Buyer opines, however, that “the previous buyer did not amend the options and that this story was [to] cover up the facts that the site had ordered and fitted the incorrect tile”.

In relation to the vehicle damage issue, the Home Buyer states that when the Home Builder attended to fix the soffit board issue, the contractors caused damage to their vehicle, which was parked on the driveway. Specifically, the Home Buyer states that the contractors attended without notice, despite a previous request from the Home Buyer that they be present and that the works, debris and rubble were found affixed to the Home Buyer’s vehicle which, the Home Buyer alleges, had fallen from the above scaffolding.

The Home Buyer has provided evidence in support of their submission, including, for example, photographs, video/CCTV footage, an engineer’s report and copies of correspondence and the Home Buyer requests that the Home Builder take a practical action: specifically, “rectify all issues logged within [the] snagging list” and pay the Home Buyer £8711.08 as compensation; specifically in relation to additional compensation in relation to complaint number 0012842, the soffit damage issue (£750.00), the bathroom and ensuite tiles issue (£6928.28), vehicle damage (£947.80) and an engineer’s report fee (£85.00).

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, in relation to the soffit board issue, whilst the Home Builder apologises for the “length of time taken to replace the cracked soffit”, it submits that “due to the nature of this issue, and in the interest of Health & Safety, a scaffold tower was required for the part to be replaced”. The Home Builder states further that it is “not always able to confirm a date for such works to be carried out as they are external and at height” and that it does advise “customers that they do not need to be present for these types of works to be carried out as access to the property is not required”.

In relation to the associated, alleged, vehicle damage, the Home Builder states that it did not receive any report of damage to the customer’s vehicle until around four months after the works had finished. The Home Builder states further that in any event, the “quote for repairs to the car in June 2022” is “excessive”.

In relation to the internal/external doors and bath, whilst the Home Builder acknowledges that the “customer remains dissatisfied with the cosmetic finish of these items”, it submits that it did instruct a plastic surgeon to attend to the issues and that it will consider replacement of items, if necessary. The Home Builder states further that it “will continue to work with the customer to reach a satisfactory resolution”.

In relation to the main bathroom and ensuite tiling issue, the Home Builder states that “at point of sale, the build of the property was well advanced and the options including tiles had been chosen by a previous purchaser”. The Home Builder states further that when the Home Buyer complained about the issue, pre-purchase, “upon investigation it was realised that the tile order had been superseded between the first purchase and the stock sale. The sales

executive advised this is not something [the Home Builder is] now able to change and asked if the customer still wished to proceed with the purchase. The sale proceeded to exchange of contracts September 2020". Whilst the Home Builder acknowledges that the Home Buyer remains dissatisfied and indeed the tiling to their snagging list on move in, it submits that it is now unable to change the option and that - in any event - the "wall tile choice...was not a condition of sale, or an item specified as important upon exchange of contracts or a build defect"

### **Findings**

The adjudicator found that the Home Builder breached ss. 1.1. 1.5, 2.1 and 5.1 of the Code.

### **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyers claim is that the Home Builder breached sections 4.1 and 5.1 of the Code by side stepping and ignoring opportunities to correct defects and failing to provide details of the dispute resolution scheme.

## **Defence**

The Home Builder's position is that it was not agreed that the property would be provided with a level (horizontal) garden. Excess soil has been removed and additional drainage has been installed, there is no defect and the garden has been completed to the agreed standard.

## **Findings**

The Adjudicator found that the Home Builder failed to provide details of this Dispute Resolution procedure and that this amounts to a failure to comply with section 5.1 of the Code. However, the Home Buyer has accessed this procedure and been able to present his arguments. The Home Buyer has not suffered significant inconvenience in the handling of his claim and the commencement of these proceedings. The Home Buyer has not suffered inconvenience, prejudice or loss in the handling of this claim. It has not been shown that the Home Builder has breached section 4.1 of the Code.

## **Decision**

The claim succeeds in part. The Home Builder is not required to take further action.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5, 2.1 and 5.1 of the Code. Specifically, the Home Buyer lists ten issues: the North boundary fencing, the kitchen specification, the front door frame, external utilities, drive access, uneven floorboards, the extractor fan, missing optional extras, the front bay window and the drive tarmac.

In relation to the fencing, the Home Buyer submits that during the purchase of the Property, they were “shown and advised on the position of the boundary fence to the North of Plot 55. From the approved planning permission...it can be seen that the boundary fence runs parallel and along the edge of the public footpath. This planning was shown to [the Home Buyer] by a member of the [Home Builder’s] Sales team during the sales process as the agreed positioning of the fence.

On moving into the property (after purchase) [the Home Builder] installed the fence in its current position. Here the fence diverges from the public footpath, towards the front door of our property and...follows the edge of [the] drive”.

The Home Buyer states further that “at no point were [they] made aware of the change of plans for the fence” and “there is no record of the...land title on the land registry website”. In relation to the kitchen specification, the Home Buyer submits that the Home Builder has failed to install the gloss finish to specification and in relation to the front door frame, the Home Buyer submits that the frame is “not supported” and moves, twists and warps (and the sealant is “uneven and of poor quality”.

In relation to the external utilities, the Home Buyer submits that the cabling and ducting are not correctly installed to the external front of the Property. The Home Buyer states further that - in relation to driveway access - the Home Builder has failed to “extend the border fence at the front of the property and remove temporary gravel path leading to [the] drive” despite agreeing to do so. The Home Buyer states further that the floorboards in one of the bathrooms are uneven (causing noise when the WC is used) and submits that the extractor fan has not been installed correctly.

The Home Buyer submits further that a number of optional extras were not installed and that the front bay window area has poor soundproofing. In relation to the driveway tarmac, the Home Buyer submits that the tarmac is “soft and can be damaged easily” and that it has “been damaged by the weight of a van and has been marked by turning wheels...The drive was due to have a second layer applied by the tradesman that laid the drive but they never returned to do so”. The Home Buyer states further that they experienced poor customer service/complaint handling.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, in relation to the fencing, the Home Builder states that the fence in the plan “was



moved to the conveyance line” between the public open space (“POS”) and homeowner’s property, to indicate the boundary line and the extent of the development and became the homeowners as part of the conveyance”.

The Home Builder states further that the “changes have been approved by the [local authority] Planning Department”, however, the “position of the Trip Rail did not amend the homeowner’s conveyance plan or that of the POS”. The Home Builder submits further that it contacted the Home Buyer “informing them that the changes were a Planning Enforcement Officer query and will be remediated through that process”.

The Home Builder submits further that the kitchen has been installed to specification and that the Home Buyer “agreed to purchase the Higher Range Units, which did not include Gloss End, but they did not purchase the Extra Over Gloss End Panels and Plinths”.

The Home Builder disputes further the door frame claim and submits that upon inspection, its contractor “reported that; ‘The door outer frame has been damaged possibly due to a forced entry’ [and the Home Builder]...responded to the homeowner that [it believes] the damage was due to damage by moving furniture into the house” and the “damage was not found by [its] snagging visit or the homeowners snagging visit”.

In relation to external utilities, the Home Builder acknowledges that it is “responsible for the installation of the duct, allowing the service provider to feed their cables to the property”, however, it submits that the “cable installation and the fitting of the telecoms cables are the responsibility of the provider, not the builder”.

The Home Builder further disputes the floorboards claim and submits that it attended and packed and fixed the WC in place, however, on a second visit “the noise was only created when the homeowner bounced on the toilet. There was no noise when used correctly”.

The Home Builder further disputes the front bay window area claim and submits that it is a “recent outstanding snag” that it is currently investigating and that “a roofer has been issued a works order to confirm that the bay window roof has been insulated”. Similarly, the Home Builder submits that the driveway tarmac issue is a “recent outstanding snag”, however, it submits further that the damage may have been caused by overloading the driveway during a delivery of tiles to the Home Buyer, which was the responsibility of the Home Buyer.

The Home Builder disputes further that it provided poor customer service/complaint handling and submits that its efforts to resolve snagging issues have been adversely affected by the Home Buyer limiting access to “Mondays and Fridays”, only, “with many appointments being cancelled by the homeowner at late notice”.

## **Findings**

The adjudicator found that the Home Builder breached ss. 1.5, 2.1 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyer submits that the downstairs toilet was faulty and required an urgent repair, due to her being a carer for her grandfather, who was not able to use the toilet upstairs. The Home Buyer asserts that it took nine months for any professional contact and in the initial nine weeks, no contact was received. As a result, the Home Buyer asserts that the Home Builder did not deal with the complaint in accordance with the requirements of the Code. Therefore, the Home Buyer is claiming that the Home Builder reimburse all expenses incurred, including loss of earnings and pay a sum for “stress and upset caused over a 12 month period”.

## **Defence**

The Home Builder submits that the Home Buyer first reported the issue of the toilet not flushing correctly on 22 June 2021. Since then, the Home Builder asserts that various contractors attended, none of whom could diagnose the issue, until after an escalation of the complaint in May 2022. The Home Builder accepts that it took longer than it should have to resolve the matter and it apologises for this. The Home Builder adds that it would be happy to look into the losses further if the Home Buyer provides evidence of loss of earnings.

## **Findings**

I am persuaded, as per the parties comments throughout the submissions, that multiple contractors were used in attempts to diagnose the issue and that, with the benefit of hindsight, measures were taken to resolve the issue before it was properly diagnosed. I accept that a ‘trial and error’ approach can be appropriate where doing so minimises disruption, or for other valid reasons.

However, in consideration of the amount of time from when the issue was first reported, to the first formal complaint and then on to diagnosis and resolution of the issue, I do not find the Home Builder to have “dealt with” the complaint within an “appropriate time” and therefore, I find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. In view of the losses demonstrated, the Home Buyer was awarded a monetary amount in compensation for these losses.

## **Complaint**

The Home Buyers stated that the Home Builder breached Code Sections 1.5 and 2.1 because it did not inform them about the slope in the garden at the Property. Therefore, its sales and advertising materials were not clear and truthful and it had not provided them with sufficient information. It also did not handle their complaint adequately.

## **Defence**

The Home Builder submitted that the Home Buyers viewed the Property at the reservation stage, and after reservation, it gave them the opportunity to carry out further site visits. It did not make any representation to the Home Buyers that the garden would be flat. It provided the Home Buyers with sufficient information about the Property to enable them make informed purchasing decisions, because they were shown various plans for the Property and this was supplemented by a site visit to the Property from which they could understand the general layout and appearance of the property, including the garden.

## **Findings**

The Adjudicator found that the Home Builder breached Code Sections 1.5 and 2.1. The Home Builder's sales and advertising materials and activity were not clear, because it did not provide the Home Buyers with information about the gradient of the garden which is information that it had (or ought to have had) readily available to it. On this basis, the Home Builder had also not provided the Home Buyers with sufficient pre-purchase information about the gradient of the garden to enable them make an informed purchasing decision.

There was no evident breach of Code Section 5.1, as the correspondence between the parties showed a reasonable level of engagement from the Home Builder with the Home Buyers in relation to their complaint. Having weighed the Home Builder's obligations under Code Sections 1.5 and 2.1 against the Home Buyers' responsibility to carry out their own due diligence into the Property, the Adjudicator found that an apology and £500.00 in compensation for inconvenience was an appropriate remedy.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyers with a written apology and pay the Home Buyer £500.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 2.1, because it did not inform her that it would not demarcate the parking spaces for the Property with visible boundary lines. The Home Builder did not build the Property in accordance with the contract documents, because in the drawing for the Property the parking spaces were demarcated with visible lines. She also raised the parking issue with the Home Builder since she moved into the Property, but the Home Builder did not take any action to resolve the matter.

## **Defence**

The Home Builder submitted that the parking spaces for the Property had been transferred to the Home Buyer in accordance with the contract and there was no obligation on it to demarcate the parking spaces with visible lines. It had engaged with the Home Buyer and spoke with the relevant departments to ascertain whether painting lines were feasible, however it is unable to assist.

## **Findings**

The Adjudicator found that the evidence did not show that the Home Builder breached Code Sections 2.1 and 5.1. The evidence did not show that the Home Builder intended or that the parties had agreed that the parking spaces would be demarcated using visible boundary lines. There was no evidence that the Home Builder was obliged to demarcate the parking spaces using visible boundary lines, and the drawing for the Property was not in itself sufficient evidence upon which to base this obligation on the Home Builder. Further, the correspondence between the parties showed that there was a reasonable level of engagement from the Home Builder with the Home Buyer in relation to her complaint.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer submits that the road the Property has been built on is not built to local authority standards. The Home Buyer asserts that the conveyancing plans show the width of the private shared access of the road to be 5m. However, that the local authority specifies that the road should have been constructed with a width of 6m, with no car having to reverse more than 12m and that the Home Builder's presale documents confirmed that the road would be built to local authority parking standards, thereby breaching sections 1.5 and 2.1 of the Code.

The Home Buyer asserts that the Home Builder has not taken responsibility for the remediation of a defect; specifically relating to the specification of the road. Additionally, the Home Buyer asserts that the Home Builder has not treated him with respect as the conveyance plan was edited by the Home Builder to show a road width of 6m, not 5m; thereby breaching section 4.1 of the Code.

The Home Buyer submits that the Home Builder has breached section 5.1 of the Code as it has failed to rectify the issue or confirm that there is no issue to resolve. As it has done neither, it has not dealt with the complaint and the suggestion that a neighbour's driveway be used to turn is not a clear and transparent resolution to the complaint.

## **Defence**

The Home Builder avers that it provided a fair and accurate conveyance plan which reflects the road which has been built on the development and that the road in question is not to be adopted by the local authority as indicated on the plan. Therefore, the Home Builder avers that the road is not subject to the same regulations with no issues raised by the local authority.

The Home Builder avers that the Home Buyer's claim was investigated by the Sales team and Customer Relations Manager in line with the After Sales service, in addition to the Technical Team and Production Team. In doing so, a survey of the roadway was arranged to ensure that it had been built in accordance with the approved plans which did not reveal any defect in construction.

The Home Builder submits that it addressed and dealt with the Home Buyer's complaint and considered the proposals made; however, that it was not able to apply any of these due to various constraints. Therefore, the Home Builder feels that it has dealt with the complaint and referred the Home Buyer to the Code for further options.

## **Findings**

While the parking section on the "important information" document states that the local authority has parking standards, I am satisfied that the standards referred to by the Home Buyer did not apply specifically, and only, to the road and is intended to be information

relating to the development as whole. Therefore I do not find the marketing material to be untrue or unclear. Consequently I find no breach of this section of the Code.

The conveyance plan, referred to above, has been submitted in evidence. In consideration of the wording of the requirement: “a brochure or plan illustrating the general layout, appearance and plot position of the Home; a list of the Home’s contents; the standards to which the Home is being built” I have not been provided with any evidence to demonstrate that the plan is not accurate in representing the required information under this section. With regard to the regulations and technical requirements for a private shared access road, I am persuaded that the local authority’s requirements are not applicable here, as discussed in the previous section, additionally, that the Home Builder is not required by the Code to inform on technical standards outside of the construction of the “Home”. Therefore, I do not find the Home Builder to be in breach of section 2.1.

I find that while the Home Buyer feels that the road is not fit for purpose, it has been demonstrated, by the Home Builder, that it was constructed in accordance with the plans provided. Therefore, as the Home Builder is obliged to provide an appropriate remedy to the complaint, I do not find this remedy to involve taking practical action to change the road, or explain how the road is fit for purpose as requested. While the Home Buyer is not satisfied with the remedy to the issue raised, or the lack of action taken, I do not find the Home Builder to have been obliged to provide any further remedy when the complaint was made. Therefore, I find the Home Builder to have “dealt with” the complaint and therefore to have complied with section 5.1 of the Code.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that the Home Builder has not provided information on the health and safety precautions that she should take when living on the development where works are continuing. The Home Buyer adds that one of the resultant problems that around parking and that other homes have had their driveways extended so that they would not have to park on the pavement. The Home Buyer claims that this will compensate for the size of the garage which is too small for use.

The Home Buyer submits that the Home Builder has failed to treat her fairly, as a result of not changing the driveway. While it is the Code's purpose to ensure that customers are treated fairly, there is no specific section of the Code covering this point. As a result, I am satisfied that the this part of the claim falls within section 5.1 relating to complaints.

The Home Buyer submits that the Home Builder did not provide information, under section 4.1, of who to contact in an emergency. This relates to an incident involving theft on the site.

## **Defence**

The Home Builder submits that the Home Buyer was advised that she was moving on to an incomplete development and that during the home demo, she was informed that there would be dust, noise, heavy site traffic, and unfinished roads and footpaths.

The Home Builder avers that it has a "robust complaints process".

The Home Builder avers that the Home Buyer was informed of who to contact in the handover pack and that the robbery should have been reported to the police not the out of hours emergency service for Wain Homes.

## **Findings**

The adjudicator found on the balance of probabilities, that the Home Buyer was informed of the health and safety precautions which were relevant to the site. The adjudicator also found that while the Home Buyer was provided with information of who to contact, the service was not demonstrated as being accessible and therefore being in breach of section 4.1 of the Code.

Finally, the adjudicator did not find that the Home Builder has provided an appropriate remedy to the complaint in relation to noise, diesel vehicles and site personnel at the Property.

## **Decision**

The claim succeeded. In view of the breaches to 4.1 and 5.1 of the Code, the Home Builder was directed to apologise to the Home Buyer and explain why these breaches occurred. Additionally, to pay the sum of £500.00 for inconvenience.

## Complaint

The Home Buyer submits that the Home Builder has breached Section 5.1 of the Consumer Code for Home Builders, as follows:

- The Home Buyer asserts that the breach was caused because ‘the Home Builder has refused to deal with (the) complaint (and) no dispute resolution has been provided by (the) Home Builder directly.’

The Home Buyer submits that the Home Builder has breached Section 5.2 of the Consumer Code for Home Builders, as follows:

- The Home Buyer asserts that the breach was caused because of a ‘lack of cooperation from (the) Home Builder with (the) developer of (the) property to resolve issues with (the) building.’

The Home Buyer sought:

- The Home Builder to pay £15,000 to the Home Buyer to compensate them for the various defects to the Property, including the kitchen and hall flooring and skirting, the toilet seat and the bathroom skirting. However, no evidence has been provided to justify the amount claimed.
- The Home Builder to apologise to the Home Buyer for refusing to deal with the complaint and for not following a dispute resolution process.
- The Home Builder to provide the Home Buyer with an explanation for not dealing with the Home Buyer and for not following a dispute resolution process.
- The Home Builder to take some practical action (although the Home Buyer does not state what this action is).

## Defence

The Home Builder did not respond.

## Findings

The adjudicator found that:

- The Home Builder has not breached any of the requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyer are not sufficient to justify the practical action or payment of £15,000 sought.
- The reasons given by the Home Buyer are not sufficient to justify the apology and explanation sought from the Home Builder

## Decision

The claim did not succeed.



## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with the complaint about the property's snagging issues.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. All snagging issues highlighted by the Home Buyer have now been resolved. Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable time period.

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify the Home Builder apologise, and pay compensation of £950.00 for the various delays and poor customer services whilst dealing with the property's snagging issues

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.3, 1.4, 4.1 and 5.1 of the Code. Specifically, the Home Buyer, who is a vulnerable person that suffers from issues with their mental health, states that the issues began when they moved into the Property and that the issues include, a large number of snagging issues, unsolved snagging issues, damage to the customer's property and effects, a failure to consider the evident needs of the customer as a vulnerable person and poor complaint handling.

The customer submits further that they were discriminated against and treated unfairly, for example, in relation to one of their neighbours having their carpets replaced when they were damaged by contractors whereas the customer's carpets were damaged and not replaced. The customer submits further that they endured months of contractors attending the Property almost every day to resolve issues, including leaks - and that as a result, this adversely affected their mental health and led to the customer losing their job.

The customer submits further that the Home Builder missed appointments on a number of occasions and on other occasions, attended but could not complete the job. The Home Buyer states further that their carpets were damaged by the dirty footwear/socks of contractors and that other personal effects, including, for example, bath mats and a doormat, were damaged. The customer submits further that they experienced poor complaint handling and that the Home Builder has now "*blocked*" them from sending emails.

## Defence

The Home Builder's position is that it denies breaching the Consumer Code for Home Builders. Specifically, in relation to Section 1.3, the Home Builder submits that "*there is no evidence submitted which supports the Customer's allegation that Countryside failed to provide an acceptable level of customer service prior to legal completion*".

In relation to Section 1.4, the Home Builder states that all of its "*staff are expected at all times to comply with the requirements of the Code and consider the needs of Vulnerable Customers throughout the Customer Service process*". The Home Builder states further that it took a number of "*additional measures*" to assist the Home Buyer.

In relation to Section 4.1, the Home Builder further disputes the claim and submits that it has "*provided an aftersales service, the standard of which has been significantly over and above our standard Customer Service policy and above the requirements of the Code*". The Home Builder submits further that it adhered to its obligation under the Code to consider the evident needs of vulnerable customers. The Home Builder states further, however, that some of its efforts were impacted by the Home Buyer shouting at some of its tradesmen on their visits (leading to some not willing to attend the Property) and "*on many occasions the Customer demanded works were carried out at very short notice, often in unrealistic and unachievable timescales*".

The Home Builder states further that *“there are currently no defects being shown as being outstanding at the Property”* and it disputes that the Home Buyer is *“blocked” from reporting any future defects with the Property that arise within their 2-year warranty period to Countryside*. Whilst the Home Builder accepts that it did send a letter to the Home Buyer in relation to *“the use of expletives and personal attacks on staff members in email correspondence”*, nevertheless, it *“wishes to assure the Customer that they are able to report any legitimate defects to our customer service team who will then be able to make the necessary arrangements for the defects to be addressed”* and it *“invite[s] the customer to provide to Home Builder, via email, a comprehensive list of these alleged defects which a senior member of our customer service team will then review and determine whether any action should be taken”*. The Home Builder disputes further that it provided poor complaint handling and it *“vehemently denies”* any allegations of discrimination or racism.

The Home Builder disputes further that it is liable to replace the carpets and does *“not accept that the carpet was soiled to such an extent that it required replacing”* - and the Home Builder states that it had the carpets professionally cleaned after an issue was raised. The Home Builder disputes further that it is liable to *“slab and deck the rear garden of the Property to the same specification as the show home”* and it submits that as this did not form part of the specification to the Property, it is not under an obligation to carry out the requested works. Similarly, in relation to the media plate, the Home Builder submits that this request is not due to any specific defect or snagging issue and that it has *“not agreed to the Customers request to date as [Home Builder] is concerned that by carrying out this request (which is not being done to address a defect but rather for the convenience of the Customer) would result in further distress and complaints being received as the work required is fairly invasive”*.

The Home Builder disputes further the Home Buyer’s claim for compensation, however, it proposes that moving forwards, in order to safeguard the Home Buyer’s mental health, *“when any works are scheduled to be carried out to the Property by subcontractors that a member [Home Builder’s] staff is also present before works commence so that they can explain: the nature of the work being carried out, what the Customer can expect and how long the work will take to be completed”*.

## **Findings**

The adjudicator found that the Home Builder breached ss 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part)

## Complaint

The Home Buyer submits that the Home Builder has breached Section 5.1 of the Consumer Code for Home Builders, as follows:

- An acceptable complaints handling process was not followed because the Home Builder (aware of the garage flooding issue since 3 February 2021), agreed to install drainage but left the Home Buyer chasing for installation dates before the Home Builder finally confirmed on 4 August 2022 that it would no longer install it. The Home Buyer states that they have had 'months of chasing after logging many complaint(s)' and had not been given a timeframe for addressing their concerns. Email evidence was provided.

The Home Buyer sought:

- The Home Builder to pay £2,150.00 to the Home Buyer so that they can get the drainage installed privately by a local contractor.
- The Home Builder to apologise to the Home Buyer for the time taken to issue a final response to the complaint about the drainage.
- The Home Builder to provide the Home Buyer with an explanation for the flooding to the garage and for the time taken to issue a final response to the complaint about the drainage.
- The Home Builder to pay the Home Buyer £500 in compensation for the inconvenience caused.

## Defence

The Home Builder did not respond.

## Findings

The adjudicator found that:

- The Home Builder has breached requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyer are not sufficient to justify the remedial works sought as they relate to defects which are outside the scope of this adjudication.
- The reasons given by the Home Buyer are not sufficient to justify the £2,150.00 sought as this relates to defect rectification which is outside the scope of this adjudication.
- The reasons given by the Home Buyer are sufficient to justify the apology and explanation sought from the Home Builder.
- The reasons given by the Home Buyer are sufficient to justify the award of £500 in compensation for the inconvenience caused.

## **Decision**

The claim succeeded.

In view of the breach of section 5.1. of the Code, the adjudicator directed the Home Builder to:

- Write to the Home Buyer to apologise for not responding to the complaint in a timely manner and to explain why responses were not provided, and to explain why the garage flooding issue has arisen.
- Pay the Home Buyer £500 in compensation for the inconvenience caused by the failure to address this matter in a timely manner which has resulted in the Home Buyer having to write numerous times to chase a solution.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.4, 2.1, 2.3, 2.6, 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that they tried to remortgage the Property as the mortgage deal was coming to the end of the fixed term, however, they encountered difficulty (and financial loss) as *“building regulations certificate was not provided”* nor was the NHBC cover *“activated”*.

The Home Buyer submits further that they have determined that a failure to *“complete the pumping station for the development”* led to the issue, however, the Home Builder has *“insisted that the NHBC cover was in effect, that the property was saleable without these critical documents and tried to blame 3rd parties for not activating the cover”*.

Whilst the Home Buyer acknowledges that the Home Builder states that they were informed that they *“would not have the building regulations or NHBC policy documents upon completion”*, the Home Buyer disputes this and states neither the Home Builder nor the Home Buyer’s conveyancer has *“produced anything to prove this”*.

The Home Buyer states further that they have *“had extensive problems in resolving the snags”* and that the Home Builder *“failed to actually provide the plans/specification of the house under the guise of it being their intellectual property. This has aggravated long-standing problems with [Home Builder’s] snagging process as it has been difficult to understand the property’s specification”*. The Home Buyer states further that they experienced poor customer service/complaint handling and that the Home Builder’s staff were not appropriately claimed.

## Defence

The Home Builder’s position is that it disputes the claim. Specifically, whilst the Home Builder acknowledges that there was a *“delay with NHBC issuing the Building Control Final Certificate”* (as only a temporary arrangement was, initially, in place in relation to the pumping station), the Home Builder submits that *“the cover note brought the warranty into effect and the property benefited from the warranty from the date of completion, as evidenced by the certification provided by the Home Buyer”*.

The Home Builder states further that it advised the Home Buyer in advance of the matter (in an email/letter to the Home Buyer’s solicitors) and that a waiver form was signed *“acknowledging and accepting that the Building Control Final Certificate would not be issued until the temporary system was switched over to the permanent system to allow final sign-off.”* The Home Builder, however, acknowledges that it has not been able to find/provide a copy of the signed waiver. The Home Builder disputes further that its staff are not appropriately trained and it disputes that it provided poor customer service/complaint handling.

The Home Builder submits further that it provided all required pre-sales material and refers to the reservation checklist, noting that *“a floor plan was provided together with the all-inclusive specification leaflet”*. Whilst the Home Builder acknowledges that the specification leaflet is

not the “*more detailed construction specification*”, it states that the more detailed construction specification is “*not usually provided to Home Buyers due to the occasional necessity to substitute materials/items in the event of supply difficulties*” and that “*no issues were raised regarding the property specification on completion or when the Home Buyer took up occupation of the Home*”.

## **Findings**

The adjudicator found that the Home Builder breached ss 2.3 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## Complaint

The Home Buyer complained she had been rushed into completing the purchase of the Home by being told that if she did not complete on the agreed day, she would be in breach of contract. She complains that the condition of the render was poor and that she had complained about this. She was told that work would be done but for a two year period no repairs were undertaken. She also complains that she has not been permitted to put up a fence between her garden and her neighbours and has been told by the Home Builder that her neighbour (with whom she is in dispute) needed to be able to open his car door over the boundary. She complained of breaches of the Code and stated that she wanted:

- An apology, an explanation and practical action in relation to the render issue and an explanation for the Home Builder's decision in relation to the fencing issue; and
- Reimbursement for loss of time and for cost of works

## Defence

The Home Builder said that the render was within NHBC tolerances. With regard to the fencing the Home Builder confirms that permission to erect a fence was declined because:

- By approving this request, it would impede the neighbouring property and prevent the neighbour from utilising the tandem parking as outlined in the drawings and conveyance plans.
- At the point of reservation and sale, the Home Buyer was shown drawings in relation to the width of the driveway and location of the path to the side of their property. There is already a clear demarcation to this area, outlining where the boundary lines for both properties apply.
- The decision was fully considered, for all parties concerned, before being communicated. The Home Buyer was also told that there would be a risk of damage to both the proposed fence, as well as the vehicles using the drive (on the neighbouring property)

## Findings

The adjudicator found that the Home Builder was not in breach of the Code by requiring the Home Buyer to complete. Although the Home Builder now says that the render is within NHBC tolerances, it had previously agreed to do this work and for a two year period allowed the Home Buyer to believe that this is what would happen. The work had not been done and the adjudicator found a breach of sections 4.1 and 5.1 of the Code.

The adjudicator found that requiring the Home Builder to improve the condition of the render was fair and reasonable redress for the breach of the Code that had been found. The Home Builder was in breach of sections 4.1 and 5.1 in relation to the Home Buyer's request to put up a fence because over many months it had not given a clear reply. No conveyancing documentation had been put forward and there was no evidence that the Code would have



required the Home Builder to agree to the erection of a fence so no practical action was directed. The adjudicator also directed an apology and compensation for inconvenience of £500.

### **Decision**

The claim succeeded. The adjudicator gave directed that the Home Builder should:

- a. Apologise to the Home Buyer for the breaches of the Code found.
- b. Carry out remedial work to the Home to rectify the damage to render reported by the Home Buyer This work was stated not to include repair of damage done to the render by the Home Buyer's neighbour; and declared that the cost / value of the work done must not exceed £14,500.00 including VAT.
- c. Pay compensation to the Home Buyer for inconvenience in the sum of £500.00.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with the complaint about the Property's garage issues. The Home Buyer is seeking the Home Builder to fully repair the Property's garage to prevent further water ingress or condensation.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. In May 2014 and February 2016, the Home Buyer reported to the Home Builder that there was an issue with water ingress in the garage. In both instances, the Home Builder investigated the matter, and further works were carried out on the Property to prevent further water ingress. The current issues the Home Buyer is experiencing are due to condensation, which is not the responsibility of the Home Builder. Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable time period.

## **Findings**

The Home Builder has not breached the Consumer Code for Home Builders.

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify the Home Builder fully repair the Property's garage to prevent further water ingress or condensation.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5, 2.1, 3.2 and 5.1 of the Code. Specifically, the Home Buyer submits that the Home Builder provided the Home Buyer with an advertised completion date of “October - November 2021”, however, the Property was not completed until May 2022. The Home Buyer states that the completion date was moved to December 2021 and then to February 2022 and the Home Buyer states that the Home Builder provided them with an “assurance” that the Property would be completed in February 2022 (and provided a goodwill gesture).

Despite this, the Home Buyer submits that completion was again delayed to March 2022, April 2022 and then, finally, to May 2022. The Home Buyer states further that “*even after completion in May 2022 there [was] still a lot of work to be done in the house as several of our finishing touches [were] omitted*”. The Home Buyer states further that they were “*left with no choice but to proceed*” and whilst the Home Buyer acknowledges that the Home Builder has stated that the delays were due to the Covid-19 pandemic, they submit that “*as we have been in a pandemic for more than 2 years now*”, the Home Builder “*should have better planning and...delay...should have been factored in already*”.

The Home Buyer states further that they experienced poor customer service/complaint handling.

## Defence

The Home Builder's position is that it disputes the claim. Specifically, whilst the Home Builder acknowledges that the Home Buyer has experienced delay in relation to the completion of the Property, it submits that it has apologised for the delays, which, it submits, were due to “*material shortages*” which were beyond its control. The Home Builder states further that it kept the Home Buyer “*informed throughout of the anticipated build window*” and has offered to reimburse the storage costs (£250.00), however, the offer was declined.

The Home Builder states further that it provided the Home Buyer with “*an additional personnel door to their garage*” and “*turf to the rear lawn and an outside tap*” (to the total value of £1430.00), “*by way of an apology*”, in November 2021. The Home Builder states further that it “*offered to release the Home Buyers from their contract on February 2022*”, however, this was declined.

The Home Builder disputes, however, that it breached Sections 1.5, 2.1 or 3.2 of the Code in relation to the delays and it submits that it regularly advised the Home Buyer that “*completion is on 14 days' notice*” and that it provided updates to the Home Buyer in relation to the anticipated build window. The Home Builder disputes further that it breached Section 5.1 of the Code in relation to complaint handling and it submits that the Home Buyer's correspondence was responded to “*promptly and appropriately*” and that “*there were no delays*” (however, it acknowledges that its Regional Chairman was on annual leave at one time but it submits that it advise the Home Buyer of the annual leave). .

**Findings**

The adjudicator found that the Home Builder breached s 5.1 of the Code.

**Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyer submits that an initial reservation, for Plot 17, had an expected completion date of April 2022; however, that the build remained incomplete as of June 2022.

Additionally, that the second reservation, Plot 19, had an expected build completion date of August 2022; however, this property was “pulled down and is currently being rebuilt”. As a result, the Home Buyer asserts that the Home Builder has breached sections 3.2 and 3.3 of the Code due to long stop dates.

The Home Buyer submits that she withdrew from the sale due to the long stop dates and is claiming the cost of paid upgrades in the amount of £1,490.00; £405.00 for TV points; £540.00 for bricking up and wall and £1,000.00 for the reservation fee; with the delays and resultant charges constituting a breach of section 2.6 of the Code.

The Home Buyer adds that the Home Builder advertised the Property with “free stamp duty” which was not provided. The Home Builder adds that it is “clearly documented on the signed Reservation Agreement and Confirmation of Incentive form for both Plots 17 and 19 that the Stamp Duty offer was not available and did not form part of the agreed deal. The Stamp Duty offer was advertised after reservation of both plots 17 and 19 where terms and conditions apply which was clearly advertised and explained”.

## **Defence**

The Home Builder submits that it gave an anticipated completion date of April 2022 and August 2022, in compliance with the Code. The Home Builder accepts that some plots were advertised with “Stamp Duty Paid” and that terms were agreed with the Home Buyer.

The Home Builder avers that “all upgraded items are non-refundable and payment confirms acceptance of the item(s) listed” as per the documentation provided.

## **Findings**

The adjudicator found that while the Home Builder’s literature confirmed that “all dates are only ever anticipated and you should not make any firm removal arrangements or other financial commitments until the 10 day notice is served” the Home Builder has not demonstrated that it provided information, in the manner suggested under this section of the Code, to allow the Home Buyer a reasonably realistic expectation of when the “Home may be finished”. As a result, the Home Builder was found to have breached section 3.2.

The Home Builder was not found to have demonstrated why the full retention of the reservation fee was required and was therefore directed to return £500 to the Home Buyer.

## **Decision**

The claim succeeded. As a result of the breach of section 3.2, the Home Builder was directed to explain why the breach occurred and pay £500 to the Home Buyer.

## **Complaint**

The Home Buyer submits that the driveway has not been completed to the specification agreed at the point of sale and in accordance with the plans provided; namely, that the driveway has not been separated from the driveway of the neighbouring plot by a strip of grass, as depicted on the plan; and the removal of a section of grass acting as the “green space” or “soakaway” area to divide the tarmac at the end of the driveway. Additionally, that the driveway has a section of damaged paving and that a tree requires replacement, both of which have been agreed to by the Home Buyer but no work has been carried out to date.

## **Defence**

The Home Builder submits that of the drawings shown to the Home Buyer at reservation, all plans except one, show the area between the two driveways without any grass. The Home Builder refutes the Home Buyer’s assertion that a verbal agreement was in place for the inclusion of the grassed area. The Home Builder accepts that the grass verge at the end of the driveway was not implemented as the local authority decided not to adopt this area; therefore the grass verge was deemed a maintenance liability and not added to the site.

The Home Builder confirms that it is prepared to repair to the damaged section of road when the “road received its final surface as part of the S38 completion works” and that the tree in question will be replaced during the “next planting season” which starts in October.

## **Findings**

The adjudicator found that the inclusion of the grass strip on a plan provided to the Home Buyer prior to exchange did constitute a breach of 1.5 and 2.1. However, the Home Builder demonstrated that the strip depicted on the plan was situated on a neighbouring plot.

## **Decision**

The claim succeeded. The Home Buyer was awarded £500 for inconvenience. Additionally, the Home Builder was directed to complete the works agreed to; namely, the planting of a tree and resurfacing a damaged section of driveway.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 2.1, 2.6, and 3.1, because prior to the purchase it had agreed that they would not pay maintenance fees on the Property until the development was complete, but it subsequently charged them maintenance fees before the completion of the development. It also breached Code Section 5.1 because they constantly needed to contact it for updates which caused them inconvenience.

## **Defence**

The Home Builder acknowledged that the response regarding the payment of maintenance fees which was given to the Home Buyers' pre-contractual enquiry was unclear, it admitted that there was an error, and it took steps to remedy this by meeting the cost of the Home Buyers' arrears up to July 2022. The Home Buyers are liable to pay the maintenance fees after July 2022. It did not breach Code Section 5.1, because the Home Buyers were aware of its customer service system.

## **Findings**

The Adjudicator found that the Home Builder breached Code Sections 2.1 and 3.1, because the Home Builder did not provide the Home Buyers with sufficient pre-purchase information about when the fee fell due and the contract terms in respect of the fee was unclear. The transfer document stated that the fee was due on transfer of the Property, but it informed the Home Buyers that the fee was due on completion of the development. The Home Builder also breached Code Section 5.1, because the evidence did not show that it actively progressed resolution of the Home Buyers' complaint or that it resolved the complaint within a reasonable period of time.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: (a) pay/bear the costs of the maintenance fees due in respect of the Property until the construction of the development is complete or until 31 March 2023, whichever is earlier; and (b) pay the Home Buyers £200.00 in compensation for inconvenience and distress.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5, 2.1 and 3.1 of the Code. Specifically, the Home Buyer submits that the Property was not built to specification and several items/aspects were “changed without notice”. The Home Buyer lists eight issues: i) the toilets are “incorrect”, ii) the sinks are also the incorrect specification, iii) similarly, the bath is incorrect, iv) the kitchen is missing a cupboard, v), the kitchen is the wrong colour, vi), the shower screen and tray are the incorrect specification, vii) the staircase bannister is incorrect and viii) the shower and ensuite shower valves are also the incorrect specification.

The Home Buyer states further that “all of the above are a direct result of...cost cutting” and “every item that has been changed is of a lesser quality” and of reduced cost/value. The Home Buyer states further that they have had a “very stressful experience dealing with” the Home Builder and that they would not have bought the Property if they had been made aware of the changes in advance.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, whilst the Home Builder admits that some changes were made (due to issue sourcing materials), it submits that the changes were “minor” and did not the size, appearance or value of the Property. The Home Builder states further that “all the sales and advertising materials provided, make it clear...that the images are indicative only and can be subject to change” and that the Home Buyer was “shown a list of the home’s contents as required under the Code. All pre-contract information was truthful and was provided in good faith at the time it was given”.

The Home Builder disputes further that all the changes were cheaper/less expensive and it submits that the sinks, for example, were more expensive than originally specified. The Home Builder submits further “that the difference in price for individual items is not significant” and when it makes amendments/changes, it does so providing that “the overall quality and appearance of the Home is similar”.

Whilst the Home Builder accepts that the “kitchen in the property is different to that chosen by the Home Buyer”, it submits that “this error was identified prior to completion, immediately acknowledged, an apology was given and the Home Builder agreed with the Home Buyer how this would be addressed. The materials were ordered but unfortunately not received as quickly as originally anticipated, which delayed the works being carried out. The Home Builder has the materials and is still willing to carry out the agreed works to the kitchen”.

The Home Builder states further, however, that the Home Buyer has “subsequently refused to allow the works to be carried out and now wishes to claim the cost of arranging for the changes to be made independently”, which, it submits, “is contrary to the provisions of the Contract for Sale”. The Home Builder disputes further the sums claimed as compensation and submits that the Home Buyer has provided “no evidence” as to how the sum of £9500.00 has been calculated and that the costs quoted are, in any event, disproportionate.



**Findings**

The adjudicator found that the Home Builder breached s. 3.1 of the Code.

**Decision**

The claim succeeded (in part)

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1 due to its handling of an issue with a defective bath at the Property.

## **Defence**

The Home Builder denied the alleged breaches. It submitted that it investigated the issue the Home Buyer reported concerning the bath at the Property, and it responded to the complaint in line with its complaints procedure.

## **Findings**

The Adjudicator found that the Home Buyer's claim for compensation in respect of the alleged defective bath fell outside the scope of the Scheme, because it was a claim about defects and poor workmanship which fall outside the scope of the Scheme and could not be adjudicated upon.

The correspondence between the parties indicated that the Home Buyer was able to access the Home Builder's after-sales service, having reported an issue with the bath after the sale of the Property which the Home Builder acknowledged, investigated and engaged in correspondence with the Home Buyer. There was also a reasonable level of engagement from the Home Builder with the Home Buyer in relation to his complaint. The correspondence showed that the Home Builder carried out reasonable steps to resolve the Home Buyer's complaint. There was no evidence of a breach of Code Sections 4.1 and 5.1.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

- The meeting of the rear garden wall with the garage structure has resulted in a sight line over the wall meaning that the Home Buyer receives less privacy than he anticipated when purchasing the house.
- The Home Builder's attempts to resolve the issue have been unsatisfactory.
- The Home Builder has provided a low level of customer service whilst dealing with complaint.
- The Home Buyer has escalated his dispute to CCHB and requests that the Home Builder be directed to implement additional measures to increase privacy levels.

## **Defence**

- The Home Builder says that It did not give any promises to the Home Buyer at the time of Reservation in respect of the degree of privacy he could expect at the property.
- The Home Builder says the wall has been constructed in compliance with the approved plans and is the best fit taking into consideration the sloping ground and angle of slope of the garage roof.
- The Home Builder denies providing poor customer service and says it has taken reasonable steps to remedy the Home Buyer's concerns.

## **Findings**

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of the section of the Code as alleged. The adjudicator found that the evidence established that the wall and garage structure were designed taking into consideration the slope of the existing ground and were constructed according to the approved planning permission. The adjudicator found that as the property was purchased off-plan that the Home Buyer had no exact expectations of privacy levels at that time.

The adjudicator did not find that the Home Builder had breached Section 5.1 of the Code.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer complained that the Home Builder had failed to comply with NHBC standards in respect of the front drive. Following damage caused by scaffolding, the Builder had relaid this but the Home Buyer says that the new driveway is crumbling. He says that unsuitable materials that have not met NHBC standards have been used.

## **Defence**

The Home Builder said that it had arranged for an inspection of the drive. The contractors had stated that the materials used were appropriate but that crumbling had been caused by exceptionally dry weather.

## **Findings**

The adjudicator pointed out that the resolution of snagging disputes are not within the scope of this Code except to the extent that there is a breach of a section of the Code. The Buyer referred to section 2.1, but it was not clear that the Home Buyer had been told that the driveway would be constructed to NHBC standards. Even if this was stated, however, there is no evidence that the materials used did not meet NHBC standards. The materials used were not identified and the use of non-compliant materials cannot be inferred from crumbling in exception weather conditions.

The adjudicator also considered section 4.1 and 5.1 of the Code but found that the Home Builder had investigated and reached an informed decision about the drive and communicated this to the Home Buyer.

## **Decision**

The claim was not able to succeed.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 2.1 because he paid the Home Builder for extras but the Home Builder did not install the extras at the Property, the Home Builder charged him £500.00 rent when he moved into the Property prior to completion, and there are a number of unresolved snagging issues at the Property.

## **Defence**

The Home Builder submitted that it allowed the Home Buyer to occupy the Property prior to legal completion, against its solicitors' advice. It had agreed to complete the snagging works, but it has not been motivated to complete the works at any pace because of the Home Buyer's conduct towards him. The works will need to be done on a piecemeal basis as the works are extensive and will seriously affect its cash flow by delaying progress on the completion of other properties.

## **Findings**

The Adjudicator found that the claims concerning the Home Buyer's complaint concerns alleged poor workmanship, snags and defects at the Property fell outside the scope of the Scheme, and the Adjudicator could not direct the Home Builder to carry out the works. However, the Adjudicator could consider how the Home Builder handled the Home Buyer's complaint. While the Home Buyer had alleged a breach of Code Section 2.1, the matters falling within the scope of the Code were more properly considered under Code Sections 1.3, 3.1 and 5.1.

The Adjudicator found that the Home Builder breached Code Section 3.1 because there was a minor alteration in the change of construction materials used for the driveway but the evidence did not conclusively show that the Home Builder notified the Home Buyer about this minor alteration. The Home Builder also breached Code Section 5.1, because the evidence did not show that the Home Builder actively progressed the resolution of the Home Buyer's complaint, that it responded to the Home Buyer's complaint with sufficient clarity, that it properly managed his expectations, or that it resolved the complaint within a reasonable period of time.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £500.00 in compensation for inconvenience.

Further, within one month from the date of the Home Buyer's acceptance of the Final Decision, the Home Builder shall investigate the Home Buyer's complaints regarding outstanding works at the Property, and provide the Home Buyer with a written response detailing its response to each of the issues that are allegedly outstanding with a timeframe for resolving the issues.

## **Complaint**

The Home Buyer submits that it was confirmed at reservation that nothing would be constructed directly in front of the Property. However, the Home Buyer claims that it subsequently transpired that plans for a development, including a 50 space car park, village centre and through road, being built directly outside of the Property, were known about by the Home Builder. The Home Buyer adds that the parish councillors confirmed that these plans were submitted at the start of the site build so that they could be shared with prospective buyers; however, they were not shared.

As a result, the Home Buyer asserts that the Home Builder has breached sections 1.5 and 2.1 of the Code, and requests that the Home Builder contest the new development and pay £15,000.00 for diminished property value.

## **Defence**

The Home Builder submits that “The parish council loaned [Home Builder] a board with details of where they anticipated the community centre would be going, this board was displayed in the sales office for a year for all potential customers to see. The customer reports Bellway did not notify them of the council’s intentions despite having been given information from the council directly. Having checked the details on the reservation checklist, point 9 confirms the customer was notified by [Home Builder] at the time regarding the school extension and the new village hall.” The Home Builder accepts that the reservation agreement did record that there would be “no through road” however, the site plan provided at reservation clearly showed the presence of the road to adjoining land.

## **Findings**

The adjudicator found that the Home Builder breached section 2.1 of the Code as the reservation agreement confirmed that there would be no through road, which was not consistent with the plan or the physical site.

## **Decision**

The claim succeeded. In view of the incorrect information on the reservation agreement, the Home Builder was directed to apologise for the breach of 2.1 and pay £500 for inconvenience.

## **Complaint**

The Home Buyer complained that the Home Builder sold her a property with parking spaces that are 2.3m rather than 2.49m in width, which makes it difficult to get out of the car when it is parked. She argues that the Home Builder was in breach of the Code because (1) its plans were conflicting, (2) it took a long time to respond to her complaint, (3) it did not supply her with copies of the relevant plans before purchase, and (4) the Home Buyer has had to chase the Home Builder for responses..

## **Defence**

The Home Builder denied that it breached the Code. It said that a brochure would have been available to the Home Buyer at its sales office or on its website prior to purchase. No conflicting plans were provided to the Home Buyer prior to purchase, and the Home Builder was not obliged to show every single measurement in its sales and advertising material. It said that the parking spaces were constructed in accordance with the planning permission, and denied that it made any representations that the parking spaces would be of any particular width.

The Home Builder also denied that its after-sales service was inadequate, saying that the Home Buyer's allegations about this were vague and that its responses were in any event reasonable. Finally, the Home Builder said that it was unable to increase the width of the parking spaces because on the one side is the boundary of the neighbouring plot, and the other side is a 2.6m high wall which also in part forms the boundary of another neighbouring plot.

## **Findings**

The adjudicator found that the Home Buyer had not demonstrated that the Home Builder had supplied conflicting plans prior to the purchase, and the Home Builder did not say anything unclear, misleading or untruthful about the width of the parking places in the material that it provided to the Home Buyer before she made her purchase. However, the Home Builder had sold a property with parking spaces that are unusually narrow, without informing the Home Buyer of this beforehand. Given that this is something that is capable of influencing a reasonable purchaser when deciding whether to buy, the Home Builder should have told the Home Buyer about this, and its failure to do so was a breach of Section 2.1 of the Code.

The adjudicator found that it was not possible to order the Home Builder to expand the size of the parking spaces, and thus made an award of £300 for inconvenience. Finally, the adjudicator found that the Home Buyer's claims about the Home Builder's after sales service and complaints procedure were not proven.

## **Decision**

The claim succeeded in part.

## Complaint

- The front door at the property does not fit tightly into the door frame and thus allows cold air to enter the property because of poor sealing.
- The Home Buyer complained to the Home Builder about the ill-fitting door, but it has refused to take any action to remedy the problem.
- The Home Builder has provided a low level of customer service whilst dealing with the complaint.
- The Home Builder uses an old-fashioned complaints handling process requiring a letter to be sent to its head office by post.
- The Home Buyer has escalated his dispute to CCHB and requests that the Home Builder be directed to remedy the problem with the front door and issue an apology for the poor customer service.

## Defence

- The Home Builder says It has examined the Home Buyer's front door at the house on three separate occasions and at all times was satisfied that the rubber sealant provides a tight seal.
- The Home Builder notes there is no evidence provided by the Home Buyer to show that the door does not fit correctly in compliance with the manufacturer's specification.
- The Home Builder records that all the Home Buyer's complaints went through the full complaints handling procedure and each complaint was fully investigated and apologies were provided for each complaint.
- The Home Builder denies being in breach of Sections 4.1 and 5.1 of the Code.

## Findings

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of the sections of the Code as alleged. The adjudicator found that the evidence does not establish that the door was not installed in compliance with the manufacturer's recommendations. The adjudicator also found that the evidence does not support the complaint of poor customer service.

The adjudicator did not find that the Home Builder had breached Sections 4.1 and 5.1 of the Code.

## Decision

The claim does not succeed.



### **Complaint**

The Home Buyer submits that in breach of Section 3.2 d) of the Code the Home Builder has not completed the building works and has not explained the arrangements for completing them.

### **Defence**

The Home Builder submits that the Property was sold as seen and the Home Buyers had viewed the property a number of times and were aware that the doorbell did not work. There is no mention of this issue at the time of completion of the purchase or in the post completion meeting.

### **Findings**

The adjudicator found that the Home Buyer has not shown that it was agreed at the time of purchase that a wired doorbell would be provided. It was known that the doorbell was not working when the Property (former show home).

The submissions do not show details of oral exchanges at the time of purchase, or an agreement that the doorbell would be made operational.

### **Decision**

The claim does not succeed and the Home Builder is not required to take further action.

## **Complaint**

The Home Buyers stated that the Home Builder breached Code Section 2.1, because it did not inform them before exchange of contracts and legal completion, that a public footpath would be situated in close proximity to the Property.

## **Defence**

The Home Builder submitted that at Reservation, the Home Buyers were shown a number of detailed drawings of the Property and the estate. The location of the footpath was shown hatched in grey on the plans. Before the exchange of contracts, a number of plans showing the position of the footpath. At least 5 separate plans were provided to the Home Buyers before exchange of contracts showing the location and route of the footpath.

Before the Home Buyers completed the purchase of the Property, a meeting was held at the Property during which the site manager marked out the location of the footpath for the Home Buyers so they understood where the footpath would be constructed.

## **Findings**

The Adjudicator found that the evidence supported the Home Builder's position that plans showing the location and route of the footpath were disclosed to the Home Buyers before the exchange of contracts and before legal completion.

The plans provided showed the footpath running along the boundaries of the Property and the footpath was shown reasonably clearly on the plans.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer submits that “Prior to moving in, [he] saw the garden as a mud bog and an overgrown weed bed. Which these weeds have come back up, since the reworks, on more than one occasion. When it was reworked, the old turf was never removed, like I believe it should be, but just rolled back into the ground, dusted with soil and “new” turf roiled on top”. Additionally, the Home Buyer asserts that the casement to the stairs has cracked all the way up along the wall; together with paint finishing issues to various areas.

## **Defence**

The Home Builder submits that it replaced the ground floor flooring at the Property as a gesture of goodwill, despite the belief being that the damage was caused by the Home Buyer’s pets. Additionally, the Home Builder avers that while the NHBC Resolution report did not reveal any issues with the landscaping in the garden, it was agreed that the garden would be returfed as a gesture of goodwill and then returfed again, due to a shaded area; with the works then carried out in May 2022.

The Home Builder asserts that the Home buyer remained unhappy and requested the garden be paved. The Home Builder agreed to a cash payment of £985.00, as a gesture of goodwill, so that the Home Buyer could source a landscaper.

Finally, the Home Builder adds that the issue with the stairs is due to “shrinkage” which is within NHBC tolerances and no structural defect, or “works required”, was identified.

## **Findings**

The adjudicator found that the Home Buyer did report defects relating to the garden, stairs, and ceilings and walls at the Property. Furthermore, that these defects did exist, as a result of the photographic evidence submitted.

The adjudicator acknowledged it was outside of their remit to decide on any issues relating to defects, or snagging, post completion; except where the issues stemming from the defects resulted in a failure of the aftercare service.

While there was a presence of defects at the Property post completion, as mentioned, the pertinent requirement under this section of the Code is for the aftercare service to be accessible. In consideration of the communications between the parties, the adjudicator was persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service. In further consideration of their remit, in relation to deciding on defects, the adjudicator did not find there to be any breach of section 4.1 of the Code.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer complained that on 2 July 2021, she complained that her front door was not closing which caused her to suffer pain in her hand and inconvenience because she had to use an alternative door in an unlit area. The customer moved away from the Home following an incident where with only a few hours' notice, the company demolished her fence, stating that this had been constructed in the wrong place. Her garden was reduced in size, and she lost planting and other items.

## **Defence**

The Home Builder said that in relation to the fence, ongoing conversations with the Home Buyer regarding access to her land took place prior to fencing being moved and compensation of £75.00 was offered at the time due to disturbance relating to the fence. The Home Buyer has since moved out of the property.

The concern relating the door was resolved under the warranty provided by the Home Builder which is applicable for two years following the purchase. Prior to the customer vacating the property, therefore, the door had been repaired at the customer's request. The Home Builder said that it had fully complied with the requirements of the Code.

## **Findings**

The adjudicator found that on the facts, the Home Builder had not repaired the front door before the Home Buyer left the property. It had failed to respond to the Home Buyer's repeated requests over a lengthy period and caused inconvenience. As for the fence, the Code does not address questions relating to the disturbance of the Home Buyer's use and enjoyment of her property nor as to the extent of her title. These would have been matters for another forum and the adjudicator made no findings regarding this issue, save in respect of the Home Builder's suggestion that it would not now pay the sum of £75.00 that it had stated would be provided in resolution of the customer's complaint. Withdrawal of the offer of resolution so as to turn a resolved dispute into an unresolved one is not in accordance with section 5.1 of the Code.

## **Decision**

The claim succeeded. The adjudicator required the Home Builder to make an apology in respect of the front door and awarded compensation of £225.00

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 5.1 and 5.2, because it did not provide her with details of the dispute resolution arrangements put in place, it did not thoroughly investigate her complaints about a leak at the Property, and it ignored recommendations made by her insurance company.

## **Defence**

The Home Builder disputed the claim. It submitted that it investigated the reported leak at the Property, investigations were also conducted by third party independent plumbers but none were able to explain the appearance of water at the Property. The Home Buyer's Insurer's report did not support her case about the leak. It did not ignore the Home Buyer's correspondence.

## **Findings**

The Adjudicator found that the complaint about the leak fell outside the scope of the Scheme, to the extent that it was a complaint about snags, defects, or poor design/construction/workmanship. The Adjudicator could consider the manner in which the Home Builder handled the Home Buyer's complaint in light of Code Sections 5.1 and 5.2. The evidence showed that the Home Builder carried out reasonable steps to investigate and resolve the Home Buyer's complaint, including arranging for its agents to investigate the issue over a period of a number of days and providing the Home Buyer with a detailed response on the issues she raised.

It was reasonable to conclude that the Home Builder would have provided the Home Buyer with customer care and handover documentation that would have included details of its after-care service and complaints procedure. The correspondence did not suggest that the Home Buyer had any difficulty submitting her complaint to the Home Builder. The correspondence between the parties did not show that the Home Builder ignored the Home Buyer's Insurers' report as alleged.

The correspondence showed that the Home Builder had considered the Insurers' report, and it wrote to the Home Buyer confirming its position that the Insurers did not find any leaks in the areas she had raised concerns about.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer submits that after excavating a few flowerbeds in the rear garden, various waste was discovered buried beneath the turf; including concrete, masonry, timber, and plastics that were present in the top 25cm of soil. The Home Buyer asserts that this was reported to the Home Builder who met with the Home Buyer to observe the waste exposed, before agreeing to lift the turf and remove any rubble and waste items before adding new top soil and relaying turf.

However, the Home Buyer submits that it transpired that the Home Builder's contractor would only remove turf in 6 inch strips before checking beneath. If nothing was found, they would not continue.

## **Defence**

The Home Builder has not submitted a formal defence. However, the adjudicator was satisfied that the Home Builder had been made aware of the Application and had the opportunity to submit a defence or comment on the claim; however, this has not been taken.

## **Findings**

In consideration of the initial issue discovered, subsequent discovery of rubble and a lack of defence submission to provide a considered explanation, the adjudicator was not persuaded that the Home Builder's comment that the issue is restricted to the area next to the access road is, on balance, suitably substantive. Therefore, the adjudicator did not find the remedy, in the form of the proposal made to the Home Buyer to remove a small section of turf, to be appropriate.

Consequently, the adjudicator did not find the Home Builder to have dealt with the complaint and therefore for the Home Builder to be in breach of section 5.1 of the Code..

## **Decision**

The claim succeeded. Home Builder was directed to lift the turf and topsoil, to remove waste and rubble present in the garden to the depth required by NHBC standards, before relaying the topsoil and turf in accordance with NHBC standards.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5 and 2.1 of the Code. Specifically, the Home Buyer submits that they were “*not given adequate pre-purchase information to understand that there would be a park installed*” opposite the Property and “*as the home was not yet complete, [the Home Buyer] were reliant on these materials such as the brochures and plans to confirm the general layout of the development and [their] new home*”.

The Home Buyer states further that the park is being installed without any planning permission or prior notice. The Home Buyer comments further that they were attracted by the benefit of a quiet green space opposite the Property, however, were “*worried*” as they had lived near a busy park previously which was affected by anti-social behaviour. The Home Buyer clarifies further that they were advised on a number of occasions that there would be no play park on the green area, however, after moving into the Property, it became clear that a play park was being constructed in the green area. The Home Buyer submits further that they suffered “*significant distress*” as a result and that other neighbouring owners “*would also like to put their names forward to be included within this complaint process*”, as the Home Buyer is not the only party affected by the installation of the play park.

The Home Buyer states further that they would not have purchased the Property if they had been aware of the play park and they are “*worried that the park will encourage people to congregate in the park leaving litter - particularly at night*”. The Home Buyer states further that if the park is not removed, they will sell the Property “*due to this misinformation and will be asking for the maximum compensation amount of £15,000 for the inconvenience caused by this situation. This is due to the fines that will be incurred for disrupting [their] £52,300 Help to Buy loan*”.

## Defence

The Home Builder’s position is that it disputes the claim. Specifically, whilst the Home Builder acknowledges that a play park is being built in the green area opposite the Property, it submits that a play park was a necessary requirement of the planning permission and that reference to the requirement was disclosed via a signed S106 agreement.

The Home Builder disputes, expressly, that it or its agents advised the Home Buyer that there would not be a play park in the area and comments that if the Home Buyer considered the positioning of the play park to be of significant importance to the sale, it would have expected the Home Buyer (or their conveyancer) to make an enquiry pre-sale - however, “*a full contract pack was provided by [the Home Builders] solicitors as part of the sale and no enquiries were made requiring the S106 / Children’s Play Area*”.

The Home Builder states further that the play park is a legal requirement of the planning permission and that whilst the Home Buyer claims for the projected cost of financial penalties in relation to the loan, it submits that loss of Property value is not within the scope of the Code and that in any event, the Property value is likely to have increased.

**Findings**

The adjudicator found that the Home Builder did not breach a section of the Code.

**Decision**

The claim did not succeed.



## **Complaint**

The Home Buyers submitted that the shared driveway was constructed too narrow, and was now being damaged by the need to manoeuvre cars to exit the Property. The issue was raised to the Home Builder, which responded that the road was built to specification and that damage to the road was the result of weather and of the way cars were being manoeuvred.

They have had to chase the Home Builder numerous times for a response. They did not believe that the problem has been properly investigated. They argued that the Home Builder had breached Sections 4.1 and 5.1 of the Code.

The Home Buyers requested that the Home Buyer apologise and repair the road.

## **Defence**

The Home Builder submitted that the issue had been inspected by a contractor, who had confirmed that the driveway was built to specification and met technical requirements.

## **Findings**

The adjudicator found that the Home Builder had not breached the Code.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer complained that following the use of scaffolding to resolve a complaint relating to his brickwork, work had to be done to his drive to repair damage caused by the scaffolding. That work was done, but the Home Buyer complains that the repaired driveway began to sink. He was told that the tarmac contractor would come to look at the matter but no-one turned up on the appointed day and the Home Builder then closed the complaint without resolution. Matter has not been resolved.

## **Defence**

The Home Builder said that contractors carried out inspections and following the non-attendance referred to above, it instructed an alternative contractor to attend and investigate. On 14 September 2022, following an update from the alternative contractor, the Home Builder advised the Home Buyer that there was no defect present and closed the complaint. The Home Buyer responded on the same day (14 September 2022) requesting that the complaint be reopened. The Home Builder reopened the complaint and confirmed this action with the Home Buyer. On 22 September 2022, the Home Builder advised the Home Buyer upon review of the complaint that there was no defect present, and no further action would be taken by the Home Builder. The Home Buyer was advised of details of the NHBC, and the complaint was closed.

## **Findings**

The adjudicator found that it was unclear whether anyone had attended and inspected on the dates stated by the Home Builder but that it is more probable than not that no inspection took place following the Home Builder's statement on 7 September 2022 that an alternative contractor would be instructed. The Home Builder did not tell the Home Buyer on 7 September 2022 who the alternative contractor was or when any visit would take place. In its letter to the Home Buyer on 14 September 2022, the Home Builder did not state that anyone had attended. The Home Builder has also not revealed the identity of the contractor that it said it had appointed. This contrasted with the previous contractor where arrangements had been made for a meeting.

The adjudicator found it unlikely that an alternative contractor visited to carry out an inspection. Moreover, it would appear that the quality of the opinion stated on 14 September 2022 that the Home Buyer's driveway was only affected by dust was inaccurate. A photograph previously supplied to the Home Builder showed that the driveway when wet collected puddles in the tyre tracks and the Home Buyer then supplied the Home Builder with a further photograph showing a spirit level set over the driveway indicating that the surface has become compressed as well as an additional photograph of the puddles on the driveway.

The Home Buyer had not known who to contact to get his drive looked at and the matter had not been resolved because the steps for resolution had not been carried out.

## **Decision**

The claim succeeded. The Home Builder was directed to:

Reopen the complaint and arrange for the Home Buyer's driveway to be inspected by a tarmac contractor; if it is decided that the depressions visible in the Home Buyer's driveway do not amount to a defect, the Home Buyer shall be told the reason in writing. If the depressions in the driveway do amount to a defect, the Home Builder shall undertake rectification work. Pay compensation of £50.00 to the Home Buyer.

## **Complaint**

The Home Buyer submits that the appearance of the Property has been changed by the Home Builder. The Home Buyer asserts that new plans were drawn up in September 2021; however, there was no mention of this, or to confirm that the Art Stone had been changed.

As a result of the change of plans prior to completion, the Home Buyer asserts that the Home Builder has breached an unspecified section of the Code

## **Defence**

The Home Builder submits that the Code has not been breached. It does accept that “the drawings were updated to show the revised art stone on 15 September 2021” at that this should have been communicated to the Home Buyer. The Home Builder apologises in its submission and offers to appoint an independent surveyor to carry out a valuation to provide reassurance to the Home Buyer.

## **Findings**

While the details of the information provided to the Home Buyer during the pre-reservation and pre-contract period have not been provided, I am satisfied, as a result of the parties’ agreement, that the “information” indicated a larger Art Stone than that which was provided. I am persuaded that the Sales Department were not aware of the changes made by their Health and Safety colleagues; and while the reasons for the change may have been valid, the Home Builder’s obligation is for it to provide up to date information, including that on the home’s “appearance”.

In consideration of the position on the fact, as accepted by the parties, I do not find the Home Builder to have fulfilled this obligation. As a result, I find the Home Builder to be in breach of section 2.1 of the Code.

## **Decision**

The claim succeeded. The Code does not permit awards based on a loss of property value. I therefore dismiss the claim for £5,000.00 in purported diminished property value. However, Rule 5.7.5 permits me to award an amount, up to £500.00, for inconvenience. As a result of the breach of section 2.1 of the Code, I award the Home Buyer £500.00 for inconvenience.

## **Complaint**

The Home Buyer submits that after the move it date, it was noted that a window ledge and frame had been damaged, and that the render directly below the upper window appeared dirty. The frame was satisfactorily repaired, however, it was questioned whether the “damage done to the upper window frame was responsible for allowing dirty rainwater to enter the internal cavity through the damaged window frame sealant and exiting the weep vent, and staining the render”.

The Home Buyer asserts that after some pressure, the Home Builder agreed to paint over the areas in question; however, the staining quickly resurfaced. The Home Buyer accepts that the Home Builder then completed works to reseal the window, before using a stain block on the affected render and painted over it, which again, did not work. The Home Buyer accepts that some final hand brushing did help; however, the patched area remained. The Home Buyer asserts that the Home Builder then refused to take any more action as the issue was deemed to be within NHBC standards. As such, the Home Buyer submits that the whole front of the house needs to be repaired with render paint so that there are no blotches visible.

## **Defence**

The Home Builder submits that it “did complete repair works to render, although I [the Home Builder] would stress that this was not repair works that was required and actually a natural water / rain stain that can occur with rainwater running from sills & weep holes”. Additionally, that 9.1.2 of the NHBC technical standards (2022) state that “Daywork joints, patching and other repairs may be visible but should not be unduly obtrusive.” As such, the Home Builder avers that it was not obliged to render the whole of the front of the house as requested by the Home Buyer, as the marks are not “unduly obtrusive”.

## **Findings**

The adjudicator found that while there was a presence of defects at the Property post completion, the pertinent requirement under this section of the Code is for the aftercare service to be accessible.

In consideration of the communications between the parties, the adjudicator was persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service. In further consideration of the decision making remit, in relation to deciding on defects, the adjudicator did not find there to be any breach of section 4.1 of the Code.

## **Decision**

The claim did not succeed.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that the Property has suffered a large number of snagging issues, faults and outstanding issues. In summary, the Home Buyer, further to a snagging report commissioned by a third-party, identifies “253 issues”. Examples of the issues include; a leak to the sink, unfinished decor, unlevel ceilings, defective plaster, defective brickwork, defective vents, mould, poor finishing and incomplete works.

The Home Buyer states further that the Home Builder has damaged some of the fittings and fixtures, including, for example, the carpets and kitchenware. Whilst the Home Buyer acknowledges that the Home Builder has attempted to rectify some of the issues (for example, the ceiling issue), the Home Buyer submits that in doing so, the Home Builder has caused further damage (for example, to the bedroom bed and carpet) and the majority of the listed items remain outstanding.

In relation to Section 4.1 of the Code, the Home Buyer submits that the after-sale service has been “a complete shambles” and the Home Buyer states further that they have suffered aggravated stress and inconvenience due to a health condition

In relation to Section 5.1, the Home Buyer submits that “*complaints...are never dealt with at speed*” and that they have been incorrectly held at fault for some of the issues (e.g. mould).

The Home Buyer requests that the Home Builder apologise, provide an explanation and take practical action.

## Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. As a preliminary point, however, the Home Builder submits that the claim is out of scope, further to CCHBIDRS rule 3.1, as the first complaint was, allegedly, made less than 56 days before the application. Notwithstanding this point, whilst the Home Builder acknowledges that snagging issues remain, it submits that the matter “*is still in the early stages of the builder warranty which [it] intends to fully comply with*” and notes that the warranty period is two years. The Home Builder states further that the Home Buyer has not logged all of the issues identified in the third-party snagging report onto its “*defect reporting portal*” and that only 49 of the alleged issues have been logged.

Whilst the Home Builder accepts that not all the issues have been/were dealt with within the timeframes stipulated in its Quality Charter, it submits that its agents have “*visited the Applicant’s property several times endeavouring to deal with the numerous issues raised by the Applicant*” and whilst it “*sympathise[s] with the issues suffered by the Applicant*”, it submits that “*such defects have been addressed promptly and will continue to be addressed as required under the two year warranty period*”. In summary, the Home Builder comments that the “*mere presence of defects does not in itself constitute a breach of the Code*”.

In relation to the alleged breach of section 4.1 of the Code, the Home Buyer submits that *“formal complaints should be addressed to [Home Builder’s] Customer Care team and that any defects should be reported via [portal]”* and that it has attempted to narrow the issues by, for example, meeting with *“the Applicant to discuss the outstanding works and discuss how / who will remedy the issues”*.

In relation to section 5.1 of the Code, the Home Builder submits that it has complied with the Code and highlights that the chronology provided by the Home Buyer, which it accepts, *“substantiates Gleeson’s efficiency in responding to the Applicant’s queries”*.

## **Findings**

The adjudicator found that the Home Builder breached Sections 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part).

## **Complaint**

The Home Buyer submits that the Home Builder provided “abysmal service” in relation to aftercare service and customer care. The Home Buyer adds that the Home Builder attended the Property on multiple occasions to inspect defects, “often without any final resolution to the repairs” with the main issue outstanding, being the defective front door. The Home Buyer submits that the issues formed a formal complaint made in May 2022 which has not been responded to.

## **Defence**

The Home Builder submits that it recognises that there were delays in responding to defects; additionally, that there was a formal complaint raised on 3 May 2022, however, that this was acknowledged by email on 3 May 2022 and inspection was arranged for 4 May 2022 investigate the following issues: “issues with front door, garden fencing issue, en suite flooring issue, garden drainage issue, en suite shower issue, bathroom floor issue, query on solar panels, damage to car alloy”.

The Home Builder confirms that this issues were confirmed as closed on 26 October 2022 and that the Home Buyer is to receive £1,150.00 for the cost of repairing the door. The Home Builder adds that two additional items were raised in October 2022 which are “ongoing”. The Home Builder accepts that the Home Buyer has suffered inconvenience and agrees to pay £500.00 in compensation as a result, together with a formal apology.

## **Findings**

While there was a presence of defects at the Property post completion, as mentioned, the pertinent requirement under this section of the Code is for the aftercare service to be accessible. In consideration of the communications between the parties, I am persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service.

In further consideration of my remit, in relation to deciding on defects, I do not find there to be any breach of section 4.1 of the Code. The Home Builder submits that the issues reported in May 2022 were closed on 26 October 2022. While it is outside of my remit to directly consider the issues of the defects, the time taken to provide a remedy to the complaint alone does not meet the definition of “within an appropriate time”. Therefore, I find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder submits that it has raised a payment of £1,150.00 for damage to the door and £500.00 for inconvenience. As a result, of the inconvenience suffered, I memorialise the agreement for the Home Builder to pay £500.00 to the Home Buyer. Where payment has been made and received by the Home Buyer, this does not need to be made twice. As the payment of £1,150.00 relates to a defect, I do not include this in my



decision. The Home Builder has offered a formal apology to the Home Buyer. In consideration of the breach of section 5.1 of the Code, I direct the Home Builder to apologise in relation to this breach. Additionally, I direct the Home Builder to explain why the breach occurred.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because it had not rectified the issues with the design of the Property within a reasonable period of time. It also provided a general response to his complaint, instead of providing a response to each of the issues he raised.

## **Defence**

The Home Builder acknowledged that the Property had been faced with some issues, but it had consistently worked with the Home Buyer to resolve the issues. It submitted that there was an open and ongoing NHBC referral which it was engaging with. It had responded to the Home Buyer civilly and it offered reasonable options to address the issues, all of which the Home Buyer declined.

## **Findings**

The Adjudicator found that the Home Buyer's complaint about the design of the Property concerned missing decorative stones and bricks, poorly installed decorative bricks, and issues with the design and installation of the roof. These concerned snags, defects and poor workmanship which fell outside the scope of the Scheme and could not be adjudicated upon. The evidence did not show a breach of Code Sections 4.1 and 5.1.

The correspondence indicated that the Home Buyer was able to access the Home Builder's after-sales service, having reported a number of issues after the sale of the Property which the Home Builder acknowledged, and engaged in correspondence with the Home Buyer.

The correspondence also indicated that the Developer had made a number of reasonable offers to the Home Buyer in an attempt to resolve the matter including offering to buy back the Property.

The correspondence showed that there was a reasonable level of engagement from the Home Builder with the Home Buyer in relation to his complaint, and it responded to the complaint within a reasonable period of time.

## **Decision**

The claim did not succeed and the Adjudicator did not make a direction for further action by the Home Builder.

## **Complaint**

The Home Buyer submitted that he paid extra to upgrade the internal doors in the Property. He did not receive the door on display in the showhome and doors of inferior quality were installed. He was not contacted and given the choice whether or not to proceed with the upgrade. He argues that the Home Builder has breached Section 2.1 of the Code.

The Home Buyer sought compensation of £867.00.

## **Defence**

The Home Builder submitted that it acknowledged that the doors supplied to the Home Buyer were not the same as present in the showhome. The Home Buyer was not informed that different doors would be supplied. The door had been discontinued, and the door installed in the Property was more expensive than the original door and is now the only upgrade option offered by the Home Builder. The contract permitted the Home Builder to make this change. The door supplied is of comparable quality to the door in the showhome. The Home Buyer has produced insufficient support for the compensation claimed. The Home Buyer denies that it has breached the Code.

The Home Buyer was offered compensation of £100.00 for the Home Builder's failures in communication, but this was declined.

## **Findings**

The adjudicator found that the Home Builder breached Section 2.1 of the Code by failing to notify the Home Buyer of the change to the doors in the Property.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay compensation of £200.00 to the Home Buyer for the inconvenience caused by the Home Builder's breach of the Code.

## **Complaint**

The Home Buyer submitted that she moved into the Property in August 2021 and the site manager visited and took a list of snags in early September 2021. The snags had still not been completed and the snag list had been re-done on more than one occasion. Contractors had not shown up and not cancelled the appointment. Although most of the snags were minor, one was serious. She argued that the Home Builder had breached Sections 4.1 and 5.1 of the Code.

The Home Buyer requested that the Home Builder resolve the remaining snagging and pay compensation of £15,000.00.

## **Defence**

The Home Builder submitted that it provides an accessible after-sale service and information on that service was provided to the Home Buyer and remains accessible on the Home Builder's website. The Home Builder responded to the Home Buyer's contacts and also directed the Home Buyer to the NHBC when appropriate. An investigation was undertaken of the "serious" issue identified by the Home Buyer, with confirmation that relevant standards had been met.

The Home Builder acknowledges that there were some errors on its part regarding which snags remained outstanding and that there were occasions contractors did not attend, but the Home Builder has apologised and a schedule of works has now been agreed for the remaining works.

The Home Builder denied that it had breached the Code.

## **Findings**

The adjudicator found the Home Builder had breached Section 5.1 of the Code by failing to resolve the customer's complaint regarding her snagging issues within an appropriate time.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to resolve the remaining items on the Home Buyer's snagging list, the work to be completed within four weeks of the date on which the Home Buyer notified the IDRS that she accepted the Final Decision in this case, and to pay the Home Buyer compensation of £200.00.

## Complaint

- The Home Buyer was unhappy with the status of the brickwork at the property that exhibited mortar stains and areas patched with white cement.
- A meeting was held at the property with the Home Builder's Managing Director and a representative of the brick manufacturer, and a plan of action was established.
- The Home Builder sent a team of bricklayers to the property, but they stated that there was little they could do to improve the brickwork as it had not been erected correctly.
- The property was not set out correctly nor constructed in accordance with the approved architect's drawings.
- The property was not built to the standards as stated in the Home Builder's sales literature
- The Home Builder's attempts to resolve the issue have been unsatisfactory.
- The Home Buyer believes the brickwork problem cannot be rectified and thus compensation is the only remedy available.

## Defence

- The Home Builder confirms that its Managing Director and a representative of the brick manufacturer attended the property and a plan for cleaning the brickwork was agreed between the stakeholders.
- The Home Builder confirms it cleaned a sample area of brickwork and following the Home Buyer's approval of the work done it proceeded to clean and tint all affected brickwork. The Home Builder says it believed the works were satisfactorily completed.
- The Home Builder believes all agreed remedial works are completed and that it has investigated all complaints raised by the Home Buyer and provided detailed responses.
- The Home Builder denies being in breach of the Code.

## Findings

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of the section of the Code as alleged. The adjudicator found that the evidence does not establish that the house was not constructed to the standards set out in the sales literature nor that it is not in compliance with architect's drawings. The adjudicator was satisfied that the Home Builder made reasonable efforts to rectify the brickwork staining. The adjudicator did not find that the Home Builder had breached any Sections of the Code.

## Decision

The claim does not succeed.

## **Complaint**

The Home Buyer submits that the gully on one side of the roof sticks out about two inches. The Home Buyer asserts that the after sales service “leaves a lot to be desired” and that “nobody came to discuss the situation.

## **Defence**

The Home Builder submits that following completion, the Home Buyer felt the roof detail was not acceptable and that works were then carried out to confirm there was no defect as it was the roof felt showing through at the bottom of the roof clips. The Home Builder asserts that the dispute now relates to the issue of gaps in the dry verge; however, that the roof is installed within industry tolerances.

## **Findings**

While the Home Builder has not demonstrated that it provided the Home Buyer with a list of contacts in relation to the after sales, I am satisfied, from the parties submissions, that the Home Buyer was aware of who to contact at the Home Builder; thereby satisfying that part of the requirement, and that the service was accessible, as it is accepted that the Home Builder attended the Property to undertake repairs to the roof.

The parties further accept that the Home Buyer contacted NHBC in an attempt to seek resolution. I therefore satisfied that the Home Buyer was made aware of the guarantees which applied to the Property.

While there may be the presence of a defect, I am persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service. In further consideration of my remit, in relation to deciding on defects, I do not find there to be any breach of section 4.1 of the Code.

## **Decision**

The claim did not succeed.