

INDEPENDENT REVIEW OF THE CONSUMER
CODE FOR HOMEBUILDERS 2022/23:

Code Management Board Response to Recommendations

CONSUMER
CODE FOR
HOMEBUILDERS

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Protection for new-build home buyers

INTRODUCTION



The 2022/2023 Independent Review of the Consumer Code for Home Builders (the Code), chaired by John Bridgeman CBE, resulted in 16 recommendations designed to strengthen consumer protection and clarity in the new build homes industry.

The majority of the recommendations related to the Code itself, which the Code's Management Board has reviewed in depth. In the vast majority of cases, we have accepted in full those recommendations that are within our control. There are three which we have agreed in part, where we will be adopting changes but varying the approach based on our experience of other influencing factors.

We are already progressing revisions to the Code which will be consulted on in early summer, with a view to beginning the transition to the updated Code in early Autumn 2023.

On behalf of the Code's Management Board, I would like to thank John Bridgeman for conducting such a thorough and rigorous Review, which will help ensure our Code remains fit for purpose in driving high quality customer service standards and protecting consumers buying new build homes across the UK.

Noel Hunter OBE
Chairman
The Consumer Code for Home Builders



Protection for new-build home buyers

Recommendation 1. To initiate a move to align the Code more closely with other codes, addressing the issue of quality, as soon as possible by incorporating a commitment to quality in the Code. In doing so:		
Recommendation	Board Decision	Response
a. The Code's Management Board should promote and lead on the alignment of Consumer Codes in the UK home building industry to ensure consistency for consumers, home builders and new home warranty providers whilst taking the initiative in proposing to other code sponsors and stakeholders a new industry Glossary and Definition of Terms of interest to the new home buyer.	Agree	In proposing any revisions to the sponsors and stakeholders of other codes, it should be noted that having already identified gaps in the existing Code, and which fed into the drafting of the New Homes Quality Code (NHQC) adopted by the New Homes Quality Board (NHQB), the Code's Board are keen to more closely align the Code with the NHQC and other, longer standing codes, within the sector. This will include aligning definitions of terms that exist within current glossaries, as appropriate.
b. The Code's Management Board should engage with the industry trade bodies on an aligned Code which is relevant to their members.	Agree	The industry trade bodies continue to be represented on the Code's Advisory Forum, which is a key representative group in terms of the promulgation and promotion of the Code, and who have been kept apprised of developments as a result of the review.
c. The Code's Management Board should ensure the Code continues to be an approved Consumer Code, modelled on best practice, benefiting new home buyers throughout the UK and reflecting the needs of key stakeholders - notably consumers, home builders and new home warranty bodies.	Agree	Retaining accreditation of the Code under the Chartered Trading Standards Institute's Consumer Codes Approval Scheme continues to be a key priority for the Board and as reflected in the annual business plan. To check how well the Code is being applied, or whether it needs to be amended or updated, the Board will continue to undertake its auditing and compliance work, including reviewing all complaints that go through the Independent Dispute Resolution Scheme. Further the Board will ensure it reinstates its triennial review of the Code.
d. Trade bodies should be encouraged to develop a "Right First Time" approach with a demonstrable approach to "Continuous Improvement" and "Total Quality" through the adoption of ISO Quality Standards.	Agree	Home builders' compliance with these and other relevant quality standards (i.e. the home warranty bodies technical standards) remain a key focus of the Code and, through the guidance, the industry will be encouraged to develop and adopt such an approach. The recommended adoption of such standards will also be highlighted with the appropriate trade bodies through the Advisory Forum.

Recommendation 2. To further improve the consumer voice within the Code by:		
Recommendation	Board Decision	Response
a. Adding a “strap-line” to the CCHB logo such as “Protecting the New Home Buyer” to reinforce the message and visibility of the Code with consumers.	Agree	The existing logo has home builders in the title as it is builders that need to comply with the Code. However, the Code’s primary purpose is to support consumers and help make the buying process fairer and more transparent. To make the Code’s role clearer for consumers, a new logo has already been created which home builders are required to now use.
b. To further strengthen the consumer voice on the Code Management Board by appointing additional independent members so that the Code is, and can be seen to be, more consumer focused.	Agree	The Board accepts the need for additional independence and work is underway to recruit such a role.
c. To create a Consumer Panel to advise the Board.	Agree in part	Initial thoughts of the Board are that greater consumer representation should be at the Advisory Forum so there is a balanced view across all stakeholder groups. It is felt this would be more effective as it would enable all stakeholders to understand the position of others and better inform any discussion without there being silos of information and opinion.

Recommendation 3. To incorporate into the new edition of the Code the key areas where it was generally agreed the Code needs to be strengthened. In particular:		
Recommendation	Board Decision	Response
<p>a. Definition of a new home - by agreeing an updated definition of what, in its totality, comprises a new home and what constitutes completion.</p> <p>b. Customer vulnerability - by updating industry understanding of vulnerable consumers and how their needs may be met through the encouragement to comply with guidance offered by ISO 22458.</p> <p>c. Training - by incorporating the Code revisions into the training material provided and requiring the necessary staff to refresh their training annually.</p>	Agree	The Board accepts all these areas need to be strengthened within the Code; many of which had already been identified as gaps resulting in the previous work undertaken and shared with the NHQB in the production of the NHQC. A revised Code is being drafted which will incorporate all of these points and which will be further consulted on.

Recommendation	Board Decision	Response
<p>d. Early bird reservations - to be included in relation to any fees taken and their repayment.</p> <p>e. Incentives - by outlawing financial incentives that encourage completion of the purchase of the home which has not met warranty quality standards.</p> <p>f. Commissions - by requiring any commission received for recommending certain products or services to be declared (including for the services of any legal conveyancer and/or financial adviser).</p> <p>g. Additional costs of ownership - by requiring greater clarity to be provided on any costs that are likely to be directly associated with the tenure and management of the home over the 10 years following the sale.</p> <p>h. Part exchange and assisted move schemes - by requiring greater clarity around the information of such schemes, if offered, and the terms to which a home buyer may be committing.</p> <p>i. Pre-inspection - by requiring home buyers are given the opportunity to visit and inspect the home (including the use of an appropriately qualified professional) and to undertake the visit prior to legal completion. Consideration should further be given to providing a Code-approved snagging guide and snagging checklist to support self-inspections or to aid the appointment of a snagging company while ensuring steps are taken to protect home buyers from agreements which may void their new home warranty.</p>		

Recommendation	Board Decision	Response
<p>j. Defect resolution - by agreeing updated versions of the definition of a Major Defect, a Defect and a Snag. Snags or defects must be covered by the after-sales service and resolved within a mutually agreed timescale. Failure to do so will give rise to a complaint to the home warranty body's dispute resolution service and/or the Code's Independent Dispute Resolution Scheme.</p> <p>k. Improved complaint handling - by extending the Requirement and being more prescriptive in relation to timescales, including issuing a form of 'deadlock' letter where the parties agree the matter cannot be resolved.</p>		

Recommendation 4. To commit to broadening the Code Requirements to provide better and greater clarity to home buyers in several areas by:		
Recommendation	Board Decision	Response
<p>a. Ensuring information is continually revised and updated for consumers during distinct and differing phases of a housing development.</p> <p>b. Promoting a better consumer understanding of the home warranty being provided at the point of sale and greater exposure during the sales process.</p>	Agree	The Board will strengthen the Code in both of these areas and will require details of warranty provision available is given both at reservation and again before exchange of contracts.

Recommendation 5. To extend the Code to include home buyers in shared ownership arrangements and private buyers of more than one property.		
Recommendation	Board Decision	Response
In doing so, this will ensure that existing safeguards remain in place to protect the interests of vulnerable home buyers and reflect changing social standards and expectations.	Agree in part	<p>In relation to those home buyers who have purchased under a shared ownership scheme, concerns relating to the marketing, selling and after-sales service of the home may already be considered under an existing statutory Ombudsman Scheme. However, this can be a complex matter and it will depend upon the contractual relationship with the Housing Association/landlord and home builder. Further consideration as to how the Code can cover such purchases will be given, so that there are no gaps in protection.</p> <p>In relation to private buyers buying more than one property, it is proposed that any revision to the Code will make it clearer that it is those individuals, acting in the course of trade or business, that do not benefit from its Requirements. Private buyers, not acting in the course of trade or business, will fall within the Code's Scope</p>

Recommendation 6.	Board Decision	Response
To audit follow up of home builders' implementation of the Independent Dispute Resolution Scheme recommendations.	Agree	<p>The awards made by an Adjudicator under the Independent Dispute Resolution Scheme either have to be accepted or rejected by a home buyer. Where an award is accepted, the home builder must comply with the direction within 20 working days of being notified of the home buyer's acceptance. Where a home builder fails to honour an award, CEDR is notified and the home builder will be in breach of the Code and the home warranty body's rules of registration. Where an award is not implemented, the Code has a formal non-compliance procedure where sanctions can be applied resulting from such breaches.</p> <p>All disputes that have gone through the Code's Independent Dispute Resolution Scheme are considered by the Disciplinary and Sanctions Panel and the Board already writes to those home builders where there has been a successful claim asking that steps are put in place to prevent a similar breach from occurring. The content of the contact will be revisited to see whether this can be further strengthened to ensure implementation of any improvements.</p>

Recommendation 7.	Board Decision	Response
To provide consumer friendly summary information of consumer outcomes from Independent Dispute Resolution Scheme adjudications.	Agree	Anonymised summaries of every decision undertaken by the Independent Dispute Resolution Scheme are already published on the Code's website. Lessons learned documents are also produced and published for the industry to help them avoid similar issues and improve their service to customers. The Board will however consider how this information can be made more consumer-friendly.

Recommendation 8.	Board Decision	Response
To improve the alignment of Code independent dispute resolution complaint handling with that of the home warranty bodies to improve and streamline the consumer experience.	Agree	Greater clarity will be provided in the details of the Code itself and on the Code website.

Recommendation 9.	Board Decision	Response
To advocate the continued external accreditation of the Independent Dispute Resolution Scheme to ensure it continues to deliver for consumers in terms of cost, expediency and process.	Agree	<p>Retaining accreditation of the Code under the Chartered Trading Standards Institute's Consumer Codes Approval Scheme continues to be a key priority for the Board and is reflected in the annual business plan. As part of that accreditation, the Code must have a low-cost, speedy, responsive, accessible and user-friendly alternate dispute resolution (ADR) for consumer disputes. Given the effectiveness of the Code's Independent Dispute Resolution Scheme over the past 13 years, the Board considers it a priority to maintain the approach adopted and will continue to monitor the delivery of service.</p> <p>CEDR remains a Government approved ADR scheme under the ADR regulations and is audited by the appointing competent authority to ensure they meet their stringent standards.</p>

Recommendation 10.	Board Decision	Response
<p>To raise the Independent Dispute Resolution Scheme financial compensation threshold to £75,000 to align with other codes.</p>	<p>Agree</p>	<p>There is disparity amongst the many codes operating in the new homes sector with limits ranging from £15,000 to £75,000. In the second-hand market, by way of example, the limit is £25,000 (albeit this has not been updated for many years). There is no evidence from the Code's existing data to suggest that a limit of £75,000 is required and/or inhibits a home buyer's claim. Further, the recommendation from the APPG report 1 is that awards to consumers through the dispute resolution scheme should be up to £50,000 as disputes over larger sums would likely involve legal representation and would best be settled in court. However, an increase in the Independent Dispute Resolution Scheme's current award limit will be considered and discussions with the Independent Dispute Resolution Scheme provider have already commenced. Their initial view mirrors that of the APPG, having taken account of their experience both within the new homes market and across other sectors within which they operate.</p> <p>The Board therefore propose to raise the financial limit to £50,000 as per the APPG's recommendation but will keep this under annual review and if evidence from across the industry indicates this is insufficient, then it will be considered further.</p>

Recommendation 11.	Board Decision	Response
<p>To amend the Independent Dispute Resolution Scheme rules to ensure restitution appropriately reflects the breach and where a home builder cancels a reservation agreement with a view to selling the home at a higher price.</p>	<p>Agree</p>	<p>Discussions with the Independent Dispute Resolution Scheme provider have already commenced and consideration as to how this recommendation may be incorporated is underway. It is recognised that quantifying the award may prove challenging but consideration could be given to a home buyer's 'loss of bargain' (i.e. an amount to compensate for the lost opportunity to purchase the home at the agreed price) and/or awards may be made up to a certain level.</p>

Recommendation 12.	Board Decision	Response
To encourage the industry to review current cash retention models operated by architects and some home builders and consider whether consumer confidence could be enhanced by the wider application of such schemes.	Agree	This recommendation will be highlighted in our discussions with the appropriate trade bodies and through the Advisory Forum for further consideration.

Recommendation 13.	Board Decision	Response
To follow practice in other sectors but particularly heed Lord Justice Bingham's words and that compensation should be awarded at a rate of up to £5,000 per adult individual and up to £500 per child in a household.	Agree in part	It is agreed that the amount awarded for inconvenience will be reviewed and so that it aligns with many ADR providers across various industries; albeit it is likely to be around £2,000 per claim.

Recommendation 14.	Board Decision	Response
To advocate an industry compensation fund so that consumers' awards are underwritten should there be a failure of a home builder to honour it while advocating to home warranty bodies, through their terms and conditions, that they hold parent companies liable for Code compliance of any subsidiaries and/or Single Purpose Vehicles created.	Agree	The compensation fund will be highlighted in the Board's discussion with industry. The Code's supporting warranty bodies are looking at their terms and conditions in relation to holding parent companies liable for the awards made under the IDRS of any subsidiary, including SPVs.

Recommendation 15.	Board Decision	Response
To ensure continued accreditation to the high standards required by CTSI to meet the statutory based Consumer Code Approval Scheme.	Agree	Retaining accreditation of the Code under the Chartered Trading Standards Institute's Consumer Codes Approval Scheme continues to be a key priority for the Board and as reflected in the annual business plan.

Recommendation 16.	Board Decision	Response
To convene a meeting of other CTSI approved Code Sponsors to demonstrate the value of aligning Codes but seeking a protocol to prevent Code hopping to circumvent disciplinary action.	Agree	This will be taken forward and in partnership with CTSI.

This report is available to download at www.consumercode.co.uk and updates on progress with the recommendations will be shared on the Code's [news page](#).



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