

INDEPENDENT REVIEW ON BEHALF OF  
THE CONSUMER CODE  
FOR HOME BUILDERS  
2022/23

John Bridgeman CBE TD DL

# Foreword



The Consumer Code for Home Builders (“the Code”) was launched by the industry in 2010 as a response to documented concerns about the conduct of the industry at that time, published by the Office of Fair Trading.

The Code was established under a sponsorship agreement involving the leading new home warranty bodies in the UK. This has proved to be an effective partnership which brings together two important elements of consumer protection; the Code and the builder warranty and insurance cover. The agreement also established a best practice standard for new home warranty provision and a framework for independent appeal should that standard be challenged. It also ensured that a widely disparate industry remained in scope of the Code, because the participating home warranty bodies require that all builders registered with them must comply with the Code. This has also provided an important means of dealing with serious malpractice, allowing for the dismissal of companies from the Code, potentially preventing them from obtaining new home warranty cover on plots they build. This effectively prevents such companies from trading.

An important criteria envisaged at the launch of the original Code was an independent review every three years to ensure continued currency and relevance. The last review was due in 2020 but was put on hold following the Government’s announcement at that time, that it intended to establish a single, statutory based code. Although the Government has now put in place the statutory framework for that to happen, it has become clear the implementation may not occur for some time. The Code’s Management Board felt it would be unwise to delay the Review any longer and in the latter part of 2022, commissioned John Bridgeman CBE, a former Director General of Fair Trading and a principal architect of codes of practice, to lead the Review.

This report, prepared by John Bridgeman, is the culmination of the Code Review, which will inform future developments and improvements in the Code from 2023.

Noel Hunter OBE  
Chairman  
The Consumer Code for Home Builders



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SECTION 1

# Introduction

## 1. Introduction

### 1.1 Author's introductory remarks

1.1.1 Codes of Practice play an important role in the legal framework of consumer protection in the UK. Their primary function is to provide consumer protection within a framework agreed by members of the relevant industry, in this case the developers/builders of new homes.

1.1.2 The Consumer Code for Home Builders (the Code) was first introduced in 2010 in the wake of critical reports on the industry commissioned by the Office of Fair Trading. It has operated successfully over the intervening period and been subject to three independent Reviews. I conducted the last review in 2015/16 and was pleased to be asked to also lead this review.



*John Bridgeman CBE*

1.1.3 The Code seeks to reinforce best practice within the industry to encourage high levels of customer protection and information.

1.1.4 The key elements of protection afforded by the Code are to ensure home buyers;

- Are provided with reliable information and are made aware of their consumer rights before and after purchase.
- Are treated fairly.
- Know what levels of service to expect.
- Understand how to access a speedy free and Independent Dispute Resolution Scheme when things go wrong.

### 1.2 Initial findings

1.2.1 As a starting point for the Review, I resolved to assess the setting in which the current Code operates, both in terms of its working practices and governance. During that process I found a number of exemplars of good practice as well as a number of challenges which informed my thinking and approach as I progressed. I have summarised my key findings in sections 1.3 and 1.4.

### 1.3 Good practice

1.3.1 The Code has used the principle of learning and continuous improvement to inform its development. This is evident in a number of ways including:

a) The development of a comprehensive approach to industry training embracing distance learning and train the trainer packages which supports industry to understand better the Code and the protection it affords home buyers.

b) The evolution of its website through targeted information packages providing better access to information for home buyers and builders alike as well as to other stakeholders involved in the new homes market.

c) The adoption of a highly regarded contact centre operated by the Chartered Trading Standards Institute (CTSI) and sponsored by the Department for Business and Trade, which gives consumers greater access to advice and information.

d) The appointment of an inspection team focussing on point-of-sale compliance with the Code's requirements which feeds back directly to individual home builders to generate continuous improvement.

e) The Code's sanction regime which includes the ability to exclude companies from membership of the scheme and is enforceable through the partnership with the supporting home warranty bodies. The fact that such a power has only had to be used on rare occasions shows the importance home builders attach to compliance with the Code.

- 1.3.2 The Code covers the whole of the UK and, at the time this review commenced, 95% of the sector (around 12,000 developers). Despite the diverse nature of the industry, it has become well embedded and achieved high recognition. I don't believe, however, there is room for complacency, a matter I deal with below.
- 1.3.3 The Code is based on a sponsored partnership with the UK's leading home warranty bodies which also play an important role in consumer protection. The agreement under which the Code was established sets a best practice standard for warranty provision not replicated by other Codes. I believe this is important as home buyers do not get to choose the warranty they will get because that decision is made by the developer at the start of the build process.
- 1.3.4 An Independent Dispute Resolution Scheme has operated since the Code was established and is provided by an internationally acclaimed provider, the Centre for Effective Dispute Resolution (CEDR). CEDR is a member of the Ombudsman Association and a Government accredited Alternative Dispute Resolution (ADR) provider. It operates in the same way as an Ombudsman and has gained extensive experience of the industry since commencing operations and handling hundreds of cases each year. This is an important asset for both consumers and the industry.
- 1.3.5 The Code has gained accreditation under the statutory based Consumer Code Approval Scheme (CCAS) operated by CTSI. This is essential to ensure consumer confidence and to underpin the integrity of the operation because the Code remains subject to annual audit.

## **1.4 Challenges**

- 1.4.1 The Code Requirements have not been reviewed for five years primarily because there has been uncertainty regarding the introduction of a statutory code which has not materialised. This should not be allowed to happen again and the Code should return to a three year review cycle to ensure it remains relevant and current.
- 1.4.2 The Code's Management Board operates a totally Independent Dispute Resolution Scheme and an independent Sanctions Committee. However, the Board itself has a majority of industry members, albeit representing the home warranty bodies. It is vital in terms of good practice and perception that the Board has a majority of independent members. The Board has recently given its consent for this to happen and is a matter of priority.
- 1.4.3 The Code has an Advisory Forum which has representation from various bodies across the new homes market. The Forum advises, and is consulted by, the Board on Code content, its practical application and operation, through which changes and improvements are channelled.

While it has operated effectively and stakeholder engagement has been increased, consumers are under-represented and that should be rectified as soon as possible.

- 1.4.4 There are several different codes of practice operating in the sector. It would be in the consumer interest and would support trade understanding if these codes were aligned.
- 1.4.5 Much has been done to promote the visibility of the Code to both home buyers and the industry as referenced above. However this should remain a high priority going forward and requires a clear strategy and, if possible, support from the CCAS.

**Note** As I progress through the report, I have set out my recommendations which fall under three headings: those that relate directly to revisions of the Code, those that I advise in the context and operation of the Code for the Management Board and those for external consumption by stakeholders operating within the new home industry. The summary of these can be found at section 10 of this report.

SECTION 2

# Terms of Reference and Scope of the Review



## 2. Terms of Reference and Scope of the Review

- 2.1 To undertake a comprehensive review of all aspects of the Code, taking account of work already undertaken to produce a revised draft Code to match Government aspirations and including:
- The application and scope of the Code and its guidance to home builders and home buyers in addressing consumer detriment in the purchase and after sales processes of a new home.
  - The operation of the Independent Dispute Resolution Scheme.
  - The operation of other code schemes within the marketplace with the objective of achieving synergy where possible.
  - The operation of reparation and sanction arrangements judged against comparable best practice.
  - To make recommendations to the Code's Management Board on any matters arising from the Review that could lead to:
    - Changes to the Code or Builder Guidance.
    - Changes to the Independent Dispute Resolution Scheme.
    - Any other matters concerning the scope, operation or application of the Code.

### 2.2 Approach

- 2.2.1 This review has been informed by material from a variety of sources and particularly:
- Meetings with the Chairman of CCHB Management Board and its Secretariat
  - A consultation with CCHB stakeholders
  - Independent Dispute Resolution reports
  - Annual Reports of CCHB stakeholders
  - Meetings with stakeholders
  - The Building Safety Act 2022
  - Government correspondence and statements relating to the new homes sector
  - Media coverage of the homebuilding sector
  - Websites relating to new homes
  - CTSI Guidance on Codes of Practice
  - CTSI Consumer Codes Approval Scheme Audit of CCHB of October 2022
  - Training Materials for professionals involved in homebuilding
  - Educational materials for new home buyers

A full list of sources is included in Appendix 5.

SECTION 3

# Executive Summary

### 3. Executive Summary

- 3.1 The new homes industry is of major significance to the UK economy but an area in which consumer experience is inevitably very low and hence vulnerability high.
- 3.2 The issues of variable quality and choice within the new homes market across the UK have been well documented both within the media and various Government reports.
- 3.3 I have conducted a wide-ranging consultation with key stakeholders across the industry, with consumer representatives and other important players.
- 3.4 I recognise the progress made by the existing Code which has been in existence for over 12 years and is well embedded within the industry, covering the whole of the UK. As the first and foremost Code in the sector, which at the time of this review represented around 95% of new home sales, and in the order of 12,000 developers, it has gained enormous experience which remains an important resource going forward.
- 3.5 The Code has gained accreditation under the statutory based Consumer Code Approval Scheme and operates a highly regarded Independent Dispute Resolution Scheme through an internationally recognised provider which is a member of the Ombudsman Association.
- 3.6 The Code has established an important partnership with the industry's leading home warranty bodies which share a vital role in consumer protection. It is my judgement that this interface produces an important stimulus to both parties to focus on improving consumer awareness and the focus on quality within the industry. This is embodied within the partnership agreement which provides the Government's framework for the Code.
- 3.7 A number of codes and code bodies operate within the sector and whilst this produces a competitive stimulus which should be maintained going forward, I recommend that the codes should be aligned to simplify the landscape for both consumers and the industry and to address issues of quality.
- 3.8 I have made 16 recommendations which are set out in section nine of this report and summarised in section ten. I would highlight six in particular in addition to my primary recommendation that Codes should be aligned:
- The importance of simplified/joined up consumer access to advice and complaint management across all codes.
  - Improved consumer representation at the centre of decision making.
  - Increased headroom in reparation limits.
  - A protocol to ensure that poorly performing companies may not 'code hop'.
  - To recognise and protect vulnerable consumers including broadening the scope of the Code to cover shared ownership.
  - To recognise that warranties are chosen by developers and not consumers and I urge Government to introduce a best practice standard, modelled on home warranty bodies' best practice which already underpins the Code.

SECTION 4

# Background

## 4. Background

### 4.1 Purpose of the review

4.1.1 Following the launch of the Code in 2010, the Management Board committed to undertake a triennial review in order to ensure that the Code continues to work as intended.

4.1.2 The last major review was undertaken during 2015-16, following a full consultation, and changes to the Code (and its Independent Dispute Resolution Scheme) were made and implemented.

4.1.3 Since then, the landscape has changed:

- In 2016 the All Party Parliamentary Group (APPG) on Housing carried out a review of the industry in the wake of some high profile failings, notably concerning build quality and emerging leasehold problems. Notwithstanding all its work, there was limited analysis of the issues<sup>1</sup>.
- In November 2017 a further short life study was announced by the APPG to look at the role an Ombudsman might perform. This reported in 2018 reinforcing the need for an ombudsman<sup>2</sup>.
- In early 2018 the Secretary of State announced a consultation exercise with the objective of creating an all-embracing Ombudsman for Housing. When the Government reported its findings in 2019 the recommendation had narrowed to the creation of a statutory ombudsman for the new homes sector.
- During 2018/19 the Home Builders' Federation (HBF) set up three work streams to examine key elements of change: the creation of a unified code, the creation of a best practice standard for warranty provision and the creation of a quality standard for new homes. It would appear that none of this work has yet been completed.
- The Code's recognised Independent Dispute Resolution Scheme (IDRS) operated by the Centre for Effective Dispute Resolution has had six more successful years resolving customer difficulties.
- The HBF has reported again on increasing new home customer satisfaction.
- In April 2022 the Government passed the Building Safety Act.
- The new home building industry throughout 2022 has been suffering from significant shortages of materials and workforce skills<sup>3</sup>.
- Which? has published an article<sup>4</sup> promoting the benefits of commissioning an independent snagging survey before moving into a new build home.
- A new occupation has emerged of the Independent Snagging Inspector.
- In March 2023, the Competition and Markets Authority launched a market study into housebuilding in England, Scotland and Wales which is due to complete within 12 months.

<sup>1</sup> <https://www.cic.org.uk/uploads/files/old/more-homes.-fewer-complaints.pdf>

<sup>2</sup> <https://www.cic.org.uk/uploads/files/old/appg-ebenew-homes-ombudsman-report-2018.pdf>

<sup>3</sup> <https://www.citb.co.uk/about-citb/construction-industry-research-reports/construction-skills-network-csn/>

<sup>4</sup> <https://www.which.co.uk/money/mortgages-and-property/new-build-homes/snagging-surveys-aWN547V5ajcZ>

SECTION 5

# Housebuilding in 2022

## 5. Housebuilding in 2022

### 5 Current housebuilding in numbers

- 5.1.1 Analysis of the 2021 census by the Office for National Statistics showed that home ownership has fallen to 62.5%; its lowest level in over 40 years.
- 5.1.2 Among the statistics published in December 2022 by the House of Lords library, over one million people are on the waiting lists for local authority social housing.
- 5.1.3 New housing supply is currently lower than the Government's ambition of 300,000 new homes per year. 216,000 new homes were supplied in 2020/21<sup>5</sup>. This is lower than the 243,000 new homes supplied in the previous year, in part because of disruption to house building caused by Covid-19 in early 2020.
- 5.1.4 A similar picture exists in Scotland. The latest quarterly release shows that 20,767 homes across all tenures were built in the year to March 2022<sup>6</sup> which is a 40 per cent increase on the previous year, after pandemic-related restrictions saw completions plummet by a third. However, despite this leap in new homes, the latest annual figure is still 6% below the 22,124 homes completed in the year before the pandemic to the end of March 2020.
- 5.1.5 Data released by the National House Building Council (NHBC)<sup>7</sup> shows that UK new home registrations increased by 33% in the third quarter of 2022 compared to the same period in the previous year. A total of 44,729 new homes were registered to be built in Q3 2022 which, the NHBC say, is the highest Q3 figure since 2007. This is despite expectations that property sales will slow in the coming period due to higher mortgage rates and faltering consumer confidence. Private-for-sale registrations were up by 26% whilst the affordable and build to rent sector grew by 55% overall.
- 5.1.6 The NHBC reports that 10 out of 12 regions experienced growth in registrations in Q3 2022 vs Q3 2021. London, Scotland, Wales and West Midlands experienced significant rises, due to lower levels in the previous year and the timing impact of some large site registrations. There were small dips in the South West and Northern Ireland with developers in these areas reporting a slight cooling of the market.

### 5.2 Pressures facing the industry

- 5.2.1 Against this backdrop of continued volume growth targets, the house building sector has an ageing workforce, with approximately 20% of tradespeople aged over 50. Only one in three leavers is being replaced, and it is estimated that the sector needs 30,000 new recruits per 10,000 additional new homes to be built. This skills and capacity gap constrains output and puts quality at risk<sup>8</sup>.
- 5.2.2 During 2022 there have been substantial regulatory changes from Government, focused on building safety, energy efficiency as well as consumer redress. Undoubtedly these changes will have a wide reaching impact and it is only right that consumers, some who are particularly vulnerable, remain at the heart of any revised code of practice. This will help encourage best practice and drive up industry standards in the new build sector.

<sup>5</sup> <https://www.gov.uk/government/statistics/housing-supply-net-additional-dwellings-england-2020-to-2021>

<sup>6</sup> <https://www.insidehousing.co.uk/news/news/housing-completions-in-scotland-still-below-pre-covid-levels-78439>

<sup>7</sup> <https://www.nhbc.co.uk/media-centre/statistics/2022/11/14/new-home-registrations-up-33-percent-in-q3-but-slowdown-ahead>

<sup>8</sup> [NHBC Annual report 2021-22.pdf](#)

### 5.3 Future demand

- 5.3.1 Need for new housing arises when population growth leads to new households forming, but other factors also have an effect. There's a backlog of need among people currently living in unsuitable accommodation, and affordability pressures can prevent people accessing the housing they need.
- 5.3.2 In their 2019 election manifestos, all the main political parties included commitments to increase housing supply in England. The [Conservative manifesto](#) pledged to "continue to increase the number of homes being built" and referred to a need to rebalance the housing market towards more home ownership. It said progress towards a target of 300,000 homes per year by the mid-2020s would continue, which would "see us build at least a million more homes, of all tenures, over the next Parliament."<sup>9</sup>
- 5.3.3 According to one estimate [commissioned by the National Housing Federation \(NHF\) and Crisis from Heriot-Watt University](#), around 340,000 new homes need to be supplied in England each year, of which 145,000 should be affordable.
- 5.3.4 The Scottish government has acknowledged that global issues around the supply of materials and skilled labour, and the associated rises in cost, are still "affecting the pace at which houses are delivered".
- 5.3.5 The NHBC's CEO believes house builders and new home buyers are becoming "more cautious" especially in the face of higher costs of living and concerns about the nature and length of any recession in the UK. He feels it is likely that "a slowdown" is coming.

### 5.4 The importance of the protection afforded by the home warranty bodies

- 5.4.1 In addition to the protection afforded by the Code, throughout the Review it is evident that the home warranty bodies also play a key role in the protection of consumers. The protection they provide consumers in relation to the build quality of the home acts as a "backstop" should things go wrong and where the builder can't, or fails for whatever reason, to address the concern/issues raised.
- 5.4.2 The home warranty bodies that support the Code bring additional protection in terms of sanctions. They have also stimulated best practice in the market place with regard to the cover and protection they afford consumers, including having detailed technical standards that developers are required to build to, deposit protection cover and free dispute resolution services, by way of example.
- 5.4.3 Aligned with the integrity of the Code, it remains key, therefore, that the Code continues to recognise the best practice standards developed by its supporting home warranty bodies, including in relation to build quality. This was integral in developing the Code's qualifying criteria for any warranty provider wishing to become a user of the Code.
- 5.4.4 I advocate that these should of course be kept under review to ensure best practice within the new home warranty industry is maintained and compliance audited as part of the Code's usual governance arrangements.
- 5.4.5 However, home buyers do not themselves choose the new home warranty provision. This decision is usually taken by the developer, and imposed by the mortgage lenders, and therefore, what it covers and the protection it offers a consumer, is key. Consumers are often unsighted of the variances in



new home warranty protection and the levels of protection afforded them and as such, there is little evidence to show the home warranty body is a key factor in the purchasing decision, despite the importance of its protection.

5.4.6 I have outlined below my recommendation that the Code continues to promote a better consumer understanding of the home warranty cover being provided at the point of sale, and greater exposure of the warranty provision during the sales process.

5.4.7 However, in keeping with my recommendation that the Code should be aligned with others across the industry, I also consider that the Code's Management Board may wish to support Government in establishing a new best practice standard for warranty provision. This should be done by using the strength of the home warranty bodies' best practice which already underpins the Code.

5.4.8 Further, to assist a consumer in understanding the performance of a home builder, the home warranty sector may wish to consider what information it can proactively provide in relation to any claims history; subject of course to commercial sensitivity and data protection issues.

## **5.5 Influencing factors**

5.5.1 A summary of other influencing political, economic, social and technological factors impacting the housebuilding market is included in Appendix 3.

<sup>9</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-7671/>

SECTION 6

# Code Consultation 2022

## 6. Code Consultation 2022

- 6.1 A consultation on the Code was launched at the beginning of August 2022 which was centred on my initial conclusion that I would be recommending an alignment of Code requirements, where this is in the best interests of the consumer. The rationale being that existing codes in the new homes market, including CCHB, had contributed to the preparation of a new code produced by the New Homes Quality Board which sought to update requirements and to extend the remit of coverage to build quality.
- 6.2 The consultation sought views on any matters that remain out of step with the way in which new homes are currently being sold by developers, the changing nature of the market and the all-important expectations of home buyers and the protections in place. Further, the consultation was designed to assess any apparent weaknesses in current arrangements that could lead to consumer detriment.
- 6.3 The consultation was conducted via a Survey Monkey questionnaire to enable both ease of completion and analysis of results, and which was widely promoted via direct contact with stakeholders and via social media platforms.
- 6.4 A number of responses was received from a diverse range of stakeholders including individual home buyers, developers from a range of sizes (majors/large through to small), from consumer bodies and those with an interest in the new homes market.
- 6.5 While the consultation was due to close on 16 September 2022, at the request of a number of stakeholders, the deadline was extended to allow further time to complete the survey and for meetings to take place which had been at the request of stakeholders.
- 6.6 The Code consultation informed meetings held with stakeholders referred to in report section 6.
- 6.7 A more detailed breakdown of the responses can be seen at Appendix 2 but a summary is below:

### 6.8.1 Questions 1 and 2

These questions were about the respondents and of those; 40 responses were received from home builders, 11 from consumers/home buyers and the remainder from other key industry stakeholders including representatives from the legal profession and dispute resolution services.

### 6.8.2 Question 3 - Alignment of codes

This question asked, given the plethora of voluntary codes across the New Homes sector, whether the respondent agreed there should be a close alignment of the codes, if not a single code?

95%<sup>10</sup> of the respondents said there should be a close alignment of codes if not a single code. Some of the comments expressed concerns that multiple codes could lead to a “race to the bottom” while others said it will lead to clarity for both consumers and developers. Other respondents believed that developers should have a choice.

<sup>10</sup> Figures rounded up/down

### 6.8.3 Question 4 - Agreement with statements

This question sought respondents' views to a number of statements should there be an alignment of codes:

- 63% disagreed or strongly disagreed that consistency across codes is more important than the quality of protection which clearly remains at the heart of consumer protection.
- 91% either agreed or strongly agreed that aligning codes should not lead to a reduction in protection for consumers.
- 97% either agreed or strongly agreed that codes must be practical and workable for developers of all sizes.
- 76% either agreed or strongly agreed that compensation limits should be consistent across all codes (albeit see responses in relation to the financial limits for the Independent Dispute Resolution Scheme below).
- 75% either agreed or strongly agreed that consumers should have the additional protection of the Code being accredited and audited under the Government approved Consumer Codes Approval Scheme administered by the Chartered Trading Standards Institute.

### 6.8.4 Question 5 - Areas in need of strengthening

The consultation set out a number of areas which the CCHB believed needed strengthening and which had been incorporated into the drafting of a new code adopted by the New Home Quality Board. The majority of respondents agreed with these as evidenced below:

- Definition of a new home – to be broadened to clarify it encompasses its gardens, boundary, fencing, communal areas and curtilage – 64% agreed.
- Customer vulnerability – it is especially important that customer facing staff are able to identify potential vulnerable customers and have appropriate procedures in place – this should preferably be in line with the guidance provided under the new international standard for the design and delivery of inclusive services (BS ISO 22458) – 73% agreed.
- Training – the definition of 'suitable' training should be more clearly defined and stipulate that for customer facing staff (including any appointed agents), this must be refreshed on an annual basis – 79% agreed.
- Early Bird Reservations – to be included in the Code but with defined requirements in relation to any fees taken and their repayment – 75% agreed.
- Incentives – financial or other incentives must not be used to encourage home buyers to complete the purchase of a new home that has not been completed to the specified standards – 83% agreed.
- Commission - any commission received for recommending certain products or services must be declared, including for the services of any legal conveyancer and/or financial adviser – 92% agreed.
- Additional costs – greater clarity must be provided to home buyers on any costs that are likely to be directly associated with the tenure and management of the new home over the 10 years following the sale, and which the developer can reasonably be expected to be aware of – 86% agreed.
- Part-exchange and assisted move schemes – greater clarity around the information of such schemes if offered must be provided and the terms to which a customer may be committing – 85% agreed.
- Pre-inspection – as well as a home demonstration, the home buyer should be afforded the opportunity to visit and inspect the new home (including the use of an appropriately qualified professional adviser) to undertake the visit prior to legal completion – 76% agreed.

- Defect resolution - 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 bodies' dispute resolution service and/or the Independent Dispute Resolution Scheme – 88% agreed.
- Complaints – the requirement to have a system and procedures for receiving, handling and resolving home buyers' service calls and complaints should be extended and be more prescriptive in relation to timescales, including issuing a form of 'deadlock' letter where the parties agree the matter cannot be resolved – 81% agreed.

#### **6.8.5 Question 6 – Other areas in need of strengthening**

An open-ended question was asked in relation to whether there were any other areas in which the respondent felt the Code should be strengthened.

This generated 24 responses and most of which appear to elaborate on the previous question or responded to say there was nothing further to add.

There was one suggestion, however, that the Code should consider environmental standards, and another that the definition of snagging/defects should align with the home warranty bodies.

#### **6.8.6 Question 7 - IDRS financial limits**

The Code's Independent Dispute Resolution Scheme is operated by the Centre for Effective Dispute Resolution (CEDR Ltd) and is internationally acclaimed. It is an approved Alternative Dispute Resolution body for dealing with disputes under the Alternative Dispute Regulations and a member of the Ombudsman Association.

The current total financial limit that an Adjudicator can award under this scheme is £15,000 and respondents were asked whether they thought it should:

- Stay the same;
- Increase to £75,000 (which would be in line with the voluntary New Homes Ombudsman Scheme that has recently launched);
- Increase to £25,000 (which would be in line with The Property Ombudsman which operates in the second-hand home market) or
- Be a different sum.

There were mixed responses to this question with 41% saying it should stay as it is, 27% saying it should rise to £75k and 14% saying it should rise to £25k.

Others felt that consistency with other financial limits within the industry (which currently range between £25,000 and £50,000) should be considered in order to minimise consumer detriment.

Other comments suggested the amount should be limited to £5,000 per home, others that there should be a weighting dependent on the defect. Another commented that the amount should relate to the circumstances and financial loss suffered by the customer and that while the suggested increase to £75k would be preferable, felt it could be even higher dependent on the specific circumstances of a case.

### **6.8.7 Question 8 - Payments for a home buyer's distress and inconvenience**

Respondents were asked whether home buyers should be paid for any distress or inconvenience suffered as a result of the breach of the Code.

44% of respondents agreed that an award for distress and inconvenience should be paid with the others being fairly evenly split between not being paid and don't know.

Concerns were expressed about how distress and inconvenience could be quantified and whether this may be open to abuse; while others emphasised how stressful it can be when things go wrong.

### **6.8.8 Question 9 - The amount of distress and inconvenience**

A supplementary question to question 8 was asked in as much as if distress and inconvenience payments should be made, what the amount should be.

33% of respondents felt it should remain at its current level of £500 while 29% said it should increase to £1,000. 14% felt the amount should be decreased to £250.

Other comments ranged from the existing £500 being "woefully insufficient" to up to £10,000 should be paid or even unlimited.

SECTION 7

# Meetings with Key Stakeholders

## 7. Meetings with Key Stakeholders

7.1 Throughout the consultation period, meetings were held with various stakeholder organisations including:

- CCHB Management Board
- Chartered Trading Standards Institute
- Citizens Advice
- Home Builders Federation
- Home Owners Alliance
- New Homes Quality Board
- UK Finance
- Which?

7.2 The review of the Code was widely welcomed and the key points from these discussions include:

### 7.2.1 Code alignment

Some stakeholders felt that the Code would benefit from being benchmarked against other various industry codes of practice and dispute resolution schemes in operation, and not just against other codes operating within the new homes market.

It was felt the Code, along with the other codes, should meet key features and which go beyond the industry “norm”, but that it should be about consumers knowing their rights, being able to access the dispute resolution scheme and being easy to find and holding builders to account.

While one stakeholder felt that there should be an “alignment, convergence and a rationalisation of codes”, many felt that it was not necessary to have every builder under a single code, but the potential for the confusion and the “race to the bottom” should be avoided through an alignment. One stakeholder adding that provided there was “no confusion for the beneficiary, then innovation and competition should not be feared”.

### 7.2.2 Sanctions

Many stakeholders touched upon how the Code is operated and enforced and were keen to ensure those builders not complying are removed from the scheme. A number raised the strength of the alignment with the supporting home warranty bodies, not only through the financial and technical vetting of a builder, but also through the sanctioning regime whereby certificates of insurance can be withheld making it difficult for the builder to sell the home.

One stakeholder commented that compliance with the Code was not a choice for developers given it forms part of the home warranty bodies’ terms and conditions. They felt this strengthened the sanctions regime. They also felt that, in the absence of any existing rights in law, the need is to ensure the whole market is covered so all consumers are protected. They believed that the model set up under the Code deals with this through the home warranty bodies’ terms and conditions. They did recognise that a downside is that individual builders don’t volunteer to comply with the Code so they don’t necessarily ‘own’ it and can be oblivious to its Requirements. However, the upside being that it does capture all builders of all sizes.



There was concern expressed by some stakeholders that where multiple codes exist within a sector, some builders might use this as an opportunity to “hop” between codes if removed from one scheme. It was felt that, through the CTSI CCAS, there is an opportunity to tighten this up with some form of protocol. Other sectors where multiple codes are in operation have a form of Memorandum of Understanding to deal with such matters and it was felt this would be of benefit in the new homes sector.

### **7.2.3 Dispute resolution**

Stakeholders commented on the dispute resolution and were somewhat indifferent to whether this was an ombudsman scheme or other accredited body. Many simply said that the word “ombudsman” was perhaps better recognised by consumers nowadays but that it didn’t necessarily mean existing arrangements were deficient. Many felt an accredited dispute resolution scheme that is subject to external oversight on performance sufficient.

While Government appears wedded to an ombudsman scheme, most stakeholders simply said they wanted to see a good resolution process in place and through an organisation that has “good teeth” in the new build sector and which can drive good behaviour.

### **7.2.4 Retention of monies**

One stakeholder believes that to change behaviour towards consumer disputes, and in particular on matters of quality and to deal with any snagging issues, consideration should be given to the retention of monies. There was a view that holding 2.5% of the purchase price in an escrow account was reasonable and could bring about a sea-change in how matters of quality are addressed. 2.5% of a £200,000 home is £5,000.

### **7.2.5 Warranty provision**

Many stakeholders recognised the protection consumers are afforded through the warranty provided by their home warranty body, seeing it as a ‘backstop’ should things go wrong. However, there was criticism more widely of those warranties that fail to demonstrate they meet the best practice standards followed by the Code’s supporting home warranty bodies. Given the variance in cover, many stakeholders believe there should be minimum warranty standards. It was felt this was of particular importance given that it is home builders who choose the warranty, and often for commercial reasons, and not the home buyer, who may be unaware of any limitations their cover affords them.

### **7.2.6 Consumer representation**

Some stakeholders touched on whether the voice of consumers could be better represented on the Code and a number suggested this could be done through a consumer panel, which would bring the idea of fairness and independence, as well as highlight the evolution and progress of the Code and industry.

It was felt that the consumer panel could, by way of example, look at the hundreds of cases that go through the dispute resolution process and see what lessons there are to be learned.

The view from stakeholders was that consumers should be at the heart and that a consumer panel could have a role to play in such voices being heard. Others acknowledged that what makes the engagement useful is bringing together all parties, including from the building industry and other

stakeholder groups, whereby there can be a rich discussion (helped by the technical side) and which gives a complete picture. A consumer-only panel may therefore miss the richer discussion.

### **7.2.7 External code accreditation**

Some stakeholders expressed concern if consumers are confused about the differentials of a code and believed that, through the CTSI CCAS, every code in the marketplace should be robust and all offering the same level of protection.

Many felt that the external accreditation of the Code is really important, as a form of independent appraisal and which verifies whether the Code is truly working or not. It was felt that not having this external appraisal would increase the risk of lowering the credibility of the Code.

Of concern to some was the vulnerable consumer and many see the importance of CTSI's role in protecting this group at the highest point through its approved Codes Scheme.

### **7.2.8 Current gaps**

When asked whether there were any gaps in the existing codes, some stakeholders highlighted both buy-to-let and shared ownership; saying that where a consumer purchases a new home through a housing association, it is unclear where they can turn to if there is a build problem and with the build quality.

Visibility of the Code and the protection it affords home buyers was perceived as a potential area of weakness. Some stakeholders believe consumers have trouble knowing of its existence and felt that sales representatives should be required to advise on the Code, and also the warranty provision, as early in their discussions as possible.

Clarity of information that home buyers receive pre-purchase was a further consideration and suggestions of forms used akin to the second-hand homes market, such as the Home Information Pack, were made.

Examples were given of unknown room sizes, ceiling heights, unlevel gardens, boundaries, details of what the estate will look like (access roads, play areas etc). Further, it was felt the Code should do more in terms of the prescription on costs including service and maintenance charges, ground rent, leasehold and any on-going costs the home buyer will be liable for.

SECTION 8

# Commentary and Observations

## 8. Commentary and Observations

### 8.1 General observations

- 8.1.1 It has become clear during this Review that the Code is now well established and has very recently secured reaccreditation under the statutory Consumer Codes Approval Scheme (CCAS). This is for the fourth year in succession.
- 8.1.2 The Code embodies an Independent Dispute Resolution Scheme approved by Government and delivered by a well-respected provider in CEDR; a member of the Ombudsman Association.
- 8.1.3 The number of enquiries made to the Code's contact centre show that the homebuilding market is generating consumer enquiries and complaints in ever increasing numbers. They are now at record levels, and so the Code's contact centre, which is award winning and endorsed by Government, is much needed as it provides an essential service in helping consumers understand what support is available and how to access it.
- 8.1.4 Home warranty bodies play an important role in the protection of consumers and the partnership with the Code's supporting home warranty bodies has stimulated best practice in this protection. However, it is the home builder that chooses the warranty provider and for them to determine whether they believe it satisfies the customer's needs. More broadly therefore, across the industry, this may not necessarily mean the consumer gets the best deal. While home builders must raise their standards, the disparity between warranty provision in the UK means there is a strong argument for the development of best practice warranty standards, modelled on the home warranty bodies' best practice which already underpins the Code, and which should be kept under constant review.

### 8.2 The need for a robust consumer code

- 8.2.1 Most people will have little or no experience of buying new build homes which makes the need for consumer protection all the more important, particularly given the sums involved. Many sectors of the economy have demonstrated that a robust, consumer-focused code can provide a powerful safeguard against consumer detriment. Recent legislation (the Building Safety Act 2022), makes provision for enhanced consumer protection, but aspects such as a single code and ombudsman will require secondary legislation which may not be forthcoming for some time.
- 8.2.2 Robust consumer protection measures in the homebuilding sector continue to be needed to provide consumers with confidence and help build towards a recovering and upward UK economy. They must however reflect the distinct segments of supply (e.g. large and small house builders) and demand (e.g. informed or vulnerable home buyers) - in the various regions of the UK - as well as the availability of institutional consumer safeguards (e.g. builders' warranties, professional legal advice and redress mechanisms).
- 8.2.3 As suppliers strive for greater competitive advantage through superior design, higher quality and better customer service, new codes can emerge in a marketplace. This is usually to the benefit of both consumers and the more efficient and effective suppliers and so is pro-competitive. However, safeguards must be maintained to discourage "code-hopping" – opting out of a superior code for short term commercial advantage.

### 8.3 Consumer detriment in the new homes market

8.3.1 It has been difficult to quantify the consumer detriment in the new homes market. The absence of a “right first time” build culture, the commercial confidentiality of warranty providers who are reluctant to disclose the claims they settle, albeit are providing more information to support consumers, and the failure of some customers to pursue redress, all contribute to the difficulty. Independent dispute resolution is only partially helpful, but based on NHBC figures<sup>11</sup> and CEDR reports<sup>12</sup> consumer detriment in the sector is probably running at between £100 million and £150 million per year.

### 8.4 Industry reputation for quality

8.4.1 The industry does not appear to have embraced an externally accredited approach to achieving improved quality outcomes. There is little evidence of builders aspiring to meet relevant ISO Standards or of the relevant and necessary leadership within the industry. There is evidence that some home warranty bodies may be leading the way on quality accreditation through incentives that sit alongside their inspection regimes, however the take-up is not known and thought to be relatively low.

### 8.5 Compensation for distress and inconvenience

8.5.1 There is a great deal of stress involved in buying a new home and considerable distress when things go wrong. Distress and inconvenience have been better dealt with in other sectors as highlighted below:

- **Financial services**

In this sector it is recognised that business fault can affect people practically or emotionally as well as financially. The Financial Ombudsman sets out an approach to help consumers understand its approach to awards where a business’s mistake has caused distress or inconvenience. The rules say there can be an award for compensation to customers who have experienced distress, inconvenience or ‘pain and suffering’. Awards may be for up to £5,000.

- **Legal services**

The Legal Ombudsman recognises that it is impossible to undo the emotional effects caused by poor service, but believe that a compensation payment can help to acknowledge the impact of poor service and the added worry, upset, stress or general inconvenience it has caused. The majority of compensation payments they direct are for less than £250 but in “exceptional circumstances” where there has been a long-term or serious impact on the customer’s wellbeing or life they may award up to £1,000.

- **Citizens Advice**

In dealing with complaints, Citizens Advice recognises emotional distress can include disrupted sleeping, changes in appetite, low energy levels and unexplained aches and pains such as headaches, indigestion and difficulty in concentration. Their observation is that awards for such distress varies significantly across sectors and may be anywhere from £200 to £9,000.

- **Professional negligence**

Lord Justice Bingham ruled that whereas the objective of a (satisfactorily completed) contract is to provide pleasure, relaxation and peace of mind, damages will be awarded if the “fruit of the contract is not provided or if the contrary result is procured instead”. He cited a case of a married couple who were awarded £4,000 each some years ago so his arguments would point to an inflation adjusted award of £5,000 per adult in 2022.

<sup>11</sup> <https://www.nhbc.co.uk/about-page/annual-reports>

<sup>12</sup> <https://consumercode.co.uk/wp-content/uploads/2022/09/CEDR-Annual-Report-2021-vfn.pdf>

## **8.6 Retention**

8.6.1 Given that a retention is so widely accepted in the commercial building sector, it is difficult to see why home buyers should not be comparatively provided with some financial security that the home builder will return to correct defects and snags during an agreed period. If the builder does not return to correct the problems then the retention held may be used to fund the payment to others to correct the defects (Royal Institute of Chartered Surveyors).

## **8.7 Failure to proceed**

8.7.1 The Code currently provides for when a customer's circumstances change and they cannot proceed with an agreed purchase, allowing them to withdraw prior to exchange of contract and even after exchange under certain circumstances. However, there is evidence that home builders are withdrawing from agreements to allow them to resell for a higher price.

8.7.2 This practice, in an inflated market, needs to be dealt with as it has the potential to cause consumer detriment and any restitution for consumers should drive a different behaviour by the builders.

8.7.3 For balance, it is also recognised that on some occasions, consumers may behave inappropriately or may be deemed to be unreliable. The Code should recognise the right of the builder to withdraw when this happens so that its business interests can be protected and its staff safeguarded from abuse. Such instances may have to be considered by the independent dispute resolution process.

## **8.8 Compensation fund**

8.8.1 While the majority of home builders who have a case considered by the Independent Dispute Resolution Scheme comply fully with the directions of the Adjudicator, there have been instances where a home builder has become insolvent and ceased trading. The awards made by the Adjudicator are not underwritten by the home warranty bodies and as such, the home buyer becomes an unsecured creditor and is unlikely to receive any restitution.

8.8.2 In other industries, such as travel, there is a compensation fund whereby a consumer is able to receive such payment and with an industry of the size it is, and the potential for consumer detriment, such a fund would be of merit.

8.8.3 Further, there are more instances of home builders creating 'Single Purpose Vehicles' (SPVs), which enable them to gain access to additional funding for specific performance of a development. However, once the build is complete, the company is wound up. This leaves the home buyer exposed given the two-year liability of a home builder under the Code.

8.8.4 As home warranty bodies require parent companies to be liable under their insurance products for the actions of the SPV, then this should be extended to the obligations under the Code to give the consumer greater protection.

SECTION 9

# Conclusions

## 9. Conclusions

- 9.1 A recovering and upward UK economy needs a growing, healthy homebuilding industry, poised to meet the demand for capacity which has exceeded supply for many years. Home ownership is now at its lowest level for four decades with a backlog of over one million units of social housing.
- 9.2 Developers need confidence to invest in building attractive new homes, to high standards of design and workmanship, and to invest in workforce skills for the future. Consumers need confidence to make one of the largest spending commitments of their lifetimes.
- 9.3 The interests of both consumers and developers will be best served when there is strong competition in the new homes marketplace; there is a vital need for a Code to protect consumers. It is a proxy for buyer power.
- 9.4 An industry agreed Code of Practice provides a safeguard against those developers who, from time to time, get it wrong or make mistakes, or do not compete on the basis of new home quality, innovation, customer service and value for money. An overview of the Code's strengths, weaknesses, opportunities and threats, which was completed before making recommendations, is included in Appendix 4.
- 9.5 Revisions to the existing Code**
- 9.5.1 I am satisfied that in undertaking the consultation on the review of the Code, the responses both to the online survey and via the face-to-face meetings enabled the views from a broad representation from within the new home market stakeholder landscape, including from consumers as well as industry, to be heard and considered.
- 9.5.2 Some of the recommendations I make as a result of my review will necessitate a revision to the Code itself. Others will fall to the Code's Management Board to consider in respect of the broader implementation and some fall to the wider stakeholder group within the new homes market to reflect on, and take action, as they see appropriate to address the issues I've raised.
- 9.6 On Code alignment**
- 9.6.1 Many stakeholders were indifferent on whether there should be a single Code within the marketplace, some recognising the innovation that comes from competition and how this can help drive up industry standards and believing that developers should have a choice.
- 9.6.2 However, nearly all respondents felt that there should be a greater alignment, but only in so far as it does not lead to a reduction in protection for consumers; its primary purpose. Concerns were expressed that multiple Codes should not lead to confusion for either the consumer or the developer, or both, nor should it lead to developers choosing a path of least resistance when it comes to compliance and therefore a "race to the bottom".
- 9.6.3 To avoid confusion, my early recommendation has always been that the Code should be aligned to others within the marketplace to simplify the landscape for consumers and the industry.
- 9.6.4 As a result of such an alignment, there will be implications for the wording of the Code itself, the Code's Management Board and wider stakeholders within the industry.





## 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:

- 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.
- b. The Code's Management Board should engage with the industry trade bodies on an aligned Code which is relevant to their members.
- 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.
- 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.

- 9.6.5 However, any Code of Practice, whether within this industry or others, is only effective if the consumer is aware of it and the protection it affords them. Many codes often serve to drive improvement and protection in the background and are only considered in earnest by the consumer if something goes wrong.
- 9.6.6 Whilst the Code currently requires home buyers are made aware of it at differing points throughout the various stages of the home buying purchase, some stakeholders believed that it still lacked visibility and perceived this to be a potential area of weakness, despite how well embedded it currently is across the industry.
- 9.6.7 Further, while it is a code of practice that home builders are required to follow for the benefit of consumers, this protection could be lost on consumers given they are not mentioned in the Code's title. I do not believe a full rebrand of the Code is either warranted or justified, given the resource implications (not just for the Code but all stakeholders who are required to comply with it). I do believe greater visibility and promotion of the protection it affords consumers could easily be strengthened with some slight changes.
- 9.6.8 This includes consumers having a greater say/representation in the oversight of how the Code is operated and implemented so that the consumer voice is heard and remains at the heart of the protection afforded by the Code.



## Recommendation 2:

To further improve the consumer voice within the Code by:

- 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.
- 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.
- c. To create a Consumer Panel to advise the Board.

### 9.7 Identified gaps in the existing Code

9.7.1 In aligning the Code, gaps identified in the existing version will be addressed. These include the issue of quality addressed in a draft revision of the Code produced by the CEO and Managing Director of the Code and the Consumer Code for New Homes respectively. In the main, the wording of this revised code, which addresses these gaps, has since been adopted by the New Homes Quality Board.

9.7.2 All respondents were supportive of the areas identified in the consultation that could be strengthened further within the Code: in particular, my recommendations in relation to the alignment which will address several issues pertaining to:

- The quality of the build and how matters of snagging/defects are both identified through any pre-inspection of the home and subsequently dealt with and rectified by the home builder.
- A common language in terminology used so that there is consistency across the industry and less room for consumer confusion.
- Greater recognition of the support that should be provided to vulnerable consumers and an encouragement of the use of new standards which spans across all business sectors through ISO 22458.
- Improved complaint handling by home builders, particularly given that the evidence through the Code’s Independent Dispute Resolution Scheme shows this is the most breached existing Code Requirement.
- Transparency in relation to any incentives that the home builder might receive through the promotion of any particular product or service.



## 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:

- a. Definition of a new home - by agreeing an updated definition of what, in its totality, comprises a new home and what constitutes completion.
- 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.
- c. Training - by incorporating the Code revisions into the training material provided and requiring the necessary staff to refresh their training annually.
- d. Early bird reservations - to be included in relation to any fees taken and their repayment.
- e. Incentives - by outlawing financial incentives that encourage completion of the purchase of the home which has not met warranty quality standards.
- 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).
- 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.
- 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.
- 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.
- 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.
- 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.

- 9.7.3 The protection consumers are afforded by Codes of Practice was at the forefront of the minds of the majority of stakeholders spoken to throughout the review period. Many felt that problems arose where information provided was unclear or differed from that initially provided at the time of reserving a new home. This was particularly prevalent where different phases of a development might progress and over a lengthy time period.
- 9.7.4 CEDR's latest annual report<sup>13</sup> highlights that of the current Code Requirements, sections 1.5 and 2.1 (which relate to sales and advertising material and activity being clear and truthful and home buyers being given enough pre-purchase information to help them make suitably informed purchasing decisions), are consistently in the top four most breached Requirements of the Code.
- 9.7.5 To aide a home buyer being able to make an informed decision, not only at the outset but throughout the build period, and to lessen the likelihood of unnecessary and costly (in terms of time) disputes, I believe that greater transparency in the information provided, in addition to that set out in my recommendation 3, would further assist.



## Recommendation 4:

To commit to broadening the Code Requirements to provide better and greater clarity to home buyers in several areas by:

- a. Ensuring information is continually revised and updated for consumers during distinct and differing phases of a housing development.
- b. Promoting a better consumer understanding of the home warranty being provided at the point of sale and greater exposure during the sales process.

- 9.7.6 Demand for new homes remains strong and, for the foreseeable future, demand will continue to exceed supply by a large margin. It is reported<sup>14</sup> that there is a shortfall of some one million homes in the social housing sector and which impacts some of the UK's most vulnerable consumers.
- 9.7.7 Several stakeholders identified that there is currently a gap in the protection that the Code affords those home buyers that require social housing to secure a home. I believe these purchasers should be no more disadvantaged about the quality of the home and/or how matters of defect resolution are resolved than those purchasers who buy privately.



## Recommendation 5:

To extend the Code to include home buyers in shared ownership arrangements and private buyers of more than one property. 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.

<sup>13</sup> [CEDR-Annual-Report-2021.pdf](#)

<sup>14</sup> [https://england.shelter.org.uk/support\\_us/campaigns/social\\_housing\\_deficit](https://england.shelter.org.uk/support_us/campaigns/social_housing_deficit)

- 9.7.8 Under the existing Code, home builders are required to have a system and procedures for receiving, handling and resolving home buyers' service calls and complaints. The home builder must let the home buyer know of this, and of the dispute resolution arrangements operated as part of the Code, in writing. Home builders are expected to deal with complaints in a timely manner and if they fail to do so, this can give rise to the complaint being escalated.
- 9.7.9 It is important for lessons to be learned from the outcome of adjudications and for home builders to incorporate this feedback into their quality systems.
- 9.7.10 To help drive up industry standards, the Code publishes on its website several lessons learned documents including the findings of the adjudicators under the Independent Dispute Resolution Scheme<sup>15</sup>. Where breaches of the Code have been identified, these are raised directly with the home builder so that corrective action can be taken to prevent reoccurrence. I believe, as part of the compliance and auditing regime, more could be done to ensure home builders have effectively embedded any recommendations made by an adjudicator into their daily processes and systems, driving up improvement further.



## Recommendation 6:

To audit follow up of home builders' implementation of the Independent Dispute Resolution Scheme recommendations.

- 9.7.11 In addition to the lessons learned, the Code publishes anonymised case summaries<sup>16</sup> of all the decisions that an adjudicator has made so that the type/nature of complaints dealt with can be considered by third parties.
- 9.7.12 However, while the case summaries offer a degree of transparency in relation to the issues being raised, the presentation of it is, in my view, somewhat cumbersome and it is hard for a consumer to understand whether a complaint they may have of a similar nature, may be successful or otherwise. Revising the formatting of this information would undoubtedly help.



## Recommendation 7:

To provide consumer friendly summary information of consumer outcomes from Independent Dispute Resolution Scheme adjudications.

- 9.7.13 In the most part, where the complaint is about a defect with the property and/or a breach of the supporting home warranty bodies' technical standards which the home builder has failed to address, then escalation to the home warranty body's dispute resolution service is most likely the best and most efficient way for the matter to be dealt with. This provision of resolution services by the Code's supporting home warranty bodies, free to the homebuyer, assists in getting builders to resolve disputes with homeowners about construction defects and is in addition to any complaints raised through the Code's Independent Dispute Resolution Scheme.

<sup>15</sup> <https://consumercode.co.uk/resources/consumer-code-lessons-learned/>

<sup>16</sup> <https://consumercode.co.uk/home-buyers/how-are-complaints-dealt-with/adjudication-case-summaries/>

- 9.7.14 Therefore, as well as recommending an improvement to the Code in relation to how home buyers' complaints are dealt with by the home builder, as set out above, it would benefit the home buyer if the complaint process aligned with how the home warranty body handles such matters to reduce confusion and provide swifter outcomes.



## Recommendation 8:

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.

- 9.7.15 For those home buyers who are unhappy with the way in which their home warranty body has dealt with any insurance regulated activity under their policy, they already have access to the Financial Ombudsman Service. For those unhappy with the way in which their solicitor/licenced conveyancer has gone about the contractual arrangements of the purchase, they can go to the Legal Ombudsman, notwithstanding the issues as highlighted below.
- 9.7.16 However, while Government appears wedded to the idea of the creation of a new ombudsman in the new homes sector, and some stakeholders believe the term ombudsman is better recognised by consumers nowadays, ombudsman services do not come without challenge. There has been much publicised criticism of ombudsman schemes in the past with commentary that all are not necessarily the panacea for resolving consumer disputes. By way of example:
- Backlog at the Legal Ombudsman - Times article July 2022<sup>17</sup>.
  - Ombudsman Omnishambles<sup>18</sup>.
  - Financial Ombudsman Service - Channel 4 Dispatches programme<sup>18</sup>.
- 9.7.17 In response to the consultation, most stakeholders simply said they wanted to see a good resolution process in place and delivered through an organisation that has "good teeth" in the new build sector. Further, one that can drive good behaviour. When asked where the gaps in the Code and/or what could be strengthened further, no-one identified any particular deficiencies in the existing dispute resolution scheme operated by the Code.
- 9.7.18 One of the Code's strengths is its Independent Dispute Resolution Scheme which has, since the launch of the Code in 2010, been operated by CEDR Ltd and who are approved by Government as an alternative dispute resolution provider and a member of the Ombudsman Association.
- 9.7.19 Having operated within the new homes sector for almost 13 years, CEDR Ltd are well-versed in the issues affecting home buyers and have gained great skill and expertise in assessing the cases before them; all of which feeds into the lessons learned documentation that the Code currently provides to industry to drive up standards as well as helping identify any gaps that need addressing within the Code itself.
- 9.7.20 In terms of existing performance, CEDR's service statistics (as evidenced in their Annual Report) show that none of the cases they dealt with during 2021 exceeded the statutory timeframe of 90 calendar days mandated by the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 for all consumer dispute resolution

<sup>17</sup> <https://www.thetimes.co.uk/article/backlog-at-legal-ombudsman-leaves-victims-with-two-year-wait-hpt8s7qcp>

<sup>18</sup> <https://ceoemail.com/ombudsman-omnishambles.pdf>

<sup>19</sup> <https://www.channel4.com/press/news/investigation-fos-finds-staff-severe-lack-training>

schemes in the UK. Of those cases dealt with, 90% were completed within 56 days. These figures demonstrate significant expediency for the home buyer in having their issues considered and determined by an accredited third party.

- 9.7.21 Against this backdrop, it is hard to argue that the existing arrangements are insufficient but as there is no room for complacency, the existing arrangements should of course always be kept under review to ensure they meet the needs of the consumer.



## Recommendation 9:

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.

- 9.7.22 That said, aside from the level that can be awarded for upset and inconvenience, and on which more below, the financial limits that an adjudicator can award under the Code's Independent Dispute Resolution Scheme have not altered since the inception of the Code in 2010.
- 9.7.23 There is significant variance across many schemes currently operating within the new home sector. The Code's current financial limit is £15,000 while others range between £50,000 and £75,000 (the latter being the new voluntary new homes ombudsman that has been created and despite the APPG report<sup>20</sup> recommending £50,000).
- 9.7.24 An argument could be made that the dispute resolution scheme in the new homes market should mirror that for the second-hand market and by way of comparator, the Property Ombudsman's financial limit is £25,000.
- 9.7.25 Responses to the consultation about the financial limit of the dispute resolution scheme were very mixed and there was no outright support for one sum over another. However, in recommending that there is an alignment of Codes, I believe that the upper limit which is currently being used by other code bodies should be applied here so that there is no consumer detriment between code schemes.



## Recommendation 10:

To raise the Independent Dispute Resolution Scheme financial compensation threshold to £75,000 to align with other codes.

- 9.7.26 In addition to raising the financial limit, discussions with stakeholders highlighted the importance of the dispute resolution scheme being able to award appropriate restitution for any breach of the Code. The example of a home builder withdrawing from a sale during the reservation period, to sell at a higher price to a different home buyer, was particularly highlighted.

<sup>20</sup> <https://www.cic.org.uk/uploads/files/old/appg-ebnew-homes-ombudsman-report-2018.pdf>

- 9.7.27 While recognising that in some instances this may happen because a home builder may need to safeguard its staff from consumers who may behave inappropriately, or may be deemed to be unreliable, I do believe that restitution for consumers should drive a different behaviour by the home builder.



## Recommendation 11:

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.

- 9.7.28 In a similar vein, some of the stakeholders consulted believe that there needs to be a change in behaviour towards consumer disputes, particularly on matters of quality and by dealing with any snagging issues more promptly.
- 9.7.29 One stakeholder felt that holding 2.5% of the purchase price in an escrow account was reasonable and, given a retention is widely accepted in the commercial building sector, I find it difficult to see why home buyers should not be comparatively provided with some financial security. Any retention held may be used to fund the payment to others to correct the defects should the home builder fail to do so and could bring about a sea-change in how matters of quality are addressed.



## Recommendation 12:

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.

- 9.7.30 Further, in terms of redress, the consultation asked about the payments a home buyer should receive for any distress and inconvenience caused as a result of any found breaches of the Code.
- 9.7.31 The total award an adjudicator can make under the Code's current dispute resolution scheme for inconvenience caused is £500 and which was raised from £250 during the last review.
- 9.7.32 Views on whether any payment should be made and/or what that sum should be, were very mixed. Some respondents felt the existing financial limit should be reduced whilst others felt it should be unlimited.
- 9.7.33 The purchase of a new home is the biggest consumer spend commitment in a lifetime and one which should provide pleasure.
- 9.7.34 While accepting that purchasing a new home can, of itself, be a stressful time, it should also be recognised that when things go wrong, it can also cause some of the greatest upset and distress in a lifetime for the home buyer(s). Therefore, when considering whether the financial awards for any distress and inconvenience should be made in such circumstances, and what that sum should be, consideration has been given to how other sectors better deal with this. All award higher sums than that currently offered under the Code's Independent Dispute Resolution Scheme and I am persuaded that this should be increased.



## Recommendation 13:

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.

- 9.7.35 Notwithstanding the strong partnership arrangements with the Code's supporting home warranty bodies and the underpinning strength to the Code this brings, as mentioned above, there have been instances where the award determined by an adjudicator has gone unpaid. Several factors may have been cited, such as a company going into administration, but like so many dispute resolution schemes, ombudsman included, it leaves the consumer as an unsecured creditor and unable to gain the restitution deemed appropriate by the oversight body.
- 9.7.36 Given the consumer spend and size of the industry, and therefore potential for detriment, I consider it appropriate that the industry follows the best practice example of say, the travel industry, and pays towards a compensation fund.
- 9.7.37 Furthermore, I believe the home warranty bodies can further strengthen the role they already play in consumer protection by requiring the parent company of any subsidiary/specially created company, such as a Single Purpose Vehicle, to also take on the liabilities under the Code where there is a failure of that subsidiary to do so.

## Recommendation 14:

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.

### **9.8 Ongoing Code integrity**

- 9.8.1 In my discussions with stakeholders, it was clear that the integrity of the Code is very important to them and many felt that the external accreditation undertaken by CTSI through its Consumer Codes Approval Scheme verifies whether the Code is truly working or not. Many felt that not having this external appraisal would increase the risk of lowering the credibility of the Code.
- 9.8.2 It is important therefore that the Code's Management Board recognise the weight that stakeholders attach to the external accreditation in the on-going delivery of the Code.

## Recommendation 15:

To ensure continued accreditation to the high standards required by CTSI to meet the statutory based Consumer Code Approval Scheme.

- 9.8.3 External accreditation, while important, is just one element. To maintain the integrity of any Code, it is important that where a member (here being a new home builder) is found to fall short in their compliance, that action is taken swiftly to rectify this for the protection of the consumer.
- 9.8.4 The Code's existing partnership with its supporting home warranty bodies means that a home builder has no choice but to comply with the Code's requirements as part of their terms and conditions of registration. This includes complying with any award that is made by an adjudicator through the Code's Independent Dispute Resolution Scheme. Many stakeholders see this as a real strength of the Code and which I agree with.
- 9.8.5 If a home builder is found to be in serious breach of the Code, on recommendation of the independent Disciplinary and Sanctions Panel, a home warranty body may apply a range of sanctions which could include requiring the home builder's staff who have contact with home buyers to be trained on their obligations under the Code; withholding the issuing of certificates of insurance; suspension or removal from the home warranty body's register. Where a home builder's registration is cancelled, due to a breach of the Scheme Rules, all home warranty bodies supporting the Code take the same action (should the home builder be registered with them), and/or they will refuse to accept a future application for registration. This prevents warranty "hopping". The latter sanction, which can affect a home builder's ability to trade, is never taken lightly and it shows the strength of the Code's sanctions regime that such action has had to be taken very rarely over the 12 years of operation.
- 9.8.6 However, it is evident from my review that more needs to be done here to prevent home builders from effectively "hopping" from one Code to another and thus avoiding compliance and any sanction.
- 9.8.7 Many of the existing Codes of Practice operating within the new homes sector are approved by CTSI under their Consumer Codes Approval Scheme. CTSI clearly has a role to play in the protection of consumers and there is an opportunity here to ensure home builders falling under the various Codes of Practice are prevented from circumventing any sanctioning regime with some form of protocol.
- 9.8.8 Given that CTSI have not led on this to date, and with the introduction of yet further potential approved codes in the marketplace, I believe the Code's Management Board could take the lead to address this issue.



## Recommendation 16:

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.

SECTION 10

# Summary of Recommendations

## 10. Summary of Recommendations

10.1 The recommendations fall under three headings i.e. those that relate directly to revisions of the Code, those that are in the context and operation of the Code for the Management Board and those for external consumption by stakeholders operating within the new home industry.

10.2 These are summarised below:

### 10.3 Code revisions

#### Alignment of Code

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:

- 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.
- The Code's Management Board should engage with the industry trade bodies on an aligned Code which is relevant to their members.
- 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.
- 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.

(See recommendation 1 page 33)

#### Strengthening of the Code

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:

- Definition of a new home - by agreeing an updated definition of what, in its totality, comprises a new home and what constitutes completion.
- 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.
- Training – by incorporating the Code revisions into the training material provided and requiring the necessary staff to refresh their training annually.
- Early bird reservations – to be included in relation to any fees taken and their repayment.
- Incentives – by outlawing financial incentives that encourage completion of the purchase of the home which has not met warranty quality standards.
- 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).

- 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.
- 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.
- Pre-inspection – by requiring that home buyers are given the opportunity to visit and inspect the home (including the use of an appropriately qualified professional) 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.
- 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.
- 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.

(See recommendation 3 page 35)

### **Greater clarity for home buyers**

To commit to broadening the Code Requirements to provide better and greater clarity to home buyers in several areas by:

- Ensuring information is continually revised and updated for consumers during distinct and differing phases of a housing development.
- Promoting a better consumer understanding of the home warranty being provided at the point of sale and greater exposure during the sales process.

(See recommendation 4 page 36)

### **Extend scope of Code to shared ownership**

To extend the Code to include home buyers in shared ownership arrangements and private buyers of more than one property. 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.

(See recommendation 5 page 36)

### **Alignment of the Independent Dispute Resolution Scheme**

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.

(See recommendation 8 page 38)

### **Increase the resolution scheme's financial limit**

To raise the Independent Dispute Resolution Scheme financial compensation threshold to £75,000 to align with other codes.

(See recommendation 10 page 39)

### **Amend the dispute scheme restitution**

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.

(See recommendation 11 page 40)

### **Review the limits awarded for compensation**

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.

(See recommendation 13 page 41)

## **10.4 Advisory for the Code Management Board**

### **Improve the consumer voice**

To further improve the consumer voice within the Code by:

- 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.
- 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.
- To create a Consumer Panel to advise the Board.

(See recommendation 2 page 34)

### **Audit dispute scheme implementation**

To audit follow up of home builders' implementation of the Independent Dispute Resolution Scheme recommendations.

(See recommendation 6 page 37)

### **Provide consumer friendly information**

To provide consumer friendly summary information of consumer outcomes from Independent Dispute Resolution Scheme adjudications.

(See recommendation 7 page 37)

### **External accreditation for dispute resolution scheme**

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.

(See recommendation 9 page 39)

### **Continued Code accreditation**

To ensure continued accreditation to the high standards required by CTSI to meet the statutory based Consumer Code Approval Scheme.

(See recommendation 15 page 41)

### **Prevention of Code hopping**

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.

(See recommendation 16 page 42)

## **10.5 External – for stakeholders within the new home industry**

### **Review of cash retention models**

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.

(See recommendation 12 page 40)

### **Industry compensation fund**

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.

(See recommendation 14 page 41)

SECTION 11

# Implementation



## 11. Implementation

- 11.1 It is for the Code's Management Board to consider the recommendations I have made and the rationale for them and, if accepted, the implications for their implementation.
- 11.2 I am aware that some of my findings, and the recommendations I make, are wider reaching than of the Code itself. However, the backdrop and context within which the Code sits are important and recommendations cannot therefore be made in isolation. It will be for others to determine how they respond to my report.
- 11.3 For the Code's Management Board, the report should enable them to improve the awareness of the Code and the protection it affords consumers across a broad stakeholder range while allowing those who have a more clearly defined role in promoting the protection of all Codes of Practice, to shine a light on such good practice.
- 11.4 The Management Board will need to consider the resources needed to match the implementation of any agreed recommendations and new courses of action that need to be taken. As well as a revision of the Code itself, a refreshment of the training material provided to home builders, their agents and solicitors/licenced conveyancers (all of whom have a role to play in the home buying process) will be needed.
- 11.5 Consumers should remain at the heart of the Code, as evidenced by recommendations in relation to plugging gaps in the Code and in particular strengthening areas in relation to build quality; coverage of the Code for social housing; better support for vulnerable consumers; improved consumer information and a stronger consumer voice.
- 11.6 However, while the landscape remains complex with multiple codes in operation, access to information and support for consumers should be simplified to avoid confusion and to ensure consumers receive the right information and at the appropriate time when needed.
- 11.7 There is the potential here for the Code's Management Board, as the longest established organisation in this sector and with a credible track record, to take the initiative and lead on the development of a single portal for consumer access and information for developers. This will of course require the engagement and support and commitment of other code bodies, but will be a recognition of the aim all such codes afford in the protection of the consumer.

SECTION 12

# Next Steps

## 12. Next Steps

- 12.1 This report will be referred to the Code's Management Board who will have the opportunity to consider the recommendations made and use these to exploit the clear strengths of the Code in any future iteration as they feel appropriate.
- 12.2 There will be a further short consultation on any proposed changes to the existing Code following the implementation of any of the recommendations. The intention is for any revised Code to be published by spring 2023 with an implementation date of summer 2023.
- 12.3 Other recommendations, which have an impact that is wider than the Code itself, will be considered in more detail by the Management Board throughout the year.

SECTION 13  
Appendices

## 13. Appendices

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## **Appendix 1**

### **John Bridgeman CBE TD DL biography**

John Bridgeman was appointed in June 2022 to ensure a consumer focused Review of the Consumer Code for Home Builders last published in 2016.

John has been actively involved in Better Regulation, Competition Policy and Consumer Affairs for over 30 years.

In his two terms as a member of the Monopolies and Mergers Commission he was involved in the regulation of the BBC, London Airports and Local Bus Services as well as a number of merger enquiries.

In a 5-year term as Director General of Fair Trading he led major enquiries into the Regulation of Airlines, Betting and Gambling, Estate Agents, Public Broadcasting, Newspaper Publishing, Railways, Sports, Subscription Television, Supermarkets, Travel and the Utilities and published a number of Consumer Policy reports including on Codes of Practice, on Consumer Detriment and on Vulnerable Consumers.

Subsequently John has served terms as Regulatory Chairman of British Horseracing, Chairman of the Fair Trading Committee of British Waterways and as a member of the Waterways Ombudsman Committee. He has also chaired recent enquiries into British Hallmarking (2018), the new Kenilworth Railway Station (2019) and the Training and Qualification Framework for the Chartered Trading Standards Institute (2022).

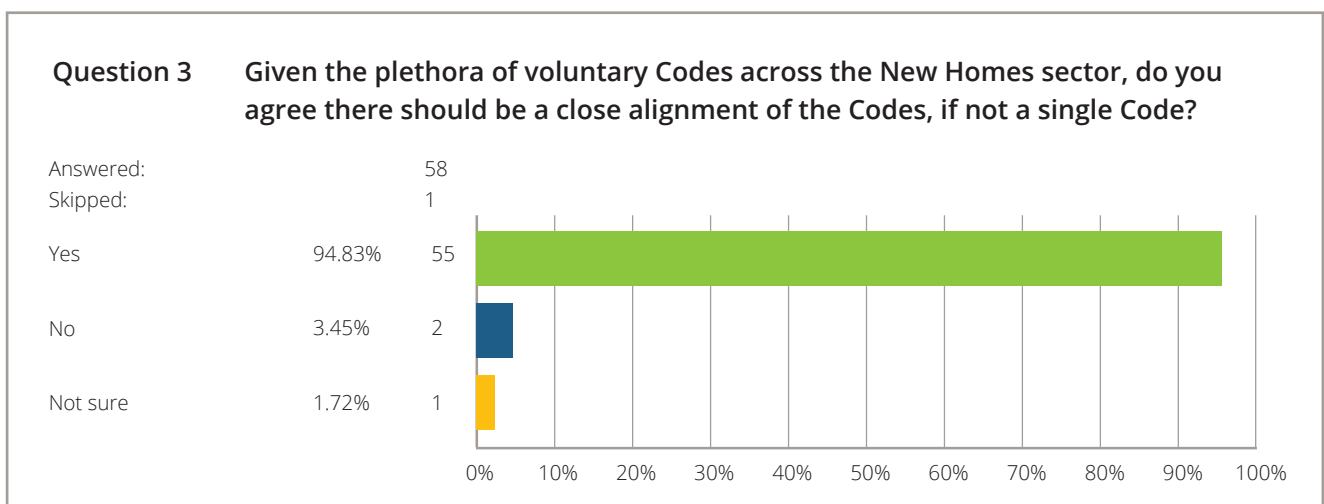
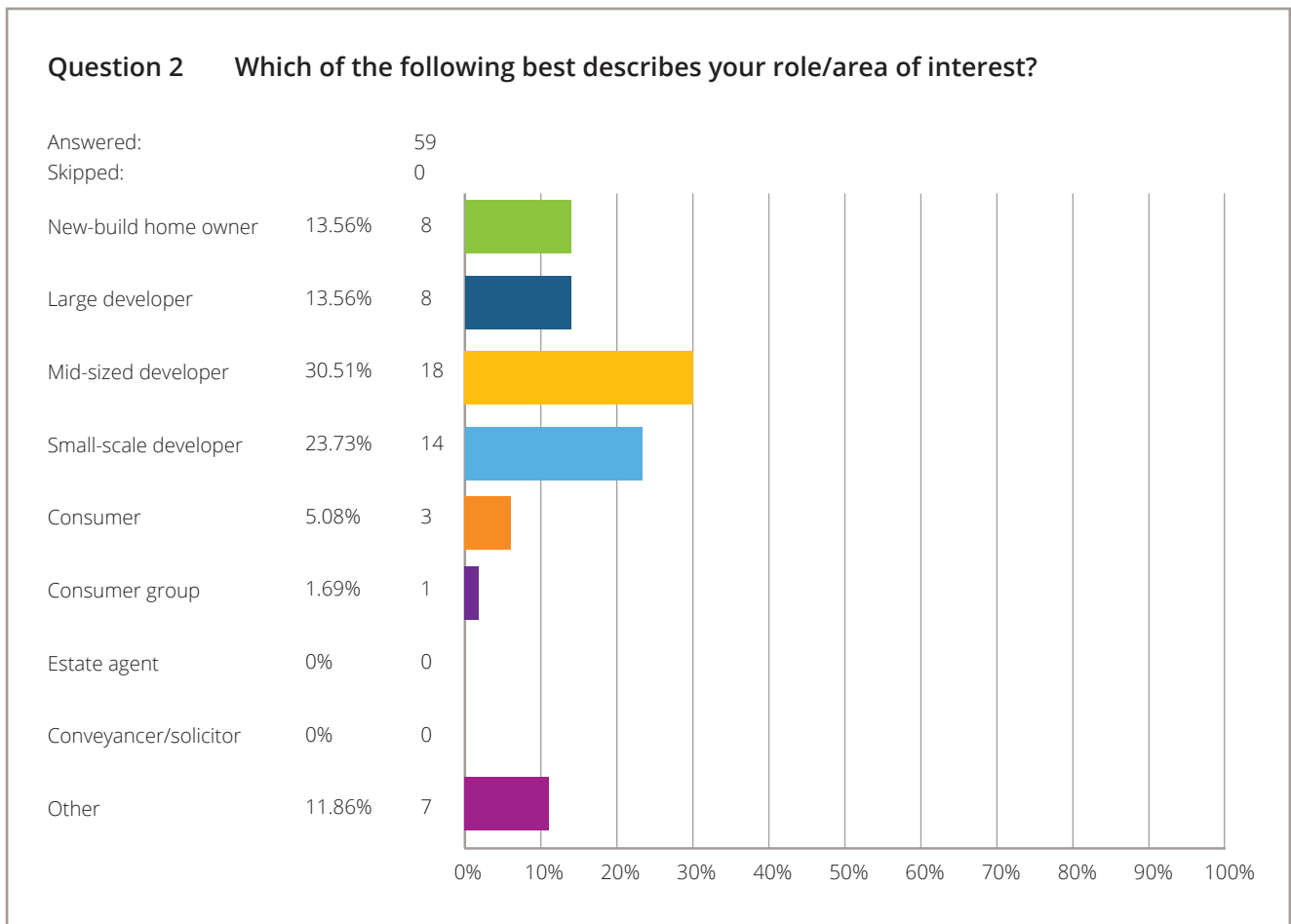
John Bridgeman is also currently Appeals Commissioner for the Direct Marketing Authority, Chairman of the Audit and Standards Committee of Warwickshire County Council and Chairman of the Operations and Audit Committee of the British Horseracing Pension Fund.

He was appointed a Vice President of the Trading Standards Institute in 2001.

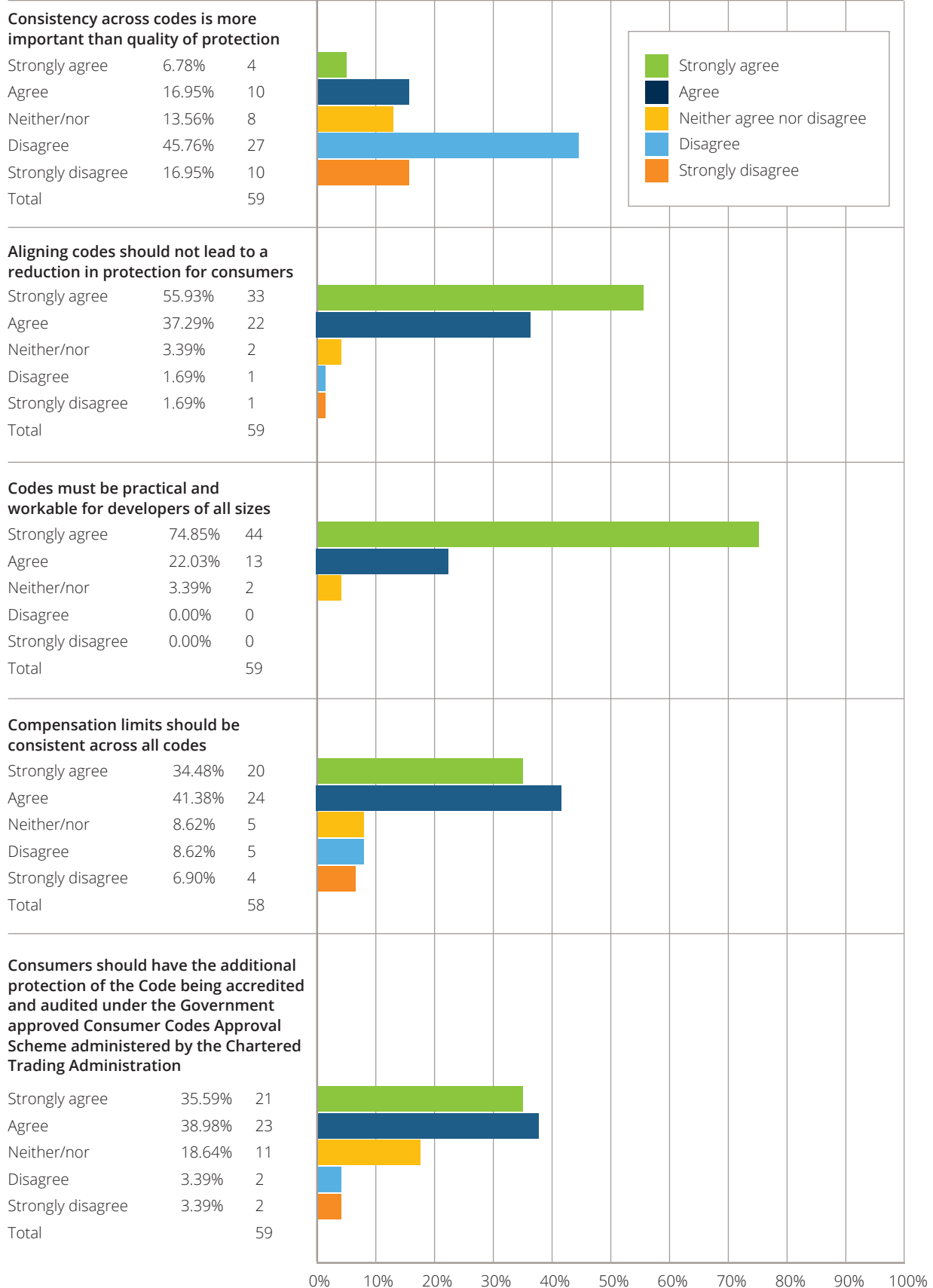
## Appendix 2

### Code Consultation responses

A summary of the findings from the Code Review survey conducted online via SurveyMonkey during August and September 2022. Qualitative and personalised information has been removed to maintain anonymity.



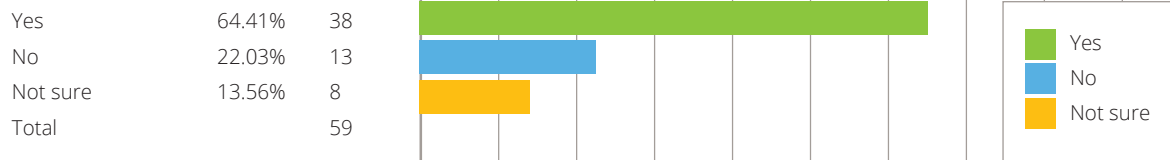
**Question 4** If we seek to align the Codes, to what extent do you agree or disagree with the following statements?



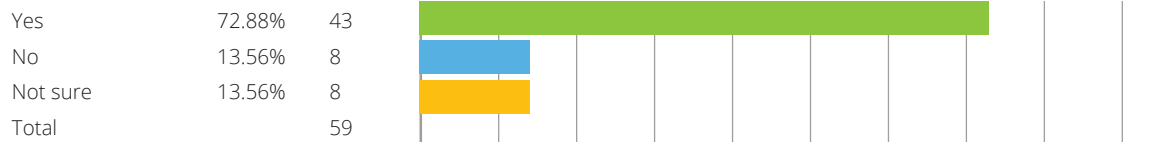


**Question 5** The areas below have been identified as key ones in need of strengthening in the existing Code (Fourth Edition June 2019).  
Do you agree that the following suggested areas should be strengthened?

**Definition of a new home – broadened to clarify it encompasses its gardens, boundary, fencing, communal areas and curtilage.**



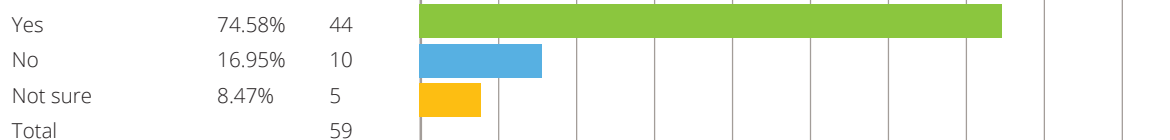
**Customer vulnerability – we consider it is especially important that Customer facing staff are able to identify potential Vulnerable Customers and have appropriate procedures in place – this should preferably be in line with the guidance provided under the new international standard for the design and delivery of inclusive services (BS ISO 22458).**



**Training – the definition of ‘suitable’ training should be more clearly defined and stipulate that for customer facing staff (including any appointed agents), this must be refreshed on an annual basis.**



**Early Bird Reservations – to now be included in the Code but with defined requirements in relation to any fees taken and their repayment.**



**Commission - Any commission received for recommending certain products or services, must be declared including for the services of any legal conveyancer and/or financial adviser.**



**Additional costs – greater clarity must be provided to home buyers on any costs that are likely to be directly associated with the tenure and management of the new home over the 10 years following the sale, and which the developer can reasonably be expected to be aware of.**

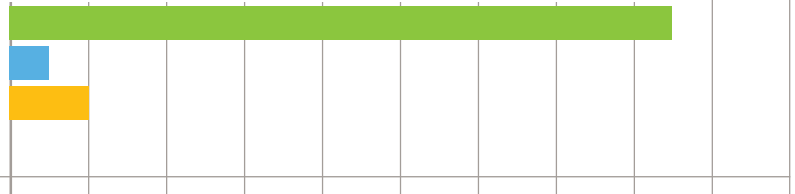


0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%

### Question 5 continued

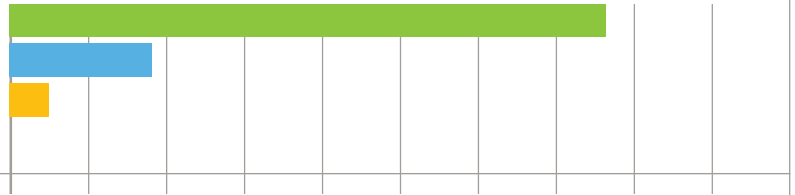
**Part-exchange and assisted move schemes - Clarity around the information of such schemes if offered and the terms to which a customer may be committing.**

Yes	84.75%	50
No	5.08%	3
Not sure	10.17%	6
Total		59



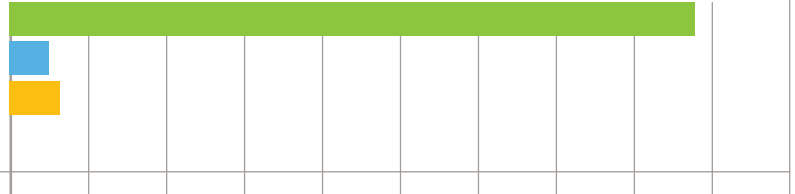
**Pre-inspection – clarified that as well as a home demonstration, the home buyer should be afforded the opportunity to visit and inspect the new home (including the use of an appropriately qualified professional) to undertake the visit prior to legal completion.**

Yes	76.27%	45
No	18.64%	11
Not sure	5.08%	3
Total		59



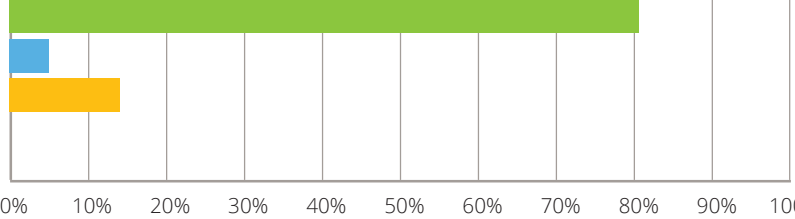
**Defect resolution - Snags or Defects must be covered by the After Sales Service and resolved within a mutually agreed timescale. Failure to do so will give rise to a complaint to the home warranty provider's dispute resolution service and/or the Independent Dispute Resolution Scheme.**

Yes	88.14%	52
No	5.08%	3
Not sure	6.78%	4
Total		59



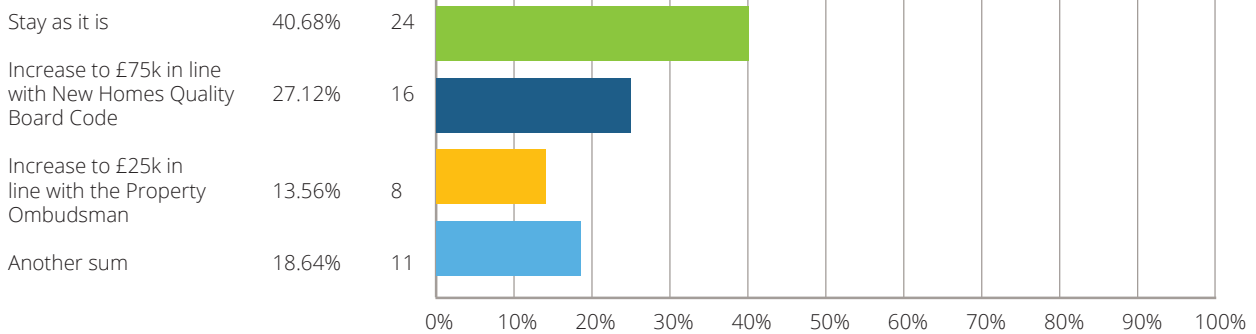
**Complaints – the requirement to have a system and procedures for receiving, handling and resolving Home Buyers' service calls and complaints will be extended and be more prescriptive in relation to timescales, including issuing a form of 'deadlock' letter where the parties agree the matter cannot be resolved.**

Yes	81.03%	47
No	5.17%	3
Not sure	13.79%	8
Total		58



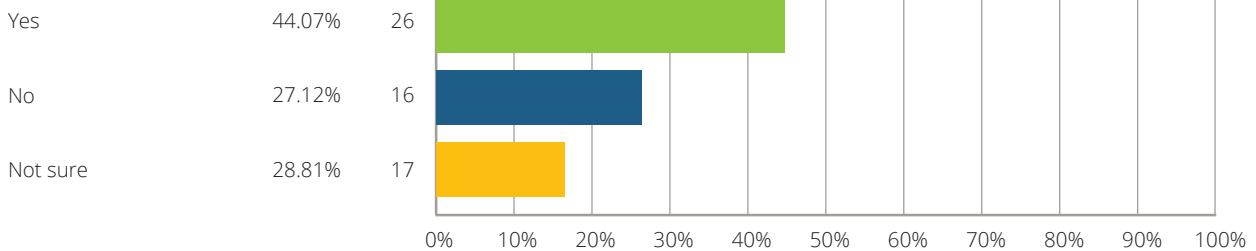
**Question 7** The Code's Independent Dispute Resolution Scheme is operated by the Centre for Effective Dispute Resolution (CEDR Ltd) and are internationally acclaimed. They are an approved Alternative Dispute Resolution body for dealing with disputes under the Alternative Dispute Regulations. The Rules for the Scheme can be seen here: [CCHB-IDRS-Scheme-Rules.pdf](#) and the current total financial limit is £15,000. Do you think it should:

Answered: 59  
Skipped: 0



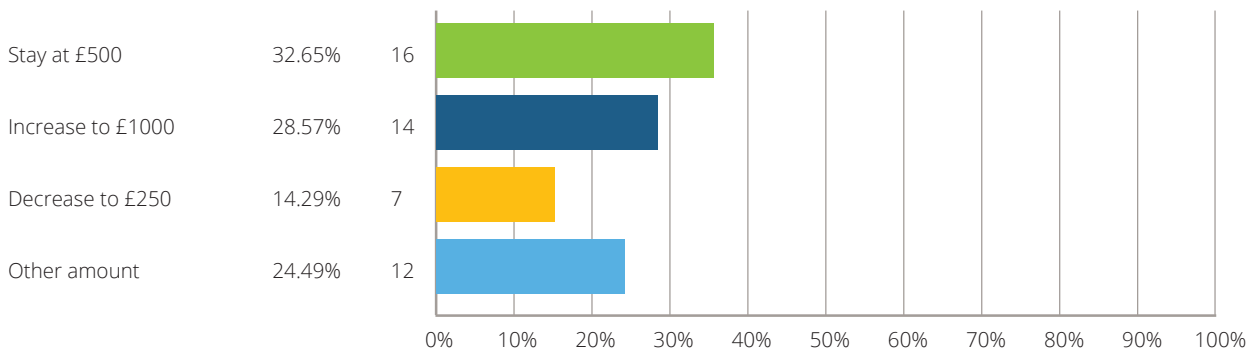
**Question 8** Under the Code's Independent Dispute Resolution Scheme, should payments for a home buyer's distress and inconvenience be paid?

Answered: 59  
Skipped: 0



**Question 9** If so, what do you consider the financial limit of this should be?

Answered: 49  
Skipped: 10



## Appendix 3

### P.E.S.T. – The industry background

Notwithstanding that most UK families want to own their own home<sup>21</sup>, the home building industry has been short of capacity for many years. Some of the features of the industry are shown below but the lists are not exhaustive.

#### P-OLITICAL

- The political landscape has major implications for both consumers and businesses involved in the New Homes market.
- Successive governments have failed to acknowledge the effects of their policies on a competitive, efficient and effective New Homes market.
- Government is looking to address industry problems and decide on its policies with regard to land availability, planning permissions, labour & skills shortages, affordable housing, social housing and sheltered housing and the roles of Central and Local Government.
- It is evident that there is an accumulated shortage of affordable new homes, new social housing and private homes which is now approaching 2 million new home units.
- The Government has recently restated a target of 300,000 new homes per year.
- Industry is struggling to build 200,000 new homes per year through issues related to land availability, widespread labour, skills and materials shortages and the volatility of business confidence in the sector.
- Politicians of all parties have been made aware of industry problems through “Tackling the undersupply of housing”, by Wendy Wilson, Cassie Barton and Lorna Booth<sup>22</sup>, (February 2022) for the House of Commons Library.
- The Supply, Affordability of Homes and their Quality and Suitability for the Future, by Russell Taylor (November 2022) is in the House of Lords Library<sup>23</sup>.
- Consumer confidence has been dented by reckless media coverage and generalisations of statements made by Government with regard to poor build quality, although demand remains strong.

#### E-CONOMIC

- By any measure medium and long term demand for New Homes is strong and for the foreseeable future demand will continue to exceed supply by a large margin<sup>24</sup>.
- Political uncertainties have created serious distortions in the supply of New Homes.
- Supply is constrained by land availability, industry volatility, labour shortages and skills shortages.
- Supply is also constrained by different combinations of economic variables in the different regions of the United Kingdom of Great Britain and Northern Ireland.
- All this results in a substantial shortfall in new home building capacity although there is not a nationwide housing crisis. In some parts of the country housing is affordable and supply keeps up with demand.
- The worst housing shortages are concentrated in economically prosperous parts of the country e.g. the South East<sup>25</sup>.

<sup>21</sup> <https://commonslibrary.parliament.uk/research-briefings/sn03668/#:~:text=In%202019%2F20%2C%2065%25.own%20home%20rather%20than%20rent.>

<sup>22</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-7671/>

<sup>23</sup> <https://lordslibrary.parliament.uk/housing-in-england-issues-statistics-and-commentary/>

<sup>24</sup> <https://www.propertynotify.co.uk/news/demand-continues-to-exceed-supply-in-latest-uk-house-price-index/>

<sup>25</sup> <https://www.centreforcities.org/housing/>

- Over one million households are waiting for social housing; there are 1.5 million fewer social homes in 2022 than in 1980<sup>26</sup>.
- Furthermore an October 2022 study<sup>27</sup> has revealed a senior living housing shortage of around 487,000 units across the UK.
- Overall supply for affordable and social housing is being suppressed by the lack of an overall housing strategy.
- The substantial imbalance between demand for and capacity to supply new homes has created an inefficient market.
- Inefficient markets distort consumer value and supplier profitability.
- Vigorous competition requires a surplus of supply over demand.
- Vigorous competition encourages suppliers to compete on cost, quality, innovation and customer service.
- Consistent profitability in a well-regulated market enables developers to invest in continual improvement of new home quality and housing innovation.
- Long term stability fosters investment in much needed skills training and the new technologies associated with new home building.

## S-SOCIAL

- Massive but unfulfilled demand for Affordable and Social Housing is not only distorting the dynamics of the New Homes market but also the societal benefits which New Homes provide.
- Demand is being fuelled by downsizing and pressures to reduce living costs.
- There is unfulfilled demand for more sheltered housing to enable more people to be discharged from hospitals into a supported environment.
- Strong demand for more social housing units is exacerbated by the need to provide housing for a new generation of immigrants.
- There is continuing demand from consumers aspiring to maintain their life-time equity in owned property.
- In real terms house prices have risen much faster than household incomes since the financial crisis; this has priced many first-time buyers out of the property market.
- Low availability and expensive housing are known to cause a multitude of social problems but particularly they increase social inequality and have an adverse effect on health.

## T-ECHNOLOGICAL

- There are new international quality standards for 21st century industries<sup>28</sup>.
- The supply base of the UK of GB and NI is well equipped to lead on developing new quality standards for future.
- There is a drive towards increased energy efficiency.
- There is a requirement for more high speed broadband connectivity.
- There is a trend towards more modular construction.

<sup>26</sup> [https://england.shelter.org.uk/support\\_us/campaigns/social\\_housing\\_deficit](https://england.shelter.org.uk/support_us/campaigns/social_housing_deficit)

<sup>27</sup> <https://www.realestate.bnpparibas.co.uk/2022/oct/uks-senior-living-shortage>

<sup>28</sup> <https://www.gov.uk/government/consultations/the-future-buildings-standard>

## Appendix 4

### S.W.O.T – Towards the future

Before making recommendations for action the strengths, weaknesses, opportunities and threats associated with the Code were considered and which are summarised here.

#### Strengths

- Twelve years of operation of CCHB.
- Over 12,000 builders signed up to the Code through their warranty provider registration.
- Major warranty providers signed up to the Code.
- Code currently covers around 95 percent of the UK Market.
- Goodwill within the new home building sector.
- Track record of regular Code improvement.
- Commendation from the latest (October 2022) Consumer Codes Approval Scheme Audit.
- Proven Code website for consumer enquiries.
- Minimum standards of warranty provision for those providers supporting the Code.
- Applies throughout the UK.
- Demonstrated power to exclude non-compliant housebuilders.
- Provides training programmes for new housebuilders.
- Provides education programmes for consumers.
- Provides guidance for legal advisers.
- Robust governance model with a focus on consumer protection.
- Established Independent Dispute Resolution Process.
- Deals with high pressure selling.
- Deals with consumer termination rights.

#### Weaknesses

- The Code has not been updated for six years with the last major review taking place during 2015-16.
- Uncertainties in government policy and direction.
- There are a number of consumer codes in the UK housebuilding industry with inconsistencies between them.
- Insufficient consumer knowledge and understanding of the Code.
- 9 percent of consumers would not buy a new build home again.
- Does not address quality management throughout the build/sell/occupy cycle.
- Under utilises the potential of the warranty providers to improve customer service.
- No published data on complaints and complaint handling performance of new home builders and warranty providers.
- Excludes shared ownership arrangements.
- Does not adequately address problems of legal completion before defects have been resolved.
- Does not allow for retention of monies.
- Limited engagement with Federation of Master Builders.
- Only 43 percent of IDRS decisions accepted by new home buyers (albeit this is consistent with other ADR schemes).
- Simplistic approach to customer vulnerability.
- Does not address information shortfalls on both new homes and key infrastructure on developments which may breach the Consumer Protection Regulations.
- Unsecured creditor status for buyers when businesses fold.

## Opportunities

- Revise Consumer Code.
- Put quality at the heart of the next edition.
- Improve information flows to expose developer poor performance, raise consumer confidence and improve build quality.
- Address shared and multiple ownership issues.
- Emphasise that the Code can be as applicable to new social housing i.e. shared ownership as it has been for private housing.
- Develop engagement with warranty providers and the homebuilding industry in general in common cause to improve industry quality.
- Lead the industry on code alignment and code convergence.
- Encourage competition between codes on the basis of improved consumer protection.
- Introduce retention of monies to the domestic housebuilding industry.
- Improve pre contract information for consumers.
- Recognition of the external accreditation of the Independent Dispute Resolution Scheme which continues to deliver for consumers in terms of cost, expediency and process.
- More follow up to Independent Dispute Resolution Scheme determinations.
- Create a consumer panel with mandate to oversee improving safeguards to consumers.

## Threats

- Government rushes into adopting a statutory single consumer code for the home building industry.
- Government's single focus on an Ombudsman scheme which fails to recognise the value provided by externally accredited Alternative Dispute Resolution Scheme providers.
- Fall in consumer confidence from shortfalls in the Code.

## Appendix 5

### List of sources

- All Party Parliamentary Report - More Homes, Fewer Complaints: <https://www.cic.org.uk/uploads/files/old/more-homes.-fewer-complaints.pdf>
- All Party Parliamentary Report - Better redress for home buyers: <https://www.cic.org.uk/uploads/files/old/appg-ebnew-homes-ombudsman-report-2018.pdf>
- Consumer Code website: <https://consumercode.co.uk/>
- Consumer Code – Fourth Edition (June 2019) <https://consumercode.co.uk/resources/fourth-edition-2019/>
- Scheme Rules – Fourth Edition (April 2017)
- Builder Guidance Note – Fourth Edition (June 2019) [Consumer Code Requirements with Builder Guidance Fourth Edition](#)
- IDRS
  - Adjudication Scheme Rules (15 November 2021 edition)
  - IDRS application form
  - IDRS evidence template
  - IDRS FAQs
- NHQB Plain English New Homes Quality Code: <https://www.nhqb.org.uk/homebuyers/downloads.html>
- Consumer Code Annual Report: [Consumer-Code\\_Annual-Report-2021-22\\_vfn.pdf](#)
- CEDR Annual Report: [CEDR-Annual-Report-2021-vfn.pdf](#)
- Details of the requirements for ADR providers: <https://www.tradingstandards.uk/media/documents/commercial/adr/ctsi-adr-guidance-brochure-final-15-06-17.pdf>
- WPI Economics Report - "Consumer protection in the new homes market"
- WPI Report – "A New Homes Ombudsman – the next steps"
- HBF Customer Satisfaction Survey results: <https://www.hbf.co.uk/policy/policy-and-wider-work-program/customer-satisfaction-survey/>
- Qualifying criteria for warranty bodies to apply to join CCHB
- CTSI Consumer Codes Approval Scheme Audit report: <https://consumercode.co.uk/consumer-code-is-commended-following-rigorous-ccas-audit/>
- Training packages including Train the Trainer
- Drafted unified code produced by CCHB and Consumer Code for New Homes and provided to HBF (Sept 2020)
- Which? article on why new build home buyers should get a snagging survey done (original article written in July 2022): <https://www.which.co.uk/money/mortgages-and-property/new-build-homes/snagging-surveys-aWN547V5ajc7>
- Other new homes codes of practice including:
  - Advantage Home Construction Insurance: <https://www.tradingstandards.uk/media/documents/commercial/codes-of-practice/code-ahci-110518.pdf>
  - Sennocke International Insurance Service ("Build Zone"): <https://www.tradingstandards.uk/media/documents/commercial/codes-of-practice/build-zone.pdf>
  - Consumer Code for New Homes: <https://www.tradingstandards.uk/media/documents/commercial/codes-of-practice/consumer-code-for-new-homes--v4.pdf>
  - International Construction Warranties: <https://www.tradingstandards.uk/media/3178012/icw-consumer-code-for-new-homes-2022.pdf>



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