

## Protection for new-build home buyers

### Adjudication Case Summaries

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

#### Adjudication Case 1– January 2023 – 117210528

##### ***Complaint***

The Home Buyer complained that he was led to believe that the property next door to the Home that he reserved was a privately owned and used for log storage. He subsequently discovered that it was a working sawmill and he withdrew from the transaction. The Home Builder refused to repay the reservation fee of £2,000.00.

The Home Buyer complained that he had not been told about or provided with a copy of the Code.

##### **Defence**

The Home Builder said that it had advised the Home Buyer to carry out his own enquiries and could not take responsibility for neighbouring land.

##### **Findings**

The adjudicator found that no reference was made to the Code in the reservation agreement and no evidence that the Home Buyer had been provided with a copy of this.

Moreover the Home Buyer had repeatedly made clear that he wanted to know about the status of the adjoining land and the Home Builder had (albeit also stating that the Home Buyer should make his own enquiries) offered assurances.

As the Home Buyer had indicated that information about the neighbouring activities would affect his buying decision, section 2.1 of the Code was engaged. The Home Builder acknowledged that it could not give "enough" information about this because, by requiring the Home Buyer to answer his own questions the Home Builder confirmed that it was unable to say whether the Home would be adversely affected by the noise and dust of a sawmill.

Although the Home Builder was not to blame for not giving this information, it was nonetheless a non-compliance with the terms of the Code which crystallised when the Home Builder tried to uphold the reservation agreement in the light of the Home Buyer's inquiries.

Moreover, the Reservation Agreement did not permit the retention of the reservation agreement in these circumstances and there was no evidence that the Home Builder had made administrative expenditure of the amount claimed. The Home Builder should have repaid the reservation fee.

The adjudicator found breaches of sections 1.2, 2.1 and 2.6 of the Code.

### **Decision**

The claim succeeded. The Home Builder was directed to repay the reservation fee of £2000.

## **Complaint**

The Home Buyers complained that they were sold an optional upgrade of integrated appliances that would provide a “sleek and seamless” design to the kitchen. The final installation was materially different from the product described and shown by sales agents and in the marketing literature. The only explanation was that the Home Builder provided the specification to the kitchen installer.

The Home Buyers complain of breaches of sections 1.5, 3.1b and 4.1 of the Consumer Code for Home Builders. The Home Buyers say that they were not able to make a fully informed decision on purchasing the optional extras as they were told that the appearance of the kitchen would be as in the show home with no filler panels. The Home Buyers also complain about frustration, stress and significant time taken in attempting to reach an understanding as to the complaint. They say that there were numerous instances of passing of the issue back and forth without any party taking responsibility, resulting in a lack of clarity regarding the complaints procedure and whom should be approached

## **Defence**

During the reservation process the Home Buyers upgraded their kitchen to include the Integrated Appliances package. This included filler panels between the appliances in accordance with the Customer Requirement form. The upgrade did not include the matching end panels and corner posts as seen in the Show Home which was finished to the Home Builder’s “Gold Specification”. The Home Buyers could have upgraded to the “Kitchen Design” level package which does incorporate the matching end panels, plinths and corner post. Rather, the Home was not a Gold Specification property nor did the Buyers upgrade to the additional “Kitchen Design” package.

The Builder’s agents are of the opinion that they have not mis-sold the property and the Home Builder has provided sufficient information to the Home Buyers on its position through its formal complaint procedure on the reasons why it takes this view.

## **Findings**

The run of units complained of by the Home Buyers are different in appearance from other units in the kitchen and there is no evidence that the Home Buyers were told that the units would have filler strips. As this was an optional upgrade, the units would be expected to look the same as they were depicted. The units were shown without fillers in the kitchen drawing and in the brochure as well as in the show home, which the Buyers were sent to see. The change was a minor change but it affected the appearance of the Home and the Buyers were not told about this.

The Home Buyers have submitted evidence that they made a number of inquiries about the appearance of the kitchen from the point at which they took possession until the first visit from the Builder or its agent in December 2020. At this juncture it was not explained clearly to the Home Buyers whether the Home Builder would be taking further action or not. The

Home Buyers remained of the opinion that this would be resolved by the Home Builder during 2021 and, if the Home Builder was at that point of a different view, it did not comply with section 5.1 of the Code by explaining this to the Buyer. If it was not of that view, the Home Builder was not in compliance with the Code because it was not taking steps to arrive at a resolution within an appropriate time. When the Home Builder confirmed that it would take no action it did not the Home Buyers' complaint that fair and accurate information was not given to the Home Buyers at the outset.

The adjudicator found that the Home Builder had not fairly resolved the Home Buyers' complaint. The Home Builder was in breach of section 1.5, 3.1, 4.1 and 5.1 of the Code.

#### Decision

The claim succeeded. The Home Builder was directed to:

- a. Apologise to the Home Buyers for the breaches of the Code
- b. Take whatever steps are necessary to upgrade the appearance of the finish of the units on the kitchen sink wall to a finish in accordance with the wall of the hob / oven units, without filler strips.
- c. Pay compensation of £500.00 for inconvenience.

### **Complaint**

The Home Buyers submitted that hedging in the front garden between the Property and the neighbouring property was not placed along the land registry boundary, by a distance of about 2 feet. They complained to the Home Builder, but no action was taken, and the Home Builder had stopped responding.

The Home Buyer sought for the Home Builder to move the hedging to the correct line.

### **Defence**

The Home Builder chose not to submit a Defence.

### **Findings**

The adjudicator found that the Home Builder breached Section 5.1 of the Code by failing to deal with the Home Buyer's complaint in an appropriate time.

### **Decision**

The claim succeeded. The adjudicator directed the Home Builder to relocate the hedging in the front garden of the Property, so that it runs along the border of the Property.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Section 2.1 of the Consumer Code for Home Builders, as follows:

- The Home Buyer asserts that the breach was caused because ‘We were not informed at any point our plot was a slope, or that this would impact boundary fencing.’
- The Home Buyer submits that the Home Builder has breached Section 5.1 of the Consumer Code for Home Builders, as follows:
- The Home Buyer asserts that the breach was caused because ‘I was not informed how to escalate my concerns.’

The Home Buyer sought:

- Either: The Home Builder to pay £2,000 to £2,500 to the Home Buyer to allow them to put trellis panels along the fence.
- Or: The Home Builder to take practical action and insert a second gravel board to the nearest and furthest adjacent fence panels and another to the rear fence to level it.

## **Defence**

The Home Builder submitted that the Reservation Checklist (signed by the Home Buyer) included drawings showing the sloping garden and drawings entitled ‘garden gradient / retaining features / boundary treatments’ and included the Consumer Code booklet and warranty / customer care document.

## **Findings**

The adjudicator found that:

- The Home Builder has not breached any of the requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyer are not sufficient to justify the practical action or payment of £2,000 to £2,500 sought.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that there are a number of defects which have not been rectified by the Home Builder.

## **Defence**

The Home Builder submits that it has communicated at length with the Home Buyer in relation to the issues raised and that it is better for her to refer the issues to the warranty provider.

## **Findings**

I found that while there was a presence of defects at the Property post completion, the pertinent requirement under this section of the Code is for the aftercare service to be accessible. In consideration of the communications between the parties, I am persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service.

Furthermore, the emails between the Home Buyer and warranty provider demonstrate that the Home Buyer was aware that Premier Guarantee was the provider. In further consideration of my remit, in relation to deciding on defects, I do not find there to be any breach of section 4.1 of the Code.

Additionally, While the Home Builder has acknowledged the part of the claim relating to section 5.1, it has not provided any evidence in response to the Home Buyer's submission to demonstrate that it has a system in place to handle complaints. In the absence of this clarification I find the Home Builder to be in breach of section 5.1 of the Code.

## *Decision*

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

### **Complaint**

The Home Buyer complained that he had not been provided with the fridge freezer he expected and which other properties have received and, where they have not, the Home Builder has replaced them. He says that he has been given an inferior model.

### **Defence**

The Home Builder says that it intended to provide the model stipulated but this was not available and it has supplied the nearest equivalent.

### **Findings**

The adjudicator found that the evidence did not support that the Home Buyer had been promised a particular model – only an “Integrated [model]”. The adjudicator found that there was no breach of section 1.5 of the Code and the Home Builder was not required under section 2.1 to specify a particular model of fridge freezer.

The provision of a fridge freezer other than that which the customer thought he should receive was not a breach of the Code and the customer was not able to succeed.

### **Decision**

The claim did not succeed.



### **Complaint**

The Home Buyers stated that there is a design fault in the bathroom because the Home Builder installed a basin too close to a wall in the bathroom.

### **Defence**

The Home Builder submitted that the basin has been installed in line with the plans the Home Buyers were shown and the construction is in line with the appropriate building regulations.

### **Findings**

The Adjudicator found that the complaint about the basin concerned defects and poor workmanship which fall outside the scope of the Scheme and could not be adjudicated upon. The Adjudicator considered the manner in which the Home Builder dealt with the Home Buyers' complaint about the basin. The Adjudicator found that the Home Builder responded to the complaint within a reasonable period of time and it provided a response that was sufficiently clear to enable the Home Buyers understand its position on their complaint.

### **Decision**

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

## Complaint

The Home Buyer submits that the Home Builder has breached Section 1.5 of the Code. Specifically, the Home Buyer submits that they were “*misled*” in relation to the boundary of their garden, the type of fencing used and the location of the boiler. In relation to the boundary, the Home Buyer submits that they “*expected the fence to go around the line of the path on the front right*” of the Property and when they were “*looking at the plans*”, the sales agent confirmed that the “*front garden would be a decent size, quite large*”. The Home Buyer states further that the agent “*flew through the plans*” and “*everything was rushed*”, however, they were reassured when they observed the build-process and saw the fence being built to the path line. The Home Buyer states further that they were advised, expressly, that the area between the fence and the Property was theirs and that when they moved in, they were told, verbally, that the fence would follow the path “*all the way around*” the Property.

The Home Buyer states further that they were advised further (by the build rep and sales rep) the fencing would “*turn into the wooden knee rail*” at the front of the Property, however, when they objected and asked if the metal fence could be placed all the way round, the Home Builder agreed. Despite this, the Home Buyer submits that they observed the path line fencing being removed and fence posts being placed approximately one metre in front of the Property’s right bay window. The Home Buyer states further that when they objected, they were advised that the Home Builder had made a “*mistake*” and that the fencing was now being placed where it should be. The Home Buyer states further that the type of fencing used is different to the show home fencing, “*which [they] naturally thought would be the fence type around*” the Property and the Home Buyer states that an agreed gate is missing from the front of the path to the front door.

In relation to the boiler, the Home Buyer submits that in the show home, the boiler was in the utility room, however, when they visited the Property during the build they noted that it was being placed in the kitchen (with a note on it saying that it was in the wrong location). The Home Buyer acknowledges that as a “*good will gesture*”, the Home Builder agreed to put cupboards in the utility room to help mitigate the loss of kitchen space, however, the Home Buyer states that the aesthetic of the kitchen has been adversely affected. The Home Buyer comments further that a fitted wardrobe was included in the small bedroom and this was also a “*mistake*” as the Home Builder was working off “*old plans*”.

## Defence

The Home Builder’s position is that it disputes the claim. Specifically, in relation to the fencing and boundary, the Home Builder refers to the sales and marketing plan for the development and the reservation agreement entered into. The Home Builder submits that nowhere in these documents “*are there any indications that the open space at the front of their property falls within their property boundary*”.

The Home Builder comments further that the contract of sale shows that the boundary is “*exactly as advertised...and does not include the open space at the front of their property to which the Home Buyer refers*”. The Home Builder disputes further that it or its agents used

high pressure techniques and it states that the Home Buyer “*has produced no evidence supporting their allegations*”. The Home Builder states further that the materials used are commensurate with the plans and planning permission.

In relation to the boiler, the Home Builder submits that “*the boiler location...is in the position it should be*” and comments that the “*show home referred to is detached*”, whereas, “*the Home Buyer’s property is semi-detached. As such the layouts are slightly different as they are different house types.*”

The Home Builder further refers to a copy of the internal plan, included in the signed reservation agreement, which “*shows the boiler in the location it has been installed.*” In relation to the wardrobe, the Home Builder states that the alleged issue has not previously been reported and “*there is no record of one being installed...at all*”.

The Home Builder has provided evidence in support of their submission, including, a copy of the reservation agreement, the contract of sale, the TR1, a copy of the site plan and a copy of the internal plan.

## **Findings**

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

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that she was homeless for six months due to the negligence of the Home Builder. The Home Buyer adds that the all the furniture in the Property was damaged which was covered through the Home Buyer's insurance. The Home Buyer adds that there has not been any compensation for stress and anxiety. The Home Buyer complains that the Home Builder is still not resolving the issue of diverted drain.

The Home Buyer submits that there were issues in logging reports of defects, resulting in a breach of section 4.1 of the Code.

The Home Buyer asserts that the Home Builder has breached section 5.1 of the Code as it told her to use her home insurance to fix the damage caused by the flooding as it did not have a procedure in place to resolve that type of damage. The Home Buyer adds that this resulted in a very high insurance premium.

The Home Buyer asserts that NHBC had to contact the Home Builder on several occasions to request an update, which was often ignored. The Home Buyer adds that "in the last month the new regional manager and customer care have been more forth coming and have been more professional and have kept me updated" but that she remains in the middle of the dispute between the Home Builder and water company over the responsibility of the drain

## **Defence**

The Home Builder accepts that the "foul drain has been overwhelmed on occasion resulting in water emanating from the manhole located outside the Property. The Home Builder acknowledges this as a "design issue" and submits that it "has submitted proposals to [water company] to enable this to be rectified" and that once approved, remedial works can commence.

The Home Builder accepts the "distress and inconvenience" endured by the Home Buyer as a result of the issues described; however, it asserts that as there was no breach of the Code, no award for inconvenience is due.

The Home Builder accepts that the Property sustained damaged due to an "internal water leak caused by an allegedly defective water valve". The Home Builder submits that the damage has been "made good by the Applicant's insurance company and therefore repeat recovery in respect of property damage/damaged chattels should not be awarded".

## **Findings**

I accept that there are ongoing issues at the Property; however, in consideration of the specific requirements of this section of the Code, I find the Home Builder to have demonstrated that made the Home Buyer aware of the after-sale service and that this service was, on a balance of probabilities, accessible, meaning that the Home Buyer was

able to report issues and contact the Home Builder. Consequently, I do not find the Home Builder to be in breach of section 4.1 of the Code.

While I have not been provided with evidence to demonstrate the steps taken in seeking approval for the new drain design with the water company, I am persuaded by the Home Builder's submission that the new design has now been approved and that the works are now imminent. As a result, I find the Home Builder to have dealt with this part of the complaint by providing an appropriate remedy to the complaint.

In consideration of the specific requirements of this section of the Code (5.2), I do not find the Home Buyer to have appointed any professional advisers. As such, I do not find there to have been any breach under this section of the Code.

### **Decision**

The claim did not succeeded.

## **Complaint**

The Home Buyer submits that a snagging list was compiled within the first few weeks after moving in which included issues with the driveway; specifically, that it had started to sink around the drains/manhole cover and was holding water after heavy rain.

## **Defence**

The Home Builder submits that in periods of heavy rain there will be a certain amount of “ponding” on the drive and that it has observed that the water disperses in accordance with the Standard Code of Practice. The Home Builder adds that it witnessed various heavy vehicles delivering building materials without adequate protection to the driveway.

## **Findings**

While there was a presence of a possible reportable defect at the Property post completion, the pertinent requirement under this section of the Code is for the aftercare service to be accessible. In consideration of the communications between the parties, I am persuaded that the Home Buyer knew who to contact and that the aftersales service was made accessible by the Home Builder. In further consideration of my remit, in relation to deciding on defects, I do not find there to be any breach of section 4.1 of the Code.

The Home Builder has not provided any evidence in response to the Home Buyer’s submission to demonstrate that it has a system in place to handle complaints and to set out what this system is. In the absence of this clarification I find the Home Builder to be in breach of section 5.1 of the Code.

In consideration of the specific requirements of this section of the Code, I do not find the Home Buyer to have appointed any professional advisers. As such, I do not find there to have been any breach under this section of the Code.

## **Decision**

The claim succeeded. As a result of the breach of section 5.1 of the Code, I direct the Home Builder to apologise to the Home Buyer and provide an explanation as to why the breach occurred.

### **Complaint**

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

### **Defence**

The Home Builder says it has always complied with the requirements of the Code, in particular with the after-sales service and complaints handling. The Home Builder was asked to extend the ACO drain channel as the Home Buyer had additional paving slabs added to the garden, and as a gesture of goodwill, this was duly provided and laid. After that, it is the Home Buyer's responsibility to maintain the Property, the garden, and the ACO drain.

### **Findings**

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

### **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder to apologise, rectify the garden to a usable space.

## **Complaint**

The Home Buyer submits that one of the windows in the Property is different from the rest. The Home Buyer asserts that he was informed by the Home Builder that the supplier used went into administration due to Covid-19 and therefore, a different window had to be procured from a different supplier. As a result the Home Buyer submits that the Home Builder has breached section 3.1 of the Code as it did not make him aware of a change to the design, construction or materials to be used in the property that would significantly or substantially alter the size appearance or value.

## **Defence**

The Home Builder submits that the missives entitled it “to make minor variations in size and materials, provided the alternative material will not be of lesser quality than the original material”. The Home Builder adds that “The differences in the windows are very minimal as care was taken to get as close as match as was possible. The minimal difference is backed up by the fact that this wasn’t actually picked up by the customer until 28/8/22 which is some 23 months after handover despite the fact 3 different items were reported by the customer and logged for this window meaning that this window was inspected 3-4 times prior to reporting it as different from the rest”.

## **Findings**

It was found that there was a reasonable expectation from the Home Buyer for the windows to be the same, particularly across the bedrooms. However, in consideration of the requirement under Section 3.1 of the Code, I do not find the change in window to significantly or substantially alter the Home’s size, appearance or value. Therefore, I do not find a breach of section 3.1 of the Code.

Section 2.1 was also considered: While it has not been demonstrated what was provided by way of plans or illustrations, the parties accept that the window to bedroom 3 is different and that this was changed during the build. While the exact window specification may not have been listed on the brochure, as mentioned, I find there to have been an implied expectation for the windows to be the same. As a result, I find the Home Builder to be in breach of section 2.1 of the Code.

## **Decision**

The claim succeeded. I am satisfied as to the Home Builder’s explanation as to why the window is different; however, I direct the Home Builder to apologise to the Home Buyer for the breach of the Code and to pay the sum of £500.00 in compensation for inconvenience.



## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 1.5 and 2.1, because it showed them out of date plans for the Property when they reserved the Property and it did not inform them that the rear garden would be situated on a slope.

## **Defence**

The Home Builder submitted that the plan it provided the Home Buyers at Reservation was revised twice between Reservation and exchange of contracts, but the revisions were not material as to the slab level or garden gradient, therefore the revised plans were not shown to the Home Buyers. The gradient of the garden corresponds with the plan available at the point of exchange, and it is not liable to carry out remedial works.

## **Findings**

The Adjudicator found that the Home Builder breached Code Sections 1.5 and 2.1, because the evidence indicated that it did not provide the Home Buyers sufficient information about the gradient of the garden. The Home Builder also breached Code Section 3.1, because the change to the garden gradient was a minor alteration to the design of the Property which the Home Builder needed to inform the Home Buyers about and it did not do so.

## **Decision**

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

## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with the complaint concerning the property garden becoming waterlogged and not level due to the presence of a field drain within the property's garden.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The Home Builder believes that the field drain issue is not its responsibility as it has no record of any field drains within the site, no field drains were uncovered during the construction process, and it has not installed any field drains. No waterlogging or field drain issues were raised until the Home Buyer undertook construction work in the garden.

Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable time period.

## **Findings**

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

## **Decision**

The claim did not succeed. The reasons given by the Home Buyer are not sufficient to justify the Home Builder pay £13,630.96 repair costs for the garden and patio, plus further compensation for poor customer service whilst dealing with the property's drainage issues.

## **Complaint**

The Home Buyer stated that the Home Builder did not rectify a number of snags and defects at the Property. It breached Code Section 3.1, because it did not inform him that it had not obtained a completion certificate for the Property at the time he moved in. It breached Code Sections 4.1 and 5.1, because it provided him with a poor level of customer service, including lack of consistent communication and threatening to take legal action against him.

## **Defence**

The Home Builder submitted that the local authority delayed in issuing the completion certificate. Its correspondence shows that it responded to communication from the Home Buyer and responses were generally provided within a couple of working days. Due to the Home Buyer's claim for £60,000.00 in compensation, it referred him to its solicitor which it considered was a more appropriate route to deal with a dispute of that scale. There was quite a substantial history of snags and defects reported by the Home Buyer, which included items it disputed as being valid defects. It completed all works stipulated by the warranty provider as being valid works.

## **Findings**

The Adjudicator found that the Home Buyer's complaints concerning snags, defects and poor workmanship fell outside the scope of the Scheme and could not be adjudicated upon. Code Section 4.1 was relevant to the Home Buyer's complaint that the Home Builder did not inform him that a completion certificate was not available at the time the Property was handed over to him. The completion certificate can be regarded as a matter that is relevant to the Property warranty, and it was appropriate for the Home Builder to have informed the Home Buyer that the completion certificate was not available. The Home Builder breached Code Section 4.1 as there is no evidence that the Home Builder provided the Home Buyer with this information.

There was no breach of Code Section 5.1 on the evidence, because the available correspondence and documentation showed that the Home Builder dealt with the Home Buyer's complaint in a reasonable manner.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £150.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing by failing to provide good customer and after-sales service when dealing with the complaint about the neighbouring property's downpipe sited within the boundary of his property. Furthermore, the garden size has been reduced due to the adjacent property's downpipe, which was not shown at the time of reservation.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The neighbouring property was approached and refused to have the downpipe moved into their boundary. Due to the adjacent property's refusal, a full and final settlement was offered to the Home Buyer, which was accepted. Accordingly, no further action or sums are due.

Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable time period.

## **Findings**

Whilst the Home Builder has breached Clause 3.1 of the Consumer Code for Home Builders. The Home Buyer has been offered an adequate remedy and compensation, which has been accepted as settlement by the Home Buyer

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder reroute the neighbouring property's downpipe or, if not possible, then pay compensation of £15,000 for the loss of the square footage in the garden and the poor customer services whilst dealing with the property's snagging issues.

## **Complaint**

The Home Buyer submits that further to receipt of the working drawing at reservation, the Home Builder confirmed that the dimensions specified on the brochure, which was provided again post reservation, could be considered to present the accurate reflection of the Property dimensions. Following completion the Home Buyer asserts that one room was “nearly 1 meter smaller” than the plans provided and that a radiator was in the wrong place.

The Home Buyer asserts that this resulted in the furniture purchased for the room; namely a television and sofa being too large. As a result, the costs of these items, together with £500.00 for inconvenience, is being claimed.

## **Defence**

The Home Builder submits that the house type brochure, which has been submitted by the Home Buyer, contains a caveat which states that “Floor plans are as accurate as we can be, but please be aware that individual construction may result in a slight variance” and “These particulars do not form part of a contract or a warranty”; however, that such variances do not “significantly or substantially affect the overall size, appearance or value of the home”.

The Home Builder accepts that a radiator was in the wrong place, but that this was subsequently moved. While noted by the parties, I do not consider the issue of the radiator to be part of the current dispute.

## **Findings**

The adjudicator found that While the Home Builder is entitled to rely on their disclaimer on the brochure, the Home Buyer has sought clarification from the sales advisor, as advised by the disclaimer, and has received inaccurate information, after the provision of the working drawing which the Home Builder seeks to rely on.

As a result of the information provided, in the form of the brochure, which is accepted to present incorrect dimensions, I find the Home Builder to be in breach of section 2.1 of the Code.

## **Decision**

The claim succeeded. As the radiator has now been moved and as the dimensions of the room are demonstrated to that which that the sofa and television do not actually fit, and as no actual loss has been demonstrated (the Home Buyer owns the sofa and television), I make no award for reimbursement of these items.

As a result, of the breach of section 2.1 and the resultant inconvenience suffered, I award the maximum of £500.00 in this instance. I also direct the Home Builder to apologise to the Home Buyer for this breach of the Code.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Section 5.1 of the Consumer Code for Home Builders, as follows:

- It is asserted that the Home Builder failed 'to meet satisfactory standards which was (were) initially quoted from the after-sales customer service team' when dealing with the complaints raised which included the condition of the garden.

The Home Buyer sought:

- The Home Builder to pay £5,000 to the Home Buyer to compensate them for the loss of earnings due to holiday and sickness leave taken for moving days. However, no evidence has been provided to justify the amount claimed.
- The Home Builder to apologise to the Home Buyer for failing 'to meet satisfactory standards which was (were) initially quoted from the after-sales customer service team' when dealing with the complaints raised which included the condition of the garden.
- The Home Builder to provide the Home Buyer with an explanation (assumed to be for the failure to meet satisfactory customer service standards).
- The Home Builder to take some practical action (although the Home Buyer does not state what this action is).

## **Defence**

The Home Builder submitted that they arranged a meeting to discuss the issues with the Home Buyer and that having reviewed the additional evidence, they do not believe they have breached the consumer code.

## **Findings**

The adjudicator found that:

- The Home Builder has breached the requirements under the Consumer Code for Home Builders.
- The evidence provided by the Home Buyer is not sufficient to justify any practical action or the payment of £5,000 sought. Specifically, no evidence of financial loss has been presented.
- The reasons given by the Home Buyer are sufficient to justify the apology and the explanation sought from the Home Builder.

## **Decision**

The claim succeeded. The adjudicator directed that:

- The Home Builder writes to the Home Buyer to apologise for not issuing the complaints handling procedure in writing when requested and to explain why the complaints were not dealt with in accordance with a set, transparent procedure.

### **Complaint**

- The Home Buyer understood at the time of reservation that the rear of the property would have a patio area with steps leading down to a flat even garden area.
- Some months after paying the reservation fee the Home Builder informed her that the land was actually uneven and thus her garden would also be uneven.
- She complained to the Home Builder but asserts that it has been dismissive of her complaints.
- The Home Buyer understood that the Home Builder had drawn up plans for remedial works to the gardens that would negatively impact her, even though it never showed its plans to her.
- The Home Buyer contends that she has been treated differently to her neighbours in respect of gardens.
- The Home Buyer is also dissatisfied with the Home Builder's after sales service and believes it is in breach of Section 4.1 of the Code.

### **Defence**

- The Home Builder states that the Home Buyer was aware before completion of the purchase that steps would be required in her garden.
- The relevant plans for the change to the Home Buyer's garden were left at her property via her letter box as she was not present to receive them personally
- The Home Builder says it was made clear to all plot owners that its garden proposal was a goodwill gesture and notes that the Home Buyer rejected the proposal and requested a monetary settlement as an alternative. The Home Builder says it refused the request.
- The Home Builder denies being in breach of Section 4.1 of the Code.

### **Findings**

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of the section of the Code as alleged. The adjudicator found that the evidence does not establish that the customer was treated differently from her neighbours or that she should receive a monetary payment in respect of her garden. The adjudicator also found that the evidence does not support the complaint of poor after sales service.

The adjudicator did not find that the Home Builder had breached Section 4.1 of the Code.

### **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer submits that the Home Builder has not resolved various issues at the Property, including shaking floors, a broken truss brace to the garage, missing weep vents, damage to the driveway and other outstanding snagging issues.

Additionally, the Home Buyer claims that there was a lack of customer service, trespassing by site staff and a lack of consideration to persons living on the site.

## **Defence**

The Home Builder has been liaising with the Customer directly regarding the outstanding issues with the Property. They provided a record of the previously completed works and the outstanding works with a proposed timetable for completion. As the proposed works schedule has been discussed with the Customer directly, the Home Builder strongly advised that if there are any outstanding issues that are not included on the works schedule, they are brought to the attention of the Customer Services team separately to ensure that they are recorded and actioned.

## **Findings**

The parties accept that the Home Buyer was aware that the development was still under construction at the point of completion; However, the Home Builder has not demonstrated that it informed the Home Buyer of the health and safety precautions that should be taken. As a result, I find the Home Builder to be in breach of section 4.2 of the Code.

The Home Buyer has submitted multiple photographs and reports of works being carried out at times of the week which are too early or not appropriate for an inhabited site. While works and disruption are inevitable, the Home Builder has not provided an appropriate response to the Home Buyer's complaint; an appropriate remedy to which would have been to have discussed mitigating measures and committing to ensuring works would start and finish at appropriate times. Additionally, the Home Builder has not appeared to have provided a response to the Home Buyer's complaint that a van was damaged due to herras fencing falling on it. As a result, I find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer for the breaches of sections 4.2 and 5.1 of the Code, and provide an explanation as to why the breach of these sections occurred.

Additionally, the Home Builder was directed to take practical action in providing a reasonable remedy to the issues of site operatives working at inappropriate times and trespassing on the Property; and to the issue of damage to the Home Buyer's van due to falling herras fencing.



### **Complaint**

The Home Buyers stated that they were entitled to return of the Reservation Fee of £2,000.00 paid by them, without any deductions.

### **Defence**

The Home Builder denied liability, on the basis that they are entitled under the Code to recover costs incurred by them amounting to £2,460.00, which exceeds the amount of the Reservation Fee.

### **Findings**

The adjudicator found that the Home Builder had provided evidence that they had incurred costs of £1,910.00 which they were entitled to retain out of the Reservation Fee. The adjudicator was not satisfied on the balance of probabilities that the balance of the costs claimed by the Home Builder had been incurred or were recoverable.

This adjudication was pursuant to the Good Practice Guidance for Home Builders, which indicates that the Home Buyer may challenge excessive deductions from the reservation fee.

### **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay the Home Buyers the balance of the Reservation Fee, amounting to £90.00.

## **Complaint**

The Home Buyer submits that the car parking space that accompanies the Property is not fit for purpose, as it cannot be maneuvered into. Agents of the Home Builder have agreed that this cannot be done. There is an overflowing bin store that further obstructs entry. He cannot always access the back gate with his wheelchair due to other residents parking too closely, and so must use the front door. Visitor parking is not appropriate. He lost rental income due to problems with the Property. He has experienced significant inconvenience and distress. He has complained to the company about his parking space, but the issue has not been resolved.

The Home Buyer's comments on the Home Builder's Defence are that he signed documentation including a parking space with a 1.2m disabled bay and a 1.2m pathway to the back gate. This design was subsequently changed. He agrees that the parking bay is the correct size, but it is nonetheless very difficult to enter. His intention was always to rent out the Property, and on 16 November 2020 an agent visited the Property to commence the rental process. She stated that it was not possible given the condition of the Property.

The Home Buyer sought that the Home Builder resolve problems with the car parking space and access to the Property, and pay compensation for lost rent.

## **Defence**

The Home Builder submits that the Home Buyer's parking space is the widest in the parking area and is over 1m longer than it needs to be. There is also 5m behind his space to allow him to reverse into it, giving a total of 6m, rather than the standard 5.5m.

The Home Buyer moved into the Property after completion on 28 August 2020. Snagging issues were raised and these were dealt with within the limitations imposed by COVID-19. The first notification the Home Builder received of this issue was a letter from the Home Buyer's solicitor on 26 March 2021.

## **Findings**

The adjudicator found that although the Home Builder breached Section 5.1 of the Code through its delay in providing a good faith explanation to the Home Buyer why it could not take measures to ensure the Home Buyer could access his rear gate with his wheelchair on a consistent basis, it fulfilled this obligation through its comments on the Proposed Decision in this case. As a result, no additional remedy was required.

## **Decision**

The claim succeeded, but no additional remedy was required.

## **Complaint**

The Home Buyer submits that a number of issues were reported to the Home Builder; namely: marks to the work surface, which has returned after initially being reported on 3 Jan 2020; the back gate is missing a lock, despite being promised the same; and the back lawn being uneven with lots of dips. Finally the Home Buyer asserts that she would prefer a different thermostat.

## **Defence**

The Home Builder submits that there is no record of marks to the work surface made at handover; there is no gate present on the transfer on the rear boundary; that the lawn issues fall within normal homeowner maintenance. The Home Builder avers that the thermostat has been installed as per the brochure specification.

## **Findings**

The adjudicator found that while the original email did not promise a lock in addition to fitting the gate, the Home Buyer did notify the Home Builder of her expectation that a lock be fitted at the time of the gate fitting. While this was not responded to at the time, I find it to have been a reasonable expectation for the gate to be secure. The Home Builder avers that bolt locks have been fitted; however, I do not find this to be an appropriate remedy to the notification that the gate was without a lock. As a result, I find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to fit a suitable security lock in compliance with the relevant security standards.

## **Complaint**

The Home Buyer submits that the Home Builder breached section 7.4 of the Code as it failed to direct her to the Code. While reference is made to section 7.4, this is not a section of the Code; however, I do find the claim to relate to section 1.2 of the Code, which relates to “making the Code available”. Additionally, the Home Buyer submits that the Home Builder breached section 7.1 (which I am satisfied should be section 5.1) of the Code due to the way the complaints in relation to the lawn, brickwork, and security fence were handled.

## **Defence**

The Home Builder submits that it has provided appropriate responses to the Home Buyer's complaints, such that it does not propose any further action. Additionally that the Home Buyer was provided with information on the Code and the complaints process as part of the Homecare brochure.

## **Findings**

Section 1.2 includes an important time consideration in that “all Home Buyers who reserve a Home should be provided with a copy of the Code Scheme with the Reservation agreement”. It is not clear from the information provided that this was complied with at the time of reservation. As a result, I find the Home Builder to be in breach of section 1.2 of the Code

The adjudicator was persuaded by the comments of the landscaper in that the patches were probably caused by dog urine. I also find on a balance of probabilities that since the relaying of the new lawn, the grass was not adequately maintained, which is the Home Buyer's responsibility. As a result, I find the Home Builder's position in not taking any further action to be an appropriate remedy in the circumstances.

The Home Builder responded to the complaint by contacting the brick manufacturer for information, which was relayed to the Home Buyer. The manufacturer provided a response which confirmed that “during the manufacturing process, we introduce to the surface of the brick, a measure of fine vitreous aggregate prior to firing. During the firing process in kiln these aggregates vitrify and form random black, almost glazed markings in the face of the brick. These random markings are characteristic of the product and they are present on the face by design, therefore they should in no way be interpreted as a defect”.

The Home Buyer raised the issue of a fence, positioned behind the garden fence of the Property. The parties accept that this fence does not form part of the Property demise. Therefore, it is outside of my remit to consider this issue and I dismiss this part of the claim.

## **Decision**

The claim succeeded. The Home builder was directed to apologise to the Home Buyer for the breach of section 2.1.

## **Complaint**

The Home Buyer submits that the Home Builder removed a fence panel and damaged other panels, and has refused to remedy the situation. Snags remain unresolved, including air bricks being too low. The Home Builder has taken too long to perform required works. The Home Builder has not responded appropriately to complaints. The quality of remedial works provided and of customer service have been poor.

The Home Buyer's comments on the Home Builder's Defence are that the shortened notice period was not his request, and he has not received a promised payment. The Home Builder has offered to replace the fence panel with one that is the same design as the current replacement, which does not match the rest of the fence. He reiterates that the roof line is not straight. The air bricks have not been installed correctly. The Home Builder has not provided final responses or resolutions.

The Home Buyer requested that the Home Builder apologise and explain; complete the snagging list; and pay compensation of £15,000.00.

## **Defence**

The Home Builder submits that a fence panel was replaced at the request of a neighbour due to a defect. The Home Builder has offered to replace the panel again, but this has been declined, as the Home Buyer wishes for a new fence to be erected around the garden. The panel will weather to match the other panels. The Home Builder remains willing to undertake the offered replacement. The Home Builder inspected a post with a slight bow, but concluded that there was no defect. The roof line was inspected and no defect was found. Airbricks were inspected, but no defect has been found. Many of the items in the Home Buyer's snagging list are not the Home Builder's responsibility, as they are not valid defects. The Home Builder has been transparent with the Home Buyer regarding which items in the snagging list are and are not the Home Builder's responsibility. A home demonstration was not possible due to the shortened notice period requested by the Home Buyer.

The Home Builder denies that it has breached the Code.

## **Findings**

The adjudicator found that Home Builder breached Section 5.1 of the Code by failing to resolve the Home Buyer's complaints regarding certain items within an appropriate time.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to straighten the dry verge on the roof, as identified in the snagging report, and to replace the non-matching panel in the fence with a matching panel or replace the fencing panels along the entire fence with matching panels.

## **Complaint**

The Home Buyer submits that the fence is too close to the driveway, and does not allow sufficient space to maneuver vehicles. An agent of the Home Builder investigated and agreed that the fence should be moved by 50-60cm, but was subsequently overruled. When purchasing the Property she specifically asked about the driveways available on other properties, and was told they would be the same as that of the Property. Two properties elsewhere in the development have a larger space between their driveway and the corresponding fence. At the moment the driveway cannot be used as a three car driveway. The Home Builder's response to her complaint has been poor.

The Home Buyer requested that the Home Builder provide an explanation and move the metal fence beside the driveway.

## **Defence**

The Home Builder submits that the driveway and fence have been constructed in accordance with specification, as supplied to the Home Buyer prior to purchase. There is a turning head at the top of the driveway to facilitate maneuvering. It has responded appropriately to the Home Buyer's complaint.

## **Findings**

The adjudicator found that the Home Builder had not breached the Code.

## **Decision**

The claim did not succeed.

## Complaint

The Home Buyers submit that the Home Builder has breached the 'Drainage' section of the Consumer Code for Home Builders, as follows:

- The Home Buyers assert that the breach was caused because 'Pipe work above (was) not designed appropriately therefore creating an ongoing noise issue that is detrimental to the quality of living and sale on value.'

The Home Buyers sought:

- Either: Further work to be carried out by the Home Builder if another viable solution can be provided to resolve the upper floor drainage noise, such as more sound proofing or insulation.
- Or: The Home Builder to compensate the Home Buyers for the 'financial impact of this on future resale of the property.'

## Defence

The Home Builder submits that 'we do not believe that we have breached any sections of the Consumer Code' and they give the following key reasons:

- 'The 'works carried out have exceed the requirements under the NHBC.'
- 'The property achieved Building Regulations Certificate of Completion on 1st February 2022.'
- 'Section 5 of the customers Consumer Code Claim states the section of code breached as drainage, which we do not recognise as a valid section within the Consumer Code.'
- 'There has been no evidence provided of any significant reduction in the sale value of the property.'

## Findings

The adjudicator found that:

- The Home Builder has not breached any of the requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyers are not sufficient to justify the practical action or compensation sought.

## Decision

The claim did not succeed. No remedies were awarded.

## **Complaint**

The Home Buyer submits that there are numerous defects which the Home Builder failed to rectify, purportedly stating that “they are unwilling to rectify any further defects”. Additionally, that the defect period did not match the Premier Guarantee dates which meant that he could not seek support from Premier Guarantee due to the time limitation.

## **Defence**

The Home Builder has not submitted a defence, nor has it commented on the Application. It is however, within my remit to consider the Application in the absence of the defence, which I propose to do.

## **Findings**

The adjudicator did not find it to have been demonstrated that the Home Buyer was provided with “accurate and reliable information about the insurance-backed warranty” As a result, a breach of section 2.3 was established. While it is outside of my remit to decide on any of the issues of the defects raised by the Home Buyer, the Home Builder has not explained how it dealt with the complaint, nor provided evidence of any appropriate remedy and has chosen not to submit a defence. Therefore, I do not find the Home Builder to have complied with the requirements under section 5.1 and to therefore be in breach of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to explain why the breach of 2.3 occurred and to apologise for the breach of the Code. While I make no direction in relation to the defects in themselves, I direct the Home Builder to apologise for this breach and explain why this breach of the Code occurred. The Home Buyer is claiming £5,000.00 for distress and inconvenience. Rule 5.7.5 of the CCHBIDRS Rules, permits me to make awards of up to £500.00 for inconvenience. Therefore, I make an award of £500.00 for inconvenience suffered as a result of the breach of the Code.



## **Complaint**

The Home Buyer complained that the Home Builder pushed the date for completion of the Property back repeatedly, at the last possible moment and gave her inaccurate updates about progress. The Home Buyer argued that the Home Builder was thus in breach of section 3.2 of the Code, because it did not provide her with reliable and realistic information about the date for completion of the Property.

She also argued that the Home Builder was in breach of section 1.4 of the Code, concluding that the Home Builder's staff was not properly trained because if they had been, they would have recognised sooner that the date for completion was going to be pushed back and would have told her about this. The Home Buyer claimed that she had suffered loss as a result, because she had lost a mortgage offer and had to take out a mortgage on more expensive terms. She also had to pay an additional fee of £499 to the mortgage broker, which the broker had waived for the first mortgage offer.

## **Defence**

The Home Builder denied that there was a breach of the Code. It said that it gave the Home Buyer a three-month completion window in the reservation agreement, and provided her with regular updates and that these were given in good faith and were as accurate as possible.

The Home Builder also said that it does have a detailed and varied program of training for its staff, including online training on the Code.

Finally, the Home Builder said that the Home Buyer had not shown that any breach of the Code has caused any financial loss. It said that a difference between the estimated costs of two mortgage offers is a result of the unavoidable delays to the construction of the Property, which are an accepted occurrence on new build properties, and not a result of any breach of the Code.

## **Findings**

The adjudicator found that the Home Builder failed in its duty under section 3.2 of the Code to provide the Home Buyer with reliable and realistic estimates of the date for completion of the Property. On several occasions it informed the Home Buyer that it needed to push back the date for completion on less than a month's notice. While the Home Builder did, on some occasions, give reasons for the delay (for example, materials shortages), the adjudicator did not consider that it gave any proper explanation for why the delay could not have been communicated to the Home Buyer on an earlier date.

However, the adjudicator did not consider that the documents evidenced that the Home Builder has failed to properly train its staff in breach of section 1.4 of the Code.

Regarding the compensation claimed, the adjudicator noted that the Home Builder's breach of the Code was not the fact that completion of the Property was delayed – rather, it was the failure on the part of the Home Builder to keep the Home Buyer properly informed about the delays. The adjudicator therefore did not award the Home Buyer compensation for the difference in terms between her first mortgage offer and her second mortgage offer, because this is a loss that she would have suffered even if the Home Builder had complied with its duty to keep her updated. However, the Home Buyer also claimed the sum of £499 charged by her mortgage broker by way of application fee. The adjudicator found that this was a loss that was caused by the breach as it is reasonable to suppose that the Home Buyer would have been able to negotiate a waiver of this fee if the Home Builder had complied with its duty to provide the Home Buyer with accurate information about the date for completion of the Property. The adjudicator thus awarded the sum of £499 as compensation for loss suffered as a result of its breach of section 3.2 of the Code.

### **Decision**

The claim succeeded in part. The adjudicator thus awarded the sum of £499.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 2.1 and 2.6 because the parking space at the Property is not usable due to a structure adjacent to the parking space which prevents him from opening his car door. The Home Builder also breached Code Section 5.1 because of a lack of ownership of his complaint, and there are several outstanding issues at the Property including incomplete rendering and flooring works.

## **Defence**

The Home Builder submitted that the parking space provided was built in line with the planning permission secured from the Council. Enforcement officers had attended the Property to inspect the parking space, but no concerns were raised. It made a goodwill offer in respect of the parking space, but it is not able to implement its offer without the agreement of other home owners affected by the parking issue and those home owners have not provided their consent to its proposed works.

## **Findings**

The Adjudicator found that the remedies the Home Buyer sought as a remedy for the parking issue could not be awarded under the Code and the Rules of the Scheme. This was because the claim for compensation was effectively a claim for the diminution of the value of the Property and such a claim is excluded from the scope of the Code. Further, a direction for the Home Builder to carry out remedial works on the parking space could not be made due to the apparent impact on third party property rights. However, the Home Builder breached Code Section 2.1, because it did not inform the Home Buyer about the structure adjacent to the parking space and accordingly the Home Buyer had not been provided with sufficient pre-purchase information about the parking arrangement at the Property. The Home Builder also breached Code Section 5.1, because it had agreed to send correspondence regarding the parking space but it did not send the correspondence within a reasonable period of time which contributed to the delay in resolving the complaint.

## **Decision**

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

## **Complaint**

The Home Buyer says that the dropped ceiling did not reflect the Home Builder's marketing or sales information, and once this and the snagging issues were raised, the Home Builder provided poor customer service, all of which led to considerable disruption and stress. In doing so, the Home Builder has breached sections 1.5 and 5.1 of the Consumer Code for Home Builders

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The ceiling height has been fitted as per design and specification. The outstanding snagging issues raised at the Home Builder's last visit in March 2022, outside of the 2-year warranty period, have been attended to, and the works have been duly signed off as completed by the Home Buyer's tenant. The Home Buyer has sub-let the Property to two different tenants, and some of the reported snagging issues are down to wear and tear. There are two outstanding items relating to the glazing and the patio slab that the Home Builder has offered appointments for, and it is waiting to receive confirmation from the Home Buyer that these appointments can go ahead.

## **Findings**

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

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and pay £15,000.00 compensation for the distress and disruption incurred and to rectify the remaining issues with the Property.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because its after-sales service was inadequate; it failed to address issues she raised during the warranty period; it has not rectified issues at the Property including poorly installed flooring and incorrectly installed windows; and it did not provide her details of its complaints process.

## **Defence**

The Home Builder submitted that it commissioned a number of reports and arranged many inspections by relevant sub-contractors to identify and resolve the issues with the latest report being commissioned in October 2022. As a result, all the issues raised have been resolved apart from two items that are ongoing. It is in continued communication with the Home Buyer to resolve the two outstanding issues. At Reservation, it provided the Home Buyer details of its complaints process.

## **Findings**

The Adjudicator found that the claims concerning outstanding works such as poorly installed flooring concern snags, defects and poor workmanship which fall outside the scope of the Scheme and could not be adjudicated upon. The evidence did not show that the Home Builder's after-sales service was inaccessible as the Home Builder had generally engaged with the Home Buyer's correspondence after the sale of the Property.

However, the Home Builder breached Code Section 5.1 because it had not provided dates or timescales which it kept to in completing matters the Home Buyer reported, neither was there evidence of proactive contact providing information such as updates, as a result of which the Home Buyer had to contact it a number of times to secure progression of the matters reported.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer a written apology for the inconvenience it caused her, and pay the Home Buyer £150.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submitted that the Home Builder had failed to fulfil its obligations under the Code with respect to the Property. The Home Buyer argued that the Home Builder had breached Sections 1.1, 1.2, 1.4, 1.5, 2.1, 2.3, 3.4, 4.1, 4.2, 5.1 and 5.2 of the Code.

The Home Buyer sought that the Home Builder apologise; provide evidence of training; improve the customer experience; remedy outstanding health and safety issues; take specified practical actions; and pay total compensation of £8,252.00.

## **Defence**

The Home Builder denied breaching the Code.

## **Findings**

The adjudicator found that the Home Builder breached Sections 1.1, 1.2, 1.5, and 4.1 of the Code.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to apologise to the Home Buyer for its breaches of the Code; attend the Property and remedy the items identified in the section of the Home Buyer's complaint titled "Incorrectly Laid Floor"; and pay the Home Buyer compensation of £200.00.

## **Complaint**

The Home Buyer submits that there are scratches to the inside of the glass panes to the windows in the front study room and the small porch at the back of the house. The Home Buyer claims that the Home Builder has failed to adequately look into this issue or take any positive action to resolve it as it was not reported within 72 hours of moving in; thereby breaching sections 4.1 and 5.1 of the Code.

Additionally, the Home Buyer submits that the Home Builder has breached sections 4.1 and 5.1 of the Code as it has not addressed a pressure issue with the shower, nor notified the Home Buyer of how the dispute could be resolved.

## **Defence**

The Home Builder submits that the issues of defects are outside of the scope of the scheme and that the Home Buyer has evidenced that which is being claimed. However, the claim is defended with the assertion that the Home Buyer was provided with “site contact details” at the point of reservation; the New Home and Warranty document has been provided to the Home Buyer; and that any reports of defects must be reported within 72 hours of legal completion, but that customer care details were provided in the “caring for your new home” guide. Additionally, the Home Builder avers that it complied with its complaints policy at all times, by promptly addressing the issues raised.

## **Findings**

Section 4.1 does not time restrict the after-sale service to 72 hours and expressly states that the Home Builder should “explain that you are responsible for remedying relevant defects arising under the Home Warranty two-year defect period”. Therefore, while the Home Buyer has signed the New Home Tour and Warranty document, I do not find this condition to be within the spirit of the Code, nor comply with the express requirement of providing an accessible after-sale service. Consequently, I find the Home Builder to be in breach of section 4.1 of the Code. I do make any findings in relation to the defects, or the reporting or response to the same.

## **Decision**

The claim succeeded. The home builder was directed to apologise to the Home Buyer for the breach of section 4.1 of the Code and explain why this breach of the Code occurred.

## **Complaint**

The Home Buyer's claim is that the Home Builder has breached a requirement of the Code at Sections 4.1 because there has been no resolution reached for plastering and repainting and resultant to the Home Builder's refusal to employ alternative plasterers to carry out the remedial work required and 5.1 because the Home Builder has not resolved the complaint.

## **Defence**

The Home Builder's position is that it disputes both claims made by the Home Buyer and says no formal complaint has ever been made concerning the plastering and a solution was offered. However, the Home Buyer has stopped the resolution proceeding and that from reservation to completion a full legal process was followed and documented correctly with no false promises having been made.

## **Findings**

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

The Adjudicator also found that the Home Builder has breached a requirement of Section 5.1 of the Code, by not having a sufficient system and procedure for receiving, handling and resolving Home Buyers' service calls and complaints.

## **Decision**

The claim succeeded in part.

The Adjudicator directed that the Home Builder shall carry out the plasterboard ceiling repairs, the replastering of all ceilings, with all walls needing to be sanded and filled and decoration to all walls and ceilings at the property using a suitably qualified contractor such as the third-party contractor that provided the Home Builder with the scope of work required that was identified within the Home Builder's email dated 18 January 2022 (and not the original contractor given the issues that exist between the Home Buyer and the original contractor) and provide the Home Buyer with an apology.

The Adjudicator further directed that in the alternative the Home Builder shall pay to the Home Buyer the amount of £7,480.00 to cover the cost of the re-plastering and decoration required based on the quotations provided within the Home Buyer's claim.

The Adjudicator also directed that it would be appropriate for the Home Builder to provide the Home Buyer with an apology and I therefore find that an authorised representative of the company provide the buyer with a formal written apology for the stress and inconvenience caused.



## **Complaint**

The Home Buyer submitted that upon moving into the Property, she reported to the Home Builder that one of the landing walls was wider at the top than the bottom, apparently because the door frame had been placed incorrectly. She was initially told that this would be easy to resolve, but after examination the Home Builder concluded that it would be necessary to re-build the entire wall. She pursued her complaint and the Home Builder ultimately agreed to have the plasterer address the misalignment.

However, this worsened the problem. The Home Builder refused to undertake further work to resolve the issue. She was not accurately informed of the limitations of the NHBC policy on the Property. She argued that the Home Builder had breached Sections 2.3 and 4.1 of the Code.

The Home Buyer requested that the Home Builder fit the door frame correctly.

## **Defence**

The Home Builder submitted that the Property had been built in accordance with the contract. Issues relating to the quality of the build of the Property fall outside the scope of the Scheme. The Home Buyer was provided with the information required by Section 2.3 of the Code. In the Reservation Agreement the Home Buyer confirmed receiving this information.

The Home Builder had responded to the Home Buyer's complaint and had examined the issue. It had concluded that it is not required to carry out any further works. Work was performed on the wall as a goodwill gesture, but the Home Builder had been consistent that no work was actually required.

## **Findings**

The adjudicator found that the Home Builder breached Section 5.1 of the Code by failing to resolve the Home Buyer's complaint within an appropriate time.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder either resolve the unevenness of the wall, or provide the Home Buyer with a properly costed evaluation of the cost of this remedy, providing a good faith written explanation why this cost justified not providing the remedy.

### **Complaint**

The Home Buyers submitted that at the point of sale they were told that a duct would be installed from inside the garage to inside the fuse board to enable connection of electricity to the garage. They declined to pay for cabling to be installed through the duct, as they could do that themselves. During the home demonstration the Home Builder's agent stated that the duct had not been put in, but confirmed that it would be installed by the date of completion. The work was not completed.

The Home Builder agreed to redo the front and side gardens, as they are dangerous and extremely uneven, but this work has not been completed. The rear garden was agreed to be rotavated, but this has not been done. A lamppost was placed on the side garden without permission. The Home Builder agreed to relocate it, but had now refused to do so. Render at the front of the Property was poor. A complaint was raised to the Home Builder, but the render was only painted, leaving the problem unresolved.

They argued that the Home Builder had breached Sections 2.1, 2.2, 4.1 and 5.1 of the Code.

The Home Buyers requested that the Home Builder remove the lamp post; install the duct correctly; bring the front, side and rear gardens to a safe and level standard; apologise; and pay compensation of £15,000.00

### **Defence**

The Home Builder submitted that although it had originally agreed to relocate the lamppost, the work could not be completed. It had now confirmed that the lamppost was in the correct location, and so it would not be moved. No evidence of an agreement with the customer regarding a duct had been produced. As the lamppost and fence repositioning were not completed, work on the front and side gardens would not be completed. The Home Builder had no evidence that the rear garden was not rotavated. The rendering on the Property was inspected by the NHBC on 20 June 2022 and confirmed to be within tolerance.

### **Findings**

The adjudicator found that the Home Builder breached Section 2.1 of the Code by failing to provide accurate pre-purchase information on the location of the lamppost.

The Home Builder breached Section 5.1 of the Code by failing to resolve within an appropriate period of time the Home Buyer's complaints about the lamppost, the electric cabling duct, the gardens, and the render on the Property.

### **Decision**

The claim succeeded. The adjudicator directed the Home Builder to install the duct in accordance with the verbal agreement; to level the front and side gardens; to rotavate the rear garden; to repair or replace the render on the front of the Property; to apologise to the Home Buyers for its breaches of the Code; and to pay the Home Buyers compensation of £500.00.

## Complaint

The Home Buyer submits that the Home Builder has breached sections 2.1 and 5.1 of the Consumer Code for Home Builders, as follows:

- The Home Buyer asserts that the section 2.1 breach was caused because the Home Builder 'should have notified (the) consumer of (a) change of appearance' relating to the sloping garden and that 'if there is advanced knowledge that the garden is substandard in terms of slopes and gradients this should be explicitly explained.'
- The Home Buyer asserts that the section 5.1 breach was caused because the Home Builder should have investigated under the complaints procedure and then explained the situation and put things right.

The Home Buyer sought:

- The Home Builder to investigate and resolve the issue with the sloping garden.

## Defence

The Home Builder submits that it has not breached the Code for the following key reasons:

- A plan showing the sloping garden was included in the reservation pack and was explained to the Home Buyer.
- The procedures for receiving and handling complaints were handed to the Home Buyer with the reservation pack and have been followed.

## Findings

The adjudicator found that:

- The Home Builder has not breached any of the requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyer are not sufficient to justify the practical action sought.

## Decision

The claim did not succeed. The adjudicator directed that:

- no remedies were awarded.

### **Complaint**

The Home Buyer says the Home Builder breached the Code by not informing the Home Buyer that the garden was contaminated by arsenic before purchase and failed to provide good customer service when dealing with a complaint concerning adequate drainage within the Property's garden.

### **Defence**

The Home Builders' position is that it has not breached any section of the Code. At the time of reservation, it was unaware of any contamination and if asked would answer to the full extent of its knowledge and recommend that the Home Buyer highlight the issue with their solicitors to pursue the matter further. The Home Builder is currently awaiting quotations for the drainage issue with the Home Buyer's garden and once received the Home Builder will take the appropriate action. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

### **Findings**

The claim does not succeed.

### **Decision**

The reasons given by the Home Buyer are insufficient to justify that the Home Builder to fix the garden drainage issues and pay compensation for the distress and inconvenience.

### **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide good customer and after-sales service when dealing with a complaint about not providing a fridge in the kitchen, the Property's doorbell and the sealant surrounding the property's bath.

### **Defence**

The Home Builder did not provide a response.

### **Findings**

The Home Builder has breached Clauses 4.1 and 5.1 of the Consumer Code for Home Builders.

### **Decision**

The reasons given by the Home Buyer are sufficient to justify the Home Builder pay the Home Buyer the sum of £200.00.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Section 1.5 of the Consumer Code for Home Builders, as follows:

- The Home Buyer was 'led to believe, during (the) property inspection, that internal extractor fans would include humidistat function. Later (after sale) (the Home Builder) confirmed in writing as being specified for the property but confirmation subsequently retracted.'

The Home Buyer submits that the Home Builder has breached Section 5.1 of the Consumer Code for Home Builders, as follows:

- There is 'unsatisfactory resolution by builder and warranty holder (NHBC) for (the) flooring movement issue.' This includes 'no accurate movement measurements taken' and 'insufficient investigation performed.'
- There is 'unsatisfactory resolution by builder' over the colour and specification of the brick header courses above the windows and doors.

## **Defence**

The Home Builder does not deny the breaches in its responses but instead proposes further tests and remedial works to establish and resolve the alleged defects.

## **Findings**

The adjudicator found that:

- The Home Builder has breached the requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyer are sufficient to justify the remedies awarded.

## **Decision**

The claim succeeded.

The adjudicator directed that the Home Builder:

- Takes the necessary measurements to determine whether the floor movement is acceptable or not.
- Provides the original window / door brick header course specification and determines if the bricks installed are correct in material and colour.

## **Complaint**

The Home Buyer's claim is that the Home Builder has breached a requirement of the Consumer Code for Home Builders ("the Code") at Section 4.1 and that the Home Builder has failed to honour its commitment to provide a one-year warranty for any tree planted by the Home Builder.

## **Defence**

The Home Builder's position is that the application is outside the scope of the Code, that the application is out of time, that by the time the tree was reported the tree warranty had already expired, that a competent landscaper instructed by the Home Builder has advised the tree is alive and that it is for the Home Buyer to maintain and care for the tree, and that the Home is subject to a Covenant requiring the Home Buyer to replace the tree in the event that it dies.

## **Findings**

The Adjudicator was unable to find that the application falls outside of the scope of the Code. However, the Adjudicator was unable to find that the Home Builder has breached a requirement of Section 4.1 of the Code.

The Adjudicator was unable to find that the tree is dead, dying, or indeed that the tree is unhealthy and / or substandard, in a manner that further maintenance and pruning would not rectify and was also unable to find that the Home Builder has any responsibility for maintenance or for providing any replacement tree required.

Thus, since the Adjudicator decided that he was unable to find that the Home Builder has breached a requirement of Section 4.1 of the Code, and was therefore unable to find that Home Buyer is entitled to the relief sought or any relief.

## **Decision**

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

The reasons given by the Home Buyer are not sufficient to justify the Home Builder taking some practical action to plant a new suitable tree in the coming planting season or alternatively if the Home Builder fails to do so, then the Home Builder reimbursing the Home Buyer's costs in buying a new tree and getting someone to plant it in the next planting season.

Therefore, the Adjudicator decided and directed that no further action is therefore required of the Home Builder.

## **Complaint**

The Home Buyer submits that it reported issues of snagging, poor workmanship and snag management to the Home Builder; specifically, the issue of the toilet seat not working properly and the time taken to address this. Additionally, the issue of drainage to the rear garden and the Home Builder's refusal to rectify this defect.

The Home Buyer has expressly stated that the Home Builder has a poor after-sale service due to its failure to fix remaining snags outlined above; and that it has poor complaints handling due to the failure to address the complaints in full and refusal to fix the two snags.

## **Defence**

The Home Builder submits that it has rectified the issue with the toilet seat and that any snagging issues have been attended to within the appropriate timeframe. Additionally the Home Builder avers that the garden is constructed to NHBC standards and no remedial action is required.

## **Findings**

The adjudicator found that While there was a presence of defects at the Property post completion, the pertinent requirement under this section of the Code is for the aftercare service to be accessible. In consideration of the communications between the parties, I am persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service. Furthermore, the emails between the Home Buyer and warranty provider demonstrate that the Home Buyer was aware NHBC was the provider. In further consideration of my remit, in relation to deciding on defects, I do not find there to be any breach of section 4.1 of the Code.

Home Buyer's Application details this part of the claim as being due to the Home Builder not having a system in place to handle complaints.

While the Home Builder has acknowledged this part of the claim, it has not provided any evidence in response to the Home Buyer's submission to demonstrate that it has a system in place to handle complaints. In the absence of this clarification I find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer and provide an explanation as to why the breach occurred. Additionally, the Home Builder was directed to pay £200.00 for inconvenience.



## **Complaint**

The Home Buyer says that the Home Builder was in breach of the Code as it failed to ensure that the doors and skirting were not damaged by its tradesman and that the built-in wardrobes were installed in the locations as shown on the Home Builder's website and show home.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The Home Buyer has made full use of the Home Builder's after-sale service, and the Home Builder thoroughly investigated the Home Buyer's alleged defects with the doors and skirtings and fixed any issues raised..

## **Findings**

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

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder explain the reasons why the built-in wardrobes were not located as requested and pay £5,000.00 for the repairs required to the Property's doors and skirtings

## **Complaint**

The Home Buyer stated that the size of the back garden was reduced by two metres, there is a dangerous tilting fence in a nearby land, there is an open rail fence in the back garden instead of a close board fence, and there is inadequate insulation and soundproofing at the Property.

## **Defence**

The Home Builder submitted that the property was constructed in accordance with the plans and there was no short fall in the size of the garden. The Property was built in accordance with planning permission, Building Regulations and NHBC technical requirements. It disputed the claim that the installation and soundproofing at the Property are inadequate.

## **Findings**

The Adjudicator found that the Home Buyer's complaints concerning snags, defects and poor workmanship fell outside the scope of the Code could not be adjudicated upon. The Home Buyer had also complained about items situated on third party land and complained about a boundary fence shared with a neighbouring property. The Adjudicator could not adjudicate on matters that affect the rights of third parties who are not party to the complaint. The evidence did not show that there had been a misrepresentation of the garden size, neither that there had been an alteration in the size of the garden.

The Adjudicator did not find a breach of Code Section 3.1 on the evidence. There was also a reasonable level of engagement from the Home Builder, and there was no evident breach of Code Sections 4.1 and 5.1.

## **Decision**

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

### **Complaint**

The Home Buyer's claim is that the Home Builder has breached section 5 of the Consumer Code for Home Builders (the "Code") by failing to resolve complaints relating to the toilet pans, trees and topsoil in a reasonable period

### **Defence**

The Home Builder accepts the trees are to be replaced and denies liability for the issues relating to toilet pans and topsoil. The Home Builder has offered financial settlements to the Home Buyer in respect of all three issues.

### **Findings**

The adjudicator found that the issues complained of had been acknowledged by the Home Builder although a settlement had not been agreed. The Home Builder made financial offers supporting with quotations for remedial works to be carried out. The adjudicator found that the total value of remedial works exceeded the cap under the rules of these proceedings and therefore awarded the maximum amount available.

### **Decision**

The claim succeeds and the Home Builder is required to pay the Home Buyer £15,000.

## **Complaint**

1. The Home Buyer submits that the Home Builder has breached the Code as:
  - It provided poor customer service aftersales
  - Home contents were missing
  - There were health and safety issues on the development
  - Sales and advertising was untruthful
  - The timing of construction and handover was late
  - Complaints were not handled correctly.

## **Defence**

The Home Builders denied any breach of the Code and relied on its disclaimer in its pre-sales material.

## **Findings**

The adjudicator found that the Home builder breached sections 1.5 and 2.1 of the Code as the advertised boiler was not fitted. in the absence of any evidence to demonstrate the training received by the individuals or departments responsible for these areas, I find the Home Builder to be in breach of section 1.4 of the Code

## **Decision**

The claim succeeded. The adjudicator determined that the Home Builder pay the sum of £500.00 and explain why the breach of section 1.5 occurred; provide an apology for the breach of section 2.1; and apologise for the breach of section 1.4. Additionally, they directed the Home Builder to pay £200.00 to the Home Buyer for inconvenience.

### **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 1.5 and 2.1 because it did not inform him at the pre-purchase stage that it was coming to construct car ports at the rear of the Property.

### **Defence**

The Home Builder submitted that it informed the Home Buyer at the reservation stage and prior to legal completion, that structures would be erected at the back of the Property. The planning application for the car ports were available for inspection, and the title documentation for the Property shows the location of a structure at the rear of the Property. This ought to have been apparent to the Home Buyer's solicitor before legal completion.

### **Findings**

The Adjudicator found that the Home Builder breached Code Section 1.5, because the sales brochure did not clearly show the intention to erect a structure at the rear of the Property. However, the Home Builder did not breach Code Section 2.1, because the plans provided sufficient information about the general layout and appearance and plot position, and the Home Buyer had sufficient information upon which to carry out his investigations and raise enquiries. The publicly available planning documentation also confirmed that approval had been given for the erection of carports at the rear of the Property. On the whole, an apology was reasonable and proportionate for the breach of Code Section 1.5.

### **Decision**

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

## **Complaint**

The Home Buyer submits that there is a retaining wall which has been built in front of the garage, which is not in accordance with the plans. As a result, the Home Buyer asserts that the Property boundary is in the wrong place. Additionally, the Home Buyer submits that no edging has been laid along the driveway boundary.

The Home Buyer is therefore requesting that the Home Builder reconstruct the retaining wall in the correct position, as shown on the plans; for the Home Builder to lay a “solid edging” along the length of the driveway; and move the fence to the correct position on the boundary.

## **Defence**

The Home Builder submits that its legal advisers and an independent structural engineer have confirmed that the wall and fence have been placed in the correct position along the boundary. However, as a gesture of goodwill, the Home Builder offered to add edging to the driveway, so that the boundary followed a straight line.

## **Findings**

The adjudicator found the boundary issue to be out of scope but found that the home builder did not engage with the surveyor appointed by the home buyer and therefore breached section 5.2.

## Complaint

The Home Buyer submits that there are a number of unresolved issues with the Property; namely:

- A foreign residue on tiles;
- Delays to the carport completion (2.1); a concrete floor to the carport, instead of block paving (2.2); the carport remains poorly finished and that the lights and power were installed to a poor standard (2.3); the Home Buyer's power supply has been used by the Home Builder's contractors and tools and materials have been left behind (2.4)
- Offering compensation for various issues and not honouring the agreement (2.5)
- No working coaxial port/LAN connection to watch live TV (3.1)
- Unclear sales material regarding the internet provider (3.2)
- The Home Buyer has included a section of the submission called "further ongoing issues". These issues all relate to defects at the Property.

## Defence

The Home Builder submits that it has it is yet to issue its final response and so the Home Buyer's application cannot yet be considered by the Scheme. Additionally, that the majority of the claim relates to snagging and therefore falls out of the scope of the Code.

## Findings

The Home Builder accepts that incorrect information was provided in relation to the inclusion of lighting in the garage. I am therefore, persuaded that this did constitute a breach of section 1.5 of the Code. I direct the Home Builder to reoffer the £75.00 to the Home Buyer.

The Home Builder accepts that the Home Buyer was misinformed about the lighting which was to be included in the carport. A refund of £75.00 – which equates to the cost of the wall lights has been offered and addressed in the previous section. As a result, I find the Home Builder to be in breach of section 2.1 of the Code and I direct the Home Builder to pay £100.00 for inconvenience under Rule 5.7.5. I do not find there to be sufficient evidence to demonstrate that the Home Builder's contractors used the power supply.

The Home Builder was not found to have demonstrated that it provided reliable and realistic information on when construction would finish. Consequently, I find the Home Builder to be in breach of section 3.2 of the Code and I direct the Home Builder to apologise for this breach. I also direct the Home Builder to pay £100.00 for inconvenience.

## Decision

The claim succeeded. The adjudicator determined the Home Builder was to reoffer the £75.00 to the Home Buyer; pay £450.00 for inconvenience; and apologise for the breach of section 3.2 of the Code.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because it delayed in rectifying snagging issues at the Property and its complaints process was lacking in clarity and resolution.

## **Defence**

The Home Builder submitted that at the reservation stage, it provided the Home Buyer information about its after-sales service, it attended all appointments and kept the Home Buyer updated on progress of the works at the Property. It accepted that it had taken too long to address the Home Buyer's concerns and it apologised to the Home Buyer for the disruption caused. It followed the complaints process with regular contact with the Home Buyer, additional works have been undertaken for the Home Buyer, and a fair and reasonable offer of compensation of £400.00 was made.

## **Findings**

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

The Home Builder breached Code Section 5.1 because the evidence indicated that the Home Builder was reactive in its approach, responding to individual issues when followed up by the Home Buyer rather than providing a comprehensive response on all the items with a clear plan of action.

The Home Builder did not resolve the Home Buyer's complaint within a reasonable period of time. The Adjudicator considered that the Home Builder's offer of £400.00 reasonable in the circumstances.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to investigate the Home Buyer's complaint regarding outstanding works at the Property, and provide the Home Buyer with a written response setting out a timeframe for resolving the outstanding works.



## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 1.1 and 1.3, because it discriminated against her on the grounds of her disability. She believed that it did not want to sell the Property to her because of her disability.

## **Defence**

The Home Builder disputed the claim. It submitted that it was cautious, professional, considerate and considered the Home Buyer's needs at all times. It engaged in correspondence with the Home builder are assuring her of its intention to proceed with the sale and confirming that it had not withdrawn from the sale. It proceeded with the sale in good faith without completed contract documents and it removed the Property from sales from 21 April 2022 to 18 November 2022.

## **Findings**

The Adjudicator found that the that the Home Buyer's complaints concerning discrimination fell outside the scope of the Scheme and could not be adjudicated upon. The evidence did not show that the Home Builder treated the Home Buyer unfairly or failed to take her needs into account. The Home Builder informed the Home Buyer severally that it had not withdrawn the sale and it was committed to proceeding with the sale. It made reasonable attempts to assure the Home Buyer that it did not intend to enforce the reservation expiry date set out in the reservation agreement.

## **Decision**

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

## **Complaint**

The Home Buyer submits that the Property was reserved at the end of October 2021 and no completion date was ever agreed, but that exchange was “hopefully” going to take place on 12 December 2021. The Home Buyer asserts that she was in a position to exchange on 20 December 2021, which was accepted by the Home Builder; with completion on 4 January 2022, which was not accepted by the Home Builder.

## **Defence**

The Home Builder submits that the reservation agreement stipulated an exchange deadline of 12 December 2021 and that it withdrew from the sale on 28 December 2021 as the deadline was missed.

## **Findings**

I am satisfied that the Home Buyer was not able to exchange by 12 December 2021. However, I have been provided with a copy of an email from the Home Buyer’s solicitor from 22 December 2021. This was sent to the Home Builder’s solicitor and confirmed that the Home Buyer was “still willing able to exchange today, with completion in January 2022”.

While the Home Builder may have allowed an extension to the exchange deadline, it was within its rights to rely on the deadline stipulated in the Reservation Agreement. Once this deadline passed, the reservation automatically expired.

The parties accept that a new sale was agreed with an additional £5,000.00 added to the purchase price. While the Home Builder may have agreed to reinstate the sale at the same price, it was not obliged to do so. This new price was agreed to by the Home Buyer, after the original reservation expired. While this was undoubtedly incredibly frustrating for the Home Buyer, I do not find the Home builder to be in breach of the Code, as a result.

## **Decision**

The claim did not succeeded.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 1.5 because it did not inform him about a flooding issue at the rear of the Property, it breached Code Section 2.6 because it entered into a sales agreement with another buyer while the Property was reserved to him, it breached Code Sections 4.1 and 5.1 because it did not resolve the flooding issue and it did not respond to his complaint.

## **Defence**

The Home Builder submitted that the Home Buyer had already accepted compensation from it in full and final settlement of all the issues at the Property, including the issues regarding the rear garden. The photographs it has does not show any ponding in the garden.

## **Findings**

The Adjudicator found that the settlement between the parties related to seeding works in the garden, and did not concern the flooding issues. The evidence did not conclusively show that the Home Builder was aware of a flooding issue at the garden prior to completion. There was no breach of Code Section 1.5 found on the evidence.

There was no breach of Code Sections 2.6 and 4.1 on the evidence, because the Reservation had not been confirmed at the time the Home Builder received an offer for the Property from another buyer. There was, on the whole, a reasonable level engagement from the Home Builder in relation to several after-sales issues the Home Buyer raised.

However, the Home Builder breached Code Section 5.1, because it did not respond to the Home Buyer's complaint about flooding at the rear garden, defective fencing and a sloping patio.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: Pay the Home Buyer £150.00 in compensation for inconvenience; investigate the Home Buyer's complaint regarding flooding in the rear garden, defective fencing and a slope in the patio; and provide a Home Buyer a written response confirming the outcome of its investigation and proposed course of action in respect of the issues raised.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to install a chimney liner so that a wood-burning stove could be installed, despite purchasing a wood-burning stove for the Home Buyer.

## **Defence**

The Home Builder says it has always complied with the requirements of the Code. The chimney has been built for decorative purposes, in accordance with building regulations and signed off accordingly.

During construction, the Home Buyer raised a query about whether the Home Builder could install the lining to the chimney, to which the Home Buyer informed them they would not be able to do this.

It was agreed that the Home Buyer would undertake to fit the fire and related work on the chimney, which would include the installation of a flue liner.

Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issue within a reasonable time period.

## **Findings**

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

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder apologise and pay compensation of £600.00 to install a chimney liner so that a log burner can be installed.

## **Complaint**

The Home Buyer submits that an oil-like substance began to seep from the driveway in particular place and the that Home Builder agreed to inspect and rectify the problem. The Home Builder then dug out and refilled a square patch which was a different colour to the rest of the driveway. The Home Buyer asserts that the Home Builder has not resolved his complaint in relation to this issue.

## **Defence**

The Home Builder accepts that patch to the driveway was a different colour; however, that this would be the case for some time while the areas weather. As a gesture of goodwill the Home Builder has offered to apply black tarmac finish to the whole driveway. However, the Home Builder avers that no breach of section 5.1 has occurred.

## **Findings**

While limited information has been provided to explain the nature or cause of the issue with the affected tarmac, the oil-like substance seeping out does suggest probable a defect either with the material used or the laying of the tarmac itself.

The Home Builder responded by attempting to rectify this defect. While it probably did rectify the issue of the substance, the work left a different problem, which is clearly visible on the photographs provided.

While an issue remains, the core issue was that of a defect and its attempted repair. As a result, the issue is outside of the scope of the Code and therefore this scheme.

In its defence submission, the Home Builder has offered to “apply a black specialist tarmac finish which will colour both new and old to the same colour of black that the driveway was originally”. The Home Buyer has accepted this offer.

## **Decision**

The claim did not succeed. No remedy due; although the Adjudicator felt that the proposed resolution could have come earlier which may have saved the parties the time and trouble of entering into a formal dispute resolution process.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 3.2, 3.3 and 5.1 of the Code. Specifically, in relation to Section 3.2, the Home Buyer submits that they encountered a “*lack of communication when delays have occurred*” and that they had to continue to “*chase for updates*”.

In relation to Section 3.3, the Home Buyer submits that as it has been “*confirmed that [the Home Buyer does] have a right to cancel the contract*”, the Home Buyer submits that “*this should also entitle [them] to seek out of pocket expenses and compensation for the loss of 2 mortgage offers over 2 years and subsequent ill health*”.

In relation to Section 5.1 of the Code, the Home Buyer comments that they “*were provided with an incorrect email address to escalate [the] complaint*” and that when they “*submitted [the] complaint no-one from the company contacted [them] to know what our concerns were*” and that they “*just received their legal reply.*” The Home Buyer submits further that the issues have had a significant impact on them on their household, including in relation to the expiry of the stamp duty holiday, additional rent payments and a need to obtain another mortgage offer (at higher interest rates). The Home Buyer submits further that the issues have had an impact on their “*physical and mental health*” and that of their household..

## Defence

The Home Builder disputes the claim and submits that it did not breach a section of the Code. Specifically, the Home Builder submits that reservation took place in January 2021 and “*Anticipated Legal Completion Date was stated as “Summer 2021”*”. The Home Builder comments further that “*as confirmed in the email evidence provided by the Home Buyer, the site layout was being re-planned at that time and planning approval was awaited.*” When exchange took place in June 2021, the Home Builder commented that by this time “*the Home Buyer had been made aware that issues with ground stability had been identified, resulting in build delays and that foundations for the plot had not yet been laid*”. The Home Builder states further that “*an estimated legal completion date of 17 December 2021 was given*” in the contract, however, “*unfortunately, further problems outside the control of the Home Builder were subsequently encountered with ground movement, which delayed construction well beyond what was originally anticipated*”.

In relation to the claim that the Home Buyer had to chase for updates, the Home Builder “*contend[s] that information regarding changes to anticipated build dates was reliable and realistic at the time it was given and there was no further information to impart in the interim.*”

In relation to Section 3.3, the Home Builder submits that it has “*fully complied with this Section of the Code*” and that the reservations agreement terms “*confirm the Home Buyer’s right to terminate at point 9; the Home Buyer’s evidence includes a copy of the exchanged Contract, which confirms the rights of the Home Buyer to terminate at clause 13*” and “*the letter dated 17 January 2022 responding to the Home Buyer’s formal complaint, also*

*contained with the Home Buyer's evidence, explains at length the reasons why estimated completion timeframes cannot be guaranteed and that the Consumer Code allows for this. That letter goes on to specifically highlight the Home Buyer's right to terminate the Contract and confirms that full cooperation would be given in that regard."*

In relation to customer service/complaint handling and Section 5.1, the Home Builder states that it *"dealt thoroughly with the Home Buyer's complaint that was lodged in December 2021"* and that while it accepts that *"the initial email sent by the Home Buyer on 13 December 2021 was unfortunately not received due to an incorrect email address having been utilised"*, it states that *"when the Home Buyer enquired and resubmitted the complaint three days later, it was acknowledged the same day"*.

The Home Builder states further, in relation to *"an incorrect email address"* being used," that the email it used was the one provided by the customer on the reservation form.

## **Findings**

The adjudicator found that the Home Builder breached Sections 3.2 and 5.1 of the Code.

## **Decision**

The claim succeeded (in part) and the adjudicator awarded £165 for inconvenience caused and required an apology for the breaches identified.

### Complaint

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that the Property has suffered a number of snagging issues, faults and outstanding issues.

In relation to Section 4.1 of the Code, the Home Buyer states that the “*after-sales has been very poor*”, particularly in relation to the French Door and the area to the front of the property.

In relation to Section 5.1 of the Code, the Home Buyer submits that the complaint process “*has been very time-consuming and stressful*” and they have had to send numerous emails and make numerous telephone calls in an effort to try and resolve the issues. The Home Buyer submits further that the issues have caused them significant stress/inconvenience and financial loss and a lawnmower which was damaged by a large stone.

### Defence

The Home Builder’s position is that it denies breaching the Code. Specifically, the Home Builder submits that in relation to the French Door, whilst it acknowledges that the repair failed, it states that it has now agreed to replace the door and this is “*currently in the process of being measured and manufactured.*” In relation to the decor cracking and flaking issues, the Home Builder states that “*all works that were identified at the time* [of the November 2022 visit] *were rectified on 13/01/23 in full*” and in relation to the garden turf, the Home Builder submits that it has been “*agreed the turf [will] be replaced*” and this “*is currently booked in with the homeowner*”. In relation to the fencing, the Home Builder submits that it has also agreed to replace the fencing.

The only listed item outstanding that is disputed is the chair/bench and the Home Builder submits that “*the seat in question was on the drawing no. [number] that the homeowner signed at reservation. .... The seat cannot be removed as it formed part of the planning consent with the Council*”.

The Home Builder states further that it made an offer of £500.00, in addition to agreeing the works (but for the seat/bench) “*as a means of a sorry for the delays*”, however, this offer was not accepted.

### Findings

The adjudicator found that the Home Builder breached Section 5.1 of the Code for not dealing with the complains in a timely manner.

### Decision

The claim succeeded (in part) and the adjudicator awarded £150 inconvenience and £96.97 towards the lawnmower repair.



## **Complaint**

The Home Buyer says the Home Builder provided incorrect pre-purchase information; failed to refund the deposit promptly; and did not pay for the additional costs incurred when the Home Builder was unable to complete the purchase due to the Property not complying with the minimum living space regulations. In doing so the Home Buyer says that the Home Builder breached Clauses 2.1 and 3.4 of the Consumer Code for Home Builders.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. After planning permission had been granted, the council forced the Home Builder to comply with the new minimum living space regulations, and therefore the change in sizing was out of the Home Builder's control. In addition to refunding the main deposit of £10,309.70, the Home Builder has agreed to cover the Home Buyer's legal costs of £1,440.00 and provide a £100.00 goodwill gesture.

## **Findings**

The claim partially succeeds as the home builder failed to comply with the reservation agreement requirements by having a non-refundable agreement contrary to section 2.6 and further, failed to return the deposit in a time manner as required by section 3.4 of the Code.

## **Decision**

The reasons given by the Home Buyer are sufficient to justify that the Home Builder pay £206.19 for the loss of the use of the deposit, the agreed £1,440.00 legal costs and the £100 goodwill gesture.

## **Complaint**

The Home Buyer submits that the Property developed white calcium to the stonework at the front and rear elevations, known also as lime leaching/staining. The Home Buyer asserts that he has managed to remove some of the stains to easily accessible areas but the majority of stains require work in high access areas, which he cannot carry out himself.

## **Defence**

The Home Builder submits that the external brickwork has developed the white substance, but that this is due to efflorescence, not lime leaching. The Home Builder adds that this is a natural occurrence which will fade over time and that it has offered to reinspect the property in 12 months; however, that it is not required to clean efflorescence from brick or stonework, as per NHBC standards.

## **Findings**

The adjudicator found that for the purposes of assessing compliance with section 4.1 of the Code, the Home Builder has demonstrated that it met the requirements of the section by providing appropriate information to the Home Buyer on who to contact, including information on the warranty provider. The Home Buyer has also demonstrated that the service was accessible as it is evident that the communications made by the Home Buyer were responded and that the Home Builder engaged with the process.

While the dispute started earlier than the formal complaints process, the date of the complaint and the date of the response indicate that the Home Builder responded outside of the 30 calendar day time period stipulated in its complaints procedure. While the Code is not prescriptive on timeframes, it does require landlords to respond within 'an appropriate time'. While the delay was not excessive, the Home Buyer points out that this led into the winter months which made any works more complicated.

In its defence, the Home Builder avers that an inspection was not required due to the expert opinions of senior managers who carried out the investigation. While the knowledge and understanding of these issues held by the senior managers may be indisputable, where there are two possible issues with very similar visible symptoms, the Home Builder cannot reasonably conclude on what the staining was without an inspection.

As a result, the adjudicator found the Home Builder not to have dealt with the complaint within an appropriate time or to have provided a reasonable remedy to the complaint and therefore to be in breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer for the breach of section 5.1 and pay £250 for inconvenience.

## **Complaint**

The Home Buyer says the Home Builder was in breach of the Code by failing to provide a legal completion date and not making him aware of delays in the build that would affect the completion date.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. Throughout the reservation period, the Home Buyer was guided through the new build sales process and was given clear instructions, allowing him to make an informed decision. The Home Buyer was also made aware of an estimated build window, which does not guarantee a completion date.

However, the updated completion date is earlier than the extended completion, and the Home Buyer has been kept informed throughout. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The claim does not succeed as the adjudicator was satisfied that the Home Builder was kept informed of the completion date throughout.

## **Decision**

The reasons given by the Home Buyer are insufficient to justify the Home Builder apologise, provide a plan for the completion of the property and pay £15,000.00 for the inconvenience and distress incurred.

## **Complaint**

The Home Buyer submits that the Home Builder's contractor damaged the carpet to the landing and stairs when attending the Property to carry out work. The Home Buyer asserts that the Home Builder has not provided an accessible aftersales service and that it had put up barriers by declining to deal with the issue with its contractors. The Home Buyer adds that the Home Builder has not dealt with the complaint nor followed any complaints procedure.

## **Defence**

The Home Builder submits that it attended the Property following reports of damage, in accordance with its complaints procedure. However, no further action was taken as no damage was visible.

## **Findings**

The adjudicator found that the email correspondence submitted by the parties demonstrates that the Home Buyer was aware of who contact at the Home Builder and the responses demonstrate that the Home Builder was responsive, up to the point of the formal complaint. Therefore, I am persuaded that the Home Builder provided an accessible aftersales service and did comply with this section of the Code.

While the Home Builder gave a response which was final in its position, prior to the formal complaint, it has not demonstrated that it 'dealt with' the complaint through its complaints process. While the Home Builder's position may not have changed, before and after the complaint, the Code requires it demonstrate that it has a procedure and that it was followed in providing a reasonable remedy in an appropriate time. As a result, I find the Home Builder to be in breach of section 5.1 of the Code. I find on a balance of probabilities, that there was some minor marking present to the two areas depicted and that these marks were caused by the Home Builder's contractors following their visit. Consequently, I do not find that the Home Builder dealt with the Home Buyer's complaint, through the response provided.

## **Decision**

The claim succeeded. In consideration of the breach, the adjudicator directed the Home Builder to apologise to the Home Buyer, pay £200 for the damage to the carpet and pay the sum of £250 for inconvenience.

## **Complaint**

The Home Buyer submitted that he contacted the company in February 2020, as his front door was not locking properly and allowed draughts. Although he regularly contacted the Home Builder, the problem was not ultimately resolved until November 2022. In that time the Home Builder had twice attended the Property but brought the wrong door. He ultimately had to find the correct door himself and supply the information to the Home Builder. The Home Buyer sought compensation of £3,000.00 for inconvenience and increased heating bills.

## **Defence**

The Home Builder submits that the Home Buyer made contact on 6 February 2020 to report a draught coming through his front door. The Home Builder's agents attended the Property on 18 February 2020, confirming that the front door was bowed. The Home Builder ordered a replacement door and frame, and were given a timescale of 8 weeks from early March 2020. The door was delivered in May 2020, but was discovered to be damaged, and a replacement was required. A replacement was ordered in February 2021, with a further timescale of 8 weeks. The door was delivered in April 2021, but was found to have incorrect hinges, and a further replacement was required. A replacement was ordered but was again damaged. The Home Buyer's front door was ultimately replaced in October 2022, having arrived in August 2022. The Home Builder apologises to the Home Buyer for any inconvenience caused by the delays, but denies that it has breached the Code.

## **Findings**

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

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay compensation of £500.00 to the Home Buyer for the inconvenience arising from the Home Builder's breach of the Code.

### **Complaint**

The Home Buyer submits that they were marketed the Property - and proceeded to reserve the Property - on the basis that “Help to Buy” was available. Specifically, the Home Buyer submits that the Home Builder advised the Home Buyer that the “low cost” home qualified for Help to Buy and this was, expressly, confirmed in the Reservation Agreement.

Despite this - and despite the Home Buyer committing, financially, to the sale (by, for example, paying the Reservation Fee, the Options Fees, the Solicitors’ Fees and the Mortgage Broker fees), they were subsequently advised that the Property does not qualify for Help to Buy and as a result, the Home Buyer could not proceed with the purchase.

Consequently, the Home Buyer submits that they suffered financial loss and significant stress/inconvenience as a result. The Home Buyer submits further that they suffered illness and injury (including physical and mental injury) as a result and the Home Buyer details the increased cost of a mortgage (due to the rise in interest rates) as examples of the financial losses they sustained.

### **Defence**

The Home Builder’s position is that it disputes the claim. Specifically, whilst the Home Builder acknowledges that Homes England has ruled that Help to Buy is not available for the Property, it submits that it marketed the Property in good faith on the basis that it received “an Authority to Proceed on this sale from Help to Buy [Homes England] on 18th February 2022”.

The Home Builder submits further that it was first made aware “of an issue regarding the eligibility of the plot on the Help to Buy scheme on 15th July 2022” and it “subsequently instructed an external legal team to challenge Homes England’s response, which was submitted on 5<sup>th</sup> August 2022.

The Home Builder states that the Home Buyer was kept updated in the interim and that despite offering an incentive package the Home Buyer was unable to find a mortgage lender who were willing to lend and that as a result, it had “no choice other than to cancel the reservation.

Whilst the Home Builder disputes that it breached a Section of the Code, it submits that it fully refunded the reservation fee and the Options Fee to the Home Buyer and invited the Home Buyer to send all related expense invoices so that these could also be refunded (albeit the Home Builder stated it had no obligation to do so).

### **Findings**

The adjudicator found that the Home Builder breached Sections 1.5 and 2.1 of the Code.

### **Decision**

The claim succeeded and the adjudicator awarded £399 for the refund of solicitor and broker fees and £500 inconvenience.

### Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5 and 3.1 of the Code and that the Home Builder has not “*provided what is advertised on the sales brochures*” and has “*breached the contract*” by not providing “*items that should be included in [the] agreed specification*”.

Specifically, the Home Buyer submits that they paid extra for kitchen wall tiling and an outside tap as options, however, according to the brochure, these items should have been included as “*standard*”.

The Home Buyer further comments that USB charging points are missing from some of the room sockets (e.g. the Dining Room, the Lounge and the Study) and that a “*chrome effect bell switch and...sunder*” was included with the agreed specification, however, none was provided. The Home Buyer comments further that the shaver socket placement is incorrect and has not left sufficient room to “*fit a mirror over the sink*”.

The Home Buyer states further that the issues have caused them inconvenience and “*embarrassment caused by visitors asking questions why some of the things are not included in [the] home while others have [them]*”.

### Defence

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, the Home Builder submits that “*the Sales Material provided is clear*” and that it “*has a disclaimer clearly stating at the bottom that: ‘Please note that as of the 1<sup>st</sup> July 2020 the specification, floorplans and shown dimensions of some of our homes have changed. For further information please speak to our development sales executive’....‘These particulars should be treated as general guidance only and should not be relied upon as statements of fact. We operate a policy of continuous product improvement’*”.

The Home Builder comments that its sales literature confirmed that “*photography is indicative only*” and that the “*amendments tab*” to “*Specification Version 12*” lists the disputed items, including, for example, “*Doorbells removed from all homes...At least 1 socket per floor to incorporate USB...External tap removed from Bronze and Silver Specification houses*”.

The Home Builder comments further that the Home Buyer signed the “*customer plot / site information*” also that the Home Buyer “*also duly signed and acknowledged Customer Plot Information, Part One, that they have understood the specification in the brochure which highlights key elements of the finishing schedule*” and that whilst the Home Buyer did pay extra for the tiling and outside tap, “*these items were not covered in the standard specification*”.

### Findings

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

### Decision

The claim did not succeed.

## **Complaint**

The Home Buyers submitted that damage to the front door was notified to the Home Builder on 21 March 2022, but had still not been rectified. Damage to the threshold strip was noted the same day, with a defect report submitted on 23 April 2022, but had still not been resolved. Missing landscaping at the top of the drive was noted the same day, with a defect report submitted on 23 April 2022, but had still not been resolved. An obstacle preventing the water stop tap being turned was identified the same day, with a defect report submitted 25 July 2022, but had still not been resolved.

The Home Buyer requested that the Home Builder provide a definite timescale for rectifying the specified issues.

## **Defence**

The Home Builder submits that addressing the door and the threshold strip had been delayed while a larger claim was pursued against the door manufacturer. No definite replacement date could yet be provided. Work on the third issue had been commenced, but had been delayed due to inclement weather, and would be resumed when the weather improved. The fourth issue had not previously been reported, but a subcontractor would be sent.

## **Findings**

The adjudicator found that the Home Builder had breached Section 5.1 of the Code by failing to “dealt with” the Home Buyers’ complaints within “an appropriate time”.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to resolve the four issues raised by the Home Buyers in the Application, with all work to be completed within four weeks of the date of the Final Decision in this case.



### **Complaint**

The Home Buyer says the Home Builder breached the Code as the garden size and the location of the fence are different from the pre-purchase information. Furthermore, the Home Builder has not explained why the fence was located incorrectly or how they are going to solve the problem.

### **Defence**

The Home Builder position is that it has carried out an inspection of the fence line and has established that there is an alteration required to the right boundary fence. The Home Builder has spoken with the Home Buyer and the neighbour with whom they share the fence for permission to carry out an alteration of the fence. The neighbour has denied the Home Builder permission to alter the fence and currently the Home Builder's legal team is liaising with both parties' solicitors to check the registered boundaries.

### **Findings**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder move and re-install the right boundary fence and correct the garden size so as to correspondence to the site plan

### **Decision**

The claim does not succeed

## **Complaint**

The Home Buyer says the Home Builder breached the Code by was in breach of the Code as the design drawings shown at the reservation stage did not accurately represent the drainage that has been constructed within the Plot, and in doing so, the Home Builder has breached Clauses 2.6 of the Consumer Code for Home Builders

## **Defence**

The Home Builder says that it has not breached any section of the Code. The dispute falls within the NHBC's resolution scheme for defects or damage, and the Home Builder has agreed to undertake to install drainage in accordance with NHBC standards. Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders.

## **Findings**

Whilst the adjudicator found the Home Builder had breached Clause 1.5 of the Consumer Code for Home Builders, they found that the Home Builder had offered to undertake works to ensure all the pipework is satisfactorily finished and the NHBC technical requirements are met, but was ultimately prevented from doing so by the Home Buyer

## **Decision**

The reasons given by the Home Buyer are not sufficient to justify that the Home Builder be directed to pay £13,178.56 for the Home Buyer's contractor to install drainage in accordance with NHBC standards for its failure to comply with Clause 1.5 of the Code and the Home Builder should have been afforded the opportunity by the Home Buyer to put the matter right.

## **Complaint**

The Home Buyer complained that following a first application in which he succeeded in establishing that land around an area of land should be fenced and that he should be given compensation, he argues has not been adequately compensated for the inconvenience of dealing with the Home Builder and has not been compensated either for a change in the size and shape of the land. This was not addressed in the first adjudication. He says that the land is different from a plan that he was shown pre-purchase.

## **Defence**

The Home Builder says that the plan in question was not shown at the time of reservation as it is not listed in the reservation agreement and would have been a document submitted to the Council for the purpose of obtaining approval for the treatment of the boundaries between the development and a public open space. Correct boundaries were shown via solicitors pre-purchase.

## **Findings**

The adjudicator found that as the document is not referred to in the reservation agreement it is likely that the plan was not shown to the Home Buyer or not shown to him for any formal purpose. As the transfer plan formed part of the agreement for sale and was provided to the Home Buyer's solicitor before contracts were signed, sufficient pre-purchase information had been given. The Home Builder was not in breach of the Code. Moreover, even if there had been a breach of the Code, it would not have been fair and reasonable to award compensation as there had already one decision regarding this land.

## **Decision**

The claim did not succeed

## Complaint

The Home Buyer submits that the Home Builder provided site plans which showed the Southern boundary away from the Southern wall of the Property and “*said nothing*”/did not disclose its “*re-planning where [it was] proposing to sneak in an extra plot*”.

The Home Buyer submits further that the site layout plans were provided “*at the reservation meeting and the reservation check list meeting*” and the “*same site plans*” were provided to the Home Buyer’s solicitors and contracts were exchanged in June 2021. The Home Buyer comments further that the Southern boundary fence was placed 137cm south of the South wall and “*was still there on the home demonstration date [4 November 2021]*”, however, “*13 days before completion*”, on 8 December 2021, “*the fence was moved*” approximately “*145cm northwards*”.

As a result, the Home Buyer states that the size of the plot has been “*reduced substantially*” and that the difference in size of the plot is likely to make “*a large difference*” to its value. The Home Buyer makes further specific allegations in relation to breaches of the Code.

The Home Buyer requests that the Home Builder provide an apology, take a practical action: specifically to “*remove a fence illegally moved/positioned on land legally conveyed...and put it back to the legally contracted position*” and pay the Home Buyer £15,000.00 as compensation.

## Defence

The Home Builder disputes the alleged breaches of the Code. In summary, however, the Home Builder states that the Home Buyer “*has received the plot and property that he reserved and contracted to purchase*” and that “*nothing changed between reservation and legal completion*”.

Whilst the Home Builder acknowledges “*one error on the Home Builder’s part when the Legal Team dealt with the Home Buyer’s post-completion complaint about the boundary, by referring to the site having been “re-planned in January 2021”*”, it submits that this was due to a “*misunderstanding on the part of Group Legal when assisting Customer Services with the complaint*” and the “*site was in fact re-planned late in 2019, all submissions were sent to the Local Authority Planning in 2020*” and it “*was only the approval that was dated January 2021, by which time all the site and other drawings had long been updated in readiness for releasing the next phase of plots for sale. It can be seen on the Planning Portal that the amended site plans were submitted to the Local Authority in June 2020. This is the same layout that was contained in the plans shown to and discussed with the Home Buyer during the reservation process*”.

In summary, the Home Builder states that it believes “*this dispute arose because the Home Buyer attended the construction site when the boundary was in the wrong place. The error was rectified shortly after and by the time the Home Buyer visited the site again, the boundary had been relocated to the correct position*”. The Home Builder comments further that “*there*

*is only an obligation to notify a Home Buyer of changes to information that occurs between exchange of Contracts and legal completion” and that its “policy is to inform of any change occurring after Reservation.”*

The Home Builder submits further that the *“Reservation paperwork discussed with the Home Buyer and the Contract documents provided to his solicitor were extremely clear in the depiction of the extent of the property being sold and the boundary location”*

## **Findings**

The adjudicator found that the Home Builder breached Sections 1.5 and 2.1 as the sales and marketing material was not “*clear*” and that some of the brochures/plans provided to the Home Buyer were not reliable, contrary to the requirements of Section 2.1. The adjudicator also found that Section 5.1 of the Code had been breached due to the duration of the complaint and the absence of a resolution along with the fact that the Home Builder did not always provide a proposed timescale for the resolution of the complaints.

## **Decision**

The claim succeeded (in part) and the adjudicator awarded £350 for inconvenience and an apology.

## Complaint

The Home Buyer submits that no gas safety installation evidence or certificates were provided on the day of completion and “no appliances were unwrapped fully or tested before handover”. The Home Buyer states further that the Home Builder’s “recommended Solicitor did not provide the necessary documentation or certificates for NHBC insurance Cover” and that they have “no confidence these solicitors followed professional standards during this buying process”.

The Home Buyer submits that the Home Builder breached its own complaint handling policy and they reiterate that necessary documentation was not provided on the day of completion.

The Home Buyer states further that the Home Builder was presented with a snagging list (compiled by a professional snagging company and detailing around 200 issues) within seven days of completion they encountered delay and poor after-sales care. The Home Buyer states further that a “wired in” alarm system was detailed in the Property’s specification, however, the Home Builder installed a wireless alarm system instead

In relation to the garden, the Home Buyer submits that “the Turf which [they] had paid £1,800 extra for was for the most part dead or dying” and that whilst there was an “attempt to replace the worst bits”, the turf remains “no better than a patchwork quilt”. The Home Buyer states further that it was “agreed [that the turf] had been incorrectly laid onto compacted heavy clay soil and builders waste material with no preparation of sand/topsoil” and as the Home Builder “could provide no solution, an independent landscaper said if the money was refunded he would provide a different solution for the same price”.

The Home Buyer states further that “Completion Timing was of the essence when discussed at the time of deposit payment”, however, the Home Builder provided “late notification of delayed Completion for beginning of August rather than late June”. The Home Buyer states further that the “delayed completion and subsequent multiple snagging issues forced extended rental agreement from August completion until November move in”.

## Defence

The Home Builder disputes the claim and submits that it did not breach a section of the Code. Specifically, in relation to testing and certificates, the Home Builder submits that “certificates were provided in the handover pack on completion” and that the “Home Demonstration Manual Checklist was signed by the Home Owner to confirm manuals have been received” and the “certificate confirms the fire was checked, tested and signed off prior to completion.” The Home Builder states further that “all appliances were tested for CML and to ensure all are in good working order” and that the “installation report is attached (Appendix 4) which is for our records and not issued to the Home Owner.”

In relation to the completion date, the Home Builder states that the “anticipated completion date was confirmed in writing for the end of June 2022” and upon “Exchange of Contracts, the

anticipated completion date was June 2022 with a long stop date of September 2022 which was confirmed via Solicitors". The Home Builder comments further that legal completion took place on 5 August 2022.

The Home Builder comments further that none of the snagging items raised by the Home Owner or by the professional snagging company would render the property uninhabitable and that the Home Buyer was "already tied in to a rental agreement which they were unable to end until November 2022 confirmed in an email". The Home Builder comments further that it provided regular updates and that "many of the snagging items raised on the professional snag list were completed prior to the Home Owner officially moving in to the property on their chosen date of 19<sup>th</sup> November 2022". Whilst the Home Builder accepts that there was a delay in resolving some of the snagging items, "due to the increased demand [and] limited supply of materials/labour, delays are to be expected."

In relation to the garden turf, the Home Builder submits that it instructed a third-party to carry out a "full assessment" in December 2022 and whilst the Home Builder acknowledges that there was a delay of around 2 months receiving the report, the report and recommendations were sent to the Home Buyer in February 2022. Whilst the Home Builder acknowledges further that the Home Buyer responded to the report, it states that "to date, [it has] not been provided with any reports or quotes from the Home Owners Independent Landscaper to confirm as stated "if the money was refunded, they would provide a solution for the same price"".

In relation to the alarm system, the Home Builder states that it installed a wireless alarm system at the Property, at no additional costs, which, it submits, was an "upgraded product". The Home Builder states further that the contract of sale allows it to "vary" parts of the construction and materials used insofar as the changes do not make the Property "substantially different".

## **Findings**

The adjudicator found that the Home Builder breached sections 4.1 due to the long standing issue in relation to the turf which had not been resolved and 5.1 due to the manner in which the complaints had been handled.

## **Decision**

The claim succeeded (in part) and the adjudicator awarded costs of £1,865 for works to the garden/turf and £150 for inconvenience.

## Complaint

- After purchase, the Home Buyer identified safety concerns in the main bathroom.
- The Home Buyer says a heated towel rail is too close to the toilet bowl and there is a risk of a user being burnt.
- The Home Buyer says a wash-hand basin is too close to the toilet bowl giving a risk of injury.
- The Home Buyer believes, after to speaking with neighbours experiencing the same issues, that he has not received equal treatment from the Home Builder.
- The Home Buyer says that the Home Builder closed his complaint without taking action.
- The Home Buyer has escalated the dispute to CCHB and requests that the Home Builder be directed to relocate both the heated towel rail and wash hand basin, give him an explanation as to why he has been treated differently to other owners, and issue an apology.

## Defence

- The Home Builder says that it has not treated the Home Buyer in a different manner to all its other purchasers.
- The Home Builder is satisfied that the bathroom is in compliance with the information given to the Home Buyer at the point of sale, and therefore the positioning of the towel rail and wash hand basin are not defects.
- The Home Builder notes that the applicable drawings do not show any exact location for the towel rail.
- The Home Builder states that it has an effective after sales service and a functioning complaint handling process, and both were made known to the Home Buyer and it notes he has made use of both services.
- The Home Builder denies being in breach of the Code.

## Findings

The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of sections of the Code as alleged. The adjudicator took note that neither the *Home Demonstration Checklist* nor the *Customer Care 48 Hour Remedial Sheet*, indicated any problems with the location of the bathroom units. The adjudicator also noted that the Home Buyer did not complain of the problems until twenty-one months after taking occupation. The adjudicator did not find that the evidence supported that the Home Buyer had been treated differently to other purchasers, and found that the evidence supplied by the Home Buyer does not establish that his bathroom was not constructed according to the specifications that he understood from the sales literature.

## Decision

The claim does not succeed.



### Complaint

The Home Buyer submits that the Home Builder has breached Sections 2.1 and 4.1 of the Code. Specifically, the Home Buyer submits that before purchasing the Property, they asked the sales team whether the worktops provided as standard were “*suitable for use within a family environment*” and that they were assured that the worktops were appropriate and no option choice/upgrade was required. Despite this, however, the Home Buyer submits that since moving into the Property, they have had “*ongoing issues with [the] worktops failing*”.

Whilst the Home Buyer acknowledges that when they first placed the failing worktop joints on the snagging list, the appointed contractors assessed the damage “*quickly*”, the Home Buyer submits further that thereafter the “*aftercare and response times from [the Home Builder] to arrange the repair and fitment of the replacement worktops has been unacceptable*”. The Home Buyer comments that they are “*currently on [their] fourth replacement worktops*” and that all have failed “*with the same failure*” and within a similar time-frame.

### Defence

The Home Builder’s position is that it denies breaching the Code. Specifically, whilst the Home Builder acknowledges the issue, it submits that “*NHBC’s finding only recommended the [Home Builder] carry out a repair or replace the existing worktop*” and that the worktops “*were, and remain, suitable and fit for purpose.*”

In relation to Section 2.1 of the Code, the Home Builder states that the worktops the Home Buyer chose are standard worktops, however, the Home Buyer “*had access to [portal] where he was able to choose finishing touches including the section of a kitchen worktop, a breakdown of the material of the worktop was provided and the cost*”. The Home Builder comments further that “*upon receiving a third report of an issue*”, the worktops were replaced and taken away for inspection and whilst the Home Buyer, “*wanted an alternative worktop*”, it was “*only prepared to offer a like for like replacement*”. The Home Builder comments further that “*it was a possibility that water was being left at the joints causing them to burst*” and as such, “*an inspection was required to determine the cause as the issue was an isolated incident for the type of worktop at the Property*”, however, the Home Buyer “*refused access and the inspection was unable to take place*”.

The Home Builder submits further that it did not breach Section 4.1 of the Code and the Home Buyer “*confirmed access to the Respondent’s After-Sales Service together and was in receipt of all the relevant documentation. Further, the [the Home Buyer] had knowledge of the...After-Sale Service and had successfully achieved numerous resolutions through the Service representing that the [Home Buyer] knew who to contact and the relevant service the After-Sale Service could provide to him*”.

### Findings

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

### Decision

The claim did not succeed.

## Complaint

The Home Buyer submits that as part of the planning conditions of the development, renewable energy measures were provided to some properties on site. The Home Buyer accepts that in the case of his Property, photovoltaic solar panels were fitted. However, the panels were fitted to the northerly aspect which rendered them ineffective due to the insufficient sunlight in this area. The Home Buyer adds that other properties have panels facing other directions, which is contrary to the Home Builder's argument in relation to persevering "street scenes". The Home Buyer requested that the panels be moved so they can be used as intended.

## Defence

The Home Builder submits:

1. That it received planning permission on the basis that a 15% reduction in energy demand was met across the development.
2. The obligation was met through the installation of PV solar panels.
3. When determining the position of the panels, the expert appointed by the Home Builder gave consideration to the Home Builder's policy that, where possible, panels should be positioned to the rear of the property.
4. The distribution of the 15% reduction was not specified in the planning permission and the expert confirmed the reduction and planning permission was granted.
5. The Home Buyer reserved the Property in October 2021 and would have seen the positioning of the panels when viewing the Property.
6. On 4 November 2022, the Home Buyer requested an explanation on the positioning of the panels.
7. The matter was escalated to the complaints handling department on 16 November 2022, then to the technical director on 25 November 2022 who attended the Property on 2 December 2022.
8. The technical director proposed that it would grant permission for the Home Builder to move the panels to the south facing side of the property.
9. The Home Buyer rejected the proposal.
10. The panels are effective on the northerly aspect and were only fitted to comply with planning permission requirements.

## Findings

The adjudicator found that while the issue of the panels was in dispute after completion, the requirement under this section of the Code is to provide an accessible after sales service. While the issue remained in dispute after the contact between the parties, the Home Builder has demonstrated that it did provide an after sales service and that this service, was made accessible to the Home Buyer. Therefore, in consideration of the pertinent requirements under this section of the Code, the adjudicator did not find the Home Builder to have breached section 4.1.

While it is reasonable to conclude that the positioning of the panel is not best placed to work efficiently and while this is clearly frustrating, the Home Builder is not obliged to move them based solely on this fact. Therefore, while the remedy proposed by the Home Builder was not accepted, it was an appropriate remedy in the circumstances and it was provided within an appropriate timeframe. Consequently, I do not find the Home Builder to be in breach of section 5.1 of the Code.

## **Decision**

The claim does not succeed.

## Complaint

The Home Buyer submits:

- a) that he viewed a show home which had a number of differences with the Home that was built which were not communicated during the process; namely:
  - i. There was boxing above the cupboards in the kitchen and utility room in the show home, but not in the Home.
  - ii. A mini sink was fitted to the downstairs toilet, with a regular size sink fitted to the show home.
  - iii. There was a “full door surround” to the downstairs toilet in the show home; however, the room dimensions in the Home were different so the door surround had been cut short.
  - iv. The kitchen supplier was changed, with limited information provided and a four burner hob supplied when a five burner was paid for.
  - v. An property on an different site had single garage doors, as did a neighboring property. However, he said he was informed that he could not have one due to planning restrictions.
- b) That completion did not take place until the end of April 2021 when mid-February was advised.
- c) There is no after sales service. The Home Builder initially apologised and attempted to resolve defects but then ignored the Home Buyer.
- d) There is no complaints procedure. The Home Builder referred the Home Buyer to the Code for resolution.
- e) There are a large number of unresolved defects at the Property.

## Defence

The Home Builder has not submitted a defence or commented on the Application; however, it is aware of the Application and this process. The Rules of this Scheme permit the adjudicator to address the claims in the absence of a defence.

## Findings

The adjudicator found that where the home builder had failed to follow a working drawing or implement something which was promised, this constituted a breach of the code. It was not sufficient to rely on the show home alone. The Home Builder was found to be in breach of section 3.2 for the delays to completion. A breach of 5.1 was found due to a lack of provision of a complaints process.

## Decision

The claim succeeded. The Home Builder is to:

1. Replace the hob with a suitable five burner alternative. This must not be of a lower quality and the cost of which must be proportionate to the burner provided. The extractor hood must also be compatible with the new hob.
2. Replace the bathroom sink and door surround, so that they are reflected accurately by the drawing provided.
3. Explain what it said to the Home Buyer prior to completion in relation to the garage door, kitchen units and door casing. It must expand on the explanation in relation to the garage and say why it told the Home Buyer what it did.
4. Apologise for the breach of sections 2.1, 3.2, 5.1 and 1.1 of the Code.

## **Complaint**

The Home Buyer claims that the Home Builder was in breach of Clauses 5.1 and 5.2 of the Code by failing to provide good customer service when dealing with a complaint concerning the tarmac outside front of the Property. The Home Buyer is seeking the Home Builder to retarmac the outside front of the Property.

## **Defence**

The Home Builder submits that it has not breached any section of the Code. The Home Builder's contractor has inspected the tarmac and is of the view that the damage caused is due to "*dry- steering*" when the Home Buyer has been parking her car.

Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issue within a reasonable period. Accordingly, the Home Builder does not consider any breach and that it has complied with the Consumer Code for Home Builders.

## **Findings**

The adjudicator found that outstanding works and alleged defective works such as the degraded tarmac do not fall within the scope of the Code and they were unable to make any determination on the Home Builders' liability for such. However, the adjudicator could determine whether the Home Builder breached the Code by providing poor customer service and after-sales service when dealing with this complaint.

Clause 5.1 of the Code requires the Home Buyer's issues to be promptly addressed within a reasonable time, and such timescales can vary and depend upon the nature of the issues raised and the work involved. The adjudicator found the evidence showed that the Home Builder was in dialogue with the Home Buyer throughout the dispute and was persuaded that the Home Builder responded within a reasonable time frame to the Home Buyer's inquiries concerning the defects with the tarmac. The Home Buyer's issues had been and continued to be addressed by the Home Builder and as such, the adjudicator found the Home Builder had a system and procedures in place for receiving and handling service calls and complaints.

Further the adjudicator was satisfied that the Home Builder had cooperated with any professional trades as necessary to resolve any valid issues, and that there was no breach of section 5.2.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that the Property sustained a leak the day after moving in. The Home Buyer asserts that the leak was due to “poor plumbing” and a loose connection under the kitchen sink, causing significant damage to the Property and his possessions. The Home Buyer claims that the Home Builder has breached section 4.1 of the Code due to the delay in receiving a response to the reports of the issue. Additionally, that there has been a breach of section 5.1 as the Home Builder has suggested that the leak was due to the Home Buyer not isolating an outdoor tap and has therefore delayed in resolving the resultant damage.

## **Defence**

The Home Builder submits that it was notified of the leak by the Home Buyer on 15 December 2022 and attended immediately to isolate the leak “which appeared to have come from the Home Buyer’s failure to isolate the external tap in extreme cold”. The Home Builder adds that the responders helped the Home Buyer move possessions to the first floor and “were on hand as required”. The Home Builder states that its customer care manager met the Home Buyer on 20 December 2022 and arranged for the flooring to be replaced. Additionally, new wardrobes, turf and slabs were offered as goodwill gestures.

## **Findings**

While it is evident that the Home Builder did engage with the Home Buyer in person, during this period, the Home Buyer clearly had questions he needed answering. The delay in providing the response does indicate a lack of accessibility of the service. The Home Builder cannot comply with the Code while being selective with regards to the nature of the interactions it has with the Home Buyer, nor can it be selective with which parts of the issues raised it engages with. I therefore find the Home Builder to be in breach of section 4.1 of the Code. While the parties have engaged since the report of the leak, the time period that has passed has not seen the raising of a formal complaint by the Home Buyer. Therefore while the parties have disputed the cause of the issue the communication has, to the point of the Application, been prior to the internal complaints process. Therefore, I do not find the Home Builder to be in breach of section 5.1 of the Code, in relation to its complaints process.

## **Decision**

The claim succeeded. The Home Builder was directed to apologise to the Home Buyer and pay £300 for inconvenience, as a result for breach of 4.1 of the Code.

## **Complaint**

- The Home Builder excavated on adjacent land and the Home Buyer became concerned and retained both a solicitor and structural engineer to evaluate the impact on her property.
- The Home Buyer understood at the time of reservation that the property would have a garage included but she has only been provided with a carport.
- The Home Buyer says that the Home Builder has failed to rectify all defects included on her snagging list.
- The Home Buyer is also dissatisfied with the Home Builder's pre-purchase information and after-sales service and believes it is in breach of Sections 2.1 and 4.1 of the Code.

## **Defence**

- The Home Builder states that the excavation works were fully designed by engineers and completed in compliance with the approved design.
- The Home Buyer was aware before completion of the purchase that her property would have a carport and not a garage.
- The Home Builder says, in respect of the snagging list, that it confirms that the four major items of concern have been examined, and three number will be actioned with one item left in its current state as requested by the Home Buyer.
- The Home Builder denies to pay the compensation requested.

## **Findings**

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of the sections of the Code as alleged. The adjudicator found that the evidence shows that the Home Buyer decided to retain a solicitor and structural engineer without any prior agreement from the Home Builder to refund the costs thereof. The adjudicator also found that the evidence does not establish that the Home Buyer at the point of sale reasonably understood that a garage would be provided as part of her property purchase. The adjudicator did not find that the Home Builder had breached Sections of the Code.

## **Decision**

The claim does not succeed.



## **Complaint**

The Home Buyer submitted that heavy machinery used the driveway shortly after it was completed. Completion of the driveway was rushed and it was not done to an appropriate standard. The driveway was functional, but visually unacceptable. Grit from the driveway had spread throughout the Property, including inside the house and cars. The Home Builder initially responded to his complaints, but failed to provide an adequate resolution, despite the Home Builder's agents agreeing that the driveway was not as it should be. He had experienced substantial inconvenience and distress addressing his complaint to the Home Builder. He argued that the Home Builder had breached Section 5.1 of the Code.

The Home Buyer sought compensation of £15,000.00.

## **Defence**

The Home Builder submitted that it had repeatedly addressed the Home Buyer's complaint since it was first raised, attending the Property several times to complete remedial work. However, the customer was insistent on receiving a completely new driveway. The NHBC had concluded that no further work was required. Gaps and loose gravel between the bricks were part of the design, to facilitate drainage.

## **Findings**

The adjudicator found that there was insufficient evidence to justify a conclusion that the Home Builder could not reasonably have concluded in good faith that it was not obligated to undertake the additional work requested by the Home Buyer. As a result, it could not be found to have breached Section 5.1 of the Code.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyers submitted that an incorrect hob was installed in the Property. An incorrect oven/microwave configuration had also been installed, but the Home Builder fixed this. The brochure they had been given specified that an induction hob would be provided, but a ceramic hob was installed. Other errors were also made with the options form. The Home Builder says that the specification for the Property had changed, but this was never communicated to them, and other properties in the development completed after the Property have had induction hobs installed as standard. The understairs cupboard was installed over a month after completion. They had experienced poor customer service. They argued that the Home Builder had breached Sections 1.5, 2.1 and 3.2 of the Code.

The Home Buyer requested that the Home Builder apologise; replace the ceramic hob with an induction hob or pay the cost of an induction hob or refund the cost of induction pots and pans purchased; and refund the cost of the bespoke cupboard

## **Defence**

The Home Builder submitted that the Home Buyers were notified by email that the under-stair unit would not be installed prior to completion, but they did not wish to delay completion. It was installed shortly after completion, earlier than stated by the Home Buyers. Extra shelving and a hanging rail were added to the unit at no extra cost as a gesture of goodwill. The Home Buyers selected their options at a meeting on 22 May 2022. The brochure submitted by the Home Buyers alongside their claim were out of date and differed from the correct brochure with respect to kitchen choices. Supporting evidence supplied by the Home Buyers related to a different property.

The Home Builder denied providing poor customer service. The Home Builder denied breaching the Code.

## **Findings**

The adjudicator found that the Home Builder breached Section 1.5 of the Code through avoidable ambiguity in its sales activity, and Section 2.1 of the Code by failing to notify the Home Buyers that the specification for the hob in the kitchen had changed.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay compensation of £277.75 as the cost of induction cookware that was no longer required due to the change in specification of the hob.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because it did not rectify defects at the Property to a satisfactory standard and it rectified only one minor defect.

## **Defence**

The Home Builder submitted that it carried out remedial works to some brickwork that were substandard. An LABC Surveyor and the brickwork manufacturer investigated the brickwork and no issues were found.

## **Findings**

The Adjudicator found that the Home Buyer's complaint about the brickwork concerned alleged poor workmanship, snags and defects at the Property, which fall outside the scope of the Scheme and could not be adjudicated upon. However, the Adjudicator could consider the accessibility of the Home Builder's after-sales service and the manner in which the Home Builder dealt with the Home Buyer's complaint.

The correspondence between the parties indicated that the Home Buyer was able to access the Home Builder's after-sales service, having reported issues after the sale of the Property which the Home Builder acknowledged and addressed satisfactorily. The correspondence showed that the Home Builder carried out reasonable steps to resolve the Home Buyer's complaint, including arranging the relevant manufacturers to investigate the issues reported, arranging contractors to rectify issues that were found, and engaging in a reasonable level of correspondence with the Home Buyer.

There was no breach of Code Sections 4.1 and 5.1 found on the evidence.

## **Decision**

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

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because it did complete works it promised it would carry out at the Property, extras he paid for were not installed properly, the slanted driveway at the Property has caused three members of his family to hurt themselves, and it did not deal with his complaint properly.

## **Defence**

The Home Builder submitted that it provided the Home Buyer with comprehensive after-sales information at the Reservation stage. In relation to Code Section 5.1, snags fall outside the remit of the Code. It engaged in extensive correspondence with the Home Buyer, and it was attentive to the Home Buyer's complaints and queries. The bulk of the Home Buyer's complaint relates to defects at the Property and it has rectified all legitimate defects.

## **Findings**

The Adjudicator found that the Home Buyer had complained about snags at the Property. Complaints about snags fall outside the scope of the Scheme and could not be adjudicated upon. Complaints about personal injury also fall outside the scope of the Scheme and could not be adjudicated upon. The evidence did not show that the Home Builder's after-sales service was inaccessible. The correspondence between the parties indicated that the Home Buyer was able to access the Home Builder's after-sales service, having reported issues after the sale of the Property which the Home Builder acknowledged and addressed satisfactorily.

The correspondence showed that the Home Builder carried out reasonable steps to resolve the Home Buyer's complaints, including arranging for remedial works to be carried out, engaging in a reasonable level of correspondence with the Home Buyer, and setting out its responses to his complaints with sufficient detail and clarity to enable the Home Buyer understand its position in relation to the issues. On this basis, there was no breach of Code Sections 4.1 and 5.1

## **Decision**

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

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1 because it poorly installed [specialist] flooring at the Property and it did not properly investigate her complaint about this issue.

## **Defence**

The Home Builder submitted that it had carried out remedial works to the floor to address the Home Buyer's concerns. The flooring concerns were investigated by LABC who concluded that there was no issue with the floor and the floor was within the LABC tolerances.

It responded to all the Home Buyer's correspondence and complaints, and it considered the evidence she provided it with. An investigation carried out by [specialist] flooring did not find any issues, and following the [specialist] investigation, it arranged for a contractor to make good the relevant areas.

## **Findings**

The Adjudicator found that the Home Buyer's complaint that the [specialist] flooring was installed properly concerned alleged poor workmanship, snags and defects at the Property, which fall outside the scope of the Scheme and could not be adjudicated upon.

The correspondence between the parties indicated that the Home Buyer had the necessary information of who to contact at the Home Builder after the sale of the Property, and the evidence did not indicate a failing in respect of the provision of contact and guarantees/warranties information.

There was no breach of Code Section 4.1 found on the evidence.

The Home Builder dealt with the Home Buyer's complaint in a reasonable manner and there was no breach of Code Section 5.1 on the evidence.

## **Decision**

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

## **Complaint**

The Home Buyer submitted that he visited the development on 11 March 2022. On 17 March 2022 he paid a reservation fee of £1,000.00 to reserve the Property. On 18 March 2022, the Home Builder confirmed that the reservation fee had been received. On 21 March 2022, the Home Buyer's solicitor received substantial documentation from the Home Builder, including a Reservation Form backdated to 15 March 2022 and stating that the Home Builder could retain the entire reservation fee if a contract to purchase the Property was not concluded.

He did not sign this form. He decided to proceed with purchasing the Property, but was told by the Home Builder that it had now been reserved by another party. The Home Builder has refused to return the reservation fee and had stopped responding. He argued that the Home Builder has breached Sections 1.3, 1.4, 2.1, 2.3, 2.6, 3.4 and 5.1 of the Code.

The Home Buyer sought the return of the £1,000.00 reservation fee.

## **Defence**

The Home Builder chose not to submit a Defence.

## **Findings**

The adjudicator found that the Home Builder breached the Code by failing to provide a reservation agreement guaranteeing the reimbursement of the reservation fee, less acceptable deductions, if the reservation agreement was cancelled in breach of section 2.6 of the Code.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to pay the customer a refund of the reservation fee of £1,000.00.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 2.1 because during the sales process, it informed him that it would be possible to install a tumble dryer in the utility area, but he subsequently discovered that it was not possible. The Home Builder also breached Code Section 4.1 because its after sales communication with him was poor.

## **Defence**

The Home Builder submitted that it had already started works to enable the space to be used for a tumble dryer.

## **Findings**

The Adjudicator found that the evidence did not show that the Home builder's after sales service was inaccessible and there was no breach of code section 4.1 on the evidence.

However, the Home Builder breached Code Section 2.1 because the information the Home Builder provided the Home Buyer about the option of installing a dryer in the utility area was not reliable and was therefore insufficient.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to make reasonable endeavours to ensure that a dryer can be installed in the utility area, in accordance with the representation it made to the Home Buyer.

## **Complaint**

The Home Buyer submits that upon carrying out some cleaning, they noticed that a front window and window frame were damaged. The Home Buyer submits that they believe that the damage was either pre-existing and missed on inspection (as there were numerous other snagging issues to consider) or that the damage has been caused by passing lorries/wagons owned by the Home Builder. The Home Buyer comments further that the road outside is unfinished and as a result, when lorries/wagons pass, it leaves the Property “vulnerable to flying debris”.

The Home Buyer states further that they reported the damage on the day they noticed it, however, the Home Builder has not taken responsibility for the damage. The Home Buyer comments further that numerous snagging issues were present upon moving in to the Property and that they have encountered difficulty getting the issues rectified due to a “non-existent” after-sales experience and poor customer service/complaint handling.

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, the Home Builder disputes that it caused the damage to the window and it further disputes that it is responsible for its repair.

The Home Builder comments further that it advised the Home Buyer “upon Legal Completion that all cosmetic snagging items need to be reported to the CRM in writing within the first 7 days and that any cosmetic damages raised out of this period would not be accepted”. Consequently, the Home Builder comments further that it “does not accept responsibility for the scratched windowpane and damaged window frame, as this was first reported to the Home Builder out of this 7 day period on 21st September 2021”.

In relation to general after-sales care and Section 4.1 of the Code, the Home Builder submits that “snagging items raised by the [the Home Buyer] were acknowledged and attended to within a timely manner” and that it does not accept that breached Section 5.1 of the Code relating to complaint handling as the Home Buyer “has never submitted a formal complaint with the Home Builder, therefore [it] cannot be held in breach of this”.

## **Findings**

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

## **Decision**

The claim did not succeed.



### **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 5.1 because it did not address his complaint about outstanding works at the Property and his complaint that extras/modifications agreed with the Home Builder were not installed at the Property.

### **Defence**

The Home Builder submitted that it had resolved the snagging issues the Home Buyer complained about and it had informed the Home Buyer to refer defects to the warranty provider.

### **Findings**

The Adjudicator found that the claims concerning snags and defects fell outside the scope of the Scheme and could not be adjudicated upon. While the Adjudicator could not direct the Home Builder to carry out snagging works or pay the Home Buyer compensation in respect of snagging works, the Home Builder breached Code Section 5.1 because it did not respond to the Home Buyer's complaints that plumbing works at the Property were outstanding and extras/modifications agreed had not been installed.

### **Decision**

The claim succeeded in part, and the Adjudicator directed the Home Builder to investigate the Home Buyer's unresolved complaints and provide the Home Buyer with a response detailing the outcome of its investigation.

## Complaint

The Home Buyer submits that:

- a. The Home Builder removed a planting strip from the side of the driveway without consulting them first.
- b. Steps were added to the garden due to the levels being out.
- c. The 'personnel door' was set into place without consultation.
- d. The stairs were not safe.
- e. There was a crack in the shower tray and the enamel was coming away in the bath.
- f. There was missing sealant to the bath and shower.
- g. There was mould present to various areas, which a cleaner has not prevented from coming back.
- h. Numerous other snags have not been completed

## Defence

The Home Builder submits that:

- i. It provided the Home Buyer with information around the planting strip.
- j. The garden has been "constructed in line with the approved scheme and building regulations" and the drawings for the Property.
- k. The personnel door was provided as an extra along with the steps to accommodate the difference in levels between the driveway and rear garden.
- l. "The top of string has been removed and carpet replaced" in December 2022.
- m. The defects relating to the bath and shower were rectified in October 2022.
- n. The 'mastic man' has been refused access on numerous occasions.
- o. A survey recommended that the Home Buyer maintain good ventilation and managed temperatures to control the mould..

## Findings

The adjudicator found that it is not disputed that the planting strip was intended to be placed outside of the Home Buyer's plot and along its boundary. It therefore did not form part of the Property and so the Home Buyer cannot enforce any rights against this land;

The adjudicator did not find that the garden should be flat, as suggested by the Home Buyer, but was not persuaded by the Home Builder's statement that the levels of the garden have been implemented as per the plan. Consequently, the adjudicator found the Home Builder to be in breach of section 2.1 of the Code.

The personnel door alteration, which was paid for, was not detailed on the original plans, the Home Builder should have consulted with the Home Buyer to ensure that they understood where the door would be located. By not doing so, the Home Builder breached section 2.1 of the Code.

The Home Builder has acted reasonably in appointing a surveyor to inspect the Property and report on its findings. However, the Home Builder has selected the finding which related to temperature control and ventilation, and appears to disregard the rest. While the adjudicator made no finding in this regard, they found the Home Builder has taken the time to commission a survey and it should consider its conclusions and findings more carefully.

## **Decision**

The claim succeeded. The Home Builder was directed to:

- Commission an independent survey on the levels of the garden. Should the survey report that the levels in the garden are different from that recorded in plan, the Home Builder should then complete remedial works to achieve the levels stated on the plan. The survey must have been completed within four weeks of the date of the final decision. Any remedial work must be completed within four weeks thereafter. For avoidance of doubt, should the report find the levels in the garden to reflect that of the plans, as stated by the Home Builder, then no work is required.
- Pay the sum of £400.00 for inconvenience as a result of the breaches of sections 2.1 and 4.1 of the Code.
- Formally apologise to the Home Buyer for the breaches of the Code.

## **Complaint**

The Home Buyer complained that he paid £1,400.00 for an upgraded kitchen but when he took possession of the Home the quality of the upgrade had not been supplied. It was not fit for purpose, badly fitted, not safe and operated defectively. He said that the kitchen drawers in particular did not close and then would close suddenly, and his wife's finger had been injured. He says that the manufacturer agrees with this. He argued that the Home Builder was in breach of section 5.2 of the Code.

## **Defence**

The Home Builder said that it had responded to the Home Buyer's complaint and provided after-sales services in relation to all of the issues affecting the kitchen. The remaining matter was in respect of the kitchen drawers. The Home Builder said that these were correctly installed and would become less stiff with use. This was normal and the manufacturer had visited and confirmed that these are satisfactory. The Home Builder denied breach of the Code.

## **Findings**

The adjudicator found that the only remaining issue related to the kitchen drawers. She found that there was no evidence that the Home Builder had not cooperated with a professional adviser appointed by the Home Buyer. There was no evidence of a professional adviser. The manufacturer had not been appointed for this purpose and there was no persuasive evidence that the manufacturer thought that the drawers were unsatisfactory. The Home Builder had submitted evidence to the contrary and the manufacturer had not provided evidence to support the Home Buyer's position.

The adjudicator also considered whether the Home Builder had been in breach of sections 4.1 and 5.1 of the Code, but found that the actions of the Home Builder in repairing the other issues were consistent with this. In relation to the kitchen drawers, the Home Builder had concluded that this was not a snagging matter. As this was a genuine view formed after investigation, including having involved the manufacturer, there was no breach of sections 4.1 or 5.1.

## **Decision**

The claim did not succeed

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 2.1 and 4.1. The Home Buyer stated that instead of installing a retaining wall and steps at the rear of the Property in line with the plans he was shown at Reservation, the Home Builder installed topsoil in the area in question which caused fencing in that area to be unstable. The Home Builder installed a wooden gravel board at the boundary of the Property which is not suitable, and it breach Code Section 4.1 because it did not respond to his claim.

## **Defence**

The Home Builder submitted that the fence at the rear boundary was designed in accordance with the planning drawings and it had explained to the Home Buyer that it engineered out the retaining wall so that he could have a flat garden. In relation to Code Section 4.1, it responded to the Home Buyer's complaint. However, it reached a stalemate in relation to several issues that it could not agree with the Home Buyer, due to a difference of opinion as to what was a genuine defect.

## **Findings**

The Adjudicator found that the complaint concerning the suitability of the wooden gravel board was an allegation of poor workmanship, snags, and defects which fell outside the scope of the Scheme and could not be adjudicated upon. The evidence did not show that the Home Builder's after-sales service was inaccessible. The correspondence between the parties regarding the complaint showed a reasonable level of engagement from the Home Builder with the Home Buyer in relation to his complaints.

However, the complaint regarding the removal of the retaining wall and steps from the Property design could be considered under Code Section 3.1 and the Home Builder was found to have breached Code Section 3.1. The Home Builder breached Code Section 3.1 because it did not install a retaining wall and steps at the rear of the Property in accordance with the terms of the contract and it did not notify the Home Buyer of this minor alteration to the design of the Property. This breach caused the Home Buyer severe inconvenience and the Adjudicator considered that it was appropriate for the Home Builder to pay the Home Buyer the maximum amount of compensation payable for inconvenience under the scheme.

## **Decision**

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

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 3.1 and 5.1, because during the sales process it agreed to apply render to the front of the Property but after the sale it refused to apply the render to the front of the Property.

## **Defence**

The Home Builder submitted that it had already carried out the required re-rendering work which resolved the issue. The render issue had been reported to the NHBC and the NHBC had indicated that there was no breach of its technical requirements and no further works were required.

## **Findings**

The Adjudicator considered the manner the Home Builder dealt with the Home Buyer's complaint regarding the render and found that the Home Builder breached Code Section 5.1. The Adjudicator noted that in April 2022, the Home Buyer had asked the Home Builder for details of the chemical it used to treat the render and it appeared from the evidence that the Home Builder had not responded to this query by November 2022. The available correspondence did not show that the Home Builder was proactive in its correspondence with the Home Buyer, for example, it did not proactively provide information such as updates on the progress of the works or respond to the Home Buyer's question regarding the product being used on the render, as a result of which the Home Buyer had to contact the Home Builder a number of times to seek an update and secure progression of the matter. The breach of Code Section 5.1 caused the Home Buyer inconvenience.

## **Decision**

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

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 3.2, 3.3, 4.1 and 4.2. The Home Builder cancelled his reservation of the Property without any reasoning or explanation. The Home Builder withdrew the Reservation after he viewed the Property, despite that it was not ready to exchange contracts and there were still a number of outstanding enquiries that it needed to respond to before the parties could exchange contracts.

## **Defence**

The Home Builder submitted that it cancelled the Reservation with a full refund of the deposit to the Home Buyer over 12 weeks after the Property was reserved. It made it clear in the initial documents received by the Home Buyer that a Reservation is valid for 28 days after the draft contract is received by the Home Buyer's solicitor. Despite repeated contact from the legal department, the necessary authority to exchange was not applied for to Homes England to enable the parties exchange contracts either on the original or extended deadline for exchange. The correspondence also revealed delays between the Home Buyer and his solicitor. It made a commercial decision to review the price of the Property, after cancelling the Reservation and it re-marketed the Property £5,000.00 higher. However, between cancelling the Reservation and remarketing the Property, it did not engage another buyer.

## **Findings**

The Adjudicator found that the sale in this case did not proceed to legal completion and the Home Buyer did not move into the Property, therefore Code Sections 4.1 and 4.2 did not apply on the facts of the case. The Home Buyer's complaint, which was essentially about the manner in which the Home Builder cancelled the Reservation, was more properly considered under code sections 1.3 and 2.6.

The evidence indicated that the Home Builder was entitled to withdraw the Reservation as contracts had not been exchanged by the date the parties had agreed for exchange. The Home Builder did not cancel the Reservation in a manner that was inconsistent with the Code and it did not breach either Code Section 1.3 or Code Section 2.6.

There was also inconclusive evidence to support the Home Buyer's position that the Home Builder had either found another buyer for the Property or reserved the Property to another buyer while the Reservation was still in place.

## **Decision**

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

## **Complaint**

The Home Buyer complained that he wanted to purchase a quiet home and he was told that his home was opposite trees associated with a green space and behind which there would be development by another provider. The consortium website also said that development would be in parcels to gradually move construction away from new homes.

In fact, the Buyer's new home was opposite the compound of the neighbouring developer that was likely to be in place for 2 years and was the source of noise and dust and traffic congestion. The Buyers said that the Home Builder was aware of this and did not inform him.

He claimed a breach of sections 2.1 and 1.5 because he had been misled. He also complained about the Home Builder's complaints handling process and after sales care.

## **Defence**

The Home Builder says that it was not responsible for the activities of other consortium members and was not bound by the information on the consortium website. It denied liability for the claim.

## **Findings**

The adjudicator found that the Home Buyer had been misled about the tranquillity of the locality of his home and accepted that he would not have agreed to purchase the property had he been informed correctly about the compound, which was known to the Home Builder at the time that the Home Buyer asked about what would be opposite.

The Home Builder was bound by information given on the consortium website. The adjudicator found breaches of sections 1.5 and 2.1 of the Code but not of sections 4.1 and 5.1.

There was no jurisdiction to require the Home Builder to buy back the Home, but the adjudicator directed compensation that would as far as possible put right the breaches of the Code. The Home Buyer had maintained a residence in Kent and she directed compensation to enable the Home Buyer to visit the Home fortnightly and stay in local accommodation for one night over a two-year period as well as compensation for inconvenience. She directed that the Home Builder should apologise.

## **Decision**

The claim succeeded. The Home Builder was directed to pay compensation to the Home Buyer in the sum of £8,5080.00, £500 for inconvenience and to apologise in writing to the Home Buyer for the breaches of the Code.



## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 5.1, because it did not provide him with details of its complaints procedure or next steps when he expressed his dissatisfaction with its response. Tiles at the Property were poorly installed and non-compliant with the NHBC's requirements.

## **Defence**

The Home Builder submitted that the tiles were installed to a satisfactory standard and within the manufacturer's tolerances. It has appropriate procedures in place in accordance with the Code and it provided the Home Buyer documentation regarding its aftercare service and complaints procedures.

## **Findings**

The Adjudicator found that the complaint about poorly installed tiles concerned allegations of snags, defects and poor workmanship which fell outside the scope of the Scheme and could not be adjudicated upon. However, the Adjudicator could consider the manner in which the Home Builder handled the Home Buyer's complaint about the tiling issue at the Property. The evidence did not show a breach of Code Section 5.1. The evidence showed that between May 2022 when the Home Buyer complained to the Home Builder, the Home Builder made attempts to resolve his complaint about the tiles and the evidence shows a reasonable level of engagement from the Home Builder with the complaint.

## **Decision**

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

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that the Home Builder has refused “to resolve an ongoing issue that was raised by their agent...regarding the downstairs water basin.”

The Home Buyer submits further that the Home Builder’s “Consistent Quality Approach Guide” states that “basin taps and pedestal shall be clean, level or plumb and fixed securely with any pipes hidden” and that “any entry points of pipes, wastes and fittings shall be sealed and complete to give a tidy finish”, however, the basin/piping installation does not meet the requirements and has not been installed correctly.

The Home Buyer submits further that they also raised issues in relation to rain water dripping off the roof onto the bedroom window sill at night, however this remains unresolved.

The Home Buyer submits further that they have experienced issues with customer service/complaint handling, for example, ignored correspondence, premature closure of complaints and “messaging via touchpoint never gets a response from homebuilder”.

The Home Buyer requests that the Home Builder apologise, provide an explanation, take practical action and pay the Home Buyer £5000.00 as compensation; specifically in relation to “time unnecessarily wasted” and stress/inconvenience caused.

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, in relation to the water drip/windowsill issue, the Home Builder states that the ticket remains open on the system. This job was sent to the plumber in the first instance, with the plumber inspecting and reporting back that it requires a roofer to attend.

In relation to the bathroom basin/piping issues, the Home Builder submits that the issue: “was deployed to our plumbing contractor to investigate further who in turn advised that there is no defect with the basin or its pipework. The plumber has advised that there is no defect present and that the works proposed will not hide the black rubber around the groundworks connection, it will only reduce the length of pipework visible behind”.

The Home Builder disputes further that it provided poor after-sales care or complaint handling and state that they have an accessible after sales service and have explained to the complainant what the service includes, who to contact and what guarantees, and warranties apply to the home.

The Home Builder states further they have fully investigated the complaint and kept the complainant fully informed as per their complaints procedures and that the Home Buyer “has not substantiated a claim against it and the proposed awards of either practical action or a payment of £5000 should not be made in the Applicant's favour.”

## Findings

The adjudicator found that the black fitting/bracket above the floor and around the white piping (meaning that the piping work/bracket was not flush with the floor and with some fittings unhidden) was not consistent with the Home Builder's "*Consistent Quality Approach Guide*". This stipulates that "*basin taps and pedestal shall be clean, level or plumb and fixed securely with any pipes hidden*" and that "*any entry points of pipes, wastes and fittings shall be sealed and complete to give a tidy finish*". As such they found the Home Builder breached Section 4.1 of the Code.

In relation to the complaint handling, the adjudicator found that there were some issues, for example, the Home Buyer had to contact the Home Builder on a number of occasions about the issues and chase for updates. The evidence indicated further that proposed timescales for resolution were not always provided and they adjudicator found a breach of Section 5.1.

## Decision

The claim succeeded and the adjudicator determined the Home Builder should:

- Apologise
- Either: i) make reasonable endeavours to fix/resolve the water basin/piping issue or ii) pay the Home Buyer £1500.00 in lieu of the works; whichever is most economic to the Home Builder and
- Pay the Home Buyer £80.00 for inconvenience caused.

## **Complaint**

The Home Buyer says the Home Builder was in breach of the Code by not providing accurate and reliable information about various warranties and failing to provide good customer and after-sales service when dealing with the Home Buyer's snagging complaints.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable period. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator found that the Home Builder did not fail to give accurate and reliable information about the insurance-backed warranty provided on the Property and therefore did not breach Clause 2.3 of the Code.

In relation to the after-sales service, the adjudicator found the Home Builder was in dialogue with the Home Buyer throughout her dispute. Otherwise, it would not have undertaken various site visits and repairs mentioned in the Home Buyer's application and the Home Builder's correspondence. Consequently, they found the correspondence and documents showed that the Home Builder provided an accessible after-sales service.

The adjudicator found the correspondence and documents showed that the Home Builder had a system and procedures in place for receiving and handling service calls and complaints. Furthermore, whilst the Home Builder had not resolved the Home Buyer's complaints to her satisfaction, the adjudicator found the timescale, after reviewing the correspondence and documents put forward in evidence, to be reasonable.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer's claim is that there are defects in the alignment of the walls at the Home, that after reporting the defects to the Home Builder the issues have been ignored and the defects have not been rectified (save for defects to the windows and a broken toilet) for 20 months and as such the Home Builder has breached a requirement of the Code at Sections 4.1 for not providing the required after sales service and 5.1 because the Home Builder has not resolved the complaint.

## **Defence**

The Home Builder's position is that the Home Buyer has not provided sufficient evidence to support the claim, that the Home Builder is addressing the concerns with the build defects as per the contract, that the claim should have been referred to NHBC, that the Home Buyer has not followed the escalations process and that there is evidence that the Home Buyer did not raise the issue in the handover report or the 7-day appointment.

## **Findings**

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

The Adjudicator also found that the Home Builder has breached a requirement of Section 5.1 of the Code, by not having a sufficient system and procedure for resolving Home Buyers' complaints or indeed in a timely manner.

## **Decision**

The claim succeeded in part.

The Adjudicator directed that the Home Builder shall carry out an inspection of the Home to determine a scope of remedial works for the issues with the alignment of the walls and for the Home Builder to carry out the remedial works required to rectify the defective alignment to the walls.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 3.2 because it changed the completion date on short notice and it did not acknowledge or respond to his complaint.

## **Defence**

The Home Builder submitted that the completion of the Property was delayed due to various factors, including the impact of the Covid-19 pandemic. It achieved completion within less than 2 months after the initial anticipated completion date. It disputed the alleged breach of Code Section 5.1 on the basis that it provided the Home Buyer consistent updates and communication regarding his complaint.

## **Findings**

The Adjudicator found that the Home Builder had not breached Code Section 3.2. There was no indication that at the time the Home Builder provided the anticipated completion date, it did not have a reasonable belief that the sale would complete within that period.

It was not evident that the Home Builder could have given the Home Buyer more notice of the change to the completion date. It was also relevant that the sale completed within 2 months after the anticipated completion date, which suggested that the anticipated completion date set by the Home Builder was not unrealistic.

However, the Home Builder breached Code Section 5.1 because it did not respond to the Home Buyer's complaint and this breach caused the Home Buyer inconvenience.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology for the inconvenience it caused him and pay the Home Buyer £150.00 in compensation for inconvenience.

## **Complaint**

The Home Buyer submitted that she had ongoing problems with noise transfer from the apartment above the Property. When she first complained, the company sent representatives who performed a basic sound test. They agreed with her complaint. The Home Builder moved her family and her belongings out of the Property for 17 days to add additional sound proofing to the ceiling. This did not resolve the situation, as again agreed by the company's representatives after another basic sound test. The company agreed to move her and her family into temporary accommodation again, for several weeks. A sound test was completed and the Property passed, and she was asked to move back into the Property. The problem has not been resolved.

There was also an unresolved snagging issue and a potential misselling claim due to an increased service charge. She argued that the Home Builder had breached Section 5.1 of the Code. The Home Buyer requested that the Home Builder resolve the problem, or re-purchase the Property, or pay compensation of £15,000.00.

## **Defence**

The Home Builder submitted that it had responded regularly to the Home Buyer's contacts and appropriate action had been taken. The Home Buyer raised a complaint about noise from the upstairs apartment, and the Home Builder agreed to undertake additional soundproofing work to the ceiling of the Property, also paying for alternative accommodation for the Home Buyer while this work was done. After this work the Home Buyer again complained about excessive noise and further examination was performed of the sound proofing membrane in the floor of the upstairs apartment. The Home Buyer continued to express concerns about excessive noise and so the Home Builder arranged for independent sound monitoring from within the Home Buyer's apartment, a full pass being received. During this testing the Home Buyer was again moved to alternative accommodation at the Home Builder's expense. When the Home Buyer complained about excessive noise at this accommodation, she was moved to an alternative property the same day.

The increased service charge has been explained to the Home Buyer. The Home Builder denied liability for the Home Buyer's claim.

## **Findings**

The adjudicator found that the evidence showed the Home Builder responding appropriately to the complaint raised and explaining the increased service charge. As a result, the Home Builder could not be found to have breached Section 5.1 of the Code.

## **Decision**

The claim did not succeed.

## Complaint

- The Home Buyer identified issues with the lack of hot water and inefficient heating system resulting in the development of damp and mould within the property.
- The Home Buyer contends that because of these issues he has been unable to take up residence at the property and that the problems continue despite his complaining to the Home Builder.
- The Home Buyer has identified nineteen different snagging issues, and says the Home Builder has not satisfactorily addressed all of them.
- The Home Buyer believes the Home Builder is in breach of Sections 4.1 and 4.2 of the Code.

## Defence

- The Home Builder states that the issue with hot water was remedied within a few days of the Home Buyer bringing the issue to its attention.
- In respect of the Home Buyer's complaint on the heating system, the Home Builder states that it investigated and subsequently confirmed to the Home Buyer that the heating system had been designed and installed in compliance with the design parameters and the applicable NHBC specifications.
- Overall, the Home Builder refutes the Home Buyer's position that the property is uninhabitable.
- The Home Builder denies being in breach of the Code, and does not agree to provide the remedies sought by the Home Buyer.

## Findings

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator is not persuaded that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of the sections of the Code as alleged. The adjudicator found that the evidence does not establish that the property was/is uninhabitable but is satisfied that the heating system was installed according to the design parameters.

The adjudicator found that the Home Builder had responded to a reasonable level to the Home Buyer's complaints, had made investigations, sought third-party expert input, and had overall responded reasonably to the Home Buyer's concerns. The adjudicator noted that the 24 month builders warranty was still operable.

The adjudicator did not find that the Home Builder had breached any Sections of the Code.

## Decision

The claim does not succeed.



## Complaint

The Home Buyer stated that the Home Builder breached Code Sections 1.1, 1.5, 2.6 and 3.1, because it did not pay her the full amount of the allowance for stamp duty it had agreed to pay her. The incentives for the Property included an allowance in the sum of £6,747.00 towards Stamp Duty Land Tax (SDLT). The rules relating to the level of SDLT payable changed before completion and the actual SDLT paid was £497.00. The contract referred to payment of £6,747.00 towards SDLT, but the Home Builder paid her £497.00 only due to the change in the SDLT rules, and she sought to recover the full amount.

## Defence

The Home Builder submitted that The incentives offered with the Property was described as including "*stamp duty pa[id] 100%*". It agreed to proceed with the Reservation and confirmed that the Reservation was to include stamp duty of £6,747.00. This stamp duty calculation was conducted by applying the relevant calculations at the time. The contract stated that an "*allowance in the sum of £6,747.00 will be given on completion towards SDLT*". An "*allowance*" by its nature would be reduced if the amount of SDLT reduced. The Home Buyer had stated in his offer that he wanted 100% of the SDLT paid, which is what it agreed to and paid for.

## Findings

The Home Buyer's offer was for the Home Builder to pay the full SDLT due and the Home Builder agreed to this. The parties intended that the Home Builder would pay the full amount of SDLT due and this was reflected in the contract. was clear from the contract that the allowance was for the purpose of paying SDLT. There was no provision in the contract for the allowance to be used for any other purpose other than paying SDLT. In circumstances where the amount of SDLT payable changed due to changes made by the Government, it was appropriate for the SDLT allowance to reduce accordingly because the parties had agreed that the Home Builder would pay the SDLT due in full. The Home Builder fulfilled its agreement by paying the full amount of SDLT due at the time the sale completed.

## Decision

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

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 2.1, because it signed the Reservation Checklist for the Property fraudulently. They were not shown the Reservation Checklist with plans and details about the Property until around 3 months after legal completion.

## **Defence**

The Home Builder disputed that the Reservation checklist was assigned fraudulently, but it accepted that the Home Buyers' signatures were typed in italics on the checklist. It stated that, nevertheless, it provided the Home Buyers with sufficient information about the Property to enable them make an informed decision and the Home Buyers viewed the Property on several occasions during the build stage.

## **Findings**

The Adjudicator noted that the Home Builder did not dispute that the Home Buyers were not given a Reservation checklist and were not shown the External Features Plan. The Adjudicator found that the Home Builder breached Code Section 2.1, because it did not provide the Home Buyers with a Reservation checklist in accordance with its procedure and it did not provide the Home Buyers with sufficient pre-purchase information about the garden.

Code Section 1.3 was also relevant to the claim and the Adjudicator found that the Home Builder breached Code Section 1.3, because it ought to have ensured that the Home Buyers signed the checklist themselves rather than the checklist been signed on their behalf. This is particularly given that there was no evidence that the Home Buyers gave the Home Builder their consent to type their names in the section of the checklist provided for the Home Buyers' signatures.

The breaches of the Code identified seriously undermined the information provision and consumer protection commitments underlying the Code, and £500.00 in compensation was considered appropriate in the circumstances albeit the adjudicator would have been minded to award a higher amount if the Scheme Rules had allowed.

## **Decision**

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

## **Complaint**

The Home Buyer says that the Home Builder breached the Code by failing to provide the correct flooring, the required documents and warranties, and good customer service when dealing with a complaint concerning the Property's flooring and snagging issues.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues with the Property's floors and snags within a reasonable period. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator did not find any breaches of the Code. The adjudicator was satisfied that while the manufacturer of the flooring was different to that specified, there had been no detriment as it was made to the same specification and performance.

Further they found that the relevant information had been provided to the Home Buyer and that the after-sales service was accessible and the response to the complaints made reasonable.

## **Decision**

The claim did not succeed. The reasons given by the Home Buyer are insufficient to justify the Home Builder pay £14,372.00 to repair the various issues with the flooring and other snagging issues.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 4 and 5 of the Code. Specifically, the Home Buyer submits that the Property has suffered a number of snagging issues, poor attempts at resolving issues and outstanding issues.

The Home Buyer states further that they incurred the cost of two reports from an independent snagging company; returning incorrect patio tiles and the appointment fee from the local Council (due to a required visit as the “the Garage Window was built in the wrong place. The Home Buyer states further that the handover was rushed and that the working of appliances and thermostats was not demonstrated to them.

The Home Buyer states further that they experienced poor customer service/complaint handling and that the issues have been aggravated as they are a disabled person and their wife suffers from ill health.

## **Defence**

The Home Builder’s position is that it denies breaching the Consumer Code for Home Builders. Specifically, the Home Builder does not dispute any of the alleged snagging issues and submits that whilst acknowledging that there have been issues and they have not made progress as quickly as they would wish, the customer has challenged works and turned away contractors who have arrived to complete or progress works.

Whilst the Home Builder acknowledges further that some works are outstanding, it submitted that it has carried out a substantial amount of remedial works and are reattending to replace or redo other work.

The Home Builder advised they have acknowledged the failings and have not tried to “hide behind any excuses”, arranging training on the systems for their team to better understand the systems and how they operate to assist in the future.

In relation to the handover, the Home Builder disputes the Home Buyer’s version of events.

## **Findings**

The adjudicator found that the Home Builder breached Sections 4.1 and 5.1 of the Code given the length of time taken to resolve issues raised and further noting this would have been exacerbated because of the Home Buyer’s vulnerability..

## **Decision**

The claim succeeded (in part) and the adjudicator awarded £138.20 reimbursement of costs incurred, £225 for inconvenience and further that the Home Builder should provide an explanation for the breaches and provide an apology.

## **Complaint**

The Home Buyers stated that the Home Builder breached Code Sections 4.1 because it did not resolve defects at the Property within the two-year warranty period. It also breached Code Section 5.1 because it did not respond to their requests for assistance, it did not respond within a reasonable timeframe and it did not resolve their complaint.

## **Defence**

The Home Builder submitted that it complied with Code Sections 4.1 and 5.1. At Reservation, it provided the Home Buyers with after-sales information and information about its complaints process. Various emails were exchanged and appointments were carried out, and following feedback from its subcontractor and Quality Manager, it informed the Home Buyers that the flooring level issues and newel post issues are not covered by it.

## **Findings**

The Adjudicator found that the Home Buyers' complaints concerning defects fell outside the scope of the Scheme and could not be adjudicated upon, but the Adjudicator could consider the Home Builder's after-sales service and the manner in which the Home Builder dealt with the Home Buyers' complaint.

While the evidence did not show a breach of Code Section 4.1, there was a breach of Code Section 5.1.

The evidence did not show that the Home Builder properly investigated the Home Buyers' complaint and that it provided the Home Buyers a comprehensive response setting out its findings and (depending on its findings) provided a proposed programme of works to address each of the issues the Home Buyers had complained about.

Further, there was no clear evidence of proactive contact from the Home Builder providing information such as updates, as a result of which the Home Buyers needed to contact the Home Builder a number of times to secure progression of the matters.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to Issue the Home Buyers a written apology for the inconvenience it caused them.

The Home Builder was also directed to investigate the Home Buyers' complaint about outstanding issues at the Property and provide the Home Buyers a written response detailing the outcome of its investigation.

## **Complaint**

The Home Buyers submitted that prior to completion they were told that there would be a delay in getting access to part of the land beside the house. A temporary fence was erected to allow completion and they were assured the temporary fence would be removed later that month. On completion they were told the fence would be removed in early January. There had been repeated delays, and the fence had still not been removed. They had incurred costs building a temporary shed and renovating a loft to store items that would have been stored on the land being used by the Home Builder, and they had not had access to gas or electricity meters. They had received poor customer service in response to their complaint. They argued that the Home Builder had breached Section 3.2 of the Code.

The Home Buyer requested that the Home Builder apologise and provide an explanation; and pay compensation of £9,897.00.

## **Defence**

The Home Builder submitted that legal completion on the Property took place on 22 December 2021. The Home Builder responded appropriately when the Home Buyers raised their complaint in October 2022. The Home Builder had the contractual right to enter upon the Property on reasonable notice to construct any adjoining dwelling or other structures. The Home Buyers acknowledged that they were aware that access to the land in question would not be provided on completion, and that a temporary fence would be installed. Due to staff changeover, the Home Builder could not confirm if the Home Buyers were originally told that full access would be given in January 2022, or what subsequent discussions took place. The Code does not apply to claims about land conveyed. The Home Buyers did not request rent for the land in question at completion on the Property, and no rent was ever agreed.

The Home Builder had agreed, as a gesture of goodwill, to re-turf the land once the fence was removed. The Home Buyers had produced inadequate evidence to support their claims for the shed and loft. The Home Builder denied having breached the Code.

## **Findings**

The adjudicator found that the Home Builder had breached Section 3.2 of the Code by failing to provide the Home Buyers with reliable and realistic information about when construction of the Home may be finished, in the form of final delivery of the land being used by the Home Builder.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builder to apologise to the Home Buyers for the delay in making the land in question available for their use, and pay the Home Buyers compensation of £500.00 for inconvenience.

## **Complaint**

The Home Buyer submits, in summary, that before she purchased the Property, she discussed the sound insulation with the sales representatives of the Home Builder, who told her that the sound insulation would be “really good” and that she shouldn’t have those problems in her new home. She considers that the sound insulation is inadequate and says that if she had known that it would be like this, she would not have purchased the Property. She alleges that the Home Buyer is in breach of Section 2.1 of the Code.

## **Defence**

The Home Builder denied that it breached the Code. It denies that any verbal commitments were made. It states that it has complied with the relevant standards and obtained an NHBC warranty and has told the Home Buyer that if she has further concerns, she should go through the NHBC resolution process, which she has not done. The Home Builder thus denies that the Property was miss-sold. It also says that the Home Buyer’s complaints have been dealt with in line with its Customer Care Procedures and escalation process.

## **Findings**

I find that the Home Builder did not make any precontractual statements which amount to a clear commitment that the sound insulation would meet any particular level or standard. The Home Buyer has therefore not been able to point to any respect in which the information provided to her was not “reliable” or “appropriate”.

In addition, the Home Builder has carried out a sound test provided by [company] and accepted by NHBC Building Control, in order to show that the sound proofing complies with the relevant building regulations. I find that the Home Buyer has not shown that the Home Builder has failed to meet any particular standard that it set with respect to the sound insulation of the Property.

The Home Builder has thus not breached Section 2.1 of the Code.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyers complained that after they purchased the Home, they discovered that there was an undisclosed basement that was full of water and was damaging the wooden structures of the Home. They claimed practical action or compensation to enable them to have the area tanked and ventilated. The Buyers said that the remediation proposals of the warranty body were insufficient.

## **Defence**

The Home Builder said that it did not need to have told the Home Buyers about the basement because it was not part of the Home but an underlying structure. It agreed that ventilation work was necessary and the Warranty body had obtained a report indicating that tanking was not required because the space was not occupiable.

## **Findings**

The adjudicator found that it is outside the scope of the Scheme to determine the dispute relating to the extent of remediation works to be authorised by the warranty body because the Code is not concerned with the quality of construction work, nor could the Buyers recover for any costs of turning the basement into useable space, because this would be betterment. The Warranty body had told the Home Buyers that work would be done in the summer to carry out the work that it considered necessary, namely to ventilate the basement.

It was within the scope of the Scheme however, to consider whether there were breaches of sections 1.5 and 2.1. The adjudicator found that there were breaches of both sections – the first by omission, which gave the Buyers the impression that there were no additional areas of liability and the second because it was plainly of relevant to the purchasers that there was a basement to which they had no access but a liability to maintain and which caused a risk to the structure above. This would reasonably have been highly relevant to a purchasing decision.

Because the Buyers were not informed, there was a breach of the Code. As rectification work under the warranty was to be carried out, the only compensation that could be offered was for inconvenience of £500 and the Home Builder should be required to make an apology.

## **Decision**

The claim succeeded. The Home Builder was directed to pay compensation of £500 and make a written apology.



## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 3.2, because the completion of the Property has been delayed beyond the anticipated entry date of September/October 2021.

## **Defence**

The Home Builder submitted that the construction was initially delayed due to exceptional events including the Covid-19 pandemic, material and labour shortages amongst other matters. Issues with settlement have been observed on some properties on the site, and it needs time to investigate the issues and carry out any additional measures. It acknowledged that this would result in a delay to the handover, however it is the correct process and procedure to adopt and implement in the circumstances. The date of entry was an “anticipated” date of entry. It was not a fixed date. It accepted that delay to the handover has occurred, and it has endeavoured to keep the Home Buyer regularly updated.

## **Findings**

The Adjudicator found that there was no indication that at the time the Home Builder provided the anticipated entry date, it did not have a reasonable belief that the sale would complete within that period. The Home Builder explained that the subsequent delays arose because of issues regarding settlement on the site which it needs to investigate and address. The Adjudicator accepted that these matters contributed to the delay and considered that the Home Builder’s submissions regarding the additional measures it needed to carry out as a result were reasonable in the circumstances. It was not evident that the Home Builder could have notified the Home Buyer of the delay any earlier than it did. The available correspondence also showed that the Home Builder provided the Home Buyer with a reasonable level of update regarding the construction.

## **Decision**

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

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5 and 5.1 of the Code. Specifically, the Home Buyer submits the show flat (which was fully furnished) had a different layout as compared to the flat they bought. The kitchen was much smaller and with a big window, hence a lower number of upper cabinets were on display. They say they were given misleading sale advice. The Home Buyer states further that if they were to pay for the missing fixtures/fittings themselves, it would cost a lot of money as the kitchen provider that the home builder has chosen is extremely expensive.

The Home Buyer states further that they experienced issues with complaint handling and that “despite asking in an email what would be the next steps of the complaint procedure, [they were] not advised of any further complaint procedure.”

## Defence

The Home Builder’s position is that it disputes the claim. Specifically, the Home Builder submits that the “show flat on the development does not represent every flat type however is an indication of the specification of materials used” and that the “sales brochure...give[s] an illustration of the kitchens for the privately sold properties and does not show the additional wall units above the sink area in either of the 2 kitchen layout photos or the ‘splashback’ which the Claimant reports is missing. A splashback has been fitted behind the hob and an upstand is fitted above the worktop as indicated on the Sales brochure and also by the photos provided by the Claimant”. The Home Builder comments further that the Home Buyer “would have been advised by their Solicitor to inspect the specification prior to exchange and raise any issues”, however, “there is no record that the Claimant raised any issues prior to exchange”.

The Claimant also signed the Reservation Agreement which asked the Claimant to sign to confirm they had received a copy of the Sales brochure, the Claimant signed this document”.

In relation to complaint handling, the Home Builder states that the home buyer requested, on 20<sup>th</sup> January 2023 that the matter was logged as a complaint. They acknowledge there was a delay until 27<sup>th</sup> January 2023 to register the complaint but that they then responded to the complaint with their final decision on 7<sup>th</sup> February 2023.

## Findings

The adjudicator found that the Home Builder breached Section 5.1 of the Code as they did not always provide a proposed timescale for the resolution of the complaints and did not, initially, signpost the Home Buyer to the IDRS when it advised the Home Buyer that the complaint was “closed”.

## Decision

The claim succeeded in part and the Adjudicator awarded £75 inconvenience for the breach of the Code.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 5.1 and 5.2 of the Code. Specifically, the Home Buyer submits that they have found approximately “150 faults with the exterior brickwork, window cill blocks, windows, exterior sealing of windows and doors”, “50 Faults with the interior, Including Leaks, Interior finish, Kitchen, Doors and interior fixtures and fittings” and “1 Major fault with bedroom 2 ventilation...trickle vent not fitted and no internal ventilation as required by law.” The Home Buyer comments further that “extensive works [are] required to bedroom 2, the kitchen and exterior” and the works “will cause serious inconvenience” to the Home Buyer and their household.

The Home Buyer comments further that their overall experience has been “awful” and that they have “had to take multiple days off of work to try and resolve the countless issues outlined”.

The Home Buyer further submits that the “garage was converted by a professional builder and signed off by the council’s planning department”, however, the Home Builder’s “plumbing leaked into the completed works and had to be repaired causing the final quote to be more than the agreed amount”.

The Home Buyer comments further that they believe “the house's poor aesthetic look even after some repairs have been attempted has devalued [the property] by a considerable amount” (more than the £15000.00 claimed) and that they paid. In summary, the Home Buyer states that “the stress has been terrible,...the quality of finish is shocking, there has been no apology, just rude replies and delays in sorting the work over the last 6 months”.

## Defence

The Home Builder disputes the claim. Specifically, whilst the Home Builder acknowledges the issues listed by the Home Buyer in their claim and submits that the issues are “regrettable”, it states that it is “committed to remediating [the issues] as swiftly as possible”.

The Home Builder comments further that it has assigned a customer-care coordinator to the Home Buyer and that the snagging items claimed are “in hand” with the regional customer care department. The Home Builder comments further that snagging issues are not within the scope of the Code and whilst it acknowledges further that the Home Buyer has experienced delay, it explains that some of the delay was due to the Home Buyer expressing a preference for a specific contractor (and this meant a delay in attendance due to availability).

The Home Builder further challenges the sum claimed as compensation and submits that no evidence has been provided in support of the sum claimed and they reiterate that “all outstanding works are in hand”.

## **Findings**

The adjudicator found that the Home Builder breached Section 5.1 of the Code as some of the complaints were not dealt with in a reasonable timeframe and the Home Builder did not always provide timescales for resolution in relation to all the elements of the Home Buyer's complaint(s).

## **Decision**

The claim succeeded (in part) and the adjudicator awarded an apology, an explanation for the breaches and £60 inconvenience.

## **Complaint**

The Home Buyer says the Home Builder breached Clauses 1.1 and 5.1 of the Code by failing to provide good customer and after-sales service when dealing with the Home Buyer's complaint about water ingress into his garage.

## **Defence**

The Home Builder's position is that it has not breached any section of the Code. The Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable period. The Home Buyer's garage has been built in accordance with the NHBC Technical Requirements and the Home Builder has undertaken work to prevent further water ingress.

## **Findings**

The adjudicator was satisfied that the home builder had a system and procedures in place for receiving and handling service calls and complaints and that the garage had been built as required. The reasons given by the Home Buyer are insufficient to justify the Home Builder complete further works to the Home Buyer's garage to prevent further water ingress.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. Specifically, the complaint relates to their “Tarmac Driveway, which shows signs of holes and peeling”. The customer disputes the Home Builder’s findings and refers to the evidence provided.

The Home Buyer believes the After-Sales Service has not been fulfilled to a sufficient standard, and that the complaints have not been handled to the best standard, where they have had to wait weeks / months for a response.

## **Defence**

The Home Builder’s position is that it denies breaching the Code and that the drive was constructed in accordance with NHBC technical standards, chapter 10.2.6. They have provided evidence to this effect following a third party contractor inspecting the area.

The Home Builder comments further that every email received into the Customer Service team is responded to within 10 working days albeit acknowledges further that “the time to resolve some issues over the last two years has been longer than [it] would have liked... however, [its] homeowners have been kept up to date and at all times they have been able to contact Customer Services if they wanted a specific update.”

The Home Builder summarises its position by stating that a full after care service was provided (and made use of), that it has a system and procedures for complaints and that the Home Buyer has not, in any event, “raised a formal complaint about this or any other issue”. The Home Builder states further that the “claim about losses does not represent a ‘financial loss’ as a result of the Home Builders alleged failure to comply with the Code and is refuted.”

## **Findings**

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

## **Decision**

The claim succeeded (in part) and awarded £60 for the inconvenience caused and for the Home Builder to either make reasonable endeavours to fix/resolve the driveway issue or pay the Home Buyer £3,300.00 in lieu of the works; whichever is most economic to the Home Builder

## Complaint

- The Home Buyer understood that the specification for the property he purchased included for a “*shower waste heat recovery system*”.
- The Home Buyer says that upon taking possession of the dwelling he found that the recovery system had not been installed.
- The Home Buyer contends that the Home Builder stated the system was not necessary to comply with Building Regulations and would not be fitted.
- The Home Buyer contends that following the recent energy price increases he estimates his losses due to the absence of the system will be £18,932.20 over a forty-year period.
- The Home Buyer believes the Home Builder is in breach of Sections 1 and 2 of the Code.

## Defence

- The Home Builder states that the system was never included in the specification for the Home Buyer’s property.
- The Home Builder states that the Home Buyer’s house meets the required SAP calculations without the installation of the waste heat recovery system.
- The Home Builder denies being in breach of the Code, and does not agree to provide the remedies sought by the Home Buyer.

## Findings

The adjudicator found that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of some sections of the Code as alleged (sections 1.5 and 2.1).

The adjudicator found that the evidence established that the shower waste heat recovery system was not installed in the property and the Home Builder accepted that the Home Buyer reasonably understood that it would be. However, the adjudicator took note that the Home Buyer did not wish to have the Home Builder retrofit the system and was seeking only a financial compensation payment. The adjudicator did not find that any financial loss had been established by the Home Buyer.

## Decision

The claim succeeded as a breach of the Code identified yet no remedy was awarded.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide good customer service when dealing with a complaint concerning the Property's flooring and snagging issues.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. Regarding the customer service issues, the Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues with the Property's floors within a reasonable period. However, on a goodwill basis, the company is willing to offer £1,250.00 towards the snagging issues with the bathroom floor and hall/stair/landing walls.

## **Findings**

The adjudicator was satisfied that the Home Builder provided a reasonable after-sales service. Further, that the Home Builder responded within a reasonable time frame to the Home Buyer's inquiries concerning the defects with the flooring. The Home Buyer's snagging issues had been and continue to be addressed by the Home Builder.

The adjudicator found that the correspondence and documents in evidence showed that the Home Builder had a system and procedures in place for receiving and handling service calls and complaints.

The adjudicator further found that the Home Builder had co-operated with any professional trades as necessary to resolve any valid issues and that there had not been any breach of Clause 5.2 of the Code as a result.

## **Decision**

The claim does not succeed



## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide a copy of the Code and failing to provide good customer and after-sales service when dealing with the Home Buyer's snagging complaints.

## **Defence**

The Home Builder's position is that it has not breached any section of the Code. The Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable period. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator found that the Home Builder did provide accessible after-sales service. The evidence showed that the Home Builder was in dialogue with the Home Buyer throughout his dispute and that it had undertaken various site visits and repairs, as mentioned in the Home Buyer's application and the Home Builder's correspondence.

Furthermore, the evidence showed that the Home Buyer was provided with a "Home User Guide" containing details of the Home Builder's Customer Relations Team and details of the various after-sales support offered by the Home Builder.

The adjudicator further found that the Home Builder responded within a reasonable time frame to the Home Buyer's inquiries concerning the snagging issues and defects. Whilst the Home Builder has not resolved the Home Buyer's complaints to his satisfaction, the adjudicator found the timescale to be reasonable. Further, the adjudicator found the correspondence and documents showed that the Home Builder had a system and procedures in place for receiving and handling service calls and complaints and that the Home Builder's complaint policy was provided on its website and set out in the reservation documents.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer submits that the Home Builder has breached Section 2.1 of the Code for because the kitchen was not installed to the level shown on the reservation agreement drawing which means that the pre-purchase information was insufficient to help the Home Buyer make a suitably informed purchasing

The Home Buyer submits that the Home Builder has breached Section 4.1 of the Code for because the after sales service has not provided an explanation of why the plinth does not seal the base of the kitchen and why the worktop is significantly above the expected height.

The Home Buyer submits that the Home Builder has breached Section 5.1 of the Code for because the after sales service has not provided an explanation of why the plinth does not seal the base of the kitchen and why the worktop is significantly above the expected height.

The Home Buyer sought either for the Home Builder to 'reinstate the kitchen correctly according to the plans or for them to pay £15,000 so that they can install a kitchen to the correct specification.

## **Defence**

The Home Builder submitted that it had reviewed this internally in line with NHBC standards for tolerances and finishes and current building control regulations; contacted a senior technical support surveyor at NHBC who confirmed that there are no regulations in terms of worktop height. Further the Home Builder advised it asked its kitchen supplier to visit the property to confirm their position and they install to a 2% tolerance and that Building Control Approved Documents Part M – Access to and use of buildings, does not detail a maximum height.

## **Findings**

The adjudicator found that:

- the pre-purchase information was insufficient to help the Home Buyer make a suitably informed purchasing decision on this element of the property and for this reason a breach of section 2.1 of the Code has occurred.
- there is email evidence that the Home Builder provided an accessible after-sale service and for this reason a breach of section 4.1 of the Code has not occurred.
- the Home Builder did not have satisfactory procedures for resolving the Home Buyer's complaint and for this reason a breach of section 5.1 of the Code has occurred.
- The reasons given by the Home Buyer are sufficient to justify either the practical action or the payment awarded.

## **Decision**

The claim succeeded.

The adjudicator directed that:

- Either the Home Builder re-fitted the kitchen to the correct level as shown on the reservation drawing in three months or
- if the kitchen was not re-fitted in three months, the Home Builder to pay the Home Buyer to refit it themselves based on the lowest of three quotations (which should be sought). The payment should not exceed the scheme limit of £15,000, although the cost is not expected to exceed £5000.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because it did not rectify defects at the Property, it did not properly handle their complaint about the defects and there was an unreasonable delay in dealing with the matter.

## **Defence**

The Home Builder submitted that the NHBC confirmed that it has followed all NHBC guidelines, it responded to the Home Buyers' correspondence and it referred the Home Buyers to the NHBC given that the Home Buyers remained dissatisfied despite various remedial works that had been carried out at the Property.

## **Findings**

The Adjudicator found that while the complaints regarding the rectification of defects at the Property fell outside the scope of the Scheme, the Adjudicator could consider whether the Home Builder fulfilled its obligations under Code Sections 4.1 and 5.1 in relation to the accessibility of its after-sales service and the handling of the Home Buyers' complaint.

The available information showed that: there was a reasonable level of engagement from the Home Builder in response to the Home Buyers' complaint; and the Home Builder dealt with the Home Buyers' complaint about the garage, including arranging visit(s) on site, corresponding with the Home Buyers by email and setting out its position to the Home Buyers following its investigations.

The evidence did not show a breach of Code Sections 4.1 or 5.1.

## **Decision**

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

## **Complaint**

The Home Buyer noticed in March 2019 that there was a leak from his en-suite bathroom to the ceiling of the lounge below. He notified the Home Builder, who attended the Property and advised that the problem was inadequate grouting in the shower enclosure, which it repaired. The leak then reappeared in September 2022. The Home Builder dismissed a complaint about this and the Home Buyer was compelled to employ a third party to repair the issue. The Home Buyer argues that these events amount to a breach of Sections 1.1, 4.1 and 5.1 of the Code, because the Home Builder did not provide an accessible after-sales service or a system and procedures for receiving, handling and resolving complaints.

## **Defence**

The Home Builder denies that it has breached the Code. It says that its works in installing the bathroom were done to the appropriate standard of care, as it engaged professional contractors which carried out appropriate inspections and testing, and signed off on quality check lists. When the customer complained in September 2022, he did not follow the same process as he did in 2019. This means that the issue was not forwarded to the Home Builder's customer care until 27 January 2023, by which time the Home Buyer had already instructed a third party to carry out the repair works.

## **Findings**

I find that the works carried out by the Home Builder's plumbing contractor in 2019 did not succeed in addressing the leak. In breach of Section 5.1 of the Code, the Home Builder had not, in 2019, "dealt with" the Home Buyer's complaint within "a reasonable time", because it had not addressed the cause of the problem. I also find that the Home Builder failed to deal properly with the Home Buyer's further correspondence about the leak in 2022 – 2023. The Home Builder thus failed to provide the Home Buyer with an accessible after-sales service, to put in place "a system and procedures for receiving, handling and resolving Home Buyers' service calls and complaints", and to deal with the Home Buyer's complaint within a reasonable period of time, in breach of Sections 4.1 and 5.1 of the Code.

I find that if the Home Builder had respected its obligations under the Code, the Home Buyer would not have needed to engage a third party to repair the leak. I therefore award the Home Buyer the sums that he expended on the repair work, namely £4,447.50. However, I consider that the Home Buyer will be adequately compensated by a payment of compensation and I do not consider that an apology would serve any purpose. I therefore decline to award this remedy.

## **Decision**

The claim succeeded and the adjudicator awarded costs of £4,447.50 be reimbursed.

## **Complaint**

The Home Buyer claims that rain water is draining off the roof of the Property in such a way as to leave a stain on, and cause damage to, the render on the adjoining wall. The Home Buyer first raised this issue with the Home Builder before he moved in to the Property, on 25 August 2020, and has since sent numerous chasers over two years, but the problem has not been fixed.

## **Defence**

The Home Builder acknowledges that the issue at the Property has not been resolved, but it considers that this does not mean that the Home Buyer has not had access to a complaints process. It has arranged numerous workers to attend the Property to try to resolve the issue. It thus denies that it is in breach of Section 5.1 of the Code because it has a system and procedures for receiving, handling and resolving service calls and complaints, and the fact that the Home Buyer is dissatisfied with the outcome of this does not mean that there is not such a system in place.

## **Findings**

I find that the fact that it has taken more than 33 months to propose a solution to what should not be an overly complex issue means that the Home Builder has not resolved the complaint in an appropriate time. The Home Builder accepts, in the Defence, that the issue has not been resolved, so the fact that it closed the case in August 2022 demonstrates that its systems had not responded adequately to the complaint. I therefore consider that the Home Builder is in breach of Section 5.1 of the Code.

In terms of remedies, the Home Buyer states that he is unable to quantify the cost of repairing the problem. I am therefore unable to make a financial award. I am also not in a position to know exactly what works are needed in order to ensure that problem is resolved: in other words, that the water overflow that is causing the staining is fixed. However, I note that the Home Builder's efforts to find a solution had, until very recently, stalled. I thus consider that it is necessary to make an order that the Home Builder take reasonable steps to identify and fix the problem that is leading to the staining of the render. However, it is not necessary to order an apology.

## **Decision**

The claim succeeded and the adjudicator awarded that the Home Builder shall take reasonable steps to identify and repair the problem that is causing staining to the render on the Home Buyer's porch.

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 2.1, 3.4 and 5.1 of the Code. Specifically, the Home Buyer submits that the Home Builder “*tried to reduce the plot size on the same day [they] were due to exchange contracts*”. The Home Buyer states further that when they initially raised the issue, they were advised that there was “*nothing [the Home Builder could] do about it*”; however, when the Home Buyer advised that they wanted to “*pull out*”, the Home Builder “*apparently managed to resolve*” the issue.

The Home Buyer submits further, however, that they do not believe that the issue has been fully resolved (including with the neighbour) and they submit that as the Home Builder provided “*incorrect pre purchase information*” in relation to this, they are entitled to be refunded the money already paid. The Home Buyer also states that they were never advised that the payments for options/extras were non-refundable and that they experienced poor complaint handling.

## Defence

The Home Builder’s position is that it disputes the claim. Specifically, whilst the Home Builder admits that due to a “*genuine error*”, the “*external drawings and site plan*” shown at Reservation “*had not been updated*” in relation to the “*gifted land*” issue, it submits that it had worked with the Home Buyer to find an agreeable solution.

The Home Builder comments further that due to a “*genuine misunderstanding surrounding the legal boundary*”, the Home Buyer saw both correct & incorrect plans at point of reservation”. The Home Builder comments that it made several attempts to resolve the matter but despite this, the the Home Buyer still wished to cancel and as such, the Home Builder states that it communicated its final position, specifically, a partial refund of £6,000.00 (as the Home Builder states that it was unable to cancel some of the pre-purchased items) and that the Home Buyer knew the payment was non-refundable.

## Findings

The adjudicator found that the Home Builder breached Sections 1.5, 2.1. as the information provided was not clear and further 3.4 as it had not advised the Home Buyer on how pre-payments were to be dealt with.

The adjudicator further found a breach of 5.1 of the Code given the duration of the complaint and an absence of a resolution.

## Decision

The claim succeeded and the adjudicator awarded a payment of £10,970.45 as a refund for the options/extras and the reservation fee. They also awarded £400 in recognition of the inconvenience caused.

## **Complaint**

The Home Buyer's claim is that the Home Builder has breached a requirement of the Consumer Code for Home Builders ("the Code") at Sections 1.3, 1.4, 1.5, 2.1, 2.6, 3.2 and 5.1. The Home Buyer has requested that the Home Builder take some practical action to install adequate heating in the ensuite, or alternatively to compensate the Home Buyer for the cost of carrying out this work themselves, provide compensation for the incorrectly configured ensuite, rental and storage costs, time lost over the period for the works and for distress and inconvenience, in the amount of £15,000.00, and provide an apology.

## **Defence**

The Home Builder's response is that it accepts responsibility for the incorrect reservation agreement (which has since been addressed), accepts that there were cosmetic issues at completion (which have subsequently been addressed). The Home Builder however says that there are no outstanding issues at the Home and says that the Home Buyer has made significant changes within the Home impacting the warranty, but notwithstanding this the 2-year warranty will be honoured covering the additional works the Home Buyer has carried out to the bathroom and offers the amount of £500.00 to draw the matter to a conclusion.

## **Findings**

The Adjudicator found that the Home Builder failed to provide accurate pre-purchase information to help the Home Buyer make suitably informed purchasing decisions, since there was no evidence provided that pre-purchase information as to the fixtures, fittings and contents included in the sale price was supplied, that the Home Builder has breached a requirement of the Code at Sections 2.1, 2.6 and 3.2.

The Adjudicator was unable to find from the information provided that the Home Builder has breached a requirement of Section 1.3 of the Code in relation to customer service before legal completion or that the Home Builder did not have adequately trained staff and thus, was unable to find that the Home Builder has breached a requirement of the Code at Section 1.4. The Adjudicator was also unable to find that the Home Builder did not provide clear and truthful sales and advertising material and was therefore unable to find that the Home Builder has breached a requirement of the Code at Section 1.5.

The Adjudicator found that the customer service has been unsatisfactory, which I find again demonstrates that the Home Builder has breached a requirement of the Code at Section 5.1.

## **Decision**

The claim succeeded in part. The adjudicator directed that the Home Builder shall pay to the Home Buyer the amount of £2,584.00 for the ensuite remedial works, pay to the Home Buyer the amount of £500.00 for the inconvenience caused by the Home Builder and provide the Home Buyer with an apology.



## **Complaint**

The Home Buyer complains that her back garden is waterlogged and not fit for purpose. The grass will not grow and it attracts swarms of flies. She says that she was told on numerous occasions by different people that something would be done but she has not been told what, and nothing has happened.

## **Defence**

The Home Builder says that the garden does need to be investigated to establish whether there is a defect with the garden that is covered by the warranty and it intends to engage proactively with the Home Buyer to establish whether there has been a fault. If action needs to be taken, the Home Builder would be likely to aerate the ground or build a French drain. It would not provide astroturf, which would not resolve the issue and might make it worse. It denies that there has been a breach of the Code.

## **Findings**

The adjudicator found that evidence shows promises to take action that have not been followed up and correspondence that has been missed. Timetables within work to be done have not been adhered to. The evidence indicates that if there were systems and procedures, these have not been applied in the customer's situation and she has not been able to identify a person who has been able to get things done.

The Home Builder is in breach of sections 4.1 and 5.1 of the Code. However, the adjudicator had no jurisdiction to make directions under the warranty or to make decisions as to what snagging work would be required, and correspondingly cannot direct the payment of money to enable snagging or warranty work to be done by a third party.

## **Decision**

The Home Builder was directed to investigate the situation as to the saturation in the Home Buyer's Garden and explain to the Home Buyer in writing and with reasons what, if any, action it intends to take and pay compensation of £500.

## **Complaint**

The Home Buyers complain of a poor finish to the Home with many snagging issues. They say that the aftersales and complaints process was non-functioning and they did not get answers to queries, promised payments and refunds have not been made and promised work has not been carried out.

## **Defence**

The Home Builder says that the Home Buyers have already been provided with compensation of £500.00 in relation to a refund of finishing touches for the flooring and £250.00 has been provided directly by [company name] relating to the flooring and replacement bedroom carpets have been provided. The Home Builder says that it has not previously been asked to make a payment in relation to loss of earnings, but it would have considered this. It again offers an apology in respect of the issues that the Home Buyers have experienced.

## **Findings**

The adjudicator found that the documentation showed that complaints were made about the nonattendance of contractors and for replies when promises to respond had not been kept by the Home Builder. Requests for action were made on many occasions but action was not taken. No escalation of complaints occurred. However, the Home Buyers had been given information about whom to contact and these seemed to have been the correct people and some action was taken. On balance the service was accessible and there was no breach of section 4.1.

In respect of section 5.1, although there was a written complaints handling procedure, it did not enable the Home Buyers to get their service calls and complaints addressed and no timescale was applied to dealing with complaints. There was a breach of section 5.1 of the Code. The Home Buyers showed that they were entitled to redress. The claim succeeded because there was a breach of the Code. An apology had been given and practical action was not needed. The Home Builder was required to explain its intentions for aspects of the development and the Home which were the subject of complaint. Compensation was awarded in respect of items of reimbursement and £500.00 for inconvenience.

## **Decision**

The Home Builder was directed to reimburse costs of £617.95 and pay £500 for inconvenience. They also had to explain to the Home Buyers its intentions in respect of the Home Buyer's complaints of incomplete work regarding the pavement by the Home, the drains and street lighting and in respect of fencing / railing which is otherwise than shown in the brochure and differs from other properties on the development.

## **Complaint**

The Home Buyer submits that the Home Builder has breached sections 4.1 and 5.1 of the Consumer Code for Home Builders but does not state the reasons for the breaches. The Home Buyer has listed alleged defects under section 4 of the application form but defects fall outside the Consumer Code for Home Builders

The Home Buyer sought the Home Builder to 'take some practical action' However, the Home Buyer does not state what practical action is required. Also to pay the Home Buyer £3000 to rectify defects.

## **Defence**

The Home Builder states that 'it is not clear how the Home Buyer has attributed the complaints she has raised to the alleged breaches of the Code' and that 'Responses had been provided to the Home Buyer directly to the referral including a visit to her home, from Premier Guarantee and also via Court proceedings.' The Home Builder also states that 'We have also provided full responses Regionally and have not heard from the Home Buyer directly in some time.'

The Home Builder submits that 'the Home Buyer has not specified the practical action being sought' and regarding the financial claim 'has provided no evidence at all that these sums are incurred or due.'

## **Findings**

The adjudicator found that:

- The Home Builder has not breached any of the requirements under the Consumer Code for Home Builders.
- The reasons given by the Home Buyer are not sufficient to justify the practical action or payment sought.

## **Decision**

The claim did not succeed. The adjudicator directed that no remedies were awarded.

## **Complaint**

The Home Buyer stated that there were several unresolved issues with the property upon taking occupancy. The Home Buyer referred to the fact that these issues had been reported to the Home Builders over the course of several months, the Home Builders had not resolved these issues, are not resolved these issues in a satisfactory manner, and the Home Builders was now seeking to dispute what works it needed to be complete. The Home Buyer also raised concerns regarding the lack of responses received to their complaints, and the lack of resolution that was being offered.

The Home Buyer sought compensation for the inconvenience and distress experienced, and for the Home Builder to complete works pursuant to the outcome of a survey completed at the property.

## **Defence**

The Home Builders acknowledged that there were outstanding issues at the property, however, they denied that it had failed to address these issues with the Home Buyer, and they argued that they had remained response to the complaints received. The Home Builders noted that works were still ongoing, a completion date had been scheduled for earlier in the year, and there was already an agreed list of works that were to be completed at the property.

## **Findings**

The adjudicator found that the issues referred to by the parties would be regarded as snagging issues, and therefore outside of the scope of the scheme.

The adjudicator found that while there was evidence to show that the Home Builder had engaged with the Home Buyer regarding these issues, and plans were put in place to complete works required at the property, the standard of customer service, and complaints handling could have been improved. There were delays in responding to some of the Home Buyer's communication, there was a delay in compiling a scheduled of works following the Home Buyer taking occupancy, and it was not until approximately six months after taking occupancy that a formal plan was put in place, and this was communicated to the Home Buyer. There was evidence of breaches of sections 4.1 and 5.1 of the code, as the communication and complaints handling could have been improved, and this will have caused the Home Buyer a degree of inconvenience

## **Decision**

The claim succeeded in part. An award of £250 was made and the Home Builder was also directly to compile a clear list of the works to be completed, and when it would expect these works to be completed, and to outline to the Home Buyer why it would not agree to the completion of certain works.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because there are a number of outstanding snagging items at the Property that the Home Builder did not rectify. The Home Builder did not handle his complaint properly, including that it did not respond to his complaint and did not provide him with a final response to his complaint.

## **Defence**

The Home Builder submitted that it did not dispute any of the items listed on the Home Buyer's snagging list and it will endeavour to address the items as soon as possible. It had engaged in correspondence with the Home Buyer to arrange dates to carry out the remedial works and it expects all the works to be carried out by third party contractors and completed by no later than 30 June 2023.

## **Findings**

The Adjudicator found that a specific direction for the Home Builder to complete snagging issues at the Property could not be made, because snagging issues fell outside the scope of the Code. The Adjudicator could consider the manner in which the Home Builder handled the Home Buyer's complaint about issues at the Property, within the context of its obligations under Code Sections 4.1 and 5.1. The evidence did not show a breach of Code Section 4.1. The correspondence between the parties showed a reasonable level of response from the Home Builder and showed that attempts were made to provide an after-sales service, including arranging for operatives to attend the Property to progress works. However, the Home Builder breached Code Section 5.1, because it did not resolve the Home Buyer's complaint in full within a reasonable period of time and it did not respond to his correspondence regarding his complaint.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to make reasonable endeavours to resolve the Home Buyer's complaint about issues at the Property in accordance with its obligations under Code Section 5.1 to handle and resolve complaints. These issues were outlined in the list provided within the Home Builder's defence submitted in this dispute.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 4.1 and 5.1, because it did not resolve her complaints about water ingress into the garage at the Property.

## **Defence**

The Home Builder submitted that the Home Buyer utilised its after-sales service and its complaints process was followed successfully. It found that the water ingress issue was caused by extensive landscaping works carried out at a neighbouring property. It engaged in discussions with the neighbour, and the contractor concerned agreed to carry out remedial works which should resolve the issue of water ingress into the Home Buyer's garage.

## **Findings**

The Adjudicator found that the Home Buyer's complaint raised issues concerning poor workmanship. A specific finding and direction in respect of poor workmanship and snagging issues at the Property could not be made, because workmanship and snagging issues fell outside the scope of the Code. The Adjudicator could consider the manner in which the Home Builder handled the Home Buyer's complaint about water ingress at the Property, within the context of its obligations under Code Sections 4.1 and 5.1.

The evidence did not show that the Home Builder's after-sales service was not accessible, and a breach of Code Section 4.1 was not found. However, the Home Builder breached Code Section 5.1, because there was a delay in the progression of the Home Buyer's complaint, the Home Builder had not shown that it had properly investigated the complaint including the cause of the water ingress, and the Home Builder had agreed to resolve the water ingress issue but it had not resolved the issue.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology, and make reasonable endeavours to ensure that it implements its agreement to resolve the water ingress issue at the Property.

## **Complaint**

The Home Buyer claims that since her purchase of the Property in December 2017, she has had to remedy numerous defects herself, including installing turf, a back gate and a garage side door, which were not present when she moved in. She does not specify which sections of the Code she considers were breached. She asks the Home Builder to apologise and to pay amounts totaling £3,533.02 in respect of alleged defects to the Property as well as loss of earnings and storage.

## **Defence**

The Home Builder denies that it has breached the Code. It does not consider that the alleged matters were in fact defects, and/or says that it has remedied them. It further says that the Home Buyer has not proved her loss.

## **Findings**

The adjudicator considered in particular whether the Home Builder had breached sections 4.1 or 5.1 of the Code. They found that the matters raised were “snags”, which they were not able to consider under the Code.

The Home Builder had demonstrated that they were being dealt with, and the Home Buyer had not shown that the Home Builder had taken an inappropriately long time to do so.

The adjudicator was therefore unable to find that the Home Buyer had demonstrated that the Home Builder had breached the Code in any way. They also found that in respect of the specific sums claimed by the Home Buyer, she had not provided any proof that she incurred these sums or, where she had provided invoices (for example for her storage costs) why she did so.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by not providing a reliable and realistic date for completion, failing to provide the agreed dual heating system, failing to complete the Property's snagging issues within a reasonable period and failing to provide good customer and after-sales service when dealing with the Home Buyer's complaints

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The Home Builder has provided an accessible after-sales service and tried to resolve the outstanding issues within a reasonable period. The Home Builder has agreed to install the dual control heating system and deal with all the snags within a reasonable timeframe. Furthermore, it has offered the sum of £500.00 to the Home Buyer for any perceived failures in customer service, which has been turned down. Accordingly, the Home Builder considers that it has complied with the Consumer Code for Home Builders.

## **Findings**

The Home Builder has breached Clauses 4.1 and 5.1 of the Consumer Code for Home Builders. The evidence showed repeated chasing emails with little or no action from the Home Builder until the Home Buyer contacted the Home Builder's CEO. Further, the evidence showed evidence shows that the Home Builder failed to respond to the Home Buyer's various correspondence and telephone calls.

The adjudicator was not persuaded that the Home Builder responded within a reasonable time frame to the Home Buyer's inquiries concerning the defects. The Home Buyer's issues have not been or continue to be addressed by the Home Builder. After reviewing the correspondence and documents in evidence, the adjudicator found the timescale unreasonable.

## **Decision**

The reasons given by the Home Buyer are sufficient to justify the Home Builder pay the Home Buyer the sum of £250.00.



## **Complaint**

The Home Buyer says the Home Builder breached the Code by failing to provide a copy of the Code not providing a copy of the Code and not providing accurate and reliable information about the Code and the various warranties and failing to provide good customer and after-sales service when dealing with the Home Buyer's snagging complaints.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable period. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator found the evidence did not support the Home Buyer's position and in particular that the Home Builder did not provide accessible after-sales service or that it did not provide specific warranty information when requested.

Further, the evidence shows that the Home Builder was in dialogue with the Home Buyer throughout their dispute. Otherwise, it would not have undertaken various site visits and repairs mentioned in the Home Buyer's application and the Home Builder's correspondence.

## **Decision**

The claim does not succeed. The reasons given by the Home Buyer are insufficient to justify the Home Builder apologise, explain the delays in the snagging process, provide warranty information for the windows and doors, complete any outstanding snagging issues and pay £5,000.00 for the inconvenience and distress incurred.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 3.2, because it changed the August 2022 completion date on short notice and as a result of this change, he incurred additional storage and accommodation costs which he sought to recover in his claim to the scheme. The Home Builder also breached code section 5.1, because its complaints handling process was poor and unresponsive in respect of the complaint he made about a boiler and fridge freezer the Home Builder installed at the Property.

## **Defence**

The Home Builder submitted that it did not provide the Home Buyer with a completion date August 2022. It gave the Home Buyer notice to complete in accordance with the contract, and completion was achieved in September 2022. It apologised to the Home Buyer if it had fallen short of his expectations in its handling of his complaint.

## **Findings**

The adjudicator found that the not support the Home Buyer's complaint that completion had been agreed for the week commencing 22 August 2022 and the adjudicator could not conclude that the Home builder was liable for the cost the Home buyer salts to recover.

However, the Home Builder breached Code Section 5.1, because it did not resolve the Home Buyer's complaint about the boiler and fridge freezer within a reasonable period of time, given the importance of these appliances which were not working for a number of weeks.

## **Decision**

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

## Complaint

The Home Buyers complain that the Home Builder failed to supply adequate heat and sound insulation at the Home and, despite a thermal report provided to the Home Builder, the Home Builder has not investigated and rectified this. They ask for practical action and provision of the building construction plans.

## Defence

The Home Builder says that it is not in breach of the Code. It provided the Buyers with the necessary information to make a complaint and has responded to the complaint.

## Findings

The adjudicator found that the evidence showed that despite the thermal report the complaints made by the Home Buyers had not been investigated or answers given as to why work should not be carried out. This meant that the process provided by the Home Builder was inaccessible and complaints and service calls had not been resolved. The Home Builder was therefore required to investigate the various complaints and explain its position to the Home Buyers in accordance with the requirements of sections 4.1 and 5.1 of the Code.

## Decision

The Home Builder was directed to take practical action (limited to a cost or value of £15,000.00).

- a. Assess and Investigate whether the following works are needed at the Home in order to bring the Home to the lawful and expected standard:
  - i. Insulation, including whether insulation is needed between the floors so as to prevent heat loss.
  - ii. Seals at the join of walls and ceilings so as to prevent thermal bypass.
  - iii. Sound insulation so as to prevent passage of excessive noise from the neighbouring property. For the avoidance of doubt, this investigation shall include considering the construction of the party wall and not merely the carrying out of sound testing from the neighbouring property,
- b. Explain to the Home Buyers in writing and with reasons whether or not it intends to undertake further works in respect of the above.
- c. If the Home Builder intends to undertake further works, these shall be explained and a timetable provided.
- d. The works shall be undertaken in accordance with the timetable.

## **Complaint**

- At Reservation the Home Buyer was provided with a Specification document that they believed applied to their intended purchase.
- The Home Buyer says that subsequently they were provided with a different specification that removed thirteen items from the original document.
- The Home Buyer says they paid the sum of £6,425.00 to receive certain of the omitted items and requested the Home Builder to refund this amount. The Home Builder declined to do so.
- The Home Buyer has escalated the dispute to CCHB and requests that the Home Builder be directed to make a financial payment in the sum of £8,848.00. to cover the costs of replacing the thirteen omitted items.

## **Defence**

- The Home Builder says that the Home Buyers purchased the property under a discount scheme and thus the dwelling would be at a lower level of specification.
- The Home Builder acknowledges that at Reservation the Home Buyers were provided with the specification for the full price properties, but it recognised the mistake on the very next day and immediately advised the Home Buyers and provided the correct specification.
- The Home Builder notes that the Home Buyers had a long period whereby they could have withdrawn from the purchase process, but they did not do so.
- The Home Builder says it provided the omitted items to the Home Buyers at a discounted price.
- The Home Builder denies being in breach of the Code.

## **Findings**

The adjudicator found that the Home Buyer's claim succeeds. The adjudicator finds that the Home Buyer has established on a balance of probabilities that the Home Builder was in breach of section 2.1 of the Code as alleged. The adjudicator found that Home Builder did not deliberately mislead the Home Buyers and that upon realising the specification mistake it took immediate steps to advise the Home Buyers and provide them with the correct document. The adjudicator was satisfied that the Home Buyers had a reasonable opportunity to withdraw from completing their purchase, but they declined to do so.

## **Decision**

The claim succeeds in respect of a breach of Section 2.1 of the Code, but the financial claim does not stand.

## Complaint

The Home Buyer submits that the Home Builder has breached the 'pre-purchase information' section (section 2.1) and 'customer service standards' (section 1.3) of the Consumer Code for Home Builders. The Home Buyer states that the breaches were caused because they were not advised at reservation stage, that the mature trees and bushes opposite their plot would be cut down in order to construct a culvert, and that their plot selection was made based on the view of these trees and bushes.

The Home Buyer sought:

- The Home Builder to take down the pedestrian bridge.
- The Home Builder to reinstate the landscaping (plant more bushes and trees).
- The Home Builder to leave the wooden perimeter fencing in place.
- The Home Builder to pay the Home Buyer £5,000, which is the premium the Home Buyer claims it paid for a plot with privacy and a view of green spaces.
- The Home Builder to pay the Home Buyer £5,000 for the stress and anxiety suffered.
- The Home Builder to apologise to the Home Buyer for not telling them at reservation stage that the trees and bushes would be removed.

## Defence

The Home Builder rejected the claim and submitted that 'it has fully complied with the requirements of the Code at all times and confirms that the Home Buyers were made aware, during the sales process, of the scheduled culvert works which required the trees to be removed.' The Home Builder also states that 'its Customer Service team provided the Home Buyers sufficient information regarding the planned changes to the landscaping and removal of trees, which was carried out before legal completion. Therefore, the Home Buyers were provided with sufficient information to allow them to make a suitably informed purchasing decision, as required by the Code.'

## Findings

The adjudicator found that, based on the evidence, the drawing showing the Home Buyer's plot with the adjacent culvert in place of the trees was not shown to the Home Buyer at reservation stage. The reservation list included a different drawing reference, which the Home Builder claimed was a typo. Had a typo been identified at that stage and the correct drawing presented, then I would have expected the Reservation Checklist to be updated, but it was not. Therefore, on the balance of probabilities, I find that the Home Builder has breached clauses 1.3 and 2.1

## Decision

The claim succeeded. The adjudicator directed that:

- The Home Builder is to ensure that the new trees planted align with the development tree planting drawing where visible from the Home Buyer's property.

- The Home Builder is to leave the wooden perimeter fencing in place to act as a privacy screen for the Home Buyer's property.
- The Home Builder to apologise to the Home Buyer for not telling them at reservation stage that the trees and bushes would be removed.
- The Home Builder to pay the Home Buyer £500 for the inconvenience caused by this situation, and to cover the time that the Home Buyer has spent trying to resolve it.

## **Complaint**

- The Home Buyer, when signing the Reservation Agreement, paid a Reservation Fee of £2,500.00, and upon signing the Contract of Sale he made a further payment equal to 20% of the purchase price of £164,950.00 in the amount of £32,990.00.
- The Home Buyer believes he was misled into signing the contract before securing the necessary finances.
- The Home Buyer says that as he did not complete by the due date the Home Builder retained his deposit,
- The Home Buyer contends that he understood the Code requires all deposits to be refunded should a purchase not go ahead.
- The Home Buyer believes the Home Builder is in breach of Sections 2.6 and 3.4 of the Code.

## **Defence**

- The Home Builder states that the Reservation Fee was returned to the Home Buyer.
- The Home Builder states when the Home Buyer signed the Contract for Sale he was advised of the date for completion and the potential consequences of failing to complete on time.
- The Home Builder says that the Home Buyer did not complete within the stipulated time, and in terms of the Contract of Sale it is permitted to retain the deposit paid.
- The Home Builder denies being in breach of the Code, and does not agree to provide the remedy sought by the Home Buyer.

## **Findings**

The adjudicator found that the Home Buyer's claim does not succeed. The adjudicator found that the Home Buyer has not established on a balance of probabilities that the Home Builder was in breach of some sections of the Code as alleged. The adjudicator found that the Home Buyer entered a Reservation Agreement and a Contract of Sale and paid a separate deposit in respect of each agreement. The adjudicator notes the purchase did not proceed and the Reservation Fee was returned. However, the adjudicator is satisfied that the deposit paid under the Contract of Sale was not refundable if the Home Buyer failed to complete within the stipulated time period. The adjudicator did not find that the deposit is refundable in respect of the Contract of Sale.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer claims that there have been a vast number of problems with their new home. For example, they refer to the porch being built back to front, there being no radiator in the en suite, missing bricks, the downstairs toilet being wrongly positioned, the radiators downstairs being wrong and needing to be changed, and the upstairs doors being warped so that the Home Buyer had no doors for 9 weeks while they were being replaced. The Home Buyer considers that the failure by the Home Builder to repair these snags, and/or to repair them quickly enough, means that the Home Builder is in breach of Sections 5.1 and 5.2 of the Code.

## **Defence**

The Home Builder denies that it has breached the Code. It says that all issues with the Property have now been remedied. The Home Builder has apologised for the delays that were caused by a member of staff leaving, but confirmed that the remedial works were completed efficiently thereafter.

## **Findings**

It should also be emphasised that “snagging” claims do not fall within the scope of the Scheme. It is clear from the documents provided by the Home Buyer that some of the snags complained of by the Home Buyer were outstanding for some 7 months. However, the Home Buyer now confirms that all of the snags have been signed off.

I note that the remedial works were, to some extent, delayed by the Home Builder’s staffing difficulties. However, the Home Builder apologised for this and, so far as appears from the papers, seems otherwise to have acted reasonably efficiently. Having considered the papers provided by both parties and the timeline set out in the Defence, and taking into account all of the circumstances, I do not consider that the Home Buyer has shown that the Home Builder’s response to their complaints was unreasonable or inappropriate.

I therefore consider that the Home Builder is not in breach of Sections 5.1 or 5.2 of the Code.

## **Decision**

The claim did not succeed.



## **Complaint**

The Home Buyer says the the design drawings varied by consent did not accurately represent the dishwasher location as installed, and in doing so, the Home Builder has breached Clauses 1.3, 1.5, 2.1 and 5.1 of the Consumer Code for Home Builders.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The working drawings, signed by the Home Buyer, clearly show the potential position for the dishwasher as installed. The dishwasher was supplied and fitted by the Home Buyer after the completion of the Property. There was no formal signed variation to deviate from the original drawings. However, as a gesture of goodwill and at no additional cost to the Home Buyer, the Home Builder supplied additional power to enable the Home Buyer to fit the dishwasher in their preferred location. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator found that the correspondence provided showed that the Home Builder advised the Home Buyer that the 1000mm corner cupboard would be removed if they wished to install a dishwasher. Further, the Home Buyer wished to install their own dishwasher on the right-hand side of the sink in a space allocated for a 600mm cupboard rather than the left-hand side as shown in the plans. The evidence shows that after discussions with the customer, the Home Builder agreed as a gesture of goodwill to install an additional power socket in the 600mm cupboard space so a dishwasher could be installed.

The adjudicator found that whilst the kitchen layout was not in line with Home Buyer's wishes, they would have been aware that the plans provided at the time of the reservation show that if the Home Buyer wished the company to install a dishwasher, it would be installed on the left side of the sink and the 1000mm cupboard removed. If the Home Buyer wished to install their own dishwasher after completion on the right side of the sink, then no filler panel or cupboard would be provided for the space left on the left-hand side of the sink. As such they found no breach of the Code.

The adjudicator also found that whilst the Home Builder has not resolved the Home Buyer's complaint to their satisfaction, the timescale in responding to the complaint was reasonable.

## **Decision**

The claim does not succeed

### Complaint

The Home Buyer submits that the Home Builder has breached Sections 4.1 and 5.1 of the Code. The Home Buyer submits that their complaint relates to their garden, which “*hasn’t been right since day 1*” and that whilst they first raised a complaint about the issue in August 2022, the issue has not been resolved. The Home Buyer specifically complains that the garden was full of debris and promised made by the Home Builder to rectify were not fulfilled.

The Home Buyer states further that they experienced issues with after-sales care and complaint handling and that the after-sales care (via a portal) was not “*very accessible*” and when they first complained about the issue, they were not provided with a formal acknowledgement. The Home Buyer comments further that they have had to chase the Home Builder for responses on a number of occasions and that that the issue has caused them significant stress and inconvenience, that they have spent a lot of time pursuing the matter and that the issues have adversely affected their mental health.

### Defence

The Home Builder’s position is that it denies breaching the Code and that “*the topsoil provided met the required specification (including that of the National House Building Council (“NHBC”)).*” The Home Builder comments further that the Home Buyer did not elect to purchase turf as an option and that their “*failure to seed, turf or otherwise landscape the garden has resulted in the topsoil degrading repeatedly over time due to inclement weather conditions, despite [the Home Builder] re-rotavating it on three separate occasions.*”. The Home Builder states further that it has “*attentively responded*” to the Home Buyer’s complaints and that a programme of work was agreed, the topsoil was replaced and a “*final response closing out the complaint*” was issued.

Whilst the Home Builder acknowledges that “*the nature of the works meant that they were restricted by weather conditions and seasonal temperatures*” and that the it “*did encounter a missed appointment from one of its sub contractors which was addressed immediately*”, it submits that an apology was provided at the time.

### Findings

The adjudicator found that the Home Buyer was aware of how to report an issue, who to contact and the copy correspondence showed that the Home Builder did take responsibility for the garden issue following the initial complaint and as such, there was no breach of section 4.1 of the Code.

However, the adjudicator found the Home Builder breached Section 5.1 of the Code as it failed to manage the Home Buyer’s expectations and the Home Buyer had to contact the Home Builder on a number of occasions about the issues. Further that proposed timescales for resolution were not always provided and an appointment was missed.

### Decision

The claim succeeded and the adjudicator awarded £65 for inconvenience caused.

## **Complaint**

The Home Buyer says the Home Builder sold them as part of the kitchen design a pull-out larder and corner carousel and that the Home Builder failed to install the same within the Property, and in doing so, the Home Builder has breached Clauses 1.5 and 4.1 of the Consumer Code for Home Builders.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The kitchen units have been installed as the agreed and signed drawings. Should the Home Buyer seek a private contractor to install additional kitchen units, the Home Builder's warranty cannot cover these works. Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders.

## **Findings**

The adjudicator found that whilst the kitchen layout is not in line with Home Buyer's wishes, it is the layout that they agreed and had they wanted additional units then this should have been clarified and agreed before the kitchen was installed. The adjudicator found no evidence to suggest that it was agreed that the Home Builder would install either the pull-out larder or the corner carousel and that if the Home Buyer wished to install their own additional units then, as set out in the Home Builder's response, the Home Builder's warranty would not cover these works.

The adjudicator found that the Home Builder was in dialogue with the Home Buyer throughout the dispute and that while they had not resolved the Home Buyer's complaint to their satisfaction, the timescale was reasonable.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by poorly installing the Property's brickwork and gave the incorrect completion date on the certificate of insurance, and in doing so, the Home Builder has breached Clauses 1.5, 2.3, 4.1 and 5.1 of the Consumer Code for Home Builders

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The structural integrity of the wall is not compromised by the cosmetic finish of the brickwork, and it is not classed as a defect. Furthermore, LABC has issued a cover note and a further insurance certificate for the Property. Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders.

## **Findings**

The adjudicator found the Home Builder's sales and marketing material says that the home warranty start date should be the completion date, but the evidence showed this to have been incorrectly given and therefore a failure to comply with Clause 1.5.

As a result the adjudicator also found that the home builder had failed to provide accurate and reliable information about the home warranty cover and also breached Clause 2.3.

However, the adjudicator found that the Home Builder had provided a reasonable after-sales service and also, whilst the Home Builder had not resolved the Home Buyer's complaints to their satisfaction, they found the timescale in responding to complaints to be reasonable. As such they found there were no breaches of Clauses 4.1 or 5.1 of the Code..

## **Decision**

The claim succeeded in part and the Home Builder was required to apologise, provide the correct completion date to the warranty provider and pay the Home Buyer the sum of £100.00 for inconvenience caused as a result of the breaches found.

### **Complaint**

The Home Buyer stated that two of the bedrooms were excessively cold and he claimed practical action. He said that there was a breach of section 5.2 of the Code.

### **Defence**

The Home Builders denied liability, stating that the Home had met appropriate standards of construction.

### **Findings**

The adjudicator found that there was no evidence of a breach of the Code or that further action was required. Section 5.2 required the Home Builder to cooperate with professionals appointed by the Home Buyer, but in this case the Home Buyer had only presented a report and the question of cooperation did not arise.

The adjudicator found the Home Builder had provided an accessible after-sales service when considering the complaints raised and also provided reasonable responses to the issues raised.

### **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that they were marketed the Property - and proceeded to reserve the Property - on the basis that the Property was a 3 bedroom property and that the Property came with a “cupboard on the landing with a door opening onto the landing”. The Home Buyer comments that the property has not been built in accordance with planning permission granted and building regulations, which show the property as a 2-bedroom house, and the Home Builder has continued to market the property as a 3-bedroom property which is a misrepresentation and false advertisement.

In relation to the cupboard issue, the Home Buyer comments that there is no room for the cupboard because the bathroom has not been built in accordance with the plans. The Home Buyer further adds that the Home Builder is going to dig up the drive and front garden and take land back to build a cycle path as they built the path wrong. She adds that the Home Builder has ignored issues raised and not treated her like a customer.

## **Defence**

The Home Builder submits the Home Buyer has not been misled in any way relating to her home purchase. And that she reserved a 3 bedroom house and received that exact same house type as intended. The Home Builder adds that the property was correctly marketed as and remains a three bedroom home with three usable rooms all able to be used as a bedroom.

The Home Builder adds that the property the Home Buyer purchased is as shown on the plans and does not come with the cupboard to give more accessible space in the bathroom.

As to the cycle path, the Home Buyer is correct that a cycle path is being remedied in front of her home as the ground worker installed it incorrectly, however it does not affect her boundary nor infringe in her use and enjoyment of her front garden.

## **Findings**

Having considered the diagrams, signed reservation agreement and plans, the adjudicator found that the Home Builder did not breach a section of the Code. Further, in relation to the cupboard issue, the adjudicator considered the floor plans and elevations which was signed for as part of the Reservation checklist and which did not show a cupboard. The adjudicator was satisfied there was no breach of the Code.

In relation to the cycle track, the adjudicator found that it did not form part of the Property and could not be considered as part of the Home Buyer’s complaint. Further, that they could not consider disputes in relation to the conveyance of the land or its registered title.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 2.1, because it informed her that it would supply her with a frost free fridge freezer at the Property, but it reneged on its promise. It breached Code Sections 4.1 and 5.1, because it has not addressed concerns she raised regarding fittings in the kitchen and at the Property.

## **Defence**

The Home Builder submitted that the kitchen at the Property was fully fitted and available to view before contracts were exchanged. The Home Buyer viewed the kitchen before contracts were exchanged, but she did not raise any queries on the occasions she viewed the Property. After completion, it made an offer to her in relation to storage units in the kitchen, but she declined its offer.

## **Findings**

The Adjudicator found that the Home Builder had not breached Code Section 2.1, because the evidence did not show that at the pre-purchase stage, the Home Builder had informed the Home Buyer that it would supply her with a frost free freezer. There was also no breach of Code Section 4.1 on the evidence as the Home Buyer was provided with an accessible after-sales service.

However, the Home Builder had breached Code Section 5.1. While the evidence did not show that at the pre-purchase stage the Home Builder had promised to supply the Home Buyer with a frost free fridge freezer, during the course of her complaint raised after completion, the Home Builder had led the Home Buyer to believe that it would supply her with one and had not done so. The Home Builder had also not resolved the Home Buyer's complaint regarding exposed pipework and the height of the kitchen units.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to: implement its agreement to supply and install a frost free fridge freezer at the Property; investigate the Home Buyer's complaint regarding exposed boiler pipework, and kitchen fittings; and provide the Home Buyer with a written response setting out its findings and proposed course of action to resolve the complaint.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 3.2, because the completion of the sale was delayed and on completion, it did not grant her access to a part of the garden that was included in the deeds. It also breached Code Section 4.1, because there are outstanding snagging items at the Property that it had not rectified.

## **Defence**

The Home Builder submitted that it had not breached Code Section 3.2, because it kept the Home Buyer advised at all times of the stages of the construction of the Property and the anticipated legal completion date. With the exception of some minor snagging items, it had completed all the outstanding snagging items at the Property and the remaining works had been scheduled for completion.

## **Findings**

The Adjudicator found that the Home Buyer's complaint concerning the rectification of snagging items fell outside the scope of the Scheme and could not be adjudicated upon. However, the Adjudicator could consider the manner in which the Home Builder dealt with the Home Buyer's complaint about snagging items with reference to its obligations under Code Sections 4.1 and 5.1.

There was no breach of Code Section 4.1 on the evidence. However, the Home Builder breached Code Section 3.2, because it had not provided evidence to support its position that it kept the Home Buyer updated on the progress of the construction and the Adjudicator could not conclude that it provided the Home Buyer with reliable and realistic information about the timing of construction, completion and handover.

The Home Builder also breached Code Section 5.1, because it did not resolve the Home Buyer's complaint within a reasonable period of time.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £250.00 in compensation for inconvenience, investigate the Home Buyer's complaint that there are outstanding snagging items at the Property; and provide the Home Buyer with a written response setting out its findings and proposed course of action to resolve the complaint.



### Complaint

- Under section 1.4, the Home Buyers do not believe that the initial sales advisor was trained to a proper degree as there were allegedly a few instances of conflicting information.
- Under section 3.2, the Home Buyers assert that they were given a moving in date of Christmas 2019, but the property was not ready until March 2020, resulting in a longer period in rental accommodation.
- Under section 4.1, the Home Buyers provide details on an infestation of 'booklice' which can be caused by moisture in drying plaster. The Home Buyers detail out the advice and attempts by the Home Builder to remove the 'booklice' using dehumidifiers (purchased by the Home Buyers) and pest controller insecticide. However, the problem persists, and the Home Buyers have been advised by the pest control company to use industrial dehumidifiers, which will result in higher electricity bills.

The Home Buyer sought an apology; practical action to resolve the infestation of 'booklice'; payment for the cost of the dehumidifiers and any increased cost of electricity for running dehumidifiers (past and future) and a sum of compensation (unspecified) for inconvenience and the impact on health.

### Defence

- Section 1.4 of the Code - the Home Builder states that 'the Customer Care Team and Sales Advisors regularly attend training, face to face, via zoom and eLearning courses. We have a Group Training Department responsible for organising and delivering training, with Regional Training Managers dedicated to each region of the company.'
- Section 3.2 of the Code - the Home Builder states that 'the completion window noted on the reservation form was March- June. The Home Buyers completed their purchase on 19.03.20, which is within the range noted on their reservation form.'
- Section 4.1 of the Code - the Home Builder believes that information on an accessible after-sale service has been provided to the Home Buyers via the 'New Home Demonstration Checklist,' the key release checklist and the 'Persimmon Pledge' on its website. The Home Builder also provides a timeline of actions taken by them in relation to the 'booklice.'

### Findings

The adjudicator found no evidence that staff had not been provided with relevant training on the Code and further, that an accessible after-sales service had been provided given the extensive timeline of actions carried out by the Home Builder.

### Decision

The claim did not succeed.

## **Complaint**

The Home Buyer says the Home Builder sold him as part of the house design camera wiring and smart lighting and that the Home Builder failed to install the same within the Property, and in doing so, the Home Builder has breached Clauses 1.5 of the Consumer Code for Home Builders..

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. There was no contractual agreement to install either camera wiring or smart lighting in the Property. Should the Home Buyer seek a private contractor to install either camera wiring or smart lighting in the Property, the Home Builder cannot cover the costs of these works. Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders

## **Findings**

The adjudicator found no evidence of a contractual agreement for the installation of camera wiring or smart lighting and felt that if this was a requirement the Home Buyer should have ensure his should have clarified and agreed this before the Property was completed.

## **Decision**

The claim did not succeed.

## Complaint

- The Home Buyer understood that the specification for the property he purchased included for a centralised ventilation system being installed at the property.
- The Home Buyer says that upon taking possession of the dwelling he found that the centralised ventilation system had not been installed, plus the kitchen ventilation fan was not operable, and the individual units installed in other rooms were noisy.
- The Home Buyer contends that the Home Builder did not respond to complaints within a reasonable time period and on occasions requested that he refrain from “chasing” it.
- The Home Buyer believes that the Home Builder did not provide an efficient after-sales service, and particularly notes the absence of a contact telephone number that necessitated all communication being done by e-mail.
- The Home Buyer believes the Home Builder is in breach of several Sections of the Code.

## Defence

- The Home Builder states that its agent did not discuss a centralised ventilation system with the Home Buyer during the viewing.
- The Home Builder states that a central ventilation system was never included in the specification for the Home Buyer’s property. The specifications for the property were available for inspection online and hard copies were available until December 2022.
- The Home Builder contends that the Home Buyer has, on occasions, micro-managed its workers attending the property to effect remedial works and has made numerous referrals to the warranty provider.
- The Home Builder believes the Home Buyer’s claim is malicious.

## Findings

The adjudicator found that the specification submitted into evidence did not show the dwelling would be provided with a centralised ventilation system. Consequently, the adjudicator was not satisfied that the evidence established that the Home Builder had mis-sold the property to the Home Buyer.

The adjudicator found that the after-sales service was reasonably accessible to the Home Buyer and that he was made aware of the warranty provider.

The adjudicator did find that the evidence showed a failure by the Home Builder to comply with Section 5.1 of the Code in respect of its complaint handling procedures, and awarded compensation to the Home Buyer.

## Decision

The claim succeeds. The adjudicator awarded £500.00 for inconvenience caused and an apology.

## Complaint

The Home Buyer submits:

- a. The Property was purchased off plan which showed the kitchen island in alignment with the hallway door, which was where they expected it.
- b. There was no sales brochure.
- c. The location of the island differed to the plan by 0.3m x 0.4m. This reduced the liveable space in the rest of the room and altered the appearance of the room.
- d. Section 2.1 of the Code was breached as the drawing does not match the Property.
- e. Section 3.1 of the code was breached as a revised plan did not show any movement of the island.
- f. The work to move the island to the correct position has been completed at the Home Buyer's cost. These costs are now claimed.

## Defence

The Home Builder submits that there was “no building defect with the island unit” and there was no breach of the Code.

## Findings

The adjudicator found that the plan did not ‘reliably illustrate’ the layout and appearance, as required under this section of the Code. Consequently, the Home Builder breached section 2.1 of the Code.

## Decision

The claim succeeded. The Home Builder was ordered to pay £2,740 for the costs incurred by the Home Buyer for moving the kitchen island to the correct position and provide an apology.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 1.5 and 2.1, because the landscaping in front of the Property did not match the title deeds or the original marketing material that the Home Builder provided and the Home Builder did not inform the Home Buyer about this discrepancy. The Home Buyer claimed £15,000.00 in compensation for the loss of the value of the Property and for the inconvenience the matter caused the Home Buyer.

## **Defence**

The Home Builder submitted that the issue with the front of the Property arose as a result of human error during the construction process, the area of ownership remains the same and it offered the Home Buyer a number of options to resolve the issue which the Home Buyer declined.

## **Findings**

The Adjudicator found that there was no breach of Code Section 1.5, because the evidence did not indicate that at the time the Home Builder prepared the sales material, including the title deeds, the material was untruthful, neither was there any indication that the Developer did not hold an honest belief that it had constructed the area in question in accordance with the sales material.

However, the Home Builder breached Code Section 2.1 because it ought to have been aware of the error during the pre-purchase stage to ensure that it could fully discharge its obligations under Code Section 2.1 to the Home Buyer.

The Home Builder also breached Code Section 3.1 because there had been a minor alteration in the design of the Property which the Home Builder ought to have been aware of and under the guidance to the Code, it should have notified the Home Buyer about.

A claim for compensation due to a diminution in property value could not be made under the Scheme as such claims are excluded under the Code, but it was appropriate for the Home Builder to pay the Home Buyer compensation for inconvenience and take further action to resolve the issue.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to pay the Home Buyer £500.00 in compensation for inconvenience and make reasonable endeavours to resolve the Home Buyer's complaint that the landscaping at the front of the Property does not match the title deeds, subject to the Scheme's compensation limit of £15,000.00 including the £500.00 compensation directed for inconvenience.

## **Complaint**

The Home Buyer says the Home Builder breached the Code as he was not informed that the unenclosed land within the boundary of the Property was to be used by the Home Builder for the life of its show home or that the same land would not be unenclosed due to the need for sight lines for the neighbouring Property's driveway. Furthermore, the Home Builder did not provide good customer and after-sales service when dealing with the Home Buyer's complaint.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The Home Builder installed the fence in the location as set out in the plans shown to the Home Buyer at the point of reservation. The fence was designed in this way to enable the neighbouring property to see approaching traffic when leaving its driveway. Furthermore, the Home Builder has provided an accessible after-sales service and tried to resolve the outstanding issues within a reasonable period. The Home Builder offers an apology for its miscommunications to the Home Buyer. However, the Home Buyer's current boundary and fence location is correct, and the Home Builder does not intend to move the fence line to any different location. Accordingly, the Home Builder considers that it has complied with the Consumer Code for Home Builders

## **Findings**

The adjudicator found that the plans shown to the Home Buyer at the time of reservation show the boundary line of the Property and the location of the fence, as built. As such, the Home Builder has not failed to comply with Clause 2.1 of the Code.

However the adjudicator found that the Home Builder did not provide the Home Buyer with an accessible after-sales service to her complaint about the fence issues. The correspondence shown in evidence showed confused emails with little or no action from the Home Builder concerning whether a fence would be built to enclose the land and what the land was to be used for by the Home Builder. The Home Builder therefore breached Clause 4.1 of the Code.

## **Decision**

The claim succeeds in part and the adjudicator directed that the Home Builder apologise to the Home Buyer.

## **Complaint**

The Home Buyer says the Home Builder breached the code by not replacing the kitchen unit, radiator cover and damaged floor coverings and providing poor customer and after-sales service when dealing with the Home Buyer's complaints

## **Defence**

The Home Builder has not provided a Defence, within the correspondence, it has said it has come to an agreement with the Home Buyer to fix the outstanding defects in February 2023, and the dispute is now considered settled

## **Findings**

The adjudicator found that the Home Builder was in dialogue with the Home Buyer throughout their dispute. Otherwise, it would not have undertaken various site visits and repairs mentioned in the Home Buyer's application. Consequently, after carefully reviewing all the evidence put forward by the Home Buyer, the adjudicator found that the Home Builder had provided an accessible after-sales service.

In relation to the complaint handling, the adjudicator found that whilst the Home Builder had not resolved the Home Buyer's complaints to their satisfaction, the timescale to respond to be reasonable and there was no breach of the Code.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 1.5, 3.2 and 4.1, because it landscaping and road works at the development were not completed in accordance with representations it made in its advertising. It also breached Code Section 5.1, because the Home Buyer needed to contact it a number of times regarding the outstanding works.

## **Defence**

The Home Builder submitted that when the Home Buyer made it aware that landscaping works had not been carried out, it attended the development to make sure the landscaping works were done. It has rectified the issue with the road.

## **Findings**

The Adjudicator found that the Home Builder breached Code Section 3.2, because the landscaping formed parts of the development that served the Property and the evidence did not show that it had explained to the Home Buyer at the time of legal completion that the landscaping works were outstanding.

The Home Builder also breached Code Section 5.1, because it did not resolve the Home Buyer's complaint within a reasonable period of time. The Home Buyer had first complained to the Home Builder in May 2021 and the correspondence showed that she contacted the Home Builder a number of times from May 2021 through to late 2022 to progress resolution of her complaint. This caused the Home Buyer inconvenience and the Home Buyer was entitled to compensation for inconvenience.

## **Decision**

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



## **Complaint**

The Home Buyer submits that the Home Builder has breached Section 5.1 of the Code. Specifically, the Home Buyer states that during the Home Builder's "attempts to rectify an issue with the external render, the property was further damaged" and the Home Builder has "now refused to rectify the issue". The Home Buyer comments further that the issue has caused them a lot of stress and the dispute has been "time consuming and we have been left with a property that is now damaged".

The Home Buyer requests that the Home Builder provide an apology, and take practical action to be rectify the Property to the condition that it was in before the scaffold damaged it. Failing this the Home Buyer asked to be compensated the costs so they can pay for an external building company to rectify it.

## **Defence**

The Home Builder's position is that it denies breaching the Code. Specifically, the Home Builder states it has at all times replied to the Home Buyer's concerns about the render; adding that a plastic surgeon has attended and carried out work on the home. The Home Builder believes the areas in question have been repaired and there is no need to remove/paint the areas in question.

## **Findings**

The adjudicator found that the Home Builder breached Section 5.1 of the Code in relation to complaint handling. This was because, to date, they had declined to rectify the issue in relation to the render. The adjudicator was further persuaded that the Home Builder had failed to deal with the Home Buyer's complaint within a reasonable timeframe.

## **Decision**

The claim succeeded (in part). The adjudicator directed the Home Builder should make reasonable endeavours to rectify the external render issues and provide the Home Buyer with an estimated timescale for completion of works. If the Home Builder cannot/will not carry out the works, the adjudicator directed the Home Builder to pay the Home Buyer £4896.00 in lieu of the works. They also directed an apology be provided to the Home Buyer.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by providing poor customer and after-sales service when dealing with the Home Buyer's complaints concerning snagging issues at the Property.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. The Home Builder has provided accessible after-sales services and tried to resolve the outstanding issues within a reasonable period. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator found that that the Home Builder was in dialogue with the Home Buyer throughout his dispute, otherwise it would not have undertaken the various site visits and repairs mentioned in the Home Buyer's application and the Home Builder's correspondence. Consequently, the adjudicator found that the Home Builder provided an accessible after-sales service.

While the Home Builder agreed that it could have been quicker to resolve the Home Buyer's post-completion works, and it recognised that some of its customers did experience delays in snagging works being closed out, predominately due to staff changes on the development which were outside of its direct control, the adjudicator found overall that that the Home Builder had a system and procedures in place for receiving and handling service calls and complaints.

Furthermore, whilst the Home Builder has not resolved the Home Buyer's complaints to his satisfaction the adjudicator found, after reviewing the correspondence and documents put forward in evidence, including the Home Builder's staff delays, to be reasonable. The adjudicator found that where there had been delays, the Home Builder had provided adequate compensation in the form of works to the Home Buyer's door as recompense.

## **Decision**

The claim does not succeed.

## **Complaint**

The Home Buyer stated that the Home did not meet the description in the sale materials in relation to the alarms to be installed in the upper terraces of their townhouse and the Builder failed to deal adequately with snagging in respect of their wooden floor.

## **Defence**

The Home Builders denied liability, on the basis that the Builder's statement relating to the alarms was in a brochure that was said to be indicative and subject to change and because the complaint about the flooring had not been raised in time.

## **Findings**

The adjudicator found that the claims in respect of the alarms did not succeed.

In relation to the flooring, the Home Builders had, by their words and actions, accepted responsibility for the state of the flooring. However, the parties were not in agreement as to what had been required and the Home Builder had therefore denied liability altogether. No or no adequate systems and procedures had been put in place for dealing with (including resolving) complaints and a proposal to utilise an independent expert had been withdrawn because the Home Buyer wanted reassurances as to independence.

As an adjudicator under this Scheme cannot make decisions about snagging issues, practical actions to put this situation right would involve the Home Builder instructing an independent building surveyor (as had previously been proposed) to inspect the floor and provide a written report, and sharing of the content with the Home Buyers.

Throughout the case, the adjudicator found several breaches of the Code relating to sections 1.1 (a failure to adopt the Code); 1.2 (a failure to make the Code available); 1.4 (a failure to have adequately trained staff), 4.1 (a failure to have an accessible after-sales service) and 5.1 (a failure to have a suitable system and procedures for dealing with complaints).

## **Decision**

The claim succeeded. The Home Builder was directed:

a). To instruct an independent building surveyor to inspect the floor and provide a written report, the content of which shall be shared by the Home Builder with the Home Buyers. The letter of instruction to the surveyor shall detail each party's position and include a request for the surveyor's findings on the condition of the floor and recommendations for any remedial work. The surveyor shall also be provided with a copy of the Final Decision in this matter.

b. If the Home Buyers indicated (via CEDR) that they wish to participate in this process, the Home Builder shall permit them to do so on the basis that the surveyor's fee is shared equally and the letter of instruction is on agreed terms.

c. To pay compensation of £500.

## **Complaint**

The Home Buyer stated that the flooring of the Home suffered from defects which has not been properly rectified by the Home Builder. The Home Buyer also referred to further defects found in relation to a fire door and water ingress to a garage. The Home Buyer also alleged that the level of customer service provided had been unsatisfactory and the Home Builder had failed to address the Home Buyer's complaints or rectify the issues.

The Home Buyer sought £15,000.00 for the cost of making good the flooring.

## **Defence**

The Home Builders denied liability, on the basis that they had been in contact throughout the process, had thoroughly investigated the issues and completed repairs to bring about a good condition.

## **Findings**

The adjudicator found that the Home Builder had addressed the Home Buyer's complaints and could not determine that further works were required. The adjudicator found that the Home Builder had initially furnished the warranty provider with a defective survey regarding the flooring, which led to the warranty provider closing their claim, leading to the Home Buyer suffering delays in having the issues remedied.

The adjudicator found that the Home Builder had breached sections 4.1 and 5.1 of the Code by failing to provide adequate after sales care and complaint handling in respect of their dealings with the warranty provider and their failure to complete a further survey which might have accurately described the defect.

## **Decision**

The claim succeeded. The Home Buyer incurred a cost of £1,947.30 in instructing a surveyor to assess the flooring to enable the warranty provider to reopen their claim, and the adjudicator found that the Home Builder should cover this cost as they should have arranged the survey. The adjudicator further directed the Home Builders to pay the Home Buyer £200.00 for the inconvenience caused.

## **Complaint**

The Home Buyer complained that the first floor of his Home was noisy, and the flooring cracked and creaked. The Home Builder had promised to repair this, but after several failed attempts, said that it would not do so. He complains of a breach of sections 4.1 and 5.1 of the Code.

## **Defence**

The Home Builder said that the it had investigated the complaint, including at director level, which was consistent with its complaints process. It had decided that it would take no further action because the level of noise was not excessive and was within normal tolerances. It submitted the complaint to the NHBC for a decision, which had not found the noise to be excessive. The Home Builder submitted that the adjudicator could not address questions of snagging.

## **Findings**

The adjudicator found that the Code does not address snagging or issues associated with quality of construction, but an adjudicator can consider whether there has been a breach of the Code, especially sections 4.1 and 5.1.

Having done so, the adjudicator concluded that action had been taken to try to reduce the level of noise. The fact that the Home Builder was not prepared to take further action did not indicate a breach of sections 4.1 or 5.1 of the Code. The issues had been considered at director level, consistently with escalation through the Home Builder's complaints process and had been submitted for final resolution by NHBC which had not found the noise level to be excessive.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer says the Home Builder breached the Code by providing insufficient pre-purchase information, as the plans being supplied at the time of purchase were inadequate due to the location children's play area was indecipherable. Had the Home Buyer been aware of the location of the children's play area, they would not have proceeded with the purchase.

Furthermore, since the purchase of the Property, the Home Buyer has experienced intrusive noise and disruption due to continued construction beyond any reasonable expectation.

## **Defence**

The Home Builder's position is that it has not breached any section of the Code. The ownership of the neighbouring development on which the children's play area is located had not been established at the time of the Home Buyer's purchase of the Property, and the Home Builder provided the information it had available at the time.

Furthermore, the decisions on the location of the children's play area and its nature were ultimately a matter for the Council to decide. Regarding the intrusive noise and disruption, the Home Buyer has implemented measures to mitigate the impact of the neighbouring works. Accordingly, no sums or actions are due, and the Home Buyer's application should be dismissed.

## **Findings**

The adjudicator found that prior to completion on the Home, there were no confirmed details as to what may be permitted regarding the children's play area and its location and that ultimately it was for the local authority planning department to determine.

On considering the various plans and planning permission during the course of the complaint the adjudicator determined there had been no breaches of sections 1.5 or 2.1 of the Code.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Sections 2.1, because it did not inform her about the slope in the garden at the pre-purchase stage. The garden at the Property is also swampy.

Its sales agent signed a sales document on her behalf without her consent.

It breached Code Section 5.1, because it did not respond to her complaint.

## **Defence**

The Home Builder submitted that it provided the Home Buyer with all the pre-purchase information recommended in the Code, including showing the Home Buyer various site plans and drawings when she viewed the show home. The sales document in question is an accurate record of what was discussed with the Home Buyer and shown to her during the viewing meeting. Drawings shown and discussed at the viewing meeting were noted on the sales document during the meeting.

It intended to send a copy of the document to the Home Buyer after the meeting, but due to an oversight the email was not sent therefore its sales agent simply recorded the Home Buyer's names on the Document to record that she and the other buyer were present at the meeting.

The levels drawing shown to the Home Buyer during the viewing meeting showed an incline of 0.5m from the front to the rear boundaries, which refutes her allegation.

It is dealing with the Home Buyer's complaint that the garden is waterlogged and the matter has been referred to the NHBC by the Home Buyer.

## **Findings**

The Adjudicator found that the Home Buyer's submission that the Home Builder's agent informed her that the garden at the Property would have a slight incline indicates that she had been informed that there would be an incline to the garden.

The evidence as between the parties was finely balanced, and the Adjudicator did not consider that there was sufficient evidence on which to disregard the Home Builder's submission that the sales document was an accurate record of the information that the Home Buyer was shown at the meeting. The Adjudicator concluded on the balance of probabilities, that the Home Buyer was shown the levels drawing and having shown the Home Buyer the levels drawing at the journey meeting, the Home Builder had informed the Home Buyer about the incline on the site and had met the minimum requirement under Code Section 2.1.



However, the Adjudicator found that the Home Builder breached Code Section 1.3, because it ought to have ensured that it sent the document to the Home Buyer and that the Home Buyer signed the Document herself rather than completing the signature section of the Document on her behalf. This is particularly given that there is no evidence that the Home Buyer gave the Home Builder her consent to type her names in the section of the document provided for her signature. This amounts to poor customer service at the pre- purchase stage and a breach of Code Section 1.3.

The breach of Section 1.3 on the facts of the case undermined the information provision and consumer protection commitments underlying the Code.

The Home Builder also breached Code Section 5.1, because there was no evidence that it responded to the complaint that the Home Buyer raised in November 2022.

### **Decision**

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

## Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5, 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that the front of their property, the land they own (the drive and the section of hedging/bark to the side), was not in a straight line as shown on the plans. The Home Buyer adds they wanted to know exactly where the boundary was so that they could have a path installed correctly and the way the Home Builder landscaped theirs and their neighbours' gardens made it appear that the neighbours owned what was actually their land.

Further, the Home Buyers submit that during this dispute, they noticed that the fence installed by the Home Builder in the rear garden was not in line with the boundary line which is why they always wondered why the path at the side of their house (the only entrance to the back garden) was so tight compared to all the other houses on the estate.

The Home Buyers add that after 15 months of hundreds of calls and emails from us chasing this, the Home Builder say they are not moving the fence due to the location of the manhole in the neighbours garden and about a 1m garden boundary rule which was never mentioned before.

The Home Buyers state that the advertising material they were given such as the Reservation Agreement, boundary plans etc. make no mention of such rules and only show the red boundary line and they believe they are not clear and truthful as per the Consumer Code.

In relation to Sections 4.1 and 5.1 of the Code, the Home Buyer states: The length of time this process has taken has been unacceptable. They add they have had to chase matters up regularly and it has been passed to numerous members of staff to deal with.

## Defence

The Home Builder's position is that it disputes the claim and disputes that it breached a Section of the Code albeit "*acknowledges the discrepancy in the position of the fence line at the Applicants' Property*". Specifically, the Home Builder explains: "*It is recognised that the fence cannot be positioned due to the neighbour's consent* (which, the Home Builder submits, has been withheld) and the manhole works (which, the Home Builder submits, would be "*disproportionately expensive in any event*)".

The Home Builder comments further: "*The Applicants' assertion and knowledge that the boundary structure does not always depict the legal boundary and the plans for [their] Property were created on the basis of 'general boundaries'*" is not information required to be disclosed by the Respondent to its customers and that this rule should have been set out to the Applicants' by their Solicitors during the house buying process.

The Home Builder comments further that it has “*investigated matters extensively and have assessed many solutions*”.

## **Findings**

The adjudicator found that the Reservation Agreement (and previously provided sales and marketing material) must be sufficient so as to be able to help the Home Buyer make suitably informed purchasing decisions. The adjudicator noted that the Home Builder admitted that a “discrepancy in the position of the fence line at the Applicants’ Property” was found and that the fence line was not in the position shown in the plans signed for at Reservation. The adjudicator considered further that the position of a fence line (and its potential implications) would, naturally, be of significant importance to a buyer when they make informed pre-purchase decisions. The adjudicator found that the plan, Reservation Agreement and copy correspondence/admission of the Home Builder all indicate that the Home Builder did not provide enough pre-purchase information to help the Home Buyer make a suitably informed purchasing decision and some of what was provided was inaccurate and not reliable. This was a breach of Section 2.1 of the Code.

The adjudicator further found that the Home Builder did have an after-sales service in place and did engage with the Home Buyer in relation to who to contact and so did not breach Section 4.1 of the Code.

However, the adjudicator found a breach of Section 5.1 of the Code and was drawn to the duration of the complaint and the absence of a resolution to date. The adjudicator found the Home Builder did not always provide a proposed timescale for the resolution of the complaints and whilst they acknowledged that the technical nature of some elements of the dispute and the involvement of a third-party were outside the reasonable control of the Home Builder, overall, there were delays and issues providing timescales for resolution.

## **Decision**

The claim succeeded (in part) and the adjudicator awarded £500 for inconvenience.

## **Complaint**

The Home Buyer complains that the Home Builder has failed to maintain the grass footpaths/verges as stipulated in the contract of sale and that they have only occasionally cut the grass, with there being no regular maintenance.

The Home Buyer says the failure to do so, and to respond to his complaints about such matters means the Home Builder has breached section 4.1 by not providing an accessible after-sales service and section 5.1 by failing to deal with his complaints.

## **Defence**

The Home Builder denies breaching the Code but does acknowledge that more practical steps need to be taken to improve the maintenance of the public open spaces. They set out what those steps would be and that a review of the frequency will take place for the winter months until the area is adopted as planned by the local authority.

## **Findings**

The adjudicator found that that when the Home Buyer contacted the Home Builder, he was offered reassurances about what would happen but that the indicated works were not then carried out. The adjudicator found that this was not “resolution” of a service call or complaint and does not amount to accessible after-sales provision. As such, they found there had been breaches of sections 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded and the Home Builder was directed to take practical action to instruct its contractor responsible for cutting the grass to mow the grass on the footpath / verge on a fortnightly basis, commencing as soon as reasonably required in the Spring of each year and continuing until the Winter months. They were also directed to inform the Home Buyer in writing that this instruction had been passed on to its contractor.

## Complaint

The Home Buyer submits that:

- a. The surface repair to the countertop by a contractor failed due to poor workmanship.
- b. There was damage to existing flooring in the hallway following repairs, due to poor workmanship.
- c. “Micro crackling” to upstairs bedrooms and bathrooms has not been resolved.
- d. The bath is “dropped” and there is a “loud creaking bathroom”.
- e. The failed replacement to the front door continues to cause issues.
- f. The Home Builder does not investigate reported issues.
- g. Complaints are investigated by the same staff the complaint is against.

## Defence

The Home Builder submits that:

- h. It offered to replace the worktop or cover the Home Buyer’s costs in doing so.
- i. It offered to cover the cost of replacing the flooring on receipt of quotes from the Home Buyer.
- j. It offered to inspect the micro cracking to the landing and the creaking in the bathroom.
- k. The front door was replaced and adjusted. The issue was now resolved.
- l. It closed issues when they were completed; however, there was no evidence to support this. These were reopened on request from the Home Buyer as necessary and training issued to ensure this does not happen again.
- m. Its complaints policy is provided to all customers. An independent review of the complaint was conducted for fairness and impartiality.
- n. The Home Buyer’s vulnerabilities were recorded

## Findings

It is not disputed there post completion defects at the Property. In consideration of the communications between the parties, I am persuaded that the aftersales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service. In further consideration of my remit, in relation to deciding on defects, I do not find there to be any breach of section 4.1 of the Code.

While the Home Builder responded to the general concerns, it did not respond to the specific issues reported by the Home Buyer. The Home Buyer indicated they were made to feel discriminated against by a member of staff. It was not appropriate for Home Builder to say it treats customers fairly without investigating the complaint or commenting on what was said. As a result, the Home Builder did not deal with the Home Buyer’s complaint, as it did not issue a reasonable and full response. This constituted a breach of section 5.1 of the Code.

## **Decision**

The claim succeeded. The Home Builder was directed to:

- a. Formally apologise for the failings identified in this decision.
- b. Explain why it did not fully address the concerns raised in relation to discrimination and explain how it will investigate such reports in the future.
- c. Pay £250.00 compensation for inconvenience, further to any amount already paid to the Home Buyer.

## **Complaint**

The Home Buyer stated that the Home Builder failed to address numerous complaints regarding the condition of the Home, ignored emails, did not sufficiently train staff, did not provide information as required by the code and harassed the Home Buyer.

The Home Buyer sought £15,000.00 for their expenses and an apology.

## **Defence**

The Home Builders denied liability, on the basis that the Home Buyer has had a number of customer care appointments, and the Home Buyer's claim to the warranty provider was being investigated. It denied a breach of the Code.

## **Findings**

The adjudicator found that snagging issues were outside of scope and therefore no award could be made in respect of repairs. The adjudicator found that the Home Builder had not provided evidence of adequate staff training, evidence that a list of contents, reservation agreement or any explanation of the home warranty cover were provided. The adjudicator found that the Home Builder did not respond to numerous emails, did not attend and after care appointment, and did not deal with the Home Buyer's complaints in a professional manner.

The adjudicator found that the Home Builder had breached sections 1.4, 2.1, 2.3, 2.6, 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded. The adjudicator directed the Home Builders to pay the Home Buyer £350.00 for the inconvenience caused and provide a written apology.

## **Complaint**

The Home Buyer says the Home Builder never gave proper advice on how to use the MVHR unit installed in the Property, and in doing so, the Home Builder has breached Clauses 4.1 and 5.1 of the Consumer Code for Home Builders.

## **Defence**

The Home Builders' position is that it has not breached any section of the Code. As the home demonstration was during the COVID period, the Home Builder provided an augmented reality home demonstration in October 2021 as it deemed it unsafe to engage in a face-to-face home demonstration. This demonstration which took 1 hour and 52 minutes, included using the MVHR unit installed within the Property. A further demonstration of the MVHR unit was given on 17 January 2022.

Concerning the servicing of the MVHR, this is the Home Buyer's responsibility as it is a maintenance cost, not a defect. The Home Builder does not recommend workmen to its Home Buyers. However, as a gesture of goodwill, it contacted the MVHR manufacturer to ask for service agent details which it passed on to the Home Buyer. The Home Builder's policy is not to provide an MVHR test completion certificate. However, there is a sticker on the unit with the date it was tested and that it passed.

Accordingly, the Home Builder does not consider there has been any breach, and it has complied with the Consumer Code for Home Builders.

## **Findings**

The adjudicator found that the Home Builder responded within a reasonable time frame to the Home Buyer's inquiries concerning the MVHR issues and defects.

Furthermore, whilst the Home Builder had not resolved the Home Buyer's complaints to his satisfaction, the adjudicator found the timescale to be reasonable and that the Home Builder has apologised in its dialogue where it has not responded promptly to the Home Buyer's questions.

The adjudicator was therefore satisfied that the Home Builder had a system and procedures in place for receiving and handling service calls and complaints.

## **Decision**

The claim did not succeed.



## **Complaint**

The Home Buyer submits that:

1. The bathtub fitted in the Property is defective. This was because his foot went through it when he stepped into it.
2. He was informed by the Home Builder that it would cover any defects arising for a period of two years.
3. This defect should be covered under the warranty period. The Home Builder should replace the defective bathtub.

## **Defence**

The Home Builder submits that:

1. No defects with the bathtub were identified on the date of handover.
2. The time elapsed between handover and the incident meant it was unlikely the damage could be attributed to its workmanship.

## **Findings**

The adjudicator found that the after-sales service was made accessible by the Home Builder and that the Home Buyer was aware of who to contact at the Home Builder in relation to this service.

Furthermore, the adjudicator found no breach of section 5.1 of the Code as the Home Builder demonstrated a system for handling and resolving complaints.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer submits that the Home Builder has breached section 4.1 of the Consumer Code for Home Builders for failing to 'offer after care service and provide an agreeable repair to the damage they have caused to the driveway' and further that the Home Builder has breached section 5.1 of the Consumer Code for Home Builders as they have 'ignored various areas of my complaint and washed their hands of the issue.'

The Home Buyer sought for the Home Builder to resurface the entire driveway to fix the diesel staining and damage and to pay them £3500. The Home Buyer also sought a written apology.

## **Defence**

The Home Builder stated that the Home Buyer has been able to access the aftercare available and has been provided with replies which have attempted to resolve their complaint. They add that there is no requirement for a full drive replacement and that at no point has any member of the Home Builder's company implied explicitly or otherwise that the Home Buyer was responsible for the diesel spillages.'

## **Findings**

The adjudicator found from the correspondence presented by both sides that the Home Builder had an accessible after-sale service. Complaints were responded to within a reasonable timeframe and after the Home Buyer stated that they were willing to "compromise on the whole driveway and suggest re-surfacing just my driveway (half of shared drive)" the Home Builder agreed to this course of action in its letter.

Further, the Home Builder has in place, a system and procedures for receiving, handling, and resolving Home Buyers' service calls and complaints. Complaints were responded to within a reasonable timeframe.

## **Decision**

The claim did not succeed.

## **Complaint**

The Home Buyer complained that at the point of completion there was a fault in the front door. He says that there were numerous failed appointments and poor communication and customer service. He says that to try to resolve this issue, 82 emails have passed between the parties, there have been 4 measurement visits, 3 unsuccessful attempted fittings, 2 personally funded quotations, countless telephone conversations and the matter took 2 years, 2 months and 27 days to resolve.

## **Defence**

The Home Builder said that it had investigated and resolved all complaints since 2022. The Builder denied breaches of the Code.

## **Findings**

The adjudicator found that the Buyer had been complaining about his front door from 4 December 2020. It was sticking and causing damp. The evidence showed that the Home Builder had delegated compliance with its repairing obligations to its contractor and the Home Builder did not monitor the position or ensure that the door was replaced within a reasonable time. Because of the delegation, the Buyer was powerless to improve the level of service and the aftersales service was inaccessible in breach of section 4.1 of the Code.

Moreover, in respect of section 5.1 of the Code the Home Builder did not provide its services within a reasonable time and also refused to pay compensation for damage that resulted in delay in resolving the problem with the door. As this was a loss that was caused by a breach of the Code, the Home Builder should have considered the claim rather than stating that this was a type of compensation that would not be covered.

## **Decision**

The claim succeeded and the Home Builder was directed to pay £216.77 for the reimbursement of repair costs and £500 for inconvenience suffered.

## **Complaint**

The Home Buyer complained that changes to the Home from the initial plans meant that it had been constructed otherwise than in accordance with planning permission and there were various defects and / or failure to meet the specification. He wanted a cupboard door provided in accordance with the description in the brochure, alterations to the rear garden levels and rear fence which should have been in accordance with the sales reservation, the drainage to be amended that it complied with the approved drawing produced by the designers and the kitchen lights to be in accordance with the Reservation drawings so that the Home Buyer can use the lights as they were intended.

## **Defence**

The Home Builder said that it had investigated and resolved all complaints. It did not agree that it should rectify the matters complained of and denied breaches of the Code.

## **Findings**

The adjudicator found that there was a breach of section 1.5 of the Code because the reference in the brochure to “all doors” being Newark style was not intended at the time to refer to the cupboard door and therefore could reasonably be understood to include the landing cupboard, even if this needed to be cut down in size and shape. The brochure was therefore misleading.

As for the garden, although the adjudicator could not direct this work because it was either snagging or fell within the NHBC warranty as a construction issue, the adjudicator found that a reasonable timescale had not been applied and the Buyer had suffered inconvenience by a need repeatedly to correspond with the Home Builder about this.

## **Decision**

The claim succeeded and the Home Builder was directed to pay £250 for the door and £100 for inconvenience suffered.

## **Complaint**

The Home Buyer complained that he raised the following issues with the Home Builder by way of service calls and complaints. On the day of handover only one key was provided. There were problems with the pointing to the stonework, the bathroom fan, the guttering, an aluminum rail, the lounge windows, the carbon monoxide monitor and gaps under the doors, the kitchen units, a shower tray and the gradient in his garden.

The Home Buyer also complains of mis-selling. He says that the literature with which he was provided said that there would be a utility cupboard and an extra BT phone line socket in the bedroom. The Home Builder also said that it provided a high standard of after-care which is not the case. There was no utility cupboard and the BT socket was obsolete. The Home Builder is said to have taken an inordinate time to replace the shower screen. He says that delay in completion meant that he had to live in a caravan and this caused wasted costs and health problems,

## **Defence**

The Home Builder said with the exception of mis-selling, all these complaints were about the completion of snagging, which was outside the scope of the Code.

## **Findings**

The adjudicator found that the Code does not address snagging or issues associated with quality of construction, but an adjudicator can consider whether there has been a breach of the Code, especially sections 4.1 and 5.1. The adjudicator therefore could not make decisions as to the adequacy or otherwise of the items said to be defective.

The adjudicator found that the after-sales service had not been accessible, however, because when a complaint was made, e.g. about lack of keys, this took an inordinate length of time to resolve. Even if the Buyer should have used the after sales email address given in the handover literature rather than the sales agent as the Home Builder suggests, a suitably trained sales agent should have redirected the Home Buyer.

Moreover, the timetable for resolving the complaints was not disclosed to the Home Buyer and was very lengthy. Taking into account the Guidance, this was a breach of section 5.1 of the Code. As for mis-selling, notably, the sales literature referred the Home Buyer to a different Code that would have addressed issues of snagging within its adjudication Scheme. The Buyer was entitled to the maximum possible sum for inconvenience.

## **Decision**

The claim succeeded and the Home Builder was directed to pay compensation to the Home Buyer of £500.00.

## **Complaint**

The Home Buyer submits she complained to the Home Builder numerous times, following completion, in relation to a series of defects at the Property.

## **Defence**

The Home Builder has not submitted a defence, nor has it commented on the Application.

## **Findings**

The Home Buyer refers to reports of defects that she made to the Home Builder. This was not disputed. It is evident the Home Buyer did have a point of contact, or a contact number for the Home Builder post completion. However, the Home Buyer asserts the Home Builder was not responsive to these reports. Part of the requirement under this section of the Code is for after sales service to be 'accessible'. There is no evidence to show the after sales service was accessible for the Home Buyer. This constituted a breach of section 4.1 of the Code.

While it is outside of the adjudicator's remit to decide on any of the issues of the defects raised by the Home Buyer, the adjudicator found the Home Builder had not explained how it dealt with the complaint, nor provided evidence of any appropriate remedy and had chosen not to submit a defence.

Therefore, the adjudicator found the Home Builder had not complied with the requirements under section 5.1 and to therefore be in breach of the Code

## **Decision**

The claim succeeded. The Home Builder was directed to:

1. Formally apologise for the breaches of sections 4.1 and 5.1 of the Code.
2. Explain how these breaches occurred.
3. Explain how it will approach the Home Buyer's reports and concerns going forward.
4. Pay the sum of £500.00 for inconvenience.

## **Complaint**

The Home Buyer stated that the Home Builder breached Code Section 3.2, because it did not provide her with reliable and realistic information on which to base her decisions. She incurred financial loss due to the breach, including expenditure on short term accommodation. The Home Builder's complaints procedure was also poor.

## **Defence**

The Home Builder submitted that the construction of the Property was delayed due to problems outside its control, including the shortage of materials and contractors affecting the construction industry. The information that it provided the Home Buyer regarding the anticipated build dates was honest and realistic at the time it was given.

Following legal completion in November 2022, it acknowledged that the Home Buyer had found the delays inconveniencing and distressing, and as a gesture of goodwill it contributed to the Home Buyer's storage and removal costs. The Home Buyer had independent legal representation throughout the process and despite being entitled to terminate the contract, she did not do so.

## **Findings**

The Adjudicator found that the Home Builder had provided a reasonable response to the Home Buyer's complaint and it had responded to her complaint within a reasonable period of time. The Adjudicator did not find a breach of Code Section 5.1.

However, the Home Builder breached Code Section 3.2. The Adjudicator acknowledged the impact that matters outside the Home Builder's control had on the construction schedule. However, given the expectation outlined in the Code that certainty would increase as the construction approached completion, the Adjudicator found on the evidence that the Home Builder did not provide the Home Buyer with reliable and realistic information about the completion of the Property.

The Home Builder informed the Home Buyer the day before she was meant to move into the Property in September 2022 that completion would not take place that day and she needed to extend her temporary accommodation on short notice and at a high rate. The evidence did not show that the Home Builder explained the reasons for the delay to the advised completion dates in September 2022 and October 2022.

It was also not evident that the Home Builder responded to the Home Buyer's query as to whether the September 2022 completion date was realistic given the build stage at the time. The Home Buyer needed to extend her temporary accommodation for short periods of time in accordance with the anticipated completion dates the Home Builder was providing to her (which the Home Builder was aware of).

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology for the inconvenience that it caused her and pay ££6,588.72 in compensation as reimbursement of some of the costs that the Home Buyer incurred on temporary accommodation.



## Complaint

The Home Buyer stated that the Home Builder breached Code Sections 1.2 and 2.1, because it did not provide them with a copy of the Code with the Reservation Agreement, nor an explanation of the Home Warranty cover.

The Home Builder had agreed to extend the Reservation Exclusivity Period indefinitely, but the Reservation Agreement contained a provision which permitted it to terminate the Reservation during the Exclusivity Period which is in breach of Code Section 2.6. The Home Builder terminated the Reservation in breach of the Code, which caused them significant financial loss of at least £15,000.00.

## Defence

The Home Builder submitted that the Code did not apply to the dispute and CEDR did not have the jurisdiction to determine the dispute, because at the time that the Reservation Agreement was issued in December 2020, the warranty provider for the development was not confirmed and it had not signed up to the Code.

In relation to the substantive issues in the dispute, its right to terminate the Reservation Agreement was provided in the Reservation Agreement. The Home Buyers were aware of its right to terminate the Agreement with immediate effect for no reason at any time, regardless of whether the parties were within the Exclusivity Period or not. It did not extend the Exclusivity Period indefinitely. There was no particular time period specified for the extension to the Exclusivity Period, therefore the Exclusivity Period had been extended for a reasonable period of time, that is to the latest of the end of the third quarter of 2021. It formally terminated the Agreement on or by 27 January 2022, which was outside the Exclusivity Period.

## Findings

The Adjudicator found that the dispute fell within the scope of the Scheme. Part one of the Code states that: *“The Consumer Code came into force on 1 April 2010. This edition applies to all Reservations signed on or after 1 April 2017. It sets mandatory Requirements that all Home Builders must meet in their marketing and selling of Homes and their after-sales customer service.”* The Code applied to the Reservation Agreement, because the Reservation Agreement was signed on 3 December 2020 which is after 1 April 2017.

The Home Builder signed up to the Code in April 2021 which means that the Home Builder was a Home Builder for the purposes of the Code from April 2021 and from April 2021 at the latest, the Home Builder was required to comply with the mandatory Requirements of the Code.

Code Section 1.2 requires that a copy of the Code must be provided at the time of the Reservation, but Code Section 1.2 does not expressly state that the Code must be provided to Home Buyers only at the time of Reservation. The Home Builder breached Code Section

1.2 because following its registration with the Code in April 2021, it did not provide the Home Buyers with a copy of the Code.

However, the Home Builder did not breach Code Section 2.1 in the alleged lack of provision of information about the home warranty cover. While at the Reservation stage, the details of the warranty provider for the Property had not been finalised, the Home Builder subsequently (a few months after the Reservation and during the pre-purchase stage) issued the Home Buyer with the draft sales contract and it confirmed in the contract that Premier Guarantee was the warranty provider for the Property.

There was also no breach of Code Section 2.6 on the evidence. Having signed the Reservation Agreement, the Home Buyers had agreed to the terms regarding termination, including the term that the Home Builder could cancel the Reservation with immediate effect by written notice to the Home Buyers at any time during or after the end of the Exclusivity Period. The Adjudicator's role was to give effect to the terms of the Reservation Agreement which were not inconsistent with Code Section 2.6.

Further, the evidence did not show that the Reservation was cancelled in breach of the Code. The Home Builder terminated the Reservation in accordance with its right under the Reservation Agreement. It also discussed and wrote to the Home Buyers in January 2021, explaining its reasons for cancelling the Reservation.

## **Decision**

The claim succeeded, and the Adjudicator directed the Home Builder to issue the Home Buyer with a written apology for the inconvenience that it caused them due to the breach of Code Section 1.2.

## **Complaint**

The Home Buyer sought to argue that there was no firm, or agreed, reservation agreement expiry date. While there was an expiry date within the reservation agreement, it was confirmed verbally that this would have no material impact on the Home Buyer; there was no pressure to complete by a certain point in time. The Home Buyer stated that the Home Builder had allowed the sales process to continue far beyond the expiry date referred to within the reservation agreement, and it then suddenly presented an ultimatum to the Home Buyer in an attempt to force the Home Buyer to proceed to exchange contracts. The Home Builders ultimatum, and lack of leniency, resulted in the Home Buyer losing half of the reservation fee paid, and incurring costs on storage and legal services.

The Home Buyer also raised concerns regarding the bias shown throughout the complaints process, a delay in escalating their complaint, and the Home Builder's failure to provide them with accurate information regarding the ADR processes.

## **Defence**

The Home Builders argued that there was a reservation agreement between the parties was clear in that there was a reservation agreement expiry date, and if this date was missed, the agent would be entitled to retain a portion of the deposit paid and remarket the Home. This reservation date was missed, the Home Buyer was given ample time to complete, and the process was continually delayed.

The Home Builders disputed that any assurances were provided to the Home Buyer that completion could occur at a much later date, or that the expiry date would have very little impact on the Home Buyer. The Home Builders also argued that the Home Buyer's complaint was addressed well, and expeditiously, and reasonable forms of resolution were offered which were declined.

## **Findings**

The adjudicator found that there was clear evidence of a reservation agreement expiry date, and a lack of evidence to show that the Home Buyer had been assured that completion could take place at a much later date. The reservation agreement expressly detailed this date, the amount of the deposit that would be retained should the agreement end due to this date being missed, and the Home Builders had given the Home Buyer a considerable amount of additional time to exchange contracts.

The adjudicator found that the Home Buyer could not recover the remainder of the deposit paid, or any of the costs incurred as a result of the purchase falling through.

The adjudicator did however find that, while the complaints were addressed, escalated, and attempted to be resolved, the Home Builders did not signpost the Home Buyer to the correct ADR provider. The Home Buyer was referred to numerous different parties before being provided with the details of the correct one.

The adjudicator found this breached section 5.1 of the as the communication and complaints handling could have been improved, and this will have caused the Home Buyer a degree of inconvenience.

### **Decision**

The claim succeeded due and the Home Builder was directed to pay £100 for inconvenience.

## **Complaint**

The Home Buyer says the Home Builder failed to install a downstairs light switch as shown in the pre-purchase video walkthrough, and in doing so, the Home Builder has breached Clauses 1.5 and 2.1 of the Consumer Code for Home Builders

## **Defence**

The Home Builder's position is that it has not breached any section of the Code. The video shown to the Home Buyer was an advertisement and did not form part of the pre-purchase information. The promotional video did not provide a specification of the Property.

Plans which show the exact specification of the construction of the Property were provided to the Home Buyer. The light switch is not present on those plans, and the Home Buyer who saw these plans did not raise an issue. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

## **Findings**

The Adjudicator found that whilst the sales and marketing material sets a high bar for the Home Builder, the Home Buyer cannot expect the Property to be exactly the same as shown in the Home Builder's promotional video. The Adjudicator was not persuaded that a missing light switch shown within a promotional video automatically meant that the Home Builder's sales and marketing material was misleading and untruthful.

The Adjudicator found that the detailed plans of the property, which form part of the purchase agreement, do not show any light switch in the location shown in the video and further, that these agreed drawings form part of the pre-purchase information rather than the promotional video.

## **Decision**

The claim did not succeed.