

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 2024 – 117211037

Complaint

The Home Buyer complained about a deep hole she found in her flooring when wishing to replace the carpets and which prevented the new flooring from being installed. The Home Buyer says she received conflicting information. The Home Buyer adds that while the Home Builder agreed to re-paint the boarding and make the area tidier, a cavity closer was missing creating a potential damp risk. The Home Buyer says the Home Builder produced a bespoke solution as the closer should have been installed before the door frame and door were fitted.

The Home Buyer complains that at no point has the Home Builder acknowledged that it was in the wrong, and that it had not undertaken a full investigation.

The Home Buyer further complains that she also contacted the Home Builder in 2022 because she thought there were birds nesting in the roof. This was dismissed by the Home Builder, but subsequently a builder identified that a brick was missing, allowing birds to enter the building. She paid herself for this to be fixed, but another roofer found another missing brick and missing drip trays. She paid to have the drip trays installed, but the company has refused to reimburse the cost because the issue was identified more than two years after purchase. Another missing brick has also been found, and the company has not responded to her contacts about it. She argued that the Home Builder had breached Sections 4.1 and 5.1 of the Code.

The Home Buyer sought for the Home Builder to apologise; resolve the missing brick issue; and pay compensation of at least £420.00.

Defence

The Home Builder submitted that the Home Buyer first raised the issue of the cavity closer 18 months after moving into the Property, reporting that after lifting the threshold detail near the front door, she had found a cavity. The Home Builder attended the Property on 17 June 2022 to examine the threshold, followed by a second visit that included a joiner and a member of the customer care team. It was determined during this visit that the threshold detail had not

failed, but had been removed by the customer, who explained that she wanted to fill the cavity in order to fit new flooring. The Home Builder explained that the cavity could not be filled as it was part of the specification for the Property. The Home Builder adds that it attended the Property to re-fit and repaint the threshold detail the Home Buyer had removed. This involved fitting a different threshold detail than normally used, to enable the Home Buyer to do what she wanted to do with the flooring.

The Home Builder adds that they had no record of the Home Buyer raising issues with the roof or with birds entering the roof prior to the expiry of the Home Builder's warranty.

Findings

The adjudicator found that the Home Buyer had failed to evidence she had had a poor experience in her interactions with the Home Builder which did not support a finding that the Home Builder breached section 4.1 the Code.

In relation to the complaint handling, the adjudicator found that the Home Builder responded to the Home Buyer's complaint within an appropriate time and had not breached section 5.1 of the Code as a result.

Decision

The claim did not succeed.

Complaint

The Home Buyer complained that she had found defective pipework in her kitchen. This had been concealed behind other units and could not be accessed. She said that there was a construction defect that the Home Builder was liable to rectify.

Defence

The Home Builder said that it had carried out various snagging works but this issue had been raised after the two year warranty period and it was no longer required to carry out snagging works under the Code. The Home Builder denied liability for the claim.

Findings

The adjudicator found that the Home Buyer's complaint did not relate to a concern raised during the two-year period after completion of the sale. The Home Buyer had been able to raise her concerns and escalate these and there was no evidence supporting the fact that she had not been given evidence about the complaints process. Thus, even if there was a defect at the point of completion, it was too late to raise this and the Home Builder was not under an obligation under the Code to take action.

The Home Builder had informed the Home Buyer that it would not assist her and its response was, in the circumstances, not unfair and not unreasonable. There was no breach of section 5.1

Decision

The claim did not succeed.

Complaint

The Home Buyer complained that the Home Builder had not undertaken an investigation of his complaint about the ventilation in his home and the tiling in his bathroom.

Defence

The Home Builder submitted documentation that indicated that it had concluded that both the windows and tiling were as specified.

Findings

The adjudicator found that the Home Builder had considered the Home Buyer's complaint and concluded that the issue was within the specification. There is no evidence to the contrary and, although the Home Buyer does not agree with the outcome, this constituted resolution of the complaint, whether or not the Home Builder visited the Home Buyer's home in order to arrive at this conclusion. Although the Home Buyer says that the design of the Home was defective, under this Scheme an adjudicator has no jurisdiction to make findings as to matters of design and construction.

Decision

The claim did not succeed.

Complaint

The Home Buyer complained that the Home Builder does not respond to attempts to contact him. There were a number of problems that are now being dealt with under the Warranty. After moving in a decorator was sent in to touch up the ground floor windows at which point he used sand paper on the glass scratching 31 of the glazing units. The Home Buyer has requested the Home Builder to replace these units which it has refused to do. The Home Buyer has obtained a quote for the glazing which comes to £145.00 + VAT per unit. The Home Builder has offered £500.00 as a matter of goodwill although the Home Builder had previously accepted fault and arranged a "magic man" to come to the property to try and polish out the scratches. When the magic man arrived, he confirmed it would not be possible to polish out the scratches on these windows and they would need to be replaced. The Home Buyer asked for an apology, an explanation and compensation of £5,894.00.

Defence

The Home Builder denied liability. The scratches occurred after the Home Buyer occupied his apartment. He did not report it to the Home Builder on the date when it allegedly occurred, and the Home Builder has never acknowledged that it or its contractors caused the window scratching or that it was responsible for the scratching. It has attempted to assist but the Home Buyer refused to have the windows polished by a "magic man"

Findings

The adjudicator found that the Home Builder did not provide a copy of its complaints procedure and had not fairly and completely considered the Home Buyer's complaint. It had based its response to the complaint on an assertion that the warranty body had found the windows to be within tolerances whereas it declined liability because scratched windows were not within the policy. The Home Builder has therefore determined the complaint on an erroneous basis and not fairly. It has thus not resolved the Buyer's issue. The Builder was in breach of sections 4.1 and 5.1 of the Code. Although there is uncertainty about whether the windows are within tolerances, this should be resolved.

Decision

The Home Builder was directed to arrange (unless the Home Buyer indicates that he does not require this) for an inspection and report of the windows by an appropriately qualified member of the Glass and Glazing Federation in accordance with GGF Datasheet 4.10, Appearance and Visual Quality for Insulating Glass Units and to take a decision based on the report as to whether the windows required replacement or polishing and provide practical action accordingly, and to pay compensation of £300.00 to the Home Buyer for inconvenience.

Complaint

The Home Buyer stated that the Home Builder breached Code Section 2.1, because there was no mention at any stage of the sales process that the garden would not be level. He may not have purchased the Property if he had known about the gradient of the garden.

Defence

The Home Builder submitted that it sent the Home Buyer the drawings for the Property together with the reservation manual. Following receipt of these drawings, the Home Buyer proceeded to exchange contract with it. The external works drawing showed the levels used using datum markers, which gave the Home Buyer visibility of the levels across each marker at various reference points around the Property. The markers clearly showed a difference in levels at all four locations.

Findings

The Adjudicator found that the evidence supported the Home Builder's position that the external works drawing showing the slope with measurements was disclosed to the Home Buyer before the exchange of contracts and before legal completion. The external works drawing showed the slope/gradient around the Property with the use of points, arrows and measurements and the Adjudicator considered that the gradient of the front and rear gardens was shown reasonably clearly on the drawing. Having disclosed the drawing to the Home Buyer at the pre-purchase stage, the evidence showed that the Home Builder provided the Home Buyer with sufficient pre-purchase information regarding the slope and the extent to the slope to enable him to make an informed purchasing decision. There was also no evidence that the Home Builder concealed the gradient from the Home Buyer in an attempt to hide the fact of the gradient from him, or that the Home Buyer raised specific enquiries about the gradient and the Home Builder either withheld information or refused to respond to the Home Buyer's enquiries.

Decision

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

Complaint

The Home Buyer stated that the Home Builder breached Code Section 2.6, because she closed a one-year fixed term bank account in order to pay the Reservation fee, however the Home Builder withdrew from the sale shortly after the Reservation. She would not have informed the bank to close the account if she had known that the Home Builder would not proceed with the sale. She lost interest as a result of the account closure.

The Home Builder also marketed the Property to another buyer after she signed the reservation. The Home Buyer's claim was for the Home Builder to pay her £10,000.00 in compensation, including the interest lost on the bank account.

Defence

The Home Builder submitted that in line with its obligations under the Code, the Reservation fee was reimbursed to the Home Buyer without deduction following cancellation of the Reservation. It did not enter into a new Reservation or sale agreement with another buyer on the Property until the Home Buyer's Reservation was cancelled.

It is not liable to pay the Home Buyer compensation for alleged interest lost on the bank account. The Home Buyer had not provided sufficient evidence to establish a loss or any causal link to the cancellation of the Reservation. The balance of the bank account said to have been closed in connection with the purchase was significantly higher than both the deposit required to exchange and the balance of the purchase price.

Findings

The Adjudicator found that the Home Builder breached Code Section 2.6, because the Adjudicator could not rule out the indication that it marketed the Property during the Reservation period and could not conclude that it did not reach an agreement (including a verbal agreement) in respect of the sale with another buyer during the Reservation period.

The guidance to Code Section 2.6 stated that once the Reservation agreement is signed, the Home Builder should not sell or try to sell the Home to another buyer before the deadline date when the Reservation agreement will end, or before the date when the buyer cancels the Reservation agreement, whichever occurs first.

The Home Builder did not provide sufficient evidence to dispute the claim that it tried to sell the Property during the Reservation period by marketing the Property during this period. The breach identified undermined the information provision and consumer protection commitments underlying Code Section 2.6, and a direction for the Home Builder to pay the Home Buyer £500.00 in compensation for inconvenience was justified.

However, the Home Buyer's claim in relation to loss of interest on her fixed back account did not succeed. Given the fixed nature of the bank account and the fact that the Home Buyer intended to use funds from the account to pay the Reservation fee and the balance of the

purchase price, the Adjudicator considered that even if the Reservation was not cancelled and the sale proceeded to completion the Home Buyer would still have incurred loss of interest on the account. This indicated that the loss of interest arose as a consequence of the type of account in which the Home Buyer's funds were saved, rather than as a direct result of the Home Builder's breach of the Code.

Further, the evidence did not show that at the time the Reservation agreement was submitted, the Home Builder was aware that it would cancel the Reservation. It was not evident that the Home Builder gave the Home Buyer a guarantee that the Reservation would certainly lead to the completion of the sale.

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 a Section of the Code, including, expressly, Sections 4.1 and 5.1 of the Code. Specifically, the Home Buyer submits that their daughter was bitten by some bugs in their garden as a result, the Home Builder advised they would change the front landscaping.

Despite the promise, however, the Home Buyer submits that the agreed works were not forthcoming and the Home Builder has failed to honour what was promised.

Defence

The Home Builder's position is that it denies breaching the Code. Specifically, the Home Builder submits that it replied substantively to the Home Buyer and that while it was sorry to hear about the bites experienced during the summer months, the warranty they provide covers build defects.

In relation to the alleged promise, the Home Builder states they have no record of this issue having been raised and that such a promise, in any event, would not be a decision their personnel cited would be able to agree. Any changes to the area would be required to be put in writing and would need to come through the customer service team who would then forward this onto the relevant department to agree, but these changes would be at the cost of the homeowner and not the builder.

Findings

The adjudicator found that the Home Builder did provide an accessible after-sales and that the Home Buyer was able to raise concerns made. However, the Home Builder breached section 5.1 of the Code in relation to complaint handling as the Home Buyer had to chase the Home Builder on a number of occasions for a response and further, the Home Builder failed to provide proposed timescales for resolution.

Decision

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

Complaint

The Home Buyer says that the Home Builder breached the Code by not providing accurate and reliable information about the development and that the development forms part of a more comprehensive, government-backed scheme known as Long Marston Airfield Garden Village. Furthermore, it failed to advise that there would be future planning applications for a primary school in the field fronting the Home Buyer's Property.

Defence

The Home Builders' position is that it has not breached any section of the Code. The sales brochure and staff made it clear that the Home Builder's development would form part of a more comprehensive project and that other developers would be constructing plots in the broader site. At the time of reservation, it was not possible for the Home Builder to provide the Home Buyer with detailed information relating to the Garden Village as planning applications in respect of that land had not yet been submitted or approved.

The Home Builder's staff are trained in respect of the Code and fully understand their obligations to the Home Builder's customers. In particular, the Home Builder's team take great care to avoid giving misleading or incorrect information to customers during the reservation process. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

Findings

The adjudicator found that planning permission for the school had not been granted at the time of reservation and that the application currently remains under consideration. As such, they found it reasonable that the Home Builder's sales staff could not have been expected to have given any other response relating to the status of the field other than the one they provided. The adjudicator determined that the Home Builder did not give misleading or incorrect information during the reservation process.

Decision

The claim did not succeed.

Complaint

The Home Buyer submits that the Home Builder did not fix outstanding snags and issues for a number of months and failed to respond to a complaint in a reasonable time, failing its own response times.

Defence

The Home Builder submits that there was a delay in responding to the complaint but that all emails were responded to with a formal response and apology being issued on 4 October 2023. Further, that it will work with the warranty provider to resolve the issues.

Findings

It was not disputed there was a presence of defects at the Property post completion, but the adjudicator found the pertinent requirement under this section of the Code is for the aftercare service to be accessible. Given the amount of communication between the parties, the adjudicator found that while the Home Buyer was aware of who to contact, the aftersales service was not made accessible by the Home Builder. Therefore, the adjudicator found there to be a breach of section 4.1 of the Code.

Further, while the Home Builder responded to the Home Buyer's complaints, it did not do so within 'an appropriate time' and the adjudicator found this constituted a breach of section 5.1 of the Code.

Decision

The claim succeeded and the Home Builder was required to apologise for the breaches of the Code and pay the Home Buyer £350.00 for inconvenience.

Complaint

The Home Buyer says that the Home Builder breached the Code by providing poor customer and after-sales service when dealing with the Home Buyer's complaints concerning a leak from the boiler cupboard and a bulge in the plasterwork

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. However, the issues are not snagging issues as the Home Buyer has undertaken various alterations to the Property since completion. Accordingly, no sums are due, and the Home Buyer's application should be dismissed.

Findings

The adjudicator found that the Home Builder was in dialogue with the warranty body and the Home Buyer throughout her dispute concerning the boiler cupboard and plasterboard. Otherwise, it would not have undertaken various site visits and repairs mentioned in the Home Buyer's application and the Home Builder's correspondence. As a result, the adjudicator found that the Home Builder provided an accessible after-sales service and 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 submitted that the Home had not been constructed to the plans, or sales and advertising materials provided, as a lamp post had been installed directly outside of one of the bedroom's windows; the lamp post was installed on the pavement, but it was in close proximity with this bedroom window.

The Home Buyer had noted that the lamp post in question was originally planned to be installed approximately 10 metres down the pavement, in front of another plot, and this was reflected within one of the plans produced. The Home Buyer submitted that this had been pursued with the Home Builder, and the conveyancing solicitor, on numerous occasions. Limited responses had been received, and no action had been taken.

Defence

The Home Builder acknowledged that a conveyancing plan, a title plan, contained an error; it showed the lamp post to be a different location to which it has been installed. However, the Home Builder argued that the Home Buyer was presented with other plans, plans which were intended to comprehensively detailed the position of fixtures and fittings such as the lamp post in dispute, which showed it to be in the correct location, and the location it is currently in.

The Home Builder argued that the Home Buyer should not have relied upon the title plan to confirm the location of this lamp post, and they were provided with a reservation pack which included plans which detailed the correct location of this lamp post. The Home Builder also denied that there was any record of the Home Buyer having raised a complaint specifically in relation to the position of this lamppost.

Findings

The adjudicator found that the Home Builder had provided the Home Buyer with a number of plans which correctly detailed the lampposts positioning, and showing the lamp post to be installed where it currently is today. The adjudicator acknowledged that the title plan differed to this, however, the title plan itself is to be utilised to denote the titles of the plots, their boundaries, and so on.

The Home Buyer should have referred to the specific engineering plans which had been provided when seeking such information, especially those which expressly related to the street lighting and other amenities, and that these plans showed the lamp post to be situated where it is now. The adjudicator therefore disagreed that there had been a breach of Sections 1.5 or 2.1.

The adjudicator did, however, find that the Home Builder had breached Section 5.1. There was clear evidence of the Home Buyer having pursued this matter with the Home Builder directly on numerous occasions, their conveyancing solicitor had also pursued the Home

Builder, and limited responses were received. There was, in general, a lack of evidence to show that this complaint had been considered in detail, or that this complaint had been investigated into by the Home Builder.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £100.00, and issue an apology, for the inconvenience caused by breaches of 5.1.

Complaint

The Home Buyer's complaint was that the development was sold as having a metal acoustic fence running alongside the boundary line of the development; to impose separation between the development and the M73. The Home Buyer argued that this was expressly included in the plans, and the sales and advertising materials, and this had been communicated to them in the build up to the sale.

However, instead of a metal acoustic fence, a wired fence has been installed, and the Home Builder has advised that this is not a temporary measure; no further action will be taken. The Home Buyer's argument that the development, and therefore the Home, had been mis-sold in breach of Sections 1.4 and 1.5 of the Code.

Defence

The Home Builder denied having advised the Home Buyer that such a fence was to be installed. The Home Builder argued that this was not included within the welcome packs issued, nor was the plan to install such a fence, along the section of the boundary line in dispute, ever communicated. The Home Builder argued that the fencing installed currently is in accordance with the planning applications and permits, it satisfies health and safety requirements, and no further action is required.

Findings

The adjudicator found that the Home Builder had provided evidence to show that the brochure plans issued, the sales and advertising materials circulated, did not include plans for such a metal acoustic fence to be installed. These plans showed that such a fence was to be installed for some of the section of the boundary line shared with the motorway, but not the entirety of the boundary line. The Home Builder also provided evidence by way of the planning permission obtained during 2019, and they provided email correspondence from the relevant planning authorities to show that such fencing was not proposed.

Based on the evidence provided by the Home Builder, and the lack of evidence provided by the Home Buyer to show that the Home, or the development, had been mis-sold, the adjudicator did not agree that a breach had occurred in this regard.

The adjudicator also considered the Home Builder's obligations with regard to Section 5.1, and it was found that the Home Buyer's complaint had been escalated, considered, and responded to in an effective and timely manner. The adjudicator also noted that the Home Builder had correctly signposted the Home Buyer to the relevant alternative dispute resolution service, and they had proactively engaged with the Local Councilor the Home Buyer had also referred this complaint to.

Decision

The claim did not succeed.

Complaint

The Home Buyers submitted that the render of the Home had been found damaged at handover. This was reported, the Home Builder returned to re-paint the render, and the vents were damaged during the process; they have become blocked due to the paintwork. The Home Buyers raised this as a further concern with the Home Builder noting that the vents were now further exposed, and unaligned.

The Home Buyers argued that as the vents were no longer as they were prior to the repainting of the render, the Home Builder should be liable to return and complete further works. This was referred to the NHBC, no further action was taken by the NHBC or the Home Builder, and both of these parties largely disregarded their complaints.

Defence

The Home Builder argued that the repainting of the render had taken place at the instruction of the NHBC, and the works were confirmed to have been completed adequately; no further action was required. The Home Builder reattended the Home upon the concerns with the vents being raised, and the vents were cleaned to ensure that they functioned as they should. The Home Builder undertook further instruction from the NHBC regarding these vents, and the NHBC confirmed that there were no issues present; these vents just needed to be in a functional condition. The vents are fitted to NHBC standards, this has been confirmed, and this dispute should have been pursued with the NHBC resolution service.

Findings

The adjudicator found that the Code does not encompass disputes which regard the standard of works completed at the Home. The adjudicator advised the Home Buyers that this dispute regarded the quality of the works completed, specifically with regard to the vents, and I was not empowered to consider if the Home Builder was liable to reattend and refit these vents; the Home Builder had outrightly denied any liability to do so. The Home Buyers were advised to pursue this with the NHBC.

The adjudicator considered whether or not the Home Builder had complied with their obligations pursuant to Sections 4.1 and 5.1 of the Code, and there was a lack of evidence to show that any breaches had occurred. The adjudicator found that the Home Builder had communicated with the Home Buyer in an adequate manner, they had sought to investigate, and resolve, the issues raised, and they had sought to consult with the NHBC to obtain further guidance; all within reasonable periods of time. The Home Builder had also handled the complaint raised well, and correctly signposted the Home Buyers to the NHBC.

Decision

The claim did not succeed.

Complaint

The Home Buyer complained about changes made to the design of the kitchen so that she could not fully open the refrigerator door and a pantry unit was missing. Cracking was evident but had not been investigated. Also the garden fence had been installed at an angle reducing the boundary and the snagging report had not been considered – including an extractor fan that was not fit for purpose. The Home Buyer complained of a breach of section 5.1 of the Home and asked for practical action to put things right and an apology.

Defence

The Home Builder said that the Home was not bought off plan and the Home Buyer had bought it as it was seen. The fence was constructed to avoid a tree that was required by the Council to remain in place. Although the neighbour has felled this, he may be required to reinstate it. The Home also was not built with the wrong kitchen. The kitchen designer had applied the wrong measurements, and the kitchen was installed before the Home Buyer viewed the Home. The fridge operates perfectly, and the customer could change the handle. The Home Builder had considered all complaints.

Findings

The adjudicator considered sections 2.1 and 5.1 of the Code. She found that the Home Builder had not explained to the Home Buyer which complaints it would accept from the snagging report and had not investigated the Buyer's complaint of cracking. The Home Buyer did not succeed in showing breaches of section 2.1 but the Home Builder had not complied with section 5.1 of the Code. The adjudicator could not make findings as to individual snagging items but directed that the Builder should consider and explain relevant matters. The adjudicator awarded a sum of money for inconvenience.

Decision

The claim succeeded. The adjudicator directed that the Home Builder should (a) respond to the issues raised in the New Home Inspection Snagging Report, making clear whether or not these are accepted and, if not, giving an explanation. (b) Investigate the Home Buyer's complaint of cracking in the Home, (c) Pay compensation of £250.00. and (d) Apologise.

Complaint

The Home Buyer stated that there were several issues to be raised regarding completion of the Home.

Defence

Home Builders submit that this claim replicated a decision that has previously been made and responded only in respect of claims regarding the kitchen units and the wardrobes. The Home Builder denied that these issues gave rise to breaches of the Code.

Findings

The adjudicator agreed with the determination of the in-house adjudicator that only issues regarding the kitchen and wardrobe could be raised because the Scheme Rules do not permit the same concern to be raised in another adjudication and the Home Buyer's complaints in relation to the other matters had already been decided. In respect of the kitchen, the Home Buyer had complained that wine racks and a breakfast bar were not included. The adjudicator found that these had not been promised by the Home Builder.

As for the Home Buyer's complaint about the construction of the wardrobes, this was a snagging dispute and outside the scope of the Code.

Decision

The claim did not succeed.

Complaint

The Home Buyer complained about the quality of the driveway and specifically argued that the shared driveway was crumbling, there were holes present, and it is ageing and wearing significantly faster than it should be. The Home Buyer argued that, given the poor installation, or poor material used during the installation, of the driveway, the Home Builder had breached Section 2.1 of the Code. The Home Buyer submitted that it could cost between £30,000 and £40,000 to have this driveway replaced.

Defence

The Home Builder submitted that at no point in time has it accepted that any of the driveways referred to were poorly fitted, or the materials utilised were substandard. The Home Builder argued that there was no evidence to show that the shared driveway in particular had been installed contrary to industry standards, or building regulations, and inspections of this driveway have not uncovered any issues; there were no issues with its surface, or the materials utilised.

The Home Builder accepts that there are some instance of, small, surface deteriorations, however this is expected during the use of a shared driveway; it is a highly trafficked area. The Home Builder further argued that it had engaged with the Home Buyer, and the other neighboring properties, regarding this dispute throughout. Thus, the Home Builder denied liability in full.

Findings

The adjudicator explained that the Code creates no obligations with regard the standard of an installation, or the quality of materials utilised, when installing fixtures and fittings such as a driveway, save in the case of misrepresentations, and that this was solely a dispute regarding technical standards.

The adjudicator did, however, consider the Home Builder's obligations pursuant to Sections 4.1 and 5.1 of the Code, and it was found that breaches had occurred. The evidence provided in general showed that the Home Buyer had reported this particular issue during 2022, it was chased during October 2022, and a formal complaint was raised during July 2023. It was only then that an engineer attended to inspect the driveways.

It was found that while adequate levels of after-sale service, and complaints handling, were provided from July 2023 onwards, the Home Builder had not adequately addressed the concerns raised prior to this point; the concerns appeared to have been left unaddressed for a prolonged period of time. However, the Home Builder appeared to have complied with the obligations under Section 4.1 and 5.1 from the point in which a formal complaint was raised onwards.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £100.00 for the inconvenience caused by breaches of 4.1 and 5.1.

Complaint

The crux of the Home Buyer's complaint is that the truss assembly was damaged prior to completion and while the Home Builder offered to add a length of timber to the truss, the Home Builder found this unacceptable as they felt it should be replaced, not repaired.

The Home Buyer further contends that the Home Builder's contractors did not work in a proper, neat and workmanlike manner and that the Home Builder failed to comply with the contract for sale as the variations affected the marketability and value of the property.

Defence

The Home Builder submits that it offered suitable resolution to the Home Buyer which was to repair the truss in accordance with a method approved by the manufacturer and that it recognised the importance of the matters raised and followed its procedures in escalating the matter. The Home Builder further submits that the truss manufacturer declined to approve the Home Buyer's proposal.

Findings

The adjudicator was satisfied that the Home Buyer was aware of the Home Builder's complaints procedure, but found that the complaint was not escalated in accordance with the Home Builder's procedure and that there were delays in responding to the complaint. The adjudicator found that this constituted a breach of section 5.1.

Decision

The claim succeeded. The Home Builder was directed to pay £250.00 compensation for inconvenience to the Home Buyer.

Complaint

The Home Buyer submitted that manhole covers on the Property's driveway were linked to a neighbouring property, and were not shared with the Property. He requested a copy of the drainage plans from the Home Builder, but they were refused. He obtained a drainage plan from the water authority, which did not match the actual layout of manholes at the Property. The manhole covers and drainage in question were not covered by the Property's household insurance, which could result in a cost being incurred if work needed to be done. The Home Buyer argued that the Home Builder has breached Sections 5.1 and 5.2 of the Code.

The Home Buyer requested that the Home Builder remove and relocate the manhole covers not on the water authority's plan, as they relate to a neighbouring property.

Defence

The Home Builder submitted that on 5 July 2023, the Home Buyer raised a complaint about parts of the drainage under the Property that did not serve the Property. On 7 July 2023, the Home Builder confirmed that the manhole covers on the Property's driveway related to drainage for a neighbouring property, but that this was normal and should not be of concern. The Home Builder subsequently confirmed to the Home Buyer that the manhole covers in question were positioned in accordance with plans and specifications. The Home Builder states that the manholes at the Property were located correctly and that separate insurance could be taken out.

Findings

The adjudicator found that the Home Builder breached Section 5.1 of the Code by failing to provide a clear answer to the Home Buyer's question.

Decision

The claim succeeded. The adjudicator directed the Home Builder to apologise to the Home Buyer for failing to provide the information requested, including in that apology an express confirmation regarding whether the manholes and related drainage system about which the Home Buyer asked serve the Property as well as a neighbouring property, or solely serve a neighbouring property, and whether the manholes and related drainage system are to be adopted by the water authority.

Complaint

The Home Buyers stated that the Home Builder breached Code Section 4.1, due to a lack of sound insulation at the Property, resulting in an unacceptable level of sound transfer from an adjoining property. The Home Builder's response to their complaint was not acceptable.

Defence

The Home Builder submitted that the Home Buyers' complaint relates solely to physical defects in the construction of the Property, which is not covered by the Independent Resolution Scheme. It fully investigated the Home Buyer's complaint about noise transfer and found no defects to the Property. The Home Buyers made a further complaint to the NHBC's Resolution Service. The NHBC investigated the complaint and found that there were no contraventions of NHBC standards and that the Home Builder did not need to take any further action.

Findings

The Adjudicator found that the Home Buyers' complaint regarding the rectification of sound insulation issues concerned a snagging issue 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 dealt with the Home Buyer's complaint about the issue with reference to its obligations under Code Sections 4.1 and 5.1.

The adjudicator found that the Home Buyers were able to access the Home Builder's after-sales service, having reported the issue after the sale of the Property which the Home Builder acknowledged, corresponded with the Home Buyer regarding and made arrangements to investigate. The adjudicator found there was no indication of a failing in respect of the provision of contact and guarantees/warranties information.

The adjudicator found there was a reasonable level of engagement from the Home Builder with the Home Buyers in relation to their complaint, including arranging for the original contractor to attend the Property to investigate the issue, informing the Home Buyers of its conclusion following the investigation and setting out its response to the Home Buyer's complaint with sufficient clarity to enable the Home Buyers understand its position. The Adjudicator did not find a 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 defects with the windows throughout the Home had been noted at handover. The Home Builder referred this to the sub-contractor who fitted the windows, and while they then agreed to replace every window throughout the property, these works caused significant damage; the fixing of the defects caused a further bigger issue than the initial defect.

The Home Builder continued to proceed with these sub-contractors being appointed, and it was not until five months later that it was finally conceded that these sub-contractors were incapable of completing the works to the required standard. The Home remains damaged, it has been a building site for a number of months, and the customer has been deprived of their new home experience. The customer argued that, at a minimum, £15,000.00 in compensation should be paid.

Defence

The Home Builder submitted that it quickly agreed to replace the windows throughout the Home, and sub-contractors were scheduled to attend to complete these works; the company that had fitted the windows in the first instance. The Home Builder acknowledges that this sub-contractor had caused delays, and carried out some sub-standard works, however they remained engaged with the Home Buyer throughout this process.

The Home Builder agreed to appoint a new contractor to attend to the works, given the issues experienced with the original contractors, and the windows were repaired in full; aside from minor snagging issues covered by the NHBC Buildmark warranty, no further action was required.

The Home Builder argued that its after-sale service was adequate, the Home Buyer had fully utilised the after-sale service, and the Home Buyer's complaints were considered, escalated, and resolved. The Home Builder apologised for the delay in completing the required repairs to the windows, however, it remained in constant communication with the Home Buyer throughout, updates were provided regularly, and the delays themselves were outside of the Home Builder's control.

Findings

The adjudicator explained that the adjudication would be restricted to considering claims that relate to the obligations created by the Code, and that the pertinent Sections of the Code were Section 4.1 and 5.1

The adjudicator found that there had been breaches of both sections. The adjudicator noted that these issues had first been reported during March 2023, and it was not until May 2023 that any works commenced with regard to the replacing and the fitting of the windows; there was a two month delay, and no evidence or submissions to show why this delay had occurred, or

how the Home Buyer was updated during this delay. The sub-contractors appointed had made three attempts at replacing these windows, yet the issues still remained. It was only during July 2023 that an actual assessment of the windows took place.

The sub-contractor re-attended during August 2023, they didn't arrive with the correct-sized window, they made further attempts at making windows on the same date, and they remained unsuccessful. It was apparent that the Home Builder could have changed contractors at a much earlier point in time given the issues that were occurring. There was also a further delay in appointing a new contractor to attend, as this contract did not commence until mid-October/early November 2023.

The adjudicator also referred to the fact that it was unclear as to whether or not the works had been fully completed, as the Home Buyer had argued that the Home Builder was still due to re-attend to complete the remaining sealant works around the windows on 6 December 2023.

The adjudicator acknowledged that much of these issues were the result of a third-party, however, they were a third-party engaged by the Home Builder, and in any event, there was a lack of evidence to show how the Home Builder had pursued this matter for the Home Buyer, and why the delays were as extensive as they were; for instance, there was a further two month delay in disengaging the first sub-contractor and appointing new contractors. It was also noted that there was a lack of evidence to show how the Home Builder had sought to escalate, and resolve, the Home Buyer's complaints throughout the period of time in contention.

However, while these failings had caused inconvenience, it was unfair, based on the evidence and submissions provided, to determine that the Home Builder had wholly failed to engage with the Home Buyer, or that the Home Builder had taken no action in response to the complaints raised.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £300.00 for the inconvenience caused by breaches of 4.1 and 5.1.

Complaint

The Home Buyer submits that a formal complaint was raised with the Home Builder regarding their overall experience with the Home Builder, and the many post-completion defects, and snagging issues, that arose and were not dealt with in a reasonable and timely manner; some of which remained outstanding.

The Home Buyer's concern in this specific case regarded the stepped access to the Home. The Home Buyer argued that the Home was never marketed as having such stepped access, and rather, it was marketed as being without. It was not until after completion that this was discovered. The Home Buyer noted that the Home Builder was in breach of Building Regulation Part M, they had failed to comply with NHBC guidance and findings, and they had completed work at the Home unsatisfactorily.

The Home Buyer argued that breaches of Sections 1.5, 2.1, 3.1, 4.1 and 5.1 had occurred and that compensation of £15,000.00 should be paid as a result.

Defence

The Home Builder submitted that the Home Buyer entered into a reservation agreement, and in doing so, they were provided with a comprehensive Reservation Pack; this included plans, elevational drawings, and so on. The Home Buyer also viewed the Home prior to completion, the steps were already in place, and no concerns were raised. It was not until after the Home Buyer had moved into the Home, and raised a comprehensive snag list, that this issue was referred to the Home Builder. In fact, the Home Buyer had raised issues with the NHBC, escalated a separate claim to The Consumer Code for Home Builders Independent Dispute Resolution Scheme relating to a different matter, and only then raised a concern with the stepped access to the Home.

The Home Builder argued that the reservation agreement plans were clear in that stepped access was to be installed, the Home Buyer was aware of this stepped access, or should have reasonably been aware, and therefore no breaches of the Code had occurred in this regard. The Home Builder also noted that they had responded to all of the Home Buyer's concerns, an adequate level of after-sale service was provided, and the Home Buyer's complaints have been addressed in an effective and timely manner.

Findings

The adjudicator explained that, while the Home Buyer had provided evidence relating to a significant number of issues within the Home, the actual details of the Home Buyer's application form were restricted to the misrepresentations of the Home, its stepped access, the lack of accessible access to the Home, the standard in which the Home had been constructed to, and the alleged breaches of Building Regulation Part M and the NHBC's guidelines.

The adjudicator found, with respect to Sections 1.5, 2.1 and 3.1, that the Home had not been mis-sold on the basis of it having stepped access. The evidence was clear in that the Home Builder's standard/general marketing materials for this model of property was subject to significant disclaimers and was not to be relied upon. The Home Builder had also provided plans, elevational drawings, and so on, to show that the Home was to have stepped access; these were available to the Home Buyer prior to signing the reservation agreement.

Regarding 3.1 in particular, the Home Builder could not have made a significant alteration to the Home's construction, given that the plans show that it was always intended to be constructed in such a way, and the Home Buyer should have known this.

With regard to Section 4.1, the adjudicator found that the after-sale service provided had been adequate. The Home Builder had been receptive to all concerns, snagging or otherwise, that had been raised, the Home Buyer was fully aware of how to utilise this service, and who to contact, and the parties have been discussing the issues at the Home over a significant period of time; with and without the NHBC's involvement. Repairs were completed in a reasonable amount of time, assistance was provided throughout these repairs, and so on.

However, it was noted that the Home Builder could have responded to the large complaint raised by the Home Buyer in a more effective manner. Although the Home Builder's response to this case was adequate, and supported their position, the Home Builder could have provided a similar response to the original complaint raised; this could have avoided the Home Buyer from having to pursue this complaint further with the Consumer Code for Home Builders Independent Dispute Resolution Scheme. This was found to be a breach of Section 5.1 of the Code.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £100.00 for the inconvenience caused by breaches of 5.1.

Complaint

The Home Buyer says Home Builder has breached Clause 5.1 of the Code by failing to provide good customer and after-sales service when dealing with a complaint about the various snagging issues with the Property

Defence

The Home Builder remains committed to resolving the outstanding issues with the Property and has provided an accessible after-sales service. The Home Builder has offered to pay the £420.00 and fix the valid outstanding snagging issues or alternately request the warranty provider to inspect the property and then fix the problems identified. However, all these offers have been refused. Accordingly, no further sums are due, and the Home Buyer's application should be dismissed.

Findings

The adjudicator found that while the Home Builder had a system and procedures for receiving and handling service calls and complaints they failed to respond within a reasonable time frame to the Home Buyer's inquiries concerning the defects which resulted in a breach of Clause 5.1 of the Code,

Decision

The claim succeeds and the Home Builder was ordered to pay £400.00 for the distress and inconvenience incurred.

Complaint

The Home Buyer submitted that a reservation agreement had been entered into during October 2020, and it was advised that solar panels were to be fitted at the Home. The Home Buyer submits that they had viewed the development, and they had seen another plot, which was to be the same model of house at the Home, which had a total of eighteen solar panels fitted. The Home Buyer submits that this led them to believe that a similar number of panels would be fitted at the Home, especially when considering that a property the size of the Home would need approximately eighteen panels to be fit for purpose. However, upon completion, it was found that just four panels had been fitted, and the Home Builder is not willing to install the remainder.

The Home Buyer's claim was primarily that the Home had been mis-sold, that inaccurate advertising and sales material had been provided, and that insufficient pre-purchase information had been provided; breaches of Section 2.1, 2.6 and 3.1.

The Home Buyer had also noted that the Home Builder's after sale service had been poor, and that complaints had been largely ignored; Sections 4.1 and 5.1.

The Home Buyer sought a reimbursement of the additional energy costs incurred since handover, and for the Home Builder to reattend and install the remaining panels.

Defence

The Home Builder submitted that in order to satisfying planning permission requirements, a certain quota of renewable energy needed to be satisfied. This quote was development-wide, and therefore a certain number of panels needed to be installed. The Home Buyer was therefore correctly advised that solar panels would be provided, and such panels were provided. The Home Builder denied that the Home Buyer had been assured that a certain number of panels would be fitted at the Home, and they submitted that the Home Buyer's own argument was that they have believed that a certain number of panels was to be fitted, given that another plot had a certain number of panels fitted.

The Home Builder did however acknowledge that the Home Buyer's correspondence was not responded to with full and definitive answers.

Findings

The adjudicator found that the Home Builder had not sold, or marketed, the Home as having a certain number of solar panels, and rather, the Home Builder had only advised that some solar panels were to be provided. The Home Buyer had acted on the assumption that a greater number of panels was to be provided, as they had seen another property, which was closer to completion, had approximately eighteen panels fitted.

Without any evidence to show that the Home Builder had advised the Home Buyer that eighteen panels were to be fitted, or any evidence to show that the Home was advertised as

having such a number of panels, it could not be determined that Section 1.5 of the Code had been breached. It was however accepted that Section 2.1 of the Code had been breached, as a greater level of pre-purchase information could have been provided with respect to the solar panels that were to be fitted.

The adjudicator also found that the Home Buyer had been required to chase the Home Builder for responses to queries regarding the solar panels, and specific information relating to these panels, and the Home Buyer's complaints were not addressed in an effective and timely manner; this was largely conceded by the Home Builder in any event.

Given the breaches that had occurred, while there was insufficient evidence to be able to determine that the Home Builder should install these panels, or bear the cost of doing so, the Home Buyer had been inconvenienced, and a nominal award of compensation was made to reflect this.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £150.00 for the inconvenience caused.

Complaint

The Home Buyer submitted that in July 2023, she informed the Home Builder that her new kitchen cupboard doors had developed shiny silvery marks that would not wipe off. The Home Builder's contractor attended the Property, and despite trying various cleaning solutions they could not remove the marks, so they agreed to replace the doors. The new doors were now developing the same problem, but the Home Builder's contractor was refusing to replace the doors, even though they asked to be told if the same problem occurred. She said the Home Builder had breached Sections 2.1 and 4.1 of the Code.

The Home Buyer sought for the Home Builder to replace the kitchen cupboard doors.

Defence

The Home Builder submitted that the Home Buyer raised a complaint on 10 October 2023. The Home Builder contacted its contractor, which had addressed the first query in July 2023, and at that time had tested the doors and confirmed there was no fault. The results of the July 2023 tests were shared with the Home Buyer. In July 2023 the Home Builder's contractor agreed to replace the doors free of charge as a courtesy, but declined to do so this time as they felt that the Home Buyer was using substances that were leaving marks on the doors. The Home Buyer had received the kitchen and appliances promised.

Findings

The adjudicator found that while the Home Buyer is unhappy with the Home Builder's decision not to replace the kitchen cupboard doors, they were satisfied that the Home Builder undertook testing by its contractor and which confirmed that the doors met the applicable standards. The role of an adjudicator is not to determine the actual cause of the marks, but only to determine if the Home Builder's response constituted a substantive good faith response to the complaint made by the Home Buyer. The adjudicator found that the Home Builder engaged with the Home Buyer when a complaint was raised, and only refused to take action because a determination was made on the basis of testing that the marks did not result from a fault in the doors. As a result the adjudicator found that no breach of the Code had been committed by the Home Builder.

Decision

The claim did not succeed.

Complaint

The Home Buyer says Home Builder has breached the Code as it did not provide a correctly sized parking space and a correct EV charging point and has provided poor customer service when dealing with a complaint concerning heating issues.

Defence

The Home Builder says the Property has been provided with a dedicated ROLEC WALLPOD: EV Mode 2 electric vehicle charging point in accordance with all NICEIC Regulations and Leeds City Council Planning requirements, as well as the developer's plans. The Property's parking space is of adequate width and in accordance with the Home Builder's sales material, including the site plans. Concerning the heating issues, a qualified heating engineer has surveyed the installation, which was found to be correct, and the use of the "Economy" mode and a flow temperature set below the manufacturer's guidance by the Home Buyer had affected its efficiency.

To resolve this dispute, the Home Builder has offered to amend the level of the pathway next to the driveway. However, the Home Buyer has refused this. Accordingly, no further sums are due, and the Home Buyer's application should be dismissed.

Findings

The adjudicator found that the Property did have installed an electric vehicle charging point as set out in the pre-purchase information albeit this was damaged by the Home Buyer's EV cable, and the Home Buyer wished to upgrade the charging point to a higher power unit.

Furthermore, the adjudicator found that the Property's driveway was built in line with the Home Builder's typical width and while the parking spaces were tight for the Home Buyer's own vehicle, they did not differ greatly in size from the various plans provided by both parties. As a result, the adjudicator was satisfied that the Home Builder has not failed to comply with Clause 1.5 of the Code.

The adjudicator further found that the Home Builder was in dialogue with the Home Buyer throughout his dispute and while they had not resolved the Home Buyer's complaints to their satisfaction, the timescale for responding was reasonable. Therefore, the adjudicator was satisfied there had not been a breach of Clause 4.1 or 5.1 of the Code.

Decision

The claim did not succeed.

Complaint

The Home Buyer complains that when she reserved a house at the Home Builder's development, she was told that completion would be in March 2022. In February 2022 she was told that there would be a one month delay and in March she was told of a further two or three months delay.

Defence

The Home Builder said that it had warned the Home Buyer that the completion date was an estimate and might be delays, it had communicated from time to time that there would be delays due to lack of labour and materials and had ensured that a long-stop date was included in the contract.

Findings

The adjudicator found that although there had been a delay, the Home Buyer had not shown that the information about the likely completion date was unreliable or unrealistic at the time that it was given and nor was there evidence of lack of system or procedures or unfairness in the terms of the contract.

Decision

The Home Buyer was not able to succeed.

Complaint

The Home Buyer says the Home Builder has breached sections 1.1, 1.3, 1.5, 2.1, 2.6 and 5.2 of the Consumer Code for Home Builders. The Home Builder provided poor customer service and misleading information throughout its dialogue with the Home Buyer. The Home Builder has not built the property in line with the planning approval and building control. Furthermore, the Home Builder has increased the price during its marketing period.

Defence

The Home Builder remains committed to resolving any valid outstanding issues with the Property and has provided an accessible after-sales service. Where issues have been correctly identified, they have been fixed. The Home Builder has complied with its planning approval and building control. Accordingly, no further sums are due, and the Home Buyer's application should be dismissed.

Findings

The adjudicator found that there was a dialogue between the Home Builder and Home Buyer throughout the build process and that the Home Builder had suitable systems and procedures to ensure they could reliably and accurately meet the commitments on service.

Further the adjudicator found that the Home Buyer was provided with enough pre-purchase information to help them make a suitably informed purchasing decision which included being given a reservation agreement that clearly set out the reservation terms and what was being sold.

The adjudicator found no evidence that the Home Builder had applied high-pressure selling techniques in its sales and advertising material or that the Home Builder was not entitled to increase the property's selling price during the marketing period before reservation or that the Home Buyer was not liable for his own conveyancing costs.

The adjudicator also found that the Home Builder had a system and procedures in place for receiving and handling service calls and complaints. The Home Builder was in dialogue with the Home Buyer throughout their dispute and whilst the Home Builder had not resolved the Home Buyer's complaints to his satisfaction, the timescale was reasonable.

As a result, the adjudicator found no breaches of the Code.

Decision

The claim did not succeed.

Complaint

The Home Buyer submits that the Home Builder has breached Sections 1.5 and 2.1 of the Code. Specifically, the Home Buyer submits that the Property was “advertised and sold” alongside a parking space. The parking space, which is located in a communal area, is adjacent to two other parking spaces allocated to neighbouring properties. The Home Buyer submits that although three vehicles can enter the spaces, once all vehicles are parked, it is not possible to open sufficiently any door to exit as the space is too narrow and is obstructed by pillars (particularly at the point of access).

The Home Buyer comments further that the pillars are not indicated on the plans provided by the Home Builder and that the plans are also inaccurate in measurements.

Defence

The Home Builder’s position is that it denies breaching the Code. Specifically, that the parking spaces complied with the planning permission as confirmed by the local authority.

Findings

The adjudicator found that, despite the Home Buyer’s submissions that the spaces had not been divided as per the plans, the plans/diagrams and photographs indicated that the spaces had been installed as per the plans/permissions and issues raised in relation to the presence of pillars, related to a latent defect not covered under the Code. As a result, they found the Code had not been breached.

Decision

The claim did not succeed.

Complaint

The Home Buyers complain that they were pushed into exchange of contracts, having reserved an apartment. The Home Buyers also ask for compensation for the quality for the work done. They say that an interim compensation payment of £1000.00 was agreed and this has not been paid despite the Home Builder having the Home Buyer's bank details. The Home Buyers sent an email stating why they believed that the Home Builder had failed as a company, and they were directed to forward their complaint to Checkmate.

The Home Buyers also say that they have not been treated fairly because another customer was given a parking space for £5,000.00 whereas the cost of a parking space was said to be £15,000.00.

The Home Buyers complain of breaches of sections 1.4, 1.5, 2.4, 3.2. and 5.1.

Defence

The Home Builder denies pushing the Buyers to exchange and says that the delay in completion occurred because their main contractor went into administration. Exchange of contracts was delayed, and completion occurred before the contractual long-stop date. It states that it has already provided the Home Buyer with a total of £4,035 worth of incentives by way of a £1,000.00 discount of the full market value of the property, waiver of the first years' service charge with a value of £2,035.00 service charge contribution and a further £1,000 legal incentive accepted from its director following escalation of the Home Buyers' complaint.

It agrees that the wardrobe Installation did not take place when advised and apologise for the inconvenience this has caused upon moving in, it agrees to reimburse the Buyers the £22. for the clothing rail they purchased. All snagging items raised post-completion have been acknowledged and large number of items have now been resolved.

Findings

The adjudicator found that although there had been a significant aspect of this had been the failure of the main contractor which was an unexpected event. The Home Builder has explained why it was not able to tell the buyers about the financial situation of this company before legal proceedings, The occurrence of this did not make the information about the proposed date of completion unreliable or unrealistic. The Home Builder had warned that any date may be delayed, provided reliable and realistic information about the probable date of completion, and ensured that the contract contained a long-stop date. In all the circumstances, there was no breach of the Code. In reaching this conclusion the adjudicator also considered other complaints raised by the Buyers (that the Home Builder had not negotiated with them about an extra parking space but had negotiated with others and had not rectified snagging works or made compensatory rent payments) but these claims did not succeed.

Decision

The Home Buyers were not able to succeed.

Complaint

The Home Buyers complain that they were offered incentives and a promise that they would be in their new Home by the end of 2021 if they signed up for the purchase. Had they known that there would be a delay they would not have proceeded. The Home Buyers say that they were notified in June 2021 by the Home Builder that their completion date had been deferred until March 2022 but in the event, handover did not take place until 30 November 2022. This was some 12 months beyond the handover date quoted at the time the reservation form was completed and 9 months later than the date they were given at exchange. The Home Buyers say “under anybody’s measure this was unreasonable”. The Home Buyers have complained of breaches of sections 1.3, 1.4, 1.5, and 3.2. of the Code

Defence

The Home Builder said that it has suitable systems and procedures in place to provide reliable and consistent service to home buyers and to resolve relevant issues that may arise prior to completion in accordance with section 1.3 of the Code. It provides suitable training to all staff dealing with home buyers about the meaning of the Code and the Home Builder’s responsibilities in accordance section 1.4 of the Code. The Home Builder’s sales and advertising material relevant to the Home and the estate of which it forms part was clear and truthful in accordance with section 1.5 of the Code. And the Home Builder gave the Home Buyers relevant information about when the construction of the Home would have been finished and made it clear that it could not be precise in accordance with section 3.2 of the Code).

Findings

The adjudicator found that although there had been a significant delay, the Home Buyers were aware of the possibility of this. At the time that they entered into the reservation agreement in June 2021, they were aware that December was not a feasible date. I find that there were unforeseen circumstances that caused delay but that did not mean that the initial estimate had not been reliable or realistic. This has to be assessed as at the time that any estimate is given. Moreover, a builder would not ordinarily be responsible for the costs of accommodating the purchasers pending purchase or for changes in the cost of borrowing.

Decision

The Home Buyers were not able to succeed.

Complaint

The Home Buyer submits that there were a number of unresolved defects at the Property and that the Home Builder made excuses not to complete the work. The Home Buyer adds that the garden fence height and position is not as indicated on the plans which show these as 1.8m high and that the garden levels in the front garden were incorrect. The Home Buyer submits that there were toxic and harmful substances omitted on the development after he moved in.

Defence

The Home Builder submits that the Home Buyer carried out works to the garden which “negatively impacted the height of the fence” and that the site was not complete when the Home Buyer moved in but that there was no evidence to show “serious environmental concerns”.

The Home Builder says the Home Buyer was provided with pre-purchase information which included plans and information on what to expect when living on site and they were aware of how to report defects through the portal; albeit contacted contractors directly which “frustrated the process”.

The Home Builder states it provided the Home Buyer with a copy of its complaints process.

Findings

The adjudicator found there was an issue with the fence height and this was the case prior to the landscaping work. This was because the Home Builder said it would fit 1.8m fencing and it has not conclusively demonstrated that it did. The adjudicator found sections 1.5 and 2.1 of the Code were breached.

The adjudicator further found that while the Home Builder was correct to point out there is likely to be dust and construction on an unfinished development, it had not demonstrated it informed the Home Buyer about the health and safety precautions he should take. Consequently, the Home Builder breached of section 4.2 of the Code

Decision

The claim succeeded. The Home Builder was directed to complete a survey to inspect the fence. The instruction should request a report on the work required to fit the fence to the height promised pre-sale. It should then complete works to ensure the fence is appropriately fitted at 6 feet. Also to pay £250.00 for inconvenience as a result of the breach of section 4.2 of the Code.

Complaint

The Home Buyer's complaint was that upon handover a significant snagging list was compiled, and the Home Builder was not addressing the snagging issues in a timely manner; painting and plaster work remained outstanding, the brick work was still in need of repair, amongst several other issues. These works were chased over a protracted period of time, some of the issues were significant such as the lack of a functioning burglar alarm, and where works had been completed, many of them had been carried out to a poor standard. The Home Buyer had not pursued a specific monetary claim, nor had they expressly outlined the actions they were seeking from the Home Builder, however the overarching message was that the Home Buyer was seeking for the Home Builder to ensure that the items remaining on the snagging list were resolved without further delay.

Defence

The Home Builder hadn't submitted a formal response to this claim. The Home Builder had previously raised an objection to this claim on the basis that a formal complaint had not been raised by the Home Buyer.

Initially a proposed decision was issued, rejecting this objection, however there was a degree of confusion caused as an adjudicator had previously upheld the objection.

The Home Builder was given a further chance to respond, as a defence to the specifics of the claim had not been provided just an objection, and no further response was received.

Findings

The adjudicator initially addressed the Home Builder's objection to the claim. It was found that there was sufficient evidence, and reasoning, to suggest that a complaint had been raised during February and July 2023, and that this complaint had yet to be resolved. The fact that the Home Builder had not recorded a formal complaint until 11 October 2023 was irrespective as, on a balance of probabilities, the Home Builder should have recorded the Home Buyer's previous concerns as a complaint.

Within the revised proposed decision, the adjudicator addressed the steps that had been taken to address the confusion caused, in view of a second adjudicator's previous upholding of the objection, and it was explained why this case could be considered under the scheme. The adjudicator further explained that this scheme was restricted to the Home Builder's obligations under the Code, and the adjudicator could not determine if the Home Builder should be liable to attend to issues it had not expressly agreed to do so; if there was a dispute over liability to address a defect/snag, the adjudicator could not determine if the Home Builder should actually be liable to attend to this.

The adjudicator considered the Home Builder's obligations pursuant to Section 4.1 and 5.1 of the Code, as these were the pertinent sections, and it was confirmed that there had been breaches.

There was limited evidence, but the adjudicator found that the Home Buyer was having to chase the Home Builder on numerous occasions for updates and so on, there had been unreasonable delays in the completion of agreed upon works/snagging issues, it was unclear as to whether a clear snagging issue, containing a schedule of works, had been provided, and the Home Buyer's concerns in general had been addressed poorly.

Both parties responded to the proposed decision by accepting it without the need for amendments.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £150.00 for the inconvenience caused by breaches of 4.1 and 5.1, and the Home Builder was directed to compile a schedule of works for the outstanding snagging issues at the Home.

Complaint

The Home Buyer's complaint was that the Home Builder had broken Section 1.5 of the Code as the Home had been sold with a parking space, and railing surrounding the terrace of the property; this was a ground-floor flat within a block of apartments, and no parking space in the communal parking area was provided. Conclusive answers were not provided during the sales process at the least, however, the Home Buyer argued that they believed they had been sold the Home as having parking and terrace railings.

There had also been issues with a suspected leak within the Home, there was a dripping noise, there was an issue with a light fitting, and there had been security issues at the development. The Home Buyer had argued that all of these issues had not been addressed effectively, or within a reasonable period of time.

The Home Buyer was seeking for the Home Builder to install terrace railing as promised, and to provide them with a permanent parking space. If this was not agreeable, the Home Buyer was seeking 6% of the purchase price of the Home to be refunded. The Home Buyer was also seeking compensation for the inconvenience and distress caused by the delays in repairing issues at the Home, and the failure to resolve the security issues effectively at the development.

Defence

The Home Builder advised that all issues reported, bar the terrace railing and the parking allocation, had been resolved. The Home Builder argued that no monetary losses were experienced by the Home Buyer in connection to the snagging issues/defects at the Home, evidence of such losses was requested from the Home Buyer, and nothing was forthcoming. In any event, the Home Builder sought to resolve this aspect of the Home Buyer's complaint by offering £250.00 in compensation.

The Home Builder denied that the Home Buyer had been sold the Home as having terrace railing, or a permanent parking spot within the development. The Home Builder submits that none of the advertising material produced indicated that these would be provided, none of its employees had indicated that these would be provided, and it is unclear why the Home Buyer assumed that either of these fixtures and fittings, or benefits, would be provided. Moreover, with regard to the parking space specifically, it was made clear that a parking space was not to be provided within the legal documentation, and that the Home Buyer had even acknowledged that they would need to be placed on a waiting list in order for this to be provided.

Regarding the security issues at the development, the Home Builder had taken action to address this; these actions were acknowledged by the Home Buyer and other leaseholders; patrols were undertaken, security services were engaged, and so on.

The Home Builder acknowledged that there had been some delayed responses, and some of the issues at the Home, such as the raised bathroom flooring, could have been resolved in a more reasonable period of time. However, they denied that these issues in isolation amount to breaches of the Code.

Findings

The adjudicator found that the Home Builder had not broken Sections 1.5 or 2.1 with regard to the parking spaces or the terrace railing. Both issues were addressed in turn.

With regard to the railing, it was noted that the Home Buyer had confirmed that the Home Builder had not expressly advised them that such railing was to be provided during the property tour, and there was no evidence of marketing materials/sales advertisement, to show that the Home Buyer had been led to believe this would be provided. Rather, the digital model of the development showed that the Home would, more likely than not, not have such terrace railings.

With regard to the parking, it was again noted that there was no evidence to show that the Home Builder had committed to providing this. The lease was actually clear in that if no parking spaces were marked on the plans provided, which they were not, the Home would not benefit from any right to park on the estate.

Regarding Sections 4.1 and 5.1, the issues within the Home, and the security issues in the development, there was evidence of lapses in communication between the parties, and that there were unreasonable delays in resolving the problem with the flooring outside of the bathroom given that the Home Builder had agreed to resolve this. There was also a delay in attending to a dripping noise the Home Buyer could hear from the Home, and that the Home Buyer had been required to chase the Home Builder on numerous occasions regarding this matter. With the security issues, however, the agent had acknowledged these reports, actions were taken, and the Home Builder had satisfied its obligations pursuant to the Code in this regard; preventative measures were being taken to resolve this, and the Home Builder's communication with the Home Buyer, and other leaseholders, had been satisfactory with regard to this issue.

The adjudicator also found that the complaints handling process could have been handled in a more effective and timely manner. While it was not overtly poor, there were delayed responses, and the Home Buyer was not signposted to an alternative dispute resolution service after they had declined the Home Builder's final offer.

Decision

The claim succeeded. The adjudicator directed the Home Builder to compensate the Home Buyer in the sum of £250.00 for the inconvenience caused by breaches of 4.1 and 5.1.