

Consumer Code of Practice

Consumer Code for Home Builders

14 September 2022

Background information

The Consumer Code for Home Builders (CCHB) was developed in conjunction with the Office of Fair Trading and launched in 2010 to address issues identified in the Barker Report of 2008 that related to the sale and purchase of new homes. The Barker Report and the OFT Review identified that customer satisfaction with the quality of new homes was at 47%. Customer satisfaction is now at a rate of 91%.

The Code exists to make the home buying process fairer and more transparent. The Code sets mandatory Requirements that home builders must meet in their marketing and selling of new homes and their after-sales customer service. The Code applies to homes covered by the UK's main home warranty bodies NHBC, Checkmate, Premier Guarantee and LABC Warranty and it represents approximately 95% of the new homes market. The Code includes an independent dispute resolution scheme, an independently audited compliance regime and the power to apply sanctions that includes removing builders from home warranty schemes if they do not comply with the Code.

The Code's Independent Dispute Resolution Scheme is provided by the nationally accredited organisation, the Centre for Effective Dispute Resolution. This provides home buyers with a fast, free and fully independent route for redress should something go wrong with the home buying process.

The Code is overseen by a Management Board, independently chaired by Noel Hunter OBE. The Management Board is supported by an Advisory Forum, which includes representatives from the Chartered Trading Standards Institute and Citizens Advice.

Audit Process

The focus of the audit was on

- Code management, processes and procedures
- Guidance to support members to implement the code
- Documents provided by members relevant to the code
- The mechanisms in place for dealing with consumer feedback
- Support for vulnerable consumers
- Issues relating to pressure selling
- Mediation and ADR
- The disciplinary & sanctions process

Summary

The Consumer Code for Home Builders has been a member of the CTSI Consumer Codes Approval Scheme since November 2018. There are currently around 12,000 builders signed up to the Code through registration with the warranty bodies, this represents approximately 95% of the new homes market. The member warranty bodies are NHBC, Premier Guarantee, LABC Warranty and Checkmate.

In April 2022, the Government enacted the Building Safety Act 2022 which sets out that the Secretary of State may approve a statutory Code of Practice in the new homes sector and a statutory ombudsman.

The triennial review that the Code usually undertakes was put on hold awaiting the introduction of the legislation but, given that the statutory code doesn't look imminent, CCHB are undertaking a review of their Code with the view to plug any gaps in consumer protection which have been identified over more recent years. The review is being overseen by an independent chairman, John Bridgeman CBE, and an early recommendation is that the Code should align with others in the market place. The CCHB assisted in the drafting of the New Homes Quality Board Code which addresses a number of the issues previously identified, so it is likely the revised CCHB Code will follow a similar format.

Member Application Process

The Code has three supporting members who are the warranty providers – NHBC, MD Insurance Services (trading as Premier Guarantee and LABC Warranty) and Checkmate. Between them, they require their registered developers to comply with the Code. This number fluctuates as developers sign up and start building and when developments complete. At any one time, it is estimated that between these warranty providers there are around 12,000 registered builders but only around 5,000 actively building.

Each member warranty body has its own system, developed in conjunction with the Code, for assessing membership applications. The members of the Code carry out various checks to assess the solvency and capability of the builder before accepting them into their scheme. The checks include finance checks, covering insurance risks, directors' checks, and the members use external credit reference agencies e.g., Credit Safe; D&B Credit.

Collectively, between the supporting warranty providers, CCHB report that there have been 649 new registered developers that are required to comply with the Code and in total the warranty providers have rejected 605 builder applications.

All members (builders) must renew membership of their warranty scheme each year for ongoing developments. The risk assessment includes any complaints received, any claims against the warranty, a reaffirmation of compliance with the Code and the new premium will be calculated accordingly.

Member Monitoring

To encourage home builders to follow the Code, to enable the CCHB Management Board to establish how well it is being applied and whether it needs to be amended or updated further, several monitoring activities are carried out. The monitoring process is the same for all warranty bodies.

The technical requirements at every new home building site will be inspected at each stage of the build, which is generally six times per plot, though this can be more in the case of an inexperienced builder.

All developments are checked on a regular basis by the warranty body's Building Inspectors for build quality and compliance with building regulations. The building inspectors for Checkmate check Code compliance when on site, the other Code members have separate auditors for each task.

Each month 30 builder members are randomly selected to complete a six-page desktop self-assessment questionnaire. These survey forms are sent to a selection of home builders from a cross section, ranging from large to small and from across the UK, ensuring those who build homes in Scotland, Wales and Northern Ireland are included. In addition, approximately a further 200 site visits are made. This was slightly down in 2021 due to the impact of the pandemic and some sites still being closed to visitors, so some of the audits were carried out remotely. These audits equate to about 10% of those home builders who are registered and actively building in the year and, therefore, in accordance with the agreed audit plan.

In the main, the responses provided found that home builders deemed to be medium to large in size were aware of the Code and had processes and systems in place to

comply with its Requirements. Smaller home builders were less likely to be aware of the Code and, therefore, found the process helpful in terms of raising awareness and what needed to be done to bring them into compliance. Some concerns were raised by the auditors whereby some home builders had introduced a multi-stage reservation process and appeared to be taking Reservation fees prior to all the pre-purchase information, as required under the Code, being given to home buyers. As a result of the findings and the feedback to the individual home builders concerned, compliance with the Code was improved with these home builders clarifying their approach when taking Reservation Agreements and ensuring no Reservation fees were being taken until after such information was given.

Any issues that arise from the questionnaire are followed up until they are resolved.

The Code's Disciplinary and Sanctions Panel review all questionnaire responses and considers what action, if any, needs to be taken. This will include a more focused audit, including a site visit, if necessary.

For the purposes of the audit, CCHB provided an example of correspondence sent to a developer following a site visit. The response to this letter was also provided which detailed what the developer intends to do, to address any identified non-compliance.

Good Practice:

The CCHB Annual Report contains comments made by developers about the results of their desktop self-assessment audit. The comments were very positive, they demonstrated commitment to the Code by members and willingness to make all necessary changes.

Withdrawal from membership and non-compliant businesses

So far in 2022, there has been two reported cases whereby the member has failed to comply with the Code, both failed to honour the Adjudicator's award under the Independent Dispute Resolution Scheme which is a breach of the Code Rules.

Unfortunately, one of the developers was in receivership. CCHB wrote to the receivers advising of the liability to honour the award and the home buyer was advised of their status as an unsecured creditor. For the other developer, the matter was resolved and copies of the correspondence was provided for review.

Should a developer be removed from the register of one of the supporting home warranty providers, it also removes them from all the CCHB supporting warranty providers and as such, prevents a home builder from selling their home. The threat of the removal is therefore often enough to gain compliance.

Any action taken is in accordance with the Code's non-compliance procedure. It is overseen and agreed via the Disciplinary and Sanctions Panel and reported to the full Code Management Board.

Marketing and Advertising by Member Business

Code promotion is essential to the success of the Code as it informs consumers of their enhanced protection. Home builders are required to display the Code logo in their site sales offices and on their sales brochures. As many developers have moved to on-line interactions with their customers, they are encouraged to display details of the Code on their websites, this will become a requirement under the new version of the Code.

Home builders are provided with the Code logo in a variety of formats (free to download from website), along with the branding guidelines. They are also able to obtain, free of charge, window clings to use in their site sales offices.

The promotion of the Code is audited both in the desktop self-assessment audits and during site visits.

Terms and Conditions and other Pre-Contractual Information

The Code website has template reservation agreements that can be adopted by builder members of the Code. The Code does not provide standard Terms and Conditions but does list requirements of what needs to be included in them. There have been ADR rulings in the past due to shortcomings in builder members Ts&Cs e.g., non or insufficient details of rights of termination.

Customer Service Provisions

During the year, there were 2,587 general enquiries made to the Code which represents a 26% increase on the previous year. Most of these contacts are from home buyers (87%). CCHB work with an established and independent contact centre to provide this service. The contact centre team provide help with general queries about what the Code covers and how its requirements apply in the purchasing process. Though the helpline team do not advise consumers on Code breaches or individual cases, it will advise on how to raise a complaint through the Code's Independent Dispute Resolution Scheme.

Since April 2019 there has been no fee for bringing a complaint through the Code's Independent Dispute Resolution Scheme. This gives home buyers easy access to redress should something go wrong with their purchase. Builders still must pay a fee when a complaint is raised against them, this is intended to incentivise them to provide a good service and encourage them to resolve issues quickly and thoroughly, removing any need for escalation.

Consumer Complaints Process

In 2021 there was a total of 307 cases referred to the Code's Independent Resolution Scheme, this is an increase of 24% compared to 2020. CCHB are not overly concerned by this increase stating that a similar pattern is observed by other providers of ADR as the usefulness of the service becomes more widely understood by consumers. Further as the profile of the Code is raised this is an inevitable consequence.

The Code CEO follows up on all ADR rulings with a letter to the CEO of the company in question. Each year a document is produced by The Code, of lessons learnt from the findings of the ADR process.

The Code's Disciplinary and Sanctions Panel (DSP) reviews all cases that go through the Independent Dispute Resolution Scheme. The Chairman of the Board writes to the Chief Executive or Managing Director of each company if a breach of the Code has been found. The letter highlights the breach and offers further guidance on compliance to prevent a re-occurrence as necessary. Most home builders are keen to learn lessons from the Adjudications and improve their customer service where they can.

Good Practice:

The Code continues its programme of identifying common breaches of the Code and producing useful factsheets covering these areas. This helps Code members learn from the mistakes of others, enhancing their customer service and thus reducing the risk of consumer detriment.

Customer Satisfaction and Feedback

The Consumer Code for Home Builders has one of the most extensive customer satisfaction surveys in this sector. NHBC sends (by post) every home buyer in its scheme, a customer satisfaction survey six weeks after they have moved into their new home. The last survey was sent to 99,119 homes and the response rate was 62%.

The responses are sent to Reading University for analysis. Recently IPSOS and MORI have also had input into the survey. The results are published annually by the Home Builders Federation, which includes ratings of the builders.

Conclusion

CCHB maintain their high standards and continue to drive compliance and thus consumer protection. There remains uncertainty around the development of a single Code with the introduction of a New Homes Ombudsman

CCHB state that effective and regular communication with the industry, consumers and stakeholders remains essential in raising awareness and enhancing the impact of the Code. This is particularly important given the number of Codes operating in the new build market and the potential for confusion as new arrangements for a New Homes Ombudsman and Code develop alongside the existing regimes.