

Consumer Code of Practice

Consumer Code for Home Builders

22nd January 2020

Background information

The Consumer Code for Home Builders 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 93%.

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, low cost 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. 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 joined the CTSI Consumer Codes Approval Scheme in November 2018. This is the first audit since approval.

In the UK 80% of new homes are built by the top 20 builders. There are currently 12,600 builders signed up to the Code through registration with the warranty bodies which represents approximately 95% of the new home market.

The member warranty bodies are NHBC, Premier Guarantee, LABC Warranty and Checkmate.

Member Application Process

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, for example, as well as directors checks and all use external credit reference agencies such as Credit Safe for this.

Of the applications received by the Code's supporting warranty bodies, around one third are rejected for failing to meet the requirements.

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 and to enable the Management Board to establish how well it is being applied and whether it needs to be amended or updated further, a number of 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 Building Inspectors (which may be the warranty bodies' inspectors) for build quality and compliance with building regulations. The building inspectors for Checkmate also check Code compliance when on site, while for the other Code members this is carried out by the independent Code auditors.

Each month 30 builder members are randomly selected to complete a six-page 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 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.

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

The Code's Disciplinary and Sanctions Panel reviews 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.

In addition, each month between 10 and 15 builders are subject to on-site audits. These audits are carried out by externally appointed auditors who are trading standards professionals. The auditors have identified evidence of good practice in many areas, including availability of Code packs for potential customers, visibility of the Code logo on sales literature, utilisation of Code online training material, good working knowledge of the principles of the Code regarding responsibilities of the builder and the home warranty company. Other positive findings included regular staff meetings to ensure staff are aware of any issues/changes, site compliance with the Code's health and safety requirements and meetings with home buyers before completion to identify and resolve snagging issues.

Good Practice:

The Code produces a regular Lessons Learnt publication which is sent to developers and agents detailing common issues that arise during compliance monitoring. This gives builder members the chance to reflect on their own compliance and make any necessary amendments.

The Code secretariat, at the request of the Code's Disciplinary and Sanctions Panel, is in the process of reviewing the Reservation Agreements of builder members. The review has so far been extended to the top 20 biggest member builders. The Panel have focussed on this area as a source of potential consumer detriment because it represents the initial financial exposure of the consumer and, unlike the rest of the house buying process, it does not have the oversight of the legal representative of the buyer.

The last revision of the Code tightened the requirements around reservation fees. Under the latest version of the Code the builder cannot withdraw from any agreement to sell where a reservation agreement has been signed and a fee paid. However, the buyer can pull out of the agreement, but a proportion of the fee may be retained. Any such retention must be capable of substantiation by the builder. Reservations may expire and the consumer should be made aware of this. During this review where any issues have been found with reservation agreements, the builder has been advised on its shortcomings.

Good Practice:

The review of Reservation Agreement represents an additional measure to reduce consumer detriment.

Withdrawal from membership and non-compliant businesses

In any instance of non-compliance with the findings of an ADR ruling the builder member is contacted directly by the Code to negotiate a resolution to the issue. The warranty company will be involved if required. If the builder is uncooperative, they may be removed from the warranty bodies' registers and therefore from the Code and may find that any cost of resolving outstanding issues will be taken from the member's financial reserves held by the warranty company albeit in general, the adjudication

decisions are not underwritten by the warranty companies. Any members removed are named on the Code's website.

The Code's Disciplinary and Sanctions Panel review the findings of ADR rulings, auditing, including the self-assessment questionnaires and the current auditing of Reservation Agreements. The Panel particularly look out for any trends in non-compliance and any unresolved issues. All methods of assessment of builder members are triangulated and the CEOs of the member builders will be contacted to drive resolution or improvements.

Best Practice:

In the instance of builder insolvency all Consumer Code for Home Builders warranty bodies will pick up any outstanding home buyer liability (including monies paid in advance) and they will arrange to either refund monies paid or, dependent on stage of build, finish the build and issue the warranty in due course.

Marketing and Advertising by Member Business

Code promotion is essential to the success of the Code as it informs consumers of their enhanced protection. The Code logo is required to be displayed by builders, Estate Agents and included in sales brochures, this is checked during audits. Code member NHBC also send out a copy of the Code with their warranty. It is a requirement of the Code that advertising is not misleading.

Builders are required to inform home buyers of any minor changes to the specification of the house and to get their agreement to any major changes.

The Code also lays out requirements for what information must be given to buyers pre-contract and in any Reservation Agreement.

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

Providing support for vulnerable consumers is a key requirement of the Consumer Code Approval Scheme. Guidance around vulnerable consumers, particularly in

relation to reservations, is provided in the Consumer Code for Home Builders. The training provided makes it clear that first time buyers should be considered to be in a vulnerable situation due their lack of familiarity and experience in relation to the house buying process.

Best Practice:

First time buyers have been justifiably identified by the Code as consumers who are in a vulnerable situation.

Consumer Complaints Process

The Code CEO follows up on all ADR rulings with a letter to the CEO of the company in question. In 2019 there was a total of 118 complaints that went to ADR, 85 of these were found in favour of the home buyer. The average award following an ADR ruling is £517. Each year a document is produced by The Code, of lessons learnt from the findings of the ADR process.

Customer Satisfaction and Feedback

The Consumer Code for Home Builders has one of 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 response rate is 60%.

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

The Consumer Code for Home Builders continues to provide comprehensive protection for consumers in relation to the purchase of a new home. In addition they seek to continually drive up standards across the whole house building sector.