

Consumer Code for Home Builders

This document contains the mandatory Consumer Code requirements that Home Builders are required to follow



Third Edition – April 2013

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Meaning of words

In this document, the following words have special meanings:

- **Agent** – a person, firm or company used by a Home Builder to deal with any matter on their behalf (for example, an estate agent or contractor).
- **Consumer Code** or **Code** – a set of requirements to be adopted by Home Builders.
- **Contract of Sale, Contract Exchange, Legal Completion** – the terms employed in England and Wales for the legal documents used and the formal stages that occur during the sale of a property.

In Scotland these documents and stages are known respectively as **Missive** (or **Builder's Missive**), **Conclusion of Missive** and **Settlement**. In Northern Ireland they are known respectively as **Contract of Sale, Formation of Contract** and **Completion**. Where this document uses the terms for England and Wales, the terms for the other countries are implied.

- **Dispute Resolution Scheme** – an independent process set up to deal with Code disputes that fall outside the Home Warranty Body's cover.
- **Home** – a property that a Home Builder registers with a Home Warranty Body to obtain Home Warranty cover, excluding those properties listed in the Scope on page 5.
- **Home Builder** or **you** – a builder or developer of new or newly converted Homes for sale to the public, and who is registered with a Home Warranty Body.
- **Home Buyer** – a person who Reserves or buys a Home, excluding those listed in the Scope on page 5. For Homes Reserved or bought jointly by two or more people, the Home Buyer's rights will be joint.
- **Home Warranty Body** – any organisation that:
 - has agreed to support the Consumer Code for Home Builders Scheme;
 - maintains a register of builders and developers;
 - provides Home Warranty cover;
 - has undertaken to enforce the Code.

Details of participating Home Warranty Bodies are available from the Consumer Code web site: www.consumercodeforhomebuilders.com

- **Home Warranty** – an insurance-backed warranty that a Home Warranty Body issues to protect Home Buyers.
- **Reservation** – when a Home Buyer and a Home Builder jointly make a written statement of intent (subject to contract and whether or not a fee is paid) to buy and sell a Home. **Reserved** and **Reserve** carry the corresponding meaning.

Introduction

- 1 The Consumer Code came into force on 1 April 2010. This edition applies to all Reservations signed on or after 1 April 2013. It sets mandatory requirements that all Home Builders must meet in their marketing and selling of Homes and their after-sales customer service.
- 2 The purpose of the Code is to ensure that Home Buyers:
 - are treated fairly;
 - know what service levels to expect;
 - receive reliable information upon which to make their decisions; and
 - know how to access speedy, low-cost dispute resolution arrangements if they are dissatisfied.
- 3 The Code applies to all Home Buyers and Homes stated in the Scope on page 5.
- 4 The Home Warranty Bodies have agreed to require all their registered builders to adopt and comply with the Code as a registration condition. If a Home Builder is found to be in serious breach of the Code, Home Warranty Bodies can apply a range of sanctions. These include removal from the relevant Home Warranty Body's register and exclusion from all registers run by other Home Warranty Bodies that take part in the Code scheme.
- 5 Home Buyers who think they have a dispute because a Home Builder has failed to meet the Code requirements, may refer their dispute to an independent Dispute Resolution Scheme. See Appendix A for details.
- 6 The Consumer Code Management Board will arrange for surveys to check how well the Code is working and measure consumer satisfaction. In carrying out the surveys, the relevant sections of the Data Protection Act will be complied with.
- 7 To establish how well the Code is being applied, or whether it needs to be amended or updated, there may also be:
 - random audits;
 - mystery shopping surveys;
 - reviews and assessments of customer satisfaction feedback and complaints;
 - training for Home Builders.
- 8 Nothing in the Code affects Home Buyers' existing legal rights.

Further information

You can get more information, including copies of the code documents and advice on frequently asked questions and the results of audits, surveys and adjudications from the Consumer Code web site: www.consumercodeforhomebuilders.com.

You can contact the Consumer Code for Home Builders secretariat by emailing: secretariat@consumercodeforhomebuilders.com.

Scope of the Code

Please bear in mind the following provisions and limitations:

- 1** This third edition of the Code applies to all Home Buyers who have signed a Reservation Agreement for a new or newly converted Home on or after 1 April 2013 that has been built by a Home Builder registered with one of the Home Warranty Bodies.
- 2** The Code covers complaints made in writing to the Home Builder within two years from the Home Warranty cover's start date.
- 3** Second or subsequent Home Buyers benefit from the Code Requirements but only on after-sales matters they report within two years from the Home Warranty cover's start date.
- 4** The Code and the associated Dispute Resolution Scheme do not apply to:
 - second-hand properties (for example, properties taken by Home Builders in part exchange and re-sold);
 - properties acquired by registered social landlords for rent;
 - properties acquired by corporate bodies, partnerships and individuals buying several properties for investment purposes;
 - properties built by self builders for their own occupation;
 - Homes assigned or sub-sold by an investor to a third party before Legal Completion;
 - personal injury claims;
 - loss of property value or blight;
 - claims about the land conveyed and its registered title;
 - claims that exceed the Dispute Resolution Scheme's limits.
- 5** Matters better dealt with by other dispute resolution or ombudsman schemes should be referred to the relevant organisation. In such cases, these other schemes will take precedence over this Code and the associated Dispute Resolution Scheme.

The Consumer Code for Home Builders – Code requirements

1 Adopting the Code

1.1 Adopting the Code

Home Builders must comply with the requirements of the Code and have regard to the good-practice guidance.

1.2 Making the Code available

The Home Builder must display the Code and give, without charge, a copy to customers who ask for it and to all Home Buyers who reserve a Home.

The Home Builder should also inform their customers that further guidance is available and how they can get this.

1.3 Customer Service

The Home Builder must have suitable systems and procedures to ensure it can reliably and accurately meet the commitments on service, procedures and information in the Code.

1.4 Appropriately trained customer service staff

The Home Builder must provide suitable training to all staff who deal with Home Buyers about their responsibilities to them and what the Code means for the company and its directors.

1.5 Sales and advertising

Sales and advertising material and activity must be clear and truthful.

2 Information: pre-contract

2.1 Pre-purchase information

Home Buyers must be given enough pre-purchase information to help them make suitably informed purchasing decisions.

In all cases this information must include:

- a written Reservation agreement;
- an explanation of the Home Warranty cover;
- a description of any management services and organisations to which the Home Buyer will be committed and an estimate of their cost.

Also, if a Home is not yet completed, the information must include:

- a brochure or plan showing the layout, appearance and plot position of the Home;
- a list of the Home's contents;
- the standards to which the Home is being built.

2.2 Contact information

Home Buyers must be told how their questions will be dealt with and who to contact during the sale, purchase and completion of the Home.

2.3 Warranty cover

Home Buyers must be given accurate and reliable information about the insurance-backed warranty provided on the Home.

2.4 Health-and-safety for visitors to developments under construction

Home Buyers must be informed about the health-and-safety precautions they should take when visiting a development under construction.

2.5 Pre-contract information

Home Builders must advise Home Buyers to appoint a professional legal adviser to carry out the legal formalities of buying the Home and to represent their interests.

2.6 Reservation

Home Buyers must be given a Reservation agreement that sets out clearly the terms of the Reservation, including, but not limited to:

- the amount of the Reservation fee;
- what is being sold;
- the purchase price;
- how and when the Reservation agreement will end;
- how long the price remains valid;
- the nature and estimated cost of any management services the Home Buyer must pay for.

The Reservation fee must be reimbursed if the Reservation agreement is cancelled. The Home Buyer must be told of any deductions that may be made.

While the Reservation agreement is in force, the Home Builder must not enter into a new Reservation agreement or sale agreement with another customer on the same Home.

3 Information: exchange of contract

3.1 The contract

Contract of sale terms and conditions must:

- be clear and fair;
- comply with the Unfair Terms in Consumer Contracts Regulations 1999;
- clearly state the contract termination rights.

3.2 Timing of construction, completion and handover

The Home Buyer must be given reliable and realistic information about when construction of the Home may be finished, the date of Legal Completion, and the date for handover of the Home.

3.3 Contract termination rights

The Home Buyer must be told about their right to terminate the contract.

3.4 Contract deposits and pre-payments

The Home Builder must clearly explain how Home Buyers' contract deposits are protected and how any other pre-payments are dealt with.

4 Information: during occupation

4.1 After-sales service

The Home Builder must provide the Home Buyer with an accessible after-sales service, and explain what the service includes, who to contact, and what guarantees and warranties apply to the Home.

4.2 Health-and-safety for Home Buyers on developments under construction

Home Buyers must be told about the health-and-safety precautions they should take when living on a development where building work continues.

5 Complaints and disputes

5.1 Complaints handling

The Home Builder must have a system and procedures for receiving, handling and resolving Home Buyers' service calls and complaints.

The Home Builder must let the Home Buyer know of this, and of the dispute resolution arrangements operated as part of this Code, in writing.

5.2 Co-operation with professional advisers

The Home Builder must co-operate with appropriately qualified professional advisers appointed by the Home Buyer to resolve disputes.

Appendix A

Consumer Code independent Dispute Resolution Scheme

Disputes are resolved by adjudication. This means a trained adjudicator will review written submissions from both parties and issue an award based on his or her conclusions. The adjudicator will decide whether or not a Home Buyer has a legitimate dispute and has suffered financial loss because their Home Builder broke the Consumer Code's requirements.

The following is a summary of this process. More detailed information will be given with each application for adjudication. You can also find out more from the Consumer Code web site.

Complaint and response

1. A Home Buyer must first complain to their Home Builder and give the Home Builder the opportunity to investigate and put things right.
2. If the Home Buyer is not satisfied with the Home Builder's response, the Home Buyer should contact the Home Warranty Body that issued the warranty on their Home.

Action by the Home Warranty Body

3. The Home Warranty Body will:
 - 3.1 deal with the complaint under the terms of their Home Warranty policy; or
 - 3.2 if the complaint falls outside its own dispute resolution scheme, offer the Home Buyer the opportunity to refer the complaint to the independent Dispute Resolution Scheme. They must bring the claim within three months of the date after the Home Builder's final response to the original complaint, or within three months after the date of the original complaint, whichever is the later.

Going to the Dispute Resolution Scheme: adjudication process

4. If a Home Buyer decides to refer a complaint to the independent Disputes Resolution Scheme provider, the following adjudication process happens:
 - 4.1 The Home Buyer must complete an application form and send it to the independent Disputes Resolution Scheme with their statement of evidence and a case registration fee of £100 plus VAT*. Their statement must contain all the information relevant to the complaint and copies of receipts or other evidence of expenditure.
 - 4.2 The independent Dispute Resolution Scheme will ask the Home Builder to respond to the Home Buyer's statement. At this stage the Home Builder may resolve the complaint without a formal adjudication – this is called 'early settlement' and costs the Home Builder a reduced case fee of £100 plus VAT*.
 - 4.3 If early settlement does not happen, the Home Builder must submit their response to the Home Buyer's statement along with a payment of £300 plus VAT*. The Home Buyer will be given a copy of the Home Builder's response and asked to respond if they wish. At this stage, the Home Buyer may not make any further new complaints about this adjudication.
 - 4.4 The adjudicator will consider both submissions and decide whether or not the Home Buyer has suffered financial loss as a result of the Home Builder's alleged failure to comply with the Consumer Code. Both parties will be expected to have acted reasonably and to have controlled their costs.

* Case fees subject to annual review

- 4.5 The adjudicator will make a decision and send it to both parties. The decision may be a performance award (where the Home Builder has to do something) or a financial award (where the Home Builder has to pay the Home Buyer money) or a combination of the two. The maximum value of the combined award available under this adjudication scheme is £15,000 including VAT.
- 4.6 As well as making such an award, the adjudicator may make a discretionary award up to a maximum of £250 for any inconvenience a Home Buyer may have suffered as a result of how the Home Builder handled their complaint. The £15,000 maximum award would include any award for inconvenience. A Home Buyer may not receive an award for inconvenience alone.
- 4.7 The adjudicator will also decide whether or not the Home Builder must reimburse the Home Buyer their case registration fee. This will be in addition to the award referred to in 4.6 above.
- 4.8 The adjudicator's decision cannot be appealed; it can only be accepted or rejected by the Home Buyer.

Awards: acceptance, refusal and liability

5. Under the rules of registration, the Home Warranty Bodies require each registered builder to honour any award made against them under the Dispute Resolution Scheme. If the Home Buyer accepts the award, the courts will usually recognise this as evidence that the Home Buyer's claim was valid.
6. If a Home Buyer refuses to accept the award, any subsequent legal action is likely to take account of the adjudication decision.
7. A Home Builder remains liable for an award, even if they are removed from a Home Warranty Body's register.
8. The Consumer Code's Dispute Resolution Scheme is independent of the Home Warranty Bodies. Adjudication decisions made under the Consumer Code's independent Dispute Resolution Scheme are not insured under the Home Warranty Bodies' Home Warranty schemes.



CONSUMER CODE for HOME BUILDERS SCHEME
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