



DRAFT FOR CONSULTATION PROCESS



# New Homes Quality Board Code of Practice



# ABOUT THE NEW HOMES QUALITY CODE

This New Homes Quality Code (“the Code”) establishes mandatory Requirements which must be adopted and complied with by developers and new homes builders who are registered with the New Homes Quality Board (“Registered Developers”).

## It has two parts:

- (a) A Statement of Fundamental Principles – a statement of the Fundamental Principles that Registered Developers agree to apply in their business and their dealings with Customers; and
- (b) The Practical Steps – a statement of what is expected at each stage of the process.

Developer Guidance is provided as a supplement to the Code to assist Registered Developers in the operation of the Requirements. It does not supersede or replace any of the Statement of Principles or Practical Steps of the Code and may be updated from time to time, to reflect emerging industry best practice as well as decisions of the New Homes Ombudsman service.

All Developers registered with the New Homes Quality Board (NHQB) agree to follow the New Homes Quality Code

## Transition Arrangements

In order to manage the transition from existing code structures to the Code, Registered Developers will have a period of one year, during which they transition and register with the New Homes Quality Board and within which they must transition to the Code. During this Transition Period, developers must clearly advise Customers whether the provisions of this Code or a legacy arrangement apply to their New Home.

## Issued by resolution of the New Homes Quality Board



# ABOUT THE NEW HOMES OMBUDSMAN SERVICE

The New Homes Ombudsman service has been established to provide additional and independent redress to consumers who purchase a New Home for their own occupation.

**Its remit covers the whole period from the marketing and sale of a property through to after-sales and Complaints management for issues during the first two years of a New Home purchase.**

Its primary purpose is to provide an independent service to consumers, free for them to access and use, which can impartially assess and adjudicate on issues that have arisen that fall within the Ombudsman’s scope. These are expected to be Complaints around the sales, marketing and Complaints Management processes, or issues or Defects that have arisen at or after occupation and which are not Major Defects.

More serious and Major Defects are likely to be more suitable for legal, insurance or other more substantial redress than the New Homes Ombudsman service, or for referral to another body, such as the Building Safety Regulator.

# THE NEW HOMES QUALITY CODE: **STATEMENT OF FUNDAMENTAL PRINCIPLES**

- 1. Fairness:** treat Customers fairly throughout the home buying and after-sales process.
- 2. Safety:** carry out and complete works in accordance with all requisite Building Regulations and as set out by the Building Safety Regulator.
- 3. Quality:** complete all works to a good quality standard and in accordance with the specification for the New Home and ensure that Legal Completion only takes place when a home is complete (as defined in section 2 of this Code).
- 4. Service:** have in place systems, processes and training of staff to meet the customer service level requirements of the New Homes Quality Code and not use high-pressure selling techniques to influence a Customer's decision to buy a New Home.
- 5. Responsiveness:** be clear, responsive and timely in responding to Customers' issues by having in place a robust after sales service and effective complaints process as required by the Code.
- 6. Transparency:** provide clear and accurate information about the purchase of the New Home, including tenure and potential future committed costs such as those relating to leasehold or management services.
- 7. Independence:** make sure that Customers are aware that they should appoint independent legal advisors when buying a New Home and that they have the option of an independent accredited pre-completion inspection before Legal Completion takes place.
- 8. Inclusivity:** take steps to identify and provide appropriate support to Vulnerable Customers as well as to make the Code available to all Customers, including in appropriately accessible formats and languages.
- 9. Security:** ensure that there are reasonable financial arrangements in place, through insurance or otherwise, to meet all obligations under the Code, including timely repayment of financial deposits when due and any financial awards made by the New Homes Ombudsman service.
- 10. Compliance:** be subject to, co-operate and comply with the requirements of the New Homes Quality Board, the New Homes Quality Code and the New Homes Ombudsman service.

## THE 10 GUIDING PRINCIPLES





# NEW HOMES QUALITY CODE: PRACTICAL STEPS

## About the New Homes Quality Code

### Who does it apply to?

All Developers registered with the New Homes Quality Board must comply with the Code and agree to adhere to the adjudications of the New Homes Ombudsman service.

### How long does it apply for?

The Code will apply to each New Home from the marketing for sale of the New Home and for a period of two calendar years after the date of Legal Completion of the New Home.

### Who gets the benefit of the Code?

**For:** The Code has been designed for a consumer purchaser who is buying a newly built home for their own occupation, including their household or, for After-Sales (section three) only, a subsequent purchaser for that home.

### Not For: The Code does not apply to:

**Business purchases**, whether individual or corporate entities, including for investment and/or renting, and which includes sales to a Housing Association, Registered Provider or other party under a part-ownership scheme.

**Other properties** other than a New Home, including homes accepted by a Developer in part exchange and re-sold.

**Properties built by self-builders** or under contract between a Builder and an individual for their own occupation.



### SECTION ONE:

SELLING A NEW HOME



### SECTION TWO:

LEGAL DOCUMENTS,  
INFORMATION,  
INSPECTION AND  
COMPLETION



### SECTION THREE:

AFTER-SALES, COMPLAINTS  
MANAGEMENT AND THE  
NEW HOMES OMBUDSMAN



### SECTION FOUR:

SOLVENCY, LEGAL  
AND JURISDICTION



# SECTION ONE:

## SELLING A NEW HOME

- • • • • **When selling a New Home, Developers should be fair and complete in the information they provide to a Customer about their home purchase. They must avoid mis-selling, misleading information and high-pressure sales tactics.**

Customers must have a choice about their own legal or other advisers to guide them through the legal buying process. Developers must be clear about any fees or benefits that the Developer gets in making a particular recommendation of Professional Advisor to a Customer.

### **Sales Information and Marketing**

The Developer must ensure that the content of any sales and marketing material relating to the New Home is clear, fair and not misleading, legally compliant and must use plain language. Such content must comply with all relevant codes of advertising and the law.

The Developer must state in their sales and marketing literature that they are a Registered Developer with the New Homes Quality Board.

The Developer must prominently display the Code logo in public areas related to the New Home sales process, including areas such as Sales Office and offices of appointed selling Agents, and in sales brochures and on websites.

The Code must be available, free of charge, to any Customer interested in the purchase of a New Home, and make the Code available to Customers in appropriately accessible formats and languages.

In all of its sales and marketing literature, the Developer must consider the needs of Vulnerable Customers.

### **Describing the New Home**

The Developer must properly inform and not mislead Customers, including as to:

- (a) Size of property (room and plot dimensions)
- (b) Tenure (including formula for any Ground Rent)
- (c) Specification of property
- (d) Energy performance ratings
- (e) Pricing of property
- (f) Mobility adaptations
- (g) Completion dates
- (h) Warranty provisions
- (i) Management services
- (j) Service charges
- (k) Future phases committed to by the Developer
- (l) Any resale restrictions/covenants
- (m) Costs, coverage or benefits of any additional products such as insurances or warranties and guarantees.

## No High-Pressure Selling Techniques

High-pressure selling techniques must not be used by the Developer to influence a Customer's decision.

High-pressure selling techniques which should not be used by the Developer to influence a Customer's decision include (but are not limited to):

- a) encouraging a Reservation by implying that there are other interested parties or that there is an imminent price increase due, where neither is true.
- b) offering a financial incentive for an immediate decision on a Reservation or a sale.
- c) encouraging a Reservation by refusing the opportunity to personalise the New Home where the stage of construction would still allow it.
- d) encouraging the purchase of any unnecessary or inappropriate additional insurance products, warranties or guarantees.
- e) suggesting that a sale may not proceed unless a Customer uses a specific third-party Professional Advisor such as conveyancer or mortgage broker.
- f) matters set out specifically in relation to part-exchange and assisted move schemes.

## Part-Exchange and Assisted Move Schemes

When a Developer offers a Part Exchange or Assisted Move scheme to a Customer, the terms must be clear, fair and not misleading and must not be used to pressurise a sale. The Developer must provide a Customer with adequate time to consider the information provided.

**The terms of the Part Exchange Scheme must be explained in plain language and include full details of:**

- a) the full terms and conditions that apply including any applicable Leasehold/tenure requirements.
- b) how a fair market valuation has been arrived at - which should be independent and obtained from more than one suitably qualified source.
- c) any deductions that will be applied to the market valuation.
- d) how a Customer can qualify for the Part Exchange Scheme.
- e) the date by which a Customer must accept the offer.
- f) the consequences of not accepting the offer by the stated date.
- g) the anticipated date/s by which the Part Exchange and purchase of the New Home will be completed and any consequences, especially where these are not simultaneous.

The terms set out for a Customer should include:

- a) the duration of the validity of the offer of part exchange.
- b) the price offered for the part exchange property.

## Considering Vulnerable Customers

The Developer must give due consideration to the identification of a Vulnerable Customer and take any appropriate steps to help a Customer make informed decisions.

The Developer should take all reasonable steps so that arrangements are made to provide Vulnerable Customers with appropriate advice and assistance suitable to their needs, and that employees do not make assumptions about the degree of knowledge that a Customer has.

If no vulnerability is declared by a Customer, but it becomes apparent that there may be a vulnerability, the Developer must seek clarification from that person and/or their representative. Enquiries must be of a nature that are considerate, inoffensive and non-discriminatory.

## Customer Service Standards and Training

The Developer must ensure that they have systems and procedures, including any consent to data sharing where required, in place to enable them to accurately and reliably meet their commitments to compliance, service requirements, processes/procedures, no high-pressure selling, considering Vulnerable Customers, information disclosure/recording and monitoring in relation to the Code.

Information about such compliance to the Code may be requested by the New Homes Quality Board Compliance and Data Team as required from time to time and the Developer agrees to comply with all such requirements in a timely manner.

The Developer must provide training on the Code requirements to all employees who deal with Customers. In addition, any Agents used by the Developer must be required to ensure that they are familiar with and meets Code requirements.

## Legal and other Advisers, Commission and Inducements for Goods and Services

The Developer must make Customers aware that they should seek and appoint independent legal advice when carrying out the legal formalities of buying the New Home.

When offering or recommending a Customer the services of a third-party the Developer must not restrict a Customer's choice of Professional Advisor, including; legal representative, Snags checker, financial advisor or mortgage intermediary – this does not prevent the Developer recommending a panel of practitioners.

Where a Customer is self-enquiring directly to a Developer online (e.g., website, portal, App, etc.) about a New Home and this includes a link to the services of a Professional Advisor, including; legal representative, financial advisor or mortgage intermediary, including for a mortgage calculation provided by a specific third party, the Developer must clearly identify the third party provider.

The Developer must notify a Customer at the time of referral (for services), or reservation/purchase (for goods) if they receive any fee, commission or any other reward or advantage for introducing any Professional Advisor or for recommending to a Customer certain products or services.



## SECTION TWO:

# LEGAL DOCUMENTS, INFORMATION, INSPECTION AND COMPLETION

- • • • • **There are a number of stages in the purchase of a new home. These can include:**
  - an opportunity to secure a particular plot early, also called an Early Bird or plot option arrangement
  - a Reservation Agreement, which is a contract between a Customer and the Developer, where a home is reserved for purchase and is then subject to the completion of formal legal documents
  - pre-completion information, where specific information about the proposed purchase is made available to a Customer or their legal adviser by the Developer
  - the Contract of Sale, which is the formal legal document committing both parties to complete a sale, other than in exceptional circumstances
  - Notice of the Completion Date, which is the formal notice informing a Customer that the new home will be ready for Legal Completion and occupation from a specific date
  - An opportunity for a pre-completion inspection check by an appropriately accredited professional acting for the customer a few days before the Legal Completion date (a 'pre completion snagging list')
  - Legal Completion, which is when the home ownership is transferred from the Developer to a Customer and can be occupied by a Customer
  - an opportunity for the customer to carry out a post-occupation check on or within a few days after the Legal Completion date (a 'post completion snagging list')

This section of the Code sets out requirements and expectations in relation to these steps.

### Early Bird Arrangements

A Developer may offer a Customer an option to be notified and then to secure, by way of an exclusive pre-release for a period of time, the choice of a plot or plots within a development. This is sometimes known as an Early Bird or option arrangement.

A Developer may charge a Customer a fee for such arrangement provided that:

- a) the maximum amount which may be charged for an Early Bird arrangement is £150, or such other amount set by the New Homes Quality Board from time to time,
- b) the Developer makes it clear to a Customer before the fee is paid the period of time for which such exclusivity arrangement will be open for acceptance, as well as the basis on which such fee is refundable.

If the Developer takes a fee or payment then the full fee must be refunded to a Customer if they advise the Developer they do not wish to proceed with the purchase within a minimum of 24 hours (or such later time the Developer specified at the time of the fee becoming payable) of a Customer being notified of the plot being released for sale.

If 24 hours (or such later time where applicable) has elapsed since a Customer has been notified by the Developer of the release of the plot for sale then the Developer may make a deduction for administration costs providing the basis for any deduction has been clearly explained to a Customer at the point of payment.

A Customer's rights and expectations with regard to such Early Bird arrangements may not diminish or reduce the provisions set out in this Code regarding all other documentation and information provisions under this Section Two.

### Reservation Agreements

Where a Customer wishes to reserve a New Home, this must be done by a formal Reservation Agreement between a Customer and the Developer. The Developer must give a Customer a Reservation Agreement that has been signed (wet or electronically) by both parties and which sets out clearly the terms of the Reservation, including, but not limited to:

- a) the Developer must be clear about who a Customer is buying their New Home from.
- b) the amount of the Reservation Fee.
- c) a Customer's right to cancel within the Reservation period and the range (in monetary terms) of any possible cost retention.
- d) the terms under which the Reservation Fee is refundable and non-refundable and any administration fees or similar which the Developer may deduct.
- e) that there is a mandatory 10 calendar day cooling off period where the agreement may be cancelled and the Reservation Fee will be refunded without deduction and in full.
- f) how to make a cancellation of the Reservation Agreement
- g) that it is "Subject to Contract".
- h) details of the New Home including property type, plot number, Development name, postal address (if available), parking arrangements.
- i) the purchase price of the New Home.
- j) how long the price and the Reservation Agreement remain valid.
- k) how and when the Reservation Agreement will end.
- l) date by which Contract Exchange must take place.
- m) any dependent or conditional matters for example part-exchange details, if applicable.
- n) details of how a Customer can include in the Contract of Sale any spoken statement that is to be relied upon.

- o) the nature and annual estimated cost of any Management Services (Scotland: 'factoring') and other costs that a Customer must pay.
- p) the New Home tenure e.g., Leasehold, Freehold, Commonhold, etc. and all associated costs including the basis of future changes to costs relating to the tenure
- q) the nature and method of assessment of any Event Fees.
- r) scope and process for administering changes to the New Home (i.e., paint colour, design changes, specification changes).

### Cooling Off Period

All Reservation Agreements must include a minimum 'Cooling Off' period of 10 calendar days, during which the Reservation Fee must be refunded in full if a Customer wishes to cancel the reservation for any reason.

### Cancellation after the Cooling Off Period

The Reservation Agreement may set out deductions which will apply to a cancellation of the Reservation Agreement where a cancellation occurs after the Cooling Off Period.

The Reservation Fee less any advised deductions, must be refunded by the Developer within 10 working days of the date of notice of cancellation given by a Customer.

### Cancellation by the Developer

While the Reservation Agreement remains valid, the Developer does not have the right to terminate the Reservation Agreement and must not enter into a new Reservation Agreement or sale agreement with another Customer on the same New Home.

On completion of the Reservation Agreement the Developer must provide the New Home Warranty provider with full details of the property reserved and a Customer's contact details.

### Pre-Contract of Sale

The Developer must give a Customer's legal advisor suitable and relevant information to help the Customer to make fully informed purchasing decisions and take appropriate advice.

**In all cases this information must include (i) information in relation to the property and planning matters and (ii) the actual and anticipated costs associated with the property. More specifically as follows:**

#### (i) in relation to the property and planning:

- a) a written Reservation Agreement.
- b) a summary of the cover provided by the New Home Warranty and contact details of the Home Warranty Body providing it.



- c) the tenure of the New Home e.g., Leasehold, Freehold, Commonhold, etc.
- d) the Detailed Planning Consent reference number under which the New Home is being constructed and, where known and for which there is Planning Consent, details of any known future build phases by the Developer, any facilities which the Developer is party to on the Development.
- e) a list of contents in the New Home which are included in the price including, but not limited to, white goods, curtains, carpeting, wall tiling, door entry systems, power points and sanitary-ware fittings.
- f) confirmation of the advertised/marketed specification of the New Home including the type of materials providing the main structural frame of the building (masonry, timber, steel frame or other).
- g) information relating to the standards to which the New Home is being built, including confirmation that it will be built in compliance with the applicable Building Regulations, the relevant Home Warranty Body's standards and manufacturers / supplier's performance and installation standards.
- h) any exceptional restrictions around use of, occupancy or appearance of the New Home and the curtilage. This does not include standard terms covered in the plot transfer of ownership, or equivalent document. The Developer must direct a Customer to a Customer's legal advisor to obtain advice on any such restrictions.
- i) details of any services, facilities and/or liabilities which may not immediately transfer to a Customer on Legal Completion and are temporarily retained by the Developer. Where these transfer to a Customer at a later date then this must be fully explained and documented e.g., drainage systems, utilities, etc.

**(ii) in relation to actual and anticipated costs**

- a) a description of any Management Services and organisations to which a Customer will be committed
- b) an Indicative Costs Schedule which is a reasonable identification of likely costs directly associated with the tenure and management of the New Home of which the Developer can reasonably be expected to be aware to cover a period of 10 years. This includes any obligation to contribute towards maintenance and/or replacement of services and facilities and does not include everyday costs relating to a home, such as utilities and council tax. The Indicative Costs Schedule must include:
  - i. details of any ground rent, including amount, payment dates and applicable formula.
  - ii. estimated amounts, of "known" and/or "anticipated" additional costs deriving directly from the tenure of the sale such as Management Services fees and/or other charges, Event Fees. This should highlight for attention of a Customer any stepped service charges in later years as additional facilities become available or sinking fund charges for repairs or maintenance may be introduced. Where the value of actual costs or charges are unknown the Developer should provide a Customer with an un-costed schedule of items.
  - iii. details of known or anticipated costs or charges for regular maintenance of integral plant and equipment, e.g., grey water harvesting, air source heat pumps, etc. where these are not already accounted for in Management Services fees or Event Fees. Where the value of actual costs or charges are unknown the Developer should provide a Customer with an un-costed schedule of items.

- c) The Developer is not required to inform a Customer of the value of normal costs and charges associated with owning the New Home e.g., utilities, energy bills, council tax, home insurances. A Customer should make separate enquiries of these and take steps to consider the overall affordability of the New Home, taking into account information about additional and anticipated costs relating to the New Home.
- d) The Indicative Costs Schedule does not need to set out estimated possible costs which will arise and depend on decisions of a Management or Service Company that fall outside the scope of necessary costs associated with the maintenance and upkeep of the New Home, including any facilities. However, the extent of any such landholdings and obligations must be set out clearly, for example where it extends to street lighting, parks, landscaping or other such matters.

**If the New Home is not yet complete, then the Developer must also provide a Customer with:**

- a) the long-stop date i.e., the Developer's provisional estimate of when the New Home will be ready for occupation.
- b) a brochure or plan illustrating the size, specification, general layout and plot position and orientation of the New Home. Details of any significant gradients to the garden and grounds of the New Home must be provided to a Customer together with information on how the surfaces and any fences and or boundary walls will be finished. All outbuildings and garages should be clearly marked and include details of finishes and construction if different to the New Home structure.

The Developer must inform a Customer and their legal advisors, in writing, how their questions will be addressed and who to contact (with names and contact numbers) during

the sale, purchase and transfer of ownership of the New Home to a Customer.

The Developer agrees to keep Customers informed about any known or any anticipated additional costs that may arise for the New Home (so far as is reasonably possible).

**Contract of Sale**

The Developer must ensure that the Contract of Sale terms and conditions are clear, fair and written in plain language and comply with all relevant legislation. In addition it must:

- a) define the Legal Completion Notice Period that is from serving of the Notice to Complete to Legal Completion.
- b) clearly state the circumstances in which a Customer can terminate the Contract of Sale
- c) clearly state what will happen if construction of the New Home is delayed and the New Home will not be ready for ownership by a Customer by the date advised by the Developer.
- d) clearly explain how Contract Deposits are to be protected
- e) make suitable provisions to provide a two-year builders liability period for a Customer. This also applies to Special Purpose Vehicles (SPVs) and other short-term trading arrangements which may be formed to construct a specific New Home or Development.

To avoid disputes over spoken statements, immediately before Contract Exchange, the Developer should ensure that a Customer, through their legal representative, states in writing what spoken statements they are relying on when entering into the Contract of Sale.

### Keeping the Customer Informed and Pre-Completion Inspection Checks

The Developer must provide an opportunity for the Customer to appoint an accredited professional to carry out a pre-completion inspection check on their behalf, to be carried out before completion and from 5 calendar days (earlier by mutual agreement) after the Notice to Complete has been served. In setting the Legal Completion Notice Period, in order to provide sufficient notice to complete all legal requirements and provide the opportunity for the pre-completion inspection check to be carried out this would usually be expected to be no less than 14 calendar days.

The Developer should explain the process for keeping the Customer updated about the timetable for the likely completion of the New Home and provide timely updates to the Customer.

The Developer must ensure that their sites comply with all relevant health & safety legislation and guidance appropriate to visitors.

The Developer must inform Customers about the health & safety precautions they, or their representative should take if and when permitted to visit a live construction site. The Developer can refuse access to a live construction site to the Customer or any representative or accredited professional acting on their behalf if health and safety precautions required by the Developer are not adhered to.

### Changes, agreement to substantial changes and termination of contract for unacceptable changes

The Developer must advise a Customer of the Customers' right to terminate the Contract of Sale and the specific circumstances when they could exercise it.

The Developer must formally consult a Customer and obtain their agreement to a change which occurs after Contract Exchange to the design, construction or materials to be used in the New Home, that significantly and substantially alters the size, appearance or value of the New Home from what was shown to a Customer in the Reservation Agreement and Contract of Sale.

If these changes are unacceptable to a Customer, before Legal Completion then a Customer must have the right to terminate the Contract of Sale and be refunded their Contract Deposit and Reservation Fee and any other pre-payments without deductions.

The Developer must formally consult a Customer in relation to any changes to the design, construction or materials of the New Home occurring after the Reservation Agreement, it is not sufficient for the Developer to simply put these changes in the Contract of Sale. The Developer must make a Customer aware of the changes in writing and obtain a Customer's agreement to them.

Minor changes to the New Home that do not alter the size, appearance or value from that shown to a Customer, in the Reservation Agreement and Contract of Sale, should be notified to a Customer. However, such changes do not give a Customer the right to cancel the Contract of Sale and a Customer's formal agreement to them is not required.

The Developer does not need to notify a Customer of changes of construction materials that do not affect the New Home's size, appearance, value or the ability to insure or provide security for a mortgage. If in doubt the Developer should inform a Customer to seek advice from their Professional Advisor.

If the Developer has agreed to do additional works for a Customer beyond those in the Reservation Agreement and Contract of Sale, which will change the timescale for completing the New Home, the parties' legal advisors should record such a timing change. The extension of time may require the long-stop date to be amended.

### Complete New Home

Legal Completion can only take place on a Complete New Home. It is a breach of this Code for Legal Completion to take place on a New Home that is not a Complete New Home.

A Complete New Home is one that:

- (i) has a New Home Warranty cover note issued in relation to it, and
- (ii) Either in relation to a house,

may be considered complete if all rooms, spaces and facilities are in a finished condition for the purpose for which they are designed and intended and the property is safely accessible; with any further work to the home is to be solely decorative/corrective, or related to shared common areas, or related to transitioning from temporary to permanent utilities and services, and do not affect the owner's ability to live safely in the property and will not cause disruption or significant inconvenience to rectify;

Or, in relation to an apartment/flat

may be considered complete if all rooms, spaces and facilities within the specific apartment/flat are in a finished condition for the purpose for which they are designed and intended and the unit is safely accessible; with any further work being solely decorative/corrective, related to shared common areas and facilities, or related to transitioning from temporary to permanent utilities and services which do not affect the owners' ability to live safely in the apartment/flat and will not cause disruption or significant inconvenience to rectify.

The Developer must not offer a Customer incentives (financial or otherwise) to move into, or complete the purchase of, a New Home that is not a Complete New Home.

## Legal Completion

At the point of Legal Completion, the Developer must:

- a) have completed the construction of the New Home to the standards agreed
- b) have carried out their final quality assurance inspection of the New Home and provide a Customer with a schedule of any incomplete or defective items, and a statement of timescales for completing / remedying such items along with the need for access at suitable times to enable remediation.
- c) have agreed or provided an appointment for a home demonstration. The Developer must provide clear details of the extent of the standards covered by the New Home Warranty for the New Home for at least the period from 3-10 years from Legal Completion, and provide a Customer with information about any exceptions, exclusions, limits, excesses or conditions applicable to the New Home Warranty cover.
- d) provide a copy of the Developer's complaints procedure.
- e) provide a Health and Safety File for the New Home in compliance with relevant legislation. For apartments the Health & Safety File should be provided to the managing agent or management company.
- f) provide an explanation of how the appliances included within the New Home operate.
- g) provide full details of any guarantees and warranties that accompany the New Home and appliances.
- h) provide a Customer with a copy of the Building Regulation Control Inspection Records if requested. (Scotland; provide a Customer, if requested, with confirmation that the New Home has been inspected and passed as habitable and fit for occupation by the relevant Local Authority).
- i) advise a Customer that the Building Regulation Completion Certificate will not be available until after Legal Completion and for apartments, not until the whole apartment development is completed.

## Incomplete Works

At Legal Completion the Developer must provide a Customer with a statement of incomplete works for which the New Home is dependent on, not being a part of the New Home, but which serves it and directly affect it, as part of the Development under the relevant Planning Consent, and indicative timescales for their completion. This applies to, for example, roads, open spaces, recreational areas and landscaping.

The Developer must advise a Customer of known future phases of work on the Development committed to by the Developer.

### TERMINATION OF CONTRACT AND REPAYMENT OF FINANCIAL DEPOSITS

The Developer must inform Customers about the circumstances where a Customer has the right to terminate the Contract of Sale.

The Developer must clearly explain to a Customer how a Customer's Contract Deposit is to be protected.

**The Developer must have in place adequate arrangements to protect Contract Deposits, including Reservation Fees. These may include:**

- a) insuring the full Contract Deposit through the New Home Warranty; or
- b) placing the Contract Deposit; Reservation Fee and any other pre-payments in a suitable client account designed for holding client monies, which is clearly separated from the Developer's cash-flow and assets and cannot be accessed by the Developer until Completion; or
- c) any other arrangement within the Developer's course of business by which the Developer can reasonably be expected to be able to repay such amounts should they fall due. This must apply to the whole of the Contract Deposit or any uninsured amounts (where such insurance has been obtained).

The Developer must provide to a Customer and the New Homes Ombudsman service (if applicable) timely and accurate information to enable the assessment of compensation following termination or disputed variation of the Contract of Sale. Repayments of Contract Deposits and other sums due to a Customer must be paid promptly by the Developer.



## SECTION THREE: .....

# AFTER-SALES, COMPLAINTS MANAGEMENT AND THE NEW HOMES OMBUDSMAN

- • • • • **Obligations in respect of a New Home do not end at the point of sale and occupation. Developers are required to provide continuing After-Sales Service and a Complaints Resolution process in line with the requirements and expectations of this Code, and for a period of two years from Legal Completion.**

### After-Sales Service

The Developer must provide a Customer of the New Home with a comprehensive and accessible After-Sales Service for a minimum of two years following the date of Legal Completion.

To make sure a Customer understands how to access the After-Sales Service, the Developer must provide a Customer with suitable information about the service which must include:

- a) a clear written statement of their After-Sales Service procedures.
- b) an explanation of their responsibility for remedying any issues or problems (including Snags and/or Defects) arising in the property during the first two years, and that the Customer should identify any issues or problems (including Snags and/or Defects) and report them to the Developer promptly in order for the Developer to meet their responsibilities.
- c) an explanation of how issues or problems and service calls will be managed, including timescales; how they should be reported and the names and contact information of the Developer's staff to whom such issues should be reported and notified to.
- d) allowing the Customer, the option to categorise any issue or problem (including Snags and/or Defects) as a formal Complaint if they are unhappy with the Developers proposed approach.
- e) an explanation of the process for reporting and handling Emergency Issues including clarity on what qualifies as an Emergency Issue and how the Developer will deal with them. This must include issues relating to health and safety that could materially impact on health and wellbeing or cause injury or loss of life.
- f) clear guidance on what the Customer might expect to constitute normal maintenance and "running in" which is a Customer's responsibility.

The Developer must tell Customers about the health and safety precautions they should take when living on a Development where building work continues and the measures which the Developer implements in order to protect them.

### After Sales Issues and Complaints Management

The Developer must have a system and procedures for receiving, handling and resolving issues or problems raised by the Customer for its after-sale service, as well as Complaints in line with the requirements, including time periods, set out in the Code.

The Developer must provide a Customer with a written statement of the process for raising an issue or problem in its After-Sale Service, as well as the process for making a formal Complaint to the Developer.

Information provided to Customer must include details of how a Customer can escalate the Complaint or Dispute to the New Homes Ombudsman service if the Developer and a Customer fail to agree on the resolution. Such written statement may be provided by letter, brochure/leaflet, electronically (email) or clearly visible on a Developers website.

The Developer must co-operate with any appropriately qualified Professional Advisor appointed by a Customer to help resolve Complaints before they become a Dispute. Subject to compliance with data, confidentiality or health and safety processes, the Developer must provide the same level of co-operation to an intermediary authorised by a Customer to represent a Customer (e.g., a family member, friend or Professional Advisor) as they would to a Customer.

### Snagging Period and Resolution of Snagging Issues

It is widely acknowledged that there are some finishing or other issues which need addressing on moving into a New Home and these are commonly known as "Snags" and "Snagging".

Developers and Customers are expected to work collaboratively around identification, access and resolution of Snagging following Legal Completion.

The Developer must ensure that Snags are covered by the After-Sales Service and that, once agreed, they are resolved promptly.

Any Snags, Issues or problems raised through the After-Sales Service process must be acknowledged promptly. It is expected that in most situations a Developer should be able to resolve an After-Sales issue or problem within 30 calendar days, other than where there is a substantial reason for delay. Where there is such a delay, the reasons for that should be communicated clearly to the Customer, with no less than monthly updates provided until the matter is resolved. If a Customer is dissatisfied with the After Sales Service a Complaint may be made under the formal Complaints Process of that Developer.

For the avoidance of doubt, Emergency Issues are not Snags and, if not resolved satisfactorily, a Customer can make a Complaint about such Emergency Issues from the date of Legal Completion.

### Complaints Process

If a Customer is dissatisfied with the resolution of an issue or problem raised through the After-Sale Service, a Complaint may be made in accordance with the Developer's Complaints Process.

It is a Requirement that the Developer's Complaints procedures must include the following mandated minimum steps from the date of the first Complaint:

1) **Written Acknowledgment:** no later than 5 calendar days of the Complaint being received, the Developer will send a written acknowledgment of the Complaint to a Customer which also confirms the date on which the Complaint was received (the Complaint Initiation Date).

2) **Path to Resolution Letter:** no later than 10 calendar days of the Complaint Initiation Date, the Developer will provide, a written Path to Resolution which outlines to a Customer how the Developer will investigate the Complaint. This will include notifying a Customer if the Complaint may be subject to a resolution service.

3) **Complaint Assessment and Response Letter:** no later than 30 calendar days of the Complaint Initiation Date, a Customer will be sent a Complaint Assessment and Response Letter from the Developer.

The Complaint Assessment and Response letter must include the following information:

- a) each Complaint is to be separately identified and reported upon.
- b) where a Complaint has been resolved, what action has been taken to do so.
- c) if not resolved but further time is needed to look into the matter, the estimated time within which a decision will be reached together with a brief explanation as what further steps are required and why.
- d) if not resolved but remediation work is accepted, what that work will be and an estimated time within which required work will be completed.
- e) where further investigations or remediation has been set out in the letter, when the next update will be provided, which must not be more than 28 calendar days.
- f) where a Complaint is not accepted, that is to be set out clearly with a clear explanation for the decision.
- g) information about any recommended engagement with any applicable resolution service.
- h) information about how to refer matters to the New Homes Ombudsman service.

4) **Eight Week Letter:** where the complaint is not closed and no later than 56 calendar days from the Complaint Initiation Date, a Customer will be sent an Eight Week Letter from the Developer.

The Eight Week Letter must include the following information:

- a) a clear summary of what action has been taken to date.
- b) clear details of what is still outstanding, a reason why and the actions to be taken.
- c) an indicative timescale for resolution.
- d) the frequency that updates will be provided to the Customer by the Developer until resolution, which must not be more than 28 calendar days.

5) **Closure Letter:** to be sent by the Developer to the Customer at any stage following the Complaint Initiation Date

The letter must include:

- a) a list of the items agreed in the Complaint Assessment and Response letter and confirmation that each item has been resolved.
- b) information about how to refer matters to the New Homes Ombudsman service.

For the avoidance of doubt, a Developer may choose to aggregate a number of Complaints into a single Complaint, provided that the timetable shall apply from the first such Complaint received.

### Referrals to the New Homes Ombudsman service

If Defects complained of or Snags reported are not resolved in accordance with the timetables and procedure required by the Complaints Process, then a Customer may refer a Dispute to the New Homes Ombudsman service. It is within the New Homes Ombudsman service's discretion to decide when or if to accept a referral to it, in accordance with the New Homes Ombudsman service's scheme rules.

In line with established consumer best practice a Customer can refer a Complaint to the New Homes Ombudsman service after 56 calendar days of the Complaint Initiation Date. It is within the New Homes Ombudsman service's discretion to decide when or if to accept a referral to it, in accordance with the New Homes Ombudsman service's scheme rules.

The Developer must co-operate with any request from the New Homes Ombudsman service to provide all relevant information where a Customer has asked a Complaint to be investigated.

### On Re-Sales

In relation to second and subsequent Customers of the New Home this Code applies only in respect of After-Sales matters reported within two years of the date of the Legal Completion of the original New Home purchase and legal advice in respect of a subsequent sale should be sought accordingly.





## SECTION FOUR:

# SOLVENCY, LEGAL AND JURISDICTION

- • • • • The Developer must ensure that the contractual party as Developer and Seller (if different from the Developer, for example a special purpose vehicle) is financially adequately established or insured so as to provide reasonable protection against insolvency and the capacity to meet its obligations under the Code, including timely repayment of financial deposits when due and any financial awards made by the Ombudsman.

Nothing contained within this Code affects a Customer's existing legal rights and does not replace any applicable legislation regarding the sale and marketing of New Homes to Customers. Customers do not have to make a Complaint to the New Homes Ombudsman service for matters which are covered by the Code, they may decide to pursue an alternative course of action, such as through the civil courts.

References to 'a Customer' mean one or more Customers as applicable where the New Homes is jointly purchased.

Where this document uses the term or terms for England/Wales, the appropriate term or terms for the United Kingdoms' devolved nations are implied.





# Code of Practice

[www.nhqb.org.uk](http://www.nhqb.org.uk)