

New Homes Ombudsman Case Study: **Garden Size Reduction**



Issue

The customer complained that the developer proposed changes to their garden boundary after completion, reducing its size without consultation. They believe they were misled into purchasing the property with a larger garden than intended and would not have proceeded had they known the true boundary. The developer explained that the fence line had been set incorrectly during construction, resulting in several plots having larger gardens than shown on the title plans.



Relevant sections of the New Homes Quality Code

Part 1: Selling a new home

Part 2: Legal documents, information, inspection and completion

Part 3: After-sales, complaints, and the NHOS



Circumstances

- The customer purchased the property believing the garden was a certain size, but several months after completion, the developer informed them the rear fence had been positioned incorrectly, extending beyond the legal boundary, and needed to be reduced.
- The customer raised a formal complaint, disputing any reduction, and challenging the developer's proposed adjustments.
- The developer confirmed the measurements for moving the fence and provided updated drawings showing the garden slightly reduced to match title and development plans.
- The additional land formed part of a landscaped buffer and public open space that could not be sold.
- The developer offered £500 compensation and to turf and replant the garden once the fence was moved.

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Outcome

Upheld. The customer was awarded £750 in compensation.



Ombudsman's decision

The Ombudsman found that the developer failed to construct the garden in line with the legal boundary, disrupting the customer's plans and causing inconvenience and distress. While the customer was dissatisfied with the reduction in garden size, the Ombudsman could not require the developer to purchase the disputed land due to this being outside his jurisdiction.

The developer acknowledged the error and offered compensation. Considering the delay in identifying the issue and the impact on the customer, the Ombudsman deemed £750 reasonable and recommended a written apology.

The Ombudsman also ruled that the developer must reinstate the garden's features in the reduced area, ensuring the customer is not required to redo any work, providing a fair resolution in line with the Code.

Learnings

- Customers expect properties, including boundaries and gardens, to be delivered exactly as advertised; errors can cause significant disruption and dissatisfaction.
- Delays in identifying or addressing errors post-completion can increase inconvenience and distress, even if the developer acts quickly once aware.

Recommendations for developers

Ensure all property boundaries and features are correctly constructed and accurately reflected in marketing and title documents before completion.

When errors are identified, collaborate with customers to remedy issues fairly, including reinstating any improvements the customer has already made, and provide clear communication and appropriate compensation for disruption.

