



## Dear consultees and stakeholders

### Introduction and background

Thank you for your interest in the consultation on the New Homes Quality Code.

The full public consultation we undertook on the Code was the latest key step in what has been a five-year journey to develop a new industry code of practice that fills the gaps and improves upon existing consumer codes in order to provide better protections for new build home purchasers.

The ambition throughout has been to put a robust Code in place that, alongside the wider work of the New Homes Quality Board to register all new home developers and put in place a New Homes Ombudsman Service, will deliver a step change in terms of:

- The quality of the product delivered to the Customer
- The redress available to Customers in the event they have issues with their new home or their developer.

It introduces a broad range of additional requirements for developers to fill the gaps in current protections and ensure that every aspect of a new home purchase, from when a customer walks into a sales office, through to two years after occupation of the home is covered.

The new Code:

- Protects vulnerable customers, prohibits high pressure selling; requires any deposits the customer pays to their builder to be protected.
- Requires the developers to provide all relevant information about the home during the sales process – including its tenure and any future management or service charges – allowing them to make an informed decision about their purchase.
- Sets out requirements for a fair reservation agreement, including a ‘cooling off’ period; and sales contract requirements.
- Allows customers to have a professional carry out a pre-completion inspection of their home on their behalf.
- Specifies that a home must be ‘complete’, preventing developers paying customers to move into a new home early.

Crucially, and to address the biggest gap in the existing arrangements, the new Code requires developers to have an effective after care service in place to deal with any issues or ‘snagging’ problems customers have with their new home; as well as a robust complaints process that responds to customers concerns in a timely manner and to their satisfaction, keeping them informed at set times throughout. If a customer is not satisfied with how any complaint they have made has been dealt with, they can refer their case to an independent New Homes Ombudsman Service.

Over the past five years we have engaged with a large number of stakeholders and considered the broad range of issues they have raised. We took careful note of the recommendations made in the

**'More homes fewer complaints' report in 2016 and the 'Better redress for homebuyers' report** in 2017 by the APPG for Excellence in the Built Environment that made the establishment of a NHOS their number one recommendation.

We also engaged carefully with the bodies managing the existing codes of practice that developers currently adhere to.

This detailed process enabled us to develop the New Homes Quality Code to the point we felt it was ready for a full open consultation.

We received over 250 responses from a range of stakeholders including individuals, people who have bought a new home as well as people who wanted to buy a new home, developers (large and small), the UK Government and devolved administrations, people representing consumer groups and others. Some of these responses were very detailed, addressing the wording of specific parts of the Code. Some responses were more general, about the matters of principle or broad operation of it.

We welcomed the fact that the overwhelming response to the consultation was strongly positive, suggesting that the considerable work done to agree the draft Code in advance of the consultation had delivered a Code that met the dual objectives set out above, namely to ensure better quality homes and strengthened consumer redress.

Since the consultation closed we have considered and reviewed all of the consultation responses. Many of the points raised are ones that have been considered in detail over the previous years; others are new points raised or ones by the wider spread of respondents to the consultation, including the UK Government and the devolved administrations; there have been a considerable number of changes made to the detailed wording of the Code as a result of the comments received.

Considering the overwhelmingly positive reception the draft Code received and detailed deliberations by the Board over the responses; and a subsequent final 'sense check' stage by an independent approval panel, consisting of a consumer, industry and legal representative, we are now in a position where the post-consultation final version of the Code is being published.

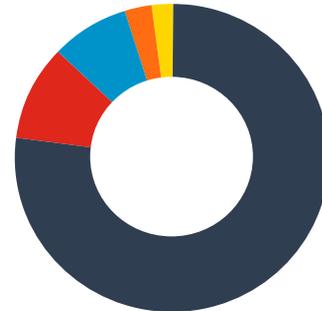
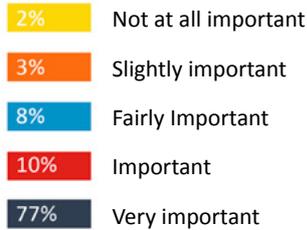
Issuing this to industry will enable developers to continue to make the necessary changes within their businesses that will enable them to implement the Code in 2022.

# CONSULTATION KEY RESPONSES

The key responses to the consultation questions are as follows

## REGISTER OF DEVELOPERS

How important is it that there is a register identifying those house builders who agree to the requirements and principles of the New Homes Quality Code?



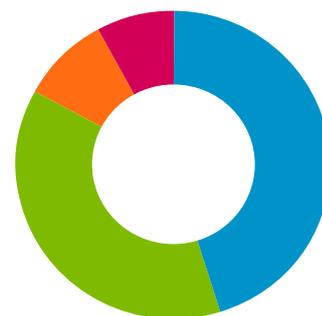
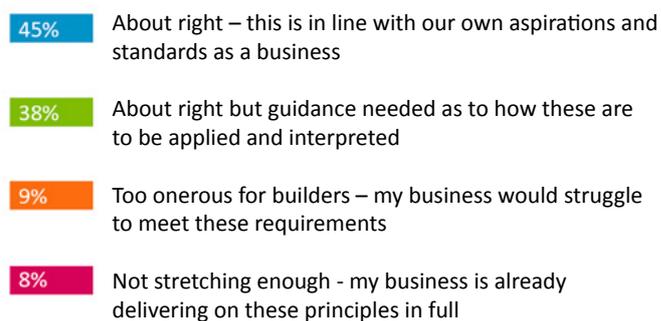
# 87%

OF RESPONDENTS SAID HAVING A REGISTER OF DEVELOPERS WAS IMPORTANT/ VERY IMPORTANT

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## FUNDAMENTAL PRINCIPLES

House Builder/Industry Professional:  
Please choose the answer which is closest to your business experience.



# 83%

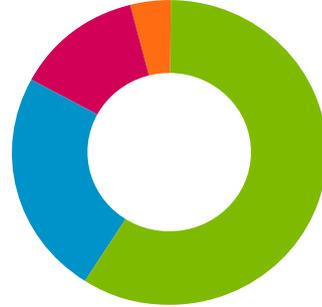
OF DEVELOPERS SAID THE FUNDAMENTAL PRINCIPLES WERE ABOUT RIGHT (8% NOT STRETCHING ENOUGH, 9% TOO ONEROUS)

New Build Purchasers:

Choose the answer which is closest to your purchasing experience.

(In my view and reflecting my own home purchasing experience and the Fundamental Principles)

- 59% My new home builder met some but not all of these Fundamental Principles
- 24% My new home builder met none of these Fundamental Principles
- 13% My new home builder met most but not all of the Fundamental Principles
- 4% My new home builder met all of these Fundamental Principles



ONLY **4%** OF NEW HOMES BUYERS SAID THAT THEIR DEVELOPER MET ALL OF THE FUNDAMENTAL PRINCIPLES – WITH A QUARTER (24%) SAYING THAT NONE OF THE FUNDAMENTAL PRINCIPLES WERE MET ON THEIR NEW HOME

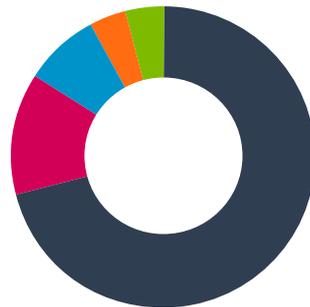
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## FUNDAMENTAL PRINCIPLES

Consumers/other respondents who have NOT purchased a new home.

How important is it that The Fundamental Principles are brought in under the new Code to improve the home buying experience?

- 71% Very important
- 13% Not at all important
- 8% Important
- 4% Fairly important
- 4% Slightly important

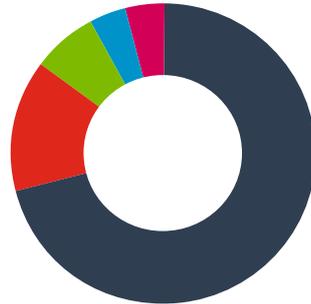


**79%**

OF POTENTIAL NEW HOMES CUSTOMERS SAID THAT THE FUNDAMENTAL PRINCIPLES WERE IMPORTANT/VERY IMPORTANT

## MEASURES ON INDUCEMENTS AND OTHER POOR SALES PRACTICES

How important are these changes to tackle poor sales practices?



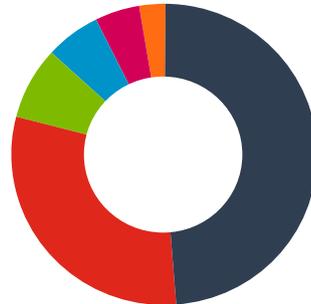
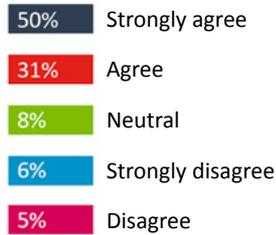
# 85%

SAID THAT THE PROPOSED NEW MEASURES ON INDUCEMENTS AND OTHER POOR SALES PRACTICES WERE IMPORTANT/VERY IMPORTANT

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## PRE-COMPLETION INSPECTION CHECKS

Do you think that a pre-completion check will help buyers identify issues before they move into their new home?



# 81%

AGREED THAT THE NEW PRE-COMPLETION INSPECTION CHECK WILL HELP HOMEOWNERS IDENTIFY ISSUES IN THEIR NEW HOME

## KNOWN AND ANTICIPATED COSTS (MANAGEMENT, LEASEHOLD AND SERVICE CHARGES)

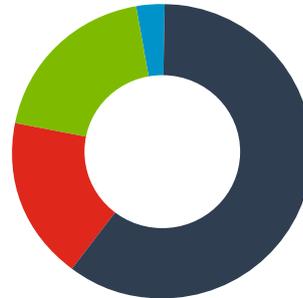
Thinking about the obligation to inform buyers of costs, which of the following most closely matches your view?

**60%** This is a welcome and necessary obligation that will bring greater peace of mind and confidence to home buyers

**18%** It's a good idea but will be difficult to include all costs in practice

**19%** This will provide more transparency but won't tackle wider issues around the fairness of any additional costs for home buyers

**3%** It is too onerous on developers and will be difficult to satisfy.



# 60%

AGREED THAT THE NEW KNOWN AND ANTICIPATED COSTS APPROACH WOULD GIVE CONFIDENCE AND PEACE OF MIND TO CUSTOMERS.

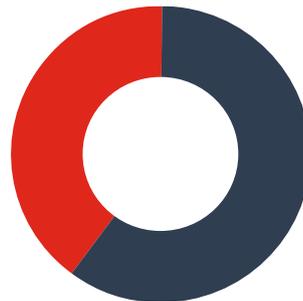
BUT 37% RAISED WIDER FAIRNESS OF COSTS OR PRACTICALITY CONCERNS ABOUT THIS.

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## REMIT OF THE CODE

**61%** Yes

**39%** No



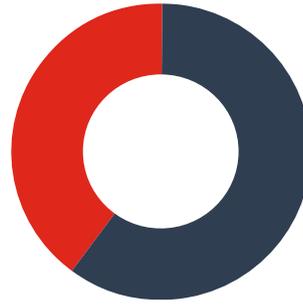
THERE WAS A 61/39 SPLIT (FOR/AGAINST) ON WHETHER THE CODE SHOULD APPLY TO ALL NEW HOMES WITH A LARGE MAJORITY AGAINST ALL SPECIFIC GROUPS THAT WERE CONSULTED ON:

- renters (83% said no, the Code should not be extended to renters)
- Shared Owners (77% said no, the Code should not be extended to shared owners)
- self-build (92% said no, the Code should not be extended to self-developers).

Note: This reflects our conversations with individuals and industry groups. While in principle most respondents feel that the Code should apply to every new home, there are practical consequences for different segments of the market that were reflected in the specific groups asked about. This will therefore be worked on further following from the consultation exercise. In particular, the expectation is that we will align the Code in due course with the broader groups set out in the draft Building Safety Bill, subject to the passage of that through Parliament.

62% Yes

38% No



## THERE WAS A 62/38 SPLIT (FOR/AGAINST) ON WHETHER OR NOT THE CODE SHOULD BE REVIEWED WITHIN 12 MONTHS.

Note: This reflects our conversations with industry groups who are concerned about having to make further or multiple changes after the new Code is adopted. As set out below, there are some areas we have identified where further work is needed following from the consultation exercise. We are aiming to complete that work by the Final Transition Date so that we can assess any further amendments. Clearly if any significant issues with the Code arise or are identified once it starts to be used, or through adjudications from the New Homes Ombudsman Service, the New Homes Quality Board reserves the right to make any necessary changes as and when required.

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## NEW COMPLAINTS AND OMBUDSMAN SCHEME

### House Builders:

Please choose the answer which is closest to your business experience.  
Developer's ability to meet the Code.

- 13% Too strict for builders – my business would struggle to meet these requirements
- 37% About right – but guidance on how these are to be applied and interpreted would be necessary
- 42% About right – this is in line with our own aspirations and standards as a business
- 8% Too lenient – my business is already delivering on this sort of approach in full

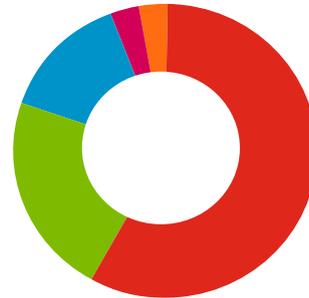
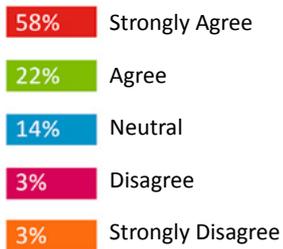


MOST DEVELOPERS THOUGHT THE BALANCE WAS ABOUT RIGHT BUT **13%** SAID THAT THEY WOULD STRUGGLE TO MEET THE NEW REQUIREMENTS.

Note: This reflects individual feedback we have received about the step-change that these changes will require for some developers. In particular the New Homes Quality Board is committed to working with smaller developers to support them as they look to make the necessary changes within their businesses. Training and other materials are being developed to assist them in making the transition to the new arrangements.

**New Build Purchasers:**

In my view and reflecting my own home purchasing experience on the complaints process this new complaints and New Homes Ombudsman Service would improve the experience.



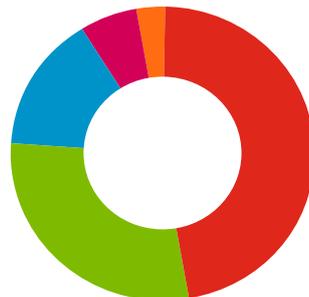
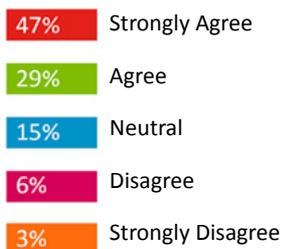
**80%**

OF NEW HOMES CUSTOMERS SAID THAT THE NEW PROPOSED COMPLAINTS AND OMBUDSMAN SCHEME WOULD IMPROVE THE HOME BUYING EXPERIENCE (6% DISAGREEING)

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Consumers who have not purchased a new home/other respondents:

Will this new complaints and New Homes Ombudsman Service give me a greater confidence in buying a new home?



**79%**

OF POTENTIAL HOMEBUYERS SAID THAT THE NEW PROPOSED COMPLAINTS AND OMBUDSMAN SCHEME WOULD GIVE THEM A GREATER CONFIDENCE IN BUYING A NEW HOME.

## Conclusions and next steps

Given the considerable amount of consultation and engagement over the last five years, we welcomed such strong and supportive comments from a balanced range of consultees and respondees.

These have provided the Board with the confidence to finalise the Code and to press on with the wider proposals to develop a new framework to cover new home build quality and redress.

The timing of the work of the New Homes Quality Board to finalise the New Homes Quality Code and to appoint a New Homes Ombudsman Service has crossed over with the passage of the Building Safety Bill through Parliament.

The New Homes Quality Board has engaged with the UK Government and with the devolved administrations in Wales and Scotland. The proposals being brought forward by the New Homes Quality Board can broadly align with the relevant sections of the emerging Building Safety Bill but are not identical to it. The ambition is that the new framework, including the NHOS, can be applied across the UK so providing greatly enhanced and consistent consumer protection. Ultimately, it will be up to the Secretary of State and responsible ministers in Scotland and Wales to decide how the powers provided by the Bill and any other related legislation are used by Governments to deliver their stated objectives and that is a separate matter to be decided by them.

We will continue to monitor the progress of the Bill and to engage with the Governments to ensure proposals continue to be able to align with their requirements. Having discussed with them and listened closely to consumers, it is vital not to further delay the implementation of these key changes.

We are very mindful that it is in the consumer interest to implement the changes and introduce the new framework as quickly as is practicable. This has been reinforced by a large number of emails and other communications from members of the public seeking assistance on existing complaints and problems, as well as wanting immediate and urgent availability of a New Homes Ombudsman Service to support them in their home ownership journey.

Whilst the new arrangements will not be able to assist existing buyers, it is clear from these communications, and indeed wider, longstanding reporting of issues by the purchasers of new build homes that there is an urgent need for the enhanced level of protection for new home buyers the new arrangements will provide.

It is a fundamental design principle of the work of the New Homes Quality Board to continue to engage with and work with the UK and national Governments to ensure that policy and practice continue to develop further in the interests of consumers.

Moving forward we will also look to work with Trading Standards (CTSI) in relation to the new code. We will make further changes as needed to reflect emerging and developing legislation and regulation in each of the devolved nations and the UK Government, as well as the practical operational context of the new code.

There will be those for whom the changes made will not go far enough whilst some would rather see a different approach to tackling a particular measure. That is always the case with any detailed proposal of this type.

As we start to introduce the new arrangements we do so with an open mind. We will monitor carefully how industry responds, and how it re-shapes itself to enable it to meet the requirements of the new Code; we will monitor the impact on customers, satisfaction levels, and what areas continue to be an issue for them.

That is why we have a permanent structure of the New Homes Quality Board. Its role after launch is similar to that of a regulator, checking and driving standards up over time. If changes to the framework or the code are required, we will not hesitate to make them.

## Other areas of progress

### **Government Engagement Panel established**

With this in mind the New Homes Quality Board has now established the Government Engagement Panel which meets with the chairman of the New Homes Quality Board and informs the development of the New Homes Quality Code and a New Homes Ombudsman Service. This panel meets monthly, as well as directly contributing as required on developing proposals. A full and detailed remit for the Panel is being agreed.

### **Customer Engagement panel**

A Customer Engagement Panel is being established and will be in place early in the New Year. The Panel will meet regularly and will be used as a sounding board by the NHQB to ensure all emerging proposals meet with customer expectations and requirements. A full remit will be agreed with the Panel.

### **Appointment of a New Homes Ombudsman Service**

In recent weeks the establishment of a New Homes Ombudsman Service has reached a critical juncture. Following a competitive open procurement process that followed public sector procurement principles, The Dispute Service was appointed as our preferred partner to develop a New Homes Ombudsman Service. We are now working with them in an Innovative Partnership arrangement to develop a New Homes Ombudsman Service which will deliver fair and independent redress to consumers once launched. The identification and selection of a partner is a major milestone in ensuring that consumers have access to independent redress which is free to them to use.

### **Securing independence of the New Homes Quality Board**

All of the new build reforms have been paid for and will continue to be paid for by industry. This has been a requirement of the UK Government throughout. However, in order to ensure the independence and integrity of the New Homes Quality Board there is in place a constitutional lock that has been in place from when the NHQB was first established in interim format. This ensures that members of the board who are developers or warranty providers cannot form a majority on the board for decision-making.

Of course, there are some groups who will be of the view that no industry representation should be allowed. If over time the New Homes Quality Board forms that view itself, it would have the necessary powers to make that change and those affected could not block that change. However, it is our view that for change to be effective it needs to work. That means bringing industry with us and working with industry to bring about changes in culture, as well as procedural changes, that we want in order to make sure industry feels empowered and supported to do the right thing. The response from industry has been encouraging to date. Equally, there is no doubt from the responses from smaller and larger house developers alike, that these changes are very demanding of them.

To further strengthen the independence of the board as we move to operationalise the arrangements, we have launched a formal recruitment process with a top independent recruitment firm to find three additional independent non-executive directors with skills to complement those existing on the board, including a permanent chair. When these recruitments are complete the make-up of the board will be 10 independents and 4 developers/warranty providers. This is in addition to the constitutional lock which prevents developers and warranty providers forming a majority on the board.

In addition, we have also launched the process to recruit a permanent Chief Executive. An interim Chief Operating Officer is already in place.

### **Turning to specific areas where consultees specified a different approach:**

#### **Retentions**

We received a handful of submissions, including from the HomeOwners Alliance, requesting retentions to be applied to New Homes. The New Homes Quality Board has agreed to consider the case for retentions in the coming year. We are mindful that many consumers are of the view that they would rather that their developers just got it right in the first place, rather than quibbling about retention payments. There have been some pilot schemes in place for retentions within the industry. We will examine the experience from those pilot schemes in informing our view of the way forward.

#### **Investor-Buyers**

As set out in the consultation, the draft New Homes Quality Code was designed to meet the needs of owner-occupiers. In other words, people who are purchasing a new home for their own residence. This reflects the particular gap that has been identified in the purchasing power between the consumer and the developer.

It is the usual business case that people who are purchasing for professional investment purposes will be purchasing as a commercial venture. Their purchases may include different and, indeed in the case of professional renters such as housing associations, enhanced fittings and furnishings to reflect and reduce wear and tear costs over time of rental propositions. Other investors may purchase at a reduced price. For example, those purchasing off plan include some foreign investors. In such circumstances the Building Regulations and contractual arrangements will still apply. The question is whether the sales and customer responsiveness requirements, and the access to the free New Homes Ombudsman Service, are appropriate and balanced for such commercial investors.

Having consulted with the Government Engagement Panel on this we have agreed that the consumer rights shall be extended to one group of investors namely the individual investor who is buying and renting to another individual. This is the intention currently set out in the draft Building Safety Bill. As soon as the bill receives Royal Assent the New Homes Quality Board will open a consultation about further or different steps that may be required to adapt or extend the Code in relation to this group. It is anticipated that any such changes will be put in place by the end of the Transition Period.

#### **Shared Owners**

Another group of people who require further consideration are Shared Owners. Currently Shared Owners may have rights to apply to the Housing Ombudsman with respect to the actions of their landlord and co-owner. This can include wholly private sector landlords operating in the buy-to-let commercial sector who have voluntarily made themselves subject to the Housing Ombudsman as well as those required to be subject to the Housing Ombudsman such as registered social landlords.

This is another complex area that will be developed further during the Transition Period. It overlaps between a New Homes Ombudsman Service and the Housing Ombudsman and indeed other ombudsman services and regulatory environments. As such we have agreed with the Government Engagement Panel that we will explore with them and with the Housing Ombudsman and any other related ombudsman how best to address the position in order to provide appropriate coverage and redress for Shared Owners reflecting the intent and principles of the New Homes Quality Code and the Building Safety Bill as well as legislation in the devolved nations. As with investor-buyers we expect this clarification in any further action to be in place by no later than the end of the Transition Period.

### **Building safety and Building Regulations**

Along with the changes being brought forward by the New Homes Quality Board there is a new Building Safety Regulator and a new building safety regime in England being put in place by the UK Government. The remit of these bodies is outside that of the New Homes Quality Board.

As set out in the New Homes Quality Code it is a requirement that all building safety regulator requirements are met going forward. This is in addition to Building Regulations and planning matters with which each new home must comply.

### **Sales by estate agents**

The New Homes Quality Code sets out requirements to prohibit high pressure sales and other poor sales practices. In addition to setting these out in the New Homes Quality Code, some of these are areas where other reforms are progressing in this area, notably the Best/Eaton new regulator.

As with the building safety regulator we will continue to work closely with the Government Engagement Panel to ensure alignment and ease of use for consumers and developers as these new changes for selling and estate agency also progress.

Estate Agents come under the remit of the Property Ombudsman, and we will look to engage and develop Memorandums of Understanding with them, to ensure new build customers purchasing through and estate agent have access to the appropriate redress.

Indeed, the New Homes Quality Board will work with all other ombudsman and regulatory bodies operating in the sector to minimise confusion for customers and so they are more easily navigated and sign posted between any relevant bodies where necessary.

### **Standardised conveyancing and contracts**

During the course of the consultation process for the Code, there has been a call for standardised or regularised contractual terms for example in conveyancing agreements.

At the same time there has been a call, which has been reflected in the New Homes Quality Code, to ensure a purchaser can choose their own legal adviser and conveyancer to advise them independently. This is an area where we are stating something which ought to be the case in any event. No developer should require a particular adviser to be used. Whilst we recognise there are benefits of developers, and potentially also customers of using legal advisers experienced in new build transactions which may lead to for efficient processing in some cases, that convenience cannot be at the expense of providing independent advice to a consumer purchaser.

For the purposes of this New Homes Quality Code, that independence in the requirements for advice has been made clear. Going forward we will continue to look at the evolution of the legal agreements and conveyancing and working with the Law Society and the conveyancing association we will consider what, if any, guidance or standardisation may be needed in order to support consumers in their house purchase.

### **Service charges and ground rents**

At the same time as bringing forward the work of the New Homes Quality Board, legislation is being taken forward to put an end to the abuse of ground rents. This is very welcome.

The New Homes Quality Code goes further in relation to requirements for setting out costs, current and future, in relation to his sale of a new home. This additional information should be of significant assistance in helping new homeowners understand the likely costs and expenses of their home over time, and properly plan for that. We have engaged closely with the Competition and Markets Authority (CMA) to ensure that the Code takes account of with their emerging recommendations.

### **Application across the UK**

The New Homes Quality Code and a New Homes Ombudsman are being established to work across all of the UK. Specific conversations are taking place with the Scottish Government and Scottish lawyers, as well as Welsh Government and Northern Ireland representatives (though it is likely that because of the very different operating environment in Northern Ireland that arrangements will be introduced there later than across Great Britain), to ensure that the Code takes account of their emerging recommendations in this area has relevance and applicability in each of the four nations. This will continue to be reflected in the work which is ongoing with the Code during the Transition Period, with any further changes made accordingly.

The Code will be issued in the Welsh language. In addition, accessibility and language versions will be available to developers to use in their businesses, to support consumers with different needs.

I would like to thank you again for your participation in the consultation process and the wider assistance many of you have provided myself and the board. We are extremely positive about the proposed changes and firmly believe that they will deliver a step change in how new build homes are built and sold that will be of huge benefit to purchasers moving forward.

We will continue to engage and communicate with you as we progress and start to implement our proposals over the coming months. If you have any questions, please do not hesitate to contact me or the team.

Best regards,



Natalie Elphicke OBE  
Chair, New Homes Quality Board

