

New Homes Quality Code consultation

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Address: UK Finance, 1 Angel Court, London, EC2R 7HJ

Sent to: New Homes Quality Board

UK Finance is the collective voice for the banking and finance industry.

Representing more than 250 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation.

Overview

The mortgage lending industry supports the creation of a New Homes Quality Code as an important part in the establishment of a New Homes Ombudsman. We strongly believe that a robust and independent system of redress in the new homes market will help drive up standards across the industry, ensure that consumers receive better customer care and final product and increase lender confidence in new build homes.

While we will answer the questions posed in the consultation (see below) we would like to offer some additional comments which may help to clarify some of the answers we have given and to explain the view of the mortgage lending industry.

General comments

Lenders would like to see the Code covering all parts of the UK as harmony across the nations and regions would be easier for them to administer and ensure that consumer awareness will be higher and more consistent.

Mortgage lenders would like membership of the scheme to be prominently highlighted in developer sales literature and branding, and for the scheme to be well publicised. It is probable that some lenders will make membership of the Code a precursor for mortgage lending and it will be important that this can be readily established.

The draft Code states that it and the scope of any Ombudsman adjudication service will not cover major defects as they are “more suitable for legal, insurance or other more substantial redress... such as the Building Safety Regulator”. It is important that the meaning ‘major defect’ is clearly defined so that consumers and others can fully understand what issues the Code and Ombudsman will cover. We would welcome this definition including as many potential issues as possible so that the Code and Ombudsman is the primary means of consumer redress. Where consumer concerns will be dealt with by other bodies we would want to see very clear and understandable handover processes in place so that consumers have a simple route for redress.

It is not clear from the draft Code whether conversion of existing buildings as well as new builds will be covered by the Code. Given the increased level of conversions taking place and the

emphasis being placed on this by government we would support conversion being covered by the Code and would like this to be explicitly stated within the Code documents.

The Code covers defects within a new build but it is not clear that other defects the home owner may end up being responsible for will be covered by the Code or the redress process. This could, for example, include failure by developers to fulfil Section 38 or Section 106 agreements or a failure to provide a development with the necessary infrastructure (roads, drains etc) to be adopted by a local authority. We would support this being explicitly covered within the Code.

Fundamental principles

While we agree with the draft fundamental principles they are, by design, lacking in detail. It is important that the building industry embeds these principles and customer standards are improved, and that the Code and Ombudsman has the ambition and effectiveness to ensure that this happens.

Exclusions

Mortgage lenders are concerned about the type and potential numbers of home buyers that will be out of scope of the New Homes Quality Code under the proposals. We think that there needs to be consistency across the market so that virtually all consumers can follow the same route to redress and be subject to the same standards.

We do not agree with the view that home buyers with a shared ownership arrangement with a Registered Provider of Social Housing (e.g. a housing association) who is not the Registered Developer for the property should be excluded from the New Homes Quality Code on the basis that they can seek redress through the ombudsman for social housing. Shared owners own a portion of their property and rent a further portion from the Registered Provider. They are actively encouraged to think of themselves as a 'normal' homeowner and act accordingly. It does not make sense that they are unable to expect to receive the same quality of build and standard of customer care of other home buyers from their developer.

While we accept that some self-build customers may be excluded from the New Homes Quality Code on the basis that they are in a commercial relationship with the developer, we have concerns about how the definition of 'self-build' is drawn. While a property owner who project manages their own build and employs building contractors direct may not reasonably expect to fall within scope (as they are, in effect, the developer) property owners who effectively employ a developer to manage a build for them may expect to fall within it. We would also expect 'custom build' home buyers to fall within scope.

We do not agree that a property purchased for rent should be excluded from the New Homes Quality Code. If they were this would exclude large numbers of individuals who buy property using Consumer Buy to Let mortgages. There is no justification for excluding them purely on the basis that they are buying to rent out a property rather than living in it. While there could be some justification for excluding large investors buying a significant number of properties on a 'build to rent' basis we would like to see any boundary drawn generously.

Sales practices and inducements

UK Finance supports new measures to stop poor sales practices and ensure inducements are declared. It is disappointing that it needs to be made clear that pressured sales tactics such as

inventing a rival buyer need to be explicitly mentioned as we would already expect these to be prohibited by any responsible developer.

It is important that buyers can access independent legal and financial advice and we are pleased that this is being made clear.

Finishing checks

Mortgage lenders support a new right for buyers to carry out a Finishing Check before completion to identify any finishing issues, including the option to use a third party to carry out this check for them. We note that this is already a service provided by some developers so it could become a standard practice fairly easily and could resolve many early complaints about 'snagging' issues.

It is not clear whether checks for flats would cover communal areas and we would suggest that they do and that this is made clear.

Informing buyers of known and additional costs

Mortgage lenders support measures to stop poor sales practices and ensure inducements are declared. It is important that all possible fees and charges are included in documentation (e.g. estate rent charges, event fees, service charges as well as direct fees charged by the developer). These should be readily available in one place and presented in an easy-to-understand format so that consumers understand all costs before they start the purchase process.

While not covered in the draft Code, we would like to see the fairness of costs being covered within the Code so that consumers can be assured they are not being asked to cover unnecessary or excessive payments.

Complaints process

Mortgage lenders support the outlined complaints process and would like this to be free for consumers to use. We would suggest the data on complaints to be published on a regular basis to help information lender and consumer decision-making on individual developers and to drive up standards across the industry.

We note that building warranties and professional consultant's certificates are not discussed as part of the complaints process. It would be helpful to understand whether it is part of the ambition of the New Homes Quality Board to ensure that home buyers are able to access warranties with minimum standards as these are an important element of the post-sales process for consumers.

THE FORMAL CONSULTATION DOCUMENT FOLLOWS. OUR PROPOSED RESPONSES ARE HIGHLIGHTED IN YELLOW

Consultation

Section One: Creating a New Register of House builders

The new homes quality reforms introduce a new requirement for house builders to become

Registered Developers, which means they agree:

1. To be registered with the New Homes Quality Board;
2. To follow the new mandatory principles and requirements of the New Homes Quality Code; and
3. To be subject to the remit of the independent New Homes Ombudsman in relation to complaints which arise in the first two years of purchase

There is an identified gap in complaints redress in the first two years as 2-10 years are addressed through a home warranty that is subject to Financial Services regulation, with redress to the Financial Services Ombudsman.

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?

- Not at all important
- Slightly important
- Important
- Fairly important
- Very important
- No opinion

Section Two: The Fundamental Principles of the New Homes Quality Code

The New Homes Quality Code contains ten overarching mandatory principles (the Fundamental Principles). These are:

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.

If you are answering this consultation as a house builder or industry professional, please go to question 2A

If you are answering this consultation as a consumer who has bought a new build home at any time, please go to question 2B

If you are answering this consultation as a consumer who has not bought a new build home to date or other respondents, please go to question 2C

2A: House Builder/Industry Professional:

Please choose the answer which is closest to your business experience:

In my view the Fundamental Principles are:

- Too onerous for builders – my business would struggle to meet these requirements
 - About right but guidance needed as to how these are to be applied and interpreted
 - About right – this is in line with our own aspirations and standards as a business
 - Not stretching enough – my business is already delivering on these principles in full
- Please explain the reasons for your answer – in particular which of the Principles, (if any) that are harder for your business to meet



2B: New Build Purchasers:

Please choose the answer which is closest to your purchasing experience:

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

- My new home builder met none of these Fundamental Principles

- My new home builder met some but not all of these Fundamental Principles
- My new home builder met most but not all of the Fundamental Principles
- My new home builder met all of these Fundamental Principles

Please explain the reasons for your answer: it would be helpful to us if you could identify which of the Principles were not met

2C: 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:

- Not at all important
- Slightly important
- Important
- Fairly important
- Very important
- No opinion

Section 3: Scope of the application of New Homes Quality Code (The Code) – consumer purchasers

The Code and the New Homes Ombudsman service has been developed to create a new independent redress for a consumer who purchases a home they will live in, not as an investment or with another party (who is not part of the household). This means new homes purchased directly from the Registered Developer (including their sales agent) by a consumer purchaser.

This means that it will not apply to certain purchases which are set out in more detail in Section 2 of the Code, including:

1. Homes purchased from a builder who is a not a Registered Developer

This is because the Code and the New Homes Quality Board applies only to sales by Registered Developers and their agents.

2. Homes purchased under a shared ownership arrangement with a Registered Provider of Social Housing (e.g. a housing association) who is not the Registered Developer for the property

This is because the Registered Provider is the party who contracts with the developer, not the consumer. So they should be dealing with the builder to deal directly with any issues arising and should take responsibility to do so. There is a separate ombudsman and regulator for Registered Providers. A shared ownership sale will be between the housing association/ Registered Provider and the Consumer. The developer is not a party to it. A Registered Provider who builds property for outright sale should apply to be a Registered Developer under the Code and will be subject to the same standards and provisions with regard to the Code and the New Homes Ombudsman Service.

3. Self-build properties

This is because self-build properties are under a bespoke commercial agreement between the builder and the self-build consumer, who is much more involved in the building process.

4. Properties purchased for rent.

Properties purchased for rent are outside the scope of these provisions, which are intended to better regulate the relationship between a consumer purchaser and a builder, not someone who purchases as a landlord or for primarily for investment purposes.

3: Thinking about the scope of the Code, which of these most closely matches your view (please tick all that apply):

- The Code should apply to every newly built home
- The Code plugs the gap in existing consumer protection for homeowners and is a step in the right direction. It should be reviewed within 12 months of starting to see whether it needs to be extended further.
- The Code plugs the gap in existing consumer protection for homeowners but should be extended to shared ownership properties
- The Code plugs the gap in existing consumer protection for homeowners but should be extended to self-build projects
- The Code plugs the gap in existing consumer protection for homeowners but additional measures are needed for renters.

Section 4: New measures to stop poor sales practices and ensure inducements are declared:

The Code includes new measures to put an end to poor sales practices including High-Pressure Selling and requires Registered Developers to declare hidden inducements (payments to connected parties for recommendations). These include:

1. A prohibition on making a sale or an incentive conditional on using a specific solicitor, conveyancer or mortgage advisor
2. A prohibition on requiring an immediate decision to reserve a property in order to secure a reduction in price
3. A prohibition on pretending that there is another buyer or that the price is about to be increased unless the purchaser reserves the property immediately
4. Requiring builders to provide buyers with fair and clear information about any part-exchange scheme
5. Requiring builders to inform the buyer if the builder would receive commission for recommending certain products or services, including legal and financial services.

4: How important are these changes to tackle poor sales practices:

- Not at all important
- Slightly important
- Important
- Fairly important
- Very important

- No opinion

Section 5: A new right for buyers to carry out a Finishing Check before completion to identify any finishing issues

Not all developers currently allow buyers to check and inspect a home before the legal completion date in order to check for any finishing issues. The new Code includes a new right for a buyer or a suitably qualified representative to carry out a check of a new home before legal completion in order to identify any minor defects or incomplete items (Required Finishing Items) under a new Pre-Completion Check Protocol. The Protocol will set out the following conditions to the inspection:

1. the appointment for the Finishing Check must be agreed with the house builder and can be carried out by the buyer or a suitably qualified representative on their behalf, where a suitably qualified representative means a professional registered with or otherwise accredited by RICS or RPSA or another appropriate professional body
2. all health and safety requirements required by the Developer must be complied with at the property and in relation to the site as a whole
3. the finishing check shall cover those items set out in the standard finishing check guidance provided by the relevant professional body of that qualified representative
4. the finishing check is to take place when the home is near legal completion
5. the builder will aim to remediate required finishing items prior to completion or set out to the buyer the timescales for completion of these finishing items.

5A: Do you think that a pre-completion check will help buyers identify issues before they move into their new home?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

5B: How important is a compulsory right to pre-completion check to ensure that builders finish homes to a high standard?

- Not at all important
- Slightly important
- Important
- Fairly important
- Very important
- No opinion

Section 6: A new obligation to inform buyers of known and additional costs.

Not all developers have let buyers know what costs they have in relation to their new home, leading to hidden costs and unplanned bills. The new Code provides an obligation for Registered Developers to inform buyers of types of known and anticipated additional costs including fees for management services or maintenance costs.

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

- This is a welcome and necessary obligation that will bring greater peace of mind and confidence to home buyers
- It's a good idea but will be difficult to include all costs in practice
- This will provide more transparency but won't tackle wider issues around the fairness of any additional costs for home buyers
- It is too onerous on developers and will be difficult to satisfy.

Section 7: After sales service and dealing with complaints

Under the new code all developers must have an effective after sales service where they will be expected to deal with issues that arise post occupation, such as snagging.

In addition new standards processes are being introduced to deal with complaints.

Complaints Handling can be of varied quality in the housebuilding industry. The new Code looks to set out a customer journey* that brings in set time periods and consistent expectations for dealing with complaints as follows:

1. the complaints process must be provided to the buyer so that the buyer knows how any complaints can be made;
2. complaints must be acknowledged within 5 days of being received;
3. by 10 days a written initial response must be sent setting out how the complaint will be investigated;
4. by 30 days a written detailed response must be sent setting out:
 - (a) which complaints are accepted, whether they have been fixed; if not, how they are going to be fixed, and by when, including any further investigations required to resolve the matter;
 - (b) which complaints have been rejected and why;
 - (c) whether the complaint is one where the consumer may be able to access an additional complaints service provided with their warranty and details of the process for that;
 - (d) information about how to use the New Homes Ombudsman Service;
 - (e) where complaints have not yet been fully resolved and have not been rejected, information about how regularly the consumer can expect to have an update about the complaints.
5. by 56 days from the date of the complaint being received, a written response updating the consumer on the progress of their complaint. From the 56 day point the consumer can apply to

the New Homes Ombudsman Service to investigate the complaint.

6. The New Homes Ombudsman Service will, other than in exceptional situations, require the builder's published complaints process to be completed by all parties before accepting a complaint.

7. The New Homes Ombudsman Service will be free to consumers.

7: If you are answering this consultation as a house builder or industry professional, please go to question 7A

If you are answering this consultation as a consumer who has bought a new build home at any time, please go to question 7B

If you are answering this consultation as a consumer who has not bought a new build home to date or other respondents, please go to question 7C

7A: House Builders:

Please choose the answer which is closest to your business experience:

- Too strict for builders – my business would struggle to meet these requirements
 - About right – but guidance in how these are to be applied and interpreted would be necessary
 - About right – this is in line with our own aspirations and standards as a business
 - Too lenient – my business is already delivering on this sort of approach in full
- Please explain the reasons for your answer – in particular whether there are any of these requirements that are harder for your business to meet



7B: New Build Purchasers:

In my view and reflecting my own home purchasing experience on the complaints process this new complaints and Ombudsman service would improve the experience:

- Strongly Agree
 - Agree
 - Neutral
 - Disagree
 - Strongly Disagree
- Please explain the reasons for your answer

7C: Consumers who have not purchased a new home/other respondents:

This new complaints and Ombudsman service would give me a greater confidence in buying a new home

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

Section 8: About Me

Please complete one or more of the following to help us understand your answers best:

- I am a builder/ developer
- I have professional interests in the development industry (lawyer/ surveyor/ conveyancer/ architect/ etc)
- I work in a business that supplies goods or services to the building industry (including connections and utilities as well as materials or services)
- I have bought a new home during my lifetime
- I have bought a new home within the last 2 years
- I am a homeowner
- I am a shared homeowner
- I do not own my home
- I am a member of the public interested in this work
- I work for a public department (local authority, devolved or central government)
- I or the organisation I work for represents tenants or consumers
- I or the organisation I work for represents house builders or lenders/ financial services providers
- I or the organisation I work for is a lender, warranty provider or existing developer code body
- Other (please specify):

If you have any further comments, or wish to leave your contact details please put them here:



If you have any questions relating to this response, please contact [Name and Job Title] ([email address])

Matthew Jupp
Principal, Mortgages Policy