

# Consumer Code for Home Builders

---

This document contains the Rules  
that govern the behaviour of  
Home Builders and  
Home Warranty Bodies



## Contents

Meaning of words .....	3
Introduction .....	5
Further information .....	5
The Rules .....	6
<b>1</b> Complying with the Code and the Rules .....	6
<b>2</b> Handling complaints about matters regulated by the Consumer Code .....	7
<b>3</b> Dispute Resolution Scheme .....	7
<b>4</b> Disciplinary action by Home Warranty Bodies.....	8
<b>5</b> Appealing against a decision to cancel Registration .....	9
<b>6</b> Service of notices .....	10
<b>7</b> Compliance information.....	11
<b>8</b> Contractual matters .....	11
Appendix A – Consumer Code independent Dispute Resolution Scheme .....	12
Appendix B – Form of notice under Rule 5.2 .....	19

## Meaning of words

In these Rules, the following words have special meanings:

- **Agent** – a person, firm or company used by a Home Builder to deal with any matter on behalf of a Home Builder (for example, an estate agent or contractor).
- **Dispute Resolution Case** – any case dealt with by the Dispute Resolution Scheme Provider under the Dispute Resolution Scheme.
- **Dispute Resolution Scheme** – the independent dispute resolution scheme operated by the Dispute Resolution Scheme Provider.
- **Dispute Resolution Scheme Provider** – IDRS Limited, company number 05945499, registered at 12 Bloomsbury Square, London WC1A 2LP, or any organisation appointed by the Home Warranty Bodies to replace it.
- **Dispute Resolution Scheme Rules** – the Rules of the Dispute Resolution scheme set out in Appendix A.
- **Advisory Forum** – a stakeholder forum derived from industry and trade organisations and including each of the Home Warranty Bodies.
- **Appeal Committee** – is defined in Rule 5.5.
- **Chairman** – the chair of the Management Board.
- **Complaint** – is defined in Rule 2.1.
- **Compliance Information** – data and information (including names and addresses of Home Buyers to whom the Code applies) concerning the operation of and compliance with the Code by Home Builders.
- **Consumer Code** or **Code** – ‘The Consumer Code for Home Builders’ (you can get details from [www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)). References to the Consumer Code mean the version in force at the date of Reservation.
- **Covered** – means that a Home Warranty Body has provided a Home Warranty at the request of a Home Builder.
- **Home** – a property Registered by a Home Builder with a Home Warranty Body to obtain Home Warranty cover, unless it is excluded under Rule 1.5.
- **Home Builder** – a builder or developer of new or newly converted Homes for sale to the public and who is Registered with a Home Warranty Body.
- **Home Builder Case Fee** – the fee payable by a Home Builder to the Dispute Resolution Scheme Provider, under the Dispute Resolution Scheme Rules, if a Home Buyer starts a Dispute Resolution Case.
- **Home Buyer** – a person who Reserves or buys a Home (for Homes Reserved or bought jointly by two or more people, the rights of the Home Buyer will be joint), unless they are excluded under Rule 1.5.
- **Home Buyer Case Fee** – the fee a Home Buyer must pay the Dispute Resolution Scheme Provider to start a Dispute Resolution Case.

- **Home Warranty Body** – an organisation that:
  - maintains a register of builders and developers;
  - provides Home Warranty cover;
  - has agreed to support the Consumer Code for Home Builders Scheme; and
  - has undertaken to enforce the Code.

Details of participating Home Warranty Bodies are available from [www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)

- **Home Warranty** – an insurance-backed warranty for the protection of Home Buyers.
- **Management Board** – the governing body in all matters relating to the Code.
- **Register** – a register maintained by a Home Warranty Body that records Home Builders who, subject to the Home Warranty Body's terms and conditions of business, are entitled to request that homes built or sold by them are covered by the Home Warranty Body's Home Warranty. '**Registered**', '**Registration**' and '**Registration Scheme**' carry the corresponding meaning.
- **Reservation** – When a Home Buyer and a Home Builder jointly make a written statement of intent (subject to contract and whether or not a fee is paid) to buy and sell a Home. **Reserved** carries the corresponding meaning.
- **Rules** – the Consumer Code rules that apply to Home Builders, as set out in this booklet.
- **Secretariat** – the organisation providing support services to the Management Board and Advisory Forum (for further information visit [www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)).

The following rules of interpretation apply unless the context requires otherwise:

- In relation to a Home Warranty Body, 'relevant' refers to the Home Warranty Body that provided the Home Warranty for a Home that is the subject of a Complaint.
- In relation to a Home Builder, 'relevant' refers to the Home Builder that requested the Home Warranty for a Home that is the subject of a Complaint.
- Headings and sub-headings are for ease of reference only and are not to be taken into consideration in the interpretation of these Rules.
- References to individual Rules are references to the numbered rules (1 to 7) in this booklet. References to individual appendices are references to the appendices (A and B) in this booklet.
- Words in the singular include the plural and vice versa.
- References to any law, order, regulation or similar text will be understood as a reference to that text as later amended or re-enacted.

## Introduction

- 1 The Consumer Code for Home Builders sets mandatory requirements that all Home Builders must meet in their marketing and selling of Homes and their after-sales customer service.
- 2 This booklet sets out the Rules that apply to Home Builders, including dealing with Home Builders who fail to comply with the Consumer Code. Under their Registration Schemes, each Home Warranty Body requires their Home Builders who are Registered with them to comply with the Code and these Rules.
- 3 Home Buyers who think they have a dispute because a Home Builder has failed to meet the requirements of the Code may refer their dispute to an independent Dispute Resolution Scheme. If the adjudicator upholds (agrees with) the complaint, they may require the Home Builder to make a payment to the Home Buyer or take other actions. The Home Builder may also face disciplinary sanctions.

## Further information

Further information can be obtained from the Consumer Code web site:  
**[www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)**.

## The Rules

### 1 Complying with the Code and the Rules

- 1.1 The rules of interpretation on pages 3 and 4 of this booklet under the heading 'Meaning of words' apply throughout these Rules.
- 1.2 The Consumer Code and these Rules apply to each Home Builder from the 1st April 2010. For Homes Covered by a Home Warranty, they will continue to apply after a Home Builder ceases to be Registered.
- 1.3 Home Builders must comply with the Consumer Code, these Rules and any directions and decisions given or made by the Dispute Resolution Scheme Provider in connection with any Home that, on or after the 1st April 2010, is:
  - 1.3.1 Reserved by a Home Buyer; and/or
  - 1.3.2 covered by a Home Warranty.
- 1.4 A Home Builder who uses an Agent to carry out on its behalf any activities regulated by the Consumer Code must ensure that the Agent knows the Home Builder's obligations under the Consumer Code and fulfils them on the Home Builder's behalf. Home Builders remain liable for any failure to comply with the Consumer Code even if it is caused, or contributed to, by the act or omission of an Agent.
- 1.5 The Consumer Code and these Rules do not apply to:
  - 1.5.1 second-hand properties (for example, homes taken by Home Builders in part exchange and re-sold);
  - 1.5.2 properties acquired by registered social landlords;
  - 1.5.3 properties acquired by corporate bodies, partnerships or others for investment;
  - 1.5.4 properties built by self builders for their own occupation;
  - 1.5.5 properties built under architects' certificates.
- 1.6 Home Buyers have the right under the Contracts (Rights of Third Parties) Act 1999 (or where applicable under Rule 1.7) to directly enforce against Home Builders the Code, these Rules and any directions and decisions given or made by the Dispute Resolution Scheme Provider under the Dispute Resolution Scheme. Home Buyers have this right:
  - 1.6.1 without having to obtain the agreement of the Dispute Resolution Scheme Provider or the relevant Home Warranty Body; and
  - 1.6.2 without having to join the Dispute Resolution Scheme Provider or relevant Home Warranty Body in any legal proceedings.
- 1.7 When the law of Scotland applies the Home Builder agrees that:
  - 1.7.1 the Code, Rules and any directions and decisions given or made by the Dispute Resolution Scheme Provider under the Dispute Resolution Scheme will be directly enforced against it by a Home Buyer (by way of '*jus quaesitum tertio*' or otherwise); and
  - 1.7.2 the Home Builder intends this to be a benefit to, and to be relied upon by, the Home Buyer.

## 2 Handling of complaints about matters regulated by the Consumer Code

- 2.1 During the two years from the date of legal completion (or date of entry in Scotland), if a Home Buyer complains in writing to a Home Builder or its Agent about the Home Builder or its Agent's conduct, then the Home Builder must respond as required by the Consumer Code. If the Home Buyer is not satisfied with the response, they may make a complaint ('Complaint') to the relevant Home Warranty Body within the later of:
  - 2.1.1 three months after the date of the Home Builder's final response to the original complaint, or
  - 2.1.2 three months after the date of the original complaint.
- 2.2 When a Complaint is made, the relevant Home Warranty Body must, as appropriate:
  - 2.2.1 deal with any matters covered by the relevant Home Warranty;
  - 2.2.2 give the Home Buyer an application form to refer the Complaint to the Dispute Resolution Scheme Provider.

## 3 Dispute resolution scheme

- 3.1 When a Home Buyer refers a Complaint to the Dispute Resolution Scheme Provider, the relevant Home Warranty Body must ensure that the Dispute Resolution Scheme Provider agrees to deal with the Complaint under the Dispute Resolution Scheme Rules.
- 3.2 When a Home Buyer refers a Complaint to the Dispute Resolution Scheme Provider, the relevant Home Builder must:
  - 3.2.1 pay the Home Builder Case Fee to the Dispute Resolution Scheme Provider when requested;
  - 3.2.2 comply with the Dispute Resolution Scheme Rules and any directions given by an adjudicator under the Dispute Resolution Scheme Rules;
  - 3.2.3 comply with the final decision made by an adjudicator under the Dispute Resolution Scheme Rules, which is accepted by the relevant Home Buyer in the manner and within the time allowed by the Dispute Resolution Scheme Rules;
  - 3.2.4 not do anything that may limit, or seek to limit, the Dispute Resolution Scheme Provider's independence and impartiality.
- 3.3 After a Dispute Resolution Case ends, the Dispute Resolution Scheme Provider will tell the relevant Home Builder and Home Warranty Body of the outcome. If the Dispute Resolution Scheme Provider finds that the Home Builder has breached the Consumer Code, it may make any decision permitted by the Dispute Resolution Scheme Rules, subject to the financial limits stated in those Rules.
- 3.4 If a Home Builder fails to pay a Home Builder Case Fee for a Dispute Resolution Case, the relevant Home Warranty Body may pay it on the Home Builder's behalf and the Home Builder must, on receiving a written demand from the Home Warranty Body:
  - 3.4.1 reimburse the Home Builder Case Fee to the Home Warranty Body within 7 days of the written demand; and, if it does not do so within seven days, also
  - 3.4.2 pay interest on the fee to the Home Warranty Body at 5% above the then Bank of England base rate. Interest will accrue on this unpaid debt on a day-to-day basis, before as well as after judgment, from the date for payment under Rule 3.4.1. Interest will be compounded once a year.

## 4 Disciplinary action by Home Warranty Bodies

- 4.1 If the relevant Home Warranty Body believes that a Home Builder has failed to comply with the Dispute Resolution Scheme Provider's final decision on a Dispute Resolution Case, the Home Warranty Body will have the following powers:
  - 4.1.1 To impose under its Registration Scheme any disciplinary sanction it is entitled to impose, as if the failure to comply breached its own Registration Scheme. In connection with the use of this power, Rule 5 will not apply.
  - 4.1.2 To impose under these Rules the disciplinary sanction of cancelling the relevant Home Builder's Registration under the Registration Schemes of all the Home Warranty Bodies. In connection with the use of this power:
    - 4.1.2.1 Rule 5 will apply; and
    - 4.1.2.2 the Home Builder will not be able to enforce any rights of appeal, or otherwise, under the Home Warranty Body's Registration Scheme.
- 4.2 A Home Warranty Body must give written notice of any decision to impose a disciplinary sanction under Rule 4.1 to:
  - 4.2.1 the relevant Home Builder; and
  - 4.2.2 when the decision is to cancel Registration under Rule 4.1.2, the Secretariat.
- 4.3 Any notice served under Rule 4.2 must include:
  - 4.3.1 the relevant Dispute Resolution reference(s); and
  - 4.3.2 when the decision is to cancel Registration under Rule 4.1.2:
    - 4.3.2.1 the date when the cancellation of the Registration will take effect (which will be 28 days after the date the notice is served);
    - 4.3.2.2 details of the Home Builder's right of appeal under Rule 5.
- 4.4 The Secretariat will notify all Home Warranty Bodies (except the Home Warranty Body that served the notice) when a notice is served under Rule 4.2. Subject to Rule 5:
  - 4.4.1 cancellation of the Registration of the relevant Home Builder under the Registration Schemes for all Home Warranty Bodies will take effect from the date set by Rule 4.3.2;
  - 4.4.2 the Home Builder will not be entitled to apply or re-apply to any Home Warranty Body for Registration for 12 months from the date of cancellation.

## 5 **Appealing against a decision to cancel Registration**

- 5.1 Home Builders are entitled to appeal to the Management Board about any decision to cancel their Registration under Rule 4.1.2, on the following grounds:
  - 5.1.1 they have complied with the Dispute Resolution Scheme Provider's decision that had led the Home Warranty Body to cancel their Registration;
  - 5.1.2 they have taken appropriate steps to deal with any non-compliance with the Dispute Resolution Scheme Provider's decision that had led the Home Warranty Body to cancel their Registration;
  - 5.1.3 the Home Warranty Body did not act fairly in reaching its decision;
  - 5.1.4 a court of competent jurisdiction has found that the Dispute Resolution Scheme Provider did not act fairly in reaching the decision that led the Home Warranty Body to cancel the Registration.
- 5.2 To appeal, the Home Builder must serve a notice of appeal that the Secretariat receives before the cancellation of Registration takes effect under Rule 4.3.2. The notice must be similar in form to that shown in Appendix 2.
- 5.3 When a notice of appeal is served under Rule 5.2, the disciplinary sanctions that would otherwise take effect in accordance with Rule 4.4 will be suspended until the Secretariat serves a notice under Rule 5.13 or 5.14.
- 5.4 Within 21 calendar days of serving a notice of appeal under Rule 5.2, the Home Builder must send to the Secretariat:
  - 5.4.1 a £500 fee;
  - 5.4.2 a written statement of the reasons for appeal;
  - 5.4.3 send copies of any relevant documents it wishes to rely on.
- 5.5 The Secretariat will give the Chairman the information sent under Rules 5.4.2 and 5.4.3. The Chairman will convene a committee ('Appeal Committee') to consider the Home Builder's appeal. The Appeal Committee will comprise the Chairman and two other members of the Management Board or Advisory Forum who have not been involved in the subject matter of the appeal. Alternatively, if it is necessary to maintain independence, the Chairman may co-opt suitable people from outside the Management Board and Advisory Forum to hear the appeal.
- 5.6 The Chairman will give directions for the conduct of the appeal, which the Home Builder must comply with.
- 5.7 A date will be fixed for the appeal hearing and the Chairman will give the Home Builder at least 21 days' written notice of the time and venue.
- 5.8 A Home Builder must appear before the Appeal Committee:
  - 5.8.1 in person, if the Home Builder is a sole trader;
  - 5.8.2 through one of the partners if the Home Builder is a partnership;
  - 5.8.3 through one of the Home Builder's directors or its company secretary if the Home Builder is a company; or
  - 5.8.4 with the Chairman's permission, through an appropriate representative.

- 5.9 When considering a Home Builder's appeal, the Appeal Committee will act as a private tribunal and not as an arbitrator.
- 5.10 If a Home Builder does not comply with Rules 5.2, 5.4, 5.6 and 5.8, the Chairman may dismiss the appeal without a hearing.
- 5.11 On hearing a Home Builder's appeal, an Appeal Committee will either:
- 5.11.1 uphold the Home Builder's appeal, if a majority of the Appeal Committee is satisfied that it is right to do so in light of the reasons for appeal in Rule 5.1; or otherwise
  - 5.11.2 dismiss the Home Builder's appeal.
- 5.12 Within five days of the Chairman's decision (under Rule 5.10) or the Appeal Committee's decision (under Rule 5.11) the Secretariat will send written notification to the Home Builder and Home Warranty Bodies of the decision.
- 5.13 If the Appeal Committee upholds a Home Builder's appeal, the disciplinary sanction under Rule 4.1.2 will not apply and the relevant Home Warranty Body must repay the Home Builder's appeal fee. However, the relevant Home Warranty Body may apply disciplinary sanctions under Rule 4.1.1. These may include cancelling the Home Builder's Registration.
- 5.14 If the Chairman or Appeal Committee dismisses a Home Builder's appeal:
- 5.14.1 the Home Builder's Registration with all Home Warranty Bodies will be cancelled with effect from the date a written notice is served under Rule 5.12 on the Home Builder and all Home Warranty Bodies;
  - 5.14.2 the Home Builder may not apply or re-apply to any Home Warranty Body for Registration for 12 months from the cancellation date:
  - 5.14.3 the Home Builder will bear their costs of and incidental to the conduct of any appeal under this Rule and will not be entitled to a refund of the fee payable under Rule 5.4.1.

## **6 Service of notices**

- 6.1 All notices and other communications required in connection with these Rules must be in writing and sent by hand or by pre-paid post:
- 6.1.1 if addressed to a Home Warranty Body, to their registered address marked for the company secretary's attention;
  - 6.1.2 if to a Home Builder:
    - 6.1.2.1 if the Home Builder is a company, to the Home Builder's registered office, marked for the managing director's attention;
    - 6.1.2.2 if the Home Builder is a partnership, to the Home Builder's registered office (in the case of limited liability partnership) or its principal place of business, marked for the partners' attention;
    - 6.1.2.3 if the Home Builder does not fall within Rules 6.1.2.1 or 6.1.2.2, to the last business address recorded by the relevant Home Warranty Body, marked for the manager's attention.

6.2 Subject to Rule 6.3:

6.2.1 a notice or other communication delivered by hand will be regarded as having been served on the date it is delivered to the addressee;

6.2.2 a notice or other communication sent by pre-paid post will be regarded as having been served on the third working day after it has been posted to the addressee.

6.3 A notice or other communication that the addressee receives on a day that is not a working day, or after 5pm on a working day, will be regarded as having been served on the next working day.

## **7 Compliance information**

7.1 Home Builders must make all reasonable efforts to record Compliance Information for the purposes of this Rule. On request, Home Builders must provide the relevant Home Warranty Body with all Compliance Information that they have available to them.

7.2 Home Warranty Bodies have the right to collect, use and disclose Compliance Information (including by publishing and by sharing with other Home Warranty Bodies, the Management Board and the Advisory Forum) when this is:

7.2.1 necessary or helpful to support the effective working of the Code;

7.2.2 helpful in improving levels of customer satisfaction in the house-building industry;

7.2.3 necessary to fulfil a duty imposed by law;

However, the disclosure of Compliance Information must not enable individual Home Builders or Home-Buyers to be identified by those to whom it is disclosed, except when:

7.2.4 necessary to fulfil a duty imposed by law;

7.2.5 restricted to any or all of the other Home Warranty Bodies, the Management Board and the Advisory Forum.

7.3 The collection, use and disclosure of Compliance Information must always comply with the Data Protection Act 1998

## **8 Contractual matters**

8.1 If any conflict or confusion arises between the terms and conditions of any Home Warranty Body's Registration Scheme and these Rules, these Rules will apply.

8.2 Rule 8.1 will apply even if the terms and conditions of any Home Warranty Body's Registration Scheme are varied or amended after the 1st April 2010, unless those varied or amended terms and conditions specifically refer to these Rules and state that they stop these Rules applying.

8.3 If a Home Builder's registered office address (or if not a company or limited partnership, principal place of business) is in England, Wales, Scotland or Northern Ireland, the law that applies to the Rules is the law that applies in the relevant country. If a Home Builder's registered office address (or if not a company or limited partnership, its principal place of business) is not in England, Wales, Scotland or Northern Ireland, the law that applies to the Rules is the law that applies in England.

## Appendix A – Dispute Resolution (Adjudication) Scheme Rules

### The Consumer Code for Home Builders Adjudication Scheme Rules (2010 Edition)

These Rules apply to applications received on or after the 1st April 2010,

#### Meaning of words

<b>Adjudicator</b>	the person appointed by IDRS Ltd to decide the dispute
<b>Code</b>	the Consumer Code for Home Builders
<b>Decision</b>	the Adjudicator's written decision in the dispute, with the reasons, as sent to the Home Buyer and the Home Builder
<b>Home</b>	a property registered with a Home Warranty Body and covered by their Home Warranty Cover
<b>Home Builder</b>	a Home Builder or developer of new or newly converted domestic properties for sale to the public, who is registered with a Home Warranty Body
<b>Home Buyer</b>	a person who reserves or buys a Home (for Homes reserved or bought jointly by two or more people, the rights of the Home Buyer will be joint)
<b>Home Warranty Body</b>	an organisation that: <ul style="list-style-type: none"> <li>• maintains a register of builders and developers,</li> <li>• provides Home Warranty Cover;</li> <li>• Has agreed to support the Consumer Code for Home Builders Scheme; and</li> <li>• has undertaken to enforce the Code</li> </ul>
<b>Home Warranty</b>	an insurance-backed warranty for the protection of Home Buyers of new and newly converted Homes
<b>Rules</b>	these rules, which govern the conduct and operation of the adjudication scheme

#### 1 Introduction

1.1 The Consumer Code for Home Builders Adjudication Scheme (the scheme) is provided independently by IDRS Ltd (the administrator) for resolving disputes between Home Builders and Home Buyers covered by the Code. For the purposes of the Rules, joint buyers of a Home will be regarded as acting as one individual Home Buyer and thus one party in any dispute. The Rules govern the resolution of disputes between Home Buyers and Home Builders arising from complaints about a Home Builder's non-compliance with the Code which are not directly covered by the terms of any insurance-based warranty issued by a Home Warranty Body.

#### 2 Scope of the scheme

- 2.1 The scheme provides an informal and independent way of settling disputes between the Home Builder and the Home Buyer (the parties).
- 2.2 The scheme can consider disputes arising from anything a Home Builder does or does not do that the Home Buyer thinks is a breach of the Code and which may have caused the Home Buyer disadvantage or financial loss.

- 2.3 An independent Adjudicator appointed under these Rules will make a Decision on disputes by considering written evidence received from the parties.
- 2.4 The Adjudicator can ask for extra information about anything from any party, if this is needed, in order to settle the dispute in a fair and reasonable way, in line with the law and the Code.
- 2.5 The administrator manages the process and is responsible for appointing an Adjudicator.
- 2.6 The Adjudicator's Decision will become binding on a Home Builder if the Home Buyer tells the administrator that they accept the Decision. If a Home Buyer rejects the Decision or does not tell the administrator that they have accepted the Decision within six weeks, the Decision will not take effect and will not be binding on either party. The Home Buyer cannot accept the Decision after the six-week deadline.
- 2.7 A Home Buyer cannot claim for more than £15,000, including any consequential damages and VAT. The £15,000 includes any amount for inconvenience, which is limited to £250 per claim.
- 2.8 The dispute must not be subject to any current or previous court action unless that action is suspended or discontinued by agreement between the parties or by court order.
- 2.9 The matters in dispute must not be the subject of any current or previous adjudication involving the same Home Buyer and the same property.

### **3 Applying to use the scheme**

- 3.1 To apply to use the scheme, the Home Buyer must ask for an application form from the Home Warranty Body that issued the Home Warranty for their Home. The Home Buyer must bring the claim within three months after the date of the Home Builder's final response to the original complaint, or three months after the date of the original complaint, whichever is the later. The Home Builder must accept an application for adjudication under the scheme if:
  - 3.1.1 the Home Builder is registered with the Home Warranty Body,
  - 3.1.2 the Home is registered with the same Home Warranty Body, and
  - 3.1.3 the dispute has not been resolved to the Home Buyer's satisfaction through the Home Builder's own complaints-handling procedure.

### **4 Adjudication procedure**

- 4.1 Adjudication begins when the administrator receives the Home Buyer's claim.
- 4.2 The Adjudication will be based only on written evidence presented by the parties in dispute, except where the Adjudicator decides either to get more information under Rule 5.2 or to consult an independent expert under Rule 5.4.
- 4.3 The Home Buyer's application must give reasons for the items claimed, including:
  - 4.3.1 the events leading up to the dispute;
  - 4.3.2 the precise nature of the dispute;
  - 4.3.3 the grounds for claiming the items or the remedy the Home Buyer wants, including all available receipts or other proof of expenditure;
  - 4.3.4 the reasons for the amount of any money claimed.

The application can be supported by documents (for example, photographs, copies of contracts, technical reports or other documents) but should not consist only of correspondence.

- 4.4 When the administrator has received a properly completed application form, it will send the Home Builder a copy of that form. The Home Builder has 21 calendar days from the date of receipt to give the administrator **either** of the following:
  - 4.4.1 written confirmation that the claim has been settled and details of the settlement. The details must include whether they have reimbursed the Home Buyer's registration fee, and include the early settlement fee in accordance with schedule 1 to these Rules; or
  - 4.4.2 two copies of their response to the claim and payment of the case fee in accordance with schedule 1 to these Rules.
- 4.6 The Home Builder may offer settlement terms to the Home Buyer. The adjudication procedure will be closed only when the administrator confirms that the Home Buyer has accepted the settlement in writing. The administrator will inform both parties that they have received the acceptance and that the adjudication procedure is closed.
- 4.7 An Adjudicator will be appointed unless, within 21 days of the date the Home Builder receives the application form, the Home Builder informs the administrator that the claim has been settled in accordance with Rule 4.6.
- 4.8 If there is no written confirmation of settlement, or the Home Builder does not file its response in the time allowed, the Adjudicator will decide the dispute by considering only the information the Home Buyer has provided.
- 4.9 When the administrator receives the Home Builder's response, it will send a copy to the Home Buyer, who will have seven calendar days to provide any further comments on that response. The Home Buyer's comments must be restricted to points arising from the Home Builder's response and must not introduce any new complaints. The Adjudicator will disregard new complaints in these comments.
- 4.10 If the Home Buyer makes any comments on the Home Builder's response, the administrator will send a copy of them to the Home Builder, and at the same time give both parties the name of the independent Adjudicator it has appointed.
- 4.11 The Adjudicator may contact the parties by phone, fax, letter or e-mail to ask for further documents or information the Adjudicator may need to make the Decision. If the parties do not provide the extra information within the time the Adjudicator sets, the Adjudicator may decide the dispute by considering only the information already provided. The administrator will copy to the other party any additional documents supplied in response to the request.
- 4.12 The Adjudicator will make a Decision, usually within eight weeks of receiving the application.
- 4.13 The administrator will give the parties a copy of the Decision, including the reasons for it. A copy of the Decision will be sent to the Home Warranty Body to help it to monitor the effectiveness of the Code.
- 4.14 When the Home Buyer receives the Adjudicator's Decision, the Home Buyer must contact the administrator within six weeks of the issue date of the Decision to state whether or not they accept the Decision. The administrator will inform the Home Builder that the Decision has been accepted by the Home Buyer.

- 4.15 The Adjudicator's Decision is only binding on the Home Builder if the Home Buyer has accepted it as set out in Rule 4.14. No party can appeal the Decision. It can only be accepted or rejected by the Home Buyer.
- 4.16 If the Home Buyer or the Home Builder wants their original documents back, they must ask the administrator for them within six weeks of the date of the Adjudicator's Decision. If the administrator does not receive such a request within six weeks, all paper documents will be destroyed.
- 4.17 If the Adjudicator decides that the Home Builder must make a payment to the Home Buyer under Rule 5.7, then the payment must be made within four weeks of the Home Buyer notifying acceptance of the Decision. When the Adjudicator instructs the Home Builder to make payment, the Home Builder must pay the Home Buyer direct and tell the administrator that this has happened.
- 4.18 If the Adjudicator decides that the Home Builder must take any other action under Rule 5.7 and the Home Buyer accepts that Decision, the Home Builder must complete the necessary action within four weeks, or within any other timescale the Adjudicator gives and must tell the administrator that they have done so. If the Home Builder cannot do what is needed within four weeks or the timescale the Adjudicator gave, then the Home Builder must tell the Home Buyer and the administrator why and give a date for it to be completed.
- 4.19 IDRS Ltd will keep a record of the outcome of the adjudication procedure to monitor and report its performance and effectiveness.

## **5 Adjudicator's powers**

- 5.1 The Adjudicator will remain fair and unbiased throughout the adjudication and will decide the case in line with the relevant law, any relevant contracts between the parties, and the Code. The Adjudicator will act quickly and efficiently, deciding the dispute in a fair and reasonable way.
- 5.2 If a delay may prevent the Adjudicator making the Decision within eight weeks, the Adjudicator may refuse to consider documents or other evidence not provided within timescales set down by these Rules, or the timescales the Adjudicator gives when requesting extra information.
- 5.3 Only the Adjudicator can decide whether a dispute is suitable for resolution under the Rules of this scheme. If the Adjudicator decides that a dispute is not suitable for resolution under the scheme, they will issue a Decision stating this and giving their reasons within four weeks after receiving any extra information requested or answers to any questions raised with either or both of the parties.
- 5.4 For some disputes the Adjudicator may need to get advice from an independent expert. In such cases the Adjudicator will consult the parties before appointing an expert, giving reasons for the independent advice. The parties will pay any reasonable fees involved in accordance with Schedule 1 to the Rules.
- 5.5 The Adjudicator can do the following:
  - 5.5.1 Change time limits for the parties to provide their comments, and set time limits within which the parties must provide extra information.
  - 5.5.2 Allow the parties to give more evidence, or change any previous comments or details of the claim (but not the amount claimed on the application form).
  - 5.5.3 Make any necessary enquiries, but the Adjudicator must tell the parties about those enquiries and allow them to comment on the findings.

- 5.5.4 Receive and take account of any spoken or written evidence the Adjudicator thinks is relevant.
  - 5.5.5 Carry on with the procedure if either party does not keep to these Rules or follow any instruction they are given, or if either party does not take part in any conference call arranged by the Adjudicator.
  - 5.5.6 End the adjudication procedure if it appears that the dispute cannot be settled under the scheme or if the parties settle their dispute before a Decision is made. (If the parties settle the matter themselves, they must immediately notify the administrator of the settlement, in writing.)
- 5.6 If the parties do not provide anything needed under these Rules, nor within seven calendar days of the administrator reminding them, then the following will apply:
- 5.6.1 If a Home Buyer does not return the application or supporting documents, the administrator will assume that the Home Buyer does not want to go ahead with the claim.
  - 5.6.2 If the Home Builder does not respond to the Home Buyer's claim, the Adjudicator may base their Decision only on the information the Home Buyer provides.
  - 5.6.3 If either party does not provide any information the Adjudicator has asked for, the adjudication will continue in a way that the Adjudicator considers appropriate within the Rules.
- 5.7 If the Adjudicator agrees with the claim, they can tell the Home Builder to do any or all of the following:
- 5.7.1 Give the Home Buyer an apology or explanation.
  - 5.7.2 Take some practical action that will put right the matters complained of.
  - 5.7.3 Pay the Home Buyer the cost of putting right the matters complained of.
  - 5.7.4 Pay the Home Buyer the expenses reasonably incurred as a result of the Home Builder not complying with the Code.
  - 5.7.5 Pay the Home Buyer an amount for inconvenience.
  - 5.7.6 Reimburse the Homeowner their Registration fee.
- The Home Builder must bear the cost of resolving the complaint under Rule 5.7.2 or pay the Home Buyer the costs (including VAT) of resolving the complaint under Rule 5.7.3, provided that they both:
- a) use a suitably qualified contractor or supplier,
  - b) use competitive tendering.
- 5.8 The total amount payable under Rule 5.7.5 may not exceed £250. The total amount payable under Rules 5.7.2 to 5.7.5 may not exceed a total of £15,000 including VAT.
- 5.9 If the Adjudicator does not agree with the claim, they can dismiss it.

## **6 Costs**

6.1 The Home Buyer must pay a registration fee to the administrator when making an application. The Home Builder must pay the balance of the case fee. Registration and case fees are shown in schedule 1 to these Rules. Payment of case fees will be due:

6.1.1 either following settlement of the dispute before the appointment of the Adjudicator,

or

6.1.2 when the Home Builder sends its response to the claim.

The parties must also pay the fees for any expert help.

6.2 The parties will pay their own costs of preparing their cases. They may not take legal action to recover these costs.

## **7 Confidentiality**

7.1 Details of the proceedings must not be disclosed to anyone not involved in them by any party to a dispute referred to the scheme or by the administrator or the Adjudicator. The only exception is their professional and legal advisors or when disclosure is needed to enforce the Decision or as may be required by law.

7.2 Despite Rule 7.1, the administrator and the relevant Home Warranty Body may:

7.2.1 collate and process data about the use of the scheme;

7.2.2 compile, analyse and publish statistics;

7.2.3 monitor and review the operation of the scheme.

They may do this provided no personal data or confidential information is published, such as data that might identify a Home Buyer or Home Builder.

## **8 Administrator's immunity**

8.1 Neither the administrator, nor any person chosen by them or the parties to appoint an Adjudicator, is liable for anything done or omitted in doing or trying to do their job unless the act or omission was in bad faith. The parties must fully protect the administrator, or the chosen appointing person, against any possible legal action brought by a third party, arising from the carrying out of that job, unless the act or omission was in bad faith.

## **9 Adjudicator's immunity**

9.1 Neither the Adjudicator nor any of their employees or agents is liable for anything done or omitted in doing or trying to do their job as Adjudicator, unless the act or omission was in bad faith. The parties must fully protect the Adjudicator against any possible legal action brought by a third party, for any act or omission.

## **10 Other rules**

10.1 If necessary, the administrator will appoint a substitute Adjudicator and give the parties his or her name.

10.2 The Home Buyer may accept or reject Decisions made under the scheme. Decisions are not open for review or appeal and the administrator will not discuss a Decision made under the scheme.

10.3 If a party has a complaint about the scheme, or the Adjudicator's application of the Rules, or a member of the administrator's staff, they should follow the administrator's

complaints procedure. Copies of the procedure are available on request from the administrator.

- 10.4 The Rules may be updated. Disputes will be decided according to the Rules in force at the time the Home Buyer applies to use the scheme.
- 10.5 The version of the Consumer Code applicable to any case referred to the adjudicator will be the one that was in force at the time of Reservation.

#### **Schedule 1**

1. The Home Buyer must pay a registration fee of £100 plus VAT to the administrator when making an application.
2. The Home Builder agrees to pay a case fee of £300 plus VAT for any case they are involved in. The case fee is only payable if an Adjudicator is appointed to decide the case.
3. If the Home Builder and the Home Buyer agree a settlement after the case has been accepted but before the Adjudicator has been appointed, the Home Builder will only pay £100 plus VAT per case (the early settlement fee).
4. The early settlement fee will be due for payment when the Home Builder involved in any case notifies the administrator that they have settled the case:
  - 4.1 after the administrator has received a valid application form but has not yet appointed an Adjudicator in accordance with the Rules; and
  - 4.2 after the Home Buyer has informed the administrator of the settlement.
5. The case fee will be due for payment when the Home Builder involved in a case submits their response to the claim to the administrator, under the Rules.
6. The registration fee, early settlement fee and the case fee will not be refundable in any circumstance.
7. The parties will pay the reasonable professional fees of any independent technical expert an Adjudicator appoints in accordance with the Rules, their respective shares of such fees having been negotiated between them and agreed with the adjudicator before an expert is appointed .

## Appendix B – Form of notice of appeal under rule 5.2 against de-registration

For an appeal to be considered under Rule 5.2, the appeal application must:

- 1 be written on the company's letterhead;
- 2 contain the following information:
  - 2.1 the date of notification;
  - 2.2 the Home Builder's name;
  - 2.3 the registration number issued by the relevant Home Warranty Body;
  - 2.4 the name of the relevant Home Warranty Body;
  - 2.5 the relevant adjudication reference number(s);
  - 2.6 the address of the subject property(ies);
  - 2.7 the name of the Home Buyer(s) who made the original complaint(s);
  - 2.8 the insurance warranty policy number(s) as issued by the relevant Home Warranty Body;
  - 2.9 the reasons for the appeal against deregistration;
- 3 include all relevant booklets;
- 4 include the appeal fee of £500;
- 5 be signed and dated by the Home Builder, including confirmation of their status and position;
- 6 be submitted to the Secretariat current at the time of the appeal. Details are available on the Consumer Code website: **[www.consumercodeforhomebuilders.com](http://www.consumercodeforhomebuilders.com)**.

**CONSUMER CODE for  
HOME BUILDERS SCHEME**

*Consumer Code Secretariat - care of:*

NHBC House  
Davy Avenue  
Knowlhill  
Milton Keynes  
MK5 8FP



*improving living in scotland*

