

The New Homes Quality Code ("The Code")

The Code introduces a broad range of new requirements for developers and is intended to replace the existing consumer codes. The intention is to provide a consistent code of conduct across the industry.

From this month new homes housebuilders and developers will be expected to register (which process will include training and the introduction of complaints procedures) with the New Homes Quality Board ("NHQB") as a "Registered Developer". Housebuilders and Developers are expected to have registered by no later than 31st December 2022 (with transition periods being permitted after registration and an ability to activate regionally/per subsidiary at different times). Registered Developers agree to follow the Code in relation to dealings with their customers and be subject to the New Homes Ombudsman Service which is yet to be established.

The Code establishes mandatory requirements that must be complied with and, as one would expect, all Registered Developers are expected to build homes that comply with building safety and other regulatory requirements.

Registered Developer defined as

"a person or firm who is a Registered Developer with the Code Sponsor: (a) who undertakes or commissions: i. the construction of a new building that is to consist of or contain a New Home ii. the conversion of an existing building so that it consists of or contains a New Home iii. the conversion of an existing building so as to alter the number of New Homes contained in it, with a view to granting, or disposing of, a relevant interest in land that includes the New Home or, in the case of a conversion within sub-paragraph (a), any of the New Homes (b) who is of a description specified in regulations made by the Secretary of State. (c) who registered the original building plot with the New Home Warranty provide".

A Customer for the purposes of the Code means any individual buying or intending to buy a home for their own occupation or on behalf of an individual beneficiary – other groups are being considered e.g. shared owners and buy to lets. The Code will be updated as appropriate. And similar to existing codes the definition of the "Customer" is

"a person making enquiries about buying a New Home and/or who goes on to reserve or buy a New Home from a Developer."

The Code has two parts:-

- 1 A Statement of Fundamental Principles – Fairness, Safety, Quality, Service, Responsiveness, Transparency, Independence, Inclusivity, Security and Compliance.

These principles cover, for example, the fact that the completion of purchase can only take place when the home is physically complete and the Registered Developer must inform the customer that they have a right to have independent inspection carried out before completion.

As per the existing code and the Consumer Protection regulations high pressure selling techniques are forbidden and vulnerable customers must be identified and supported.

- 2 The Practical Steps which are divided into 4 sections that cover the sales process (1), legal information documents, information, inspection and completion (2) after sales complaint management and the new homes ombudsman (3) together with solvency legal and jurisdiction.

Much will seem familiar as there are many similarities to the existing codes. However of particular note:-

- 1 At the point of sale the requisite description of the new home and the information required in a reservation agreement go further than under the existing codes. Most notably the date by which exchange of contracts must take place should be reasonable in all the circumstances of the transaction and taking into account what information is required to be supplied to the customer and in any event **NOT LESS THAN SIX WEEKS AFTER RESERVATION UNLESS THE CUSTOMER REQUESTS AND EARLIER DATE**. Furthermore an "Affordability Schedule" must be provided. This is "is a reasonable identification of likely costs directly associated with the tenure and management of the New Home, of which the Developer can reasonably be expected to be aware, to cover a period of **10 years**" and should include for example any stepped service charges in later years. However "where the value of actual costs or charges are unknown the Developer should provide a Customer with an un-costed schedule of items". Details of what should be included are set out in the Code.
- 2 All reservation agreements must have a 14 day cooling off period. Only deductions previously notified to the customer can be deducted from any reservation fee.
- 3 The Registered Developer must provide a comprehensive pack of prescribed information to the customer's legal adviser (this can be via their lawyers).
- 4 Contracts should be written in plain language.
- 5 The Code introduces specific requirements regarding major changes and time periods that apply and steps that must be taken by the Registered Developer prior to completion taking place and on completion provide a statement of incomplete works such as roads open spaces and landscaping and further phases.
- 6 Whilst customers must be advised of the relevant anticipated completion date **long stop dates** are dealt with in the Developer Guidance suggests the same periods as under the current codes and adds "It is acceptable to include a clause protecting the Developer for unforeseeable excessive delays where an event out with their control or influence results in a significant delay e.g., a pandemic, national material shortages". As, again as per current codes, the guidance is just guidance but "Developers do not have to follow the Guidance but if they take a different approach, the Customer must not be worse off than they would have been if the Developer had followed the Guidance. The Developer must provide a similar level of information and achieve a similar outcome to the same or better level or standard than this Guidance suggests."
- 7 Registered Developers must have in place adequate arrangements to protect contract deposits reservation and other fees. There is a suggestion that arrangements MAY include placing these payments in a suitable client account designed for holding client monies which is clearly separated from the Registered Developer's cash flow and assets and is not accessed until completion.
- 8 Information about compliance can be requested by the NHQB from time to time.
- 9 Registered Developers **must not offer or link any inducement of incentives when recommending a legal representative, pre completion inspector financial adviser or mortgage intermediary**.
- 10 Specific provisions will apply to Early bird arrangements.

- 11 After sales services must be provided for a minimum of 2 years and snagging expectations are set out.
- 12 The Registered Developer “must ensure that the contractual party as Developer and Seller (if different from the Developer, for example a special purpose vehicle) is financially adequately established or insured so as to provide reasonable protection against insolvency and the capacity to meet its obligations under the Code, including timely repayment of financial deposits when due and any financial awards made by the Ombudsman”.

Registered Developer will have review their policies and procedures over the course of the next few months so as to ensure they can be fully compliant as soon as possible following registration.

All relevant documentation can be found on the NHQB’s website:

<https://www.nhqb.org.uk/#:~:text=The%20New%20Homes%20Quality%20Code%2C%20introduces%20a%20broad%20range%20of,of%20the%20home%20is%20covered>

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