

The Consumer Code for Home Builders Independent Dispute Resolution Scheme Rules (2019 Edition)

These Rules apply to applications received on or after 1 April 2019

Meaning of words

Adjudicator	The person appointed by the Independent Dispute Resolution Scheme to decide the dispute.
Decision	The Adjudicator's written decision in the dispute, with the reasons, as sent to the Home Buyer and the Home Builder.
Home	A property that a Home Builder registers with a Home Warranty Body to obtain Home Warranty cover, excluding properties listed under section 4 of the Scope of the Code.
Home Builder	A home builder or developer of new or newly converted domestic properties for sale to the public, and who is registered with a Home Warranty Body.
Home Buyer	A Customer who goes on to Reserve or buy a Home, excluding those properties listed under section 4 of the Scope of the Code. For Homes Reserved or bought jointly by two or more people, the Home Buyer's rights will be joint.
Home Warranty Body	An organisation that: <ul style="list-style-type: none">○ has agreed to support the Consumer Code for Home Builders Scheme;○ maintains a register of builders and developers;○ provides Home Warranty cover;○ has undertaken to enforce the Code.
Home Warranty	An insurance-backed warranty that a Home Warranty Body issues to protect Home Buyers.
Rules	These Rules, which govern the conduct and operation of the Independent Dispute Resolution Scheme.

1. Introduction

- 1.1 A dispute may arise where a Home Buyer believes the Home Builder has failed to meet the Code's Requirements but it falls outside the Home Warranty Body's resolution scheme for defects or damage. If so, the dispute may be resolved by the Home Buyer applying to the Consumer Code's Independent Dispute Resolution Scheme. This means a trained Adjudicator will review written submissions from both parties and issue a decision based on his or her conclusions. The Adjudicator will decide whether or not a Home Buyer has a legitimate dispute and has suffered financial loss because their Home Builder has breached the Consumer Code's Requirements.

2 Scope of the Scheme

- 2.1 The Independent Dispute Resolution Scheme provides an informal and independent way of settling disputes between the Home Builder and the Home Buyer (the parties).
- 2.2 The Independent Dispute Resolution 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 Adjudicator's Decision will become binding on a Home Builder if the Home Buyer accepts the Decision. If a Home Buyer rejects the Decision or does not accept 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.
- 2.6 A Home Buyer cannot claim for more than £15,000, including any consequential damages and VAT. The Adjudicator may make a discretionary award for inconvenience, up to a maximum of £500. They will do so if, in their sole consideration and opinion, the Home Buyer has been caused more than minor inconvenience as a result of the complaint and/or how the Home Builder handled it. The Home Buyer may not receive an award for inconvenience alone if the Adjudicator does not find a breach of the Code. The Home Buyer may not receive an award for emotional upset and stress as awards will be judged as a matter of fact and on the resulting financial loss. The £15,000 maximum award includes any award for inconvenience.
- 2.7 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 a court order.
- 2.8 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 Independent Dispute Resolution Scheme

- 3.1 To apply to use the Independent Dispute Resolution 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 may bring the claim only after 56 calendar days have passed from the date of the original complaint, and no later than 12 months after the date of the Home Builder's final response. The Home Builder must accept an application for adjudication under the Independent Dispute Resolution 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 Independent Dispute Resolution Scheme 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 5.5.2 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:

- a) the events leading up to the dispute;
- b) the precise nature of the dispute;
- c) the alleged breach(es) of the Code by the Home Builder;
- d) the grounds for claiming the items or the remedy the Home Buyer wants, including all available receipts or other proof of expenditure if making a financial claim;
- e) the reasons for the amount of any money claimed.

The application can be supported by documents (for example, photographs, technical reports or other documents) but should not consist only of correspondence. The application must include a copy of the contract of sale, where available.

4.4 When the Independent Dispute Resolution has received a properly completed application form, the Home Builder will be sent a copy of that form. The Home Builder has 15 working days from the date of receipt to give the Independent Dispute Resolution Scheme **either** of the following:

- a) Written confirmation that the claim has been settled and details of the settlement. The details must include the early settlement fee in accordance with schedule 1 to these Rules.
- b) Their response to the claim and payment of the case fee in accordance with schedule 1 to these Rules.

4.5 The Home Builder may offer settlement terms to the Home Buyer. The adjudication procedure will be closed only when the Independent Dispute Resolution Scheme confirms that the Home Buyer has accepted the settlement in writing. The Independent Dispute Resolution Scheme will inform both parties that they have received the acceptance and that the adjudication procedure is closed.

4.6 An Adjudicator will be appointed unless, within 15 working days of the date the Home Builder receives the application form, the Home Builder informs the Independent Dispute Resolution Scheme that the claim has been settled in accordance with Rule 4.5.

4.7 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.

4.8 When the Independent Dispute Resolution Scheme receives the Home Builder's

response, it will send a copy to the Home Buyer, who will have five working 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.

- 4.9 If the Home Buyer makes any comments on the Home Builder's response, the Independent Dispute Resolution Scheme will send a copy of them to the Home Builder.
- 4.10 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 Independent Dispute Resolution Scheme will copy to the other party any additional documents supplied in response to the request.
- 4.11 The Adjudicator will prepare a written proposed conclusion to the dispute alongside reasons for that proposed conclusion ("the Proposed Decision"). The Independent Dispute Resolution Scheme will communicate the Proposed Decision to the Home Buyer and the Home Builder, and will invite their comments thereon within 10 working days. Any comments must be restricted to points that have already been raised in the case and must not introduce any new complaints.
- 4.12 Any comments that the Home Buyer and/or Home Builder have on the Proposed Decision will be forwarded to the Adjudicator, who may or may not take such comments into account. The Adjudicator has the power to make any amendments he or she considers appropriate to the Proposed Decision before finalising it as the Decision. The Adjudicator will usually issue the Decision within 5 working days of receipt of the parties' comments on the Proposed Decision.
- 4.13 The Independent Dispute Resolution Scheme will give the parties a copy of the Decision, including the reasons for it. A copy of the Decision will be sent to the Code's Secretariat 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 Independent Dispute Resolution Scheme in writing within six weeks of the issue date of the Decision to state whether or not they accept the Decision. The Independent Dispute Resolution Scheme will inform the Home Builder whether or not 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 unconditionally accepted it in writing 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 Independent Dispute Resolution Scheme for them within six weeks of the date of the Adjudicator's Decision. If the Independent Dispute Resolution Scheme does not receive such a request within six weeks, all paper documents will be destroyed.
- 4.17 If the Adjudicator makes a financial award under Rule 5.7 and the Home Buyer unconditionally accepts it in writing, the Adjudicator must give the Home Builder written notification of this. The Home Builder must pay the award to the Home Buyer within 20 working days of the date of the Adjudicator's written notification. When the

Adjudicator instructs the Home Builder to pay the award, the Home Builder must pay the Home Buyer direct and tell the Independent Dispute Resolution Scheme 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 Independent Dispute Resolution Scheme 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 Independent Dispute Resolution Scheme why and give a date for it to be completed.
- 4.19 The Independent Dispute Resolution Scheme 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 the Scheme to resolve under its Rules. If the Adjudicator decides that a dispute is not suitable for the Scheme to resolve, they will issue a direction to the parties saying the case has been withdrawn from the Scheme, giving their reasons and refunding the fees to 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.
 - 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 Independent Dispute Resolution Scheme of the settlement, in writing.)

5.6 If the parties do not provide something needed under these Rules, nor within five working days of the Independent Dispute Resolution Scheme reminding them, then the following will apply:

5.6.1 If a Home Buyer does not return the application or supporting documents, the Independent Dispute Resolution Scheme 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.

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:

- use a suitably qualified contractor or supplier,
- use competitive tendering.

5.8 The total amount payable under Rule 5.7.5 may not exceed £500. The Home Buyer may not receive an award for inconvenience alone if no breach of the Code Requirements has been found. The Home Buyer may not receive an award for emotional upset and stress as awards will be judged as a matter of fact and on the resulting financial loss. The total amount payable under Rules 5.7.3 and 5.7.5 may not exceed £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 Builder must pay the Independent Dispute Resolution Scheme the case fee shown in schedule 1 to these Rules.

6.2 The parties will pay their own costs of preparing their case. 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 Independent Dispute Resolution Scheme or the Adjudicator. The only exception is their professional and legal advisers or when disclosure is needed to enforce the Decision or as may be required by law.

7.2 Despite Rule 7.1, the Independent Dispute Resolution Scheme, Secretariat and the relevant Home Warranty Body may:

- a) collate and process data about the use of the Scheme;
- b) compile, analyse and publish statistics;
- c) monitor and review the operation of the Scheme.

7.3 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 The Independent Dispute Resolution Scheme's immunity

8.1 Neither the Independent Dispute Resolution Scheme, 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 Independent Dispute Resolution Scheme, 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 Independent Dispute Resolution Scheme will appoint a substitute Adjudicator.

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

10.3 If a party has a complaint about the Scheme or a member of the Independent Dispute Resolution Scheme's staff, they should follow the Independent Dispute Resolution Scheme's complaints procedure. Copies of the procedure are available on request from the Independent Dispute Resolution Scheme.

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 Builder agrees to pay a case fee of £400¹ plus VAT for any case they are referred to the Adjudicator.

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involved in. The case fee is only payable if an Adjudicator is appointed to decide the case.

2. 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).
3. The early settlement fee is due for payment when the Home Builder involved in any case notifies the Independent Dispute Resolution Scheme that they have settled the case:
 - after the Independent Dispute Resolution Scheme has received a valid application form but has not yet appointed an Adjudicator in accordance with the Rules; and
 - after the Home Buyer has informed the Independent Dispute Resolution Scheme of the settlement.
4. The Home Builder's case fee is due for payment when the Home Builder involved in a case submits their response to the claim to the Independent Dispute Resolution Scheme, under the Rules.
5. The early settlement fee and the Home Builder's case fee are not refundable in any circumstances.
6. 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 the expert is appointed.

¹ Case fees are subject to annual review