

## **Adjudication Case Summaries**

This paper provides a brief summary of cases that have been referred to the independent adjudication process available under the Consumer Code for Home Builders scheme. The list will be added to as cases are decided upon by the Adjudicator.

### **Adjudication Case 69 – September 2017 – 117170068**

#### **Complaint**

The Home Buyers submitted that the garage floor was not constructed in the same way as other double garages with properties in the same development despite being advertised in the same way. The Home Builders' failure to inform them about this uniqueness about the Home amounts to a breach of clause 2.1 of the Consumer Code for Home Builders ('the Code').

The Home Buyers requested that the Home Builders replace the existing garage floor with a concrete floor with a damp proof membrane.

#### **Defence**

The Home Builders asserted that the Home was sold with the benefit of double garage and that they have constructed and completed the Home with one. The Home Builders deny any breach of clause 2.1 of the Consumer Code for Home Builders and refute the claim in its entirety.

The Home Builders made no settlement offer .

#### **Findings**

There was a lack of evidence that the paved garage floor was constructed contrary to the brochure or plans provided by the Home Builders. Further, the lack of detail regarding the construction of the garage floor in the pre-purchase information does not in itself constitute any breach of the clause 2.1 of the Code.

Therefore no breach of 2.1 of the Code was proven.

#### **Decision**

The adjudicator found that the claim did not succeed. Therefore, the Home Builders were not liable to take the action requested by the Home Buyers or refund their registration fee.

## **Complaint**

The Claimant complained that in consequence of the breaches of the Code identified above, there had been un-remedied defects in the premises, namely sinking of the patio and pooling of water in the depressed area, a bathroom unit which was not compliant with the specification and an incorrect bath and sink panel. No steps were taken to mend the broken electricity meter door and to replace a window pane or relocate a radiator. There was no closer on a window and the shed was incorrectly supplied and in any event had dangerous nails sticking out of it; there was no aerial and no smart heating and the bathroom mirror and WC mirror and shaving point have not been provided. Neither the Home Builder nor the estate agent has taken responsibility.

## **Defence**

The Home Builder stated that the snagging team had been requested once again go and meet the Home Buyers and sort out the work. The Home Builder said that he would send further information but none was received.

## **Findings**

The adjudicator reminded the parties that the Scheme does not apply to the completion of snagging works, but could direct that breaches of the Code could be put right. Breaches were found of the following sections which meant that in various ways, the Home Buyers did not receive aspects of the Home that they had been led to expect. These could generally be remedied in various ways within the scope of the Code, save the claims in relation to relocation of a radiator and the claim relating to the shed.

## **Decision**

The claim succeeded in part. The Home Builder was directed to:

- a. carry out an appropriate investigation as to whether pooling of water in the patio area was due to the extension of the patio or defective workmanship and to carry out any such works as were found to be snagging items in relation to the patio;
- b. reimburse the Home Buyers in the sum of £406.00;
- c. either supply the smart heating system, aerial, bathroom and WC mirrors and shaving point to the Home Buyers or offer a rebate in a sum to be agreed between the parties for the fact that they were not supplied;
- d. pay compensation in the sum of £250.00; and
- e. reimburse the Home Buyers' registration fee in the sum of £120.00.

## **Complaint**

The Claimant complained that the Builder had promised him a specific car parking space (36) in a secure and gated parking area outside his home. At completion the parking space was not completed and later a decision was taken that the space in question would be used for disabled parking. He has been allocated a car parking space in an insecure area at present, and although the Home Builder has now said that he can have a space in a secure block area in the next development, the Builder will not promise that this can be passed on to another buyer. He claims loss of value of £5,000 as well as practical action to afford him secure parking at his own block, an apology and an explanation.

## **Defence**

The Home Builder says that it had never intended to promise secure parking and its agreement with the local authority for the development design precluded allocating specific parking spaces. For this reason all it sold was a right of flexible parking, which was set out in the contract. It agreed that on 19 December 2013, it had told the Home Buyer that his parking place would be behind barriers. It cannot promise the Home Buyer a right to pass on a specific parking place to a buyer because this would be inconsistent with the scheme design.

## **Findings**

The adjudicator found that the Home Builder's sales staff had promised secure parking and a specific plot adjacent to the Buyer's home. On 19 December, an email had been sent to the Home Buyer's solicitor. This confirmed that a plot behind barriers at plot 36 would be allocated but reference was also made to the Home Builder's right to change the plot at any time. This was set out in the contract. The email however, also conveyed that parking would be behind barriers. As the contract was inconsistent with the promises made by the sales agent, the reservation agreement and the email of 19 December, breaches of sections 1.5, 2.1 and 2.6 of the Code had occurred. The contract terms were, however, clear because they made clear that the location of the parking point would be at the landlord's discretion as exercised from time to time. There was no breach of 3.1. There was also no breach of 4.1 because the Home Buyer was able to make complaint and take up issues even though these were not accepted and sometimes there were delays in responding.

## **Decision**

The claim succeeded in part. The Home Builder was directed to:

use its best endeavours to ensure that it, and/or any landlord of the development from time to time, shall provide the Home Buyer with a parking space in a secure area close to the Home during the period of the Home Buyer's residence on the development; and

pay compensation to the Home Buyer in the sum of £250.00; and reimburse the Home Buyer with his registration fee of £120.00.

## **Complaint**

The Home Buyer submitted that the bathroom floor tiles provided were not the colour agreed and did not match the wall tiles which had the same name. The variation in colour between the bathroom wall and floor tiles amounts to a breach of clause 2.1 of the Consumer Code for Home Builders ('the Code').

The Home Buyer claimed £10,000.00 in compensation for the costs of rectifying the Home Builders' breach of the Code and for the Home Builders to replace the floor tiles in all three bedrooms to a shade of grey that matches.

## **Defence**

The Home Builders asserted that the slight variation in colour of the floor tiles compared with the wall tiles is due to the different materials used for the two types of tiles and due to the different manufacturing processes. The Home Builders assert that the Home Buyer was informed of the possibility of the variation in shading different tiles will have.

They denied any breach of the Code. The Home Builders made no settlement offer.

## **Findings**

Whilst the bathroom floor and wall tiles shared the same name on the pre-purchase choices and options documents, there was a lack of the evidence that the floor tiles provided were a different colour to those ordered or that the Home Builders failed to provide the Home Buyer with enough pre-purchase information to help him make a suitably informed purchasing decision. Therefore no breach of 2.1 of the Code was proven.

## **Decision**

The adjudicator found that the claim did not succeed. Therefore, the Home Builders were not liable to compensate Home Buyer or take any further action or reimburse the Home Buyer's registration fee.

## **Complaint**

The Home Buyers complained that the Builder had not provided information about certain planning requirements which led to work being undertaken on their development after hand-over to plant a tree outside their house, install a lamppost and to put railings round an open space. They would not have bought the property if they had known. The actions spoiled their view. They discovered that the signature of one of them had been written on to a pre-reservation checklist to show that they had received the information when they had not. They claimed that section 2.1 of the Code had been breached.

## **Defence**

The Home Builder agreed that the Home Buyers had not signed the checklist but said that the information would have been given to them and, in any event, there was no breach of section 2.1 of the Code.

## **Findings**

The adjudicator found that the pre-reservation checklist could not be relied upon and it was probable that the information had not been given. There was no explanation, save that a member of staff was no longer employed, as to why the signature had been written on in this way. It was not a breach of section 2.1 which is concerned with correct and adequate information about the Home, but it was a breach of section 1.5 of the Code to say that information had been given when it had not been. The conduct of the Home Builder had not been clear and truthful in relation to the giving of information.

## **Decision**

The claim succeeded in part. The Home Builder was directed to apologise to the Home Buyers for failure to supply all the information ticked in the pre-reservation checklist and for signing the name of one of the Home Buyers; to pay compensation of £250.00; and to reimburse the Home Buyers' registration fee of £120.00.

### **Complaint**

The Home Buyer submitted that garden gradient is steeper than she were led to believe it would be prior to purchase and she was not informed that patio steps would need to be installed. The Home Buyer's claim also concerned waterlogged turf, a hole in the living room window and leaking guttering.

The Home Buyer requested an apology, practical action and compensation in the sum of £15,000.00 and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability.

### **Findings**

The adjudicator found that the Home Buyer was not given enough information about the garden gradient and the requirement for steps prior to purchase. However, the Home Buyer's requests for compensation in the sum of £15,000.00 and practical action were unable to succeed as the Home Buyer had not provided sufficient evidence to support her claims for redress. In addition, the issues about the waterlogged turf, the hole in the living room window and leaking guttering fell outside the scope of the Scheme.

### **Decision**

The claim was succeeded in part. The adjudicator directed that the Home Builder pay the Home Buyer compensation in the sum of £250.00 for inconvenience, reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee, and provide an apology.

### **Complaint**

The Home Buyer submitted that the Home Builder had failed to provide the topsoil and the subsoil in the garden to NHBC standards.

The Home Buyer requested an apology, an explanation, practical action and compensation in the sum of £897.12 for direct loss suffered and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder stated that under the contract, it was obliged to construct the dwelling to the standards of the Home Warranty Body. The Home Warranty Body for the Property was the LABC, not the NHBC. Any claim relating to the soil provided is therefore founded in contract and the case falls outside the ambit of the Code.

### **Findings**

The adjudicator found that the Home Buyer's complaint that neither the topsoil nor subsoil are up to NHBC standards do not relate to any obligation on the Home Builders under the Code.

### **Decision**

The claim was unable to succeed.

## **Complaint**

The Home Buyers submitted that the Home Builders made fraudulent and misleading statements and the sales and advertising material was not clear and truthful regarding the impact of High Speed Rail 2 on the Home, in breach of clause 1.5 of the Code. The Home Buyers asserted that the standards to which the Home would be built were unclear, in breach of clause 2.1 of the Code. Furthermore, the Home Builders did not have a suitable complaints procedure in place, in breach of clause 5.1 of the Code.

The Home Buyers claimed £5622.00 in compensation for the costs incurred as a result of the Home Builders' breaches of the Code (the Home Builders agreed to pay them £1752 for their fees and expenses incurred in connection with the purchase but then refused to pay them this amount), £250.00 for inconvenience and for the Home Builders to provide an apology.

## **Defence**

The Home Builders denied that it provided any misleading information regarding the proximity of HS2 and asserted it gave the Home Buyers the same information that was already available to the public at that time which the Home Buyers were aware of. Whilst it made an offer to the Home Buyers to reimburse certain costs the Home Buyers had incurred, such offer was rejected by the Home Buyers who demanded monies in excess of the sum proposed. Accordingly, the offer was withdrawn.

They denied any breach of the Code. The Home Builders made no settlement offer.

## **Findings**

The Home Builders failed to provide clear or sufficient information regarding HS2 when asked by the Home Buyers at reservation, in breach of clauses 1.5 and 2.1 of the Code. Additionally they breached clause 2.6 by cancelling the reservation agreement. A breach of 5.1 of the Code however was not proven.

## **Decision**

The adjudicator found that the claim succeeded in part and that the Home Builders should pay compensation of £1752 for the fees and expenses incurred associated with the purchase of the Home, however the Home Builders were not liable to compensate Home Buyers for their time spent on the matter although they were liable to pay £250.00 for inconvenience caused and also provide an apology to the Home Buyers. The Home Buyers' registration fee was also reimbursed.



### **Complaint**

The Home Buyer claimed that the Home Builder did not place a boundary fence in the correct position and that his garden was waterlogged and aggressive weeds were present. The Home Buyer made a claim for the Home Builder to rectify these issues and provide them with compensation in the sum of £13000.00.

### **Defence**

The Home Builder did not dispute the Home Buyer's assertions and confirmed that it had been in constant contact with the Home Buyer to resolve the issues and remedial actions had been executed and were ongoing. However, the Home Builder did not accept that it should pay the Home Buyer £13000.00.

### **Findings**

Based on the evidence provided, the adjudicator had no other option but to conclude that no breaches of the Code had been claimed or established. The Home Buyer's claims may have touched upon sections 4.1 and 5.1 of the Code. However, the adjudicator noted that the Home Builder's website has a dedicated 24 hour customer care contact system for after-sales services. Furthermore, from the parties own submissions, it was clear that the Home Builder had been providing the Home Buyer with after-sales services by communicating with them regularly, accepting liability for the incorrectly placed boundary fence and taking remedial actions to assist the Home Buyer with their waterlogged garden and aggressive weeds. Based on the evidence provided, the adjudicator could only objectively conclude that the Home Builder had not breached sections 4.1 or 5.1 of the Code.

### **Decision**

The Home Buyer's claims did not succeed.

## **Complaint**

Contracts were exchanged for one house.

Steps at the front door were introduced after contracts were exchanged, without prior notification.

The Home Buyer objected and an agreement was reached for the purchase of an alternative adjacent house in lieu.

The Home Buyer questioned whether the garden of the second house had been built to the agreed specifications and plans.

The Home Buyer claimed compensation for prolonged storage of furniture and rental of temporary accommodation, landscaping of the garden and inconvenience totalling £8,799.00

## **Defence**

The Home Builder had apologised for the difficulty arising with the first house, agreed to the sale of the alternative house in lieu and offered a sum towards the legal fees of the Home Buyer. It considered that it had met its obligations in that regards.

The Home Builder denied that any delay to occupation was caused to the Home Buyer or that the garden of the second house was constructed incorrectly.

## **Findings**

The findings are that there was a breach of the Code in respect of the failure to notify the Home Buyer of the addition of steps to the front door of the first house, no delay caused to the Home Buyer in occupying the alternative house and that the garden was constructed correctly.

## **Decision**

The claim succeeded in part in that there was a breach, but no compensation remained due. The Home Builder has been directed to reimburse the Home Buyer with the sum of £120.00 to cover his case registration fee.

### **Complaint**

The Home Buyer asserted that kitchen units in the Home were damaged and he received poor customer service.

The Home Buyer sought compensation of £2547 in addition to £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability and pointed out that it had tried on many occasions to arrange a time to change the faulty units. It made no settlement offer.

### **Findings**

The Home Buyer did not establish any breaches of the Code. In reaching this conclusion the Adjudicator considered in particular parts 3.1b, 4.1 and 5.1 of the Code.

### **Decision**

The adjudicator found that the claim did not succeed. The Home Buyer was not entitled to compensation. The Home Buyer's registration fee was not reimbursed.

## **Complaint**

The Home Buyers complained that they had not been given a copy of the Code when they signed the reservation agreement and that the reservation agreement had not set out the nature and extent of their liability if the reservation agreement was cancelled. The Home Builder had wrongly deducted solicitors' fees and administration costs.

## **Defence**

No defence was supplied but the Home Builder had claimed in correspondence that the sums were legitimately deducted from the reservation fee.

## **Findings**

The adjudicator found that the no copy of the Code had been given at the time when the reservation agreement was signed, which was a breach of section 1.2 of the Code. As for the reservation agreement, this was not required to set out the precise amount of any deduction because this might change according to the circumstances, but it was expected to show the nature of the deductions and how any deduction might be calculated. The reservation agreement in this case was adequate but the repayments were not. The undisputed amount was only paid 4 months after the cancellation and the amount of £500.00 plus VAT deducted for administration costs was not justified. The admin costs had been insufficiently identified and quantified even in correspondence and therefore could not be said to be "reasonable costs genuinely incurred". The Home Builder was therefore in breach of section 2.6 of the Code.

## **Decision**

The claim succeeded in part. The adjudicator accepted that some administration costs would have been incurred and allowed a nominal amount of £100.00. £500.00 was therefore repayable by way of compensation. As for compensation for inconvenience, some of the inconvenience was due to the cancellation itself which had been a decision of the Home Buyers. £60.00 was allowed for inconvenience caused by non-provision of the Code, late payment and incorrect deductions. "Without prejudice" correspondence had been submitted which was not taken into account, but even if the offer had been taken into account, it had not included reimbursement of the registration fee and therefore the Home Buyers were the successful party. They would not have obtained any level of repayment without applying to CCHBAS and therefore the registration fee was reimbursed.

## **Complaint**

The Home Buyer's claim concerned the size of the parking space allocated to the Property. The Home Buyer submitted that when he moved into the Property he discovered that the parking space is located between two concrete columns. These columns narrow the space down by 10% and he is unable to open either of the back doors of his car making it impossible to take a child out of the car when the car is parked.

The Home Buyer requested practical action and compensation in the sum of £15,000.00.

## **Defence**

The Home Builder did not submit a Defence.

## **Findings**

The adjudicator found that the plans submitted did not give a clear indication of the size/dimensions of the parking space or that the parking space would be flanked on either side by concrete columns.

## **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee. However, the Home Buyer had not provided any evidence to show that his request for practical action was legally or practically possible, and the Home Buyer has also not substantiated his claim for compensation in the sum of £15,000.00.

### **Complaint**

The Home Buyer claimed that the Home Builder did not provide realistic information about completion times for the property and did not have an aftersales service.

### **Defence**

The Home Builder disputed the Home Buyer's claims and submitted that it had been in constant contact with the Home Buyer providing as much information relating to completion as possible as the works were ongoing. The Home Builder submits that this is clear from the evidence provided. The Home Builder also submits that it does have an aftersales service in place to deal with any aftersales issues.

### **Findings**

Based on the evidence provided, the adjudicator had no other option but to conclude that no breaches of the Code had been established. The Home Buyer's claims may have touched upon sections 3.2, 4.1 and 5.1 of the Code. However, the adjudicator noted that the Home Builder's website has a dedicated customer care contact system for after-sales services. Thus showing that the Home Builder did have an accessible aftersales service. Furthermore, it was evident from the submissions that the Home Builder had been in constant contact with the Home Buyer providing updates on completion times as soon as the information was available. Based on the evidence provided, the adjudicator could only objectively conclude that the Home Builder had not breached sections 3.2, 4.1 or 5.1 of the Code.

### **Decision**

The Home Buyer's claims did not succeed.

### **Complaint**

The Home Buyer's claim concerned underfloor or central heating in the Property and the Home Builder's failure to supply a washing machine on completion as expected.

The Home Buyer an apology; an explanation; practical action; compensation in the sum of £5,126.60 and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability.

### **Findings**

The adjudicator found all complaints and requests for redress in relation to the underfloor or central heating in the Property did not relate to any of the Home Builder's obligations under the Code and could not be considered.

In relation to the washing machine, it was not sufficiently clear from the brochure that a washing machine was not provided with the sale.

### **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder pay the Home Buyer £599.00 compensation to cover the cost of a washing machine; £125.00 compensation for inconvenience; and reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

## **Complaint**

The Home Buyer asserted that the Home Builders did not provide them with enough pre-purchase information to enable them to make a suitably informed purchasing decision as they were not informed that the solar panels to the roof could not be registered for a feed in tariff due to a change in legislation.

The Home Buyer claimed £7176.74 for the cost of replacing the solar panels, including lost revenue from the lost feed in tariff and £250.00 for inconvenience.

## **Defence**

The Home Builders submit that they did not provide any assurance that the solar panels could be registered with a feed in tariff pre-purchase and it would not be reasonable to expect them to do so as this is subject to qualification and registration with a recognised supplier. The solar panels work effectively and generate electricity for the Home Buyer use in their Home.

The Home Builders deny any breach of the Code. The Home Builders offered £1,000.00 as a settlement.

## **Findings**

The Home Builders had acted in adherence to the Code as the adjudicator was satisfied that no promises were made by the Home Builders that the solar panels would qualify for a feed in tariff and the Home Builders' failure to inform the Home Buyers that the solar panels could not be registered for a feed in tariff with a supplier, due to a change in legislation, does not amount to any breach of the Code.

## **Decision**

The adjudicator found that the claim did not succeed.



## **Complaint**

The Home Buyers complained that they had not been given a copy of the Code when they signed the reservation agreement and that the reservation agreement had not set out the nature and extent of their liability if the reservation agreement was cancelled. The Home Builder had wrongly deducted solicitors' fees and administration costs.

## **Defence**

No defence was supplied but the Home Builder had claimed in correspondence that the sums were legitimately deducted from the reservation fee.

## **Findings**

The adjudicator found that the no copy of the Code had been given at the time when the reservation agreement was signed, which was a breach of section 1.2 of the Code. As for the reservation agreement, this was not required to set out the precise amount of any deduction because this might change according to the circumstances, but it was expected to show the nature of the deductions and how any deduction might be calculated. The reservation agreement in this case was adequate but the repayments were not. The undisputed amount was only paid 4 months after the cancellation and the amount of £500.00 plus VAT deducted for administration costs was not justified. The admin costs had been insufficiently identified and quantified even in correspondence and therefore could not be said to be "reasonable costs genuinely incurred". The Home Builder was therefore in breach of section 2.6 of the Code.

## **Decision**

The claim succeeded in part. The adjudicator accepted that some administration costs would have been incurred and allowed a nominal amount of £100.00. £500.00 was therefore repayable by way of compensation. As for compensation for inconvenience, some of the inconvenience was due to the cancellation itself which had been a decision of the Home Buyers. £60.00 was allowed for inconvenience caused by non-provision of the Code, late payment and incorrect deductions. "Without prejudice" correspondence had been submitted which was not taken into account, but even if the offer had been taken into account, it had not included reimbursement of the registration fee and therefore the Home Buyers were the successful party. They would not have obtained any level of repayment without applying to CCHBAS and therefore the registration fee was reimbursed.

### **Complaint**

The Home Buyer claimed that the Home Builder did not install the bedroom wardrobe which should have been included as standard. The Home Buyer submitted that the sales brochure expressly stated that the bedroom wardrobe would be fitted as standard. Accordingly, the Home Buyer claimed that the Home Builder breached sections 1.5 and 2.1 of the Code.

### **Defence**

The Home Builder did not provide any defence to the Home Buyer's claim.

### **Findings**

Based on the evidence provided, the adjudicator had no other option but to conclude that the Home Builder had breached section 1.5 of the Code. Specifically, the adjudicator found that the Home Builder's sales and advertising material was not truthful under the circumstances with regards to the bedroom wardrobe installation and the Home Buyer experienced loss as a result of this breach. The Home Buyer had made a claim for £2793.00 as this represents the loss she incurred in having the bedroom wardrobe installed. The Home Buyer had substantiated this sum by providing a quote in the amount of £2793.00 for the installation of the bedroom wardrobe. Consequently, in light of the breach of the Code and the loss established by the evidence provided, the adjudicator was satisfied that it was fair and reasonable that the Home Builder provided the Home Buyer with compensation in the sum of £2793.00.

### **Decision**

The Home Buyer's claim succeeded. The Home Builder was directed to provide the Home Buyer with compensation in the sum of £2793.00 and £120.00 for the adjudication fee.

### **Complaint**

The Home Buyer asserted that the Home Builders did not provide the kitchen unit carcasses as ordered and included in the purchase price.

The Home Buyer claimed £4850.00 for the cost of replacing the units.

### **Defence**

The Home Builders submit that its advertising material referred only to the standard range of fitted kitchen units and these items were provided to the Home buyer. The Home Builders deny any breach of the Code. No prior offer of settlement was made.

### **Finding**

The Home Builders had acted in adherence to the Code as the adjudicator was satisfied that items in the sales and advertising material were provided by the Home Builders, albeit in a different colour to that agreed with the Home Buyer between exchange and completion of contract. No breach of the Code was proven.

### **Decision**

The adjudicator found that the claim did not succeed.

## **Complaint**

The Home Buyer complained that he had been assured that the rear garden of his property would be prepared and supplied with a good depth of topsoil. Following completion he discovered that there was only a layer of clay which caused his garden to become flooded. No topsoil was provided. The Home Buyer also complained that the Home Builder had not complied with the site drainage plan submitted to the Council as part of the planning application. He claimed that the Builder should remedy the site drainage, supply a SuDS drainage system to his garden and prepare the rear garden and supply topsoil or pay for the costs of doing this to a contractor. He also asked for compensation of £250.00 for inconvenience and for the cost of buying equipment to carry out drainage works and for the cost of the SuDS.

## **Defence**

The Home Builder offered to undertake remediation work by digging away a layer of the clay, digging, supplying a sandy material and topsoil. The site drainage was compliant and no drainage system was required in the garden. The Builder also agreed to pay compensation of £250.00 for inconvenience and £261.87 for equipment but not for drainage works.

## **Findings**

The adjudicator found that there had been a breach of section 1.5 of the Code because the Home Buyer had been told that the garden would be prepared and topsoil supplied whereas it was not. No promises had been made in relation to the provision of a garden drainage system and this was not a breach of the Code. There was no breach of the Code in relation to any non-compliance with planning permission and the Home Buyer would not normally expect to receive copies of the planning permission from the Home Builder as part of the pre-contractual information. There was no breach of section 2.1 of the Code.

## **Decision**

The claim succeeded in part. The Home Builder was directed to take practical action to supply a prepared rear garden area and topsoil in the fashion that had been proposed to extend to the whole rear garden, to pay £511.87 in compensation for inconvenience and drainage equipment and to apologise to the Home Buyer for failing to supply a prepared rear garden with topsoil. The Home Buyer was reimbursed with his registration fee even though the Builder had offered to do this work before the application was made because the Builder had not replied to a request for clarification of the extent of the work and had not offered compensation.

### **Complaint**

The Home Buyer's claim concerned a footpath path leading from her property to the road in front of her property. The Home Buyer submitted that plans showed and she was assured that she would have pedestrian access from the road to the property.

The Home Buyer sought practical action and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder submitted that at no point did it show a footpath from the property to the road.

### **Findings**

The adjudicator found that the plans clearly suggested a tarmac footpath which led from the property to the road.

### **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder pay the Home Buyer compensation for inconvenience in the sum of £250.00 and reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee. However, the Home Buyers had not provided any evidence to show that her request for practical action was legally or practically possible.

## **Complaint**

The Home Buyers asserted that the Home Builders provided incorrect pre-purchase information regarding the number of pet dogs residing at the neighbouring property, in breach of clause 2.1 of the Code. Furthermore the Home Buyers submitted that the Home Builders did not have a suitable complaints procedure in place, in breach of clause 5.1 of the Code.

The Home Buyers claimed £12,000.00 for the cost of moving house, £250.00 for inconvenience and for the Home Builders to provide an apology.

## **Defence**

The Home Builders denied it made any representation to the Home Buyers regarding the number of dogs owned by the purchasers of the neighbouring property and in any event the complaint did not fall within the remit of the Code.

They denied any breach of the Code. The Home Builders made no settlement offer.

## **Findings**

The allegation regarding the misrepresentation by the Home Builders regarding the number of pet dogs at the neighbouring property, was not proven and in any event this type of complaint would not constitute a breach of clause 2.1 of the Code as it does not directly relate to the Home. The Home Builders however breached clause 5.1 of the Code.

## **Decision**

The adjudicator found that the claim succeeded in part and that the Home Builders should pay compensation of £150.00 for inconvenience caused and provide an apology to the Home Buyers. 50% of Home Buyers' registration fee was also reimbursed.

## **Complaint**

The Home Buyer claimed that the railings outside her Property were not as she had expected. The Home Buyer submitted that the railings illustrated on the sales brochure were of a different type and she expected to have these installed. The Home Buyer submits that she complained to the Home Builder about this issue but was unable to reach a resolution to her satisfaction. The Home Buyer therefore submitted that the Home Builder has breached sections 1.5, 4.1 and 5.1 of the Code.

## **Defence**

The Home Builder did not accept any liability to the Home Buyer and submitted that it had not breached any element of the Code. The Home Builder submitted that the sales brochure was merely a guideline for illustrative purposes and did not detail any specifics (such as design of the railings). Furthermore, the Home Builder submitted that the sales brochure and information pack make it clear that these are only intended as a guide and should not be construed as detailing the final specifics of the Property.

## **Findings**

In light of the evidence provided, the adjudicator was only able to conclude that the sales brochure was only a guide and did not constitute or form any part of a contract of sale and that no specific type of railing was contractually agreed upon between the parties at the sale and advertising stage. Consequently, the adjudicator had no other option but to conclude that the Home Builder had not breached section 1.5 of the Code in this instance. The adjudicator was also mindful that the Home Builder's information pack detailed the after-sales service system and who to contact. It was noted that the Home Builder's solicitor had stated this was provided to the Home Buyer on completion. In light of the solicitor's statement, on balance, the adjudicator was inclined to accept that this was provided to the Home Buyer. Furthermore, the Home Builder's website also provided a contact system to contact the Home Builder. Accordingly, based on this evidence, the adjudicator was only able to conclude that the Home builder did have an accessible after-sale service in place for receiving and handling complaints. Based on the evidence provided, the adjudicator could only objectively conclude that the Home Builder had not breached sections 4.1 or 5.1 of the Code.

## **Decision**

The claim was unable to succeed.

## **Complaint**

The Home Buyer asserted that the Home Builders failed to provide a roof to the balcony as per the brochure and failed to advise of their intention to sell the freehold.

The Home Buyer sought that the Home Builders take action to rectify the balcony roof; pay compensation in the sum of £1100.00 and; pay compensation for inconvenience in the sum of £250.00.

## **Defence**

The Home Builders denied liability. They made no settlement offer.

## **Findings**

The Home Builders had provided conflicting information regarding the balcony and had breached parts 1.5 and 2.1 of the Code. They were not required to provide information regarding their intention to sell the freehold unless enquiries were made by the Home Buyer, and such had not been made. The Home Builders were required to take action in respect of the balcony taking into account the fact that they no longer owned the freehold. Only a proportion of the expenses incurred and claimed by the Home Buyer could be attributed to the breaches proven. The full sum claimed was however due for inconvenience arising from the breaches proven.

## **Decision**

The adjudicator found that the claim succeeded in part.

The Home Builders were directed to take reasonable steps to provide a roof to the Home Buyer's balcony and confirm the steps taken in writing to the Home Buyer; pay the Home Buyer compensation in the sum of £270.00 and; pay the Home Buyer compensation for inconvenience in the sum of £250.00.

The Home Buyer's registration fee was reimbursed.



### **Complaint**

The Home Buyer's claim concerned a delay in the completion of the Property; damage to his cars; outstanding snagging issues; errors made by a solicitor recommended by the Home Builder; a kitchen light not installed as per the drawings shown at reservation; and a fly infestation in the loft of the property.

The Home Buyer sought practical action; compensation in the sum of £8,000.00; and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability.

### **Findings**

The complaints about damage to the cars; outstanding snagging issues; errors made by a solicitor recommended by the Home Builder; and a fly infestation in the loft of the property fell outside the scope of adjudications under CCHBAS. The parties had completed the sale of the property before the long stop date stated in the contract, therefore the Home Builder had not breached its obligations under the Code in that regard. The Home Builder did not show that it had provided the Home Buyer with a plan which reliably showed the position of kitchen light in the property.

### **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder pay the Home Buyer compensation in the sum of £100.00 in relation to the kitchen light and reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

### **Complaint**

The Claimant complained that the Builder had entered into a reservation agreement at one price and then cancelled it and charged £5,000 more. When they attended the sales office the computers were down and the price was confirmed at £579,995.00. A few days later this was confirmed in writing by provision of the typed reservation agreement. The a letter was received stating that a mistake had been made and the price was higher.

### **Defence**

The customers were told that the price was the higher price and were given a handwritten reservation agreement. The subsequent confirmation was incorrect and was corrected. .

### **Findings**

The adjudicator found that on any basis, there was a breach of the Code because the Home Buyer had been given misleading information. In the light of the written confirmation, it is more likely than not that the price orally agreed and written at the sales office was the same as the first confirmation. The Builder had not explained why, if its version of events was correct, it had sent the confirmation at the “wrong” price.

### **Decision**

The Home Buyer was entitled to repayment of £5,000 but, as an apology had already been given, this was not required.

### **Complaint**

The Home Buyer's claim was that the exterior appearance of the Property was not as she had expected. The Home Buyer indicates that she did not inspect the Property but expected that it would have exterior cladding. However, it did not. The Home Buyer is therefore claiming £8000.00 in compensation as a result of this issue.

### **Defence**

The Home Builder did not accept any liability to the Home Buyer and submitted that it has not breached any element of the Code. The Home Builder submitted that the Property was correctly built as per the plans and the Home Buyer declined numerous invitations to inspect the Property. Furthermore, she did not indicate any request for exterior cladding.

### **Findings**

Upon careful review of all the evidence provided, the adjudicator was unable to objectively conclude that the Home Builder had breached section 2.1 (or any other section; as detailed in the Home Builder's submissions or otherwise) of the Code under the circumstances. In particular, the adjudicator found no requirement under the Code for the Home Builder to accurately predict and construct the Home Buyer's subjective expectation of the exterior appearance of the Property, contrary to what has been detailed in the plans.

### **Decision**

The claim was unable to succeed.

## **Complaint**

The Claimant complained that the site was not finished, especially the water feature which was not as shown to him and was unsightly and smelly and opposite his apartment. He said that he was not given a copy of the Code on signing the reservation agreement and the Code was not complied with. Information relating to the standard of finish of the Quays Development and the water feature as well as the expected standard of management was not provided either correctly or was misleading. Management of customer service and complaints handling was inadequate. No safety information was given in relation to the dangerous state of the water feature when the site was opened. The sales and advertising material for the Quays site and its finishing was insufficient or unclear. There was no health and safety information given whilst the site was under construction regarding pre-purchase and after the Home Buyer moved in. Misleading information was given about service levels. Verbal assurances relating to completion were given but no written assurances and the assurances were, in any event, not complied with.

## **Defence**

The Home Builder submitted that the Home Buyer did not have the support of local residents and caused Burton Waters Management Ltd and some residents to express concern. The Home Buyer stated that it subscribed to and complied with the Code. The water feature was built as described and that there was no breach of the Code. The security around the development was as promised. The Home was completed on time and to a proper standard. The Home Builder stated that the Code does not extend to issues between the Home Buyer and the management company.

## **Findings**

The adjudicator found that the Home Buyer was given unclear information by the sales staff about the construction of the pool but that there was no breach in relation to information given about security. The water feature was left incomplete but there was no signage and this was a breach of the requirements of clause 4.2. The lack of completion was in other ways “snagging” which fell outside the scope of the Code. While there may have been delays by the Builder in responding to the Home Buyer’s concerns (for example between 1 December 2015 and 11 January 2016 or the alleged three months waiting for a returned call) it did not follow that the after-sales service and complaints handling procedure was not in place, moreover, the Buyer’s issues with the management company were outside the Code.

## **Decision**

The adjudicator concluded that the Builder should:

Pay compensation to the Home Buyer in the sum of £250.00;

Make a written apology for breaches of sections 1.5 and 4.2 of the Code;

Reimburse the Home Buyer with his registration fee in the sum of £120.00.

### **Complaint**

The Home Buyer submitted that the Home Builder misrepresented that the physical boundaries of the Home matched the legal boundaries.

The Home Buyer sought that the Home Builders "move the fence to the correct boundary and fill the land to correct level making a useable space" and compensation of £250 for inconvenience.

### **Defence**

The Home Builder denied liability. It made no settlement offer.

### **Findings**

The Home Buyer proved a breach of part 2.1 but did not prove a breach of part 1.5 or any further breach of part 2.1 of the Code.

### **Decision**

The adjudicator found that the claim succeeded. The Home Builder was directed to move the fence to the correct boundary and fill the land to correct level making a useable space; pay to the Home Buyer compensation of £250 for inconvenience; and reimburse the Home Buyer's registration fee.

The Home Buyer submits that the Home Builder has failed to comply with sections 1.3, 2.1 and 5.1 of the Code.

The Home Builder has breached sections 1.3 and 5.1.

### **Complaint**

The Home Buyer submitted that before completion, he raised a significant number of issues with the Home Builder and it was agreed that these would be resolved prior to him moving in. These issues ranged from minor decorating work to major changes to the Property's drainage when compared to the Reservation plan. However, on moving into the Property virtually all of the more intrusive jobs have not been resolved. The Home Buyer also submitted that the Home Builder failed to respond to his complaints.

The Home Buyer sought practical action; compensation in the sum of £13,275.00 and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder did not submit a Defence.

### **Findings**

Complaints about design and/or the quality of workmanship or snagging issues fall outside the scope of adjudications under CCHBAS. There is no evidence to show that the Home Builder breached its obligations under the Code in relation to the drainage inspection chambers. However, the claim for poor complaint handling succeeded.

### **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder pay compensation in the sum of £250.00 for inconvenience and reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

### **Complaint**

The Home Buyer asserted that the Home Builders failed to provide adequate information regarding the progress of the build up to completion, that they misled him regarding the timings surrounding move in and that the Home had incomplete work at handover.

The Home Buyer claimed £13,000 for the emotional and mental stress caused by the experience and £250.00 for the inconvenience.

### **Defence**

The Home Builders submitted that the complaints were outside the scope of CCHBAS and they denied any breach of the Code. The Home Builders made a settlement offer of £3,000.

### **Findings**

The Home Builders breached clauses 1.3 and 3.2 (c) and (d) of the Code.

### **Decision**

The adjudicator found that the majority of the claim was not covered by the Code. However as some breaches were proven, the claim succeeded in part and the Home Builders had to pay compensation of £250 for the inconvenience caused to the Home Buyer as a result of their breaches of the Code. The Home Buyer's registration fee was also reimbursed.

### **Complaint**

The Home Buyer asserted that the Home Builders failed to provide off-road parking as per the sales and advertising material supplied to her.

The Home Buyer claimed £2000.00 for the cost of putting right the matter, for the Home Builders to put right the issue and for the Home Builders to provide an explanation and an apology.

### **Defence**

The Home Builders submitted that there was a mistake in the sales and advertising material produced by the estate agents however it was not responsible for this as it was up to the Home Buyer to make her own enquiries. They denied any breach of the Code. The Home Builders made no settlement offer.

### **Findings**

The Home Builders breached clauses 1.5 and 4.1 of the Code.

### **Decision**

The adjudicator found that the claim succeeded in part and that the Home Builders should pay compensation of £1900 for the cost of putting the matter right and provide an apology to the Home Buyer. The Home Buyer's registration fee was also reimbursed.



## **Complaint**

The complaint was that the Home Builder had provided a poor quality development, had not abided by the pre-contractual promises made, had responded poorly in respect of snagging items and had failed to provide service in accordance with the Code when a number of repeated incidents of flooding through the roof occurred.

## **Defence**

The Home Builder said that the complaints about quality and pre-contractual promises were out of time as it had sent its final letter directing the Home Buyer to the Scheme in June 2015. As for the flooding issues, it had abided by the requirements of the Code.

## **Findings**

The adjudicator found that the claims relating to build quality and pre-contractual promises fell outside clause 3.1 of the Scheme rules and could not be considered. In respect of the concerns about flooding, the Home Builder had not fully complied with sections 1.3 and 4.1 of the Code because it had acted slowly following the initial inundation and had not implemented its procedures in respect of emergency contact details.

## **Decision**

The claim succeeded in part. No loss, apart from inconvenience and distress, had followed from the breaches of the Code, because remedial works had been undertaken and the Home Buyer was compensated for expenses incurred in rectifying the damage. The loss caused by the breaches of the Code, however, was in context, only a small additional factor. The adjudicator awarded compensation of £100.00 for inconvenience and reimbursement of the registration fee.

## **Complaint**

The Home Buyer's claim was that the Home Builder breached section 2.1 of the Code. Specifically, the Home Buyer submitted that a sales agent verbally assured him that a ditch outside his Property would be completely filled in; however, it was only partially filled in. Furthermore, the Home Buyer submitted that he was not advised that a sink in his bathroom would not have a pedestal attached to it.

## **Defence**

The Home Builder did not accept any liability to the Home Buyer and submitted that it had not breached any element of the Code. The Home Builder submitted that there was no substantive evidence that proved the Home Buyer was verbally misinformed with regards to the ditch as alleged. The ditch was detailed in the plans (which were signed by the Home Buyer) and was essential for drainage and could not be fully filled in. The Home Builder further submitted that there was no pedestal for the bathroom sink because it would not comply with building regulations. In any event, the Home Builder did not advise that a pedestal would be attached to the bathroom sink.

## **Findings**

Upon review of all the evidence available, there was no substantive evidence that objectively proved the Home Builder (or its agents) ever advised the Home Buyer that the ditch would be fully filled in. To the contrary, the Property plans (signed by the Home Buyer) showed that the ditch would be present as intended. Furthermore, there was no evidence submitted which proved that the Home Builder ever guaranteed a pedestal would be attached to the bathroom sink. Consequently, there was no substantive evidence that proved the Home Builder has breached section 2.1 of the Code under the circumstances.

## **Decision**

The claim was unable to succeed.

### **Complaint**

The Home Buyer asserted that the Home Builders breached the Code.

The Home Buyer sought that the Home Builders pay compensation in the sum of £500.00; complete additional work as agreed; complete outstanding remedial work and; refund his registration fee.

### **Defence**

The Home Builders denied liability. They had not made a settlement offer.

### **Findings**

The Home Buyer had evidenced that the Home Builders agreed to carry out work in November 2015, that this had still not been done by January 2017 and that the Home Builders then refused to carry out those works. This was a breach of parts 1.3 and 5.1 of the Code. The remaining allegations were not proven. The Home Buyer had not demonstrated any financial losses but it was accepted he had suffered inconvenience as a result of the breaches. The Home Builders were required to complete additional work as agreed but there was no evidence that they had failed to complete any other remedial work in a timely manner and therefore no remedy was awarded in that respect.

### **Decision**

The adjudicator found that the claim succeeded in part. The adjudicator directed that the Home Builders pay compensation for inconvenience in the sum of £250.00 and complete additional work as agreed. The Home Buyer's registration fee was reimbursed.

### **Complaint**

The Home Buyer submitted that the Home Builder failed to fit tiles to an acceptable standard. Further following piling which took place on the estate, the tiles cracked – approximately 5/6 tiles. The Home Builder denies that the damage was a result of piling and advised that the cracked tiles were due to settlement. She was never advised of the risk of cracked tiles when making the purchase.

The Home Buyer sought an apology; a refund of the cost of the tiles; and a refund of the case registration fee.

### **Defence**

The Home Builder accepted that the tiles were not fitted to an acceptable standard due to missing grout and but stated that this issue had been resolved. The Home Builder also accepted that there are hairline cracks to a number of tiles, but stated that this was due to settlement of the Property and not a defect under the builder's warranty.

### **Findings**

Complaints about the quality of workmanship fall outside the scope of adjudications under CCHBAS. The Home Buyer's complaints about the piling undertaken by the Home Builder close to her home also fell outside the scope of the Scheme. In respect of the Home Buyer's complaint that she was never informed of the risk of cracked tiles due to settlement, section 2.1 requires the Home Builder to provide list of the contents and appearance of the Home. It does not impose a requirement on the Home Builder to provide a list of all the potential future risks to items/areas in the Property. This aspect of the Home Buyer's claim therefore also fell outside the scope of the Scheme.

### **Decision**

The claim was unable to succeed. None of the remedies requested were due.

## **Complaint**

The Home Buyer did not state what part of the Code the Home Builder had breached. The Home Builder has breached sections 3.2, 1.3 and 5.1. The Home Buyer submitted that the Home Builder failed to provide reliable and realistic information about the date of completion, failed to provide details of its complaints procedure and provided a poor level of service.

The Home Buyer sought an apology; an explanation; compensation in the sum of £8,750.00 and compensation in the sum of £250.00 for inconvenience.

## **Defence**

The Home Builder denied liability. The Home Builder stated that there were problems with its original steel and window suppliers, and factors beyond its control caused unavoidable delays.

## **Findings**

Following a series of delays, the parties completed eight months after the date given in the sales contract. The Home Builder did not submit any evidence to show that factors beyond its control had caused the delays. The adjudicator found that the Home Builder had not shown that it provided reliable and realistic information about the date of completion. The adjudicator also found that the Home Builder had provided a poor level of service and failed to provide a copy of its complaints procedure.

## **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder pay compensation in the sum of £250.00 for inconvenience; provide a written apology; provide an explanation, or state if it is unable to do so; and reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

## **Complaint**

The Home Buyer asserted that there were outstanding snagging and defective works to the Home that the Home Builders either did not address in a timely manner, have not repaired properly or have not addressed at all. Further, the Home Buyer complained about an alleged change to the title deed (plot boundary), insufficient information given regarding the NHBC cover, issues at handover, and the condition of cleanliness of the Home both at handover and after works had been undertaken.

The Home Buyer claimed £15,000.00 for the losses incurred and compensation of £250.00 for inconvenience.

## **Defence**

The Home Builders submitted that the majority of the claim was outside the scope of the Code and they denied that they acted in breach of the Code in relation to complaints which were within the scope. They made no settlement offer.

## **Findings**

Parts of the claim were not covered by the Code including outstanding works and the alleged change in the title deed. There were however breaches by the Home Builders of clauses 2.3, 4.1 and 5.1 of the Code and clause 3.2(d) of the Builders' Guidance.

## **Decision**

The adjudicator found that the claim succeeded in part however the majority of the compensation requested had not been substantiated. The Home Buyer was awarded compensation of £250.00 for the inconvenience caused as a result of the breaches and the Home Buyer's registration fee was also reimbursed.

### **Complaint**

The Home Buyer's claim was that they did not proceed with the purchase of a Property but the Home Builder refused to return any of the reservation fee. The Home Builder's position was that the reservation agreement detailed various set percentages that would be deducted from the reservation fee. Therefore, the Home Builder refused to refund the reservation fee.

### **Defence**

The Home Builder did not accept any liability to the Home Buyer. The Home Builder submitted that the set percentage deductions from the reservation fee were clearly detailed on the reservation agreement.

### **Findings**

The reservation agreement merely stated that certain percentages will be deducted from the Home Buyer's reservation fee and did not set out any reasonable costs that will be genuinely incurred by the Home Builder as required by the Code. Consequently, the Home Builder was in breach of section 2.6 of the Code and the Home Buyer experienced inconvenience as a result of this breach.

The adjudicator directed that the Home Builder provides the Home Buyer with an apology, a refund of her £1500.00 reservation fee, compensation in the sum of £250.00 for inconvenience and £120.00 for the cost of their adjudication fee.

### **Decision**

The claim succeeded.

### **Complaint**

The Home Buyer's claim was that the Home Builder was in "complete breach of all sections of the Consumer Code". Specifically, the Home Buyer submits that the Home Builder did not treat her fairly, provided poor service and did not provide reliable information.

### **Defence**

The Home Builder did not accept any liability to the Home Buyer and submitted that it had not breached any element of the Code.

### **Findings**

The adjudicator considered sections 1, 2, 3, 4 and 5 of the Code in the context of the customer's complaint and found no objective evidence of any actual breaches of the Code committed by the Home Builder. In the complete absence of any breaches of the Code on the part of the Home Builder, the claims were unable to succeed.

### **Decision**

The claim was unable to succeed.



## **Complaint**

The Home Buyer asserted that the Home Builders breached the Code at parts 1.2, 1.5, 2.1, 3.2 and 5.1.

The Home Buyer sought that the Home Builders provide an apology; take action to: consider that it is their responsibility to ensure customers receive the same benefit from the solar panels; plan the EPC assessments and MCS installations according to tariff requirements and; update its documentation regarding the potential financial benefit of the solar panels; pay compensation in the sum of £2500.00 and compensation for inconvenience in the sum of £250.00.

## **Defence**

The Home Builders did not file a defence. They had not made a settlement offer.

## **Findings**

The Home Buyer had not proven the majority of the claim which related to mis-selling. It was accepted that some information was out of date in breach of part 1.5 but it was not accepted that the Home Buyer reasonably relied on this information. It was also accepted that there were delays in responding to the complaint and that the Home Builders did not advise of the complaints process in breach of part 5.1. An apology and compensation for inconvenience were justified. The adjudicator was unable to consider general remedies in order to assist future buyers and no financial loss arose from the proven breaches.

## **Decision**

The adjudicator found that the claim succeeded in part.

The adjudicator directed that the Home Builders provide an apology and compensation for inconvenience in the sum of £100.00.

The Home Buyer's registration fee was not reimbursed.

## **Complaint**

The Home Buyers asserted that the Home Builders breached clauses 1.2, 2.1, 2.3, 2.6, 3.1, 3.3 and 3.4 of the Consumer Code.

The Home Buyers submitted that the Home Builders withdrew from the sale of the Home and refused to refund the full deposit paid to reserve the home. The Home Buyers claimed £7,870.00 in compensation as a refund of the deposit amount retained by the Home Builders and compensation of £250.00 for inconvenience.

## **Defence**

The Home Builders claimed that the deposit was non-refundable and that the amount retained was to offset against costs of personal specifications, as agreed by the Home Buyers. They made no settlement offer.

## **Findings**

There were however breaches by the Home Builders of clauses 1.2, 2.1, 2.3, 2.6, 3.1 and 3.4 of the Code however there was a lack of evidence that the Home Builders breached clause 3.3 of the Code.

## **Decision**

The adjudicator found that the claim succeeded in part and the Home Buyers were awarded compensation of £7,500.00 which was a refund of the deposit retained and £250.00 for the inconvenience caused as a result of the breaches and the Home Buyers' registration fee was also reimbursed.

### **Complaint**

The Home Buyer asserted that the Home Builders breached the Code.

The Home Buyer sought that the Home Builders provide an explanation; an apology; documentation; certification; compensation in the sum of £15,000.00 and compensation for inconvenience in the sum of £250.00.

### **Defence**

The Home Builders denied liability. They had not made a settlement offer.

### **Findings**

The claim relating to the land conveyed and its registered title was outside the scope of the scheme. Further the adjudicator could not deal with matters already dealt with by the Home Warranty Body. The remaining complaints could be considered under parts 1.5 and 5.1 of the Code. There was no evidence to support a breach of part 1.5 but it was clear that complaints had not been dealt with promptly in breach of part 5.1. An apology and compensation for inconvenience was justified.

### **Decision**

The adjudicator found that the claim succeeded in part. The adjudicator directed that the Home Builders provide an apology and compensation for inconvenience in the sum of £250.00. The Home Buyer's registration fee was not reimbursed.

### **Complaint**

The Home Buyer submitted that the Home Builder had failed to build a decorative chimney stack in accordance with the specification for the plot. The Home Buyer also stated that the Home Builder had failed to provide any explanation for the omission.

The Home Buyer sought an explanation; that the Home Builder build the decorative chimney stack; and compensation in the sum of £250.00 for inconvenience.

### **Defence**

The Home Builder admitted that the decorative chimney stack should have been fitted to the Property and stated that it was unable to explain why the chimney stack was omitted, but that this would now be fitted in accordance with the specification for the plot providing it was able to get consent from the neighbouring plot.

### **Findings**

It was not in dispute that the Home Builder failed to construct the decorative chimney stack to the Property in accordance with the specification for the plot. The evidence showed that the Home Builder ignored the Home Buyer's complaint and that it was not until the Home Buyer was forced to bring the matter to CCHBAS before the Home Builder took action.

### **Decision**

The claim succeeded.

The adjudicator directed that the Home Builder provide the Home Buyer with an explanation; fit the decorative chimney stack in accordance with the specification for the plot; pay compensation in the sum of £250.00 for inconvenience and pay the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

## **Complaint**

The Home Builder had initially refused to show the Home Buyer the Home and had said that no 3 bedroom homes were available. Then she was told that she could not have her choice of carpet or flooring because this applied to 2 or 4 bedroom homes only. The Home Buyer believes that other potential buyers were given these choices and claims that she was a victim of race discrimination. The Home Builder thereafter denied the Home Buyer permission to let her snagging surveyor on to the site. It also did not inform the Home Buyer that the Home was in an area where treatment for Japanese Knotweed had been undertaken. The Home Builder had compelled the Home Buyer to use a solicitor from its panel; that solicitor had not informed the other buyers on the estate about the risks associated with Japanese Knotweed. It appeared that a period of post-treatment monitoring was due to expire in December 2016 but, at the time of exchange of contracts, the guarantee was not in place. On 4 January 2017, the Home Builder cancelled the Reservation Agreement and retained £250.00 by way of an administration fee.

## **Defence**

The Home Builders denied discrimination. It also argued that it was not its practice to permit snagging surveyors to have access to the site and the Home Buyer had been informed about this. As for the previous problems with Japanese Knotweed, the site had been treated and was under monitoring but the guarantee had not yet been issued. This would not have been issued to the Home Buyer but to a company in the Kier group. Although the treatment company would have been willing to provide the Home Buyer with 10 year insurance at no cost to Kier, the Home Builder requested that this should not occur. The Home Builder asserts that at the last minute the Home Buyer wanted to change her solicitor and her lender and was not ready to proceed. The Home Builder was entitled to cancel the reservation because the reserved date had passed.

## **Findings**

The adjudicator found that the Home Builder had not acted in a discriminatory way. Nor was it obliged to let the snagging surveyor on site before completion but it had not advised the Home Buyer of this. The Home Builder had not behaved inappropriately in directing the Home Buyer to a recommended solicitor or lender. The Home Builder had not, however, provided appropriate information about the area treated for knotweed, the area included in the zone of influence or any reassurances that individual householders would be able to call upon an insurance-backed guarantee if they were to find that the treatment had failed.

## **Decision**

The claim succeeded in part. The reason for the cancellation was due to the fact that insufficient evidence had been provided to the Home Buyer prior to the date of expected exchange such that the Home Buyer was professionally advised not to exchange contracts and her mortgage was not available. The cancellation was thus caused by the Home Builder's breach of the Code. The Home Buyer was entitled under clause 5.7.4 to return of

the balance of the reservation fee and in respect of the snagging surveyor's cancellation fee. The company was required to

- i. Make an apology to the Home Buyer for breaches of the Code;
- ii. Pay compensation to the Home Buyer in the sum of £299.00 under clause 5.7.4 of the Scheme Rules;
- iii. Pay compensation to the Home Buyer for inconvenience in the sum of £250.00 pursuant to clause 5.7.5 of the Scheme Rules and
- iv. Reimburse the Buyer with her registration fee of £120.00 pursuant to clause 5.7.6 of the Scheme Rules.

### **Complaint**

The customer complained that the company had mis-sold the plot (19). The sales agent had shown the Home Buyer the landscaping plan which shown the garden to have tree planting positions in the front. She said that this would involve strategic planting of trees to give privacy. She said that as the drive to plot 18 stepped back from the lounge window of the Home Buyer's plot there would be no noise nuisance. In fact the Home Builder has permitted the owners of plot 18 to have a very large paved area in the front garden and no trees. This is contrary to the landscaping plan that he was shown. His neighbours park their car immediately outside his lounge window and slam car doors early in the morning.

### **Defence**

The customer had been kept fully informed and post-sales information and complaints had been properly handled.

### **Findings**

the role of the landscaping was of some significance to the development as a whole and weight was placed on the plan for the purposes of marketing the development. By reaching an agreement with the owners of plot 18 that on construction there would be no trees but instead the landscaping would consist of hardstanding, there was a departure from this plan. There was not a breach of section 3.1 because this was not part of the Home. The size and shape of the Home Buyer's plot is a matter which falls within the Code and the Home Builder should have been in a position to give accurate information about its location from the point at which the Home was conveyed. The Home Builder did not do so and therefore was in breach of section 1.3 because it did not have suitable systems and procedures to give reliable information about the location of the boundary on completion.

### **Decision**

The claim succeeded in part. The Home Builder was required to pay compensation to the Home Buyer for inconvenience in the sum of £250.00; and to reimburse the Home Buyer with the amount of his registration fee. The remedies sought by the Home Buyer involved the land of others and there was no obligation on the Home Builder to provide a rockery.

## **Complaint**

The Home Buyer asserted that the Home Builders breached numerous parts of the Code.

The Home Buyer sought that the Home Builders provide an explanation; pay for damages and defects to be corrected and miss-sold goods; pay compensation in the sum of £15,000.00 and; pay compensation for inconvenience of £250.

## **Defence**

The Home Builders denied liability. They had previously made a settlement offer.

## **Findings**

A number of matters were outside the scope of the scheme however, it was accepted on the evidence that there were breaches of the Code in relation to parts 1.3, 1.5, 2.2, 3.1, 3.2 and 5.1. No financial losses arose as a result of these breaches except in one instance though it was accepted inconvenience was suffered. The explanation sought had not been stipulated and was therefore not justified.

## **Decision**

The adjudicator found that the claim succeeded in part. The Home Builders were directed to pay £120.00 and provide compensation for inconvenience in the sum of £250.00. The Home Buyer's registration fee was not reimbursed.



## **Complaint**

The Home Buyer asserted that the Home Builders breached clauses 1.5, 2.2, 3.1 and 3.2, of the Code, that there were outstanding snagging and works to the Home, that the Home Builders did not comply with NHBC standards or with specifications of the property and that their delay in answering enquiries caused the Home Buyer to incur a higher amount in stamp duty.

The Home Buyer claimed £15,000.00 to cover the extra stamp duty incurred and for the estimated cost of installing items in the contents lists that were not provided and compensation of £250.00 for inconvenience.

## **Defence**

The Home Builders submitted that the majority of the claim was outside the scope of the Code and they denied that they acted in breach of the Code in relation to complaints which were within the scope. They made no settlement offer.

## **Findings**

Parts of the claim were not covered by the Code including outstanding works and snagging and allegations that NHBC standards had been not been met. There were however breaches by the Home Builders of clauses 1.5, 4.1, 5.1 and 3.2(d) of the Builders' Guidance however there was a lack of evidence that the Home Builders breached clause 2.2 or 3.1 of the Code.

## **Decision**

The adjudicator found that the claim succeeded in part however the majority of the compensation requested had not been substantiated. The Home Buyer was awarded compensation of £250.00 for the inconvenience caused as a result of the breaches and the Home Buyer's registration fee was also reimbursed.

### **Complaint**

The Home Buyer asserted that the rear and front gardens of the Home were not fit for purpose and that the Home Builders failed to provide an after-sales service in line with the Code and provided poor customer service and complaints handling.

The Home Buyer sought an apology, an explanation, for the Home Builders to carry out works or pay for the cost of works and compensation of £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability. It made no settlement offer.

### **Findings**

The Home Buyer had proved breaches in respect of parts 1.3, 4.1 and 5.1 of the Code. Further alleged breaches of unspecified parts of the Code in respect of the Home's gardens were not proven.

### **Decision**

The adjudicator found that the claim succeeded in part. The Home Buyer was entitled to an apology, an explanation and compensation of £250. The Home Buyer's registration fee was reimbursed.

### **Complaint**

The Home Buyer asserted that the Home Builders breached clauses 1.3, 1.4, 2.1, 3.2 and 4.1 and that there was defective and outstanding work to the Home.

The Home Buyer claimed £15,000.00 for the cost of rectifying defective/unfinished works and compensation of £250.00 for inconvenience.

### **Defence**

The Home Builders denied liability. It made no settlement offer however in the defence agreed that the Home Buyer had been caused inconvenience and offered to pay £250.00 for this and a refund of the registration fee.

### **Findings**

There were breaches by the Home Builders of clauses 1.3, 1.4, 3.2, 4.1 and 5.1 however there was a lack of evidence that the Home Builders breached clause 2.1 of the Code.

### **Decision**

The adjudicator found that the claim succeeded in part but that the majority of the amount claimed related to defective works which falls outside the scope of the scheme. The Home Buyer was awarded compensation of £250.00 for the admitted inconvenience caused and the Home Buyer's registration fee was also reimbursed.

## **Complaint**

The Home Buyer submitted that the Home Builder had failed to provide accurate or reliable information about the warranty cover, as a result of which he had no cover for a number of issues including creaking floors and the absence of guttering. The Home Builder had also failed to respond to communications from his solicitors; failed to provide an accessible after-sales service; and had failed to deal with complaints in a timely manner.

The Home Buyer sought an apology, an explanation; practical action in relation to gutters; water run-off and staining to external render; an external tap; creaking flooring; and a missing shroud to the letter box, and compensation in the sum of £5,819.00.

## **Defence**

The Home Builder did not submit a Defence.

## **Findings**

Claims for breach of contract fall outside the scope of the Scheme. Complaints about design and/or the quality of workmanship also fall outside the scope of adjudications under CCHBAS. A determination of these issues fall outside the scope of adjudications under CCHBAS and could not be considered. However, the adjudicator found that the Home Builder had not shown that it had met its obligations under sections 1.1, 1.3, 2.1, 2.3, 4.1, 5.1 and 5.2 of the Scheme and found failings in these regards.

## **Decision**

The claim succeeded in part.

The adjudicator directed that the Home Builder provide the Home Buyer with an apology; an explanation; compensation in the sum of £250.00 for inconvenience and pay the Home Buyer the sum of £120.00 to cover the cost of the case registration fee. However, the practical actions requested fell outside the scope of the Code and could not be considered.

## **Complaint**

The Home Buyer alleged very many breaches of the Code. In particular he said that the Code was not provided or implemented; he was told that the Home would look on completion like the show house, whereas it did not and he was provided with Zanussi rather than AEG appliances; an adjacent bike shed turned out to be a bin store with a roof terrace for another apartment, he was not given adequate details about the purchase; he was not given a double car port, car parking space and visitors parking; he was put under pressure to choose a solicitor and mortgage broker from the Home Builder's panel; information was inadequate and misleading information was given about the completion date; the terms of the contract were unfair; there was no adequate handover; and there were lots of defects. The Home was flooded due to negligence; the car port was not handed over because for 5 months it was used to store the Builder's materials and blinds which were destroyed in a flood had not been replaced.

## **Defence**

The Home Builder denied liability.

## **Findings**

Many of the matters alleged by the Home Buyer did not fall within the scope of the Code, for example, whether the build quality was compliant with the Building Regulations 2010, whether the snagging had been carried out to an appropriate standard or whether it had been completed, whether solicitors were neglectful or had an inappropriate relationship with the Home Builder or had authority to agree, whether the Home Builder was conducting (as the Home Buyer alleged) "a scam" or conspiracy; or whether the CML certificate was validly issued by NHBC. The adjudicator found that the Home Builder had not given appropriate information about or trained staff about or implemented the Code contrary to section 1.1 to 1.4. The Home Builder was in breach of section 1.5 because information about the location of parking did not make the position clear to the Home Buyer. The failure to give adequate information in the reservation agreement and subsequently about the parking arrangements and the provision of no boundary map, no list of contents, no identification of the management company and insufficient information about neighbouring use of the roof of the bin store was a breach of section 2.1. There was no breach in respect of the appointment of solicitors or the mortgage broker and a clause of the contract permitting minor works to be carried out after legal completion was not unfair. The failure to advise the Home Buyer when outstanding works would be completed and the failure to hand over the car port because this was being used to store the Home Builder's materials was a breach of section 3.2 of the Code. There was an inadequate system for resolving complaints amounting to breaches of sections 4.1 and 5.1 of the Code.

## **Decision**

The claim succeeded in part. The financial claim was largely unsuccessful, however, because it was largely a claim for lost earnings and wasted time which is an aspect of a claim for inconvenience, for which the maximum award is £250.00. The Home Buyer was entitled to compensation of £250.00 for inconvenience. Nor does the scheme permit compensation for loss in value, for which, in any event, no adequate evidence had been submitted by the Home Buyer. Nor were the costs of putting right snagging within the Scheme. The Home Buyer was entitled to receive an apology and practical action to replace the damaged kitchen blinds, which had been agreed by the Home Builder.

## **Complaint**

The Home Buyer submitted that the Home Builder had breached sections 2.3; 4.1; 5.1 and 5.2 of the Code.

The Home Builder has breached sections 2.3; 4.1 and 5.1 of the Scheme.

The complaint concerned the manner in which the windows on the ground floor of the property have been installed. The Home Buyer was concerned about the accessibility of the units should a problem arise, and his liability for the costs for any work should an issue arise in the future.

The Home Buyer sought an guarantee/indemnity that should a window need replacing and this fell outside of the warranty, that compensation would be provided for any damage to his home.

## **Defence**

The Home Builder denied liability.

## **Findings**

The crux of the Home Buyer's claim concerned the design and installation of the windows, and liability for the cost of repairs (including the cost of making good any damage) should any issues arise in the future. A determination of these issues fall outside the scope of adjudications under CCHBAS and could not be considered. However, the adjudicator found that the Home Builder had not shown that it had met its obligations under sections 2.3; 4.1 and 5.1 of the Scheme and found failings in these regards.

## **Decision**

The claim succeeded in part.

The remedy sought fell outside the scope of the Code and could not be considered. However, as breaches of the Code have been found, the Home Buyer was entitled to a reimbursement of the case registration fee.

## **Complaint**

The Home Buyer's claim was that the Home Builder advised him to use a financial advisor which it had approved and did not initially provide accurate information with regards to maintenance costs for the Property. No reference to the Code (or breach thereof) had been made in the application.

## **Defence**

The Home Builder did not accept any liability to the Home Buyer and submitted that it has not breached any element of the Code. The Home Builder submitted that it did not impede the Home Buyer from using a different financial advisor if he had wished to do so. Furthermore, the Home Builder submitted that it only provided approximate information with regards to council tax, it advised the Home Buyer of flood risks and already settled the matter with regards to the service charges.

## **Findings**

There was no evidence that the Home Builder had breached the Code. The Home Buyer had already expressly accepted a full and final cash settlement with regards to the issue of service charges (thus, the issue had previously been settled amongst the parties). Furthermore, from the evidence provided, the adjudicator was able to deduce that the Home Builder did provide approximate council tax information based on information which it had obtained from the local authorities in good faith. Furthermore, the Home Builder provided the Home Buyer with information which it held relating to flooding in the area. Consequently, the issues touched upon 2.1 of the Code; however, there was no evidence that the Home Builder had breached the Code.

## **Decision**

The claim did not succeed.



### **Complaint**

The Home Buyer asserted that the Home Builders failed to provide adequate pre-purchase information regarding the layout of the garden, in breach of part 2.1 of the Code.

The Home Buyer sought that the Home Builders pay him compensation of £10,000 and compensation for inconvenience of £250.

### **Defence**

The Home Builders denied liability. They made no settlement offer.

### **Findings**

It was evident that the Home Builders had failed to provide a plan reliably showing the layout and appearance of the garden prior to purchase, in breach of part 2.1 of the Code. However, it was not evident that, had this information been provided, the Home Buyer's purchasing decision would have been affected or that his circumstances would have been any different. It was therefore not evident that the Home Buyer had suffered any financial loss as a result of the breach although it was accepted that he had suffered some inconvenience.

### **Decision**

The adjudicator found that the claim succeeded in part.

The Home Builders were directed to provide compensation for inconvenience in the sum of £100.

The Home Buyer's registration fee was not reimbursed.

### **Complaint**

The Home Buyers asserted that the Home Builders failed to inform them about an active watercourse running through the plot at reservation in breach of clauses 1.5 and 2.1 of the Code. Further the Home Builders refused to refund the reservation fee when they cancelled the reservation in breach of clauses 2.6 and 3.4.

The Home Buyer claimed £2257.80 including a refund of £2000.00 for the reservation fee and for costs incurred after reservation and compensation of £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability. It made no settlement offer.

### **Findings**

There was a breach by the Home Builders of clauses 1.5, 2.1, 2.6 and 3.4

### **Decision**

The adjudicator found that the claim succeeded in part. The Home Buyers were entitled to a refund of the reservation fee and 75% of the legal fees claimed relating to the purchase of the Home. The Home Buyers had not established that the Home Builders were liable for costs incurred in relation to the sale of their existing property as these costs were not reasonably foreseeable. However the requested compensation of £250.00 for inconvenience succeeded. The Home Buyers' registration fee was also reimbursed.

## **Complaint**

The Home Buyers' claim was that the Home Builder did not satisfactorily conduct remedial works to the Property and did not provide satisfactory customer service. The Home Buyers therefore claimed an explanation, compensation in the amount of £12682.00 and compensation in the amount of £250.00 for inconvenience.

## **Defence**

The Home Builder did not accept any liability to the Home Buyers and submitted that it had not breached any element of the Code.

## **Findings**

The Adjudicator found that the Home Buyers' claims might touch upon sections 1.3 and 5.1 of the Code.

Following careful review of all the evidence provided, The Adjudicator was unable to objectively conclude that the Home Builder had breached sections 1.3 or 5.1 of the Code under the circumstances. Specifically, the Adjudicator found no substantive evidence that objectively proved the Home Builder did not have formal processes to resolve Home Buyer issues. To the contrary, the Home Builder's website (freely accessible and in the public domain) expressly showed that there was a dedicated "Customer Care" team which could be contacted for any issues. Furthermore, having regard for the evidence depicting the communicative exchanges between the parties, the Adjudicator was only able to conclude that the Home Builder responded to the Home Buyers' complaints in a reasonable manner given the nature of the issues raised.

## **Decision**

The claim was unable to succeed.

### **Complaint**

The Home Buyer asserted that the Home Builders failed to construct the balcony in accordance with the sales and marketing material in breach of clauses 1.5 and 2.1 and failed to complete outstanding work to the Home.

The Home Buyer claimed £15,000.00 for the losses incurred by the Home Builders' breaches of the Code and compensation of £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability. It made no settlement offer.

### **Findings**

There was a breach by the Home Builders of clauses 1.5, 3.2, 4.2 and 5.1 however there was a lack of evidence that the Home Builders breached clause 2.1 of the Code.

### **Decision**

The adjudicator found that the claim succeeded in part. The Home Buyer had not established that he incurred a financial loss as a result of the Home Builders' breaches however the requested compensation of £250.00 for inconvenience succeeded. The Home Buyer's registration fee was also reimbursed.

## **Complaint**

The Home Buyer submits that the Home Builder was in breach of a large number of sections of the Code in that he had not been provided with proper details of the Code, the staff had not followed it, he had been given incorrect information about the construction and the kitchen design, he was not given a home demonstration or appropriate handover, there was no system for resolving complaints, changes were made about which he was not informed and there was a failure to keep appointments and meetings and promises were not complied with.

## **Defence**

The Home Builder did not file a defence.

## **Findings**

The adjudicator found that it was probable that information had not been given about the Code and that the staff had not been properly trained in its implementation and so it had not been put into effect in the company's procedures and processes. These were breaches of section 1.1 to 1.4. Although changes had been made to the kitchen, these had been subsequent changes so that the Home Buyer had not shown that he had been given unclear or untruthful information and he had been given sufficient information to enable him to make informed purchasing decisions. There were no breaches of sections 1.5 or 2.1. In breach of section 2.2 he had not been given adequate information about whom to contact during the building process and in breach of section 3.1 he was not notified of changes made during the course of construction. As these changes did not significantly and substantially alter the size, appearance or value of the Home, they would not have permitted the Home Buyer to terminate the contract. The failure to facilitate a visit to the Home before legal completion was a breach of section 3.2 of the Code. The failure adequately to respond to the Home Buyer's complaints indicated a breach of section 5.1 of the Code.

## **Decision**

The claim succeeded in part. In respect of the financial claim, those for lost rental and council tax did not fall within the scope of the Scheme and, in any event, none of the breaches of the Code identified would have prevented the Home Buyer from renting out his Home. The costs of the changes to the kitchen were minor changes in respect of which the Home Buyer would not have been able to insist. He had, however been considerably inconvenienced and was entitled to compensation and an apology.

### **Complaint**

The Home Buyers' claim was that there were delays in the completion of their Property. The Home Buyers therefore claimed compensation in the sum of £6580.16 and compensation for inconvenience in the sum of £250.00. No breach of the Code was asserted.

### **Defence**

The Home Builder accepted that there were delays in the completion of the Property. However, it did not accept liability to the Home Buyers and disputed that it had breached the Code.

### **Findings**

The Adjudicator found that the Home Buyers' claims might touch upon section 3.2 (Timing of construction, completion and handover) of the Code.

Following careful review of all the evidence provided, the Adjudicator was unable to objectively conclude that the Home Builder had breached section 3.2 of the Code under the circumstances. Whilst it was not disputed that there were delays in the completion of the Property, the evidence provided showed that the Home Builder duly complied with the Code by advising the Home Buyers of the delays and providing further information as the Property neared completion.

### **Decision**

The Home Buyer's claims were unable to succeed.

## **Complaint**

The Home Buyer complained that when the Home was handed over, there was a significant slope to his car parking space. The Home Buyer said that it was equivalent to 8% or 1:12.5 and the Home Builder did not challenge this. The Home Buyer complained that subsequently the Home Builder did not take his complaint seriously and it has done nothing.

## **Defence**

The NHBC standards specifically provide that car parking areas should be laid to a fall for drainage purposes and should have a maximum gradient of 1:6 and where more than 1:10 should have suitable transition lengths to reduce any risk of vehicles grounding. This car parking space complied with the requirements of the NHBC in this regard and therefore, as the parking space complied, there was no need to say anything specific about the slope. It had complied with the information provided to the Home Buyer at reservation.

## **Findings**

The adjudicator found that a home buyer must expect that when new properties are built, variations in height and surface levels are likely to occur in order to follow the contours of the land on which the building work is to take place. It was agreed between the parties that the plan of the car park space accurately set out its size and location. The only question was about its incline. It is notable that the plan that the Home Buyer was not a topographical plan and so no annotations as to the ground height or differences in ground height were shown and both parties agreed that nothing was said about the possibility that there would be a slope in the car parking space and neither did the Home Buyer communicate to the Home Builder that he needed the space to be flat. The slope on the car park was compliant within legal standards and photographs showed it to be unremarkable in appearance. The response of the Home Builder to the Home Buyer's complaint, although not prompt, was adequate.

## **Decision**

The claim did not succeed.

### **Complaint**

The Home Buyer, the purchaser of plot 358, alleged that she had been led to believe that she would have light and power in her garage and at no stage prior to the exchange of contracts did she learn that light and power was not intended for her garage (which the Home Builder states to be the case).

### **Defence**

The Home Builder did not submit a defence but the adjudicator had regard to the correspondence in which the Home Builder asserted that it was never intended that plot 358 should have light or power in the garage because this would need to run under land held by a third party.

### **Findings**

The adjudicator found that the combination of the sales representative showing the Home Buyer houses which have a power supply in the garage and making the observation in respect of a question about the garage that the electrical work was incomplete in plot 358 would reasonably have led the Home Buyer to expect that light and power would also be available in the garage of plot 358. I find that she would reasonably have been misled by this and no information was given subsequently and before exchange which would have corrected this. There was a breach of sections 1.5 and 2.1.

### **Decision**

The claim succeeded in part. Because the Home Builder's rights to supply power and light to the Home Buyer's garage depended on third party consents, the adjudicator directed that the Home Builder should use its best endeavours to supply light and power to the Home Buyer's garage, including endeavouring to obtain all necessary consents; and to report to the Home Buyer as to the outcome of its attempts to achieve this as well as compensation of £250.00 for inconvenience.



### **Complaint**

The Home Buyer asserted that the Home Builders changed the design of the garden by adding an additional wall which reduced the size of the garden and may affect the value of the Property. He asserted there had been breaches of parts 1.5, 2.1 and 3.1 of the Code.

The Home Buyer sought that the Home Builders provide an apology; remove the wall and pay him compensation of £7639.

### **Defence**

The Home Builders denied liability. They made no settlement offer.

### **Findings**

There was a lack of evidence that any plans were incorrect at the time provided but it was evident that the Home Builders had changed the design of the garden without notifying the Home Buyer in breach of part 3.1 of the Code. This was a minor change and therefore the Home Buyer's agreement was not needed and no financial loss arose as a result of the change being made without notice. The Home Builders were not obliged to remove the wall but an apology was warranted for the breach.

### **Decision**

The adjudicator found that the claim succeeded in part. The Home Builders were directed to provide an apology.

The Home Buyer's registration fee was not reimbursed.

### **Complaint**

The Home Buyer submitted that the Home Builder did not follow its own complaints procedure.

The Home Buyer sought an apology, an explanation, a reply to a letter, a "workable system and procedures for receiving, handling and resolving customer enquiries and complaints within reasonable timeframes", compensation of £120 and compensation of £250 for inconvenience.

### **Defence**

The Home Builder denied liability. It made no settlement offer.

### **Findings**

The Home Buyer did not prove a breach of parts 1.3, 4.1 or 5.1 of the Code .

### **Decision**

The adjudicator found that the claim did not succeed. The Home Buyer's registration fee was not reimbursed.

## **Complaint**

The Home Buyers' claim was that the Home Builder cancelled their reservation agreement in breach of section 2.6 of the Code. The Home Buyers submitted that the Home Builder agreed to pay for their expenses; however, they were not satisfied with this outcome and were seeking further redress.

## **Defence**

The Home Builder accepted that it cancelled the Home Buyers' reservation agreement. However, it submitted that it compensated the Home Buyers £2125.89 for their expenses. This consisted of £500.00 for the reservation fee, £379.00 for financial service costs, £355.00 for bank costs, £867.92 for legal costs, and £23.97 for postage. The Home Builder submitted that it did not accept liability to pay for one of the Home Buyers taking a day off work to find out why the reservation agreement was cancelled. The Home Builder did not accept any further liability.

## **Findings**

The Home Builder accepted that it had breached the Code. However, taking into account the fact that the Home Builder had already compensated the Home Buyers £2125.89 for their expenses (£500.00 for the reservation fee, £379.00 for financial service costs, £355.00 for bank costs, £867.92 for legal costs, and £23.97 for postage), the Adjudicator was unable to objectively conclude that the Home Buyers had suffered any further proven loss as a result of the breach. However, it was evident that the Home Buyers had suffered inconvenience as a result of the breach of the Code. Accordingly, under the circumstances, compensation in the sum of £250.00 for the inconvenience caused was warranted and awarded.

## **Decision**

The claim succeeded in part. The Home Builder was directed to provide compensation for inconvenience in the sum of £250.00 and to pay the adjudication fee for the Home Buyers.

## **Complaint**

The Home Buyer submitted that the Home Builder has failed to landscape her front garden. Before she purchased the Property, she was informed by the sales negotiator that landscaping would be included in the sale and the Home Builder's sales brochure also stated "Front gardens will be landscaped..." However, she was never shown a landscaping plan for the Property.

The Home Buyer sought that the Home Builder landscape the front garden to her own design.

## **Defence**

The Home Builder submitted that the Pre-Reservation checklist showed that the Home Buyer had signed to confirm that she had seen the plans. It has landscaped the front garden according to the plan.

## **Findings**

The Home Builder has not submitted any evidence to show that it makes home buyers aware that the presentation and general aesthetics of the show home are also for illustrative purposes only. The adjudicator also found that there was no clear evidence that the landscaping drawings submitted had been shown to the Home Buyers at the time of the Reservation.

## **Decision**

The claim succeeded in part only.

Although breaches of the Code had been found, the Home Buyer had not justified her entitlement to the remedy sought. The garden had been landscaped according to the landscaping plan. The adjudicator acknowledged that the Home Buyer did not like the landscaping. However, there was no indication that it was ever in the reasonable contemplation of the parties that the Home Builder would be provide a front garden to the Home Buyer's design. The Home Buyer did not show that the remedy sought was proportionate to the breach shown. The Home Buyer's request for practical action was unable to succeed. However, the Home Buyer's registration

## **Complaint**

The Home Buyer entered into a reservation agreement which gave the date for exchange of contracts as 9 May 2016. He was not given a copy of the Code. He then received a letter adjusting the date by a few days. He did not exchange at that date but started the process of instructing a conveyancer who requested documents. Within that process, he was asked at the end of June to exchange contracts by 30 June 2016. He had a meeting with the Home Builder's representative on 2 July 2016 in which he said that if the Home Builder met his requirements he would proceed. Subsequently, he was informed on 4 July 2016 that the reservation agreement had been cancelled and the plot was sold to another buyer. He complained that the Home Builder had delayed in providing relevant information to the solicitor and he had not been repaid the reservation fee or for extras he had paid for.

## **Defence**

The Home Builder says that there had been various delays leading to the end of June 2016 about which the Home Builder was concerned because 12 weeks had elapsed since reservation rather than the 5 for which the reservation was effective. On 2 July 2016, the Home Buyer advised the Home Builder's representative that he was not sure if he could proceed because the value of sterling had fallen following the Brexit vote and he needed to transfer funds from abroad. He asked for a 5% discount which was refused. The Home Builder advised that he had to exchange contracts immediately and this was reiterated by the Field Sales Manager who said that if there was no exchange, the property would have to be remarketed. The Home Buyer stated that the Home Builder must "do what you have to do". The Field Sales Manager then spoke to the solicitor. The Home Builder observed that there was no commitment from the Home Buyer that he would proceed. On 4 July 2016, the reservation agreement was cancelled because the deadline had not been met and the Home Buyer had not confirmed that he would proceed.

## **Findings**

The adjudicator found that the Home Buyer had not been given a copy of the Code and that was a breach of section 1.2 of the Code. The Home Builder had not supplied the solicitor promptly with relevant requested documentation and that was a breach of section 2.1 of the Code. There was a breach of section 2.6 of the Code because the Home Builder had not returned the reservation fee and had not set out any deductions that it was entitled to make. The reason why the Home Builder had not proceeded however was because the Home Buyer had not indicated his agreement to proceed on the agreed terms and the reservation agreement had expired. This was not a breach of the Code and the Home Buyer was not entitled to repayment of extras that he had paid for.

## **Decision**

The claim succeeded in part. In addition to return of the registration fee, the Home Builder was directed to apologise to the Home Buyer for failing to give the Home Buyer a copy of the Code; to reimburse the Home Buyer with the reservation fee of £99.00; and to compensate the Home Buyer for inconvenience in the sum of £200.00.

## **Complaint**

The Home Buyer's claim was that the rear boundary fence in her garden was incorrectly placed and when this issue was rectified by the Home Builder (after completion), it resulted in the size of her garden being reduced. The Home Buyer submitted that had she known about this issue, she would not have considered purchasing the Property. The Home Buyer submitted that the garden was now 12.2% smaller than before.

## **Defence**

The Home Builder disputed liability to the Home Buyer. The Home Builder accepted that the rear boundary fence of the garden was incorrectly placed as a result of an initial error on the plans. However, the correct boundary had been illustrated in documents available to the Home Buyer at or before completion. The Home Builder submitted that, in any event, the reduction of the garden represents a 4.3% reduction in the overall plot size and reduction in size of the garden did not warrant £5000.00 in compensation. The Home Builder submitted that the reduction in value should not exceed £1500.00.

## **Findings**

The Adjudicator found that the Home Buyer's claims might touch upon sections 2.1 and 3.1 of the Code.

Whilst the Adjudicator acknowledged the Home Builder's submission that it later corrected the incorrect placement of the boundary fence (thus reducing the size of the Property), they were not satisfied that the Home Builder duly discharged its burden under section 3.1 of the Code. Namely, that the Home Builder formally consulted the Home Buyer to obtain agreement for this change (to the extent of the actual change implemented). Consequently, it was concluded that the Home Builder breached section 3.1 of the Code under the circumstances.

The Home Buyer had claimed £5000.00 on the basis that this represents the loss of value of the Property as a result of the reduction in overall plot size. However, the Home Builder submitted that the value of the reduced garden area should not exceed £1500.00. The Adjudicator was not satisfied that either of the figures put forward by the respective parties had been supported/substantiated with any compelling objective evidence. The Adjudicator drew attention to the fact that it is not within the scope of this scheme to make an award solely for an overall loss in Property value. However, it is within the remit of the scheme to make compensation awards for the reasonable cost of putting right the issues caused by the breaches of the Code. Therefore, taking into account the breaches of the Code which had been established and the nature and extent of the reduced plot size of the garden, the reasonable cost of putting right the matter (i.e. acquiring the right to move the boundary back to what was originally detailed on the plans and executing this change) would have been £3250.00. Therefore, the Home Builder was directed to provide the Home Buyer with

compensation in the sum of £3250.00 and compensation in the amount of £250.00 for inconvenience.

**Decision**

The claim succeeded in part. The Home Builder was directed to provide the Home Buyer with compensation in the sum of £3250.00 and compensation in the amount of £250.00 for inconvenience (and to pay for the Home Buyer's adjudication fee).



### **Complaint**

The Home Buyer asserted that the completion of the Home had been delayed and he received poor customer service.

The Home Buyer sought compensation of £12,504 in addition to £250.00 for inconvenience.

### **Defence**

The Home Builder denied liability. It made no settlement offer.

### **Findings**

The Home Buyer had proved breaches in respect of part 5.1 of the Code. Further alleged breaches of parts 1.3, 3.2, 5.1 and 5.2 of the Code were not proven.

### **Decision**

The adjudicator found that the claim succeeded in part. The Home Buyer was entitled to compensation of £250. The Home Buyer's registration fee was not reimbursed.