

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 – August 2018 – 117180040

Complaint

The Home Buyer's complaint was that it was unfair for the Home Builder to withdraw a purchase incentive of floor coverings. The Home Buyer asserted that the Home Builder breached sections 3.1 and 3.2 of the Code. The Home Buyer therefore made a claim for the Home Builder to "re-evaluate attitude towards incentives and: i) understand their importance to home buyers' financial planning and financial commitments ii) stop applying undue pressure on prospective purchasers to use their recommended panel of solicitors & financial advisors". The Home Buyer also claimed compensation in the sum of £5668.50.

Defence

The Home Builder did not accept that it had breached any section of the Code. The Home Builder submitted that from the outset it was made clear to the Home Buyer (in the reservation document, the welcome letter and the covering letter from its solicitors) that the incentive of the floor coverings was strictly performance-based and would be withdrawn if exchange of contracts did not take place within 28 days from receipt of the documentation from its solicitors. The exchange of contracts did not take place within the prescribed 28 day period. Accordingly, the Home Buyer was informed that the incentive had been withdrawn; however, the Home Buyer opted to proceed with the purchase of the Property. With regards to the alleged breach of section 3.2 of the Code, the Home Builder submitted that anticipated completion dates were duly provided to the Home Buyer but it explained that these could not be guaranteed. The Home Builder asserted that this is not a breach of the Code. Accordingly, the Home Builder did not accept that it should be liable to provide the redress claimed by the Home Buyer.

Findings

Based on all the evidence available, the adjudicator concluded that the Home Builder had expressly made clear to the Home Buyer that the floor covering purchase incentive would be withdrawn if the contracts were not exchanged within 28 days of receipt of the documentation from its solicitor. In particular, it was noted that this express condition was highlighted to the Home Buyer in bold text in the correspondence from the Home Builder's

solicitor. It was not in dispute that exchange of contracts did not occur within the prescribed 28 day period. Furthermore, based on the submissions provided, the adjudicator was satisfied that the withdrawal of the incentive was conveyed to the Home Buyer and he still opted to proceed with the purchase of the Property. Accordingly, based on the evidence available, the adjudicator was only able to conclude that the terms relating to the floor covering purchase incentive were clear and fair under the circumstances.

The adjudicator was unable to objectively conclude that the Home Builder's actions in respect to this matter amounted to a breach of section 3.1. The adjudicator also noted that the Code guidance on section 3.2 indicates that a degree of uncertainty regarding property completion times is to be expected. Based on the evidence provided (notably, the communications between the parties), the adjudicator noted that the Home Builder explained the anticipated completion dates were not guaranteed and that matters beyond its control made the construction time difficult to predict. In any event, it was also noted that construction was initially due to be completed in May 2018 and completion subsequently took place on 4 May 2018. Consequently, under the circumstances, the adjudicator was unable to objectively conclude that the Home Builder's actions amounted to a breach of section 3.2 of the Code. Accordingly, in the absence of any breaches of the Code on the part of the Home Builder, the adjudicator had no other option but to conclude that the Home Buyer's claims were unable to succeed.

Decision

The Home Buyer's claims were unable to succeed.

Complaint

The Home Buyer submitted that his complaint was about the Home Builder's unsatisfactory installation of bi-folding doors at his Property. The Home Buyer did not assert that the Home Builder had breached any section of the Code. The Home Buyer sought an apology, an explanation, a genuine bi-fold door fitted by the supplier and compensation for inconvenience in the sum of £200.00.

Defence

The Home Builder did not accept that it had breached any section of the Code. The Home Builder submitted that the issue relating to the bi-folding doors had already been the subject of an NHBC Resolution Report and the NHBC's decision had already been issued on this matter. Accordingly, the Home Builder did not accept that it should be liable to provide the redress claimed by the Home Buyer.

Findings

The adjudicator noted that the Home Buyer's complaint regarding the bi-folding doors at the Property had been the subject of an NHBC Resolution Report where a decision had already been issued. The adjudicator confirmed that their jurisdiction under the scheme is entirely limited to determining whether the Home Builder has complied with the Code (the Consumer Code for Home Builders). The adjudicator further confirmed that their role is not to review, amend or enforce the findings of the NHBC. The adjudicator acknowledged that this matter may have been distressing for the Home Buyer. However, under the circumstances, the adjudicator was only able to conclude that the subject-matter of this complaint (a complaint about the installation of bi-folding doors by the Home Builder, unrelated to any alleged breach of the Code) was not an issue that fell under the scope of this particular scheme. Under the circumstances, in the absence of any asserted breach of the Code on the part of the Home Builder (or any event that the adjudicator could reasonably interpret as being a breach of the Code), the adjudicator was left with no other option but to conclude that no breach of the Code had been established by the Home Buyer. Accordingly, in the absence of any breaches of the Code on the part of the Home Builder, the adjudicator had to conclude that the Home Buyer's claims were unable to succeed.

Decision

The Home Buyer's claim was unable to succeed.

Complaint

The Home Buyers highlighted snagging issues with the Property and also asserted that the Home Builder had breached sections 1.1, 1.2, 1.4, 2.1, 2.3, 2.6, 3.3, 4.1, 4.2, 5.1 and 5.2 of the Consumer Code for Home Builders (“the Code”).

Defence

The Home Builder did not accept that it was liable to provide the redress claimed by the Home Buyers. The Home Builder did not specifically respond to the Home Buyers’ Code breach allegations but addressed the snagging issues that they had raised

Findings

Based on all the evidence available, the adjudicator concluded that the Home Builder had failed to adhere to the requirements of the Code (specifically, sections 1.1, 1.2, 1.4, 2.1, 2.3, 2.6, 3.3, 4.1, 4.2 and 5.1 of the Code). The adjudicator highlighted that complaints relating to snagging issues are expressly excluded from the scheme and could not be examined. The adjudicator considered the Home Buyers’ claim for compensation for inconvenience in the sum of £10,000.00. Whilst the adjudicator accepted that the Home Buyers had inherently experienced inconvenience as a result of the Home Builder’s breaches of the Code, it was highlighted that compensation for inconvenience is limited to £500.00 under the scheme. Accordingly, under the circumstances, the adjudicator found it fair and reasonable to award the Home Buyers with the full £500.00 compensation sum allowable for inconvenience. Furthermore, the adjudicator found it fair and reasonable that the Home Builder compensate the Home Buyers for their adjudication fee.

Decision

The Home Buyers’ claims succeeded in part.

Complaint

The Home Buyer's claim concerned the quality of the mortar used to construct the property and the quality of workmanship. The Home Buyer also raised complaints about the Home Builder's after sales service and complaint handling.

The Home Buyer requested an apology, an explanation and compensation in the sum of £15,000.00.

Defence

The Home Builder denied liability.

Findings

Complaints about faulty items, poor design, quality of workmanship and/or snagging issues fall outside the scope of adjudications under CCHBIDRS. The Home Buyer's complaints about the mortar and poor workmanship could therefore not be considered. However, the Home Builder had not provided any evidence to show that it provided an accessible after-sales service and had a system/procedures for handling calls and complaints. Therefore this aspect of the Home Buyer's claim succeeded.

Decision

The claim succeeded in part. The Home Buyer's requests for an apology, an explanation and compensation in the sum of £15,000.00 related directly to the Home Buyer's complaints about the quality of the material used and the quality of workmanship, and could therefore not be considered. However, as the Home Builder has breached its obligations under sections 4.1 and 5.1 the Code, the Home Builder was directed to reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

Complaint

The Home Buyer claimed that there were various delays with the completion of the Property. The Home Buyer submitted that the Property was completed 9 months later than initially projected. He indicated that he had to incur additional costs (such as accommodation/storage costs) as a result of this issue. Furthermore, the Home Buyer also raised a complaint regarding the Home Builder's complaints handling. Accordingly, the Home Buyer submitted that the Home Builder had breached sections 3.2 and 5.1 of the Code. The Home Buyer therefore sought an apology and compensation in the sum of £6000.00.

Defence

The Home Builder did not accept that it should be liable to provide the redress claimed by the Home Buyer. It accepted that there were delays to the original projected completion date of the Property. However, the Home Builder submitted that it kept the Home Buyer appropriately updated regarding the delays and the build progress. The Home Builder also disputed that it had breached section 5.1 of the Code. It submitted that its Consumer Code for Home Builders form (as signed by the Home Buyer) clearly detailed its set complaints handling processes.

Findings

Based on all the evidence available, the adjudicator concluded that the completion delays for the Property did not amount to a breach of the Code as asserted. To the contrary, it was noted that the Code guidance indicated that property completion delays are not an unexpected occurrence. Furthermore, it was noted that the Home Builder provided updates to the Home Buyer regarding the completion of the Property and also promised to keep him updated as information became available. Consequently, under the circumstances, the adjudicator was unable to conclude that the Home Builder's actions amounted to a breach of section 3.2 of the Code. Furthermore, the adjudicator was mindful that the Home Builder had provided a copy of its Consumer Code for Home Builders document that had been signed by the Home Buyer and dated 3 November 2016.

It noted that this document expressly detailed the Home Builder's system and procedures for handling Home Buyer complaints and also explained its dispute resolution arrangements. Accordingly, based on the evidence provided, the adjudicator was only able to conclude that the Home Builder did have a system and procedure in place for handling Home Buyer complaints and had advised the Home Buyer of its dispute resolution arrangements as required. Consequently, based on a full review of all the evidence provided, the adjudicator was unable to conclude that any breaches of the Code had been objectively established. Accordingly, in the absence of any breaches of the Code on the part of the Home Builder, the Home Buyer's claims were unable to succeed.

Decision

The Home Buyer's claim did not succeed.

Complaint

The Buyers complained that they were told there was car parking spaces for two cars when they were shown the Home and the plans they were shown also reflected this. The Home provided car parking space of 4.69 cm between a wall and a fence and was not large enough for two cars without extreme inconvenience and lack of safety. The Home Buyers say they complained orally and when a letter was sent complaining of parking in shared areas they complained in writing. Their complaint was not responded to until 4 months later.

Defence

The Home Buyers were not told that there was space for two cars: space for only one was shown on the plan. In any even there is no fixed size for a car parking space. The Buyers did not follow the complaint procedure and their solicitor was instructed to reply to the Buyers' written complaint but failed to do so.

Findings

The adjudicator found that the Home Buyers had been promised 2 car parking spaces in the marketing activity and the pre-contractual information. As the solicitors letter said that only one car parking space was intended, this was misleading and failed to give appropriate information. Failure to reply to a letter of complaint for 4 months was not consistent with the Builder's complaints procedure. As the complaints procedure was not being implemented in the Buyer's case it follows that it was not in place. The adjudicator found breaches of sections 1.5, 201 and 5.1 of the Code.

Decision

The claim succeeded in part. The Builder was directed to

- Apologise for breach of the Code;
- Take practical action to put right the failure to provide 2 parking spaces by using its best endeavours to achieve an extension of the Home Buyers' parking area. In the absence of other agreement between the parties, this shall be achieved as described in paragraph s. below, to provide a minimum width of 2.4 metres per car parking space, measured at 90 degrees from the wall of the garage at 4.60 metres from the front (the fence at the north, north-east end) of the parking space.
- Pay compensation for inconvenience of £350.00
- Reimburse the Home Buyers' registration fee of £120.00

Complaint

The Home Buyer submitted that the Property's workmanship was of poor quality and she therefore felt it was unfinished at the time of legal completion. She submitted that she contacted the Home Builder on 26 November 2017 and it attended the Property to rectify the issues. However, she was unable to move in until January 2018. Therefore, the Home Buyer asserted that the Home Builder had breached section 3.2 of the Consumer Code for Home Builders ("the Code"). The Home Buyer therefore made a claim for the Home Builder to take some unspecified practical action and to pay her £1040.81. The Home Buyer also requested some compensation for emotional distress at the Adjudicator's discretion.

Defence

The Home Builder did not submit a defence.

Findings

Based on all the evidence provided, the adjudicator was unable to objectively conclude that the Home Buyer deeming the Property to be unfinished at the time of legal completion (as a result of snagging issues with poor workmanship) amounted to a breach of the Code. To the contrary, the Code guidance indicated that a property being unfinished at the time of legal completion was not an unexpected occurrence. Furthermore, section 3.2 of the Code does not state that it is an automatic breach of the Code if a Home Buyer is not satisfied with the property's workmanship at the time of legal completion. It was noted that the sum claimed by the Home Buyer represented the cost of her mortgage (£890.81) and her council tax (£150.00) for the period she was unable to move into her property. The Home Buyer indicated that she should be entitled to these sums as she had to pay these costs but was unable to move in to the property as the issues she highlighted with the Property were being rectified by the Home Builder. However, the adjudicator did not find any section of the Code (section 3.2 or otherwise) that obligated a Home Builder to compensate a Home Buyer for their mortgage and council tax payments for any time periods where snag rectification work was ongoing. As such, the adjudicator was unable to conclude that the Home Builder's refusal to compensate the Home Buyer for these claimed sums amounted to a breach of the Code.

Decision

The Home Buyer's claim did not succeed.

Complaint

The Claimants' principal complaint was about the delay between reservation and completion. They said among other matters that they had been given repeatedly inconsistent and inaccurate information about the expected completion dates and that the Respondent had had no proper system for dealing with their complaint.

Defence

The Builder filed only documents by way of a defence with no narrative or explanation save those which could be deduced from the documentation. The adjudicator treated the Builder's response in general as a denial, although the failure to respond was in certain instances noted.

Findings

The adjudicator found that the Home Builder had given inconsistent information about the completion date with the consequence that there was a very long delay between the date first given (September 2017) and the completion (May 2018). There had also been failures to respond to the Buyers' complaint which gave rise to the inference that it had no proper procedures. It also was not clear that an explanation of the procedures had been given.

Decision

The claim succeeded in part. The Buyers were awarded £500 for inconvenience but were not awarded compensation equating to furniture storage costs because they had moved into a family home to save rent which they said they would not otherwise have done. As the papers suggested that the rent would have been more than storage charges, they had not shown that they had suffered a loss. The legal costs related to rescission of a contract. The Builder was also directed to make an apology and refund the registration fee.

Complaint

The Home Buyer submitted that she had a problem with the way her garage electrics had been routed. The Home Buyer therefore alleged that the Home Builder had breached sections 1.1 and 5.1 of the Code. The Home Buyer claimed an apology, for the Home Builder to “install electrical supply directly from my garage to my property” and pay the Home Buyer £120.00.

Defence

The Home Builder did not accept that it had breached any section of the Code and disputed any liability to the Home Buyer. The Home Builder submitted that section 1.1 of the Code is a general obligation to comply with the Code, which it believes it has done. Section 5.1 sets out requirements with regards to complaints handling and the Home Builder submitted that it has a system and procedure for handling complaints as is apparent from the evidence provided. The Home Builder submitted that it informed the Home Buyer about its complaints procedure and dealt with her complaint within a reasonable time, given that the options available had to be fully considered and legal advice taken.

Findings

Based on the evidence provided, the adjudicator was satisfied that the Home Builder did have a procedure in place for receiving and handling Home Buyers' calls and complaints. It was noted that this procedure was detailed in the submitted document titled “Granville Developments – Snagging & Complaints Procedure”. Furthermore, taking into account the evidence of the communicative exchanges between the parties, it appeared the Home Buyer duly made use of this procedure. Consequently, in light of the submissions provided, the adjudicator was unable to objectively conclude that the Home Builder had breached section 5.1 of the Code under the circumstances.

Furthermore, based on the submissions provided, the adjudicator found no substantive evidence that objectively proved the Home Builder had failed to comply with the requirements of the Code. It was noted that the Home Buyer had raised a complaint about her dissatisfaction with the routing of her garage electrics. However, the adjudicator was not satisfied that the Home Buyer had objectively demonstrated that this amounted to a failure on the part of the Home Builder to comply with section 1.1 of the Code.

Decision

The Home Buyer's claim was unable to succeed.

Complaint

The Home Buyer's claim is that the wardrobe in the master bedroom was fitted in the wrong location and without sliding doors; a microwave and washing machine which were not supplied as indicated; a wall hung toilet and concealed cistern which were not provided; the shower was smaller in size than that specified; and ceramic tiles were installed instead of the porcelain tiles specified.

The Home Buyer sought compensation in the sum total of £9,496.64.

Defence

The Home Builder denied liability.

Findings

The Home Builder failed to notify the Home Buyer of changes to sanitaryware, shower and the location of the wardrobe. The brochure also did not clearly state that a washing machine and microwave would not be provided. However, the brochure clearly stated that sliding door wardrobes would be fitted to selected units only. In addition, there was no clear information of what the tiles provided were made of.

Decision

The claim succeeded in part. Although the adjudicator found that the Home Builder had been breached its obligations under the Code in relation to the wardrobe, microwave, washing machine, sanitaryware and shower, the Home Buyer has not provided sufficient evidence to substantiate the sums claimed. The adjudicator directed that the Home Builder (1) pay the Home Buyer compensation in the sum of £250.00 for inconvenience (2) reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

Complaint

The Home Buyer's claim is that he had no option but to pull out of the sale of the Property due to significant changes in design and severe delays by the Home Builder with paperwork. However, the Home Builder had not refunded his Reservation fee.

The Home Buyer sought compensation in the total of £1,258.00 for a refund of the Reservation fee and some out-of-pocket expenses. The Home Buyer also requested an apology and an unspecified amount of compensation for stress.

Defence

The Home Builder did not submit a Defence.

Findings

The Home Buyer cancelled the Reservation Agreement as he was entitled to do under the Code. No evidence had been submitted to show that the Home Builder incurred any reasonable expenses for processing and holding the Reservation and is entitled to withhold any part of the Reservation Fee. There was no evidence to show that the Home Builder explained how contract deposits are protected and how any other pre-payments are dealt with.

Decision

The claim succeeded in part. The adjudicator directed that the Home Builder (1) refund the £500.00 reservation fee; (2) pay the Home Buyer compensation in the sum of £250.00 for inconvenience; (3) provide the customer with a written apology; and (4) 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 failed to complete the Home by the date of completion because so much work was outstanding. This included reconfiguring the bathroom, an investigation of the windows, replacement of a door and other matters set out in the application. She argued that the Home Builder had taken a very long time to carry out the remaining works and these were still incomplete. She argued that this demonstrated a lack of after-sales and complaints service. She said that she had lost very many days off work to allow access to workman and had suffered a significant financial loss.

Defence

The Builder argued that this complaint was really about snagging which fell outside the application of the Code. It pointed out that the contract between the parties stated that the Home Buyer was not entitled to hold up legal completion due to minor defects

Findings

The adjudicator found that the Home Buyer had not proved breaches of the Code. Section 3.2 concerned legal completion. The Home Buyer complained that the items which had not been done were not minor defects. The adjudicator found that although there were some larger items, such as the reconfiguration of the bathroom, the replacement of a door and concern about the fit of the windows, these were in the nature of minor defects. Section 4.2 concerned the provision of after-sales service. The Home Buyer complained that work had not been undertaken quickly and she had repeatedly had to chase up for matters to be progressed. The adjudicator found that there were a large number of texts and emails passing between the parties which showed that work was being undertaken. The application to CCHBIDRS was made only 4 months after legal completion and even if there were delays in replies to certain emails, the inference could not be drawn that an after-sales service was not provided.

Decision

The claim did not succeed.

Complaint

The Home Buyer submitted that the Home Builder breached sections 2.1 and 3.1 of the Consumer Code for Home Builders. Specifically, the Home Buyer submitted that his neighbour started work on an extension to their garage and he asserted that this affects the value of his Property. The Home Buyer submitted that the Home Builder did not advise him of his neighbour's extension plans. The Home Buyer therefore claimed for the Home Builder to provide him with compensation in the amount of £15000.00 for devaluing his Property.

Defence

The Home Builder did not accept that it had breached any section of the Code and disputed any liability to the Home Buyer. The Home Builder submitted that, in any event, the Home Buyer's claim is for £15,000.00 for loss of property value, and such claims (for loss of property value), are expressly excluded from this scheme. The Home Builder did not accept that the Code requires it to provide a home buyer with all the extension plans of their neighbours.

Findings

The adjudicator was unable to find any specific requirement (as detailed in the guidance documents) under section 2.1 of the Code which obligated the Home Builder to provide the Home Buyer with all the extension plans of his neighbours at the pre-purchase stage. The adjudicator concluded that such an obligation far exceeded the requirements of the Code under the circumstances. Therefore, the adjudicator did not find that failure to provide this information amounted to a breach of the Code in this instance.

Furthermore, based on the submissions provided, the adjudicator was not satisfied that there was any substantive evidence that the Home Builder had breached section 3.1 of the Code. The adjudicator was not satisfied that the Home Builder's failure to advise the Home Buyer of his neighbour's extension plans amounted to a breach of section 3.1 of the Code. Specifically, upon review of the Code guidance, the adjudicator find no requirement under section 3.1 for a Home Builder to advise a home buyer of all the extension plans of their neighbours.

Additionally, the adjudicator noted that the Home Buyer had specifically claimed compensation for loss of property value. The adjudicator drew attention to the fact that any compensation claims for loss of property value are excluded by this scheme and cannot be awarded.

Decision

The Home Buyer's claim was unable to succeed.

Complaint

The Claimant complained that the Builder had failed to supply a complaint reservation agreement and had wrongfully confirmed that the reservation fee of £5000 was non-refundable. Completion was delayed for 6 months and was causing the Home Buyer financial loss so he withdrew from the transaction. The Home Builder did not repay the reservation fee. The Home Builder was in breach of the Code in respect of the reservation fee (section 2.6) and in failing to give a reliable completion date (section 3.2).

Defence

There was no jurisdiction to decide this case because (1) there was no reservation agreement but a contractual agreement for a non-refundable deposit; and (2) the Home Buyer had not signed the reservation agreement. If there was a reservation agreement the Home Builder was entitled to deduct the cost of implementing the Home Buyer's choices for the building finishes which exceeded £5,000. Moreover, there was no fixed completion date and the date had been delayed by the Buyer's choices and additional drainage requirements imposed by the Council.

Findings

There was a reservation agreement. The Home Builder's agent confirmed the payment of a reservation fee and there was no evidence of a contract for a non-refundable deposit. On a proper interpretation of the Code including its purposes, paragraph 1 of the introduction to the Code included a situation where the Home Buyer had not signed the reservation agreement because the Home Builder had failed to require him to do so in breach of the Code. The Buyer was entitled to repayment of the amount of the reservation fee and the Home Builder had not identified legitimate deductions. The Home Buyer was thus entitled to repayment in full. As for the delay to completion, although there had been some factors which may have contributed to delay, the fact that the delay was 6 months meant that the Home Builder had not realistically estimated the completion date. Accordingly, there were breaches of section 2.6 and 3.2 of the Code.

Decision

The claim succeeded. The Buyer was entitled to payment of £5000 and reimbursement of the registration fee of £120.

Complaint

The Home Buyer's claim is that the Home Builder failed to notify her of a change to the location of the boiler in the Property.

The Home Buyer sought compensation in the total of £8,770.00 comprising of £8,400.00 compensation; £250.00 for inconvenience caused; and £120.00 as a reimbursement of the case registration fee.

Defence

The Home Builder denied liability.

Findings

The Home Builder failed to give the Home Buyer sufficient and reliable information about the position of the boiler prior to purchase. There was also no evidence to show that the Home Builder notified the Home Buyer of updated plans for the boiler location either before or after contract exchange. The Home Builder breached sections 2.1 and 3.1 of the Code.

Decision

The claim succeeded in part. The Home Buyer failed to provide any evidence to substantiate her claim for compensation in the sum of £8,400.00. However, the Home Buyer was entitled to the £250.00 requested for inconvenience. The Home Builder was also directed to reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

Complaint

The Home Buyer submitted that the Home Builder breached section 2.6 of the Consumer Code for Home Builders. The Home Buyer also submitted that the Home Builder breached “Item 3. Purchase Price”. In particular, the Home Buyer highlighted issues with the reservation process, purchase price negotiations and noise caused by people using the refuse room. The Home Buyer therefore claimed that the the Home Builder should “limit times for using refuse room”, “half the service charge”, “in future buildings suggest the guest suite be over the refuse room. Or better still house the bins outside” (sic) and pay the Home Buyer £11800.00.

Defence

The Home Builder did not accept that it had breached the Code. The Home Builder submitted that it had properly adhered to the requirements of section 2.6 of the Code and this was illustrated by the Reservation Agreement which it had provided in evidence. The Home Builder submitted that the Home Buyer’s purchase price negotiation issues are not within the remit of the Code but it nonetheless stated that the position was made clear during the negotiations. With regards to the noise issue, the Home Builder submitted that it investigated this issue promptly and took appropriate action to assist the Home Buyer. Specifically, it adjusted the refuse room doors and confirmed that the Home Buyer’s property was soundproofed beyond required standards.

Findings

Based on the evidence available at the time of adjudication, the adjudicator was unable to objectively conclude that the Home Builder had breached section 2.6 of the Code (or any other section of the Code). The adjudicator noted that the Home Builder had provided the Home Buyer with a Reservation Agreement that aptly set out the terms of the reservation. Furthermore, the Reservation Agreement was not cancelled; therefore, no reimbursement of the reservation fee was necessary and it did not appear that the Home Builder entered into any new Reservation/Sale Agreement with another customer on the same home whilst the Reservation Agreement was in force.

The adjudicator drew attention to the fact that there is no section in the Code with the heading “Item 3. Purchase Price”. The adjudicator reminded the parties that their remit under the scheme was entirely limited to examining whether the Home Builder had adhered to the requirements of the Code. The adjudicator confirmed that they were unable to conduct an examination into the contractual negotiations between the parties and make decisions on matters which were not within the specified remit of the scheme.

Furthermore, the adjudicator confirmed they were unable to objectively conclude that the Home Buyer’s neighbors generating noise by using the development’s facilities amounted to a breach of the Code on the part of the Home Builder. Nonetheless, it was acknowledged that the Home Builder had addressed this issue in order to aid the Home Buyer (by adjusting

the refuse room door and confirming that the soundproofing in the Home Buyer's property exceeded regulation requirements). Consequently, based on a full review of all the evidence provided, the adjudicator was not satisfied that any breaches of the Code had been objectively substantiated on this occasion.

Decision

The claim did not succeed.

Complaint

The Claimant complained that the Builder had listed 73 items that required to be undertaken and further items were to be addressed. The Buyer had been told that he would need to leave his home, with considerable disruption to his family, to enable work to be undertaken and that various other losses would also be suffered. The Home Builder has refused to pay financial compensation. As the Home Buyer would incur considerable loss, the Home Buyer contended that this was a breach of section 5.1 of the Code.

Defence

No defence was submitted.

Findings

The adjudicator found that although it had not been stated in terms that the Home Builder had agreed to carry out the works, this was a reasonable inference from the information submitted. Whether the Home Builder had refused financial compensation or whether the Home Builder had refused to do anything at all, however, there was no evidence that section 5.1 of the Code had been broken. Section 5.1 requires the Home Builder to have procedures in place: it does not require the Home Builder to arrive at any particular outcome and the operation of a complaints procedure can result in the Builder deciding to do nothing. There was no evidence that the Home Builder did not have or did not apply its complaints procedure.

Decision

The claim did not succeed. On the basis of the submissions and evidence put forward by the Home Buyer, even if the Home Builder should for other reasons be required to pay compensation to the Home Buyer (as to which no finding was made), the adjudicator was unable to reach a conclusion that section 5.1 of the Code had been broken.

Complaint

The Home Buyers submitted that the Home Builder had breached sections 1.4, 1.5, 2.1 and 5.2 of the Code. Specifically, the Home Buyers stated they were not advised that there were plans for a bus stop to be placed outside their Property. The Home Buyers asserted that this decreased the value of their Property. The Home Buyers therefore claimed an apology, an explanation, for the Home Builder to move the bus stop or provide compensation in the amount of £15000.00 (for devaluing the Property/moving costs).

Defence

The Home Builder accepted that it failed to comply with its own complaints procedure (by failing to respond in full to the Home Buyers' complaint) and apologised for this. However, it did not accept any further liability to the Home Buyers. Specifically, the Home Builder submitted that the Home Buyers' claim for compensation for loss of value of their Property is not within the remit of this scheme. Furthermore, and in any event, there was no evidence that the Home Buyers had incurred any actual loss as a result of a bus stop being placed outside their Property. The Home Builder submitted that the placement of a bus stop outside the Home Buyers' Property did not specifically breach any element of the Code and it cannot lawfully change the placement of the bus stop. It did nonetheless engage with the local authority on the Home Buyers' behalf to see if the bus stop could be moved.

Findings

Based on a full review of all the evidence provided, the adjudicator concluded that a breach of the Code on the part of the Home Builder had been established (as accepted by the Home Builder). However, the adjudicator was not satisfied that the nature and extent of the established breach warranted the full redress claimed by the Home Buyers. Taking into account nature and extend of the Home Builder's breach of the Code, the adjudicator found it fair and reasonable that the Home Builder provided the Home Buyers with a written apology.

Decision

The Home Buyers' claim succeeded in part and the Home Builder was directed to provide the Home Buyers with a written apology.

Complaint

The Home Buyer submitted that the Home Builder breached sections 1.5 and 2.1 of the Consumer Code for Home Builders. Specifically, the Home Buyer submitted that in the summer of 2017 he discovered that, due to a planning error, half of his bedroom was legally owned by his next door neighbour.

Defence

The Home Builder did not accept that it has breached the Code. The Home Builder accepted that due to a planning error, which was missed by all the solicitors dealing with the Property, bedroom 1 of the Property extended over the shared driveway. This error was present in the plans as provided to the Home Buyer. The Home Builder submitted that this was a genuine error and it did not know about this until the matter was brought to its attention. Nonetheless, the Home Builder submitted that it had engaged with the Home Buyer and taken the appropriate steps to resolve this matter. However, this issue may take some time to rectify with the Land Registry.

Findings

Based on the evidence available at the time of adjudication, the adjudicator was unable to objectively conclude that the Home Builder had breached section 1.5 of the Code. It was not disputed by the Home Builder that there was a planning error that was missed by all the solicitors dealing with the Property. However, there was no substantive evidence that proved the Home Builder was ever deceptive or unclear (intentionally or otherwise) about this issue in its sales and marketing material and/or activity. The adjudicator was only able to deduce from the evidence that the planning error was genuine and that it was always clear from the materials (e.g. site plans) provided; however, it was simply missed by the professionals dealing with the Property.

Furthermore, the adjudicator was unable to conclude that the Home Builder's failure to highlight an unidentified planning error that was not known at the pre-purchase stage amounted to a failure to provide enough pre-purchase information to help the Home Buyer make a suitably informed purchasing decision (section 2.1). Based on the submissions available, the adjudicator was only able to conclude that the Home Builder provided pre-purchase information to the best of its knowledge in good faith.

Decision

The Home Buyer's claim did not succeed.

Complaint

The Home Buyer's claim is that Property, in particular the second bedroom, is significantly smaller than was detailed in the development brochure.

The Home Buyer sought £5,018.88 to reflect missing floor space and a percentage reduction in the purchase price paid for the Property, and £500.00 compensation for inconvenience. The Home Buyer also requested a refund of the case registration fee.

Defence

The Home Builder denied liability.

Findings

There was no evidence to show that the Home Builder has breached Section 3.1 of the Code or Guide as no substantive evidence confirming what the dimensions for the Property should have been was submitted in evidence. However, in the absence of any evidence showing that the Home Builder provided detailed plans and specifications to the Home Buyer, the Home Builder did not show that it provided the Home Buyer with enough pre-purchase information to help them make a suitably informed purchasing decision in accordance with section 2.1 of the Code.

Decision

The claim succeeded in part. Under the Code, the Scheme cannot apply to loss of property value so the claim for £5,018.88 was unable to succeed. However, the Home Buyer was entitled to the £500.00 requested for inconvenience. The Home Builder was also directed to reimburse the Home Buyer the sum of £120.00 to cover the cost of the case registration fee.

Complaint

The Home Buyers complained that the leaded windows were damaged by white spots and pitting. They said that the Home Builder had agreed to replace the windows as part of the process of investigating their complaint and then reneged on this. There had been an application to the warranty body which had found that there was oxidation which was normal but also pitting which was not. However, as this did not affect the functionality of the windows, NHBC had not been able to help and had suggested resort to the Consumer Code. The Home Buyers claimed that the Home Builder had not carried out a complaints process and had not cooperated with its appointed experts.

Defence

The complaint was out of time and the redress claimed exceeded the £15,000 limit. There was no breach of the Code because the Reservation Agreement had explained how to start a complaint and stated that the Code was in place and the NHBC report had stated that no further action was necessary. The Home Builder had not said that it would replace the windows.

Findings

The adjudicator found that the claim was in time and there was no evidence that the claim exceeded the £15,000 value. Section 5.1 of the Code related not just to the existence of a system and procedure for complaint resolution but also to its implementation. No evidence had been put forward of a formal procedure and this had had the consequence that the Home Buyers had believed that the Builder had agreed to replace the window.

The adjudicator found that the Home Buyers had probably been told that this would occur and then the Home Builder had changed its mind on further investigation. No transparent system and procedure had been put in place and this was a breach of the Code. Section 5.2 required the Builder to cooperate with experts appointed by the Home Buyers. It was clear from the Guidance that this included third parties enlisted to help and so included the NHBC. The NHBC had investigated including relying on an expert report submitted to NHBC by the Builders (but not put forward in the adjudication). It found damage.

The Home Builder had previously written to the Home Buyers stating that it would repair damage. The Builder had not considered, in the light of the NHBC report whether it would take action in relation to the windows. Bearing in mind the purposes of the Code, this equated to a failure to cooperate. The adjudicator found a breach of sections 5.1 and 5.2.

Decision

The claim succeeded in part. The findings made by the adjudicator related to procedural failures and it was for the Home Builder to decide whether its policies, procedures and quality assurance required replacement of the windows. Accordingly replacement could not be directed and nor could compensation for the cost of this be given. The Home Buyers had

shown that they had suffered inconvenience, however and therefore compensation of £200 was awarded and the reimbursement of the registration fee.

Complaint

The Home Buyer states that the Home Builder provided them with incorrect details as to the plot boundary and that the Home Builder did not own the land at the front of the Property. The Home Builder was provided, by HM Land Registry, with the title of good leasehold instead of absolute leasehold to the land at the front of the Property. The Home Buyer alleges that there have been breaches of sections 2.1, 2.6, 3.1 and 5.1 of the Code.

The Home Buyer sought £15,000 in compensation, an apology, an explanation and full access to the Home Buyer's file and information that the Home Builder has.

Defence

The Home Builder admits that they made a mistake as to the plot boundary of the Property, but deny that they have breached any section of the Code.

In the Defence the Home Builder offered the Home Buyer £500.00 of compensation for inconvenience and they also offered to reimburse the application fee of £120.00.

Findings

The adjudicator found that the Home Builder did breach sections 2.1, 2.6 and 5.1 of the Code and found that the Home Builder did not breach section 3.1 of the Code.

It was decided that the Home Builder breached section 2.1 of the Code as the pre-purchase information was not able to be relied upon by the Home Buyer and was found to be incorrect.

Section 2.6 of the Code was found to have been breached by the Home Builder as it was decided that no Reservation agreement was provided to the Home Buyer.

It was decided that the Home Builder breached section 5.1 of the Code as the Home Builder was found to not have followed the Guidance. This is because the Home Builder did not deal with the Home Buyer's complaint in a reasonable time and they did not update the Home Buyer in a timely manner as to their complaint.

It was found that the Home Builder did not breach section 3.1 of the Code as the Lease (Contract) was deemed to be clear and fair.

Decision

The claim made by the Home Buyer succeeded in part. The Home Builder was found to have breached the Consumer Code for Home Builders. The Home Buyer was awarded £500.00 compensation for inconvenience, an apology, a written explanation as to what had occurred and reimbursement of the £120.00 registration fee.

Complaint

The Home Buyer submitted that the Home Builder breached sections 1.2, 1.4, 1.5, 2.1 and 2.6 of the Consumer Code for Home Builders. In particular, the Home Buyer submitted that the Home Builder did not alert her to the existence of a layby in front of the Property. The Home Buyer therefore made a claim for the Home Builder to move the layby located at the front of the Property. The Home Buyer also highlighted additional issues such as the fact that a bus service hadn't been implemented in the neighborhood and that she has had to move on young men sitting in cars who were drunk or taking drugs.

Defence

The Home Builder did not accept any liability to the Home Buyer. The Home Builder submitted that its advertising material states that it is only intended to provide a general idea of the properties. However, it indicated that the materials provided to the Home Buyer were accurate and indicated the existence of a layby in front of the Home Buyer's property. The Home Builder did not accept that it had breached any section of the Code and therefore did not accept the Home Buyer's claim that it should move the layby located in front of her Property.

Findings

The Adjudicator concluded that minor breaches of the Code on the part of the Home Builder had been established (sections 1.2, 2.1 and 2.6). However, the Home Buyer had only made a singular claim, for the Home Builder to move the layby located outside her Property. Under the circumstances, the adjudicator could only conclude that the level and nature of breaches established did not warrant the redress claimed. In making this finding, the Adjudicator took into account proportionality and the reasonable loss incurred from the types of breach established. Therefore, the Adjudicator had no other option but to conclude that the Home Buyer's claim was unable to succeed on this occasion.

Decision

The Home Buyer's claim did not succeed.

Complaint

The Home Buyers submitted that the Home Builder had breached section 3.1 of the Code. Specifically, the Home Buyers asserted that the Home Builder constructed the roof of the Property with a parapet. The Home Buyers submitted that they were not advised of this and that it was unsightly in appearance. They indicated that they would not have proceeded with the purchase of the Property had they known about the parapet. The Home Buyers therefore sought an apology, an explanation, for the Home Builder to remove the parapet with a roof redesign and a payment in the sum of £15000.00.

Defence

The Home Builder did not accept any liability to the Home Buyers. The Home Builder accepted that the roof of the Property was constructed with a parapet and that this was not specifically highlighted to the Home Buyers. The Home Builder acknowledged that the guidance for section 3.1 states *"After Contract Exchange, if there is a change to the design, construction or materials to be used in the Home that would significantly and substantially alter its size, appearance or value, you should formally consult the Home Buyer and get their agreement"*. However, the Home Builder submitted that the parapet did not significantly and substantially alter the Property's size, appearance or value. Therefore, it did not need to consult the Home Buyers and obtain their agreement for this issue. Furthermore, the Home Builder submitted that the Home Buyers only raised this issue 4 months after they had been living in the Property. Thus, the Home Builder asserted that the parapet was not a significant and substantial alteration to the Property. In any event, the Home Builder submitted that its sales literature makes it clear that landscaping and configurations may vary from plot to plot and the particulars should be treated as general guidance only. Accordingly, the Home Builder did not accept the Home Buyers' claims for redress.

Findings

The Adjudicator acknowledged that neither party disputed that the Home Builder constructed the roof of the Property with a parapet and that this decision was not highlighted to the Home Buyers. However, taking into account all the evidence available, the adjudicator was not objectively satisfied that the existence of a parapet significantly and substantially altered the size of the Property, its appearance or value. As such, the adjudicator was not satisfied that the Home Builder has breached section 3.1 of the Code by not formally consulting the Home Buyers to obtain their agreement to this change.

Decision

The Home Buyers' claims did not succeed.

Complaint

The Home Buyer submitted that the Home Builder committed acts of racism, fraud, harassment and discrimination during the reservation and purchase process of the Property. The Home Buyer also submitted that the Home Builder breached the Code. Specifically, the Home Buyer asserted that the Home Builder breached sections 1.1, 1.2, 1.3, 1.5, 2.1, 2.6, 3.3, 4.1 and 4.2 of the Code. The Home Buyer therefore sought a payment of £15000.00 from the Home Builder.

Defence

The Home Builder refuted all accusations made by the Home Buyer. The Home Builder stated that it did not accept any liability to provide the Home Buyer with a payment in the sum of £15000.00. The Home Builder submitted that it provided detailed responses to each of the Home Buyer's claims.

Findings

The Adjudicator drew attention to the fact that complaints relating to racism, fraud, harassment and discrimination are entirely outside the remit of this scheme and could not be examined. Accordingly, the Adjudicator's decision was restricted to the remit of the scheme. Therefore, the alleged breaches of sections 1.1, 1.2, 1.3, 1.5, 2.1, 2.6, 3.3, 4.1 and 4.2 of the Code were examined in turn. Following a full review, the Adjudicator noted one oversight on the part of the Home Builder in relation to section 1.2 of the Code. Therefore, it was found to be fair and reasonable for the Home Builder to provide the Home Buyer with compensation in the sum of £50.00 for the inconvenience experienced. No further breaches of the Code were established.

Decision

The Home Buyer's claim succeeded in part. The Home Builder was directed to provide the Home Buyer with compensation in the sum of £50.00.

Complaint

The Home Buyer stated that the Home Builder did not advise them of the requirement for obscure glazing to one of the bedrooms. They stated that the first time they were made aware of this requirement was when the Home Builder informed them in August 2017, which was after the completion of the sale. The Home Buyer alleges that there have been breaches of sections 2.1, 2.6 and 3.1 of the Code.

The Home Buyer sought £15,000 in compensation, an apology, an explanation and 'rectification' of the windows that needed to be obscured.

Defence

The Home Builder submits that the Home Buyer's claim be dismissed. They state that the Home Buyer was made aware of the requirement for obscure glass to the upper pane of the rear windows. This was a revised planning requirement following complaints from local residents. The Home Builder states that they have made offers to partially frost the windows to ensure compliance with the planning obligations and that the Home Buyer has refused to grant them permission to do so.

Findings

The adjudicator found that the Home Builder did not breach section 2.1 of the Code as the Home Buyer was provided with sufficient pre-purchase information. Additionally, there was a clause within the Contract that provided details as to the requirement for obscure glass. It was found that the Home Builder did not breach section 2.6 of the Code as sufficient information was provided in the Reservation agreement, which includes details of a general nature rather than specific details.

The Home Builder was also found to have not breached section 3.1 of the Code as the Home Buyer discussed the terms and conditions of the Contract with their conveyancer. Also the Home Buyer stated that they were not querying the wording or terms of the Contract which is what section 3.1 refers to.

Therefore, the adjudicator found that the Home Builder did not breach sections 2.1, 2.6 or 3.1 of the Code.

Decision

The claim made by the Home Buyer did not succeed. The Home Builder was not found to have breached a requirement under the Consumer Code for Home Builders. The Home Buyer was not able to justify the redress claimed and so no award has been made by the adjudicator. Additionally, the Home Buyer's registration fee has not been reimbursed.

Complaint

The Claimant complained of breaches of 1.1, 1.2 and 5.1 of the Code that the house was extremely cold and installed an additional gas fire. She said she had not been provided with a copy of the Code. She also complained to the Home Builder and asked for thermal imaging. The Builder persistently delayed in responding to her complaint and had to be reminded throughout the process until resolution of the problem occurred some 9 months later.

Defence

There were no breaches of the Code, which had been put in place and followed. The Home Buyer had bought her fire before complaining and could not recover compensation for that. She had been given a copy of the Code with her reservation agreement and prominence was given to this as required by the Code. All the works necessary to give warmth to the Buyer's home had been carried out.

Findings

The adjudicator found that the Home Buyer had been given a copy of the Code on reservation and it was on its website and in its sales office. There was no breach of section 1.2 of the Code. The Builder had not initially recognised the customer's request for payment for thermal imaging as a complaint which it needed to handle under its complaints policy. It did not follow its complaints policy and had not provided a timetable for investigation and taking action on the customer's complaint. In particular, there was a lack of clarity as to when thermal imaging would be carried out, whether this would occur, what it would entail and when it would happen; a lack of action between the meeting of 3 April 2016 when certain steps were agreed and 10 May 2017 when the Home Buyer complained again; and from 26 May 2017 when certain actions were agreed until September 2017, there was a failure to give advice about the timetable for works and a failure to carry these out promptly. Overall, this was a failure to implement the Home Buyer's complaints procedure and was a breach of section 5.1 of the Code and section 1.1 was also breached.

Decision

The claim succeeded in part. The adjudicator awarded compensation of £575 (£500 for inconvenience and £75 for increased heating bills) and directed an apology and reimbursement of the registration fee.

Complaint

The Claimants complained that the Builder had wrongly told them at the reservation stage that the affordable housing on the estate would contribute to the service charge and their service charge would be 1.3% of the total and the cost spread between 88 homes. In fact the contract and transfer stated that they had to bear 1.8% and the cost was spread between 53 homes.

Defence

It was denied that the Home Buyers had been told this, although they had got hold of a matrix which showed that the managing agents proposed to impose a service charge on all homes. The Builder was prevented from doing this by reason of the terms of the section 106 Agreement to which the Buyers solicitors had access on their portal and to which they had been referred. Accordingly, the contract showed that the Home Buyers would bear a cost of 1.8% of the service charge. Moreover, the amount of the service charge in the first year was less than the estimate in the reservation agreement, so the Home Buyers were not misled.

Findings

The adjudicator found that there were breaches of sections 1.5 and 2.1 of the Code because it was more likely than not that the Home Buyers were told that all houses would bear a proportion of the service charge, whereas this was not correct. It was relevant information as it meant that the Home Buyers would be paying a larger proportion of the total and the occupiers of the affordable housing would benefit from the services paid for by other residents. This was misleading, was not irrelevant and, as this incorrect information was given, it may have led to a misapprehension instead of a suitably informed purchasing decision. There was no breach of section 2.6, however, because the reservation agreement stated that the sums shown as services (for which there was a breakdown) were an estimate. There was no breach of clause 3.1 of the Code because the proportion of the service charge (1.8%) was correctly stated and the section 106 agreement was made available to the Buyers' solicitors or, even if it was not, the Buyers' solicitors were on notice and could have asked for this.

Decision

The claim succeeded in part. As the Buyers had, through their solicitor, agreed to the proportion of service charge set out in the contract and transfer, and as any alteration in the service charge would adversely affect third parties because there would be an overall shortfall, it was not appropriate to direct any reduction in the service charge. Moreover, the claim for compensation was for moving house, which would in the circumstances, have been compensation for distress and not financial loss because the Buyers wanted to move due to a "toxic atmosphere" on the estate. Furthermore, as the service charge in the first year was less than that estimated, there was no evidence of any ongoing financial loss. The adjudicator awarded £350.00 for inconvenience, however and reimbursed the registration fee.

Complaint

The Claimant said that the sales and marketing information had described her Home as having a carport, but when she took possession, she discovered that it had an open roof and really it was a pergola. She claimed that there was a mis-selling and therefore a breach of sections 1.5 of the Code and 2.1 of the Code. She had not been shown the site plan until she requested this on 8 May 2016 and she had not been informed by the company's agent that the roof would be open because when she visited the site on 30 April 2016, neither of the agents was available.

Defence

The Defendant said among other matters that the construction of the carports on the development all had open roofs and that the Home Buyer had seen the site plan which showed this at the time of the reservation agreement and it had been explained to her when she visited the site on 30 April 2017. She had been sent an email on 10 May explaining that this explanation had been given and the correspondence stated in terms that the car port was like a pergola. Exchange of contracts had nonetheless taken place some 15 days later.

Findings

The adjudicator found that there had been a breach of section 1.5 and 2.1 of the Code because the description "carport" would ordinarily convey a structure with a roof. Even if the customer had seen the site plan, it would not have been clear that the structure (which plainly had a timber roof) had no covering between the rafters. The misleading impression initially given had been corrected by the time of exchange of contracts. However, at the latest on 10 May 2016 when the email was sent..

Decision

The claim succeeded in part. The Home Buyer was awarded compensation of £100.00 for inconvenience caused by the initial breaches of the Code. The Home Buyer's registration fee was also reimbursed.

Complaint

The Home Buyers submitted that there were various delays in the completion of their Property and the Home Builder had to keep contacting them to advise of amended completion dates. The initial completion date was in September 2015 but the Property was finally completed in April 2016. The Home Buyers submitted that they incurred expenses as a result of this issue. Specifically, the Home Buyers stated that they had already ordered furniture for the Property which they needed to pay to store and that they decided to stay in the local Hilton hotel until the Property was completed (as this seemed the most flexible option). The Home Buyers submitted that the Home Builder had breached section 3.2 of the Code and they therefore claimed £15000.00 in compensation.

Defence

The Home Builder accepted that there were delays in the completion of the Property and it stated that it had continuously apologised for this issue. The Home Builder submitted that these delays were for reasons outside its control but it did its best to expedite the completion of the Property. It confirmed the Home Buyers' submission that it kept them informed about the delays and provided amended completion dates as issues progressed. However, the Home Builder did not accept the Home Buyers' claim for redress. It submitted that the claimed compensation was unreasonable and the Home Buyers have not sought to mitigate their losses.

Findings

Based on all the evidence provided, the adjudicator was unable to objectively conclude that the Home Builder had breached section 3.2 of the Code.

Neither party disputed there were various delays in the completion of the Property. However, it was clear from the parties' respective submissions that the Home Builder did constantly provide amended completion updates to the Home Buyers as and when new information was available. Accordingly, under the circumstances, the adjudicator was unable to conclude that the Home Builder's actions overall amounted to a breach of section 3.2 of the Code. By way of further explanation, the adjudicator highlighted that section 3.2 of the Code does not impose a requirement on the Home Builder to strictly adhere to a set completion date but to keep the Home Buyer updated of realistic completion dates based on the information available at the time. Accordingly, based on the evidence provided, the adjudicator was unable to conclude that the Home Builder had breached section 3.2 of the Code.

Decision

The Home Buyers' claim did not succeed.

Complaint

The Home Buyer's claim concerned a delay in the completion of the Property.

The Home Buyer sought an apology, an explanation and compensation in the sum of £6,663.52.

Defence

The Home Builder denied liability.

Findings

There was no evidence to show that the sales and advertising material given by the Home Builder were not clear or truthful, or that statements made were not clear or truthful at the time they were made.

Both parties agreed that the dates given on the Reservation Agreements were approximate dates. In addition, the sale of the property was also completed before the long stop date stated in the sales contract, therefore the Home Builder had not breached its obligations under the Code.

Decision

The claim did not succeed.

Complaint

The Home Buyer submits that the Home Builder did not provide him with sufficient information in relation to his solar panels. Specifically, the Home Buyer submits that he was not advised by the Home Builder that he needed to register for a FIT (Feed In Tariff). Upon discovering that he needed to have registered for a FIT, the Home Buyer attempted to register his solar panels; however, he was informed that the legislation had now changed and the registration period had ended. Therefore, the Home Buyer was unable to register for a FIT for his solar panels. The Home Buyer also submits that the Home Builder has not dealt with his complaints about this issue. The Home Buyer submits that the Home Builder has breached sections 2.1 and 4.1 of the Code.

Defence

The Home Builder submits that it did not advise the Home Buyer that it had registered his solar panels for a FIT. It submits that shortly after completion, it sent the customer all the documentation for his solar panels. This included the application form to register for a FIT. Therefore, the obligation fell to the Home Buyer to register his solar panels for a FIT. The Home Builder submits that the parties' respective legal representatives have been dealing with this complaint issue (as shown in the documents provided). The Home Builder does not accept any liability to the Home Buyer.

Findings

The adjudicator found that section 2.1 of the Code does not place any obligation on the Home Builder to provide the Home Buyer with information on any and all government programmes (such as the FIT scheme) to maximise their utility savings (or how and when to register for these). In any event, in the interest of completeness, no substantive evidence had been provided by the Home Buyer that objectively proved the Home Builder had agreed to register a FIT on behalf of the Home Buyer. Furthermore, the adjudicator was unable to conclude that the Home Builder had breached section 4.1 of the Code under the circumstances. The adjudicator was mindful that the Home Builder's website has a contact system for after-sales customer care services. They also noted that the Home Builder has a customer charter which outlines its customer care service commitments. In addition, based on the evidence provided at the time of adjudication (such as the correspondence between the parties themselves and their legal representatives), the adjudicator was satisfied that the Home Builder did engage with the Home Buyer in relation to the complaint and took appropriate complaint handling/after-sales actions under the circumstances.

Decision

The claim was unable to succeed.