



# THE ICW CONSUMER CODE FOR NEW HOMES



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# 01

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## Introduction

**The ICW Consumer Code for New Homes applies to all New Homes and seeks to ensure that all New Home buyers:**

Are treated fairly at all times;

Are given reliable information about their purchase;

Know what service levels to expect;

Know how to access the dispute resolution scheme; and

How to contact ICW for advice, should they need it.

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## Code Verification

**There are 6 methods of Code Verification**

1. ICW audit (internal/desk top).

2. Site audit.

3. Mystery shopper.

4. Customer complaint.

5. Customer questionnaire.

6. Self-certification.

## Looking After Your New Home - Definitions

### Adjudication

The process by which an Adjudicator reviews evidence and statements set forth by opposing parties in an ICW Dispute Resolution Scheme.

### Adjudicator

The Adjudicator acts as a fair and unbiased referee who assesses complaints within the ICW Dispute Resolution Scheme.

### Administration Fees

Fees incurred by the Builder/Developer pursuant to the Builder/Developer management of the property during the Reservation Period.

### Alternative Dispute Resolution Scheme (ADR)

An independent Adjudication scheme operated on behalf of ICW by The Property Ombudsman or other third party providers of ADR services.

### Agent

A person, sole trader, partnership, company or other organisation (such as an Estate Agent) who is authorised to act on behalf of the Builder / Developer to create a legal relationship with the Buyer.

### Approved Inspector

Any person, sole trader, partnership or company accredited by the United Kingdom Accredited Service (UKAS) and/or authorised by the Construction Industry Council (CIC) who carries out a technical inspection of the Residential Property or Development.

### Builder/and or Developer

A person, sole trader, partnership, company or other organisation that constructs new, or newly converted Homes under contract and is a registered member of the ICW Scheme and bound to adhere to the ICW Consumer Code for New Homes.

### Building Regulations

Statutory instruments that seek to ensure that the policies set out in the relevant legislation are carried out. Building Regulations approval is required for most building work carried out in the UK.

### Buyer(s)

Any person, social landlord, corporate body, partnership, or Limited Company who reserves or buys a new or newly converted Home (except those excluded in Clause 2.5) from a Builder/Developer.

### Code

The ICW Consumer Code for New Homes (this document).

### Completion

The point at which the Buyer(s) takes ownership of the Property from the Builder/Developer. In Scotland, this process is known as the "Conclusion of Missive" and "Date of Entry".

### Contract Deposit

A non-refundable deposit paid by the Buyer of the Property to the Builder/Developer to secure the purchase of the Home.

## Contract Exchange/ Exchange of Contracts

The point at which the Contract of Sale is exchanged between the Builder/Developer and the Buyer. In Scotland, this process is known as the “Exchange of Missive”.

## Contract/Contract of Sale

A legally binding document confirming the terms and conditions of the sale of the relevant Home. In Scotland, this document is known as the “Builders Missive”.

## Directory of Builder/Developers

The list of ICW registered Builder/Developers.

## Dispute

A written complaint made by the Buyer of the Home to the Builder/Developer, as a result of the Builder/Developer failing to comply with the requirements of the Code. The Buyer must make the complaint, within 2 years (24 months) of the date of Practical Completion. Complaints covered by the Code are subject to a maximum award of £15,000 or 25% of the original Contract price (inclusive of VAT).

## Early Settlement

A process whereby the dispute between the Buyer and the Builder is resolved early as the part of the process of the ICW Dispute Resolution Scheme (DRS).

## FCA

The Financial Conduct Authority who regulate the Financial Services Industry within the UK.

## ICW

International Construction Warranties Limited.

## ICW Dispute Resolution Scheme (DRS)

A procedure for dealing with a Dispute between the Buyer and the Builder/Developer where: (a) it has not been possible for this Dispute to be resolved informally; and (b) this Dispute is outside of the scope of the ICW Structural Warranty Policy.

## ICW Membership Rules

The mandatory ICW membership rules all Builders/Developers must agree to abide by when joining the ICW scheme.

## ICW Structural Warranty Policy

The Certificate of Insurance issued on behalf of the insurer, which signifies acceptance of the Home for insurance, following the notification of satisfactory practical Completion by the appointed Approved Inspector.

## Home

A property registered by a Builder/Developer (who is a member of the ICW Scheme) and covered by an ICW Warranty.

## Leasehold

The length of time as defined in the lease, for which the Buyer has ownership of the Home.

## Liable Party

Liable for the loss arising from any breach in the policy. This will either be the Builder/Developer or any other body liable for the two year defects period.

## Management Services

The maintenance, supply, service obligations and charges the Buyer may be liable to pay on Completion of the Home purchase. In Scotland, this is known as “Factoring.”

## Material Fabric

Any fixture, structure or surface that is connected or associated with the Home, which is not freestanding.

## Part Exchange Scheme

A process by which the Builder/Developer agrees to use the Buyers existing property as part payment for a new Home.

## Policyholder

The purchaser or owner of the Home, which is subject to the ICW Structural Warranty Policy (or their successor in title, for a maximum period of 24 months from the date of Practical Completion).

## Purchase Price

The price that has been agreed upon by the Buyer and the Builder/Developer for the Home.

## Practical Completion

This is the date that is stated on the final certificate.

## Reservation Agreement

A written legal agreement between the Buyer and the Builder/Developer, giving the Buyer an exclusive period of time to enter into a Contract to buy a Home at a confirmed Purchase Price (irrespective of whether or not a fee is paid). Reservation, Reserve and Reserved shall be construed accordingly.

## Reservation Fee

A fee payable by the Buyer to the Builder/Developer that reserves the Property following the signing of the Reservation Agreement.

The Reservation Fee will be deducted from the final Purchase Price of the Home or subject to refund on cancellation (minus any Administration Fees). The Home will be withdrawn from the market by the Builder, on receipt of payment.

## Reservation Period

An agreed period of time stipulated within the Reservation Agreement between the Buyer and the Builder/Developer, during which the Builder agrees not to market the Home for sale.

## Snagging

The process of inspection necessary to compile a list of minor defects or omissions in building works for the Builder/Developer to rectify. Although the ICW Structural Warranty Policy does not cover snagging, this complaint would be addressed under the terms of the Code.

## Specification

A description of the main materials used to construct the Home, (including: wall, roof and floor construction; types of bricks and roof tiles; windows; internal and external doors; bathroom and kitchen tiles; equipment; furnishings; appliances; central heating; and vaccuming systems).

## **Structural Defect**

A fault in the design of the load bearing portions or weatherproofing of the Home (including: foundations; external and internal walls; floors; and roof structures), caused by the failure of such load-bearing portions. Weatherproofing portions include the outside wall face, windows, doors and the roof covering of the Home.

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## **Transparent**

An honest way of doing things that allows Customers to know exactly what they can expect of you and helps them to understand the process of buying a Home.

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## **The Property Ombudsman**

An independent and impartial service for the resolution of a Dispute between the Buyer and the Builder/Developer, on behalf of ICW.

## **Vulnerable Customer**

A Buyer, who by virtue of their personal circumstances is especially susceptible to detriment. Reasons could include, but not be limited to: age; infirmity; language; disability; or those who have suffered a recent bereavement, separation or divorce; or who for reasons of experience, knowledge or illness find the process difficult or stressful.

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## **Warranty**

The ICW Insurance Policy for Structural Defect Insurance.

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## **Water Ingress**

The Ingress (or entering) of water into the Home through its external walls, roofing, external doors, windows and cladding.

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## Code Clause

### 1.1 ICW

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**1.1.1** International Construction Warranties and the ICW Group of companies including ICW Insurance Services Ltd (ICW) specialise in the provision of Structural Defect warranties to the construction industry. ICW is an Appointed Representative of ES Risks Limited, America House, 2 America Square, London EC3N 2LU.

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**1.1.2** ICW is authorised and regulated by The Financial Conduct Authority (FCA). ICW's FCA Registration number is 707103 and can be verified by visiting the FCA's website at [www.fca.org.uk/register](http://www.fca.org.uk/register), or by contacting the FCA on 0800 111 6768.

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### 1.2 The ICW Consumer Code for New Homes

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**1.2.2** For the avoidance of doubt, every Builder/Developer who avails of an ICW Structural Warranty Policy, agrees to subscribe to and comply with the Code.

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**1.2.3** The Code is designed to ensure that a Buyer of a new or newly converted Home, built by a member of the ICW Directory of Builder/Developer:

- Is treated fairly by the Builder/Developer at all times;
- Can be assured that their individual circumstance, particularly if they are Vulnerable, will not preclude them from receiving high levels of customer service;
- Has access to reliable, accurate and timely information about the Property both before and after their purchase;
- Is informed that they can avail of the ICW Dispute Resolution Scheme (DRS), should they have need to seek a remedy; and
- Is reassured that their Builder/Developer is not only a member of the Code, but adheres to its requirements.

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**1.2.4** The Code is in addition to any pre-existing legal rights, which the Buyer may avail of in respect of the sales, marketing and purchase of the new Property. The Code contains a number of specific terms, which are highlighted in bold and defined in the Glossary of Terms at the beginning of this document.

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**1.2.5** ICW has sole responsibility for the management and control of the Code, which applies to all Buyers and Builder/Developers. In agreeing to be bound by the rules of the Code, a Builder/Developer honours any sanction made against them as part of the ICW Dispute Resolution Scheme (DRS). Any Builder/Developer found to be in serious breach of the Code, will be liable to a range of sanctions, (which may include their removal from the ICW Directory of Builder/Developers, their potential ineligibility for a future ICW Structural Policy Warranty (and/or a mortgage for the Home).

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**1.2.6** For Disputes outside of the remit of the ICW Structural Warranty Policy, the ICW Dispute Resolution Scheme (DRS), as detailed in clause 27 of the Code, is available to any Buyer on submission of a written complaint made to the Builder/Developer within the 24 months of the practical Completion date.

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## 1.2 The ICW Consumer Code for New Homes

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- 1.2.7** ICW will conduct periodic random audits, customer surveys and other statistical evaluations (including mystery shopping surveys, customer reviews, assessments of customer satisfaction feedback and analysis of customer complaints) to assess how well the Code is being applied. This data will be used to inform:
- Amendments to the Code;
  - Training for members of the ICW Directory of Builder/Developers; and/or
  - Observation of the Code.
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- 1.2.8** All Code members must have a system for the receipt, management, and handling of service calls and disputes.
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- 1.2.9** ICW as Code sponsor will monitor the Code to ensure Member compliance.
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- 1.2.10** ICW will report the findings of all Code monitoring to the TSI on an annual basis as part of an annual report. Findings will also be published on the ICW website and sent to respective Members individually by way of a report.

## 2.0 Scope of the Code

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- 2.1** This Code is applicable to all new build Homes where an ICW Structural Warranty Policy has been issued on or after the 1st October 2015.
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- 2.2** The Code applies when the Buyer has made a complaint in writing to the Builder/Developer, up to 24 months of Practical Completion (as stated on the ICW Final Certificate).
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- 2.3** Any subsequent Buyer can also avail of the Code, but only where the date of their complaint is up to 24 months of the practical Completion date (as stated on the ICW Final Certificate).
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- 2.4** If the Builder/Developer fails to attend to a Snagging complaint raised in writing by the Buyer up to 24 months of the practical Completion date (as stated on the final certificates), this complaint would be addressed under the terms of this Code. However, an ICW Structural Warranty Policy does not cover Snagging.
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- 2.5** The Code does not apply/cover:
- Claims covered by an ICW policy;
  - Claims related to the land conveyed or its registered title;
  - Claims that exceed the ICW Dispute Resolution Schemes limits;
  - Part exchange properties;
  - Where the ICW policy has been purchased by a consumer;
  - Properties acquired by Registered Providers;
  - Properties acquired by Social landlords for rent/Housing Associations;
  - Properties acquired by corporate bodies, partnerships for investment purposes;
  - Properties acquired for short term tenancy agreements;
  - Properties built by self-builders, or under a Contract between a Builder/Developer and an individual for their own occupation;
  - Properties built under an architects certificate;
  - Homes assigned or sold before legal Completion by an investor; and
  - Personal injury claims.
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- 2.6** Other complaints, which fall within the ambit of other Dispute resolution or ombudsman's schemes fall outside the scope of this code. In such cases, these schemes will take precedence over the Code and its associated DRS.

## 3.0 Access to the Code

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- 3.1** The Builder/Developer must make the Code available to all potential and existing Buyers, free of charge. The Builder/Developer must ensure the Code is in a format that enables the Buyer to take the Code away for further scrutiny.

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- 3.2** The Code should be made available in a variety of formats (printed format, electronic version, Braille, large print etc) as may be required by the Buyer. A Builder/Developer must fulfil the reasonable request of a Buyer for an unavailable format, within 10 working days of the initial request.

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- 3.3** The Builder/Developer must display the Code in the public show house, sales office or other public areas that are related to the sales process. The Code must be included in the Reservation Agreement.

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- 3.4** The Builder/Developer is responsible for providing appropriate contact details by which the Buyer can contact the Builder/Developer. This includes telephone number, e-mail and correspondence address.

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- 3.5** The Builder/Developer must make available to the Buyer details of the Code, including: systems and procedures; parameters (including the 24-month time period in which a Buyer can make a complaint) exclusions; and details of the ICW Dispute Resolution Scheme (DRS).

## 4.0 The ICW Consumer Code for New Homes

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- 4.1** Where a Buyer is dissatisfied in respect of matters covered by the Code, the Buyer should initially approach the Builder/Developer and seek remedy from within the Builder/Developer's own complaints procedure.

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- 4.2** If the Builder/Developer fails to respond to a complaint from the Buyer within 30 days, the Buyer may bring this to the attention of ICW under the auspices of the Code.

## 5.0 Customer Service

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**5.1** A Builder/Developer should have suitable systems and procedures in place, which are commensurate with the responsibilities under the Code.

**5.2** Further independent advice can be made available to Buyer at:

**Homeowners Alliance**

[www.hoa.org.uk/services](http://www.hoa.org.uk/services)

Tel: 033 0088 2050

**Citizens Advice Bureau (England and Wales)**

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Tel: 0345 4040506

**Citizens Advice Bureau (Northern Ireland)**

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Tel: 028 9023 6522

**Citizens Advice Bureau (Scotland)**

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Tel: 0808 800 9060

## 6.0 Vulnerable Customers

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**6.1** A Builder/Developer should give particular care when dealing with Vulnerable Customers and ensure that their staff are suitably trained with respect to interactions with Vulnerable Customers.

**6.2** A Builder/Developer should ensure that Vulnerable Customers:

- Understand the Code;
- Can make informed decisions;
- Understand the process of purchasing a Home;
- Understand their respective responsibilities; and
- Make use of a translator, if required.

**6.3** Where vulnerability is obvious to the Builder/Developer (or where the Buyer declares a vulnerability), the Builder/Developer must assess the potential effect this may have on the purchasing process and act accordingly. The Builder/Developer should seek to understand the Buyer's circumstances and needs, by acting in a professional and sensitive manner that will not cause offence.

## 6.0 Vulnerable Customers (continued)

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**6.4** The following links provide valuable sources of reference information when dealing with Vulnerable Customers:

- The Care Quality Commission (CQC) is the independent regulator of health and social care in England, contactable by telephone on 03000 616 161.
- Social Care and Social Work Improvement Scotland is the new unified independent scrutiny and improvement body for care and children's services and works to improve services for adults and children across Scotland. They are contactable by telephone on 0845 600 9527.
- Healthcare Inspectorate Wales (HIW) protects the interests of people whose rights are restricted under the Mental Health Act. For details, e-mail [hiw@wales.gsi.gov.uk](mailto:hiw@wales.gsi.gov.uk) or telephone 029 2092 8850.
- Care and Social Services Inspectorate Wales (CSSIW) encourages the improvement of social care, early years and social services. It regulates, inspects and reviews services and provides professional advice to Welsh ministers and policy makers. CSSIW can be contacted by e-mailing [cssiw@wales.gsi.gov.uk](mailto:cssiw@wales.gsi.gov.uk) or telephone 01443 848 450.
- The Regulation and Quality Improvement Authority (RQIA) is the independent health and social care regulatory body for Northern Ireland. RQIA can be contacted by e-mailing [info@rqia.org.uk](mailto:info@rqia.org.uk) or calling 028 9051 7500.
- The Disability Law Service (DLS) provides telephone or written community care law advice. This service is free to disabled people, their family and carers by appointment. DLS can be contacted by e-mail on [advice@dls.org.uk](mailto:advice@dls.org.uk) or telephone 020 7791 9800.
- Ableize is the largest and most viewed UK disability resource offering the largest collection of disability, mobility and health websites and social media pages in the UK and Europe. They are contactable by visiting their website on [www.ableize.com](http://www.ableize.com)
- Citizens Advice Bureau (CAB) is a on-line free advice service contactable on [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

## 6.0 Vulnerable Customers (continued)

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**6.5** A Builder/Developer should ensure that their staff understand the content of the Code and the importance of its obligations. This should be done by way of internal staff training, please refer to <https://www.businesscompanion.info/focus/consumer-vulnerability>

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**6.6** The Code requires a Builder/Developer to ensure that staff training is refreshed on an annual basis. A Builder/Developer may be required to evidence the completion of staff training as part of their membership of the Code. In the interests of continuity, this training provision should also be extended to temporary workers and or agency workers employed by the Builder/Developer.

## 7.0 Sales and Advertising

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- 7.1** All sales and marketing literature should be in plain, simple English. Guidance for these standards may be found at [www.clearest.co.uk](http://www.clearest.co.uk).
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- 7.2** The content of any such literature should be:
- Clear;
  - Truthful;
  - Transparent;
  - Comply with any relevant code of advertising, such as: The Television Advertising Standards Code, The Radio Advertising Standards Code, The UK code of no-broadcast advertising, sales promotion and direct marketing, The PhonepayPlus code for all premium rate charged telecommunication services; and Any other relevant code.
  - Comply with the FCA requirements of treating customers fairly; and
  - Be compliant with any other relevant Consumer Protection Legislation.
- 
- 7.3** A Builder/Developer is responsible for ensuring their sales and or marketing literature complies with The Consumer Protection from Unfair Trading Regulations 2008 (this legislation prohibits a lack of transparency) and the Business Protection from Misleading Marketing regulations 2008, before making it available to prospective Buyers.
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- 7.4** A Builder/Developer must make it clear in all of their advertising literature that they are members of the ICW Consumer Code for New Homes that they comply with all of its obligations.
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- 7.5** A Builder/Developer should not mislead a Buyer in anyway (for example, about the availability; value; size; Specification; price; Completion date; energy performance rating; available energy grants or tariffs; mobility adaptations; access; Warranty provisions; future development; and facilities).
- 
- 7.6** A Builder/Developer shall likewise not use high-pressure selling techniques to influence the Buyer's decision, such as:
- Suggesting that there is a time imperative, or implying that there are other interested parties;
  - Intimating that there may be an imminent price increase;
  - Offering a financial incentive to secure an immediate decision; and/or
  - Encouraging a reservation by refusing the opportunity to personalize the Home when this could still be facilitated given the stage of the construction.
- 
- 7.7** A Builder/Developer must ensure that all staff are aware of their associated responsibilities and requirements under the Code.

## 8.0 Part Exchange Schemes

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- 8.1** When a Builder/Developer offers a Part Exchange Scheme to the Buyer, the terms must be transparent, unambiguous and not used to pressurise the sale. The terms of the Part Exchange Scheme must be in plain written English and must include, as a minimum the following details:
- The full terms and condition that apply (including any Leasehold requirements);
  - How a fair full market value would be derived through an independent valuation process using more than one valuation source. Each valuation source should either be a member of the Royal Institute of Chartered Surveyors or the Ombudsman Scheme;
  - Any deductions that would be made from the valuation: and
  - How a prospective Buyer would qualify for the scheme.
- 
- 8.2** When a Part Exchange Scheme is offered, the Builder/Developer must clearly state:
- The full terms and conditions that apply (including any Leasehold requirements);
  - All of the fair market valuations that have been obtained;
  - From whom the market valuations were obtained;
  - Which valuation is acceptable to the Builder/Developer;
  - Any deductions from the valuation;
  - The date by which the Buyer must accept the offer;
  - The consequences to the Buyer of not accepting the offer by the stated date; and
  - The anticipated date by which the Part Exchange Scheme and purchase of the new Home would be completed.
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- 8.3** The Builder/Developer will provide all potential Buyers (and particularly Vulnerable Customers) with adequate time to consider and deliberate upon any information supplied about the new Home and any Part Exchange Scheme offer.

## 9.0 Health and Safety for Visitors to Developments under Construction

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- 9.1** Potential Buyers must be provided with the relevant Health and Safety advice when they visit a development under construction. Where applicable, appropriate Health and Safety apparel (e.g. hard hat, safety boots and High-visibility jackets) should be provided.
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- 9.2** It is the sole responsibility of the Builder/Developer to make it clear to any visitors to the development site, that they are personally responsible for adhering to any Health and Safety procedures and signage process, whilst on the site.
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- 9.3** Potential Buyers should sign a document confirming that they have received, read or listened to Health and Safety advice for the development site. This advice being pursuant to the relevant Construction (Design and Management) Regulations 2015.
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- 9.4** A Builder/Developer must ensure that a Buyer is provided with:
- Clear signage;
  - Clear mobility access; and
  - Where appropriate, a responsible adult for guidance and supervision.
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- 9.5** The Builder/Developer should make additional effort to sensitively assist Vulnerable Buyers, as appropriate.

## 10.0 Health and Safety for Buyers Living on Developments Under Construction

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- 10.1** A Builder/Developer must ensure that all Buyers are given relevant Health and Safety advice regarding living on a construction site where building work is ongoing, as well as made aware of the measures the Builder/Developer has taken to protect them.
- 
- 10.2** The Builder/Developer must give the Buyer a Health and Safety file, in compliance with the relevant Construction (Design and Management) Regulations 2015. This information should form part of the aftersales service pack supplied by the Builder/Developer to the Buyer.

## 11.0 Pre Purchase/Contract Information

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**11.1** The Buyer must be given sufficient pre-purchase information to enable them to make a suitably informed purchasing decision.

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**11.2** In all cases this information must include:

- A written Reservation Agreement;
  - A summary of the relevant ICW Structural Warranty Policy, including full contact details for ICW ([www.i-c-w.co.uk](http://www.i-c-w.co.uk) Tel: 028 9099 2303);
  - Instructions on where/how to locate a copy of the ICW Structural Warranty Policy;
  - A description of any Management Services and/or organisation's to which the Buyer will be committed to and an estimate of these costs;
  - Where the Home may be subject to Leasehold arrangements and the detail of these Leasehold arrangements;
  - A list of the Home contents (e.g. white goods, carpets, floor coverings, wardrobes, curtains etc); and
  - A Specification for the Home identifying the standard of cosmetic finish that the Buyer can expect.
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**11.1** Where the Home is not yet finished, accurate information must be supplied which identifies:

- An accurate plan or brochure of the layout;
- Plot position;
- Appearance;
- Price;
- The utilities supplied and their location;
- Energy Performance Ratings;
- Any applicable renewable energy grants;
- Proposed mobility adaptations to the Home;
- The future build phases of the development and the facilities associated with the Home;
- Confirmation that the Home is being constructed in compliance with relevant Building regulations; and
- A Builder/Developer's estimate as to when the Home will be ready for Completion.

## 12.0 Contact Information

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- 12.1** The Builder/Developer must provide accurate and current contact information (including a telephone number and e-mail address) to the Buyer before, during and after the Completion process.
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- 12.2** The Builder/Developer should respond to any queries from the Buyer within 7 days and complaints within 30 days.
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- 12.3** The Builder/Developer must ensure well-trained and knowledgeable staff are made available to provide this service.
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## 13.0 Insurance Cover

- 13.1** The Builder/Developer must supply the Buyer with accurate and reliable information about the ICW Structural Warranty Policy provided on the Home. This will identify the insurance documents that the Buyer will be provided with on the date of Completion, when the ownership of the Home transfers to the Buyer. This information should include contact details for ICW ([www.i-c-w.co.uk](http://www.i-c-w.co.uk); Tel: 028 9099 2303).
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## 14.0 Professional Advisors

- 14.1** A Builder/Developer, if requested by the Buyer to advise about conveyancing services, should advise the Buyer to seek independent professional legal advice (through a solicitor or conveyancer) to advise them on the legal aspects of the purchase, before Exchange of Contracts. Should the Buyer ask the Builder/Developer to recommend suitable Legal Advice, the Builder/Developer should recommend the Buyer consult:
- The Law Society ([www.lawsociety.org.uk](http://www.lawsociety.org.uk)); or
  - The Home Owners Alliance ([hoa.org.uk/advice/guides-for-homeowners/i-am-buying/finding-the-right-solicitor-or-conveyancer](http://hoa.org.uk/advice/guides-for-homeowners/i-am-buying/finding-the-right-solicitor-or-conveyancer)).
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- 14.2** The Builder/Developer must provide the Buyer with the names and contact details of those people who will deal with any questions, queries or complaints the Buyer may have during the sales process.

## 15.0 Reservation Agreement

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**15.1** As part of the conveyancing process, the Buyer must be sent a written Reservation Agreement. This must be in plain English (see Clause 8.1).

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**15.2** The Reservation Agreement must:

- Confirm the amount of the Reservation Fee;
  - Explain any circumstances whereby a Reservation Fee may or may not be refundable;
  - Include itemised Administration Fees, (if any). (Administration Fees should be reasonable and should include an explanation as to where and why they apply and the likely cost of any such a deduction);
  - Clearly state that the Reservation Agreement is not a Contract of Sale;
  - Describe the type of Home being purchased (identifying the specific plot number, development name, property type and parking arrangements);
  - Clearly state the Purchase Price;
  - Explain how and by when the Reservation Agreement can be cancelled;
  - Explain that the Reservation Agreement can only be cancelled if done so within 7 days of payment;
  - Explain that if the Reservation Agreement is cancelled within 7 days the Buyer will be entitled to a full refund;
  - Explain how and when the Reservation Agreement will terminate;
  - Specify the date by which Exchange of Contracts will happen;
  - Contain copies of all the pre purchase information (such as any documentation provided in support of the sales process);
  - Detail the Part Exchange Scheme terms, if applicable;
  - Include details of any spoken statement and how the Buyer can have this included in the Contract;
  - Details and cost of any Management Services;
  - Explain what happens if the Builder/Developer becomes insolvent; and
  - Specify the process through which alterations to the Home can be requested.
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**15.3** The Builder/Developer must supply the Buyer with a copy of the Reservation Agreement, duly signed by both parties.

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**15.4** The Builder/Developer must not enter into a new Reservation Agreement or a sale agreement with any other potential Buyer whilst a Reservation Agreement is already in force between the Builder/Developer and a Buyer for the same Home.

- 15.5** Prior to signature of the Reservation Agreement, the Builder/Developer must inform the Buyer of any potential deductions from the Reservation Fee in the event of a cancellation. The Buyer can cancel the Reservation Agreement within the agreed period. Should the Buyer cancel the Reservation Agreement within 7 days of signing the Reservation Agreement then the Reservation Fee must be refunded in full. Should the Buyer cancel the Reservation Agreement within the agreed period then the Reservation Fee must be refunded to the Buyer, within 14 days of the notice of cancellation.
- 
- 15.6** A Reservation Agreement between a Buyer and the Builder/Developer can be extended by mutual agreement.
- 
- 15.7** In the event that an extension to the Reservation Agreement has not been agreed and/or a Contract of Sale has not been exchanged within the agreed Reservation Period, then the Reservation Agreement will automatically lapse. In this event, the Reservation Fee, less any pre-advised deductions, must be refunded to the Buyer within 14 days.
- 
- 15.8** The Builder/Developer must hold the Reservation Fee (unless paid by credit card) in a deposit account, in trust. The Builder/Developer cannot access this deposit until Completion.

## 16.0 The Contract of Sale

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**16.1** The Builder/Developer is responsible for ensuring the validity of the information at the time it is given and must also provide the Buyer the following information:

- The projected date that construction on the Home will finish and be ready for occupation; and
  - Regular updates to enable the Buyer to make timely and informed decisions and arrangements.
- 

**16.2** The Builder/Developer's solicitor will send all Contract of Sale documentation and approvals to the Buyer's solicitor (Independent Advisor) as soon as reasonably possible after the co-signing of the Reservation Agreement. The Buyer should also be provided with the name and contact details of ICW ([www.i-c-w.co.uk](http://www.i-c-w.co.uk), Tel: 028 9099 2303), along with details of the ICW Structural Warranty Policy.

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**16.3** The Contract of Sale terms and conditions must:

Be written in plain English;

- Clearly set out the process and timing at which ownership of the Home will transfer from the Builder/Developer to the Buyer on Completion;
  - Clearly set out any Contract Deposit amount and the fact that it is non-refundable;
  - Clearly state the circumstances in which the Buyer can terminate the Contract, (for example, where there are material differences to the description of the Home);
  - Comply with the Consumer Rights Act of 2015; and
  - Clearly explain what will happen should the Home not be ready for ownership by the Buyer on the date advised by the Builder/Developer.
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**16.4** Should the Buyer seek to rely on any spoken statement made immediately before Contract Exchange, the Builder/Developer should ensure that the Buyer (through their Independent Advisor) records in writing the statements to be relied upon.

## 17.0 Contract Termination Rights

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**17.1** The Buyer must be told about their right to terminate the Reservation Agreement and/or the Contract of Sale, under conditions such as the following:

- An alteration to the Home, which directly or materially affects the value of the Home;
  - Misrepresentation of features and amenities; and
  - Delay in finishing the construction of the Home and serving the notice to complete.
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**17.2** The Buyer must be informed if the ICW Structural Warranty Policy has been issued for the Home and if not, the reasons as to why it was not issued.

## 18.0 Documentation on Completion

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**18.1** The Builder/Developer will provide an information pack to a Buyer. This should include, as a minimum:

- ICW Structural Warranty Policy documents. An explanation should be provided if the documents are not available;
- ICW Home Buyer's Guide;
- The Builder/Developers complaints procedure;
- A checklist of matters covered by the Code;
- A checklist of matters covered by the ICW Structural Warranty Policy; and
- A clear explanation of how to submit a complaint under the Code.

## 19.0 After Contract Exchange

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- 19.1** Should a change occur to the design, construction or materials to be used in the Home, which will materially alter its value, the Builder/Developer must formally consult the Buyer and obtain their written consent to such changes.
- 
- 19.2** Where the alterations materially affect the value of the Home and the Buyer does not agree with those alterations, they may cancel the Contract without loss of deposit or the withholding of any fees.
- 
- 19.3** The Builder/Developer must inform the Buyer that the Reservation Fee is held in a deposit account in trust and cannot be accessed by the Builder/Developer until Completion, when the conditions of the sale have been satisfied.
- 
- 19.4** Minor changes, which do not significantly or substantially alter the size, appearance or value of the Home, should still be communicated to the Buyer. In these circumstances, the Buyer's written agreement is not required. However, the Buyer should be told to consult with their solicitor (Independent advisor) as the changes may affect the Home.
- 
- 19.5** Should the Buyer have requested changes to the Home (and have agreed to pay for the changes that are not included in the Reservation Agreement or the Contract of Sale) these changes must be agreed in writing between both parties. This written agreement should include:
- Specification of cancellation and refund rights;
  - The estimated impact on the date of Completion; and
  - Revised date (if necessary) that the Home will be available for occupancy.

## 20.0 Completion and Handover

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**20.1** The developer must provide the Buyer with a schedule detailing the timing of key stages, including Completion and the date the Home will be ready for occupancy. These details should be part of the Buyer Information Pack. It is the responsibility of the Builder/Developer to regularly update the content of the Buyer Information Pack and to ensure all details are accurate at the time of inclusion.

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**20.2** The point at which the Builder/Developer tells the Buyer that the Home is ready for handover, will be informed by the build stage that the Home is at, at the time of notification. The Builder/Developer may communicate such staged guidance to the Buyer, at established points in the build development, for example:

- The expected quarter of the year in which Completion is anticipated, typically when the foundations are to be poured;
  - The month of Completion, typically when the roof and weatherproofing is completed; and
  - The week of Completion, typically when the decoration is complete and the main services are connected.
- 

**20.3** The handover of the Home to the Buyer should be a thorough and detailed process, where any outstanding work within the Home or to any other areas of the development, which may affect the Home, are identified and communicated to the Buyer.

## 20.0 Completion and Handover (Continued)

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- 20.4** At this point, the Builder/Developer must provide the Buyer of the Home with:
- Guidance on what Snagging is and how to address any Snagging issues which are discovered;
  - A clear explanation that **Snagging is not covered by the ICW Structural Warranty Policy;**
  - A clear explanation, that should there be a Dispute in reference to Snagging, this may be referred on to ICW to review and advise on;
  - An explanation as to how all the appliances operate;
  - Full details of any additional guarantee or Warranty that accompany the Home such as:
    - Tanking guarantees;
    - Timber treatment guarantees; and
    - Ground remediation guarantees.
  - A full explanation of how long these guarantees/warranties last, the level of cover and any responsibilities that the new Buyer takes over on Completion;
  - Full details of any after sales services, including contact details, length of cover and emergency procedures; and
  - Details of the ICW Dispute Resolution Scheme (DRS).
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- 20.5** A Builder/Developer should not in any circumstance use high-pressure selling techniques in respect of additional guarantees or warranties. The Builder/Developer will not misrepresent the costs, coverage or the benefits that they may provide.

## 21.0 After-Sales Service

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**21.1** The Builder/Developer will provide the Buyer with a comprehensive after sales pack, which includes the following information:

- The contact details for the Builder/Developer in relation to the after sales service;
  - The process for handling any emergencies;
  - Details of the Guarantees and warranties that may apply to the Home; and
  - Details of the duration and extent of the after sales service.
- 

**21.2** The Builder/Developer must not use premium rate telephone numbers for the after sales service, but instead provide a national or local rate number if a free phone number is unavailable.

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**21.3** All guarantees, warranties, instruction manuals etc for components (e.g. white goods, boilers etc) which are not part of the Material Fabric of the Home, should be given to the Buyer on Completion.

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**21.4** Should it be necessary for the Builder/Developer to visit the Home to carry out works after Buyer occupancy, the Builder/Developer should:

- Agree a mutually convenient time for such work;
- Ensure a responsible adult can be present to represent the Buyer;
- Not enter the Home if a responsible adult is not available (at the pre-arranged time) to represent the Buyer, but instead arrange an alternative time; and
- Provide identification prior to entering the Home.
- Once entry to the Home has been gained, the Builder/Developer should:
  - Ensure work clothes are clean and presentable so as not to cause damage to the Home;
  - Be compliant to any reasonable requests of the Buyer or their representative;
  - Ensure that appropriate care is taken whilst in the Home, (such as covering floor surfaces etc);
  - Ensure that the Home is left clean and tidy and that all debris etc is removed;
  - Not smoke in the Home (save with the Buyer's express consent); and
  - Act in a professional and considerate manner at all times.

## 22.0 Complaints and Disputes

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**22.1** The Builder/Developer must have a system and procedure in place for receiving, handling and resolving complaints, service calls and disputes.

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**22.2** The Builder/Developer must inform the Buyer how to access these systems, processes and procedures.

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**22.3** The complaints procedure should clarify that the Builder/Developer:

- Must acknowledge the Buyer's complaint within 14 days of receipt;
  - Responded to the Buyer within 30 days of the complaint being made, with an estimate of the extent of the remedial work and timescales for completion; and
  - Will inform the Buyer at the earliest possible opportunity if the time frame needs to be extended by the Builder/Developer and the reason for the delay.
- 

**22.4** The Builder/Developer should provide the Buyer with a copy of the ICW Dispute Resolution Scheme (DRS) operated as part of this Code. It should be made clear within this document that the ICW Dispute Resolution Scheme (DRS) can only deal with matters as defined in Clause 2 (Scope of the Code).

## 23.0 Definition of a Dispute

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- 23.1** The ICW Dispute Resolution Scheme (DRS) is the process by which the Dispute will be resolved.
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- 23.2** A Dispute can occur if the Builder/Developer has failed to comply with the requirements of the Code (specifically snagging) and as a result, the Buyer believes they have suffered:
- A financial loss;
  - Emotional distress; and/or
  - Inconvenience.
- 
- 23.3** The Buyer may then refer the Dispute to ICW to review and advise as part of the ICW Membership Rules. Independent adjudication (ADR) may be available to the Buyer based on the circumstances of the case
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- 23.4** A Dispute covered by the Code does not include any Dispute covered by the ICW Structural Warranty Policy or between ICW and the Buyer, or any matter that does not fall within the scope of the Code.
- 
- 23.5** In terms of the Dispute process, a Buyer must first complain in writing to the Builder/Developer and give the Builder/Developer an opportunity to remedy the complaint as per the Builder/Developer complaints procedure. If the Buyer is not satisfied with the outcome of the Builder/Developer's response, or does not receive a response from the Builder/Developers, the buyers may refer the complaint to ICW to review.
- 
- 23.6** The Buyer may bring the Dispute to ICW for review within:
- 6 months of the date of the Builder/Developer final response or final offer to resolve the original complaint; or
  - 6 months of the date of making their original complaint in writing to the Builder/Developer, if the Builder/Developer has not responded.
- 
- 23.7** As part of the review, ICW will:
- Advise the Buyer of their next steps in the process to resolve their dispute and how they can resolve it including escalation to ADR provided by The Property Ombudsman; and
- 
- 23.8** Any Dispute arising as a result of a claim under a clause in the ICW Structural Warranty Policy will be managed within the ICW Complaints Handling process and will not fall within the scope of the Code.

## 24.0 The ICW Dispute Resolution Scheme

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**24.1** The ICW Dispute Resolution Scheme (DRS) includes:

- Completion of the work required to the Home which is agreed by the Adjudicator within the financial limits of the Dispute; or
- A financial award of up to 25% of the Purchase Price of the Home, subject to a maximum of £15,000.00 (inclusive of VAT) from the Builder; or
- A combination of financial compensation and completion of the work to the Home within the financial limits of a Dispute; and may include
- Discretionary inconvenience compensation up to £1,000.00.

## 25.0 Co-operation with Professional Advisors

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**25.1** The Builder/Developer must fully co-operate with appropriately qualified Agent appointed by the Buyer to resolve the Dispute.

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## 26.0 ICW Dispute Resolution Scheme

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- 26.1** The ICW ADR process is an independent of the Builder/Developer and of ICW. Any matter referred to this scheme is solely with regard to a Dispute under the Code in respect of Snagging. Decisions are not insured under the ICW Structural Warranty Policy.
- 
- 26.2** The Buyer may refer a Dispute to ICW within 30 days of receiving a final response from the Builder/Developer.
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- 26.3** In the event that a Dispute cannot be resolved and either party does not accept the result, the case may be passed to an independent Adjudicator.
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- 26.4** The Adjudication will be an independent process conducted by the offices of The Property Ombudsman under their Alternative Dispute Resolution Scheme (ADR) ([www.tpos.co.uk](http://www.tpos.co.uk)).
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- 26.5** The Adjudicator will decide if the Buyer has a legitimate Dispute and if so, will decide if they have suffered financial loss, and/or emotional distress and/or inconvenience because of the Builder's breach of the Code. The Adjudicator will quantify the financial loss.
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- 26.7** The Builder/Developer must:
- Comply with the Adjudicator's decision(s), accepted by the Buyer and is/are within the remit of the Code;
  - Pay the Buyer the amount which the Adjudicator has awarded; and
  - Pay such an award within the time frame stated by the Adjudicator.
- 
- 26.8** The Adjudicator may impose an award or decision, including the following:
- Completion of the work required to the Home which is agreed by the Adjudicator and falls within the financial limits of the Dispute;
  - A financial award of up to 25% of the Purchase Price the Home subject to a maximum of £15,000.00 (inclusive of VAT) from the Builder/Developer;
  - A combination of financial compensation and completion of the work to the Home within the financial limits of a Dispute;
  - Discretionary compensation for inconvenience, of up to £1,000.00;
  - May rule that the complaint is not substantiated and reject the Dispute;
  - Reimbursement of the Buyer's case registration fee of £100; and
  - Refer the Builder to the Disciplinary and Sanctions panel.

## 26.0 ICW Dispute Resolution Scheme

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**26.9** The Buyer must:

- Complete an application form;
  - Send the completed form to the ICW Dispute Resolution Scheme (DRS);
  - Include all supporting evidence;
  - Should there be a requirement for independent report which has been required by the independent adjudicator, this will be at the cost of the Buyer and there is no guarantee that any adjudicator will reimburse the cost.
  - Attach copies of any receipts and/or invoices; and
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**26.10** The Adjudicator will:

- Ask the Builder/Developer to respond to the Buyer's statement;
  - Review whether the Buyer has a substantial complaint.
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**26.11** The Buyer will then be given a copy of the Builder's statement and asked to respond. At this stage in the process the Buyer cannot make any further complaint about the Dispute.

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**26.12** The Adjudicator will:

- Review all written statements submitted by both parties;
  - Decide if the Buyer has a bona fide claim;
  - Quantify any financial loss and/or emotional distress and/or inconvenience because of the Builders/Developer breach of the Code; and
  - Make a decision or award and communicate this to both parties.
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**26.13** The Adjudicator's decision is final and cannot be appealed. It can only be accepted or rejected by the Buyer.

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**26.14** Both parties will act in good faith and have mind of the proportionality of any costs.

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## 27.0 Awards Acceptance, Refusal and Liability

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- 27.1** A Builder/Developer who has signed the ICW Membership Rules and who has taken out an ICW Structural Warranty Policy is required to honour any award made against them under the ICW Dispute Resolution Scheme (DRS). If the Buyer accepts such a reward, the courts may recognise this as evidence that the claim was valid. Likewise, should a Buyer refuse to accept any subsequent award, a court may take cognisance of the adjudication process.
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- 27.2** A Builder/Developer remains liable to pay the Adjudicator's award, even if ICW removes them from the register.
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- 27.3** Under the ICW Membership Rules, a Builder/Developer agrees to comply with the terms and conditions of the Code and also to honour any decision given as a result of the ICW Dispute Resolution Scheme (DRS). In the event that a Builder/Developer refuses to accept such an award ICW (at its sole discretion) may chose to take legal action against the Builder/Developer to enforce the ICW Membership Rules.

## 28.0 Disciplinary and Sanctions Panel

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**28.1** Breaches of the Code are refusal to accept liability in respect of awards made are treated seriously by ICW. ICW at its sole discretion, may refer a Builder/Developer to the panel should they have been convicted of an offence (or signed for a formal caution) under regulation 12 and schedule 1, paragraph 4 of the Consumer Protection from Unfair Trading Regulations 2008.

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**28.2** Where required, ICW may convene a Disciplinary and Sanctions Panel. The Panel will include any people from the bodies listed below:

- 2 insurance professionals;
  - A Trading Standards professional;
  - A Construction Industry professional; and
  - A surveyor or engineer (RICS, CIOB's Professional).
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**28.3** The panel will also appoint a Chairperson.

Once the panel has met and the outcome has been confirmed, ICW will write to the entity facing the Disciplinary and Sanction Panel, informing them of the outcome. This information will then be passed to the CTSI to circulate within the rest of the structural warranty industry with the aim of stopping the entity from trading any further.



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