



**The Consumer Code for Home Builders
Adjudication Scheme
Rules (2010 Edition)**

These Rules apply to applications received on or after the 1st April 2010,

Meaning of words

Adjudicator	the person appointed by IDRS Ltd to decide the dispute
Code	the Consumer Code for Home Builders
Decision	the Adjudicator's written decision in the dispute, with the reasons, as sent to the Home Buyer and the Home Builder
Home	a property registered with a Home Warranty Body and covered by their Home Warranty Cover
Home Builder	a Home Builder or developer of new or newly converted domestic properties for sale to the public, who is registered with a Home Warranty Body
Home Buyer	a person who reserves or buys a Home (for Homes reserved or bought jointly by two or more people, the rights of the Home Buyer will be joint)
Home Warranty Body	an organisation that: <ul style="list-style-type: none">• maintains a register of builders and developers;• provides Home Warranty cover;• has agreed to support the Consumer Code for Home Builders Scheme; and• has undertaken to enforce the Code.
Home Warranty	an insurance-backed warranty for the protection of Home Buyers of new and newly converted Homes
Rules	these rules, which govern the conduct and operation of the adjudication scheme

1 Introduction

- 1.1 The Consumer Code for Home Builders Adjudication Scheme (the scheme) is provided independently by IDRS Ltd (the administrator) for resolving disputes between Home Builders and Home Buyers covered by the Code. For the purposes of the Rules, joint buyers of a Home will be regarded as acting as one individual Home Buyer and thus one party in any dispute. The Rules govern the resolution of disputes between Home Buyers and Home Builders arising from complaints about a Home Builder's non-compliance with the Code which are not directly covered by the terms of any insurance-based warranty issued by a Home Warranty Body.

2 Scope of the scheme

- 2.1 The scheme provides an informal and independent way of settling disputes between the Home Builder and the Home Buyer (the parties).
- 2.2 The scheme can consider disputes arising from anything a Home Builder does or does not do that the Home Buyer thinks is a breach of the Code and which may have caused the Home Buyer disadvantage or financial loss.
- 2.3 An independent Adjudicator appointed under these Rules will make a Decision on disputes by considering written evidence received from the parties.
- 2.4 The Adjudicator can ask for extra information about anything from any party, if this is needed, in order to settle the dispute in a fair and reasonable way, in line with the law and the Code.
- 2.5 The administrator manages the process and is responsible for appointing an Adjudicator.
- 2.6 The Adjudicator's Decision will become binding on a Home Builder if the Home Buyer tells the administrator that they accept the Decision. If a Home Buyer rejects the Decision or does not tell the administrator that they have accepted the Decision within six weeks, the Decision will not take effect and will not be binding on either party. The Home Buyer cannot accept the Decision after the six-week deadline.

- 2.7 A Home Buyer cannot claim for more than £15,000, including any consequential damages and VAT. The £15,000 includes any amount for inconvenience, which is limited to £250 per claim.
- 2.8 The dispute must not be subject to any current or previous court action unless that action is suspended or discontinued by agreement between the parties or by court order.
- 2.9 The matters in dispute must not be the subject of any current or previous adjudication involving the same Home Buyer and the same property.

3 Applying to use the scheme

3.1 To apply to use the scheme, the Home Buyer must ask for an application form from the Home Warranty Body that issued the Home Warranty for their Home. The Home Buyer must bring the claim within three months after the date of the Home Builder's final response to the original complaint, or three months after the date of the original complaint, whichever is the later. The Home Builder must accept an application for adjudication under the scheme if:

3.1.1 the Home Builder is registered with the Home Warranty Body;

3.1.2 the Home is registered with the same Home Warranty Body; and

3.1.3 the dispute has not been resolved to the Home Buyer's satisfaction through the Home Builder's own complaints-handling procedure.

4 Adjudication procedure

4.1 Adjudication begins when the administrator receives the Home Buyer's claim.

4.2 The Adjudication will be based only on written evidence presented by the parties in dispute, except where the Adjudicator decides either to get more information under Rule 5.2 or to consult an independent expert under Rule 5.4.

4.3 The Home Buyer's application must give reasons for the items claimed, including:

a) the events leading up to the dispute;

- b) the precise nature of the dispute;
- c) the grounds for claiming the items or the remedy the Home Buyer wants, including all available receipts or other proof of expenditure;
- d) the reasons for the amount of any money claimed.

The application can be supported by documents (for example, photographs, copies of contracts, technical reports or other documents) but should not consist only of correspondence.

- 4.4 When the administrator has received a properly completed application form, it will send the Home Builder a copy of that form. The Home Builder has 21 calendar days from the date of receipt to give the administrator **either** of the following:
- a) written confirmation that the claim has been settled and details of the settlement. The details must include whether they have reimbursed the Home Buyer's registration fee, and include the early settlement fee in accordance with schedule 1 to these Rules; or
 - b) two copies of their response to the claim and payment of the case fee in accordance with schedule 1 to these Rules.
- 4.6 The Home Builder may offer settlement terms to the Home Buyer. The adjudication procedure will be closed only when the administrator confirms that the Home Buyer has accepted the settlement in writing. The administrator will inform both parties that they have received the acceptance and that the adjudication procedure is closed.
- 4.7 An Adjudicator will be appointed, unless within 21 days of the date the Home Builder receives the application form, the Home Builder informs the administrator that the claim has been settled in accordance with Rule 4.6.
- 4.8 If there is no written confirmation of settlement, or the Home Builder does not file its response in the time allowed, the Adjudicator will decide the dispute by considering only the information the Home Buyer has provided.

- 4.9 When the administrator receives the Home Builder's response, it will send a copy to the Home Buyer, who will have seven calendar days to provide any further comments on that response. The Home Buyer's comments must be restricted to points arising from the Home Builder's response and must not introduce any new complaints. The Adjudicator will disregard new complaints in these comments.
- 4.10 If the Home Buyer makes any comments on the Home Builder's response, the administrator will send a copy of them to the Home Builder, and at the same time give both parties the name of the independent Adjudicator it has appointed.
- 4.11 The Adjudicator may contact the parties by phone, fax, letter or e-mail to ask for further documents or information the Adjudicator may need to make the Decision. If the parties do not provide the extra information within the time the Adjudicator sets, the Adjudicator may decide the dispute by considering only the information already provided. The administrator will copy to the other party any additional documents supplied in response to the request.
- 4.12 The Adjudicator will make a Decision, usually within eight weeks of receiving the application.
- 4.13 The administrator will give the parties a copy of the Decision, including the reasons for it. A copy of the Decision will be sent to the Home Warranty Body to help it to monitor the effectiveness of the Code.
- 4.14 When the Home Buyer receives the Adjudicator's Decision, the Home Buyer must contact the administrator within six weeks of the issue date of the Decision to state whether or not they accept the Decision. The administrator will inform the Home Builder that the Decision has been accepted by the Home Buyer.
- 4.15 The Adjudicator's Decision is only binding on the Home Builder if the Home Buyer has accepted it as set out in Rule 4.14. No party can appeal the Decision. It can only be accepted or rejected by the Home Buyer.
- 4.16 If the Home Buyer or the Home Builder wants their original documents back, they must ask the administrator for them within six weeks of the date of the Adjudicator's Decision. If the administrator does not receive such a request within six weeks, all paper documents will be destroyed.

- 4.17 If the Adjudicator decides that the Home Builder must make a payment to the Home Buyer under Rule 5.7, then the payment must be made within four weeks of the Home Buyer notifying acceptance of the Decision. When the Adjudicator instructs the Home Builder to make payment, the Home Builder must pay the Home Buyer direct and tell the administrator that this has happened.
- 4.18 If the Adjudicator decides that the Home Builder must take any other action under Rule 5.7 and the Home Buyer accepts that Decision, the Home Builder must complete the necessary action within four weeks, or within any other timescale the Adjudicator gives, and must tell the administrator that they have done so. If the Home Builder cannot do what is needed within four weeks or the timescale the Adjudicator gave, then the Home Builder must tell the Home Buyer and the administrator why and give a date for it to be completed.
- 4.19 IDRS Ltd will keep a record of the outcome of the adjudication procedure to monitor and report its performance and effectiveness.

5 Adjudicator's powers

- 5.1 The Adjudicator will remain fair and unbiased throughout the adjudication and will decide the case in line with the relevant law, any relevant contracts between the parties, and the Code. The Adjudicator will act quickly and efficiently, deciding the dispute in a fair and reasonable way.
- 5.2 If a delay may prevent the Adjudicator making the Decision within eight weeks, the Adjudicator may refuse to consider documents or other evidence not provided within timescales set down by these Rules, or the timescales the Adjudicator gives when requesting extra information.
- 5.3 Only the Adjudicator can decide whether a dispute is suitable for resolution under the Rules of this scheme. If the Adjudicator decides that a dispute is not suitable for resolution under the scheme, they will issue a Decision stating this and giving their reasons within four weeks after receiving any extra information requested or answers to any questions raised with either or both of the parties.
- 5.4 For some disputes the Adjudicator may need to get advice from an independent expert. In such cases the Adjudicator will consult the parties before appointing an expert, giving reasons for the independent advice. The parties will pay any reasonable fees involved in accordance with Schedule 1 to the Rules.

5.5 The Adjudicator can do the following:

5.5.1 Change time limits for the parties to provide their comments, and set time limits within which the parties must provide extra information.

5.5.2 Allow the parties to give more evidence, or change any previous comments or details of the claim (but not the amount claimed on the application form).

5.5.3 Make any necessary enquiries, but the Adjudicator must tell the parties about those enquiries and allow them to comment on the findings.

5.5.4 Receive and take account of any spoken or written evidence the Adjudicator thinks is relevant.

5.5.5 Carry on with the procedure if either party does not keep to these Rules or follow any instruction they are given, or if either party does not take part in any conference call arranged by the Adjudicator.

5.5.6 End the adjudication procedure if it appears that the dispute cannot be settled under the scheme or if the parties settle their dispute before a Decision is made. (If the parties settle the matter themselves, they must immediately notify the administrator of the settlement, in writing.)

5.6 If the parties do not provide anything needed under these Rules, nor within seven calendar days of the administrator reminding them, then the following will apply:

5.6.1 If a Home Buyer does not return the application or supporting documents, the administrator will assume that the Home Buyer does not want to go ahead with the claim.

5.6.2 If the Home Builder does not respond to the Home Buyer's claim, the Adjudicator may base their Decision only on the information the Home Buyer provides.

5.6.3 If either party does not provide any information the Adjudicator has asked for, the adjudication will continue in a way that the Adjudicator considers appropriate within the Rules.

5.7 If the Adjudicator agrees with the claim, they can tell the Home Builder to do any or all of the following:

5.7.1 Give the Home Buyer an apology or explanation.

5.7.2 Take some practical action that will put right the matters complained of.

5.7.3 Pay the Home Buyer the cost of putting right the matters complained of.

5.7.4 Pay the Home Buyer the expenses reasonably incurred as a result of the Home Builder not complying with the Code.

5.7.5 Pay the Home Buyer an amount for inconvenience.

5.7.6 Reimburse the Homeowner their Registration fee.

The Home Builder must bear the cost of resolving the complaint under Rule 5.7.2 or pay the Home Buyer the costs (including VAT) of resolving the complaint under Rule 5.7.3, provided that they both:

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

5.8 The total amount payable under Rule 5.7.5 may not exceed £250. The total amount payable under Rules 5.7.2 to 5.7.5, may not exceed a total of £15,000 including VAT.

5.9 If the Adjudicator does not agree with the claim, they can dismiss it.

6 Costs

6.1 The Home Buyer must pay a registration fee to the administrator when making an application. The Home Builder must pay the balance of the case fee. Registration and case fees are shown in schedule 1 to these Rules. Payment of case fees will be due:

6.1.1 either following settlement of the dispute before the appointment of the Adjudicator,

or

6.1.2 when the Home Builder sends its response to the claim.

The parties must also pay the fees for any expert help.

6.2 The parties will pay their own costs of preparing their cases. They may not take legal action to recover these costs.

7 Confidentiality

7.1 Details of the proceedings must not be disclosed to anyone not involved in them by any party to a dispute referred to the scheme or by the administrator or the Adjudicator. The only exception is their professional and legal advisers or when disclosure is needed to enforce the Decision or as may be required by law.

7.2 Despite Rule 7.1, the administrator and the relevant Home Warranty Body may:

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

They may do this provided no personal data or confidential information is published, such as data that might identify a Home Buyer or Home Builder.

8 Administrator's immunity

8.1 Neither the administrator, nor any person chosen by them or the parties to appoint an Adjudicator, is liable for anything done or omitted in doing or trying to do their job unless the act or omission was in bad faith. The parties must fully protect the administrator, or the chosen appointing person, against any possible legal action brought by a third party, arising from the carrying out of that job, unless the act or omission was in bad faith.

9 Adjudicator's immunity

9.1 Neither the Adjudicator nor any of their employees or agents is liable for anything done or omitted in doing or trying to do their job as Adjudicator, unless the act or omission was in bad faith. The parties must fully protect the Adjudicator against any possible legal action brought by a third party, for any act or omission.

10 Other rules

10.1 If necessary, the administrator will appoint a substitute Adjudicator and give the parties his or her name.

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

10.3 If a party has a complaint about the scheme, or the Adjudicator's application of the Rules, or a member of the administrator's staff, they should follow the administrator's complaints procedure. Copies of the procedure are available on request from the administrator.

10.4 The Rules may be updated. Disputes will be decided according to the Rules in force at the time the Home Buyer applies to use the scheme.

10.5 The version of the Consumer Code applicable to any case referred to the adjudicator will be the one that was in force at the time of Reservation.

Schedule 1

1. The Home Buyer must pay a registration fee of £100 plus VAT to the administrator when making an application.
2. The Home Builder agrees to pay a case fee of £300 plus VAT for any case they are involved in. The case fee is only payable if an Adjudicator is appointed to decide the case.
3. If the Home Builder and the Home Buyer agree a settlement after the case has been accepted but before the Adjudicator has been appointed, the Home Builder will only pay £100 plus VAT per case (the early settlement fee).
4. The early settlement fee will be due for payment when the Home Builder involved in any case notifies the administrator that they have settled the case:
 - a) after the administrator has received a valid application form but has not yet appointed an Adjudicator in accordance with the Rules; and
 - b) after the Home Buyer has informed the administrator of the settlement.
5. The case fee will be due for payment when the Home Builder involved in a case submits their response to the claim to the administrator, under the Rules.
6. The registration fee, early settlement fee and the case fee will not be refundable in any circumstance.
7. The parties will pay the reasonable professional fees of any independent technical expert an Adjudicator appoints in accordance with the Rules, their respective shares of such fees having been negotiated between them and agreed with the adjudicator before an expert is appointed.