

2015

**CONSUMER
CODE** FOR
HOME BUILDERS

www.consumercodeforhomebuilders.com



Annual Report



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“The United Kingdom needs a strong homebuilding Industry commanding the confidence of both consumers and investors and I have taken very seriously my position as Independent Chairman of the Review of the Consumer Code for Home Builders. The Industry has now made great strides in producing an updated Consumer Code which is fit for purpose in today's world. The challenge for the months ahead is to ensure effective governance, a robust compliance regime and full external accreditation.” *John Bridgeman, CBE*

Foreword

The Report covers the two years 2014-15 and 2015-16, enabling the major consultation and review of the Code in this period to be incorporated in the Report.

Introduction from the Chairman

The drive to build new homes remains central to the Government's agenda. Consumer confidence is vital to ensure the market remains buoyant. The Consumer Code has been playing an important role in supporting public confidence over the last five years as evidenced by market research of Home Buyers. The Industry has wholeheartedly embraced the Code and I am grateful to the various Industry representative bodies for their part in promoting the Code to their members.

The important role the Code has to play has also been recognised by Government and the devolved administrations and they have made the Code a central part of the core criteria for the Help to Buy schemes in England, Scotland and Wales.

The last two years of operation have been dominated by the assessment of a large number of applications for membership of the scheme. This has proved a highly complex and time consuming task which continues. A major challenge has been to assess that applicants meet a standard of best practice in the Warranty market. Alongside this process we have seen some warranty providers seeking the approval of similar Codes by the Chartered Trading Standards Institute (CTSI), albeit covering a relatively small part of the new homes market. We have also applied for accreditation by CTSI.

Ultimately it is clear that one or more other Codes may exist, offering similar levels of protection to consumers and whilst this has the potential of creating some confusion for consumers, the main challenge will be to ensure that there is not a migration of builders who fail to satisfy one Code obtaining membership of another. We are already in dialogue with CTSI about this issue and expect a protocol to be agreed to prevent any consumer detriment.

We embarked on the second triennial review of the Code under the Independent Chairmanship of John Bridgeman CBE, a former Director General of Fair Trading.

In the light of past experience and cognisant of the changes in the landscape in which the Code operates, we are proposing a number of amendments and most notably;

- 1. Improving consumer awareness of the Code by encouraging its greater prominence in sales offices;**
- 2. Supporting on line training for front line sales staff to improve overall compliance with the Code at the point of sale;**
- 3. Improving the pre-purchase information Home Buyers receive when making purchasing decisions such as information on event fees.**

The consultation process for the review closed at the end of April 2016 with the intention of any agreed proposals for change being published in October 2016. Revisions will be implemented in April 2017.

In parallel with the Review we are working in partnership with the Home Builders Federation, Homes for Scotland and other Industry organisations on a project to enhance the training of front line staff employed by builders and Estate Agents. The project is being supported by the Construction Industry Training Board. We also intend to make the training material available to the Law Societies in recognition that their members play a central role in the purchasing process.

A unique feature of the training proposed will be the marriage of training about the Code Requirements with training about Consumer Protection Regulations which apply to property transactions and which have a clear synergy with the Code.

The past two years have produced the heaviest workload since the Code's inception and I would like to convey my sincere thanks to all members of the Board, the Advisory Forum and our dedicated Secretariat for their continued commitment and support.

Who we are and what we do

Who we are

The Consumer Code for Home Builders ("the Code") is a voluntary Code that was developed and led by the Industry to provide additional consumer protection.

The purpose of the Code is to provide protection and rights to purchasers of new homes, ensuring that all new Home Buyers are treated fairly and are fully informed about their purchase before and after they sign the contract.

Since its launch in April 2010, the Code has gone from strength to strength. The principles of the Code have been firmly adopted and embedded into the processes of many Home Builders while raising the standard of service and support provided to Home Buyers.

The Code reinforces best practice among Home Builders to make sure the level of information and customer service provided by all Home Builders is consistently high and provides for a speedy, low cost dispute resolution scheme to deal with complaints.

Governance

A Management Board is responsible for operating the Code and is chaired by Noel Hunter OBE, who brings unrivalled expertise in consumer protection, gained through a wide variety of organisations.

He is a previous Vice Chair of the Council of the Property Ombudsman, a Non Executive Director of the Board of the Chartered Trading Standards Institute, and Chairman of a Third Sector Hospice.



Noel Hunter OBE
Chairman of Consumer
Code Management Board

Noel is supported by other Board members:



Ian Davis

Operations Director of
NHBC



Gary Devaney

Group Chairman and Chief
Executive Officer of MD
Insurance Services Ltd.



Mike Freshney

Chairman of Consumer
Code Advisory Forum

During this time, the Management Board was strengthened by the appointment of Philip Hogg (former Chief Executive of Homes for Scotland) and Sue Green (former Manager of Stratford upon Avon Citizens Advice Bureau). Both have since moved on but their insight and input during their time has proven invaluable to the Code and the Management Board express their sincerest thanks for the contributions made.

Advisory Forum

The Management Board is supported by an Advisory Forum that is chaired by Mike Freshney. The Advisory Forum is an Industry-wide body that represents, consults and advises on Code content; its practical application and operation, through which changes and improvements are channelled.

Members of the Advisory Forum include:

- **Chartered Trading Standards Institute**
- **Citizens Advice**
- **Construction Employers Federation (NI)**
- **Council of Mortgage Lenders**
- **Federation of Master Builders**
- **Home Builders Federation**
- **Homes for Scotland**
- **House Builders' Association**
- **LABC Warranty**
- **NHBC**
- **Premier Guarantee**
- **Retirement Housing Group**

In May 2014, as the Code continued to gain momentum and become established in the house building arena, the Management Board agreed to the appointment of a more permanent secretariat and Carol Brady took up the role providing day to day support to the Code activities.

Our Aims

The aim of the Code is to ensure that all new Home Buyers:

- **are treated fairly at all times;**
- **are given reliable information about their purchase and consumer rights before and after they move in to their new home;**
- **know what levels of service to expect and**
- **know how to access an independent, speedy, low-cost dispute resolution scheme to deal with any complaints.**

Chartered Trading Standards Institute's Consumer Codes Approval Scheme

In 2014, the Code's Management Board took the decision to gain approval through the Chartered Trading Standards Institute's (CTSI) Consumer Codes Approval Scheme (CCAS), which has succeeded the previous Office of Fair Trading scheme. This facilitated self-regulation aims to bolster consumer protection and improve customer service standards by the approval and promotion of codes of practice; setting out the principles of effective customer service and recognising approved traders.

The Code's Management Board felt it was important to show how the Code helps strengthen consumer protection and improve customer service standards by the approval of CTSI under their CCAS. This will help to embed the promotion of consumer interests within our own Code as well as promoting the home building Industry - and in particular those Home Builders registered with the Code's supporting home warranty providers - as one that consumers can trust.

Home Warranty Providers Apply to Join the Code

We were pleased to see the credibility of the Code recognised by the 'Help to Buy' scheme in England and Scotland, with the requirement that the terms of the Code should be observed by Home Builders promoting Help to Buy.

A major lender also made adoption of the Code by Home Builders registered with Home Warranty Bodies a requirement, as a way of recognising approved home warranty schemes. Other warranty providers who wished to become Code Users, as a consequence, approached the Code. Those applications have been assessed against criteria which was previously agreed during our consultation with the Office of Fair Trading when the Code was established, to ensure they meet a standard of best practice in the Warranty market. Dialogue with some applicants is still on-going.

Code Review

After its launch, the Code was originally reviewed in 2012 and changes were made as a result of the feedback received. The Code is now in its third edition.

However, in light of a further three years' experience of operating the Code and feedback from our mystery shopping; adjudications from our Independent Dispute Resolution Scheme; discussions with stakeholders and applicants to become a User of the Code, the Code's Management Board committed to a further review in 2015 for implementation of any changes required in 2017.

Therefore, throughout September and October 2015, views were sought from Home Builders, trade bodies, consumers and all other stakeholders on the overall scope, operation and impact of the Code.

The purpose of the review, which has been overseen by an Independent Chairman, John Bridgeman CBE, a former Director General of Fair Trading, is to seek the widest possible perspective on the Code to ensure it retains and builds upon the strengths of the current requirements, and support of the Industry.

The initial consultation period closed on 31 October 2015 and we received 25 responses from across our stakeholder landscape, including from Government; the legal profession; consumer representatives and the home building Industry membership organisations that collectively, represent over 9,500 Home Builders.

Having considered those responses, the Code's Management Board proposed a number of changes to the Code and/or the good practice guidance provided to Home Builders. Such changes included:

- **Improving consumer awareness of the Code by encouraging its greater prominence in sales offices;**
- **Supporting on line training for front line sales staff to improve overall compliance with the Code at the point of sale;**
- **Improving the pre-purchase information Home Buyers receive when making purchasing decisions such as information on event fees.**

A further consultation on the proposed changes took place throughout March 2016 and consideration will be given to those changes, in light of the further responses received, in relation to what amendments need to be made to the Code and/or good practice guidance to enhance the protection it already offers consumers.

The implementation date for any changes will be April 2017.

Market Research

Customer Satisfaction

Home Builders continue to achieve very high levels of customer satisfaction for new built homes. The Home Builders Federation's (HBF) National New Homes Survey of Homeowners (published March 2016) showed that over 86% of Home Buyers were satisfied with the overall quality of their new home, with 85% saying they would recommend their Home Builder to a friend.

The HBF survey, now in its eleventh year, is a self-completion census of new home purchasers and some 45,342 responded to the latest survey. The results show continued high levels of home owner satisfaction with the quality of new homes and the service they receive before, during and after moving in.

79% of home owners were very, or fairly satisfied, with the service they received during the home buying process, while 91% of home owners said they would buy a newly built or newly converted home again.

The full results of the survey, which we take into consideration when monitoring the effectiveness of the Code, can be seen here: <http://www.hbf.co.uk/policy-activities/customer-satisfaction-survey/2016-results/>

Mystery Shopping

Monitoring how well the Code is being applied by Home Builders is an important aspect of ensuring that the effectiveness of the Code is properly tested.

The research helps us to monitor compliance with the Code and to consider areas that we might need to strengthen or improve if we are to ensure the home buying process remains fair and transparent for purchasers.

A sixth wave of research has been undertaken since the Code's introduction in April 2010 and the sample of Home Builders used reflected the percentage of homes they built.

The key aim of the mystery shopping is to explore the extent to which the Code is being adhered to by sales staff on site and in Estate Agents' offices and takes into account the new home buying experience from the perspective of consumers¹.

¹ Researchers aim to create the "real life" consumer experience and do not reveal themselves as mystery shoppers. They try to ensure that the income level and circumstances which they discuss with the site staff reflect the property or plot in question

Results

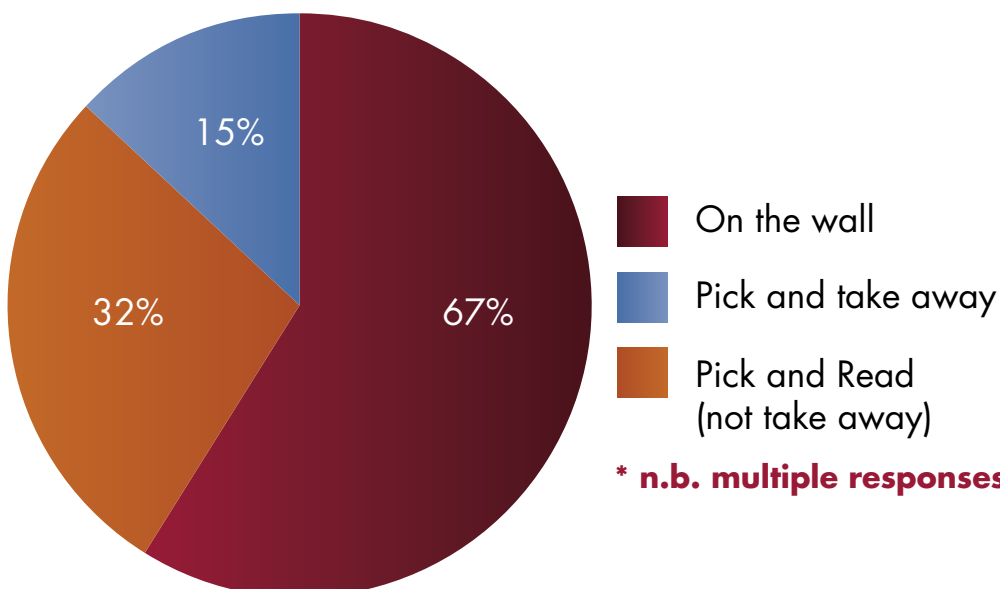
The results from the mystery shopping showed that:

- **33% of Home Buyers going to a Home Builder's site unaware of the Code would leave knowing more about it.**
- **Total awareness (that is, spontaneous and prompted awareness combined) of the Code across site sales staff was 80%, an increase on last year but still lower than the results from Wave 4 of our research.**
- **The number of Home Builders' sites displaying the Code has increased on the previous year from 27.5% to 30%.**
- **All researchers asked for a copy of the Code and this was given in 21.5% of cases and a further 17.5% were directed to the Home Builder's or Consumer Code's website. The Code requires Home Builders to provide a copy of the Code to everyone who reserves a home. The HBF customer satisfaction survey shows that only 6.5% of Home Buyers reported never receiving a copy of the Code. 55.5% of Home Buyers recall they did receive a copy with the other 38% being unable to recall whether they did or did not receive a copy.**

Visibility of the Code

In site sales offices the Code was displayed in a variety of formats as shown below. However, the number of consumers being provided with a copy when requested has reduced, which could demonstrate a lack of understanding of what is required in relation to making the Code available. More work will be done here, as part of the Code's triennial review, by way of making the existence of the Code Scheme better known to Home Buyers.

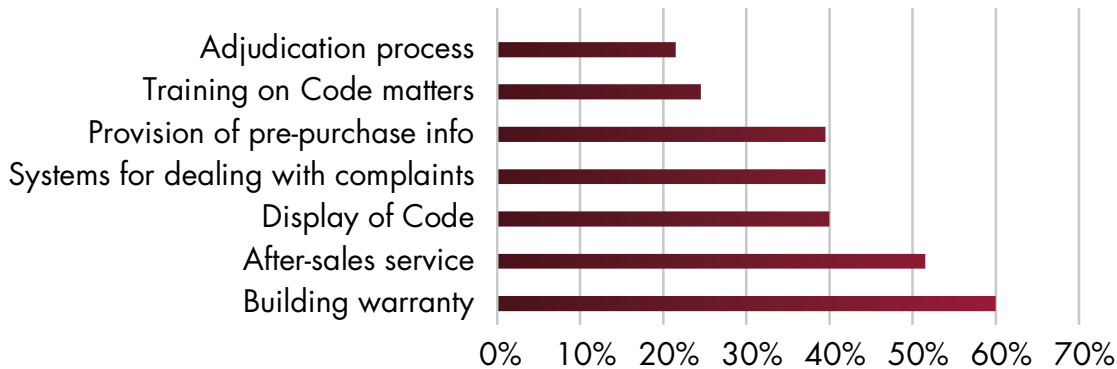
Methods of how the Code was displayed in sales offices



* n.b. multiple responses were given by some

Knowledge of the Code

When discussing the Code, sales staff were able to talk knowledgeably in the following areas:



Estate Agents

Estate Agents often play an integral part in the selling of new homes on behalf of a developer and for the third year, our mystery shopping entailed approaching Estate Agencies selling new homes across England, Wales and Scotland. Estate Agents were split by categories of local, independent and national chains.

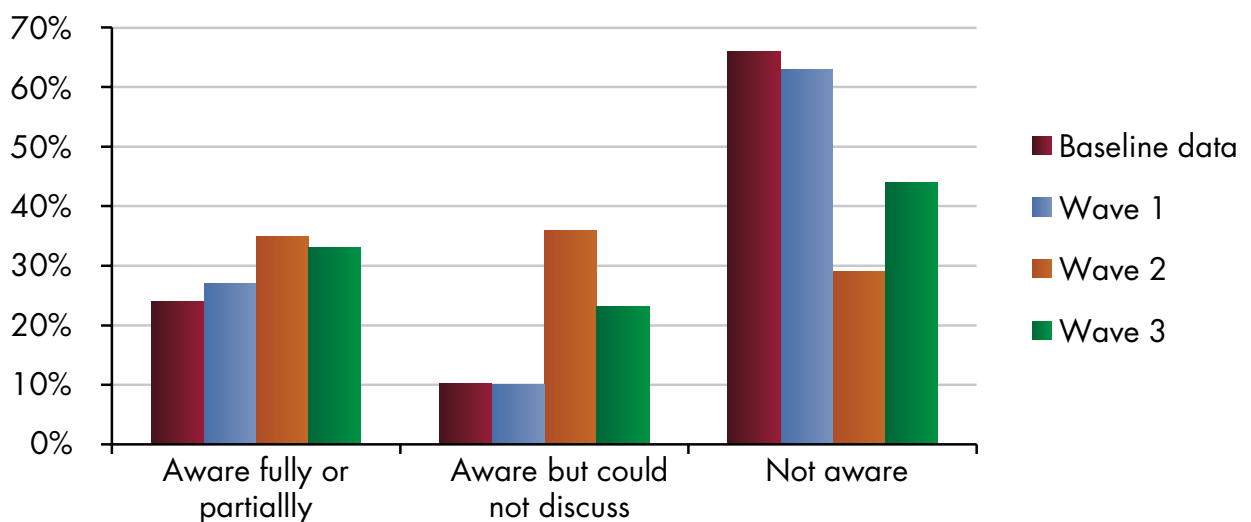
Results

The results showed that:

- **33% were able to discuss some aspect of the Code (a slight decrease on the previous year's results)**
- **11% displayed the Code which is the highest since the research began**
- **Total awareness (that is, spontaneous and prompted awareness combined) of the Code is at 39% and its highest to date**

While a number of these signs are positive, the research shows there is still further work to do in raising the awareness of the Code with Estate Agents as, despite falling over previous years, the number of Estate Agents not aware of the Code has increased significantly to 44% in this wave from wave 2.

Could Estate Agent discuss the Code?



Next steps

While we are encouraged by some of these results overall, there remains work to do in raising awareness of the Code both with Home Builders and the Estate Agents they use and we continue to work closely with the Industry and in partnership with the National Association of Estate Agents (NAEA) to do so.

Such plans for the future will include revisions to the requirements of the Code as part of our planned triennial review in 2016 and improvements to our on-line e-learning material and the introduction of webinars.

Independent Dispute Resolution Scheme

If things go wrong

If a Home Buyer believes they have a dispute because a Home Builder has failed to meet the requirements of the Code, which falls outside the scope of their new home warranty, they may refer their dispute to the Code's independent dispute resolution scheme. This scheme is run by IDRS Ltd, a wholly owned subsidiary of the Centre for Effective Dispute Resolution (CEDR).

Under the Code, Home Builders are required to have a system for dealing with complaints and a Home Buyer must first of all give a Home Builder the opportunity to rectify any matters. However, if a Home Buyer is not happy with the response of their Home Builder, they can apply to the warranty provider to resolve the issue. On matters which are not covered by the warranty, the Home Buyer can apply to the Independent Dispute Resolution Scheme to have the dispute, which the Home Buyer thinks is a breach of the Code, considered and if it has caused the Home Buyer to be disadvantaged and to have suffered financial loss.

Further details of the scheme and summaries of case adjudications can be found on the Code's website at: <http://consumercodeforhomebuilders.com>

Adjudication facts and figures

Between 1 January 2014 and 31 December 2014 there were a total of 43 cases referred to the scheme, almost twice the amount of cases referred in the 2013 reporting period. For the period 1 January 2015 to 31 December 2015 there were a total of 66 cases referred to the scheme, representing a yearly increase of 53% on 2014.

However, to put this in to context, given the many thousands of Home Buyers that are covered by the Code², the numbers seeking assistance through the scheme are still very low, equating to approximately just 0.03% of the home buying population.

² 144,890 permanent dwellings completed in the UK in 2014 according to DCLG's data tables on house building

A summary of the cases over the past six years are broken down as follows:

	2015	2014	2013	2012	2011	2010
Number of cases found fully in favour of the Home Buyer	3	1	0	1	0	1
Number of cases found partly in favour of the Home Buyer	43	21	10	5	6	0
Number of cases found fully in favour of the Home Builder	5	10	9	8	6	0
Number of cases settled	6	6	0	1	0	0
Number of cases withdrawn from the Scheme or deemed invalid	9	5	3	2	2	2
TOTAL CASES	66	43	22	18	14	3

Claims

While there has been an increase in the overall case numbers, which has led to a rise in the total sum awarded to Home Buyers, the average amount awarded to Home Buyers by the independent Adjudicators has been consistently falling for a number of years.

In 2015, the average sum awarded by Adjudicators in cases where the Home Buyer's claim was successful was £2,031.67. This continues a trend of declining average awards in previous years, from £2,219.66 in 2014 and £2,651.25 in 2013.

	TOTAL SUM AWARDED
2015	£93,456.78
2014	£48,832.52
2013	£26,512.47
2012	£4,680.00
2011	£18,205.70
2010	£5,000.00

Acceptance or rejection of decisions

Decisions made by Adjudicators can only be accepted or rejected by the Home Buyer under the scheme. Decisions are not open for review or appeal. Below is a breakdown of the cases that have been accepted or rejected by Home Buyers over the last six years.

	2015	2014	2013	2012	2011	2010
Decision accepted	42	19	8	6	7	1
Decision rejected	6	11	6	5	3	0
No response	3	2	5	3	2	0

In 2015, 82% of decisions were accepted by Home Buyers. This is a significant increase on 2014, when 59% of decisions were accepted.

Findings show that Home Buyers generally accept an Adjudicator's decision where they have succeeded in their claim against a Home Builder, whereas decisions in which the Home Buyer is unsuccessful, are generally rejected.

Five cases were dealt with in 2015 where the Adjudicator found the Home Buyer's claim to be successful, but the Home Buyer did not accept the decision. This most often occurs where the redress awarded by the Adjudicator has been a very small fraction of that sought by the Home Buyer.

Sanctions

Sanctions for Home Builders not adhering to the Code could include financial penalties, re-training or suspension from the new home warranty providers' registers.

Main issues of dispute

Given the volume of new home sales within the UK, the number of Home Buyers that use the Code's independent dispute resolution scheme is low by comparison. It is difficult therefore to undertake any meaningful analysis and draw trends and themes given the lack of statistical significance. However, of the 46 decisions where the adjudicator found the Home Builder to have breached the Code, the most common cause of breach included:

- **Section 5.1 - a breach of the Requirement to provide appropriate procedures for handling calls and complaints (54% of cases);**
- **Section 2.1 - a breach of the Requirement to provide the Home Buyer with enough pre-purchase information to help them make a suitably informed purchasing decision (37% of cases);**
- **Section 3.2 - a breach of the Requirement to provide reliable and realistic information about the construction, legal completion and handover date of the Home (35% of cases);**
- **Section 3.1 - a breach of the Requirement to ensure that the contract of sale terms and conditions are clear and fair (24% of cases).**

Comparatively fewer disputes came to the Scheme in 2015 regarding the Home Builder's failure to reimburse the Home Buyer's reservation fee (under Code section 2.6), which was a common cause of complaint in previous years.

Communications and partnerships

We make full use of a range of communication channels to inform, assist and exchange views with a wide variety of organisations with an interest in the Code. Effective and regular communication with the Industry, consumers and stakeholders remains an important element of articulating our aims, role and achievements.

Working with other organisations

We have continued to build upon the strong relationships the Code has with a range of our stakeholders including Industry bodies; Government departments, UK Law Societies, consumer groups and other interested organisations.

We continue to work in partnership with the National Association of Estate Agents (NAEA) ensuring reference to the Code is contained within sales literature and top of minds for the sales team. Our support at NAEA's various conferences has enabled us to present to large numbers of their members in relation to the part they play when complying with the Code and we have seen an uptake in the numbers using our Checklist which helps with compliance.

Lawyers remain important players in the home buying process whether representing the Home Builder or the Home Buyer. We continue to work closely with the three United Kingdom Law Societies in relation to training on the Code, with a practice guidance note being considered for solicitors instructed in the conveyancing of a new property.

Consumers are also a key target audience in relation to raising awareness of the Code and we were represented at the Chartered Trading Standards Institute's and Citizens Advice Annual Conferences held in Harrogate, Telford and Warwick.

Web presence

The Code's website continues to be the main source of information relating to the Code: www.consumercodeforhomebuilders.com and is regularly updated with key information, including summaries of all adjudications from our Independent Dispute Resolution Scheme.

The participating warranty providers also provide on-line training and Home Builder toolkits to support awareness and practical implementation of the Code. The on-line training package, is made available to all Home Builders and their Agents, via the participating warranty providers, and covers all areas of the Code Requirements.

Front line sales staff both on site and at Agents' offices find the training of particular significance. For those interested in registering for the training they can go to the Home Builders section of the Code's website for more details <http://consumercodeforhomebuilders.com/homebuilders/>.

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