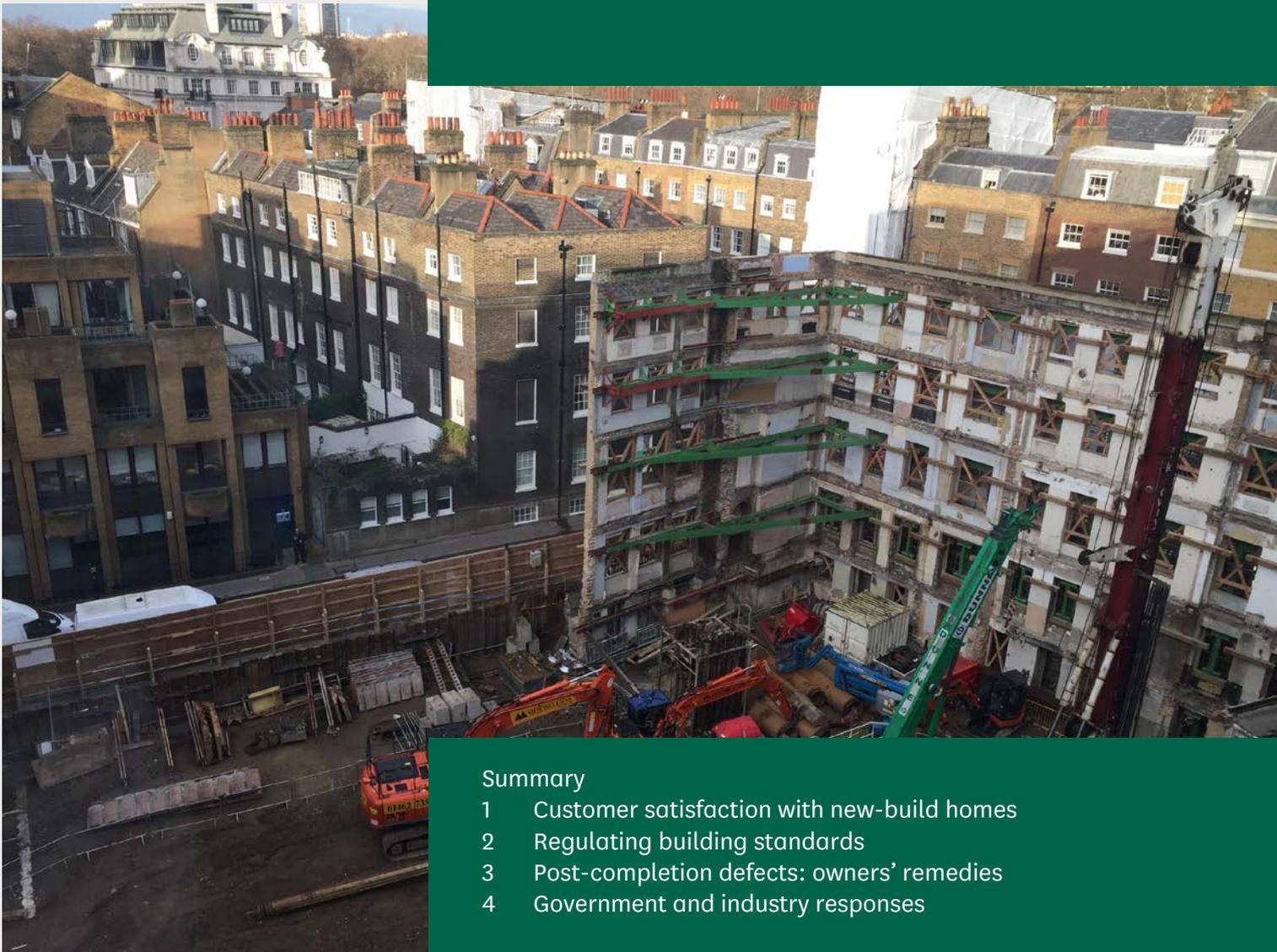


Research Briefing

By ,
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17 January 2022

New-build housing: Construction defects - issues and solutions (England)



Summary

- 1 Customer satisfaction with new-build homes
- 2 Regulating building standards
- 3 Post-completion defects: owners' remedies
- 4 Government and industry responses

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Summary

The quality of new build housing

A good deal of political attention is focused on increasing the rate of house building, but alongside this are significant concerns about the quality of new developments. Concerns intensified after the Grenfell Tower fire in 2017.

There's evidence of owners of newly built homes struggling to achieve satisfactory resolution when defects are reported to builders. The role of building control officers in ensuring compliance with the Building Regulations was the subject of Westminster Hall debates in [2015](#) and [2016](#).

A Westminster Hall debate on [16 October 2017](#) focused on warranties issued by the National House Building Council (NHBC). Kate Green secured a Westminster Hall debate on [Protection for Homebuyers](#) on 13 December 2018. She led a [further debate](#) on the same subject on 16 January 2020, during which she referred to her constituents' experiences.

There are some high profile examples of blocks facing demolition/major repair work only a short time after completion due to construction defects, for example [Solomon's Passage in Southwark](#) was completed in 2010 and condemned in 2016.

Evidence of customer satisfaction

Dame Kate Barker's 2004 [Review of Housing Supply](#) called on the house building industry to demonstrate increased levels of customer satisfaction. The Home Builders Federation (HBF) and National House Building Council (NHBC) began to conduct national annual surveys of house builders in 2005.

The most recent survey was conducted over 12 months from October 2019 to September 2020 – the [results](#) were published in March 2021. The 2019/20 survey recorded 88% of respondents as very, or fairly, satisfied with the overall quality of their new home. This represented an increase on 86% in 2018/19. 91% of respondents said they would recommend their builder to a friend, up 2% on the previous year and 7% in the previous four years.

The HomeOwners Alliance also conducts annual surveys of homeowners, the most recent of which was published in August 2019. The survey recorded concerns about the quality of Britons' homes as "the fastest rising issue" with almost two thirds (63%) citing housing quality as a serious problem.

The [outcome of a Government consultation on consumer redress for buyers of new build homes](#) (February 2020) noted: “Through the consultation we heard of the experiences that individuals have had when buying new build homes, which were, in the main, negative.”

Research and recommendations

The [Callcutt Review of Housebuilding Delivery](#) (PDF, 2007) recorded concerns about caveats included within warranties provided on new homes. It was felt they may not offer adequate protection for consumers.

The Office of Fair Trading’s 2008 study of the [homebuilding market](#) (PDF) also considered the effectiveness of warranties. One response was to recommend the introduction of a code of conduct to meet consumer protection concerns.

The industry responded with a [Consumer Code for Homebuilders](#), now in its fourth edition. However, the All-Party Parliamentary Group (APPG) for Excellence in the Built Environment [concluded](#) (2016) the Code “does not appear to give homebuyers the safeguards we think they should expect.”

The APPG’s report, [More Homes, Fewer Complaints](#) recommended:

- improving the systems in place to check quality and workmanship;
- developing a new quality culture within the construction industry;
- improving customers’ means of redress through the establishment of a New Homes Ombudsman and a review of the warranty system; and
- improving the information customers receive about their new home, including standardised contracts and a right to inspect before completion.

The Government and industry response

The Government consulted on [strengthening consumer redress in the housing market](#) in 2018. On 1 October 2018, they [announced](#) an intention to create a New Homes Ombudsman Service (NHOS) to “champion homebuyers, protect their interests and hold developers to account”. The [summary of responses to Strengthening consumer redress in the housing market](#), together with the Government response, was published in January 2019.

A consultation on [Redress for Purchasers of New Build Homes and the New Homes Ombudsman](#) followed in June 2019. The [outcome](#) was published in February 2020.

Measures to create the NHOS are contained in Part 5 of the Building Safety Bill, which is before Parliament. The Bill is also reforming building regulation and management and is taking forward the Government’s plan to implement

the [Independent Review of Building Regulations and Fire Safety](#) (the Hackitt Review) findings, as well as other building-related measures.

In the meantime, an interim New Homes Quality Board (NHQB) was set up to oversee the development of a the new code of practice for the housebuilding industry and agree an appointments process for the NHOS. Following consultation, [the new Code](#) was published in December 2021. Its aim is to “drive up the quality of new build homes and strengthen protections for customers.”

The Building Safety Bill provides for the Secretary of State to issue or approve a code of practice “about the standards of conduct and standards of quality of work expected of members of the new homes ombudsman scheme.”

[A December 2021 update from the NHQB](#) said developers would be asked to register with them “over the coming months”.

There is also an intention to create a new Housing Complaints Resolution Service as a single point of access to redress services across all tenures. [In March 2021, the Minister, Eddie Hughes, said](#): “Work was paused to prioritise the response to the pandemic but we continue to work on improving redress and meet with members of the Redress Reform Working Group.”

This paper does not address aspects of the construction industry which play a role in building standards, such as workforce shortages and training. Section 3.7 of the Library paper, [Tackling the under-supply of housing in England](#) (CBP-7671) covers these issues.

1 Customer satisfaction with new-build homes

1.1 Industry consumer surveys

Dame Kate Barker's 2004 [Review of Housing Supply](#) called on the house building industry to demonstrate increased levels of customer satisfaction:

The House Builders Federation should develop a strategy to increase the proportion of house buyers who would recommend their housebuilder from 46 per cent to at least 75 per cent by 2007. Over the same period, levels of customer satisfaction with service quality should rise from 65 per cent to at least 85 per cent.¹

In response, the Home Builders Federation (HBF) and National House Building Council (NHBC) began to conduct national annual surveys of house builders in 2005. The survey is described as a “self-completion census completed by the purchasers of new build homes.”²

The most recent survey was conducted over 12 months from October 2019 to September 2020 – the [results](#) were published in March 2021.

The 2019/20 survey recorded 88% of respondents as very, or fairly, satisfied with the overall quality of their new home. This represented an increase on 86% in 2018/19.³ 91% of respondents said they would recommend their builder to a friend, up 2% on the previous year and 7% in the previous four years.⁴

The 2019/20 survey acknowledged historic issues with customer satisfaction:

After unacceptable falls in satisfaction levels as volumes increased up to 2017, driving improvements in customer service levels became an absolute priority for the industry. Whilst volumes have continued to increase the industry has been through a massive recruitment and training drive to ensure it has the capacity to deliver high quality homes of the standard customers quite rightly expect.⁵

¹ HM Treasury, [Delivering Stability – securing our future housing needs](#), 2004, recommendation 32

² HBF & NHBC, [National New Homes Customer Satisfaction Survey](#), [accessed 7 January 2022]

³ HBF & NHBC, [National New Home Consumer Satisfaction Survey](#), March 2020

⁴ HBF & NHBC, [National New Home Consumer Satisfaction Survey](#), March 2021

⁵ Ibid.

The number of respondents reporting 16+ issues to their builder has remained at 25%, but the survey refers to most as minor, such as paint drips.⁶

1.2

Other evidence and comment

The All-Party Parliamentary Group (APPG) for Excellence in the Built Environment considered the issue of customer satisfaction as part of a 2016 inquiry into the quality and workmanship of new housing in England.

The APPG was concerned that although 86% of respondents to the 2014/15 annual survey were satisfied with the quality of their new homes, this left a substantial number of buyers who were unhappy with quality standards.⁷

Responding to a Westminster Hall debate on 16 October 2017, then-Minister for Housing, Alok Sharma, commented on the HBF survey results published in March 2017:

As my hon. Friend pointed out, delivering good quality homes does not always happen in the sector. He referred to the Home Builders Federation survey, so perhaps I can elaborate and share some further statistics from it. The latest HBF survey concludes that 98% of new homeowners report problems to the builder. Of course, some will be snagging issues, but although some problems may be hard to prevent initially, 38% of buyers had more problems than they expected. A staggering 25% of buyers reported more than 16 problems. The latest survey shows that 84% of new homebuyers would recommend their builder to a friend. That figure has fallen steadily from 90% in the past four years. It means that 16% of new homebuyers do not think that they have a quality product. In any other market, that would spell the end of the most poorly performing companies. That has rarely been the case in the house building sector.⁸

The APPG's inquiry also referred to a [2015 Homeowner Survey by HomeOwners Alliance and BLP Insurance](#) which found "the British public are shunning new homes because they are seen by some as being poorly built, characterless and with too small rooms."⁹

Information on complaints received by Local Authority Building Control (LABC) in England and Wales over the previous 36 months was shared with the APPG's inquiry. At that time, LABC reported an increase in the number of "disgruntled homeowners" approaching local authorities for assistance in sorting out defects.¹⁰

⁶ Ibid.

⁷ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016

⁸ [HC Deb 16 October 2017 c692](#)

⁹ [2015 Homeowner Survey by HomeOwners Alliance and BLP Insurance](#) [accessed on 7 January 2022]

¹⁰ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p20

An analysis by the Chartered Institute of Building (CIOB) in 2016, which compared buyers' satisfaction levels with their new homes with levels of housebuilding, concluded:

...there is a clear pattern that demonstrates that more homes built correlates with a decline in homebuyers' satisfaction in terms of quality. The most obvious increase in customer satisfaction came in 2008-09, one year after the recession began to bite and at a time when housing completions were beginning to fall.¹¹

A policy briefing published by Shelter in March 2017, [New Civic Housebuilding Report](#), argued speculative house building “systematically drives down the things communities value in development, such as build quality, infrastructure and affordable homes, and systematically drives up land values.”¹² Alongside this report, Shelter published the results of an online YouGov survey of 3,583 English adults between 13 and 15 February 2017, which found 51% of home owners said they had experienced problems with their new homes:

English members of the sample had bought a newly built home in the last ten years (since 2007). Of these, 123 (51%) said that they had either experienced some major problems with their new home, or a lot of major problems with their new home, as a direct result of the initial construction. Examples of major problems given were poorly constructed or unfinished fixtures/ fittings/ doors, problems with the exterior of the building, faults with utilities.¹³

Following the closure of 17 schools in Edinburgh in early 2017 due to building defects, the Chartered Institute of Building (CIOB) announced the formation of a Commission of Past Presidents to “investigate the issue of build quality in the construction industry, and what needs to be done to address it.”¹⁴

The Grenfell Tower fire in 2017 prompted the following response from the Chair of the Commission, Paul Nash:

The recent tragic events at Grenfell Tower have further underlined the need for an urgent review of the way in which quality is managed in our industry. Whilst aspects of the public inquiry must necessarily focus on the issues of regulation and inspection, I think we have to look beyond this at the behaviours that have led to a lack of focus on quality at all stages of the build process, from design and procurement through to construction and re-fit.

The CIOB has a duty to respond to this issue, acting in the public interest. As professionals we have a duty to the industry and wider society to act responsibly and ethically. This defines what it means to be a professional. And we all have a responsibility for the reputation of our industry and, most importantly, the wellbeing of those who use the buildings that we create.¹⁵

¹¹ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p19

¹² Shelter, [New Civic Housebuilding Report](#), March 2017, p5

¹³ Shelter Press Release, 2 March 2017

¹⁴ [CIOB Press Release](#), 21 June 2017

¹⁵ [CIOB Call for Evidence on Construction Quality](#), October 2017

The CIOB launched a call for evidence to “gather views, data and substantiation from members, the wider construction sector, government and other interested stakeholders.”¹⁶

The CIOB’s Quality Implementation Group was launched in 2019. Work carried out by the CIOB to improve quality standards is detailed in the Quality Implementation Group Review 2020-21.¹⁷

The HomeOwners Alliance conducts annual surveys of homeowners, [the most recent of which was published in August 2019](#). The survey recorded concerns about the quality of Britons’ homes as “the fastest rising issue” with almost two thirds (63%) citing housing quality as a serious problem. It’s not clear whether these responses solely concern new-build housing but the report refers to support for a snagging retention fee:

With new build quality in the spotlight, we find overwhelming support for a snagging retention fee. With snagging the least satisfactory step in the new build buying process, 9 in 10 (87%) new build owners support a system to withhold funds from house builders until they rectify faults.¹⁸

72% of aspiring homeowners (an increase of 9% year on year) said housing quality is a serious problem.¹⁹

The Board of Persimmon plc, commissioned an independent review in April 2019 which considered, amongst other things, cases of poor workmanship. The review was chaired by Stephanie Barwise (QC of commercial law firm Atkin Chambers) and reported in December 2019.

Particular issues with missing cavity barriers were reportedly linked with “a lack of supervision and inspection of the way in which building work is carried out both by Persimmon’s own labour and Persimmon’s subcontractors.”²⁰ It included a recommendation that Persimmon should reconsider its “purpose and ambition” if it wanted to be “a builder of quality homes, meeting all relevant build and safety standards”.²¹

On publication, the chair of Persimmon, Roger Devlin, reportedly said the company was already embracing recommendations on build quality inspections and went on:

Persimmon has already taken positive steps in other important areas, such as being the first house builder to introduce a customer retention scheme, investing over £140m to date in additional work in progress and an additional £15m in annual quality and service costs.²²

¹⁶ Ibid.

¹⁷ CIOB, [Improving Quality in Construction](#) [accessed 9 January 2022]

¹⁸ HomeOwners Alliance, [Homeowner Survey 2019: Top UK Housing Concerns Revealed](#), August 2019

¹⁹ Ibid.

²⁰ Inside Housing, “Persimmon review finds fire safety issues and poor workmanship across housing stock”, 17 December 2019 [subscription required]

²¹ Ibid

²² Ibid

The [outcome of a Government consultation on consumer redress for buyers of new build homes](#) (February 2020) noted: “Through the consultation we heard of the experiences that individuals have had when buying new build homes, which were, in the main, negative.”²³

²³ MHCLG, [Redress for purchasers of new build homes and the New Homes Ombudsman: summary of responses to the consultation and the government’s response](#), February 2020, para 9

2 Regulating building standards

2.1 Building Regulations

Building standards are governed by the Building Regulations Act 1984 and regulations (Building Regulations) made under this Act. The regulations are aimed at securing the health, safety, welfare and convenience of people using or affected by a building, and of conserving water and energy and reducing waste.

The Building Regulations represent minimum standards - the [Callcutt Review of Housebuilding Delivery](#) (PDF, 2007) said compliance was “necessary but not sufficient, to ensure good quality.”²⁴

All newly built housing must comply with Building Regulations and must receive building control approval. Local authorities are responsible for enforcing building regulation. Approval can come directly from local authority run building control services, or through private approved inspectors (PAIs).

Building control officers focus on compliance with the Building Regulations and do not monitor build quality

The Department for Levelling Up, Housing and Communities (DLUHC) issues approved documents, available on the [planning portal](#), which provide guidance on how to meet the required technical standards. The role of building control inspectors is to ensure technical standards are met; they perform a compliance role. The inspectors are not responsible for monitoring build quality. This explained further on the [Construction Industry Council Approved Inspectors Register](#) (CICAIR) website:

Building Regulations are minimum standards set by the Department for Levelling Up, Housing and Communities (DLUHC) that cover the design and construction of buildings. They are also concerned with the health and safety of building users, energy and water efficiency, and access and facilities for people with disabilities.

With all building work, the owner and occupier of the property or land in question is ultimately responsible for complying with the relevant planning rules and building regulations. The role of checking that Building Regulations are, as far as can reasonably be determined, being complied with falls to a Building Control Body – either an Approved Inspector or a Local Authority. The person carrying out the work has the choice of which Building Control Body to use.

²⁴ [Callcutt Review of Housebuilding Delivery](#). (PDF) 2007, p71 [an independent review commissioned by the Government]

Approved Inspectors are persons authorised under the Building Act 1984 to carry out building control work in England and Wales. Approved Inspectors are required to adhere to the Construction Industry Council Approved Inspectors Register (CICAIR) Code of Conduct for Approved Inspectors and follow the Building Control Performance Standards in their working practices.

The role of building control is to act as an independent third party check and Approved Inspectors are required to take such steps as are reasonable to enable the Approved Inspector to be satisfied, within the limits of professional skill and care, that the applicable aspects of the Building Regulations are complied with.

A number of inspections are usually carried out during the building work. These are usually, but not necessarily, at specific stages, such as foundations, damp proofing and on completion. These inspections are carried out to check, but not to guarantee, that the work complies with the Building Regulations.

It is not the role of building control to:

- Provide quality control of the Works.
- Provide a 'clerk of works' service monitoring every stage of the construction process.
- Provide a service to address issues such as the finish and aesthetics of the Works where these are not Building Regulation matters.
- Provide a service to offer contractual protection between the person carrying out the work and the parties engaged in the design and/or construction of such work.
- Provide a guarantee of compliance with the Building Regulations. The appointment of a Building Control Body does not remove the obligation of the person carrying out the work to achieve compliance.²⁵

Up to 2013, approved inspectors (AIs) were not able to take on work until a development had signed up to a Government approved Designated Warranty Scheme under the Warranty Link Rule. This requirement was removed. At the same time, indemnity insurance requirements for AIs were strengthened. Further details are set out in a [DCLG circular](#) issued on 21 December 2012.²⁶

2.2 Enforcing Building Regulations

As noted above, local authorities are responsible for enforcing Building Regulations. The [planning portal](#) summarises the approach as follows:

A local authority has a general duty to enforce the Building Regulations in its area and will seek to do so by informal means wherever possible. If informal enforcement does not achieve compliance with the Regulations the local

²⁵ [CICAIR website](#) [accessed on 9 January 2022]

²⁶ DCLG, [Building Control by Approved Inspectors under Part II of the Building Act 1984](#) (PDF), 2012

authority has two formal enforcement powers which it may use in appropriate cases.

First, if a person carrying out building work contravenes the Building Regulations, the local authority may prosecute them in the Magistrates' Court where an unlimited fine may be imposed (sections 35 and 35A of the Building Act 1984). Prosecution is possible up to two years after the completion of the offending work. This action will usually be taken against the person carrying out the work (builder, installer or main contractor).

Alternatively, or in addition, the local authority may serve an enforcement notice on the building owner requiring alteration or removal of work which contravenes the regulations (section 36 of the 1984 Act). If the owner does not comply with the notice the local authority has the power to undertake the work itself and recover the costs of doing so from the owner.

A section 36 enforcement notice cannot be served on you after the expiration of 12 months from the date of completion of the building work. A local authority also cannot take enforcement action under section 36 if the work which you have carried out is in accordance with your full plans application which the authority approved or failed to reject.

An appeal against a section 36 notice may be made to a Magistrates' Court under section 102 of the Building Act.

Where an approved inspector is providing the Building Control Service, the responsibility for checking that the Building Regulations are complied with during the course of your building work will lie with that inspector. They will usually do this by advising you.

However, approved inspectors do not have formal enforcement powers. In a situation where the inspector considers your building work does not comply with the Building Regulations and there is a refusal to bring it into compliance the inspector will cancel the initial notice. If no other approved inspector takes on the work, the building control function will automatically be taken on by your local authority. From this point on, your local authority will also have enforcement powers set out above where it considers this necessary.²⁷

If someone tries to sell a property where work has not complied with the Building Regulations, this should come to light through local land search enquiries.

Gordon Henderson led a Westminster Hall debate on building regulations on [11 May 2016](#) during which he raised inadequate policing of building standards. Then-Minister, James Wharton, responded:

On the whole, the system of building regulations in this country—the system by which the work that builders do is monitored—is of a good standard, but that does not mean that it does not go wrong at times. I recognise my hon. Friend's concerns, particularly given the terrible situation that he set out and the difficulties that his constituent faced as a result of it.

[...]

²⁷ MHCLG, [planning portal](#) [accessed on 19 August 2020]

It is appropriate that I first talk about the system that is in place for redress when people find that the properties they have purchased are not up to the standard that they expected. We recommend that such a person first complains to the person who carried out the work—the builder or the developer—and makes known to them their concerns about the work that they believe to be inadequate. Most responsible builders and developers will put right work that is not to the expected standard.

Should that not work, the next level of complaint is to the warranty provider if a new home warranty is in place. There are many different providers—NHBC, which my hon. Friend mentioned, is one of the largest—and they do a good job of ensuring that the standards that people rightly expect when they buy and move into a home are met, and that the system enables them to raise concerns about work that has been done. The consumer code for home builders provides protection if a home was built by a home builder that is registered with one of the supporting warranty bodies, such as NHBC, on or after 1 April 2010.

Should a constituent not find acceptable redress through those routes, there is the option to bring a civil claim against the builder in the civil courts and to pursue appropriate redress through the legal process. I have received a number of complaints about the process by which building control is carried out, but they are not focused only on approved inspectors. Local authorities, just like any other organisation, will not necessarily get building control right every single time. The reality is that the processes and the system that is in place allow these issues to be addressed at an earlier stage. I have set out some of the options that exist to enable redress to be found and problems to be rectified.²⁸

He went on to refer to the process through which the work of building inspectors is regulated:

We also monitor and regulate the work that approved inspectors do. At the heart of my hon. Friend's concern, or at least one part of it, is the way the approved inspectors system regime is working for our constituents. The Construction Industry Council Approved Inspectors Register is the approval body for approved inspectors, and it has reviewed its activities. One of its recommendations was that there be periodic audits of approved inspectors to ensure that they are doing the work that we expect them to do, to the standard that we expect them to do it. CICAIR started carrying out audits last year to pick up issues with particular approved inspectors—hopefully, before complaints are raised. The Building Control Performance Standards Advisory Group has also strengthened the standards that apply to both types of building control bodies—local authorities and approved inspectors—to give better targeting of building control work.

The role of building control can only ever be to be a spot-checking service. The issuing of a building regulations compliance certificate at the completion of work is not a complete guarantee of compliance throughout the process; it is only a spot check that seeks to hold developers and builders to account and to ensure that the standards that we expect are applied.²⁹

²⁸ [HC Deb 11 May 2016 cc344-5WH](#)

²⁹ [HC Deb 11 May 2016 c346WH](#)

[Building Control Performance Standards](#) were first introduced in July 1999 and were most recently reviewed and reissued in January 2017.³⁰

In April 2021, Inside Housing reported on the results of Freedom of Information requests on staffing levels in relation to building control surveyors:

Freedom of Information responses from 85 councils show that 707 surveyors were employed in December 2010, but this had fallen to 513 by December 2020. One council went from 10 surveyors to just two.

If the figure is replicated across the country, it would mean councils have lost in the region of 1,400 surveyors across the decade.³¹

2.3 Reviewing the Building Regulations and the regulatory framework: background

On 28 July 2017, following the Grenfell Tower fire, the Government announced an independent review of Building Regulations and fire safety.³²

The [Independent Review of Building Regulations and Fire Safety: final report](#) was published on 17 May 2018.³³ The Government provided a [response to the report](#) on the same day.³⁴ A further announcement followed on 19 July 2018 focusing on action to improve fire safety guidance in the building regulations.³⁵

The Government published [Building a safer future: an implementation plan](#) on 18 December 2018.³⁶ Background information on action taken in this area can be found in the Library paper: [Building Regulations and Safety: Review and Reforms](#).

A Government consultation was launched on 6 June 2019 containing proposals to reform the building safety system.³⁷ The proposals included:

- plans for a new building safety regulator to provide oversight of the new building safety regulatory regime; and

³⁰ DCLG, [Building control performance standards 2017 edition](#), 2017

³¹ Inside Housing, “Hundreds of building control surveyor posts cut by councils since 2010, research reveals”, 28 April 2021 [subscription required]

³² DCLG, [Independent review of building regulations and fire safety](#), 28 July 2017

³³ DCLG, [Independent Review of Building Regulations and Fire Safety: final report](#), 17 May 2018

³⁴ DCLG, [Government commits to major building safety reforms](#), 17 May 2018

³⁵ DCLG, [Brokenshire moves to review building regulations fire safety guidance](#), 19 July 2018

³⁶ DCLG, [Building a safer future: an implementation plan](#), CM 9739, 18 December 2018

³⁷ MHCLG, [Building a safer future: proposals for reform of the building safety regulatory system](#), 6 June 2019

- strengthened enforcement and sanctions to deter non-compliance with the new regime.

On 28 October 2019, Dame Judith Hackitt was named as the person who would provide independent advice to the Government on how best to establish a new Building Safety Regulator.³⁸ The Queen's Speech 2019 said a Building Safety Bill would be introduced to, amongst other things:

- Develop a new stronger and clearer framework to provide national oversight of construction products, to ensure all products meet high performance standards.
- Develop a new system to oversee the whole built environment, with local enforcement agencies and national regulators working together to ensure that the safety of all buildings is improved.³⁹

The outcome of the June 2019 consultation was published in April 2020.⁴⁰ This was followed by publication on 20 July 2020 of the [draft Building Safety Bill 2019-21](#) which was subject to pre-legislative scrutiny by the Housing, Communities and Local Government Select Committee. The [Committee's report](#) was published on 24 November 2020⁴¹ followed by the [Government response](#) on 7 July 2021.⁴²

More information on the draft Bill can be found in Library paper: [Building Safety Bill 2019-2021](#), 17 July 2020.

2.4

The Building Safety Bill 2021-22

The Bill was introduced in the House of Commons on 5 July 2021 and is progressing through Parliament. On publication, the Government described its purpose:

The next step in ground-breaking reforms to give residents and homeowners more rights, powers and protections – making homes across the country safer.

This will overhaul regulations, creating lasting generational change, setting out a clear pathway on how residential buildings should be constructed, maintained and made safe.

³⁸ MHCLG, [Dame Judith Hackitt named as government adviser on the new Building Safety Regulator](#), 28 October 2019

³⁹ [Queen's Speech December 2019: background briefing notes](#), 19 December 2019

⁴⁰ MHCLG, [A reformed building safety regulatory system: government response to the Building a Safer Future consultation](#), 2 April 2020

⁴¹ Housing, Communities and Local Government Select Committee, [Pre-legislative scrutiny of the Building Safety Bill](#), 24 November 2020, HC 466 2019-21

⁴² [Building Safety Bill: Government response to pre-legislative scrutiny by the Housing, Communities and Local Government Select Committee](#). (PDF) CP 473, 7 July 2021

It also sets out the framework to improve compliance, with tougher penalties for those who break the rules and mandates developers to belong to a New Homes Ombudsman scheme.⁴³

Detailed information on the Bill's provisions as introduced can be found in the Library paper [Building Safety Bill](#) (CBP-9277) there is also a [series of factsheets on the Bill's provisions](#). In the first instance at least, many of the provisions relate only to “higher-risk buildings”, ie certain high-rise and multi-occupied blocks. A Library paper, [Building Safety Bill: committee stage](#) (CBP-9424), summarises debate in Public Bill Committee.

⁴³ MHCLG, [Building Safety Bill](#), 5 July 2021

3 Post-completion defects: owners' remedies

Defects identified before completion should be addressed before the property is handed over. What happens in these circumstances will depend on the detail of the contract between the buyer and the developer.

If attempts to correct the defect within the defect liability period or through a warranty claim are unsuccessful, owners may have to resort to legal action for which professional legal advice should be sought.

The [Consumer Rights Act 2015](#) (CRA 2015), which came into force on 1 October 2015, does not apply to property. Specifically, [section 2](#) of the CRA 2015 defines goods as “any tangible moveable items”; in other words, the Act does not apply to purchases of immovable property, such as land or a house. Similarly, the [Sale of Goods Act 1979](#), which the CRA 2015 replaced, did not apply to the conveyance of property.

The HomeOwners Alliance has a helpful webpage: [How to fix problems in a new build home](#).

3.1 The defect liability period

As a rule, responsibility for rectifying defects identified during this period fall to the builder. The period usually lasts for two years after completion. On expiry of this period owners will normally have to rely on their warranty. Some warranty providers may assist owners if builders fail to tackle problems identified during the defect liability period.

3.2 Warranties

Most new-build properties are sold with a warranty lasting for around ten years - eg the NHBC [Buildmark](#) warranty. A defects warranty is de facto obligatory for new homes purchased with a mortgage as lenders will not provide finance without it.

These insurance policies provide for the homeowner to claim against the policy for certain defects arising within various notification periods. Warranty cover can be limited to certain structural defects and may not cover issues related to, for example, general wear and tear and cosmetic damage.

Buildmark covers new homes for ten years. It requires the house-builders to put right anything arising in the first two years, provides a mediation service for this, and insurance cover for the remaining years. The insurance cover provides limited coverage for failure to meet standards set by the Building Regulations. There are other schemes, including for example [Premier Guarantee](#) and [LABC Warranty](#).

Warranty providers usually have their own internal complaints procedures for use when owners are not happy with the way a complaint has been dealt with. A complaint to the [Financial Ombudsman Service](#) may also be possible. On expiry of the warranty, owners' home insurance policies may provide cover.

3.3 Consumer Code for Homebuilders

Since April 2010 all homebuilders registered with the UK's main home warranty providers: NHBC; Premier Guarantee; and LABC Warranty, have had to adhere to the [Consumer Code for Homebuilders](#).

The Code sets out 19 principles homebuilders must meet in their marketing and selling of homes and their after-sales customer service. Homebuilders are required to have a complaints procedure in place – information on dispute resolution should be provided to home buyers. The Code applies to complaints arising within two years of the date on the Home Warranty Body's insurance certificate concerning defects or damage caused by a breach of technical requirements.

An independent resolution service is available for homebuyers who believe their builder has failed to meet the requirements of the Code:

A dispute may arise where a Home Buyer believes the Home Builder has failed to meet the Code's Requirements but it falls outside the Home Warranty Body's resolution scheme for defects or damage. If so, the dispute may be resolved by the Home Buyer applying to the Consumer Code's Independent Dispute Resolution Scheme. This means a trained Adjudicator will review written submissions from both parties and issue a decision based on his or her conclusions. The Adjudicator will decide whether or not a Home Buyer has a legitimate dispute and has suffered financial loss because their Home Builder has breached the Consumer Code's Requirements.⁴⁴

Disputes can be referred to the Independent Dispute Resolution Scheme provider, ie the organisation running the Code's independent dispute resolution service. A summary of the process to follow can be found in section 5 of the [Consumer Code Scheme](#) (PDF, April 2017). The adjudicator's decision is final and cannot be appealed.

Homeowners may pursue legal action if they are unhappy with the outcome.

⁴⁴ [Consumer Code for Homebuilders](#) (PDF), Fourth Edition, 2017, p9

4 Government and industry responses

Steve Double MP secured a Westminster Hall debate on 16 October 2017 during which he raised issues about the standard of new build housing and compared the lack of protection buyers of new homes have with those buying faulty goods:

The homeowner has far more consumer rights and protection for a new kettle in their kitchen than they do for the new building that houses it. For the vast majority of people, buying a new home will be the biggest purchase they ever make, and surely we should provide more adequate protection for them. On the thankfully very rare occasions when the builder has completely failed to construct a property fit for habitation, house purchasers should not have to resort to the courts to establish their rights. Sadly, that is too often the case in the current set-up.⁴⁵

Similar issues were raised in a further Westminster Hall debate on 6 January 2022 by David Johnston MP:

The first issue is simply the quality of a lot of the homes that go up, because it is often poor. Sometimes it is very good, but too often it is poor, and constituents' homes have major defects that take years to try to deal with. I have constituents who have spent two, three or four years—sometimes more—trying to get these defects repaired. This is not like buying a cheap version of something on eBay, half-expecting that there might be something wrong with it. This is the biggest purchase that any of us will make, and we do not expect to then have years of trying to sort out the problems with it. Unfortunately, when constituents try to do that, they feel completely outmatched by the builder that built their home. Sometimes the builder will blame the contractor; sometimes they will say that there is nothing wrong: “We signed it off according to building regulations.” But I have been in some of these places and we can see these huge issues. It is completely unacceptable that people are experiencing them.⁴⁶

The following sections outline the Government industry responses to improving the standard of new-build housing.

4.1 The Building Control Regime

Building control officers carry out inspections to check compliance with the Building Regulations, but the number of inspections varies and not all

⁴⁵ HC Deb 16 October 2017 c691WH

⁴⁶ [HC Deb 6 January 2022 c1WH](#)

properties on a large development will be inspected. A sampling approach may be adopted instead.⁴⁷

[More Homes, Fewer Complaints](#) noted inspections are a “snap shot” and may not necessarily show work undertaken to remedy identified defects.⁴⁸ The APPG report also identified issues around a shortage of building control officers, difficulties in recruiting qualified staff, and an ageing workforce.⁴⁹

In terms of potential solutions, the APPG recommended a minimum standard for compliance inspections and the supply of inspection reports to buyers:

We are concerned that competition in building control might be fuelling a race to the bottom and we are therefore recommending there should be a defined minimum number of inspections that local authority building control and approved inspectors in the private sector and warranty providers should not fall below. We suggest that the minimum level should be considered by DCLG in consultation with the industry.

We are also recommending inspection reports are made available to the public and form part of the information pack provided to purchasers when they buy a new home.⁵⁰

The revised [Building Control Performance Standards](#) (PDF, January 2017) refer to the right of owners to request site inspection records:

Building Control Bodies are required to provide site inspection records to the building owner on request for all building work that has been issued with a final/completion certificate or where an initial notice has been cancelled. The request must be in writing and made within 15 years of the final/completion certificate being issued.⁵¹

Responding to a debate on Protections for Homebuyers on 13 December 2018, then-Minister, Heather Wheeler, explained how a complaint against a building control body can be taken forward under the current regime:

A building regulations compliance certificate issued by a building control body is not a guarantee of the highest standards and the responsibility is not removed from the builder or developer. If a consumer feels that the building control body did not carry out its functions properly, they may complain to the local government and social care ombudsman in respect of a local authority. A complaint about an approved inspector can be made to CICAIR, the Construction Industry Council Approved Inspectors Register, which is the body that approves inspectors.⁵²

The role of building inspection services was considered as part of Dame Judith Hackitt’s Independent Review of Building Regulations and Fire Safety.

⁴⁷ For more information see: [Building Control Performance Standards](#). (PDF), 2017

⁴⁸ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p28

⁴⁹ Ibid.

⁵⁰ Ibid., p38

⁵¹ DCLG, [Building Control Performance Standards](#), p28

⁵² [HC Deb 13 December 2018 c202](#)

Her recommendations in this area were subsequently endorsed by the Housing, Communities and Local Government Select Committee:

The Independent Review noted several weaknesses in the current structure of building control. The part-privatisation of the regulatory function—with developers able to choose between Local Authority Building Control and private sector Approved Inspectors—has raised many serious concerns, including disincentives for building control bodies to use enforcement methods for fear of losing long-term business. The Review concluded that, “the ability for duty-holders to choose their own regulator must stop and regulators must be able to enforce as regulators”, envisaging a model with a “clear, single regulatory route for oversight” for high-risk residential buildings.

In the context of building inspection services, we particularly welcome Dame Judith’s proposal that the industry should no longer be able to choose their own regulator and that there should be a single regulatory route for oversight of high-rise residential buildings through Local Authority Building Control. Indeed, we believe this principle should apply to a much wider range of buildings.⁵³

On publication of the Hackitt review’s final report, the Government committed to taking forward several measures, including:

- changing the law to achieve meaningful and lasting reform of the building regulatory system, with strong sanctions for those who fail to comply
- inviting views to inform how the government could implement major reform of the regulatory system⁵⁴

In [A reformed building safety regulatory system: government response to the Building a Safer Future consultation](#) (April 2020) the Government said the new Building Safety Regulator will be responsible for:

...oversight of the competence and performance of building control professionals and the building control bodies in which they work, taking a wider view of the professionalism and culture that needs to support building safety in all classes of work, not just in-scope buildings.⁵⁵

In this context “in-scope buildings” are certain high-rise multi-occupied blocks. Provisions to create the new regulator, which will sit within the Health and Safety Executive, are contained in the Building Safety Bill 2021-22 which is before Parliament. There are a [series of factsheets on the Bill’s provisions](#) – the factsheet on Building control registration and regulatory oversight says:

We are reforming building control in England by introducing a new framework for registration and regulatory oversight of the profession. This new framework will set new requirements and standards that apply across both the public and

⁵³ Housing, Communities and Local Government Select Committee, [Independent review of building regulations and fire safety: next steps](#), (PDF), 18 July 2018, HC 555 2017-19, paras 17-18

⁵⁴ [MHCLG Press Release, 17 May 2018](#)

⁵⁵ MHCLG, [A reformed building safety regulatory system: government response to the Building a Safer Future consultation, April 2020, p34](#)

private sector parts of the profession, levelling the playing field for the first time.

We are:

- Improving professional competence of those working in building control by requiring building inspectors to register with the Building Safety Regulator.
- Giving the Building Safety Regulator powers to set minimum performance standards that building control approvers and local authority building control bodies must meet.
- Ensuring the Building Safety Regulator has the powers and capability to investigate individual inspectors' conduct and sanction them if they breach a code of conduct.

The [Building Safety Regulator](#) will collect and analyse information about the performance of building control work, making recommendations to drive up standards across the sector. The regulator will also have investigatory powers when building control bodies breach minimum performance standards, and a series of escalating sanctions and enforcement measures available to address poor performance.⁵⁶

Detailed information on the Bill's provisions as introduced can be found in the Library paper [Building Safety Bill](#) (CBP-9277). A Library paper, [Building Safety Bill: committee stage](#) (CBP-9424), summarises debate in Public Bill Committee.

4.2

How effective are warranties?

The [Callcutt Review of Housebuilding Delivery](#) (PDF, 2007) identified concerns about caveats included within warranties. It was felt they may not offer adequate protection for consumers.⁵⁷

The Office of Fair Trading's (OFT) 2008 study of the [homebuilding market](#) (PDF) also considered the effectiveness of warranties; Professor Sommerville of Glasgow Caledonian University was commissioned to carry out research into this specific issue. At the time, OFT concluded "while not perfect, warranty provision in the UK is relatively robust," and went on:

They do not cover every possible eventuality which could arise under the contract of sale. In this regard, in particular, warranties provide no cover for failings in the sales process, delays in moving in, deficiencies in contracts and exclude many items included in the purchase price.

Instead, warranties provide homebuyers with a very specific type of insurance cover in particular circumstances. It is inevitable that there will be limitations in any insurance policy, although data from our consumer survey indicates

⁵⁶ DLUHC, [Building control registration and regulatory oversight: factsheet](#), 8 November 2021

⁵⁷ [Callcutt Review of Housebuilding Delivery](#) (PDF, 2007), 2007, p71

that homebuyers appear to think that warranties cover much more than they do. The sale of insurance products, of course, falls within the remit of the FSA (Financial Services Authority).⁵⁸

In [More Homes, Fewer Complaints](#) the APPG identified an issue with consumers often believing that warranties cover more than they actually do. There's confusion over builders' responsibilities in the first two years following completion, ie during the defects liability period.

Warranty providers carry out inspections but only on a sampling basis; not all properties are inspected at every stage of construction. One warranty provider told the APPG's inquiry:

The average latent defects policy is £300 for a 10-year policy. The economics suggest that we cannot do a plethora of inspections. The inspections are purely to prove to our underwriters that the property is a standard risk.⁵⁹

Developers who are excluded from one industry-led code can choose a different warranty provider aligned with a different Code. The Government has referred to this as "code hop" and noted it "means that poorly performing developers are not held to account for their actions."⁶⁰

In [More Homes, Fewer Complaints](#) (July 2016) the APPG recommended a review by DCLG (now DLUHC) "to establish whether a more comprehensive cover would be more appropriate for house buyers – and what the cost implications might be."⁶¹ The APPG suggested such a review should consider:

- minimum standards of cover and levels of inspection;
- an easier form of redress through a New Homes Ombudsman; and
- higher profile marketing by warranty providers and house builders during the conveyancing process to make it clear what the warranty covers.⁶²

Kate Green MP raised issues experienced by her constituents with warranty providers during a January 2020 adjournment debate on [Protection for New Home Buyers](#):

Faced with defects and developers' refusals to rectify them, buyers may seek to rely on their buildings warranty cover, as my hon. Friend the Member for Ellesmere Port and Neston (Justin Madders) mentioned. But as my constituents have found, all too often that does not offer the protection they expect. Warranty providers are able to carry out a dual role as both approved inspector and warranty provider. That surely creates a conflict of interest.

⁵⁸ OFT 1020, [Homebuilding in the UK – a market study \(PDF\)](#), 2008, p137 onwards & [Annex J. There is a full list of annexes to the report.](#)

⁵⁹ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p27

⁶⁰ MHCLG, [Redress for Purchasers of New Build Homes and the New Homes Ombudsman: A Technical Consultation](#), June 2019, para 4.11

⁶¹ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p27

⁶² *Ibid.*, p27

Insurers have an incentive to suppress knowledge of defects, particularly when they may give rise to very large claims. Exclusions to the cover often leave significant risk with the homeowner, so the inspector may not even bother to inspect every property in a development—arguably, there is insufficient incentive to do so.⁶³

The Minister, Luke Hall, responded for the Government:

It is the responsibility of the Financial Conduct Authority to regulate new build warranties and protect consumers. If a consumer is unhappy with the warranty provider's action, they can contact the Financial Ombudsman Service for free. I agree that consumers must be provided with clearer information on warranty cover, and we are considering how that is best achieved.

The hon. Lady made a valid point about potential conflicts of interest where approved inspectors have dual roles. Dame Judith Hackitt recommended that where they are involved in regulatory oversight, an approved inspector must be completely independent of the duty holder. The Government accept that recommendation and are working with the Joint Regulators Group, representatives of approved inspectors, and local authorities, to identify ways of minimising conflicts of interest and ensure sufficient regulatory capability and capacity under the new system. The industry has acknowledged many of those problems and is working to improve consumer confidence and trust.⁶⁴

On 24 June 2021, the Minister for Housing, Christopher Pincher responded to a question about a potential investigation of statutory oversight by the National House Building Council in respect of building defects in the Cotton Works conversion in the Bolton North East constituency. He said:

It is the responsibility of the Financial Conduct Authority to regulate new build warranties and protect consumers. If a consumer is unhappy with the warranty provider's action, they can contact the Financial Ombudsman Services and raise a complaint for free.

The Government is committed to improving redress for new build homebuyers when things go wrong. The Building Safety Bill, announced in the Queen's Speech, includes provision for the New Homes Ombudsman, which will improve redress for new build homebuyers.⁶⁵

4.3

Buying new-build homes: the balance of power

The APPG's inquiry concluded, in relation to disputes between house builders and buyers "the balance has been tipped too far in favour of housebuilders." There was reference to a "cavalier" attitude towards customers by house builders.⁶⁶

⁶³ [HC Deb 16 January 2020 c1271-2](#)

⁶⁴ [HC Deb 16 January 2020 c1278](#)

⁶⁵ [PQ 16980 \[National House Building Council: Standards\], 24 June 2021](#)

⁶⁶ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p28

Confusion over warranties is covered in the previous section, other identified issues included:

- exclusion clauses in contracts and the lack of a standard contract;
- the lack of a straightforward means of pursuing a dispute with a builder;
- a refusal to allow pre-completion surveys; and
- a reluctance to provide information such as written plans and specifications which buyers could then check the finished home against.⁶⁷

The APPG took evidence from Dr Stephen Watkins who referred to a body of developing case law which had further limited the ability of homeowners to take successful action against builders for defects in their homes.⁶⁸

The [Consumer Code for Homebuilders](#) (PDF) was developed to make the home-buying process fairer and more transparent for purchasers, but the APPG said the code “does not appear to give homebuyers the safeguards we think they should expect. We question how well it is policed and it does not appear to us objectively to offer consumers a wholly satisfactory form of redress.”⁶⁹

A specific area of concern was a move by builders to include a term in their contracts for sale requiring any construction disputes to first be referred to the Code Dispute Resolution Service and/or another home warranty provider’s resolution service. This enables builders to argue court action is excluded if disputes are not referred to these schemes, but some claims cannot be determined in this way - eg claims over £15,000 or which concern matters such as boundary disputes or fixtures and fittings paid for as extras.

The OFT’s 2008 market study had suggested if the industry failed to make satisfactory progress then further intervention might be necessary.⁷⁰

Having concluded the balance of power between the parties is uneven and favours builders, and existing means of redress are protracted and expensive, the APPG recommended:

- the establishment of an independent New Homes Ombudsman to provide an easy and affordable dispute resolution service for all homebuyers which would be funded by a levy on the construction industry;

⁶⁷ Ibid., p29

⁶⁸ Ibid., pp 29-30

⁶⁹ Ibid., p30

⁷⁰ OFT 1020, [Homebuilding in the UK - a market study \(PDF\)](#), 2008

- the introduction of standardised contracts for sale to include provision for dealing with disputes before referral to the Ombudsman;
- a right of inspection for buyers prior to completion;
- the provision of a comprehensive information pack by builders to improve transparency around design and the building and inspection process; and
- a review of laws governing consumer rights when buying new homes.⁷¹

The authors of the Consumer Code for Homebuilders said it had been successful in raising service standards in the industry when carrying out the 2013 update:

...the Code has gone from strength to strength and customer research shows that the principles of the Code have been firmly adopted and embedded into the processes of many home builders, raising the standard of service and support provided to home buyers and potential home buyers.⁷²

However, the summary of changes to the Code's fourth edition, published in April 2017, said:

Knowledge of the presence of the Code Scheme, as demonstrated by recent mystery shopping surveys, is inadequate.⁷³

In response, home builders are now required to display the Code Scheme logo prominently in their own and agents' sales offices and in sales brochures. Home buyers must be provided with the Code Scheme documents with the reservation agreement, this can be done electronically.⁷⁴

The 2017 edition makes it clear builders may offer incentives to new buyers and/or refer them to a panel of solicitors but they "should not restrict their choice of legal representative." This includes not restricting the financial advisor or mortgage intermediary the buyer may wish to use.⁷⁵ The Code has been clarified to emphasise home builders should make it clear they are responsible for remedying relevant defects arising under the home warranty two-year defect period.⁷⁶

The use of incentive payments to encourage buyers to use a particular solicitor was considered by the Housing, Communities and Local Government Select Committee's inquiry into leasehold reform. Evidence submitted to the inquiry referred to buyers who thought they were incentivised or coerced by developers to use their panel of solicitors. The Committee recommended "the

⁷¹ APPG for Excellence in the Built Environment, [More Homes, Fewer Complaints](#), July 2016, p33-34

⁷² [Consumer Code for Homebuilders: Summary of Changes to the Code \(PDF\)](#), 2013

⁷³ [Consumer Code for Homebuilders: Summary of Changes to the Code \(PDF\), 2017](#)

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

Government should prohibit the offering of financial incentives to persuade a customer to use a particular solicitor.⁷⁷

The Government response (July 2019) agreed consumers should have access to independent and reliable advice when buying a property. Measures referred to included proposals to create a New Housing Ombudsman (see below) and action by the Solicitor's Regulation Authority and the Council of Licensed Conveyancers on the quality and price of advice provided by members.⁷⁸

The response details existing routes for complaints and redress for consumers if they are unhappy with the service provided by a lawyer.

Arguably, many of the APPG's recommendations are already covered by the Consumer Code for Housebuilders. For example, in terms of policing, adherence to the Code forms part of the contractual relationship with the home warranty body under their registration scheme. A failure to comply could bring sanctions to bear, the most extreme of which could be suspension or cancellation of the home builder's registration. In turn, this would mean the builder would be unable to sell their newly built homes. This is undoubtedly a significant deterrent, but the sanctions regime operated by home warranty bodies may not provide direct assistance for an individual who finds themselves owning a defective property.

In October 2017 the Department for Communities and Local Government (now DLUHC) issued [Improving the homebuying and selling process – Call for evidence](#) which acknowledged the process of buying a newly built property can present particular challenges. The paper asked what could be done to improve the customer experience of buying a new build home.⁷⁹

A [summary of responses received and the government response](#) was published in April 2018. Respondents raised issues about completion dates and timescales for completion. Full information on costs for potential buyers also attracted comment. On snagging, some respondents wanted to be able to withhold a proportion of the purchase price until satisfied all defects/unfinished work are addressed.

There was reference to regulation of developers with enforcement via an ombudsman.⁸⁰ The Government said they would “improve the process of dealing with buyer complaints” - this was to be informed by a further consultation exercise on strengthening consumer redress in the housing market (see section 4.4 below).⁸¹

⁷⁷ Housing, Communities and Local Government Select Committee, [Leasehold Reform](#) (PDF), 19 March 2019, HC 1468 2017-19, para 67

⁷⁸ [Government response to the Housing, Communities and Local Government Select Committee report on Leasehold Reform](#) (PDF), CP 99, 3 July 2019, paras 36 and 37

⁷⁹ DCLG, [Improving the homebuying and selling process – Call for evidence](#), October 2017, Q23

⁸⁰ MHCLG, [Improving the home buying and selling process – summary of responses to the Call for Evidence and government response](#), April 2018

⁸¹ *Ibid.*, para 13

In June 2018, the APPG published Better redress for home buyers which focused on how a New Homes Ombudsman could drive up standards and improve consumer redress.⁸²

A new [Consumer Code for New Homes](#) was launched on 29 November 2017 having gained approval from the Chartered Trading Standards Institute to “ensure that best practice is followed in respect of the marketing, selling and purchasing of New Homes and to set expected standards for after sales customer care service.”⁸³ The Code establishes mandatory requirements applying to all developers registered with it.

4.4 A New Homes Ombudsman Service (NHOS)

[Strengthening consumer redress in the housing market: a consultation](#) ran between 18 February and 16 April 2018. The section on new build homes acknowledged problems new owners faced in getting defects fixed:

Too often we receive letters from consumers that include protracted disputes over snagging issues and cases where the home buyer does not feel that they have been treated fairly during the purchase process.⁸⁴

The consultation referred to ongoing work with industry stakeholders to drive improvement:

We are working with the Home Builders Federation, warranty providers, lenders and the redress providers to address these issues and we want them to continue to drive improvement. We want to consider the best approach for taking this forward.⁸⁵

The paper set out options for improving redress through:

- the creation of a single housing ombudsman which would require primary legislation; or
- the creation of a single “front door” with greater standardisation of practices; or
- consolidation and rationalisation of existing schemes.⁸⁶

⁸² APPG for Excellence in the Built Environment , [Better redress for homebuyers](#) (PDF), June 2018

⁸³ [Consumer Code for New Homes](#), November 2017,

⁸⁴ Ministry of Housing, Communities and Local Government (MHCLG), [Strengthening consumer redress in the housing market: a consultation](#), February 2018, para 32

⁸⁵ Ibid., para 33

⁸⁶ Ibid., para 47

On 1 October 2018, the Government announced an intention to create a New Homes Ombudsman to “champion homebuyers, protect their interests and hold developers to account.”⁸⁷

Commenting on the announcement, Chris Blythe, CEO of the Chartered Institute of Building, was reported as saying:

Although the classic ‘the devil’s in the detail’ phase applies, with the commitment to a new homes ombudsman the government has taken a significant step in offering greater consumer protection and improving the build quality of new homes. It is an opportunity for housebuilders to adopt a ‘get it right first time’ attitude. With this, we all win; buyers get good quality homes, the industry gets the capacity to build more and the opportunity to restore its reputation.⁸⁸

[A summary of responses to strengthening consumer redress, together with the Government’s response](#) was published in January 2019.⁸⁹ The Government committed to:

- Create a new Housing Complaints Resolution Service which will “build better access to redress through establishing a simplified point of access for consumers when they have an issue with their housing”.
- Create a Redress Reform Working Group which will work with industry and consumers to develop a new Housing Complaints Resolution Service. The new service will “help renters in private and social housing, leaseholders, and buyers of new homes”.
- Legislate to create a New Homes Ombudsman “and we will work with industry and consumers prior to legislation so purchasers of new build homes have access to better redress now”.
- Legislate to require developers of new build homes to belong to a New Homes Ombudsman. Developers will pay a charge for membership “to ensure that the service is free of charge to buyers of new build homes”.
- Engage and consult with the devolved administrations to seek agreement for UK-wide legislation which would take account of the fact that developers work across all nations of the UK.
- Develop an agreed single consumer code of practice which will be used by the New Homes Ombudsman to adjudicate against.⁹⁰

June 2019 saw publication of Redress for Purchasers of New Build Homes and the New Homes Ombudsman: A Technical Consultation. Responses were

⁸⁷ [MHCLG, Government announces new housing measures](#), 1 October 2018

⁸⁸ [Championing Consumers: the role of the New Homes Ombudsman](#), 8 October 2018

⁸⁹ [MHCLG, Strengthening Consumer Redress in the Housing Market Summary of responses to the consultation and the Government’s response](#), January 2019

⁹⁰ *Ibid.*, pp41-42

invited up to 22 August 2019. The consultation sought views on the detail of proposed legislation for a New Homes Ombudsman. A summary of responses and Government response was published in February 2020.⁹¹

New Homes Ombudsman Service: progress

Part 5 of the Building Safety Bill 2021-22 (clauses 129-134 of Bill 177⁹²), which is currently before Parliament, contains provisions to establish the New Homes Ombudsman Service (NHOS).

The Secretary of State will be required to arrange for a redress scheme to be available for people who are ‘relevant owners’ of new build homes. The scheme will enable relevant owners to make complaints against scheme members (developers) and to have complaints investigated and determined by an independent ombudsman. In this context ‘relevant owner’ refers to individuals rather than businesses.

The Government factsheet on the NHOS says:

Complaints can be made about the scheme’s members within two years of the first acquisition of a new build home from the person who developed it. This could include complaints about the conduct and the quality of work of the developer.

[...]

The legislation includes the power to require developers to become and remain members of the New Homes Ombudsman scheme.⁹³

During the Bill’s Commons committee stages the Housing Minister confirmed housebuilders will have to be a member of the scheme so “if they do not comply with the scheme requirements and are therefore rejected from it, that will effectively prevent them from developing in future”.⁹⁴

The Government has confirmed discussions are underway with the devolved executives to extend the NHOS provisions:

We are in discussions with the devolved administrations about the New Homes Ombudsman provisions, and they are considering how this policy might be taken forward in Scotland, Wales and Northern Ireland.⁹⁵

New Homes Quality Board (NHQB) & Quality Code

Natalie Elphicke was selected to head an interim New Homes Quality Board to oversee the creation of a permanent governance set-up, developing the new

⁹¹ MHCLG, [Redress for purchasers of new build homes and the New Homes Ombudsman: summary of responses to the consultation and the government’s response](#), February 2020

⁹² Clauses numbers are liable to change as the Bill progresses through Parliament.

⁹³ DLUHC, [New Homes Ombudsman: factsheet](#), 8 November 2021

⁹⁴ [PCB 21 October 2021 c407](#)

⁹⁵ [PQ 67121 \[Housing: Owner Occupation\], 4 November 2021](#)

code of practice for the housebuilding industry, and agreeing an appointments process for the independent ombudsman.

The NHQB was formally launched in February 2021.⁹⁶ Consultation on a draft New Homes Quality Code ran from 9 June to 7 July 2021. The Code was published in December 2021.⁹⁷ Clause 134 of Bill 177 provides for the Secretary of State to issue or approve a code of practice “about the standards of conduct and standards of quality of work expected of members of the new homes ombudsman scheme.”

A December 2021 update from the NHQB provided the following information on progress:

Over the coming months we will be asking you to register with the New Homes Quality Board. Once you do, we will provide you with support including on-line staff training modules, brand guidelines, suggested template letter paragraphs to help you meet the requirements of the complaints process and other tools such that you can make the necessary changes within your business to enable you to meet the requirements of the New Homes Quality Code.

Once you have completed your readiness preparations and confirmed you are ready, you can decide to ‘activate’. From the date of activation, any Customer reservations taken will come under the remit of the new code and the NHOS.

Larger companies will be able to ‘activate’ on a regional business basis as and when they feel that those businesses are ready. Whilst we will hopefully see the larger developers starting to activate businesses during Q2 of next year, it will be entirely your decision as to when you do, subject to booking slots with the NHQB team prior to activation.

Customer Reservations taken from the date you activate will then come under the requirements of the new code and the remit of the New Homes Ombudsman Service.⁹⁸

4.5 Housing complaints resolution service

As noted in the previous section, [A summary of responses to strengthening consumer redress, together with the Government’s response](#) included a commitment to:

- Create a new Housing Complaints Resolution Service which will “build better access to redress through establishing a simplified point of access for consumers when they have an issue with their housing”.⁹⁹

⁹⁶ [NHQB website](#) [accessed 16 January 2021]

⁹⁷ [New Homes Quality Board Code of Practice](#), December 2021

⁹⁸ [December update from the New Homes Quality Board](#), December 2021

⁹⁹ MHCLG, [Strengthening Consumer Redress in the Housing Market Summary of responses to the consultation and the Government’s response](#), January 2019

An update on progress was provided on 31 March 2021:

In summer 2019 the Department established the Redress Reform Working Group to help improve redress across the housing market and consider a Housing Complaints Resolution Service. Work was paused to prioritise the response to the pandemic but we continue to work on improving redress and meet with members of the Redress Reform Working Group.¹⁰⁰

¹⁰⁰ [PQ 174199 \[Housing: Complaints\] 31 March 2021](#)

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