

New Homes Ombudsman Consultation

LABC response

Q1: Are you responding (please tick one)

- As a private individual?
- On Behalf of an organisation?

Q2: If you are an individual, in which capacity are you completing these questions? (Please tick one)

N/A

Q3a: If you are an organisation, which of the following best describes you?

- A housing association/private registered provider
- A Local Authority
- An ombudsman or redress scheme
- A developer
- A sector representative body
- A charity
- A government body
- Other (please specify)

Q3b: What is the name of your organisation?

LABC (Representing 100% of local authorities in England & Wales)

Q4. Who should be required to belong to a New Homes Ombudsman? (Tick all that apply)

- Developers who build and sell homes on the open sales market
- Self-Builders
- Developers who convert and sell properties
- Other (Please specify?)

Q5. Should a New Homes Ombudsman only cover complaints in relation to a purchaser's new build home where redress cannot be sought elsewhere? (For instance, it would not cover a complaint in relation to the sales process for a new build home bought through an estate agent as redress is sought through the redress scheme an estate agent belongs to)

- Yes
- No
- Not sure

Please explain

Redress should still be sought by the most appropriate route however LABC believes that the New Homes Ombudsman should be the final arbitrator where consumers have failed to receive appropriate remedy. We have also seen pressurised developer-provision of conveyancing disrupt 'normal' practices in building control inspection and certification.

Q6. Is there anyone else who should be able to seek redress through a New Homes Ombudsman?

- Yes
- No**
- Not sure

Q7. Should anyone or anything be excluded from a New Homes Ombudsman's remit?

- Yes
- No**
- Not sure

If so, who or what should be excluded?

Q8. How can the Government best ensure that organisations are aware of the requirement to belong to a New Homes Ombudsman?

We believe that the requirement to belong to a New Homes Ombudsman should flow through the registration with the home warranty bodies under the Code of Practice. As such, it will form part of the terms and conditions of registration of all the warranty bodies and it will be mandatory therefore that they belong to the requisite New Homes Ombudsman attached to that Code. There will be no option other than to automatically belong.

Q9a. Should there only be a single New Homes Ombudsman?

- Yes**
- No
- Not sure

Q9b. If not, why not?

Q10a. How long after the initial complaint should a purchaser of a new build home be able to access a New Homes Ombudsman?

- 2 to 4 weeks
- 4 to 6 weeks**
- 6 to 8 weeks
- Other

Please explain

The home builder should be allowed an opportunity to address an alleged breach. However, the homebuyer should have a reasonable timeframe within which they can escalate their concerns and 4 – 6 weeks seems appropriate.

Q10b Are there any other circumstances that a purchaser of a new build home should be able to access a New Homes Ombudsman?

- Yes
- No**
- Not sure

Q11. Are there any other specific standards to the new build sector that a New Homes Ombudsman should meet?

- Yes
- No**
- Not sure

Q12. Should a New Homes Ombudsman be delivered by a public sector body?

- Yes
- No
- Not sure**

Please explain

We understand that 95% of new homes are insured by warranty providers who support the Consumer Code for Home Builders (including our colleagues at MDIS/LABC Warranty) and that it is important the Ombudsman complements the protections already in place for consumers through the code. However, providing the body who delivered the service enabled this, we have no preference as to who delivers the New Homes Ombudsman – both public and private sector bodies should be able to tender for the work (see below).

Q13. How should a New Homes Ombudsman be chosen for approval by Government if it is to be delivered by a private sector body?

- Tendering process**
- Request for proposals
- Minimum Scheme Standards
- A combination of these
- Other (please specify?)

Q14a. Should approval of a New Homes Ombudsman be withdrawn or removed if they fail to deliver effective service standards?

- Yes**
- No
- Not sure

Q14b. If so, what should count as shortcomings in service standards to merit disapproval, how can this be verified and by whom?

Service level agreements should be in place and monitored. This monitoring could be undertaken by the new Building Standards Regulator (although details of its operation and structure remain to be seen). As it is likely, in whatever form, to have oversight of the construction and housebuilding industry it would seem to be best placed to take an overview of the Ombudsman too.

This would have the advantage of unifying practices and culture where new homes are high rise or subject to other risks.

Q15. Are there any alternative sanctions, other than withdrawal of approval, that could be used to ensure a New Homes Ombudsman or other housing redress scheme continue to deliver an effective service?

Q16. Should access to a New Homes Ombudsman be free for purchasers of new build homes to access?

- Yes
- No
- Not sure

Q17. What would be the most appropriate way for a New Homes Ombudsman to charge property developers?

- A price per unit
- A pay per complaint system
- A flat membership rate
- A mixture of the above
- Don't know
- Other

Please explain

A price per unit could be levied through the current registration process with warranty providers payable with the registration of every unit. There would then be a pay per complaint to ensure the worst offenders are contributing towards the increased cost.

Q18. Would any of these models have an adverse impact on smaller housebuilders?

- Yes
- No
- Not sure

Please explain

N/A

Q19a. Should smaller housebuilders pay a smaller fee than larger housebuilders?

- Yes
- No**
- Not sure

Q19b. If so, how should this be achieved/calculated?

N/A

Q20. Are there different sanctions in addition to those available in other sectors of the housing market that a New Homes Ombudsman should have access to? (Tick all that apply)

- Different levels of financial award to the consumer;
- Expulsion from scheme unless a developer instigates and follows an improvement plan;
- Publish the details and reasons why developers have been expelled from a New Homes Ombudsman;
- Suspension from scheme until problems are rectified;
- Ability to make recommendations, for example: that the developer purchases the property back; reviews the terms of leasehold agreement and amends them; and to review the terms of estate maintenance fees and amend them;
- Set timescales to rectify faults/defects with a property;

All of the above

Please explain

In the case of construction defect issues governed by the technical standards of the warranty provider the new home warranty provider should set timescales to rectify the defects as there can be varying levels of complexity. If these timelines are not met then the warranty provider should step in and rectify the defect but the homeowner should be able to refer to the New Homes Ombudsman for inconvenience costs that would fall outside of the warranty provider cover.

Q21. Are there any other powers or sanctions a New Homes Ombudsman should have?

- Yes
- No**
- Not sure

Please explain

Q22. If a New Homes Ombudsman offers awards, what should the maximum amount be?

- Up to £15,000
- X Up to £25,000**
- Up to £50,000
- Over £50,000
- Other (please specify?)

Claims in excess of £25,000 would benefit from full consideration of all evidence by a court rather than the New Homes Ombudsman.

Q23. What information should be published by a New Homes Ombudsman to empower consumers?

- Outcomes of all cases with anonymised consumer data
- Reports on the numbers of upheld cases by home builder – this should be displayed as a percentage of the number of homes completed to ensure larger home builders are not disadvantaged
- Report on trends of issues being reported
- Provide guides on best practice and how to avoid potential issues

Q24. What is the best way to publish complaints data so that it incentivises developers to improve their service? (Tick all that apply)

- X Complaints data provided to the Ministry of Housing, Communities and Local Government**
- X Data published in an annual report**
- X Case studies on their website**
- Other (please specify?)

Q25. What data from a New Homes Ombudsman would be useful for consumers when they are making a decision about purchasing a new home?

Consumers will want to know if they are buying from a 'good' builder, and 'improving' builder or a 'poor' or 'declining'. It would therefore be useful to provide data and reports on the performance of individual house builders and the satisfaction levels of the associated purchasers.

Q26. Should a New Homes Ombudsman remit be UK-wide?

- X Yes**
- No
- Not sure

Q27. Are there distinct practices in the different countries of the United Kingdom that require consideration for how a New Homes Ombudsman should operate if it were to be UK-wide?

Yes

No

Not sure

There are different regulatory and legal systems in Scotland, NI, England and Wales.

Q28. What should be included in a Code of Practice for developers of new build homes? Tick all that apply:

Complaints procedures

Pre-purchase information and reservation agreements

Customer Service Standards

Sales and advertising standards including, but not limited to, the requirement to provide clear information in for; energy performance ratings, warranty provision, management services, leasehold charges, future development phases and connectivity

Protection of deposits

Minimum warranty standards

Specifications that new homes should meet

Transparency in relation to the receipt of fees a developer receives if they recommend product or service, such as a solicitor

after-care responsibilities of builders

Contracts to allow homeowners to appoint an independent building consultant/surveyor to review and agree with builders

Timescales for responding to complaints, rectifying defects and compliance with requirements of a New Homes Ombudsman

Standardised Contracts

A right of access for the purchaser to view the property prior to completion

The ability of homebuyers to carry out surveys before final completion

Other (please specify?)

With regard to the minimum warranty standards, as these vary considerably across the market place at present and affords the home buyer differing degrees of protection, we are keen to see a mandatory best practice standard applied across the industry and the removal of a minimum warranty standard, which infers there may be a “race to the bottom”.

Our experience in the past several years is of a plethora of new ‘skinny’ warranties coming to market. These warranties have poor inspection requirements, off-shore insurers and sometimes ridiculously high excesses combined with exclusion of basic risks . These warranties are cheaper and attractive to developers willing to put profit before customer service and consumer protection, or developers who don’t understand warranty policies.

Q29a. Should a Code of Practice for developers of new build homes be underpinned by statute?

Yes

No

Not sure

Q29b. If not, why not?

We believe the aims of the government will be achieved by introducing a New Homes Ombudsman utilising some of the existing industry frameworks. Providing there is one Code and a minimum warranty standard consumer protection will be improved.

Q30a. How should failure to belong to a New Homes Ombudsman be enforced?

By utilising the registration process of warranty providers to become part of the New Homes Ombudsman failure to register would mean that home builders would not be able to obtain warranty cover on their new homes. Provided UK finance members require a warranty, as they currently do, home builders would then have great difficulty in selling homes.

Q30b. Who should enforce this?

- Local Government
- Redress schemes
- Central Government
- New or existing Regulator
- Courts and Tribunals

X Other (please specify?)

The method outlined above would be enforced by the new home warranty providers with the assistance of the industry code.

Q31. What should the penalty for non-compliance be? (Tick all that apply)

- Criminal offence
- Civil sanction

X Financial penalty (please give details of suggested level)

X Banning developers

X Banning Directors of property development companies

Other (please specify?)