

# New Homes Ombudsman Case Study: Change in Completion Window



## Issue

The customer complained that they were unable to complete their purchase because of changes in the build programme and because the developer served the completion notice after the expiry of their mortgage offer. When completion did not occur, the developer rescinded the contract and retained their deposit. The customer complained to the developer about several aspects of their experience and claim that their concerns were not addressed.



## Relevant sections of the New Homes Quality Code

Part 1

**Selling a new home**

Part 2

**Legal documents, information, inspection and completion**

Part 3

**After-sales, complaints and the NHOS**

## Circumstances

- The customer reserved the property in April 2023. Contracts were exchanged on 19 May 2023; the customer had a mortgage offer and legal representation.
- Although the customer expected the property to be ready in November 2023, the timescale for completion was extended, and their lender refused to extend the mortgage offer.
- The customer relied on a verbal assurance from the site manager that the property would be completed by 15 November 2023; their mortgage offer was valid until 27 November 2023.
- Before a new mortgage application was approved, the developer served notice to complete. The customer no longer had a valid mortgage offer in place.
- Given the increase in interest rates, the customer explained that they could no longer afford the mortgage repayments, but nevertheless, they were contractually bound to buy the property.
- The final date for completion was 4 December 2023 and as completion did not occur by that date, the developer warned that they were in breach of contract.
- The customer complains they have experienced high-pressure selling techniques and were offered a financial incentive for an immediate decision to reserve a property, but they were required to use a specific third-party adviser and mortgage broker.
- The customer complains they have not received an explanation as to why the completion window changed. Notice of completion was served without any warning, despite the developer knowing that their mortgage offer had been cancelled.
- The customer contends that they found the customer service from the developer and its staff to be poor; they did not explain the reasons for the delay to completion and the staff were rude to them.

## Ombudsman's decision

The Ombudsman reviewed the evidence available and found that had been a clear breakdown of trust between the customer and the developer over a period of months.

The developer has not examined or investigated the issues the customer raised. Their responses were focussed on advising them to seek legal representation and does not fully address the customer's greatest concern: the return of their deposit.

The developer did not follow the complaints procedure set out in the Code and they did not address the customer's concerns. The timing of the customer's complaint - after failed completion - does not negate the need to ensure that it is properly handled.

Although the Code makes provision for the refund of the deposit to a customer if a developer cancels the contract for sale, it does not provide for the refund of the deposit when the transaction is cancelled by a customer. As a result, this complaint is upheld in part.

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## Outcome

Complaint upheld in part. Customer awarded £1500.



## Learnings

- Developers should make customers aware that they should get independent legal advice when buying a new home but can recommend professional advisers to a customer including legal representatives and mortgage intermediaries.
- What might appear to be an insignificant decision to a developer can have a significant impact on a customer.
- Developers must make sure that the terms of the contract are clear and written in fair language. The contract must define the completion notice period and clearly set out the circumstances in which the sale can be cancelled.
- Poor after-care service exacerbates a customer's bad experience. In this case, the customer asserts that they were treated poorly by the developer's staff, causing further upset.
- Developers must follow the complaints procedure as laid out in section 3 of the Code.

## Recommendations for developers

If a change in the completion plan is required, this must be clearly communicated. Take time to have a phone call with the customer.

Offer a genuine apology that reframes the issue from a defensive stance to one of understanding, support and empathy. In this case, the developer would only advise the customer to pursue legal advice. This would be a frustrating experience from a customer perspective, particularly as the developer delayed completion without explanation.

