

New Homes Ombudsman Case Study: Cancellation of Reservation



Issue

The customer complains that they have been treated unfairly by the developer who re-marketed the home they had reserved, although exchange of contracts and legal completion were imminent. The customer completed the purchase of their new home approximately two weeks after the developer had initially withdrawn from the transaction. The customer considers that they should have been treated more compassionately.



Relevant sections of the New Homes Quality Code

Part 2

Legal documents, information, inspection and completion

Circumstances

- The original reservation agreement was due to expire, and this was the target date for the exchange of contracts. The developer agreed with the customer that the reservation agreement should be extended in connection with the property they were selling.
- Exchange did not occur on the agreed extended date. Another extension was agreed, and when no progress to exchange was made, another was approved, clearly described in e-mail correspondence as “a final reservation”.
- The developer says that a further extension was given verbally. The customer’s solicitor could not confirm to the developer that they could exchange that week, and the developer cancelled the reservation.
- The developer’s solicitor emailed, stating they would re-market the property and grant no further extensions. They refunded the reservation fee to the customer.
- The customers were disappointed and asked if they could re-reserve the plot. The developer said that if they could exchange prior to another party reserving the property, then they would be able to proceed, but given the current situation, their application would be cancelled.
- The customer was able to exchange before another party made a reservation, completing their purchase and moving in the following day.
- The customer acknowledges that, although they disagree with the actions of the developer, they were entitled to cancel their reservation but believe they should receive an apology and compensation due to how they were treated.

Ombudsman’s decision

The Ombudsman reviewed the evidence available and found that the developer did not cancel the reservation at the first opportunity available to them. The developer gave several extensions to the customer, to allow the exchange to be achieved, and their communication was clear and professional throughout.

Evidence confirms that there were problems with the customer’s chain and doubt over the imminence of the exchange, but there is no evidence of unprofessional behaviour from the developer.

There was no evidence that the developer employed any high-pressure selling techniques, or that they cancelled the reservation while the reservation agreement remained valid.

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Outcome

Complaint **not upheld**.



Learnings

- Treat customers fairly throughout the buying process and ensure that the terms of the reservation agreement are understood and upheld.
- Developers should not only respond to queries quickly and reasonably, but they should also communicate key messages clearly and appropriately.

Recommendations for developers

Consistent communication with customers is essential when working towards completion. It helps to resolve issues further down the line should they arise. In this case, the developer communicated in writing consistently, fairly, and clearly.

Treat customers fairly throughout the buying process. This developer continued cooperating with the customer and working towards a resolution even after the reservation was cancelled.

