



Raising Standards. Protecting Homeowners

Proposed New-Build Homes (Buyer Protection) (Scotland)

About NHBC

NHBC is an independent insurance company, established in 1936, in the new build housing market, providing a 10-year Buildmark warranty to homebuyers across the UK. Over 1.5 million UK homeowners currently benefit from this insurance protection.

NHBC is a non-profit distributing organisation, with no shareholders, authorised by the Prudential Regulation Authority (PRA) and regulated by the PRA and the Financial Conduct Authority (FCA).

NHBC does not build or sell homes, it is not a regulator and does not represent any part of the industry. Individual builders are ultimately responsible for the quality of the homes they build and sell to consumers.

NHBC cares passionately about new build quality and reinvests profit into the sector to support builders to deliver high quality homes. NHBC also runs the house-building industry's most prestigious awards programme: Pride in the Job is the only UK wide initiative dedicated to recognising site managers who achieve the highest standards in house building.

NHBC Standards cover 80% of all new homes. NHBC offers a vast range of comprehensive services to the industry to help it build high quality homes, and to ensure consumers have a positive experience living in their new build home with NHBC's 10-year Buildmark warranty.

NHBC provides guidance and training to industry. NHBC delivers approximately 10,000 delegate days of training to the house-building industry per year and through the NHBC Foundation, regularly produces high quality research to help industry meet the challenges of the day.

Consultation questions

1. Which of the following best expresses your view of establishing statutory standardised clauses for builders' missives?

- The construction industry is best placed to comment on the proposals regarding missives given that the builder is ultimately responsible for the quality of new build homes.
- However, NHBC already plays an important part in helping builders to deliver homes to a high standard.
- As an insurer this aligns with NHBC's mission that high-quality homes, free from defects, are produced by the builder.
- NHBC operates in a different way to most insurance companies.
- Common practice would be for an insurance company to price the risk they face and not necessarily be active in supporting the markets they serve or the products they cover.



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- NHBC reinvests in the sector and through our 'Virtuous Circle' business model, seeks to support best practice and high quality.

Figure 1 – NHBC's Business model – The Virtuous Circle



- NHBC's model involves actively managing construction risks, rather than segmenting and pricing them.
- NHBC's supervision of building work for Building Control purposes complements this model.
- To help deliver a good experience for the buyer, NHBC operates a comprehensive process to ensure that builders meet certain requirements before they are eligible to join NHBC's register.
- All builders and developers registered with NHBC agree to comply with its Rules of Registration and to ensure that all new homes are constructed in accordance with the NHBC Standards.

NHBC Builders Register

- NHBC carries out Commercial and Technical assessments of all builders on the register.
- **Commercial assessment:** NHBC takes up financial and other references for all applicant builders and may carry out company and/or personal searches via licensed credit reference agencies. If there are any adverse financial reports, NHBC may reject the application.
- **Technical assessment:** the builder must prove to NHBC that they have adequate and proven technical and management capabilities, and suitable procedures for managing health and safety. Past and current work, together with any previous or current association with an NHBC registered builder/developer, will be considered. They will also be required to attend a presentation about NHBC, its rules and procedures.
- By vetting builders in this way and having an ongoing review of registered builders' performance (i.e. taking into account claims and construction quality experience), NHBC is able to provide further protection for consumers.
- In registering with NHBC, builders become contractually bound to NHBC and consequently NHBC can enforce its inspection outcome if the builder is non-compliant.
- All of the data that NHBC collects through its inspection processes is shared with the industry to assist them in improving their own models.



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NHBC Standards

- NHBC registered builders must comply with NHBC Standards, which provide the technical benchmark for all newly built and converted homes covered by the NHBC warranty.
- The NHBC Standards go beyond statutory requirements and are published as a manual containing the Technical Requirements, performance standards and guidance for the design and construction of homes acceptable to NHBC.
- NHBC's Standards are at the core of our purpose to help builders improve the construction quality of new homes, and the content is regularly updated in order to keep pace with changing regulation and technical innovation.

2. Which of the following best expresses your view of providing a statutory route for home buyers to obtain redress for major failings on new-build property?

3. What do you think would be the main practical advantages and disadvantages of the proposed Bill?

- As the consultation notes MHCLG are currently looking into a New Homes Ombudsman to hold developers to account. NHBC has been an active supporter of this proposal to provide homeowners with an additional route of redress if they are not satisfied with their new home.
- While supportive of the principle behind this Bill to strengthen consumer redress, we would be cautious of any new policies which could create inconsistency across the UK, given the ongoing work with the New Homes Ombudsman.
- Redress for new build home buyers is a complex environment and the introduction of another ombudsman could present significant operational challenges. These include how a voluntary ombudsman interfaces with existing ombudsmen and the Consumer Code, funding, and encouraging industry participation.
- We would encourage engagement with builders and their trade associations on any proposals around new routes of redress to ensure there is a consistent level of support for all UK residents and not create confusion with existing schemes.
- It is important to note that NHBC and other new home warranty providers are already under the jurisdiction of a UK-wide ombudsman; the Financial Ombudsman Service (FOS), which gives consumers a clear route to redress should they disagree with a decision that has been made on an insurance claim.
- NHBC also provides policyholders with a Resolution Service which they can use if they have a disagreement with the builder about a defect with their property within the first two years of the Buildmark warranty. More information on the Resolution Service can be found below.

4. What length of time do you think is most appropriate for a builder's warranty for a new-build home?

- NHBC believes that the current length of 2 years for builder's liability period is most appropriate for new build warranty.
- This is a well tried and tested model that NHBC has delivered for over 50 years and it is a world leading standard which other countries are looking to emulate.



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- NHBC is the only self-underwriting insurer in the UK new home warranty market, meaning we have a much greater interest in ensuring the homes covered meet the highest standards.
- By taking on the risk ourselves we always want the builder's final product to be of the highest quality possible.
- It is in our interest to ensure new homes are built to the highest standards possible which is why we actively manage construction risk.

Consumer protection from NHBC's Buildmark Warranty

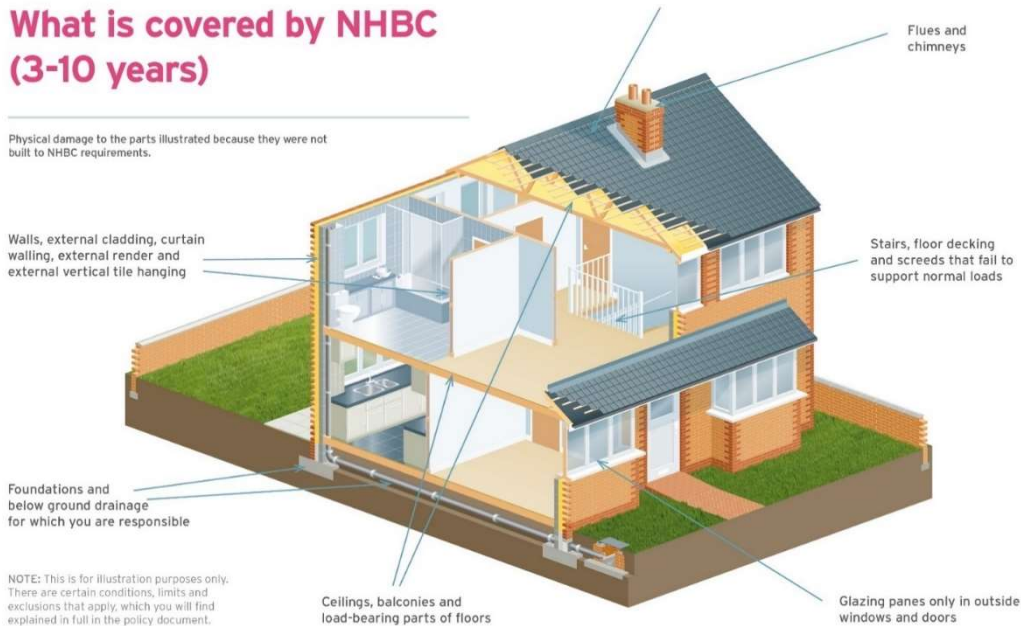
- For the benefit of homeowners, the 10-year NHBC Buildmark warranty has been designed to protect purchasers of new homes from major defects where the property has not met NHBC Standards.
- Like all insurance policies there are exclusions, such as wear and tear or failure to carry out suitable repair and maintenance.
- The 10-year Buildmark warranty and insurance cover on new homes has the following features;
 - **Insurance protection for the homebuyer's deposit** if, for example, the builder becomes insolvent between exchange of contracts and the date of legal completion for the first purchaser.
 - **Initial two-year builder guarantee:** if there has been a failure to build to NHBC Technical Requirements (NHBC Standards), the builder must put the problem right when this is reported to them. If they do not, NHBC provides an independent Resolution Service where the builder is required to implement NHBC's findings. In the event that they fail to do this, NHBC steps in to rectify the problems through its own remedial works network.
 - **For the remaining eight years of the insurance policy, cover is provided against major defects** such as foundation problems, defects affecting the fabric of the building and its weather tightness. (Figure 2 provides an illustration of what is covered by NHBC after the initial two-year guarantee and a copy of the policy document is available online.)
 - **In addition to Buildmark, 'Buildmark Choice' is specifically designed for homes for long-term rent or shared ownership** (this does not include buy-to-let). It provides protection for the landlord for 10 or 12 years from the date of NHBC's sign off as suitable for cover.
 - **The responsibility of the quality of new homes ultimately lies with the builder.** They must also ensure that the home is compliant with all relevant legislation including NHBC Standards and the Building Regulations.

Builder warranty period

- Under the builder warranty period, (the first two years of Buildmark), the notification period for a homeowner making a claim to their builder starts from the date of legal completion date.
- Once a homeowner has notified a builder during this period, the builder is responsible for dealing with it even after this period ends (subject to limitations).

Figure 2 – Cover under NHBC Buildmark warranty

What is covered by NHBC (3-10 years)



- NHBC’s Resolution Service acts as a safety net if a dispute arises between the homeowner and the builder about work to be done during this two-year period.
- The service can help to determine if the builder has failed to meet the NHBC Standards and what the builder is required to do to meet their responsibilities under Buildmark.
- If the builder does not take action, NHBC may take over the builder’s responsibilities under the insurance cover provided under Section 2 of the Buildmark policy or pay the cost of the repair.
- The Resolution Service is free to homeowners.
- The findings of the Resolution Service are binding on the builder.
- NHBC’s Resolution Service could be considered a ‘complaints process’ because it provides impartial advice in relation to disputed items between new homeowners and builders.
- The service is normally successful in helping to resolve disputes between the homeowner and the builder.
- The Resolution Service cannot assist with contractual, planning and financial matters and issues that are not covered by NHBC Standards.
- Builders are charged a fee where the findings of the Resolution Service are in favour of the homeowner (i.e. NHBC Standards have not been complied with).
- If the homeowner disagrees with NHBC’s assessment under Resolution, they can still pursue their dispute with the builder through alternative channels such as pursuing the legal options available to them.

10. Do you have any other comments or suggestions on the proposal?

- While the consultation document refers to the fact there are issues with the robustness of the building verification process / Building Control in Scotland, there are no proposals for reform.



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- As the UK's largest provider of building control services, NHBC is well positioned to offer support if the Scottish Government were to grant a license.
- This has the potential to relieve pressure on local authorities and increase the quality of new builds.
- NHBC have encouraged the Scottish Government to consider appointing other providers of Building Control beyond the local authorities to introduce more expertise and increase quality.
- There is an obvious correlation with the quality of building control provided and the quality of the final home.
- NHBC believes the current level of demand on local authority building control departments in Scotland is creating an additional level of difficulty in securing quality new homes.
- Whilst a new ombudsman / form of statutory redress will bring benefits to the consumer, NHBC believes that it should not be seen as a solution or a substitute to solving the source of the problem that homeowners are not often satisfied with the final quality of their home.