

NEW HOME WARRANTIES

The Council of Mortgage Lenders handbook sets the standards for acceptable title and legal standards in conveyancing and mortgage transactions in the United Kingdom. In the case of new houses it requires an approved new home warranty provider. This means that in practice, new houses will require registration with a new home warranty provider in order to be saleable. It is possible to make alternative provision for construction assurance for one off houses which is acceptable under CML criteria.

There are a number of new home warranty providers but by far the more significant ones are National House Building Council (NHBC) and Zurich Insurance. A very small number of other warranty providers have been registered. In practice any new build development will need to be registered with a new home warranty provider in order to be marketable. NHBC is the UK equivalent of Homebond. It is also an approved inspector for the purpose of the building regulations so that it offers an alternative and speedier method of procuring compliance with UK Building Regulations.

Registration with the NHBC can be verified on-line and this will typically be done by purchaser's solicitors in advance of contract.

The scheme offers protection against defects in houses and also provides a deposit protection scheme. In practice where a deposit is covered by NHBC or Zurich it would normally be possible for the deposit monies to be released to the developer for use in financing the construction and other development costs.

Developers and builders may register for NHBC. Registration may be subject to conditions in respect of a number of plots which may be submitted for cover. It may impose requirements for security, requirements to indemnify NHBC etc.

There are separate rules for builders and developers. Registration as a developer will not entitle one to act as a builder. A NHBC developer must retain a NHBC builder as the main contractor.

Before every home is built a site notification and application for NHBC cover must be submitted. NHBC may require the house to be inspected during the construction phase by an independent professional acceptable to NHBC. A site notification must be received by NHBC as early as possible but at least eight weeks before work starts on a hazardous site or where non conventional or complex construction methods are used or at least 28 days in other cases.

Submission of the site notification will not result in cover. It is necessary to make an application for NHBC cover for the homes for which NHBC cover is sought. There are certain ongoing services and obligations which must be undertaken by NHBC during the course of the construction.

The application for NHBC cover authorises NHBC to issue the appropriate cover. The NHBC cover documents will be sent for the relevant home. They must be delivered after contracts for sale are entered to the persons to whom the properties are to be sold.

When NHBC considers that the rules have complied with, notice of cover will issue. Since 2003 the Council of Mortgage Lenders handbook requires that before a purchaser can be called upon to complete that a cover note has issued from the new home warranty provider.

The NHBC cover in essence underwrites certain cover in favour of a purchaser. This insurance is essential to the new home building market. Major defects are underwritten for 10 years while minor defects are covered for 2 years. Protection against deposit cover is given in favour of purchasers.

The Zurich Building Guarantee is an alternative warranty and building control service. It provides broadly similar cover to that of NHBC.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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