

Non – Compliance Policy Guidance for Code Members

Reasons for this Policy

Ark Insurance Group Ltd (Ark) as Code Sponsor has a responsibility to ensure that adequate and appropriate measures are in place to minimise the risk of consumer detriment arising from non-compliance with the Ark New Home Buyers Consumer Code (The Code). This policy sets out the procedures that will be used to handle non-compliance with the Code.

Who is this Policy For?

The policy applies to all Code Members with active code membership i.e. accepted as a consumer code member following the application process and has an active site registered with Ark. This policy applies until all units under any development are outside of the consumer code period i.e. a property purchased by a consumer for residential use and over two years since practical or sale completion, whichever is the latter.

Purpose of the policy

Ark recognises the need to take precautions and actions to maintain the effectiveness of the code where non-compliance and/or breaches of The Code are evident.

The following policy sets out the measures Ark will undertake to ensure that the Company is fulfilling its responsibilities as Code Sponsor.

Statement of Arrangements

As far as is reasonably practicable, all steps shall be taken by Ark to prevent or minimise non-compliance with The Code. Code Members will be subject to performance monitoring by Ark to assess if non-compliance or breaches of The Code have occurred. Ark as Code Sponsor may undertake the following:-

Provide training to all Code Members and their agents where applicable
Conduct continuous monitoring audits which may include desk-top or on site audits.
Conduct, review and assess Home Buyer Satisfaction Surveys
Monitor Complaints and Disputes and how they are handled by Code Members
Monitor numbers of claims received and numbers that are relating to non-compliance with The Code
Undertake searches of publicly available information to establish any potential breaches

Non-Compliance Definition

The following are examples of non-compliance with The Code in respect of Code Member's obligations. This list is not-exhaustive and is subject to change dependent on evidence of consumer detriment.

- Lack of co-operation with the Code Sponsor when requesting information. This could include information relating to a claim, complaint or dispute, continuous monitoring information request, or evidence of undertaking training.
- Evidence of any breach of the Code Requirements under the Scope of The Code
- Misuse of the Code Logo as set out in the Logo Guidance Document

- Below expected standards (satisfaction score below 7) in the results of Home Buyers Surveys
- Non co-operation with the ADRS
- Non payment of fees to the ADRS administered by the Centre for Effective Dispute Resolution (CEDR).

Non Compliance Procedures

Ark may request information from, make enquiries about, or carry out any investigations which it considers relevant to compliance with The Code and the suitability of a Code Member for continued membership acceptance.

Should a Code Member be found to be non-compliant with their obligations under The Code, Ark may use a range of measures to ensure they are being met and consumers are not being subject to further detriment. This could include the following:-

- Removal from the Code Membership register
- Restricting access to further warranty products
- Deferring membership until such time as Ark has sufficient information to make a decision; or
- Imposing conditions or restrictions as Ark deem appropriate.

Where non-compliance has been identified Ark, at its discretion, may continue membership subject to conditions. For example Ark may require that the Code Member:-

- Provides a guarantee to ensure the proper performance of their obligations pursuant to The Code which will set out steps for the Code Member to address any non-compliance and to remedy any breaches of The Code; and / or
- Agrees to enhanced monitoring and/or additional training to ensure future compliance.

Removal from the Code Membership Register by Ark

Ark shall be entitled to remove a Member from the Register or impose such restrictions or conditions on a Code Member as Ark deems fit where:

- The Member is in breach of any of the Code requirements
- The Member's actions will affect the reputation of Ark Warranty Services or Ark Insurance Group
- The Member, its Directors or Builder is convicted of any offence involving dishonesty
- Any civil action judgment is given against the Member, its Directors or Builder in circumstances involving a fraud or dishonesty
- The Member, its Directors or Builder has not co-operated in respect of any claim notified under the Liability Period or Consumer Code Period for any New Home
- The Member, its Directors or Builder is prosecuted under Health and Safety legislation

- Any complaint has been made to Ark Warranty Services or Ark Insurance Group about a Member, its Directors or Builder where a proper investigation of the complaint has been undertaken, and such action is deemed necessary

If Ark's decision is to impose conditions, defer or remove membership acceptance, this shall be notified to the Applicant in writing.

Disciplinary and Sanctions

Should the Code Member be subject to complaints or Alternative Dispute Resolution Services (ADRS), the Code Member may be referred to the Disciplinary and Sanctions Panel facilitated by the Code Sponsor.

A Code Member will automatically be referred to the Panel by The Code Sponsor if notified that the Code Member has been convicted of an offence (or signed a formal caution) under Regulation 12 and Schedule 1, Paragraph 4 of the Consumer Protection from Unfair Trading Regulations 2008 (failure to comply with the terms of approval, endorsement or authorisation).

The Disciplinary and Sanctions Panel will convene as necessary to deal with matters. The Panel will be made up of three professionals, with representatives or members from:

- The Insurance Industry (Members of the Chartered Insurance Institute)
- The Construction Industry (Member of the Royal Institute of Chartered Surveyors or equivalent)
- The Chartered Trading Standards Institute

The Panel has the right to impose sanctions on Code Members, including but not limited to:

- Specifying improvement plans for the Code Member, including a written warning
- Financial penalties equivalent to the reasonable costs incurred by the Home Buyer and Code Sponsor following a Complaint, Dispute or Alternative Dispute Resolution Service
- Suspension (time limited or indefinite) from registering New Homes with the Code Sponsor
- Suspension (time limited or indefinite) from the issuance of any further Ark Warranty products to the Code Member

Suspensions and other restrictions can be applied to Directors and Officers of the Code Member and associated companies, including parent, ultimate holding, subsidiaries and any entity registered where a sanction has been imposed.

The Panel reserves the right to share sanctions imposed upon Code Members on the Code Sponsor's website, in relevant publications and with relevant third parties, including Structural Warranty providers who operate an equivalent Consumer Code.