



**Annual Report**  
2009 - 2010

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## EXECUTIVE SUMMARY

- The Property Codes Compliance Board (PCCB) has operated since 2006 as the independent body responsible for setting and enforcing standards of best practice for Home Information Pack and local property search providers subscribing to the HIP and Search Codes. The Codes seek to ensure that products produced by subscribing firms will be reliable, high quality and backed by robust insurance and complaints procedures. The Government's decision in May 2010 to suspend the requirement for HIPs limited the Board's role to that of overseeing the Search Code alone, but this report covers the period from 2009 onwards as a whole.
- The PCCB maintains a register of firms committed to operating in accordance with the relevant Code and aims to expand its coverage to include all firms in the appropriate sector. Notwithstanding the continued difficult trading conditions experienced during the year, the number of subscribing companies remained broadly constant under both Codes. Following HIPs' suspension, the number of individual companies subscribing to the Search Code has stabilised at about 130 together with approximately 150 franchisees (of the 3 franchisor firms currently subscribed to the Code).
- The PCCB's principal role is to ensure that these subscribing firms comply with relevant Regulations, as well as with the letter and spirit of the relevant Code. It is the only regulatory body in the property sector which proactively carries out spot checks and inspections of registered firms.
- Over the period of this report, the Board has further refined its risk-based model to enable it to focus compliance activity on areas with the greatest potential for consumer detriment and where effective action could be taken. The compliance regime utilises a range of measures from pre-registration checks through to full on-site inspections and bespoke investigations. Since 2006, over 330 formal compliance checks have been undertaken, resulting in over 2,500 recommendations to improve current practice.
- Over the period, three sanctions were issued resulting in the firms concerned having their registrations cancelled either for failing to comply with PCCB recommendations or for not submitting to an inspection. Nine other firms resigned, ceased trading, or failed to renew their registration, before the compliance check process had been completed to the satisfaction of the PCCB.

# PROPERTY CODES COMPLIANCE BOARD

“Protecting consumers - promoting quality”

## 1. MISSION STATEMENT

Our vision is of a self-regulated, efficient property market, with consumers making well-informed decisions based on advice from professional firms operating to the highest standards.

The Board continues to work towards making this a reality by ensuring that purchasers of Code subscribers' products have access to the highest quality information, at the right time, with full protection and access to redress should this be needed. Each Code acts in effect as a benchmark of best practice against which performance towards this goal can be assessed.

## 2. AIMS & OBJECTIVES

The Property Codes Compliance Board is the independent body responsible for setting and enforcing standards of best practice for providers subscribing to the Codes. Introduced in 2006, the Codes provide the best possible assurance that the products and services provided by subscribing firms will be reliable, produced to a high quality standard and backed by robust insurance and complaints procedures.

The Board aims to provide a framework which is recognised and supported by all providers in England and Wales, and to work actively with individual firms and the trade bodies to promote the Codes and to encourage maximum take-up.

Our principal task is to ensure that subscribing firms comply with the relevant Code and with the relevant laws and regulations. Effective risk-based monitoring and a broad range of compliance activities are designed to deliver quality assurance for consumers and property professionals alike - backed by an independent redress scheme if things go wrong.

Working with other regulatory bodies in the property sector, and with government, the Board seeks to encourage a healthy, competitive industry to deliver the best possible service to consumers.

### **3. CHAIRMAN'S REPORT**

This is the second report of the Property Codes Compliance Board, and I commend it both to our registered subscriber firms and to a wider audience. It describes what has been achieved to date, and what we intend for the future.

The report spans a period of yet further change in the home buying and selling process, and in particular the decision of the incoming Government to suspend Home Information Packs as from May 2010. This was not wholly unexpected, but it left many registered firms without a source of income overnight, and many home buyers and sellers in the dark as to whether any of the benefits that HIPs had brought about were to be retained. The Board extends its sympathy to those registered firms who in good faith helped to develop HIPs and to make them work for their customers, and it would like to thank them for their efforts. Much has been learnt and it remains important that the lessons are applied to future reforms.

The decision to suspend HIPs also meant that the Board and search industry had to rethink their role and the future of the Search Code in particular. That process is almost complete. From October 2010 the Board's compliance activity will resume, building on our experience of self regulation, supported by proactive compliance, over the last four years or so. This report chronicles some of that experience, and underlines its continued commitment to secure effective compliance, thereby giving those commissioning and paying for searches an assurance of high standards and proper protection.

Success will require the co-operation and support of the search industry as a whole, and close working with solicitors and conveyancers, mortgage lenders, and consumer bodies. And it will require a strong relationship with local authorities which face their own challenges in the years ahead. All these interests will find the Board a constructive and willing partner. We share with others a desire to see a healthy housing market, based on sustainable home ownership, and to that end we will work with Code subscribers to provide timely and high-quality information that fully informs the decision to buy or to move home. There can be no retreat from that goal.

The Board wishes to record its thanks to the secretariat and compliance team whose determination to provide an efficient and effective service to registered subscribers and Directors has remained undiminished throughout a difficult period.

The Board would welcome comments on this report, and indeed on any aspect of its work.

**Richard Footitt**  
*PCCB Chairman*

## **4. OPERATIONAL REPORT**

The PCCB's activities are designed to increase consumer confidence in the industry and, specifically, the products from subscriber firms. Our perspective is principally that of the home buyer and seller. Our aim is to ensure that they can rely on subscribing firms' products, or the information provided within them, irrespective of whether these are commissioned directly or through a third party, such as a conveyancer.

Throughout the period of this report, the Board has continued its work to drive up standards and root out bad practice. In particular, it has contributed to regular reviews of the Codes to ensure they remain fit for purpose. The latest Code review work has focused on tailoring the Search Code to the new non-HIP environment.

One key success, in conjunction with The Property Ombudsman (TPO – formerly the Ombudsman for Estate Agents), has been the creation of a single point of redress for consumers to ensure a straightforward and seamless process for dealing with complaints and claims. This has effectively eliminated the possibility of consumers' complaints falling through a gap, or being passed from one body to another.

In addition, and in association with various industry partners, PCCB also published a Consumer Guide covering Code subscriber products, the roles of estate agents and conveyancers in the home buying and selling process, sources of further information, and how to make a complaint. It is important that this guide is updated and expanded in order to help consumers find their way round an unnecessarily complex process.

## **5. SUBSCRIBER INFORMATION**

The PCCB maintains an online public register of firms that have signed up to the relevant Codes, and have agreed to abide by the standards of practice enshrined in them. In the last year it is estimated that coverage of the Codes extended to well over 80% of the market by volume, and the Board intends to maintain this level of cover over the coming year.

The Board worked with the two Code owners (the Association of Home Information Pack Providers, AHIPP, and the Council of Property Search Organisations, CoPSO) to promote the Codes amongst the industry. As well as encouraging non-registered providers to sign up to the Codes, the Board also promoted the Codes to other trade and regulatory bodies whose activities complement its own.

## 6. SUBSCRIBER SUPPORT

The Board provided support to all subscribers to help them in meeting their obligations under the two Codes. This underpinned its intention to promote good practice across the industry and to raise operational standards.

The range of support provided to firms continued to be extended. Through an online portal, regular communications were issued providing:

- detailed advice and support on changes to the regulations and to the Codes;
- new operational requirements; and
- guidance for firms on lessons learned from our compliance work.

Central to this was the provision of online Guidance Notes that:

- informed firms about common compliance challenges;
- provided guidance on minimum expectations in certain critical areas when compiling their products;
- gave guidance on good practice going beyond the minimum requirements; and
- provided standard report/letter templates where appropriate.

Four Code workshops were staged during the year at different locations around the country. Hosted in conjunction with AHIPP and CoPSO, a revised format ensured that the workshops again proved popular with both newly registered firms as well as existing Code subscribers. In addition to a session devoted to new subscribers, presentations were made on the latest industry and market developments and trade body/PCCB activities and the findings from the most recent compliance work. A new presentation on redress, by Christopher Hamer, The Property Ombudsman, was introduced, and is expected to be a feature of future workshops.

## 7. COMPLIANCE REPORT

In securing compliance with the two Codes, the PCCB has protected the investment made by responsible operators in subscribing to the Codes and their provisions, and has upheld the integrity and reputation of the Codes themselves.

The Board's enforcement activity has therefore been twofold:

- preventing misuse of the Code logos and 'passing off' by non-subscribing firms; and
- ensuring subscribers' compliance with the Code provisions.

During the year it has taken action to stop the mis-use of the Code logo by 50 non-registered firms, or firms that ceased to be registered.

The compliance activities conducted by our contractors, The Consultant Connection Ltd (TCC), included pre-registration checks, compliance support, spot checks, full inspections, investigations, and the provision of advice through Guidance Notes and Workshops. To date, over 330 formal compliance checks have been undertaken, resulting in over 2,500 recommendations to improve current practice.

This work was informed by a risk model which gave priority towards the end of the period to:

- independent firms and franchises that had a substantial market share;
- new registrants (or subscribers), particularly one-person operations; and
- firms about which the PCCB had received a formal complaint, or evidence of potential Code breaches.

The main types of compliance checks were as follows.

**Pre-Registration Checks:** Some 65 firms applying to subscribe to one or both Codes for the first time were required to undergo a pre-registration check and to rectify any deficiencies before registration could be confirmed. This check focused on the firm's products and on critical business areas, including insurance, complaints management, and terms and conditions.

**Spot checks:** Some 60 firms were subject to desk-top checks, which focused on critical areas of compliance. To address industry concerns, a dedicated exercise in autumn 2009 examined current practice in providing searches by firms of different types and sizes. Personal searches were compared with equivalent local authority products. The conclusions were:

- Allegations that many firms were knowingly providing inaccurate searches were not supported
- Searches conducted by local authorities were not found to be necessarily any more reliable than those provided by Code subscribers
- Local authorities and firms alike needed to take greater care to ensure that searches were complete, accurate and up-to-date

- Allegations that many firms were knowingly failing to access legitimate sources, and/or were fabricating answers, were not supported
- The lack of transparency among firms about data sources remained a concern
- There were a number of other concerns including poor presentation of search questions and answers by some firms, and missing information required by the HIP regulations.

Further PCCB guidance was produced for all firms following this exercise. Where appropriate, action was also taken against the firms concerned to address any clear deficiencies.

**Compliance support:** Some 20 firms that had not previously been checked, or had last been checked in 2008, were provided with relevant Guidance Notes and offered support as necessary - to review products or templates, answer queries, or discuss concerns. Compliance checks or inspections were scheduled where it was clear that further work was needed.

**Full inspections:** These covered all aspects of compliance with the Codes, and include site visits to firms. A formal signing-off process, incorporating peer Inspector reviews, helped to ensure consistency. Over 180 full inspections were completed and their findings and recommendations provided a strong foundation for promoting compliance across the industry and for refining PCCB's risk model. Now that the risks within the market are better understood, the Board expects to place less emphasis in the future on full inspections, and more on other types of compliance activity, whilst reserving the option of requiring a firm to undergo a full inspection wherever the situation appears to warrant it.

**Investigations:** The PCCB also investigated a range of subscriber firms that have been referred by other firms, councils or customers, as a result of concerns or information about the content of their products and their services. In some cases these investigations included full inspections or spot checks focusing on specific areas of activity.

## **8. RISK-BASED COMPLIANCE**

The PCCB's compliance regime is based on a risk model that has been continually refined since inspections began in 2007. It allowed the Board to identify where resources were to be directed, where compliance breaches were most likely to harm consumers, and where the likelihood of non-compliance was high. Activities such as the autumn 2009 spot-check exercise, the investigation conducted with Trading Standards in Birmingham, and other collaborative exercises have all helped to inform the model over the period. Random compliance checks are also used to test the model and the effectiveness of interventions.

## 9. SANCTIONS

In all but a few cases, the various compliance activities undertaken ensured that firms were providing satisfactory products and services. Where PCCB compliance activity or a complaint revealed a breach of one of the Codes, or where firms had not complied with compliance processes (e.g. refusing to submit to a check, or failing to implement recommendations satisfactorily), they were challenged and required to rectify deficiencies. Where a firm did not take the necessary action, the Compliance Committee imposed sanctions, including the issue of directions regarding further actions, warnings as to future conduct, or suspension or cancellation of registration.

Over the period, the vast majority of cases were resolved satisfactorily with the firms concerned within a month. In total, three sanctions were issued resulting in the firms concerned having their registrations withdrawn because they failed to comply with PCCB recommendations (sometimes after having received intermediate directions or warnings) or they failed to submit to an inspection. In nine other cases, the firms resigned, ceased trading, or failed to renew their registration, before the compliance check process had been completed to the satisfaction of the PCCB. These firms, if they continue trading, would accordingly no longer be able to promote themselves as being registered or Code-compliant.

## 10. CONSUMER REDRESS

During the year the consumer redress function was transferred from the Independent Property Codes Adjudication Scheme (IPCAS) to The Property Ombudsman scheme (TPOs). This move, together with the common TPO/PCCB consumer enquiry facility, was made in order to ensure that consumers had access to consistent independent advice and/or redress irrespective of whether their unresolved complaint concerned a PCCB-registered firm or a TPO-registered estate agent. The number of unresolved complaints remained fairly constant, with fewer than 10 cases going forward to independent review. In the majority of cases, the decision was in favour of the registered firm.

## 11. GOVERNANCE

The PCCB is run by an Executive Board containing representatives of the industry, the supply chain and public interest members. The Board maintains a majority of public interest representatives. The independent Chairman, Richard Footitt, is supported by a secretariat and by an inspection team provided by The Consultant Connection Ltd, a professional services company under contract to the Board. The full and current list of Board members can be found on the PCCB website:

[http://www.propertycodes.org.uk/about\\_staff.aspx](http://www.propertycodes.org.uk/about_staff.aspx).

A separate Compliance Committee, chaired by Jenny Crook (a public interest representative), met quarterly to discuss the outcomes of the compliance programme and to agree any necessary action. The Committee comprised two public interest representatives and one industry representative drawn from the Board, supported by the Compliance Executive and the head of the Inspection Team (both non-voting).

## **12. WORKING WITH OTHER ORGANISATIONS**

The Board worked closely with other regulatory and trade bodies operating in the sector on matters of mutual interest to ensure that the consumer had a clear means of redress wherever problems arose in the property transaction chain.

Good working relations were established with The Property Ombudsman (TPO, formerly the Ombudsman for Estate Agents) and with others.

For example, the PCCB supported a high-profile mystery shopping exercise among estate agents and HIP providers which was conducted by Trading Standards at Birmingham City Council. The exercise, concluded at the end of 2009, targeted more than a quarter of the city's estate agents. Thirty-seven HIPs, and the Search Reports within them, were scrutinised for accuracy, reliability and completeness. Two estate agents were unable to produce a HIP for properties they were marketing, and they were issued with fixed penalty notices by Trading Standards and referred to the OFT for failing to comply with the regulations. Levels of compliance by subscribers to the Codes were found to be comparable with those found in other regular PCCB compliance work and notably higher than those achieved by non-registered firms. As a result of this partnership, the Board also began work with East Sussex Trading Standards to develop a generic compliance testing model for use by any Trading Standards Department.

The Board also liaised constructively with the newly formed Property Standards Board and with various trade and professional organisations in the property sector. It also made contact with other bodies, including Trading Standards Departments, HM Revenue and Customs, the Office of the Information Commissioner, Companies House, the Solicitors' Regulatory Authority, the Police and the Office of Fair Trading where necessary (for example, where the Board had a concern about possible breaches of the law detected during its compliance activities).

PCCB remains committed to exploring all relevant areas for co-operative working with other organisations and representative bodies to ensure that the standards the Board enforces address the real issues and concerns of home buyers and sellers and their representatives.

## **13. CONTACT DETAILS**

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