

## **IDRS Independent Certification Scheme Appeals Process – regarding Applicant and Membership disputes**

### **1. General Application**

- 1.1 The following provisions and procedures shall apply to SAVVA Certification Scheme (“the Members”) and prospective members (“Prospective Members”) appealing against any decision of the SAVVA Certification Scheme to withdraw or decline the right to the Member or Prospective Member to hold a Home Inspector certificate, or decisions of the Certification scheme to impose other disciplinary sanctions against a member.

### **2. The Appeal**

- 2.1 A Member or a Prospective Member shall have the right of appeal against a decision made by the Certification scheme (“the Certification scheme’s decision”) either to withdraw or to withhold the issue of a Home Inspector certificate or impose other disciplinary sanctions against a member, as follows:
- (a) Unfair conduct by the Certification scheme or any member of the Certification scheme in reaching it’s decision; and / or,
  - (b) Unfair application by the Certification scheme of the Membership application or disciplinary processes in respect of the issuance or withdrawal of a [certificate etc] and / or
  - (c) Incorrect application by the Certification scheme of the Membership application or disciplinary Core Criteria

Providing that the Member or Prospective Member has exhausted the processes set out in the appropriate section of the certification scheme Rules document.

In such circumstances the Member or the Prospective Member is known hereafter as the Appellant.

- 2.2 Any such appeal invoking this procedure must be notified, in writing, to the Chair of the Certification scheme, with a copy to IDRS Ltd (IDRS) which is the independent administrator (“the Administrator”) for the appeals process. The appeal notification must be made within fourteen days of the date of the notification of the Certification scheme’s decision.
- 2.3 The Administrator shall then appoint an independent adjudicator (“the Adjudicator”) from a panel maintained for this purpose.
- 2.4 The Administrator may appoint a substitute adjudicator, in the event of the original Adjudicator resigning, dying or otherwise becoming incapacitated, or for any reason being unable to attend competently and / or expeditiously to his duties.
- 2.5 Once appointed the Adjudicator will control the procedure for the conduct of the appeal and will communicate with or issue directions, including deadlines, to the parties direct. Correspondence with the Adjudicator and the submission of evidence and supporting documents or materials by any party must be copied to all parties.

### **3 Appeals Procedure**

- 3.1 The appeal will proceed on the basis of written argument only and each party will be given the opportunity to comment upon the evidence and submissions.
- 3.2 The Adjudicator's decision will state whether, in the Adjudicator's view
  - (a) the Certification scheme's conduct and / or application of its Membership application or disciplinary procedures was unfair (as described in 2.1(a) and (b) above) and / or
  - (b) Membership application or disciplinary Core Criteria were incorrectly applied (as described in 2.1(c) above).

The Adjudicator's decision will not state whether an applicant should have been granted Membership, or whether Membership should or should not have been withdrawn.

- 3.2 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is shown to have been in bad faith.

### **4 The Decision**

- 4.1 The Adjudicator will have 42 days from the receipt of the parties' final submissions in which to issue a decision. Any decision will be in writing, dated, and signed by the Adjudicator, and will contain sufficient reasons to show why the Adjudicator has reached the decisions contained in it.
- 4.2 In all cases the decision will be binding on the parties. Where the Adjudicator finds that the Certification scheme has either acted unfairly and / or has applied its Membership application or disciplinary processes and / or Core Criteria unfairly, then the Certification scheme must re-examine its decision in light of the finding.

### **5 Costs**

- 5.1 The costs of the adjudication are:

Administrator: The Administrator's fees and expenses of £500 plus VAT are payable by the Appellant and must be paid with the notice of appeal. A receipt will be issued.

Adjudicator: In agreeing to use this appeals procedure, the parties will be jointly and severally responsible for the Adjudicator's fees, which are set at £220 plus VAT (if applicable) per hour, for a maximum of 10 hours. The Adjudicator's fees will be paid through the Administrator, in response to its invoice.

- 5.2 The general principle is that the losing party will pay the costs of the adjudication, which are made up of the costs shown in 5.1 above, although the Adjudicator has an overriding discretion to decide whether or not to apportion the costs of the adjudication in some other manner. In any exercise of his discretion the Adjudicator will have regard to all the material circumstances and will give his or her reasons.
- 5.3 The parties will pay their own costs of preparing their cases. They cannot take any legal action to recover these costs.

## **6 General**

- 6.1 Neither the Administrator nor the Adjudicator can enter into any correspondence regarding a decision issued under this Procedure.
- 6.2 Neither the Administrator nor the Adjudicator shall be liable to any party for any act or omission in connection with the appeal conducted under this Procedure.

**IDRS, 24, Angel Gate, City Road, CC1V 2PT. 0207 520 3800**

## **IDRS Independent Certification Scheme Appeals Process – regarding Consumer Complaints**

These rules apply to applications received on or after 4<sup>th</sup> November 2006 and should be read with the Home Inspector Adjudication Procedure Guidance Notes.

### **1 Introduction**

- a The Home Inspector Adjudication Procedure ('the procedure') is provided by us, IDRS Ltd (IDRS) for home inspectors who are members of a Home Inspector Certification Scheme approved by the Department for Communities and Local Government and the home inspector's consumers.
- b The procedure can be used by individual consumers.
- c Consumers can use the procedure if:
  - they have not been able to settle a complaint with the home inspector within three months of putting it through the home inspector's own formal complaints procedure; or
  - the home inspector has agreed, in writing, that the dispute should be settled under the procedure .

### **2 Scope of the procedure**

- a The procedure provides an informal and independent way of settling disputes between home inspectors and their consumers.
- b An independent adjudicator ('the adjudicator') appointed under these rules will make a decision on such disputes by considering the information received from the consumer and the home inspector.
- c The adjudicator can ask for extra information on any matter if this is necessary in order to settle the dispute in a fair and reasonable way and in line with the law and the home inspector's code of practice.
- d We manage all disputes considered under the procedure and we are responsible for appointing adjudicators.
- e A consumer does not have to use the procedure to settle any dispute. If he or she does use the procedure, the adjudicator's decision is not binding on the consumer or the home inspector until the consumer tells the administrator that they accept the decision. They must do this within six weeks of the decision being made. If the consumer does not accept the decision within six weeks, it will no longer be valid. This means that it will not be binding on either party and it cannot be accepted at a later date.
- f The procedure is free of charge to the consumer, subject to rule 5(d).

- g The procedure can be used to settle disputes about:
- the technical competence of a home inspector
  - the service provided by a home inspector
- h The dispute must be between a consumer and one or more home inspectors under the membership of an approved Certification Scheme at the time the application is made.
- i The dispute cannot involve a claim for an amount of more than £50,000 including VAT for any one consumer.
- j The dispute must not involve a complicated issue of law.
- k The dispute must not be the subject of an existing or previous court action.
- l If the dispute is about something that is not covered by these rules, the home inspector can agree to use the procedure but does not have to.
- m Putting a dispute through the procedure does not remove the consumer's duty to pay the home inspector any other amounts which are due and which are not disputed.

### **3 Applying to use the scheme**

- a The consumer who wants to put a dispute through the procedure must complete and submit an application form. Application forms are available from us, the home inspector or on-line at [www.arbitrators.org/hiap](http://www.arbitrators.org/hiap).
- b The consumer cannot apply to the procedure unless:
- they have started a formal complaint through the home inspector's formal complaints procedure and at least three months has passed since they first put the complaint through the home inspector's formal complaints procedure; or
  - the home inspector agrees, in writing, that the dispute can be settled through the procedure .

### **4 The adjudication procedure**

- a The adjudication procedure begins when we receive the consumer's claim.
- b The consumer's application must give reasons for the claim and, in particular, should include details of:
- the home inspector's service which the dispute is about;
  - the precise issues which are in dispute;
  - the remedy being sought and the amount of compensation claimed (if any);
  - the reasons for making a claim or trying to get a remedy; and
  - the reasons for the amount of any compensation claimed.

The application can be supported by documents but should not consist only of letters between the home inspector and the consumer.

c When we receive a valid claim we will send the home inspector a copy of that claim. The home inspector has 14 days from the date they receive the claim (considered to be two working days from the date of posting) to give us:

- written confirmation that the claim has been settled, together with details of the settlement; or
- two copies of their response.

At this stage of the adjudication, the home inspector and the consumer only have 14 days in which to reach a mutually agreed settlement of the claim and this period cannot be extended.

In exceptional circumstances, the home inspector can ask us to extend the deadline for submission of their response by a further seven days (so the home inspector would have a maximum of 21 days to respond).

If the home inspector does not give us their response within the time allowed, we will appoint an adjudicator and the adjudicator will settle the dispute by considering only the information provided by the consumer. We will write to the home inspector and the consumer to confirm the adjudicator's decision.

d If the home inspector tells us in writing that the claim has been settled, we will ask the consumer to confirm within 7 days that they have accepted the settlement and withdrawn their claim.

e If there is no agreed settlement at the previous stage, when we receive the home inspector's response, we will send a copy of it to the consumer, who will have seven days to provide any comments on the home inspector's response. These comments must be restricted to points arising from the home inspector's response and must not introduce any new matters or evidence. At the same time we will appoint an adjudicator and give their details to the consumer and the home inspector.

f If the consumer makes any comments on the home inspector's response, we will send a copy of those comments to the home inspector for their information only. If the home inspector wants to respond to any of the consumer's comments, they may do so. However, the adjudicator may refuse to take these comments into account.

g The adjudicator may contact the consumer and home inspector (by phone, fax, letter or e-mail) to ask for any further documents or information they need to make their decision. We will send copies of any extra information or document to the other party. If the home inspector or the consumer does not provide the necessary information within the time set by the adjudicator, the adjudicator may settle the dispute by considering only the information already provided.

h The adjudicator will make a decision, with reasons, on the matter (usually within six weeks of the application being made) unless:

- the consumer accepts a settlement offered by the home inspector; or
- the home inspector gives the consumer all that he or she has claimed.

i In all cases we will send the consumer and the home inspector written details of the outcome of the adjudication procedure, including the reasons for that outcome.

j If the adjudicator makes a decision on the matter (rather than the consumer accepting the home inspector's offer or the home inspector agreeing to provide what the

consumer has claimed), the consumer has six weeks to confirm whether or not they accept the adjudicator's decision.

- k The adjudicator's decision is only binding if the consumer accepts it within six weeks. The decision cannot be appealed against. It can only be accepted or rejected, and only by the consumer.
- l If the consumer or the home inspector wants their original documents back, they must ask for them within six weeks of the date of the adjudicator's letter setting out the outcome of the adjudication procedure. Otherwise we will destroy the documents.
- m If the adjudicator decides that either the consumer or the home inspector should pay an amount to the other, and the consumer accepts the decision, the payment must be made within three weeks of the consumer accepting the decision. If the home inspector must pay an amount to the consumer, the home inspector must pay the consumer direct and must tell us that they have made the payment.
- n If the adjudicator decides that the home inspector must take any other action, and the consumer accepts the decision, then the home inspector must complete the action within three weeks of the consumer accepting the decision and the Home Inspector must tell us that they have completed all actions. If any such action cannot be completed within three weeks then the home inspector must tell us, and the consumer, why that is so and give a date when it will be completed.
- o We will keep a record of the outcome of the adjudication procedure to monitor and report on the performance and effectiveness of the procedure. We will send a copy of this record to the home inspector's Certification Scheme.

## **5 Powers of the adjudicator**

- a The adjudicator will be fair and unbiased throughout the adjudication procedure and will make a decision that is in line with the relevant law, any relevant codes of practice, and contracts between the home inspector and the consumer. He or she will act quickly and efficiently, settling the dispute in a fair and reasonable way.
- b The adjudicator may refuse to consider documents or other evidence not provided within the set timescales if a delay may prevent the decision from being made within six weeks.
- c Only the adjudicator can decide whether he or she can settle a dispute.
- d For some disputes the adjudicator may need to get advice from an independent technical expert or conduct an inspection of property. The consumer and the home inspector will pay equal shares of any reasonable fees involved. In these cases, the adjudicator will consult both the home inspector and the consumer before appointing an expert or making an inspection visit to any property, and explain their reasons for getting the advice or making the inspection visit.
- e The adjudicator can do the following.
  - Change time limits for the consumer and the home inspector to provide their comments, and set time limits in which the consumer and the home inspector must provide any extra information the adjudicator needs.
  - Allow the consumer or the home inspector to provide further evidence, or change any previous comments or details of the claim (but not the amount claimed on the application form).

- Order the consumer or the home inspector to provide goods, documents or property for the adjudicator to inspect.
  - Make any necessary enquiries (but the adjudicator must tell the consumer and the home inspector about those enquiries and allow them to comment on the findings).
  - Receive and take account of any spoken or written evidence the adjudicator thinks is relevant.
  - Carry on with the procedure if either the consumer or the home inspector does not keep to these rules or any instruction, or if either does not take part in any conference call arranged by the adjudicator.
  - End the adjudication procedure if it appears that the dispute cannot be settled under it, or if the consumer and the home inspector settle their dispute before a decision is made. (If the consumer and the home inspector settle the matter themselves, they must immediately give us written details of the settlement.)
  - If the consumer or the home inspector does not provide any information the adjudicator has asked for, the adjudication will continue as the adjudicator considers appropriate.
  - If the home inspector does not respond to the copy of the consumer's claim, within the deadline or any extension of it granted by the administrator, the adjudicator will base his or her decision on the information provided by the consumer.
- f If the adjudicator agrees with the consumer's claim, he or she can tell the Home Inspector to do any or all of the following.
- Give the consumer an apology or explanation.
  - Give the consumer a product or service, or take some practical action that will benefit the consumer.
  - Pay the consumer an amount which cannot exceed the amount claimed on the application form, which must be no more than £50,000 (including VAT).
- g The adjudicator can dismiss the claim and tell the consumer to make any payment already due to the to the home inspector but not yet paid. The consumer does not have to take the action suggested unless they accept the decision.

## **6 Powers of IDRS as the administrator**

- 6.1 If the home inspector or the consumer does not provide anything that we need under these rules, and still does not supply it within seven days of getting a reminder from us, the following will apply.
- If the consumer does not supply relevant documents or other evidence needed to support their claim, we will assume that the consumer does not want to go ahead with the claim.
  - If the consumer fails to confirm acceptance of any settlement they have agreed with the home inspector, we will assume that the consumer does not want to go ahead with their claim.

## **7 Costs**

- a The home inspector must pay our administration costs and the adjudicator's fees. The consumer and the home inspector must pay equal shares of the fees for any expert help or inspection required by the adjudicator.
- b The consumer and the home inspector must pay their own costs of preparing their cases and attending any inspection visit, conference or hearing. They cannot take any legal action to recover these costs.

## **8 Confidentiality**

- a We, the home inspector, the home inspector's Certification Scheme and the adjudicator will not give specific details of the procedure or the decision (including the reasons for it) to any person not involved in the procedure unless this is necessary in order to enforce the decision.
- b Despite rule 8a, when the consumer and home inspector agree to have their dispute settled under the procedure, they give us permission to gather, keep and publish statistics and other information on their dispute as long as they cannot be identified.

## **9 Other rules**

- a If necessary, we will appoint a substitute adjudicator and give the consumer and the home inspector his or her details.
- b We cannot enter into long discussions on a decision made under the scheme.
- c If the consumer or home inspector has a complaint about the procedure, the decision taken, the adjudicator, or a member of our staff, the complaint should be made through our standard complaints procedure. Copies of the procedure are available from us.
- d The rules may be updated from time to time. Disputes will be settled according to the rules in force at the time the consumer applies to use the procedure.

## Schedule 1

1. The Home Inspector, having agreed to the referral of a consumer dispute to the Procedure, will pay IDRS's case fees as follows:
  - a.
    - i Adjudicator: £215 plus VAT per case
    - ii IDRS: £200 plus VAT per case  
(together the "Case Fee")
    - iii Early settlement fee, which is due if settlement is agreed between the company and the consumer after case acceptance but before appointment of the adjudicator: £150 plus VAT per case (the "Early Settlement Fee")
2. For the avoidance of doubt, the Case Fee shall only become payable if the Independent Adjudicator is appointed to determine the case in accordance with the Rules.
3. The Early Settlement Fee will be due for payment when the Home Inspector notifies IDRS that it has settled the case and such settlement is confirmed to IDRS by the consumer.
4. Case fees will be due for payment when the Home Inspector submits a Response to Claim to IDRS, under the Rules.
5. Case fees will not be refundable in any circumstance.
6. The parties, having agreed to the referral of a consumer dispute to the Procedure, will pay the reasonable professional fees of any independent technical expert appointed by the Independent Adjudicator in accordance with the provisions of the Rules and limited to £450 plus VAT. The fees of the technical expert will be paid through IDRS.

## Schedule 2

1. The Scheme has notified IDRS that the following registered Home Inspectors are participants in the Service and will provide updates to IDRS of any subsequent changes to this list:

**IDRS, 24, Angel Gate, City Road, CC1V 2PT. 0207 520 3800**

Filename: NES/73  
Date: 16/11/07  
Version No: 1