

The complaint

Mrs M complains National House-Building Council (NHBC) provided her with poor service during its handling of a claim.

Mrs M has a representative on this complaint, but for ease, I'll refer to them collectively in this decision as 'Mrs M' unless specified.

What happened

The parties are acutely aware of the detail surrounding this complaint. So, I don't intend to set it out in full here again. But, in summary Mrs M made a claim under her new homes policy with NHBC. And during the handling of this claim Mrs M says that;

- NHBC failed to send her the terms and conditions of her policy which she'd repeatedly asked for over a period of three years;
- NHBC communicated with her husband (Mr M), had a meeting with him and sent him payments in relation to the claim, even though the policy is only in Mrs M's name. She said this was a breach of data protection.

Mrs M wanted an explanation from NHBC about why these errors occurred and also compensation for the trouble and upset caused.

NHBC said it emailed Mr M the policy terms and conditions and resolution guidance notes in June 2016, so it didn't agree that numerous requests for this information had been ignored. It accepted that it'd communicated with Mr M for a significant time before it realised he had no insurable interest in the property. But it said that any payment forms were signed by both Mr and Mrs M. So it didn't accept Mrs M wasn't aware the payments were being made or that it had been dealing directly with her husband.

Our investigator looked into the matter and explained that it wasn't our role to decide if a business has breached data protection laws – this is for the Information Commissioner's Office (ICO) to decide. But she said that she could consider whether a business had acted fairly, and whether any impact of its errors warranted compensation.

The investigator found that the policy was only in Mrs M's name and that she hadn't given explicit or signed authority for Mr M to correspond on her behalf. But from what she'd seen, she was satisfied Mrs M was aware that her husband was corresponding with NHBC and had seen copies of forms they'd both signed to release payments.

So the investigator didn't uphold the complaint or award any compensation for NHBC's actions as she didn't think there'd been a negative impact on Mrs M as a result. She was also satisfied the terms and conditions had been sent in June 2016.

Mrs M disagreed with the investigator's findings. She said the investigator ignored the fact that she'd refused to sign a letter from NHBC that would've authorised Mr M to act as her representative. And that she'd also ignored the point that Mrs M had raised two complaints

about NHBC corresponding with her husband that were never investigated by it. So she thinks NHBC failed to adhere to its complaint procedure.

The complaint has been passed to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Policy terms and conditions

Mrs M says NHBC failed to send her a copy of the policy terms and conditions after numerous requests over a three-year period.

I've seen a copy of an email that was sent from NHBC to Mr M in June 2016 which enclosed a copy of the *policy terms and conditions, guidance on the builder's responsibilities and the resolution service* and the *NHBC claims charter*.

This information seems to have been sent to Mr M instead of Mrs M. But from the wording in the email NHBC sent alongside the terms and conditions, it seems Mr M was the party who requested the information. It's evident however, that both individuals have been involved in the progress of the claim with NHBC. So I think it's reasonable to expect that Mr M would've, or at least *could've* shared this information with Mrs M when he received it.

It follows based on what I've seen, I'm satisfied NHBC sent a copy of the policy terms and conditions when requested.

NHBC's communication with a party other than Mrs M

NHBC has acknowledged that Mrs M is the only party named on the policy. And it hasn't disputed that it corresponded with Mr M without her consent.

In this decision, I can only consider the impact this error had on Mrs M. She says NHBC doesn't know her family set up and that it incorrectly had meetings with her husband, sent him payments and spoke with him. So I've thought about this carefully.

NHBC says both Mrs and Mr M signed payment forms before any payments were released and it sent us evidence which shows both of their signatures on these forms. So I'm satisfied Mrs M would've been aware of, and had accepted the payments NHBC sent under the claim.

While I understand Mrs M is unhappy NHBC had meetings and corresponded with Mr M when he's not named on the policy, I've not seen any information about how this negatively impacted her. From what I have seen, it seems both Mrs and Mr M have been actively involved in the progression of the claim with NHBC. And in the circumstances, I'm satisfied Mrs M was aware of Mr M's involvement.

Based on what I've seen, besides an understandable disappointment that NHBC failed to recognise Mrs M was the only named party on the policy, I'm not persuaded she's been further negatively impacted by this error to an extent that should be compensated for. So I won't be directing NHBC to pay compensation for this.

NHBC's failure to respond to complaints

Mrs M says NHBC breached its complaints procedure by not responding to her complaints about why it was corresponding with Mr M. But as a general rule, under the rules we have to follow, complaint handling isn't a regulated activity. And I'm satisfied it isn't something I can consider in this decision.

My final decision

For the reasons set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 18 December 2020.

Rosie Osuji
Ombudsman