

The complaint

Miss K is unhappy National House-Building Council (NHBC) has declined a claim she made on her NHBC Buildmark warranty.

What happened

Miss K bought a new home which was covered by a ten-year NHBC warranty. She got in touch with NHBC about a problem with the mortar in the brickwork of her home.

NHBC declined the claim because it said the cost of repair was below the 'minimum claim value' (MCV).

Miss K didn't think this was fair and complained. The cost was based upon localised patch repairs of the damaged mortar only. She thought it would be more appropriate to replace all the mortar to ensure a comprehensive repair was carried out. She questioned whether the cost should also include an amount for alternative accommodation as she has a young child with respiratory difficulties and the work might create dusty conditions. Miss K asked for compensation to reflect the impact of the mortar problem on the market value of her house.

NHBC said the repair it had costed was the recommended one for dealing with the mortar problem. It considered the repair would provide a strong mortar which could withstand the weathering that caused the current problem.

Unhappy with this, Miss K referred her complaint to this service and said the mortar problem had got worse since she first reported it to NHBC. The investigator considered NHBC had acted fairly when it had responded to Miss K's complaint. But Miss K was entitled to get in touch with NHBC if the problem had developed and needed further consideration.

An agreement couldn't be reached, so the complaint has been passed to me.

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.

Because the claim was made more than three years into the policy, NHBC has considered it under Section 3 of the warranty. In summary, NHBC will pay the cost, if it is more than the MCV, of putting right any physical damage to the home caused by a defect (a breach of NHBC's mandatory requirements by the builder).

NHBC has accepted the mortar problem is physical damage caused by a defect. It considered a patch repair of the affected areas of mortar would put right the damage and produced a scope of work based on this. It came to around £1,100, including VAT.

When the policy began, the MCV was £1,200. At the time Miss K made her claim, as a result of annual index linked increases, the MCV had increased from to £1,578. As that was more than the cost of repair as estimated by NHBC, the claim was declined.

Under the policy NHBC is required to pay to repair the physical damage caused by a defect. It must ensure any repair is lasting and effective. NHBC based its method and scope of repair on the opinion of its claims investigator who inspected the damage. I'm satisfied that was a reasonable thing to do. I haven't seen any other expert opinion which challenges the method or scope of repair NHBC proposed.

When she complained, Miss K thought it would be more appropriate for NHBC to produce a scope of work based on a more comprehensive repair, such as replacing all the mortar. I understand this was in part due to a concern that more areas of mortar could deteriorate over time.

I can understand why Miss K suggested this. It would avoid the need for further work if any of the rest of the mortar were to become damaged by the same defect. But NHBC's policy only requires it to pay for damage which has happened – not which may happen. I haven't seen any evidence to show further damage had happened or was considered inevitable at the time NHBC responded to Miss K's complaint.

NHBC has said the damage – and corresponding repairs – are external, so there would be no need for alternative accommodation. As a result, I'm satisfied it was reasonable not to include a cost for alternative accommodation when considering the claim value.

NHBC's policy says it isn't liable for any reduction in the value of a home. And I haven't seen anything to show NHBC has caused such a reduction. So I'm not persuaded it should pay compensation for this.

Overall, I'm persuaded NHBC's position was fair at the time it investigated the claim and responded to Miss K's complaint. The reasonable cost of the appropriate work required by the policy was less than the MCV. Because of that, I'm not going to require NHBC to do anything further in this decision.

Since NHBC responded to Miss K's complaint, she's reported the mortar problem getting worse. She's provided photos and described the damage spreading in the areas of existing damage and appearing in new areas. She says repairing the additional damage will increase the cost to NHBC beyond the MCV and mean the claim is covered.

NHBC has reviewed the photos and suggested a claims investigator inspect the damage and carry out the appropriate tests. I agree this is a reasonable next step. After the inspection and testing, I would expect NHBC to produce an updated report, and scope of work if appropriate, and let Miss K know what impact this has on her claim.

My final decision

My final decision is that I don't uphold Miss K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 19 March 2021.

James Neville
Ombudsman