

## The complaint

Mr J and Ms T have complained that the National House-Building Council (NHBC) have denied liability for the cost of resolving issues they discovered with their garage's brickwork.

## What happened

I issued my provisional decision on 12 February 2021 explaining why I was not intending to uphold this complaint. This is what I said in my provisional decision:

### What happened

*Mr J and Ms T purchased their house in June 2014. By October 2014 they were having problems with their heating and by November 2014 they'd realised their windows didn't fit properly; the house was cold and costly. When they raised their concerns with the builder and NHBC, they said the heating wasn't working properly and the windows were draughty.*

*NHBC issued two resolution reports on the property. The first was issued on 24 June 2016 in relation to incorrect lights being fitted in the kitchen. The second resolution report was issued on 1 February 2017 in relation to pressure dropping in the heating system. No other resolution reports were issued.*

*In December 2017, NHBC sent an engineer to the property who found that the garage wall had been constructed with non-insulating brickwork. Mr J and Ms T made a claim under the warranty, but NHBC declined to accept liability for resolving that issue. Mr J and Ms T complained to NHBC about this and received a final response letter in February 2019. In that final response, NHBC said they were unable to uphold the complaint because they had no clear evidence that the issues with the missing wall insulation were reported to the builder within the builder's liability period.*

*I issued my jurisdiction decision on 11 February 2021 in which I concluded that I only had the power to consider Mr J and Ms T's complaint about NHBC declining their claim, under section three of the Buildmark policy.*

*Mr J and Ms T believe the defect should be covered by the policy. However, NHBC disagree. They've said that missing insulation isn't a part of the home that's covered during years 3 to 10 of the Buildmark policy.*

### What I've provisionally decided – and why

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

*And having done so, I'm not intending to uphold this complaint. I'll explain why.*

*Building warranties aren't designed to cover everything that might go wrong with a property. The Buildmark policy which sets out the terms of the agreement between NHBC and Mr J and Ms T, splits the cover under the warranty into sections. The first section covers claims before completion of the sale, the second is for any claims in the first two years following completion and the third section covers claims made during the following eight years.*

*Mr J and Ms T's claim falls under section three of the policy, because the issue was notified to NHBC in the third year of the policy. Section three says, provided the cost is more than the minimum claim value, NHBC will pay the full cost of putting right any 'damage' in any of the listed parts of the house, which includes walls. But 'damage' has been specifically defined within the policy as follows:*

- *Damage is defined as physical damage to the home or its garage caused by a Defect.*
- *Defect is defined as the breach of any mandatory NHBC Requirement by the Builder or anyone employed by or acting for the Builder.*

*I've reviewed the NHBC standards that were in effect from 1 January 2014, and in particular, chapter 6.3 which details the standards for internal masonry walls. There is no standard included in that chapter (or elsewhere in the standards) that refers to a requirement for the bricks, used in the construction of the internal wall, to provide thermal insulation. So, the issue Mr J and Ms T have raised, regarding non-thermal insulating bricks being used in the construction of the wall between their dining area and garage, doesn't constitute a breach of a mandatory NHBC requirement. It therefore isn't a "defect" in terms of the Buildmark policy.*

*Based on what I've seen, I'm currently satisfied NHBC has assessed Mr J and Ms T's claim in line with the policy terms, and I'm satisfied their decision to decline to cover the claim under section three of the Buildmark policy is fair and reasonable in all the circumstances.*

I asked both parties to let me have any final arguments or information they wanted me to consider, by 26 February 2021. However, neither party have provided any additional evidence or made any further submissions on this complaint.

### **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.

As neither party have provided any additional arguments or evidence for me to consider, I see no reason to depart from the conclusions set out in my provisional decision.

So, for the reasons given in this decision and my provisional decision, I don't uphold this complaint.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J and Ms T to accept or reject my decision before 30 March 2021.

Carolyn Harwood  
**Ombudsman**