

The complaint

Mr and Mrs F complain that National House-Building Council (“NHBC”) has failed to put right defects with their home.

What happened

Mr and Mrs F discovered a number of issues with their home, which was built in 1997 and benefits from a NHBC warranty. The issues included tiles lifting on the ground floor, areas of the tarmac driveway sinking, and drainage problems. A number of other problems have also since been identified, but I’ll focus my decision on those which I can consider and which were raised with NHBC before its final response letter.

Our investigator considered all the issues and recommended that NHBC should replace all the floor tiles, and investigate the cause of the driveway damage further, but that it didn’t need to do anything in relation to the drainage problems.

Both parties disagreed and so the complaint has come to me to decide.

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.

Having done so, I’ve decided to partially uphold this complaint. I’ll explain why.

NHBC has agreed to accept our investigator’s recommendations about replacing all the floor tiles. So I won’t go into detail on this point, except to say that I agree there was a defect covered under the policy (as it was identified in both expert’s reports that there were no expansion joints and a lack of decoupling layer) and that all the ground floor tiles should be replaced using a separation membrane or expansion joints in order to ensure a lasting and effective repair.

Mr and Mrs F say a neighbour of theirs has been offered a higher settlement figure for similar issues with their tiling. However it’s correct that each claim should be considered on its own individual merits and it’s not for us to look into other customers’ cases, even if those are similar. In any event, if Mr and Mrs F choose to accept this decision, then NHBC will be legally bound to replace all the tiles. And I hope this will reassure Mr and Mrs F that their property value should not be affected.

NHBC declined the claim for the sunken driveway. But I’m not sure it’s done enough to investigate this. It said it carried out a drain survey and this showed there was no defect with the drainage system. So they concluded the defect was with the driveway itself which is not covered under the policy.

I agree that the driveway isn’t an area covered under the policy, as the policy states the only areas which are covered for defects are:

“a) foundations;

- b) load-bearing walls;*
- c) non load-bearing partition walls;*
- d) wet-applied wall plaster;*
- e) external cladding, curtain walling, external render and external vertical tile hanging;*
- f) load-bearing parts of the roof;*
- g) roof coverings;*
- h) ceilings;*
- i) load-bearing parts of the floors;*
- j) staircases and internal floor decking and screeds where these fail to support normal loads;*
- k) retaining walls necessary for the structural stability of the house, bungalow, flat or maisonette, its garage or other permanent outbuilding;*
- l) double-glazing or triple-glazing panes to external windows and doors;*
- m) below-ground drainage for which you are responsible.”*

The above doesn't include driveways, so I'm satisfied this isn't an area covered by the policy. However, NHBC hasn't been able to adequately demonstrate the likely cause of the driveway sinking in two visible areas as shown in the expert's report. The report suggests that either the sub base below the tarmacked areas in and around two rainwater gullies may not have been properly compacted, resulting in the dips. Or it suggests it's possible that rainwater drainage connections in these locations may be defective, resulting in the sub base material washing away. This can occur if a pipe under the driveway has leaked, causing the ground to become saturated and causing the sub base to deteriorate and leave dips in the driveway.

NHBC says its drainage survey confirmed that underground drains are not causing the problem with the driveway. And it says the rainwater pipes mentioned in the expert's report aren't below ground drainage, so aren't covered under the policy. But the report says the issue could be with one of the rainwater drainage connections and it's possible that one of those may be defective and may be underground. NHBC hasn't responded to our investigator's queries regarding why it would not consider any of the rainwater pipe connections to be below ground drainage. So I think NHBC needs to investigate further to rule out this cause of the damage before it can safely say this isn't covered under the policy.

In relation to the claim for faulty drains at the property causing a foul smell, I agree with our investigator that the cost of the repair is below the minimum claims value, so I don't think NHBC has been unreasonable in declining this aspect of the claim.

Mr and Mrs F have raised additional points that cannot be considered as part of this complaint, but they are free to raise these issues with NHBC directly if they haven't already. And if they are dissatisfied with NHBC's response, then they will be able to refer a further complaint to this service subject to the usual rules and time limits.

Putting things right

To put things right for Mr and Mrs F, NHBC must replace all the tiles on the ground floor of the property using separation membrane or expansion joints to ensure a lasting and effective repair.

It should also further investigate the cause of the dips in the driveway, in line with the suggestions made by Mr and Mrs F's expert's report.

My final decision

My final decision is that I uphold this complaint and require National House-Building Council to put things right for Mr and Mrs F as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and Mr F to accept or reject my decision before 27 June 2021.

Ifrah Malik
Ombudsman