

The complaint

Mr W complains that National House-Building Council (NHBC) unfairly declined a claim he made on his ten-year building warranty policy.

What happened

Mr W reported cracking at his property in year six of the policy. During years 3-10, section 3 of the policy applies. Section 3 covers physical damage if it's been caused by a 'defect' in certain parts of the property. The policy defines a defect as a breach of any mandatory NHBC Requirement by the builder. The terms also require the repair costs to meet the minimum claim value, for the claim to succeed.

NHBC's investigator visited the property and considered a 'section 3' claim. Two items were considered: cracking to the render on the front elevation, and gaps/cracks in multiple first floor rooms. The investigator made the following observations, and declined the claim:

- There are vertical cracks in the render commensurate with thermal shrinkage, which isn't covered by the policy. These cracks were tested and all but one, showed no signs of debonding.
- A crack above a window showed very minor signs of debonding. The render around a window should ideally have a mesh embedded to reduce the risk of cracking. The use of a mesh can't be verified without removing the render; and removing firmly bonded render isn't recommended as it can damage the blockwork. The cost of repairing this crack wouldn't reach the minimum claim value.
- A small section of render is also coming away next to a window. The mastic around the timber detail, at the head of the window, has failed. This has allowed water to ingress behind the render, which is coming away due to the water freezing and thawing. The mastic seal is part of the window installation, and windows aren't covered under section 3.
- The ceiling plaster tape on the first floor has rippled and started to come away. There's also a hairline crack below the window in a bedroom. The damage is commensurate with thermal movement.

Mr W didn't consider the timber around the windows to be part of the window installation. He said this feature was added by the builder after the windows had been installed. He pointed towards external cladding being covered under section 3.

NHBC's investigator maintained that the timber surrounds are considered part of the window installation. He noted the timber is set directly on to the wall, unlike cladding which is set on a carrier system with ventilation. He also said if the timber surrounds had shrunk, leaving gaps between the timber and render, then this issue should be attended to as part of the normal routine maintenance.

Mr W's complaint was considered by one of our investigators. She thought NHBC had fairly declined the claim. Mr W disagreed, so his complaint has been passed 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.

As I understand it, there's four issues for me to consider: the vertical render cracking across the front elevation; the failed sealant at the top of one timber header, which is causing a small section of render to come away; the gaps between the timber surrounds and the render; and the internal gaps/cracks in the first floor rooms.

NHBC's investigator concluded the render cracking had been caused by thermal movement. NHBC has also sought the opinion of one of its engineers. He concluded that the pattern of the cracking is consistent with thermal movement, and differential movement between the blockwork underneath the render and a feature brick course. His conclusion assumed the cracks continue into the blockwork. The engineer noted this type of cracking wasn't considered structurally significant and doesn't impair structural performance.

Section 3 excludes:

“anything related to:

- a) shrinkage, thermal movement or movement between different types of materials;*
- b) cosmetic damage such as minor cracking... which does not impair the structural stability or weather tightness of your Home”.*

The expert opinion I've seen all points towards the render cracks being caused by thermal or differential movement. As noted, damage caused by such movement is excluded by the policy. Mr W hasn't provided an alternative expert opinion, or anything that leads me to believe the cracking has been caused by something else.

The engineer's conclusions assumed that the render cracks had been caused by cracking in the blockwork underneath. He said further tests would need to be completed to confirm if his assumption is correct. However, NHBC says that even if the cracking is limited to the render, and this hasn't been caused by movement within the masonry units, the policy still excludes cosmetic damage such as minor cracking. I've not seen anything that suggests the render cracking is, at this stage, impairing structural stability or weather tightness. So, overall, I don't consider NHBC needs to undertake further testing to confirm the engineer's assumption about the render cracks continuing into the blockwork.

In terms of the crack that shows *“very minor”* signs of debonding, the engineer didn't believe the issue was the omission of a mesh. However, even if a mesh had been omitted, and this crack goes beyond the excluded cosmetic damage, NHBC's investigator concluded that the appropriate remedial action was a localised repair. I haven't seen anything that contradicts this conclusion, and NHBC has demonstrated a localised repair would fall under the minimum claim value.

Mr W says that all the render cracks fall under faulty material preparation and workmanship, and the total repairs would exceed the minimum claim value. However, as explained above, I'm not persuaded the render cracking is covered. Furthermore, I've not seen anything that persuades me more than localised crack repairs are required to resolve the issues and to prevent further damage. NHBC has noted that if its schedule of works was extended to completing localised repairs across all the cracks, the cost of the work comes to £702, compared to the £1,578 minimum claim value. So, the repairs wouldn't meet this requirement either.

I'll turn now to the timber surrounds. In my view, the opposing arguments about whether they ought to be considered part of the window installation both have merit. However, I'm not persuaded those arguments really matter here. I'll explain why.

The timber headers (above the windows) are sealed where they meet the render, and part of the sealant around one header has failed, causing some of the render to come away. NHBC says failing sealant, after six years, is a maintenance issue and not a defect. NHBC points towards wear and tear, and maintenance, being excluded by the policy. I'm satisfied that NHBC's conclusions are reasonable here. I've not seen anything that persuades me the failed sealant or the workmanship in this area are a 'defect' – or in any event, that the minimum claim value would be met in respect of the necessary repair.

The timber surrounds, next to the left and right edges of the windows, aren't sealed where they meet the render. I understand Mr W is concerned about the gaps. However, I've not seen anything that leads me to believe this is a 'defect', or that physical damage is being caused. As such, it's not something that's covered.

To be clear, I've also not seen a link between the timber surrounds and the vertical cracking to the render.

Finally, I haven't seen Mr W has challenged NHBC's findings on the internal damage, but I'll cover this item for completeness. Mr W hasn't provided anything that persuades me the ceiling gaps and internal wall crack aren't due to thermal movement. As such, I accept NHBC's conclusions on this point, and such damage is excluded by the policy terms.

My final decision

I'm sorry to disappoint Mr W. But for the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 26 July 2021.

Vince Martin
Ombudsman