

The complaint

Mr and Mrs W are unhappy with the way National House-Building Council (NHBC) has handled a claim they've made on their Buildmark buildings warranty.

What happened

Mrs W brings this complaint on behalf of herself and her husband, so for ease of reading I'll refer to her throughout. References I make to her actions include those of her husband.

NHBC used a number of agents throughout the life of the claim and reference I make to NHBC's actions include those of its agents, unless otherwise stated.

The background to this complaint is well known to the parties so I'll only refer to it in summary:

- In June 2017, Mrs W purchased a new-build property which had the benefit of a Buildmark building warranty.
- Mrs W noticed various issues with the property including, but not limited to, loose staircase spindles, incorrectly sized windows, problems with drainage in the garden, problems with a toilet, uneven floors and doors hung too high
- These were reported to the builder and ultimately to NHBC
- NHBC issued a number of Resolution Reports under its conciliation service and when the builder failed to resolve all the issues in time, NHBC agreed to complete some of the work
- Mrs W wasn't happy with the way NHBC handled things and the quality of the work and so she complained
- NHBC issued a number of final responses but Mrs W remained unhappy and brought a complaint to this service
- Our investigator explained we could only consider some of the issues Mrs W had raised as some were outside our jurisdiction and others had been brought to us outside the required timescales
- Her investigation focused on two key issues covered by NHBC's final response in July 2020
- The first was Mrs W's dissatisfaction with the level of her living room floor
- NHBC visited the property and issued a Resolution Report which required the builder to undertake releveling works
- The builder did this but not to Mrs W's satisfaction. NHBC was satisfied the floor had been brought into tolerance levels and was performing so declined to do any further work
- Secondly, Mrs W was unhappy as she said the gaps under the downstairs internal doors were too large
- A visit was undertaken and a Resolution Report was issued which required the builder to undertake further works. It rehung *all* the doors in the property but wasn't able to level the doorframes in the en-suite and guest bathroom as the flooring wasn't completely level
- NHBC took over the builder's responsibility under Section 2 of the policy

- It said the door couldn't be altered or adjusted more as it would not close and it declined to undertake releveling of the floor as this was within tolerance
- Mrs W remained unhappy that the door frames were unfinished and the gaps underneath were still large
- Our investigator considered all the evidence
- She concluded that, following releveling works by the builder, the living room floor was within the requirements set out by NHBC and therefore no further work was required on it.
- But she said NHBC should ensure the doors in the en-suite and bathroom were hung within tolerance, releveling the floor, if necessary, to achieve this.
- And it should revisit the property to inspect the outstanding snagging issues and complete any substandard repairs.
- Mrs W remained unhappy with this and asked an ombudsman to make a 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.

It's clear from my review of the file, the problems Mrs W has experienced with her new home have been very stressful. She's unhappy with the house builder and says it's constructed and finished her house to a very poor standard. She's also unhappy with way it's dealt with addressing the numerous problems she's identified and has provided evidence of all of this as context.

My role as an ombudsman at this Service only allows me to consider the actions of a relevant financially regulated business – in this case, NHBC – and whether it got anything wrong. I have no power to consider the actions of the builder, so I won't comment on or make any findings on what it did or failed to do. I also can't hold NHBC responsible for anything the builder got wrong or for the original build.

Instead I'll focus my investigation on the actions of NHBC in its capacity as the provider of a Buildmark warranty and consider whether it did what it was required to do under the terms of the policy.

Our investigator rightly explained we couldn't look at all the issues raised by Mrs W and would instead focus on the two issues which were the subject of NHBC's final response letter in July 2020. Mrs W seems broadly to have accepted this.

These issues were reported in the first two years after the property was built so the claims were considered under Section 2 of the policy. In summary, Section 2 provides protection if the builder fails to meet NHBC's Technical Requirements when constructing the property. NHBC will be responsible for anything it decides the builder should have done - but didn't - to ensure the Technical Requirements are met.

NHBC's actions under Section 2 of the Buildmark policy only become a regulated activity - and therefore something I have the power to consider - when the insurance element of the warranty begins. And that's when

- A Resolution report has been completed identifying the problem.
- The report directs the builder to do something by a deadline.
- The builder fails to complete the works by the deadline.

The issues at the heart of this complaint meet these requirements and were raised with this

Service within the required timescales.

Building warranties generally don't cover every risk that might affect a building and Buildmark warranties are no different. The terms and conditions set out what is and isn't covered and therefore what homeowners can expect from their cover.

NHBC also set out tolerances for some of its Technical Requirements and that means the specific item must be within an acceptable *range* of measurements. It's not within my remit to tell NHBC its tolerances are unacceptable.

There may be instances where a policyholder thinks something *should* be covered by the policy or that the defined tolerances aren't acceptable but I'm unlikely to direct a business to do something if it's not covered by the policy or if it's been shown the item is within tolerance.

The claim relating to the level of the living room floor

Mrs W wasn't happy with the level of her living room floor. Following an inspection NHBC issued a Resolution Report which required the builder to address the issue as the floor was outside its Technical Requirements with a fall of between six to seven millimetres.

Once the remedial work was undertaken, Mrs W remained unhappy. NHBC confirmed the builder provided photographs of the area together with measurements showing the floor was within the tolerances detailed in the Technical Requirements.

I acknowledge Mrs W remains unhappy with the level of the floor and doesn't agree with the allowed tolerance. NHBC offered her the opportunity to provide evidence the floor is above or below tolerance but I've not seen enough to persuade me it is. So I'm satisfied NHBC has ensured the floor is now within tolerance and that's what it's required to do under the policy. I won't be asking it to do anymore.

The doorframe in the bathroom and en-suite

When the bathroom and en-suite were inspected during a site visit, the floor was found to be within tolerance and performing. As it met the Technical Requirements there was no need to include it in the Resolution Report as no further work was required on it.

What was identified by NHBC though was that internal doors in the property needed to be rehung as the gaps under the doorframes were too large and not in tolerance. The builder rehung all the internal doors including those in the en-suite and bathroom. When doing this, it became apparent that, while within tolerance, the floor wasn't completely flat meaning there was an uneven gap between the bottom of the door and the flooring.

Some remedial work was undertaken to lower the door frames and Mrs W has provided photos of the result of this work. I've considered the photos carefully and I agree the gaps between the bottom of the door and the flooring are noticeably uneven from one side of the door to the other. The photos also show significant and unsightly gaps at the bottom of the doorframes where remedial work looks like it hasn't been fully completed.

Overall, I don't think the work has been completed to an acceptable standard and I'm satisfied NHBC needs to undertake further remedial work to address these issues.

Our investigator said NHBC should look at a range of options to correct the problem even if the connected works aren't required under the terms of the policy. And she thought if releveling the floor was the only way to achieve an effective and lasting repair, then she thought it reasonable for NHBC to do this.

I agree that NHBC need to address the issues as it's clear from the photos provided that the work hasn't been completed to an acceptable standard. I don't propose to be prescriptive about the work NHBC should undertake but whatever it does needs to achieve an effective and lasting repair and be completed to an acceptable standard. In achieving this, it should consider the full range of options available to it address the problem, even if the connected works aren't covered by the warranty.

If once it's done this Mrs W remains unhappy, she can of course make a further complaint to NHBC.

Snagging List

NHBC confirmed in its FRL there were snagging issues which it would ensure were addressed. I think it should attend the property to undertake an inspection, agree what needs to be done and then undertake the work to provide a lasting and effective repair, if it hasn't done so already.

Other issues

Mrs W has raised some further problems that occurred after NHBC's final response on the two issues which are the subject of this decision. Our investigator already explained these new issues won't be considered under this complaint. But if Mrs W complains to NHBC about them and remains unhappy with its response, she can, of course, ask us to investigate them under a new complaint.

Putting things right

NHBC needs to address the works I've detailed in my findings above.

When assessing the level of compensation I think is appropriate in this case, I need to keep in mind that the issues under review here are only a small part of the overall problems Mrs W says she has experienced with her new home. In reaching my decision I can only take into consideration NHBC's actions on these *specific* issues, not what happened elsewhere or the service she received from the original house builder.

I thought about this very carefully about this complaint and have decided that NHBC should pay Mrs W £200 for the distress and inconvenience it has caused on the issues under review in this complaint. I realise Mrs W is likely to be disappointed and consider this to be inadequate given the wider problems she's experienced with the house but I consider it fair and reasonable in all the circumstances.

My final decision

My final decision is that I uphold this complaint and direct National House-Building Council to:

- Undertake remedial works to resolve the uneven gap under the bathroom and en-suite doors in line with my findings above

- Undertake remedial works to the bottom of the door frames in line with my findings above
- Ensure the snagging issues are resolved in line with my findings above.
- Pay Mr and Mrs W £200 for the trouble and upset it has caused them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 8 October 2021

Paul Phillips
Ombudsman