

## **The complaint**

Mr and Mrs V complain about the way National House-Building Council (“NHBC”) has handled a claim made under their Buildmark policy.

## **What happened**

The background to this complaint is extensive and spans several years. Both parties are familiar with the circumstances of this case and so I won't outline everything that's happened to date, but will provide a brief explanation of the situation. And my decision will focus on the main areas of dispute rather than all the issues that have arisen between November 2016, when our service was involved in a previous complaint Mr and Mrs V brought to us, and September 2019, when Mr and Mrs V contacted us again.

Mr and Mrs V made a claim under their NHBC Buildmark policy after identifying cold spots in various parts of their home. Thermal imaging and airtightness tests were undertaken and it was found that there were issues with air leakage and lack of insulation.

NHBC agreed to cover the remedial work. A schedule of works was provided but Mr and Mrs V didn't agree with it, as they believed it didn't address all the defects. Mr and Mrs V also say the delays in the handling of the claim have caused their family considerable upset. NHBC says nothing has been missed from the schedule of works and that it's been compiled in line with their technical requirements. It also offered Mr and Mrs V compensation for the delays. Mr and Mrs V weren't happy with NHBC's response, so they referred their complaint to this service.

Our investigator considered the issues and didn't think NHBC had acted unreasonably. She said it had made fair offers to put things right for Mr and Mrs V and that the cash settlement was in line with the schedule of works required to meet technical requirements. She also thought the amount of compensation NHBC had offered for trouble and upset was in line with what we'd expect.

Mr and Mrs V disagreed with our investigator's opinion. They believe the cash settlement offered by NHBC to cover the cost of remedial works is inadequate. They've said the home was not built in accordance with the relevant building standards and that all the works highlighted by their surveyor's report should be carried out under the policy. NHBC disagree with this, saying its obligation is to ensure building work meets technical requirements. 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'm afraid I won't be asking NHBC to do anything further. I'll explain why.

Mr and Mrs V obtained an independent report by an expert surveyor. I've looked carefully at this report and its recommendations and also at the resolution report and schedule of works provided by NHBC.

The independent surveyor's report highlights some poor construction and areas of inadequate insulation. However, the suggested schedule of works compiled by the surveyor is extensive and it is immediately apparent that it includes work that NHBC would not be responsible for under the policy. The policy requires NHBC to ensure the schedule of works is compliant with NHBC's technical requirements. This does not mean that every defect within the property would need to be rectified. I note Mr and Mrs V suggest the defects are not restricted to certain areas. However I've seen no evidence to confirm that insulation throughout the property is defective.

The approach from the independent surveyor however is comprehensive and this isn't unusual, but it does go beyond the work NHBC would be responsible for. For example, NHBC would not be responsible for contingency items – and is only responsible for putting right issues which, as stated in the policy, breach “*any mandatory NHBC Requirement*” and which have resulted in physical “*Damage*” caused by a “*Defect*” as defined in the policy and within the specified parts of the home.

The policy also says NHBC is only liable for the cost it would have to pay if it had arranged to get the work done. I'm satisfied from looking at the schedule of works provided by NHBC that it has offered a reasonable amount to enable Mr and Mrs V to instruct their own contractors to put things right – as this is what it would've cost NHBC to do the work required. Mr and Mrs V say the costings provided by NHBC will be out of date, as prices will have increased since the offer was made. But I haven't seen any evidence of this. So I still think the offer put forward by NHBC is reasonable.

Regarding the cavity wall insulation, Mr and Mrs V say this was removed from the schedule of works without good reason as their surveyor recommended it should be replaced. However, I can see from the correspondence that NHBC discussed this with the builder and the surveyor, reaching the conclusion that the insulation was suitable and did not need to be replaced. Bricks were removed in the areas where cold spots were identified, and following the investigation, NHBC contacted the builder for confirmation of which insulation had been installed. It was confirmed that the insulation to the cavity was 100mm Dritherm 32 batts insulation (with 0.032 thermal conductivity) which is a suitable specification for the property. NHBC also says one of the benefits of that insulation is that it is water repellent, which I hope allays Mr and Mrs V's concerns.

I'm also satisfied that NHBC has acted fairly in responding to the issue with the patio doors. It believes the doors can be adjusted further, but has also said that if this doesn't resolve the issue of gaps when Mr and Mrs V arrange for the remedial work to be done, NHBC will consider alternative options if Mr and Mrs V are able to demonstrate that the problem remains. While I can see the recommendation was for replacement of the doors, I think NHBC's offer is fair in the circumstances and so at this stage I won't be asking NHBC to pay any more in relation to the patio doors. But Mr and Mrs V can go back to NHBC if its suggested remedial work does not rectify the issue.

Mr and Mrs V have said they may be able to get further quotes, but that it has been difficult to obtain these as many builders do not appear to want to do this work. In the absence of these, it is difficult for me to say NHBC's offer isn't reasonable. However, NHBC has suggested that Mr and Mrs V should contact NHBC with details of the companies which are unwilling to do the work, such as glazing companies which are unwilling to adjust the doors further. NHBC says its claims team can then contact those companies to discuss their findings from those visits and obtain clarification on why the patio doors cannot be adjusted

further, so that this can be considered and alternative solutions can be agreed. I think this is a fair and reasonable offer in the circumstances. And as NHBC says it will still consider quotes from three independent contractors who are willing to undertake the work specified in NHBC's schedule, I think it's acting reasonably to try to put things right for Mr and Mrs V. If contractors are unwilling to do the work, Mr and Mrs V should let NHBC know as soon as possible with further details, so that this can be followed up and clarification can be sought.

There is no doubt that delays have occurred along the way, particularly as the claim has been ongoing for several years. NHBC has offered Mr and Mrs V £400 compensation for the delays in its handling of the claim. Having looked at the timeline of events, I can see that not all of the delays are attributable to NHBC. There is always going to be some level of inconvenience in claims like these, and some delays were inevitable. Some delays were understandably outside Mr and Mrs V's control too, such as personal circumstances they've told us about. But for the delays caused by NHBC, I think £400 is a reasonable level of compensation for the inconvenience Mr and Mrs V experienced.

I know the issues relating to this complaint have caused Mr and Mrs V considerable upset over the years. I hope it reassures them that an independent person has now considered everything carefully and taken their concerns seriously. Although I appreciate that they will be disappointed with my decision, I'm satisfied that NHBC's existing offer to put things right is fair and reasonable in all the circumstances and for the reasons I've explained above. And so I'm afraid I won't be making any further award in this case.

### **My final decision**

I'm sorry to disappoint Mr and Mrs V, but my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V and Mr V to accept or reject my decision before 25 August 2021.

Ifrah Malik  
**Ombudsman**