

The complaint

Mr and Mrs J complain that National House-Building Council (“NHBC”) declined their claim on their building warranty.

What happened

Mr and Mrs J bought a new home that came with a ten-year building warranty provided by NHBC. The warranty commenced in 2016. In October 2020 they made a claim after a service of their packaged pump station identified a problem with the sewage tank.

NHBC asked for a copy of the report from the service and subsequently declined the claim. It said the report showed that the drainage system was in full working order, and there was no physical damage, so it didn’t meet the requirements for cover under section three of the policy.

Mr and Mrs J didn’t think this was fair. They said the report from the service showed the tank had imploded so wasn’t functioning. So they felt it should be covered. They made a complaint.

NHBC didn’t uphold their complaint. It said section three of the policy provides cover to put things right where there is physical damage. But the report had shown that the system was working correctly, so there was no damage to put right. It maintained the claim should be declined.

Mr and Mrs J didn’t agree and brought their complaint to this service.

Our investigator considered all the issues but didn’t recommend the complaint be upheld. She said that because the report confirmed the drainage system was working, the claim doesn’t meet the criteria for a claim under section three of the policy. So she thought NHBC had acted fairly by declining it.

Mr and Mrs J didn’t agree and asked for their complaint to be reviewed by an ombudsman.

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.

Mr and Mrs J aren’t happy with NHBC’s decision to decline their claim. I need to decide if it has acted fairly and reasonably when reaching its decision.

The claim was made under section three of the policy, this provides cover in years three to ten of the warranty. The warranty document states under section three:

‘This section protects you if there is physical damage to your home because the builder failed to build the following parts of your home to meet the NHBC requirements.’

The section of the policy goes on to list the parts of the building this applies to, which

includes:

'Drainage below the ground, which you are responsible for.'

So in order for a claim to be successful, there needs to be a defect that means NHBC building requirements weren't met, and there needs to be physical damage caused due to this defect.

In this case the report provided by Mr and Mrs J identifies that the sewage tank has imploded. However the report also confirms that all aspects of the drainage system were in full working order, with no faults identified.

One of the criteria of section three is that there needs to be physical damage to one of the parts listed as covered in that section. In this case, the relevant part is the underground drainage system. The report provided by Mr and Mrs J confirms that the drainage system is working without problem. So I'm satisfied that at this point, there was no physical damage to the drainage system.

So based on this I don't think there's enough to show that the claim would meet the criteria under section three. As there isn't physical damage present in the below ground drainage. I therefore think NHBC has acted fairly by declining the claim.

I note Mr and Mrs J have arranged another annual service for this year. But the results of this would have no bearing on the outcome of this complaint, as I am only considering matters up until NHBC's final response to this complaint. NHBC has said if problems develop with the drainage system then it would assess the claim again. So if the service identifies new problems then Mr and Mrs J should raise these directly with NHBC in the first instance.

My final decision

For the reasons I've given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 12 October 2021.

Sophie Goodyear
Ombudsman