

## **The complaint**

Mr and Mrs B complain about the way National House-Building Council (trading as “NHBC”) dealt with claims they made under their Buildmark policy.

## **What happened**

Mr and Mrs B made a claim for damage to their home when they discovered cracking in the external rendered wall of their property. They also made a claim about the rendering continuing to ground level, which Mr and Mrs B said didn’t meet building standards, as the rendering should have stopped above the damp proof course.

NHBC considered both claims and said that as the policy was taken out in 2010 and the claims were made between 2017 and 2019, they would be considered under section three of the Buildmark policy, which covers structural problems with the property between years three to ten of the policy.

NHBC investigated the cracks in the render, but following those investigations it said the most likely cause of the cracks was dry shrinkage. And that these didn’t compromise the actual structure of the property, so there was no cover in place under section three of the Buildmark policy.

Mr and Mrs B disagreed and made a complaint to NHBC, saying they had mitigated the defect by continuing to regularly fill and repaint wherever there were cracks – but that the cracks kept appearing. They also said the NHBC standards required them to stop the render at the damp proof course, but as the render had continued to ground level, it had compromised the damp proof course, effectively making it useless.

NHBC responded to the complaint, saying its structural engineer had assessed the damage and confirmed it had been caused by shrinkage, which isn’t considered an issue that affects structural stability and is an aesthetic problem only. In relation to the render going down to ground level, it said the areas had been tested and there was no evidence of the render de-bonding or moisture migrating up the wall.

Because Mr and Mrs B didn’t agree with NHBC’s response, they referred their complaint to this service.

Our investigator considered the issues and didn’t think the complaint should be upheld. She said she thought NHBC had fairly applied the exclusions under the policy. She also said, in relation to the rendering, that NHBC’s standards from 2010, when the property was built, didn’t require them to stop the render at the damp proof course.

As Mr and Mrs B didn’t agree with our investigator’s assessment, the complaint has been referred 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 upholding this complaint, for the same reasons given by our investigator. I'll explain why. But first I'd like to make both parties aware that although numerous submissions have been made in this case, I won't refer to all the points that have been raised by the parties – only those that I consider to be the most relevant. No discourtesy is intended by this. It merely reflects the informal nature of this service. And I'd like to reassure the parties that even though I won't be addressing all the points made, I've considered carefully everything that's been provided.

I've looked closely at section three of the Buildmark Policy, and can see it covers the following:

*"1) We will pay you the full Cost, if it is more than £1,000 Indexed, of putting right any Damage in any of the following parts of the house, bungalow, maisonette or flat and its garage or other permanent outbuildings or its Common Parts:*

- a) foundations;*
- b) load-bearing walls;*
- c) non load-bearing partition walls;*
- d) wet-applied wall plaster;*
- e) 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."*

Regarding the cover in place for external render, the Buildmark policy says it won't cover:

*'3) Anything relating to:*

- a) shrinkage, thermal movement or movement between different types of materials;*
- b) cosmetic damage such as minor cracking, spalling or mortar erosion to brickwork, which does not impair the structural stability or weather tightness of your Home or which only affects decorations;*
- c) existing double-glazed or triple-glazed panes in converted properties unless they were newly installed at the time of conversion;*
- d) ceilings that are not in an enclosed part of your Home (for example, balcony ceilings);*
- e) water entry, dampness or condensation to underground garages, where the structural integrity of the garage is not affected;*
- f) sound transmission of any type;*
- g) any change in the colour or texture of, or any staining to, any external finish;*
- h) replacement of any solar roof tiles or panels solely due to failure to generate heat or electricity.'*

I've also carefully considered the investigation report. This says that the nature of the cracks (that they are uniform and hairline in width) indicated that they were most likely as a result of dry shrinkage and mentioned that a structural engineer had confirmed these were unlikely to compromise the structural stability of the property.

In the circumstances therefore, and based on the policy exclusion relating to shrinkage and

thermal movement, I can't say I've seen enough evidence to persuade me that the damage to Mr and Mrs B's property should be covered under section three of their policy with NHBC. There's also nothing to suggest the cracks are indicative of a structural defect.

And, even if a defect had been found in relation to the render continuing to ground level, such a defect could only be considered under the policy if it had been raised in the first two years following completion of the build. This is because NHBC could only be liable to repair a defect that wasn't affecting the structural stability of the property within those first two years, if the builder refused to do so or had ceased trading.

I appreciate that Mr and Mrs B have, understandably, found it frustrating to have to keep repairing cracks. But I'm satisfied that the damage in this case isn't covered by section three of their policy, based on the findings of the investigation report and the structural engineer's comments.

I've considered the further points Mr and Mrs B have raised, such as telling us NHBC wasn't applying the correct policy terms because it had provided them with a different policy document, which they believe should override the policy document NHBC have used to decline their claims. But I'm afraid this wasn't an issue that was raised with NHBC at the time Mr and Mrs B made their complaint. So, although our investigator has passed on details of that complaint to NHBC for it to now address, I'm afraid it's not something I can consider as part of this complaint.

### **My final decision**

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 B and Mr B to accept or reject my decision before 1 April 2022.

Ifrah Malik  
**Ombudsman**