

The complaint

Mr and Mrs F complain that National House-Building Council (NHBC) has failed to provide a replacement manufacturer's guarantee for the roof tiles it had fitted following a claim on a Buildmark building warranty.

What happened

Mr F brings this complaint on behalf of himself and his wife so I'll refer to him throughout.

The background to this complaint is well known to the parties so I've provided a summary of what's happened.

- Mr F owns a property that had the benefit of a Buildmark building warranty from NHBC.
- Within the first two years of the warranty, Mr F reported a number of issues with the property to NHBC. It arranged an inspection and agreed some work was required, including the replacement of roof tiles.
- The original builder had become insolvent so NHBC took over the builder's responsibilities and replaced the roof tiles. These came with a 30-year guarantee from the manufacturer, Company A.
- Some years later in 2021, Mr F had a query about how he could make a claim on the guarantee if this was needed in the future. He tried to contact Company A but it had been taken over by another company, Company B.
- Company B didn't recognise the guarantee issued by Company A but provided Mr F with details of its guarantee, which replaced Company A's but Mr F wasn't happy as the terms differed.
- Mr F contacted NHBC and said he felt it had a responsibility for providing a replacement guarantee, on the same terms, as it had arranged for the work to be undertaken. NHBC said this was outside the scope of the cover provided under the warranty and it declined to help further.
- Mr F raised the complaint with this Service. Our Investigator didn't uphold it and said the warranty didn't require NHBC to offer replacement manufacturer's guarantees under the terms of the cover.
- Mr F disagreed 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.

- To be clear, Mr F has explained there's currently no problem with the tiles, he just wants to ensure there's a guarantee in place in case he needs it in the future.
- Like most building warranties, the Buildmark policy doesn't provide cover for everything that might happen to a new build property. The extent of the cover is detailed in the policy terms and I'm unlikely to direct NHBC to do something it's not required to do under those terms.
- The claim was made under Section 2 of the policy and NHBC took over the work as the original developer was insolvent. So, this is the relevant section of cover.
- Having considered the terms related to this section, I've found nothing to show there's cover for providing replacement manufacturer's guarantees for materials when NHBC arranges for work to be undertaken.
- I've then gone on to consider if it would be fair and reasonable to direct NHBC to undertake further action, notwithstanding the lack of cover under the warranty.
- Mr F says he was assured by the tile manufacturer's regional manager the warranty for the tiles was for 30 years and that's why he chose them. And he says NHBC's representative also passed on this information to him and it has responsibility to put in place a replacement guarantee.
- This Service takes the view that when repairs are undertaken in connection with a claim on a policy, the policy provider must ensure the repairs are effective and lasting. In this case, I understand Mr F was provided with a six-year guarantee for the works NHBC undertook.
- But I'm not persuaded, in passing on the factual information about the guarantee or using the tiles in the repairs, it would be fair or reasonable for NHBC to take on the responsibility for a third party's extended guarantee. I say this as there would be the potential it would be taking on a liability of indeterminate length or monetary value, over which it has no control or a reasonable way of foreseeing.
- I recognise there's some disagreement about who chose the tiles, but this doesn't change the policy terms or anything I've outlined above. So, it doesn't change my mind.
- In summary, I won't be upholding the complaint or asking NHBC to do anymore

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and Mr F to accept or reject my decision before 13 April 2022.

Paul Phillips
Ombudsman