

The complaint

Mr G complains that National House-Building Council (NHBC) hasn't put right various issues at his home, after he made claims on his building warranty policy.

What happened

In 2018, Mr G bought a new-build property. The property is covered by a ten-year building warranty policy.

During the first two years of cover, section 2 of the policy applies. If damage is found during the first two years, which has been caused by a failure to follow the NHBC requirements during construction, the builder is, in the first instance, responsible for putting the issues right. However, NHBC will offer its resolution service if there's a dispute between the homeowner and the builder.

NHBC only becomes responsible for damage that's found during the first two years if certain conditions are met. The conditions relevant to this complaint, are: NHBC issued a resolution report requiring action by the builder, and the builder hasn't complied.

Mr G made a claim within the first two years. In July 2018, NHBC issued a resolution report for 64 items. NHBC required the builder to take action on 21 items by 5 October 2018, to ensure compliance with NHBC requirements.

In December 2018, NHBC issued an updated resolution report. Because the required action hadn't been taken for 14 items, NHBC confirmed it would now take responsibility for those 14 items.

On 18 August 2020, NHBC issued a final response, in response to a complaint by Mr G. NHBC offered £1,600 compensation for the delays in resolving the items it had taken responsibility for, and for poor service.

In November 2020, Mr G raised a further complaint about further delays. He also noted that due to NHBC's repairs, the carpet in the hallway and lounge weren't fitting correctly. He wanted the carpets in those areas to be replaced.

Mr G also noted two other claims had been made during the first two years of the policy, in addition to the claim for the 64 items. He explained, because of the builder's intimidating behaviour, he didn't allow him to attempt to repair those other issues. Given those circumstances, Mr G asked if NHBC would now take over those two other claims.

On 10 January 2021, Mr G contacted our service about his complaints. We asked him to complete and return a complaint form.

On 22 January 2021, NHBC issued a second final response, in response to the complaint he had raised in November 2020. NHBC offered a further £300 compensation, for the further delays and poor service.

NHBC also accepted the hallway carpet had been damaged during its work in that area, and it said it would consider a contribution towards its replacement, taking into account the age and wear of the damaged carpet. However, it said damage hadn't been caused to the lounge carpet.

In respect of the other two claims, NHBC explained that because the builder hadn't been given an opportunity to rectify the issues during the first two years, it was unable to offer further assistance under its resolution service.

On 13 May 2021, NHBC issued a third final response, in response to a complaint about more delays and a cash settlement for some items. NHBC offered Mr G a further £250 compensation, for the further delays and poor service. NHBC said its contractor would complete the remaining repairs, that weren't being cash settled, as a priority.

NHBC said it had offered a cash settlement for the kitchen floor and tiles because it was only liable to repair the damaged areas, but it had included 50% towards the undamaged areas. Nonetheless, NHBC had since increased its cash settlement to cover all the kitchen floor and tiles. NHBC explained it was entitled to cash settle, rather than complete the works.

NHBC also said its position regarding the hallway carpet, in respect of a contribution only, remained the same. NHBC also noted the only issue with the lounge carpet related to a damaged gripper rod, which it would cover the cost of.

Mr G noted he had previously been offered £4,000 for the damaged kitchen floor areas and for the 50% contribution towards the non-damaged areas. However, NHBC was now only offering £2,211 for all the works. In any case, Mr G reiterated that he wanted NHBC to undertake the works.

Mr G also noted that the ground floor hallway carpet continues to the first and second floor landing areas. He asked whether NHBC would be covering those areas, or just the ground floor hallway. He also considered it unreasonable for him to have different carpets in the lounge and hallway.

NHBC explained it had previously quoted £4,000 in error, without a schedule of work having been completed. NHBC said its £2,211 offer had been accurately calculated. NHBC offered a 20% contribution towards the stairs and landing carpet. However, NHBC maintained its position on the lounge carpet.

In June 2021, Mr G returned a completed complaint form to our service. He explained that he remained unhappy with NHBC's position on the kitchen floor tiles and the carpets; the delays and service over the previous two and half years; and NHBC's unwillingness to consider the two other claims raised during the first two years.

Whilst the complaint was being considered by one of our investigators, NHBC confirmed it would pay Mr G's £5,692 quote, in full, for the kitchen floor and tiles. The quote had been obtained from NHBC's approved contractor, on a private basis.

Our investigator didn't think we could consider events before January 2021, and she thought the £250 compensation offered in NHBC's latest final response was fair, for the events after January 2021. She also thought NHBC's offer to pay the kitchen floor quote in full was fair. However, she thought NHBC should pay 50% towards the stairs and landing carpet, in addition to paying for the lounge carpet gripper rod.

NHBC accepted our investigator's findings. Because Mr G asked for a final decision from an ombudsman, the complaint was passed to me to decide.

I've already issued a jurisdiction decision setting out what complaint points we can and can't consider. As explained in that decision, we *can't* consider NHBC's decision to not offer its resolution service for two claims, or the items relating to those claims.

I've also issued a provisional decision for the complaint points we can consider. In my provisional decision, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."

Kitchen tiles and flooring

I can understand Mr G's preference for NHBC to complete the repairs. However, under the policy terms, NHBC can complete repairs or cash settle. As such, I don't consider NHBC was operating outside the policy terms, by offering a cash settlement.

Whether or not the £2,211 cash settlement was fair is another matter. However, that's not something I need to decide here, given NHBC has now offered to meet Mr G's quote. It follows that I consider NHBC's latest offer to be fair.

Lounge carpet – fitting

Mr G says the lounge carpet isn't fitting and it may need to be replaced. He says it may not be possible to fix it by changing the gripper rod.

I can't reasonably direct NHBC to cover the cost of replacing the lounge carpet, on the basis a new gripper rod might not resolve the issue. At this stage, I haven't seen any evidence the lounge carpet needs to be replaced.

Even if a new gripper rod doesn't resolve the issue, I haven't seen anything that leads me to believe NHBC would be liable. The carpet wasn't something NHBC became responsible for on 5 October 2018. The carpet wasn't subject to the resolution reports. I also haven't seen anything that supports NHBC damaged the lounge carpet during its works, beyond the gripper rod.

Lounge carpet – match

Mr G has also argued the hallway and lounge carpet won't match, if only the hallway carpet is replaced.

As I understand it, the lounge is separated from the hallway by a door and door bar. If so, the carpets aren't continuous, and the rooms are separate. In those circumstances, we wouldn't generally consider the two carpets to be part of a set, or there to be an unreasonable loss of match.

Ultimately, I've not seen anything that persuades me NHBC ought reasonably to contribute to the cost of replacing the lounge carpet on the basis it won't match the hallway.

Hallway, stairs and landing carpet

NHBC's policy terms explain it won't pay for an undamaged item because it doesn't match a replacement item. Such terms aren't uncommon in insurance policies, but where the items form part of a set, we generally consider it fair and reasonable for the insurer to contribute towards the undamaged item.

However, as I understand it, the hallway carpet isn't being replaced due to an issue that's covered by the building warranty policy. But rather, the carpet is being replaced because NHBC damaged it during its repairs. Therefore, the carpet settlement isn't subject to the policy terms.

Furthermore, I understand the hallway, stairs, and first and second floor landing areas are continuous. Even if there's a natural break in the carpets, or one can be added, the areas aren't separated by doors.

It's not reasonable for Mr G to suffer a loss of match in a continuous area of his home, or for him to have the cost of replacing the carpet in all those areas, because NHBC caused damage.

Mr G also wouldn't need to replace the carpets, but for NHBC damaging the hallway carpet during its work. So, I don't consider it fair for NHBC to make a deduction for wear and tear. Particularly given the carpet would have only been a few years old when the damage occurred.

Therefore, I intend to decide NHBC should cover the full cost of replacing the carpet throughout the hallway, stairs and landing areas.

NHBC hasn't yet been presented with any carpet quotes. So, I'm unable to make a monetary award. Nonetheless, the settlement should be based on a like-for-like replacement, based on the existing carpet in those areas. Should there be a dispute about the settlement amount, Mr G would need to make a new complaint.

Delays, service and compensation

As explained in my jurisdiction decision, we can consider the delays and service since 5 October 2018, in respect of the 14 items NHBC became responsible for.

It's evident from the final response letters that there have been a number of failings since October 2018. I don't doubt the delays to repairing the 14 items, and the service issues, have caused Mr G a fair amount of upset and inconvenience

However, NHBC has so far paid Mr G £2,150 compensation. Based on the information I've seen, and the arguments presented so far, I consider that amount to be fair. I've not seen anything that would have led me to award more, had NHBC not already awarded this amount.

Therefore, I don't intend to award further compensation. I understand the £2,150 has already been paid following the three final response letters. But if that isn't the case, Mr G should let me know when he responds to my provisional decision."

In response to my provisional decision, Mr G said the lounge carpet isn't fitting after the door was changed by NHBC. He said a carpet fitter has confirmed the issue can't be fixed with a new gripper rod. I've since had a further exchange with NHBC about the lounge carpet, which I'll set out below.

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.

I won't revisit everything I said in my provisional findings. Instead, I'll focus on the further comments from Mr G, which were in relation to his lounge carpet.

In view of Mr G's comments, I revisited NHBC's photos and report. I explained to NHBC that, as I understood it, NHBC has accepted the gripper rod was likely damaged during its work. I also noted it isn't clear from the photos and report commentary whether a new gripper would resolve the issues caused by its work. Equally, Mr G hasn't provided any expert opinion to support his assertions a new gripper won't resolve those issues.

I explained, despite my provisional findings under the heading '*Lounge carpet – fitting*', if a) the carpet fitting has been compromised by the damaged gripper, and b) the carpet fitting can't be restored by a new gripper, then NHBC would be liable for a new lounge carpet.

Therefore, I said should Mr G submit a credible report to NHBC from a carpet fitting firm, that supports a) and b), then NHBC should consider that evidence. If there's still a dispute about the lounge carpet after that evidence has been considered, a new complaint can be made. I noted no carpet quotes have been obtained yet. So, NHBC will need to consider those quotes anyway, before settling the hallway, stairs, and landing areas.

NHBC accepted my provisional findings, and my follow-up comments in relation to the lounge carpet.

My final decision

For the reasons I've set out above, and in my provisional decision, I uphold this complaint. My final decision is National House-Building Council should:

- settle the kitchen floor and tiles as per Mr G's £5,692 quote, on receipt of the invoice;
- cover the cost of replacing the damaged gripper rod in the lounge;
- consider a report from a carpet fitting firm, should Mr G provide one, to determine if the lounge carpet needs to be replaced due to the damaged gripper rod – and if so, cover the cost of replacing the carpet (subject to a like-for-like quote from Mr G, based on the existing carpet); and
- cover the cost of replacing the carpet in the hallway, stairs, and first and second floor landing areas (subject to a like-for-like quote from Mr G, based on the existing carpet)

If there's a further dispute about the lounge carpet after a report has been provided by Mr G, or a dispute about the cost of the replacement carpets, a new complaint can be made about those matters.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 26 April 2022.

Vince Martin
Ombudsman