

## **The complaint**

Mr W and Mrs W complain about the settlement amount offered by National House-Building Council ("NHBC") in respect of a claim made against their buildings warranty.

## **What happened**

What follows is intended to be a summary of the background behind Mr and Mrs W's complaint. It isn't intended to be a detailed timeline events and therefore does not include every event that has happened.

Mr and Mrs W have had ongoing issues with the doors of their property. Due to the location of the property, the external opening doors were subject to strong wind forces, and, due to their design, made them potentially unsafe to operate at different times. It is said the property was originally designed to have sliding doors, but this was changed during development of the property.

Mr and Mrs W made a claim to NHBC under their building warranty policy and that claim, at different times, has had complaints about it referred to and considered by this service. This complaint has been ongoing for some time and the position of it has changed since the investigator issued their opinion.

The current position is NHBC has said five doors can be replaced with sliding doors and one door can be changed to an inwards opening door. It has offered to arrange an independent specialist to change the doors or to pay Mr and Mrs W a cash settlement based on the price quoted by the same. The quote includes an amount to 'make good' after the work has been completed.

Mr and Mrs W say that all of the doors can be fitted with sliding doors, albeit further alterations to the property would be needed to accommodate the rear door (which NHBC currently proposes to change to an inwards opening door). They raise issues about safety of an inwards opening door based on all of the information previously considered about external opening doors and the capacity of door stays to cope with the prevailing conditions at the property.

Mr and Mrs W further dispute the amount offered by NHBC, as a cash settlement, is sufficient for the works to be completed satisfactorily. They say there are unable to locate a contractor that will only replace part of the structure as NHBC has proposed. They've provided quotes from contractors for a full replacement of all the doors and associated windows.

Mr and Mrs W have also raised concerns about the colour match of the old and new fittings. However, they have recently accepted that the terms of the policy mean NHBC only needs to ensure a close colour match and is not responsible for replacing or, colour matching undamaged items.

## **My provisional findings**

I issued my provisional findings on 5 May 2022, in it I said I thought the complaint should be upheld for the following reasons:

*"I understand Mr and Mrs W have strong views about what has happened and how they believe the claim should be settled. I want to assure them I've read and considered carefully everything they've said. However, my findings focus on what I consider to be the central issues, and not all the points raised. This isn't meant as a discourtesy. But the purpose of my decision isn't to address every single point the parties have raised or to answer every question asked. My role is to consider the evidence presented by Mr and Mrs W, and by NHBC, to reach what I think is a fair and reasonable decision based on the facts of the case.*

*Is an inward opening door suitable?*

*Mr and Mrs W contend that an inward opening door would not be suitable or safe and they refer to information that has been provided to this service under a previous complaint reference. They also refer to a report from a structural surveyor, dated in 2018, which comments on the safety of door restrictors in relation to the climatic conditions at the property. They say if an inward opening door was fitted it would only be a matter of time before it breaks.*

*NHBC provided a report from an independent specialist which confirms it is possible to fit an inward opening door in this specific location, with a suitable restrictor. That specialist has also provided commentary to confirm it would not be possible to fit a sliding door in that location without further alteration to the property. This would require works to be undertaken to common parts of the property, which may contravene the terms of the lease and will also require access to a neighbouring property. It contends that as it is possible for a suitable repair to be undertaken to this door (i.e. changing it's opening) it is not reasonable, or practical for it to be required to fit a sliding door.*

*Where evidence is contradictory, such as it is here, I have to decide on the balance of probabilities which evidence I find more persuasive.*

*NHBC's liability under the policy is to undertake a repair which could be considered to be lasting and effective. There isn't a timescale as to how long lasting should be, as this can be dependent on many factors, however I would consider this to mean a reasonable amount of time. So, while having an inward opening door isn't Mr and Mrs W's preferred option, I'd need to be satisfied that such a repair isn't possible or that it wouldn't meet NHBC's liability.*

*The main thrust of Mr and Mrs W argument here is around the safety of the door restrictors and that someone could be hurt by a door being blown inwards with force by the wind. Which I accept is always a possibility, however I'm conscious that not every property in an exposed location has sliding doors or that is the only safe method for door openings in such circumstances.*

*I'm also mindful that most of the commentary Mr and Mrs W refer to around door restrictors has been given in relation to an attempt to find an outward opening restrictor which would cope with the climatic conditions at the site. Therefore, while some of the general commentary and principles would still be relevant here, that evidence doesn't address the specifics of the rear door in question.*

*I've read the report from the specialist which gives it's reasoning as to how it would be possible to fit an inward opening door in this location taking into account the climatic conditions. And, it has provided detailed commentary as to property alterations necessary should a sliding door need to be fitted. NHBC has pointed out that installing a sliding door*

would also involve incorporating some of the existing shared space into Mr and Mrs W's living space – something which would require the agreement of all owners of the building.

Mr and Mrs W has said the terms of the lease for the building have been amended to allow alterations to the property to take place. However, it has also been suggested other terms have been implemented to place restrictions on what form those alterations can be and/or what will be acceptable.

Having considered everything, I don't think the terms of the lease or any amendments made to it have a bearing on my decision here. I'm persuaded by the evidence of the specialist here; it has 30 years' experience in the industry and has provided detailed commentary to explain its recommendations relating specifically to the door in question. I'm therefore satisfied that it is possible for NHBC to fulfil its liability under the policy by replacing the outward opening door with an internal opening door in this location only. And that the repair could be considered lasting and effective.

*Is it reasonable for NHBC to replace only part of the structure?*

Mr and Mrs W have said they are unable to find a contractor that will only replace the doors, due to the way the property is constructed. The quotes they have been able to obtain are for a full replacement of the doors and windows. Mr and Mrs W raise concerns about the safety of interlocking new frames into an existing structure and that this will impact the structural stability of the units.

As the claim has progressed various commentary has been provided about the way in which repairs could be undertaken. Some contractors understandably, for their own commercial reasons, the complexity of the work and for guarantee purposes, would only want to replace the units in full. However, this in itself doesn't automatically mean it isn't possible to simply replace the doors or does it imply it is unsafe to do so.

NHBC has provided commentary from an independent specialist which manufacturers its own parts and has confirmed it is able to undertake the work as proposed and provide a guarantee. In light of this, I'm not persuaded, or have I seen evidence which suggests, the structural safety of the property would be compromised by the work being carried out in the way NHBC proposes.

*Should NHBC be responsible for colour matching the new and old fittings?*

Mr and Mrs W have recently said they accept NHBC isn't responsible for colour matching the new and old fittings. However, for completeness I confirm under the terms of the policy NHBC is not responsible for replacing, or as it would be in this case, treating, any undamaged items to ensure a colour match.

*Is the cash settlement reasonable?*

The cash settlement put forwarded by NHBC is at the rate quoted by the specialist company. That company, while initially engaged by NHBC to provide its opinion and quote, is not affiliated to it nor has it provided its quote on commercially agreed rates. The amount charged is what it would charge either party to undertake the work. As such, aside from the quote being updated to take into account any recent material or labour rate changes, I think it is fair and reasonable.

**Compensation**

*I've considered the journey of the claim since this service last considered it and I think Mr and Mrs W have been put to some distress and inconvenience in the way the claim has been handled. They have both suffered ill health and have expressed a desire for the claim to be settled so they could move to a more suitable property. I think NHBC could have done more on occasion to assist Mr and Mrs W in obtaining quotes from appropriate contractors to assist with finding alternative ways to settle the claim and this delayed the claim to a certain extent. I think NHBC should pay Mr and Mrs W £500 compensation to reflect this.*

*For the above reasons, I intend to uphold Mr and Mrs W's complaint.*

*Due to their situation Mr and Mrs W have suggested they will now accept a cash settlement, however given NHBC has offered to engage the specialist contractor to undertake the work, I won't be removing this option in this decision. As such, it will now be for Mr and Mrs W to decide whether they wish NHBC to arrange the works, or if they wish to accept a cash settlement."*

### **Responses to my provisional findings**

Both Mr and Mrs W and NHBC responded accepting my provisional findings.

### **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 and, given both parties accepted my provisional findings, I see no reason to depart from the provisional decision I made.

So, for the reasons given in my provisional decision, I uphold Mr and Mrs W's complaint against NHBC.

### **Putting things right**

NHBC should put things right by:

- Instructing the specialist contractor to carry out the works on its behalf, or
- Should Mr and Mrs W prefer, obtain an up to date quote for the cost of the works and make a payment of the amount quoted to Mr and Mrs W.
- Pay Mr and Mrs W £500 compensation.

### **My final decision**

My final decision is that I uphold Mr and Mrs W's complaint against National House-Building Council. I direct it to put matters right as set out in the section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 9 June 2022.

Alison Gore  
**Ombudsman**