

The complaint

Ms S has complained about National House-Building Council (NHBC). She feels it hasn't treated her fairly after she made a claim on her building warranty policy in relation to her damp proof course (DPC).

What happened

Ms S bought a new-build property in March 2019, that's covered by a ten-year building warranty policy. During the first two years of cover, she reported a number of issues with her new home. I've already explained to Ms S separately that a number of her concerns relating to her garage roof can't be considered by this Service as they are not about a regulated activity. So, this decision will solely focus on Ms S' complaint about the DPC in her garage. She would like NHBC to reinstall the DPC.

As Ms S is aware this Service can look at complaints when NHBC has issued a resolution report which directs the housebuilder to do something by a deadline and the builder has failed to do this or is insolvent. When this happens NHBC is seen to be acting as an insurer and carrying out a regulated activity, even if NHBC continues to use the homebuilder to complete the necessary work.

Ms S discovered the defects with the garage DPC and raised these with the builder within the first two years of completion. NHBC then acted as a mediator between Ms S and the builder in providing a resolution service. It decided there was a technical breach and produced a resolution report on 4 November 2020 requiring the builder to repair the defect with the garage DPC. The repairs were required to be completed by 21 December 2020. The builder had only undertaken part of the DPC work, to the side of the garage but not the front, when Ms S complained to NHBC in September 2021.

But, when Ms S contacted NHBC about this in September 2021 it said it wasn't aware that the builder hadn't undertaken all the work. So, it told Ms S it would liaise with the builder in order to get the remaining work undertaken and would take over the builder's responsibilities if for any reason it didn't complete the work. As Ms S remained unhappy about this she complained to this Service.

Our investigator looked into things for her but didn't uphold her complaint. Although she could understand Ms S' frustration she didn't think NHBC had acted unreasonably. This was because she thought NHBC's confirmation that it would liaise with the builder in looking to ensure the work was undertaken now or it would step in and undertake the work itself if this failed was a fair way to proceed. As Ms S didn't agree the matter has been passed to me for review.

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 can understand why Ms S remains frustrated, as she simply wanted the work done and her builder only completed part of the DPC work that was required. However, I agree with our investigator that NHBC has looked to take reasonable steps to remedy the situation once it was made aware of the problem by Ms S. And I must highlight that I've only considered what happened up to NHBC's final response letter (FRL) of 25 November 2021. And as our investigator explained to Ms S if she remains unhappy about anything after this date she will need to raise a separate complaint about this.

I also think it's important to explain I've read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been said in this decision it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless it's relevant to the crux of the complaint.

As our investigator outlined the timeline of events leading up to Ms S' complaint I don't intend to go over this again here. It is regrettable that the builder didn't undertake all the work that was required in relation to the DPC at the garage after the resolution report. And I can understand why Ms S was unhappy about this.

However, NHBC has acted fairly and reasonably and in line with its obligations when looking to put this matter right. When Ms S first made it aware of the defects it acted as a mediator between Ms S and the builder and provided a resolution service and concluded there was a technical breach. And its resolution report required the builder to repair the defect with the garage DPC. Unfortunately the builder didn't undertake all of the required works and only rectified the DPC to the side of the garage and not the front.

NHBC wasn't aware that all of the work hadn't been completed until September 2021 when Ms S made them aware. And once it was aware it clarified the position with Ms S and agreed a plan of action with the builder to put things right. It isn't clear why the builder didn't complete the rectification work fully in the first place but NHBC has acted fairly in looking to ensure it completes the work now. In its FRL it said that it will look to resolve the matter and will liaise with the builder to ensure the DPC to the front of the garage is completed. And if the builder refuses for any reason it will step in and take over the builder's responsibilities under the policy terms.

Given all of this, and the circumstances of the claim, I think NHBC's proposals here seem fair. It has offered to step in if the builder doesn't complete the work which is in line with the kind of steps I would ask it to take in any event. So I'll simply leave NHBC to advance this now and I'm not recommending it does anything further to resolve this complaint. I would expect NHBC to give Ms S meaningful updates about the progress of this and Ms S is free to complain again if it hasn't acted fairly since that time or she has any further complaints.

My final decision

It follows, for the reasons given above, that I think the actions taken by the National House-Building Council in relation to this complaint are reasonable. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 31 August 2022.

Colin Keegan
Ombudsman