

The complaint

Miss R has complained about her building warranty insurer National House-Building Council (NHBC) as it has refused her claim for damage caused by a broken soil pipe.

What happened

Miss R bought a house with a ten-year defects warranty which began in 2014. In 2021 she noticed damage to a boxed in area in her lounge, which contains the soil pipe. Investigations showed the pipe was cracked. Miss R felt the pipe had been installed incorrectly with not enough clearance given between it and the surrounding timber. She made a claim on her warranty.

NHBC said that at this point in the warranty, in respect of section 2 and 3 of cover, the defect and the damage it had caused weren't covered. So it couldn't assist. Miss R said it was clearly a defect in the building of the property, so there should be cover under the warranty for it and the damage which had resulted. When NHCB refused to change its mind, Miss R complained to us.

Our investigator didn't uphold the complaint. She explained that we can only look at the warranty. And when the pipe was installed and NHBC checked the building – that was before the warranty began. The warranty itself only offers certain cover at certain times. So the problem with the pipe might have been covered if it had been noticed within the first two years of the warranty (section 2). But neither it nor the damage caused were covered in year seven (section 3).

Miss R said Section 4 of the NHBC warranty should apply; it would give cover for the faulty pipework, so NHBC should assist. She asked for an ombudsman's consideration. The complaint was passed to me.

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.

NHBC isn't an insurer in the conventional sense. And not everything it does falls under our remit for consideration. As our Investigator explained, we can't usually get involved with what NHBC does during the build process when considering whether or not to implement the warranty. And the fact of the warranty doesn't mean the house is being held out as 'defect free'. Rather the warranty offers certain cover for when certain things are found to be defective or go wrong during the first ten-years after the build is complete.

During the first two years of the warranty NHBC provides a dispute resolution service. This is intended to help the developer and the homeowner resolve any differences they may have in that period where defects in the build have been identified. The primary responsibility for putting right defects during this time lies with the developer. But NHBC will sometimes become involved if things can't be resolved. Importantly though defects that are found outside of the first two years aren't subject to that same level of cover.

In years three to ten of the warranty there is cover for major damage caused by defects. Rather than there being cover for a defect itself. But the cover is limited. So it isn't the case that any damage which is caused by a defect in years three to ten will be covered. Only if damage is caused by certain defects, as listed in the warranty, will the cover apply. And the problems Miss R has faced simply aren't listed in this section as being covered by the warranty in this period.

So, with regret for the disappointment I know this will cause Miss R, I think NHBC has responded to her claim in line with the general terms and conditions of the warranty which apply to all warranty-holders in years one to ten, as reflected in sections 2 and 3 of the cover. As such, I'm satisfied that its decline of liability is fair and reasonable.

I see Miss R has recently raised issues in respect of section 4 of the NHBC warranty. This section applies if NHBC issued the 'Building Control Final Certificate' for her home. The parties don't seem to have discussed the availability of cover under section 4 before. They will need to do that before this service can consider a complaint about that issue.

My final decision

I don't uphold this complaint. I don't make any award against National House-Building Council.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 24 October 2022.

Fiona Robinson

Ombudsman