

The complaint

Mr and Mrs M complain that National House-Building Council (“NHBC”) unfairly declined claims they made under their new home structural warranty.

Mrs M has primarily dealt with things, so for simplicity I’ll refer to her only.

What happened

The circumstances of this complaint aren’t in dispute, so I’ll summarise the key points:

- Mrs M bought a house in 2021. It was covered by a ten-year NHBC warranty which began in 2016. When Mrs M bought the house, the remainder of the warranty cover transferred to her. She then got in touch with NHBC about two separate problems.
- The first was about a number of slipped or fallen roof tiles. NHBC declined this claim because the problem hadn’t led to any water ingress.
- The second was about water ingress to the first floor bay window. NHBC declined this claim because it said the previous owner had claimed for the same problem when they owned the house.
- Mrs M said NHBC should have checked the property met relevant standards before signing it off and issuing a warranty.
- Our investigator didn’t think the complaint should be upheld. She thought NHBC had acted fairly when declining the claims. And she could only consider how NHBC acted in relation to the insurance contract – not to any other roles it performed.
- Mrs M disagreed and asked for an Ombudsman to review her complaint.

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 considered Mrs M’s claims under Section 3 of the warranty. This covers certain problems which happen during years 3-10, subject to a number of terms and conditions.

One term says the warranty doesn’t cover damage to the roof unless the damage results in water entering the home.

I understand it’s accepted that the problem with the roof tiles didn’t lead to any water ingress. As a result, I’m satisfied NHBC acted fairly when it declined this claim.

Another term says the warranty won’t cover anything which has already been claimed for under the warranty – or anything resulting from something already claimed for. NHBC has relied on this term to decline the claim for the first floor bay window.

NHBC looked at photos provided by Mrs M. It noted water ingress to the bay window and mortar erosion in the brickwork above. It compared the 2022 photos with those taken in 2020 when it considered a claim for the previous owner. It thought the photos showed the same problem had continued because they hadn't been repaired by the previous owner.

In 2020 NHBC declined the previous owner's claim and set out the work required to put things right. I can't consider under this complaint how NHBC dealt with the previous owner's claim. But it's clear to me from the two reports that the same problem has continued, and the claim made in 2022 is materially the same as the one from 2020. And that means I'm satisfied it's fair for NHBC to decline the claim.

Whilst Mrs M may not have been aware of the problem and/or the previous claim when she bought the home, I don't think that makes a difference. NHBC isn't responsible for the action or inaction of the previous owner, so it wouldn't be fair for me to require it to deal with the problem now.

I can only consider whether NHBC acted fairly and reasonably in its capacity as an insurance provider. That is, when it considers a claim under certain sections of the warranty, including Section 3. I can't consider how it acted in any other capacity, for example any role it played in supervising and/or approving the house build. Such activities don't amount to insurance or form part of the insurance cover provided by the warranty.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 19 April 2023.

James Neville
Ombudsman