

The complaint

Mr S complains that National House-Building Council (NHBC) declined a claim he made under his new home warranty.

What happened

The circumstances aren't in dispute, so I'll summarise the background:

- Mr S bought a home that was covered by a ten-year NHBC warranty. Soon after, he got in touch with NHBC to make a claim about a number of problems identified in professional reports which pre-dated the purchase.
- One of the reports mentioned a purchase price £150,000 more than Mr S paid. As a result, NHBC said the price had been reduced due to the need for repairs to deal with the problems – and Mr S had been aware of that when he bought the home. The warranty doesn't provide cover in these circumstances, so it declined the claim.
- Mr S complained and NHBC maintained its position.
- Our investigator said the evidence showed Mr S had taken into account the required repairs when negotiating the purchase price, so he thought NHBC had acted fairly. Mr S disagreed but didn't provide any materially new information.

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.

- Both parties are aware of the specific figures involved – the amount mentioned in the pre-purchase survey and the amount Mr S paid, which is £150,000 less. I'll avoid using those specific figures in this decision to ensure Mr S can't be identified. I'll refer to them as the higher price and the lower price for simplicity.
- The warranty provides cover for putting right damage caused by a defect, subject to a number of terms and conditions.
- The policy term NHBC relied on to decline the claim says: *"NHBC will not be liable for ... if you are not the first owner, anything you knew about when you bought your home and which resulted in a reduction in the purchase price or which was taken into account in any other arrangement"*.
- In a nutshell, NHBC's position is that the evidence provided shows Mr S knew about the problems before he bought the home and he negotiated a reduction of £150,000 from the higher price as a result. And he hasn't provided evidence to suggest the lower price came about for any other reasons.
- On the contrary, Mr S says there's no evidence to show the condition of the property

led to a reduction in the price – the lower price reflected the position of the seller, who lived abroad and wanted a quick sale.

- Having considered all the available evidence, I'm more persuaded by NHBC's position than Mr S'. I'll explain why.
- When Mr S got in touch with NHBC, he shared two reports. They were prepared and provided to Mr S prior to the purchase.
- The first was a pre-purchase survey. It noted a variety of damage that required repair, including problems with the render, roof, and paving, as well as internal damage caused by water leaks. It said the purchase price (the higher price) was generally satisfactory – but it recommended estimates were obtained for the repairs. Mr S later paid the lower price.
- The second was a structural engineer's report. It identified a number of problems consistent with the pre-purchase survey and raised no concerns about the structural integrity of the building. It didn't mention any figures.
- I'm satisfied it was clear to Mr S from these reports that there was a significant amount of damage at the property – and it would clearly have cost a considerable amount of money to carry out the repairs noted by the two professionals. So I can understand why he may have wished to negotiate a lower price.
- Mr S provided comments from his solicitor which said the sale price (the lower price) had been agreed at the start of the transaction and hadn't changed. I have no reason to doubt what the solicitor said, so I'm satisfied the price wasn't reduced during the transaction – it was agreed at the lower price at the start of the transaction and remained that way throughout the transaction, including the final sale. But the transaction began after the pre-purchase survey. In the intervening time, Mr S negotiated and agreed a price with the seller.
- So, on the face of it, the survey mentioned the higher price, and the two reports outlined a variety of damage – and then Mr S agreed and paid the lower price. In these circumstances, I consider it likely he took the damage into account and agreed the price accordingly.
- Whilst it's possible other factors were the reason for the lower price and the damage was irrelevant to it, I haven't seen any evidence to support that position. NHBC asked for more conveyancing information to explore this point, but only received the comments I noted in the point above.
- Overall, for the reasons given, I'm persuaded it's more likely than not the damage was relevant. It follows that the policy term NHBC relied on applies, based on the currently available evidence.
- Mr S' claim was made very soon after his purchase and referred to the damage in the two professional reports. So it seems he knew about all the damage claimed for prior to the purchase and there was no new, unrelated damage for NHBC to consider.
- In these circumstances, I'm satisfied it was in line with the warranty terms and conditions, and fair and reasonable, for NHBC to decline the claim.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 September 2024.

James Neville
Ombudsman