

## **The complaint**

Mr and Mrs G complain that National House-Building Council (NHBC) have declined a claim made under their Buildmark policy for mould in their shower.

## **What happened**

Mr and Mrs G purchased a property which came with a ten-year NHBC Buildmark policy.

Mr and Mrs G reported a potential leak in their ensuite bathroom which was causing mould in the shower area. NHBC initially declined the claim. However, NHBC later recognised that they hadn't assessed the claim correctly and they should have considered it under Section 3 of the policy. NHBC apologised for this, said they would visit to inspect the issue, and paid £100 compensation.

Following the inspection, NHBC declined the claim under Section 3 of the policy. This was because they concluded the mould was due to condensation from using the shower, rather than due to a leak. NHBC said the policy didn't provide cover as the issue wasn't caused due to a failure by the builder to comply with NHBC's mandatory requirements during construction, and it also wasn't in one of the listed areas covered.

Mr and Mrs G were unhappy with the claim decision and approached the Financial Ombudsman Service.

One of our investigators looked into things but he didn't uphold the complaint. He said that it hadn't been shown the mould was caused by the builder's failure to comply with NHBC's requirements, or that there was a leak. He also said damage to showers, or failure by the builder to install the shower correctly, wasn't one of the listed areas of the home Section 3 of the policy covered.

The investigator said that he noted Mr and Mrs G were unhappy with NHBC's investigation and that they made different recommendations to the plumber, but he said NHBC's inspection was for the purpose of establishing whether the policy provided cover and he was satisfied they'd done this.

Mr and Mrs G didn't agree so the case was passed to me for a final decision.

## 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, whilst I appreciate it'll come as a disappointment to Mr and Mrs G, I've reached the same outcome as our investigator.

I do appreciate that Mr and Mrs G have had numerous issues with their home since purchasing it. However, the NHBC Buildmark policy doesn't extend to cover anything that might be discovered to be wrong with the construction of a home. Instead, it has set terms and conditions, specific areas of cover, and requirements which need to be met for a valid claim to be made.

Mr and Mrs G initially reported that a suspected leak was causing mould to their ensuite bathroom. However, NHBC carried out an inspection and concluded:

*"There is evidence of mould to bathroom ceiling and tiles, as shown in the photographs.*

*The damage is consistent with condensation from the use of the shower."*

Therefore, NHBC didn't conclude there was a leak causing the mould, and instead that the mould was being caused by condensation from using the shower, and they suggested:

*"To control the condensation, the homeowner is advised to get the extractor fan serviced and consider the installation of a humidistat fan. To prevent mould occurring within the shower cubical, the area should be wiped down after each use."*

Mr and Mrs G provided a report from their own plumber which outlined:

*"After investigation the following issues were found on en-suite shower:*

- *Waste falling in incorrection direction.*
- *Repair has been previously carried out on seal to shower tray using grout rather than silicone.*
- *Grout had been put over the top of grout rather than removed and reapplied.*
- *Grout soft in places.*
- *Walling board sitting on top of shower tray rather than down the sides.*
- *Remaining silicone peeling on wall sides and bottom of tray.*
- *Walling board behind tiles used was not moisture resistant boarding.*

*Action required:*

*Our recommendation would be to remove and replace the shower tray, tiles and wall boarding. We would estimate that this would cost between £3,000 and £3,500 plus VAT."*

So, Mr and Mrs G's plumber didn't locate a leak which was causing mould either. Instead, they identified issues with the construction and previous repairs to the shower. Whilst I recognise that issues have been identified with the shower, unfortunately these aren't covered under the policy so I won't be directing NHBC to put these right. I'll explain why.

The claim was considered by NHBC under Section 3 of the cover, this outlines:

*“This section applies if there is physical damage to your home because the builder failed to build the following parts of your home to comply with the NHBC requirements:*

- Foundations, walls, external cladding, curtain walling, external render and external vertical tile hanging, roofs, ceilings, balconies, load-bearing parts of the floors, flues, chimneys and access steps, to the main structure.*
- Staircases, floor decking and screeds, to the inside of the main structure, if they fail to support normal loads.*
- Retaining walls, if they are necessary for the structural stability of the main structure.*
- Double- or triple-glazing panes to outside windows and outside doors, to the main structure, if newly installed at the completion date.*
- Below-ground drainage for which you are responsible.”*

So, for a claim to be valid, there would need to be physical damage to the home because the builder failed to build one of the listed areas above to comply with NHBC’s requirements.

However, whilst there have been issues identified with the shower by Mr and Mrs G’s plumber, failure by a builder to install a shower in the right way is not one of the listed areas of cover under Section 3 of the policy. There also isn’t anything to demonstrate that the mould has been caused by the builder failing to meet NHBC’s requirements either.

In addition, the policy also specifically excludes:

*“Buildmark does not protect you against every event or circumstance. It only protects you against the things outlined, in this document. Below, we explain some important things that Buildmark does not protect you against.*

*You cannot claim under Buildmark for, or for anything resulting from, any of the following:*

...

*12. Damp, condensation and shrinkage not resulting from the builder’s failure to comply with the NHBC requirements.”*

So, in the absence of anything demonstrating the mould is being caused by a failure by the builder to build the shower to comply with NHBC’s requirements, the shower not being a listed area covered under Section 3 of the policy, and the policy excluding damp and condensation where there isn’t a failure to comply with NHBC’s requirements, I don’t think NHBC has acted unfairly by declining the claim.

I understand that Mr and Mrs G are unhappy that NHBC didn’t make the same recommendations as their plumber, however the purpose of NHBC’s inspection was to establish if a valid claim existed under their Buildmark policy. And I’m satisfied they reached a fair claim decision for the reasons outlined.

Whilst I sympathise Mr and Mrs G have issues with their home, I don’t think NHBC has acted unfairly by declining the claim for the reasons outlined. NHBC paid £100 compensation for declining the claim prior to correctly considering it under Section 3, and I think that was reasonable, so I won’t be directing them to do anything further.

**My final decision**

It's my final decision that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Mrs G to accept or reject my decision before 27 June 2024.

Callum Milne  
**Ombudsman**