DRN-5340818

The complaint

Mr and Mrs S complain National House Building Council's (NHBC) handling of their building warranty claim has caused them loss and distress.

Mr and Mrs S are both complainants, but as Mr S has been the main correspondent and for ease of reading, I've generally only referred to him below.

What happened

There's a long and detailed background to this complaint. Here, I set out only the key events and issues.

In May 2016 Mr S purchased a property. It came with an NHBC building warranty. Soon after moving in, he became aware of problem with creaking floors. Mr S initially sought a resolution via the developer. Unsatisfied with the developers attempts at resolving the problems he approached NHBC. NHBC dealt with the matter under its resolution service. However, as the developer failed to reach a satisfactory resolution, in February 2023, NHBC took on its obligations.

In October 2023 NHBC's contractor (T) started repairs. Mr S expected to be in alternative accommodation (AA), to allow for repair, for around a week. However, the work took longer than initially anticipated. That resulted in Mr S, and his family, residing in AA until December 2023. When they returned to their home Mr S wasn't satisfied with its condition or the standard of T's repairs. He arranged and paid for further AA for a few weeks before returning to the property.

Mr S raised various complaints about NHBC's performance - including around delay, communications, the quality of T's work, the condition of his property and financial losses he holds NHBC responsible for. NHBC issued complaint final responses letters in July 2022, December 2023 and April 2024.

NHBC accepted T's attempt at remedial works hadn't been satisfactory. It offered Mr S cash settlements for him to arrange his own remedial works and AA whilst they take place.

In August 2024 Mr S came to the Financial Ombudsman Service. He wasn't satisfied with NHBC's April 2024 complaint response. He referred to four primary complaint points. NHBC's refusal to reimburse his expenditure on AA in December 2023 and to cover losses of around £4,800. NHBC's failure to reimburse a £300 banking fee related to payment for the AA and its offer of compensation being insufficient to reflect the distress and inconvenience it had caused him and his family.

To resolve his complaint, he would like NHBC to complete full repairs without delay, his losses to be reimbursed and compensation for the considerable inconvenience and distress experienced, by him and his family, because of NHBC's claims handling.

In October 2024 NHBC provided this Service with its submission for the complaint - offering Mr S £250 compensation. In November 2024 NHBC issued a further complaint final response letter. That included an offer of an additional £350 compensation.

Our Investigator said she was unable to consider the subject matter of the July 2022 and December 2023 complaint responses. She found those were outside this Service's jurisdiction as Mr S had come here more than six months after they had been issued. That meant she couldn't consider concerns about delay and mismanagement of the claim, communication and the standard of T's repairs.

In January 2025 our Investigator issued her opinion on the complaint. She considered NHBC's response to complaints about events after the December 2023 letter up until its November 2024 one.

She noted NHBC had already agreed to refund the £300 bank charge, as well as costs Mr S had paid his contractor (P). So she said didn't need to make a finding on those matters. She didn't require simple interest be applied to those payments, considering NHBC had settled in reasonable time.

The Investigator didn't ask NHBC to reimburse a loss of income Mr S had requested. Neither did she recommended it reimburse the cost of an air purifier. The Investigator did recommend NHBC cover AA costs for two nights. She was satisfied NHBC had offered enough compensation, £600 in total, to recognise any unnecessary distress and inconvenience it was responsible for during the period she was considering.

NHBC didn't accept the recommendation to reimburse two nights AA costs. Mr S wasn't satisfied with the proposed outcome either, raising several objections. He would like more of his December 2023 AA costs, and the loss of business income, to be reimbursed. He feels interest should be awarded for P's costs and doesn't accept £600 as fair compensation for the impact, on him and his family, of NHBC's handling of the matter. As the complaint wasn't resolved it was passed to me to decide.

Mr S didn't object to the Investigator's jurisdiction assessment. I considered it possible the AA cost complaint point had been referred to this Service out of time, with it being addressed in the December 2023 complaint response. However, NHBC indicated it would consent to the matter being considered anyway. So I've considered the same complaint points and period as the Investigator. I haven't considered matters that appear to have been resolved, including the £300 bank charge.

I issued a provisional decision. In it I explained why I intended to require NHBC to pay interest on P's cost. I gave my reasons for not intending to require it to reimburse Mr S's December 2023 AA costs or any business income. My reasoning forms part of this final decision so has been copied in below. Finally, I invited Mr S and NHBC to provide any comments or evidence they would like me to consider before issuing this final decision.

> ***what I've decided and why***
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> *I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*
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> *As this is an informal service I'm not going to respond here to every point or piece of evidence Mr S and NHBC have provided. Instead, I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.*

First, I'm pleased to see NHBC's offered Mr S cash to settle the claim. It seems he's arranged for contractors to undertake the required repairs. I hope that results in a satisfactory outcome for him.

Mr S would like NHBC to reimburse AA costs for around 12 nights - at around £4,000. He said when he returned to the property, following T's repairs, it wasn't suitable for occupation by the family. So he paid for a continued stay in AA.

His reasons for considering the property to be uninhabitable include it being structurally unsafe, there being no running water in the family bathroom, its general level of cleanliness and furniture being unassembled.

NHBC accepts T's repairs were found to be substandard, but doesn't agree the home wasn't habitable following its work. It denies there were any health and safety concerns regarding structure and cleanliness. It's said all services including an ensuite bathroom were available.

I've considered a range of evidence to decide on this matter - including, but not limited to, the following. Mr S's comments on the condition of the property and his children's health, alongside his snagging list. Various images of the home, provided by both NHBC and Mr S, from the relevant time. NHBC's post repair snagging list, its site investigation report and its April 2024 report on T's work.

I also note T's repairs were considered substandard. I've taken into account Mr S's comments about his children's health and the presence of dust. But I haven't seen enough to persuade the property was uninhabitable generally, or for Mr S's family in particular.

Standard facilities seemed to have been available. Photos, taken by NHBC's cleaners, show the property to be generally in a habitable and reasonably clean condition. I haven't seen persuasive evidence of structural issues that made the property unsafe to occupy at that point. I can't say it was unreasonable of NHBC to fail to extend the AA provision, or to refuse to reimburse costs Mr S incurred. I will consider any further evidence I'm provided with, but based on what I've seen so far, I don't intend to require NHBC to pay anything towards Mr S's December 2023 AA costs.

In December 2023, following T's unsuccessful repair efforts Mr S paid a contractor, P, around £1,840 for various works. NHBC refunded those costs in December 2024. So it appears to accept those works were covered by the policy terms, or were necessary because of T's substandard work.

Either way Mr S used his own funds to pay for work NHBC should have covered or was only necessary due to its error. To make up for him unfairly being without the use of that money for a significant period, I intend to require it to pay simple interest, at 8%, from the date he paid the invoice to the date it reimbursed him.

Mr S would like NHBC to cover a loss of income of £4,771. He has categorised that under two headings. £2,245 loss of income for the week of 23 to 27 October 2023. There's also £2,526 for loss of 45 hours work time over six weeks.

Mr S work from the insured property. T's repairs, starting on 23 October 2023, were planned for one week. Mr S considers the works being extended or stalled disrupted his ability to work. He holds NHBC as ultimately responsible for a resulting loss of income.

In response NHBC said the policy doesn't cover for financial loss, so it didn't agree to pay Mr S anything. It also said, even if the work was delayed, it isn't clear why Mr S needed to take a week of leave.

Loss of income during repairs isn't covered by the policy. So for me to find it fair for NHBC to cover any loss of income it would need to be accepted it was responsible for it, through an omission or error. I'd also need to be persuaded there was a genuine loss, that Mr S had taken reasonable steps to mitigate.

I've first considered the week of 23 to 27 October 2023. It seems Mr S booked leave in anticipation of the works commencing on 23 October 2023 and concluding around a week later. He would be unable to work from home as he would not be occupying it during repairs. However, on learning the works had stalled and would take longer than anticipated he was unable to cancel his leave as his work equipment had been taken into storage.

Even if it was found NHBC had caused unnecessary delay, it's unlikely I would require it to pay anything for this issue. Had the works completed, within the initially anticipated timescale, Mr S wouldn't have worked in the week of 23 to 27 October 2023 anyway. So I can't see there would be any loss resulting from NHBC having failed, unnecessarily, to complete work within that week.

As noted the AA was extended, with Mr S and family remaining for a further six weeks or so. Mr S has asked that NHBC pay him for 45 hours 'loss of work time' over that period. Again, even if it was considered NHBC had caused unnecessary, or avoidable, delay and disruption, it's unlikely I wouldn't require it to pay Mr S for any loss of work time.

Mr S hasn't said he was unable to work at all during those six weeks. Based on the figures he's provided it seems his usual working week is around 35 hours or so. He's only claimed for a total of 45 hours across six week - or put differently an average of 7.5 hours per week.

So I assume, after 27 October 2023, Mr S was able to overcome obstacles that may have prevented him from working from the AA or that he found another venue, and was able to retrieve his work items from storage. Mr S has said the pressure arising from NHBC's poor handling of the claim forced him to step away from his work. I accept Mr S will have made some enquiries to NHBC during the six weeks and will understandably been concerned at a lack of progress.

However, I haven't seen enough to persuade me the impact on him would likely have been so significant, or that the experience of being in AA so inconvenient, that NHBC could reasonably be found responsible for him being unable to work his usual number of hours. So, based on what I've seen so far, I don't intend to require NHBC to cover any loses related to loss of work hours.

NHBC has offered Mr S £600 compensation. He doesn't accept that as being enough to recognise the impact, on him and his family, of NHBC's failings within the period considered by this complaint - December 2023 to November 2024.

During the period NHBC accepted T's work to be substandard. It offered cash settlements for various work and items to enable Mr S to arrange his own repairs or replacements. It agreed a payment for AA for when the additional repairs take place. So I can see NHBC took some steps to resolve the problems it was responsible for.

Mr S has explained the impact on his family since December 2023. This includes being unable to fully settle back into their home due to the substandard work. He has said they have had to chase NHBC for updates. They had to coordinate with contractors, something they wouldn't have had to do had T's work been to the required standard. Mr S has said this placed an immense strain on his mental and physical well-being. He has referred to concern around his children's health.

I accept NHBC's mistakes caused Mr S and his family considerable distress, upset and inconvenience that required extra effort to sort out - across several months in the period I'm considering. However, I'm satisfied £600 is within the range of compensation I consider fair for this type of experience. So, whilst I realise this will be frustrating for Mr S, I don't intend to require NHBC to pay any additional compensation.

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 accepted the outcome proposed in the provisional decision - subject to an amendment to the award of interest for P's cost. I return to that below. Mr S didn't accept my provisional decision. I've considered his further comments and evidence, addressing these where necessary.

Mr S made various comments suggesting I had not understood or had overlooked certain details. I'm not going to set out each point, detail or context he referred to. However, I'm satisfied I understand his complaint, including the various factors he referred to. As I've explained, as this is an informal service I don't set out in my decisions every fact, circumstance or piece of evidence considered. That doesn't mean they haven't been considered, understood or appreciated.

Mr S didn't accept my position on reimbursement of his December 2023 AA costs, raising several points. First, he said it would be consistent for NHBC, having accepted liability for P's remedial work, to accept the AA costs incurred during the period of the relevant repairs.

Mr S's warranty does cover the cost of AA whilst work is being done - but only if the AA is 'necessary'. So AA isn't funded for every repair - instead only when 'necessary'. That will depend on various factors including the nature and extent of repairs. I'd also expect an insurer to fund AA where it's ultimately only necessary because of its own contractor's substandard work. But I'd still usually only expect that where the property is uninhabitable, not for every repair.

NHBC hasn't accepted AA was necessary during the relevant period in December 2023. I explained, in the provisional decision, why I found its position not to reimburse the costs to be fair and reasonable. I wasn't persuaded the property had been 'uninhabitable' for Mr S and his family.

Mr S responded to say the property was structurally instable - with unsafe flooring. I hadn't been persuaded of this previously. Mr S said P's work to secure flooring, following T's work, to ensure safety. I don't dispute that T's work was substandard. It's accepted the flooring still creaked and had excessive flex. But work being substandard doesn't automatically mean a property is unsafe or uninhabitable.

I've reviewed the relevant evidence, but I haven't seen enough to persuade me the property was unsafe. P's invoice sets out the work undertaken. Videos also demonstrate some of P's concerns. The work is focused on remedying creaking, poorly laid flooring. But the evidence doesn't persuade me the property was unsafe or couldn't be occupied during P's work.

I note P's invoice states the property being vacant allowed it to open floors and carry out repairs without risk of children falling through floors. I accept it would be more convenient for P for the property to be vacant during work. However, I'm not persuaded the property was uninhabitable during P's work. Based on the labour and material costs, the work doesn't appear to have been protracted. It was restricted to upstairs, so any young children could remain downstairs. I'm not persuaded essential facilities, like the bathroom, were out of use for anything more than short periods.

I've considered all of Mr S's comments, including those related to health and education, on why he considers it wasn't reasonable for the family to occupy the property in December 2023. But I'm still not persuaded the property was uninhabitable or that AA was necessary. So I can't say NHBC's decision not to reimburse any of these costs was unfair or unreasonable.

Mr S objected to my intention to not require NHBC to reimburse any loss of income. He explained that during the period of 23 to 27 October 2023 he faced disruption. He had to return to the property to remove various items. He said had to source further AA, for the family, to allow for the unplanned, additional works to property. He said this required urgent logistical arrangements to be made during that week.

I accept Mr S faced some pressure here. No doubt, had Mr S intended to work during that week, his focus would have been affected. But he had already booked leave for that week, so the unexpected demands on him wouldn't have interrupted his work. To conclude the warranty doesn't cover loss of income and I don't find NHBC responsible for any relevant loss through any omission or error. So I'm not going to require it reimburse Mr S for loss of business or employment income.

In the provisional decision I said I intended to require NHBC to pay simple interest on P's costs from the date Mr S paid the invoice to the date he was reimbursed. That was December 2023 to December 2024.

NHBC objected to the timeline. It said it had sent Mr S a settlement form in July 2024, that included P's costs, but he didn't return it until December 2024. I accepted NHBC's point, explaining to Mr S that he could have accepted the payment in July 2024. So it would be unfair to award interest up until December 2024. I said I now intended to require interest to be applied until only July 2024.

In response Mr S said NHBC didn't make a formal offer, to reimburse P's costs, until December 2024. However, NHBC's provided evidence he was emailed a settlement offer, including P's costs, on 15 July 2024. So I'm satisfied he did receive an offer in July 2024. That means I will require NHBC to pay simple interest, at 8%, from the date Mr S paid the invoice until 15 July 2024.

My final decision

For the reasons given above, I require National House Building Council to pay simple interest, at 8%, on P's charge of £1,840, from the date Mr S paid P's invoice until 15 July 2024* and pay (if it hasn't already) £600 compensation as offered in its submission to this Service and its November 2024 final response letter.

*If NHBC considers its required by HM Revenue & Customs to deduct income tax from the interest, it should tell Mr S how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 21 August 2025.

Daniel Martin
Ombudsman