

The complaint

Mr and Mrs P complain National House-Building Council (NHBC) unfairly declined a claim they made on their building warranty.

What happened

Mr and Mrs P bought a property that came with an NHBC warranty. In 2024 they made a claim; a brick had fallen from a dummy chimney situated on the roof of the property. They were concerned other bricks might be loose and asked NHBC to repair it.

NHBC assessed the chimney but declined the claim under Section 3 of the policy. It said it considered the damage to be 'cosmetic damage' and as such, excluded under the policy.

Mr and Mrs P complained, they said whilst the chimney wasn't a functioning one, this didn't mean it was only 'cosmetic' and the examples listed in NHBC's exclusion were not similar to what had happened. They also said NHBC hadn't reviewed other matters raised in their roof report they'd provided.

NHBC didn't agree to change its position on the chimney. But it did accept it hadn't reviewed other matters raised in the report. It offered £200 for the frustration caused by its error and said there would be an investigation meeting (with a date provided) to consider the rest of the report against the policy terms.

Unsatisfied with NHBC's response in relation to the chimney, Mr and Mrs P referred their complaint to the Financial Ombudsman Service. Our Investigator didn't think NHBC had acted unreasonably in declining the claim for the chimney. She said there was no evidence that the brick falling had affected the structure of the chimney, or its weather tightness. She thought £200 was reasonable compensation for NHBC initially not having responded to other issues.

Mr and Mrs P didn't agree, they asked for an Ombudsman to consider matters. They said the policy exclusion covers cosmetic damage, not 'cosmetic property'. So the fact that the chimney isn't a functioning one doesn't make it 'cosmetic'. And the damage to the chimney can't be described as 'cosmetic'. They said falling masonry is not cosmetic damage. It said the brick falling could have caused a fatal injury and the safety of the chimney is a key point.

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.

As this is an informal Service I'm not going to respond to every point made or piece of evidence referred to by the parties. But I'd like to reassure both NHBC and Mr and Mrs P that I've read and considered everything provided.

Section three of the NHBC warranty provides cover for years three to ten of the policy. It provides cover for physical damage caused by a defect in parts of the home listed in the policy. However, there are exclusions to cover. The exclusion NHBC has sought to rely on says "*cosmetic damage...which does not impair the structural stability or weather tightness of your Home or which only affects decorations*".

Having considered matters, I don't think NHBC has acted unreasonably in considering the damage to be 'cosmetic' and therefore applying the exclusion. The word 'cosmetic' isn't defined in the policy. Where there is no definition provided, this Service considers using an everyday meaning of the word to be reasonable. I think an everyday meaning of the word cosmetic, in this context is "affecting only the appearance of something, rather than its substance".

NHBC's report says the missing brick is a brick slip, which is a slice of brick that's applied to a structure to give the appearance of traditional brickwork. But it says a brick slip isn't structural in its function, unlike an actual brick.

NHBC says the structure of the chimney hasn't been impacted, and it is still weathertight. So the missing brick slip is only affecting the appearance of the chimney, rather than its structure, as such, it is cosmetic damage. I've reviewed the surveyor's report provided by Mr and Mrs P. There's nothing in that report to suggest the structure of the chimney, or the weather tightness of the home has been impacted. So it follows I don't think NHBC has been unreasonable in its conclusion that this was likely cosmetic damage and thereby applying the exclusion, since the brick slip missing has only altered the appearance of the chimney.

I know Mr and Mrs P don't agree the damage can be considered cosmetic. They say the examples given in the exclusion relate to minor issues such as "*spalling or mortar erosion to the brickwork*" they say the brick slip falling from the roof isn't at all similar to these examples. I accept a brick slip coming off a chimney is different to those examples listed, but I don't think this means the brick slip isn't cosmetic damage. The exclusion is simply giving some examples of items that can fail, but which wouldn't generally impact the structure or weather tightness of the property. I don't consider it to be an exhaustive list or evidence that the brick slip coming off isn't also cosmetic damage.

I can understand why Mr and Mrs P are concerned. They're worried other brick slips could fall, causing injury or damage to other property. But I don't think this means that the damage to the chimney is anything other than cosmetic. Whilst I understand this is something Mr and Mrs P would want addressed urgently; this doesn't mean I think the NHBC warranty needs to cover it. Simply, no policy will cover everything and NHBC here has chosen to not cover anything which only affects the appearance and not the structure/watertightness.

NHBC didn't respond to other issues with the roof that Mr and Mrs P's surveyor noted. That is disappointing and caused unnecessary frustration to Mr and Mrs P. But I'm satisfied an award of £200 compensation is reasonable for the impact of NHBC's mistake. So unless it has done so already, NHBC will need to pay that amount to resolve the complaint.

My final decision

My final decision is that National House-Building Council made a fair offer of £200 to resolve the complaint. If it hasn't done so already, it will need to pay this to Mr and Mrs P.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 16 April 2025.

Michelle Henderson
Ombudsman