

## **The complaint**

Mr M complains about National House-Building Council's handling of his buildings warranty claim.

## **What happened**

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

Mr M has an NHBC warranty to cover a flat for which he is the leaseholder. He had a problem with water pooling on the balcony of the flat and made a claim to NHBC.

We've considered a previous complaint from Mr M and issued a final decision in December 2021. Our decision was that the defect in the building reported by Mr M was covered by the warranty and that NHBC should carry out investigations to identify the appropriate remedy.

As I understand it, Mr M and NHBC were at one point close to agreeing a solution, but there were complications when the contractor involved required NHBC to cover indemnity insurance costs.

NHBC then commissioned a report from a building consultancy to scope out possible solutions. These appear to be made more complex due to the need to avoid knock-on effects of any solution for Mr M's neighbours and/or the loading which might be put on the framework of the balcony.

Mr M and NHBC were in dispute about the provision of a copy or summary of that consultancy report to Mr M. I understand that issue has now been resolved.

NHBC have offered one solution to Mr M – involving the installation of a sump pump on the balcony. As an alternative, they've said he can retain the £13,775 that the original agreed solution would have cost (without any indemnity contribution) had it gone ahead.

Mr M has made several complaints to NHBC since our previous final decision in December 2021. I'll return to these in more detail later.

He brought his current complaint to us in January 2025. It is in essence about the delay in NHBC's handling of the claim and the solution which they have, in the end, proposed.

Our investigator looked into it and thought NHBC hadn't acted fairly. She said NHBC should provide Mr M with a copy of the consultancy's report. As I've said above, this issue has been resolved now.

She said an independent expert report should be commissioned to identify the possible lasting and effective solutions to the problem. This should involve NHBC identifying three suitable independent experts and allowing Mr M to choose one of them.

And she said NHBC should pay Mr M a total of £2,000 in compensation for the trouble and upset he'd been caused by the avoidable delays and the failure to settle the claim.

Mr M didn't agree with the proposed outcome and asked for a final decision from an ombudsman. He thought the compensation suggested was too low given the on-going distress and inconvenience he'd suffered.

NHBC also had reservations about the outcome. They told us they'd already paid Mr M more than the suggested compensation for the relevant period. And they weren't happy to suggest three independent experts to provide the proposed report.

### **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.

I'll turn to the issue of compensation – which was the remaining issue for Mr M - in the section below.

It's absolutely clear that Mr M and NHBC have now reached an impasse. NHBC aren't inclined to move ahead with any of the solutions proposed by the consultancy other than the sump pump option.

Mr M will not accept the sump pump option because he feels it doesn't actually address the underlying problem and would cause inconvenience for himself and his neighbours, for example because of the noise associated with the pump running.

I don't think NHBC have done enough to show that all other possible solutions are impracticable or impossible. For one thing, they had a different solution agreed with the previous contractor and that only fell through over the question of indemnity insurance costs.

Meanwhile, Mr M hasn't himself been able to propose any alternative solution that will work for NHBC.

I agree with our investigator then that the best – if not only – solution to break that deadlock is for an independent expert surveyor to be commissioned to provide a report setting out the possible solutions and their pros and cons.

In such circumstances, our long-standing approach – which reflects our view as to what is fair and reasonable - is to suggest that the business provide a list of three potential experts, from which the policyholder chooses one. I can't see any reason for us to depart from that approach in this case.

NHBC have said they might find it difficult to identify three such experts that they don't already work with on occasion. Other insurers seem not to have a difficulty with this approach. And I'm sure NHBC are better placed to find three suitable experts than Mr M is, given their experience in the industry.

They've also raised questions about any liability which they might have if they appoint an expert and that expert's recommended solution impacts third parties. Given the nature of NHBC's business, that must be an issue they deal with – and a risk they mitigate – on a daily basis.

So, I can't see any good reason why our investigator's proposed solution would not work for both parties and might bring this extremely long-running claim to an appropriate resolution.

## Putting things right

I've set out above why I think the way to move forward in this case is as per the proposal made by our investigator. I agree with her that NHBC should now identify three experts and allow Mr M to choose one to provide a report on the possible solutions to the identified defect at the property.

I'll turn now to the issue of compensation – which was Mr M's remaining concern when he rejected our investigator's view on this case.

Mr M made three complaints after our December 2021 decision, which had been settled and were now out of time (having not been referred to us by Mr M within six months of NHBC's final responses) by the time Mr M brought his current complaint to us in January 2025. This has only become apparent since our investigator issued their view on this case.

Both parties are well aware of those complaints and the outcomes. I'm not going to set them out in detail here. Suffice to say they are out of our jurisdiction (because they weren't referred to us within six months of the final response). And NHBC paid a total of £2,050 compensation to Mr M across those three complaints.

NHBC added another £250 across two further complaints, which Mr M *did* bring to us within six months and which I am considering here. That brings the total compensation since December 2021 to £2,300. Our investigator thought £2,000 was fair and reasonable compensation for that whole period.

Of the three complaints which are outside our jurisdiction, the most recent had a final response from NHBC in March 2024.

The latest final response to Mr M was issued by NHBC in January 2025. So, according to the rules which govern our service, I am allowed in this decision to consider any trouble and upset caused to Mr M – as a result of NHBC's errors and/or avoidable delays – between March 2024 and January 2025 (a total of ten months).

In their two final responses to Mr M which cover that period (issued in October 2024 and January 2025), NHBC admit that there have been further avoidable delays and poor communication with Mr M at times. I don't disagree with NHBC about that.

However, bearing in mind the relatively short period (in the life of this claim) that I can consider here, I'm satisfied that £250 in total is fair and reasonable compensation for Mr M's trouble and upset.

I understand that Mr M is frustrated by the lack of progress towards a satisfactory resolution to his claim. NHBC are partly, but not wholly, responsible for that. It certainly appears to be a complex and difficult claim to resolve given the nature of the property and the identified defect.

I can see why Mr M is worried about his property and I understand that it is stressful not to know how the issue is going to be resolved. But I also have to bear in mind that this is an issue with a balcony, not the home internally – and the standing water on the balcony, after rain, appears not to be causing any further immediate damage.

I don't wish to downplay Mr M's feelings about the length of time it's taking to resolve the claim, which are perfectly legitimate. But I am satisfied that £250 – for the period I can consider – is fair and reasonable compensation for the degree of trouble and upset he's experienced in that time as a result of any errors on the part of NHBC.

The net effect (once the facts become clear) of our investigator's view about compensation was that NHBC had already paid what she was recommending and needn't pay any more. That's the same conclusion I've now come to in this decision.

It should go without saying that the expert report should be commissioned – and this claim resolved - as soon as practically possible. NHBC will understand that if there are further avoidable delays, Mr M will be entitled to make a new complaint to them – and to bring it to us if he isn't happy with their response.

### **My final decision**

For the reasons set out above, I'm upholding Mr M's complaint in part.

National House-Building Council must now, at their cost, instruct an appropriate independent expert surveyor to report on the options for an effective and lasting repair to the identified defect at Mr M's property. As set out above, NHBC must provide Mr M with three suitably qualified experts, from which Mr M can select one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 December 2025.

Neil Marshall  
**Ombudsman**