

The complaint

Mr W complains about how National House-Building Council (NHBC) intends to settle a claim made under his Buildmark Policy.

What happened

Mr W owns a new build home in a building made up of residential flats and a commercial unit. It's covered by a NHBC Buildmark Policy. He says in late 2023 he became aware of some defects in the flat roof which NHBC have agreed was covered by the warranty. Mr W says he also found out that because of the terms of the warranty held by the commercial unit on the ground floor of the building, the lessees will have to contribute 25% towards the repairs. As a result, Mr W is required to pay towards the cost of the repairs.

Mr W complained to NHBC about its decision to limit the settlement in the way it had. NHBC said it had made the decision to settle the claim as it did on the basis the commercial units' warranty didn't provide cover for a flat roof – which is damaged. NHBC said it calculated the proportion of what it was required to pay in respect of the residential properties covered by the warranty based on the breakdown of the service charge applicable under the relevant lease agreements. Mr W remained unhappy and referred his complaint to this Service.

Our investigator said under the policy terms NHBC was entitled to limit the settlement in the way it had and she didn't consider NHBC had acted incorrectly. Mr W didn't agree, so this matter has been passed to me to decide.

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.

This decision only focuses on how NHBC has said it is intending to settle the claim. As both sides are aware, Mr W has raised another complaint about the initial sale of the warranty, but I've issued a decision setting out why I'm unable to consider those concerns.

I've considered the information available and, having done so, I've reached the same conclusion as our investigator did and for largely the same reason. And it's important to note the focus of this decision is the warranty that Mr W holds and cover it provides, I can't comment on the cover provided by the warranty held by the commercial leaseholder.

As our investigator noted, the certificate of insurance sets out that the cover provided by the Buildmark warranty for Mr W's flat will be limited to the proportion of the area liable under the terms of his lease. I've reviewed the relevant policy term, which says:

“When your Home includes Common Parts, our liability for all claims relating to them (subject to the limits referred to in 1) and 2) above will be limited to that portion of the total cost of doing all the work that has to be done in connection with those Common Parts that we decide it is reasonable to attribute to your Home.”

So, as the policy terms set out, it's not the case that NHBC will automatically cover the entire cost of a claim made. It's entitled to proportionately settle a claim.

NHBC provided evidence to show when calculating the settlement of the claim, it made a deduction in line with the same service charge percentage paid by the leaseholders – including both the residential properties and the commercial unit. On this basis, I don't consider NHBC has acted unfairly in limiting the claim as it has and I'm not going to require it to take any further action.

I appreciate this won't be the outcome Mr W is hoping for and I'm sorry this decision will likely disappoint him. However, for the reasons I've set out above, I can't find that NHBC has unfairly applied the terms of the warranty.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 February 2026.

Emma Hawkins

Ombudsman