

The complaint

Mr and Mr H complain that National House-Building Council (NHBC) has unfairly declined to provide cover for damage to their kitchen flooring under their building guarantee policy.

What happened

Mrs and Mr H have raised concerns with NHBC about the ground floor of their new build property and a number of these were done within the first two years of the policy. In 2022 NHBC carried out a Resolution Service and its report identified that the floor adjacent to the kitchen was not level and outside of tolerance. NHBC instructed the builder to put this right and work was undertaken.

The builder couldn't isolate the repair and there was concern a patch repair would not be successful in rectifying the defect. As a result, the whole of the ground floor flooring was replaced.

Mrs and Mr H reported issues with the floor to NHBC in 2025, now outside of the first two years of the policy cover. NHBC said this was a new issue and it considered the issues under Section 3 of the policy which provides cover for physical damage after the builder liability period has ended. Its report concluded there was no physical damage caused by the defect and it declined to provide any cover for work under the policy.

Mrs and Mr H believe the recent cracking and unevenness to their floor is a continuation of the issues in 2022 which the builder attempted to rectify. The builder is refusing to provide further repairs and they feel NHBC should take responsibility and arrange the outstanding work needed to complete the effective repair.

NHBC didn't think it needed to do anything else as there was no cover under Section 3 of the policy. But it felt there had been some delays with the service provided and it offered Mrs and Mr H £50 to recognise this.

Our investigator looked at this complaint and said they felt it was fair to say the issues identified in 2025 are a continuation of the previous damage. Under Section 2 of the policy, NHBC must step in under the guarantee if the builder doesn't put right what they've been directed to repair through the Resolution Service.

Mrs and Mr H had provided evidence from their appointed expert and this, together with the location of the new issues supported the previous repair completed by the builder was not successful. Because of this, it was fair to consider the damage under Section 2 of the policy and they said NHBC needed to investigate the underlying screed of the properties floor and repair this as needed.

They also said it was fair to ask NHBC to cover the cost of the expert appointed by Mrs and Mr H, who's report had highlighted the previous claim decision was unfair. And they asked NHBC to pay an additional £300 for the distress and inconvenience added with this claim and its handling of it.

NHBC didn't agree with the recommendation. It maintained that the issues now highlighted should be considered under Section 3 and when this was done, it showed there was no further action required. It also said this Service had previously considered a complaint and the actions of the builder under Section 2. In this, we had said the repair was carried out and the complaint was outside of jurisdiction because NHBC had no duty to step in and provide cover under the insurance. It said it believed this was still the case and questioned why the investigator now feels the repair wasn't completed.

Our investigator explained why it was the new evidence provided by Mrs and Mr H from their expert report in September 2025, some five months after the first complaint was brought, which persuaded them the repair hadn't been completed. This meant it was fair to expect NHBC to deal with the floor and investigate it under Section 2 of the policy. This is because this section requires the builder to put right the identified defect and the evidence provided shows this hasn't been resolved with the cracking and unevenness reappearing in the same location.

NHBC didn't agree to the recommendations and the complaint was referred for decision because of this.

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've decided to uphold this complaint, for much the same reasons as our investigator.

It isn't disputed that a defect was identified at Mrs and Mr H's property in 2022 and NHBC, under Section 2 of the policy instructed the builder to rectify the defect. It didn't set out how this needed to be repaired and the builder chose to replace the entire ground floor as it felt this was the best way to repair the defect.

When issues continued and cracking and unevenness reappeared, Mrs and Mr H raised their concerns again and NHBC felt it was right to deal with this under Section 3 of the policy. I understand with the time that had passed and the time of the referral, why it considered this, and why it has questioned the change in the position on this complaint and whether this Service can or cannot comment on the actions of Section 2.

However, I think it is fair to consider whether the work needed now is a new defect, or a continuation of the original issue. If this is a continuation, to deal with it as a new claim and under Section 3 would not be fair.

If a Resolution Service is carried out with Section 2 of the policy, it needs to be shown that the report is completed, the builder has been directed to do something by a deadline and the work is completed by this point. If this hasn't happened, the complaint is one that would come into our jurisdiction as NHBC would need to assume the responsibility of the builder and complete the outstanding work.

Previously, the information this Service had, showed the work had been completed and there was nothing to show this hadn't resulted in the defect being repaired to the required standard. But when new information was provided, the investigator rightly considered whether this changed the position on this and whether it showed the original defect was likely the cause of the issue now, or if this is a new issue.

NHBC has accepted with its own report that the floor is still uneven but it feels the level of which it is out is within tolerance and when considering this under Section 3 of the policy,

further work is not required.

The pictures and expert opinion on the cracking and unevenness support that the issues noticed now are in the same areas as before. And while the repair was attempted by the builder, it would be reasonable to say this wasn't successful at rectifying the defect and further investigation and work is required. Mrs and Mr H's expert has said the following to support this:

"On entering the property, I immediately could see shadowing through from the smoothing of the compound applied over the existing screeded subfloor, with obvious trowel marks and undulations from the smoothing compound.

Worse Still there is a large crack within the smoothing compound across the opening of the lounge and kitchen. It is difficult to determine if the crack is also within the subfloor screed without carrying out a destructive examination. The crack is shadowing through the LVT flooring.

There are numerous irregularities in random areas of the subfloor preparation that justified concerns were noted."

Considering the expert evidence against the fact a repair was previously completed by the builder to the floor in the entire downstairs and the areas noted as being defected ahead of this, I am not persuaded the repair was effective at fixing the defect.

Mrs and Mr H have explained the builder is not engaging with them on the issue anymore and they've been directed to NHBC. NHBC are aware of the previous repair attempt, the concerns with the effectiveness of this repair and the builders lack of engagement on the issue now to do any further repairs. So, I think it is fair to say NHBC should assume the builders responsibility under Section 2 of the policy.

Although I understand why NHBC has considered the crack in the flooring under Section 3 of the policy, I think the handling of this claim and delay in any action being taken has added distress to Mrs and Mr H. They've have explained the issues they've been having as a family and I am sorry to read of this and it is clear the ongoing claim and dispute over the work will have added to this distress.

I also note there is other issues with the property which are being looked into and collectively, the whole situation is likely causing considerable distress. I am not making an award to reflect all of this, some of it will be the natural distress and inconvenience experienced by a claimant when something goes wrong. But I think this has been added to as I've said, and it is right that NHBC increase the award to recognise this to £350 with the increase of £300.

I also think it is fair that NHBC covers the cost of the expert report completed for Mrs and Mr H. This has highlighted the claim decision is unfair and more work is needed and I think NHBC could have avoided this cost had it accepted the claim sooner.

Putting things right

NHBC's obligations under Section 2 of the policy have been triggered and it should investigate the underlying issues with the flooring and screed to determine what is required to make an effective repair. It should then complete the repair or settlement in line with the policy terms as needed.

It should, on receipt of invoice from Mrs and Mr H, reimburse the cost of the expert report

produced with 8% simple interest added from the date of Mrs and Mr H paying this, until the date of settlement.

NHBC should pay Mrs and Mr H an additional £300 for the distress and inconvenience added through the handling of this claim.

My final decision

For the reasons I've set out above, I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H and Mr H to accept or reject my decision before 30 March 2026.

Thomas Brissenden
Ombudsman