

complaint

Ms C complains about how National House-Building Council (NHBC) have handled her claim under her building warranty policy.

background

Below is intended to be a summary of what happened and does not therefore include a full timeline or list every point that has been made.

The issues set out in this complaint relate directly to Ms C only. So this decision, and my findings, are based on her individual circumstances.

Ms C has a Buildmark policy with NHBC. She says she's been experiencing issues with the noise and vibrations coming from the shutter door for the building's garage – which is situated just below her property.

The issue was raised with NHBC. In December 2015 they inspected the shutter door and produced a resolution report that said

“The noise is generated from the electric motor mounted at the end of the shutter, the bracket to which the roller and motor is fixed, rests directly on the ceiling under the bedrooms. There appears to be no acoustic matting to resist the passage of noise/vibrations.

The roller shutter is missing its casing, and the boxing around the motor appears poorly installed and the likely cause of the transference of any noise, given that it too is fixed directly to the ceiling under the bedrooms.”

NHBC said remedial work needed to be carried out to comply with their technical requirements – and reduce the noise/vibration issues. The work was carried out and in May 2017 NHBC sent an acoustics and vibrations expert to inspect the work. The expert said they were satisfied with the installations carried out by NHBC. But they were unable to conclude it had they had been successful, as they were unable to carry out tests - as Ms C wasn't home at the time

The tests weren't carried out, but Ms C said NHBC signed the work off as completed. She says she has continued to experience the same noise and vibration issues with the shutter. So, she doesn't feel the work carried out has solved the issue.

NHBC said they'd completed the work in line with their regulations. So as it met technical requirements, and further issues relating to the noise/vibration wasn't covered under the policy, they didn't feel they needed to do anything more.

Ms C was unhappy with NHBC's response, so she brought her complaint to this service. She said the ongoing issue with the shutter door, and a lack of resolution, had caused her to suffer from stress, anxiety and a loss of sleep.

Our investigator recommended we uphold Ms C complaint. She said the resolution report said work was needed to reduce the noise and vibrations. Although NHBC completed the work, tests weren't carried out to see if the work had reduced the noise and vibrations – as recommended by their expert.

Our investigator recommended NHBC pay Ms C £700 in compensation to recognise the distress and inconvenience she'd been caused for the delays in testing the work.

NHBC didn't agree with our investigator. They said the testing was only a recommendation, and not a requirement, so they were not obligated to carry this out.

The complaint has now passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

A previous complaint was raised by Ms C and NHBC provided a final response for this in November 2016. My decision focuses on events following this up until NHBC's final response to Ms C in September 2018.

Having done so, I'm upholding Ms C's complaint. I'll explain why.

NHBC's carried out the remedial work set out in the resolution report to reduce the noise vibrations causing the issues. NHBC then hired an independent expert in vibration and acoustic systems to inspect the work in May 2017. In their report the expert said the work had been installed in a satisfactory manner, but the new isolation measures needed to be tested before they could say the issue was resolved. The test was unable to be carried out at the time as Ms C wasn't home.

But following this NHBC didn't arrange for anyone to carry out the test. They said the works had been completed to technical specifications and the recommendations made in the reports were not requirements. I wouldn't expect NHBC to carry out tests on all the work they complete. But where there is a clear recommendation from an expert they hired, I think it's reasonable they follow it to make sure the work put in place has resolved the issues.

NHBC's resolution report recommended work be carried out to reduce the noise and vibrations caused by the shutter door. And the expert has said without testing it can't confirm this has been achieved. So that makes the testing a necessary part of carrying out the recommendation of the resolution report and would've at least provided the reassurance, particularly to Ms C, the work carried out had resolved the issues to a satisfactory standard.

But as the tests weren't carried out, its uncertain whether the issues Ms C says she has continued to experience are due to the work carried out by NHBC. So, I think NHBC should arrange for this to happen as soon as possible and consider if further action is needed based on its findings.

The testing may conclude the works have been sufficient in reducing the noise and vibration. My findings are not to reflect whether or not this is the case. However, I do need to consider the impact the testing not being carried out has had on Ms C.

The report from the independent expert was provided in May 2017, so the recommendations have been outstanding for some time. Ms C told us the ongoing issues have caused significant impact on her mental health and general wellbeing. Without the testing Ms C has been left with the uncertainty of whether or not the issues she says she's still experiencing are related to the work carried out to the shutter door. Or whether she needs to consider other alternatives if the noise reduction work was sufficient.

Taking this and the delays in carrying out tests into consideration, I think it's reasonable NHBC pay Ms C £700 compensation as this fairly represents the distress and inconvenience she has been caused.

my final decision

My final decision is that I uphold Ms C's complaint. To put things right I direct National House-Building Council to:

- Carry out testing on vibration isolation work as recommended in the expert's report, and consider if further action is needed based on its findings
- Pay Ms C £700 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 11 September 2020.

Michael Baronti
ombudsman