

complaint

Mr and Mrs F complain that National House Building Council (NHBC) say their self-build housing warranty will not cover any problems caused by work carried out by a third-party contractor.

background

Mr and Mrs F have a "Solo for Self-Build" housing warranty policy with NHBC.

NHBC carried out repairs to Mr and Mrs F's house which were completed in 2017. At that point, NHBC issued a certificate of repair which confirmed they would be responsible for the repairs for six years from the time they were completed.

Before the repairs were carried out Mr and Mrs F's loft had been boarded, to provide storage space. Mr and Mrs F wanted this reinstated as part of the repairs. But NHBC pointed out that due to a change in building regulations – which requires thicker insulation – the loft could not be reinstated as it had been before.

After some discussion with NHBC about possible solutions, Mr and Mrs F agreed to accept a cash settlement so that they could engage their own contractor essentially to board the loft at a raised height.

NHBC have said that the six-year warranty under the certificate of repair won't cover the work carried out by Mr and Mrs F's contractor. Mr and Mrs F think this is unfair and complained to NHBC.

NHBC didn't uphold their complaint, so Mr and Mrs F complained to us. Our investigator looked into it and didn't think NHBC had done anything wrong.

Mr and Mrs F disagreed and asked for a final decision from an ombudsman.

my findings

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

Under the policy, where there is damage to Mr and Mrs F's house which is covered, NHBC are entitled to repair and reinstate the property or to offer a cash settlement.

It's unfortunate in this case that the changes to building regulations meant an exact reinstatement wasn't possible. It would have been entirely inappropriate for NHBC to re-board the loft as it was previously.

In this difficult situation, both parties agreed a cash settlement – and that seems to me to have been a fair and reasonable way for NHBC to settle the claim.

It would be unfair – and odd – to expect NHBC to guarantee work carried out by a third party contractor engaged by Mr and Mrs F when they have no control at all over the design, execution and quality of the work.

If that work is carried out poorly and either fails or causes other problems, Mr and Mrs F could seek redress from their contractor in line with whatever contracts / agreements they have with them.

I'm also satisfied that Mr and Mrs F were made aware NHBC wouldn't guarantee the third party work before they agreed to the case settlement. The certificate of repair, for example, contains a clear condition which says NHBC will not be responsible for "*any repairs that we didn't authorise as part of the claim*".

I think Mr and Mrs F might be confused about some of NHBC's communications about this matter. NHBC's assertion that they won't guarantee the third party work does not mean the warranty under the certificate of repair would be invalidated altogether if third party work is carried out.

I think NHBC's position is that they won't guarantee the boarding work. The certificate of repair will still stand and the earlier repair work they authorised and carried out will still be covered – providing this has not been compromised by anything the third party contractors do.

That seems to me to be perfectly fair and reasonable – and what one might expect. It's not for me to hypothesise at the moment about what might or might not happen if for some unforeseen reason the repairs carried out by NHBC fail in future. At that point, it would be a case of establishing whether that failure was caused by something the third party contractor had done or not.

In summary, I think NHBC have settled this part of Mr and Mrs F's claim in a fair and reasonable manner. I don't think there is anything wrong in NHBC making it clear that they won't guarantee work carried out by a third party commissioned by Mr and Mrs F.

my final decision

For the reasons set out above, I don't uphold Mr and Mrs F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs F to accept or reject my decision before 9 February 2019.

Neil Marshall
ombudsman