

complaint

Mr C is unhappy that National House-Building Council (NHBC) won't deal with his claims under his building warranty.

background

Mr C and his wife bought the property in November 2016. He owns another new build property but due to numerous problems he had had with it, decided to purchase the property which the claim concerns. Soon after moving in a lot of issues had to be raised with the builder.

But he contacted NHBC specifically because he needed its help to resolve issues to do with the heating of the house. He referred his complaint to this service. Our investigator advised him that, while issues are being or have been dealt with under NHBC's resolution service, we don't have the power to look at complaints about NHBC's handling of them.

I issued a decision on our jurisdiction to deal with Mr C's complaints. I decided that we only have the power to look at his complaints about the windows,

In respect of the windows, these were mentioned by NHBC in a resolution report issued in April 2017. With regard to the windows the report identified that they were leaking and constituted a defect that needed to be remedied. The report required the builder to obtain an opinion from an independent contractor to clarify whether the windows had been properly installed. The builder failed to get that report within the deadline set by the report. So I said in my previous decision that I thought this brought it within our jurisdiction.

The report was later obtained, and used to issue a resolution in a report in November 2017. It recommended that the builder arrange to carry out certain works to the windows and some doors. My understanding is that the work has been carried out, but Mr C says it hasn't resolved the problem of excessive heat loss.

Mr C had also obtained an expert report on the windows. This identified certain other matters. It also recommended remedial work which it's not clear was dealt with by the builder following NHBC's resolution in November 2017.

I issued a provisional decision. In that I said that there were issues with the sash windows and the bi-fold doors which weren't addressed in the report (and subsequent remedial work). I proposed that NHBC should appoint its expert to report on the windows and the doors and if any remedial work was recommended, for NHBC to arrange to carry it out.

Mr C's son, on his behalf advised that they would accept the proposals regarding the windows but reiterated that this was only a small part of the heat loss problem. They need a full investigation into this. Mr C has also continued to query our jurisdiction over NHBC's warranty.

NHBC believes that by appointing a surveyor from the Glass and Glazing Federation, and by having those works carried out, that it has already addressed those issues.

my findings

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

In my provisional; decision I said:

“I should again reiterate and make it clear that I can only deal with the complaint I have identified as being within our jurisdiction. That is the defect with the windows. I have already set out my view that I can't deal with Mr C's other complaints concerning other issues relating to this or to his other property.

As a claim brought within the first two years of the warranty, if the builder has failed to meet NHBC requirements in respect of the building, then the NHBC guarantee will cover it. Those requirements were not met in respect of the windows. In the report the builder commissioned it the expert identified seven issues:

- *Dining room window - The opening sash to the window to the left hand side required adjustment to ensure that it closed against the seal. Externally the head of the frame was exposed. The head trims were also poorly installed.*
- *Family room window - The glazing beads were poorly installed. It was also noted that the head of the frame was exposed affecting the thermal performance of the window*
- *The Bi-fold doors - The draught excluder was twisted and required re-installation.*
- *Utility room window - the glazing beads had been incorrectly installed and required re-fitting.*
- *Utility room door - The door was in twist and required re-fitting to sit squarely within the frame.*
- *Front door - issues had been raised re the durability and suitability of the door furniture. This should be addressed by the door manufacturer or supplier and the furniture changed if deemed necessary.*
- *Lounger window - The head of the frame was exposed externally affecting its thermal performance. The glazing beads required re-fitting to avoid sharp edges.*

I observe that some of the recommended work was to the doors. Although the report commissioned only referred to windows, I will include the doors in my consideration, since they are all part of the same remedial repairs. As far as I'm aware the builder has now dealt with the above matters. NHBC has said that that resolves the claim in respect of the windows.

But Mr C also obtained his own expert report on the windows (prior to the builder's expert report). He carried out a "shim" test on the windows. As I understand it, a test involving the pulling through of a sheet of thin paper to determine if the sashes let in excessive draughts. He recommended:

“The sashes throughout the property require adjustment or additional mid-point interlocking members to ensure that the pull through shim test gives a 'pass' on every sash.”

As regards the bi-fold doors, he said they were fitted to an appallingly poor standard. He recommended they be replaced entirely.

I think it's likely that the bi-fold door problem was rectified by the builder carrying out the work recommended in the report it obtained. But I don't know to what extent all the sashes were tested or adjusted (as recommended by Mr C's expert), if at all, following the builder's work on the windows. I would propose that NHBC appoint its original expert or someone with equal qualification to identify:

- *Whether the sashes need adjusting in the way suggested by Mr C's expert. And if so to recommend remedial work.*

- *Whether the reinstallation of the bi-fold doors has rectified the problem with them. If not to recommend remedial work.*

NHBC should then arrange to have any recommended work carried out.

Mr C's expert also made recommendations concerning bolstering security particularly on the ground floor windows. I don't see that as a failure to comply with NHBC requirements – it hasn't been identified as one by the said expert. So I won't be proposing that NHBC carry out any other work."

I have already addressed the question of our jurisdiction in previous decisions, so I won't go over that again. That particularly concerns the overall heating issues for which I've already explained why I can't deal with them. And I understand that Mr C has now decided to pursue through this service his complaints concerning his other property. So I haven't considered the information he has sent in concerning that property.

So far as the windows are concerned, I accept that both NHBC and Mr C instructed reputable surveyors. It is just that Mr C's surveyor identified the issues with the sash windows as I've set out above, which aren't addressed by NHBC's surveyor. It may be that the repairs he recommended achieved that result. I don't believe though that the work was inspected by that surveyor after it was carried out. So I think that surveyor (or a surveyor with equivalent qualifications) should inspect the windows and as necessary recommend whether the sashes need adjusting. As for the bi-fold doors there appears to be a difference between the reports as to whether they needed complete renewal or just reinstallation of the draught excluder. Again as the work carried out hasn't been inspected I think the surveyor needs to do this.

So, as I haven't changed my view, my findings from my provisional decision as set out above now form part of this final decision.

my final decision

I uphold Mr C's complaint and require National House-Building Council to:

- Appoint an expert (who can be the same one as it previously appointed) to report on the issues with the sash windows and bi-fold doors as I've identified above.
- Arrange to carry out any remedial work recommended by the said expert.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 October 2018.

Ray Lawley
ombudsman