

complaint

Mr K has complained about National House-Building Council, it provides a building warranty for his home. Mr K initially made a claim to NHBC in 2012, which it declined and which he made again in 2015 and 2017. As NHBC has recently declined the claim again Mr K is unhappy.

background

Mr K made a claim to NHBC in 2012 about water getting into his home in two areas. As the claim had been made in years three to ten of the warranty, NHBC considered the claim under section 3. NHBC noted that the applicable policy wording was:

“What NHBC will pay for

A The full Cost, if it is more than £500 Indexed, of putting right any actual physical Damage caused by a Defect in [certain] parts of the house, bungalow, maisonette or flat”.

NHBC noted that indexing at that time meant the value the claim would need to exceed in order to be accepted was £880. It completed a repair scope and found the cost to it did not reach that sum. It declined the claim.

Mr K repeated the claim in 2015 and NHBC undertook investigations. It recommended some further repairs but maintained the claim was declined. Mr K didn't complete any repairs and in 2017 he made the same claim again. NHBC reviewed the repair costs and felt they were still within the £880 minimum claim value. It declined the claim again.

Mr K complained to this service and an investigator reviewing the matter initially felt it had been unfair for NHBC to rely on its cost to repair in order to decline the claim. NHBC challenged her opinion and she reviewed it. She said NHBC should consider further quotes from Mr K. Mr K believed NHBC's challenge of the findings had been unfair but he provided it with further quotes.

Having reviewed the further quotes NHBC said it felt they were excessive and included work that it hadn't agreed was necessary. Mr K said that was not the case, the quotes had been based on NHBC's scope. But he also said more work was needed than NHBC had scoped for. NHBC maintained that the cost to it for the work agreed as necessary in 2012 was below the indexed value necessary for a valid claim. It wasn't minded to do anything or make any payment to Mr K and he made a further complaint to this service.

Our first investigator had left so a different investigator reviewed matters. She felt that NHBC, in answering Mr K's claim and complaint had fairly applied the applicable policy wording. She didn't uphold the complaint or make any recommendation against NHBC.

Mr K said he wouldn't accept our view unless we could provide proof to him that it would only cost NHBC its stated sum to complete the work. He also said he was disappointed that our initial investigator had felt that NHBC couldn't rely on its costs and her *“provisional decision was reversed only after NHBC questioned the validity of the quotation I provided”*. He noted that the current investigator's findings had changed dramatically and he said that brought them into doubt. He asked that an ombudsman review matters.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, with regret for any disappointment this causes Mr K, I don't intend to uphold his complaint.

I appreciate that this has been a long on-going matter for Mr K and I understand it is important to him. I know he received some previous findings from our service but I'd clarify that he has not had a decision from an ombudsman previously, either a provisional or a final one. And our investigators issue views. If both sides accept a view issued by an investigator then the matter closes. But if either doesn't then the matter moves on for a formal decision by an ombudsman. An ombudsman isn't bound to reach the same findings as an investigator – although we strive for consistency throughout the service to try to ensure investigators are aware of what ombudsmen are likely to conclude on certain issues. But as each case is taken on its own merits, subject to the evidence provided, and considered by individuals there are, unavoidably, occasions where investigator's views will differ from decisions reached by an ombudsman.

That said my decision on this complaint is the same as the view of the investigator that considered it immediately prior to it being passed to me. She considered NHBC's policy liability in line with the policy wording, and I have little to add in addition to that. In summary NHBC's policy doesn't cover work that will cost it less than the index linked value applicable to the cover. NHBC has satisfied me that its cost, in this case, is less than that. And I'm aware it has shared its repair scopes with Mr K, so he knows what work its costs are based on. The fact that Mr K's quotes come in significantly more than NHBC's doesn't change what Mr K is entitled to receive and NHBC is liable for under the policy. Whilst I appreciate it is frustrating for Mr K, I can't reasonably require NHBC to act outside of the policy in place.

It may help Mr K to understand that many insurance policies – general household policies as well as building warranties – often contain a clause that allows an insurer to settle claims in line with what it will cost them to complete the work. As long as an insurer applies such a clause fairly, we won't interfere. Here, in light of NHBC's policy wording which requires a certain value to be reached before the claim is accepted, NHBC, in my view, has not treated Mr K unfairly.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 13 August 2020.

Fiona Robinson
ombudsman