

complaint

Mr M complains about how National House-Building Council have managed problems arising from water ingress into his property, following defective drains installed when it was built.

Mr M is one of six property owners at the development. He has represented all six in this complaint.

background

Mr M owns one of six properties in a development that was built in 2010. Soon after it was completed, defective drains started to cause water ingress into a few of the properties. Mr M reported the problems to NHBC.

Over the years that followed, a number of different problems arose due to the defective drains. NHBC has involved a variety of different contractors who have produced reports and attempted repair work. There have been some disagreements between NHBC and Mr M about the right way to fix the problem. It has been difficult to resolve as the property is unusual in its position and structure.

By 2018 a lot of the problems had been fixed, however there were still a number of outstanding issues caused by water ingress that required attention.

In their most recent report, NHBC's contractors suggested a number of remedial works to be carried out to the properties, in order to correct problems with condensation. They said that once these were fixed, should the problems not return then this would prove that the drainage issue is no longer a problem. However if problems persist, they would recommend further more invasive investigations in order to understand the underlying cause.

Mr M wasn't happy with this solution. He said that the current issues proved that the drains were defective. And NHBC should start work on fixing the drainage rather than the remedial work as this will mean a long time to completion and may still fail anyway. Mr M requested that they install properly function drains and carry out external tanking of all the walls.

Mr M is also unhappy with how long the claim has taken to resolve. He says NHBC has sent out various contractors and each time it has taken many months for them to produce a report and come up with a repair schedule. He has made a number of complaints to NHBC over the years and has now brought his complaint to this service.

Our investigator considered all the issues. She said that as NHBC had instructed experts to produce reports over the years, it was reasonable for it to follow the recommendations in these reports. And she agreed that it was reasonable for NHBC to proceed with the recommendations in the most recent report. She also agreed that if these recommendations didn't resolve the problem, further invasive investigation would be required.

However, she understood the need for Mr M to be certain that these measures would be successful. So she recommended that an independent expert is instructed to review the property, consider the proposal's from NHBC's report and explain them to Mr M.. NHBC has since agreed to pay £2,000 towards the cost of this.

Our investigator also recommended NHBC pay each homeowner £500 compensation. However, she understood different levels of distress and inconvenience would have been suffered for each that couldn't reasonably be assessed as part of this complaint. So she said they could each complain directly to NHBC about the distress and inconvenience suffered in order to give it the opportunity to provide compensation individually.

Finally she commented that in order for NHBC to commence work Mr M would need to allow access to the property and this had slowed down the work to date.

Mr M didn't agree with these recommendations. He said the most recent contractors were the only experts that had been instructed by NHBC and this was unacceptable given the length of time the claim had been ongoing. Therefore he did not agree that the compensation was enough to make up for this.

Finally he challenged our investigator's comments about him not allowing NHBC access to the property saying this was untrue. He asked for the complaint to be reviewed by 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.

While considering this complaint I have looked at whether NHBC have acted fairly and reasonably in the action it has taken. Having done so, I have come to the same conclusions as our investigator. I'll explain why.

It's clear that it has taken much longer to resolve the issues that make up this claim, than we would anticipate for a claim of this type. Further, from looking at all the correspondence and reports produced over the years there hasn't been one clear and coherent strategy throughout. Instead, remedies and fixes have been largely reactive and sometimes meant undoing work that has been done previously.

I can appreciate that this would be very frustrating for all homeowners at the development. Particularly in hindsight and now we are nearly ten years on and there are still outstanding issues. I do not doubt the level of distress and inconvenience this has caused Mr M and others.

However it is my job to assess whether NHBC has acted fairly and reasonably when dealing with the claim. This claim appears to be a particularly unusual and complex one. The building in question is unique and built on top of a granite rock with water draining downwards on the north side from the woodlands there. This has caused challenges for the drainage of the water, particularly considering drains were not installed correctly from the outset.

Due to this unusual build, it is likely that contractors making assessments won't have had experience of the specific problems before. However each report has identified the areas where problems existed and suggested repairs. As our investigator pointed out, we aren't experts in construction or drainage, so it isn't for us to question reports compiled by those that are. However considering NHBC instructed the reports in order to solve the problems and followed their recommendations each time, I can't say that it has acted unfairly or unreasonably.

In the most recent report, NHBC's contractors have made further recommendations to fix the current problems. For the same reason, I don't think it is unreasonable for NHBC to follow these recommendations. Particularly as it has committed to further invasive investigations should the fixes fail. To me, this seems a sensible and fair way forward and I therefore won't interfere with NHBC's decision to follow the recommendations.

However I understand Mr M's reservations about whether these fixes will resolve the overall problem. And I agree that instructing his own independent expert to examine the property first may help put his mind at rest and help explain how the repairs will work. So I won't interfere with NHBC's offer of £2,000 towards this, should Mr M decide this is a necessary step.

Having said this, I can see there have been times when things have taken longer than they should have done. And there have been delays from NHBC that could have been avoided, particularly when it comes to its contractors' reports. So I agree that it has caused unnecessary distress and inconvenience above what would always be experienced in this complex claim.

This distress and inconvenience would have been experienced by each of the six home owners involved, in different ways and at different severities. Problems with water ingress have affected different properties in different ways. But it isn't possible for me to make a fair assessment of the distress and inconvenience caused to each, as part of this complaint - I don't have all the information from all those involved. Further NHBC has not been given the opportunity to assess this for itself, in order to offer compensation.

So although I can't reasonably offer compensation for each individual experience, there is no doubt that distress and inconvenience has been caused to all six individuals and therefore compensation is due. I therefore agree with our investigator that NHBC should pay £500 to each of the six homeowners to make up for this. Should any of the individuals feel this isn't enough for their circumstances they should raise this directly with NHBC as a new complaint, in order for it to assess each case.

For the reasons above, I therefore won't interfere with NHBC's proposed course of action or ask it to do anything differently. Further, I agree with its offer of £2,000 towards an independent expert, should Mr M feel this is a necessary step. Finally, I will require NHBC to pay each homeowner £500 compensation to make up for the distress and inconvenience caused.

my final decision

For the reasons given, I won't interfere in National House-Building Council's proposed course of action as recommended by its contractor's report. I also agree with its offer of £2,000 towards an independent expert selected by Mr M should he feel it necessary.

Finally, I require National House-Building Council to pay £500 compensation to each of the six homeowners in the development. This should be paid within 28 days of us telling them that Mr M has accepted my final decision. If National House-Building Council pay later than this they must also pay interest on that amount from the date of my final decision to the date of payment at a rate of 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 April 2020.

Sophie Goodyear
ombudsman