

complaint

Mr M has complained about the way a claim under his building warranty has been handled by National House-Building Council (NHBC).

background

In November 2008 Mr M completed the purchase of a new flat. The flat came with an NHBC building warranty. A few years later, he made a claim to NHBC because he noticed that water was coming into his flat through the roof.

NHBC carried out repair works on the roof in 2014. The roof was still leaking some time later. NHBC carried out further repairs which were finished in May 2017.

Mr M brought a complaint to this service about the length of time it took NHBC to resolve the issue. It offered him £1,500 for the trouble and upset it had caused him. Our investigator thought that was a fair offer.

In December 2017 Mr M contacted NHBC again to report that the roof was leaking. NHBC investigated the issue and said the leak was from part of the roof that hadn't been included in the previous repair. So it didn't think the previous repair had failed. It set up a new claim and said it was dealing with it as a matter of urgency.

Mr M brought a further complaint to this service. He said the roof was still leaking and he thought that was NHBC's fault.

my provisional findings

I issued a provisional decision explaining why I was minded to uphold Mr M's complaint. An extract from my provisional decision is set out below:

"I can understand Mr M's severe disappointment that after suffering many years of a leaking roof, the roof started leaking again just a few months after the repairs had been completed. What I need to decide is whether that's NHBC's fault. In Mr M's view the repairs carried out in 2017 weren't sufficiently thorough and NHBC should have investigated the section of roof now leaking because Mr M had reported a leak there previously.

NHBC says the repairs were to a different section of the roof from the part that's now leaking. It said the leak's from a section of the building which has a smaller pitched metal roof. It also thought a lack of maintenance had contributed to the problem because leaves had been blocking the rain water outlet. Its builder says the outlet or gully needed to be bigger and a lightning strip removed from the outlet and repositioned.

I agree that the latest leak is from a section of roof that hasn't been repaired. But it's not in dispute that it's a very close to the repaired section. Mr M says the two areas of roof are just 15 feet apart. NHBC agreed that his flat was close to a section of box guttering repaired under the previous claim in 2017.

In its final response to Mr M's complaint NHBC said "It is unlikely that the Claims department would be able to categorically say when the current issue with the blocked gully started, so it

would be impossible to know if it this problem was present when the previous remedial works were carried out.”

But in May 2015 when NHBC was investigating the other claim, its engineer reported: “The flat owners have commented that rainwater jets out from the outlet pipes over, and not into the hoppers. ... Perhaps in the first instance an inspection is made to confirm the number of outlets, their size and position relative to the height of the waterproof membrane, if this is not already known.” NHBC did enlarge some gutter outlets as part of the repairs.

NHBC’s builder said he recalled discussing the gutter designs with NHBC as part of the earlier repairs. One proposal at that time was to take “the gutter membrane up and onto the pitched roof to eradicate any risk of the gutter filling and pouring once again into the roof void.” He said it was decided that “NHBC would sooner take the risk of the gutters not being able to fill to the kind of capacity to overflow” than to take action which could affect the roof ventilation.

I appreciate that NHBC has acted promptly to investigate the current damage. But I think it should have done more in 2017 or earlier to prevent this situation from arising. It was aware that the gutter outlets weren’t large enough and the outlet which has caused the recent problem is close to the area repaired. It seems to have taken a risk-based decision that the gutter wasn’t likely to overflow. Unfortunately for Mr M that wasn’t a sound decision. In view of the long history of failed roof repairs in Mr M’s block of flats I don’t think NHBC treated Mr M fairly and reasonably in not doing a more thorough repair in 2017.

When considering whether compensation should be payable, my role isn’t to punish or regulate insurers for making mistakes. My role is to award compensation, where I feel an insurer has caused unnecessary trouble and upset to a consumer.

I can see that Mr M has suffered a considerable amount of trouble and upset because the latest leak comes after repeated water leaks and failed repairs to his property since 2013. In particular he had leaks over the Christmas and New Year period, water coming in around electrical sockets and his flat needing further redecoration and new flooring. This upset has in my view been caused by NHBC’s failure to carry out a lasting repair to the roof.

Having considered all that’s happened since Mr M brought his first complaint to us and the effect NHBC’s poor claims handling has had on him, I think NHBC should pay him compensation of £750.”

responses to my provisional decision

In summary Mr M said:

- the roof still hasn’t been repaired six months after he complained to NHBC about the previous repairs;
- scaffolding had been put up outside his flat for several months with little or no work being done;
- he’s had to live with stained and damaged walls because it isn’t worth redecorating until the roof has been repaired;
- he doesn’t think the proposed compensation reflects the stress he’s suffered and the time he couldn’t use his kitchen; and
- NHBC would have had to pay much more than this if he’d gone to stay in a hotel when he couldn’t use his kitchen.

NHBC accepted my provisional decision

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 this complaint I'm only looking at how NHBC handled this claim from the time of the previous complaint to 12 January 2018 when it issued a final response on Mr M's latest complaint. If Mr M wishes, he can make a further complaint to NHBC about the time it's taken to carry out the repairs and the resulting inconvenience and stress it's caused him. But I can't look at that as part of this complaint because NHBC hasn't had the opportunity to consider that.

In awarding compensation I mainly look at the impact NHBC's poor claim handling has had on a consumer and my awards aren't usually linked to any cost savings the insurer might have made in the course of a claim – for instance, because a consumer has chosen not to move into a hotel at the insurer's expense. That's because under the rules which govern this service I can only award fair compensation that reflects the impact a business's actions had on their customer.

Having looked again at the trouble and upset Mr M suffered as a result of the way NHBC handled his claim over the period mentioned above, I remain of the view that £750 is appropriate in the circumstances to compensate him.

my final decision

I uphold this complaint. I require National House-Building Council to pay Mr M the sum of £750 for the trouble and upset it's caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 17 August 2018.

Elizabeth Grant
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