

The complaint

Mr and Mrs P complain about the way National House-Building Council (NHBC) dealt with a claim they made under their new home warranty.

What happened

The circumstances aren't in dispute, so I'll summarise the background:

- Mr and Mrs P bought a new home. It was covered by a ten-year NHBC warranty which began in June 2015.
- They got in touch with NHBC in July 2022 about a problem with mold, thought to be due to a water leak. They were very concerned about it, given it could have had a very serious impact on Mr P's health condition.
- NHBC considered the problem under Sections 2 and 3 of the warranty. In summary, for a claim to be successful under Section 2, amongst other things the problem claimed for must have been reported to the builder within the first two years of the policy. In this case, that means prior to July 2017. And for a claim to be successful under Section 3, amongst other things the problem must have been caused by the builder's failure to build specific parts of the home in line with NHBC requirements.
- NHBC said neither of these conditions had been met, so the claim was declined under both sections of the warranty.
- Mr and Mrs P said they had been in contact with the builder about the problem prior to July 2017. They said the builder had initially looked the problem but, after a change of staff, they didn't continue. That's what had prompted Mr and Mrs P to get in touch with NHBC in 2022.
- The builder agreed to carry out work to put things right and that's since been done. Mr and Mrs P complained that NHBC had caused delays and that had meant they spent more time living with mold. Due to the potentially very serious consequences for Mr P, he'd moved out of the home during that time.
- NHBC said it hadn't caused any delays.
- Our investigator said we couldn't consider the way NHBC had handled the claim under Section 2. And she was satisfied NHBC fairly declined the claim under Section 3. She didn't think NHBC had caused any avoidable delays.
- Mr and Mrs P didn't agree and asked for their complaint to be referred to an Ombudsman.

What I've decided – and why

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

- I've explained in a separate decision why I can't consider the way NHBC handled the claim under Section 2 of the warranty.
- That leaves the way NHBC handled the claim under Section 3 of the warranty for me to consider.
- For a claim to be successful under Section 3, a number of conditions must be met. The key condition here is that damage must have been caused by the builder's failure to build a specific part of the home to NHBC requirements.
- Those parts include, but aren't limited to, foundations, walls, roofs and staircases. Generally, structurally significant parts of the home. In this case, the problem was with the internal plumbing, which led to a water leak and consequential damage.
- NHBC said the internal plumbing wasn't included in the specific parts of the home. I agree, it's not on the list. So NHBC acted fairly when declining the claim.
- It appears NHBC first told Mr and Mrs P it had declined the claim in November 2022. But the nature of the problem had been clear to NHBC from early August, around three months earlier. So I think NHBC could have let Mr and Mrs P much earlier that a claim under Section 3 would be unsuccessful.
- However, whilst that would have been preferable, I'm not persuaded it would likely have made a material difference to Mr and Mrs P. They were able to show they'd been in touch with the builder about the problem in the timeframe required by Section 2, so they were able to take that forward with NHBC, regardless of the position under Section 3. So even if they'd known sooner about the outcome under Section 3, I don't think things would have changed.
- I know Mr and Mrs P think NHBC acted too slowly taking the Section 2 claim forwards. But for the reasons outlined in the separate decision, I'm unable to consider that part of their complaint.
- Overall that means I'm not going to require NHBC to take any action in relation to the way it handled the claim under Section 3 of the warranty.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 20 November 2023.

James Neville
Ombudsman