

The complaint

Mr and Mrs O have complained about their building warranty provider National House-Building Council (NHBC) regarding a claim they made for damage.

What happened

Mr and Mrs O's home was built in 2015 and benefited from a ten-year defects warranty. In 2022 they noticed damp and mould on a bedroom ceiling. NHBC inspected the damage and found a hole in the roof underlay directly above the damaged ceiling. It said that the underlay and ceiling had been damaged, in years three to ten of the warranty, by requirements not having been met when the house was built. So, it accepted that section 3 of the warranty applied. However, it said the claim would fail given the cost of repair fell below the policy's minimum claim value (MCV) of £1,800.

Mr O told NHBC that quotes he'd obtained for the work ranged from £2,000 to £3,000, at least partly due to the cost of replacing damaged roof tiles. So Mr and Mrs O felt that NHBC's decline was unfair, and likely based on a deliberately, and unreasonably, low cost for work. NHBC disputed the need to replace roof tiles. When it wouldn't change its position, Mr and Mrs O complained to the Financial Ombudsman Service.

Our Investigator felt NHBC had acted fairly and reasonably. So he didn't uphold the complaint. Mr and Mrs O were unhappy. They felt NHBC hadn't shown they could get the work done for less than the MCV. They asked that it be made to instruct five building contractors to price the work and if they all return prices above the MCV, that NHBC should complete the work. Mr and Mrs O noted NHBC had put forward other reasons for declining the claim as well. Our Investigator considered Mr and Mrs O's reply and responded. He confirmed his view on the complaint had not changed. The complaint was referred for an Ombudsman's consideration.

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 appreciate that this is a worrying situation for Mr and Mrs O, I understand that although the wet winter months have begun they've not fixed their roof as they've felt unable to do so. I understand that's a worry for them. However, I don't think NHBC has done anything wrong on this occasion in declining their claim, such as to warrant me requiring it to either accept this loss or to even carry out further investigations such as requested by Mr and Mrs O.

NHBC's warranty does not offer cover for any and all damage howsoever caused. It is a warranty which provides different levels of cover, depending on the number of years since the property was built. In years three to ten of the warranty, cover is offered for damage caused by the builder failing to build certain parts of the home in line with NHBC's requirements. The cost for putting right the failure to comply with the requirements isn't covered in this section. Only the damage the failure caused.

It's not unreasonable for an insurer to communicate all of its liability concerns to a warranty holder. I understand though that NHBC's inspector's view on the damage – the damp/mouldy ceiling and the hole in the underlay – was that it had likely been caused by a failure to comply with its building requirements. Although NHBC wasn't specific as to what failure of which requirement(s) had occurred. But the presence of damage caused by a failure does not trigger cover in its own right. Rather the policy specifies that NHBC will be liable for repairing the damage caused by the failure if the cost to it exceeds the MCV.

NHBC said its cost to repair the ceiling and underlay was £1,300. NHBC's report didn't find any roof tiles were damaged. Rather it explained that for a tiled roof, in extreme weather some water can get under the tiles, and this normally just drains down the underlay and into the gutter. But, here, the damaged underlay had caused water to enter the roof space, causing further damage to the ceiling. So there's no evidence from NHBC's report to suggest the roof tiles were damaged, or that if they were that was on account of a defect. NHBC put together a quote for repairing the underlay and fixing the ceiling. That came to less than the MCV, which reasonably meant it was not liable under the warranty for repairing the damage.

I know the cost to repair for Mr and Mrs O will likely be more than that set out by NHBC, and so more than the MCV. But that is because NHBC can do the work for less due to the contracts it has in place. I also note that Mr and Mrs O's quotes include replacing damaged tiles – based on an "assumption" that there are a number of tiles damaged (and which will require a whole pallet of new tiles to be purchased). Even were I to accept an "assumption" reasonably shows there are damaged tiles, that wouldn't show they were damaged by a defect covered under the warranty, thereby making NHBC liable for replacement. I'm not persuaded the quotes Mr and Mrs O have provided show that NHBC has priced the work at a deliberately and/or unreasonably low cost.

I understand that it's frustrating for Mr and Mrs O to know that their home wasn't built in line with requirements which has caused damage, and which they must now pay to fix. I understand that's especially the case where they have a warranty which they thought would assist them in this situation. However, on this occasion, I'm satisfied that NHBC responded fairly to the claim by declining it on the grounds the damage in question doesn't reasonably fall for cover under the warranty because the cost to it to repair is less than the MCV.

My final decision

I don't uphold this complaint. I don't make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr O to accept or reject my decision before 26 December 2023.

Fiona Robinson

Ombudsman