

HomeBond confirms that it will not be accepting liability for 'Major Defect' claims made by homeowners relating to pyrite problems with hardcore material used as infill in their homes.

HomeBond is of the firm belief that the potential problems with the use of hardcore infill which was not sound, not durable or not inert should have been identified by the quarry supplier of the material used in dwellings by performing a suite of standard tests.

Taking into consideration legal opinion, expert technical advice and the decision in the High Court case James Elliott Construction Limited ("Elliott Construction") .v. Irish Asphalt Limited ("Irish Asphalt"), it is the view of HomeBond that the quarry suppliers of the defective hardcore infill in question acted negligently in supplying material that was not of merchantable quality and fit for purpose; and supplied a defective product in circumstances where legislation provides for compensation.

Under the terms and conditions of the HomeBond Agreement, HomeBond's liability for Major Defects is specifically excluded and accordingly, HomeBond does not propose to take any further action.

The exclusions in Section 3.6 of the HomeBond Agreement relevant to dwellings include:

- *any defect which is the result of negligence on the part of someone other than the Member or his sub-contractor;*
- *any defect in relation to which legislation provides for compensation;*

In HomeBond's view, the quarry suppliers in question have breached a duty of care owed to both the Member/Builder and to the homeowner and have negligently supplied hardcore infill to the Member/Builder which was not of merchantable quality or fit for purpose, which has resulted in damage to dwellings.

Furthermore, the Liability for Defective Products Act, 1991 provides a strict liability remedy so that a producer is made liable for damage caused wholly or partly by a defect in his product, regardless of whether or not he was negligent.

It is also HomeBond's view that the quarry suppliers of the defective under-floor infill material for the dwelling falls within the ambit of this legislation.