

The complaint

J, a limited company, has complained about HSB Engineering Insurance Limited. J approached HSB to provide a structural warranty for a building development, but HSB refused to provide cover.

What happened

J is a developer of properties. It seeks warranties for those properties, which get passed on to the homeowner, giving them cover for certain defects in, or damage to, the building.

Regarding a particular development, J had received a quotation for cover from HSB, but due to delays, the quote was withdrawn. The application was later re-submitted but HSB decided, at that time, that J no longer met its risk criteria. So it refused to offer J a warranty for the development.

J thought that was unfair. J noted that, in making that decision, HSB had taken into account claims made against other warranties it had issued, for developments completed by other companies which J's directors were involved with. J noted those claims had been disputed and that one had occurred about twelve years before. J thought HSB had acted unfairly and complained.

HSB wasn't prepared to change its mind in respect of offering cover. But it said it would refund a registration fee to J. J complained to the Financial Ombudsman Service.

Our Investigator felt HSB, when considering whether or not to offer cover to J, had made an assessment on risk and the liability likely facing it. In the circumstances of the cover and policy type, he felt it had acted fairly and reasonably when refusing to offer a warranty.

J remained unhappy that one of the claims which had counted against it was twelve years old. It also said that both claims had been disputed, with it also not agreeing with the costs logged by HSB for one of the claims. Our Investigator wasn't persuaded to change his mind about the complaint. The case was referred for an Ombudsman's decision.

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.

All insurers view risk differently. And each will decide what will influence its decision on risk and what risks it will be prepared to accept or not. This Service does not get involved with those type of commercial judgments. So we won't make determinations, for example, about whether or not an insurer's decision to take into account historic claim data is fair.

I have seen that in order to decide whether or not to offer cover, HSB took into account its risk criteria and, having done so, made a decision, based on what it had seen about activity linked to J's directors. That wasn't unfair or unreasonable of it. I'm satisfied it would have acted the same in respect of any party presenting the same risk profile. It's also the case

that I'd expect any insurer to undertake similar assessments, based on their risk criteria. I'm not persuaded that HSB has done anything wrong. I'm satisfied that its decision to not offer cover was not unfair or unreasonable.

I appreciate that this situation is frustrating and worrying for J. I realise that the refusal by HSB is likely affecting J's ability to get cover elsewhere. However, there are no grounds for me to require HSB to either change that position or to amend or remove its record of the refusal.

I can see that J is unhappy about claims decisions HSB has made in the past. Whilst J commented on these decisions during this complaint, the initial complaint J made was about the warranty decline, with the claim details shared as part of the background which led to HSB's decision. However, in any event, those claims were not made in respect of warranties issued to J. Which means I can't consider J's concerns about HSB's decisions on those claims in this decision. Whether or not this Service could consider the merits of a complaint about those claim decisions, if made by the developer the warranty was issued to, would have to be decided by us, if such a complaint were received.

My final decision

I don't uphold this complaint. I don't make any award against HSB Engineering Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 3 January 2025.

Fiona Robinson
Ombudsman