

## The complaint

'J' – a limited company complains about the actions of HSB Engineering Insurance Limited ('HSB'), mainly in relation to several building guarantees/warranties.

Any reference to HSB includes the actions of any agent acting on their behalf.

## What happened

The background to this complaint is well known to both J and HSB. I won't repeat in detail what's already known to both parties, instead, in my decision I'll focus mainly on giving the reasons for reaching the outcome that I have.

## 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.

Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service.

I've given consideration as to whether it would've been appropriate to dismiss this complaint without consideration of its' merits - given the nature of the dispute and alleged consequential losses (millions of pounds) that J is claiming. However, given J has been waiting a long time for an answer from our Service and in the interests of pragmatism - I have continued to consider the merits of the complaint.

J should be aware that if they accept this final decision, it could impact any future legal action they might decide to take <https://www.financial-ombudsman.org.uk/consumers/expect>

***"If the ombudsman issues a final decision, you will be asked to confirm by a specified date whether you accept or reject it. If you accept the ombudsman's decision, the business has to do what the ombudsman has told them to do. This might, for example, include making the business pay you compensation. And, if you accept it, it is unlikely you will be able to pursue the business in court for the same complaint.***

*If you don't want to accept the ombudsman's decision, you don't have to. But it does mean our involvement has come to an end and the business doesn't need to do anything. You may still be able to take legal action against the business, but we won't be involved in this."*

I make this point as reference to potential legal action has been made by J.

Having carefully considered the merits of this complaint and extensive representations made by both parties, I don't uphold this complaint for the main reasons below.

My decision will focus on what is at the heart of this dispute and what remains in dispute. The cover taken out by J was a 'guarantee' for a development of new properties. Once the properties were completed to their satisfaction, HSB would issue a 'certificate' that would then act as an indemnity for buyers of those properties.

J has been clear that their main complaint is the delay by HSB in the issuing of a new policy ('cover') following cancellation in 2023. J alleges this delay has led to significant consequential losses totalling millions of pounds - as they were unable to sell many properties, lost out on other sales, devalued properties (because they were let out) and the overall knock-on impact on cash flow delayed the building of other planned properties.

I've thought carefully about this. For HSB to issue the required paperwork/insurance certificates, they needed to be satisfied that the insured properties had been completed to a required standard. This was the responsibility of J, not HSB. The relevant terms state:

*"All Homes insured under the Policy are the subject of a system of checks and inspections:*

*• The Developer and the Builder have to comply with Building Regulations and the authorised Building Control Body involved inspects their work."*

The 'premier guarantee' document provided to J sets out:

***"The Company [J] has to comply with Building Regulations and the requirements of the authorised Building Control Body involved in inspecting their work. These Regulations are statutory requirements and are concerned mainly with health and safety, access for the disabled and conservation of fuel and power issues. For Home(s) insured under Premier Guarantee the Building Control function can be undertaken by either Local Authority Building Control or an Approved Inspector."***

J argues that the relevant terms don't specifically state a Building Control Certificate ('BCC') was required for the insurance certificate to be issued.

*"The Building Control function will have been undertaken by either a Local Authority or an Approved Inspector."*

The terms define 'approved inspector' as:

*"any person, sole trader, partnership, company or other organisation authorised by the Construction Industry Council who or which carries out Building Control for the New Development and who or which is registered with Premier Guarantee;"*

J argues that the properties were completed - because tenants were living in them. But this is not the information that HSB reasonably asked for. I've also considered the policy terms for both buyers (and renters) of the properties and they state:

*"The Developer and the Builder have to comply with Building Regulations and the authorised Building Control Body involved inspects their work..."*

On balance, I don't find HSB's request for the BCC unusual, particularly given the delays in finishing the properties - as the cover provider will want to be reasonably satisfied that the properties have been finished to appropriate/relevant standards to help mitigate the risk they'd be underwriting going forward.

I've sympathy for delays that are beyond the control of J, but I don't find HSB's actions unreasonable and I've kept in mind that as an established company, J will have had vast previous experience of the process and time delays involved in trying to acquire the necessary paperwork upon the completion of a property development on this scale.

I note J's comments that *"a new policy was not issued for about two years so whether BCC's were obtained or not there could not have been any sales"* and *"Since cover was going to be withdrawn there was no point in getting Building Control Certificates because the properties could not be sold."* But I'm not persuaded by this argument for these main reasons:

- The earlier cancellation occurred because of the time taken for the properties/plots to be finished. Even in a hypothetical scenario where HSB *did* take too long to arrange new cover, J haven't shown that they took reasonable steps in the interim period to mitigate against the loss they're now claiming for, or that they were ready (they had the paperwork HSB required) to receive the necessary insurance certificates from HSB.
- Ours is an evidence-based organisation and my decision is based on the available evidence and what actually happened - not what either party says they'd have done, with the benefit of hindsight.
- As pointed out by our Investigator – if J had always intended to sell these properties (rather than rent them) upon completion or in the future, they would have likely needed the required paperwork (BCCs) for prospective buyers/their lenders. So, regardless of HSB's actions in arranging new cover, J haven't shown they took reasonable steps during that period (from cancellation until 2025) to protect against the situation they later found themselves in – particularly if it was known that it could take some time before the BCCs to come through.

Our Investigator has already made detailed findings regarding the other policies. I broadly agree with the findings made and, on balance, conclude that regardless of whether there was a failing on the part of HSB when setting up policy ending 854 as a new homes policy rather than private rental – the agreed build period was breached by J. Even if I was persuaded by J's argument that the later delay in the completion of these properties was directly because of any issue with cash flow/the sale of the earlier properties for which they hadn't received insurance certificates, as explained earlier in the decision - I don't find that this was ultimately the responsibility of HSB.

The overall service provided by HSB may not have met J's expectations, but I don't find it was poor to the extent that financial compensation for that reason would be appropriate.

### *Summary*

Overall, I don't find that any failings that J alleges HSB are responsible for are the direct or indirect cause of the consequential losses that J has incurred.

My decision will disappoint J, but it ends our involvement in trying to informally resolve their dispute with HSB.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 13 April 2026.

Daniel O'Shea  
**Ombudsman**