

## The complaint

Mr and Mrs H complain about the way Arthur J. Gallagher (UK) Ltd trading as Arthur J. Gallagher (Specialty) (“AJG”) arranged a home insurance policy for them, resulting in their policy being avoided.

## What happened

Mr and Mrs H had two properties. They took out insurance through AJG for many years on these properties. Before April 2023, they had cover with insurer A. In April 2023, AJG placed them with a new insurer, who I’ll refer to as B. Both properties were insured on the same policy. B said it would accept cover on the basis that a survey it arranged for both houses was satisfactory.

Just over two weeks later, B avoided the policy, it said there had been a misrepresentation. It said one of the properties [I’ll refer to as W] needed much more substantial renovation work than it had been led to believe when it incepted the policy. It said it wouldn’t have offered cover if it had known about the works needed.

Mr and Mrs H complained to this Service about B’s decision to avoid the policy. That has been considered separately. They went on to complain about the service received from AJG – the subject of this decision. They said AJG had given wrong information on their property to B and that the replacement policy – sought after the avoidance of B’s policy - had cost them significantly more and it would impact them financially going forward.

In July 2023 AJG responded to their complaint. It said whilst their premium had now increased due to the avoidance, as that wasn’t its decision, it didn’t accept it had done anything wrong. It said it hadn’t been kept up to date with the renovations on W, so it wasn’t responsible for the misrepresentation. It also said as W is now insured via another broker, it didn’t need to do anything more.

Unsatisfied with that response, Mr and Mrs H brought the complaint to our Service. They said they’d always kept AJG fully informed of the situation with W. They said the cover they now had elsewhere cost more than the quote they’d had from the previous insurer.

Our Investigator upheld the complaint. She wasn’t satisfied AJG had done enough, as Mr and Mrs H’s broker, pass on the right information to the insurer. She found it was AJG’s failings, not Mr and Mrs H’s, that had led to the insurer avoiding the policy. So she said AJG would have to pay the difference of what their policy would have cost if they’d renewed with the previous insurer A [rather than switch to B] and the subsequent premium Mr and Mrs H paid for their new policies, following the avoidance. And she said it should add 8% onto this amount from the date they paid the new premium, up to the date of settlement.

She also thought AJG should pay £500 compensation to reflect the unnecessary distress and inconvenience it had caused Mr and Mrs H. And it should write Mr and Mrs H a letter setting out that the policy being avoided due to misrepresentation wasn’t their fault.

Mr and Mrs H accepted the outcome of the Investigator but provided more detail around their financial loss. They said finding alternative cover for the properties, following the avoidance, had cost them around £12,800 more. However, after some time they said the monthly repayments were too costly, so they reduced some of the cover they had on their property, which reduced their overall premium.

AJG didn't agree it was solely responsible for the policy being avoided. But it agreed to fulfil the Investigator's recommendations. And it made an offer it felt was in line with that outcome, at £5,000. It didn't agree Mr and Mrs H had suffered a financial loss of more than £12,000, because they reduced their level of cover during the policy year. So it felt its offer more than compensated for their loss. It also said it wouldn't be sourcing renewal terms for Mr and Mrs H.

Mr and Mrs H didn't accept AJG's offer of £5,000. They said the overall impact to them had been greater. As the matter hasn't been resolved, it has come to me to decide.

### **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.

As this is an informal service, I haven't commented on every point or piece of correspondence provided by the parties. Instead, I've focussed on what I consider to be the key points in reaching the decision I have.

I note whilst AJG has made an offer to resolve the complaint, it also doesn't accept it is entirely at fault, so I've first considered whether I think AJG is responsible for the policy being avoided.

The insurer said Mr and Mrs H misrepresented the state of the property and the renovation works needed.

They say they didn't; they gave accurate information as to the state of the property, and AJG made a mistake and passed on incorrect information to B. So I've considered events up to the April 2023 renewal.

Everything I've seen suggests the renewal was an advised sale. That means AJG needed to recommend a policy that was suitable for Mr and Mrs H's needs. In early 2023, Mr and Mrs H had a meeting with AJG in person, the notes of that meeting refer to W and the works being carried out, the notes say:

"Works update for W:

*The works have stopped and there is no contract in place. The client occasionally carries out works themselves or they employ a specialist who will come in for a day and two and complete a task. This is on an ad-hoc basis and will be ongoing, which is to expect for a property of that age and architecture."*

Further down it notes:

*"Heating has been installed in the kitchen and full heating to be installed across the house hopefully this year, i.e. boiler and radiators to be installed."*

AJG say this is all they were told about the property, and from this they understood that the renovation works were largely complete.

Mr and Mrs H say this isn't what they said. They say they confirmed there was no contract in place, but they never said restoration was complete. They also said they hadn't been provided with a copy of the notes of the meeting to correct any mistakes in them. Where there are two conflicting testimonies, my role is to consider what I think is more likely than not to have happened, on the balance of probabilities.

Having done so, I'm more persuaded by Mr and Mrs H's account, that they gave the correct information to AJG, and it didn't pass on the correct information to the insurer. Even from the notes above, I don't think this shows the restoration is complete, given the comment that there is only heating in one room of the property.

I've been provided with the call between AJG and B when the policy was being discussed, B asks why there is such a low amount of contents cover requested for W. AJG says renovations have been carried out but works are completed, with '*no substantial works*' to be done. AJG also gives a figure of under £50,000 worth of works to be done. It isn't clear where AJG got this figure from, I haven't seen this figure quoted by Mr and Mrs H in any correspondence shared by AJG. It isn't mentioned in the notes from their discussion. I also think, given the age, type and size of the property it would be reasonable to assume that installing heating and radiators would likely exceed £50,000 alone. AJG never mentioned to the insurer that this work was still outstanding, even though it had been disclosed and noted in the meeting minutes.

I've seen correspondence from Mr and Mrs H from many months before the policy started, concerned about renewal and wanting to put steps in place to ensure a policy meets their needs. I find this, coupled with the notes above on balance shows they did take steps to keep AJG up to date with the position on the property.

And it was AJG, in passing the information to the insurer, who failed to pass on a reasonable account of the works that were still needed to the property. The insurer asked about the situation of W given the low contents cover. And it was AJG, not Mr and Mrs H, who said there was no substantial works to be done. I don't consider that an accurate reflection of the meeting notes. AJG had also placed the property on cover with the previous insurer and would have likely had access to any report carried out by A on the property. There are also notes from previous policy years as to the state of the property. So I'm not persuaded it's response to the insurer was a fair representation of what Mr and Mrs H had said.

In any event, I think it's important to set out that B has agreed to remove any record of an avoided policy for Mr and Mrs H. And AJG has made an offer to cover the financial loss caused. So whether AJG accepts it misrepresented the policy or not, I consider it has taken steps to account for the financial impact felt by Mr and Mrs H for the avoidance.

Our investigator said AJG should pay the difference between the quote from A, and what Mr and Mrs H paid for the two new policies taken out after B avoided the policy. I think that is a fair outcome. But for the misrepresentation, the policy with B wouldn't have existed so it wouldn't be the correct starting point for determining financial loss.

Our approach is to put Mr and Mrs H in the position they'd have been in, but for AJG's mistake. That is tricky to do, because we don't know for certain what would have happened had policy B not been incepted. Having considered everything, I think the best likely comparison is the quote they'd received from the previous insurer, A. So my direction to resolve the complaint is the same as our investigator. And I'd expect AJG to add 8% simple interest on the increased premium amounts from the date they were paid, until the date of settlement. AJG says it worked this difference out to be around £3,400. But it's made a global offer of £5,000 to resolve things.

I know Mr and Mrs H reduced their cover on the new policies to make repayments more affordable, so they'd like the full cost of what they would have paid, had they not reduced the cover. But I don't think it's reasonable to ask AJG to cover a cost they didn't incur. If Mr and Mrs H had needed to make a claim that would have been accepted, but for them reducing their cover, I could ask AJG to compensate for that loss. But I'm not aware of any such claim happening, so I don't think there have been any other losses caused as a result of AJG's actions. And given the avoidance has now been removed, I'm satisfied they won't be unfairly impacted when taking out future policies.

I do accept that having to lower their level of cover would have caused unnecessary distress and inconvenience. There was also a short time when there was no cover for the properties at all, and Mr and Mrs H have said this caused a great deal of worry; they were concerned about leaving the property at all for fear of what could happen with no insurance cover in

place. For this reason I think AJG should also pay £500 compensation to reflect the unnecessary distress and inconvenience it caused.

So I consider AJG's global offer of £5,000 covers what I would award for compensation, and accounts for any 8% interest we'd expect it to add onto Mr and Mrs H's financial loss. So that is what I think it should pay to resolve matters.

Our Investigator asked that AJG also write Mr and Mrs H a letter explaining the policy avoidance wasn't their fault. I understand this is now being done by the insurer, so may not be required by AJG. But if Mr and Mrs H want one from AJG as well, then I think it should provide one.

I understand AJG has said it won't look to provide a renewal for Mr and Mrs H, as this has happened recently, I haven't considered this as part of the decision.

### **My final decision**

My final decision is that Arthur J. Gallagher (UK) Ltd trading as Arthur J. Gallagher (Specialty) should pay a total of £5,000 to resolve the complaint.

It should also write Mr and Mrs H a letter explaining the policy avoidance wasn't their fault, should they request one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 11 April 2024.

Michelle Henderson  
**Ombudsman**