

## **The complaint**

Ms B and Mr U are unhappy with the advice given by Arthur J. Gallagher Insurance Brokers Limited (AJG) after making a claim under their contents insurance policy.

## **What happened**

In February 2022 Ms B and Mr U purchased a contents insurance policy via AJG acting as a broker. In March 2022 they contacted AJG to add cover for their hot tub and garden furniture.

In October 2022 Ms B and Mr U discovered their hot tub had been maliciously damaged, so they made a claim to the insurer. As part of the insurer's claim validation, AJG contacted Ms B and Mr U to confirm the value of their hot tub.

Ms B and Mr U advised it was worth more than was noted on their insurance policy when they added it in March 2022. Ms B and Mr U paid to increase the noted value on the basis AJG said the cover could be backdated and the insurer would pay the higher amount.

However, the insurer didn't pay this increased amount on the basis this wasn't what was noted at the time of the loss, and increased cover couldn't be backdated.

Ms B and Mr U complained to AJG (and the insurer). AJG accepted they had given incorrect advice and offered £100 compensation. Ms B and Mr U want AJG to pay the shortfall between the amount the insurer provided cover for, and the amount they increased cover to which AJG said would be backdated. As they remained unhappy with AJG (and the insurer), they approached this service.

One of our investigators considered the complaint about AJG but she didn't uphold it. She recognised AJG had given incorrect advice, but she thought the compensation already offered was reasonable. So, she didn't recommend AJG do anything further.

Ms B and Mr U didn't agree and asked for a final decision from an ombudsman.

I was minded to reach a slightly different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

## What I provisionally decided – and why

In my provisional decision, I said:

*“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*As I’ve reached a slightly different outcome to our investigator, I’m issuing a provisional decision to give both parties an opportunity to comment on my initial findings before I reach my final decision.*

*Ms B and Mr U raised complaints about both AJG and the insurer. My consideration here is only in relation to AJG and what they are responsible for.*

*In February 2022 Ms B and Mr U purchased a contents insurance policy via AJG acting as a broker. In March 2022 Ms B and Mr U contacted AJG to add cover for their hot tub and garden furniture.*

*During the call they were asked the value of the hot tub. Ms B and Mr U said they’d bought it for £7,000 so second hand it was probably worth £5,000.*

*AJG said they’d approach the insurer and would let Ms B and Mr U know once the insurer had confirmed they could add this cover. A short time later, AJG confirmed to add the hot tub at a value of £5,000 and garden furniture at a value of £4,000, an additional premium of £173 would be due. Ms B and Mr U paid this, the cover was added and amended documents were sent to reflect this.*

*In October 2022 Ms B and Mr U discovered the hot tub had been maliciously damaged, so they made a claim to the insurer. As part of the insurer validation, AJG contacted Ms B and Mr U to confirm the value of the hot tub. During this call, Ms B and Mr U advised it was purchased for £8,000.*

*AJG said they’d need to go back to the insurer as it was currently noted as £5,000 and would be in contact in due course. I’ve not been able to listen to the follow up call. But it appears to be accepted by AJG that during that call they gave incorrect advice. This is recognised in their final response in which they said:*

*“Unfortunately, you had not requested our branch to increase the value of the hot tub to £8,000 until after the claim had occurred. Although the branch confirmed that the value of the hot tub was increased on the policy to £8,000, this was after the claim occurred and therefore would not have an impact on the claim. However, I accept that some confusion was caused around this value, and that the branch did not make it clear that increasing the value to £8,000 would not affect your existing claim.”*

*And also, in AJG’s file provided to this service:*

*“They told the client at this time that they will back date this amendment to cover the claim, as client specifically asks the agent this. The agent incorrectly confirmed that the value of their hot tub would now be backdated to £8,000 and will affect their claim which is incorrect.”*

*So, it doesn't seem to be in dispute that AJG told Ms B and Mr U that if they paid the £11 additional premium, cover would be increased to £8,000 and backdated. However, the insurer said the maximum value covered would only be £7,000. Ms B and Mr U want AJG to cover the £1,000 shortfall based on the incorrect advice they were given. But I'm not minded to direct AJG to pay the £1,000 shortfall. I'll explain why.*

*Ms B and Mr U's documents outlined cover for the hot tub would be for £5,000, but the insurer said that it would actually be covered for £7,000. This was because it was accepted there was an error when AJG added the cover in March 2022, as it should have been £7,000 which is the value Ms B and Mr U had said the hot tub was when new. And the amount they'd paid was for cover up to £7,000 too. So, that is the maximum cover they would ever have ever had, based on what they said the value was when they added the items in March 2022.*

*But just because AJG later gave incorrect advice after the claim was made, it doesn't mean it would be fair or reasonable for me to direct AJG to follow that incorrect advice and pay the shortfall. Instead, I need to consider what would have happened if they'd given the correct advice, and if by giving incorrect advice, Ms B and Mr U have been put into a worse position. But I don't think they have.*

*If AJG had given the correct advice that cover couldn't be backdated, the most the insurer would pay would still have been £7,000. Ms B and Mr U wouldn't have been able to obtain increased cover for £8,000 as the loss had already happened. So regardless of that incorrect advice, the maximum settlement they would have been covered for in any event would have been the same - £7,000. So, Ms B and Mr U aren't in a worse position in terms of the claim settlement based on that incorrect advice from AJG.*

*That said, it is clear there is a loss of expectation for Ms B and Mr U based on AJG's incorrect advice, as they were expecting to have more cover than they were ever entitled to. But AJG has already recognised this and offered £100 compensation. And I think that amount is reasonable for the incorrect advice and loss of expectation, so I'm not minded to direct them to increase this.*

*However, had the correct advice been given by AJG, that cover couldn't be backdated, and the maximum settlement was what was already covered on the policy (and already paid for), I don't think it's likely Ms B and Mr U would have paid an extra £11 to increase cover which they would never have been able to benefit from, given the loss had already occurred.*

*With this in mind, whilst I'm not minded to increase the compensation, or direct AJG to cover the shortfall, I'm minded to direct AJG to reimburse the £11 Ms B and Mr U paid. In addition, to add 8% simple interest from the date of payment to date of reimbursement, to take into account they've not had these funds for this period.*

*By reimbursing this amount, Ms B and Mr U would be in the position they always would have been in, but for the incorrect advice given by AJG. And I think that's fair and reasonable in all the circumstances."*

So, I was minded to uphold the complaint in part and to direct AJG to reimburse the £11 charged, add 8% simple interest from date of payment to date of reimbursement and to pay the £100 compensation already offered, if it hadn't yet been paid.

## **The responses to my provisional decision**

AJG responded and said they thought there had been some misunderstanding regarding what the £11 additional premium was for. AJG said this was charged to increase the hot tub cover from £5,000 to £8,000, as the insurer was only going to cover £5,000 for the hot tub.

AJG say the mid-term adjustment fee was waived, and the £11 was for the increased cover as the insurer was only going to pay £5,000 for the hot tub.

Ms B and Mr U didn't respond to the provisional 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.

And I've thought carefully about the provisional conclusions I reached, and the response to my provisional decision. Having done so, my final decision remains the same as my provisional decision.

I note AJG says there has been some misunderstanding regarding what the £11 was for. They say that this was to increase the cover from £5,000 as that was all the insurer was going to pay in settlement of the claim.

Whilst I note what AJG has said, based on all the information provided, I don't agree. I'll explain why.

Within AJG's file sent to this service, in several places, this shows that the cover Ms B and Mr U took out should have been noted as £7,000, but due to a typo by AJG, only £5,000 was noted on the schedule. The notes also indicate the premium charged at that time was for cover up to £7,000 too. For example:

*"Hi (name), we established she originally asked for the hot tub to be valued at £7k, this is what should have been documented on the endorsement (not £5k) and this is the cover she paid for.*

*One of our agent(sic) rang her in November to increase the value, at which point £8k was discussed and she paid an extra premium of £11.00 for this."*

And:

*"The error was just a typo on the manual endorsement which was added to show she had this extra cover. It was typed up as £5k value for the hot tub but it should have been £7k."*

And in the final response dated 13 December 2022:

*"As discussed, you informed us that the hot tub was valued at £7,000 and it was an error on our part that we incorrectly added this to your policy at £5,000."*

So, I think this supports that Ms B and Mr U already had cover for £7,000, and that's what they'd already paid for, albeit the schedule had a typo which said £5,000.

Consequently, if the £11 hadn't been paid by Ms B and Mr U, then they still would've had cover for £7,000. With this in mind, the £11 was only paid due to AJG's incorrect advice that the limit would be increased to £8,000 but was otherwise unnecessary in order to be covered for £7,000 – which is what the insurer paid. Therefore, my final decision remains that AJG need to reimburse this unnecessary £11, with 8% simple interest added from date of payment to date of reimbursement.

### **My final decision**

It's my final decision that I uphold this complaint in part and direct Arthur J. Gallagher Insurance Brokers Limited to:

- Reimburse the £11 paid to increase cover
- Add 8% simple interest\* from date of payment to date of reimbursement
- Pay the £100 compensation already offered, if it's not already been paid

\* If Arthur J. Gallagher Insurance Brokers Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms B and Mr U how much it's taken off. It should also give Ms B and Mr U a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr U to accept or reject my decision before 30 October 2023.

Callum Milne  
**Ombudsman**