

The complaint

Mr F has complained about what he considers to be a failure on the part of Gallagher Risk and Reward Limited to obtain a reasonable price for his private medical insurance policy when it renewed in March 2023.

What happened

Mr F had a private medical insurance policy with an insurer I'll refer to as A. It was due to renew in March 2023. Gallagher has said that prior to renewal it sent Mr F an email explaining that his policy was due for renewal and that he'd get a renewal notice from A. The email said that Gallagher was willing to do a market review for Mr F, but that it would not do so unless he asked it to. Mr F then received a renewal notice from A. This showed his premium was around 60% higher than the previous year. According to Gallagher Mr F didn't ask it to do a market review and the policy renewed.

Mr F then complained to Gallagher in June 2023. He said he had not received a communication from it about the renewal. He also pointed out that his premium had gone up by 60%. And he made it clear that he was unhappy about the fact Gallagher had not negotiated a better price for him. Mr F said he didn't think Gallagher had acted in his best interests.

Gallagher responded to Mr F's complaint. It said it sent him an email in January 2023 about the renewal in which it said it would not carry out a review of any policies he had already taken because it hadn't agreed to do so. It also referred to the fact it had offered him the option of it doing a market review, but hadn't received a request from Mr F to do this. In view of this, it didn't uphold his complaint.

Mr F asked us to consider his complaint. When he did this he said that Gallagher should have carried out a market review without him having to ask it to do so due to its duty of care to him as its customer. And he pointed out his main complaint was not its failure to carry out a market review, but its failure to address the disproportionate increase in the premium under his existing policy. He pointed out that Gallagher has negotiating power with A to question and negotiate a better deal. He also pointed out the previous broker he was with did this without him asking it to and achieved a price reduction for him. So, in his opinion, Gallagher's failure to question the price was a breach of its duty to him as a broker. He explained that he believed the minimum compensation he should receive was Gallagher's commission.

One of our investigators considered Mr F's complaint. She said she didn't think Gallagher had failed to act in his best interests. This was on the basis that Gallagher had offered to do a market review if he requested it. And that he had sufficient time to ask it to do so after he received the renewal documentation from A. And – even if he didn't receive the renewal documentation before the policy renewed - he could have contacted Gallagher or A to question this.

Mr F doesn't agree with the investigator's view and has asked for an ombudsman's decision.

He's said the investigator failed to address his principal complaint point, which was that Gallagher failed to act in his best interests because it didn't question the renewal premium and negotiate with A. In doing so he has referred to the fact that a broker must act in good faith in what they believe to be the interests of the insured (in this case him) at all times. And that the broker must account for any secret profit that they make. And they are not allowed to put themselves in a position in which their interest and duty conflict. Mr F has said that he thinks his best interests required Gallagher not just to ask him if he wanted a market review, but to question and challenge the disproportionate increase in his annual premium. He thinks Gallagher's failure to do this puts them in breach of the principle of Consumer Duty.

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.

First of all I should make it clear that the FCA guidance on Consumer Duty only applied from 31 July 2023. This means it did not apply when Mr F's policy with A renewed in March 2023. This doesn't mean that Gallagher wasn't obliged to act in his best interests or that there weren't rules and guidelines it needed to comply with. I say this because FCA Handbook Principle 7 meant Gallagher needed to pay due regard to Mr F's interests and treat him fairly. And the rules Gallagher needed to comply with are set out in the FCA handbook. These are the Insurance Conduct of Business Sourcebook (ICOBS). The section relating to renewals is ICOBS 6.5. This states the following:

- (1) This section applies when a firm proposes to a consumer the renewal of a general insurance contract, which is not a group policy, and which has a duration of 10 months or more.*
- (2) In this section, 'renewal' means carrying forward a policy, at the point of expiry and as a successive or separate operation of the same nature and duration as the policy, with the same insurance intermediary or the same insurer.*
- (3) The firm must provide to the consumer the following information in good time before the renewal:*
 - (a) the premium to be paid by the consumer on renewal;*
 - (b) in a way that is consistent with the presentation of (a) so that they can be easily compared:*
 - (i) except where (ii) applies, the premium for the policy which the firm proposes to renew, as set out at the inception of that policy;*
 - (ii) where one or more mid-term changes were made to the policy which the firm proposes to renew, an amount calculated by annualising (or otherwise adjusting as appropriate to the duration of the proposed policy) the premium in effect following the most recent mid-term change, excluding all fees or charges associated with those mid-term changes;*
 - (c) a statement alongside (a) and (b) indicating that the consumer:*
 - (i) should check that the level of cover offered by the renewal is appropriate for their needs; and*
 - (ii) is able, if they so wish, to compare the prices and levels of cover offered by alternative providers; and*
 - (d) a statement informing the consumer whether the contract will automatically renew or whether the consumer needs to take action to accept the renewal offer.*
- (4) Where the proposed renewal will be the fourth or subsequent renewal the consumer has entered into in respect of the policy, the firm must include the following statement, to appear alongside the matters required by (3)(a), (b) and (c)(i) (but omitting (c)(ii)): "You have been*

with us a number of years. You may be able to get the insurance cover you want at a better price if you shop around.”

5) The firm must communicate the information in (3) and (4):

(a) clearly and accurately;

(b) in writing or another durable medium; and

(c) in a way that is accessible and which draws the consumer’s attention to it as key information.

I’ve checked the email, which I’m satisfied Gallagher sent to Mr F prior to the renewal of his policy in 2023, and I think it means Gallagher complied with these rules. And I’m satisfied its approach means it acted in Mr F’s best interests.

There is nothing in the rules that required Gallagher to engage with A and try and negotiate a better price for Mr F. And I think it was entitled to assume the price A had provided was the best it could offer. If Mr F wasn’t happy with it he had the option to raise this with Gallagher and ask it to carry out a market review and see whether it could find him a policy at a lower price. I say this because the option of having Gallagher carry out a market review was clearly set out in the abovementioned email. And the email said Gallagher might be able to source comparable cover at a more competitive rate. And it also said in the information document Gallagher sent with the email that it wouldn’t carry out a review of any policies Mr F had already taken out.

Gallagher did of course receive a commission when the policy renewed. And the fact it would receive this when the policy renewed was set out in the information sheet that it provided. As I’ve said, Gallagher had to act with due regard to Mr F’s interests, but I do not believe the fact it received commission and didn’t engage with A means it didn’t do this.

In summary, I’m satisfied that Gallagher fulfilled its obligations with regards to the renewal of Mr F’s policy with A. Therefore, I see no reason to uphold Mr F’s complaint.

My final decision

For the reasons set out above, I don’t uphold Mr F’s complaint about Gallagher Risk & Reward Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr F to accept or reject my decision before 12 December 2024.

Robert Short
Ombudsman