

## **The complaint**

A company, which I'll refer to as E, complains that Arthur J. Gallagher Insurance Brokers Limited ("AJG") failed to provide information that should have been given about its commercial property insurance when the policy was renewed.

Mr R, a director of E, brings the complaint on E's behalf.

## **What happened**

E took out the policy in 2016 and renewed it each year. AJG is an insurance broker and sold the policy to E. The cover was provided by an insurer, not by AJG.

There was a fire at E's premises in August 2019 which caused extensive damage. E made a claim on the policy but the insurer rejected the claim, saying E was in breach of a policy condition relating to kitchen equipment.

E complained about the insurer's decision and we have dealt with that complaint separately. The complaint was not upheld as the ombudsman said it was reasonable for the insurer to rely on the breach of condition and reject the claim.

In this complaint, E says when the policy was renewed in 2019 AJG failed to provide clear information as required by industry rules and so it wasn't made aware of the policy condition.

AJG said it had provided clear information and brought E's attention to significant terms, including the kitchen equipment condition.

Our investigator considered the complaint and concluded that the information AJG had provided was sufficiently clear and had allowed E to make an informed decision about the insurance.

E disagrees and has requested an ombudsman's decision. Mr R has made a number of comments on E's behalf, including:

- AJG failed to provide the level of information required by the relevant rules set out in the Insurance: Conduct of Business Sourcebook ("ICOBS"), specifically ICOBS 6.
- The level of information to be provided to commercial customers is less rigorous than for consumers, but there is still protection for a small business – the information should take account of the complexity of the product and the type of customer.
- Relevant information should be provided in a comprehensible form. In other words, a form that's easily understood.
- The renewal letter referred to the kitchen equipment condition but didn't explain it, the policy summary didn't mention it and information in the policy documents was not clear.
- ICOBS 6 doesn't envisage that supplying a bundle of documents is enough to comply with the requirement that information be provided in a comprehensible form.

## **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.

E has provided detailed comments in support of its complaint. We were set up to provide an informal alternative dispute resolution service and our role is to provide an impartial review, quickly and with minimal formality. I use my judgement to decide what's fair, based on the main crux of a case. So I won't comment in detail on every single point that has been raised and will focus on the key points that are relevant to the outcome I've reached.

I've taken into account the relevant rules set out in ICOBS which Mr R has referred to. In summary, AJG's responsibility was to ensure E was given appropriate information about the policy so it could make an informed decision about whether to buy it. The level of appropriate information provided takes into account the complexity of the policy and the type of customer. The information provided to E should have been clear, fair and not misleading, and any significant terms should have been brought to its attention. For an advised sale of a policy, the seller should take reasonable steps to ensure the policy is suitable. They wouldn't need to go through the same process at renewal but should still draw attention to anything that's changed and to any key exclusions.

For consumer contracts, key information is to be set out in an Insurance Product Information Document (IPID). As this was a commercial contract, an IPID didn't have to be provided but the relevant information should be set out in a summary or other comprehensible form.

The insurer was responsible for preparing the documents. But as the seller of the policy, AJG was responsible for ensuring E was given the information it needed to make a decision. That would include information about any significant or unusual terms, and any changes to the cover from the previous year.

Mr R says the information provided at renewal was contained in a number of different documents, the kitchen equipment condition wasn't included in the summary and it wasn't made clear at all.

I've looked at the documents that were provided to E when the policy was renewed.

The covering letter set out a list of significant terms and conditions. This was a bullet point list which was clear and easy to read. The kitchen equipment term is one of those listed. The letter said these were significant terms which AJG was drawing to E's attention and advised E to read these carefully.

The schedule sent with the letter lists the kitchen equipment term on page two and later in the document draws the policyholder's attention to it and says they must comply with it.

So AJG did draw E's attention to this term, explained that it had to be complied with and advised E to read it carefully.

Mr R says it shouldn't have been necessary for E to read through different documents to find the term, and the term itself was buried away on pages 20 and 21 of the policy booklet. However, given that AJG had drawn E's attention to the term and said it should read the term carefully, E should have been aware of it.

The term itself can be found easily through a quick search of the policy document. It is headed "Kitchen Equipment" in bold type. It sets out certain requirements for operating and cleaning the cooking equipment, and ensuring it was turned off outside operating hours. The

term is easy to read.

Mr R has referred to a Supreme Court judgment which said policyholders shouldn't be expected to examine documents closely in the way that a pedantic lawyer would. The particular point made in the passage he's referred to concerns someone having to read through to page 93 of some policy wording and then understand the nature of an exclusion and how it applies to another part of the policy. I don't think that's the situation here.

The court has said the relevant test is to consider an ordinary policyholder who, on entering into the contract, is taken to have read through the policy conscientiously in order to understand what cover they were getting. As I've explained, E's attention was brought to the condition in the covering letter and schedule. I don't think the policy term is unclear and I'm satisfied the ordinary policyholder reading the policy conscientiously would be able to understand the cover they were getting.

Mr R also refers to the ombudsman's decision on the complaint against the insurer and says information provided in that complaint by a previous representative of E should be ignored. It's not for me to review the decision made on that complaint. In any event, I'm satisfied the information provided to E was in a comprehensible form and easily understood.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 10 May 2024.

Peter Whiteley  
**Ombudsman**