

The complaint

Mr V2 - representing the estate of Mr V1 - complains about several issues he faced when he took out a home insurance policy for Mr V1's estate through Arthur J. Gallagher Insurance Brokers Limited ("Gallagher").

What happened

In January 2024 Mr V2 took out a home insurance policy through Gallagher for Mr V1's estate. It took three attempts for the policy to be set up, and Mr V2 says there were other problems afterwards including duplicate policy documents being added to an online portal, Gallagher writing to his old email address after he'd asked for it to be updated, and Gallagher not replying to things.

Mr V2 complained and Gallagher provided a final response in February 2024. It acknowledged a problem on its side had caused it to take three attempts for the policy to be set up, and during that time Mr V2 hadn't received a call back as promised. It also said duplicate documents had been uploaded to the online portal due to a server error, but it was working to rectify this. In recognition of these issues, it offered to reimburse the £50 policy administration fee.

Our investigator didn't find Gallagher's final response unfair. Although she agreed there had been some issues, she was satisfied Gallagher had now rectified them.

Mr V2 didn't agree, so the complaint was referred to me to decide. I issued a provisional decision upholding the complaint, and I said:

"I should firstly explain under our rules this Service can only deal with complaints brought to us by or on behalf of an eligible complainant. Mr V1, not Mr V2, would have been the eligible complainant here since the policy covered Mr V1's estate, and as such, it would have been the estate who would have benefitted from the policy, and not Mr V2 personally. While I acknowledge Mr V2's comments about how this has impacted him, I'm unable to take into account this impact in this decision.

Our rules allow us to deal with a complaint where a person who would have been an eligible complainant is deceased providing that the complaint is brought to us by a person authorised by law to act on behalf of the deceased person. Mr V2 has provided a Grant of Probate showing he was named as the executor of Mr V1's estate. So I'm satisfied that Mr V2 was entitled to bring the complaint to this Service on behalf of Mr V1's estate.

Mr V2 says there are still some issues he believes Gallagher haven't yet resolved. So I've thought about whether the concerns he's raised are reasonable, and if so, if there's more that Gallagher should do to address those concerns.

Starting with the online portal, Gallagher doesn't dispute that duplicate documents were uploaded to this. It said that after, Mr V2 accepted the cover on 11 January 2024, on three occasions a letter was uploaded to the portal asking Mr V2 if he wanted to accept the quote.

Mr V2 wrote to Gallagher on 15 January 2024 to say that he'd noticed these duplicate documents, but he also said he'd noticed some policy documents had been removed which were previously on the online portal and he asked specifically if new policy documents had been issued because there had been any changes made.

I haven't seen anything showing that Gallagher has changed the terms of the policy. But I think confusion has been caused with the issues around the online portal. And due to this confusion, I don't think it was unreasonable for Mr V2 to have asked Gallagher for confirmation on whether anything had changed on the policy. I can see on 5 February 2024 Gallagher told Mr V2 that all correct documentation should now be visible on the portal. But I don't think that directly answered his question on whether there'd been any changes to the policy from the original documents which had been uploaded to the portal.

To put this right, I think Gallagher should write to Mr V2 to confirm if there have been any changes to the policy from the original documentation uploaded to the portal. And if there have, Gallagher should clearly set out any changes made, and provide an explanation of the reason for the change.

Mr V2 wrote to Gallagher on 15 January 2024 and again on 5 February 2024 to ask it to remove his old email address from its records and only use his new one. Gallagher wrote back on 5 February 2024 to confirm it had done this. But Mr V2 says he's still received some emails to the old email address.

I can see that Gallagher updated Mr V2's email address, and Mr V2 has provided anything more to show he's continued to receive emails to his old email address. So I don't think it's been shown Gallagher has acted unfairly with regards to this point.

Mr V2 wrote to Gallagher on 18 March 2024 saying he hadn't received two emails on 9 January 2024 and 10 January 2024, and he asked Gallagher to confirm if this didn't result in his personal data being shared with any third parties.

I can see the investigator requested a copy of these two emails from Gallagher. But Gallagher hasn't provided these emails. So I can't say whether any personal data was shared with any third parties. I also can't see that Gallagher directly replied to Mr V2's question about whether these two emails caused personal data to be shared with any third parties.

I don't think Mr V2 is complaining that personal data actually has been shared with any third parties. He just wanted to check if it had been since he hadn't received these two emails. And Gallagher doesn't appear to have replied to his question. I don't think it was unreasonable for Mr V2 to ask about this. So I think Gallagher should have looked into it and provided Mr V2 a response.

So, to put this right, Gallagher should review its internal records to check where the emails of 9 January 2024 and 10 January 2024 were sent, and it should write to Mr V2 to confirm whether these emails were sent in error to any third parties.

Gallagher offered to refund the £50 administration fee for the issues acknowledged in its final response. Mr V1's estate has experienced some inconvenience. But I find Gallagher's offer to refund the £50 administration fee fair and reasonable. And as I mentioned earlier, while I acknowledge Mr V2's comments about the impact to him personally, I can't take that into consideration. So, if the £50 refund has not yet been issued, I intend to require Gallagher to issue this."

Mr V2 replied to the provisional decision accepting it. Gallagher didn't accept and said there were parts of the complaint it thought Mr V2 had raised after it issued its final response, so it didn't think we couldn't consider those points.

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.

I've considered Gallagher's response to the provisional decision, but I've reached the same conclusion as I set out in the provisional decision. And I'm satisfied the points covered in the provisional decision can be considered within this complaint. I'll explain why.

Our powers to consider complaints are set out in the Financial Services and Markets Act 2000 (FSMA) and in rules, known as the Dispute Resolution Rules (DISP), written by the FCA in accordance with the powers it derives from FSMA. These form part of the FCA Handbook.

The relevant rule I consider applies here is DISP 2.8.1. This says:

"The Ombudsman can only consider a complaint if:

(1) the respondent has already sent the complainant its final response or summary resolution communication; or

(2) in relation to a complaint that is not an EMD complaint or a PDS complaint, eight weeks have elapsed since the respondent received the complaint"

Gallagher issued a final response to the complaint on 5 February 2024. This final response addressed the multiple attempts it took for Mr V2 to get the policy set up, and Mr V2 receiving duplicate documents. So, as Gallagher had provided a final response to Mr V2's complaint about those issues, I'm satisfied they can be considered under this complaint.

Gallagher says Mr V2 didn't raise the points about whether changes has been made to the policy after the documents were reuploaded to its portal, and whether details had been shared with any third parties, until after it sent its final response.

Mr V2's complaint letter of 15 January 2024 specifically asked Gallagher if it had issued new documents because there had been any changes to them. So, I'm satisfied this point can be considered as it was raised more than eight weeks before Mr V2 brought the complaint to this Service.

I don't dispute that Mr V2 raised the point concerning whether data had been shared with any third parties until after the final response. I said in the provisional decision that Mr V2 had raised this point on 18 March 2024. But Gallagher hasn't shown it provided another final response to address this point. And eight weeks had elapsed after Mr V2 raised this point and brought the complaint to this Service. So, in accordance with DISP 2.8.1 (2), I'm satisfied the complaint point can be considered.

As I'm satisfied these complaint points can be considered, and Gallagher hasn't provided anything more relating to the merits, I see no reason to depart from the position I set out in the provisional decision.

Putting things right

I require Gallagher to do the following:

- Refund the £50 administration fee to the estate of Mr V1, if it hasn't already done so.
- Write to Mr V2 confirming if there have been any changes to the policy from the terms it originally uploaded to the portal. And if there have been, set out clearly what these changes are, and provide an explanation for them.
- Check its internal records to see where the emails of 9 January 2024 and 10 January 2024 were sent and write to Mr V2 to confirm whether these emails had been sent in error to any third parties.

My final decision

My final decision is that I uphold this complaint and I require Arthur J. Gallagher Insurance Brokers Limited to carry out the steps I've set out in the 'Putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr V1 to accept or reject my decision before 15 January 2025.

Daniel Tinkler
Ombudsman