

The complaint

Mr C and Miss K complain about QIC Europe Ltd's (QIC) handling of claim made on their buildings insurance policy.

What happened

In July 2021, Mr C and Miss K say significant rainfall caused a river running behind their home to flood. They say this flood led to a landslip in their neighbours garden, which damaged the boundary wall, fence, and garden. The retaining wall runs along three properties.

Mr C and Miss K logged a claim with QIC. They declined the claim saying the policy doesn't cover landslip claims where damage isn't caused to the main property at the same time. Mr C and Miss K said the landslip was caused by the storm conditions, so should be covered. QIC continued to decline the claim.

Unhappy with this response, Mr C and Miss K referred their complaint to this service. It was considered by one of our investigators who initially said QIC was acting fairly in declining claim. Mr C and Miss K provided our investigator with more information about the weather conditions in place when the damage occurred. This persuaded the investigator to conclude storm conditions had caused the landslip, and that QIC should consider the claim. As QIC didn't agree, this case has been passed to me.

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.

QIC initially declined the claim, saying because the property itself wasn't damaged, then the landslip cover didn't come into effect. In reaching this conclusion, QIC were relying from this clause in the terms and conditions, which states it won't cover:

"c. loss or damage to... fences, hedges...boundary and garden walls, unless the main building you live in is damaged at the same time and by the same cause."

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QIC says the proximate cause of the damage was the landslip. I agree that this appears to be the cause of the damage. But, like our investigator, I agree QIC hasn't evidenced why or how the landslip occurred. With this in mind, I've considered Mr C and Miss K's comments about the weather conditions that occurred when the damage happened.

I've reviewed the weather data from the point in July when the damage occurred. The nearest weather station is seven miles north of Mr C and Miss K's home. They've provided copies of local media reports, widely covering the storm conditions in the city centre, 5 miles east from their home. On this basis, our investigator considered if the weather data may shown the most accurate assessment of the weather conditions at Mr C and Miss K's home at the time the damage occurred.

I've considered how the policy defines storm conditions, and this is set out below:

"A period of violent weather defined as:

- a. a gale of Force 10 or above (as defined under the internationally recognised Beaufort Scale) reaching wind speeds of at least 55mph; or*
- b. torrential rain that falls at a rate of at least 25mm per hour; or*
- c. snow that falls to a depth of at least 30cm in 24 hours; or*
- d. hail so sever that it causes damage to hard surfaces or breaks glass."*

The storm section of the policy also contains an exclusion:

"We don't cover:

...

- b. loss or damage to drives, patios, footpaths, terraces, gates, fences and hedges unless your home has been damaged at the same time and by the same cause"*

There's no dispute weather data is useful in determining if storm conditions were present when damage occurred. However, I'm not considering the data in isolation. So, while I'm mindful of the policy definition of storm, I've also considered the additional information provided, alongside the weather data. This includes the media reports supplied by Mr C and Miss K.

I'm satisfied, having considered both the weather data and the local media reports, that storm conditions were present at Mr C and Miss K's home when they identified the damage. And I'm also satisfied the damage to the retaining wall and fence are consistent with damage that could occur during storm conditions.

QIC has said the proximate cause of the damage was a landslide. There's no dispute a landslide occurred. However, what I need to decide is if I think it is more likely than not that the storm was the cause of the landslide. In order to be more persuaded by QIC's argument the landslide alone was the proximate cause of the damage, I'd expect it to be able to evidence how or why the landslide occurred. It hasn't done so.

I acknowledge it may seem the landslide happened suddenly or without an obvious cause. I don't think QIC have supported their view this is more likely to have happened. In light of the evidence available to me, I am more persuaded the landslide was caused by the storm conditions that occurred in July 2021. It follows, that I don't consider QIC acted fairly in declining Mr C and Miss K's claim. To put things right, I'm requiring QIC to settle the claim for Mr C and Miss K's boundary wall in line with the remaining policy terms.

My final decision

I uphold this complaint. I require QIC Europe Ltd to settle Mr C and Miss K's claim for the boundary wall.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss K to accept or reject my decision before 11 May 2022.

Emma Hawkins
Ombudsman