

The complaint

Mr and Mrs N complain QIC Europe Ltd unfairly declined their claim for damage to a shed.

What happened

In February 2022 Mr and Mrs N made a claim on their QIC property insurance policy. A large tree had fallen on two of their sheds. QIC considered the claim under a 'falling objects' section of their policy. It declined the claim for damage to a large timber shed.

To refuse the claim QIC relied on a wear and tear exclusion – referencing the pre-loss condition of the shed. It's said the shed had rotten timbers prior to the loss. It's also referred to a second exclusion – no cover for gradual or maintenance related loss or damage. Finally QIC quoted a policy condition requiring Mr and Mrs N to maintain their buildings in a good state of repair. In its opinion the shed was already in a poor state of repair with the fallen tree merely highlighting this.

Mr and Mrs N complained to QIC, but it didn't agree to pay the claim. To resolve their complaint they want to be paid a reasonable sum to allow for removal, disposal and replacement with a new insulated shed.

In August 2022 our investigator considered the complaint. She said she was persuaded a storm was the main cause of the damage. So she said QIC should settle the claim. In response to QIC's objections she added it would be reasonable for it to consider the pre-storm condition when settling the claim – but it would be unfair for it to decline the claim entirely. QIC still didn't accept the assessment, so the complaint was passed to me for a final decision.

In September 2022 I issued a provisional decision. In it I explained why I intended to require QIC to pay Mr and Mrs N £1,750 to settle their claim (minus any applicable excess) and reimburse them the costs of removal of the tree. I've included below my reasoning contained in the provisional decision as it forms part of this final decision. I also invited QIC and Mr and Mrs N to provide any further comments they would like me to consider before I issue a final decision.

what I've provisionally 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 considered the claim under the falling objects section of the policy. Although our investigator said it should be settled under the storm cover. Either way I don't think it makes a significant difference. With winds of 78mph there's no dispute there were storm conditions. And it's accepted a falling object, a large tree, fell on the shed.

The issue for me to consider is if the falling tree (or storm) was the main or dominant cause of the damage to the shed – or if as QIC claims the tree simply highlighted its pre-existing poor state of repair.

Photos show the shed isn't a standard retail type. It appears to be home constructed using various materials – including timber and corrugated iron. It clearly wasn't in perfect condition before the tree fell on it. The photos do show some rotting of timbers and cladding. But I don't agree it was at the end of its lifespan. Considering the size of the tree and the resulting damage, I'm not persuaded it simply highlighted a pre-existing problem. Most importantly I wouldn't expect a new and perfectly maintained shed to have withstood the impact.

So it seems most likely to me that the tree (or storm) was the main or dominant cause of damage. And so I don't think it's fair for QIC to rely on the referenced exclusions or condition to refuse the claim.

The investigator recommended QIC settle the claim, whilst noting it would be reasonable for it to take into account the pre-loss condition of the shed when doing so. The policy terms do say QIC may consider the condition of property – and reduce the amount paid when settling a claim. I also think it will be fair for it to do that when settling the claim.

But considering the design and condition of the shed against Mr and Mrs N's estimates for its replacement, I suspect the investigator's proposal would be unlikely to result in an easily agreed settlement. So for practicality and in the interests of avoiding further dispute I will propose what I consider a fair settlement.

Mr and Mrs N have provided estimates that range from £10,000 to £11,500. These are for a professionally built and installed, premium shed or workshop. They include extras such as double glazing, insulation and lining. I don't think it would be fair to require QIC to provide a replacement at that specification. There would be a significant element of betterment involved. Instead I'd expect QIC to make a reasonable contribution towards the shed's replacement.

It seems unlikely the damaged shed was professionally built or installed. It wasn't fully constructed of standard shed material. It seems from the photos that it was insulated and lined – with some electrical installation. But again I think that's likely to DIY standard, rather than professional installation. In addition the shed was in an aged condition.

Having considered everything and in the absence of other suggestions I propose the settlement to £1,750. I've considered the cost of similarly sized, professionally designed and constructed sheds from internet DIY retailers – and then made a deduction. The proposed amount includes a contribution towards the cost of debris removal, Mr and Mrs N self-installing insulation, lining and other replacement facilities.

If Mr and Mrs N or QIC disagree they can provide, in response to this provisional decision, anything they would like me to consider.

It seems Mr and Mrs N may have paid for the removal of the fallen tree. The policy terms say QIC will pay the cost of removing the fallen item that caused the damage. So I intend to require it to reimburse Mr and Mrs N that cost. I ask they provide evidence of payment in response to this provisional decision.

A £200 claim excess applies to Mr and Mrs N's policy. If QIC hasn't already applied the excess, it can choose to deduct it from the settlement.

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.

In response to my provisional decision QIC said it didn't agree with my outcome in its entirety. But it accepted my proposed settlement of £1,750 as reasonable.

Mr and Mrs N said they considered my provisional decision to be fair – but provided some final comments for my consideration. These mainly focused on the proposed settlement figure. They felt £1,750 wouldn't be a fair amount.

They asked that the contents of the shed and the second metal one be considered. However, neither formed part of the complaint referred to this service. So it wouldn't be appropriate for me to consider them. Mr and Mrs N should pursue their claim for these items directly with QIC. If they aren't happy with any proposed settlement they could consider a further complaint. For clarity I haven't considered any of the following as part of this complaint – shelving, workbench, garden or leisure items, bikes and a mower.

Mr and Mrs N said the policy allows QIC to reduce payment if loss or damage was made worse by a failure to meet their various obligations under the terms. They say as it's been established the tree caused the damage a condition related reduction may not be appropriate. So instead under the terms the shed should be rebuilt as it was new.

I accept what they say about the terms. But the policy also says, on page 24, that where a building hasn't been maintained in a good state of repair, QIC will take into account the condition of the property and may reduce the settlement. Overall I still think it's fair that the pre-loss condition is considered when deciding the settlement.

In response to the provisional decision Mr and Mrs N provided some calculations for their proposed settlement. After deducting amounts they included for the metal shed and some contents it comes to about £3,100 – rather than the £1,750 I proposed. It's based on a quote for an installed 'superior' shed, plus allowances for electrical installation and insulation.

I don't accept Mr and Mrs N's shed estimate as a reasonable starting point. I accept that they didn't build the original shed, instead it was there when they purchased the property. But the damaged shed doesn't appear to have been either professionally built or installed. Neither do I think a 'superior' standard shed is a reasonable comparison either.

My proposed settlement used similarly sized, standard quality, self-installed sheds as a starting point. These cost around £2,000. I then made a deduction for condition, and finally added allowances for insulation and electrical work. I appreciate Mr and Mrs N's recent estimate, but feel my original calculations to be fairer. So having considered the latest information I will still be requiring QIC to settle at £1,750.

It seems the policy excess had already been deducted from a payment already made to Mr and Mrs N for the cost of tree removal. So I've removed any reference to those two issues from my final direction.

My final decision

For the reasons given above, I require QIC Europe Ltd to pay Mr and Mrs N £1,750 to settle their claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to accept or reject my decision before 18 October 2022.

Daniel Martin
Ombudsman