

## **The complaint**

Miss J and Miss W complain QIC Europe Ltd unfairly declined their buildings insurance claim.

Miss J and Miss W are being represented by I. But for ease I will refer to Miss J and Miss W below.

All references to QIC also include its appointed agents.

## **What happened**

Below is intended to be a summary of what happened and does not therefore include a full timeline or list every point that has been made.

The details of this complaint are well known to both parties, so I won't repeat them in full again here. However, I've summarised events that led to the complaint below.

- Miss J and Miss W made a claim for an escape of water, due to a burst water tank at their property, in February 2021.
- After completing investigations, QIC declined the claim. It concluded the property was unoccupied and unfurnished, so was excluded from cover.
- Miss J and Miss W disagreed and have reiterated they lived at the property, with minimal furniture in the property due to it being their first home.
- Unhappy with QIC's response, Miss J and Miss W brought the complaint to our service. They've since had repairs carried out themselves at the property to rectify the damage.

Our investigator recommended Miss J and Miss W's complaint be upheld. He didn't think QIC had applied the exclusions fairly and was persuaded it was more likely Miss J and Miss W were living at the property.

To put things right he recommended QIC:

- Settle the claim in line with remaining terms and conditions of the policy.
- Add 8% simple interest to any settlement, up to the date it was made to Miss J and Miss W.
- As most repairs had been made to Miss J and Miss W's property, costs should be cash settled subject to sufficient evidence being provided.
- Amend any claim accordingly on any database and provide confirmation to Miss J and Miss W the claim had not been declined.
- Pay Miss W and Miss J £300 compensation for the distress and inconvenience caused.

QIC didn't agree with our investigator. In doing so it has asked for the matter to be put to an ombudsman with further comments for consideration.

The complaint then passed to me.

### **My provisional decision**

I issued a provisional decision on 2 September 2022. In my provisional findings, I said:

*“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*Both Miss J and Miss W, and QIC, have provided detailed submissions. I want to assure all parties that I’ve considered these carefully but I’m going to focus my decision on what I see as the central issues to this complaint. I don’t intend this as a discourtesy, rather it reflects the informal nature of our service and my role in it.*

*I’m intending to uphold Miss J and Miss W’s complaint for the following reasons:*

*The policy says cover will not be provided if the property is unoccupied or unfurnished. QIC has applied this exclusion when declining Miss J and Miss W’s claim.*

*The policy defines the home as unoccupied when not lived in for more than 30 days in a row. The policy defines unfurnished as being without enough furniture and furnishings for normal living purposes.*

*‘Normal living purposes’ isn’t defined in the policy. However, if I think of its meaning to an ordinary person, I’d consider this to be somewhere to sleep along with facilities and means with which to eat and wash.*

*Miss J and Miss W were first time buyers and had owned the property for around three months at the time of the incident. They have acknowledged there was only a small amount of furniture in the property, something I don’t find unusual for first time buyers - and for the amount of time they had owned the property.*

*But having considered the information available I think there was enough present in the property to meet the general definition of normal living purposes.*

*QIC itself provided photos of cutlery and food found at the property. While the photo may show a limited amount of cutlery, there were two knives, two forks and two spoons – enough for both Miss J and Miss W to have one each.*

*QIC highlighted the lack of food found at the property – noting what it did find was typically of an instant variety or could be boiled. But I don’t think this itself is a definite indication of someone not living at the property as the types mentioned are still food and there was still means to prepare or eat food in the property.*

*Miss J and Miss W said there was food present in a fridge in an outbuilding which was not inspected initially by QIC, and later removed. Miss J and Miss W have provided several statements from neighbours, family and a contractor carrying out work at the property at the time of the incident. In their statement, the contractor says the fridge had been moved due to work in the area where it was usually stored, and that food was present in the fridge.*

*The contractor’s statement also says a mattress was present at the property along with toiletries in the bathroom. QIC has questioned the independence of the contractor’s statement but I’ve not seen any reason to question its validity. The comments have come from what appears to be an independent email address, and the work the contractor completed has been paid for – so they have no financial interest in the claim.*

*There is also further evidence of furniture being present at the property such as a wardrobe that has been damaged – of which Miss J and Miss W say was still at the property recently, and of which they have provided photos.*

*QIC commented that Miss W and Miss J do not have a TV Licence or Broadband at the property. Miss W and Miss J have provided evidence they applied for Broadband in December 2020 but were unsuccessful in obtaining it. They've also said they were not using anything that required a TV licence.*

*While these points alone don't prove they were living at the property, I also don't consider QIC's point here shows they weren't. A TV licence is a requirement if watching certain television channels, but it isn't a requirement for a number of independent streaming services, which are easily available by using a mobile phone.*

*I also note that the electric usage at the property in the months leading up to the incident was higher than the average amount for the number of people occupying it. I do consider there were works being carried out at the property, which may account for some usage, but if the property was unoccupied, I'd reasonably expect this to be lower.*

*I understand why QIC might have had cause for concern that Miss J and Miss W weren't living at the property. But having reviewed everything available I think it's more likely the property was occupied and lived in, and therefore I don't think QIC have sufficiently shown the exclusion has been applied fairly to decline the claim.*

*I also consider the damage in question was caused by the water tank in the loft bursting. And I've not seen anything that persuades me that in the event Miss J and Miss W weren't occupying the property as QIC suggest, it would have made a difference to outcome of the escape of water.*

### **Putting things right**

*QIC said it would only expect to indemnify the policyholders back to the position they were in prior to the loss. This is the function and general purpose of most insurance policies. So, I wouldn't expect QIC to reimburse Miss J and Miss W for anything other than the loss they incurred as a result of the escape of water or were not reasonably entitled under the terms of the policy.*

*But should there be a dispute over any future settlement, that wouldn't prevent Miss J and Miss W bringing a complaint to QIC about it, and/or being able to refer to our service should they be unhappy with its response.*

*Considering the impact QIC's decision caused, and the impact explained by Miss J and Miss W, I do think they've suffered significant distress, So I do think compensation is due. In the circumstances I think £300 is in the correct region to recognise the inconvenience and distress Miss J and Miss W have suffered.*

*So to put things right I intend to direct QIC to:*

- *Consider the claim under the remaining terms of the policy.*
- *Miss J and Miss W have completed works to rectify the issues, so on production of sufficient proof, QIC should reimburse these costs. QIC should pay 8% simple interest on this amount from the date Miss J and Miss W made the payment, to the date it makes settlement.*
- *Amend and remove any adverse data from relevant databases relating the claim*

- being declined.*
- *Pay Miss J and Miss W £300 compensation.”*

### **Responses to my provisional decision**

I responded to say they had no further comments to add.

QIC didn't provide any further response to my provisional findings.

### **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.

Having reconsidered all available evidence. I see no reason to depart from my provisional decision – or my reasoning.

### **My final decision**

My final decision is that I uphold Miss J and Miss W's complaint.

To put things right, I direct QIC Europe Ltd to do as I've set out in my provisional findings.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J and Miss W to accept or reject my decision before 14 October 2022.

Michael Baronti  
**Ombudsman**