

## **The complaint**

Mr and Mrs M complain that QIC Europe Ltd (QIC) unfairly declined a claim they made under their home insurance policy.

Reference to QIC includes agents acting on its behalf.

## **What happened**

Mr and Mrs M had a home insurance policy with QIC that covered them for loss or damage caused by an escape of water. In May 2022 they contacted QIC as they noticed a section of their bathroom floor was wet and spongy. And subsequently that there were small stains on their kitchen ceiling below the bathroom. QIC sent a surveyor who noted water damage to the boards underneath the flooring and to those running under the shower tray. They said the damage was covered under Mr and Mrs M's policy. A plumber was then asked to trace the leak and fix it. He found slight movement in the shower tray when it was occupied and that was causing the shower waste trap and pipe to release water.

QIC drew up a scope of works, which Mr and Mrs M disputed. But QIC reviewed the situation and decided not to cover all of the claim. Its regional surveyor and in-house surveyor said the design of the shower was defective as it allowed water to pass out of the shower enclosure and that had caused the floorboards to rot, the shower tray to move and the waste pipe to leak. It said it would only cover the damage caused by the waste pipe, which was the staining to the kitchen ceiling. QIC said the remainder of the work was declined due to poor design and because the damage had been caused gradually, both of which were exclusions under Mr and Mrs M's policy. QIC later said it appreciated its initial assessment had been incorrect and offered Mr and Mrs M £100 for the inconvenience caused.

Our investigator thought QIC should pay the full value of the claim. He said there was no evidence of poor or faulty design or that there was anything wrong with the seals around the shower. Nor did he think there was any evidence Mr and Mrs M knew that anything was wrong with the shower. He thought the offer of £100 was fair in the circumstances.

Mr and Mrs M agreed with the investigator's view but QIC did not. It said the cause of the damage to the bathroom was water escaping from the shower when used, which gradually caused damage and allowed movement in the shower tray. It said the leak from the waste pipe wasn't present until the shower tray started moving. As QIC didn't accept the investigator's view, the complaint has been passed to me to make a final decision.

## **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.

Where evidence is incomplete, inconsistent or contradictory (as some of it is in this complaint), I reach my decision on the balance of probabilities. In other words, what I consider most likely to have happened in light of the available evidence and wider

circumstances.

Mr and Mrs M's policy covers them for damage caused by an escape of water. But it doesn't cover them for damage caused by a gradual water leak or gradual deterioration. And it doesn't cover them for poor workmanship or poor design. QIC has applied both of these exclusions to Mr and Mrs M's claim and it's my role to decide if that was fair.

QIC's field surveyor made the initial assessment of the damage. They took a number of photographs of the property, including the area around the shower. They thought the most likely cause of the damage was failure to the seals around the shower tray itself, although they said there was a possibility the shower waste was an issue as well. They decided the claim should be met in full.

QIC's regional surveyor then reviewed the claim and decided to decline much of it. But I think this review was flawed. I say this for two reasons. One, because they said the shower was clearly defective because it allowed water to pass out of the shower enclosure onto the floor. But Mr and Mrs M have said the bathroom was designed as a wet room and professionally installed. The field surveyor noted as much in his report and said there was waterproof flooring fitted outside the shower. So, I think this casts doubt on the regional surveyor's view that the design was flawed for the reasons stated.

And two, the regional surveyor noted a historic patch to the ceiling in the kitchen and said this previous repair indicated the leak in the shower was an ongoing issue. But Mr and Mrs M have said this patch was unrelated to the shower. They said it was a recent leak from a small hole in a cold-water pipe that Mr M repaired himself. And it was below the toilet in the bathroom, about 2m away from the shower leak. The photographs taken by the field surveyor clearly show the position of the patched ceiling in the kitchen and supports what Mr and Mrs M have said about that patch being below the toilet, not the shower. So, I think this too detracts from the view taken by the regional surveyor. And, taken together, I don't think it was fair and reasonable for QIC to decline Mr and Mrs M's claim on the basis that the damage was caused by poor workmanship or poor design.

As I've said, the field surveyor thought the likely cause of the damage was a failure to seals around the shower tray itself but they also noted that the waste trap and pipe could be an issue. And the plumber who attended subsequently identified the waste pipe as being the main cause of the damage. I think it's reasonable to give most weight to the evidence provided by those who physically attended the site. And most notably to the plumber's evidence as he was the only person who investigated the cause of the leak, creating an inspection hole in the plasterboard from the kitchen below to enable him to do that. So, on balance, I think the damage is most likely to have been caused by problems with the waste trap and pipe underneath the shower, rather than by water passing out of the shower.

QIC could argue that the waste pipe had been leaking for a while and the damage caused to the bathroom was caused by water leaking gradually and thus excluded from Mr and Mrs M's policy. The photographs of the damaged floorboards would possibly support that view. So, I think a strict application of the policy terms could allow QIC to decline the claim using that exclusion. But the approach this service takes when looking at this issue is to see whether the policy holders should have reasonably been aware of the damage occurring. And, if not, and they took reasonable action as soon as they became aware, we're likely to say that a fair and reasonable outcome would be for the insurer to pay the claim.

In this case, I think the most likely cause of the leak was the waste trap and pipe. And that was underneath the shower tray, out of sight of Mr and Mrs M. The field surveyor noted that the property was very well maintained and there was no evidence of any issues with any seals elsewhere around or in the shower area. That is supported by the photographs

attached to the field surveyors report. So, I don't think Mr and Mrs M have failed to take care of their property and it seems to me they took action by contacting QIC as soon as they became aware of the problem. The fact there was only a small stain on the kitchen ceiling, rather than anything larger, also indicates that they took action sooner rather than later.

So, on balance, I don't think Mr and Mrs M should reasonably have been aware of the damage beneath the shower, even if that was happening gradually. As they were prevented from doing anything to stop it getting worse, I don't think it would be fair or reasonable for QIC to decline their claim on the basis that the damage was happening gradually.

### **Putting things right**

In light of the above, I don't think it was fair and reasonable for QIC to rely on the evidence to decline Mr and Mrs M's claim. And so, I think they should pay the claim in full, less the policy excess. If it pays a cash settlement, QIC should pay interest on that amount from the date the claim was first made to the date it's paid to Mr and Mrs M.

QIC offered to pay Mr and Mrs M £100 for the inconvenience caused by its field surveyor's incorrect assessment of the claim. And I note that its now paid that amount. In light of my findings, which in part rely on the field surveyor's report and findings, I don't agree that the field surveyor's assessment was necessarily wrong. But I do think the regional surveyor's assessment was flawed and unnecessarily lengthened the claim process. So, I think Mr and Mrs M should be allowed to keep that £100. In the circumstances, I think that amount, plus the full claim payment, provides a reasonable resolution to this complaint.

### **My final decision**

For the reasons given above, my final decision is that I uphold the complaint and QIC Europe Limited must:

- settle Mr and Mrs M's claim in full, less the policy excess, in line with the terms and conditions of the policy; and
- if it pays a cash settlement, pay 8% simple interest on that amount from the date on which the claim was first made to the date on which the money is paid to Mr and Mrs M<sup>1</sup>.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 12 January 2023.

Richard Walker  
**Ombudsman**

---

<sup>1</sup> If QIC Europe Ltd considers that it's required by HM Revenue & Customs to deduct income tax from this interest, it should tell Mr and Mrs M how much it's taken off. It should also give them a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.