

The complaint

Miss G and Mr H complain about how QIC Europe Ltd (QIC) dealt with a claim under their home insurance policy for damage to their property caused by bad weather.

QIC use agents to administer the policy and to assess claims. Reference to QIC includes these agents.

What happened

In November 2021, around the time of Storm Arwen, bad weather caused damage to Miss G and Mr H's property, affecting the hip tiles on the roof. A trampoline was also blow into the garage and a shed at the property. And a neighbour's tree fell onto a fence, breaking a section of it. They contacted QIC to tell them about the damage and lodge a claim.

QIC said a surveyor would be in contact to visit and assess the damage within seven days. However, this didn't happen and when Miss G and Mr H contacted QIC, they were told they were busy, and it might be quicker if they obtained two independent estimates for the cost of repairing the damage from local contractors.

Miss G and Mr H obtained two estimates, but QIC wouldn't accept either. Instead they offered to settle the claim through a cash settlement or for their contractors to carry out the repairs. Miss G and Mr H didn't think the cash settlement was sufficient for them to have the repairs carried out, so they said they wanted QIC contractors to carry out the repairs.

QIC then arranged for a surveyor (S) to visit the property in January 2022 and assess the damage. S's report concluded the proximate cause of the damage was due to Storm Arwen. It also concluded there wasn't any pre-existing or ongoing external building defects that weren't related to the insured peril (storm) and that there would be cover under the policy. However, the report concluded the damage to the garage or shed wouldn't be covered as the damage was caused by the trampoline being unsecured.

Based on the surveyor's report, QIC initially accepted Miss G and Mr H's claim (for the damage to the property roof).

However, following a technical review by QIC's in-house surveying team, who looked at the surveyor's reports and photographs of the damage, QIC declined the claim on the grounds that the damage to the hip tiles was due to pre-existing issues with the mortar bedding of the tiles, which had broken down over a significant period of time. QIC added that the damage was also the result of cyclical exposure (of the mortar) to the elements, where moisture sets into the defect, then freezes, causing the defect to expand. Over time, this led to the gradual deterioration of the mortar. So, QIC declined the claim due to gradual deterioration (an exclusion under the policy).

Miss G and Mr H challenged QIC's decision and complained. But QIC didn't uphold the complaint, maintaining their decision to decline the claim. While they accepted there were storm conditions at the time of the incident, based on the conclusions of their in-house surveying team review QIC said the cause of damage to the hip tiles on the roof was failure

of the mortar, the underlying cause was the breakdown of the mortar over a significant period of time. This was consistent with gradual deterioration, and QIC referred to the policy exclusion for gradual deterioration. As they had declined the claim for damage to the roof, QIC also said they wouldn't cover any damage to the fence.

However, as Miss G and Mr H had initially been told their claim was covered under the policy, QIC offered them £300 in compensation for the inconvenience and the time taken to reach their decision (to decline the claim).

Miss G and Mr H then complained to this service. They disagreed with QIC about the decline of the claim due to gradual deterioration, saying they kept their property in good condition and well maintained, including the roof (and had photographs which they said showed this was the case). Miss G and Mr H said their roof had been leaking after the incident and the experience of what had happened was very stressful, affecting their mental health. They wanted QIC to accept their claim and for their property to be repaired by a professional contractor. They also wanted compensating for the length of time taken to assess the claim and for the stress they'd suffered.

Our investigator upheld the complaint, concluding QIC hadn't acted fairly. She concluded there were storm conditions at the time of the incident and the damage to the roof tiles and the fence was typical of storm damage. However, she didn't think the claim, had been fairly declined. Based on S's report and photographs, she didn't think this indicated the mortar was in a poor state or had any visible defects. She was also more persuaded by S's view (as they'd inspected the property and the damage) than by QIC's in-house surveyor. She also thought it unfair to decline the claim for damage to the fence on the basis the claim for damage to the roof had been declined. To put things right, she thought QIC should assess the claim for damage to the roof tiles under storm damage and assess separately the damage to the fence. But she thought the compensation offered by QIC for inconvenience and delays in assessing the claim was reasonable.

QIC disagreed with the investigator's conclusions and asked that an ombudsman review the complaint. They said the damage (the tiles being dislodged) wasn't consistent with that they'd expect to see in a storm. They also thought several photographs showed gaps in the tile mortar, and the tiles had de-bonded (from the mortar). They thought it clear from the photographs there was little to no mortar holding the tiles in place. So, they maintained their view the claim should be declined.

Miss G and Mr H responded to say they hadn't accepted QIC's offer of compensation for inconvenience, partly because they didn't think the amount was sufficient. But also because they didn't want to accept it, in case that was seen to be an acceptance of QIC's decline of their claim.

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.

My role here is to decide whether QIC has acted fairly towards Miss G and Mr H. The main element of Miss G and Mr H's complaint is that QIC unfairly declined their claim, on the grounds that while there were storm conditions at the time of the incident, they weren't the main cause of the damage. Rather, it was due to pre-existing issues with the mortar bed of the tiles. QIC also say the damage (to the tiles) isn't consistent with that they'd expect from a storm.

In considering this issue, whether the damage resulted from a storm or from a pre-existing issue, there are three key issues we consider:

- Do we agree that storm conditions occurred on or around the date the damage is said to have happened?
- Is the damage claimed for consistent with damage that a storm typically causes?
- Were the storm conditions the main (or dominant) cause of the damage?

On the first question, in their final response QIC said they were satisfied there were storm conditions around Miss G and Mr H's property at the time of the incident, noting a highest wind speed of 65 mph. This accords with the weather report provided by QIC for the date of the incident, which describes the wind as "*Violent storm force gusts*". I've looked at the reports from the weather firm this service uses. For the weather station nearest to Miss G and Mr H's property, on the date of the incident the report indicates a peak gust of 64 mph. Based on this, I've concluded there were storm conditions on the date of the incident.

On the second question, the photographs from QIC's surveyor show some of the hip tiles on the roof of Miss G and Mr H's property have come off. There are also tiles lying on the ground. Photographs of the fence show damage. The description of what happened is that a neighbour's tree fell on the fence during the bad weather. We'd expect both types of damage in storm conditions, particularly high winds.

In their response to our investigator's view, QIC say the damage to the tiles isn't what they'd expect in a storm. I disagree. Dislodged tiles are common in storm conditions, particularly high winds. QIC say the mortar had deteriorated over a significant period prior to the storm, which was the basis of their applying the gradual deterioration exclusion to decline the claim for damage to the tiles. But that's an issue for the third question we consider (whether the storm conditions were the main (or dominant) cause of the damage. It isn't whether the damage claimed for is consistent with damage a storm typically causes. So, I've concluded the damage is consistent with that a storm typically causes.

The third question is therefore key, given QIC declined the claim (for damage to the roof) on the grounds that the cause of the damage was the pre-existing condition of the mortar bed, which QIC say had deteriorated over time. I've considered this issue carefully, together with the reports from S and the opinion of QIC's in-house surveyor team. I've also looked at the photographs of the damaged roof, particularly those specifically referred to by QIC when disagreeing with our investigator's view. Taking all these things into account, I've concluded QIC haven't acted fairly in declining Miss G and Mr H's claim (for damage to the roof). I'll set out why I've come to this conclusion.

Firstly, as a general principle, where a policyholder makes a claim for damage or loss under a policy, the onus is on them to show there was an insured event that caused the damage or loss. In this case, given my conclusions there were storm conditions at the time of the incident, and the damage is consistent with that we'd expect to see in a storm, I think it's reasonable to conclude there was an insured event (storm) that caused damage.

However, where an insurer relies on an exclusion in the policy to decline a claim (as QIC have done) then the onus is on them to show the exclusion applies. Looking at the available information and evidence, I don't think QIC have done so in the specific circumstances of this case, so I'll explain why I've come to this view.

In their final response, QIC refer to the following policy exclusions, firstly in the *General Exclusion* section where there's the following exclusion:

12. Any gradual or maintenance-related loss or damage

Loss or damage as a result of gradual causes including:

- Gradual deterioration (whether you were aware of it or not)...*

QIC also refer to a similar exclusion in the Storm section of the policy, where it states: [We don't cover] *d. anything that happens gradually.*"

QIC also refer to their in-house surveyor's opinion, which states:

"the damage to the hip tiles is as a result of mortar failure. The underlying cause of the damage was the breakdown of the hip tile bedding mortar over a significant time period. This damage has occurred due to the cyclical exposure of the elements and the resulting freeze/thaw effect. This is where moisture gets into a defect in the mortar and between the tile and bedding. This moisture then freezes, causing the defect to get bigger and the adhesion to the tile to breakdown. This repeatedly occurs over the years until the mortar reaches the end of its serviceable life."

QIC state the in-house surveyor adds that: *"the damage is consistent with gradual deterioration."*

However, looking at the photographs of the roof, particularly those highlighted by QIC, I'm not persuaded they show the mortar was in poor condition. The mortar around those tiles that weren't displaced doesn't show signs of cracking or deterioration. This doesn't suggest to me there has been any significant breakdown of the kind set out by QIC's in-house surveyor, as there's no indication of significant ageing or deterioration. S visited the property (so would have been able to see the condition of the roof) and in his report doesn't indicate there was any pre-existing or ongoing external building defects that weren't related to the insured peril (storm). I think this is more persuasive evidence.

Taking these points into account – particularly given the onus being on QIC to show the exclusion applies – than I'm persuaded the storm conditions are, on balance, the main or dominant cause of the damage.

Taking all these conclusions into account, then I'm not persuaded QIC have shown the exclusion applies. And so, they haven't acted fairly in declining Miss G and Mr H's claim for damage to the roof tiles.

Having reached this conclusion, I've gone on to consider the other elements of the claim. On damage to the fence, as QIC declined the claim for the damage to the roof, they also declined the element of the claim relating to the fence. In their final response, QIC referred to the following policy exclusion, under the Storm section where it states that it doesn'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..."

As I've concluded the roof of Miss G and Mr H's property was damaged by the storm, then I think damage to the fence would also fall within this definition. In this case, the damage was caused at the same time. And while the damage was the result of a neighbour's tree falling, I've seen nothing to suggest other than the tree fell because of the storm conditions (high winds). So, the storm conditions are 'the same cause' under the above definition. So, I've concluded QIC acted unfairly in using the exclusion to decline the claim for damage to the fence.

On the issue of damage to the garage and the shed, the surveyor's report states the damage was caused by a trampoline becoming loose in the storm conditions. But it was unsecured at the time. S's report states this means the damage wouldn't be covered. QIC's final response

makes no mention of the damage to the garage or shed. Nor does it feature explicitly in Miss G and Mr H's complaint to this service. So, I haven't considered this aspect further – although S's conclusion the damage wouldn't be covered because the trampoline was secured doesn't seem unreasonable (the implication being had the trampoline been secured, it wouldn't have come loose, or less likely to because loose).

Having reached these conclusions, I've thought about what I think QIC need to do to put things right. As I've concluded QIC can't rely on the policy exclusion of gradual deterioration to decline the claim for damage to the roof, I think they should settle that part of the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).

Similarly, as I've concluded QIC can't rely on the policy exclusion for damage to a fence in a storm unless the home was damaged at the same time and by the same cause, I think QIC should also settle that part of the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).

Thinking about the inconvenience and time taken to assess the claim, QIC offered £300 in compensation to Miss G and Mr H. Taking all the circumstances of the case into consideration, I think that's a fair and reasonable sum.

My final decision

Y For the reasons set out above, it's my final decision to uphold Miss G and Mr H's complaint. I require QIC Europe Ltd to:

- Settles those parts of the claim for damage to the roof and the fence in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).
- Pay Miss G and Mr H £300 in compensation for inconvenience (if they haven't already paid it).

QIC Europe Ltd must pay the compensation within 28 days of the date on which we tell them Miss G and Mr H accept my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G and Mr H to accept or reject my decision before 20 December 2022.

Paul King
Ombudsman