

The complaint

Mrs C complains about how QIC Europe Ltd (QIC) dealt with a claim under her home insurance policy for accidental damage to her property.

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

What happened

In May 2022, Mrs C was painting the exterior of her property, part of which was above some decking. She placed tarpaulin and dust sheets over the decking to avoid any paint spilling. However, when she'd finished and took up the sheets, she realised some paint had leaked onto the decking. She tried to clean it, first with soap and water, a pressure washer, then with chemical paint remover. However, this didn't work and the decking became more damaged. Mrs C then contacted QIC to tell them about the damage and lodge a claim.

QIC arranged for a surveyor to visit and inspect the damage. In their report, the surveyor concluded Mrs C was having renovation work carried out at the time of the incident, which negated the accidental damage cover under the policy. Based on the surveyor's report, QIC rejected Mrs C's claim. Mrs C challenged the decision and QIC's in-house surveyor reviewed the claim. They agreed with the surveyor's conclusion and said re-painting the property would be classified as renovation works. As such, the policy stated that cover wouldn't apply to loss or damage resulting from renovation or repairs.

Mrs C complained to QIC, but they didn't uphold the complaint, confirming their decision to decline the claim. They said Mrs C's policy covered her for damage resulting from certain one-off events (perils) and claims needed to fall under one of these perils. QIC referred to the policy definition of accidental damage and said Mrs C was having renovation work carried out at the time of the incident – but the policy didn't cover damage from renovation or repairs. QIC referred to policy exclusions covering damage resulting from alterations, extensions, renovation or repairs to buildings. QIC also referred to the policy general conditions, specifically a condition on reasonable care and preventing loss. QIC said the exclusions applied as the damage occurred during home renovations and they weren't satisfied reasonable steps were taken to protect the decking to prevent loss.

Mrs C then complained to this service. She said the building work at her property had been completed before she took out her policy (in January 2022) and before her decorating the original part of her property and the extension to the property and the incident. She said the surveyor had taken photographs of leftover sand and some tiles, as well as a scaffolding unit she'd purchased. So, she thought the claim had been unfairly declined on the grounds of the building work.

Our investigator upheld the complaint, concluding QIC hadn't acted fairly. She was satisfied the evidence from the builder showed work on the extension was completed in January 2022, and that photographs of various materials at the property were left over from the extension work. So, QIC hadn't assessed Mrs C's claim properly, in order to decline her claim on the grounds of the exclusions they'd referred to. The investigator also didn't agree

with QIC's in-house surveyor that the painting by Mrs C was 'renovation works.' Renovation was defined as *'to improve broken, outdated or damaged structure'*, which she thought didn't include painting. She also thought Mrs C had taken reasonable precautions to protect the decking. The investigator thought QIC should reassess the claim in line with the remaining terms and conditions of the policy (without the exclusions they'd applied).

QIC disagreed with the investigator's conclusions and asked that an ombudsman review the complaint. They said work had been undertaken on the external render to the property, which Mrs C had then painted. They considered this to be alteration or renovation work (even though it was carried out by Mrs C). So, it fell under the policy exclusions they applied to decline the claim. They also referred to the poor state of the decking prior to the incident, which they said looked like it hadn't been maintained.

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 Mrs C.

The main element of Mrs C's complaint is that QIC unfairly declined her claim, on the grounds of exclusions from cover under accidental damage. First, that the painting she was carrying out would (as QIC see it) be classed as alteration or renovations work. And, second, that she didn't take sufficient precautions to avoid the damage. Mrs C says the work on her extension had been completed when she took out her policy, and the materials at her property were left over from the building work. She also says she took sufficient precautions.

In considering the case, I've started, firstly, from the 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, there isn't a dispute that there was damage to the decking from paint dripping onto the decking (despite the sheets Mrs C says she put down as a precaution).

QIC referred in their final response to the definition of accidental damage in the policy:

*"Accidental Damage
Sudden unexpected and physical damage which:
i. happens at a specific time
ii. was not deliberate; and
iii. was caused by something external and identifiable."*

Looking at the definition in the context of what happened, it isn't disputed damage occurred from the dripping paint. And I think what happened would fall within the above definition.

However, where an insurer relies on exclusions 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 *Additional Accident Damage to Buildings* section, where it states the policy does not cover:

e. loss or damage as a result of any alterations, extensions, renovation or repairs to the buildings including settlement or shrinkage of buildings."

QIC also refer to the *General Conditions* section of the policy, where it states:

11. Reasonable care and preventing loss

- a. You must take all necessary and reasonable steps to prevent or limit accident, injury, loss or damage to your buildings and contents or liability to others .”*

QIC applied these exclusions based on the conclusions, firstly of the surveyor who visited the property, which includes the following statement:

“We have declined the claim as the customer is clearly having renovation works carried out which negated the accidental damage cover under the section 14 sub section E.”

QIC’s in-house surveyor, when reviewing the case and the surveyor’s report agreed with the conclusion and stated:

“I have reviewed the damage to the decking and unfortunately, the re-painting of the house would be considered renovation works. Therefore the claim is declined under peril exclusion which states that we will not cover any loss or damage that is a result of renovation or repairs to the building.”

I’ve considered these points carefully, alongside what Mrs C has said and the evidence and information she’s provided. On balance, I’m not persuaded QIC acted fairly in applying the exclusions. I’ll set out why I’ve come to this conclusion.

The first point is whether renovation work was being carried out at the time of the incident (as QIC say) or whether the work was complete before the incident. Mrs C says the building work (including new windows and exterior render) was completed in January 2022, just before she took out her policy. And that any materials at her property were simply left over from the work. I’ve considered both views, together with a confirmation from the builder who carried out the work that it was completed in January 2022. Taking these points into account, I’m satisfied the work was completed before the incident and that (from the photographs) Mrs C was painting the exterior render (which was complete). While the photographs do show some materials on the property, and some areas on the ground where work appears to be ongoing, I don’t think either are relevant for the specific circumstances of the case (paint dripping from the exterior render onto the decking). So, I’m persuaded renovation work wasn’t being carried out at the time of the incident.

Having reached this conclusion, I’ve also considered whether (as QIC maintain) the re-painting (by Mrs C) constituted renovation or repairs. Mrs C’s policy doesn’t include a definition of either term, so I’ve considered what would generally and reasonably be considered renovations or repairs. Having done so, I don’t think painting (or re-painting) can reasonably be held to be renovation or repair. I think these terms imply substantial work. Looking at publicly available definitions of renovation, they include descriptions such as *“the process of improving a broken, damaged, or outdated structure”*¹ and *“the act or process of repairing and improving something, especially a building”*². I think these terms imply more substantial work than painting (new) render.

Based on these points, I’ve concluded QIC haven’t fairly applied the renovation exclusion to decline the claim.

¹ Meriam-Webster

² Cambridge Dictionary

Turning to the second exclusion cited by QIC, taking reasonable precautions. Mrs C has described the precautions when painting, including putting down tarpaulin and dust sheets. I've no reason to doubt what she's said. Both are what I'd expect in the circumstances and would be reasonable precautions. I don't think that conclusion is affected by the fact that some paint did get through to the decking – precautions can be taken, but cannot be an absolute guarantee against any damage (the wording of the exclusion in the policy also suggests this by use of the word "*limit*" when referring to loss or damage).

Based on this, I've concluded QIC haven't acted fairly in applying the exclusion for reasonable precautions.

Taking these points into account – particularly with the onus on QIC to show the exclusions apply – then I've concluded QIC unfairly applied the exclusions to decline the claim.

I've also considered the additional point raised by QIC in their response to our investigator's view, the poor state of the decking prior to the incident, which they say looked like it hadn't been maintained. However, this wasn't the reason they gave for declining Mrs C's claim, so I don't think it's reasonable to introduce it now. But in any event, the report from the surveyor states that there were no pre-existing or ongoing external building defects that were not peril-related. It also describes the general state of the property as "*fair state of repair*".

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 exclusions to decline the claim, I think they should re-assess the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).

My final decision

For the reasons set out above, it's my final decision to uphold Mrs C's complaint. I require QIC Europe Ltd to:

- Re-assess the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 19 January 2023.

Paul King
Ombudsman