

The complaint

Miss H complains about QIC Europe Ltd (QIC), declining a claim under her home insurance policy for damage to a greenhouse at her 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 February 2022, at the time of Storm Eunice, a wood-framed greenhouse at Miss H's property suffered significant damage, leaving it beyond repair. She contacted QIC to tell them about the damage and lodge a claim, which she did through an online portal. QIC indicated they accepted the claim and asked Miss H to send in photographs of the greenhouse prior to the incident.

QIC arranged for a surveyor (M) to visit the property and assess the damage, which they did the following month. Miss H thought M didn't give any indication her claim wouldn't be accepted (and M's report recorded the claim as being accepted and covered for the damage under the policy). Following the visit, QIC asked Miss H to obtain two quotes to replace the greenhouse, which she submitted to QIC.

However, QIC then contacted Miss H to say that, following review of the claim by their in-house surveyor (including the photographs provided by Miss H) they thought the greenhouse was leaning prior to the incident and a gutter looked like it was falling off. Based on this, QIC declined the claim.

Miss H challenged the decision and complained to QIC. But they didn't uphold it, confirming their decision to decline the claim in their final response. They said there were storm conditions at the time of the incident (based on a highest wind speed recorded of 77 mph). They also acknowledged they'd initially accepted the claim, but following a review by their in-house surveyor, declined the claim on the basis of the pre-existing condition of the greenhouse (it was leaning and guttering at the side was falling off) and overall it was in a poor condition. This indicated wear and tear over a significant period, which had been highlighted by the storm. QIC referred to a policy exclusion for gradual deterioration.

Miss H then complained to this service. She said the experience had caused her a great deal of stress and frustration. She no longer had a greenhouse and had to pay for the cost of clearing the debris and its disposal. She wanted QIC to re-consider her claim and accept it. She was also unhappy at what she considered to be QIC's unprofessional and abrupt way they handled her claim and communicated their decline of the claim.

Our investigator upheld some parts of the complaint, but not others. She concluded QIC had acted in line with the policy terms and conditions but hadn't addressed mistakes in their response to Miss H's complaint. She thought the surveyor's report indicated the greenhouse was in a poor condition prior to the incident, so it was reasonable for QIC to decline the claim on the grounds of the exclusion for gradual deterioration and wear and tear. However, QIC's final response hadn't acknowledged Miss H's claim had initially been accepted, nor the confusion this caused Miss H, given the subsequent decline of the claim. In recognition of

the distress and inconvenience this would have caused to Miss H, the investigator thought QIC should pay £75 in compensation.

Miss H disagreed with the investigator's conclusions and requested an ombudsman review the complaint. In doing so, she provided further evidence about the condition of the greenhouse prior to the incident, including a better-quality photograph (taken in summer 2021). She reiterated that she'd followed the claims process with QIC, including providing quotes for a replacement greenhouse, as well as her view QIC had mis-managed her claim and acted unprofessionally. If they were going to decline the claim, they should have done so at the outset (when Miss H provided the initial photographs, which were then subsequently used by the in-house surveyor as evidence to support the declining of the claim).

In my findings, I noted M's report made no mention of the condition of the greenhouse other than that provided by Miss H (that the timber work was all in good condition). Also, the report stated there were no 'pre-existing or ongoing external building defects or issues that are not peril related'.

I also looked at the photographs provided by Miss H. I wasn't persuaded the greenhouse was leaning, rather it appeared to be the angle from which the photograph was taken. There was no indication the greenhouse wasn't secured to the base, nor did it appear the guttering at the side of the greenhouse was falling off. It was also not obvious there were two missing panes – but in any event I wasn't persuaded this would have affected the greenhouse's ability to withstand the impact of the storm conditions.

I also considered the severity of the storm conditions on the date of the incident. QIC's weather report indicated a maximum wind speed (gust) of 77 mph and described the wind as "“violent storm force gusts...”. The wind speed was significantly higher than QIC's policy definition of storm force winds (55 mph). I also noted (using the wind speed of 78 mph from the weather report from the weather firm our service uses) it would (on the Beaufort Scale) be classified as 'Hurricane' level under World Meteorological Organisation classifications. At this level, I thought it likely that a greenhouse (particularly given the exposed location of Miss H's property) would have suffered significant damage.

Taking all these conclusions into account, I wasn't persuaded QIC had shown the exclusion for gradual deterioration and wear and tear applied. And so, they haven't acted fairly in declining Miss H's claim.

Having reached this conclusion, I thought about what QIC should do to put things right. I thought they should assess the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).

I also considered the question of compensation for distress and inconvenience. Taking all the circumstances into account, I think £75 is fair and reasonable compensation for distress and inconvenience. I also considered Miss H's additional points in response to our investigator's view. While I concluded Miss H did suffer a loss of expectation from having her claim initially accepted, only to be then declined, I thought there were circumstances in which insurers would review a claim and change their initial decision. Miss H also referred to an abrupt call telling her of QIC's change of decision (to decline the claim). I thought the compensation of £75 was fair for the issues raised by Miss H.

Because I reached a different conclusion from that of our investigator, I issued a provisional decision to give both parties the opportunity to consider matters further. This is set out below.

What I've provisionally decided – and why

I've considered 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 H.

The main element of Miss H's complaint is that QIC unfairly declined her 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, QIC say it was due to pre-existing issues with the condition of the greenhouse. Specifically, it was leaning, and part of the side guttering appeared to be falling off (and two panes of glass were missing). So, the high winds only highlighted an existing issue. Miss H doesn't agree, saying the damage was caused by the storm.

In considering the first element, 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 accept there were storm conditions around Miss H's property at the time of the incident, referring to weather reports they obtained indicating a highest wind speed of 77 mph (with a description of 'violent storm force gusts around 10:00'). The reports from the weather firm this service uses also indicate storm conditions at the time of the incident, recording a peak gust of 78 mph at the weather station nearest to Miss H's property (and a description of 'dry storm'). So, I've concluded there were storm conditions present around the date of the incident.

On the second question, the photographs of the damage and the descriptions provided by Miss H and in M's report indicate the greenhouse was badly damaged in the storm (beyond repair). Given the nature of construction of a greenhouse, as well as the indication from M's report that Miss H's property is situated on high ground (which would suggest it is more exposed to high winds) the damage described is what we'd expect, particularly with high winds. So, I've concluded the damage is consistent with that a storm typically causes.

The third question is therefore the key issue, where Miss H and QIC disagree. I've considered both views carefully, together with the reports from M and the views of QIC's in-house surveyor. Taking all these points into account, I've concluded QIC haven't acted fairly in declining Miss H's claim. 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:

- Wear and tear...*
- 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 review of the claim (including M's report and photographs of the greenhouse), which states:

"We have declined the claim for the greenhouse due to its pre-existing condition based on the images provided by the policyholder prior to the event occurring. In one image the greenhouse can be seen to be leaning. Another shows the guttering at the side falling off."

The in-house surveyor also notes:

"...there are two panes not in place, and overall, it is in poor condition. This means the winds have merely highlighted the poor condition of the greenhouse."

However, M's report makes no mention of the condition of the greenhouse other than that provided by Miss H (that the timber work was all in good condition). The report also states there are no 'pre-existing or ongoing external building defects or issues that are not peril related' and states 'yes' to the question 'Cover under policy?'.

I've also looked at the photographs provided by Miss H, both those she gave to QIC as part of her claim, as well as the (better quality) photographs provided in support of her disagreement with our investigator's view. QIC's in-house surveyor says they show the greenhouse was leaning and that guttering on one side is falling off. Looking at the photographs, I'm not persuaded the greenhouse is leaning, rather it appears to be the angle from which the photograph was taken. There's no indication the greenhouse wasn't secured to the base (which is of stone block construction). Nor does it appear the guttering at the side of the greenhouse is falling off – the photographs I've seen show the guttering to be parallel to the top edge of the greenhouse frame. It's also not obvious there are two missing panes – but in any event I'm not persuaded that this is likely to have affected the greenhouse's ability to withstand the impact of the storm conditions.

So, overall, I'm not persuaded by QIC's view the greenhouse was in poor condition prior to the incident.

I've also considered the severity of the storm conditions on the date of the incident. As noted above, QIC's weather report indicates a maximum wind speed (gust) of 77 mph and describes the wind as "violent storm force gusts...". The wind speed is significantly higher than QIC's own policy definition of storm force winds (55 mph). I've also noted (using the wind speed of 78 mph from the weather report from the weather firm our service uses) it would (on the Beaufort Scale) be classified as 'Hurricane' level under World Meteorological Organisation classifications. At this level, I think it's likely that a greenhouse (particularly given the exposed location of Miss H's property) would have suffered significant damage of the extent described by Miss H and in M's report.

Taking all these conclusions into account, then I'm not persuaded QIC have shown the exclusion for gradual deterioration and wear and tear applies. And so, they haven't acted fairly in declining Miss H's claim.

Having reached this conclusion, I've thought about what I think QIC need to do to put things right. As I don't think QIC can rely on the policy exclusion to decline the claim, I think they should assess the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).

I've also considered the question of compensation for distress and inconvenience. I've considered what Miss H has said about the stress she's suffered from her experience, including being told initially her claim was accepted – only for it subsequently to be declined. I think this would have meant she suffered a loss of expectation (that her claim had been accepted). And that its subsequent decline (which I've concluded was unfair) would cause her distress and inconvenience. Taking all the circumstances into account, I think £75 is fair and reasonable compensation for distress and inconvenience.

I've also considered Miss H's additional points made in response to our investigator's view.

Miss H's view is that QIC mis-managed her claim and acted unprofessionally. As I've concluded above, I think Miss H did suffer a loss of expectation from having her claim initially accepted, only to be then declined. I understand why she feels QIC acted unprofessionally (and that if they were going to decline the claim, they should have done so at the outset). But there are circumstances in which insurers will review a claim and change their initial decision. Miss H also referred to an abrupt call telling her of QIC's change of decision (to decline the claim). I think the compensation I've mentioned is fair for the issues raised by Miss H and the distress and inconvenience she's suffered.

My provisional decision

For the reasons set out above, it's my provisional decision to uphold Miss H's complaint. I intend to require QIC Europe Ltd to:

- *Assess the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).*
- *Pay Miss H £75 compensation for distress and inconvenience.*

Neither Miss H nor QIC responded to the provisional decision by the date requested.

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 have acted fairly towards Miss H.

As neither Miss H nor QIC responded to my provisional decision, then my findings and conclusions remain unchanged from my provisional decision.

My final decision

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

- Assess the claim in line with the remaining terms and conditions of the policy (including any excess under the policy, as appropriate).
- Pay Miss H £75 compensation for distress and inconvenience.

QIC Europe Ltd must pay the compensation within 28 days of the date on which we tell them Miss H accepts 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 H to accept or reject my decision before 7 March 2023.

Paul King
Ombudsman