

The complaint

Ms A and Mr J complain because QIC Europe Ltd (QIC) proportionately settled their claim following a fire at their home.

Reference to QIC includes its agents.

What happened

Ms A and Mr J took out a Home Insurance policy online to cover their buildings and contents with QIC in May 2021. In November 2021 there was a catastrophic fire at their property and Ms A and Mr J submitted a claim. When validating the claim, QIC said that Ms A and Mr J had misrepresented the cost of replacing the contents in their home when they took out the policy. QIC considered this to be a careless qualifying misrepresentation, which QIC says entitles it to only pay a proportion of the total claim.

Ms A and Mr J don't agree. They say they made a typographical error. But they also say the policy they had provides them with enough cover to replace the contents in their house. So, no proportional settlement should apply. An investigator at our service reviewed the complaint and said QIC hadn't done anything wrong by paying a proportion of the claim only.

Ms A and Mr J don't agree with the investigator and they've asked for an ombudsman's decision.

I issued a provisional decision on this complaint on 13 January 2023. That provisional decision is below and forms part of my final decision.

What I've provisionally 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 done so, I'm planning on upholding it. I'll explain why.

QIC says Ms A and Mr J failed to take reasonable care not to make a misrepresentation when they told it how much it would cost to replace all the contents in their home. QIC's deemed this a careless misrepresentation and it has offered to pay a proportion of the total claim only.

The issue I need to decide is whether QIC has acted fairly and reasonably in applying the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) to the settlement of Ms A and Mr J's claim. (I note that QIC has referenced the Insurance Act 2015 in its final response, which is incorrect). My role allows me to make a decision based on what I believe to be fair and reasonable taking into account all the circumstances of the complaint. And, having done so, I think the complaint should be upheld.

I've looked at the question that Ms A and Mr J were asked online. They were asked "How much would it cost to replace all the contents in your home, including valuables?" Ms A and Mr J said "£10,000".

Having considered the question asked, I think Ms A and Mr J are being asked to give their opinion or an estimate on what they think it might cost to replace the contents of their house. After all, until such action actually needs to happen the precise cost of replacing their contents would be unknown. So, given that an opinion is being requested, and there's no suggestion Ms A and Mr J acted dishonestly, I don't think that can amount to a misrepresentation. So, it's not appropriate to consider CIDRA here. Our approach in this type of scenario would be to think about what's fair and reasonable in the circumstances, bearing in mind the full purchasing journey, including any questions asked and information provided.

Given the evidence I've seen, £10,000 doesn't seem like an appropriate estimate or opinion. Ms A and Mr J say that the £10,000 figure provided by them as a cost to replace their contents was an honest typographical error. And they argue that this figure shouldn't matter because they say even though an error was made, this £10,000 figure was not used by QIC to underwrite the policy. Ms A and Mr J argue that this figure was used alongside the other estimate figures they provided to QIC to propose various insurance products and they were required to choose one.

Ms A and Mr J say they had a normal customer journey through the sales process and were given the option to take either a "silver" policy or a "bronze" policy. Bronze has contents cover up to £60k. Silver has contents cover up to £75k.

*They chose the "Silver" product which provides £500,000 for buildings cover, £75,000 for contents cover and £100,000 to cover alternative accommodation. They say having been offered and having accepted contents cover for £75,000 they had no need to revert to QIC to highlight the error they'd made by erroneously presenting £10,000 as the value to replace the contents in their home. They say that in their honest opinion, having received and read the insurance schedule they believed they had insured their contents for £75,000 and they say this represented a reasonable estimate of the value of the contents in their home. Ms A and Mr J have quoted from *Economides v Commercial Assurance Co Plc* and argue that there was no obligation on them to take steps to provide an exact valuation of their contents at the time they took out the policy. They argue their only duty is to provide an honest estimate.*

I agree that the figure of £10,000 that was given as an opinion or estimate was not a reasonable estimate. And I can see that QIC do provide a pop-up box on its website at the point this question is asked explaining what's required. But I note that Ms A and Mr J say the figure they had entered was an honest mistake. And I'm persuaded by what they've said. They say they did realise they'd made an error, but they say this error was immaterial as when they looked at the insurance schedule, they noted that under the heading "contents information" the "contents sum insured" is £75,000.

And I agree. Looking at the policy schedule provided I think it gives the impression that Ms A and Mr J had cover for up to £75k of contents. It doesn't clearly convey that Ms A and Mr J only had cover for £10k, or that they needed to estimate the value of all their items to decide whether £75k is enough. I think any diligent consumer would read "contents sum insured" on the schedule and believe they had cover up to £75,000. And in the context of the full purchasing journey I think it was reasonable for the Ms A and Mr J to think they had cover of £75k, and they acted reasonably based on that understanding. I think they reasonably understood that the answer they gave to the question, led them to receiving £75k in contents cover and they saw no need to update the £10k figure. The only other option they say that was presented was Bronze cover for £60k, and this wasn't chosen. There was no further mention of contents replacement of £10k only. So, I'm satisfied, given the policy

documentation and the overall purchasing journey that Ms A and Mr J believed they had cover up to £75k.

The next question is whether it was reasonable to estimate £75,000 for the contents of Ms A and Mr J's house? It's clear there's a disagreement over what is a reasonable cost to replace the contents of the house. I've seen numerous different estimates on file, £82,001 for fire damaged contents only, and a valuation of all contents from QIC for £108,764.97. Ms A and Mr J say they are willing to accept they may have slightly underestimated the replacement cost of their contents at £75,000, and now that they've set out a detailed inventory of contents they say their contents should be valued at £89,728.81. QIC says that in light of the situation, it's agreed to stop the value at risk at £100k.

So, looking at this I think the most reasonable estimate is between £75k and £100k. And QIC has told us that if Ms A and Mr J had cover up to £100k for contents it would've sold them a "Gold" policy for a higher premium. As the reasonable estimate is likely over £75k but likely under £100k, our approach would be to say that QIC can proportionately settle the contents claim only according to the amount of premium paid vs amount that should have been paid for the policy with the higher contents cover.

So, in short, CIDRA doesn't apply here. I think that QIC need to settle the contents only part of the claim proportionally as I've set out above. And as CIDRA doesn't apply and there is no buildings or alternative accommodation misrepresentation alleged, these shouldn't suffer a proportionate settlement. This means the buildings and alternative accommodation claims should be unaffected and paid in full, not proportionally.

Ms A and Mr J have also raised the financial and emotional impact of this claim. In response to our investigator's view Ms A and Mr J said they'd raised issues over the conduct of QIC and its lack of support to a vulnerable family, which has not been addressed. They've also raised the lack of provision of comparable alternative accommodation and other handling concerns.

Our investigator said that these issues hadn't been dealt with in QIC's final response and suggested that Ms A and Mr J should raise a separate complaint.

However, Ms A and Mr J have since advised that in their letter dated 31 January 2022, they did highlight these issues, and this letter was sent before the final response. As such, QIC are aware of the issues. It just hasn't dealt with them. But I will deal with them here.

It was weeks before Christmas and this family of five, with three children all with different special needs diagnosis were rendered homeless. The letter to our service says the absence of a full and proper payment of the claim meant Ms A and Mr J had to borrow from lenders, friends and family. They say this shortfall meant their alternative accommodation wasn't suitable for their family and they say the claims process was stressful and QIC didn't treat them very well even with their vulnerabilities. They even say they had to source their own builders for emergency repairs.

I acknowledge this was a very distressing situation for the whole family. But I can only look and consider whether QIC's actions, or lack of action made things worse at this distressing time. A lot of what happened occurred because there was a proportional settlement being paid. And as I've now provisionally decided that this approach was incorrect, I'm minded to ask QIC to pay some compensation for the distress and inconvenience caused.

In terms of having to source builders and complete emergency repairs, QIC has advised that its local network contractor had experienced an outbreak of Covid19, and that after a discussion with Ms A she agreed to liaise with another local contractor to make the roof safe

and watertight. This initially took two weeks and then it took a further three weeks to complete the work. I know this sounds like a long time, but I'm conscious that QIC did pay Ms A for this work, and also that the emergency work happened over the Christmas period. So, I'm not inclined to find that the delays were unreasonable. Once the property was made safe, the scope of works and itinerary of contents was provided to QIC in approximately six days. So, again I don't find that there were unreasonable delays.

But I think it's clear that there was major distress and inconvenience suffered by Ms A, Mr J and their family because QIC only paid a proportional settlement. I understand that this was a really distressful time for everyone, and I empathise with everything that the family has been through. As I think QIC handled this claim incorrectly I've considered an award where the impact of a mistake has caused considerable distress, upset and worry and significant inconvenience and disruption that needed a lot of extra effort to sort out. As such, alongside asking QIC to now reconsider the claim in full, I'm also planning on recommending that QIC pays £750 in compensation to Ms A and Mr J for the distress and inconvenience caused.

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.

I sent my provisional decision on 13 January 2023.

QIC hasn't responded to my provisional decision.

Ms A and Mr J have responded via a third-party representative. Ms A and Mr J have made two points based on my provisional decision. The first one is to do with the proportionate settlement of the contents claim. The second is clarification on whether 8% interest is due on any outstanding payments to be made.

Ms A and Mr J say that as I determined that CIDRA doesn't apply, any contents payment made should be made based on the contents average clause as per the policy terms and conditions and not a proportional settlement based on premium paid.

I appreciate and understand the point Ms A and Mr J are making. And whilst the average clause term is in the policy and clearly worded, the key to this is that both parties are treated fairly and reasonably. So, we have to weigh up what it says in the policy terms and consider what is fair.

As I set out above our approach would be to say that QIC can proportionately settle the contents claim only according to the amount of premium paid vs amount that should have been paid for the policy with the higher contents cover. Paying a percentage of the premium yet possibly receiving a higher percentage of the claim value doesn't sound fair. The impact on the insurer of Ms A and Mr J providing an unreasonably low estimate was only receiving a percentage of the premium it should have done. So, a reasonable remedy is for the consumer to only receive that same percentage of the claim value in return. As such QIC should settle the contents only part of the claim proportionally, based on the difference between the premium Ms A and Mr J paid and the premium they should've paid for £100k of cover.

Further to this the buildings and alternative accommodation claims should be unaffected and paid in full for the reasons I've set out above. And as per the separate correspondence I sent to both parties, 8% simple interest should be added to all monetary claim amounts that remain outstanding. This 8% interest should be calculated from the time the original

settlement was made to the date of payment by QIC. QIC should also pay Ms A and Mr J £750 in compensation for the distress and inconvenience caused as set out above.

My final decision

My final decision is that I uphold this complaint. I require QIC Europe Limited to:

- settle the contents only part of the claim proportionally based on the proportion of premium paid vs what should've been paid.
- settle buildings and alternative accommodation claims in full.
- 8% simple interest should be added to all of these amounts from the date the initial part of the claim was paid, up to the date QIC make the settlement.
- Pay Ms A and Mr J £750 in compensation for the distress and inconvenience caused for the reasons I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A and Mr J to accept or reject my decision before 9 March 2023.

Derek Dunne
Ombudsman