

The complaint

Mr and Mrs E complain QIC Europe Ltd has unfairly declined a claim they've made on their buildings insurance policy following a leak from an underground pipe at their property.

What happened

QIC is the underwriter of the policy, i.e. it is the insurer. Part of this complaint concerns the actions of its agents which QIC accepts it is accountable for. Any reference to QIC includes the actions of its agent.

Mr E has led the complaint with this Service on behalf of himself and his wife, so I've mainly referred to him throughout.

The background to this complaint is well known to the parties so I've provided a summary here.

- Mr E's local water authority ("LWA") noted a high level of water consumption at his property and following investigation, it seemed there was likely a water leak on Mr E's side of the water supply.
- Mr E reported this to QIC and it appointed an agent to investigate. The agent made a number of visits to the property. Initially, it said the fault lay with the LWA at its water meter in the street. The LWA reattended but disagreed and restated the problem was on Mr E's property's side of the meter.
- The agent revisited and its investigations revealed a tree root had, over time, pushed a buried roof tile fragment into the water supply pipe causing it to rupture. The claim was declined as QIC said it wasn't covered by the policy terms. Mr E arranged for this repair to be completed privately.
- The water meter continued to show water usage even when there was no water being used in Mr E's property. So, the agent returned again but after some further investigations it didn't identify the problem and said it would return for more investigations at another time
- The agent returned again and did identify a leak on Mr E's side of the water meter which the agent did fix but this still didn't resolve the problem with the water meter continuing to show water usage even without any being used in the property.
- QIC declined the claim citing deterioration of the pipe and poor workmanship which it said were not covered under the policy. Eventually Mr E employed a contractor to help him find and repair the remaining leak after he was threatened with legal action by the LWA for the slow repair of the leak.
- Unhappy with this, Mr E raised a complaint with this Service. Our Investigator upheld the complaint, saying QIC hadn't done enough to show the exclusions it had relied on to decline the claim, applied or that the original installation of the pipework didn't

comply with the relevant standards at the time. She said QIC should reimburse Mr E with the cost of the repairs he had undertaken privately and should pay interest on top of this.

- QIC disagreed, so the complaint has come to me for an Ombudsman's 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.

- When an insurer seeks to rely on an exclusion to decline a claim, the onus is on it to show the exclusion applies. I'll be considering the complaint in light of this principle while keeping in mind what I consider to be fair and reasonable.
- The claim was considered under the Accidental Damage section of the policy and QIC declined it for two reasons. It said the leaks suggested the pipe was suffering from deterioration and the pipe was buried at a depth which was not within building regulations.
- QIC relied on two exclusions to decline the claim. The first of these was within the Accidental Damage section of the policy which confirms there's cover for damage to underground pipes subject to the exclusion below:

"We won't cover:

- a. loss or damage due to wear and tear or gradual deterioration;*
- b. loss or damage caused by gradual deterioration which means an installation has reached the end of its life..."*

- The second was within the General Exclusions:

"Loss or damage as a result of gradual causes including:

- Wear and tear...*
- Gradual deterioration (whether you were aware of it or not)".*

- The first decline reason QIC stated was that due to the leaks in the pipe it *appeared* the pipe was suffering from deterioration. But QIC hasn't presented evidence or expert opinion which explains the nature of the deterioration and so supports its position, it seems to me this is just a supposition rather than a proven cause.
- I have kept in mind here, QIC's agents did undertake some repairs to the pipe. Ultimately, they didn't actually locate the leak at the heart of this complaint. This was eventually located and repaired privately by Mr E and a contractor he employed after he was threatened with legal action by the LWA for the time it had taken for the leak to be sorted out. So QIC hasn't actually seen the cause of the leak.
- Mr E said while the pipe was exposed during the work, there was no sign of deterioration and the pipe was found to be pliable and in excellent condition with no sign of brittleness or cracks. He says his contractor was of the same opinion. As QIC did undertake some repair work on the pipe and didn't ever find the remaining leak or present evidence to support its view the pipe had deteriorated, I'm not persuaded it can fairly rely on this argument to decline the claim.
- On the second decline reason, regarding the depth the pipe was buried at, QIC hasn't presented sufficient evidence to show the pipework didn't comply with relevant

regulations at the time it was originally installed. And so, on the basis of the evidence I've been given to consider, I'm not persuaded by its "poor workmanship" argument and I'm not satisfied it can fairly rely on this to decline the claim.

- For the reasons I've explained above, I'm not satisfied QIC acted fairly in declining the claim.

Putting things right

- I think it was reasonable Mr E went ahead and employed his own contractors to repair the remaining leak given the threat of legal action from the LWA. In doing this, he obviously incurred costs and I think, as a fair and reasonable settlement in the specific circumstances of this complaint, QIC should reimburse these from the date he paid them until the date QIC pays him together with interest at the rate of 8% simple.

My final decision

My final decision is that I uphold this complaint and direct QIC Europe Ltd to:

- Reimburse Mr and Mrs E with the costs incurred in fixing the remaining leak subject to the provision of supporting evidence showing what they paid.
- Pay Mr and Mrs E interest on the costs at the rate of 8% a year simple from the date they incurred the costs to the date QIC reimburses them*.
- QIC Europe Ltd must pay the compensation within 28 days of the date on which we tell it Mr and Mrs E accept my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr E to accept or reject my decision before 26 May 2023.

Paul Phillips
Ombudsman