

## **The complaint**

Miss E complains about how QIC Europe Ltd (QIC) dealt with a claim under her home insurance policy for damage from a leak at her property.

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

## **What happened**

Miss E had problems with a leak affecting a bathroom at her property, from April 2021. The leak was thought to come from a shower and the shower tray and mixer bar were resealed (April 2021 and November 2021). The leak returned in December 2022, but a plumber couldn't find a definitive cause. The shower tray and mixer bar were resealed again. Miss E engaged a roofer in February 2023 to check whether the roof was the source, but this was ruled out (it was thought the shower unit may have been incorrectly fitted, causing the leak).

Miss E contacted QIC to tell them about the leak and re-open a claim for the damage, requesting they cover her engaging trace and access (T&A) to identify the source of the leak. QIC advised Miss E the policy did include cover for trace and access (T&A), but she'd need to engage a plumber to locate and fix the leak, which she could then reclaim the cost.

QIC also appointed a surveyor (G) to visit the property and assess the damage, including what they thought was the proximate cause of the damage (and whether that would be covered under the policy). G visited the property the following month. While unable to form a definitive conclusion on the source of the leak (and hence the cause of the damage) the report stated they'd advised Miss E QIC couldn't decide whether to accept the claim.

Miss E engaged a T&A contractor (T) to attend her property (March 2023). They charged £834 to identify the source of the leak and produce a report. The report concluded the likely causes of the leak were, first, a leak from the shower tray seal and, second, a leak from the seal around the shower mixer bar causing water ingress between the shower cubicle tiles and backing plasterboard. The leak was seen to only be active when the shower was in use. There was also a small leak along the base of the glass enclosure close to the stud wall.

Miss E submitted the invoice using QIC's online portal but received a message saying the claim had been closed. QIC initially responded to say the claim had been declined (by G) so the T&A cost also wouldn't be covered. Miss E was unhappy with QIC's decline (of both the T&A cost and the damage caused by the leak), saying she'd been advised to engage a T&A contractor and reclaim the cost.

QIC said they'd declined the claim because the leak was caused by grout (sealant) failure, which was an exclusion under the policy. While aware that sealant failure was an exclusion under the policy, Miss E said she'd had the shower sealant renewed several times as well as the mixer bar sealant. This showed she'd maintained the shower. So, she thought the issue was the way the shower had been fitted. She was also concerned at the impact of the mould and damp from the leak on her health. So, she complained to QIC.

QIC didn't uphold the complaint. In their final response they said Miss E's claim (for the damage from the leak) had been considered under the escape of water section of the policy. They referred to the report from T about the likely causes of the leak and to the policy exclusion for loss or damage caused by sealant or grout failing. QIC confirmed the exclusion applied. They also noted moisture transfer had taken place due to non-moisture resistant plasterboard being used in the shower area, which they considered would be seen as poor workmanship – a separate exclusion under the policy.

Miss E then complained to this service. She said QIC had acted unfairly, causing her financial loss and emotional distress. The leak had caused a significant amount of black mould (which was exposed from walls being opened to identify the source of the leak) which she was concerned would affect her health (and that of her partner). The experience had also caused her significant anxiety and affected her mental health. She'd paid £834 for T&A which she'd been told by QIC she'd be covered. She wanted QIC to reimburse the T&A cost. She was also unhappy at the lack of communication from QIC about her claim and their decline of it. She was also unhappy at QIC not addressing all her complaint points in their final response.

Our investigator upheld the complaint, concluding QIC hadn't acted entirely fairly. On the T&A costs, QIC confirmed the shower would be covered under the policy definition of a 'fixed water or heating installation'. QIC's claim notes indicated they would pay for the T&A costs – but QIC subsequently said they would only be paid should an insured peril under the policy be validated. As QIC declined Miss E's claim, they wouldn't reimburse the T&A costs. However, the investigator said the policy terms and conditions didn't say this, so she concluded QIC should reimburse Miss E for the T&A costs in line with the policy wording.

On the issue of the decline of Miss E's claim, the investigator thought the policy made it clear loss or damage caused by sealant or grouting failures was an exclusion. While Miss E had sought to address the problem several times, the exclusion would still apply. And if the issue was (as Miss E thought) about the fitting of the shower, this wouldn't be covered because of a separate exclusion for loss or damage caused by poor design or workmanship or use of faulty materials. So, the investigator concluded QIC had fairly declined the claim.

On QIC not responding to all her complaint points, the investigator said complaint handling wasn't a regulated activity that fell within the remit of this service. On the issue of poor communication and unprofessionalism by QIC during the claim process, while they hadn't addressed the issue in their final response, the investigator thought Miss E should have been told when she lodged her claim she'd have to arrange T&A. This would likely have prevented some delays.

To put things right, the investigator thought QIC should reimburse Miss £834 for the cost of T&A and pay £150 compensation for upset and inconvenience caused to Miss E.

Miss E accepted the investigator's conclusions, but QIC disagreed and asked that an ombudsman review the complaint. They said the policy wording on T&A didn't explicitly specify a claim must be validated for T&A costs to be reimbursed. However, the reference in the T&A policy wording about cover applying when finding the source of damage when caused by 'water escaping from any fixed water or heating installation, apparatus or pipe' implied the installation must be the direct cause of the leak. In this case it wasn't – the issue was the failure of the sealant. So, QIC maintained they had fairly declined to reimburse the T&A cost. And given they thought the claim for the damage was also fairly declined, they couldn't agree with the compensation award.

## 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 E.

There are four key issues in Miss E's complaint. First, QIC declining her claim for the damage caused by the leak. Second, QIC declining to cover the cost of T&A to identify the source of the leak. Third, what Miss E sees as delays and poor communication from QIC. And fourth, the way QIC handled her complaint.

Taking the fourth issue first, complaint handling by financial services businesses isn't a regulated activity that we are able to consider as part of our remit – unless the issue is relevant to other issues that do fall within our remit. Looking at the circumstances of this case, I don't think the issues raised by Miss E about the way QIC handled her complaint have a bearing on the other three issues she's raised. So, I've concluded this isn't an issue for me to consider as part of the complaint.

And while Miss E says QIC didn't consider all the issues she raised in her complaint – and the final response I've referred to above only considers the decline of her claim for damage caused by the leak – because Miss E also raised the other issues in her complaint to this service, then I've considered them in this decision.

Coming back to the other issues, the first one I've considered is the decline of her claim for the damage caused by the leak. Miss E says that while she's aware of the policy exclusion for sealant and grout failure, she had the shower unit resealed several times in the period up to the leak in February 2023 (or December 2022). QIC say the likely cause of the leak is sealant and grout failure (around the shower tray and the mixer bar) and as such isn't covered because of a policy exclusion.

In considering this issue I've first looked at the issue of the cause of the leak. In their final response, QIC refer to the views (firstly) of G, whose report includes the statement:

*"I have advised the customer that until we know exactly where the escape of water is coming from, we would be unable to provide cover on the claim. I suspect the escape of water is coming from failed ceiling and grouting over a long period of time..."*

QIC also refer (secondly) to the views of T. I've included the full extract from their report:

*"The likely causes...are twofold: firstly, a leak from the shower tray seal...[and] secondly, a leak from the seal around the LH shower mixer valve that has facilitated water ingress between the shower cubicle tiles and the backing plasterboard. Water then runs down behind the vertical timber batten in the stud wall behind the mixer valve and subsequently runs down the underlying floor joist to drip from the bedroom ceiling."*

*"It should be noted that the leak is only active when the shower is in use and water runs down the shower mixer wall...Also, there is a small leak along the base of glass enclosure close to the stud wall."*

Taking these two reports together, it seems likely the issue is to do with failed sealant or grouting around the shower (and mixer bar). QIC refer to the following policy exclusion: in the *Escape of Water* section:

*“f. loss or damage caused by sealant or grout failing to work properly or by an inappropriate sealant or grout being used.”*

I think the exclusion is clear and in conjunction with the likely causes of the leak referred to above, I think the exclusion would apply.

Miss E acknowledges that sealant failure is a policy exclusion, but points to the resealing carried out over the period before the leak for which she made her claim. However, while this may have been the case, it doesn't alter the fact of the likely cause of the leak being sealant or grout related, as the two reports above conclude. Miss E says the issue could be from the way the shower was fitted. But even if that were the case, the damage wouldn't be covered because of a separate policy exclusion for damage caused by poor workmanship.

I've also considered the general principle that 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 think QIC have done so in the specific circumstances of this case.

Taking all these points into account, I've concluded QIC acted fairly in declining the claim for damage caused by the leak.

I've then considered the second issue, QIC declining to cover the cost of T&A. She says she was told (when she contacted QIC) that she should engage her own contractor to identify the source of the leak, and that QIC would cover the cost. QIC say they wouldn't reimburse T&A costs where the claim for damage from the leak wasn't subsequently accepted. QIC say while the policy isn't specific on this, it's implied from the wording of the relevant section.

The relevant section of the policy covering T&A is as follows:

*“Escape of water or oil  
Trace and access (finding the problem)*

*We will also pay up to £10,000 per incident for reasonable and necessary costs to remove any part of the building to find the source of damage to your home caused by:*

- a. Water escaping from any fixed water or heating installation, apparatus or pipes; or*
- b. Oil escaping from any fixed oil-fired heating installation, apparatus or pipes.”*

QIC clarified that a shower would be included as a 'fixed water or heating installation'.

Miss E says she was told by QIC the policy covered T&A, but she'd have to arrange this through a plumber, then QIC would pay the T&A fees (of any invoice for the leak to be fixed). I've confirmed this was what QIC said in a message to her at the beginning of March 2023.

QIC maintain the policy doesn't cover T&A where the subsequent damage (and claim) aren't validated. They say (in disagreeing with our investigator's view) the policy wording on T&A doesn't explicitly specify a claim must be validated for T&A costs to be reimbursed. However, the reference in the T&A policy wording about cover applying when finding the source of damage when caused by 'water escaping from any fixed water or heating installation, apparatus or pipe' implies the installation must be the direct cause of the leak. In this case it wasn't – the issue was the failure of the sealant. So, QIC maintain they fairly declined to reimburse the T&A cost.

I've thought about this alongside what Miss E was told by QIC and the policy wording. But I don't agree with QIC's view. The policy isn't specific (as QIC acknowledge). Nor do I agree it's implicit in the above wording. And as one of the possible sources of the leak was the mixer bar, then I think that it would be included under the policy wording.

And because the wording isn't specific, I think this indicates the wording isn't clear and is therefore ambiguous. Given this, I've also taken account of the general legal principle that ambiguity in a contract (in this case the policy is a contract of insurance) should be interpreted in favour of the party that didn't draft it. Which is the policyholder (Miss E).

Based on these points, I've concluded QIC didn't act fairly in declining to reimburse Miss E for the cost of T&A.

The third issue in Miss E's complaint is about the communication from QIC. I've looked at the communication between Miss E and QIC. While she was advised to engage her own T&A contractor in March 2023, this wasn't made clear when she initially contacted QIC a couple of weeks earlier. I think there was also some confusion when Miss E contacted QIC at the end of March 2023 about the closure of her claim. Miss E also raises concerns about what G said to her and included in their report. As this depends on differing recollections, it's not possible for me to draw any clear conclusions.

There is also some difference about the role of G. Miss E questions their taking a view on the possible cause of the leak. But it's standard practice for surveyors to form a view on what the cause of damage may be from their inspection, as well as the nature and extent of the damage and estimates of the cost of repair. I don't think this is unreasonable.

Having reached these conclusions, I've considered what I think QIC should do to put things right. Concluding they haven't acted fairly in declining Miss E's T&A costs, they should reimburse her for the invoiced cost (£834) in line with the policy wording (including, if necessary, any policy excess that may apply). On the basis Miss E has paid the sum, then QIC also add interest, at a rate of 8% simple, from the date she paid the cost to the date QIC reimburses her.

I've also thought about the distress and inconvenience caused to Miss E from what happened, including the decline of her claim for the T&A costs and the communication issues noted above. I've also taken account of the impact Miss E has told us about when making her complaint. Taking all the circumstances of the case into account, I think £150 compensation for distress and inconvenience would be fair and reasonable.

### **My final decision**

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

- Reimburse Miss E for the invoiced cost of T&A (£834) in line with the policy wording (including, if necessary, any policy excess that may apply). On the basis Miss E has paid the sum, then QIC should also add interest, at a rate of 8% simple, from the date she paid the invoice to the date QIC reimburses her.
- Pay Miss E £150 in compensation for distress and inconvenience.

QIC Europe Ltd must pay the compensation within 28 days of the date on which we tell them Miss E 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 E to accept or reject my decision before 4 October 2023.

Paul King  
**Ombudsman**