

## **The complaint**

Mr C and Mrs C have complained that QIC Europe Ltd didn't admit legal expenses claim.

## **What happened**

The background to this matter is well known to the parties and not in dispute. In summary underground pipes and a retaining wall at Mr and Mrs C's property were damaged when fibre optic cables were being laid.

Mr and Mrs C sought to raise a claim under their home legal policy. QIC declined the claim relying on a policy exclusion. After employing their own solicitor, they were advised by a surveyor working for QIC that they could in fact have claimed under the policy. When QIC didn't uphold their complaint, they referred the matter here.

Our investigator recommended that the complaint be upheld – he didn't think QIC had shown the exclusion applied to the circumstances of their claim. As QIC didn't agree the matter has been passed to me to determine.

I apologise for the time taken to reach this final stage of our process.

## **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.

Having done so I agree with the conclusion reached by the investigator. I'll explain why.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the terms of the insurance contract to decide whether I think QIC handled Mr C and Mrs C claim fairly.

QIC said that a claim in respect of the works that caused damage to Mr and Mrs C's property was excluded. It relied on the following policy exclusion:

*What we don't cover*

*Professional fees arising from:*

*4. actual or planned construction, closure, adoption or repair of roads or bridges, or the actual or planned construction, demolition or adaptation of buildings, housing or other work*

QIC said the works related to construction, closure, adoption or repair of roads and the fact that the works were required because of the laying of utility services under or within the road didn't mean that the exclusion didn't apply. It said it was the construction, closure, adoption or repair of the road that was ultimately causative of the damage.

It is for QIC to show that the exclusion applies, and I'm not satisfied that it has done so here.

Laying of the optic fibre cables by a third party may have meant the closure of roads, although QIC has not shown this was the case. But in any event I find that it is stretching the intention of the exclusion in the circumstances of this claim in saying the damage caused to Mr and Mrs C's property was related to anything covered by the exclusion. It takes a very wide view of *planned construction* to include the laying of fibre optic cables. The usual dictionary definition of construction would be building something, especially bridges. And I don't find that QIC could reasonably say that 'other work' should include a type of work not in the same class as the other items specified.

There is nothing to suggest that the claim was otherwise excluded, and QIC hasn't argued that it was. I fully accept that QIC is entitled to decide which disputes it won't cover, but this needs to be made clear to consumers. And any exclusions in the policy must reflect that clarity. This wasn't the case here.

I'm satisfied that Mr and Mrs C were disappointed to find their policy didn't cover them and they incurred costs employing a solicitor. I can't say what would have happened had the claim been admitted under their policy, but I find that QIC treated them unreasonably and unfairly by declining to admit their claim in the first instance. So I'm upholding this complaint and, on receipt of the relevant documentation, QIC should repay Mr C any legal costs that they have paid and not been able to recover. I also find compensation is merited for the disappointment and inconvenience suffered, and I agree £250 is fair in the circumstances.

### **My final decision**

I require QIC Europe Ltd to:

- repay Mr C and Mrs C any legal expenses incurred in this matter that they haven't been able to recover
- pay Mr C and Mrs C £250 in compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 29 March 2024.

Lindsey Woloski  
**Ombudsman**