

The complaint

Mr and Mrs N are unhappy with the settlement provided by QIC Europe Limited after their home was damaged by an escape of water.

Mr and Mrs N held buildings and contents insurance in joint names, underwritten by QIC. For ease of reading, I'll refer only to Mrs N, and any reference to QIC includes actions taken by its agents.

What happened

In February 2023, Mrs N asked QIC to send someone to take a look when she found that the carpet in her understairs cupboard was wet. QIC said it didn't do that and she'd need to get her own contractor. Mrs N's contractor started rot rectification works, at which time they identified a leak from the stop tap. The contractor confirmed that the leak was hidden behind kitchen cabinets and had caused the damp and rot in the sub floor.

Mrs N claimed under her policy. After carrying out two inspections, QIC accepted the claim for damage caused by the leak and offered a cash settlement. However, it declined the claim for repairs to the sub floor caused by rot. QIC relied on the following policy exclusions where cover was not available for:

- poor workmanship (lack of ventilation)
- gradually occurring damage (rot)
- rot, regardless of cause

Mrs N was unhappy with QIC's cash settlement because it didn't cover the full cost of repairs. She also disputed QIC's reliance on the policy exclusions. Mrs N provided confirmation from her own contractor that the sub floor was adequately ventilated and that the damage was caused by the leak.

QIC didn't agree that the ventilation was adequate, and it maintained its position that the rot was excluded from cover regardless of cause.

Mrs N also complained that QIC hadn't paid her a disturbance allowance while she was without use of her kitchen. QIC said it paid a food allowance, so no further allowance was due under the policy.

Mrs N brought her complaint to us.

Our investigator upheld the complaint. He didn't think QIC had offered a fair settlement in the circumstances because Mrs N couldn't have known about the damage being caused to her sub floor. Further to this, he thought the evidence provided by Mrs N's contractor was more persuasive. Our investigator thought QIC should pay the full repair costs and pay interest on the reimbursement, but he didn't think a further disturbance allowance or compensation was warranted.

QIC didn't agree. It repeated its view that there was inadequate ventilation in the sub floor

which would've caused the rot to develop over time. Therefore, QIC didn't think it should pay any more than it had already offered. QIC asked for the complaint to be decided by an ombudsman.

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.

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Having done so, I've decided to uphold Mr and Mrs N's complaint. I'll explain by addressing the key issues under separate headings.

For me to agree that QIC fairly settled Mrs N's claim for only part of the repairs, I'd need to see that it has done so in line with the policy, and reasonably in all the circumstances. QIC paid the repair costs it would've incurred had it completed the work for the damage it believed was caused by the leak. QIC declined cover for the rot rectification work because it believed the damage was caused gradually, due to poor workmanship, and the policy didn't provide cover for rot, regardless of cause.

Poor workmanship

QIC said the sub floor rot was due to poor ventilation. It relied on its contractor's evidence which said there was just one air brick, and on another occasion no air bricks. QIC also relied on the fact that Mrs N's contractor had installed eight new air bricks which wouldn't have been necessary if the ventilation was already adequate.

The evidence shows that there was more ventilation than QIC's contractors reported. Photos taken by QIC's contractors show around eight air bricks which have a consistent appearance with the rest of the brickwork. Mrs N provided photos which show the new air bricks, which have a different appearance to the rest of the brickwork. So I'm satisfied that there was more ventilation than QIC initially reported.

QIC's surveyor said, *"If there were already 8 air bricks in situ, there would be no requirement to remove and replace them. The photos provided by the policy holder shows only 1 airbrick."*

This indicates to me that eight air bricks would've been sufficient. Just because Mrs N's contractor installed more, I don't agree that it means the ventilation was insufficient. Based on QIC's surveyor's assessment of eight air bricks being sufficient, the installation of more appears to be a 'belt and braces' approach.

Therefore, I don't find that QIC has provided sufficient evidence to fairly rely on the poor workmanship exclusion.

Gradual cause

QIC said the rot would've happened over a long period of time and the policy excludes cover for damage which happens gradually.

I've looked at the policy documents and I accept that QIC declined the claim in line with the policy exclusion.

That said, I can't say that QIC declined the claim fairly and reasonably in the circumstances. That's because the leak was behind the kitchen cupboards and running directly down to the sub floor. So, there'd be no reason for her to know that the damage was happening. When Mrs N first noted evidence of damage – the wet understairs carpet – she reported the matter to QIC.

When considering gradual causes, our approach is to look at whether an insured peril caused the damage and, if so, whether the policyholder ought reasonably to have been aware of the damage happening. In the circumstances reported, I'm satisfied that the leak is an insured peril, but I can't say Mrs N ought to have been aware of the damage happening due to the location of the leak.

Therefore, I don't find that QIC fairly or reasonably relied on the gradual cause exclusion.

Rot

QIC declined the claim for the sub floor rot because the policy excludes cover for rot regardless of cause.

The policy documents confirm this, so I accept that QIC declined this element of the claim in line with the policy exclusion.

However, our approach to the blanket exclusion of cover for rot mirrors our approach to gradual causes. Providing an insured peril caused the rot, then QIC would need to consider all the circumstances.

I've already concluded that the rot was more likely than not caused by the leak. The leak is an insured peril. The rot would've happened gradually, but there's no reason Mrs N ought to have known sooner than she did.

Therefore, I don't find that QIC fairly or reasonably relied on the policy exclusion for rot regardless of cause.

Settlement

QIC offered Mrs N a settlement for the element of the claim it accepted based on its own cost to repair. QIC said Mrs N had the work done, so it was entitled to offer a reduced settlement. The policy allows QIC to do this where it can offer a repair using its contractors.

I accept that where a policyholder chooses to have the repairs done, QIC would be entitled to pay only what it would've done using its own contractors. However, in this case, QIC advised Mrs N to employ her own contractor, which she did. The leak was only identified during that work, and QIC declined cover for the remaining element of the claim. Therefore, I can't see that QIC offered to do the work or that at any point Mrs N might reasonably have believed QIC was offering to do the work.

So, in the circumstances, I don't think it was fair or reasonable for QIC to settle at its

discounted rate.

I've seen the estimates Mrs N's contractor provided for the full works, but it's not clear whether there are any duplicate elements in those estimates, and I haven't seen any evidence of payment. Based on my findings that QIC unfairly declined parts of Mrs N's claim, I'm satisfied that QIC should reimburse her for the full cost of necessary repairs, including the rot rectification work, less the policy excess. As I've decided that the additional air bricks weren't necessary, I can't fairly ask QIC to pay for those. And it's reasonable for QIC to see evidence of a detailed invoice and payment before reimbursing Mrs N for the repair costs.

Interest

Mrs N paid for the repairs, so she lost the benefit of those funds during the dispute. As I've decided it didn't handle her claim fairly or reasonably, I consider it reasonable for QIC to pay 8% per annum simple interest from the date Mrs N paid the invoices to the date it issues payment. I'd expect Mrs N to provide, promptly, any additional information QIC requests in order to make its payment.

Disturbance allowance

Mrs N said QIC offered a disturbance allowance, but it hasn't paid it. QIC said its food allowance payment was the disturbance allowance.

The disturbance allowance, here, is intended to cover additional costs beyond those ordinarily incurred due to loss of cooking facilities. So, without their kitchen, Mr and Mrs N may have incurred additional costs for, say, ready meals, takeaways, etc. QIC paid a food allowance which was in line with what I'd usually expect.

The actual disturbance of being unable to use their kitchen is not something I'd expect QIC to pay for. That's because QIC wasn't responsible for the loss of facilities. Instead, it was a loss caused by the escape of water. So, I see no reason to ask QIC to pay anything more in respect of a disturbance allowance.

However, if Mrs N incurred any further, additional costs which she thinks are covered under the policy, she'd need to provide evidence directly to QIC for consideration.

Putting things right

Overall, while QIC declined elements of the claim in line with the policy wording, I find that it wasn't fair or reasonable in the circumstances. So, to put matters right, QIC should settle the claim at Mrs N's costs, less any betterment and policy excess, and pay interest on the settlement.

My final decision

For the reasons I've given, my final decision is that QIC Europe Limited must:

- settle Mr and Mrs N's claim for the full repair costs, excluding the cost of the additional air bricks, and
- pay 8% per annum simple interest* on the reimbursement from the date Mr and Mrs N paid the invoice to the date QIC pays the claim costs.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to accept or reject my decision before 24 November 2023.

Debra Vaughan
Ombudsman