

The complaint

Mr M, on behalf of D – a company – is complaining that QIC Europe Ltd ('QIC') has declined a claim D made on its commercial property insurance policy.

QIC has used a number of agents to act on its behalf (including a loss adjustor). But for ease of reference, I shall refer to anything the agents have said as being said by QIC. The same applies to any agents appointed to act on D's behalf.

What happened

In July 2019 D contacted QIC to say some of its farm buildings had been damaged by a storm in March 2019. QIC arranged for a loss adjustor to inspect the property and it was reported that there was damage to the farm buildings' sheds and cattle house. He said there were roofs at the premises which have been blown off, walls have cracked and the internal feeding system for the livestock has been damaged.

Following this QIC appointed a surveyor to inspect the damage. However, the surveyor concluded:

"It is our opinion, based on the defects and our general observations, that the building are lacking general maintenance and have a number of associated structural defects. We are also of the opinion the buildings do not follow robust design principles such as bracing to resist lateral loads along with under designed elements."

In particular he said there was evidence to show potential timber rot and wood boring insects, general corrosion to nails, historic splits in the timber trusses, rafters and side nails. He also said there was evidence of general surface corrosion to the steel corrugated cladding, corrosion around the wall cladding fixing points with daylight visible. He provided photographs to support this.

QIC then wrote to D to say it wasn't covering the claim as it said there wasn't any cover for storm damage if it occurs to agricultural buildings which are not maintained and in a good state of repair. And it believed the surveyor report didn't support that either damaged building could be described as being in a good state of repair. It acknowledged D didn't agree with this and invited it to provide a report of its own if it didn't agree with the surveyor's report.

D strongly disagreed with the surveyor's comments. And it has queried his ability to understand the makeup of a Scottish farm building – making particular reference to the surveyor's age and querying what his qualifications were. D said most agricultural buildings in Scotland would be in similar condition and said an insurer had settled a similar claim on another building which D considered to be in a worst condition to the buildings in dispute in this claim.

Our Investigator didn't uphold this complaint as he thought it was fair for QIC to decline the claim given the surveyor's comments.

D didn't agree with the Investigator and provided a number of reports from builders which it said showed that the buildings were in a good state of repair. The Investigator said that this didn't change his opinion. D still strongly disagreed the Investigator's opinion was unfair and provided a number of detailed responses to his assessment. In summary, it raised the following:

- It maintained QIC's surveyor didn't have the experience and qualifications to adequately appraise the conditions of its buildings. It also highlighted he didn't inspect the entirety of the building and said many of his conclusions were based upon assumptions. However, it said the builders who have provided reports on its behalf are experienced builders with extensive knowledge of Scottish farm buildings – all of whom concluded the buildings had been well maintained.
- D highlighted Government inspectors had passed the buildings to be stock worthy and safe. So it believed the Investigator's findings were contrary to Government inspectors.
- It also queried whether the Investigator had sufficient qualifications to understand the buildings himself.
- It maintained the buildings were standing in good condition before the storm. It noted QIC had said there were winds of around 63mph, but it believed there were stronger gusts exceeding this speed. And it said significant gusts of wind can be more likely to cause damage as opposed to sustained winds of a lower speed.
- D said the building had withstood various other storms – often more severe storms in the past and had been maintained following them.
- D believed the surveyor contradicted himself in saying D hadn't maintained the buildings, but also says there was evidence the cattle house had been re-sheeted.
- D also believed the surveyor had photographed the worst aspects of the building, but had ignored all the improvements done to the buildings. And it said most of the report states the obvious issues arising from a storm – cracked walls, leaking gutters etc.
- D said it was wrong for the surveyor to set out that the buildings weren't built in line with expected guidelines. It said the buildings had been standing for a very long time and believes the surveyor should have assessed the building against the standards at the time. And it queried how the buildings could have stood for over 60 years if they'd been poorly built.
- It said QIC's loss adjustor and other agents were all saying the claim would be settled as they believed the storm caused the damage and referred to the fact its business interruption cover would come into effect.
- D said its loss assessor had asked for the surveyor's report numerous times, but QIC had refused to provide it, which D thought was unfair.

As D didn't agree with the Investigator, the complaint's been passed to me to decide.

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've decided to not uphold this complaint and I'll now explain why.

I should first set out that I acknowledge I've summarised D's complaint in a lot less detail than Mr M – on D's behalf – has presented it. Mr M has raised a number of reasons about why he's unhappy with the way QIC has handled this matter. I've not commented on each and every point all parties have raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this, but it simply reflects the informal nature of this service. I assure D and QIC, however, that I have read and considered everything all parties have provided.

The terms of the insurance policy covers D for loss or damage arising from a storm. However, they also set out that QIC won't cover the loss or damage it doesn't believe the agricultural buildings were maintained in a good state of repair.

In thinking about this, I've asked myself three questions:

1. Were there storm conditions as defined under the terms of the insurance policy?
2. Is the damage claimed for consistent with damage a storm typically causes?
3. Were the storm conditions the main cause of the damage?

There were wind speed of in excess of 63 mph at the time the damage occurred. So I'm satisfied there was a storm and the damage in question isn't inconsistent with damage a storm typically causes. So I'm satisfied the answer to questions (1) and (2) is "yes". This also isn't in dispute. The issue is whether the storm was the main cause of the damage.

All parties have provided extensive submissions surrounding this matter and I've carefully read and considered everything all parties have provided. I do note everything contained within the reports D has provided and I have considered its extensive comments about why it disagrees with what the surveyor said. However I'm more persuaded by the surveyor report provided by QIC. This report was compiled at the time of the claim, is based on an inspection of the buildings and is supported by photographs. I recognise some of the reports D has provided are from builders who set out they'd seen the buildings at the time, but they've not provided any photographs of the building.

I also cannot ignore that the reports D has provided were compiled after the Investigator's opinion and over four years after the event. In May 2020 QIC asked D to provide any expert reports it wished to provide to counter the opinion of the surveyor and it would reconsider the claim, but D didn't do so.

D has queried the qualifications of QIC's surveyor, but I haven't seen anything to support that he wasn't suitably qualified to inspect the property in a capacity of a surveyor. And, as I said above, his report is supported by photographs. So I'm satisfied it was fair for QIC to take this into consideration.

So I've now thought about it was fair for QIC to say the claim wasn't covered given the surveyor's comments. I should first set out that I agree with D that the comments the surveyor has made regarding how the buildings were built are immaterial to whether QIC should cover the claim or not. The building had been in situ for over 60 years, so I'm not persuaded there can reasonably be said there was anything materially unreasonable regarding the way it was built. But, more importantly, I don't think there's anything in the terms of the policy that excludes cover for agricultural buildings in the event of a storm due to the way the buildings were built.

So, the fundamental issue for me to decide is whether I think QIC has given me enough to show that the fundamental cause of the damage to the building is a failure to maintain the buildings in a good state of repair. Ultimately, I'm persuaded that the photographs do support the surveyor's conclusion of areas of inadequate maintenance – i.e. rotten columns, some timber in a poor condition (e.g. from wood boring insects) and rust/corrosion. And I think it's fair for QIC to consider this to be evidence of the property not being maintained in a good condition.

D has set out that the surveyor only photographed the areas of concern, but didn't photograph any of the areas where maintenance had taken place. And it highlighted the surveyor said there was evidence of some maintenance. But, as I said, QIC gave D the

opportunity to submit evidence to counter the surveyor's report. However, other than querying the surveyor's age and credentials, I don't think it provided anything to demonstrate the report wasn't a fair depiction of the buildings' condition until around four years later.

Ultimately, while I recognise this will disappoint D, I can't fairly conclude it was unreasonable for QIC to say the damage wasn't covered under the terms of the insurance policy.

My final decision

For the reasons I've set out above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 18 November 2024.

Guy Mitchell

Ombudsman