



July 2018

Defence class cover

Defence

What is it?

Core Protection and Indemnity (P&I) cover insures a shipowner, operator or charterer's liabilities owed to third parties for (amongst other risks): injury, illness and death of crew, passengers and/or other persons, cargo loss or damage, pollution, collision and wreck removal; as well as the legal costs of defending those claims.

By comparison, Defence class cover (also known as FD&D) is insurance for the legal costs and other expenses incurred whilst pursuing and resisting commercial claims, relating to entered ships, where the sum in dispute is not otherwise insured. The risks covered include disputes relating to: freight, hire, demurrage, detention, loss of use, breach of charterparty, contracts of affreightment and the supply of bunkers. The club also supports members in disputes with agents, stevedores and underwriters, and in relation to newbuildings.

What claims are covered?

Defence cover is, by its very nature, discretionary in that the club must be satisfied as to the merits and quantum of the claim in question and the likelihood of achieving a successful outcome, if it is to lend support. Essentially, the club wants to ensure that the actions proposed are appropriate, proportionate and financially viable.

Although every case is different and needs to be analysed and treated as such, there are certain questions and issues that arise each time. The most important are:

- If the member is the claimant, does the defendant have assets and could any judgment be enforced?
- If the member is the defendant, can we obtain security for costs?
- In all cases, would mediation be helpful?

Our philosophy is simple: to support the reasonable legal costs of a member who has a valid claim, or who is facing an invalid claim. The club also believes that commercial settlements that maintain the working relationship between the parties are usually preferable to court judgments, which can often destroy a relationship. If, however, there is no option other than to litigate or arbitrate then (so long as the merits are favourable and the steps to be taken are proportionate to the quantum and costs involved) the club may lend support.

This support can be given in a number of ways. At the outset, it will take the form of a review of the documentation by one of our in-house lawyers. The club has significant in-house legal expertise in London, Piraeus, New York, Singapore and Hong Kong. Our qualified in-house lawyers work hard to ensure that members' legal problems are dealt with as quickly, efficiently and commercially as possible. If the case involves a foreign law element, the claims handler can also utilise the Charles Taylor global office network and obtain relevant advice at short notice.



Sam Kendall-Marsden
Director of Claims
T: +44 20 3320 8876
E: sam.kendall-marsden@ctplc.com



LeRoy Lambert
General Counsel
T: +1 646 753 9020
E: leroy.lambert@ctplc.com



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Once this initial review has taken place, the club will be in a position to comment on the merits of the claim, confirm the cover position and discuss future strategy with the member. If the decision is that the club should continue to handle the claim in-house, we would then continue negotiations with the other side. If, on the other hand, the decision is that external lawyers need to be instructed, the club will discuss with the member which would be the most appropriate firm/individual to handle the case and will liaise with that person very closely as the matter progresses. The club has Service Level Agreements and bespoke billing arrangements (including discounted hourly rates) with a number of approved firms worldwide. Once the lawyer has provided an initial opinion on the merits, the club would then determine, in conjunction with the member, the most appropriate future strategy.

This approach means that the club can move quickly on cover issues and confirm on-going support without delay. Members, therefore, will know where they stand right from the start and can plan the handling of the claim, safe in the knowledge that they will have the expertise of the club at their disposal, although of course we keep the conduct of the case under constant review to ensure that any actions proposed are appropriate and proportionate.

Each year the club recovers millions of dollars on behalf of its members, through the Defence cover it provides, and successfully defends its members against a wide range of unmeritorious claims.

What limits are available?

As described above, defence cover is, by its nature, discretionary in that the club must be satisfied as to the merits and quantum of the case, and that the expenditure will have a beneficial result. The Defence class rules also include a limit of \$5 million by any one claim, dispute or proceeding, unless the managers otherwise determine.

How do I get cover?

You should approach the club through your normal channels. Once Defence cover has been purchased, claims will be handled by qualified solicitors or barristers, many of whom have private practice experience, who work within the usual club team that looks after your P&I claims.

1,400+

Over 1,400 owned ships currently entered with The Standard Club for Defence class cover.

\$13m+

Over \$13m received in premium, for Defence class business in the 2016/2017 policy year.

50+

The Standard Club has over 50 qualified lawyers working in-house on Defence class claims, spread across London, Piraeus, New York, Singapore and Hong Kong.

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Charles Taylor & Co. Limited
The Minster Building, 21 Mincing Lane,
London EC3R 7AG
Registered in England No. 02561548

Telephone: +44 20 3320 8888
Emergency mobile: +44 7932 113573
Email: pandi.london@ctplc.com
Website: www.standard-club.com

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