

WEST.



DEFENCE

Introduction

The West of England's Defence Cover insures legal costs and other expenses in pursuing or defending claims in respect of entered vessels across a wide range of disputes. It also provides a commercially focussed in-house legal advisory service to owner and charterer Members.

It is available as a standalone product or can be combined with other insurance products offered by the Club in order to create an insurance package tailored to a Member's particular operational needs.

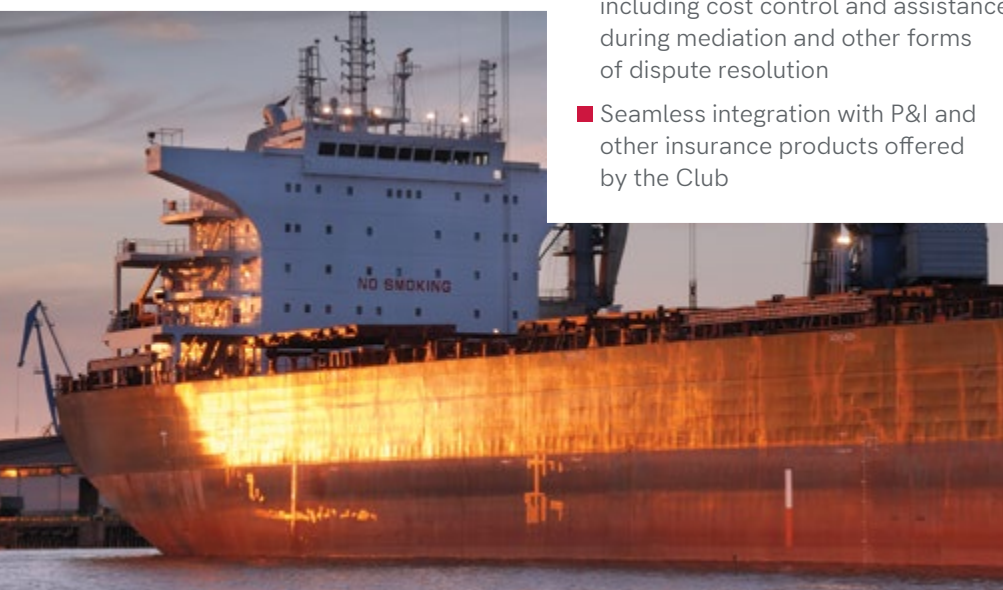
Key features

- Cover for legal, expert, arbitration, mediation and associated costs in respect of a wide range of disputes typically encountered by vessel operators
- Access to an in-house expert legal team for advice and assistance at no additional cost
- High limits of cover for all claims – including newbuilding disputes - provided as standard
- No minimum claim value
- Expert advice, guidance and case management during disputes, including cost control and assistance during mediation and other forms of dispute resolution
- Seamless integration with P&I and other insurance products offered by the Club

What disputes are covered?

Defence cover is very broad and, where discretionary support is agreed for the claim, includes disputes relating to:

- Time and voyage charterparties and contracts of affreightment, for example hire, freight, demurrage and deadfreight
- Damage to the vessel where losses are not covered by a hull and machinery or loss of hire policy
- Contracts to buy or sell or build the vessel
- Cancellation, termination or non-performance of a charter party or other contract
- The quality of bunkers and other goods provided to the vessel
- Agents, brokers, ship managers, stevedores, terminals, mortgagees or others supplying services to the entered vessel
- Other insurance providers
- Governments and other authorities about the vessel, including representation at official investigations or enquiries into the operation and trading of the vessel
- Any other contract relating to the vessel



Our service approach

Cases are handled by a dedicated team of legally qualified Defence specialists across our offices in London, Piraeus, Hong Kong, Singapore and New York. Assistance and advice are provided to Members right from the start of any potential dispute and most matters are resolved with the Club's help and without the need to appoint external lawyers.

But where it becomes clear that a claim or dispute cannot be resolved without incurring legal costs, the Defence team makes full use of a wide variety of external solicitors, barristers and experts as well as the Club's global correspondent network work. There is wide range of external suppliers who may be instructed and the Defence team work closely with the Member to choose the right resources tailored to the needs of each individual claim.



Our Defence team comprises of qualified lawyers who are used to handling claims in a wide variety of jurisdictions around the world. They have substantial experience of many kinds of disputes routinely encountered by our Members and are able to offer immediate, practical advice on dispute resolution. This support helps reduce the amount of management time and resource shipowners and charterers need to devote to managing claims and disputes effectively.

Defence cover is discretionary and while the extent to which support is given in any case is ultimately decided by the Club, we regularly review the strategy and progress of every case with the Member. All disputes are different, but we have one simple objective - to work with and support a Member in resolving any dispute at a price and on terms which reflect the nature and strength of their case and to pay the legal and associated costs necessary to achieve that result.

Scope of cover

Legal and other costs covered

- Fees of lawyers, experts, court and arbitrators
- Costs of the other party to the dispute if a Member loses a case
- Steps to obtain security
- Enforcement of the claim

Levels of cover

- Cover for legal and associated costs up to US\$10m per case including for new building disputes
- Higher limits of up to US\$15m in the aggregate can be arranged if required

Deductibles

- US\$5,000
- 25% thereafter but capped at US\$50,000 (new building disputes capped at US\$100,000)

The cover in action

Here are some practical examples of cases where the Club has assisted its Defence Members:

Disputes under a ship sale/ purchase contract

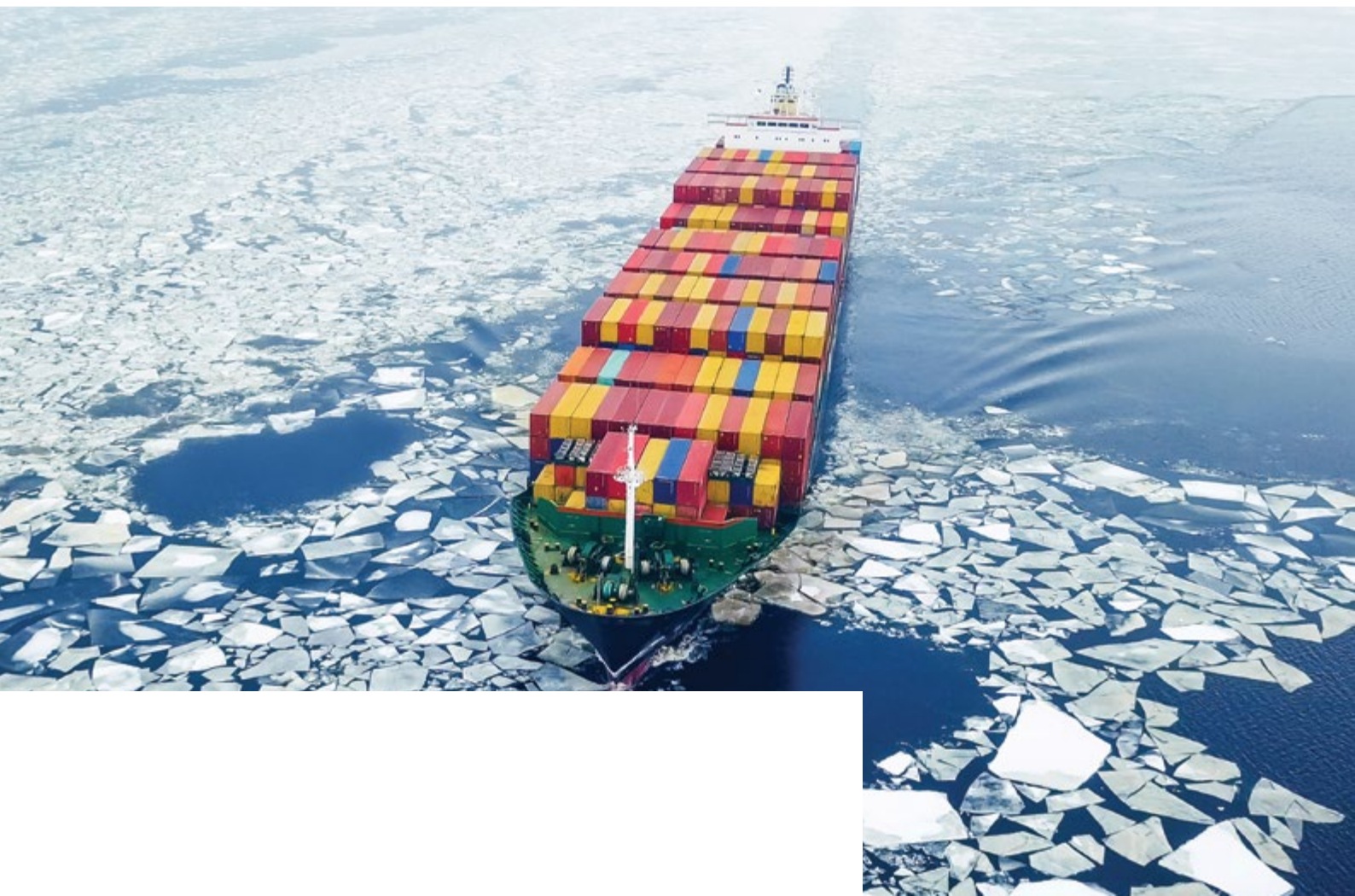
When a Member, as the purchaser of a vessel under a Norwegian Saleform contract, did not complete the purchase, the seller claimed that the Member was liable to pay the full deposit even though the seller sold the vessel at near the sale price to another party and so had suffered little or no loss. The Club supported the Members in the arbitration (which found in the Member's favour) and in defeating the seller's appeal before the High Court and the Court of Appeal.

Disputes with shipbuilding yards

The Member had contracted with a Chinese shipbuilding yard to build several vessels. The yard failed to deliver the vessels by the agreed dates and then went into liquidation. The Member claimed a refund of the instalment payments that it had made, as well as significant supplies to the vessels that the Member had placed on board. The Club assisted the Member in bringing claims in London arbitration against the yard and the refund guarantor and in coordinating settlement for close to the Member's full claimed amount.

Defaulting charterers

Following a number of major charterers going into court-approved financial rehabilitation, the Club has assisted several Members in proving their claims in the rehabilitation. This resulted in Members making a recovery of at least part of the debts due to them or in some cases being able successfully to sell their claims to third party purchasers in order to obtain a quicker recovery. The Club was also able to agree favourable fee rates with one of the law firms engaged.





Bareboat charter dispute

One of the Club's Members had a substantial claim for bunkers on board on redelivery under a bareboat charter. The Club assisted the Member in arresting another of the owner's vessels which helped in obtaining a full and prompt recovery for the Member. Subsequent disputes arose in respect of alleged deficiencies in the vessel on redelivery. The issues in dispute were technically complex, but with the input of legal and expert assistance, the matter was settled without needing an arbitration hearing which would have involved substantial legal costs and a considerable amount of the Member's management time.

Early redelivery

An owner Member was faced with a charterer who sought to redeliver the vessel early after the October 2008 global financial crash because the charterer was unable to find profitable employment for the vessel. The Club assisted in obtaining an urgent arbitration award and thereafter supported the Member in successfully appealing to the English High Court. With the Club's help the Member also obtained payment in full of the outstanding hire due up until the time the vessel was redelivered.

Crane damage caused by time charterers/stevedores

Whilst under time charter, the vessel's crane suffered significant damage due to overloading by the charterers' stevedores. The charterers also put the vessel off hire, claiming that the breakdown was due to deficiencies in the crane and/or lack of maintenance. The Club supported the Member in settling other disputes that had arisen under the charter party and in funding a three day London arbitration hearing in respect of the crane damage claim, where the Member successfully claimed damages from the charterers for the crane's repair costs and the sums deducted from hire. The Club also assisted in successfully enforcing the award.

Claim against a Member's war risks insurers

The Member's vessel was wrongfully arrested in the Suez Canal by the Egyptian Government which claimed that it was a sister vessel of a vessel which had grounded and caused pollution in Egyptian waters almost 20 years previously and that the Member's vessel was liable for the judgment debt of this alleged sister vessel. Since the vessel remained under arrest for more than six months, the Member's War Risks insurers were obliged to treat the vessel as a constructive total loss and pay the Member the insured value of the vessel. However, the War Risks insurers denied cover on various grounds but particularly that the arrest proceedings were an "ordinary judicial process" and the Member had breached its obligation to sue and labour. The Club supported the Member in a successful five day trial in the English High Court and subsequent settlement of the case.

Prominent published English High Court cases that the Club has supported under its Defence cover include:

GRIFFON [2013] 2 LLR 50
 AQUAFAITH [2012] LLR 41
 SILVA [2011] LLR 470
 ABQAIQ [2011] 1 LLR 18

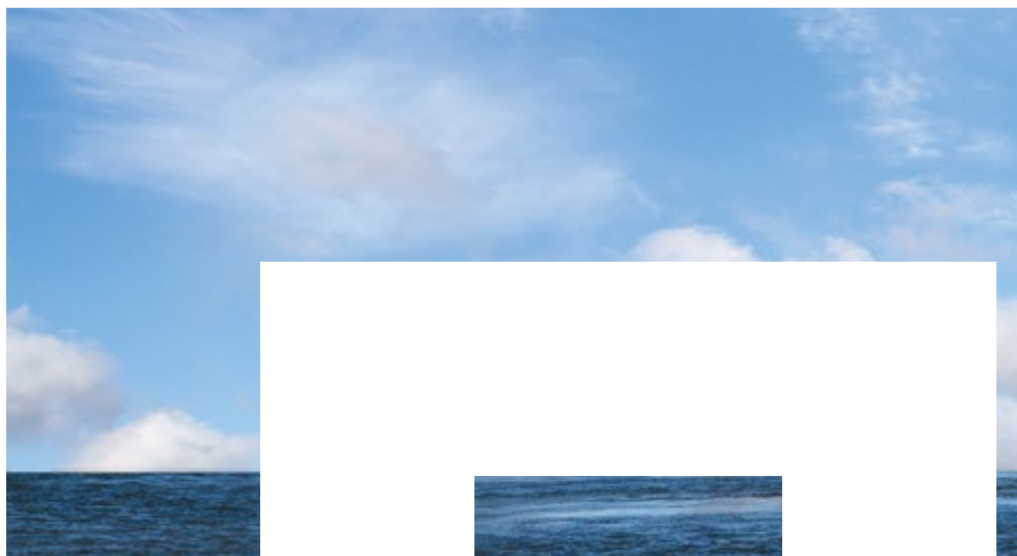
Why West of England?

The West of England is a leading insurance provider to the global shipping industry, combining financial strength with outstanding service to help its Members meet the continually evolving liability environment in which shipowners, operators and charterers operate.

We also safeguard and promote our Members' interests in many other areas of their business. We believe that protection for our Members is as important as the indemnity insurance we offer. To provide both we are responsive to our Members' needs and proactive in looking after their interests, enabling them to more easily achieve their business goals.

Our strengths

- An international Club with a global membership
- A worldwide office network providing dedicated underwriting, claims and loss prevention service to our Members
- Rated A- by Standard & Poor's
- A Member of the International Group of P&I Clubs



Global Coverage

Providing localised services to the world-wide membership.



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Full contact details for the relevant underwriting teams can be found on the corresponding product page of our website at www.westpandi.com

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