

Defence Cover

The West of England Defence Cover

Legal costs cover with limit of US\$10m

Additional cover available up to US\$15m

No sub-limit for newbuilding disputes

Backed by outstanding service

The West of England's Defence cover is a two part insurance and service product. It insures legal and other costs in pursuing or defending claims in respect of entered vessels across a wide range of potential disputes typically encountered by vessel operators. It also provides a commercially focussed legal advisory service to owner and charterer Members.

What is FD&D?

It is the historical name for Defence cover, when it was known as "Freight Demurrage and Defence". The old name is still familiar within the shipping community and we retain it in the title of our cover, even though today the cover is much wider in scope than the old name suggests.

What disputes and claims are covered?

- Disputes under time and voyage charterparties and contracts of affreightment
- Claims for damage to the vessel (where losses are not covered by a hull and machinery or loss of hire policy), whether against charterers, cargo owners, stevedores, terminal operators or other third parties
- Disputes under contracts to buy or sell or build the vessel
- Disputes about the quality of bunkers and other goods provided to the vessel
- Disputes with agents, brokers, ship managers, stevedores, terminals, mortgagees or others supplying services to the vessel
- Disputes with the vessel's marine insurers
- Disputes with the vessel's crew

- Disputes with governments and other authorities about the vessel
- Representation at official investigations or enquiries into the operation and trading of the vessel
- Disputes under any contract relating to the vessel

Are any other disputes covered?

Yes. The cover includes any other dispute relating to the vessel which the Club considers should fall within the scope of cover.

What legal and other costs are covered?

Lawyers', experts', court and arbitrators' fees and the fees of the Club's local correspondents incurred in any jurisdiction are covered.

If a Member loses a case and is liable to pay all or part of the costs of any other party to the dispute, that liability is also covered.

Are all the costs covered?

Like other marine insurance the cover is subject to a deductible, in this case of US\$5,000 and 25% thereafter, with the deductible capped at US\$50,000, except in the case of new building disputes where the maximum deductible is capped at US\$100,000.

The extent to which support is given is ultimately decided by the Club on a case by case basis and we regularly review with the Member the strategy and progress of each case. For significant cases that review is carried out by the senior management of the Club's Defence team and for the largest

cases progress and strategy and the extent of Club support are considered at the highest level by a specially designated committee of the Club's board.

How much cover can I buy?

Members buy cover for legal and other costs up to US\$10m per case including for new building disputes but higher limits of up to US\$15m in the aggregate can be arranged on appropriate terms if required.

Can I get advice from the Club to prevent a possible dispute arising?

Yes. The cover includes an advisory service which is both legal and commercially practical and designed to help avoid disputes arising or resolve them quickly without litigation.

The Club also supports alternative methods of dispute resolution such as mediation.

How are cases handled?

Cases are handled by our legally qualified Defence specialists in our offices in London, Greece and Hong Kong working closely where required with lawyers and other experts chosen by the Club or the Members and making full use as necessary of the Club's global correspondent network and preferred legal suppliers.

All disputes are different, but the Club's Defence cover has a single and simple claims handling objective - to work with and support a Member in resolving any dispute at a price and on terms which reflect the strength of his case and to pay the legal and associated costs necessary to achieve that result.

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Does the club have practical examples of the types of cases covered?

Disputes under a ship sale/purchase contract

A dispute under a Norwegian Saleform contract, where the Member did not complete the purchase and the seller claimed the full deposit even though the vessel had been sold at near the sale price to another party and so the seller had suffered

no loss. The Club supported the Members in the arbitration and before the High Court and the Court of Appeal.

Disputes with shipbuilding yards

The Member had contracted with the yard to build several vessels but these were not delivered by the agreed date before the yard went into liquidation. The Club assisted the Member in bringing claims in London arbitration for a refund of the instalment payments as well as various supplies provided to the yard for the vessels and in coordinating a favourable settlement.

Defaulting charterers

Following a number of charterers going into court-approved financial rehabilitation, the Club assisted several Members in proving their claims in the rehabilitation so as to enable Members to obtain at least a partial recovery of the debts due to them.

Bareboat charter dispute

The Club assisted the Member in arresting another of the owner's vessels in order to obtain a full and prompt recovery of a substantial claim for bunkers on board on redelivery under a bareboat charter

Early redelivery

The Club assisted in obtaining an urgent arbitration award regarding the early redelivery of the vessel to Members after the October 2008 global financial crash. Thereafter the Club supported the Member in successfully appealing to the English High Court and in obtaining 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 Club supported the Member 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.

Published English High Court cases that the Club has supported under its Defence cover:

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