

P&I Guidelines

Practical Notes for Ships' Personnel





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Introduction

The West of England is a leading P&I Club. It provides insurance cover for shipowners' and charterers' legal liabilities to third parties.

The Club exists solely for the benefit of its Members and provides protection and assistance to safeguard their interests. This service is supported by a network of correspondents, lawyers and technical experts around the world.

In the event of an accident or incident that may result in claims, a favourable outcome often depends on the availability of accurate information and good records. The purpose of this booklet is to remind you of what the Club may need in order to best protect you and the Company operating the vessel.

If an accident or incident occurs and urgent assistance is required, you can obtain help from one of the Club's local correspondents. If you are unable to reach the correspondent, you may contact the Club direct.

Details of all correspondents can be found in the Club's "List of Commercial & Legal Correspondents" which, together with the Club's Rule Book, may be downloaded at www.westpandi.com.

These documents and the website also contain the contact details of the Club's Claims Teams and individual members of staff at the Club's offices in London, Piraeus and Hong Kong. In addition, a duty officer is always available by telephone on +44 (0)7795 116602.

The Importance of Evidence

Accidents or incidents on board or involving a vessel or its officers and crew may often lead to claims being made against the vessel or the Company. The successful handling of claims depends on evidence about the accident or incident. Collecting and preserving that evidence is an important responsibility for the vessel's officers and crew.

The checklists appearing in this summary highlight what evidence will need to be collected and kept in various situations. As far as practicable, the evidence listed should be gathered and, in the first instance, submitted to the Company's office or the Club in accordance with Company instructions. Since some claims may take years to resolve, it is possible that additional evidence may be required later on. In the intervening period there may be considerable changes to shipboard personnel, many of whom will be unfamiliar with the case itself. Therefore it is essential that technical and operational records are carefully maintained and preserved.

Examples of records which should be retained as a matter of routine are set out below.

Log books:

Official, deck, engine, cargo work, cargo record, oil record, movement (bell book), compass error, night order, radio, medical, hours of work/rest, garbage record.

Rough/Scrap log books:

These may be of particular importance in defending a claim and should always be retained.

Technical records:

Inspections, surveys, repairs and maintenance of hull, main engine, auxiliaries, deck machinery, cargo spaces, cargo gear, safety equipment, coatings, planned maintenance records, class survey status reports.

Operational records:

Stability and stress calculations, draught surveys, stowage, securings/lashings, ballasting, bunkering, soundings, cargo temperatures, ventilation, hold cleaning, cargo hold bilge pumping records, tank washing, passage plans, weather, safety meetings, voyage instructions, routing advice, messages, receipts for the disposal of sludge ashore.

Voyage Data Recorder & ECDIS information:

Voyage Data Recorder (VDR), Simplified Voyage Data Recorder (S-VDR), Electronic Chart Display and Information System (ECDIS) records.

In the event of an incident where VDR and ECDIS data may be relevant (e.g. collision, grounding, damage to property), it is very important that this information is saved in good time to avoid it being overwritten. It should then be backed-up promptly.

Print outs:

Echo sounders, course recorder, GPS, Navtex, weather fax, EGC messages, engine telegraph data logger, all dated and timed.

The Importance of Evidence (continued)

Official reports:

Company, SMS and legally required reports of accidents and incidents.

Notes of Protest /Letters of Protest:

The value of these vary world-wide, but it is always better to note protest than not, reserving the right to extend or note further protest. Notes of Protest may need to be notarised in some jurisdictions and the Club correspondent will be able to advise the Master on local requirements should this be the case. If a Letter of Protest is received which requires acknowledgement, the wording “*received without prejudice and without admission of liability*” or “*received without prejudice and for receipt only*” should be used.

Witnesses:

Details, including how and where they can be contacted after leaving the vessel, should be taken of every person who witnessed the accident or incident, including the persons involved or affected. Disciplinary action should not be taken against a witness without checking with the Company first, nor should any reward be provided to a witness in return for their evidence without prior authorisation from the Company or Club.

Statements:

These may be notes made at the time of the incident, or formal statements taken down by, for example, the Club’s appointed lawyer. Always seek advice from the local Club correspondent first.

Statements should never be made to third party claimants or their representatives without obtaining permission from the Company first.

Electronic evidence:

Every vessel should keep a digital camera or similar device readily available and fully charged at all times. Any photos taken should be the highest resolution possible. Video recordings may also be helpful. As well as taking photographs of damage and anything else of relevance, a camera may also be used to record evidence of good practice (e.g. properly stowed cargo, correctly rigged gangway/accommodation ladder) as such photographs may assist the Club in defending claims. If the vessel is fitted with Closed Circuit Television (CCTV) cameras, footage which may assist in determining the circumstances of the case should be retained and backed-up. Equally, data from electronic key passes and (in the case of passenger vessels) payment systems may prove to be useful in determining the movement of crewmembers or passengers prior to an incident and should be saved for later scrutiny.

Additional evidence:

Faulty or damaged equipment, defective parts and samples of damaged or contaminated cargo should be retained, suitably marked and stored to protect against degradation, corrosion or loss.

Where practicable, the necessary records should be sent to the Company electronically by email. However, if the file sizes are too large they should be transferred to disk or memory stick and forwarded to the Company at the earliest opportunity.

Surveyors, Experts and Lawyers

Following notification of an incident which may give rise to a claim, the Club or local Club correspondent may instruct an independent surveyor, expert or lawyer to speak to the officers and crew and attend the vessel to investigate.

Other parties, particularly potential claimants against the Company, the vessel and/or the officers and crew may attempt to do the same. To avoid sensitive information about an incident falling into the wrong hands, the following safeguards should be observed:

- Always check the identity of everyone boarding the vessel.
- Find out the reasons why they wish to visit.
- Establish who appointed them, and whose interests they represent.
- If the surveyor, correspondent, expert or lawyer was appointed by (or is working on behalf of) the Club:
 - give all possible assistance.
 - provide all documents and information requested.
 - allow statements to be taken.
 - agree to the use of cameras.
 - follow all advice given regarding the disclosure of information to others.
- If the surveyor, expert or lawyer is not acting on behalf of the Club, do not allow access until the Company or local Club correspondent has given approval. If approval is given:
 - try to arrange for a Club appointed expert to attend at the same time.
 - ensure that an officer accompanies the opposing representative throughout.
 - warn all personnel not to discuss details of the incident.

- restrict movements to places of legitimate interest.
- confine any photos to items or areas of direct relevance.
- do not allow access to log books, documents or records unless advised to do so by the Company or Club correspondent.

If you are unsure whether a surveyor, expert or lawyer is acting on behalf of the Club, or if guidance or professional assistance is needed, contact the local Club correspondent immediately.

Regardless of the circumstances, the master should never admit liability unless expressly instructed to do so by the Company or the Club.

Bills of Lading

A bill of lading is one of the most important documents in the shipping industry because it is not only a receipt for cargo shipped or received for shipment on a vessel, but also because it is often evidence of a contract of carriage between the Company and the owner of the cargo. Most importantly, it is usually the document proving who owns the cargo.

The following details summarise the key points masters and officers must bear in mind when being asked to issue or sign mate's receipts and bills of lading, or when authorising a third party to issue bills of lading on the vessel's behalf. It also covers situations where a request is made to deliver cargo without production of a bill of lading or to carry a bill of lading on board the vessel.

Contents of the bill of lading

In order to protect the Company's interests as well as their own, the master or chief officer should check that both the mate's receipts and the bills of lading are correctly drawn up before they are signed. If a third party such as the agent or the charterer's representative has been authorised to sign the bills of lading in accordance with the mate's receipts, the master should pay particularly close attention to ensuring that the information shown on mate's receipts is accurate.

Date on the bill of lading and mate's receipt

Both documents should state that the cargo was either shipped on board on a certain date or "received for shipment" on that date. "*Received for shipment*" means that the vessel has effective control over the cargo. In both cases the date shown on the bill of lading must be the date when the cargo actually came on board the vessel or came under the vessel's control as the case may be. If the bills of lading or mate's receipts show any other date, the Company should

be contacted immediately for further advice. Incorrectly dated bills of lading or mate's receipts may expose the Company to liabilities up to the full value of the cargo and such liabilities may not be insured.

Weight and quantity of cargo

The master or chief officer should ensure that the quantity of cargo as stated in the mate's receipts and bills of lading (both the weight and the number of packages or units) corresponds with the vessel's own figures as determined by tally sheets, boat notes, draught surveys, ullage calculations and similar records. In the event of a difference between the vessel's figures and the figures shown on the mate's receipts and bills of lading, the Company should be informed immediately. Pending the Company's reply, the documents should not be signed or authorised to be signed.

In certain cases it may be possible to clause the mate's receipts and bills of lading with the words *"said to be, weight and quantity unknown"* or *"said to weigh, weight and quantity unknown"*, particularly in the case of bulk cargoes. However, this should not be done without obtaining approval from the Company first.

Description of the cargo

The cargo should correspond with the description given in the mate's receipts and bills of lading. If there is any doubt, the documents should not be signed or authorised to be signed and the Company should be contacted immediately.

Condition of the cargo

Mate's receipts and bills of lading normally state that the cargo is shipped or received for shipment in *"apparent good order and*

Bills of Lading (continued)

condition". These words mean that, in the opinion of the master, the external appearance of the cargo suggests that it is in good condition and undamaged. If the cargo does not appear to be in good condition externally or seems to be damaged, the mate's receipts and bills of lading should not be signed or authorised to be signed and the Company should be informed immediately. If the Company cannot be contacted, the master or chief officer should ensure an accurate description of the cargo's external condition is recorded on both the mate's receipts and the bills of lading. Describing the external condition of the cargo on the mate's receipts alone is not sufficient.

Other terms in the bills of lading and mate's receipts

It is important to ensure that the bills of lading comply with the terms of the charter party, especially if they are to be issued in a particular format or if the charterer's own standard form is to be used. If there is any doubt, the mate's receipts and bills of lading should not be signed or authorised to be signed and the Company should be contacted immediately.

Authorising agents to sign bills of lading

If the charter party allows the agents to sign the bills of lading on the master's behalf, the master should instruct the agents in writing to sign the bills in accordance with the information stated on the mate's receipts. A copy of this instruction should be retained on board. A standard instruction wording is available from the Club on request.

Letters of indemnity

The master may sometimes be asked to sign or authorise the signing of mate's receipts or bills of lading which state that the cargo is in

apparent good order and condition when this is clearly not the case, or show an incorrect quantity shipped or received for shipment, or have been dated incorrectly. In return for doing so the master may be offered a letter of indemnity. Such indemnities are almost always worthless and accepting them may mean that the master is party to a fraud. If a letter of indemnity is offered it should not be accepted and the Company should be contacted immediately.

Original bill of lading retained by the master

It may sometimes be agreed between the Company and the charterer or cargo owner that the master is to retain an original bill of lading on board against which the cargo may be delivered. In such cases the bills of lading need to reflect this arrangement. The master should contact the Company for advice about what details should be recorded on the bills of lading before they are signed or authorised for signature.

Non-production of original bill of lading

Delivering the cargo without the production of an original bill of lading may expose the Company to expensive and uninsured liability claims for misdelivery. If delivery is requested in such circumstances, it should be refused and the Company should be contacted immediately.

Club correspondents

The Club's local correspondents will be familiar with problems regarding the issuing of mate's receipts and bills of lading. If the Company cannot be reached or if advice is required, the local correspondent may be contacted for assistance.

Cargo

Evidence of condition, loss and damage

The vessel is obliged to take good care of the cargo, and to do everything possible to ensure that it is delivered in the same condition as received. This means that the vessel may be held responsible for damage or losses if the cargo was not loaded, stowed and discharged in a satisfactory manner, if cargo operations were not properly controlled or if the cargo received insufficient care during the voyage. It is essential that all operations regarding the handling, securing and monitoring of the cargo are documented in full, bearing in mind that it may be impossible to defend claims if the appropriate records cannot be produced. Since claimants frequently try to hold the vessel liable for cargo damage or losses which actually occurred ashore, the significance of keeping accurate records is clear.

Similarly, claimants often allege that the vessel was defective. Although assertions that the vessel was not “seaworthy” or “cargoworthy” may be groundless or exaggerated, it will be necessary to demonstrate that “due diligence” was exercised prior to departure in order to make the vessel seaworthy and cargoworthy. The importance of this obligation cannot be over-emphasised. Shipboard personnel have a crucial role to play in ensuring that appropriate evidence exists demonstrating that the vessel was fit for the voyage and suitable for the safe carriage of cargo.

Detailed technical and operational records form a vital part of such evidence. These may include tests, checks, inspections, repairs and maintenance carried out to keep the vessel in good condition (e.g. hull, machinery and equipment, cargo spaces, cargo tanks, cargo gear), and information showing that the vessel was manned, supplied and operated in accordance with regulatory requirements and standard industry practice.

In all cases where cargo is damaged or lost, the following information may be required:

- Details of the cargo damaged or lost (e.g. commodity, volume,

quantity, marks, serial numbers, shippers, receivers, load port, discharge port).

- Copies of the shipper's cargo declaration, test certificates, MSDS records and any other cargo information provided by the shippers/charterers.
- Description of how the damage or loss occurred (including stevedore damage reports if applicable).
- A full and detailed account of any contributory factors (e.g. poor packaging, pilferage, weather). If weather:
 - times of heavy weather, severity and any unusual conditions experienced.
 - details of any damage sustained by the vessel's structure, machinery or equipment.
- Copies of the deck log book detailing heavy weather which, if required by the local jurisdiction, should be authenticated by the local port authorities and attached to the letter of protest. The local correspondent or the Club should be asked whether or not such authentication is necessary.
- Steps taken to minimise the damage or loss beforehand and/or when first recognised.
- Relevant photographs and/or video recordings showing vessel's condition (e.g. cargo spaces, hatch covers, cargo gear, cargo tanks), cargo operations, port conditions, stowage, securing, damaged cargo, weather.
- Stowage plans and instructions together with details of any lashing, securing and dunnaging arrangements.
- Inspection, repair and maintenance records regarding any items alleged by cargo interests to have caused the damage (e.g. hatch covers, valves, pipes, cargo gear, lashings).

Cargo (continued)

- Copies of any Notes of Protest made, delivered and/or received.
- Relevant communication records (e.g. owners, charterers, shippers, agents, stevedores).
- Details of any cargo samples retained on board and/or sent ashore.
- Details of any failed or broken lashings, lifting appliances or gear, sea fastenings, securing devices, dunnaging arrangements or grillage retained on board and/or sent ashore.

Additional evidence may be required depending on the type of vessel and how the cargo was damaged or lost. The following list is not exhaustive but may be used as a general guide. Much of the information is likely to be in the form of log book entries, and copies of the relevant pages should be submitted. There may also be a local requirement for copies of the relevant log book entries to be authenticated by the port authorities. The local correspondent or the Club should be asked whether or not such authentication is necessary.

Pre-loading records

- Preparation of cargo spaces (e.g. hold cleaning, tank washing, inerting, line flushing, gas-freeing, fumigation, reefer pre-cooling).
- Routine tests (e.g. bilge suction lines, water ingress detectors, weathertightness of hatch covers, booby hatches and vent closures, pressing-up of ballast tanks surrounding the cargo spaces, pump function tests, smoke detection, refrigeration, fire extinguishing, inert gas, ventilation systems).
- Equipment checks (e.g. hold lighting, ladders, lashing material, securing devices).
- Inspections by crew (e.g. hatch cover seals and securing arrangements, cargo space plating, frames, bulkheads and tank tops, cargo space coatings, insulation, spar ceilings).

- Joint inspections and inspections by third parties (e.g. charterers, United States Department of Agriculture (USDA), Australian Quarantine Inspection Service (AQIS)).
- Notes of any pre-loading damage to cargo and copies of any pre-loading surveys carried out (see “Steel” at the end of this section).
- Copies of any instructions received from shippers/charterers.

Cargo monitoring records

- Deck log book entries.
- Rough log book entries.
- Bilge soundings, including records of pumping out.
- Ballast soundings, including records of tanks filled or emptied on passage.
- Bunker soundings, including transfer records.
- Temperature (hold, cargo, seawater, air) and humidity records.
- Temperature of reefer spaces and defrosting records.
- Temperature records for refrigerated containers including temperature cards and electronic records/downloads.
- Temperature of bunkers stored in tanks next too heat-sensitive cargo.
- Gas concentrations for each cargo space.
- Ventilation records for each cargo space.
- Inert gas and tank venting records.
- Cargo rounds and checks of lashing/securing and sealing arrangements.
- Copies of weather reports/warnings and any weather routing information.

Cargo (continued)

Loading and discharging records

- Stowage plan and stability calculations.
- Details of compliance with statutory requirements (e.g. IMSBC Code, IMDG Code).
- Cargo manifest.
- In the case of dry bulk cargoes, photographs showing the results of any “can” tests carried out.
- Preliminary cargo work schedule and ballasting/deballasting plan.
- Working periods of each cargo space (including hatch opening/closing times, pumping rates, ullage figures as applicable).
- Weather experienced, including all stoppages and hatch closures due to precipitation.
- Precautions taken against precipitation (e.g. radar watch for approaching rain, measures to expedite the prompt closing of hatchcovers).
- Details of ballasting operations including start/stop times of each tank.
- Details of safety precautions observed, particularly in respect of dangerous cargo.
- Lashing, securing and dunnaging work carried out by stevedores and/or crew.
- Details of compliance with the requirements of the vessel’s Cargo Securing Manual.
- Copies of certification for the Maximum Securing Load (MSL) of lashings and weld Non-Destructive Testing (NDT).
- Instructions and requirements received from cargo superintendents.
- Copies of mate’s receipts and bills of lading including any clauses applied and, where applicable, details of the party authorised to issue them.

- Copies of Notice of Readiness, Statement of Facts, stevedore time sheets.
- Copies of any draught surveys carried out.
- Tally sheets, including details of any disagreements.

Deck cargo

Cargo should not be carried on deck unless (a) the shippers have expressly agreed in writing that the cargo will be carried on deck at their own risk and that the bill of lading will state this, or (b) the bill of lading contains a “liberty clause” authorising the carriage of cargo on deck provided that (i) the cargo is customarily carried there, (ii) the custom is known to all parties involved and (iii) the cargo is suitable for such carriage. If the master is concerned about a particular deck cargo, the Company or local Club correspondent should be contacted for advice.

Cargo damage surveys

In some jurisdictions the local court may need to approve the surveyor instructed to inspect the damaged cargo or may appoint a surveyor directly. The local Club correspondent will be able to advise the master whether or not it is customary for a court surveyor to attend.

Important: Steel pre-loading surveys

Steel is a sensitive commodity and the source of many claims. To safeguard the interests of the vessel, the Club requires an experienced surveyor to record the apparent condition of shipments of finished steel products prior to loading, check the stowage and securing arrangements and assist the master with the clausing of mate’s receipts and bills of lading as necessary. If due to load steel, the master should contact the Company to confirm that a surveyor has been appointed to carry out a pre-loading steel survey on the vessel’s behalf.

Stevedore Damage

If stevedores cause damage to the vessel, prompt action should be taken to ensure that the damage is properly recorded and notified, and that those responsible arrange and/or pay for repairs. Many charter parties, particularly time charter parties, state that the charterers and stevedores must be notified of the occurrence or discovery of stevedore damage within 24 hours. If this condition is not fulfilled, the Company may have to bear the cost of repairs.

If the vessel is damaged by stevedores, the master should:

- Inform the stevedores at once both orally and in writing, and make an appropriate entry in the deck log book.
- Prepare a written report giving details of the damage, and holding the stevedores and charterers responsible. As far as practicable the report should include:
 - date, time and port/location of incident.
 - circumstances leading to the incident.
 - details of the damage to the vessel.
 - names and contact details of the person(s) causing the damage and witnesses.
 - prevailing weather conditions at the time.
 - sketches and photographs of the damage.
- If the damage is severe enough to affect the vessel's class or its ability to perform the remainder of the voyage safely, the report should ask for the damage to be repaired immediately at the port or place where the damage occurred, and to the satisfaction of the Company and its surveyors.
- Ensure that the stevedores, charterers, agents and Company receive a copy of the report within 24 hours.

If the damage is minor and does not affect the vessel's class or its ability to perform the remainder of the voyage safely, an agreement may be reached with charterers to defer the repairs until later. In such cases all outstanding repairs should be noted in the off-hire survey report. The charterers should be invited to attend the repairs if they wish.

Whenever the vessel is free of cargo, shipboard personnel should take the opportunity to inspect the vessel for concealed or previously unidentified stevedore damage. The stevedores, charterers and Company should be informed immediately both orally and in writing if anything is found.

A digital camera or similar device should be used to take as many photographs of the damage as possible, appending them to the off-hire survey report or other written record of the damage. In the event of difficulties, the Company should be advised and the local Club correspondent may be contacted for assistance.

Collision and Property Damage

Reporting, gathering and preserving evidence

The early stages of a collision or property damage incident are critical and a preliminary report, including the information listed below, should be submitted to the Company and the local Club correspondent as a matter of urgency. Once notified about the incident, the Club will evaluate the situation and initiate appropriate investigation and protective measures as necessary.

In this chapter “collision damage” refers to vessel to vessel contact, regardless of whether one of the vessels was moored or anchored at the time. “Property Damage” refers to contact with Fixed and Floating Objects (FFO) such as quays, cranes, buoys, pipelines, cables, bridges and floating storage facilities. Wash damage to vessels or property also falls under this heading.

Collisions and contact with FFO which result in personal injury, property damage or marine pollution should always be treated as being potentially serious. Unless a P&I surveyor is appointed to investigate and record the cause and extent of the damage immediately, it will be difficult to challenge any claims arising from the incident which may be inflated or unjustified.

- VDR and ECDIS data. The importance of these records cannot be over-emphasised. Once preserved, they should also be backed-up.
- Date, time, location and type of incident.
- Identity of other vessel(s) and/or details of property damaged.
- Details of any personal injuries or fatalities.
- Apparent extent and severity of damage to the other vessel or property.
- Details of any cargo damage.
- Details of any pollution resulting from the incident.
- A summary of the events leading to the incident.

- Details of the vessel's courses, positions, manoeuvres, engine movements, speeds, signals, communications and composition of the bridge and engine room teams prior to the incident.
- In the case of collisions, the estimated angle of blow.
- A copy of the vessel's passage plan.
- The known or suspected cause of the incident together with any contributory factors, including diagrams.
- Prevailing weather and sea conditions.
- If relevant, details of attending pilots, tugs, boatmen, pollution clean-up contractors, other third parties and any independent witnesses.
- A copy of the incident report form completed in accordance with the vessel's SMS.
- Copies of any incident reports submitted to local or national authorities, or to the vessel's flag administration.
- Copies of any notes or letters of protest, both issued and received. **If a protest is received which requires acknowledgement, the wording "received without prejudice and without admission of liability" should be used.**
- Copies of the vessel's bridge and engine room logbooks including any rough or working logs.
- Photographs, video or CCTV footage taken immediately before, during or immediately after the incident.

Following a major incident the master, all bridge and engine room personnel and any witnesses on board should make personal notes as soon as possible, bearing in mind that formal interviews and statements may be required later on. All rough notes, calculations, sketches and charts should be retained as they may be of vital importance.

Collision and Property Damage (continued)

Other than in response to official enquiries from the police, the local maritime authorities or the vessel's flag administration, shipboard personnel should not answer questions about the incident until the initial reports have been evaluated by the Company, the Club or the local Club correspondent.

No attempt should be made to conceal or alter evidence as those investigating the incident will need to be clear of the facts, even if they show that the vessel made an error. Moreover, in many jurisdictions, evidence tampering is deemed to be a criminal offence.

Subject to the scale and complexity of the incident, further information may be required:

- Statements from crew members, pilots and others, as appropriate. (These will normally be taken by the lawyer appointed to act on behalf of the vessel).
- Results of any alcohol and/or drug tests carried out after the incident.
- Drawings, diagrams, photographs and/or video recordings to illustrate the extent of the damage and how the incident occurred.
- Original chart in use at the time of the incident, complete with all plotted positions, notations and correction records. **Nothing should be added or erased.**
- List of all navigational publications on board together with edition dates and correction records.
- Original log books (e.g. official log, deck log, engine room log, working log). **All sections should be completed accurately in full.**
- Original records (e.g. movement (bell) book, rough notes). Nothing should be added or erased.

- Original print-outs (e.g. course recorder, echo sounder, radar plots, engine telegraph data logger).
- Communication records including notes regarding the times and content of exchanges made on VHF radio and the channels used.

Personal Injury

Reporting, gathering and preserving evidence

It is in the interests of everyone on board to ensure that safe working practices are followed at all times and that potential risks that may result in injury are identified and rectified as quickly as possible.

Slips, trips and falls are the most common types of accident occurring aboard a vessel, often the result of oily surfaces, badly rigged accommodation ladders, insufficient lighting, poorly marked hazards, unguarded openings or generally cluttered decks. A watchful eye and good housekeeping will go a long way towards minimising such accidents.

Every accident has an impact of some kind. Injured crew members may be unable to perform their duties effectively, thereby affecting the safe operation of the vessel. If passengers, stevedores, visitors or contractors are injured, substantial claims may be made. Consequently, precautions should be taken to ensure that the vessel is not blamed unjustly.

In ALL personal injury cases, particularly those that might involve the United States, the local Club correspondent should be contacted immediately regardless of whether the injured person is a crew member, passenger, stevedore, visitor or third party. The correspondent should be informed of all details regarding the accident and their advice should be followed in full.

Accidents resulting in injury should always be reported and investigated in accordance with the requirements of the vessel's Safety Management System.

If the accident was caused by malfunctioning machinery or equipment, the defective parts should be retained by the vessel indefinitely as they may need to be examined or tested by an expert at a later date.

The following information should be collected and forwarded to the Company, local correspondent or Club as required:

- Details of the injured person.
- Date, time and location of accident.
- Details of the work or activity being undertaken by the injured person at the time of the accident.
- Details of any advice received from medical experts.
- Nature and extent of injury.
- Details of the injured person's next of kin.
- Details of any first aid or medical treatment given.
- Circumstances of the accident and, as far as practicable, the root cause.
- Prevailing conditions at the time of the accident (e.g. weather, lighting).
- Drawings, photographs, video or CCTV footage of the area where the accident occurred, including equipment where appropriate.
- Copies of any accident reports submitted to local or national authorities, or to the vessel's flag administration.
- Details of how and when the injured person was moved from the scene of the accident, and by whom.
- Details of any contributory behaviour by the injured person and/or possible negligence by third parties.
- Statement from the injured person (if appropriate).

Personal Injury (continued)

- Copies of any permits to work in force at the time of the accident (if applicable).
- Details of any personal protective equipment worn or being used by the injured person at the time of the accident.
- Details of the injured person's hours of work and rest in the days preceding the accident.
- Results of any alcohol or drug tests carried out after the accident.
- Details of any pre-existing medical conditions affecting the injured person.
- Details of any medication being taken by the injured person.
- Details of any previous accidents involving the injured person.
- Statements from any witnesses able to provide an accurate account of the accident. It is important to exercise discretion when taking statements from witnesses, particularly those whose memories or motives may be questionable. For reasons of credibility, similarly worded statements from several different witnesses should be avoided.
- The names and, as far as practicable, the contact details of all witnesses.
- Copies of all official, deck, engine room and working log book entries (as appropriate) and any rough notes. **All sections must be completed accurately and in full.**
- Details of any party claiming to represent the injured person.
- Copies of any relevant survey reports.

All personal injuries, even minor ones unlikely to cause harm, should be reported, investigated and documented in accordance with the

requirements of the vessel's Safety Management System as it is not unusual for injury claims to be made after a significant period of time. Without detailed and accurate records it can often be difficult to ascertain whether or not such claims are valid.

Marine Pollution

Reporting, gathering and preserving evidence

The protection of the environment is an issue of global concern, and the policy of many governments is that the “the polluter pays”. Consequently, the financial implications of a marine pollution incident are invariably serious, and fines, clean-up costs and third party claims may take on formidable proportions. It is essential to exercise extreme caution when assessing the impact of any pollution incident, irrespective of how minor it may appear. Depending on the type of pollutant and the locality, it is not unusual for substantial and difficult claims to arise bearing little relation to the apparent severity of the incident. Therefore it is vital that before carrying out any operation where a risk of pollution exists, everyone involved is made fully aware of the relevant regulations, procedures and their own responsibilities.

Larger oil pollution incidents are usually the result of collisions and groundings. However, the majority of pollution claims involve spills that occur during bunkering or oil cargo transfers, while carrying out disposal operations (e.g. oily bilge water, fuel residues, dirty oil, sludge, tank slops) or when transferring fuel internally. A hydrocarbon transfer checklist or equivalent permit to work should be used during all such transfers and should form part of the vessel's Safety Management System.

Marine pollution is regulated by the various annexes of the MARPOL Convention (as amended) which cover oil, noxious liquid substances in bulk and packaged form, sewage, garbage, cargo residues and atmospheric pollution. Documents such as the oil record book parts 1 and 2, cargo record book, garbage record book, cargo log book, deck log and engine log are particularly important when defending pollution claims and must always be completed accurately and kept up to date.

In addition to the possibility of heavy fines following a pollution incident,

seafarers found to have violated MARPOL regulations intentionally may face criminal prosecution.

Should oil from other sources be observed in the vicinity of the vessel, the local authorities and the vessel's port agents should be informed immediately. If drifting towards the vessel, the authorities should be requested to witness and record the fact that the pollution originated from elsewhere. An entry should be made in the deck log recording all relevant information including the personnel who first noticed the spill, the wind and tidal conditions, details of other vessels in the area and the apparent source of the pollution. Where possible, samples of the oil should be taken and retained for future comparative analysis together with photos and/or video evidence of the pollutant and the prevailing circumstances and conditions.

In the event of a pollution incident, whether real or threatened, the procedures contained in the vessel's Shipboard Oil Pollution Emergency Plan (SOPEP) or Shipboard Marine Pollution Emergency Plan (SMPEP) and/or Vessel Response Plan (VRP) describe the steps that must be taken by the vessel. The local Club correspondent should be informed without delay so that prompt action can be taken to protect the vessel's interests. The correspondent will liaise with the Club, contact local authorities and appoint surveyors, pollution clean-up contractors, lawyers and/or technical experts as necessary. **No admission should be made regarding the cause or source of the incident without authority from the Company or the Club.**

The following information should be relayed to the Company, local correspondent or Club immediately so that the severity of the incident and appropriate response measures can be assessed:

- Date, time and location of the incident.
- Known or suspected cause of the incident.
- A summary of the sequence of events leading to the incident.

Marine Pollution (continued)

- Precise details of the type of pollutant, its specification and a careful estimate of the quantity involved.
- Prevailing weather and sea conditions.
- Details of all measures taken by the vessel and/or shore personnel to minimise the spill and clean up the pollutant.
- The extent of the pollution including details of the areas affected and property damaged, including other vessels.
- A copy of the incident report form completed in accordance with the vessel's SMS.
- Copies of any incident reports submitted to local or national authorities, or to the vessel's flag administration.
- Details of all parties notified.

Subject to the scale of the incident and the type of pollutant, further information may be required at a later stage:

- Statements from all crew members involved in the incident (usually taken by the appointed lawyer).
- Drawings, diagrams, photographs and/or video recordings to illustrate how the incident occurred.
- Copies of all official, deck, engine room and working log book entries (as appropriate) and any rough notes. **All sections must be completed accurately and in full.**
- Copies of the relevant pages of the oil record book(s), garbage record book, cargo record book, fuel switching procedures and similar records (as appropriate).
- Copies of receipts for bunkers and lubricating oil received.

- Copies of receipts for sludge, waste oil, oily water, cargo residues and garbage discharged to reception facilities ashore.
- Copies of the shipper's cargo declaration, Material Safety Data Sheets (MSDS) and any other documentation declaring whether or not the cargo is considered to be Harmful to the Marine Environment (HME), an Environmentally Hazardous Substance (EHS) or a Marine Pollutant.
- Copies of all communication records.
- Representative samples of the pollutant.

Ship Security

In accordance with the requirements of the International Ship and Port Facility Security (ISPS) Code, the security of the vessel must be maintained at all times. This includes the monitoring of boarding arrangements, denying access to unauthorised persons and ensuring that only lawful goods are carried. Since incidents involving stowaways, piracy or drugs may also result in significant claims, it is essential that vigilance is intensified when operating in areas of increased risk.

Should any of the following points conflict with aspects of the vessel's Ship Security Plan, precedence should be given to the latter.

Stowaways

Stowaways can be expensive to repatriate, fines and heavy costs may be incurred and it is often difficult to find countries willing to let them disembark, particularly if they have no documents. A thorough search of the vessel before departure is crucial as it is far easier to send stowaways ashore in the port where they boarded. A further search shortly after departure is also recommended as stowaways sometimes emerge soon after the vessel has sailed to seek food and water or a more comfortable place to hide. It should also be borne in mind that if one stowaway is found, there may be more on board.

In order to mitigate any penalties in the event of a successful stowaway attempt, it is important that details of shipboard stowaway searches conducted prior to and after departure, the areas checked and all other precautions taken by the vessel are recorded in writing. These may include safeguards such as gangway watches, the employment of additional security personnel, identity checks, security rounds, accommodation access restrictions, illumination arrangements and the securing of cabins, storerooms and cargo spaces.

If stowaways are found after sailing:

- Treat them firmly but humanely.
- Search them for identification papers, weapons and drugs.
- Search the area where they were found for hidden identification papers, weapons and drugs.
- If identity papers are discovered, place them in the vessel's safe to prevent them from being destroyed.
- Confine the stowaway(s) to a safe and secure area when not under close supervision.
- Provide them with adequate food and drink.
- Do not force them to work against their will.
- Do not sign them on ship's articles.
- Interview each stowaway individually to ascertain:
 - name.
 - date and place of birth.
 - nationality.
 - address.
 - details of next of kin.
 - port, date and time of boarding.
 - how they gained access to the vessel.
 - location of hiding place.
 - intended destination.

The foregoing information, together with photographs of the stowaway(s) and copies of any identification papers found should be forwarded promptly to the Company, Club or local correspondent (in

Ship Security (continued)

accordance with Company procedures) so that the repatriation process may begin.

Piracy

The latest information on piracy attacks and the areas of greatest risk may be obtained free of charge from the IMB Piracy Reporting Centre, Kuala Lumpur: Telephone: +60 3 2078 5763, Fax: +60 3 2078 5769, Email: imbkl@icc-ccs.org or piracy@icc-ccs.org, Website: www.icc-ccs.org/piracy-reporting-centre. The IMB Piracy Reporting Centre also broadcasts daily status reports and warning messages on the SafetyNet service of Inmarsat C and maintains a 24 Hours Anti Piracy Helpline: Telephone: +60 3 2031 0014.

Prior to transiting an area where vessels have been attacked, the Company Security Officer (CSO) and the Ship Security Officer (SSO) should carry out a risk assessment based on the most recent information available. They should also ensure that the crew is fully briefed and that an anti-piracy drill is held beforehand. In high risk regions covered by the industry publication “Best Management Practices to Deter Piracy” (BMP) it is essential that the precautions set out in the latest version of this important document are strictly followed at all times.

In regions where anti-piracy naval forces are operating, vessels should submit details of their intended passage to the appropriate co-ordinating centre prior to entering the area. As far as possible, vessels should always join escorted convoys and follow official recommendations regarding position reporting, transit corridors, transit timings and speed.

With regard to anti-piracy measures, the following points should be considered:

- Deploying additional watchkeepers and lookouts.

- Maintaining a careful lookout both visually with binoculars and by radar.
- Reducing the duration of watchkeeper and lookout periods to minimise fatigue.
- Using fire hoses, razor wire and security grilles as physical deterrents together with passive defence equipment such as night vision optics, acoustic devices, false “high voltage” signs and “dummy” lookouts.
- Using ballast pumps to flood the decks and form a water curtain over the vessel’s side.
- Running additional machinery such as extra generators and steering motors.
- Securing all entrances, ensuring that emergency exits are still usable.
- Preparing a secure internal compartment to be used by the crew as a “citadel” if the attackers manage to board the vessel.

Under SOLAS, masters may turn off the vessel’s AIS transmitter at their discretion. However, at night, navigation lights should always remain switched on. Masters should also remember that the safety of personnel is paramount and that crew members should not be exposed to unnecessary risk.

In the event of a piracy attack the following action should be taken:

- Sound the piracy attack alarm.
- Ensure that crew members with non-essential duties proceed to the safe muster point or citadel.
- Send pre-prepared messages to the centre co-ordinating naval forces in the region, to the Company and to the vessel’s flag administration.
- Activate the Ship Security Alert System (SSAS).

Ship Security (continued)

- Send a distress message by VHF, digital selective calling (DSC) and/or Inmarsat C as applicable.
- If possible, increase speed and make small alterations course, bearing in mind that large alterations of course will slow down the vessel.
- Activate the vessel's defensive measures and reconfirm that all external doors are fully secured.
- Sound the vessel's whistle continuously to indicate to the attackers that the vessel is aware of their presence and is reacting.
- Turn on the AIS transmitter (if switched off earlier).

If the attack takes place at night and there are naval forces in the area, switching on the deck lights may make it easier for them to identify the vessel.

If the attackers manage to board the vessel and provided there is sufficient time, further messages should be sent to the naval forces, Company and flag administration. Unless all crewmembers are fully secure inside a citadel, resistance and confrontation are not recommended to minimise the possibility of violence. Remaining calm and agreeing to the demands of the attackers will hopefully keep the unwelcome visit brief, allowing full control of the vessel to be regained at the earliest opportunity. If practicable, the vessel should be navigated clear of other traffic and the main engine stopped when safe to do so. Crew members may assist passively by mentally noting as many details about the attackers as they can and pooling such information later on.

Should a military assault team board the vessel, crew members should drop to the deck and cover their heads with both hands keeping them visible and empty. It is important to understand that the crew may be rounded up and held by the assault team until the attackers have been

identified, and to recognise that the working language of the assault team may not be English. At no time should flash photography be used. Crew members should co-operate fully with the assault team throughout.

Following an attack, or if a suspicious craft is sighted, a message should be sent to the centre co-ordinating the naval forces (if applicable), the Company, the vessel's flag administration, the responsible Maritime Rescue Co-ordination Centre (MRCC), the IMB Piracy Reporting Centre and the Club providing the following information, as appropriate:

- Vessel's name, IMO number, flag, call sign and Inmarsat telephone number.
- Position, date and time of incident (UTC).
- Vessel type, gross tonnes, deadweight tonnes, speed and freeboard.
- Name and contact details of Company.
- Number of personnel on board and their nationalities.
- Last port, destination and details of the cargo on board.
- Reference to any notification report or piracy alert initially sent by the vessel.
- Whether the vessel was underway, at anchor or alongside at the time of the attack.
- Details of the weather conditions (e.g. wind speed, wind direction, swell, wave height).
- Details of the incident:
 - type of attack, and whether attempted or successful.
 - approach details and method of attack.
 - description of craft used.

Ship Security (continued)

- number and brief description of attackers (e.g. appearance, languages spoken, weapons used).
- duration of attack.
- whether the attackers were aggressive or violent.
- action taken by the vessel.
- consequences of the attack (e.g. injuries, damage, items stolen).
- whether any photographs were taken during the incident.
- last observed movements of the craft involved (e.g. date, time, course, position, speed).
- parties notified.
- action taken by the local authorities.
- whether assistance is required.
- preferred method of communication (e.g. VHF, HF, satellite telephone, email).
- date and time of report (UTC).

Drugs

Whether placed on the vessel by third parties or smuggled on board by crew members, the discovery of drugs by shore authorities may result in heavy penalties, delay and, in certain jurisdictions, criminal charges. To minimise these risks the vessel should be searched thoroughly for drugs by trained shipboard personnel at regular intervals. **Details of all drug searches and other anti-drug precautions should be recorded in the vessel's logbook.**

If a suspect item is found during a search, the action to be taken by the vessel will usually be specified in the SMS and/or Ship Security Plan. There may also be additional requirements to fulfil if the Company has signed anti-drug co-operation agreements with particular countries. However, in the absence of firm guidance:

- The Company, the responsible authorities ashore and the Club or local correspondent should be informed immediately. **If the discovery was made on passage, this should be done before the vessel enters the territorial waters of the next port.**
- If possible, take photographs of the suspect item and where it was found before it is removed.
- Ensure that witnesses are in attendance when the suspect item is retrieved.
- Try not to handle the packaging material as it may be a source of fingerprints.
- Do not touch the substance itself without wearing gloves as some drugs may be absorbed by the skin.
- Wear a face mask to avoid inhalation and wash hands afterwards.
- Do not taste the suspect substance.
- Keep the suspect substance well away from sources of heat (e.g. cigarettes, light bulbs, hot pipes).
- Lock the suspect substance and packaging material in a secure location. Place under guard if necessary.
- Record details of the discovery and subsequent action taken in the log book (e.g. date, time, position, location of drugs, description of substance, estimated quantity, names of those finding the drugs, witnesses, parties notified). Follow up with a full written report.
- Once berthed, all personnel should remain on board until the authorities have concluded their investigations.

In some countries, additional precautions including an underwater inspection may be necessary due to the risk of drugs being attached to the vessel's hull or placed inside the rudder trunk void space. Details of such countries can be found by accessing the Club's website at www.westpandi.com and entering the word "drugs" in the search field, or by contacting the Club directly.

Bunker Disputes

Bunker disputes usually occur for two reasons; a disagreement over the quantity supplied or the provision of unsuitable or off-specification fuel. It is important that action is taken to protect the vessel's interests should such situations arise.

Quantity

On completion of bunkering, the quantity loaded should be verified as precisely as possible using all means available. If there is a shortfall compared with the supplier's figures:

- Do not sign the bunker receipt as presented.
- Amend the quantity shown on the bunker receipt to reflect the vessel's own figures.
- Inform all interested parties about the shortfall without delay (e.g. bunker supplier, Company, charterers, agents).
- If the bunker receipt was signed before the shortfall was recognised, advise the supplier and all interested parties in writing immediately. (Some bunker contracts allow 24 or 48 hours for shortages to be notified).
- Send all relevant paperwork to the Company or charterers (as appropriate).

In the event of a shortfall, the longer a vessel remains in port after the completion of bunkering, the greater the likelihood of a successful agreement being reached with the supplier. However, if the vessel is about to depart, the supplier will be aware that the master may be under pressure to sail and may try to use this to their advantage.

Quality

Off-specification bunkers may result in non-compliance with mandatory sulphur limits, poor consumption, loss of speed and, in

some cases, damage to the vessel's machinery or equipment. Some bunker contracts allow seven days for the notification of bunker problems, therefore checks regarding quality should be carried out as early as possible.

In order for claims involving off-specification bunkers to stand a greater chance of success:

- Prior to bunkering, check that the specification stated on the bunker delivery note is correct and within the engine manufacturer's limits.
- Carry out a compatibility test before bunkering operations begin.
- As far as possible, load bunkers into empty tanks and do not mix with other fuel on board.
- Test bunkers for the presence of water to check compliance with the applicable bunker standard.
- In addition to the MARPOL sample and the samples drawn for use by the supplier and charterer, take at least four representative samples at the manifold during bunkering, preferably using the continuous drip method.
- Ensure that all samples are witnessed and signed jointly by the Chief Engineer and the supplier.
- Seal and mark all samples with the date and time of sampling and the seal number.
- Until the samples are sealed and signed, ensure that the bottles are not swapped.
- Send at least one sample for independent analysis ashore. If possible, the vessel should wait until the analysis results are known before consuming the bunkers in question.
- Retain at least two samples on board until all bunkers of that batch have been consumed without difficulty.
- Follow any recommendations made by the analysis company

Bunker Disputes (continued)

regarding the treatment and use of the bunkers.

If, after departure, it appears that the bunkers are off-specification:

- Notify all interested parties of the problems immediately (e.g. bunker supplier, Company, charterers, agents).
- Try to avoid consuming the suspect product.
- Forward the following information to the Company or charterer (as appropriate):
 - evidence or indications that the bunkers do not meet required specification.
 - a copy of the independent laboratory analysis report (if available).
 - the tank(s) in which the bunkers were placed on delivery.
 - the method used for taking the samples and the location of the sampling point.
 - the stage at which the samples were taken.
 - details of all bunkers transferred between tanks.
 - details of any suspect bunkers consumed.
 - ullage records.
 - copies of bunker delivery notes/receipts.
 - the names of all shipboard personnel involved in the bunkering operation.
 - the names of those who witnessed the bunker samples being taken.
 - copies of all relevant communications.

In the event of damage caused to machinery or equipment by off-specification bunkers, notify the relevant parties and:

- Retain all damaged parts on board for further inspection.

- Take photos of the damage when first discovered.
- Ensure that records are available showing:
 - date and time when the suspect bunkers were first used.
 - tanks(s) from where the bunkers were taken.
 - whether the suspect batch of bunkers had been used previously.
 - initial symptoms observed and by whom.
 - action taken to overcome the difficulties and by whom.
 - engine performance before, during and after using the suspect bunkers.
 - extent of the damage.
 - details of when repairs were carried out and by whom.
 - extent and estimated cost of repairs, and details of parts replaced or overhauled.

Unpaid Bunkers

In some jurisdictions, most notably the United States, it may be possible for the bunker supplier to exercise a lien over the vessel should the charterer fail to pay for the bunkers provided under a time charter agreement, even if the owner is not a party to the bunker contract. Should the charterparty contain clauses that expressly prohibit charterers from placing liens on the vessel, this must be brought to the attention of bunker supplier in writing prior to the commencement of loading. The bunker receipt should also be cloused, stating that the bunkers are for the charterers account and that no lien can be exercised against the vessel to recover the cost of the fuel supplied. Suitably worded clauses are available from the Club on request.

Contact Information

West of England Ship Owners Mutual Insurance Association (Luxembourg)

London (Managers)

West of England Insurance Services (Luxembourg) S.A.
Tower Bridge Court
226 Tower Bridge Road
London
SE1 2UP
United Kingdom
Telephone: +(44)(0)20 7716 6000
Facsimile: +(44)(0)20 7716 6100
Email: mail@westpandi.com

Greece (Associated Office)

West of England (Hellas) Limited
Akti Miaouli 95 - 1st Floor
185 38 Piraeus
Greece
Telephone: +(30)(210) 453 1969, +(30)(210) 451 1481
Facsimile: +(30)(210) 453 6685
Email: mail@westpandi.com (via London)

Hong Kong (Managers)

West of England Insurance Services (Luxembourg) S.A.
1302 Mass Mutual Tower
38 Gloucester Road
Wanchai
Hong Kong
Telephone: +(852) 2529 5724
Facsimile: +(852) 2529 9091/2865 0372
Email: mail@westpandi.com (via London)

Website: www.westpandi.com

Please note that each member of staff has an email address formed as follows: firstname.lastname@westpandi.com





**The West of England Ship Owners
Mutual Insurance Association
(Luxembourg)**

Managers

West of England Insurance Services (Luxembourg) S.A.

Registered office

33 Boulevard Prince Henri
L-1724 Luxembourg
G.D. Luxembourg
Phone: +(352) 4700671
Fax: +(352) 225253
Email: mail@westpandi.com

UK office

Tower Bridge Court
226 Tower Bridge Road
London SE1 2UP
Phone: +44 20 7716 6000
Fax: +44 20 7716 6100
Email: mail@westpandi.com