

# Collision matters



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- Collision liability cover will usually be split between P&I and hull and machinery underwriters
- Wash damage is separate from collision liability cover while damage to fixed and floating objects is covered by a further rule.

## The wide scope of P&I cover in relation to collision type matters ensures members are protected for a wide range of liabilities.

The club continues to see claims involving damage to other ships and fixed and floating objects of various types. The article below considers the scope of standard P&I cover as illustrated through the various typical incidents that members may face daily due to the unpredictable factors prevailing at each area or port that vessels trade.

### Damage to other ships: collisions

The term 'collision' is defined as actual contact with another vessel, although an insured vessel may also be held liable for damages to a third vessel, which was struck by the vessel with which the insured vessel collided. This may be demonstrated for instance where an insured vessel is being towed and the tug is involved in a collision with a third vessel. The towed vessel would normally be held liable and a claim under the collision liability insurance would be triggered.

Traditionally, one-fourth of collision liability cover would be retained by the P&I clubs, with the remaining three-fourths to be covered by hull and machinery underwriters. In practice, however, owners may seek full coverage for their collision liabilities either from P&I or from hull and machinery underwriters.

For an owner's P&I entry, collision liability cover is provided under rule 3.6.1:

*One-fourth, or such other proportion agreed by the managers, of the liabilities arising out of a collision other than those set out in rule 3.6.3.*

For a charterer's P&I entry, collision liability cover is provided under rule 3.6.2:

*Four-fourths of the liabilities arising out of a collision.*

The above is subject to the proviso that the liability is not recoverable under the collision liability clause contained in the ship's hull policy and that such liability would have been covered under the usual form of Lloyd's marine policy with the Institute Time Clauses (Hulls) 01.10.83 or other form of hull policies (rule 4.1).

### Damage to other ships: wash damage

Ships of all sizes create 'wash' as a result of the use of propeller thrust. Wash size is analogous to the dimensions of a ship. Inevitably, wash damages may be caused by one ship to another. The club covers such loss of or damage to, delay to or wreck removal of any other ship or any cargo or other property therein caused by wash damage, which is not considered to be a collision. In particular, the club provides cover for damage to another ship that is not caused by a collision and which is therefore not covered by the collision insurance provisions of the ship (rule 3.7).

The law in most countries is that a shipowner has a duty to make sure that his ship proceeds at such a speed that it does not cause loss of, or damage to, other ships.

Practical tips for wash damage claims:

- Obtain a list of all other ships that passed at or near the time
- Gather evidence from the port including if possible video CCTV evidence
- Appoint a suitably competent surveyor to attend to gather evidence from the ship and the port authorities.

#### Damage to property

Rule 3.9 of the club rules typically covers damage to docks, jetties, locks or piers, as well as fishing nets, which are commonly referred to as fixed and floating objects (FFO).

It is usually difficult to escape liability for an FFO incident. As the ship is moving and the object remains stationary, there is an unavoidable presumption of fault on the part of the ship. In some countries, there may be an absolute liability for ships (for example, in England, under the Harbours, Docks and Piers Clauses Act 1847). There may be instances where FFO claims may be defended; however, each incident should be examined and judged on its own merits. As a general rule, it is always vital to first establish the condition of the damaged property before the incident took place, so as to avoid paying additional sums for FFO claims for betterment of the property.

Top tips for handling fishing net claims:

- Appoint a local correspondent or lawyer to assist with investigations and discussions with local fishermen
- Ensure open dialogue with local authorities
- If liability cannot be avoided, set clear deadlines for claim submissions by interested parties.

– For full 2014/15 policy year rules please request a copy from your usual club contact or visit the standard club [website](#)

