HOW MUCH DO LIABILITY CLAIMS COST YOUR BUSINESS?

Your ability to defend legal liability claims can have a significant and detrimental impact on your bottom line, whether you’re a self-insured entity or insured ground up under a conventional policy. So how do you improve your businesses’ ability to successfully defend claims?

Our review of your health and safety procedures, training and documentation complements your loss prevention programme and provides an assessment of your ability to defend civil liability claims.

At JLT Specialty, we provide high quality claims defensibility services that are tailored to your individual requirements, ranging from a full claims defensibility review to undertaking a more specific brief, for example, reviewing a particular attritional claim type or geographical area where a claims culture has developed. We work collaboratively with key stakeholders, to ensure that we fully understand the processes, controls and cross party interaction involved in the wider management of your claims portfolio.

TO FIND OUT MORE ON OUR CLAIMS DEFENSIBILITY SERVICES PLEASE CONTACT:

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You can read our latest construction blogs at http://specialtyblogs.jltgroup.com/
Our claims defensibility review focuses on five key areas to provide a practical review of your ability to defend civil liability claims:

- **Legal Liability Exposures** – review of historic claims exposures and sector specific issues e.g. falls from height, disease, stress
- **Incident recording processes** – triage, reporting and interaction with H&S function
- **Accident investigation** – methodology, material evidence, witnesses and statements
- **Key documents** – relevant to your sector and the risks you face, with an emphasis on key statutory regulations that apply to common claim scenarios
- **HR and Training** – key processes and their interaction with claims
CLAIMS DEFENSIBILITY MATRIX

Our report includes a Claims Defensibility Matrix, which provides a benchmark of your performance outlining and prioritising where improvements can be made. We make pragmatic, achievable and collaborative recommendations involving all stakeholders, to improve claims defence strategies and claims outcomes.

Potential Benefits of Improved Claims Defensibility

- Identification of weaknesses in defensibility processes highlights claims that are being paid that could be defended with improved documentation and claims processes.
- Defending/redirecting claims directly could reduce claims costs – and premiums
- Focus on defensibility processes can help lead to an enhanced health & safety culture
- Improved defensibility processes could reduce the risk of a Health & Safety Prosecution
- Focus leads to greater integration of HR and Risk Management
- Improved loss Prevention

EXAMPLE CLAIMS DEFENSIBILITY MATRIX

<table>
<thead>
<tr>
<th>DEFENSIBILITY AREA</th>
<th>COMMENTS</th>
<th>RECOMMENDED ACTION</th>
<th>PRIORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incident Reporting and Accident Investigation</td>
<td>Evidence of a lack of adequate incident investigation and reporting.</td>
<td>All sites to be re-educated and provided with training to ensure improved compliance, particularly in relation to prompt investigation and reporting of serious accidents which should also involve H&amp;S staff.</td>
<td>H</td>
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<tr>
<td>Health &amp; Safety</td>
<td>Presently there is no awareness and visibility of claims issues in the H&amp;S Committee meetings.</td>
<td>H&amp;S Committees to include an agenda item on claims, to highlight common issues and discuss defensibility and risk management issues arising.</td>
<td>H</td>
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<tr>
<td>Human Resources</td>
<td>Claims noted for work related factors such as stress, yet no stress policy is in existence.</td>
<td>Client to assess frequency and root causes as well as formulation of a formal stress policy.</td>
<td>M</td>
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<tr>
<td>Legal Liability – PPE</td>
<td>Historic claims exposures with limited visibility of wider PPE assessment and procurement.</td>
<td>We recommend a review of what PPE is currently procured as well as known exposures, also to ensure fitness for purpose of PPE records.</td>
<td>M</td>
</tr>
<tr>
<td>Claims Experience Analysis</td>
<td>Remedial action unnecessary and detrimental to the liability position on one case.</td>
<td>Remedial actions should be balanced, based on the facts of the case and only undertaken where a clear hazard is in existence whereby a failure to remedy may result in further injuries.</td>
<td>L</td>
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<tr>
<td>Disease Claims</td>
<td>Comprehensive approach adopted in relation to potential asbestos exposures and initiatives are ongoing.</td>
<td>Given the long tail nature of disease claims, we recommend that all asbestos surveys and associated documentation are retained indefinitely.</td>
<td>L</td>
</tr>
</tbody>
</table>
JLT Specialty Limited provides insurance broking, risk management and claims consulting services to large and international companies. Our success comes from focusing on sectors where we know we can make the greatest difference – using insight, intelligence and imagination to provide expert advice and robust, often unique solutions. We build partner teams to work side-by-side with you, our network and the market to deliver responses which are carefully considered from all angles.

Our Construction Division annually places more than GBP 400 million of construction insurance premium in the market. We have extensive experience working for some of the world’s largest and most complex construction projects in the energy, power and utilities, civil engineering, real estate and heavy industry sectors.

CASE STUDY 1
We undertook a defensibility review for our client who had a managed services contract with a local authority maintaining highways and pavements. The contract placed responsibility for handling and payment of third party claims on our client, who had included the established burning cost in their pricing tender. We analysed the client’s work and defensibility processes and documentation and made a number of practical recommendations for improvement. We engaged with the client’s local operation and liability claims handlers to ensure they were attuned to the improvements and took a firm stance on future new claims. The effect was that paid claims reduced from over 60% to less than 20%. The number of new claims made also reduced as potential claimants realised that highways claims would be rigorously defended. As a direct result of the reduction of claims costs, our client’s profitability on this project was significantly increased.

CASE STUDY 2
We were asked to assist our main contractor client with a high value complex claim which involved a sub-contractor’s employee who was rendered paraplegic in a fall from height. The subcontractor’s insurers settled the claim at £3m and issued contribution proceedings. Our client believed they were entitled to a full indemnity from the sub-contractor by virtue of the contract terms, however when we reviewed this it became clear that drafting errors had rendered the indemnity unenforceable, hence the client and their insurers were forced to make a significant contribution to the settlement. As a result of this finding, we worked with the client across their full suite of sub-contracts, to ensure that the contractual indemnity wordings were remedied going forwards.