



HUMAN RIGHTS AT SEA



Human Rights at Sea Insight Briefing Note

COVID-19 P&I Insurance Coverage & Seafarers' Rights

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COVID-19 P&I INSURANCE COVERAGE & SEAFARERS' RIGHTS

INTRODUCTION

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Maritime transport is the predominant engine of global trade and economic growth. The pace of this engine was heavily disrupted by the persistence and intensification of the COVID-19 pandemic; thereby plunging the world into disarray as continually observed with nations wrestling to contain the virus expediently and efficiently before it impedes the import and export of affordable food and goods.

The acceleration of this crisis placed an enormous toll upon trade, tourism, and safety at work in a manner that has sharpened the collective thought process of shipowners' ongoing operations and their protection and indemnity (P&I) coverage.

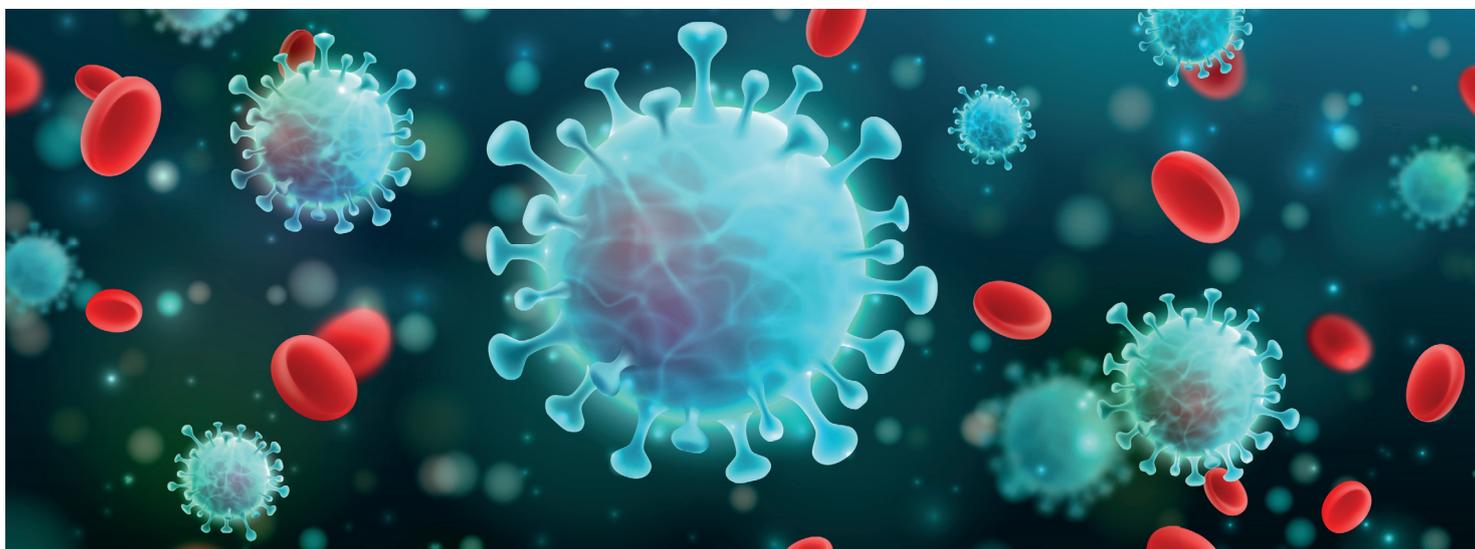
Quarantine rules within P&I cover had never come under scrutiny, until this pandemic exposed an undeniable pattern of systemic risk. Whilst giving up civic freedoms to save lives might serve well in the interim; to manage such a widespread health crisis, such quarantine measures are not without social and economic consequence.

Ship owners have been compelled to navigate complex restrictions to mitigate the risk of their liability exposure amid concerns over rising fatigue and safety of their crewmembers after several months at sea.

Change of crew is an important measure for safe operations and to stimulate economic recovery. But owing to the litany of unrest and suffering that continues to unfold over easing of restrictions from the cascading lockdowns, it has become a humanitarian challenge towards the protection of the health and wellbeing of the crew presently stuck at sea.

Almost all the P&I Clubs within the International Group of P&I Clubs have issued FAQs setting out, in varying detail, what is and is not covered under their respective rules. Essentially, liability for infection with the COVID-19 virus is covered in the same manner as any other covered crew illness, including evacuation, hospitalization, medical care, maintenance, and repatriation expenses.

In most areas of coverage, the P&I Clubs are very much aligned save for losses that are incidental (suspect cases or precautionary circumstances) rather than consequential (actual cases) to COVID-19 crisis. The divergence occurs in the arena of quarantine expenses where they seem to be escalating and causing deep concern for shipowners who may not have adequate or any business disruption insurance to address such a seemingly significant shortfall.



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COVERAGE

The table below encapsulates the distinction between consequential and incidental to create a clear snapshot of P&I coverage.

RISK TYPE	COVERAGE RESPONSE
Crew Illness, Injury or Death	
Expenses incurred following a COVID-19 consequential illness or death incurred during the contract of employment onboard the ship.	YES Such liability typically falls under the terms of an approved contract of employment and encompasses sick pay, hospital, medical, funeral or other expenses (viz. other statutory or approved contractual compensation and / or diversion expenses) necessarily incurred in relation to such illness or such death as well as the cost of sending a substitute or replacement in cases of compliance with requisite safe manning.
Expenses incurred following a COVID-19 illness contracted during a crewmember's travel journey either to join the ship or during the repatriation trip following the expiry of the contract of employment.	YES A Shipowner's basic liability also extends to the crewmember's health and safety during their outward and return journeys between their respective homelands and the ship inclusive of expenses arising thereof under the applicable laws of the contract of employment.
Additional Expenses incurred in consequence of a crewmember being disembarked for medical reasons (not connected to COVID-19), but the medical repatriation is delayed due to general COVID-19 travel restrictions.	YES Such additional expenses would be covered as part of the crewmember's medical repatriation.
Crew medical costs and sick wages incurred in circumstances where COVID-19 is suspected to have been contracted during employment on board an entered ship but was not detected until their return home due to the incubation period.	POTENTIALLY YES Shipowners may have strict contractual obligations to crew which apply during service on board as well as travelling directly to and from the ship, during which crew may be exposed to COVID-19. The medical advice and governmental travel guidance will be relevant, but P&I Clubs are generally sympathetic to reimbursement of a recently signed off crewmembers' medical costs and sick wages for confirmed cases of COVID-19. Once repatriated, crewmembers should follow generally accepted WHO guidance on self-isolation or their national guidance in force at the time.
Costs of precautionary COVID-19 tests and / or repatriation.	NO Where there has been no outbreak on board, this is deemed as an operational expense and is not covered unless the crew contract provides that the shipowners are obliged to repatriate the crewmember in such precautionary circumstances and the relevant P&I Club have previously approved the contract.

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RISK TYPE	COVERAGE RESPONSE
Diversions	
Expenses incurred towards a suspected case of COVID-19 on board.	<p>POTENTIALLY YES</p> <p>If a vessel must divert from its operational course in order to secure treatment COVID-19 suspected case that is subsequently confirmed, then cover is restricted to the extra costs of fuel consumed towards the deviation, to the extent that they exceed ordinary operating costs and provided they are solely and reasonably incurred in securing necessary treatment for that crew member. Such additional costs must represent a net loss to the shipowner over and above costs that would have ordinarily been incurred absent the diversion.</p>
Expenses incurred towards medical treatment ashore COVID-19 tested case.	<p>YES</p> <p>The net costs of the diversion in respect of fuel, insurance, wages, stores, provisions, and port charges are typically covered.</p>
Quarantine Expenses	
Expenses incurred onboard or ashore following a Quarantine Order as a direct consequence of a COVID-19 outbreak onboard OR even following a single crewmember showing symptoms on board the vessel and tests positive for COVID-19 ashore.	<p>YES</p> <p>Given the typical nature of such public health orders, P&I cover would trigger as it requires an outbreak of an "<i>infectious disease</i>" on board the ship for its quarantine rule to apply.</p> <p>However, it would extend only to the net additional costs less ordinary running expenses arising from a quarantine order, viz. extraordinary expenses incurred because of the outbreak, costs consequent upon the quarantine of the vessel such as sick pay, medical expenses, necessary repatriations and replacements expenses as well as the costs of disinfecting / deep cleaning the vessel or persons onboard.</p>
Preventative/ quarantine expenses ashore incurred in compliance with local regulations/policies before joining the vessel or after leaving the vessel because of travel restrictions in the country of disembarkation preventing routine repatriation.	<p>NO</p> <p>Coverage is subject to expenses incurred only as a direct result of a COVID-19 outbreak onboard the vessel; otherwise a quarantine expense incurred on a precautionary basis is deemed to be an operational expense not triggering P&I cover.</p>
Additional expenses incurred in relation to crew repatriation where the disembarking crew are required to stay at a hotel or other facility for a certain period for self-isolation as per the COVID-19 travel restrictions in the port of disembarkation.	<p>POTENTIALLY NO</p> <p>If none of the discharging crew are sick or exhibiting any symptoms and the requirement for quarantine of the crew either in a hotel or in a special facility is purely precautionary, the associated costs of keeping the crew in 'quarantine' – i.e. accommodation, travel and subsistence costs, crew wages, etc. would be considered as operational costs and not covered by P&I.</p> <p>However, where a crewmember who is effectively in quarantine awaiting repatriation is taken ill or is injured or dies awaiting repatriation, it is likely that the crew contract and/or Collective Bargaining Agreement (CBA) will dictate that the shipowner is liable for compensation; thus triggering P&I cover.</p>

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<p>Seaworthiness: Pre-Employment Medical Examination (PEME) Certificates, Contracts & Wages</p> <p>Extensions necessarily required for crew contracts & PEMEs in consequence of COVID-19 imposed travel restrictions and corresponding inability to rotate crew service.</p>	<p>YES</p> <p>P&I Cover for the usual risks (viz. injury, illness or death and consequential repatriation) is not typically prejudiced where crew contracts & PEMEs are validly and legally extended.</p> <p>Expiry of seafarer's contract: contract length varies, although under the Maritime Labour Convention ("MLC") dictates that they should not exceed 12 months.</p> <p>Expiry of Seafarer certificates and medical certificates: most administrations, including most of the major seafarer supply states (and flag states that issue endorsements), have announced an extension of certificate validity for periods between 1 and 6 months.</p> <p>This will not affect the vessel's seaworthiness from a coverage perspective provided safe manning levels are maintained in accordance with flag state requirements.</p> <p>The ITF's published E-Circular 087 dated 17 March 2020 stated that individual seafarers must consent to any extension of service periods onboard that exceed the MLC health and safety limits or other periods allowable under ITF approved collective bargaining agreements.</p>
<p>Additional Expenses incurred in relation to crew wages overlap in consequence of COVID-19 imposed travel restrictions and corresponding inability to cost-effectively rotate crew service.</p>	<p>NO</p> <p>"Overlap" wages occur when shipowners find themselves liable for wages of both a crewmember who must remain on board as a precautionary measure and for the intended replacement who is about to join or has joined the vessel.</p> <p>Such additional costs affecting routine crew travel fall outside of P&I cover as they are deemed as operational expenses that do not typically fall within the rules of P&I cover.</p>



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RISK TYPE	COVERAGE RESPONSE
Persons Not Carried on Board	
<p>Expenses incurred in relation to a person other than a crewmember who is infected with COVID-19 while performing work on board the vessel?</p>	<p>POTENTIALLY YES</p> <p>If a person is infected with COVID-19 while performing work on board, e.g. port authority personnel, port agents, third-party surveyors, stevedores, Superintendents, or other office-based personnel, etc. P&I cover is triggered only if there is proven liability (breach of a duty of care owed in direct connection with the operation of the vessel) that the ship's crew was negligent in some way in causing their illness.</p> <p>Otherwise provided all sensible precautions are taken by the ship's crew (to disinfect areas attended in the course of the work performed on board) it is unlikely the shipowner would be found responsible and any liabilities would therefore arise under their contracts of employment and would be covered by the employer and/or shoreside insurer of the personnel involved.</p>
Passengers Vessels	
<p>Expenses incurred as necessary maintenance ashore in consequence of a COVID-19 outbreak onboard a passenger vessel, and forwarding passengers to destination, or returning them to the embarkation port.</p>	<p>YES</p> <p>P&I Cover for a shipowner's or operator's liability to passengers onboard a vessel as a consequence of a "casualty" – a COVID-19 outbreak onboard being a threat to health – will be triggered for all accounted net losses.</p>



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CONCLUSION

This viral outbreak has evidently become an existential crisis for the maritime industry. Whilst there is a fervent desire for an expedient and effective breakthrough in the development of a vaccine, there are no definite assurances. Hence our post-COVID world will be shaped by decisions being made within the petri dish of the fight against the virus.

The longer the pandemic continues, how each of P&I Clubs within the International Group responds to actual and suspected cases of COVID-19 will begin to vary and this may pose additional concerns over adequate coverage despite their pragmatic and sympathetic approach to the demands of the situation. As always, transparent and timely discussions with P&I Clubs are vital given that this situation continues to evolve.

The profound uncertainty about the virus and its trajectory, and about how the world will respond, only magnifies the importance of leadership. In times of crisis, protection and support is instinctively drawn from government and the financial services sector. Quality governance and competent leadership underpins the response to this real life "stress test" of global trade through existing plans of preparedness that will not just determine credibility and legitimacy, but also reveal the true nature of a social contract.



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Who We Are

BACKGROUND

Human Rights at Sea was established in April 2014. It was founded as an initiative to explore issues of maritime human rights development, review associated policies and legislation, and to undertake independent investigation of abuses at sea. It rapidly grew beyond all expectations and for reasons of governance it became a registered charity under the UK Charity Commission in 2015.

Today, the charity is an established, regulated and independent registered non-profit organisation based on the south coast of the United Kingdom. It undertakes **R**esearch, **A**dvocacy, **I**nvestigation and **L**obbying specifically for human rights issues in the maritime environment, including contributing to support for the human element that underpins the global maritime and fishing industries.

The charity works internationally with all individuals, commercial and maritime community organisations that have similar objectives as ourselves, including all the principal maritime welfare organisations.

OUR MISSION

To explicitly raise awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused.



STAY IN CONTACT



We welcome any questions, comments or suggestions. Please send your feedback to:
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Human Rights at Sea is a Registered Charity in England and Wales No. 1161673. The organisation has been independently developed for the benefit of the international community for matters and issues concerning human rights in the maritime environment. Its aim is to explicitly raise awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused.

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