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Understanding the information and documents required for smooth claim handling

Claims

Asia Pacific defence counsel guidelines

The following guidelines are designed to assist defence counsel and insureds to understand the information and documents that should be provided to Liberty to allow smooth and efficient handling of a claim. Both defence counsel and insureds should review these guidelines closely.

Retaining defence counsel

Before retaining defence counsel, please first seek consent from Liberty by providing:

- A copy of the proposed terms of the retainer, noting the scope of the retainer and client
- Details of the legal team proposed by defence counsel and the relevant experience of the senior members of the team
- Hourly rates of each member of the legal team
- It is important that the insured/defence counsel submits a budget of anticipated work, showing a breakdown of each stage, until the resolution of the entire matter
- Where it is difficult to estimate how the case will develop, please nonetheless provide an estimate based on experience

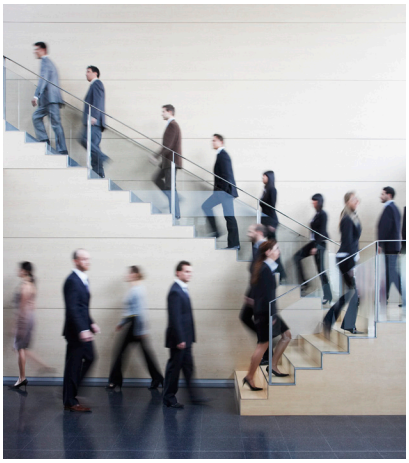
Once Liberty has consented to retaining defence counsel, there should be no changes to team structure, budget and hourly rates unless otherwise agreed by Liberty.

Reporting by defence counsel

- Defence counsel are expected to provide a report to Liberty and the Insured containing their advice on merits and quantum of the matter within six (6) weeks of having begun their retainer. The report should also contain defence counsel's recommended strategy.
- Reports should be updated upon material developments that alter the prospects of the case
- Recommendations on settlement must be provided one month in advance of any alternative dispute resolution
- Budgets should be kept under regular review. Liberty should be promptly updated in the event of any anticipated change to budget.
- Copies of all advices provided by defence counsel and filed pleadings, notices issued by regulators, should be provided to Liberty on a prompt and regular basis

Requesting instructions from Liberty

Liberty endeavours to provide a fast and responsive claims service. We can only do so where we have been provided with sufficient information and time. Please bear this in mind when seeking Liberty's consent or instructions.



We're part of the Liberty Mutual Group, a Fortune Global 500 company that's been in business since 1912 with an S&P A+ financial strength rating

Global reach.
Financial strength.
Local authority.

Distinct, complex and constantly evolving – every business is as unique as their insurance needs. To confidently progress in the face of risk and uncertainty requires a level of security you can only achieve through working with specialists.

Liberty offers a breadth of world-class insurance and reinsurance services to brokers and insured clients. We bring value and solutions to business and government organisations across Hong Kong – helping protect what they earn, build and own.

The following is a non-exhaustive list as to when Liberty's prior consent/instruction should be sought:

- Incurring significant disbursements, such as the instruction of counsel or experts
- Filing important pleadings, such as the defence, admitted facts, witness statements, etc
- Making important interlocutory applications, such as striking out, injunctions, discovery applications, security for costs, etc
- Filing an appeal or judicial review
- Engaging in mediation, settlement discussions or negotiations, making admissions of fact or liability, etc

Invoicing and assessment

- Bills should be clearly itemised and narratives should clearly describe the work undertaken by each fee earner, including total hours spent by each fee earner
- Disbursements should not be incurred without first seeking consent from Liberty, including, overseas travel and accommodation expenses, barrister's fees, law costs, draftsman fees, translation fees, third party provider fees, e-discovery charges, etc
- Bills should be promptly issued on a quarterly basis, or where more than US$10,000 has been incurred, whichever is first
- Bills should be addressed to the Insured and promptly provided to Liberty once issued, even where the amounts incurred do not exceed the deductible or excess. Liberty will assess such invoices to confirm the extent to which the deductible or excess has been eroded
- Certain items will not be considered eligible as defence costs, including:
  - Entertainment, marketing and meal expenses
  - Time spent drafting the engagement letter, preparing invoices, responding to invoice queries and other administrative tasks that do not necessarily require a legally qualified individual
- Liberty may deduct fees where, in our reasonable view:
  - Defence counsel has spent excessive time on a task
  - Work has been undertaken by a fee earner of inappropriate experience
  - There has been duplication of work or time billed, i.e. where more than one fee earner has been unnecessarily involved in the same task

Secrecy and confidentiality

Liberty understands that defence counsel and insureds may, at times, be legally restricted from disclosing information and/or documents to us, for example where regulatory bodies such as ASIC in Australia or the Securities and Futures Commission in Hong Kong are conducting investigations. In such cases, please note that:

- Defence counsel and/or insureds are expected to use all reasonable endeavours to secure permission from the relevant party to disclose information and/or documents to Liberty
- In the particular case of investigations or notices issued by the Hong Kong Securities and Futures Commission, please refer to the "Other Exceptions" section of their website (https://www.sfc.hk/web/EN/regulatory-functions/enforcement/secrecy-provision.html) to determine what information can be released to indemnity insurers

These guidelines are subject to the terms and conditions of the Policy. Where there is any conflict, the terms and conditions of the Policy shall prevail.

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