



Gallagher

Insurance | Risk Management | Consulting

Claims Defensibility Review

Helping you assess your risk management approach and reduce your exposure

When was the last time you thoroughly reviewed your health and safety policies and documentation? Could you defend your business in the event of a liability claim being brought against you? Through a Claims Defensibility Review, Gallagher can help you reduce your risk exposure and protect your business.

What is a Claims Defensibility Review?

Gallagher's Claims Defensibility Review concentrates on the ability of a company or organisation to defend a civil liability claim arising under the rules governing civil litigation in the UK, namely the Civil Procedure Rules. Through a thorough review process, we will highlight the strengths and weaknesses in your present arrangements for defending an employers' liability or public liability claim, and work to reduce your risk exposure in order to help you meet your health and safety duty of care to employees, residents and the public.

How does it differ from an insurance review?

The Claims Defensibility Review is a service we offer over and above our insurance review, and is designed to improve your defensibility against liability claims brought against your company.

An insurance review is a separate, more generalised annual review that we recommend clients carry out as early as possible, especially given the current climate. During an insurance review, a broker should check to see that you have sufficient levels of cover for your business. We conduct a cover analysis by understanding your business and the sector you operate within, and we conduct an audit of your insurance programme to ensure an adequate level of insurance.

The insurance review and the Claims Defensibility Review can work together within our integrated risk management offering.

Why is a Claims Defensibility Review important?

The Civil Procedure Rules require a party to disclose all documents relevant to the claim, regardless of whether they are beneficial or detrimental to their defence. In our experience, defendants or their insurers all too often find themselves having to admit liability at an early stage due to failings in documentary evidence.

A claimant only has to prove his or her case on the 'balance of probabilities' to receive an award of damages and this 'balance' can be as little as 51%. Claimants often achieve this standard of proof due to a lack of documentation and evidence available to defend a claim.

Consequently, over recent years defendants and their insurers have identified the development of a 'compensation culture' which has brought about a noticeable increase in not only the number of claims being made but also the total cost of claims to insurers.

At present, legal costs recoverable by a successful claimant regularly account for more than half the insurer's total outlay due to 'additional liabilities' payable under the Conditional Fee Agreements (e.g., 'no win no fee' agreements) which can entitle the claimant to recover as much as a 100% increase in costs if they succeed at trial. This continues to form a major outlay for insurers.

By reviewing your existing health and safety policies, procedures and documentation, we can help to ensure you what you have in the place is adequate and is not likely to hinder your defence in the event of an employers' liability or public liability claim.



What does the review involve?

The review looks closely at the documentation which the claimant's lawyer is entitled to see either prior to or after the issuing of court proceedings. This exercise will therefore highlight the strengths and weaknesses in present arrangements for defending an employers' liability or public liability claim based upon existing policies, procedures and documentation. It will make recommendations for changes which will improve defensibility prospects in the future, with the aim of leading to a significant reduction in claims-related costs and the time spent within the business dealing with claims.

This process is an objective assessment of the documentation in place at the time of the review. It should also be remembered that all observations are made objectively, in the same way, that the trial judge will assess each party's evidence should a claim proceed to trial.

We will assign a dedicated consultant who will remain your point of contact throughout the duration of the contract to ensure continuity.

The benefits

A Claims Defensibility Review by Gallagher can offer you:

- Increased confidence in existing arrangements.
- Evidence of sound management culture.
- Compliance with current standards and legal duties.
- Validation of the investment being made to improve risk management performance.
- The ability to benchmark the value and effectiveness of your efforts to date.
- The prioritisation of future improvement strategies and targeting of resources.

- Help reduce the frequency of incidents, injury, damage and consequent claims.
- Increased data and information available for marketing your needs to insurers.
- Advice on appropriate legislation.
- Focused practical advice based on your business needs and activities.
- Clear recommendations and guidance on improvements required and existing good practices.
- The ability to demonstrate to stakeholders, regulatory authorities and to insurers your proactive commitment to risk management.

Using Gallagher to carry out this work enables you to demonstrate the independence, competence and continuity of your management approach.

The deliverables

Your Claims Defensibility Review will deliver:

- A review of your health and safety policies/systems used to examine the ability to defend against future employers' liability claims.
- The above review culminated in a report with a full action plan on our findings.
- In many instances, the aforementioned work can be funded by insurers, and any additional work that is required by you can be arranged and quoted separately.

Book your review

To book your Claims Defensibility Review, please contact us on **0800 61 222 61**.

For further information, please visit our Cost Control portal at ajg.com/uk/confidence.