You, modern casualty investigation & Ince
You, modern casualty investigation & Ince, in any case
The maritime sector is facing unprecedented challenges. You need a proactive business services partner that has the ability to move your company forward, who understands these challenges and the importance of commitment.

Meet Ince, your trusted partner, in any case.

From our offices in Europe, the Middle East and Asia, our dedicated team of legal and business services professionals are able to guide you in developing and delivering on your roadmap for sustainable success and provide you with advice that will not only safeguard your business interests, but ensure you reap commercial rewards.

Providing you with strategic guidance and well considered advice, we are renowned for the depth and breadth of our legal services and our understanding of the industries in which you operate. We recognise your needs and offer business focused legal services, together with advice that makes commercial sense.

One firm, in any case

With over 150 years of experience, we have cultivated a seamless ‘one-firm’ approach that is tailored to your personal needs and pairs you with the best legal and strategic business professionals in your field; whenever, wherever, and in any case.

Support, every step of the way

By leveraging our sector expertise, legal skills and market experience, you can feel safe in the knowledge that we will handle complex legal issues on your behalf while providing you with expert strategic advice when the need arises.

9 countries
21 offices
30 different language capabilities
700+ employees worldwide, including support staff
400+ legal and business services professionals
Ince is a market leader in casualty investigation and emergency response.

The ability to properly and efficiently analyse electronic navigational evidence in all its forms is key to providing clients with the most accurate advice and guidance.

Central to this, is our London-based Shipping Intelligence Unit can access the best data and software intelligence systems in-house.

This advice is of relevance to collisions, groundings, collisions with fixed and floating objects, ‘wash damage’ cases, unsafe port cases - irrespective of the value of the claim. Our in-house capability reduces cost, shortens time to advice, and provides a one-stop solution without the need to retain outside technical experts.

Utilisation of the most advanced electronic evidence analysis systems has simplified the task (and accelerated the process) – often removing the need for a lawyer to attend an incident in person. However, this is not the full story. New rules mean that the collation of witness evidence is more complicated to deal with. Accordingly, each matter needs to be assessed on a case-by-case basis at the outset.

Automatic Identification System (AIS)

Our Shipping Intelligence Unit has access to the most comprehensive data bank of global AIS information in use worldwide. From this data we can create accurate ‘film clips’ of incidents.

In parallel, we also review any evidence provided by owners, or reports provided by local correspondents, as well as seeking further input from the crew via email or remote interviewing. We are then able to provide you with concise advice on liability and proposals for further handling.

We are happy to provide this service on fixed fee terms. Where there is no useful AIS data, there will be no charge.

Some survey companies may offer similar services, but ours offers superior quality on a more competitive pricing arrangement. Furthermore, our advice will be from one of our in-house mariners with both the relevant sea and legal experience. This means that you have immediate access to not only the most accurate factual analysis, but also the best-in-class legal advice.

“Their depth of knowledge and expertise in all aspects of shipping, whether transactional, adversarial, or regulatory, is unparalleled.”

- The Legal 500 UK 2021
Voyage Data Recorders (VDRs)

Since the IMO adopted Resolution MSC.333(90), VDR data has become far more comprehensive and reliable. In particular, ships with VDRs fitted after 1 July 2014 will now have a long-term recording medium, capable of storing a minimum of 30 days of continuous electronic data. VDRs will also store screen shots from both ECDIS displays and both radar displays, together with engine and rudder orders and responses.

In short, there is no longer any real reason for a vessel not to capture all VDR data, with the resultant data being extremely comprehensive.

Our Shipping Intelligence Unit maintains an electronic library of all of the major VDR programmes and has the expert knowledge to deploy them efficiently. Ince mariners across our global offices have access to this knowledge and data through a remote login and virtual displays, thus increasing our global efficiency.

The improvement of VDRs coupled with our ability to interview remotely (which has developed since COVID travel restrictions have been in place) now means that remote casualty investigations will be the norm, with attendance on board ships likely being the exception.

We regularly conduct remote casualty investigations with VDR as the basis. We can work on a fixed-fee basis as required on a case by case basis. Our fee is typically in the range US$4,000 - US$16,000 depending on the complexity of the incident, and is often less than US$4,000 for the more straightforward type of desktop analysis.

Getting the case onto the correct footing early

We regularly find that our early assessment of AIS / VDR data enables us to correct initial mis-assessments of the evidence itself, and the impact of the evidence on the relevant legal tests and therefore liability. This can produce significant savings in time and costs.
Recent case examples

Case 1: anchor collision

Typically, liability for collisions at anchor is readily resolved (with one vessel bearing all or the substantial majority of blame). Where a quick resolution is not possible, a proper assessment of the full chronology and relevant detail (against a full understanding of the relevant law) will be required to unlock the case.

Case two: grounding during river pilotage

Groundings are a prime example of a moment's conduct (error, omission, or equipment failure) leading to potentially very large claims. Equally, it is only with an accurate, forensic assessment of the evidence, and knowledge of the law, that the landscape of liability can be properly understood.
English Admiralty Court procedures for collision liability actions

The English Admiralty Court continues to keep pace on improving technological developments.

A 'fast track' collision liability procedure has been in place for a few years, which makes mandatory the early exchange of electronic track data thus leading to the parties' early and accurate assessment of liability.

Where a court trial on liability still seems inevitable, it is likely to proceed without witnesses being called to give evidence, documentary disclosure being limited to just a few pages, and with the trial before the Admiralty Judge taking no more than a day or two. All filing with the English Court is now electronic, and certainly preliminary hearings (and possible even the trial itself) may be carried out remotely.

The English Admiralty Court continues to lead the way in providing a cost-effective and highly experienced forum for resolving such disputes.

2021: New rules for witness evidence

Witness statements to be served in Commercial Court proceedings must comply with new rules contained in Practice Direction 57AC. Subject to confirmation from the Courts, the new requirements for witness statements are likely to apply to Admiralty claims from 1 October 2021. In due course, the rules for arbitration will almost certainly follow the same trend.

In summary, the new rules are designed to remove any complex legal witness statements, and statements which are designed to provide an over-arching narrative of the party’s case, including reference to documentary evidence. The court has taken the view that in most instances, the case will be determined by documentary evidence. Therefore, that witness evidence must now be confined to that narrow section of the evidence which is subject solely to the witness’ own experience of the incident.

The rules provide:

1. The witness statement must be restricted to matters of fact within the witness’ personal knowledge and recollection;
2. The witness statement must be in the witnesses’ own words “if practicable”, and be drafted in a language which the witness is fluent;
3. The witness’ memory may be refreshed by looking at documents, but only those which the witness created or saw during the events in question;
4. The witness statement must identify all documents the witness has been shown during the preparation of the statement;
5. The witness evidence should not comment on factual matters which can be shown on the documents, or be used simply as a vehicle to introduce documents;
6. Witness statements should only refer to documents where necessary (and it will generally not be necessary to do so, except to provide the list of documents used to refresh the witness’ memory);
7. The witness statement should be drafted based on a record or notes made by legal representatives in the process of interviewing the witness;
8. During interview, the witness must not be asked questions which expressly or by implication suggests a desired answer (leading questions) but rather open-ended questions;
9. The witness interview should be recorded as fully and accurately as possible by contemporaneous note or other durable record;
10. The witness statement should set out the manner in which it has been prepared; and
11. As well as a (new, more detailed) statement of truth, the witness statement must be verified by a statement of compliance with the rules by the solicitor.

“The Ince shipping team is responsive, commercial and practical. They act as a true team; referring you to the best person within their team to get the job done.”

— The Legal 500 UK 2021
The **Ince** approach

We have the skills and experience to determine the factual landscape of incidents from electronic evidence.

However, electronic evidence alone is unlikely to provide the complete picture. Often, there are small evidential gaps which only witnesses can address, but witnesses’ recollections will deteriorate over time and they can be influenced by others.

Therefore, these types of cases should be properly investigated immediately, so that all of the relevant evidence is identified and obtained, whether it is electronic, documentary or witness evidence.

Local correspondents and surveyors will, of course, play an important role in responding and gathering evidence on scene. However, it can be difficult for them properly to test what they are being told (their legal knowledge may also be tested), and they may not have the ability to access and evaluate the electronic evidence available to us.

Seeking early legal advice in these types of cases will both save costs and create more certainty. By working together with your existing on-scene investigations, we can provide a cost-effective, appropriate and on-point report and incident analysis enabling you to adopt the best strategy for resolution of the incident.

---

**24 hour emergency response**

Our team of highly experienced casualty response lawyers and master mariners are contactable 24 hours a day, 365 days a year on our dedicated Emergency Response number and are available to travel globally at immediate notice.

+44 (0) 20 7283 6999
“They are excellent to work with, provide to-the-point advice, are swift, creative and sensible, and give excellent-quality legal advice.”

— Chambers and Partners 2021