

Lloyd's Claims Lead Arrangements (CLA)



**lma**  
LLOYD'S market association


# Market Guidance: Co-Lead Binders & the Co-Lead Claims Agreement (CLCA)

May 2023

Produced by LMA Delegated Authority Claims Group (DACG)

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 Where you see this sign in the top right-hand corner, please read this guidance alongside the materials referenced.

# Introduction

This guidance has been produced to support the market in adopting the changes brought about by the Lloyd's Claims Lead Arrangements in respect of co-lead binders.

Co-lead binders is a term commonly used where risks are placed across multiple binders. Under the previous Claims Scheme, the leader of each binder had to agree the claim separately. However, to support efficient claims handling, the market produced a Co-Lead Claims Agreement (CLCA), supported by Lloyd's, to facilitate the appointment of Claims Agreement Parties. This meant that where a CLCA was in place, rather than each Binder Lead having to agree a claim, the CLCA set out a Lead and Second Lead who had authority (prescribed in the CLCA) to handle the claim on behalf of all subscribing underwriters. This practice has been in place since 2018.

From 1 June 2023 the new Claims Lead Arrangements (CLA) come into force, bringing claims arising from risks placed across multiple binders into scope, ensuring that there is only one Lloyd's claims agreement party for all standard claims, and only two for complex claims. In effect, a CLCA is now required for all co-lead binder arrangements. When a CLCA is not in place, the lead claims agreement party (and second lead if complex) will be determined by default rules until it has been agreed.

Lloyd's have produced specific co-lead binder specialist guidance which sets out specific provisions that should be included within a CLCA. The LMA Delegated Authority Claims Group, with support from LIIBA's Delegated Authority Claims Committee, have updated the existing CLCA to ensure that the market can meet these provisions. The CLCA has also been updated to take authority, for Claims Agreement Parties, from the CLA rather than it being set out in the CLCA itself. The updated CLCA should be used for Lloyd's only (single market) co-lead binder arrangements. Discussions are taking place to adopt a similar approach for mixed markets (i.e. Lloyd's and Company) and further updates will be provided during 2023.

The purpose of this guidance is to address some of the practical steps needed to implement these changes and to address how the CLCA works in practice. This is of particular importance as these processes are not wholly supported by market systems at this stage. We also recognise that the former CLCA was not adopted universally.

**It is expected that readers of this guidance will have already familiarised themselves with the CLA and Lloyd's specialist guidance; and digested the Lloyd's training materials on Delegated Authority Arrangements (Module 3).** Links to all these materials can be found in the *Reference materials* section.

# Timeframes

- **From 1 June 2023** - The Claims Lead Arrangements applies to all risks written under co-lead binding authority arrangements that comprise binding authorities which all incept after 1 June 2023.
- **From 1 January 2024** - The Claims Lead Arrangements applies to all risks written under all other co-lead binder arrangements

**It is recommended that this exercise is started as soon as practicable so that all claim decisions are made by the correct claim agreement party in accordance with the CLA.**

Today



Where possible the market should adopt the updated **CLCA for all binders incepting from 1 June 2023** where it is expected that they will or could be used as co-lead binders.

Managing agents should consider whether any changes are required for any existing or new DCA Agreements

1<sup>st</sup> June 2023



In readiness for 1 January 2024, the market will need to identify all co-lead arrangements and either:

1. Update any existing CLCA with the new wording to ensure that new provisions are in force, or
2. Implement a CLCA, where one does not exist, for all co-lead claims arrangements.

1<sup>st</sup> January 2024



Once pre 1 June 2023 binders come into scope on the 1 January 2024, the CLA will apply to all open/legacy claims. **It is possible that Binders Leaders will find themselves in a position where they will no longer be an agreement party for an open claim.**

# Key changes to LMA9186 Co-Lead Claims Agreement (CLCA)

- ✓ **Authority for Claims Agreement Parties now comes from the Claims Lead Arrangements (CLA)**– the CLCA has been updated to reflect this and reference back rather than duplicate what that authority looks like
- ✓ **Alignment to the Lloyd's Specialist guidance on co-lead binders.** The guidance sets out provisions that a CLCA must contain, all of which have been catered for in LMA 9186 (see next slide)
- ✓ The **default position**, as set out in the CLA, has been included for circumstances **where a Claims Agreement Party does not participate on a risk**
- ✓ **Where a loss fund is not agreed by Binder Leaders** as part of the Claims Management Selection Process, the lead has responsibility for setting an appropriate loss fund level
- ✓ As Watchlist Codes are not operable for co-lead binder arrangements, provisions have been set out to support appropriate **communication from Claims Agreement Parties to followers**; including: DCA's recording litigation on bordereau, Leads issuing material development updates and Claims Agreement Parties making information available to followers in response to all reasonable requests.
- ✓ **In cases of catastrophe (CAT) events**, the CLCA sets out for the Broker to reconvene the Claims Management Selection Process to agree the most appropriate Claims Agreement Parties for the cat event considering binder leader exposures; and to agree a cat loss fund and appropriate funding.
- ✓ A **provision** has been added **to ensure that all Binder Leaders have a contract in place with the agreed DCA** and that nothing in those contracts prevent the DCA from acting on behalf of the Claims Agreement parties in accordance with the authority set out in the CLCA.
- ✓ **Specific broker responsibilities** have been set out in respect of ensuring files are seen promptly, uploading of the CLCA onto the IMR, evidencing Lead agreement to cash calls/loss fund top ups and ensuring first notice of proceedings against underwriters are communicated to Binder Leaders.
- ✓ **Limits of liability** have been removed from the CLCA as the limits set out in the CLA are in force.
- ✓ LMA9186 has been **renamed to LMA9186A** for versioning purposes.

# Key changes to LMA9186 Co-Lead Claims Agreement (CLCA)

Lloyd's Guidance – CLCA Provisions	LMA 9186A CLCA	
<p><i>The CLCA should include the following provisions:</i></p>		
<p>a) Identity of each binding authority subject to the CLCA, by UMR, with binding authority lead syndicate details for each binding authority</p>	✓	<p><b>Section 4 –</b> The Binding Authority Agreement(s)</p>
<p>b) Identity and contact details of Lead and Second Lead CAPs, or the mechanism by which they will be identified</p>	✓	
<p>c) Any variations to Lead and Second Lead CAP for each section</p>	✓	
<p>d) Identity and claim contact details of all other binder leads</p>	✓	
<p>e) Identity of any DCA that it is agreed may be appointed, including financial limit of authority that can be delegated to the DCA</p>	✓	<p><b>Section 3 –</b> Programme Details / Authority</p>
<p>f) Mechanism for making payments either by adopting the Faster Claims Payment facility or otherwise by establishing loss funds under the control of any DCA appointed (which should include agreed levels for the loss fund, and the authority of the Lead CAPs for agreeing any increase to loss funds).</p>	✓	<p><b>Section 3 –</b> Programme Details / Authority</p> <p><b>Section 6 –</b> Roles &amp; Responsibilities: 6.2</p>
<p>g) Roles and responsibilities of CAPs and broker(s) in communicating with all other syndicates – including the responsibilities provided in the CLA, for example the Lead CAP's responsibility to inform follow syndicates of the commencement of dispute resolution proceedings against syndicates.</p>	✓	<p><b>Section 6 –</b> Roles &amp; Responsibilities</p>

# Placement considerations

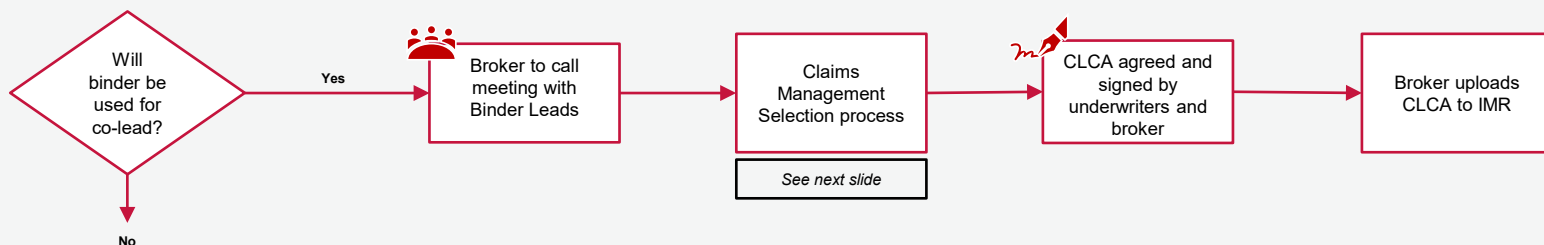
**At placement consideration should be given to whether a binder will, or could be used, for co-lead arrangements.**

Ideally, a CLCA would be agreed pre-bind but this is not always practical. Best practice is to **have a CLCA in place as soon as possible post bind.**

The broker will facilitate a meeting with Binder Leaders (the 'Claims Management Selection Process') to agree the CLCA.

## When to flag that a CLCA is needed:

- Placement teams and Coverholders should flag with the Broker if they believe a binder could (or has been used) for co-lead arrangements and a CLCA is not in place
- If a claim is reported and there is no CLCA then default claims agreement parties take effect. At this point the arrangement needs to be flagged with the broker, who will arrange a meeting to agree a CLCA. Pending the agreement of a CLCA the default lead claims agreement party should make any decisions required to avoid delay in responding to the broker and policyholder.



# The Claims Management Selection Process

**Who:** Broker & Binder Leaders

**When:** Pre-bind if possible, or as soon as possible post bind

## Checklist:

- Selecting the claims agreement parties – Lead & Second Lead
- DCA selection and agreement of authority
- Agree the loss fund level
- Agree communication methods between parties (email, ECF)
- Catastrophe events – agree what to do in the event of a cat

After the meeting, the CLCA is signed by all Binder Leaders and the Broker.

The Broker uploads a copy of the CLCA to the IMR for each binding authority and shares with any other involved brokers and the appointed DCA.

# The Claims Management Selection Process

- At the Claims Management Selection Process meeting, the Broker(s) and Binder Leaders will discuss and reach agreement on claims management for risks written across the selected binders.
- Once agreement is reached the output should be documented in the relevant section CLCA.

Claims Management	Output	Considerations
<b>Selecting claims agreement parties</b>	Lead and Second Lead Section 4 of CLCA	<ul style="list-style-type: none"> <li>- Level of participation</li> <li>- Experience</li> <li>- Appetite/capacity to take lead position</li> </ul>
<b>DCA Selection</b>	Which DCA & financial authority Section 3 of CLCA	<ul style="list-style-type: none"> <li>- Where a DCA has already been chosen the Binder Leaders should confirm that they have a relationship with that DCA</li> <li>- The financial authority documented must be for the whole claim, not per slip.</li> <li>- Non-financial authorities for the DCA will follow the Lead's DCA Agreement.</li> </ul>
<b>Loss Fund Level</b>	Loss fund level Section 3 of CLCA	<ul style="list-style-type: none"> <li>- If a loss fund is not agreed during the Claims Management Selection Process, or within 30 days of entering into the CLCA (which ever is later) then the Lead has authority to set an appropriate level of loss fund. This responsibility is set out in the CLCA in Section 6 – Roles &amp; Responsibilities (6.2)</li> </ul>
<b>Communication</b>	Communication method - ECF or Email Section 3 of CLCA	<ul style="list-style-type: none"> <li>- Type of risks written – does the account have a high propensity for complex losses or will most be standard?</li> <li>- Broker and market preferences</li> <li>- ECF is a viable option for standard claims, but it is more challenging for complex claims.</li> </ul>
<b>CAT Events</b>	CAT event protocols	<ul style="list-style-type: none"> <li>- Specific parameters, for what to do in the event of a CAT, can be set and documented within the meeting, or it can be agreed that in the event of a CAT the broker will call a meeting to reconvene the Claims Management Selection Process.</li> <li>- The CLCA caters for this eventuality through Section 6 Roles &amp; Responsibilities (6.9). In such cases, the Broker and Binder Leaders will agree the most appropriate Claims Agreement Parties for claims arising from the cat event taking into account exposure and will agree a cat loss fund and appropriate funding.</li> </ul>

# Litigation

Receipt of notice  
of proceedings  
against  
Underwriters



The Broker will email  
Lead and Second  
Lead, and copy in  
Binder Leaders for  
information purposes



Binder Leaders should  
share information with  
their followers



*If the follow market requires  
further information, then they  
should contact the Lead, who  
should respond to reasonable  
requests for information*

Litigated cases should be  
flagged on the claims  
bordereau



The Lead will need to discuss and  
agree this requirement with their  
DCAs. *Note, this is not currently a  
mandated field per the Coverholder  
Reporting Standards.*

Binder Leaders and  
followers can track  
movements through  
the claims bordereau



Only where there is a significant or material development on a litigated case is the Lead expected to issue a Material Development Communication (MDC). The following examples are generally considered to be of a significant or material nature, where the Lead should consider issuing a MDC:

- Cases going to trial in the next 90 days
- A material change to the litigation strategy
- A change in coverage position resulting in exposure to Extra-Contractual Obligations
- Anything with a potential to significantly deteriorate

Leads are not expected to appraise non-agreement parties of day-to-day proceedings in every case of litigation.

# Material Development Communications (MDC)



## Lead responsibility

In cases where a material development communication is needed, the Lead (or via an expert or the broker) must draft a communication and issue to all Binder Leaders. Binder Leaders should then share this information with their followers.



## Lloyd's guidance

Lloyd's specialist guidance sets out Claims Agreement Parties responsibilities to communicate significant and material developments to following syndicates and provides guidance on the types of situations where this may be necessary.

- ✓ **Something significant is about to happen**
- ✓ **A significant activity has happened**
- ✓ **A significant decision needs to be made by the Lead Claims Agreement Party**
- ✓ **Material Reserving insights or supporting rationale**
- ✓ **Material cash flow is forecast**



## Templates – *in development*

The LMA is working with LMA Claims Groups to produce template Material Development Communications

# Catastrophe (CAT) Events

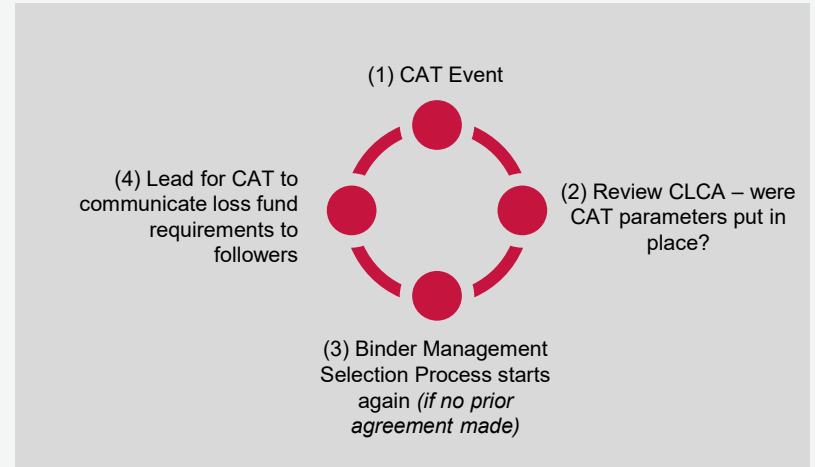
- At the first Claims Management Selection Process meeting, parameters may have been discussed and agreed for CAT events. If this is the case, these should have been documented and will form the basis of agreeing next steps.



- Where this is not the case, the CLCA (*Section 6 Roles & Responsibilities (6.9)*) allows for the Claims Management Selection Process to start again. The broker will reconvene the Binder Leaders to agree the most appropriate Claims Agreement Parties for claims arising from the CAT event taking into account Binder Leaders exposure; and will agree a CAT loss fund and appropriate funding.



- The Lead for claims arising from the CAT event will need to communicate loss fund requirements to followers.



# Other reporting responsibilities

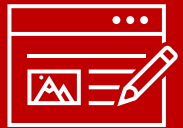
## Complaint Reporting

The CLCA sets out a responsibility for the Lead to report complaints to Lloyd's in line with the Lloyd's Code for Complaint Handling

## Lloyd's Catastrophe Reporting

In cases where Lloyd's Catastrophe Reporting is required, the Lead Claims Agreement Party (or their appointed DCA) should take responsibility for reporting to Lloyd's on behalf of all Binder Leaders.

*While this is not currently a responsibility set out in the CLCA, this is considered good market practice and is in line with Lloyd's Catastrophe Reporting User Guide.*



# Reference materials

Materials relating to the Lloyd's Claims Lead Arrangements (CLA) can be found at:

[Changes to Lloyd's Claims Scheme \(lloyds.com\)](#)

- Revised Lloyd's Claims Lead Arrangements
- Guidance on the Lloyd's Claims Lead Arrangements
- Specialist guidance notes for Co-Lead Binding Authorities
- FAQs

[Claims Scheme documents \(lmalloyds.com\)](#)

- As above+
- Lloyd's Training Modules
- Further specialist guidance
- Operational Readiness Playbook



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# Feedback

We are committed to keeping these changes under review and will facilitate feedback from the market through the LMA's **Delegated Authority Claims Group**.

If you have any feedback or questions as you adopt these changes and implement new processes over the next 6-12 months please share this with the LMA.

We will inform, and work with LIIBA, on any feedback in respect of brokers responsibilities.

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