

Conflicts procedure

Area	Description
Introduction	<p>[insert name] safeguards itself from claims that the firm is acting in conflict by conducting the following activities:</p> <ol style="list-style-type: none"> 1. Conflicts Database: Maintaining a record of former and current clients and related parties 2. Conflicts Check: Conducting a comprehensive conflicts check before accepting any new matter 3. Conflicts Monitoring: Monitoring any changes to circumstances that might give rise to a new conflict during a matter 4. Conflicts Management: Where a potential conflict is identified, either declining the instructions or managing the potential conflict in a legally permissible manner <p>This procedure sets out mandatory tasks and accountabilities for these activities.</p>
Conflicts Database	<ol style="list-style-type: none"> a. The [insert accountable role e.g. practice manager] will maintain and make available a Conflicts Database of <ul style="list-style-type: none"> • all former and current clients • related parties (i.e. anyone whose interests might be affected by the work, inc. counter parties) b. The Partner responsible for each matter will provide the practice manager with the names of clients and related parties as they become known, for inclusion in the Conflicts Database c. If the firm acquires clients and former clients through a merger, acquisition or other means the Partners will identify who is responsible for adding the acquired clients and former clients to the Conflicts Database, and by when
Conflicts Check	<ol style="list-style-type: none"> a. The Partner who first interviews a prospect is accountable for completing the Conflicts Check b. To complete the Conflicts Check: <ol style="list-style-type: none"> i. Confirm the name of each client and where relevant, identify the names of directors, shareholders and associated entities of each client <ul style="list-style-type: none"> • Compare the names identified in i. with the names in the Conflicts Database • Email the names identified in i. to firm personnel • Identify any related party (i.e. anyone whose interests might be affected by the work) and determine: <ul style="list-style-type: none"> o is the client a potentially conflicted agent for that related party? e.g. one child engaging firm to draft will on behalf of parent; director engaging firm on behalf of company, where its interests and directors potentially differ o is the related party unrepresented and might they reasonably rely on the firm's advice?
Conflicts Monitoring	<ol style="list-style-type: none"> a. The Partner or Senior Counsel in charge of a file is accountable for ongoing Conflicts Monitoring b. Conflicts Monitoring requires that the firm continually monitors for changes in circumstances that might give rise to a new conflict in a matter c. Conflicts Monitoring should form part of every file review and also be triggered by the following: <ul style="list-style-type: none"> • the firm is acting for one client in a matter and commences acting for another client in the same or related matter • the other parties to the matter change/a new party is added • the firm acts for multiple clients, whose interests or potential interests no longer align • the firm develops its own interest in the matter (e.g. costs recovery) • an allegation of misconduct is made against the firm by the client/other party • the firm employs new professional or support staff
Conflicts Management	<ol style="list-style-type: none"> a. Where Senior Counsel is accountable for a Conflicts Check or Conflict Monitoring that identifies a conflict or potential conflict, the matter must be immediately communicated to a Partner. b. To complete Conflicts Management the accountable Partner must: <ol style="list-style-type: none"> i. Determine whether it can be managed in a manner permissible under the Legal Profession Conduct Rules 2010, the Legal Profession Act 2008, common law and equity ii. If so, take whatever steps are required to do so and: <ul style="list-style-type: none"> • ensure these steps are documented • monitor their ongoing effectiveness iii. If not, decline the instructions