

Basic Questions To Ask Yourself If Your Firm Is Protected Against A Conflict Situation?

A System

	YES	NO		YES	NO
1. Does your firm brief staff on the Conflicts Rules in the <i>Bar Council Rulings and Legal Profession (Practice and Etiquette) Rules 1978</i> ?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Declined clients' names	<input type="checkbox"/>	<input type="checkbox"/>
2. Is there a designated partner in charge of conflicts check?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Subsidiaries/Affiliates or partners of client	<input type="checkbox"/>	<input type="checkbox"/>
3. Does your firm have a system for discovering conflicts of interest?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Aliases/Alternative Spelled Names/ Known Former Names	<input type="checkbox"/>	<input type="checkbox"/>
4. Are all staff aware of this system?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Directors or officers of client	<input type="checkbox"/>	<input type="checkbox"/>
5. Is this system easily accessible to all staff?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Known relative of client and other parties	<input type="checkbox"/>	<input type="checkbox"/>
6. Are all new staff taken through this system as part of their induction process?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Common law spouses of client and others	<input type="checkbox"/>	<input type="checkbox"/>
7. Does the designated partner circulate information on new clients for lawyers to review and sign off on?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Lawyers for any names in the database	<input type="checkbox"/>	<input type="checkbox"/>
8. Does the system require ALL staff to conduct a conflict check prior to their receiving confidential information from a potential client?	<input type="checkbox"/>	<input type="checkbox"/>	♦ Identity of Witnesses	<input type="checkbox"/>	<input type="checkbox"/>
			♦ Employees (Staff, Legal Assistants, Partners, etc)	<input type="checkbox"/>	<input type="checkbox"/>
			<i>*This information is especially important where new employees/partners are joining your firm from another firm</i>		
			♦ Vendors/ Service Providers	<input type="checkbox"/>	<input type="checkbox"/>
			13. Does the database include a description of who the party is and what relationship or file the individual/entity has with your firm? ⁴	<input type="checkbox"/>	<input type="checkbox"/>
			14. Is there one staff responsible for maintaining this database? Is there a backup staff in the event (s)he is unavailable?	<input type="checkbox"/>	<input type="checkbox"/>

Who is the Client?

9. Is the following basic conflict of interest information obtained before opening a file:		
♦ Exact identity of the client: Who is the client in the transaction? What role does (s)he have?	<input type="checkbox"/>	<input type="checkbox"/>
♦ Is the client an individual or an entity for which the individual works for? ²	<input type="checkbox"/>	<input type="checkbox"/>
♦ Is the client a party to a transaction, both parties, or the entity they are forming? ³	<input type="checkbox"/>	<input type="checkbox"/>
10. Do you require prospective clients to disclose any personal relationships they may have with any staff/lawyer in the firm?	<input type="checkbox"/>	<input type="checkbox"/>

Your Firm's 'Peoples'?

** Anyone who comes into contact with your firm*

11. Does your firm have a database of its 'peoples'?	<input type="checkbox"/>	<input type="checkbox"/>
12. Does the database include the following information:		
♦ Client name	<input type="checkbox"/>	<input type="checkbox"/>
♦ Names of opposing parties	<input type="checkbox"/>	<input type="checkbox"/>
♦ Co-plaintiffs or co-defendants	<input type="checkbox"/>	<input type="checkbox"/>

Dealing with Conflicts

15. If a potential conflict is found, do you either decline to take the case or notify the client of the potential conflict in writing?	<input type="checkbox"/>	<input type="checkbox"/>
16. If you are asked to represent two or more clients in the same matter, do you ask them to sign a waiver/consent letter? If so, have you considered whether this is a situation where the client can waive the Conflict?	<input type="checkbox"/>	<input type="checkbox"/>
17. If you are asked to represent two or more clients in a Conveyancing matter, do you check with your legal profession rules if you are allowed to do so in those circumstances? Do you obtain written waivers from the clients?	<input type="checkbox"/>	<input type="checkbox"/>
18. Your firm's policy discourages		
♦ Signing on clients in matters where lawyers, their relative, or friend, has a financial interest.	<input type="checkbox"/>	<input type="checkbox"/>
♦ Representing opposing parties in "friendly" litigation where there seems to be no opposing interest. ⁵	<input type="checkbox"/>	<input type="checkbox"/>

If you have answered 'No' to most of the questions above, your firm could be at risk of a conflict of interest problem. It does not however, necessarily translate into a serious problem, it simply means that it's time to evaluate your practice and procedures.