

# THE DREADED C – CONFLICT OF INTEREST: THE ESSENTIALS

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In this final instalment of 'The Dreaded C – Conflict of Interest' series, focus will shift to the essentials of a conflict system, they are applicable whether you maintain a record book or a computerised system.

## ESSENTIALS OF A CONFLICT SYSTEM

- **The right attitude!** Train ALL partners, lawyers and staff that a conflict check is a MUST and they should be alert.
- **Create and implement a standard questionnaire/client intake procedure** for acceptance of new clients. Train everyone in the firm to use this document.
- **A designated senior partner** must approve ALL new clients before they are taken on.
- **A strong office policy** must be implemented and there should be *zero tolerance for opting out*. Example: (1) No file can be opened until a conflict check is made and results documented, (2) The designated senior partner provides his approval, (3) The policy is required reading for every new hire.
- **Integrate** your conflict system with your office systems, especially where your firm has moved to using computerised systems.
- **Communication.** Lawyers must communicate within the firm regarding clients and potential clients. Example: Circulate a list of new clients and matters amongst lawyers and staff to ask if they know of the existence of any conflict.
- **Document.** The person who conducts the conflict check must document the search providing specifics of how they went about it.
- **Records.** All conflict searches must be maintained in one record book/document opened for this purpose. This record book/document then becomes the firm's 'bible'.
- **Alternative spelling options.** Try alternative spelling options when conducting any conflict check.
- **Back-up** your conflict system!

**In summary, a successful conflict system is one that is:**

- Accessible to everyone in the firm
- Assigned to a designated staff and partner
- Updated each time a new client is taken on
- Integrated with the firm's office systems
- Reviewed annually with all staff

Whilst your law practice will never be completely free of conflicts – it is unfortunately inherent in the practice of law - we nonetheless hope that through *The Dreaded C* series, you are well on your way to developing your own successful conflict system!

### DID YOU KNOW? ↘

EVERY consultation should be recorded.

Obtain MINIMAL info during consultations – info need only be sufficient to make an initial conflict check.

The fact that you can take on a case DOES NOT necessarily mean you should!

Manual record systems are MORE LIKELY to lead to conflict situations.

Conflict risks exist when lawyers MOVE from one firm to another.

### LITTLE KNOWN FACT ↙

PRELIMINARY DISCUSSIONS with clients may lead to conflict problems later.

Conflicts are MOST COMMON where a firm acts for more than one person in a single matter and/or the lawyer has a personal interest e.g. monetary interest.

An AUTOMATED RECORD SYSTEM reduces conflict risks in the long run.

DISCIPLINARY ACTION and/or risk of civil liability may result if you are acting in conflict.