

# Conflict of Interest

|                | <i>Successive COI</i>   | <i>COI with own interest</i>  | <i>Concurrent Interest</i>   |
|----------------|---|---|--|
| Description    | Must not use or disclose confi info from formal client for the interest of current client <ul style="list-style-type: none"> <li>• Tension b/w new and past clients.</li> </ul> | Current client and lawyers interest at conflict <ul style="list-style-type: none"> <li>• Fed Duty: No profit, no conflict rule</li> <li>• Cannot rep</li> </ul> | Two current client in same or related matter COI <ul style="list-style-type: none"> <li>• Interest are diff/against one another</li> </ul>                                 |
| Exceptions     | <ul style="list-style-type: none"> <li>• Informed Written Consent; OR</li> <li>• The effective barrier is in place.</li> </ul>  | <ul style="list-style-type: none"> <li>• Fully informed COI; and</li> <li>• Had proper indi legal advice; and</li> <li>• Agrees to be rep by l/er.</li> </ul>   | <ul style="list-style-type: none"> <li>• Client informed that l/er act for another client; and</li> <li>• Informed consent; and</li> <li>• Effect info barrier.</li> </ul> |
| Ethical Issues | <ul style="list-style-type: none"> <li>• Fiduciary Duty.</li> <li>• Protective public reputation.</li> </ul>  | <ul style="list-style-type: none"> <li>• Fiduciary Duty</li> <li>• Integrity</li> <li>• Maintain public perception</li> <li>• Reputation</li> </ul>             | <ul style="list-style-type: none"> <li>• Fed Duties</li> <li>• Duties to each client</li> <li>• Duty to the court</li> <li>• Issues of confi.</li> </ul>                   |

- Act in the **best in interest** of the client in *any matter*
  - *Any matter*: any legal services in relation to the case, property matter or advice.
- Test for s 13: whether there is 'a real and sensible possibility of misuse' of confidential information (from the formal client) [Mallesons]
- **Not (assist anyone) borrow money from (formal) client** unless that client:
  - Deposit-taking institution
  - Public unit trust
  - Investment entity
  - Had written disclosure and independent advice about the loan
  - Employee
- You should not become security or guarantor for the client.