

# Conflict of Interest explained

## CONFLICT-OF-INTEREST CHECK

Caxton Legal Centre conducts a mandatory conflict-of-interest check on our file management data base. For this we need to get your full name and that of the other party and may require dates of birth. An appointment cannot be made for you without completing a conflict check.

## HOW DOES A CONFLICT OF INTEREST ARISE

A legal conflict of interest occurs when the duties a lawyer owes a client come into conflict with the duties a lawyer owes to the court or to a different client, or with the lawyer's personal interests.

Conflicts may arise in various ways when the different duties and interests that a lawyer has clash.

A conflict can arise on any legal matter and is not necessarily related to your specific legal dispute. Our centre may have previously advised the other party you named, or we may have given advice to someone who has named you as the other party.

Conflicts also arise because lawyers owe duties not only to their clients but to the court. For example, lawyers must conduct court proceedings openly and with honesty, and without misleading the court as to the facts of the case.

## WE CANNOT ASSIST WHERE THERE IS A CONFLICT OF INTEREST

We cannot assist someone if a legal conflict of interest exists.

It is unethical for lawyers to ignore or overlook a conflict of interest. Conflict-of-interest principles

exist to protect clients by making sure that lawyers are loyal to them and to maintain a public perception of professional honesty. A lawyer needs to focus on the best outcomes for a particular individual, and if they are representing both sides of a case, they are not able to do this with objectivity and integrity.

## WHAT HAPPENS IF A LAWYER GIVES HELP TO TWO PEOPLE AND A CONFLICT OF INTEREST ARISES LATER

As soon as a conflict of interest arises or becomes known, the lawyer will stop assisting. This can mean work may cease abruptly. To prevent this, most lawyers will take great care to identify all the parties and how they relate to each other, and will usually want to see clients alone when legal advice is being provided.

## WE CANNOT TELL YOU ABOUT THE CONFLICT

We have a duty of confidentiality with respect to information communicated to us as a result of the lawyer-client relationship. This duty exists for current and former clients. We cannot give you information about the conflict.

## THIS APPLIES TO EVERYONE WHO WORKS AT CAXTON

The conflict-of-interest principles apply to everyone who works at Caxton, namely the lawyers, social workers, admin staff, volunteers and students.

## EXAMPLES OF A CONFLICT OF INTEREST

### Example 1

Bill and Josie are married. Bill has recently been convicted of assault. Josie, who has suffered from domestic violence, decides to leave Bill. Bill has obtained advice from Caxton about his criminal case. Josie wants advice from Caxton about her family law matters.

Caxton is aware of confidential information about Bill that Josie would want to know for the family law proceedings. This means that Caxton cannot assist Josie with her family law matter because Caxton would have a clash of duties—the duty to keep Bill's information confidential and the duty to disclose the information to Josie.

It does not mean that Caxton does not want to assist Josie, it just means that we are not able to.

### Example 2

Andrew is in a car accident with Greta, who he says was at fault. He is uninsured and seeks advice about how to bring a claim against Greta for damage to his car.

A year later, Greta is sexually harassed at work and seeks our advice. We cannot help Greta because we have a conflict of interest, even though the cases are not related.

Our client Andrew is able to come back for more help as his case progresses. If we help Greta, we will acquire confidential information about her that could potentially be helpful to Andrew.

### This is not a conflict of interest

Ten years ago Marco sought our advice for an employment law dispute. Seven years later, all records of that attendance and advice were destroyed in line with our policy.

Recently, Aimee sought our advice about a victims compensation claim relating to an assault by Marco. We no longer hold any private information about Marco. We are able to give advice to Aimee.

If you are experiencing a conflict of interest, we can give you no further details about the conflict. We will, however, endeavour to find you alternative paths for assistance.

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This information is current at September 2020.

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