



Information Barrier Guidelines Summary

Introduction

These guidelines are provided for the guidance of solicitors. They are, however, merely a précis of the full "Information Barrier Guidelines" (20 April 2006). Law practices should familiarise themselves with the full Guidelines before attempting to implement effective information barriers into the law practice. Not all firms will be able to satisfy the relevant requirements.

1. A law practice should have established documented protocols for setting up and maintaining information barriers. In all matters the law practice should carefully control access to any client information by personnel in the law practice in view of the possible requirement for an information barrier in the future.
2. A law practice should nominate a compliance officer to oversee each information barrier. The compliance officer should be an experienced solicitor and take appropriate steps to monitor compliance.
3. A law practice should ensure the client in the current matter acknowledges in writing that the law practice's duty of disclosure to that client does not extend to any confidential information which may be held within the law practice as a result of the earlier matter and consents to the law practice acting on that basis.
4. All screened persons (i.e. each person who possesses confidential information from one retainer which is relevant to another, current retainer) should be clearly identified and the compliance officer must keep a record of all screened persons.
5. Each screened person should provide an undertaking to the law practice, and the law practice should where appropriate provide an undertaking to the court, confirming that the screened person:
 - (i) will have limited interaction with the client or personnel;
 - (ii) will not disclose any confidential information; and
 - (iii) will report to the compliance officer in relation to any potential breach or breach of an undertaking.
6. Personnel involved with the current matter should not discuss the earlier matter with or seek any relevant confidential information about the earlier matter from any screened person. Such personnel should provide undertakings confirming that:
 - (i) no confidential information will be disclosed;
 - (ii) they will have limited interaction with a screened person;
 - (iii) they will not seek or receive any confidential information; and
 - (iv) they will report to the compliance officer in relation to any potential breach or breach of an undertaking.
7. Contact between personnel involved in the current matter and screened persons should be appropriately limited to ensure that the passage of information or documents between those involved in the current matter and screened persons does not take place.

The law practice should consider whether it is appropriate for such personnel to have contact with the client in other matters during the current matter.

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8. A law practice should take steps to protect the confidentiality of all correspondence and other communications related to the earlier matter.
9. Any files held by the law practice relating to the earlier matter should be stored in a secure place where they can only be accessed by screened persons and/or the compliance officer.
10. Access to any electronic files the law practice holds relating to the earlier matter and other technological communications related to the earlier matter should be restricted to screened persons and/or the compliance officer. The law practice should set up appropriate forms of technological protection to ensure access is restricted.
11. A law practice should have an ongoing education program in place, including education for all personnel about the law practice's protocol for protecting confidential information and for setting up and maintaining information barriers.

How can we help you?

Visit the LIV Ethics & Professional Practice Department's website at: <http://www.liv.asn.au/Professional-Practice/Ethics>

These are guidelines only and do not have the force of law. A solicitor must comply with the *Legal Profession Uniform Law Application Act 2014* and the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*.

To discuss concerns about information barriers, contact the Ethics & Professional Practice Department on (03) 9607 9336.

*Adopted by the Council of the Law Institute of Victoria
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