

Information Barrier Policy

STATEMENT

YFS Legal (CLC) aims to:

- prevent any breach of the duty of confidentiality owed by YFS Legal personnel that might otherwise occur by reason of YFS Legal being a program of YFS Ltd.
- to minimise the risk of perceived and actual conflicts of interest between YFS Legal and other YFS Ltd programs
- to ensure compliance with the Risk Management Guide (RMG) and relevant legal profession laws and rules.

SCOPE

This policy applies to all employees, volunteers, Board Members, contractors and representatives of YFS Legal and YFS Ltd.

INTRODUCTION

YFS Legal is managed by YFS Ltd.

YFS Ltd also manages several other [service delivery programs](#).

YFS Legal personnel owe a duty of confidentiality and loyalty to their clients, and are also under a duty to avoid conflicts of interest: see [YFS Legal Conflict of Interest Policy \(101770\)](#) and [procedure \(101771\)](#).

Compliance with these duties and with the RMG requires YFS Legal and YFS Ltd to have in place an Information Barrier to prevent confidential client information passing from YFS Legal and YFS Ltd and its service delivery programs.

An information barrier is of itself no solution to a situation where there is a conflict of interest between one client and another client (or in some cases, former client) of the CLC. An information barrier does not remove the duty of undivided loyalty that a legal practice owes to a client and any potential conflict of interest within the CLC will be dealt with by reference to the [YFS Legal Conflict of Interest Policy \(101770\)](#) and [procedure \(101771\)](#).

What is an information barrier?

An 'Information Barrier' "*contemplates the existence of established organisational arrangements which preclude the passing of information in the possession of one part of the business to other parts of the business ...*"¹.

¹ *Prince Jefri Bolkiah v KPMG (A firm)* [1999] 2 WLR 215.

An information barrier, properly constructed taking into account the issues set out in the Law Society of NSW and Law Institute of Victoria guidelines, adopted and approved by the Queensland Law Society, is an important element in ensuring that the duty of confidentiality is maintained.

YFS Ltd understands the fiduciary duty of YFS Legal personnel, particularly the duty of confidentiality and loyalty owed to CLC clients. YFS Ltd is committed to compliance with the standards set out in the RMG and will use documented information barriers and various compliance procedures and monitored practice which restricts confidential client information flowing between YFS Ltd Board directors, management, employees and volunteers, and its programs, and CLC employees and volunteers.

PROCEDURE

YFS Legal is managed by YFS Ltd.

Compliance Officer

The Compliance Officer will be the [Manager YFS Legal and Principal Solicitor - General](#) whose job description will include reference to this role.

The Compliance Officer will:

- ensure that non-CLC personnel do not have access to CLC client information
- take appropriate steps to monitor compliance with this Policy and deal with any breach or possible breach of an information barrier
- conduct a regular audit of policies and procedures relating to information barriers
- ensure that YFS Ltd and YFS Legal personnel receive training/updates on information barrier compliance; and
- ensure that induction programs for new employees, volunteers, management, and Board Directors include material about the information barriers policy
- ensure compliance records include:
 - a. all breaches or potential breaches, with details of the date each identified, and action taken recorded confidentially in Qudos Actions module
 - b. annual checks and spot checks recorded in the Qudos Audits module
 - c. records of induction and training on the information barrier across the organisation.

Employees, contractors, volunteers, management and Board Directors

All employees, volunteers, management and Board Directors sign a [Code of Conduct \(101140\)](#).

All employees, contractors, volunteers, management, and Board Directors are required to report any possible breaches of information barriers to the Compliance Officer.

Employees, contractors, volunteers, management, and Board Directors will:

- ensure confidential client information is not shared between YFS Legal and YFS Ltd without client consent
- report any possible breaches of information barriers to the Compliance Officer; and
- will not direct or request any YFS Legal personnel to act in a manner contrary to professional obligations (for example, breaching client confidentiality or their duty to avoid conflicts of interest).

The Board Directors will ensure that the Compliance Officer has the necessary training and resources to enable them to meet their obligations under this policy.

Materials and website

YFS Ltd will disclose that YFS Legal is managed by YFS Ltd in all relevant published materials and websites.

YFS Legal will have its own separate branding, logo, letterhead and name that clearly distinguishes it from other YFS Ltd service delivery programs.

YFS Ltd will be acknowledged on YFS Legal documents and publications.

Files, correspondence and communications

YFS Legal staff will have exclusive access to YFS Legal files, correspondence and communications – as per [Legal File Management \(101738\)](#) and [YFS Legal Operational Manual \(100992\)](#) sections:

- *1.9 Privacy*
- *Professional Privilege and Confidentiality*
- *1.11 Records Management*
- *1.14 External data collection system*
- *1.15 Internal Legal software*
- *1.15 Office security*
- *4.1 Legal advice*
- *6. File management*

▪ Electronic access to documents and files

- CLC staff have exclusive access to CLC documents and files
- Computers are equipped with individual/personal passwords that restrict access to client information to only other CLC program staff.

Refer to [Information and Communications Technology Management policy \(101250\)](#) and [procedure \(100425\)](#)

▪ Email

- YFS Legal have a dedicated email address: legal@yfs.org.au
- YFS Legal staff will have exclusive access to CLC emails.

▪ Hard copy files

- All CLC client hard copy files will be stored in locked filing cabinets and will only be accessible to CLC personnel.

▪ Post

- Material received by post will only be opened by YFS Legal personnel. If address information is unclear the correspondence will be opened by the Compliance Officer.

▪ Printer, copier and facsimile

- YFS Legal have its own printer, copier and facsimile located in its office.

▪ Telephones

- YFS Legal will has a separate telephone number to YFS Ltd and phones are answered by separate program staff.
- Should YFS Legal clients call YFS Ltd, clients will be transferred to the YFS Legal service direct phone number without asking the client to identify themselves.

▪ Database

- The Compliance Officer controls who has access to CLASS (CLC client database), including log-ins and passwords.

Separate intake

YFS Legal and YFS Ltd have separate intake systems and separate staff to undertake each program's intake and referral process.

Physical separation

- The CLC is located in a separate physical location to YFS Ltd and its other service delivery programs.
- YFS Legal has clear signage indicating where the CLC is located.
- YFS Ltd Reception staff who work at the shared 2 Rowan Reception greet clients by initially asking if they are presenting for an appointment with YFS Legal. Clients who indicate they are attending to receive a legal service will be immediately referred to YFS Legal staff, without being required to provide their full name.

Personnel separation

Other than as set out in this Policy, YFS Ltd personnel will work for YFS Legal or YFS Ltd (not both).

The secondary Legal Administrator works across both YFS Ltd and YFS Legal, however does not do any client work across any other service delivery programs of YFS Ltd.

Contractors and Consultants

All contractors or consultants, and particularly YFS' IT contractors, must sign a [Privacy Declaration \(100189\)](#), which includes an acknowledgement of the information barrier before they can work for YFS Ltd.

Payroll, accounts, acquittal to funding bodies

YFS Legal will receive all correspondence in relation to grants of Legal aid. YFS Legal will provide YFS Ltd administration with a file number for the purpose of record keeping, which file number will not enable YFS Ltd to identify any client.

Inadvertent disclosure

In the event of inadvertent disclosure of confidential client information between YFS Legal and YFS Ltd personnel, such personnel will inform the Compliance Officer as soon as possible.

Complaints

A full complaints management process is outlined in the [Feedback, Complaints and Disputes Policy \(101169\)](#). A person who wishes to make a complaint about YFS Legal or its employees or volunteers which is not resolved at the level of the Compliance Officer or is about the Compliance Officer should be told about the information barrier and that, if the complaint is to be referred by the Compliance Officer to the YFS Ltd CEO or Board Directors, the complainant's personal information will be provided to part of the organisation that otherwise would not have access to it.

Independent Review:

The annual PII cross-check procedure will review the operation of the information barrier system.

Consequences of non-compliance

Non-compliance with this policy may have serious consequences for and may result in harm to YFS Legal and YFS Ltd and their clients. Any breach of this policy may result in disciplinary action against an employee, contractor, volunteer or Board Director, up to and including termination of their engagement.

REFERENCES

- [YFS Privacy Policy \(101198\)](#)
- [YFS Control of Records Procedure \(100312\)](#)
- [YFS Legal Authority to gain or release information and appointment of an advocate \(101761\)](#)
- [YFS Internal Information Sharing Principles \(102892\)](#)
- [Privacy Declaration \(100189\)](#)
- [YFS Legal Conflict of Interest Policy \(101770\)](#) and [procedure \(101771\)](#)..
- [Manager YFS Legal and Principal Solicitor - General](#)
- [Code of Conduct \(101140\)](#).
- [Legal File Management \(101738\)](#) and [YFS Legal Operational Manual \(100992\)](#)
- [Information and Communications Technology Management policy \(101250\)](#) and [procedure \(100425\)](#)
- [Feedback, Complaints and Disputes Policy \(101169\)](#).