



THE LAW SOCIETY
OF SINGAPORE



CONFLICTS OF INTEREST TOOLKIT

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EDITOR'S NOTE

Recent Singapore cases have highlighted the need for legal practitioners to be vigilant of both potential and actual conflicts of interest under the Legal Profession (Professional Conduct) Rules 2015 ("PCR").

The Law Society has developed this practical Conflicts of Interest Toolkit to help legal practitioners better recognise, avoid and/or manage conflicts of interest situations that are commonly encountered in practice.

This Toolkit provides 8 checklists to assist legal practitioners in navigating the challenging terrain of conflicts of interest in their day-to-day interactions with the Court, clients, former clients and third parties. These checklists are:

1. Managing conflicts of interest in practice
2. Conflicts of interest systems, policies and controls for law practices
3. Should you advise or act for a family member or a friend?
4. Dealing with an unrepresented person or other third party
5. Conflicts of interest in court or tribunal proceedings
6. Acting for multiple clients
7. Acting against a former client
8. Personal interest conflicts

The checklists are not meant to be prescriptive or exhaustive, but only to act as prompts when you have to make a decision or to review your internal processes or procedures regarding a potential or actual conflict of interest situation. For each checklist, it is not intended that all of the enumerated questions will apply to your situation, decision or review.

This Toolkit is intended to complement and supplement the Law Society's current ethics resources for members, including:

- the Professional Ethics Digest 2019 ("PED 2019");
- the Professional Ethics Digest 2020 ("PED 2020"); and
- the [Ethics Resources](#) page on the Law Society's website.

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CHECKLIST 1: MANAGING CONFLICTS OF INTEREST IN PRACTICE

This checklist is intended as a first step to help you implement a plan to identify and manage a conflict of interest at the onset, or in the course, of a retainer. It is to be used together with the relevant Checklist(s) in this toolkit that applies to your conflict of interest issue.

#	Question	Yes	No
1	Have you determined the subject-matter of the work that you are engaged to do?		
2	Have you identified all the relevant parties, including all prospective, current and/or former clients who are involved in your actual or potential conflict of interest issue?		
3	Have you identified the interest of each relevant party, which interests are in conflict or potential conflict and how they are in such conflict?		
4	Have you ascertained who else may be affected by the work that you are engaged to do?		
5	Are you aware that a conflict of interest arises or may arise due to divergent or adverse interests, rather than an actual irreconcilable conflict ¹ or a palpable conflict or discord between the relevant parties at an interpersonal level? ²		
6	Have you identified the relevant ethical rule(s) that applies to your actual or potential conflict of interest issue and the elements of the rule(s) that are at issue?		
7	Did the actual or potential conflict of interest issue arise at the onset, or in the course, of the retainer?		
8	Did you obtain any written informed consent by the client(s) to an actual or potential conflict of interest either at the onset or in the course of the retainer?		
9	Has the actual or potential conflict of interest issue been brought to your attention by the opposing counsel?		
10	Have you reviewed and applied any of the other Checklists in this toolkit?		
11	Have you reviewed the relevant illustrations in the Professional Ethics Digests 2019 and 2020?		
12	Have you reviewed the harm-culpability sanctions framework for the relevant conflict of interest category as set out in <i>Law Society of Singapore v Ezekiel Peter Latimer</i> [2019] 4 SLR 1427?		
13	Do you need to obtain guidance from the Advisory Committee of the Professional Conduct Council or other independent adviser on your actual or potential conflict of interest issue?		

¹ See *Law Society of Singapore v Leong Pek Gan* [2016] 5 SLR 1091 at [36]-[37].

² See *Mahidon Nichiar bte Mohd Ali and others v Dawood Sultan Kamaldin* [2015] 5 SLR 62 at [1].

CHECKLIST 2: CONFLICTS OF INTEREST SYSTEMS, POLICIES AND CONTROLS FOR LAW PRACTICES

This checklist is intended to help you evaluate your law practice's systems, policies and controls pertaining to conflicts of interest, with regard to [rule 35 of the PCR](#).

#	Question	Yes	No
1	Do you have a practice management or other computerised system that maintains a central list of all files?		
2	Does your central list of files include the following information?		
	(a) client name, including known aliases		
	(b) affiliates or partners of client		
	(c) directors, officers or shareholders of client (if client is a company)		
	(d) adverse parties		
	(e) co-plaintiffs, co-defendants, third parties		
3	Do you have routine procedures to obtain basic conflict of interest information before opening a file?		
4	Do you take steps to avoid getting confidential information from a prospective client before checking for any potential conflicts?		
5	Do you send enquiries on conflict checks to your colleagues in your law practice before taking on new clients?		
6	Do you complete a "Client Due Diligence" form at the point of opening a client file?		
7	If a potential conflict of interest is detected, does your law practice have at least one lawyer who is responsible for determining whether a conflict of interest exists?		
8	Does your law practice have a list of factors to consider in deciding whether to accept or decline instructions? ³		
9	If there is any doubt as to whether the instructions should be accepted, does your law practice have a procedure for referring the matter to higher management?		
10	If a potential conflict is identified, do you notify the client of the potential conflict in writing (subject to the duty of confidentiality owed to the other person) that the instructions can only be accepted if the potential opponent does not object?		
11	Does your law practice have a system for updating conflict checks when a new party or counterparty becomes involved in the matter or transaction?		
12	Are your conflicts procedures expressed in writing so that the lawyers and staff in your law practice are aware of them?		
13	Does your law practice have a designated person(s) responsible for maintaining the conflict checking system?		
14	Are the lawyers and staff in your law practice aware of the rules in the PCR pertaining to conflicts of interest?		
15	Has your law practice conducted staff training to review your conflicts policies and processes with all staff within the past year?		
16	Does your law practice have standard letters for dealing with disclosure of conflicts and conflict waivers that takes into consideration the duties of loyalty and confidentiality to existing and former clients?		
17	Does your law practice review potential issues relating to confidential information or conflicts of interest when dealing with the lateral hire of a legal practitioner, ⁴ a paralegal or a support staff?		
18	Does your law practice have a system for updating conflict checks for dormant matters that are subsequently revived?		
19	Does your law practice have a process for following up on a client matter (including with a view to its closure) if it is inactive for a period of 3 to 6 months?		

³ See paragraph 11.1 of the Law Society's Practice Management Guide 2017 at page 119.

⁴ See "Looking for Help or Asking for Trouble?: Ethical and Risk Issues with Lateral Hiring", Singapore Law Gazette (September 2018), at <https://lawgazette.com.sg/practice/compass/looking-for-help-or-asking-for-trouble/>.

CHECKLIST 3: SHOULD YOU ADVISE OR ACT FOR A FAMILY MEMBER OR A FRIEND?

This checklist is intended to help you take into account potential conflicts of interest issues when you are asked to advise or act for a family member or a friend.

#	Question	Yes	No
Giving a second opinion to a client of another legal practitioner – rule 7(4) PCR			
1	Is your family member or friend represented by another legal practitioner? ⁵		
2	Will your advice to your family member or friend undermine or terminate the existing retainer that he or she has with the other legal practitioner?		
Professional independence and objectivity issues			
3	Does the closeness of the relationship between you and your family member or friend, or between you and any other party involved in the case, make it difficult: (a) for you to maintain your professional independence ⁶ or professional distance? (b) for you to give honest, objective, independent and professional advice? (c) for you to avoid a situation of “emotional conflict”? (d) for your family member or friend to listen to your advice or to have realistic expectations?		
4	Even if you are of the view that your professional independence will not be impaired, would it be prudent for you to make full disclosure of all potential conflicts and seek your family member’s or friend’s informed consent?		
5	Is the matter that you have been asked to advise or act for a family member or a friend a complex one or likely to lead to unpredictable outcomes?		
6	Would it be more appropriate for another independent member of your law practice to advise your family member or friend?		
Conflict of interest issues			
7	If there is more than one family member or friend involved in the matter, is there any issue of divided loyalties that can give rise to a potential conflict of interest?		
8	Does the matter that you have been asked to advise or act for a family member or a friend raise any issue of personal conflict of interest, with regard to rules 22, 23, 24 or 25 PCR ?		
Other issues			
9	Is there a risk of an implied retainer arising between you and the family member or friend? ⁷		
10	Are you competent to advise or act for your family member or friend in the particular area in question?		
11	Even if there is no solicitor-client relationship ⁸ between you and your family member or friend, will you be able to conduct yourself in a manner befitting an advocate and solicitor?		

⁵ See [Practice Direction 8.5.2](#) (“Advising a friend who is a client of another legal practitioner”).

⁶ See [rule 11\(2\)\(a\) of the PCR](#).

⁷ See e.g. *BOM v BOK* [2019] 1 SLR 349.

⁸ Note the broad definition of “client” under [section 2\(1\) of the Legal Profession Act](#).

CHECKLIST 4: DEALING WITH AN UNREPRESENTED PERSON OR OTHER THIRD PARTY

This checklist is intended to help you take into account potential conflicts of interest issues when you deal with a person who is not represented by another legal practitioner and whose interests are adverse or potentially adverse to your client's interests, such as a litigant-in-person, or when you deal with other third parties such as a family member of the client or a business partner of the client.

#	Question	Yes	No
1	Are you aware of the general principles in rule 8(1) of the PCR governing your conduct towards third parties?		
Dealing with an unrepresented person – rule 8(2) PCR			
2	Are you aware of your ethical obligation under rule 8(2) of the PCR?		
3	Are the interests of the unrepresented person adverse, or potentially adverse, to the interests of your client?		
4	Are you aware that you cannot give any legal advice to the unrepresented person (except advising the unrepresented person to obtain independent legal advice)?		
5	Have you taken reasonable steps to ensure that the unrepresented person is not under the impression that you are protecting his or her interests (e.g. by stating clearly in a letter that you are not the unrepresented person's lawyer)?		
Dealing with third parties generally under rule 8(3) of the PCR			
6	Are you aware of your ethical obligation under rule 8(3) of the PCR?		
7	Do you know that you should not interact with the third party in a way that can give rise to an allegation that you are taking unfair advantage of that person or acting towards that person in a fraudulent, deceitful or dishonourable way?		
Precautionary issues to ensure that a third party does not inadvertently become your client			
8	Have you cautioned the third party not to give you any confidential information, documents or property?		
9	Have you received confidential information from the third party which may place you in a position of conflict of interest?		
10	Have you received any documents or property from the third party which may place you in a position of conflict of interest?		
11	Is there a risk of an implied retainer arising between you and the third party?		
Other issues			
12	Have you taken steps to avoid the risk that you may, by your dealings with the third party, become a witness in the proceedings?		
13	If the third party is purportedly giving you instructions on behalf of your client, have you verified these instructions with your client separately and away from any influence exerted by the third party on your client? ⁹		

⁹ *Law Society of Singapore v K Jayakumar Naidu* [2012] 4 SLR 1232.

CHECKLIST 5: CONFLICTS OF INTEREST IN COURT OR TRIBUNAL PROCEEDINGS

This checklist is intended to help you take into account potential conflicts of interest issues when you appear as counsel in proceedings before a court or tribunal.

#	Question	Yes	No
Legal practitioner's duty to the court generally			
1	Are you aware that your paramount duty is to the Court, which takes precedence over your duty to your client? ¹⁰		
2	Are you aware of your ethical obligations under rules 9 and 10 of the PCR ?		
Rule 11(2) PCR – legal practitioner's relationship with client or Court			
3	Are you aware of your ethical obligation under rule 11(2) of the PCR?		
4	Do you have any commercial, family, personal or other relationship with your client which would make it difficult for you to maintain your professional independence? ¹¹		
5	Do you have a relationship with the Court or tribunal or any member of the Court or tribunal whereby the impartial administration of justice might or might appear to be prejudiced?		
Rule 11(3) PCR – legal practitioner as witness			
6	Are you aware of your ethical obligation under rule 11(3) of the PCR?		
7	Do you know, or does it appear, that you will be required to give evidence in your client's matter?		
8	Is such evidence material to the determination of any contested issue in your client's matter before the Court or tribunal?		
9	Will there be a risk of any professional embarrassment if you are required to give evidence, even if such evidence is not material? ¹²		
10	Are you regularly conducting an ongoing assessment of your position under rule 11(3) of the PCR as the dispute unfolds?		
11	Will there be any potential prejudice to your client if you need to withdraw from acting for your client in the matter in the future?		
12	In any case, would it be prudent for another member of your law practice to act, or continue to act, for your client in the matter?		
13	If you cannot act, or continue to act, for your client under rule 11(3)(a) of the PCR, have you ensured that you are not involved at all in the handling of the matter?		
14	If your client's matter is passed to another member of your law practice, will the administration of justice be prejudiced under rule 11(3)(b) of the PCR? In this regard, the court may take into account the following: ¹³ <ul style="list-style-type: none"> • whether there is any risk of the subconscious shaping of evidence by your law practice to suit your law practice's interests as against that of your client's interests and the duty to the Court; • whether the heart of your client's case touches upon the correctness or otherwise of an act or document generated, or soundness of advice provided, by any member of your law practice; and • whether a fair-minded, reasonably informed member of the public would conclude that the proper administration of justice requires that your law practice be prevented from acting for your client. 		
15	Have you reviewed the relevant illustrations on rule 11(3) of the PCR in the Professional Ethics Digests 2019 and 2020? ¹⁴		

¹⁰ See [rules 4\(a\) and 11\(1\)\(a\) of the PCR](#).

¹¹ See e.g. Illustration 8 of PED 2020.

¹² See e.g. Illustration 9 of PED 2019.

¹³ See e.g. Illustration 8 of PED 2020.

¹⁴ See Illustrations 3 and 6-9 of PED 2019 and Illustrations 7-8 of PED 2020.

CHECKLIST 6: ACTING FOR MULTIPLE CLIENTS

This checklist is intended to help you take into account potential conflicts of interest issues when you act for multiple clients in a matter or transaction, with regard to [rule 20 of the PCR](#).

#	Question	Yes	No
Rules 20(1) and 20(2) PCR			
1	Are you aware that you and your law practice owe duties of loyalty and confidentiality to each client, and must act prudently to avoid any compromise of the lawyer-client relationship due to a conflict or potential conflict between the interests of 2 or more clients? ¹⁵		
2	Are you aware of your general ethical obligation under rule 20(2) of the PCR?		
3	Does a diversity of interests exist, or may reasonably be expected to exist, between your multiple clients and/or prospective clients before accepting instructions?		
Rule 20(3) PCR			
Obtaining informed consent to act			
4	Have you directly explained the divergent interests of the relevant parties and other matters required in rule 20(3)(a) of the PCR to each relevant party? These matters will include: <ul style="list-style-type: none"> • A description of the subject matter of the service to be performed; • The nature of the conflict; • The factors that create the conflict; • The relevant parties or other parties affected by the conflict; • Whom you will represent and not represent (if any); • The implications of the representation on each of the relevant parties; • The reasons for proceeding with the representation notwithstanding the conflict; • What you may be prevented from disclosing to, or advising, a relevant party;¹⁶ • How the interests of all or any of the relevant parties diverge, or the potential, if any, for such interests to diverge in the future; • How you would receive and deal with any queries by the relevant party on the matter or transaction or on the risks of joint representation for all or any of the relevant parties; • The intentions of each relevant party that you have ascertained; and • If an information barrier is used, an explanation of the intended process and how it is intended to protect the confidential information.¹⁷ 		
5	Are you aware of the additional safeguards that you are required to take under rule 20(3)(b) of the PCR if the transaction is ostensibly or potentially disadvantageous to one or more of the relevant parties? ¹⁸		
6	Have you advised each relevant party to obtain independent legal advice with regard to the disclosure of the divergent interests to the relevant parties?		
7	If the relevant party does not obtain independent legal advice, have you obtained a written confirmation from the relevant party or maintained a written record that the relevant party declined to do so?		
8	Have you obtained each relevant party's informed consent in writing to you or your law practice acting for all relevant parties, despite their divergent interests? The signed consent should include: <ul style="list-style-type: none"> • A written statement that each relevant party has been advised to obtain independent legal advice. If obtained, a copy of that advice; if not obtained, a reference to each relevant party's decision to proceed without independent legal advice. 		

¹⁵ See [rule 20\(1\) of the PCR](#).

¹⁶ See [rule 20\(3\)\(a\)\(i\)\(B\)-\(C\) of the PCR](#).

¹⁷ See Jeffrey Pinsler SC, *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (2016) at [21.020]-[21.021].

¹⁸ See [rule 20\(3\)\(b\) of the PCR](#).

	<ul style="list-style-type: none"> An acknowledgment by each relevant party they are prepared to proceed with your representation for all relevant parties, despite the relevant parties' divergent interests. An outline of the process to be followed if the relevant parties' interests cannot be represented together in the future; and Whether your representation will continue for at least one of the parties in the future as well as the your entitlement to retain fees or disbursements¹⁹ if one or more of the relevant parties has to seek alternative legal representation. 		
9	Have you or another responsible person in the law practice kept a copy of the signed consent by each relevant party?		
Rules 20(4) and 20(7) PCR			
10	Do you continue to be vigilant of any conflict or potential conflict between the interests of any of your multiple clients, in the course of the retainer?		
11	Do you need to inform each client of any conflict or potential conflict that arises or may arise between the interests of any of your clients?		
12	Do you need to cease to act because you have difficulty in advising on and dealing with your multiple clients' divergent interests competently, evenly and consistently (e.g. giving preferential advice to, or compromising the interests of, one of your clients)?		
13	If you intend to continue to act for one of the clients despite such difficulty in Question 12, have you complied with rule 20(7) of the PCR?		
Rules 20(5), 20(6) and 20(7) PCR			
14	Has a diversity of interests between your multiple clients arisen in the course of the retainer?		
15	Do you continue to be vigilant of any conflict or potential conflict between the interests of any of your multiple clients, in the course of the retainer?		
16	Do you need to inform each client of any conflict or potential conflict that arises or may arise between the interests of any of your clients?		
17	Do you need to cease to act because you have difficulty in advising on and dealing with your multiple clients' divergent interests competently, evenly and consistently (e.g. giving preferential advice to, or compromising the interests of, one of your clients)?		
18	If you intend to continue to act for one of your clients despite such difficulty in Question 17, have you complied with rule 20(7) of the PCR?		
Rule 20(8) PCR			
19	Has a dispute arisen over the terms of a document governing the obligations of two or more parties, which was prepared by you? ²⁰		
Other pointers			
20	Have you reviewed the relevant illustrations on rule 20 of the PCR in the Professional Ethics Digests 2019 and 2020? ²¹		
21	Have you reviewed the harm-culpability sanctions framework for Category 2A conflict of interest cases as set out in <i>Law Society of Singapore v Ezekiel Peter Latimer</i> [2019] 4 SLR 1427? ²²		
22	In any case, would it be prudent for you or your law practice to act, or continue to act, for your multiple clients in the matter or transaction?		
23	Will there be any potential prejudice to any of your clients if you need to withdraw from acting for one or more of your clients in the matter or transaction in the future?		

¹⁹ See [rule 17\(9\) of the PCR](#).

²⁰ See e.g. Illustration 9 of PED 2019.

²¹ See Illustration 9 of PED 2019 and Illustrations 9-11 of PED 2020.

²² See a summary of the framework in "Professional Ethics – An Update" (Singapore Law Gazette, January 2021) <<https://lawgazette.com.sg/practice/ethics-in-practice/professional-ethics-an-update/>>.

CHECKLIST 7: ACTING AGAINST A FORMER CLIENT

This checklist is intended to help you take into account potential conflicts of interest issues when you act against a former client in a matter, with regard to [rule 21 of the PCR](#).

#	Question	Yes	No
Rules 21(1) and 21(2) PCR			
1	Are you aware that the duties of loyalty and confidentiality owed by you and your law practice to your former client continue after the termination of the retainer? ²³		
2	Are you aware of your general ethical obligation under rule 21(2) of the PCR?		
3	Is the relevant party your former client or a former prospective client? ²⁴		
4	Did any legal practitioner who had joined your law practice ("migratory lawyer"), or any member of the migratory lawyer's law practice, act for the former client previously? ²⁵		
5	Do you or your law practice hold confidential information relating to a former client that is protected by rule 6 of the PCR ?		
6	Are the interests of your current client and former client adverse, or reasonably expected to be adverse, to each other?		
7	Is such confidential information reasonably expected to be material to the representation of the current client in the matter?		
8	Do any of the exceptions in rule 21(3)-(5) of the PCR apply to permit you or your law practice to act, or continue to act, for the current client in the matter? [See Questions 9 to 19 below]		
Obtaining informed consent to act, or continue to act – rule 21(3) PCR			
9	Have you adequately advised the former client to obtain independent legal advice with regard to the conditions agreed between you and the former client in the case of a former client conflict? (rule 21(3)(a) PCR)		
10	Have you obtained the former client's informed consent in writing to you or your law practice acting, or continuing to act, for the current client? (rule 21(3)(b) PCR)		
11	Have you reviewed the relevant illustrations on rule 21(3) of the PCR in the Professional Ethics Digest 2020? ²⁶		
12	Have you or another responsible person in the law practice kept a copy of the signed consent by the former client?		
Establishing information barriers and notifying the former client – rule 21(4) PCR			
13	Are you aware of your ethical obligation under rule 21(4)(a) of the PCR to put in place adequate safeguards in place to protect the former client's confidential information?		
14	Have you taken into account the potential features of an effective information barrier as set out in Singapore case law and academic commentaries? ²⁷		
15	Have you considered other foreign case law and academic commentaries in ascertaining the adequacy of the information barrier?		
16	Have you made reasonable efforts to notify the former client of the safeguards and that you or your law practice will act, or continue to act for the current client <u>before</u> you do so? (rule 21(4)(b) PCR)		
If you are of the view that it would be illegal for you to meet the requirements in rule 21(3)(a) or 21(4)(b) – rule 21(5) PCR (example: where you may tip off the client contrary to the law)²⁸			
17	Are you aware of your ethical obligation under rule 21(5)(a) of the PCR to put in place adequate safeguards in place to protect the former client's confidential information? (rule 21(5)(a) PCR)		
18	Have you or your law practice ensured that the former client's confidential information is not accessed, used or disclosed without the former client's consent in writing? (rule 21(5)(b) PCR)		
19	Have you or another responsible person in the law practice kept a copy of the signed consent by the former client?		

²³ See [rule 21\(1\) of the PCR](#).

²⁴ See *Harsha Rajkumar Mirpuri (Mrs) née Subita Shewakram Samtani v Shanti Shewakram Samtani Mrs Shanti Haresh Chugani* [2018] 5 SLR 894 at [10].

²⁵ See Illustration 5 of PED 2019 and Illustration 15 of PED 2020.

²⁶ See paragraphs 15.7 to 15.9 of Illustration 15 of PED 2020.

²⁷ For a summary, see paragraphs 15.10 to 15.13 of Illustration 15 of PED 2020.

²⁸ See Jeffrey Pinsler SC, *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (2016) at [21.019].

Other pointers			
20	Have you reviewed the relevant illustrations on rule 21 of the PCR in the Professional Ethics Digests 2019 and 2020? ²⁹		
21	Have you reviewed the harm-culpability sanctions framework for Category 2B conflict of interest cases as set out in <i>Law Society of Singapore v Ezekiel Peter Latimer</i> [2019] 4 SLR 1427? ³⁰		
22	In any case, would it be prudent for you or your law practice to act, or continue to act, for your current client in the matter?		
23	Will there be any potential prejudice to your current client if you need to withdraw from acting for your current client in the matter in the future?		

²⁹ See Illustrations 4-9 of PED 2019 and Illustrations 12-20 of PED 2020.

³⁰ See a summary of the framework in "Professional Ethics – An Update" (Singapore Law Gazette, January 2021) <<https://lawgazette.com.sg/practice/ethics-in-practice/professional-ethics-an-update/>>.

CHECKLIST 8: PERSONAL INTEREST CONFLICTS

This checklist is intended to help you take into account potential conflicts of interest issues when you have a personal interest in the client's matter, with regard to [rule 22 of the PCR](#).

#	Question	Yes	No
Rules 22(1) and 22(2) PCR			
1	Are you aware that you and your law practice owe duties of loyalty and confidentiality to the client, and must act prudently to avoid any compromise of the lawyer-client relationship due to a conflict or potential conflict between the interests of you or your law practice and the interests of the client? ³¹		
2	Are you aware of your general ethical obligation under rule 22(2) of the PCR?		
3	Where a conflict or potential conflict exists between your duty to serve the best interests of your client and your or your law practice's interests, are you aware that you or your law practice must not act for a client unless rule 22(3) or 22(4) of the PCR applies?		
"Interest in any matter entrusted to" the legal practitioner or law practice - rules 22(3) and 22(4) PCR			
4	Is your interest in your client's matter only limited to your reasonable fees, which does not extend to the substantive matter entrusted to you or your law practice to handle? ³²		
5	Will you be acquiring an interest in the subject-matter of your client's matter, regardless of whether it is adverse or not ³³ to the client?		
6	Does your immediate family member ³⁴ have an interest in your client's matter?		
7	Do you have a business relationship with another party who has an interest in your client's matter?		
8	If you intend to enter into a business transaction with your client, have you reviewed <i>Law Society of Singapore v Tan Chun Chuen Malcolm</i> [2020] 5 SLR 946 and its coda? ³⁵		
9	Do you have an interest in your client's matter that is "adverse" to your client's interests, i.e. any reason that would detract you from your duty to serve the best interests of your client, such as a potential negligence suit or disciplinary action? (see <i>Law Society of Singapore v Govindan Balan Nair</i> [2020] 5 SLR 988) ³⁶		
Obtaining informed consent to act or continue to act – rules 22(3) and 22(4) PCR			
(A) Where the interests are adverse (rules 22(3)(a) and 22(4)(a) PCR)			
10	Have you made full and frank disclosure of the adverse interest to the client?		
11	Have you advised the client to obtain independent legal advice with regard to the disclosure of the adverse interest to the client?		
12	If the client does not obtain independent legal advice, have you ensured that the client is not under an impression that you are protecting the client's interests?		
13	Have you obtained the client's informed consent in writing to you or your law practice acting, or continuing to act, on the client's behalf?		
14	Have you or another responsible person in the law practice kept a copy of the signed consent by the client?		
(B) Where the interests are not adverse (rules 22(3)(b) and 22(4)(b) PCR)			
15	Have you made full and frank disclosure of the interest to the client?		
16	Have you obtained the client's informed consent in writing to you or your law practice acting, or continuing to act, on the client's behalf?		

³¹ See [rule 22\(1\) of the PCR](#).

³² See e.g. *Law Society of Singapore v Low Yong Sen* [2009] 1 SLR(R) 802 at [31].

³³ See Jeffrey Pinsler SC, *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (2016) at [22.013].

³⁴ See [rule 22\(3\) of the PCR](#). See also [rule 2\(1\) of the PCR](#) which defines an "immediate family member" to mean "a spouse, child, grandchild, sibling, sibling's child, parent or grandparent".

³⁵ See also "Business Transactions Between Solicitors and Their Clients" (Singapore Law Gazette, November 2021) <<https://lawgazette.com.sg/practice/ethics-in-practice/business-transactions-between-solicitors-and-their-clients/>> and "Professional Ethics – An Update" (Singapore Law Gazette, January 2021) <<https://lawgazette.com.sg/practice/ethics-in-practice/professional-ethics-an-update/>>.

³⁶ See also "Professional Ethics – An Update" (Singapore Law Gazette, January 2021) <<https://lawgazette.com.sg/practice/ethics-in-practice/professional-ethics-an-update/>>.

17	In cases where it is necessary to protect both your and the client's positions, ³⁷ have you advised the client to obtain independent legal advice similar to the obligations set out in Questions 11 and 12 above?		
18	Have you or another responsible person in the law practice kept a copy of the signed consent by the client?		
Other pointers			
19	Have you reviewed the relevant illustrations on rule 22 of the PCR in the Professional Ethics Digests 2019 and 2020? ³⁸		
20	Have you reviewed the harm-culpability sanctions framework for Category 1 conflict of interest cases as set out in <i>Law Society of Singapore v Ezekiel Peter Latimer</i> [2019] 4 SLR 1427? ³⁹		
21	In any case, would it be prudent for you or your law practice to act, or continue to act, for your client in the matter?		
22	Will there be any potential prejudice to your client if you need to withdraw from acting for your client in the matter in the future?		

³⁷ See Jeffrey Pinsler SC, *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (2016) at [22.014].

³⁸ See Illustration 12 of PED 2019 and Illustration 21 of PED 2020.

³⁹ See a summary of the framework in "Professional Ethics – An Update" (Singapore Law Gazette, January 2021) <<https://lawgazette.com.sg/practice/ethics-in-practice/professional-ethics-an-update/>>.