

# CONFLICT CHECKS

How to protect your law firm in an age of complex corporate relationships, multiple regulations, and high volumes of data



**iManage**

Making knowledge work

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# EXECUTIVE SUMMARY

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Law firms today face many challenges performing conflict checks that involve multiple entities and complex relationships. In this white paper we learn how law firms we have worked with improved their conflicts checks process using a best-in-class solution, and we share their best practices.

Conflicts checks for law firms have always been difficult. In recent years, they've only gotten more complex. If you're concerned about the amount of time your attorneys are spending on conflict checking but aren't willing to compromise the thoroughness and precision of your process, you're not alone.

# A summary of conflict check considerations and challenges

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Law is a self-governing profession with each attorney personally accountable to comply with the Rules of Professional Conduct. These rules include ethical obligations to identify any conflicts of interest that come into play if they or their firm represent certain clients or take on certain matters.

Newer regulations and contractual obligations have required law firms to identify potential issues beyond traditional conflicts checking. And even if rules, agreements, and regulations don't forbid a relationship, firms must carefully consider how involvement with certain clients could tarnish their image — or how taking a stance on key issues could affect some client relationships.

Firms that represent corporate clients navigate an increasingly complex ecosystem of investors, investments, and corporate family entities to understand who the client is. This complexity has driven a need for corporate intelligence — detailed data on the structure of each company.

These relationships require analysis, and firms must scrutinize this corporate intelligence to make informed decisions about who they can represent (or avoid acting against).

Depending on firm geography and practice areas, firms may need to include procedures in their conflicts checking that take a multitude of regulations into account, all while protecting their data and providing accurate results and analysis efficiently.



Law firms have traditionally outlined client retention agreements with standard, firm-drafted engagement letters. Over the past decade, more clients are dictating the terms of engagement with the firms they retain, rather than signing firm-drafted letters. Among other things, these client-drafted outside counsel guidelines contractually obligate the firm to comply with the client's requirements on billing, security, staffing, and treatment of entities in the corporate family tree. This new wrinkle has only raised the stakes on conflict checking.

The change has also exerted financial pressures on law firms. In short, clients are driving a harder bargain, frequently asking for discounted rates and alternative fee arrangements. They're less willing to pay for overhead, expecting law firms to absorb the cost of the intense conflict searching they're doing. And while it's essential for firms to avoid having their rainmakers spend time on conflict analysis, hiring more administrative staff cuts into profits.

Adding to the complexity of conflict checking is the firm's enormous volume of conflicts-relevant data and its locations. Many firms are still maintaining data in multiple systems and searching in separate databases. Conflicts teams are using everything from spreadsheets to Post-it notes to highlight specific details that they need to keep top of mind. The relevant information is buried in large amounts of noise data — requiring significant analysis to uncover the actionable items. Partners are often presented with voluminous reports to comb through, costing them time and raising the risk of a missed conflict.

Firms can leverage analytics to minimize waste and inefficiencies. The best-performing conflict analysts can quickly cull critical data from massive amounts of information.

These people are in short supply, however, and there is significant competition to hire them. Even after finding the right person, it takes time and training to make them productive.

Today, because of the amount of work needed, firms no longer have the luxury to hire analysts, train them for six months, and then put them to work on conflict analysis. Analysts need intuitive systems and processes to help them contribute from day one.

**Rather than hiring more analysts, firms need to find more sustainable solutions, such as:**



Adopting best practices in redesigning workflows to make the current team of analysts more efficient and effective.



Implementing advanced technology that's flexible enough to automate codifiable tasks while supporting processes that require human expertise.



Using hybrid teams of analysts and attorneys to perform conflict checks.

# The risks and consequences of neglecting conflict checks

Given the pressures they face, firms might consider cutting corners on their conflict checks, but that's not the wisest choice. Every year, firms pay the consequences of undetected conflicts of interest:

- In 2021, a partner and law firm were fined **£16,000 (\$20,000)** by the Solicitors Regulation Authority (SRA) and agreed to pay costs of **£20,000 (\$25,000)** for failing to recognize a conflict of interest. The firm also admitted that it did not have systems in place to identify or respond to “own interest” conflicts.<sup>1</sup>
- In 2019, an appellate court overruled the Nassau County Supreme Court in requiring a law firm to forfeit **\$500,000** in fees because of a conflict of interest.<sup>2</sup>

Given judgments like these, it's no wonder that professional liability insurance rates are high for law firms, or that insurance providers want to be certain that firms are searching for and addressing conflicts. They expect to see standardized processes and powerful software. Anything less could lead to even higher rates or denial of coverage.

**And there are ethical sanctions to consider as well.** Even if an attorney's decision to represent a client is based on input from a conflict counsel or analyst, the consequences fall on the attorney – and a lawyer facing sanctions can damage the entire firm's reputation.

Meanwhile, law firms are competing more than ever for business, and partners face intense pressure to land clients and get projects started. Once projects begin, clients expect better service for less. Lawyers want to focus on winning business and serving clients, but when they're the only ones who understand their client relationships in-depth, they must be involved in the conflict assessment process.



<sup>1</sup> [www.legalfutures.co.uk/latest-news/partner-and-firm-fined-for-not-recognising-own-interest-conflict](http://www.legalfutures.co.uk/latest-news/partner-and-firm-fined-for-not-recognising-own-interest-conflict)

<sup>2</sup> [www.ronaldcburke.com/law-firm-loses-bid-to-dismiss-claim-for-forfeiture-of-legal-fees-based-on-conflict-of-interest](http://www.ronaldcburke.com/law-firm-loses-bid-to-dismiss-claim-for-forfeiture-of-legal-fees-based-on-conflict-of-interest)



# How law firms are reacting

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Law firms respond to these pressures in a variety of ways, each of which has its own drawbacks...





**Ignore the threat.** Despite higher stakes, some firms continue to use their current processes, systems, and staff to search for conflicts

across siloed databases — reasoning that if they haven't run into problems with conflicts of interest before, they probably won't in the future. (Business calls this “the ostrich approach.”)



**Hire more administrative staff.**

Putting more people on conflicts can help — but it's not sustainable. Even if a firm can overcome

staffing challenges and hire more and better conflict analysts, the volume of data to be analyzed grows exponentially with its client base. Analyst headcount must increase accordingly — creating a potential bottleneck for growth, or risking that conflicts may go undetected.



**Tap into corporate intelligence resources.** Law firms can boost their chances of identifying conflicts by establishing license

agreements with, and building connectors to, sources of corporate entity research. More raw data — if someone capable is analyzing this data — means more chances of finding previously overlooked conflicts. But qualified analysts are in short supply and people-intensive processes often rely heavily on institutional knowledge, gained over time, not through training. And timekeepers still need to focus on billable work.



**Enhance processes.** Businesses can benefit from standardizing inconsistent processes, adhering to rules, and communicating

policies effectively to their teams. Law firms incur hefty administrative costs when they fail to streamline knowledge workflows and automate conflict assessment processes. Firms that rely on policy handbooks to enforce rules rather than automating business processes risk exposure to costly consequences in the conflicts arena through human error or neglect.



**Implement better administrative software.** Eager to gain any edge they can, some law firms are responding to the conflict

challenge by purchasing new accounting or billing systems. While these solutions may help firms operate more efficiently, they often have simplistic conflicts checking modules that provide a data dump of raw information and do little to assist an analyst with discerning actual issues.

Firms that want to tackle the conflict challenge head-on need software that's designed for the task. In this environment, with an enormous volume of conflict check requests coming in and massive data stores to mine, law firms need better tools for analyzing the data. They need to experience the data in more meaningful, rational ways. And they need help in being good stewards of the data — making sure records are accurate, up to date, and kept in one central location rather than scattered across the firm in ways that increase manual effort and expose the firm to unnecessary risk.



# What to look for in a conflicts checking solution

While the approaches we describe can yield results for law firms, they're limited, short-term solutions. The only approach for long-term success is for law firms to implement software that performs the following functions:

## 1) SYSTEM OF RECORD AND ONE SOURCE OF TRUTH

A good conflict system syncs relevant information from other law firm databases for searching, but neither requires nor allows the same data to be maintained in more than one place. Rather than visiting multiple systems, the conflict team can search all relevant data at once with confidence that it is complete, accurate, and up to date. The solution should give team members the option to expand on that data with additional conflicts-related information that enables more efficiency in conflicts checks.

## 2) INTEGRATION WITH "BIG DATA" SOURCES

Software should reduce the time and effort analysts must put into searching corporate structures. Some solutions can connect to "big data" sources and retrieve raw corporate intelligence data. The best solution pulls in the corporate data while also deriving the search terms most relevant to firms in their conflicts checking activities.



### 3) MARRYING FIRM DATA TO “BIG DATA”

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Searchers are well acquainted with searching all of the entities in a corporate structure against the firm database, sometimes producing thousands of results to analyze. Running full tree searches for every name related to a search is cumbersome, so firms often have policies on how much of a tree needs to be searched under various circumstances. Good software allows searchers to associate a corporate identifier (company number) with specific firm client numbers to surface results for those associated firm clients that share an ultimate parent with the searched names; this provides corporate structure results without the pain of searching the full tree.

### 4) MEANINGFUL PRESENTATION OF DATA

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Law firms are drowning in data that lives in siloed systems. A good conflict checking system allows firms to filter their search results to minimize irrelevant hits. It also organizes firms' data thoughtfully, so they can spend less time deciphering results and more time on analysis.

### 5) MAINTAINED LISTS

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Law firms deal with loads of extraneous information, unrelated to a specific client or matter. They often resort to creating fake matter numbers so that they can store and search against this information. A good conflicts checking solution allows firms to create, maintain and search against conflicts-relevant lists. Search results on list data should be presented in a way that provides immediate context to the searcher rather than being clouded by hits on firm matters.

### 6) CONFLICT TRACKING AND REPORTING

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The solution should give the conflict team multiple ways to track conflict resolution and record all relevant information in one place. A great deal of subjective knowledge goes into the vetting and clearance process. A robust solution captures this knowledge and stores it alongside standard data and corporate tree information so that the conflicts team can reuse it to ensure consistent results on future searches.

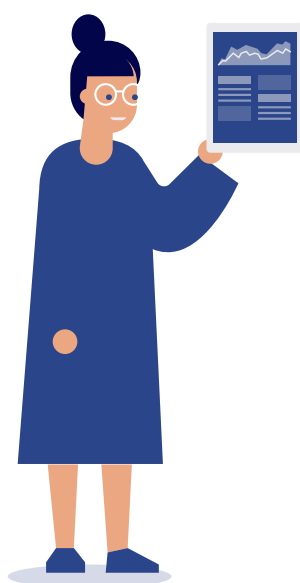
But a law firm's success with conflict analysis doesn't begin and end with software. Firms should also evaluate how well their current staff can identify potential conflicts. Long viewed by many firms as a routine task to be completed by the records or finance departments, the conflict analysis landscape is more complicated, now. Larger firms often have teams of 30 or more conflict searchers narrowing down massive search results to shortlists of high-concern issues they can hand off to attorneys. Other firms continue to maintain small teams who hand off data dumps to lawyers, who then must sift through thousand-page reports, reducing time spent generating revenue.

While conflicts and business intake regulations present the same challenges for all firms, each firm is different with respect to structure, culture, and experience. Given the increasing complexity in this area, firms must dedicate the right people to this problem – and arm them with software that makes them efficient and effective – to stay competitive.

# What to expect once you've updated your conflict checking process

Law firms that use specialized software to transition to a more targeted and analytical approach to conflicts checking can expect to achieve a wide range of benefits, including:

- Less risk
- A better understanding of how the firm opens matters and clears conflicts
- Greater efficiency from streamlining knowledge workflows
- More consistent results across analysts
- Better reporting
- The option to reference historical searches and highlight changes after a specific date
- The ability to search from one place across all applications
- Automation of the firm's policies



## Case study

A 130-year-old law firm with more than 1,000 lawyers across 13 offices in six countries was providing its billing partners with PDF conflicts reports that were a raw data dump. Each conflict search request could bring up thousands of results for the requesting attorney to wade through. The firm brought in another lawyer to help the requesting attorneys narrow the results, but the limited capacity of their software made the process extremely time-consuming.

The firm implemented iManage Conflicts Manager – a solution that provides efficient and comprehensive identification, evaluation, and clearance of conflicts. As part of the iManage platform, iManage Conflicts Manager integrates seamlessly with iManage Work, a knowledge work platform. Today, the firm has drastically reduced the volume of conflict check results that its lawyers need to analyze by codifying firm policies into search filters and eliminating duplicative and irrelevant results.

iManage Conflicts Manager has increased search strategy uniformity across the conflicts team and the efficiency of reporting results that need action. It is now dramatically faster to re-run a specific conflict search at a later date.

The firm worked closely with iManage business analysts to assign procedures to processes and train the team on iManage Conflicts Manager. Years after implementation, the Deputy General Counsel stated that the firm is “very pleased with the decision to switch.”



# Next Steps

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Law firms that continue to handle conflict processes with disconnected databases and legacy software cannot keep pace with today's changing regulations and heightened client expectations. The only way forward is to implement a conflict management solution that can streamline and automate as many tasks as possible within conflict searching and analysis.

**iManage Conflicts Manager** provides law firms with a 360-degree view of all types of conflicts, AI-supported issue spotting, interactive multi-device clearance options, and comprehensive audit history. Our industry experts implement and continuously enhance and support this functionality to ensure the satisfaction of our clients.

## With Conflicts Manager, you can:

- Reduce administrative time and increase engagement
- Ensure the accuracy and transparency of results
- Enable focused analysis and better decision-making
- Increase efficiency through broad integration options
- Deliver cost-effective risk management long term
- Enhance data quality and commercial benefits



**Get a detailed overview of  
iManage Conflicts Manager**

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## About iManage™

iManage is the company dedicated to Making Knowledge Work™. Its intelligent, cloud-enabled, secure knowledge work platform enables organizations to uncover and activate the knowledge that exists inside their business content and communications. Advanced Artificial Intelligence and powerful document and email management create connections across data, systems, and people while leveraging the context of organizational content to fuel deep insights, informed business decisions, and collaboration. Underpinned by best of breed security, sophisticated workflows and governance approaches, iManage has earned its place as the industry standard through continually innovating to solve the most complex professional challenges and enabling better business outcomes for over one million professionals across 65+ countries.

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