

HASKINS SETTLEMENTS AND CONVEYANCING SERVICES
CONVEYANCERS ACTING FOR BOTH PARTIES
A CONFLICT OF INTEREST

In Western Australia Settlement Agents aka Conveyancers are permitted under the Act and Code to act for both the Buyer and Seller in the same transaction providing certain disclosure requirements are met and informed consent is given.

There is a line of thought that a conflict of interest is like an argument or disagreement however that is not always the case. Conflicts of interest can be real or perceived.

A very simple example of a real conflict of interest would be the failure of a Buyer to pay their deposit by the due date. In this situation the Conveyancer for the Seller would have an obligation to inform the Seller they can terminate the Contract due to the failure of the Buyer to pay their deposit. The Conveyancer also trying to act in the Buyer's best interests has an obligation to advise the Buyer to pay the deposit immediately or run the risk of the Seller terminating the Contract. If the Conveyancer is acting for the Buyer and Seller who are they going to call first? The Conveyancer cannot advise either party of their rights as by advising the Seller they could terminate the Contract such advice is in direct conflict with the Buyer's interest in ensuring the sale proceeds.

Our Professional Indemnity Insurer recognises the issue with conflict of interest in the excesses we pay e.g. the standard excess is \$5000 per claim however this doubles to \$10,000 if a claim is made and the Conveyancer was acting for both the Buyer and Seller.

At Haskins we believe that in order to remove all potential conflicts of interest and to act in our client's best interests at all times it is just not possible to act for both the Buyer and Seller in the same transaction. As such some years ago we made a conscious decision to only act for one party in a transaction.

When you nominate Haskins Settlements to undertake your conveyancing you can be assured that we can and will act in **your** best interests at all times.

Valerie Haskins

10th February 2009

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