

Legal Document Management with Clio Legal Technology Software

INTRODUCTION

Clio is used to organize files and to help National Capital Commission (NCC) lawyers with file retrieval and case management. The NCC has conducted a privacy impact assessment as personal information will be uploaded on to the cloud that forms part of the Clio solution.

Access to the Clio software is restricted to the NCC legal team. The files that will be uploaded to Clio are predominantly solicitor-client privileged. The personal information banks (PIBs) that contain the information collected already exist within the NCC's personal information management architecture. Therefore, no new PIBs are required for this activity.

A privacy impact assessment was conducted to identify privacy issues and to provide strategies for mitigating the identified risks relating to the NCC's collection, use, retention, and disclosure of personal information through Clio.

BACKGROUND

The NCC is implementing an application and storage infrastructure to manage case and file-related information and store it more effectively so it can be retrieved through intelligent tools designed for case management. Much of this work is currently carried out manually and is time consuming, inefficient and an unproductive allocation of resources.

The primary goals of this project are to implement a solution that manages the following core functions:

- i. Reduced effort to find documents in development of case files.
- ii. Reduction in duplication of documents and effort required for case management over extended periods of time.
- iii. Reduced risk of files not being included in discovery.
- iv. Efficiencies gained through automated processes and the ability to gather historical content if new issues based on old cases arise.
- v. Need to reduce use of paper and the storage space required.

DESCRIPTION AND SCOPE

In order to facilitate the management of legal files, the National Capital Commission (NCC) entered into a contract with a software solutions technology company named Clio. Clio offers lawyers and law firms cloud-based software that handles various law practice management tasks. The company is headquartered in Burnaby, BC.

The NCC will always remain the owner of the personal information that is contained in the files that will be uploaded onto the Clio platform. As the NCC is using Clio to help retrieve information and organize its legal files, the collection of personal information has already taken place when the files were originally created. The collected personal information is already contained in either paper files or in other NCC proprietary databases. Clio is merely used to organize files and help NCC lawyers with file retrieval and case management. However, the NCC believes that a privacy

impact assessment is necessary since the personal information will be uploaded on to the Cloud that forms part of the Clio solution.

Why the privacy impact assessment was necessary

A privacy impact assessment was needed to identify privacy issues and provide strategies for mitigating the identified risks relating to the NCC's collection, use, retention and disclosure of personal information through Clio.

Risk identification and categorization

The document management tool (Clio) will be used to index and store documents used by Legal Services. The documents are in the following formats: .doc, .rtf, .xls, .pdf, etc. The information contained in these documents is used in the decision-making process or in any legal proceedings related to this file.

When indexing documents, there will be information entered that is indexed to facilitate searching for relevant documents by Legal Services staff. This information could include:

- i. Contact information (name, organization, address, email address, telephone);
- ii. File reference title (i.e. description of the file related to the documents);
- iii. Keywords (i.e. lease, contract, etc.)

The risk involved with this information is considered low.

Types of personal information involved and context

Personal information collected by the NCC is done so in accordance with its legally authorized activities and responsibilities. The personal information types collected and used by the NCC that may appear within case files in Clio are as follows:

Claims and incident reports: incident and/or accident reports, police reports, witness reports, estimates, amounts paid or received, releases and related particulars. Personal information may include name, address, telephone number, medical and financial information, and names and addresses of witnesses.

Leases: The files contain basic personal information on past owners or tenants of the property and all information pertaining to the leasing of the property, rental charges, payments, collection and credit reports and related correspondence. These records may contain the results of credit investigations of the tenants which were conducted to determine financial capability to rent/lease the property.

Violation and enforcement: The files may contain a description of the incident, the material seized, identification of witnessing officer and any relevant details. The information is collected pursuant to section 10 of the *National Capital Act*. Personal Information collected may include name, address, telephone number, and the license plates of violators.

These personal information elements will not change because of the implementation of Clio. Rather, the medium in which it is managed will consist of a new technology platform.

NCC Legal Services would be working with limited personal information and this information would be collected from the individual or organization involved in any dealings. This information already exists in NCC's electronic repository Enterprise Content Management (ECM) and in paper files. Clio puts the information into a searchable digital format for file management.

Personal information in the files could relate to NCC clients and members of the public. Some files may involve employee information. For example, litigation against a current or former employee or advice related to an investigation on an employee that could result in litigation.

Program or activity partners and private sector involvement

There is a possibility that information stored in the legal document management tool would be shared within the NCC and with parties involved in the file or with other federal institutions, outside counsel, experts, and administrative tribunals as required. The information will be hosted in the cloud on the Clio application. Clio does not have access to the content (including personal information) that the NCC has stored in the system. This is achieved through role-based security and strictly controlled access rights.

Outside parties will not have access to Clio. Information will be extracted from Clio and shared using secure channels as per the current practice.

The sharing of information is not different than what is already taking place to manage legal files and litigation. Currently, files are shared using secure channels such as encrypted emails, encrypted flash drives or paper files. Clio provides a functionality to share documents in a secure fashion as needed.

Duration of the program or activity

The nature of the documents to be stored in the legal document management tool (Clio) is such that records will be required to be stored in accordance with the corresponding PIBs. Active files can remain active for an extended period. Files such as leases will renew on a regular basis (yearly, biannually, etc.). In the case of litigation, once the litigation is resolved, documents are maintained to refer to for precedents whenever needed, until the date of disposition has been reached.

The risk involved in this information is not influenced by the duration of maintaining such information in the system. There is in fact greater risk to the NCC if this information is not readily available (i.e. misplaced paper documents), as it may be required to manage the file.

TECHNOLOGY AND PRIVACY

The NCC is implementing a legal document management tool called Clio. Clio is a hosted-in-Canada solution that is used by law firms and governments across Canada and around the world. The NCC has done a security assessment of the solution and has deemed it safe. Clio does not create any new personal information. It is a tool to handle the personal information that has already been collected.

Personal information transmission

Clio is a hosted solution, but documents stored in Clio would not be accessible to any other system. Clio does offer the ability for staff to share documents via a private, password protected link with other legal colleagues. Files may be printed as need, shared as hard copy for ATIP requests or with outside counsel.

The information contained in other NCC databases such as ECM or in hard copy will be transferred to Clio.

Risk if the information is compromised

Files under the direction of NCC Legal Services could contain information that may have adverse impact on the parties involved.

Because the NCC has little control over what information is provided by the parties involved, the sensitivity of information utilized through the NCC is treated as high (Protected B). Unauthorized use or disclosure of this information could result in loss of privacy, inconvenience, harm or embarrassment and financial harm to the individual to whom the information relates.

In the event of a privacy breach (accidental or deliberate), the NCC could also be subject to civil litigation and liability for privacy breaches that result in harm to an individual.

The risk of harm to the institution is moderate to low as the legal files are likely of little concern to anyone other than the parties to the file.

Ensuring that appropriate safeguards are in place to protect personal information is an ongoing process as security issues (administrative, physical and technical) evolve and change. The NCC follows the TBS Directive on Privacy Practices and, as such, has developed documented processes for privacy breach management.

Any information that would impact court or litigation proceedings in progress, solicitor-client privilege or third-party confidential information, could have highly detrimental effects on the parties to the litigation.

Risk mitigation: Summary of the recommendations

- Clio does not in itself make any administrative decisions. It is a software that will help organize files for legal services to access files easily.
- The NCC has protocols in place to mitigate the risks of unauthorized use and disclosure of personal information.
- The NCC will ensure that employees using the system have proper training in privacy policies and the handling of personal information.
- The NCC has assessed that risk is low that the database will be compromised since access is limited to the legal services team. The strict access controls within Clio will minimize any risk of privacy breaches.

- The Clio software has been assessed as secure and is used by the legal community at large with no reported privacy incidents.
- As the files are hosted on a third-party server, appropriate language is in the contract to ensure that personal information is protected and ensures that the proper security and privacy protocols and procedures are followed.