

## Electronic property transactions - office management checklist

### Office policy content

Below is a list of issues to consider when writing your office policy and recommended responses.

- ☐ Who will hold a digital signature?
  - The digital signature is embedded in a USB.
  - Preferably only partners have digital signatures.
- ☐ How a digital signature's USB and pin number will be stored and secured.
  - The USB should be stored in a locked drawer, cupboard or safe when not being used.
  - Pins should not be stored with the USB and not shared with anyone.
- ☐ Only the owner of the digital signature can use it and not delegate that use to others.
- ☐ What will happen when the owner of the digital signature is on leave?
  - Someone else in the firm needs to have their own digital signature.
  - If a locum is employed, they need to have a digital signature.
- ☐ Who can sign any electronic documents such as the transfer of land?
  - For PEXA transactions, refer to the guide issued by ARNECC [Entitlement to sign Registry Instruments](#).
  - For all land transactions also refer to the Land Use Victoria [customer bulletin 166 June 2017](#) for details about signing the new forms on behalf of clients.
- ☐ Who is responsible for using Duties Online if the firm is registered as a user?
- ☐ Who is responsible for setting up and maintaining a register of the electronic titles the firm has control over?
- ☐ What steps will be required to identify clients, verify authority and right to deal?
  - What are reasonable steps for identifying clients?
  - Will it be done internally or externally and by whom?
  - How often should existing clients be identified?
  - Where will VOI documents be stored? Securely and centralised so previous VOI material can be easily reviewed.
  - How long VOI documents will be stored? At least seven years.

- What is required to verify authority and right to deal? See the [ARNECC Model participation guidance note](#) on right to deal.
- Who will conduct the verification of authority and right to deal?
- For more information on reasonable steps see the safe harbour requirements in schedule 8 of the [Model Participation Rules](#) which include:
  - ARNECC MPR Guidance Note [#2 Verification of Identity](#)
  - [document verification system](#) (DVS) operated by the Federal Government used to confirm details in Australian-issued documents such as passports.
- Additional information
  - LPLC's blog posted 21 November 2014 [What are reasonable steps to ID a borrower?](#)
  - LPLC checklist [Face to face verification of identity](#)
  - LPLC [VOI flowchart – capacity, authority and notes](#)
  - LPLC [VOI client information](#)
  - LPLC [VOI client information for practitioners](#)
  - [LIV conveyancing checklists](#).
- How you will deal with the 'remote' or 'virtual' signing of documents involving the exchange of scanned documents or signature pages by email?
  - Read the remote signing protocols written by the Walrus Committee, consisting of Allens, Ashurst, Herbert Smith Freehills, King & Wood Mallesons and Norton Rose Fulbright.
- What process will be followed to deal with or hand over any paper title(s) that have been converted to electronic titles?
  - Refer to:
    - clause 3.1 of the Registrar's Requirements for paper conveyancing transactions
    - LPLC blogs [Destroy titles or make them invalid?](#) and [Be careful when handing over certificates of title](#)
    - [schedule 3](#) of the MPR.

## Other steps

- Nominate at least one person in the office to:
  - keep up to date on changes to the Electronic Conveyancing National Law and any related laws and procedures
  - monitor PEXA for notifications about any inability to access PEXA.

- Review precedents to ensure an appropriate clause is included to permit the transaction to be dealt with electronically and to allow documents to be signed with an electronic signature if required.
  - Refer *Russells v McCardel* [2014] VSC 287 which considered signing by an electronic signature and the *Electronic Transactions (Victoria) Act* 2000.
  - Consider using the LIV-approved form of electronic transaction special condition for sale of land contracts.
  - Consider including a force majeure clause to deal with any failure of any necessary systems such as PEXA, Duties Online and Land Use Victoria.
- Create and maintain a register which records the electronic titles the firm has control over.
- Update protocols, procedures, checklists or workflows to include the extra steps required for electronic property transactions including:
  - having client authorisation forms signed
  - storage of client authorisation forms.