

# E-conveyancing can be e-efficient

FOUR PRACTITIONERS FROM DIFFERENT SIZED AND STRUCTURED FIRMS TELL HOW THEY HAVE ADAPTED TO THE ELECTRONIC CONVEYANCING SYSTEM. THE FIRMS ALL JOINED THE FIRST AND, AT THE TIME, ONLY ELECTRONIC LODGEMENT NETWORK OPERATOR, PEXA, AT DIFFERENT TIMES IN THE PAST FIVE YEARS.

The move towards electronic conveyancing started as early as 2014, but it was in the lead-up to 1 October 2018 when the majority of transactions were required to be done electronically that many firms entered the electronic workspace. How are firms adapting? To put the answers in context we also tell you the size and structure of the four practices.

**Tom White** at Coulter Roache: Tom is one of four principals, 19 lawyers and a range of paralegals.

**Michael Benjamin** at Michael Benjamin & Associates and Dingley Conveyancing Services. Michael is the only principal. He employs two lawyers and runs a conveyancing company that employs a licensed conveyancer and three conveyancing staff.

**Zelma Rudstein** at RKL Lawyers & Consultants. Zelma is the only principal. She employs one lawyer in the commercial area, one graduate lawyer and three conveyancing clerks.

**Kristy Burrows** at Yarra Ranges Lawyers. Kristy is the only principal and employs three lawyers, one of whom does conveyancing with her, and three conveyancing clerks.

## When did you start using PEXA?

**Tom White:** Coulter Roache was part of the early adoption program with our first transaction performed in 2014.

**Michael Benjamin:** Our firm started using it on 24 November 2015.

**Zelma Rudstein:** Our firm started using it in January 2017.

**Kristy Burrows:** In early 2018 we started using PEXA regularly. Before that we had completed only a small number of settlements via PEXA, largely due to the fact that other firms had not yet registered as PEXA users and were unable to complete transactions via PEXA.

## How do you manage digital certificates in your office? Who has them, do you have a policy, what if someone is on leave?

**Tom White:** Lawyers required to use the PEXA platform have access to their own digital certificate which is their responsibility to manage and store securely in accordance with firm policy. There are several lawyers within the family law and wills and estates as well as conveyancing department with digital certificates as well as all four principals of the firm, so we are covered when lawyers are on leave or absent.

**Michael Benjamin:** Three of our lawyers have a digital certificate. The one licensed conveyancer and the three conveyancing staff in our conveyancing company each have digital certificates. The conveyancing company does not have a trust account, so no trust money is managed through it.

One employee solicitor has trust authorisation on PEXA to a set limit. If the transaction involves more than that I authorise it. If I am not in the office when authorisation is required, I can access the system remotely and sign using my digital certificate. I have not yet been required to do it remotely.

**Zelma Rudstein:** At the moment I am the only one who has a digital certificate. I can access the system remotely if I am away from the office or on leave.

**Kristy Burrows:** Each solicitor has a digital certificate. As the director of the firm, I am the only solicitor authorised to sign off on the trust account.

If I am not in the office I can sign off via remote access to our system.

### SNAPSHOT

- Four perspectives on how firms are adapting to electronic conveyancing.
- While the firms are doing some things differently, they are generally finding they have systems in place now and they are working well.
- Electronically transferring money in the era of email fraud is a challenge for everyone, but these firms are aware and checking instructions and using new technology to help them.

## How do you manage the certification process? VOI, client authority, right to deal?

**Tom White:** Most of our clients attend one of our offices to undertake the VOI process and the signing of client authority. We use the ZipID app for this process. For those clients unable to attend our office we direct them to Australia Post.

**Michael Benjamin:** The client authority is sent with our first letter. We do the VOI at our office via the TIMG app for the same fee as doing it at the post office or clients can elect to use the post office. The VOI number is recorded on the file. The right to deal is managed by the file operator.

**Zelma Rudstein:** We complete the VOI and the client authority check internally or through ZipID.

**Kristy Burrows:** In our initial letter to clients, we provide the client with:

- VOI form (Australia Post) or the option to verify their identification online via a link which is available through InfoTrack
- client authorisation form
- general power of attorney limited to conveyancing transactions only.

Once the client has completed the above, this is noted in an office register which is accessible by all staff. The person responsible for the file checks the register to ensure everything has been attended to before any documentation is signed off for the client.

## Who approves and locks the PEXA workspace?

**Tom White:** Once the figures are balanced and all parties have signed the PEXA workspace, this goes to a ready state. I have a designated time each day that I sign and lock any matters that involve movement of trust money and are in a ready state. I manage to do 85 to 90 per cent of matters at this time, with some being signed later in the day. If any figures change the workspace is no longer in a ready state. The settlement statement is altered accordingly, rechecked and signed again by me. This can be inconvenient, but these changes are happening less and less with about one to two every two weeks. It is a much better rate than it was 12 months ago. I think everyone is more accustomed to using the system. If I am unavailable, one of the other principals is able to approve and lock the system using their digital certificate.

**Michael Benjamin:** The relevant file operator or user on the file. Where trust money is involved that person is me or one of my lawyers who has trust authorisation.

**Zelma Rudstein:** Our conveyancing clerks make any further changes necessary and then I check them and lock the workspace. I try to time the signing at the start of the day, but last-minute changes do happen, and it can be very intrusive to have to attend to when busy with other things.

**Kristy Burrows:** The person responsible for the file approves any last-minute changes and checks the information is correct. I then sign off and lock the PEXA system.



## How does training of staff to use PEXA work in your office?

**Tom White:** We have been able to build a good relationship with PEXA and our relationship manager, who assists us with training of new staff. In addition, PEXA provides help cards.

**Zelma Rudstein:** On-the-job training and our PEXA representative visits regularly or when we need them.

**Kristy Burrows:** Initially we had staff training by the PEXA direct specialist and all conveyancing staff (including support staff) attended the PEXA day seminar run by AIC.

All our conveyancing staff (including support staff) have completed online tutorials and webinars as required and we have had in-house training of staff from time to time.

## What has been the biggest change you have made to the way you run conveyancing since e-conveyancing started?

**Tom White:** The most significant change has been managing online security with the increase in fraud efforts. Coulter Roache manage this through the use of password management tools, multifactor authentication, internal policies and the verification of bank and trust details.

PEXA has supported Coulter Roache's focus on a paper-lite office and streamlining the conveyancing process. No longer using settlement agents is another big change.

**Michael Benjamin:** The biggest changes have been the greater need for identification, where all parties have to attend somewhere for face-to-face identification. The elimination of settlement agents. A far more efficient settlement process apart from some banks which usually complete their component only on the day of settlement.

**Zelma Rudstein:** We insisted on electronic conveyancing for all matters as soon as it started. We found the process much quicker, easier for last minute changes and streamlining the settlement process. We start workspaces as soon as practicable and keep track of upcoming settlements through PEXA. We have found contacting lenders a lot easier through PEXA workspaces. Communicating with different departments of some lenders has sometimes proved challenging, but lenders seem to be getting more efficient and streamlined in their processes.

**Kristy Burrows:** We still take the same steps we did in the paper-based system. It is just done in a different way with online forms and systems. Our conveyancing staff have been open to the change and have made the most of all the training available and are really enjoying the new system which they think is more seamless.

We have much less physical banking to do as we no longer have to take bank cheques to the bank after each settlement. This is both cost and time saving.

Verification of the bank account details provided by third parties is more involved (including written and telephone verification procedures).

## In the past 12 months there has been a noticeable increase in email fraud resulting in funds being sent to the wrong accounts. How is your firm managing this risk now most money in conveyancing is electronically transferred?

**Tom White:** Coulter Roache has implemented the firm policy that when bank details are received via email they are verified over the phone. When our trust account details are provided to clients via email a phone call is made immediately to make the client aware of the email and highlight that no follow up emails with changes to trust account details will be made.

This is a work in progress and we are hopeful new systems such as PEXA Key or Infotrack's Secure Exchange will provide better security for clients to provide bank details and for us to provide trust account details.

**Michael Benjamin:** We manage the risk by phone confirmation of account numbers and we now send the PEXA deposit form encrypted by Adobe which allows a code to be used to open it up, hopefully preventing cyber frauds modifying it as they would not know the code.

**Zelma Rudstein:** We are test driving PEXA Key, an app developed by PEXA. We were the first firm in Australia to have used it. The client logs in and provides the account details which populates directly to the workspace. Before that, we called the clients to confirm the account details they would email.

**Kristy Burrows:** We take several steps to address the increase in email fraud.

We advise all clients in writing that with cyber fraud on the rise, we must all be suspicious of email instructions relating to payments into bank accounts.

If we receive emails from our clients containing bank account details, we telephone the client personally to check the authenticity of the email and confirm their bank account details are the same as set out in the email. A record is kept of this on our file.

We also write to the client asking that they not act on any email payment directions from us without first calling our office to confirm the email is genuine.

When entering bank account details into PEXA, this is double checked by us prior to signing off and locking the PEXA workspace. ■

**Heather Hibberd** is chief risk manager at LPLC. The author acknowledges assistance in compiling this article from Phillip Nolan, a risk manager at LPLC, and practitioners Tom White, Michael Benjamin, Zelma Rudstein and Kristy Burrows.

## Common questions for PEXA

### When can you hand over the keys?

You don't need to wait for funds to clear to consider the settlement finalised.

The LIV electronic conveyancing special condition says "settlement occurs when the workspace records that the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred".

The exchange of funds between financial institutions happens at the RBA and the PEXA workspace status will change to "settled" when this has occurred.

This is equivalent to a paper settlement when a cheque is handed over and is later deposited into the vendor's account. The depositing occurs after settlement. In both paper and electronic settlements, keys can be released to a purchaser after

confirmation of settlement. The process is described well in Financial Settlement Overview on the PEXA website (<https://community.pexa.com.au/t5/Help-Centre/Financial-Settlement-Overview/ba-p/56>)

### Who can sign off on PEXA?

There are four types of signing off on PEXA that require the use of a digital signature. There is some restriction on who is entitled to sign each stage or document.

1. Land Registry documents such as transfers – in a law practice – can only be signed by lawyers. This is based on direction from ARNECC to Subscribers and ELNOs based on advice provided by practitioner regulators including the Legal Services Board and Commissioner in Victoria.
2. Financial settlement schedule

- anyone can sign these. It is dependent on the practices and policies of the individual law firm.
3. Trust account authorisation – only people with trust authorisation should sign these – in most cases this will be the principal of the firm or an employee lawyer who has been authorised to handle trust money.
  4. New user activation – a subscriber manager or subscriber administrator with a digital certificate. See a recent release note at <https://community.pexa.com.au/t5/PEXA-Product-Releases/PEXA-Release-9-1-1-4-March-2019/ba-p/14305>.

It is not necessarily the principal who need always sign each of these stages on PEXA. Indeed, it is often better to have multiple signers within your firm. ■

Lisa Dowie is chief customer officer, PEXA.

Just imagine sunning yourself on a gorgeous beach, or lazing by a pool in the sun...

Yeh right! Who has time for that? With a constant flow of files, clients and staff to manage, and now the added pressure of electronic sign offs, your precious time is being whittled away. If you're not at the office how do you manage your sign offs?

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