

## Electronic conveyancing obligations - be prepared for a compliance examination and subscriber review

Subscribing to electronic conveyancing is not a 'set and forget' process but requires regular checking that you are complying with your subscriber obligations, particularly in relation to client authorisation, verification of identity, right to deal, document retention and system security.

Regular checking should also mean that you are well prepared for a compliance examination and the subscriber review process.

### Compliance examination from the Registrar of Titles

Section 33 of the [Electronic Conveyancing National Law](#) provides the Registrar of Titles (Registrar) with the power to undertake a compliance examination. Notice about the commencement of these audits was given in [Customer Information Bulletin 156](#) in August 2016 by Land Use Victoria when it announced that:

*The Registrar will be undertaking ad hoc compliance examinations to:*

- *help subscribers meet their obligations and responsibilities under the participation rules for electronic conveyancing*
- *build trust and confidence in the ELN.*

[Customer Information Bulletin 159](#) also contained the following advice:

*Selected subscribers will be notified in writing, identifying the instruments to be reviewed and requesting documents and other information to demonstrate compliance with the Participation Rules. Subscribers will be given at least 10 business days within which to comply and will then be notified in writing of the examination's outcome.*

The compliance examination process is explained in greater detail in the [Australian Registrars' National Electronic Conveyancing Council \(ARNECC\) Model Participation Rules Guidance Note 6](#). Non-compliance may trigger a suspension or termination event and this process is set out in schedule 7 of the [Model Participation Rules](#).

The full range of ARNECC information is available on their [website](#).

A number of practitioners have contacted LPLC for advice about being the subject of a compliance examination by the Registrar. For example, one practitioner was acting for a caveator and evidence was required of the authority to lodge a withdrawal of caveat for a nominee.

### PEXA subscriber review process

Since May 2019 PEXA has been selecting subscribers, including law firms and financial institutions, to participate in a subscriber review process in accordance with ARNECC Model Operating Requirements. The main purpose of the review is to ensure compliance with the Model Participation Rules.



The review involves completing a detailed questionnaire addressing the ways in which your firm complies with the rules, particularly in relation to staff training around awareness and observance of the rules and meeting security obligations.

Practitioners have 30 days from notification of selection to complete the review process and submit the questionnaire responses to PEXA. If deficiencies are identified PEXA will work with subscriber managers to ensure action is taken to remedy them. PEXA also has the power to suspend a user for non-compliance if the deficiencies are not remedied.

You can find more information about the subscriber review process on the [PEXA website](#). Useful [Guidance Notes](#) can also be found on PEXA's website.