

[Does the COVID-19 outbreak affect e-conveyancing VOI checks?](#)

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Abstract:

In light of the rapid outbreak in Australia of COVID-19 and the advice of the World Health Organisation (WHO) and the Australian government to maintain social distancing, many legal practitioners are reluctant to have face-to-face meetings with their e-conveyancing clients to:

- have their clients sign a client authorisation form (which authorises the legal practitioner to complete the conveyancing transaction electronically on their behalf — see [Electronic conveyancing — Client Authorisation](#)); and
- carry out verification of identity (VOI) checks. Under [cl 6.5](#) of the Participation Rules, legal practitioners are required to take reasonable steps to verify the identity of their clients in conveyancing transactions — see [Sales and purchases — Checklist for verification of identity \(VOI\)](#).

ARNECC has issued the following guidance and clarification on the matter:

- The [Participation Rules](#) or the [Electronic Conveyancing National Law](#) do not prohibit a client authorisation form being signed electronically by a client (see [Q13 in Model Participation Rule Guidance Note #1 — Client Authorisation](#)). It therefore depends on the particular jurisdiction as to whether or not a client authorisation form may be signed electronically by the client in that jurisdiction. The [Registrar General of NSW](#) has advised, for example, that a client may electronically sign a client authorisation form in NSW pursuant to [s 107\(1A\)](#) of the Real Property Act 1900 (NSW).
- It is not mandatory for a legal practitioner to carry out a face-to-face meeting with a client in order to verify his/her identity. Although the “Verification of Identity Standard” (set out [Sch 8](#) of the Participation Rules) requires a face-to-face meeting, [cl 6.5.2](#) of the Participation Rules also permits a legal practitioner to verify the identity of a client in “some other way that constitutes the taking of reasonable steps”. For example, a legal practitioner may decide to use video technology such as FaceTime or Skype; however, it is a matter for a legal practitioner to determine what constitutes “reasonable steps” in the circumstances of each individual case — see [Model Participation Rule Guidance Note #2 — Verification of Identity](#). If a legal practitioner does decide to verify the identity of a client in “some other way”, then the legal practitioner should ensure that he/she retains evidence of the “reasonable steps” taken, as he/she would for the “Verification of Identity Standard” (required under [cl 6.6](#) of the Participation Rules).

Takeaway

A client authorisation form may be signed electronically (if it is permitted in the particular jurisdiction) and a VOI check does not require a face-to-face meeting. For further information, see the [ARNECC](#) website.