

Client Identification Check - Individual

Lawcover recommends that practitioners use the Verification of Identity Standard as set out in the NSW Participation Rules for Electronic Conveyancing to confirm the identity of all new clients regardless of the type of matter. The Rules require production of original documents in any one of the categories in the following table.

NSW Participation Rules for Electronic Conveyancing (Version 3) Schedule 8 Table

| Category | Minimum Document Requirements |
|----------|--|
| | For Persons, who are Australian citizens or residents: |
| 1 | Australian Passport or foreign passport <u>plus</u> Australian drivers licence or Photo Card <u>plus</u> change of name or marriage certificate if necessary |
| 2 | Australian Passport or foreign passport <u>plus</u> full birth certificate or citizenship certificate or descent certificate <u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card <u>plus</u> change of name or marriage certificate if necessary |
| 3 | Australian drivers licence or Photo Card <u>plus</u> full birth certificate or citizenship certificate or descent certificate <u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card <u>plus</u> change of name or marriage certificate if necessary |
| 4 | (a) Australian Passport or foreign passport <u>plus</u> another form of government issued photographic identity Document <u>plus</u> change of name or marriage certificate if necessary (b) Australian Passport or foreign passport <u>plus</u> full birth certificate <u>plus</u> another form of government issued identity Document <u>plus</u> change of name or marriage certificate if necessary |
| 5 | (a) Identifier Declaration <u>plus</u> full birth certificate or citizenship certificate or descent certificate <u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card <u>plus</u> change of name or marriage certificate if necessary (b) Identifier Declaration by a Person specified in Verification of Identity Standard paragraph 4.4(e) <u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card <u>plus</u> change of name or marriage certificate if necessary <i>Note: Refer to Verification of Identity Standard paragraph 4.</i> |
| | For Persons who are not Australian citizens or residents: |
| 6 | (a) Foreign passport <u>plus</u> another form of government issued photographic identity Document <u>plus</u> change of name or marriage certificate if necessary (b) Foreign passport <u>plus</u> full birth certificate <u>plus</u> another form of government issued identity Document <u>plus</u> change of name or marriage certificate if necessary |

continued overleaf...

When confirming the identity of the client, the solicitor should:

- Conduct the check face-to-face and sight original documents to verify identity
- Verify the client's identity from an original primary photographic identification document
- Ensure that copies of documents are properly certified under the Oaths Act 1900
- In conveyancing matters, confirm Australian residency/citizenship of both vendor and purchaser

In verifying the information from the relevant documents the solicitor should be reasonably satisfied that:

- The documents are legible and do not appear to have been altered in any way
- There is no apparent discrepancy between the information collected from the client and information contained in the documents other than a discrepancy that can be reasonably explained and supported
- That the photograph contained in the document is a true likeness of the client

Identification Check - Organisation

Corporation

If the client is a corporation the solicitor should:

- Obtain a full ASIC search of the corporation
- Sight and take copies of relevant resolution(s) appointing the solicitor to act on behalf the corporation in the matter. The resolution(s) should adequately describe the matter
- Sight and take a copy of the relevant authority by the corporation for the director/employee to instruct the solicitor
- Complete the proofs of identity for an individual in respect of the director/employee instructing the solicitor

Trust

If the client is a trust the solicitor should:

- Obtain the original or a certified copy of the trust deed and any amendments to the trust deed
- Ensure that the trust deed contains the power(s) required by the matter
- If the trustee is an individual complete the proofs of identity for individual in respect of that trustee
- If the trustee is a corporation complete the proofs of identity for a corporation in respect of that trustee
- Sight and take a copy of the relevant resolution(s) appointing the solicitor to act on behalf the trust in the matter. The resolution(s) should adequately describe the matter
- Sight and take a copy of the relevant authority by the trust for the trustee to instruct the solicitor

Note:

1. *If the client is represented by an attorney pursuant to a power of attorney the original or a certified copy of the power of attorney must also be sighted in addition to the above proofs of identity of the attorney.*
2. *If the client is exercising a power under a court order (eg: an executor or mortgagee in possession) the original or a certified copy of the court order must also be sighted.*
3. *Copies of all documents must be permanently kept by the solicitor in hard copy or preferably electronic form and not kept in the client file which may be destroyed after 7 years.*