

# Authority and Identity Requirements for E-Dealing

Guideline 2024

**LINZ OP G 01309**

Office of the Registrar-General of Land

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## Authority and regulatory attributes

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## Introduction

Two key objectives of the land registration system are ensuring transactions are completely and accurately entered and maintained in the register, and authorised by or on behalf of entitled parties.

The certifications for electronic instruments practitioners make under s27 of the Land Transfer Act 2017 (Act) are central to ensuring these objectives are met.

The certifications for standard matters and applicable additional matters are set out in reg 7 of the Land Transfer Regulations 2018 (Regulations). The certifications for standard matters require a practitioner to certify that:

- they have authority to act for the party and the party has the legal capacity to give the authority
- they have taken reasonable steps to confirm the identity of the person who gave the authority to lodge the instrument
- any statutory provisions specified by the Registrar-General of Land (Registrar) have been complied with, and
- they hold evidence showing the truth of those certifications given and will retain the evidence for the prescribed period.

The certifications for additional matters are set out in reg 7(4) of the Regulations and relate to other matters including compliance requirements for Māori freehold land under Te Ture Whenua Māori Act 1993 and mortgagee consent.

The Registrar has set the following standards that practitioners must comply with before making the above certifications:

- the Authority and Identity Requirements for E-Dealing Standard 2024 – LINZ S 01308, and
- the Certification of Electronic Instruments (Statutory Requirements and Retention of Evidence) Standard 2018 – LINZ S 20012.

## Purpose

The purpose of this guideline is to assist practitioners to understand how to comply with their:

- certification obligations in reg 7(3)(a), (b) and (d) relating to a client's authority, capacity, and identity, and
- retention of evidence obligations in s30 of the Act.

The Certification of Electronic Instruments (Statutory Requirements and Retention of Evidence) Standard 2018 – LINZ S 20012 addresses the certification required by reg 7(3)(c) and sets requirements for the retention of evidence.

This guideline supercedes the Authority and Identity Requirements for E-Dealing Guideline 2018 – LINZ G 20775 published on 12 November 2018 (and updated on 10 September 2021) and Authority

and Identity Requirements and Electronic Signing of Documents Interim Guideline 2020 – LINZ OP G 01247 published on 30 March 2020 (and updated on 29 October 2021 and 27 September 2022).

## Terms and definitions

Terms used in this guideline that are defined in the Land Transfer Act 2017, Land Transfer Regulations 2018, and the Authority and Identity Requirements for E-Dealing Standard 2024 – LINZ S 01308 have the meaning given to them in the Act, Regulations and Standard unless otherwise stated.

References to clauses are references to clauses in this guideline unless otherwise stated.

Term	Definition
A&I form	Authority and instruction form that authorises a practitioner to act on behalf of a client
Acceptable photo ID	As defined in clause 4 of the Standard
Act	<a href="#">Land Transfer Act 2017</a>
AML/CFT Act	<a href="#">Anti-Money Laundering and Countering Financing of Terrorism Act 2009</a>
AVL	Audio-visual link (e.g. by using a product such as Skype, MS Teams, etc.)
Bank	A registered bank as defined by the <a href="#">Reserve Bank of New Zealand Act 2021</a>
CCLA	<a href="#">Contract and Commercial Law Act 2017</a>
Certifications	The certification of electronic instruments in the manner prescribed in reg 7 of the Regulations
Chartered accountant	As defined by s2 of the <a href="#">New Zealand Institute of Chartered Accountants Act 1996</a>
Client	A party on whose behalf the practitioner is certifying (includes a new client and an existing client)
Commonwealth representative	As defined in s2 of the <a href="#">Oaths and Declarations Act 1957</a>
Conduct and Client Care Rules	The rules of conduct and client care for lawyers and conveyancing practitioners prescribed by the <a href="#">Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008</a> and <a href="#">Lawyers and Conveyancers Act (Conveyancing Practitioners: Conduct and Client Care) Rules 2008</a>
Conveyancing practitioner	As defined in clause 4 of the Standard



Term	Definition
Delegate	As defined in clause 4 of the Standard
Electronic signature	As defined in s209 of the CCLA
Existing client	As defined in clause 8.2
High risk transaction	As defined in clause 4 of the Standard
Institutional chargeholder	<p>Means:</p> <ul style="list-style-type: none"> <li>• an institution, such as a bank, building society, credit union, financier, lawyer’s nominee company, private corporate, public corporate or other organisation which regularly lends money or provides credit in the course of its business activities (but excluding individuals or contributors under a contributory mortgage advance), or</li> <li>• an institution (excluding an individual or individuals) which makes a practice of entering into mortgages as trustee, nominee or as a custodian or custodian bank or global custodian for institutions of the type referred to in (a) despite the institution not itself engaging in lending money or providing credit, or</li> <li>• a territorial authority, ministry, government department, Crown entity or other similar organisation which registers encumbrances or charges against land in the normal course of its activities</li> </ul>
Intermediary	As defined in s5 of the <a href="#">Identity Information Confirmation Act 2012</a>
Lawyer	As defined in clause 4 of the Standard
New client	As defined in clause 8.1
Non-client party	As defined in clause 8.3
Practitioner	As defined in clause 4 of the Standard
Private corporate	A corporate entity that is not a public corporate (which includes limited partnerships, charitable trusts, incorporated societies, building societies and Māori incorporations)

Term	Definition
Public corporate	<p>Means:</p> <ul style="list-style-type: none"> <li>• a company, or a wholly owned subsidiary of a company, listed on the main board of the New Zealand stock exchange (NZSX)</li> <li>• a local authority listed in schedule 2 of the <a href="#">Local Government Act 2002</a></li> <li>• a council-controlled organisation as defined in s6 of the <a href="#">Local Government Act 2002</a></li> <li>• the Crown acting by and through a Minister or government department</li> <li>• a State enterprise listed in schedule 1 of the <a href="#">State-Owned Enterprises Act 1986</a> and any subsidiary of a State enterprise</li> <li>• a trustee company defined in s2 of the <a href="#">Trustee Companies Act 1967</a></li> <li>• a company listed in schedule 4, 4A or 5 of the <a href="#">Public Finance Act 1989</a></li> <li>• a Crown entity as defined in s7 of the <a href="#">Crown Entities Act 2004</a> (including Crown entities listed in schedule 1 or 2, Crown entity subsidiaries, school boards of trustees and tertiary education institutions)</li> <li>• NZ Defence Force acting through the Chief of Defence Force, and</li> <li>• a bank</li> </ul>
Registered legal executive	As defined in clause 4 of the Standard
Regulations	<a href="#">Land Transfer Regulations 2018</a>
Standard	<a href="#">Authority and Identity Requirements for E-Dealing Standard 2024 – LINZ S 01308</a>
Trusted colleague	As defined in clause 4 of the Standard
Trusted referee	A person who is listed in Part 2 of the <a href="#">AML/CFT Amended Identity Verification Code of Practice 2013</a>

# Authority and legal capacity

A client must be legally capable of authorising a transaction. A person authorising a transaction on behalf of a client must be properly authorised to act for that client.

The practitioner is responsible for ensuring authority is obtained and that reasonable steps have been taken to ensure the client has capacity to do so.

This section describes how practitioners can satisfy the Standard requirements for authority and legal capacity for clients.

## 1 Standard requirements

Clause 5 of the Standard set out the requirements for authority and legal capacity.

## 2 Authority

### 2.1 Who gives authority

Written authority to act for a party should be obtained from:

- the party personally, or
- the party's properly appointed representative, for example an attorney, a Court-appointed property manager, or an officer or authorised signatory of a corporate entity (see below for additional guidance).

#### 2.1.1 Authority from a private corporate

When dealing with a private corporate, practitioners should take steps to be satisfied that the person authorising the transaction is entitled to do so in accordance with:

- the Companies Act 1993 (or other governing statute), and
- the corporate entity's constitution.

If the person authorising the transaction is doing so under a power of attorney given by the company, clause 2.2 will also apply.

## 2.1.2 Authority from a public corporate

Public corporates can reasonably be relied upon to properly manage their delegations to officers / authorised signatories authorising transactions, in accordance with any governing statutory requirements.

An A&I form, or other form of authority as set out in clause 4, signed by an officer / authorised signatory on behalf of a public corporate can be relied upon if:

- the practitioner or trusted colleague expected to receive instructions from, or initiated contact with, the public corporate, and
- the instructions are received from an expected or familiar source e.g. using a bank's usual delivery method.

If there is any doubt as to whether the transaction is appropriately authorised, the practitioner should take any further steps the practitioner thinks necessary to manage any potential risk. Further steps may include independently contacting the public corporate to verify the authenticity of the instructions received.

## 2.2 Authority under a power of attorney

A power of attorney that confers the necessary authority may be relied on for the purposes of signing an A&I form authorising a practitioner to certify an electronic instrument. Practitioners must take appropriate steps to confirm the authenticity of the power of attorney and the identity of the person purporting to act as the attorney.

To have legal effect, a power of attorney must be in the form of a deed and must therefore be signed and witnessed as a deed.<sup>1</sup> This applies equally to powers of attorney contained in other documents such as loan agreements and building contracts.

Due to the nature of a power of attorney and the potential for misuse, there may be additional risk when acting on instructions from an attorney. The risk may be greater, for example, when dealing with:

- an enduring power of attorney for an individual
- a new client acting as an attorney for a donor who is not an existing client, or
- an attorney who is acting on behalf of a donor who is uncontactable or cannot be consulted.

When an A&I form is signed on behalf of an individual or a private corporate under a power of attorney, practitioners should take the steps set out in the following paragraphs to confirm the power of attorney:

- has been properly signed and witnessed
- remains current and valid, and
- empowers the attorney to authorise the transaction.

<sup>1</sup> *New Zealand Land Law*, 3<sup>rd</sup> Edition, page 266, para 2.17.02

## 2.2.1 Confirming that the power of attorney is operative and confers the necessary power to authorise the transaction

A practitioner relying on an authority and instruction given under a power of attorney must:

- confirm the transaction is within the scope of what is authorised under the power of attorney
- confirm the power of attorney has not been suspended or revoked by obtaining a certificate of non-revocation (and non-suspension, if applicable), and
- in the case of an enduring power of attorney that comes into effect upon the donor's incapacity, obtain a certificate from a relevant health practitioner.

These requirements stem from ss 19-20 of the Property Law Act 2007 and s97(5) of the Protection of Personal and Property Rights Act 1988.

## 2.2.2 Additional checks to be undertaken if the practitioner did not act when the power of attorney was granted

If the practitioner or trusted colleague did not personally act for the donor when granting the power of attorney, the practitioner should take further steps to satisfy themselves the power of attorney is genuine. Such additional steps may include:

- sighting the original power of attorney document to confirm the power of attorney appears to be genuine, and is properly signed by the donor and witnessed
- initiating contact with the donor using independently obtained contact details to confirm that the attorney is empowered to authorise the transaction on the donor's behalf, and
- any further precautions the practitioner thinks necessary to manage the risk of fraud or improper dealing.

## 2.2.3 Other requirements

The identity of an attorney acting on behalf of an individual or private corporate must be confirmed as provided in clauses 9 and 10.

A transfer, mortgage, or application to correct or change a name signed under a power of attorney may be considered a high risk transaction – see clause 17.

## 2.3 Authority under a property order appointing a manager

When an A&I form is signed pursuant to a property order under the Protection of Personal and Property Rights Act 1988, practitioners should satisfy themselves that:

- the order is genuine and appears properly made by the Court, and
- the transaction is within the scope of what may be authorised under the order.

The identity of the manager should be confirmed as provided in clauses 9 and 10.

## 3 Legal capacity

### 3.1 Individuals

When assessing legal capacity for an individual, practitioners should consider any restrictions that apply to a person who:

- is a minor
- is an undischarged bankrupt, or
- does not have mental capacity to authorise the transaction.

The New Zealand Law Society Property Law Section Guidelines provide further commentary on these matters.

### 3.2 Corporates

The person giving authority by A&I form on behalf of a private or public corporate must confirm:

- they are authorised to give authority on behalf of the corporate (subject to clauses 2.1.1 and 2.1.2)
- the corporate is not subject to any statutory management orders, the appointment of a receiver or liquidator, or similar, (or if they are, that the person authorising does so in accordance with that restriction), and
- the corporate has passed the necessary resolutions required by its empowering constitution, rules, or statute to authorise the transaction.

## 4 A&I forms and other forms of authority

A signed A&I form is the accepted method for obtaining authority.

Other acceptable forms of authority include:

- for an institutional chargeholder lodging a mortgage, a mortgage variation, priority or discharge, or other instrument to which they are a party, a signed letter of instruction issued to the firm authorised to act that identifies the:
  - affected record(s) of title or clearly identifies the subject property in another way (e.g. by street address or legal description)
  - type and registered number of the instrument being dealt with
  - name(s) of the mortgagor(s)
  - name of the person authorising the transaction on behalf of the institutional chargeholder
- for a public corporate lodging a discharge instrument to release a charge, or record the cancellation or expiry of an interest, under an enactment other than the Land Transfer Act 2017, a signed paper discharge, and
- for a caveator or claimant lodging a caveat or notice of claim, an email or letter from the caveator or claimant, or a file note recording the caveator's or claimant's instructions.

An A&I form is not required from a practitioner if they are certifying an instrument on their own behalf (i.e. they are a party to the instrument).

## 5 Witnessing A&I forms

An individual or private corporate must sign an A&I form in the presence of a witness.

When signing the A&I form, the witness certifies that:

- they have witnessed the client sign the A&I form
- they have sighted the original forms of photo ID indicated on the A&I form
- they have attached a copy of the photo ID used
- the client's appearance, name, and signature match the client's photo ID used, and
- the client appears to be of sound mind.

If the individual or person signing on behalf of a private corporate cannot provide acceptable photo ID to the witness, a statutory declaration as to identity is required – see clause 14.

A practitioner, trusted colleague or delegate can witness the signing of an A&I form by an individual or private corporate if they are:

- aged 18 years or over
- independent of the client, and
- not a party to the transaction.

A person is independent of the client when that person is not:

- related to the client (for example, their parent, child, sibling, aunt, uncle, or cousin), or
- the spouse or partner of the client.

A delegate who lives at the same address as the client is unlikely to be independent of the client.

An A&I form may be signed remotely and witnessed by a practitioner or trusted colleague via AVL. The identity of the signatory must also be confirmed - see clauses 9.3 and 10.3.

For the avoidance of doubt, a lawyer, conveyancing practitioner, or other appropriate delegate who is employed by a private corporate may witness the signing of an A&I form by another person on behalf of that private corporate.

Assuming there is no conflict of interest, if a practitioner is not independent of a client and/or is a party to the transaction, they may still give certifications on behalf of that party, provided that the A&I form has been witnessed by another person who meets the requirements above.



## 6 Electronic signatures

An A&I form can be signed and witnessed using an electronic signature if the signature is compliant with ss 226 and 227 of the Contract and Commercial Law Act 2017 because it:

- adequately identifies the signatory and the witness
- adequately indicates:
  - the signatory's approval of the information to which the signature relates, and
  - the signature has been witnessed, and
- is as reliable as is appropriate given the purpose for which the signature and the witness' signature is required.

Section 228(1) of the CCLA provides that an electronic signature is presumed to be reliable as is appropriate if:

- the means of creating the electronic signature is linked to the signatory and to no other person
- the means of creating the electronic signature was under the control of the signatory and of no other person
- any alteration to the electronic signature made after the time of signing is detectable, and
- any alteration made to that information after the time of signing is detectable.

An image of a signature that is simply inserted into an A&I form or has been created by drawing a signature using a touch screen cannot be presumed to be reliable as it is unlikely to meet the criteria set out in s228(1) of the CCLA. A signature that appears to have been created in this way should not be relied upon.

Information about other documents that can be signed using an electronic signature can be found on Toitū Te Whenua Land Information New Zealand's website.

[Electronic signatures for A&I forms and other documents](#)

### 6.1 Evidentiary requirements

When giving certifications relying upon an electronic signature on an A&I form, the practitioner must:

- be satisfied that the product used to sign creates an electronic signature that meets the requirements of the CCLA, and
- retain the product's digital signing log for that transaction as evidence together with the A&I form.

A practitioner may be asked to provide evidence as to how the product used creates an electronic signature that complies with the CCLA, for the purposes of section 30(3) of the Act.

## 6.2 Confirmation of identity

Confirmation of identity can be completed face to face or by AVL as set out in clauses 9.2 and 9.3 and clauses 10.2 and 10.3.

If AVL confirmation of identity is to be used in combination with an electronic signature, the AVL method used must allow the practitioner or trusted colleague to witness the party electronically signing the A&I form.

# Identity

Establishing the identity of a party is an essential safeguard against identity and fraud in conveyancing transactions to ensure the party:

- is who they claim to be,
- is the same person as the registered owner (when dealing with an existing registered estate or interest).

As confirmation of identity will not have been completed previously, giving certifications on a new client's behalf poses a greater risk than giving certifications on behalf of an existing client. The steps to confirm identity for a new client are therefore more tightly controlled.

This section describes how practitioners can satisfy the Standard requirements for confirming identity, including:

- the methods practitioners and trusted colleagues can use to confirm identity, and
- delegating confirmation of identity.

## 7 Standard requirements

Clauses 6 – 12 of the Standard set out the requirements for identity confirmation.

## 8 Defining parties

The certifications for standard matters and applicable additional matters set out in reg 7 of the Land Transfer Regulations 2018 apply to all parties, whether or not a practitioner considers the party to be a client.

### 8.1 New clients

A new client is a person (individual or corporate) for whom the practitioner or their firm has not previously acted in relation to a transaction under the Act.

## 8.2 Existing clients

An existing client is a person (individual or corporate) for whom the practitioner or their firm has previously acted in relation to a transaction under the Act. For the avoidance of doubt, the client is not an “existing client” if the only work done for the client is:

- AML/CFT Act identity verification in anticipation of the current transaction, or
- providing preliminary advice ahead of registering the current transaction.

## 8.3 Non-client parties

A non-client party is a party who is not a client of the practitioner for the purposes of the Lawyers and Conveyancers Act 2006 and associated Conduct and Client Care Rules.

A common example of a non-client party is an institutional chargeholder mortgagee whom a practitioner may act for when registering a new mortgage or discharging an existing mortgage on behalf of their client.

## 9 Confirmation of identity for a new client

Subject to clause 5, the identity of a new client who is an individual or a signatory for a private corporate can be confirmed:

- face to face by the practitioner, trusted colleague, or delegate – see clause 9.2, or
- using AVL by the practitioner or trusted colleague – see clause 9.3.

For commentary on confirmation of identity by a delegate in the context of a high risk transaction see clause 17.

Public corporate clients can be relied upon to properly manage their delegations to officers or authorised signatories who may authorise transactions and to have appropriately identified those signatories.

When dealing with a public corporate, a practitioner does not need to take further steps to confirm the identity of an officer or authorised signatory for a public corporate party if they are satisfied as to authority as set out in clause 2.1.2.

### 9.1 Acceptable photo ID

Commentary on the types of photo ID that fall within the definition of 'acceptable photo identification' in the Standard is set out in clause 13.

If there are any discrepancies between the acceptable photo ID and the name used by the new client, these must be reconciled – see clause 16.

If there is no acceptable photo ID available, confirming identity by statutory declaration is possible - see clause 14.

### 9.2 Face to face

When confirming a new client's identity face to face, a practitioner, trusted colleague, or delegate should examine the client's original acceptable photo ID to confirm the identity of the client matches the ID presented. For further guidance as to who can act as a delegate, see clause 12.

If there is no acceptable photo ID available, a practitioner or trusted colleague (not a delegate) may confirm identity by statutory declaration – see clause 14. For commentary on confirming identity by statutory declaration in the context of a high risk transaction, see clause 17.

## 9.3 AVL for new clients

A practitioner or trusted colleague may confirm the identity of a new client by AVL if the practitioner or trusted colleague has already verified the identity of the new client in accordance with their obligations under the AML/CFT Act. For the avoidance of doubt, a practitioner or trusted colleague who has used an intermediary to assist them to verify the identity of a new client for AML/CFT Act purposes is considered to have verified the client's identity themselves.

When confirming a new client's identity by AVL, a practitioner or trusted colleague should sight the client's original acceptable photo ID by asking the client to show their ID on camera. A copy of the acceptable photo ID presented should be provided to the practitioner with the original signed A&I form.

The practitioner or trusted colleague should keep a record of when the session took place, and the steps they took to confirm the client's identity and witness the client sign the A&I form and other documents. For example, a standardised remote witnessing certificate could be used for this purpose along with other records of the AVL session, such as a screenshot of the client holding up their photo ID.

Confirming identity for the new client should not be continued via AVL if the practitioner or trusted colleague:

- has doubts as to the identity or capacity of the client
- has concerns that the client may be acting under duress or at the direction of another person
- is not able to simultaneously see and hear the client and clearly see the acceptable photo ID, A&I form, and other documents being signed for the duration of the identity confirmation session, or
- has reason to believe that what they are viewing on screen could have been manipulated or generated through the use of Artificial Intelligence (AI), due to the nature of the client's responses, behaviour, or demeanour.

## 9.4 Other actions

For a new client who is:

- a transferor or mortgagor in relation to a transfer or mortgage, or
- an applicant making an application to correct or change of a name,

a connecting document will be required – see clause 15.

The requirements for high risk transactions may also apply – see clause 17.

## 10 Confirmation of identity for an existing client

Subject to clause 5, the identity of an existing client who is an individual or private corporate can be confirmed:

- face to face by the practitioner, trusted colleague, or delegate – see clause 10.2, or
- using AVL by the practitioner or trusted colleague – see clause 10.3.

Public corporate clients can be relied upon to properly manage their delegations to officers or authorised signatories who may authorise transactions and to have appropriately identified those signatories.

When dealing with a public corporate, a practitioner does not need to take further steps to confirm the identity of an officer or authorised signatory for a public corporate party if they are satisfied as to authority as set out in clause 2.1.2.

### 10.1 Acceptable photo ID

Commentary on the types of photo ID that fall within the definition of acceptable photo identification in the Standard is set out in clause 13.

If there are any discrepancies between the acceptable photo ID and the name used by the existing client, these must be reconciled – see clause 16.

If there is no acceptable photo ID available, confirming identity by statutory declaration may be possible - see clause 14.

### 10.2 Face to face

When confirming an existing client's identity face to face, a practitioner or trusted colleague should:

- examine the client's original acceptable photo ID, or
- view a retained copy of the acceptable photo ID (i.e. where the acceptable photo ID has previously been provided by the client to support an earlier e-dealing and a copy has been retained by the practitioner or their firm).

If the retained copy of the acceptable photo ID no longer shows a true likeness of the client and cannot be relied upon to confirm the client's identity, a new form of acceptable photo ID may be required. See clause 13.4 for more information about using expired ID to confirm identity.

If there is no acceptable photo ID available, a practitioner or trusted colleague may confirm identity by statutory declaration – see clause 14.

A delegate may undertake face to face identity confirmation for an existing client by examining the client's original acceptable photo ID (a statutory declaration is not sufficient). For further guidance as to who can act as a delegate, see clause 12.

## 10.3 AVL for existing clients

When confirming an existing client's identity by AVL, a practitioner or trusted colleague should sight the client's original acceptable photo ID by asking the client to show their ID on camera.

A copy of the acceptable photo ID presented should be scanned or copied and provided to the practitioner with the signed A&I form, unless the acceptable photo ID sighted by the practitioner or trusted colleague is the same as a retained copy already held by the firm.

The practitioner or trusted colleague should keep a record of when the session took place, and the steps taken to confirm the client's identity and witness the client sign the A&I form and other documents. For example, a standardised remote witnessing certificate could be used for this purpose along with other records of the AVL session, such as a screenshot of the client holding up their photo ID.

Confirming identity for the existing client should not be continued via AVL if the practitioner or trusted colleague:

- has doubts as to the identity or capacity of the client,
- has concerns that the client may be acting under duress or at the direction of another person
- is not able to simultaneously see and hear the client and clearly see the acceptable photo ID, A&I form, and other documents are being signed for the duration of the identity confirmation session, or
- has reason to believe that what they are viewing on screen could have been manipulated or generated through the use of Artificial Intelligence (AI), due to the nature of the client's responses, behaviour, or demeanour.

## 10.4 Other actions

For an existing client who is:

- a transferor or mortgagor in relation to a transfer or mortgage, or
- an applicant for an application for correction or change of name,

a connecting document or file note confirming the practitioner's personal knowledge of the person's connection to the property will be required – see clause 15.

If the transaction is being authorised under a power of attorney in the context of a high risk transaction further steps may be required – see clause 17.2.



## 11 Confirmation of identity for a non-client party

### 11.1 Public corporates

Public corporate non-client parties are subject to the same identity confirmation requirements as public corporate clients.

Public corporates can be relied upon to properly manage their delegations to officers or authorised signatories who may authorise transactions and to have appropriately identified those signatories.

When dealing with a public corporate who is a non-client party (such as an institutional chargeholder registering a mortgage), a practitioner does not need to take further steps to confirm the identity of an officer or authorised signatory for the public corporate if they are satisfied as to authority as set out in clause 2.1.2.

### 11.2 Private corporates and individuals

Private corporate and individual non-client parties are subject to the same identity confirmation requirements as private corporate and individual clients.

If the non-client party is an existing client (i.e. the practitioner or their trusted colleague has acted for them in the past as set out in clause 8.2 but does not consider them to be a client in relation to the current transaction), the identity confirmation requirements for existing clients apply – see clause 10.

In all other cases, the identity confirmation requirements for new clients apply – see clause 9.

Practitioners should carefully consider whether it is appropriate in the circumstances to give certifications for an individual or private corporate whom they consider is not a client.

## 12 Delegates

Clauses 7 and 8 of the Standard set out the requirements for delegating identity confirmation.

Practitioners using delegates to confirm identity and witness A&I forms remain ultimately responsible for ensuring that reasonable steps have been taken to confirm the identity of the client. When nominating a suitable person to undertake these functions, practitioners should only do so where they are confident that the delegate will properly perform these checks with an appropriate level of care, robustness, and impartiality.

If a practitioner is concerned about the adequacy of the checks performed by their delegate, they should not certify the transaction.

### 12.1 High risk transactions involving a delegate

It may not be prudent to rely upon a delegate to confirm identity of a client or clients if:

- instructions have been provided on behalf of the client by a third party, or
- the transaction involves multiple clients who may have different interests and instructions have been provided by one client on behalf of the others,

In the case of a high risk transaction where confirmation of identity for a new client is completed by a delegate in either of these circumstances, see clause 17.

### 12.2 Who can act as a delegate

As defined in clause 4 of the Standard, a delegate is a person:

- who is aged 18 years or over
- who is independent of the client
- who is not a party to the transaction, and
- whom the practitioner can reasonably rely on to carry out identity confirmation on the practitioner's behalf.

A delegate is independent of the client when that person is not:

- related to the client (for example, their parent, child, sibling, aunt, uncle, or cousin), or
- the spouse or partner of the client.

A delegate who lives at the same address as the client is unlikely to be independent of the client.

## 12.3 Preferred New Zealand delegates

Under clauses 4 and 7(1) of the Standard, a practitioner can reasonably rely on the following persons to carry out identity confirmation on the practitioner's behalf for a client located in New Zealand:

- a lawyer
- a conveyancing practitioner, or
- a registered legal executive.

Other persons the Registrar-General of Land has confirmed are acceptable are as follows:

- a justice of the peace
- a notary public
- a chartered accountant
- a Commonwealth representative (as defined in the Oaths and Declarations Act 1957)
- a member of the Police
- a New Zealand Honorary consul
- a member of Parliament, or
- any other person who has the legal authority to take statutory declarations in New Zealand.

## 12.4 Preferred overseas delegates

As referred to in clauses 4 and 7(1) of the Standard, a practitioner can reasonably rely on the following persons to carry out identity confirmation on the practitioner's behalf for a client located overseas:

- a New Zealand lawyer, or
- a New Zealand conveyancing practitioner.

Other persons the Registrar-General of Land has confirmed are acceptable are as follows:

- an Australian lawyer
- an Australian Justice of the Peace
- a Notary Public exercising that office in the country in which the instrument is signed, provided the law in that country authorises a Notary Public to take statutory declarations or the equivalent, or
- a Commonwealth representative exercising his or her functions in the country in which verification occurs, sealed with the representative's seal of office (if any), provided the law in that country authorises a Commonwealth representative to take statutory declarations or the equivalent.

## 12.5 Alternative delegates

If a practitioner is unable to rely on one of the preferred delegates described in clauses 12.3 or 12.4 to carry out identity confirmation on their behalf, the practitioner should carefully consider whether they can rely on any other person. For example, it may be appropriate to consider:

- whether the person relied on would be acceptable as a trusted referee for AML/CFT Act identity verification
- the nature of the transaction being authorised e.g. a delegate confirming identity for a person entering into a variation of an easement for a utility company may require less scrutiny than a person confirming identity for the transfer of a property
- the nature of the entity giving authority e.g. a delegate confirming identity for an existing private corporate client may require less scrutiny than a delegate confirming identity for a new private individual client, or
- whether the transaction is high risk as defined in clause 17.

If an alternative delegate is relied upon, the practitioner must create a file note recording what reasonable steps the practitioner took to satisfy themselves that the delegate used meets the requirements in clause 12.2.

Reasonable steps may include:

- independently contacting the delegate to confirm:
  - the delegate's suitability as described in clause 12.2 including that the delegate is independent of the client and not a party to the transaction, and
  - the steps the delegate took to confirm identity are sufficient, or
- if applicable, obtaining evidence to confirm the delegate holds the appropriate office in the country in which the instrument is signed.

## 13 Acceptable photo ID

### 13.1 Preferred forms of ID

As provided in clause 4 of the Standard, the following forms of photo ID are acceptable to confirm the identity of a client:

- a NZ or overseas passport
- a NZ driver licence
- a NZ firearms licence
- a NZ SuperGold card (with the holder's photograph)
- a NZ certificate of identity, NZ refugee travel document or emergency travel document issued under the Passports Act 1992 (with the holder's photograph), and
- a NZ certificate of identity issued under the Immigration NZ Operational Manual that is published under s25 of the Immigration Act 2009.

### 13.2 Alternative forms of ID

If the client does not have one of the above forms of acceptable photo ID, one of the following forms of photo ID referred to in the Department of Internal Affairs' Amended Identity Verification Code of Practice 2013 made under the AML/CFT Act may be used:

- a document similar to an overseas passport issued for the purpose of international travel which contains the name, date of birth, photo, and signature of the person, and is issued by a foreign government, the United Nations, or an agency of the United Nations, or
- a national ID card issued for the purpose of ID that contains the name, date of birth, photo and signature of the person and their signature or other biometric measure included where relevant, and is issued by a foreign government, the United Nations, or an agency of the United Nations.

If one of these alternative forms of photo ID is used, this may make the transaction a high-risk transaction - see clause 17.

### 13.3 Overseas ID

If the acceptable photo ID provided is in a language that is foreign to the practitioner and/or delegate, the document should be independently translated by a reputable source, and a copy of the translation retained. The [Translation Service](#) at Department of Internal Affairs provide professional translation services.

## 13.4 Current and expired ID

It is preferable to rely upon a current form of acceptable photo ID.

If a client does not hold a current form of acceptable photo ID an expired form of acceptable photo ID can be relied upon if:

- the client's photo still appears to be a true likeness of the client
- the name recorded on the ID matches that of the client, or any discrepancies are reconciled as set out in clause 16, and
- if applicable, the signature used by the client reasonably matches the signature recorded on the ID.

## 13.5 When no ID is available

If no acceptable photo ID is available, a statutory declaration confirming the client's identity may be obtained – see clause 14. This may make the transaction a high-risk transaction if the client is a new client - see clause 17.

## 14 Statutory declaration as to identity

Clause 9 of the Standard sets out the requirements for confirming identity by statutory declaration when a client's identity cannot be confirmed using acceptable photo ID.

A statutory declaration is used to record how the person giving the statutory declaration knows the client personally and is able to confirm their identity. The statutory declaration can be given by:

- the practitioner themselves
- a trusted colleague, or
- an independent verifier.

If a statutory declaration as to identity is given for a new client, this may make the transaction a high risk transaction – see clause 17.

### 14.1 Who can give a statutory declaration

A person can give a statutory declaration of identity if they are:

- aged 18 years or over
- independent of the client, and
- not a party to the transaction.

A person is independent of the client when that person is not:

- related to the client (for example, their parent, child, sibling, aunt, uncle, or cousin), or
- the spouse or partner of the client.

A person who lives at the same address as the client is unlikely to be independent of the client.

If the person giving the statutory declaration is an independent verifier (i.e. is not the practitioner or a trusted colleague), the verifier must:

- hold a form of acceptable photo ID as described in clause 13, and
- be someone whom the practitioner can reasonably rely on.

### 14.2 Content of the statutory declaration

The statutory declaration should:

- record the person confirming identity meets the requirements set out in clause 14.1
- annex a signed photograph of the client
- record that the photograph represents a true likeness of the client, and
- for an independent verifier, annex photo ID in the form set out in clause 13 as confirmation of the verifier's own identity.

A recommended form of statutory declaration is set out in Appendix A.

## 15 Connecting the client to the property

Clause 10 of the Standard sets out further requirements for confirming identity by connecting a client to the property being dealt with.

This clause, which requires a connecting document to be obtained, applies to a practitioner acting for:

- a transferor or mortgagor in relation to a transfer or mortgage (except where a mortgagor is granting a mortgage upon the acquisition of a new property), and
- an applicant for an application for correction or change of name.

If, however, the practitioner or trusted colleague has personal knowledge of the party's ownership of the property, the practitioner may record a file note confirming that knowledge and a connecting document is not required – see clause 15.2

### 15.1 Connecting documents

The connecting document may be:

- a rates demand, power/gas/water account or insurance policy that demonstrates the client's ownership of the property, or
- if the client has only recently purchased the property and does not have one of the above documents, a copy of the agreement for sale and purchase.

In order to be appropriately relied upon, the connecting document should be provided directly by the client (for example, a document received by them by post or electronically) and not obtained from a publicly accessible source. It must demonstrate the client's ownership of the property and not simply that they use the address for mail.

For commentary on high risk transactions where a new client is unable to provide a satisfactory connecting document, see clause 17.

### 15.2 File note in lieu of connecting document

If the practitioner or trusted colleague has personal knowledge of the client's ownership of the property, the practitioner may record a file note confirming that knowledge and a connecting document is not required.

An element of judgment is required when providing a file note in lieu of obtaining a connecting document. For example, it may be reasonable to claim personal knowledge on the basis that the client has been a longstanding client of the firm, even though most of the interaction has been with other practitioners in the firm. It would however be unreasonable to claim personal knowledge if the client is a stranger, is a referral (e.g. from another practitioner or real estate agent), was previously unknown to the firm or has only recently become a client.



## 16 Reconciling name discrepancies

Clause 11 of the Standard sets out the requirements for reconciling name discrepancies.

Occasionally a client's name as recorded on the record of title may not fully match their name as it is recorded on their acceptable photo ID and/or connecting document e.g. a middle name is missing, or a name appears to be misspelled. A client may also have legally changed their name and the name they are currently using is not the same as the name recorded on the record of title.

In the above circumstances, the practitioner must obtain one of the following documents, as is necessary, to reconcile the discrepancy:

- If the discrepancy is because the client has legally changed their name e.g. by marriage, civil union, or application to change their name with the Department of Internal Affairs (or the overseas equivalent), a certified copy of a NZ government-issued certificate (or the overseas equivalent) evidencing the name change (e.g. marriage certificate, civil union certificate, birth certificate or name change certificate) should be obtained.
- If the reason for the discrepancy is within the personal knowledge of the practitioner or trusted colleague (i.e. because it relates to a typographical error or a name missed when the practitioner registered a prior dealing for that client), a file note from the practitioner explaining the reason for the discrepancy and confirming the client is one and the same person as that identified in the acceptable photo ID and/or connecting document.
- A statutory declaration from the client confirming that they are one and the same person as that identified in the acceptable photo ID and/or connecting document. A recommended form of statutory declaration is attached at Appendix B, which should be amended to record the particulars of the discrepancy and the reason for it.

## 17 High risk transactions

Clause 12 of the Standard sets out additional requirements for high risk transactions.

Under clause 4 of the Standard, a 'high risk transaction' is a transaction involving a transfer, mortgage or change/correction of name that may present an increased risk of improper dealing or identity fraud. This would apply where a practitioner is acting for the transferor or mortgagor, or an applicant for an application for correction or change of name, and one or more of the conditions in clauses 17.1 or 17.2 exists.

Under clause 12 of the Standard, if a transaction is considered to be high risk, further reasonable steps must be taken to independently confirm the identity of the client and the veracity of the transaction.

### 17.1 High risk transactions involving new clients

A transfer, mortgage, or application for correction or change of name may present an increased risk of improper dealing or identity fraud if the client is a new client and:

- the affected record of title is not subject to a mortgage
- in the case of a mortgage, is not purchasing a new property and granting a mortgage at the same time
- a delegate has been used to confirm identity in one of the circumstances set out in clause 12.1
- the client provides one of the alternative forms of acceptable photo ID listed in clause 13.2
- the client provides a statutory declaration of identity instead of acceptable photo ID as provided for in clause 14, or
- the client does not provide a connecting document that is satisfactory to the practitioner as provided for in clause 15.

Practitioners are best placed to decide what further steps are reasonable to manage the potential risk in the particular circumstances.

By way of example, additional reasonable steps may include:

- When acting for a transferor, checking for any obvious age discrepancies on the historic information on the record of title (i.e. the transfer to the current owner was registered 60 years ago, and the client appears to be 25 years old).
- Using an intermediary to identify the client.
- Relying on an ID protocol in a robust electronic signing system.
- Independently obtaining written confirmation from the client's bank that the bank has identified the client in a way that complies with requirements for confirmation of identity in the Standard.
- If relying on an independent verifier's statutory declaration of identity which was taken by another person, independently contacting the person who took the declaration to confirm the steps they took to confirm the identity of the independent verifier.

## 17.2 High risk transactions involving powers of attorney

Clauses 2.2.1 and 2.2.2 record the steps that should be taken to confirm authority for all transactions authorised by power of attorney.

A transfer, mortgage or application for correction or change of name may present an increased risk of improper dealing or identity fraud if:

- the practitioner is acting for a transferor, mortgagor, or applicant, and
- the transaction is authorised under a power of attorney.

In addition to the steps necessary to confirm authority, for these high risk transactions, further reasonable steps must be taken to independently confirm the identity of the attorney and verify the transaction is bona fide.

Practitioners are best placed to decide what further steps are reasonable to manage the potential risk in the particular circumstances.

By way of example, additional reasonable steps a practitioner may take may include:

- If not completed already, initiating contact with the donor using independently obtained contact details in order to satisfy themselves that the power of attorney has not been revoked or suspended and that the attorney is properly authorised to act.
- Using an intermediary to identify the attorney.
- Relying on an ID protocol in a robust electronic signing system.
- Independently obtaining written confirmation from the donor's bank that the bank has identified the attorney in a way that complies with requirements for confirmation of identity in the Standard.
- If relying on an independent verifier's statutory declaration of identity for the attorney, obtaining an additional statutory declaration from a family member or other person who can identify both the donor and the attorney and provide supplementary information to allow the practitioner to satisfy themselves as to the attorney's identity.

## 17.3 File note

The practitioner must record a file note documenting the steps taken to independently confirm the identity of the client if the transaction is high risk.

If, upon further inquiry, doubts remain as to the client's identity or the validity of the authority provided, then the practitioner cannot certify as to identity and authority.

## Retention of evidence

Section 30(1) of the Act requires a practitioner who certifies an electronic instrument to retain the evidence to support their authority and identity certifications for at least 10 years from the date of lodgement (as per regulation 7(6) of the Regulations).

This includes (as applicable):

- A&I forms and other forms of authority - see clause 4
- Audit logs for any product used to sign and witness an A&I form using an electronic signature - see clause 6.1
- File note to support the decision to use an alternative delegate - see clause 12.5
- Copy of acceptable photo ID - see clause 13
- Statutory declaration as to identity - see clause 14
- Connecting document or file note - see clauses 15.1 and 15.2
- Evidence of change of name to address name discrepancy, file note addressing a name discrepancy, and/or statutory declaration as to name discrepancy - see clause 16
- File note addressing high risk matters - see clause 17
- Any additional evidentiary requirements for a particular instrument specified by the Registrar-General of Land in the Certification of Electronic Instruments (Statutory Requirements and Retention of Evidence) Standard 2018 – LINZ S 20012 (for example, a statutory declaration required to support an application to correct or change a name).

Practitioners must retain the evidence specified and produce it if the dealing is selected for compliance review in accordance with s30(3) of the Act.

Land transfer tax statements do not need to be produced when a dealing is selected for compliance review. Tax statements must be retained for 10 years so they can be produced if requested by Inland Revenue.

# Appendix A: Statutory declaration as to identity

## Statutory declaration as to identity

I (Enter full name)

of (Enter the place where you live, i.e. your town or city)

(Enter your occupation – e.g. bricklayer, teacher, unemployed)

solemnly and sincerely declare that:

1. I am aged 18 years or over.
2. I am independent of [insert full name of person whose identity is being confirmed] and the transaction.
3. I have personally known [insert full name of person whose identity is being confirmed] for [insert number of years].
4. The residential address of [insert full name of person whose identity is being confirmed] is [insert address].
5. The photograph attached to this statutory declaration and marked with the letter "A" is a true likeness of [insert full name of person whose identity is being confirmed].
6. I am the holder of government-issued photo ID, a copy of which, showing my photograph and the identification number, is attached to this statutory declaration, and marked with the letter "B".

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Your signature

---

Declared at (Place, i.e. town or city)

Date signed

DD / MM / YYYY

Before me (Signature of witness)

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(Name of witness)

(Place where witness lives, i.e. town or city)

(Occupation of witness)

Note that statutory declarations are unable to be signed electronically as they are an exception referred to in s218(2) of the Contract and Commercial Law Act 2017.

# Appendix B: Statutory declaration as to name discrepancy

## Statutory declaration as to name discrepancy

I (Enter full name)

of (Enter the place where you live, i.e. your town or city)

(Enter your occupation – e.g. bricklayer, teacher, unemployed)

solemnly and sincerely declare that:

1. I am aged 18 years or over.
2. I am the person named as [insert full name of person as it is recorded on the record of title] on record of title [insert record of title number].
3. I am also the person named as [insert full name of person as it is recorded on the acceptable photo ID] on [insert details of acceptable photo ID including type of ID and identifying number], a copy of which is attached to this statutory declaration and marked with the letter "A".
4. I am also the person named as [insert full name of person as it is recorded on the connecting document] on [insert details of connecting document used], a copy of which is attached to this statutory declaration and marked with the letter "B".
5. I confirm the reason for the discrepancy between the documents is [insert details].

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Your signature

.....

Declared at (Place, i.e. town or city)

Date signed

DD / MM / YYYY

Before me (Signature of witness)

.....

(Name of witness)

(Place where witness lives, i.e. town or city)

(Occupation of witness)

Note that statutory declarations are unable to be signed electronically as they are an exception referred to in s218(2) of the Contract and Commercial Law Act 2017.