

Electronic signatures in conveyancing - an update

Guidance has now been finalised and the Land Registry has momentarily confirmed that it will accept electronic signatures from 27 July 2020.

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We mentioned in our [article on 10 July here](#) that the Land Registry had published draft guidance setting out the basis on which it will accept for registration transfers (and certain other deeds) that have been signed electronically.

That guidance has now been finalised after a short informal consultation and the Land Registry has momentarily confirmed that it will accept electronic signatures from 27 July 2020. The Land Registry's requirements have not changed significantly from those summarised in our earlier article. However, where a witness is required, the process to be followed now allows as an alternative for the signatory to input the witnesses' details (rather than those details being provided to the electronic signature platform at the outset by the conveyancer). This is a welcome change and reflects the fact that, at the outset, a signatory may well not know who they will ask to witness their signature.

The Land Registry does still require a one-time password to be sent by text message by the platform to a witness before a witness signs and adds their details to a document. This is potentially an issue where the platform used by a conveyancer does not currently offer this functionality. It is possible to circumvent this by treating the witness as if they were a party to the deed and providing their details to the platform at the outset, but this may raise significant confidentiality issues on certain transactions, as it may mean that the platform automatically sends the witness a copy of the completed document once it has been signed and dated.

Hopefully the platform providers can find a way to quickly and simply resolve this issue as it could potentially prevent wholesale adoption of electronic signatures by the real estate industry at a time when it is crying out for such innovation. In the meantime, the use of electronic signatures for documents registered at the Land Registry may largely be limited to those where UK companies are a party, who can execute documents through the signatures of two directors (or one director and the company secretary) without needing a witness.

The Land Registry has also added a paragraph to its guidance advising conveyancers to retain a copy of the completion certificate or audit report produced by the electronic signature platform at the end of the signing process. Such a certificate or report should help to inspire confidence and security in the signing process, as it will provide an audit trail of the process (e.g. the time and date of the signatures, the email addresses the document was sent to, the one-time password method used, the fields that were completed and the IP addresses of the devices that were used).

As mentioned in our previous article, the Land Registry remains keen to go further and introduce qualified electronic signatures as soon as possible (which are potentially more secure and will remove the need for witnesses in all cases). As and when the Land Registry is able to get these up and running, it is likely that simpler electronic signatures (the subject of the current guidance) will cease to be accepted by the Land Registry (so they may only enjoy a short shelf-life for land registration purposes).

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