

FREQUENTLY ASKED QUESTIONS

Q. How can I arrange for my client's signature to be witnessed if I can't be present eg either of us is in lockdown?

Many members have contacted the Law Society regarding social distancing during transactions including creation of wills and powers of attorney, and the appointment of enduring guardians. The Law Society raised these concerns with Government, which moved to include provisions in the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020. The Bill includes a regulation-making power in the *Electronic Transactions Act 2000* to provide for altered arrangements for the signature, witnessing or attestation of documents, and can include documents referred to under the *Oaths Act 1900*, *Guardianship Act 1987*, *Succession Act 2006*, *Powers of Attorney Act 2003*, *Conveyancing Act 1919*, or any other Act administered by the Attorney General. The Law Society will work with Government to enact such regulations as soon as possible.

Pending the enactment of the regulations, consider other options including:

- Check who are eligible witnesses. Many documents allow medical practitioners to be witnesses.
- See if a colleague is able to assist because they are not subject to the same restrictions. You can look at the Society's Find a Lawyer page for local solicitors
<https://www.lawsociety.com.au/for-the-public/find-a-lawyer>

In the meantime, you must adhere to the current legislative position:

https://www.lawsociety.com.au/sites/default/files/2018-07/LS2976_LegalTech_Witnessing-electronic-signatures_FAQ.pdf

Q. Where can I find updates in relation to conveyancing?

A. The Office of the Registrar General (ORG) has released information in relation to land transaction services in NSW. The dedicated webpage will be ORG's source of regular updates-
[COVID-19: Guide for eConveyancing](#)

The [Australian Registrars' National Electronic Conveyancing Council \(ARNECC\)](#) have released guidance for eConveyancing on the verification of identity and execution of the client authorisation.

NSW Land Registry Services (LRs) have issued an update on their operations as a result of further social distancing measures. Information is available on their website. [NSW Land Registry Services \(NSW LRS\)](#)

Q. Where can I find information in relation to the Governments proposal to boost cash flow for employers and small business.

A. For queries relating to the cash flow incentives for business to be delivered as credits in Business Activity Statements refer to:

[https://www.ato.gov.au/Business/Business-activity-statements-\(BAS\)/In-detail/Boosting-cash-flow-for-employers/](https://www.ato.gov.au/Business/Business-activity-statements-(BAS)/In-detail/Boosting-cash-flow-for-employers/)

Q. "Where can I find out about workplace entitlements and COVID-19?",

A. For information on workplace entitlements and obligations for people affected by COVID-19 go to the Fair Work Ombudsman's [Coronavirus and Australian workplace laws](#) and [Pay during inclement weather and stand down](#) webpages.

Q. With court proceedings moving online, what communications are appropriate?

A. We must all remember Conduct Rule 22 which prohibits direct communication with the bench. This rule continues to apply, despite the current situation, and our adherence is vital to the proper administration of justice. Note that it has always been an exception where the bench seeks the communication.

Q. Are undertakings more risky now?

A. Don't forget our strict obligations of compliance where we personally give an undertaking (rather than convey one on behalf of a client). Moreover, particularly in these unprecedented conditions, we must not seek undertakings from our colleagues that are going to prove difficult for them to control and fulfil (see Conduct Rule 6).

Q. In the current COVID 19 crisis, as a sole practitioner I have decided to temporarily close my physical office premises and operate as a 'virtual' law practice. My staff and I are now working from home. Do you have any suggestions on how I can continue to ensure I am communicating effectively with my staff and my clients?

A. Whether by choice or due to family commitments, the COVID 19 crisis has moved many lawyers to working from home. To do this successfully it is imperative to implement clear and consistent communications amongst your staff and with your clients. Here are 5 tips to help you with your communications strategy:

1. Stay connected and keep informed

Although you and your staff may be working remotely, this does not detract from your responsibility to ensure you remain informed of all legal work that is being carried out. This can be done using one of the many online file sharing and communication tools which are readily available such as MS Teams or Zoom.

2. Manage client expectations

It is important to keep clients informed of any changes in your working arrangements so they can feel secure in the knowledge that you remain available. This can include updates to your website, re-directing your office phones to mobiles or a recorded message on office phone lines with alternative contact details. You should also consider including updated contact details in your emails.

3. Prioritise

Disruption to business as usual can involve juggling competing tasks. Use this as an opportunity to fine tune your productivity skills, one of which is to focus on the important tasks. One such task is ensuring that critical dates are not overlooked. Ensure all staff have access to the critical dates calendar and it is checked daily.

4. Take contemporaneous file notes

With a sudden move to remote working, more and more conversations with clients may take place online via Skype or teleconference. It is imperative that all staff remember to take contemporaneous and comprehensive file notes of all client interaction particularly noting any instructions received and advice given. It is always a good idea to confirm instructions and advice in writing as soon as possible.

5. **Be realistic**

In these changed times, be realistic in what you can achieve. Overpromising and underdelivering is never a recipe for success!
