VOI-02 Western Australian Registrar and Commissioner of Titles Joint Practice: Verification of Identity and Authority. Paper Based Transactions - How to Complete a Verification of Identity

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1 Overview

The Verification of Identity Practice (the Practice), issued jointly by the Western Australian Registrar of Titles and Commissioner of Titles sets out the minimum standard of Verification of Identity for registered proprietors and others who sign a range of real property paper documents that are to be lodged with Landgate.

This Practice outlines the requirements for conducting a verification identity for a paper based transaction. This Practice is now comprised of the following Guides:

- VOI-01 Western Australian Registrar and Commissioner of Titles Joint Practice: Verification of Identity and Authority, Paper Based Transactions

- VOI-02 Western Australian Registrar and Commissioner of Titles Joint Practice: Verification of Identity and Authority, Paper Based Transactions - How To Complete a Verification of Identity (this document)
Verification of Identity Standard

The standard of Verification of Identity required in this Practice has two base requirements:

- Identity Document Production: The production of current, original identity documents from the categories in Table 1 below.

and

- Visual Verification of Identity: A visual "face to face" assessment of the identity documents and the person to whom they relate, comparing the photograph on the current original identity documents with the person being identified.

Copies of identity documents, including certified copies, are not acceptable.

The highest and preferred standard of identity documents should be produced in the first instance by the person to be identified. Category 1 is the highest standard (refer to Table 1 below).

Identifiers should compare signatures affixed to land transaction documents with the signatures appearing on original identity documents.

Landgate staff will not determine whether a signature is genuine or not.

2 Identity Document Production Standard

The person who is being identified should produce, to the person who performs the identification (the Identifier), all the current and original identity documents specified in the highest category possible detailed at Table 1 below.

The highest category are those documents in category 1, with the lowest standard being category 5.

Category 6 is for foreign nationals who cannot meet the requirements of category 1, 2, 3 or 4.

Table 1 – Categories of Identification Documents

The Documents produced must be current, except for an expired Australian Passport which has not been cancelled and was current within the preceding 2 years.

Category Minimum Document Requirements

For Persons who are Australian citizens or residents

Australian Passport or foreign passport

plus Australian drivers licence with photo or Photo Card
plus change of name or marriage certificate if necessary
Australian Passport or foreign passport

plus full birth certificate or citizenship certificate or descent certificate

plus Medicare or Centrelink or Department of Veterans’ Affairs card

plus change of name or marriage certificate if necessary
Australian drivers licence with photo or Photo Card

plus full birth certificate or citizenship certificate or descent certificate

plus Medicare or Centrelink or Department of Veterans’ Affairs card

plus change of name or marriage certificate if necessary
(a) Australian Passport or foreign passport

plus another form of Australian State Government or Commonwealth Government issued photographic identity Document

plus change of name or marriage certificate if necessary
(b) Australian Passport or foreign passport

plus full birth certificate

plus another form of Australian State Government or Commonwealth Government issued identity Document

plus change of name or marriage certificate if necessary
(a) Declaration of Identity

plus full birth certificate or citizenship certificate or descent certificate

plus Medicare or Centrelink or Department of Veterans’ Affairs card

plus change of name or marriage certificate if necessary
(b) Identifier Declaration by a Person specified in section 3.1.1 below

plus Medicare or Centrelink or Department of Veterans’ Affairs card

plus change of name or marriage certificate if necessary

For Persons who are not Australian Citizens or Residents
(a) Foreign passport

plus another form of government issued photographic identity Document

plus change of name or marriage certificate if necessary

(b) Foreign passport

plus full birth certificate

plus another form of government issued identity Document

In the case where category 1 identity documents cannot be produced, the Registrar and Commissioner consider it may be prudent for the conveyancer/lawyer/mortgagee to obtain a statutory declaration from the person being identified stating why they cannot provide category 1 documents.
As to category 5 documents, where a Declaration of Identity is being used as an identity document, Verification of Identity of the person making the Declaration of Identity should take place:

- at the time of execution of the Declaration of Identity

and

- before the Verification of Identity of the person relying on the Declaration of Identity as an identity document

2.1 Category 5 – Declaration of Identity

Category 5 documents will need to be used where a person is not a foreign national and is unable to satisfy the identity document requirements in category 1, 2, 3 or 4.

Categories 5 and 6 are the lowest level of verification of identity under this Practice and Identifiers should be particularly vigilant as the risk levels of not achieving a proper and correct identification are much higher in this category.

The person who needs to be identified (that is the person who signs the land transaction document/s) must present in person to an Identifier and produce all the current original documents specified, in category 5, including the Declaration of Identity.

2.1.1 The Declaration of Identity

To satisfy the requirements of category 5, the person who makes the Declaration of Identity must have their own identity verified by another ‘Identifier’ in accordance with this Practice as if that person was the person executing the real property document to be lodged at Landgate.

A Declaration of Identity can only be made by an individual who satisfies all of the following:

- is over the age of 18

- has known the person being identified for more than 12 months and who is executing the documents

- is not a relative of the person being identified and who is executing the documents

- is not the person’s agent in the transaction

- is not a party to the document. Where Category 5(b) is used, The Registrar of Titles and the Commissioner of Titles strongly recommend that the person who makes the Declaration of Identity is an Australian Legal Practitioner, a Bank Manager, Community Leader, Court Officer, Doctor, Land Council Officerholder, Licensed Conveyancer, Local Government Officerholder, Nurse, Police Officer or Public Servant.

The Declaration of Identity should be made as a statutory declaration, under the Oaths Affidavits and Statutory Declaration Act 2005 (WA), and detail all of the following:

- the occupation of the person making the declaration

- the full name, address and date of birth of the person making the declaration

- the full name and date of birth of the person being identified and who is executing the document
- the nature of the person’s relationship with the person being identified and who is executing the document

- declaring that they are not a relative of the person being identified and who is executing the document

- the length of time that they have known the person being identified and who is executing the document

- specify the document type the person being identified is executing and include the land description specifying the certificate of title volume and folio number

The identity of the person making the Declaration of Identity can be verified at the same time as the person executing the real property document to be lodged at Landgate and by the same Identifier, or performed independently using the documentation set out in the Table 1 above.

Copies of all original identity documents produced to the Identifier must be certified by the Identifier and attached to the Declaration of Identity.

The conveyancer/lawyer/mortgagee should receive certified copies of identity documents used to identify both the person being identified and the Identifier along with the Declaration of Identity.

3 Visual Verification of Identity

To satisfy the Visual Verification of Identity standard of this Practice, inside and outside Australia, the person who is being identified should present themselves in person to the Identifier. Outside Australia, the Identifier will be an Australian Consular Officer.

The Identifier should scrutinise the identification documents when they meet face to face with the person being identified.

It is suggested that the Identifier may wish to satisfy themselves that the person appears to have similar facial characteristics as those depicted in the photographs included in the original identity documents.

Note: Facial characteristics are the shape of the mouth, nose, eyes and the position of the cheekbones rather than the colour and cut of a person’s hair or makeup used.

4 How to Identify Companies/Incorporated Bodies/Statutory Bodies

When a natural person is executing a document on behalf of a company or other incorporated/statutory body, the conveyancer/lawyer/mortgagee in a transaction must satisfy themselves as a reasonable person on three matters:

- The continued existence of the body at the time of execution of the document

- That the natural persons who are signing on behalf of the body or attesting the seal on the document are current officers of the body and are authorised to execute the documents

- That the identity of the natural person signing on behalf of the body or attesting the seal on the document corresponds with the identity of persons ascertained under the preceding paragraph

A conveyancer/lawyer/mortgagee may be able to satisfy themselves as to those matters by the
following:

- In the case of a company incorporated under the Corporations Act 2001 (Corporations Act) by obtaining a company search that is not more than 30 days old at the time of conducting the Verification of Identity and checking from the search the continued existence of the company, that the details are consistent, and the identity of the persons identified as its current director(s) and secretary.

- In the case of an incorporated body not incorporated under the Corporations Act (including a foreign registered body) by obtaining the following:

  - evidence that is not more than 30 days old at the time of Verification of Identity to establish the continued existence of the body;

  - an extract from the body’s constituent documents (e.g. Constitution) that establishes which officers of the body are authorised to execute documents on behalf of the body under seal or by signing;

  - a current resolution that is not more than 90 days old at the time of identity verification and certified by an officer identified under (ii) that specifies the full names of the persons and positions held by such persons in that body

- In the case of a statutory body, evidence and/or knowledge of the existence of the body and of the authority of the persons to act on behalf of that body

5 The Identifier’s Role

5.1 Verification of Identity conducted by the Conveyancer/Lawyer/Mortgagee

The Registrar and Commissioner recommend that, on completion of the Verification of Identity, the Identifier make a complete copy of the original identity documents relied upon and do the following:

- Complete the Identifier’s Certificate C1 for each individual identified and refer to and attach the copies of the identity documents relied upon

- Sign their name and date each copy of the identity documents stating that it is a true copy of the original

- Witness the execution of the relevant transaction document after the identity of the person has been verified.

5.2 Verification of Identity conducted by a Third Party

The conveyancer/lawyer/mortgagee who appoints an agent to conduct the verification of identity on his/her behalf may decide whether or not to require an Identifier’s Certificate from their Identifier. The Registrar and Commissioner of Titles are not involved with the arrangements because they rely upon the responsibility of the conveyancer/lawyer/mortgagee to confirm the identity.

The conveyancer/lawyer/mortgagee who does not do the verification of identity themselves may wish to obtain and review the certified and signed copies of the identity documents as well as the Identifier’s Certificate.
If the conveyancer/lawyer/mortgagee has any concerns that the identity of the person has not been verified in accordance with this Practice, or even if it has, if they have any other concerns about the identity of the person being verified or their authority to deal with the interest in the land, they should either:

- Verify the identity of the person themselves in accordance with this Practice

  or

- Arrange for the person to be identified again in accordance with this Practice

  or

- Take what other actions they consider appropriate.

5.3 Identity Documents and supporting evidence

5.3.1 Secure

The Commissioner of Titles and Registrar of Titles strongly recommend that the certified copies of the identity documents be kept in a secure manner to prevent misuse of the identity information contained within those documents, whilst those documents are in the possession of the conveyancer/lawyer/mortgagee.

5.3.2 Retention

The Registrar and Commissioner recommend that the conveyancer/lawyer/mortgagees retain any certified copies of the identity documents and evidence supporting the identity and authority of the person being identified for at least seven years from the date of verification of identity.

6 Mere Mechanical Compliance is not Sufficient

Mere mechanical compliance with this Practice, without attention to detail, is not sufficient. For example, there may be cases where a prudent Identifier or conveyancer/lawyer/mortgagee would consider it reasonable to conduct further checks, such as where:

- A name or address is not exactly the same as the name of the current registered proprietor

  or

- The Identifier/conveyancer/lawyer/mortgagee forms the view that the person executing the instrument appears not to be of the same gender as the current registered proprietor

  or

- The Identifier/conveyancer/lawyer/mortgagee forms the view that the person who executes the instrument appears to be younger or older than the current registered proprietor

  or

- The Identifier/conveyancer/lawyer/mortgagee forms the view that the details in the passport are not similar to the person presenting the document
or

- The name on the various identity documents are not the same and if relevant are not the same as on the certificate of title.

It is essential that the Identifier/conveyancer/lawyer/mortgagee has the independence to refuse to verify the identity if the evidence presented to them does not meet what is required under this Practice or there is a concern about the authenticity of the evidence provided or if there is some other doubt about the identity.

If an Identifier/conveyancer/lawyer/mortgagee is of the view that a criminal act or improper dealing may be taking place in that a person is attempting a fraudulent real estate transaction, the matter should be immediately reported to:

- WA Police

and

- The Department of Mines, Industry Regulation and Safety, if real estate or settlement agents are involved.

The Registrar of Titles or the Commissioner of Titles, as appropriate, should be advised, preferably in writing, for information purposes. Each report will be considered on a case by case basis to determine what action, if any, will be taken in the particular circumstances. In advising the Registrar or Commissioner, details of the certificate of title, by volume and folio numbers, as well as the names of the parties involved should be provided.

7 Documents to be provided to the Registrar/Commissioner of Titles

7.1 Statement by Conveyancer/Lawyer/Mortgagee

In the event that multiple documents are being lodged, each document to which the Verification of Identity practice applies is required to have its own statement made by the conveyancer/lawyer or mortgagee.

A statement made in the form of a statutory declaration or on letterhead addressed to the Registrar of Titles or the Commissioner of Titles should be:

- Made by the conveyancer/lawyer acting for the party identified or made by the mortgagee who identifies the mortgagor

    and

- Lodged together with the documents for registration or noting.

The statement should include these three key elements:

- I have taken all reasonable steps to verify the identity of my client/the mortgagor

    and

- I reasonably believe that my client/mortgagor has been identified
- I reasonably believe that my client/mortgagor has the authority to deal with the interest in land that is the subject of this particular transaction.

The statement should cover the following:

- The full name and address of the person identified
- The date and country where the person was identified
- State the full name, occupation and address of the conveyancer/lawyer or mortgagee
- Include a daytime telephone number of the conveyancer/lawyer or mortgagee
- Include an email address of the conveyancer/lawyer or mortgagee.

and also, as appropriate:

7.2 For use when the document is a Transfer of Land, Application for Issue of Duplicate Certificate of Title, Application for Replacement (Lost) Duplicate Certificate of Title, Transmission, Survivorship, Power of Attorney, Caveat, or Withdrawal of Caveat:

"I (full name of conveyancer or lawyer acting for the person being identified) have taken all reasonable steps to verify the identity of my client (full name of natural person being identified)

and also

I reasonably believe my client has been identified

and also

I reasonably believe my client has the authority to deal with the interest in land the subject to this transaction (specify document type e.g. Transfer or Application for Survivorship; land description and certificate of title volume and folio numbers)".

Signed by Conveyancer or Lawyer* and dated.

*if signed under Power of Attorney, the usual power of attorney execution clause should be used including stating the power of attorney number as allocated by Landgate.

OR

7.3 For use where the document is a Mortgage and:

Option A: Mortgagee itself makes the statement

"(Insert full name of Mortgagee of Mortgage) has/have taken all reasonable steps to verify the identity of the Mortgagor(s) (insert full name of natural person(s) being identified as mortgagor(s), ensuring that it is clear which mortgagor the natural person signs on behalf of)

and also

The Mortgagee reasonably believes the Mortgagor(s) has/have been identified

and also
The Mortgagee reasonably believes the Mortgagor(s) has/have the authority to deal with the interest in land the subject to this Mortgage (specify land description and certificate of title volume and folio numbers).

Option B: Lawyer acting for the Mortgagee makes the Statement

"I (insert full name of Lawyer) act for (insert full name of Mortgagee) who is the Mortgagee of this Mortgage and I reasonably believe:

That the Mortgagee has taken all reasonable steps to verify the identity of the Mortgagor(s) (insert full name of natural person(s) being identified ensuring that it is clear which mortgagor the natural person signs on behalf).

and also

That the Mortgagee reasonably believes that the Mortgagor(s) has/have been identified.

and also

That the Mortgagee reasonably believes that the Mortgagor(s) has/have the authority to deal with the interest in land the subject to this Mortgage (specify land description and certificate of title volume and folio numbers).

Signed by lawyer representing the Mortgagee* and dated statement.

*If signed under Power of Attorney, the usual power of attorney execution clause should be used, including stating power of attorney number as allocated by Landgate.

A second option is to endorse the statement on the Transfer of Land Act 1893 document itself as part of some approved forms of mortgages and transfers lodged for registration or noting. The statement on the form itself will cover the substantive points required in the statutory declaration or letter.

The Registrar and Commissioner of Titles consider that our Practice amounts to and is reasonable steps.

8 Suggested Identifier Certificates

Suggested Identifier Certificate for Guidance Only.

Identifier to complete (provided to conveyancer/lawyer/mortgagee with Identity Documents).

(Instruction 1)

I (FULL NAME, ADDRESS AND OCCUPATION OF IDENTIFIER) hereby certify that:

(a) This identification relates to (FULL NAME OF PERSON BEING IDENTIFIED).

(b) The identification was carried out on (DATE) at (ADDRESS INCLUDING COUNTRY).

(c) The identification documents as listed below were produced to me and appear to be genuine originals.

(d) The person being identified appears to have similar facial characteristics as the person in the photographs included in the original identity documents referred to at item (c) above.

(e) The Verification of Identity has been conducted in accordance with the Western Australian Commissioner of Titles and Registrar of Titles Joint Practice for Verification of Identity.
Dated this day of Year 20

Identifier's Signature: ..........................................................................................

Contact Telephone Number: ..................................................................................

List of identification documents produced (see item (c) above):

Description of Identity documents and page number in set of copies to be stated.

9 Further Information

- VOI-01 Western Australian Registrar and Commissioner of Titles Joint Practice: Verification of Identity and Authority. Paper Based Transactions

- VOI-03 Western Australian Registrar and Commissioner of Titles Joint Practice: Verification of Identity and Authority. Paper Based Transactions - How to Complete a Verification of Identity

- VOI-04 Verification of Identity and Authority - Electronic Transactions