

# Guidance on the Execution and Signature of Deeds and Contracts

## 1. Introduction

In today's business world, many companies want to use modern and convenient methods to enter into contracts, deeds and other documents, and in practice that means use of electronic means.

For a long period, the reluctance of businesses and their advisers to sign documents in a way other than using conventional "wet ink" signatures on documents in paper form has been a major factor in the reluctance to use electronic copy (paper) form. This reluctance was borne out by the fact that many electronic documents containing signatures in electronic form might be rendered void and unenforceable. Although English law case precedents provide support for the valid use of electronic signatures, the reluctance has persisted. However, the issue has been clarified by the Law Society and the Law Commission's 2016 report.

Firstly, in 2016 the Law Commission's report on electronic signatures (and other types of business documents) with a view to encouraging their use where the parties intend to execute the contract using an electronic means. The Law Commission in September 2019 published its report on electronic signatures. The Commission observed that for the time being the relevant law is as it might be – and that is a reason for the continuing degree of uncertainty surrounding electronic signatures. It suggested that the Government might wish to codify the law in this area.

As a result of the Commission's report and conclusions the topic is now much clearer, so that business parties can be confident to make use of electronic means of entering into contracts and other documents. We may not ever have completely paperless offices, but the Commission's report has given us a boost.

In October 2022, the Law Society published an update to its 2016 practice note on the execution of electronic signatures. The changes made in this practice note reflect the above and the Commission's report since the practice note was first published and takes on board much of the Commission's report.

### COVID-19

Due to the Covid-19 pandemic, there has been a substantial increase in the use of electronic signatures (including remote-based e-signing platforms) because of remote working. Electronic signatures have been routinely adopted in a wide range of commercial transactions. As a result, the Law Society issued a practice note on the use of virtual execution (which can be found [here](#)). HM Land Registry also published a practice note on electronic signatures accepted by HM Land Registry. The practice guide can be found [here](#).

### Our Guidance

This note explains the Law Society's guidance on the execution of documents electronically, taking into account the Law Commission's and the City of London Law Society's views on the subject.

Inevitably, there will be some documents which are not within the following guidance. Where that is the case, it is important to make it clear that a particular type of document can

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be validly produced  
advice before creat

## 2. Wet ink signatures

The classical means  
terms be set out in  
a “wet ink” signature  
and each party would  
original, the other would  
two originals. Either  
agreement and the

A fairly common practice  
– whereby the parties  
paper documents and  
hard-copy documents  
(e.g., by scanning of

However, it has become  
scanned copies of  
in a range of commercial  
escalated because  
form which is attached  
is used by the signatory

Forms of e-signatures

- typed in name  
the terms of
- inserting a  
the form of  
appropriate
- e-signing platform  
signing platform  
electronic document  
the appropriate
- touchscreen  
to write the  
party's signature

## 3. Exceptions

As an exception to  
property, certain documents  
ink signatures. An exception  
parties have legal  
[Electronic-Signatures](#)  
[here](#), or seek advice  
that is to be submitted

There are also other  
example, documents  
document to be in

signed by electronic means, you should seek legal  
document in electronic form.

## Alternatives to wet ink signatures

of contract and entering into a contract is for the  
instruments, and for each party to sign (by hand, using  
. These two documents would both be originals,  
sometimes, each party would instead only sign one  
original, and they would then date and exchange the  
with evidence both that the parties had made an

so often used now as technology develops further  
not physically at a meeting and so not able to sign  
original - to sign via email, typically by signing a  
the document and signature into electronic form  
sending it by email.

non practice as technology evolves, not only for  
to other types of “electronic signature” to be used  
this trend is likely to continue. This trend has also  
c. “Electronic signature” means “data in electronic  
related with other data in electronic form, and which

their name into a contract or into an email containing

person electronically inserting their signature (e.g., in  
electronic (i.e., soft copy) version of the contract in the  
relevant party's signature block);

person accessing a contract through a web-based e-  
their name in a typed or handwriting font (or an  
signature) automatically inserted into the contract in  
the relevant party's signature block); and

using a finger, light pen or stylus and a touchscreen  
in the appropriate place (e.g. next to the relevant  
contract.

## Other documents

about electronic documents, in relation to land and  
related with the Land Registry do need to contain wet  
instruments does exist, but only where all  
the separate property guidance [Guidance-Notes](#)  
and the up to date Land Registry's guidance  
document, before drafting and executing any document

Electronic signing may not be effective including, for  
there may be a statutory requirement for a  
and/or under hand, tax or cross border issues and

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some documents with these and all other

other authorities (e.g., the UK Ship Registry) but the scope of this note.

However, note that stamp a version of would accept e-sign HMRC announced permanent adoption notification and un stamping the docum

available on a document, HMRC used to expect to ink signature. In March 2020, HMRC indicated it 9 measures were in place. On 18<sup>th</sup> June 2021, agreement to physically stamp documents due to the rary processes which give the option of electronic es a confirmation letter rather than physically

This guidance also

commercial or consumer documents.

**4. Terminology**

Please see the Glo “signature”, “writing point 2. above.

s meant by the following terms used in this note: “electronic signature” or “e-signature” is as set out in

**5. Effect of an**

By virtue of the Ele evidence in any le whether they are v English law.

Act 2000 electronic signatures are admissible in Act does not address the separate issue as to that issue, one must consider other sources of

The principle that a document in the sa is in effect affirmed law in 2016, and wh

capable in law of being used to validly execute a “wet ink” signature is based on English case law and s (EU Regulations) which became part of English rexit.

Both English case l render a party bou has the same legal

that if the purpose of an electronic signature is to d any execution formalities have been satisfied) it ture.

The Brexit Trade ar the UK and signed execution. Broadly, be electronically e electronic contracts identify various typ electronically and v is therefore a risk th not be enforced by local law advice be law supports the sig

ent (TCA) regulating matters between the EU and , also contained provisions related to electronic he UK and the EU must ensure that contracts can w does not create any obstacles to the use of n the E-commerce Directive 2000/31 and the TCA y not benefit from the ability to execute contracts s that may apply to the general obligation. There ed contract that falls within these exceptions may state. It is therefore advisable to take the relevant with a party based in the EU as to whether local by electronic means.

**6. Contracts:**

**Oral (i.e., it is not in writing or signed)**

An oral contract, by of contract may un that is needed is fo

ngible form or in any sense “signed”: some types and binding although only oral, in which case all their intention is to be legally bound.

Although a propos nevertheless choos down the terms of electronic signature demonstrating that

type that is valid in oral form, the parties might g and to sign it. In this case, they can validly set c form, and then sign the contract by means of c signatures is simply then their chosen means of

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The Commission has generally. The signing, witnessing

ver, that there should be a review of the law of signing, and not just confined to looking at the means of signing requisite formalities.

The City of London any attestation of the containing the deed should sign an act observed when us straightforward to s part of the same ph version of the docu

2022 guidance has reiterated that a signature and s must form part of the same physical document should be a discrete physical entity and the parties version of the document. This must also still be The guidance points out that it can be more for the signatures and witness attestation to form an e-signing platform is used, and the entire final

9. Execution

Individual or by a company or LLP

The ways in which are set out in our G 12 below).

or LLP may execute a deed or contract generally s for Signing Deeds and Contracts (see paragraph

As to companies a by some other pers is witnessed, the s paragraph 8 above

ment is signed by any director(s) or secretary or signature may be in electronic form. If that signature may also be in electronic form. See also under

10. Witnessing

A witness to an el electronic signature otherwise) when the

alidly attest to it if physically present when the s must apply their own signature (electronic or inserts their electronic signature.

It was thought that party's signature o although not best p that for a witness' s still the case during practice note on the Whilst Covid-19 ma distancing measure to witness a signatu distance or in an ou see the signatory s

physically present, but was, for example observing a nference or similar means - that would be valid Law Commission's view is stricter, and its view is alid, their physical presence is needed. This was and was also confirmed by the Law Society in its and e-signatures during the Covid-19 pandemic. es to be present when restrictions and/or social ce from the Law Society said that it was possible r or house window, whether open or closed), at a ded the witness is physically present and able to

The City of London A witness should b witness to watch the

guidance of October 2022 reiterated this position. n a signatory signs and it is not acceptable for a some form of video conferencing.

11. Miscellaneous

- What if the v in court? Th the docume the contrary to a wet-ink to reject the
- There is no wet-ink vers useful to ha

electronic form signed electronically is challenged w is that it is likely that the electronic signature of the court as authentic unless evidence is given to would apply the same principles as it would apply city were challenged: the court would not be likely e it is in electronic form.

onal version of a document to be executed as a tial electronic version. However, it is sometimes well (for reasons beyond the scope of this note)

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relating to the document

authority identity and security of the information in

- If electronic signatures are used, there is no need to include in it any specific reference to the use of electronic signatures.
- For a company seal, the Companies Act 2006 provides that, in practice, a company may use a seal.

a document, there is no need to include in it any electronic signatures may be or are being used.

Companies Acts, the safest approach is not to use an e-seal for its corporate seal. In practice, use a seal.

12. **Related Guidance**

Our Guidance Note on the various means of execution ensure that they are valid. It can be found either in our Property folder [here](#)

Deeds and Contracts provides general guidance on how contracts may be executed or signed in order to ensure that they are valid. This note serves as a supplement to that guidance. It can be found either [here](#) or in our Business folder [here](#) or in our

We recommend that you read our Guidance Note: Formalities for the execution of documents where the signature is “written”

note in conjunction with this note. The Guidance Note: Formalities for the execution of documents where the signature is “written” explains the various requirements relating to documents to be in hard copy or electronic form and whether they are deeds or contracts.

**“Signature”**

Something is a “signature” if it is a mark attached to or inserted in a document in order to give, and to bind by it. A signature may be a name or even a description. It need not be tangible. It may be in electronic form.

**Glossary**

A signature is a mark attached to or inserted in a document in order to give, and to bind by it, i.e., the intention of being bound by it. It is not just a name; it might be initials, a mark or stamp which identifies the person. It might be a click on a website. It may be in hard copy or otherwise tangible: it may therefore be in electronic form.

**“Writing”**

Under English law (see the Electronic Communications Act 1978), ‘writing’ includes ‘typing, printing, lithography, photography or any other method of representing or reproducing words in a visible form’. In short, words must be in writing. The words need not be handwritten in ink, or in print, in hard copy or otherwise tangible.

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This means that a document on a screen (e.g., a desktop, laptop, tablet or smartphone screen) which is displayed properly, will be ‘in writing’ at that point. It need not be a single document. A number of emails amounting to an agreement would be an agreement. For example, a valid guarantee could come into existence in this way.

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**“Under hand”**

To be valid, some documents must be executed “under hand”. This means they have not been executed otherwise. The use of an electronic signature to authenticate the document means that it has nevertheless been executed “under hand”.

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