

Risk Management: Property Fraud



Introduction

The incidence of fraud remains on the increase with fraudsters targeting the properties of both individuals and companies. These attacks often include identity and other types of fraud and the presentation of forged documents to the Land Registry for registration. The Land Registry continues to publicise these risks to professionals involved in property transactions and also to the public.

Firms should consider the risks highlighted here as part of their obligations to carry out appropriate due diligence under the Money Laundering Regulations 2017.

PEOPLE AND PROPERTY AT RISK

Registered title

Certain categories of owner may be more susceptible to registered title fraud. These vulnerable owners include:

- Clients who rent out their property,
- Those who have already been victims of identity fraud,
- Overseas owners,
- Elderly owners who are in hospital or have moved into a care home, or
- Personal representatives responsible for an empty property.

The risk of title fraud increases as these properties may often be owned without a mortgage. Attempts can be made to sell or charge the property by use of identity fraud.

HM Land Registry has identified that certain types of properties may be particularly vulnerable to registered title fraud, such as:

- Unoccupied properties, whether residential or commercial
- Tenanted properties
- High value properties without a mortgage
- High value properties with a mortgage in favour of an individual living overseas
- Properties undergoing redevelopment.

There are around 8.3 million rented properties, so these pose a real risk. Fraudsters put a tenant in for 12 months with rent paid in advance, which gives them access to the property. The defence for landlords is to make sure that their notification details are up to date, including having more than one notification address registered (they can have up to three).

Unregistered title

HM Land Registry estimates that there are around one million unregistered residential properties in England and Wales. These properties do not have the state guarantee of title and so if a fraud is successful, there would be no indemnity payable.

They recommend considering:

- Is there anything unusual about the title to the property?
- Is there anything to suggest the register has been altered? Correction of spelling of a name? Change of address

KNOW WHO YOU ARE DEALING WITH

Impersonation is the major risk (52%) followed by forged documents (12%) and deception (7%).

Impersonating Individuals

A fraudster may use fictitious ID to carry out a transaction and then abscond with the monies. These may include:

- False passports from UK or overseas
- False driving licences
- Genuine passports and/or driving licences which have been altered
- False payslips, bank statements or utility bills – look for incorrect figures, minor typos or unlikely transactions

Impersonating Companies

Companies are impersonated through fictitious corporate bodies or 'company hijack' where:

- False companies are created impersonating well-known companies
- A UK company impersonates an overseas company
- The companies officers are impersonated with possible changes at Companies House

Impersonating conveyancers and conveyancing practices

Signs of fraud can include:

- Spelling or typographical errors in letter-headings
- No landline telephone number
- Inconsistent telephone or fax numbers with those usually used by the firm
- Telephone calls being diverted to a call-back service
- A firm apparently based in serviced offices
- Email addresses using generic email accounts, such as Hotmail
- Firm with no connection to local area
- Firm based in one part of country with a bank account in another part of the country
- Firm's client account based overseas
- A strange or suspicious bank account name
- Details of bank account being changed during the transaction.

There are instances of forged discharges occurring by the use of forged discharge documents and the impersonation of lenders.

If you receive any communications that are suspicious then contact the relevant agencies – a regulator, Action Fraud and HM Land Registry.

FRAUD EXAMPLES

The following fraud examples are primarily concerned with due diligence, including fraudulent documents, and the clear message is about not taking things at face value, especially if something seems a little unusual.

Example 1

An elderly proprietor had moved in with her family, had rented out her own mortgage-free property (£4.5 million) but hadn't updated her address for service. Her tenants obtained false ID in her name and with some utility bills gained a mortgage. The Land Registry was suspicious so requested the ID from the conveyancer. They supplied a copy passport, a UK credit card statement and a Dubai broadband company bill. There were typos on both the credit card statement and utility bill in different parts of the address and there was a payment to Woolworths (closed 2 years earlier) on the credit card bill. The Land Registry cancelled the application and passed it to the police.

Example 2

A lady's father had stolen her passport and had been practising her signature. The lady rang the Property Fraud line to alert them, so when an application for transfer for no value arrived soon after, they were suspicious. When the conveyancers acting sent the Land Registry the ID, they admitted being suspicious as the father had done most of the talking and the lady had not resembled her passport, which the father had said was a common comment. Unsurprisingly, it was not her. They cancelled the application and reported it to Action Fraud¹.

Example 3

The final example involved nine empty, rundown properties in the Croydon/south London area. An organised crime gang would erect management signs outside these properties and wait to see if anyone contacted them. If they heard nothing they would proceed with marketing the properties for sale or putting them up for auction. The gang utilised the services of a bank manager and a solicitor, who were complicit in the frauds, to assist with the transactions. This crime gang used the properties as a way to launder money obtained from drug trafficking. The victims in these cases were the families of deceased individuals who had been the proprietors of these properties and who were trying to resolve issues with the estates of their relatives.

RISKS WITH CLIENT CONTACT DETAILS

Client contact details may suggest an increased risk of fraud, such as where the:

- Only contact details provided for any party are a telephone number, mobile number and/or an email address.
- Family member or associate is gifting the property and you are instructed by and meet only one party to the transaction, and only have contact with the other party by post, telephone or email.
- Over reliance on utility bills as evidence. Care for any errors.
- Electoral register information inconsistent with client information
- Address is not the subject of the transaction without obvious reason.
- Address changes mid-transaction, without obvious reason.
- Client appears younger than expected or date of birth inconsistent
- Client reluctant to answer questions from you or purchaser
- Sale by owner-occupier but correspondence address different.
- Transaction to be completed with greater urgency without a valid reason
- Property being sold at a too low price
- Client does not meet face to face
- No evidence of authority to act on behalf of a company.

There may be entirely valid reasons for all of these examples but they may be warning signs, so you should make further enquiry.

¹ Action Fraud is the UK's national reporting centre for fraud and cybercrime where you should report fraud if you have been scammed, defrauded or experienced cybercrime.

PROPERTY FRAUD LINE AND PROPERTY ALERT SERVICE

The Property Fraud line allows callers to alert the Land Registry of fraud concerns and is proving effective in preventing fraud. The Land Registry recommends that people also use its Property Alert service, where people can sign up and register up to ten properties. Emails will be sent on any application to change the register or receipt of official searches. An example of how using the Property Alert service and the Property Fraud line can prevent fraud is described below.

A gentleman was working overseas and had registered for the Property Alert service but hadn't updated his address for service. He received an alert about a search in favour of a charge against his property, about which he knew nothing. He contacted the Property Fraud line and reported this, then lodged an application to change his address for service. Shortly thereafter they received an application to register the charge which they are investigating as fraudulent.

RISKS RELATING TO ESTATE AGENTS

For estate agents the issues now being seen relate to:

- Complicit estate agents.
- Property in probate.
- Property being undervalued and not offered for sale on the open market.
- Failure to disclose personal interests.
- Failure to disclose information or abuse of position.
- Property sold on for profit.

The high-risk areas with estate agents are:

- Targeted, high-pressure sales.
- London.
- High-value properties.
- The elderly.

CONVEYANCING ANTI-MONEY LAUNDERING

Conveyancing transactions are a regulated activity under the Money Laundering Regulations 2017, so you must comply with the regulations. Different provisions may be applicable relating to identity documents for different purposes

- AML requirements are on a risk based approach
- UK Finance Lenders' Handbook specifies a requirement for particular documents
- BSA instructions are usually similar to those of UK Finance but should be checked.

However the overall requirements are more than just collecting identity documents and finding out that they want to sell a property. It also encompasses looking at all of the information in the retainer and assessing whether it is consistent with a lawful transaction. This may include considering whether the client is actually the owner of the property they want to sell. You also need to monitor risk throughout the whole transaction.

Enhanced due diligence

Where you do not see a client face-to-face, the Money Laundering Regulations 2017 require that you must undertake enhanced due diligence on a risk sensitive basis. Non-face-to-face transactions increase the risk of fraud. Enhanced due diligence requires an examination of the background and purpose of a transaction and increased monitoring.

If you are accepting instructions from one client on behalf of others or by a third party, you should check that all clients agree with the instructions given. For example, an unwary conveyancer might deal solely with the son or daughter of a registered proprietor and have no contact with the person who is the owner.

Where you know or have reasonable grounds for believing that your instructions are affected by duress or undue influence, you should bear in mind also the requirements of the CILEx Code of Conduct.

In the case of a third party charge created to secure debts of another, you should consider contacting the purported lender independently. If there is a purported representative for the lender, then consider contacting that representative for confirmation of the transaction. In these circumstances, there is a regulatory requirement for separate representation.

Risks of fraud are increased if documents are provided to clients for execution other than in the presence of you or your staff.

In order to protect or to mitigate risk for you and your firm, you may keep a contemporaneous record of the steps you take, including the reasons why you took a particular decision and the consideration you gave to risk.

FURTHER SUPPORT

Consider the resources and guidance available at the [Land Registry](#) website, including the regular email alerts and practice guides.