



Property fraud – issues to consider

Introduction

Fraudsters and identity thieves are becoming more and more sophisticated, and no solicitor will ever be able to spot every fraud. This note lists a few pointers which might be an indicator that things might not be as genuine as they might all seem, particularly in the context of conveyancing transactions involving individuals and residential property. If you encounter any of the situations below, consider making further enquiries to satisfy yourself that the situation is not one of fraud.

See also the Land Registry/Law Society's property and registration fraud practice note (published in 2010):

<http://www.lawsociety.org.uk/support-services/advice/practice-notes/property-and-registration-fraud/>

What might be warning signs of fraud?

In addition to the issues mentioned in the Law Society's practice note (see above), if you encounter one or more of the circumstances listed below, whether you are acting for buyer or seller, you should be on heightened fraud alert and may need to make further enquiries to satisfy yourself as to the bona fides of the transaction.

1. If there is no mortgage (as this makes it easier for fraudsters to steal someone's identity and sell the property).
2. If residential property is vacant or let (agents can do a LONRES search to tell you if a property has recently been let). Again, fraudsters can take a tenancy of a property, get access to it that way, and then steal the owner's identity to "sell" it.
3. If the seller replies to preliminary enquiries generically, ie without giving any specific information that indicates they are familiar with the property, or if there are mistakes in the name of the seller or the address of the property (this could be a sign that the owner's identity has been stolen and that the person answering the PEs has no knowledge of the property).
4. Beware law firms who only give you a mobile number and/or generic e mail address such as Hotmail, gmail etc. Check the bona fides of a law firm using the Law Society's Find a Solicitor website on <http://www.lawsociety.org.uk/for-the-public/using-a-solicitor/find-a-solicitor/>. Also check the status of a branch office of a law firm – for example a City firm who appear to have a branch office somewhere unlikely. For residential transactions, you could also use www.lawyerchecker.co.uk which checks law firms' bank account details against their database. [please note that Lawyerchecker does not work on commercial transactions]

5. If (as seller's solicitor) you have never met the seller and always deal through a third party such as a "family member" or an agent. Ask the agent whether he has met the seller. Obtain written instructions from the seller at the very least, and meet the seller if at all possible; at least speak to the seller to get an idea of their bona fides. This situation may be particularly suspicious if other indicators of fraud are also present.
6. If (as seller's solicitor) you can never get hold of the seller by phone. Does the seller always ring you, and are they never around when you try to ring them?
7. When acting for the seller, you might have a copy of an old transfer/deed on file that shows the seller's signature at the time he/she bought the property. Is it the same as now?
8. Does the address of the registered proprietor tally with the correspondence address provided by the client? When acting for a seller or a residential sale, you should correspond with the client at the address specified in the office copies as well as any other address given. [see *Purrunsing v A'Court & Co and House Owners Conveyancers Ltd* [2016] EWHC 789 (Ch)]
9. Is the seller's solicitor signing the contract on behalf of the seller? Ask the seller's solicitor to confirm their warranty of authority – ie that the seller on whose behalf they are signing the contract is the registered proprietor of the property. Do not sign a contract when acting for the seller unless you are completely sure of the seller's identity.
10. When carrying out your KYC checks, be vigilant. For example, if the client doesn't live at the property being sold, and produces a utility bill for another address or with a second name on it (indicating a house share), dig deeper.
11. If the photo ID (eg passport) is very recent (under 12 months old), ask to see an older driving licence, an expired passport or a birth certificate. Someone who has recently changed their name by deed poll will struggle to provide this.
12. If you accept certified copies of ID documents, contact the person who certified it (having checked their bona fides) and get confirmation that they saw the original document.
13. Consider looking on Facebook, Linked In etc to see if the photo of your client on there matches the ID you've seen.
14. If something makes you feel uncomfortable about a transaction, listen to your instinct and discuss with your firm's Compliance team.
15. If, prior to completion, the seller's solicitor changes payment details for any upcoming transactions, contact the seller's solicitor directly on a known telephone number to ensure that the request is genuine.

Be alert to the fact that if a number of these circumstances are present, the likelihood of the transaction being fraudulent is increased.

Safeguarding your client account and other people's bank account details

The dangers of a law firm's client account details falling into a fraudster's hands are obvious. Fraudsters also target law firms' client accounts, for example by sending e mails that appear to come from the client or the solicitors on the other side in a transaction, but are in fact bogus, asking firms to send money to a different account from the one which they have been asked to use.

Simple precautions include:

1. Never put your bank account details in a document such as a sale contract or replies to requisitions on title.
2. If you have to give your firm's bank details in an e mail (for example to tell the buyer's solicitors where to send the completion money), use a PDF that is attached to the e mail rather than typing the details into the e mail itself.
3. Never give out your bank account details by phone – you don't know who you're talking to. Ask them to tell you the bank account details they have, and you can check they are correct.
4. If you receive a phone call or an e mail asking you to send money somewhere other than where you were originally asked to send it to, be very suspicious. Ring the person back using a different phone line to double check what you've been asked to do.
5. Be extremely wary if you are asked to accept funds direct from the other side's client. If you are asked to accept this, speak to your firm's Compliance team.
6. Ring the seller's solicitors on the morning of completion to double check the details of the account to which you are sending the money and it is good practice to require this to be recorded in the payment requisition form.

Please click on <http://www.lawsociety.org.uk/Policy-campaigns/Articles/property-and-title-fraud-advice-note/> for the new Law Society/HM Land Registry joint note on property and title fraud.

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