



## **Property and title fraud**

Joint Law Society and HM Land Registry note

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## 1. Introduction

The purpose of this Joint Law Society and HM Land Registry Note is to provide a practical guide to solicitors on some of the indicators of potential fraud in land transactions and registration of title (title fraud). It is intended as a self-contained reference point for the legal profession to be of assistance in recognising potential fraud, but not to set a regulatory framework. In view of the rapidly evolving nature of title fraud, it should be recognised that this Note cannot cover all fraud scenarios and types of fraud threat affecting title to land.

The Law Society and HM Land Registry acknowledge that the Court of Appeal is likely to consider issues raised by this Note in the next year or so. However, they consider that it is important that the Note be publicised to solicitors now in order to increase awareness of indicators of potential fraud. This Note does not and it is not intended to specify any professional duties in relation to fraud or dealing with it. It is hoped that a future decision in the Court of Appeal will provide greater certainty in those respects. This Note may then need to be updated accordingly. Pending the outcome of an appeal, the joint Law Society and HM Land Registry Practice Note on this topic of 11 October 2010 will not be withdrawn. HM Land Registry's own practice guides, detailed in paragraph 4.1, are unaffected by this Note.

The Law Society and HM Land Registry have collaborated in drawing up examples of title fraud encountered in daily practice. Solicitors have recounted to the Law Society some of the examples cited and recent cases, such as *Purrusing v A'Court and Another* [2016] EWHC 789 (Ch), *P&P Property Limited v Owen White & Catlin* [2016] EWHC 2276 (Ch) and *Dreamvar (UK) Ltd v Mishcon de Reya and Mary Monson Solicitors Ltd* [2016] EWHC 3316 (Ch) that have further highlighted some of the key warning signs. Since 2010, HM Land Registry has been gathering evidence of identity and other fraud techniques derived from attempts (some successful, some not) to obtain title to land by fraudsters.

Fraud prevention and detection should not be approached on a "tick box" basis although a checklist might be appropriate. Fraud methods vary and evolve continually, and practitioners should diligently look out for anything which may be unusual or suspicious which may point to possible title fraud. Appropriate further investigation or queries should be raised in such circumstances.

Practitioners should look at each transaction as a whole. It will rarely be the case that one factor alone will betray a fraudulent transaction. In most cases it is a matter of looking at all aspects of the case together and taking an informed view on the likelihood of fraud and the appropriate measures to be deployed to guard against it.

Nothing in this Practice Note is intended to override or depart from the Law Society's Anti-Money Laundering Practice note, which has been approved by HM Treasury. Furthermore, this Practice Note is not intended to impose any additional obligations on solicitors when undertaking customer due diligence beyond those contained in the Money Laundering Regulations 2017 and the Law Society's Anti-Money Laundering Practice Note.

At all times when conducting AML customer due diligence solicitors should adhere to the guidance contained in The Law Society's Anti-money Laundering Practice Note.

## 2. Fraud threats for property transactions

### 2.1 Methods used to carry out title fraud

Those proposing to carry out frauds may seek to impersonate anyone in a conveyancing transaction including registered proprietors, unregistered owners, buyers, sellers, borrowers, lenders or conveyancers. The following sets out some known methods employed for each category.

**Buyers:** fraudsters may adopt fictitious ID and enter into proposed transactions only to withdraw prior to exchange. Information obtained through that process can then be used by the fraudster in order to commit title fraud on the owner of the property. It is also possible for a buyer to use false ID to carry through a transaction and then abscond with the monies raised from a lender.

**Sellers/borrowers:** a registered proprietor (or an unregistered owner) might be impersonated in order for a fraudster to attempt to sell or mortgage a property using false or stolen ID documentation. Registered proprietors or unregistered owners most at risk are:

- sole owners, especially of unmortgaged properties; absent owners, particularly landlords; those who are deceased or someone in a care home or hospital or owners living or absent overseas (see **Vulnerable registered owners and properties** below)
- long established owners who may have built up equity in a property and perhaps have a small mortgage or no mortgage.

**Lenders:** lenders are sometimes defrauded by the submission of forged discharges. Particular care is needed when the source of the discharge is other than a lender regulated by the Financial Conduct Authority and/or where the lender itself does not supply you with the discharge. For example, HM Land Registry received a discharge purporting to be received from a lender who was an overseas company. HM Land Registry served notices which ultimately identified this discharge as fraudulent.

In other cases, solicitors have been provided with a discharge document by the registered proprietor of the mortgaged property, which the solicitor then forwarded to HM Land Registry and applied to remove the charge. The discharge also proved to be fraudulent. Such action can lead to the firm being liable in negligent misrepresentation, as in *Chief Land Registrar v Caffrey & Co* [2016] EWHC 161 (Ch). In these cases, check with the lender or its known legal representative as to provenance and authenticity of the discharge document.

**Conveyancers:** Conveyancing firms are sometimes impersonated by the use of fake letterheads copied from real firms. False email addresses are often created with a single letter or symbol difference from the email address of the genuine firm.

Fraudsters can go to considerable lengths to mislead a buyer into sending purchase monies to them. This can include registering a fake sub-office with the Solicitors Regulation Authority and creating fake websites. Cases where such impersonation took place include *Nationwide Building Society v Davisons* [2012] EWCA 1626 and *Lloyds Bank v Markandan & Uddin* [2012] EWCA Civ 65. There are commercially available services (see methods used for identity theft in title fraud, below) to check whether or not you would be transferring monies into an account of a genuine firm.

If you have serious concerns about the possibility of a fraud you should contact the HM Land Registry property fraud line by email to [reportafraud@landregistry.gov.uk](mailto:reportafraud@landregistry.gov.uk) or by phone on 0300 006 7030, Monday to Friday from 08:30 to 17:00.

## **2.2 Methods used for identity theft in title fraud**

**2.2.1** When individuals are impersonated the fraudster may use:

- False passports from the UK or overseas (these can be checked with electronic identity verification services). Formats of passports can change from time to time and where there is a separate signature page, you should ensure that you retain a copy of that page.
- Genuine passports and/or driving licences where the fraudster has changed his/her name through deed poll. A change of name may be perfectly innocent but should always be checked carefully.
- False driving licences. The format for driving licences from different time periods can be found on the [Public Register of Authentic travel and Identity Documents](#). The government has published [an explanation on how to read a driving licence number](#).
- False payslips, bank statements or utility bills are easily forged or available from the internet. Look at them carefully; fakes can often be detected because they may contain anomalies such as incorrect figures, minor typos or unlikely transactions (for instance a recent transaction with a company which no longer exists, such as BHS or Woolworths).

When conducting customer due diligence it may be advisable to ask a pertinent question arising from the identity documentation submitted as an additional check. It is critical, though, that if an additional question is raised, the solicitor ensures a response is given. If it is inadequate, the solicitor should make further investigations.

The importance of solicitors following up on inadequate or ambiguous replies to enquiries raised applies with equal force to enquiries raised by the buyer's solicitor with the seller's solicitor in relation to the seller's identity. It is advisable to keep a record. This might have proved helpful in the following case examples. The [Law Society's AML practice note](#) deals with customer due diligence on natural persons.

### Case examples

A purchaser bought a London property from a seller who had provided utility bills and a valid passport as part of the identity verification process. The utility bills showed an address different from the address of the property being sold, and different from any of the addresses for service on the register. There was therefore no adequate link between the property and the 'client' established by the identity documents provided. The solicitor did not question the omission and did not request further utility bills or council tax documentation with the actual property address (see *Purrunsing*).

In another case, the passport used by the fraudster was valid but had only recently been issued in the name of the seller, which had been changed by deed poll. Further identity evidence should have been sought. If the client acknowledges a name change then further investigations should take place in the former name and particular care taken if the change of name is after the registration date of the property.

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

- false companies are created, particularly, impersonating well-known companies
- a UK company, for example, is set up in the same name as that of an overseas corporate registered proprietor in order to impersonate them
- the company's officers are impersonated which may be accompanied by a change of office holder notification to Companies House (sometimes referred to as 'company hijack').

**2.2.3** Impersonation of solicitors, conveyancers and conveyancing practices may also occur and those intending to carry out fraud may hold themselves out to:

- be a conveyancer in their own right, or
- work for an authorised practice.

If you are not familiar with the solicitor, the conveyancer, the particular branch office or the conveyancing practice acting for another party in a matter, you should check their details with their relevant professional body.

**For solicitors**, check the Law Society's [Find a Solicitor website](#) but do not rely on this alone. You should carry out further checks on the [Solicitors Regulation website](#) or through their contact centre on 0370 606 2555 8:00 to 18:00 Monday to Friday

**For licensed conveyancers**, check the [Council for Licensed Conveyancers website](#)

**For legal executives**, check the [Chartered Institute of Legal Executives website](#)

Despite confirmation that a conveyancer appears on any of these list, you should remain alert to signs of possible fraud. In one case, for example, the fraudsters registered a fake sub-office of a genuine regulated legal practice. Possible signs of fraud 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
- Sudden appearance in your locality of a firm with no obvious connection to the area, probably not interacting with other local firms at all
- A firm appearing to open a branch office a considerable distance from its principal office for no obvious reason
- A firm based in one part of the country supposedly having a bank account in another part of the country
- A firm's client account apparently overseas
- A strange or suspicious bank account name - for example, the account not being in the name of the firm you are supposedly dealing with
- The details of a bank account to which money is to be sent change during the course of a transaction

There have been instances of fraudulent applications being made to HM Land Registry by fraudsters impersonating legitimate firms of solicitors, using forged headed paper, faxes and emails.

Email addresses that are non-distinct - for example, Hotmail addresses - are more difficult to trace. False email addresses are often created with a single letter or symbol difference from the email address of the genuine firm. Beware of offices whose branch addresses are not referred to on the firm's website and the Law Society's Find a Solicitor website and where the SRA contact centre does not recognise them.

Anything unusual should be regarded as a warning sign requiring further investigation.

Consider:

- Have you received at least one piece of correspondence on headed notepaper? Are the details on that notepaper consistent with the information about the firm on the website of their professional body, and is there no other cause for suspicion?
- Looking up the name of a large firm in the area and speaking to them to see if they have had dealings with and know the other firm. Keep a note on your customer due diligence file of the actions you have taken (see Record keeping, below).
- Before transmitting funds or accepting undertakings from another conveyancer, verifying their bank details or transmitting a small sum first as a test transfer.

If you receive communications from HM Land Registry, including any acknowledgement of an application, and you are unable to identify the client name, the property or the application reference, you should contact HM Land Registry urgently. It is possible that your firm name or its headed paper has been forged or misappropriated and used fraudulently by a third party, or even a member of your staff. You may use the HM Land Registry Fraud Line for this purpose - email [reportafraud@landregistry.gov.uk](mailto:reportafraud@landregistry.gov.uk) or phone on 0300 006 7030 Monday to Friday, 08:30 to 17:00.

Websites have been fraudulently set up purporting to be sites of solicitors and/or new sub-offices of legitimate firms in order to perpetrate fraud. Some firms periodically search the internet to check if they are being targeted in this way. It is also a useful way of checking if anything adverse is being said about your firm. If you find an unauthorised web presence for your practice, you should notify the relevant agencies - that may include the SRA, Action Fraud and HM Land Registry.

It is recommended that firms should, as a matter of course, be checking their own web presence to establish if they are being impersonated.

#### **2.2.4 Where a party is unrepresented**

Where a party on the other side of a transaction is unrepresented by a conveyancer and confirmation cannot be provided that sufficient steps have been taken to verify that party's identity, HM Land Registry requires the provision of certified evidence of identity in the form of ID1 for an individual and ID2 for a company. This is explained further in HM Land Registry's Practice Guide 67.

Seller's lenders may be unrepresented and reluctant to provide a completed form ID2. In that situation, if (as is likely) the seller's solicitor will send the redemption monies to the lender and has details of their bank account, the seller's solicitor is best placed to confirm they are satisfied that sufficient steps have been taken to verify the lender's identity in Panel 13 (2) of the Form AP1 (otherwise why would they send money to them?). The buyer's solicitors and HM Land Registry will be relying on that confirmation.

Identification information should always be obtained at the beginning of a transaction and a record kept of the steps you take. These may assist you if HM Land Registry or other bodies contact you to make enquiries.

#### **2.2.5 Seller and buyer fraud patterns**

Certain types of properties and owners are particularly susceptible to fraud. Most fraudulent activity falls into distinct categories:

- intra-family frauds that are perpetrated by family members, friends or partners

- third party frauds perpetrated by sole opportunists or professional fraudsters who may operate in groups (referred to as organised crime gangs).

### **Case example**

A criminal gang targeted high value residential properties in the London area being marketed for rent. The landlord only had one notification address (that is, their address for service) recorded on the proprietorship register and that address was the rental property as opposed to an address where they lived or worked.

The landlord let the property to the fraudsters and received six months' rent in advance, which gave the fraudsters possession of the property and time to commit the fraud.

The organised fraud gang successfully sold the property for £1.3m, although the purchase was not registered by HM Land Registry. The registered title fraud was prevented because of certain fraud indicators. In this case the indicators were:

The owner

- was a sole owner
- had one address for service which was the rental property
- was long established, having owned the property for over 20 years.

The property was vulnerable because it was

- unmortgaged
- of high value
- not lived in or not occupied by the owner.

## 2.2.6 Client contact details

Client contact details may suggest an increased risk of fraud. This includes:

- Where the only contact details provided for a party are a telephone number, mobile number and/or an email address:
  - Why is the client unable to provide a contact address? Is the explanation reasonable in all of the circumstances? In *P&P Property Limited v Owen White & Catlin* [2016] EWHC 2276 (Ch), the court found that the solicitor should have asked further questions to establish the client's current residence, and that, with other factors, relief under s 61 *Trustee Act 1925* would not have been granted if a breach of trust claim had been proven (see also *Dreamvar (UK) Ltd v Mishcon de Reya and Mary Monson Solicitors Ltd* [2016] 3316 (Ch).
  - Is the client able to provide you with sufficient evidence of his/her connection to the property?
  - Record all of the information in your customer due diligence file (see further in **Record keeping below**) together with your reasoning as to whether you accept that the client is who they purport to be. This may include the results from certain electronic verification services
- Where a family member or associate is gifting, charging or otherwise dealing with 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. You should give careful consideration before deciding to act in this situation and must check your instructions with all those on whose behalf you are acting.
- Where reliance is placed on utility bills evidence is needed (as referred to in section 2.2.1 above) to satisfy yourself that your clients are associated with a particular property. Particular care should be taken because of the ease of forgery of these documents. However, ensure that:
  - the utility bills are for the property that the client is connected to - for example, in the case of a buyer it is their correspondence address or in the case of the seller it is the registered property
  - there are no obvious typographical errors within the bill and that the bill looks authentic in all other respects
  - downloaded utility bills are checked for any alterations.
- Where you are instructed by a seller of a residential property where the seller does not reside, the following questions may be helpful, but answers to them will not guarantee that the 'seller' is the genuine owner of the property.

Exercising reasonable care in viewing documents intended to establish identity may not prove that the person or company is the person or company they are purporting to be and see **Client identity** below for further details on client identity:

- Do they have an insurance policy in their name on the property?

- Do they have invoices for repairs carried out to the property?
  - Is there any other documentation that you might expect an owner of a property to have, even if they do not live in it? For example, if the local search reveals that works have been carried out at the property, the client may be expected to know about those works and about planning or building regulations.
- Where the information about your client is inconsistent with the information on the electoral register.
  - Any change during the course of the transaction in the client's contact details or the client's bank account to which the sale proceeds will be sent.
  - Any change of risk profile as the transaction progresses, inconsistencies and creeping errors.

Any such circumstance should be regarded with suspicion. Look out for anything which is suspicious or unusual.

### **2.2.7 Examples of suspicious behaviour**

These are examples of behaviour sufficiently suspicious for you to make further investigations:

- If you are instructed on the sale of the property which has been owned by the registered proprietor for a long time, but the client appears to be younger than would be expected.
- Where a client is reluctant to answer questions from you or from the purchaser. In *Purrunsing* for example, the fraudster withdrew from the sale to a buyer who requested details of the alleged overseas employer of the purported seller, which should have raised suspicions on the part of the seller's solicitor, a factor which contributed to the finding that the firm was not entitled to s. 61 relief for breach of trust (see para 19 of the case report).
- If the sale is by a supposed owner-occupier but the client wants you to write to a different address. Various reasons may be given (which may be genuine).
- A client who requires the transaction to be completed with great urgency without a feasible explanation.
- There are inconsistencies between what the seller states in the seller's property information form (SPIF), and what a local search reveals. In *Purrunsing*, for example, the local authority search confirmed building works had been carried out although the seller had indicated in the SPIF that no works had been done on the property.
- Transactions in which the property is being sold at what appears to be a low price, which may or may not be linked to a desire for a quick sale.
- Statements or explanations are provided such as:
  - 'I've already put my furniture into store and am living with a friend'
  - 'I've moved in with my boy/girl-friend'
  - 'We have trouble with our post being stolen'
  - 'It will be quicker if you write to my office address'

- 'Don't send me letters - use email for speed and I'll call in to sign any paperwork'.

There may be valid reasons for all of these examples, but treat them as warning signs. The more of these types of warning signs, the more suspicious you should be.

Recent cases such as *Purrunsing v A'Court & Co* [2016] EWHC 1528, *P and P Property Ltd v Owen White & Catlin LLP* [2016] EWHC 2276 and *Dreamvar (UK)Ltd v Mishcon de Reya and Mary Monson Solicitors Ltd* [2016] 3316 (Ch) drew attention to circumstances of there being a number of accumulating warning signs. In *Purrunsing*, there were a number of potentially suspicious fraud indicators:

- the property was unoccupied
- the property was unmortgaged
- the property was of a comparatively high value
- completion was being pressed on an expedited basis by the 'seller'
- the official copy entries for the property contained an alternative address for service which was not the address given for communications by the fraudster
- no link had been shown between the fraudster and the property.

(See also the experience of HM Land Registry in identifying vulnerable property as mentioned in section 2.2.8.)

While these factors might have had a genuine explanation, no further enquiries were made by the solicitor to investigate the indicators of what turned out to be an elaborate fraud. A similar criticism was levelled at the fraudster's solicitor by the judge in *P and P Property Ltd*.

### **2.2.8 Vulnerable registered owners and properties**

HM Land Registry has identified that certain categories of owner may be more susceptible to registered title fraud. These vulnerable registered owners include, for example, clients who rent out their property, overseas owners or elderly owners who are in hospital or have moved into a care home. These types of owners may own properties without a mortgage which increases the risk of title fraud. Attempts could be made to sell or charge the target property by use of identity fraud.

Factors which may point to a vulnerable client include:

- an address for service (that is, the notification address recorded on the register) which is not the address of the property (especially if it is a care home, or overseas) or
- the presence of a Form RQ restriction or
- a registered proprietor who has been proprietor for a very long time and may therefore be elderly.

Some clients may be particularly at risk from fraudulent activity because, for example:

- they no longer live in the property and there has been an acrimonious break up with a partner
- they let the property or it is empty
- they have already been the victim of identity fraud

- they are a personal representative responsible for a property where the owner has died and the property is to be sold
- they are elderly.

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.

Owners of unregistered property are also vulnerable. HM Land Registry estimates that, in 2016, there are around one million unregistered residential properties in England and Wales. If fraud is successfully perpetrated against them, they would not be able to claim the state guarantee of title and there would be no indemnity payable.

When you are instructed to act on the sale of a vulnerable property, additional care should be taken.

- Is there anything unusual about the title to the property?
- Are there entries on the register (especially on titles where the registered proprietor has not changed for some time) which suggest that the register has been altered for any reason? For example:
  - correction of the spelling of the registered proprietor's name
  - change of address of the registered proprietor, which will be recorded on the Proprietorship Register.

Again, such changes will usually be perfectly genuine but, if you already have another reason to be suspicious, together they may add up to suggest the possibility of fraud.

#### **Case example**

A registered owner rang HM Land Registry's fraud line to advise that she suspected her father had stolen her passport and she was worried he might try to sell her property as he had been seen practising her signature. The father used someone else to impersonate his daughter. The conveyancer undertaking the identity check challenged that the impersonator did not look like her passport photograph but the father said 'she gets that all the time'. This was accepted as an explanation.

Despite a fraudulent application being received, the fraud was stopped as the owner had notified HM Land Registry of her suspicions using the fraud line.

Do not be afraid to ask. Make sure you make a note of your enquiries and the answers you receive

### 2.2.9 Overseas clients

Overseas clients present more difficulty in customer due diligence, but vigilance at all times is nonetheless necessary.

In the case of individuals, your customer due diligence checks need at least to establish:

- their address and contact details and
- adequate proof of who they are.

Whilst not a specific requirement under the regulations, one way of helping to establish the client's identity to the requisite standard would be to obtain a notarised copy of the client's passport and proof of their address.

In the case of corporate customer due diligence checks:

- you need to know that it exists as a legal entity and who are the relevant officers of the company
- you should require confirmation of that information from an independent lawyer (for example, not an in-house lawyer) in the relevant jurisdiction who certifies details of the company's incorporation and its powers to carry out the transaction (often in a formal letter)
- under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 the requirements are more prescriptive than they were under the 2007 regulations when carrying out customer due diligence checks on corporate entities.

Note that you will have to apply enhanced customer due diligence measures if your overseas client is established in a [high risk third country](#) subject to certain exceptions. A high risk third country is one that has been designated by the European Commission under the Fourth Money Laundering Directive.

You will also need to apply Enhanced Customer Due Diligence measures if a higher risk of money laundering or terrorist financing is present in a given situation.

### 2.2.10 Surrounding circumstances

Further factors you may consider in evaluating the risk of fraud include the following:

- Where the registered proprietor is a company, does a search at Companies House indicate that the company was incorporated after the registered proprietor was registered as the owner at HM Land Registry?
- Have you met your client face to face? If not, Enhanced Customer Due Diligence is likely to be required.
- What evidence do you have that the client has authority to act on behalf of the company?
- Have you seen the original identity documents or only copies?
- Is the registered proprietor's date of birth inconsistent with them being the owner?

For example:

- Someone purports to be a registered proprietor and offers identification information, but there is an inconsistency between their date of birth and information on the register.
- The date appearing immediately before a proprietor's name in the proprietorship register is the date of registration of that owner for example the register will state:
  - '(13.10.1970) JOHN SMITH and JANE SMITH'
  - In this example, the proprietors have been registered since 1970 and must have been at least 18 at that time in order to be registered. Consideration of the date of birth information might highlight inconsistencies that could be a warning sign requiring further investigation. If you meet the client face to face or use video messaging technology and the person being identified appears too young, this may be a case of impersonation.

### **3. Mitigating fraud threats**

#### **3.1 Client identity**

You should be aware that exercising reasonable care in viewing documents intended to establish identity may not prove that the person or company is the person or company they are purporting to be. In addition it may not be possible for you to establish conclusively that such a person or company is either the registered proprietor of the relevant property or entitled to become so registered.

Even where you have followed usual professional practice, a court may hold that the steps taken exposed someone to a foreseeable and avoidable risk and amounted to a breach of duty of care. See *Edward Wong Finance Co Ltd v Johnson Stokes & Master* [1984] 1 AC 296.

If the documentation you receive as a buyer's solicitor raises a possible concern about fraud, consider raising queries. If an electronic ID check is made which requires further investigations to be carried out (for instance it is marked 'Refer') those enquiries should be carried out promptly and fully. You should carefully record your concerns, the enquiries you raise, the answers you receive and the reasons for the decision you then reach. If you are not fully satisfied you must report your concerns to your purchaser client and, if there is one, your lender client.

If acting for the seller you are concerned about their identity you should consider whether you can continue to act and whether you need to refer the matter to the SRA, Action Fraud, National Crime Agency or HM Land Registry.

#### **3.2 Address for service at HM Land Registry**

Providing up to date notification addresses (that is, addresses for service) for clients is particularly important to mitigate the risk of fraud. HM Land Registry allow up to three addresses on the register which can include an email address.

Since July 2008 HM Land Registry has inserted an entry in the register indicating whether the registered proprietor has changed their address for service to alert people to a change. People proposing to commit fraud have been known to change the address for service registered at HM Land Registry as a precursor to fraud. If you see an entry stating 'The proprietor's address for service has been changed' and you are not aware of the reason for it, you should view this with

suspicion and enquire with your client why it was done. There may be an innocent explanation, but if your client's explanation is suspicious, you should make further investigations.

Clients intending to leave their property empty for a significant period, such as for redevelopment purposes, should register other address(es) for service at a place where they can be reached.

Owners of 'at risk' properties may wish to register a restriction RQ for individuals or RQ(Co) for corporate owners, but that does not guarantee that it will prevent registered title fraud. It does, however, act as a warning to anyone dealing with the property that there may be a risk of fraud.

### **3.3 Company impersonation**

If a company registered proprietor was incorporated after it was registered as the owner, it is unlikely to be the legitimate owner. Despite appearing to have the same company name, the discrepancy of dates will indicate you are dealing with a company of the same name but not necessarily the 'genuine' registered proprietor. You should note that an Industrial and Provident Society that has converted to a company registered under the Companies Acts would be an exception to this situation. Pay close attention also to the company registration number specified in the proprietorship register.

One notable registered title fraud involved the impersonation of an overseas company by setting up a UK company with the same name. If a search at Companies House states the date of incorporation of the UK company is after the date of registration of the property in that company's name, further investigations should be made. The precautions suggested are examples only and do not constitute an exhaustive list. You should take such precautions as you deem fit depending on the circumstances of the transaction.

As referred to in section 2.2.10 above, the date of registration as proprietor is the date appearing in brackets immediately before the company name in the proprietorship register. A discrepancy without a legitimate reason may be a risk factor requiring further investigation.

### **3.4 Overseas companies**

Since January 1999 HM Land Registry has been entering the company's/ corporation's country of incorporation in the proprietorship register. In some cases this will also include the state or province of incorporation - for example, the British Virgin Islands. This information appears in the register immediately after the corporation's name.

If an overseas company has a registration number issued by Companies House because it has a branch or place of business in the UK, that registration number is also included in the proprietorship register as follows:

Proprietor: NORDDEUTSCHE LANDESBANK GIROZENTRALE (incorporated in Germany)  
(UK Regn. No. FC012190) of ....'

If there is no Companies House registration number this may help you identify a registered proprietor as an overseas company, provided it was registered after January 1999. If the registered

proprietor is an overseas company, a UK company with the same name is unlikely to be able to give instructions as the registered proprietor of the property.

Verification of the identity of an overseas company may require confirmation from a qualified lawyer authorised in the country of incorporation. See HM Land Registry Practice Guide 67.

### **3.5 Searching Companies House**

Where no place of incorporation and no UK company number are noted on the register, you may be able to establish the date of incorporation by making a search of Companies House. Free information is available from the GOV.UK website. The results of searches of Companies House may assist in assessing the risk of an overseas company impersonation.

### **3.6 Identity document provisions**

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 the UK Finance but should always be checked.

Compliance with the requirements of the above are not necessarily sufficient to protect against the risk of fraud. See *Edward Wong Finance Co Ltd v Johnson Stokes & Master* [1984] 1 AC 296.

### **3.7 Enhanced due diligence**

Where you do not see a client face-to-face, the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 require you to apply enhanced customer due diligence measures on a risk sensitive basis. Not undertaking face-to-face checks may increase the risk of the transaction being exposed to investigation by the law enforcement agencies and/or the SRA.

Enhanced due diligence measures require an examination of the background and purpose of a transaction and increased monitoring. It may also include other steps, such as seeking further identity checks to be carried out by an independent source which you should consider undertaking. An example would be by carrying out an electronic identification check with a known provider.

Non face-to-face transactions increase the risk of fraud. If you are accepting instructions from one client on behalf of others or by a third party, you must check that all clients agree or authorise 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 (*Penn v Bristol & West Building Society and others* [1997] 3 All ER 470).

While documents are frequently provided to clients for execution other than in the presence of you or your staff, the risk of fraud is increased in those circumstances.

### **3.8 Record keeping**

In order to protect or to mitigate risk for you and your firm, it is advisable to 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.

## **4. Information sources**

- [Joint Law Society/HM Land Registry practice note on property and registration fraud](#)

### **Law Society guidance**

- [AML practice note](#)
- [Practical tips to protect your firm from scams](#)
- [Cyber Security and scam prevention](#)

### **4.1 HM Land Registry guidance**

- Practice Guide 67 - Evidence of identity: conveyancers

### **4.2 Practice Advice line**

The Law Society provides support for solicitors on a wide range of areas of practice. Practice Advice can be contacted on 020 7320 5675 from 09:00 to 17:00 on weekdays.

### **4.3 HM Land Registry enquiries**

For queries relating to HM Land Registry, please call 0300 006 0411.

### **4.4 Professional bodies**

- The Law Society
- Solicitors Regulation Authority
- Council for Licensed Conveyancers
- [Chartered Institute of Legal Executives](#)

## **5. Acknowledgments**

The Law Society and HM Land Registry have worked in close collaboration on the production of this note.