

Property Hijacking



Property hijacking has become more prevalent in the UK and the coronavirus crisis has given fraudsters more opportunity to make money, fuelling the growth of crime in the UK. This activity involves a fraudster, purporting to be the rightful owner of the property, mortgaging or selling it, then disappearing with the proceeds of the crime. Individuals who live abroad, those who own properties with no mortgage and those not registered with the Land Registry, are at the highest risk of being victim to such a scam. Even though people may be self-isolating in their properties because of Covid19, doesn't prevent this type of fraud. Empty business premises may also give fraudsters greater opportunities to impersonate the registered owner.

To help the conveyancing process during the pandemic, HMLR has introduced two new ways to sign conveyancing deeds. The first called the "Mercury approach" was introduced on 4th May 2020. This is where the signature page is signed in pen and witnessed in person (not by a video call). The signature is then captured, with a scanner or a camera, to produce a PDF, JPEG or other suitable copy of the signed page. Each party sends a single email to the conveyancer, attaching the final agreed copy of the document and the copy of the signed page. The second version introduced on 27th July 2020 means HMLR will accept 'witnessed electronic signatures'. This allows a person to sign legal documents with an electronic signature which is witnessed at the same time by a person who also signs the documents electronically.

HMLR are also exploring whether witnessed electronic signatures can be replaced by Qualified Electronic Signatures once the technology matures.

Although these measures ease problems with post, paper and scanning of documents, fraudsters are likely to seek to exploit any weaknesses in the process for checking the identity of clients in land transactions. Conveyancers should be even more vigilant.

Often criminals impersonate an owner, using stolen or fake identity documents in order to sell or mortgage a property. Criminals will usually target absent owners such as landlords, un-mortgaged properties, owners living abroad, in a care home, hospital or even owners who have died.

Our experience has shown that fraudsters often target unoccupied properties because it is easier for them to intercept post, which would otherwise alert the owner to the fraud.

Fraudsters also often target unencumbered properties. This is because the consent of the bank holding a first charge over the property is normally required before a second charge can be registered. In the event that the bank is contacted about a second charge, the bank may then contact the true owner direct, at their other address, to enquire about the further loan, thereby alerting the owner to the presence of the fraud. Figures in the bar chart below from HMLR show the number of fraudulent applications that it has been able to prevent over the past 10 years.

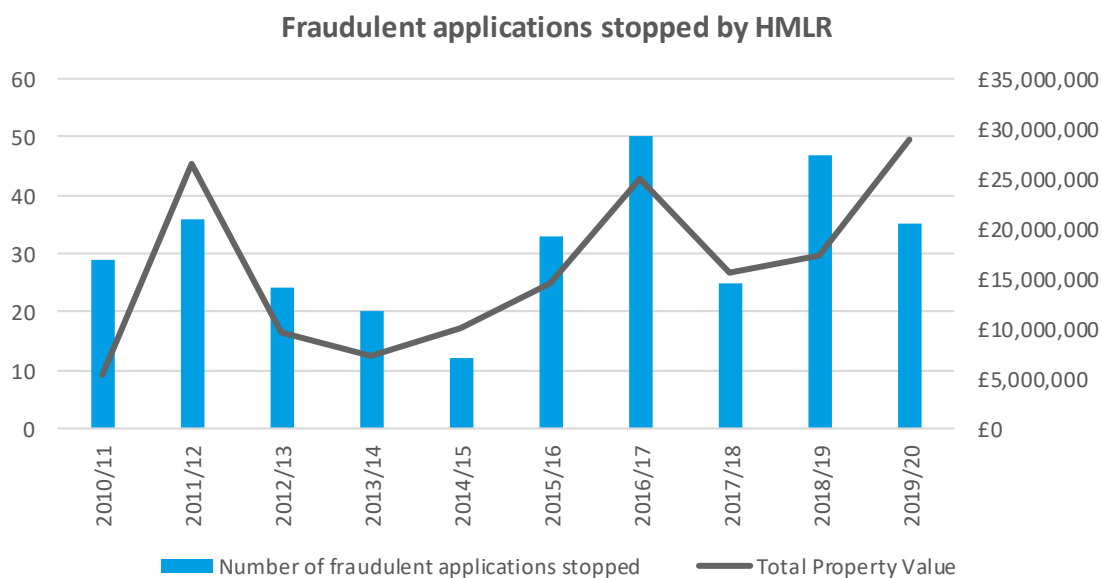


Table 1.1 Source: HMLR

HMLR has set up a counter fraud unit, free message alert service and offers restrictions by freezing the transfer of property until the identity of the legitimate owner is confirmed by conveyancer or solicitor.

The SRA offers risk advice and warning notices about thefts such as Friday afternoon frauds. This scam usually involves the theft of a large sum of money on a Friday from a property sale. Conveyancers under extra pressure to complete at a time when multiple transactions are being handled, helps the fraudster to evade detection and any possible action to freeze or recover the money delayed until the following week. This scam can successfully trick the conveyancer into sending money to the wrong bank account and once the transaction is complete, it may not be possible to trace the fraudster and the money.

Law firms are a prime target for crimes like the Friday afternoon frauds and reports by the SRA suggest that large law firms are twice as likely to be targeted in comparison to smaller law firms due to the substantial amounts of money they hold and their large databanks of sensitive information.

Since 2014, HMLR has offered a free system called PropertyAlert. It is a process which provides registered accounts that trigger an email notification if there is significant activity on a property they are monitoring, such as a re-mortgage. They have found this system to be the most effective in fraud prevention and, as such, all solicitors and conveyancers should encourage their clients to sign up for an account, which can accommodate up to 10 properties per owner.

The SRA introduced new account rules in 2019 which permit law firms to send monies to third party managed accounts. Although the take up has been very slow, we may see this become more popular as firms see the benefit of transferring the client account risk which may have a positive effect on the rising cost of professional indemnity premiums.