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Imposter Seller Claims -

It's for me to know and for you to find out

# Imposter Seller Claims - It's for me to know and for you to find out

Residential property transactions are a common target for fraudsters. With large sums of money being exchanged under significant time pressures, they are fertile ground for the audacious fraudster. The latest claims trend we are seeing in the residential conveyancing transaction is that involving imposter sellers; where an individual purports to be a genuine owner of a property, and instructs a law firm to act for them in the sale of the property. The transaction proceeds, and the innocent purchaser's funds are ultimately paid away to the purported owner. It later comes to light that the individual purporting to be the genuine owner is, in fact, a fraudster, and had no authority to sell the property. By the time the fraud is discovered, the fraudster has disappeared into the ether, having received sale proceeds to which they have no entitlement.

The purchaser is left with no legitimate title to the property and is out of pocket to the tune of the purchase price and other associated costs, e.g. legal fees. The purchaser, understandably, seeks to recover its losses and both the law firms involved in the transaction are the most obvious target for this claim, having compulsory PI insurance.



## Client Due Diligence

The best way to protect against these frauds is by undertaking thorough ID checks on your client at the outset. Not only will this assist you in meeting your regulatory CDD and AML requirements<sup>1</sup> but it will also help detect and deter any fraudster.

HMLR have published an enhanced level of ID check which is known as the [HMLR Digital ID Standard](#) ("the ID Standard"). This outlines three requirements if you are acting for the purchaser of a property and four if you are acting for the seller.

If you are acting for the purchaser you are required to:

1. Obtain evidence that your client is who they say they are. This evidence is photographic ID which complies with the criteria set out in the ID Standard;
2. Check the evidence to ensure that it is genuine and still current. This should be done via an ID verification company who incorporate Near Field Communication within their systems which will read the chip within the ID obtained; and
3. Match the evidence to the identity to be sure that your client is the person presented in the evidence you have obtained and checked. This matching should be done via a biometric check against the photographic ID and a 'liveness check'<sup>2</sup> your client completes at the outset of the transaction. This service is offered by ID verification companies as part of their ID checking processes.

Additionally, if you are acting for the seller you are required to:

4. Obtain evidence to ensure your client is the owner of the property. This essentially links your client to the property they are selling. As set out in the ID Standard link above, there are different ways to fulfil this requirement depending on whether your client is an individual or a corporate entity.





# Fraud Flags

There are a number of common factors we see in the transactions which are the subject of claims. We have compiled a list of these, together with suggested practical steps that can be taken to minimise the chances of your firm being exposed to an imposter seller claim:

## 1 Speed of transaction

If the seller is imposing tight deadlines and adding to time pressures for no obvious reason, this is a fraud flag. Fraudsters are often keen to complete quickly to maximise the chances of the fraud going undetected.

## 2 Purchase price- too good to be true?

Is the property being sold at an under-value, for no obvious reason? The more attractive the purchase price, the less likely the purchaser will question the deal.

## 3 Mortgage free and/or vacant properties

These types of properties are attractive for a fraudster, as the less parties involved in the transaction, the greater the chance that the fraud will go unnoticed. A lack of secured lending also means that the fraudster will receive the entire sale proceeds, thus maximising their reward.

## 4 Purchaser

The purchaser in these transactions is often a corporate entity involved in the business of buying and selling properties in distressed circumstances. The purchase will be one of many, often as part of a back-to-back transaction and most likely will not have been viewed in person. Additionally, such purchasers are often cash purchasers who are not subject to strict lender requirements, and thus it is easier for the fraudster on the other side of the transaction to go undetected.

## 5 Property documents

It is advisable to take the time to review property documents in detail, such as fixtures and fittings forms, to sense check whether any answers are questionable. Particularly if there are other fraud flags present in the transaction.

## 6 Broker

Do you know who has brokered the deal? Have they carried out any due diligence on the parties and is there a reputable estate agent involved? Imposter seller claims often involve unidentified and unknown agents specialising in distressed sales. This feature should therefore prompt a fraud flag for extra care to be taken.

## 7 Be realistic

Strength in numbers. We consider there would be a value in solicitors acting on both sides of a transaction adopting a collaborative approach to ensuring the seller is genuine and has provided verified ID, raising fraud flags during a transaction and then exploring whether there is any substance to any queries raised.

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# In Summary

As the levels of audacity and sophistication of fraudsters in this area continue to increase, it is more important now than ever to undertake all possible precautions so as to avoid innocently facilitating a seller imposter fraud. To do so, conveyancers have to be alert at all stages of the transaction and should not be afraid to question potential concerns about the nature of the deal and the parties involved. Should you have any queries regarding imposter seller claims, please contact your insurance broker.

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