Protect against property theft

The problem

Properties can be stolen: if a fraudster is able to convince the Land Registry that they are the property owner, they can sell or - more likely - mortgage the property and disappear with the proceeds before you are aware anything is wrong. In the case of a mortgage, this might not be until the mortgage lender tries to take possession for non-payment of the mortgage instalments, at which point you would have to prove that you did not sign the mortgage deed that purports to be signed by you.

Properties that are subject to a genuine mortgage and are owner-occupied are far less vulnerable, as that mortgage would normally need to be cleared off, putting another hurdle in the way of any attempted fraud, and the true owner is able to collect mail delivered to the property. However, buy-to-let properties and properties that are free of mortgage are much more susceptible.

Identity checks by a conveyancer

Though the conveyancer acting for the purported seller or mortgagor can be expected to check their client's identity, it is not unheard of for conveyancers to be - deliberately or unwittingly - party to the fraud.

The Land Registry's precautions

The Land Registry's own identity checks are not very rigorous, relying on *either* one piece of photographic ID *or* two utility bills or bank statements, for instance – or on a conveyancer verifying someone's identity (see above).

To help protect against fraud, the Land Registry recommends proprietors give multiple addresses for themselves in the register (including an email address, if desired). However, this does *nothing at all* to combat property theft, as the Land Registry does not check with the registered proprietor that the mortgage deed or transfer has, indeed, been signed by them.

The Land Registry also suggests registering a restriction in the register, requiring a conveyancer to certify that the person who signed the mortgage or transfer that is being registered is indeed the registered proprietor. However, this is really no more than the existing Land Registry requirement of confirmation that the parties to the transaction have all been identity-checked and does not cover the situation where a conveyancer is involved in or deceived by the fraud.

A real solution

The only protective measure we have been able to come up with is to register a restriction on the property's Land Registry registers, requiring the *consent of a third party* who is not an owner of the property before the owner (or someone who purports to be the owner) can mortgage or sell it. This third party could be a trusted family member, solicitor or accountant, for instance. If you adopt this suggestion, we strongly suggest that there should be a document (which we can prepare) whereby the third party confirms they have no beneficial interest in the property but is merely acting as a guardian against property theft.

A residual risk

There is a risk of the third party dying, becoming mentally incapable or simply falling out with you. If the third party is a solicitor, chartered accountant or similar, their professional obligations mean that your position would be protected. However, this is not the case with a private individual, so you should think carefully before appointing a private individual to this role.

What next?

If you would like to take this idea forward, please speak to us about what arrangements would be appropriate for you

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