



**National Fraud
Authority**

Working together to stop mortgage fraud

Progress report

March 2010



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Foreword

Dr Bernard Herdan, NFA Chief Executive

The mortgage lending sector has changed beyond recognition. The collapse of the sub-prime market has led to significant changes in the way lenders and other organisations involved in the property market do business. Many of the vehicles that fraudsters used, such as buy-to-let mortgages, are no longer widely available. Lenders are far more cautious when agreeing loans for property buyers.



Dr Bernard Herdan CB
Chief Executive

This backdrop and the resulting increased regulation of the mortgage industry have had a fundamental effect on this sector, making it a much tougher arena for fraudsters. However, mortgage fraud continues and the NFA estimates it costs the industry £1 billion a year. With an average £12 billion in mortgages being loaned each month, mortgage fraud continues to be an appealing option to fraudsters.

In our first report on the status of mortgage fraud in the UK, we demonstrated the damage mortgage fraud causes to individuals, businesses and the economy as a whole. We also emphasised the need for a joined-up approach across industry and Government to successfully combat this fraud. The NFA was committed to ensuring this happened.

Since our inaugural progress report a joint plan of action has been agreed and taken forward by the public and private sector. A Mortgage Fraud Forum has been established with members from across the mortgage lending community. With the industry pulling together, substantial inroads have been made to tighten systems and controls, regulate professionals and share knowledge.

However, an ongoing commitment is vital if we are to succeed in making the UK a more hostile environment for fraud.

A handwritten signature in purple ink, appearing to read 'Bernard Herdan', with a stylized flourish underneath.

Dr Bernard Herdan CB
Chief Executive

Introduction

Over the last year the collective understanding of the threat from both organised and first-party mortgage fraud has improved significantly as has the knowledge of reforms that would be required to better combat this threat. There is now also a clear recognition across a wide range of stakeholders that mortgage fraud is a shared problem that requires a combined response.

The mortgage market has changed dramatically over the last couple of years. Not only has there been a decrease in the volume and value of mortgage products sold, but there has also been a change in the types of products available, and a restructuring of the market with a number of lenders withdrawing from the market.

As a result the number of products available has shrunk rapidly, with sub-prime, buy-to-let and self-certified mortgages either being severely restricted or withdrawn completely. Such products have generally been recognised as being particularly attractive to fraudsters (for example, buy-to-let on new-build city centre apartments) and many of the frauds that have been identified on lender's back books relate to previous sales of such products.

Moreover, lenders have generally lowered the maximum amount of money they are willing to loan in relation to the value of the property on which the loan is secured and have significantly tightened the criteria, such as credit scores, against which they assess applications.

However, even in the depths of an economic downturn, the mortgage industry still loans billions of pounds every month. According to the Council of Mortgage Lenders (CML) an average of £11.9 billion was loaned per month amounting to £143.7 billion over the year¹. As such, the mortgage industry continues to present an attractive target to criminals seeking to profit from and launder the proceeds of crime. Mortgage fraud also funds other serious criminal activity.

From under their noses

A family who recently inherited their mother's home after she passed away, nearly lost it to fraudsters who attempted to sell it without their knowledge.

A gang spotted the house on the market when it was put up for sale with a firm of estate agents. One woman posed as a buyer and asked a firm of unwitting solicitors to represent her.

Claiming it was a private sale, she had her solicitors deal directly with the 'sellers' solicitors – a firm which, in fact, had no dealings with the owners. The 'buyer' then obtained a mortgage to finance the 'purchase'.

The family only became aware at the final stages of the transaction and was able to stop it. However, not before the fraudsters were able to disappear with the mortgage money they had already secured.

(Source: Land Registry)

As this example shows, organised criminals have adapted their methods as circumstances have changed and new modus operandi have evolved. Some fraudsters through impersonating the legitimate owners of unencumbered high-value properties have obtained standard residential mortgages at relatively low loan-to-value ratios to meet lenders' tighter lending criteria and disappeared with the money.

In addition, criminals continue to seek to exploit key professions involved in the mortgage and conveyancing processes. In particular, there is currently some concern about the impact of a small number of corrupt solicitors, or criminals posing as solicitors, opening, taking over or hijacking practices with the express intention of committing mortgage frauds.

Introduction

The NFA estimates that the annual value of mortgage fraud is £1 billion². This demonstrates the fact that mortgage fraud remains a significant threat and a route for organised criminals to raise substantial funds.

In addition to frauds undertaken by organised criminals, anecdotal information from some lenders suggests that the current economic climate and the state of the mortgage market has led to an increasing number of otherwise-honest individuals seeking to dishonestly inflate their incomes and hide adverse credit histories when applying for mortgages. Although, a rise in the number of such incidents being spotted may in fact reflect recent improvements in the checks performed by lenders.

The National Fraud Strategy, launched by the NFA in March 2009 makes combating mortgage fraud a key priority. In the National Fraud Strategy, the NFA undertook to report on the progress of work to improve the national response to mortgage fraud. This paper provides the NFA's second update, and sets out next steps.

¹www.cml.org.uk/cml/media/press/2519

²National Fraud Indicator, National Fraud Authority, January 2010

Background

In November 2008, the National Fraud Authority published its report 'Fighting Mortgage Fraud Together'. This report outlined the harms caused by mortgage fraud such as its impact on property prices in some developments and links to serious organised crime. It highlighted a range of key vulnerabilities such as corruption or negligence among key professionals involved in the mortgage and conveyancing processes and noted weaknesses in lenders' systems and controls, which were being exploited by fraudsters.

Emphasis was also placed on the need for a joined up approach between lenders, professionals, law enforcement, Government, regulators and others to counter the ability of fraudsters to exploit multiple points of vulnerability across the mortgage and conveyancing processes.

The report called for action across the mortgage process to:

- Design-out fraud risks inherent in different mortgage products and processes;
- Enhance the preventative safeguards and controls within firms at the right level to make mortgage fraud easier to spot and stop;
- Safeguard and promote the integrity and 'cleanliness' of key professional sectors; and
- Drive up the risk to perpetrators and hold them to account.

To deliver against these objectives members of the mortgage fraud community assisted the NFA in drawing up a detailed plan of action aimed at addressing a wide range of key enablers of mortgage fraud and issues blocking a more effective response to this threat. These enablers/ issues fall into a number of categories:

- Sharing information and intelligence about individuals suspected of being involved in mortgage fraud, fraud methodologies and trends;
- Regulation of professions (including 'gate-keeping' in relation to individuals seeking to join the professions) and the lending industry;

- Systems and controls employed by lenders to process applications and the need to balance the commercial nature of the industry with the need to prevent fraud;
- Document/information verification;
- The land registration process and systems; and
- The response of law enforcers and the criminal justice system to mortgage fraud.

It is important to recognise that the community of partners cooperating to fight mortgage fraud consists of organisations, industries and professions with different interests, perspectives and priorities.

This diversity is, of course, the source of many of the strengths that support the development of an improved response to the threat of mortgage fraud: i.e. a large well of knowledge, skills and experience, and different insights and perspectives on the reforms that are needed. However, handling these differences also has its challenges.

The NFA, therefore, seeks to add value to this process by assisting partners in creating an environment in which their different perspectives and positions can be brought into the open, understood and practical ways forward can be developed.

Progress to date

There is still some way to go before it can be said that the response to the threat of mortgage fraud is as effective as it could be. However, the last twelve months have seen real progress towards this goal.

An increase in dialogue between stakeholders with differing views and conflicting interests has led to a growing appreciation of the constraints within which others operate and greater willingness to find ways to move forward.

It is also clear that combating mortgage fraud has been firmly established as a business priority of several stakeholders, which has resulted in a further focusing of activities on mortgage fraud and 'upping their game' in respect of this threat.

Sharing information and intelligence about individuals suspected of being involved in mortgage fraud, fraud methodologies and trends

The sharing of intelligence about those involved in mortgage fraud, emerging trends and new fraud methodologies between lenders, regulators, law enforcers, Land Registry, and others is central to a strategy to reduce the threat of mortgage fraud. Whilst barriers to sharing intelligence and information remain, progress is being made in this area.

For example, Land Registry shares information with a wide variety of organisations, including the Solicitors Regulatory Authority (SRA), National Fraud Initiative (NFI), National Fraud Intelligence Bureau (NFIB), National Fraud Authority (NFA), HM Revenue and Customs (HMRC), the Law Society, the Financial Services Authority (FSA) and law enforcement bodies to identify those involved in mortgage and registration fraud.

Sharing intelligence

Providing the evidence

In November 2009, two people were found guilty in Southwark Crown Court of conspiracy to defraud and conspiracy to forge following an in-depth investigation by the Metropolitan Police Service (MPS).

The two fraudsters claimed ownership of a number of properties where the genuine owners were deceased by forging wills in favour of themselves.

Land Registry became aware of their activities and communicated their concerns to the MPS.

The sharing of intelligence in this instance not only confirmed to Land Registry the nature of the fraud, but, enabled them to target other properties and transactions that should be treated with caution.

Once identified as a threat Land Registry continued their investigation and were able to collect additional intelligence regarding the fraudsters' activities. This intelligence was given to the MPS and was used as evidence in the trial.

(Source: Land Registry)

Land Registry has also recently joined FINNET⁴, through which they are able to share intelligence to enable fraud prevention.

The SRA, City of London Police and the Financial Service Authority (FSA) are also increasingly sharing intelligence with each other to good effect to support their respective regulatory and law enforcement activities.

⁴An intelligence sharing network run by the Financial Services Authority

Progress to date

Lender participation in the FSA's Information from Lenders scheme is increasing and the CML has recommended in its response to the Mortgage Market Review that reporting should become mandatory. This scheme, which provides a route through which lenders can report corrupt intermediaries to the FSA, has seen a notable increase in the number of reports submitted.

National Fraud Intelligence Bureau (NFIB)

The NFIB, which is hosted by the City of London Police, was launched in January 2010 to research, collate and analyse fraud information to make connections between previously unconnected frauds and share intelligence with the police and wider counter-fraud community. The collection of intelligence about organised mortgage fraud is a current priority for the NFIB.

The SRA, FSA and Land Registry have been involved in the project to develop the NFIB and are providing data.

Facilitation of mortgage fraud by professionals

The mortgage and conveyancing processes may involve a number of professionals: solicitors or other conveyancing professionals, surveyors/valuers, brokers, financial advisors and accountants. Corruption or negligence on the part of any of these can enable mortgage fraud.

Intermediaries

In recognition of the level of risk posed by mortgage brokers, the FSA continued over the course of the last year to target enforcement action against fraudulent or corrupt mortgage brokers, levying significant financial penalties on firms and banning a number of individual brokers from trading. This may explain a perception among some lenders that broker corruption or negligence as an enabler of mortgage fraud has declined.

Banning a broker

The Financial Services Authority (FSA) recently banned a mortgage intermediary for knowingly submitting mortgage applications to lenders that contained false and misleading income information.

The broker also commissioned an accountant to provide false statements for himself and at least one customer to commit mortgage fraud.

Trading as a London based company, the broker submitted three mortgage applications - one for himself, one for his business, and one for a customer - all of which contained inflated income figures.

In a mortgage application that the broker submitted for himself, the annual income that he declared to the lender was 1200% higher than the amount he declared for tax purposes.

(Source: FSA)

The FSA has also set out proposals to extend the approved persons regime to individual brokers, which will give the regulator the ability to assess if each individual is 'fit and proper' to work in the industry. This status can be removed for numerous reasons, making it easier for the FSA to take action when abuses occur.

Solicitors

As the impact of intermediaries facilitating mortgage fraud appears to decline, a parallel growth in fraud or suspected fraud involving solicitors has been taking place. This has led to the community of lenders, law enforcers, regulators and others involved in combating this threat turning their attention to the involvement of corrupt solicitors in mortgage fraud, with lenders in particular identifying this as a key threat.

Progress to date

The City of London Police has instigated a programme of work aimed at countering corruption and negligence on the part of conveyancing solicitors as an enabler of mortgage fraud.

In November 2009, City of London Police held a workshop bringing together a wide range of stakeholders. The workshop identified a number of measures, which potentially could reduce mortgage fraud in this area. The City of London Police is committed to working with other stakeholders to put these measures into effect.

Additionally, the SRA has employed two experienced fraud investigators and an analyst specifically to take forward a project to develop the organisation's knowledge and understanding of the extent and nature of solicitor involvement in mortgage fraud and to increase the level of investigations⁵. A significant proportion of the SRA's Fraud and Intelligence Team is investigating solicitors involved in mortgage fraud, with the SRA having completed 106 investigations relating to mortgage fraud during 2009. **Action by the SRA against solicitors facilitating mortgage and other property fraud has saved lenders in the region of £15 – 20 million.**

There has also been a developing dialogue on this issue between the Law Society and Land Registry and the Council of Mortgage Lenders on behalf of the lending community.

Licensed conveyancers

Licensed conveyancers are also able to undertake work for sellers, buyers and lenders. The Council of Licensed Conveyancers (CLC) is the statutory regulator for this profession. The CLC has been engaged in dialogue with other partners about how they can work more effectively together.

Surveyors

Property valuations conducted on behalf of mortgage lenders are generally undertaken by chartered surveyors who are regulated by the Royal Institute of Chartered Surveyors (RICS).

RICS members and member firms are required to follow the Rules of Conduct and the twelve principles of ethical standards. Where valuations for lending purposes are concerned then the Practice Statement, RICS Valuation Standards (known as the 'Red Book') must be followed.

On an individual basis, where a member has been found guilty of fraud, the case will be presented to a disciplinary panel. A range of sanctions exist, which could include expulsion from RICS.

Over the last few years, RICS has been assisting several police forces with their investigations by helping forces to understand the obligations set out in the Red Book. Going forward, RICS will continue to tackle individual cases, whilst at the same time forging links with other bodies and authorities to develop policies, procedures and strategies to combat the threat of mortgage fraud.

Document/information verification

Fake documents

Fake payslips that cheat the banks

'It's easy to buy forged payslips that many banks take at face value. All you need is a false national insurance number, an imaginary salary and £50 and that mortgage could be yours.'

(Source: www.guardian.co.uk/money/2009/nov/15/fraud-borrowing-banks-payslips)

⁵www.sra.org.uk/sra/news/press/SRA-gets-tough-on-property-and-mortgage-fraud.page

Progress to date

Documents proving identity, residence and income play an important role in the mortgage process. In order to strengthen their defences against fraud, lenders and intermediaries need to be able to identify fake and falsified documents presented by fraudsters.

Her Majesty's Revenue and Customs (HMRC) are currently evaluating a pilot scheme assisting lenders with the verification of mortgage applications which the lender suspected to be fraudulent. Under the scheme, HMRC stated whether documents such as P60s and personal tax returns submitted in support of an application corresponded with tax records.

Systems and Controls

Systems and controls employed by lenders to process mortgage applications need to balance the commercial requirements of the industry with the need to prevent fraud.

There is general recognition that developments in the mortgage market since 2007 have seen mortgage lenders become much more careful about to whom they will lend and in what circumstances.

The withdrawal of certain mortgage products and changes in processes employed by many lenders as a result of their more conservative approach has removed many of the opportunities previously exploited by fraudsters. Many lenders have also placed a greater emphasis on fraud prevention, detection and recovery of losses to fraud as the economic climate has increased the pressure on them to reduce costs. This includes rationalization of professional contracts and civil action against solicitors, valuers and intermediaries who deliberately or negligently assisted mortgage frauds. As such, lenders appear less vulnerable to fraud than was previously the case.

The CML reports that a number of lenders participated in the HMRC pilot verification scheme and eight of these identified and prevented attempted frauds with a total value of over £111 million through referring to HMRC documents submitted by mortgage applicants as proof of income.

Whilst the positive contribution to the battle against mortgage fraud made by this more prudential approach by lenders is welcome, some partners in this battle remain concerned that a less robust approach may follow an economic upswing.

The FSA has recognised this risk and has expressed an intention to re-focus its attention away from brokers and onto the lenders. It has also published a set of proposed changes to the way it regulates the mortgage market which incorporate a number of measures that would, if implemented, impact on mortgage fraud. These proposals include⁶:

- Making income verification a requirement for all mortgages;
- Clarifying that ultimate responsibility to assess affordability lies with the lender, who will be held accountable;
- More prescriptive rules on affordability;
- Re-establishing incentives for lenders to care about plausibility of income through limits on risk transfer;
- Increasing sales standards for 'non-advised' sales;

The FSA could broaden its regulatory responsibilities to encompass areas such as second charge mortgages and buy-to-let mortgages should the Government decide to place these responsibilities in FSA hands.

⁶DP09/3:Mortgage Market review, Financial Services Authority, October 2009

Progress to date

The land registration process

Fraud against the land register, for example, through falsely changing the registered owner of a property, can sometimes be a step in the process of mortgage fraud.

Land Registry has made a significant investment in its anti-fraud programme including:

- Substantially increasing staff allocated to its dedicated anti-fraud team;
- Delivering organisation-wide training for all staff on spotting and preventing frauds;
- Introducing new systems designed to spot and prevent frauds; and
- Implementing new and redesigned processes to combat the fraud threat.

In conjunction with its substantial investment in combating fraud, the Land Registry has been working with the Metropolitan Police Service to fine-tune and enhance its ability to manage and use intelligence to protect the integrity of the land register.

These changes have led to a significant decrease in successful fraud attempts against properties with an approximate combined value of £20 million.

The response of law enforcement and the criminal justice system to mortgage fraud

The City of London Police is currently pursuing 15 investigations into organised mortgage frauds worth millions of pounds. This represents a step change in its response, which is up from 4 investigations in September 2008, including a number of arrests in various cases. Other forces across England and Wales, for example, Nottinghamshire and Northamptonshire police, have also launched cases into mortgage fraud.

City of London Police bring mortgage fraudsters to justice

A group of fraudsters who formed part of a criminal gang that used a firm of solicitors to con high street banks out of almost £8 million have been jailed.

Prison sentences totaling 11 years were recently handed down to the four defendants. All had pleaded guilty to numerous fraud related offences.

The criminal gang identified suitable properties across the South-East to use for false mortgage applications without ever approaching the owners.

At the same time, an Essex-based solicitor's firm submitted false paperwork in connection with 33 fraudulent mortgage applications.

The fraudulent mortgages were finalised when false paperwork was completed in the name of the solicitors, including the Certificates of Title requesting the banks release the funds.

Once the deals were signed-off and the funds transferred, the fraudsters quickly dispersed the stolen money from the solicitors' accounts into a network of many hundreds of false bank accounts, controlled by the gang.

However, it was these details that would lead the City of London Police to the defendants.

Searches of their house and properties in Nottingham and Barking led to the four men being arrested and the seizure of almost £100,000 in cash, gold ingots worth £43,000 and a host of false documentation.

Continuing challenges

Although, as outlined above, much progress has been made in improving the response to mortgage fraud, there remain a number of important challenges:

- There is a tension between the Government's counter-fraud agenda, which requires that the conveyancing process is 'target-hardened' on the one hand, and the Government's desire to speed up the conveyancing process on the other. There is a danger that pressure on solicitors to undertake their conveyancing duties more rapidly could hinder attempts to tighten the process against fraud.
- Lenders in particular remain concerned about the police response to mortgage fraud, especially outside of London. For example, the fraud department of one lender reports that on reporting a mortgage fraud to its local police force, they advised the lender that it should report the fraud to the force local to where the property was located. On doing so, the second force advised the lender to report the fraud to its local force. There is a clear perception among lenders that many police forces will not resource mortgage fraud investigations as these are not seen to be a priority.
- Lenders find it difficult to verify the validity of certain documents often provided by mortgage applicants as proof of identity or income. Partners in the mortgage fraud community have welcomed the verification scheme piloted by HMRC and would like to see this scheme made available to all lenders on a permanent basis. HMRC is now in the process of evaluating the results of the pilot.
- There exists a tension between the need for lenders to compete for business in the marketplace and measures they could potentially put in place to combat fraud. For example, a lender commissioned a 'drive-by valuation' in relation to a low loan-to-value application for a re-mortgage on a high-value, unencumbered property. By commissioning 'drive-by' valuations, lenders are able to keep down costs and accelerate the mortgage process. However, in this case, had the valuer sought entry to the property to undertake a fuller valuation, they would have been informed by the owner that they were not seeking a remortgage and would have uncovered a fraud.
- Increasing the flow between partners of intelligence and information to enable a greater level of fraud prevention also remains a key challenge as many logistical, statutory and commercial barriers to sharing remain in place.

Next steps

The NFA organised a stakeholder workshop in November 2009 to review progress against the action plan and to consider the future development of a strategy to combat mortgage fraud. It was agreed a governance group needed to be formed to take collegiate ownership of the UK response to mortgage fraud and drive forward the reforms necessary to achieve lasting improvement. Subsequently, the NFA and the Metropolitan Police brought together all key partners to form the Mortgage Fraud Forum (the 'forum') to fulfill this function.

The members of the forum are:

- The National Fraud Authority
- City of London Police
- The Council of Mortgage Lenders
- The Association of British Insurers
- Land Registry
- The Royal Institute of Chartered Surveyors
- The Building Societies Association
- The Council for Licensed Conveyancers
- The Financial Services Authority
- The Law Society
- The Solicitors Regulation Authority
- The Metropolitan Police Service
- HM Revenue and Customs
- Serious Organised Crime Agency

The inaugural meeting of the forum took place in January 2010. Members decided to replace the action plan with a set of high-level strategic aims and objectives for combating mortgage fraud and to commission a number of issue groups to take forward work to remove blockages to achieving these aims and objectives.

The forum's aims and objectives are:

Aims

- To make it much harder for criminals to commit mortgage fraud;
- To tackle the top mortgage fraudsters;
- To increase awareness of mortgage fraud and the damage it causes;
- To make mortgage fraud a less attractive proposition to criminals;
- To develop and maintain an up-to-date understanding of the mortgage fraud threat.

Objectives

- By sharing knowledge and intelligence about mortgage fraud and those involved in it;
- By developing measures that maximize the likelihood that attempted mortgage frauds fail;
- By introducing measures so that, where mortgage fraud is not prevented, it is quickly detected;
- By investigating identified fraud effectively;
- By punishing those involved in mortgage fraud appropriately and deny them the profits of their crimes;
- By publicising successes and communicating a consistent counter-fraud message.

The forum also commissioned issue groups to focus on the following issues:

- Information and intelligence sharing;
- Registration fraud/abuse of the land register;
- Development of case studies and models for combating mortgage fraud;
- The law enforcement response to mortgage fraud;
- Communications;
- Verifying the validity of transactions;
- Solicitor involvement in mortgage fraud.

The forum will meet every three months and each issue group will set out what outcomes they will seek to achieve, success measures and plans for delivery at the next meeting in April. Each group will report back on progress at future meetings.

Conclusion

There has been much progress in the last year in making the UK a more hostile place in which to perpetrate mortgage fraud. However, whilst progress has been made the Mortgage Fraud Forum partners recognise that mortgage fraud remains a threat that requires a combined and coordinated response. There is still much to do and the NFA believes that this is not the time for the counter-fraud community to reduce efforts to stop mortgage fraud.

Instead, the changed market conditions could provide an opportunity for the counter-fraud community to address a number of outstanding issues and work together to:

- Design-out fraud from the system;
- Cooperate to tackle weaknesses such as corrupt solicitors and fraudulent brokers;
- Ensure the mortgage market is secure for when growth returns.



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