



White Paper on Risk Management for COLPs

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September 2014

Lawyer Checker – THE Risk Management tool for the modern Conveyancer

In her speech at the Risk Outlook event last summer, Samantha Barrass (SRA Executive Director) said:

“Risks are often described like cockroaches – they hide well, multiply quickly and become everyone’s problem to stamp out. The Risk Outlook is part of our repellent, exposing the risks and putting controls in place to ensure that the serious ones are managed out as early as possible. In order to achieve this, we need a clear view of the risks and to put in place controls, which include Law Firms’ management of risk and the actions they take and are able to evidence with documentation, to manage the risks within their business.”

The SRA has prioritised the risks and they fall into three broad categories, namely Current Risks, Emerging Risks and Potential Risks.

How can Lawyer Checker help you manage these risks?

1. Current risks

- Financial difficulty – following the crash of 2007 and the subsequent reforms in October 2011 after the implementation of the Legal Services Act an increased number of firms are in financial difficulty. A firm can fall foul of the stress caused by financial difficulty resulting in other significant risks including the failure to close the firm properly, poor standards of service and, unfortunately, the misuse of client money
- Dishonest misuse of client money or assets
- Inadequate systems and controls over the transfer of money – do you know where your client money is going to? Lawyer Checker has a reliable and ever growing database of account numbers involved in conveyancing transactions.
- Failure to co-operate or comply with notification and information requirements – Lawyer Checker offers a comprehensive check of the other side’s bank account detail alongside checks to confirm that both the law firm and fee earner in question are legitimate. The report received helps towards meeting OFR expectations.
- Poor standards of service (particularly where vulnerable clients are involved). How does your Firm deal with vulnerable clients? Do you have a policy in place to ensure that you are always acting in the best interest of your client? Lawyer Checker ensures that your firm places your client money and assets first. Demonstrate your adherence to Rule 10 with a search on the vendor conveyancer’s bank account details and reassure your client that you put the safety of their money first.

2. Potential risks

- Conveyancing is an area of practice which accounts for a high proportion of claims on professional indemnity insurance, the Compensation Fund (“the Fund”) and complaints.
- According to insurance brokers Lockton Companies 70% of Professional Indemnity Insurance claims are against lawyers relating to property transactions.

- £600m in transactions every year is too tempting an opportunity for criminals to ignore.
- Licensed conveyancers are targeted as unwitting accomplices – Lawyer Checker helps conveyancers spot the warning signs and act.

3. Emerging Risks

The Risk Register: What to include on the risk register and how Lawyer Checker helps.

Strategic Risk

The implementation of a Lawyer Checker check on all conveyancing transactions will not only reassure your client, but also allow for PII premiums to potentially reduce. A Lawyer Checker search ought to be on the risk management list of any COLP involved with a firm who conduct conveyancing.

Disaster Risk

Ensure that you have a disaster recovery policy to make sure that any affect your Firm and business suffers from such an event occurring is managed and executed without causing major disruption. For example; what happens when a member of staff is ill or suddenly unable to make it into work? If a Lawyer Checker check has been made on the other side, any staff taking charge of a matter will have full disclosure of the check carried out from the report received from Lawyer Checker and an understanding of the level of risk in transferring money to the other side.

Regulatory Risk

Regulatory Risks are dealt with by the implementation of numerous policies across the Firm including:

- AML Policy
- Data Protection Policy
- Equality and Diversity Policy
- Health and Safety Policy
- Anti-Bribery Policy
- Conflict of Interest
- Supervision
- Risk Management

The COLP must establish, monitor, record and report in terms of all regulatory aspects of the business. Implementing a Lawyer Checker system throughout your conveyancing department will ensure that all fee earners within the team are consistently ensuring monies are being transferred to legitimate recipients. In particular Lawyer Checker's system will help a firm with its AML Policy, Risk Management and Supervision.

Important Questions to Ask

- How does your Firm assess conveyancing related risks?
- How does your Firm record these risks?
- Who has ownership of these risks?
- How regularly does your firm re-assess these risks?

- Is Risk managed from inception of matter to post completion?
- What training does your Firm provide to employees on managing risks relating to conveyancing work, data protection, AML, etc? How regularly is training undertaken, how does your Firm record what training has been provided and to whom?
- Are there procedures to test whether the implemented systems work in practice, i.e: feeding back on their effectiveness?

Specific Aspects of Risk to be Monitored

Property Related Fraud, Anti Money Laundering and Anti-Bribery

Conveyancing presents significant opportunities for property-related fraud, money laundering and bribery.

- Do you have adequate Property Related Fraud, AML and Anti-Bribery Policies in Place?
- Are you effectively managing your Client Due Diligence Requirements in terms of Identification and Verification?
- Is AML/Anti-Bribery Training implemented across the firm and does it form part of your Induction Programme?
- Are File reviews carried out to ensure procedures are being followed and completed?
- Do you have an internal and external procedure for assessing and making reports to the National Crime Agency?
- Do you record gifts and entertainment?

Recommended Policy and Risk Register Entries

Recent cases show how criminals are accurately cloning firms. They are sophisticated and can look and sound like a firm to dupe you into sending your client's money to them.

Checking the account that you are sending funds to is therefore vital in every transaction.

It is also important to carry out full due diligence on the firm who will be receiving funds from your client account.

Checking of account details on an ad-hoc basis means that you may unwillingly find that you have sent funds to criminals or a mistaken account. We recommend having a policy that encompasses checking the account details in every transaction. Here are the two Lawyer Checker recommended policies:

1. Blanket Policy

Using Lawyer Checker on all of your transactions allows you to demonstrate Outcomes Focused thinking across the board for this specific risk. It avoids having to create a process for deciding on whether to use Lawyer Checker in each transaction and potentially failing to use Lawyer Checker when important information could have been picked up

2. Safe List Policy

For this policy, transactions fall into two categories.

1. Transactions with firms that you deal with on a regular basis
2. Transactions with firms you have had little or no dealings with previously. This could include transactions where you are dealing with a firm that you recognize but the Fee Earner is not known to you or if you have concerns about the transaction.

For the firms that you deal with regularly, we recommend that you build a safe list of their accounts that can be checked before you send funds each time you conduct a transaction with them.

For those firms that you do not know well, we suggest you conduct a Lawyer Checker search in order to adequately manage the risk associated with the transaction.

Reporting Breaches to the CLC / SRA / COLP / COFA / HOLP / HOFA

- Are Risk and Complaints Registers regularly reviewed to identify trends, facilitate internal and external reporting in terms of breaches?
- Are documented file reviews completed to identify training needs and breaches?

Being Removed From Lenders Panels

- Following the decision in Santander v RA Legal it is all the more important for Conveyancers to be able to demonstrate due diligence and adherence to Rule 10. By conducting a Lawyer Checker search on all transactions it sends a message to lenders that the protection of mortgage funds is a priority for your firm.
- Ensuring your firm implements a Lawyer Checker check not only protects client money but the lenders' money too. Tracey Carr, Financial Crime Manager of Santander sums it up with 'We have done a lot of work to reduce fraud but vendor conveyancer fraud remains an area of growing concern. That is why I welcome initiatives like Lawyer checker that help our panel firms manage the risk associated with transmitting our money to vendor conveyancers. All conveyancers should reassess the checks they make before they send money to organisations offering undertakings.'
- Do you have checklists and processes for timely completion of all required panel management information?
- Is there adherence to lender criteria and CML Handbook?



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