

**STATEMENT TO BE MADE BY THE CHAIRMAN OF THE
RESIDENTIAL PROPERTY TRANSACTIONS REVIEW PANEL
ON MONDAY 19th MARCH 2017**

Residential Property Transactions (S.R.2/2018)

This Review commenced as long ago as 2016 and I would like to begin by apologising for the delay in bringing this Report to the Assembly. The Panel in this case is a Review Panel of the Chairmen's Committee and, to a certain extent, progress has been determined by the availability of Scrutiny Officers. However, this has not affected the scope of our review in any way and I am obviously now pleased to be able to present the Panel's Report.

As mentioned in my foreword to our Report, the present procedure governing property transactions was established in the 19th century and the overall objective of this review has been to assess whether the present system adequately serves the needs of the public in the present age.

One principal area of concern is that, in the vast majority of cases, there is no binding commitment until contracts are passed before the Royal Court leading to uncertainty as to the transaction until that stage is reached; this in turn enables parties to re-negotiate up to the last minute. The Panel recommends that, with a view to eliminating such uncertainty, greater use be made of preliminary contracts so that there is a binding agreement in place as soon as possible and prior to going to Court. The present system allows for this procedure and, whilst the Panel takes note of advice that this might lead to an increase in the overall time scale of a transaction, it believes that certain measures could be introduced to counter this; in this connection, Members will note that our key findings include such items as early instruction of lawyers, production of a 'Buyer's Pack' at time of marketing and evidence of available funds on making an offer.

Aside from these practical measures, the Review highlights other areas for consideration. These include the requirement that all Estate Agents should be members of an approved body whose members are subject to a Code of Conduct; it also notes there is currently no local Ombudsman to hear complaints against Agents. Further, recognising the decreasing number of conveyancers in the Island, the Panel recommends that consideration be given to the creation of a new qualification of 'licensed conveyancer' with the ability of persons holding such qualification to carry out property transactions independently of law firms.

On a slightly different note, Members will recall that they recently approved the Consumer Protection (Unfair Practices) (Jersey) Law. In general terms, this prohibits traders from engaging in unfair commercial practices in their dealings with consumers and is sufficiently wide to apply to developers and the whole range of business activities carried out by Estate Agents. Unfair practices covered by the legislation include providing misleading information and making misleading omissions and it is to be hoped that this Law will discourage Sellers and those acting on their behalf from making claims which, if later found to be 'extravagant', might cause a transaction to fail.

Whilst the Panel concludes that changes can be made to the current system by way of improvement, this does not obviate the need to undertake a comprehensive review of the present law. This is outside the scope of this review but one of the Panel's recommendations is that consideration be given to the establishment of a Land Registry in Jersey; in this connection, it is noted that such a system exists in the Isle of Man where it is understood that the costs of insurance were initially borne by its Law Society members.

Finally, I thank my fellow Panel Members, Deputy Andrew Lewis, the Deputy of St. Ouen and the Connetable of St. Martin for their input throughout the period of the Review and also the various Scrutiny Officers involved for their assistance. I hope that Members will find the findings and recommendations more fully set out in our Report of interest and I look forward to responding to any questions Members might have.