

Ministerial Response: S.R.3/2022

Ministerial Response to be presented to States by: 22nd April 2022

Review title: Review of the Regulation of Jersey Estate Agents

Scrutiny Panel: Economic and International Affairs Scrutiny Panel

Minister's Introduction:

The Minister would like to thank the Panel for undertaking this review and to restate his willingness to consider a statutory registration scheme for estate agents and/or a redress scheme that would further enhance the equity and effectiveness of the property transaction system in Jersey. He further notes that this subject matter has a bearing on the broader subject of housing affordability and availability, which is a particularly high priority for Government and is expected to remain so for the foreseeable future.

S.R.3/2022 provides some further helpful insight into the operation of the property market and how estate agents operate or are perceived to operate within it. Having considered in detail the evidence base that underpins the Panel's findings and recommendations, the Minister accepts that a degree of regulation and mandatory professional qualification for estate agents could generate benefit. He is nevertheless mindful that estate agents play one role in the residential property transaction system alongside a number of other key parties that include: the Court; lawyers and conveyancers; surveyors; banks; and Government departments. The predecessor Panel's related report on Residential Property Transactions ([SR.2/2018](#) refers) is also considered to have a material bearing on this topic. Reading across both reports, it is apparent that changing the system of regulating estate agents is one of several measures that might be taken to enhance the effectiveness of the system and ensure it functions in the interests of both vendors and purchasers.

Government has a responsibility to complete an effective impact assessment and consider relevant findings before it applies new layers of regulation – particularly given the scope for regulation to generate additional costs that may be passed on to consumers. That is a material consideration in a housing market that has recently seen significant price inflation. In this regard, the Minister is also mindful that additional regulation can create new barriers to market entry that impact competition. Competition tends to improve efficiency, encourage innovation and help keep prices down.

Findings:

	Findings	Comments
1	In the UK, estate agents must join one of two independent UK Government approved redress schemes, either The Property Ombudsman or the Property Redress Scheme.	Noted.
2	There are 46 businesses registered as estate agents involved in transacting property in Jersey (not including property letting agents).	Noted.
3	41% of estate agents that are registered by the Jersey Financial Services Commission to transact property in Jersey, are members of either the Jersey Estate Agents Association or The Property Ombudsman and Propertymark (National Association of Estate Agents). The Panel considers this figure to be low in comparison with other jurisdictions.	Noted.
4	All estate agents in Jersey that choose to voluntarily self-regulate, as members of the Jersey Estate Agents Association or independently, are members of both The Property Ombudsman and Propertymark (National Association of Estate Agents).	Noted.
5	UK consumers can verify whether an estate agent is correctly registered with a redress scheme via the National Trading Standards 'Property Agent Checker' website.	Noted.
6	The Jersey Estate Agents Association is involved with the promotion of education and opportunities for future estate agents, conveyancers and surveyors.	Noted.
7	Since 2018, the Jersey Estate Agents Association incorporates membership of The Property Ombudsman and	Noted.

	Propertymark (National Association of Estate Agents) as a condition of membership.	
8	Propertymark (National Association of Estate Agents) offers a range of specialist, regulated qualifications including an Award in Introduction to Sale of Residential Property (Level 2) and an Award in Sale of Residential Property (Level 3).	Noted.
9	All Propertymark (National Association of Estate Agents) members must adhere to The Property Ombudsman's code of practice once their application is successful. The application process requires evidence of professional indemnity insurance, a designated client account, a company registration/Value Added Tax number or owner identification and evidence of membership of a Client Money Protection Scheme and can be approved within 24 hours subject to applicants possessing all the necessary documentation.	Noted.
10	The UK's National Trading Standards Estate Agency Team is the lead enforcement authority for the Estate Agents Act 1979 which approves and monitors consumer redress schemes.	Noted.
11	The requirement of estate agents to join a redress scheme and the UK legislative provisions such as the Estate Agents Act 1979, are important features of the National Trading Standards Guidance on property sales, and yet cannot apply to estate agents in Jersey.	Noted.
12	Based on the evidence received from the Jersey Financial Services Commission, the estate agent sector does not pose an Anti-Money Laundering/Counter-Financing of Terrorism risk to Jersey.	Noted.
13	There is no estate agent specific legislation that covers the activities and conduct of estate agents in Jersey or provides consumers with a means of redress.	Noted.

14	It has been a mandatory requirement of estate agents in the UK, under the Estate Agents (Redress Scheme) Order 2008, to join an approved consumer redress scheme since 1st October 2008.	Noted.
15	Organisations that wish to apply to become an estate agency redress scheme operator, require approval by the National Trading Standards Estate and Lettings Agency Team.	Noted.
16	The Trading Standards Service in Jersey has engaged with The Property Ombudsman in the development of the Consumer Protection (Unfair Practices) (Jersey) Law 2018.	Noted.
17	The Estate Agents Act 1979 is comprehensive legislation which includes a broad definition of estate agency work, the meaning of residential property, the considerations that estate agents must have for their clients, how estate agents must approach a personal interest and the powers of enforcement. There is no equivalent legislation in Jersey.	Noted.

Recommendations:

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	The Minister for Economic Development, Tourism, Sport and Culture should publish a list of estate agents registered with the Jersey Financial Services Commission to transact residential property in Jersey, including their status as members of an approved independent redress scheme.	EDTSC	Deferred	The Minister for EDTSC does not currently have the vires to carry out this action. The Jersey Financial Services Commission should also be asked to consider the implications.	For consideration in Q3 2022
2	The Minister for Economic Development, Tourism, Sport and Culture should introduce a legal requirement that Jersey estate agents obtain membership of a	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities.	For consideration in Q3 2022

	redress scheme approved by the Government of Jersey.				
3	The Minister for Economic Development, Tourism, Sport and Culture should consult on options for introducing local, independent redress in Jersey.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities.	For consideration in Q3 2022
4	Alongside a legal requirement to obtain membership of a redress scheme, the Minister for Economic Development, Tourism, Sport and Culture should ensure that transparent mechanisms are in place to hold estate agents to account to the minimum standards laid down in any redress scheme Codes of Practice or guidance.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities with reference to the Panel's related Recommendation 2.	For consideration in Q3 2022
5	The Minister for Economic Development, Tourism, Sport and Culture should introduce a requirement that estate agents in Jersey, as defined by Schedule 2, Part B, Article 3 of the Proceeds of Crime (Jersey) Law 1999, must join a Jersey approved redress scheme.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities with reference to the Panel's related Recommendation 2.	For consideration in Q3 2022
6	The Minister for Economic Development, Tourism, Sport and Culture should consult with the redress schemes to ensure that all Jersey estate agents can meet their requirements.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities with reference to the Panel's related Recommendation 2.	For consideration in Q3 2022
7	The Minister for Economic Development, Tourism, Sport and Culture should investigate whether compensation awards made by the redress schemes are similarly available to Jersey residents, whether mechanisms are in place to challenge decisions of the Jersey approved redress schemes in relation to compensation and whether these mechanisms are reasonably accessible.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities with reference to the Panel's related Recommendation 2.	For consideration in Q3 2022
8	The Minister for Economic Development, Tourism, Sport and Culture should ensure that there are no barriers to registration of Jersey estate agents onto the redress schemes.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities with reference to the Panel's related Recommendation 2.	For consideration in Q3 2022

9	The Minister for Economic Development, Tourism, Sport and Culture should undertake a process of consultation with industry, local Trading Standards, the National Trading Standards Estate Agency Team and Jersey approved redress schemes on estate agent legislation for Jersey.	EDTSC	Deferred	This recommendation warrants consideration by the Ministers for EDTSC and Housing and Communities with reference to the Panel's related Recommendation 2.	
10	The Minister for Economic Development, Tourism, Sport and Culture should consider the recommendations of the Regulation of Property Agents report in any future regulation of estate agents in Jersey.	EDTSC	Accept	This is accepted.	Ongoing

Minister's Conclusion:

The Panel's report has come in the final weeks of this political term and with a States Assembly agenda that is proving challenging to work through before the forthcoming election. In the circumstances, the Minister intends to recommend that his successor and the next Minister for Housing and Communities evaluate S.R.3/2022 in detail and present a formal, definitive response to the Panel's recommendations as soon as practicable following the commencement of their terms of office.