



STATES OF JERSEY

Residential Property Review Panel

MONDAY, 14th AUGUST 2017

Panel:

Deputy D. Johnson of St. Mary (Chairman)

Connétable M.P.S. Troquer of St. Martin

Witnesses:

Collas Crill

Le Gallais & Luce

[15:00]

Deputy D. Johnson of St. Mary (Chairman):

For the record we will introduce ourselves, I am David Johnson, chairman of the subpanel.

Connétable M.P.S. Le Troquer of St. Martin:

I am Michel Le Troquer, Constable of St. Martin who has been co-opted on to the panel.

Collas Crill:

Paul Harben, Collas Crill.

Le Gallais & Luce:

Tony del Amo from Le Gallais & Luce.

The Deputy of St. Mary:

This is the subpanel is to do with domestic conveyancing. Ok, we have prepared what appears to be a long list of questions but before we ever get that far, and might not even cover them all, since we first met with you.

Collas Crill:

Yes, you did.

The Deputy of St. Mary:

Your own conveyancing subcommittee has been formed.

Collas Crill:

Yes.

The Deputy of St. Mary:

Perhaps we could...

Collas Crill:

Get a feel for where we are.

The Deputy of St. Mary:

Feel for where you are, what you intend to do so we can anticipate...

Collas Crill:

We are early stages but we have got about 6 or 7 people on the Committee. We have had a couple of meetings and what we have looked at is trying to improve the conveyancing procedure within Jersey and ultimately make recommendations to the Law Society to try and look at sort of legislation and how that can change. The general view is, in summary, in terms of the way the system is working with regard to a Friday court, the general view across the panel, I think I am right in saying, Tony, is that if it ain't broke... So that seemed to be the sort of ... we worked on that basis and change is not necessarily there. The concerns we had were in terms of some of the old legislation that needed to be looked at, which is slowing up the conveyancing process. So at the moment we sort of highlighted various issues that are doing that, so for instance, if you were to start out on any sort of given conveyance what tends to have happened, certainly over the years, is that as firms ... as there is more and more red tape, more and more legislative requirements, a purchaser's lawyer will send a list of questions to the vendor's lawyer for response by the vendor or the vendor's lawyers. What has happened is that really only came about I would have probably said in the last 4 or 5 years.

There used to be 4 or 5 questions that has now turned into 50-page documents, if not more. What tends to happen is that because firms are sort of getting stung a little bit on one or 2 matters that then becomes a question. So for instance there might be an example that you will see now in a standard questionnaire: "Are there any bats in the loft?" because there was something that came up whereby there were bats found in the loft and it affected a development. That is the sort of question that goes in. These questions are getting longer and longer, taking longer to answer, and most of the time the responses are "to the best of knowledge and belief". It all becomes a bit pointless. So that is one of the first things we are going to look at, is we are looking at reducing that to a list of 20 simple questions that can be answered either by the vendor or the vendor's lawyer. If they cannot be then the purchaser has to rely on surveys and the like. So that would be one thing. Then in terms of the law itself, we still have ... as you know, we are still fairly reliant on the old 1880 law in terms of the way procedures work. We still have the need, for instance ... we still have old charges called rentes, which you have probably heard about, and so when people are doing title checks and they find an old rente that is something that causes them a problem needlessly. We have things whereby loans have to be reregistered every 10 years. Again, really in the current age, that could easily be changed. There is no need for that. There is no reason for that whatsoever. What else do we have? We have issues on void and voidable wills. So if a Will is not a Will that leaves real property in the Island, is not quite in accordance with the law, so for instance it is not witnessed by a Jersey lawyer, then again we have issues as to whether is that Will void or is it voidable, i.e. does it stay in place until it is attacked. Again, that is something that could delay...

The Deputy of St. Mary:

That is probably a fairly minor occasion that one, is it not?

Collas Crill:

No, it does happen. That will be another thing that happens because if you think back there is always every possibility, and the same on intestacies as well, the way that type of thing works. We are checking title back 40 years plus. There is often some sort of anomaly in that. We have our sort of charge system again, which perhaps needs to be updated as well. There is a number there. We have possession *quadragénaire*, which is your 40 years peaceful possession. Again, does it need to be that long? So there are all those sorts of things that we are addressing. Certainly at the moment we are very early stages. We know that a lot of these issues have been looked at before by various little panels so we are going back. One of the people on the Committee is looking back and seeing has it been discussed, where did they get to with those matters. I could go on, there are other prescription periods; another thing again generally that need to be looked at. So all of that. Then the other issue we found that is causing a problem within the profession, this is the profession's fault, is the fact that there are not many young people coming into the profession so conveyancers are becoming ... starting to become a bit of a dying breed. So younger people are not going into it

and that is again causing a strain and the worry is that if there is any more changes at the end of the transaction that is going to cause the system to completely creak, especially now that the ... in terms of the volume ...

The Deputy of St. Mary:

Yes, we touched on a few points. We have to ask specific questions but that is a good overview. Thank you for that. So timewise, you have a lot on your plate by the sound of it. It is no easy fix presumably, is there?

Collas Crill:

No, but we would hope ... I would hope, and it is easier said, we are supposed to meet every 2 months and already we are sort of lagging behind that. But I mean in terms of certainly next year, by the end of next year, I would hope that we are making solid recommendations to the Law Society for easy win fixes on quite a few of these points.

The Connétable of St. Martin:

Did the Law Society accept ... well, you will not know yet, but I mean...

Collas Crill:

No, but they have given us ... they know what our mandate is and they have approved our mandate so, yes, then it depends how quickly does legislation happen, and that is certainly another thing. That might be something that...

The Connétable of St. Martin:

So the Law Society, excuse my ignorance, themselves can they tell people what to do? They look after all lawyers or just...

Collas Crill:

In terms of the ... they do, and they look after the lawyers but in terms of a lot of these changes they would require legislative changes. So as I understand it, it would be us recommending to the Law Society, the Law Society then recommending to the Legislature to make the recommended changes. So it is a fairly long process, I would guess.

The Deputy of St. Mary:

Thanks for that introduction. Just to perhaps repeat where we were last time. Our brief came out of a question raised in the States and the reception in some quarters is not so much as the legal proprieties but the actual overall procedure. Typically problems arising at the last minute, whether it is do with boundaries not being looked at or someone trying to raise a price, et cetera, and it is

really that area we began our focus. But that said, we do go on to things like you mentioned about attracting younger conveyancers in the profession and maybe even a better system all round. You have touched on the court day as well. We have something on that too. So perhaps we can revert to my questions, which they are fairly staccato form. They hide a bigger...

Collas Crill:

I think also as well from Tony's perspective, one of the reasons Tony is a good source as well, I do not think you have spoken to the panel, Le Gallais & Luce in terms of residential conveyancers probably do about a quarter of the market I would say now. Certainly they are the largest firm by far in residential.

The Deputy of St. Mary:

Including buying my house some 25 years ago. I think those were the days of Peter Luce and Malcolm Le Boutillier. Okay, the general situation on a transaction these days appears to be that ... let us start again. Our conclusion, if we had to make one right now, is that the expectations of clients seem to be optimistic, perhaps due to the agent's fault.

Le Gallais & Luce:

In regard to timescale?

The Deputy of St. Mary:

In terms of timescale. The suggestion is that actually drives the whole thing. There are more disappointments and because of that there is now out of vogue, shall I say, the idea of preliminary contracts. Now I confess to being an English lawyer and that is the way I was brought up in a way. I am not trying to sell that idea but certainly I think what people really want, what the panel would like to see, is to reduce the length of uncertainty at any stage. The question is: can that be done in any way? That is the general point, I think. We have all sorts of problems arising from that. One is the suggestion that before the estate agent ever got instructed the vendor would ask his lawyer to, if not prepare a preliminary contract for sale, have title ready so that is out of the way, the agent would know any problems arising and then they could be dealt with at any early stage. Is that something that you would agree with and is it practicable?

Collas Crill:

I do not think the vendor would want to incur the cost of...

The Deputy of St. Mary:

That was a secondary point.

The Connétable of St. Martin:

Incurring the cost of ...?

Collas Crill:

Of appointing a lawyer before they had got a buyer.

The Deputy of St. Mary:

I mean would there be ... given that presumably the vendor would ultimately sell the property if not to that buyer, I mean is it something that the profession would take a view on: "Well, we are going to get our money some time"?

Collas Crill:

I think again from that perspective there is so much other work on in terms of deals that are happening it is a nice idea in principle but in practice I do not think ...

The Deputy of St. Mary:

Because of the high casualty rate possibly?

Le Gallais & Luce:

Yes, one of the issues is having the time to produce the contracts in the first place. As Paul said, you are busy dealing with existing transactions that you know are going to be for a certain date that are coming up and because of the shortage of conveyancers you do not have the number and obviously there is a cost to employing somebody to do these things. They are always working on things that are happening almost immediately and the timescales that we tend to be given these days by the agents is a lot less than it used to be. There are some things that are a lot quicker to do these days, such as checking title because of the P.R.I.D.E. (Public Registry Index and Document Enrolment) system, you do not have to go down to the Registry and check all the books anymore. But that means that the volume and the timescales seem to have been contracted, so rather than the 4 to 6 weeks that would have been around when I originally started in the industry you are looking sometimes 3 or 4 weeks if you are lucky.

The Deputy of St. Mary:

Two points around that: one is the ... on the cost aspect, I mean if we did ... not harking back to the preliminary contract stage, but would ... if someone wanted a ... if time allowed for a preliminary contract would that increase the overall cost? Would you not do the same work or similar work in any event?

Collas Crill:

I would say again maybe because it is a rarity, it does not seem to happen too much, is you tend to get a preliminary ... you only really tend to get the preliminary agreements maybe if the conveyance is 3 months down the line or you get somebody desperate for a deposit which is ultimately returnable. So at the moment because there is no sort of set agreement with regard to presale agreements, there is quite a lot of haggling, it can get quite fractious early on and it stops people from getting on with the job in hand in terms of carrying out the work because ultimately ... for instance, I had one a couple of weeks ago where somebody, a vendor wanted a non-returnable deposit ... the usual non-returnable deposit, which is nonsense, nobody is going to do that. So I did a letter saying: "We will pay you a deposit and it will be subject to ..." and honestly if you read this letter it was absolutely ludicrous and in the end they said: "Oh forget about it. Just get on with the checks" and we completed it last Friday, in 4 weeks, and it was fine. That is the problem, it is just subject to so much, and so much out of the lawyers control as well, because we do not know when the date of the survey is, banks are obviously reluctant to commit from one week to the next.

Le Gallais & Luce:

They will not commit until the survey has been done as to whether or not they are going to lend, so if somebody is going into a transaction they might have had a preliminary discussion with the bank and the bank have said: "Yes, in principle, we will lend you the money" but the bank will not commit until the survey is done and they have got confirmation of the value of the property.

The Deputy of St. Mary:

I understand with regards mortgage finance and survey there are 2 essentials before you would do that. Again, going back to the preliminary contract stage, a lawyer in England would not allow his client or should not allow his client to exchange until those 2 were settled. But going back to my overall point: does it increase the general work ... the actual action of having a preliminary contract does increase entire spend...

Collas Crill:

It does. Maybe, as I say, if you had a standard presale agreement and so you just print that off and everyone signs that once everyone is in a position to, that might ... obviously that is not going to add an awful lot to the overall fee, but at the moment certainly it does. I mean if we were asked to do preliminary agreements we would quote accordingly in relation to that deal.

The Deputy of St. Mary:

So standard pre-set agreement, proforma, that would ... can you have a proforma agreement without referring to title?

[15:15]

Le Gallais & Luce:

Generally the presale agreement will refer to a contract which is attached to the back of the presale agreement and says a date when that is going to be passed. But as Paul said before, you would only normally do that if you are looking at a date in the future of 3 months because there is no point ... if you are completing in 3 weeks, by the time you have done all your checks 3 weeks is going to be up anyway so you can complete as soon as you have finished your checks. Having the agreement does not make a great deal of difference if you have got to make it subject to everything else that might come up: issues in title, as well as the finance, site visit, you have to undertake if there is a problem onsite and things do not quite agree with what is in the contract. You have got to then maybe approach a neighbour to be party to the contract. So all of those things you would have to make it subject to.

Collas Crill:

We would advise a vendor not to enter into an agreement of that nature at the moment because it is just they are tying their property ... they are losing their property for a certain period of time and the purchaser could get out of it so easily and that is ...

The Deputy of St. Mary:

I understand all conditions but I am just applying an English mind to the situation. The contract will go off and once you had exchanged you would have the whole ... from that moment on there was certainty when you exchanged even though it was X weeks afterwards. I am just trying to work out whether...

Collas Crill:

Our position, our certainty, is the court but the English exchange date seems to me to be the court date here. That is the way I see it.

Le Gallais & Luce:

We would go to court to pass the contract and that is it. That is the end of it. So that is the exchange side of it.

The Deputy of St. Mary:

I understand what you are saying.

Le Gallais & Luce:

You exchange contracts and then you have a date after that or at your completion. Our position is that if you are ready to exchange you are ready to complete, you are ready to go to court, so you do not need an additional delay after that.

The Deputy of St. Mary:

In England it has traditionally been used to allow for the practicalities of arranging removal men and things like, that is why it has been done and it is sometimes a bridge too.

Le Gallais & Luce:

On occasion that would be helpful because everybody working to a date on the said weekend to get the removal men in is not always easy.

The Deputy of St. Mary:

But again, not picking up on your words, but you infer that the clients, maybe through the agents, dictate the timetable which does not allow you to do this. If everyone said: "We are happy with a 3-month period" and that was the norm then maybe you would think about preliminary contracts.

Collas Crill:

Possibly but I think it might be driven by the agents, but there comes a point whereby even the standard is the 4 to 6 weeks. In reality, I am not even sure that ... I think you can do them in 4 weeks relatively comfortably, and so I am not sure. I think again it might just come down to, in real terms, the volume at the moment and whether there is the capacity of the profession to deal with things and I think that is why some of the checks are coming up or being done at a later stage.

The Connétable of St. Martin:

The 4 to 6 weeks was not a problem issue initially. It was the gazundering and gazumping.

Collas Crill:

The gazumping, that just does not happen. Certainly, as I say, I mean we all know the incident. I just do not see in terms of a vendor, I cannot think ... with the one exception I cannot think of any gazumping in recent times. That might change now the market is improving. From a purchaser's perspective, yes, we do see incidents that we...

Le Gallais & Luce:

Very rarely.

Collas Crill:

... price chipping.

The Connétable of St. Martin:

I think that is what we found.

Collas Crill:

That is the only way it has worked but often there is a genuine reason for that. If there is a survey or anything like that, and again, this is the problem I suppose with the market at the moment, is that there are just signs I think - looking for a house myself - that the market is getting inflated again. So the worry is that there is going to be price chipping when surveys because the banks are still nervous from what went on in 2008, I think you are going to get a lot of that happening or start to happen again.

The Deputy of St. Mary:

I am going off-piste now. You mentioned the words "surveyors". Is there a shortage of surveyors in your book? Is that a problem?

Collas Crill:

I think there are the same pressures as we are under, do you not think?

Le Gallais & Luce:

Yes, I think they are extremely busy. The banks tend to have a bank of surveyors and they use a certain number for their work, so very often doing the bank surveys they are inundated, let alone doing sort of full surveys that people want on a property.

The Deputy of St. Mary:

Again, jumping around from my agenda but the other sort ... not fly in the ointment, but contributory is the mortgage lender. Do they always have their own independent lawyers? There is not a panel system like there is often in the U.K. (United Kingdom) where most building societies there would allow the lawyer acting for the purchaser to also be their lawyer?

Collas Crill:

I do not think that is a problem though in terms of the lawyer's perspective. I think it is more the delay tends to happen from the bank side of things. So it is the bank waiting on the survey, waiting on the facility, waiting for all their hoops to go through. When they push the button in terms of the lawyer, the lawyers of all the main banks over here, they have all got standard documentation and generally speaking if you are getting ... if you are instructed on a Monday for completion on Friday you will get it done.

The Deputy of St. Mary:

Okay, you have cleared that, thank you.

Le Gallais & Luce:

The bank's lawyer's production of the documentation is very quick.

The Deputy of St. Mary:

I am just looking for areas where there are delays and there could be improvements, so that is not one of them.

Le Gallais & Luce:

It is up to the decision making process in the bank. That is where the delay is. But, as I say, they are dependent upon the survey and then once they are happy they have got the facility letter that needs to be returned.

The Deputy of St. Mary:

And from memory from other people, sometimes the bank's decision making is not always taken in the Island, is that right?

Collas Crill:

That is right.

Le Gallais & Luce:

That is right, yes.

The Deputy of St. Mary:

That itself could lead to delay because they are not familiar.

Collas Crill:

It can sometimes lead to a delay on ... again, sometimes what will happen is that the purchaser's lawyers will send through a certificate of title, so over here you know the purchaser's lawyers prepare a certificate of title produced by the bank or the bank's lawyers confirming various and they will make disclosures. So they might disclose ... and this is the problem, is that disclosures have usually got to be in by sort of Thursday lunchtime, is it not?

Le Gallais & Luce:

Yes.

Collas Crill:

But it tends to ... that tends to sort of push out a little bit and they might come up with something, there is a problem with a wall being too close to a neighbour. And ultimately then, we, as the bank's lawyers, would say ... we generally have to advise accept or reject. But there might be one where we say it is your commercial decision and, yes, that is where it has to go to Isle of Man or whatever.

The Connétable of St. Martin:

Are there 2 lots of surveyors? If I am buying a house I use my own surveyors but the banks also use one?

Collas Crill:

No, you would use the same ones.

Le Gallais & Luce:

To a certain extent, yes. As I say, as long as they are on the bank's panel but a lot of people...

The Connétable of St. Martin:

The bank could refuse my surveyor's report?

Le Gallais & Luce:

It could not refuse it because that is done for you.

The Connétable of St. Martin:

But they could then ask for another?

Le Gallais & Luce:

But they would have another one. I think the bank's reports and all valuation reports, they want to know the property is worth...

The Deputy of St. Mary:

Yes, satisfaction. If they want a 20 per cent loan they are not going to be too fussed, are they?

Le Gallais & Luce:

Yes, but for you personally if you are buying a house you want to know it is not going to fall down when you buy it.

The Connétable of St. Martin:

But they want to know it is worth what...

Le Gallais & Luce:

There are different levels of surveying. You can have a valuation survey, a home buyer survey, you can have a full survey, which means knocking into walls and things, which most vendors are not particularly happy about.

The Connétable of St. Martin:

That takes a lot longer.

Le Gallais & Luce:

It takes a lot longer, yes. It is more thorough. I think most people these days do not want to go to the expense of having a full survey, so they rely on a valuation survey which does not actually tell you a great deal.

The Connétable of St. Martin:

But all this kicks in much later on with...

Le Gallais & Luce:

Once you go to the bank, the bank will then instruct their surveyor and the surveyor says: "Well, I can do it 3 weeks on Thursday because I am busy up until then." So they have to wait until that is done before they can go back to the bank and the bank can say whether or not they are happy to lend based on the valuation. Then they put into gear their other checks through their own lawyers.

The Deputy of St. Mary:

Yes, but obviously if you know in advance who the right surveyor is going to be you can have a discussion with them at the same time, that would be the sensible thing to do, yes. Again, apologies in advance for the quick fire question. We have got so much here. Going back to the rationale for this subpanel. It has come about because the public seem to feel they are exposed until the moment it goes to court. Can I ask the general question: is there anything in your view that easily can be done to improve that? Whether it is ... as I say, ideally if the lawyers did something in advance of getting instructions that would seem to be a sensible thing to do, but you pointed out the cost factor possibly. Are there things one could do to improve that?

The Connétable of St. Martin:

It is the crux of the matter really, is it not?

The Deputy of St. Mary:

It is.

Collas Crill:

The thing is can firms do ... can everyone do things earlier, and this is the problem. It is like everything, when there is a completion date of 30th August everyone works towards that and too many things are happening in that last week. I accept that. Certainly, as you say, when somebody is selling their house and they are all boxed up and then these conveyancers turn up on the Wednesday before to inspect the boundaries, I should imagine that is quite ...

The Deputy of St. Mary:

That is quite often the case. Even my own daughter had a problem.

Le Gallais & Luce:

But the nature of the system is that you have court every Friday, which means you are working towards that Friday and with the best will in the world, while you would like to start 3, 4 weeks up to the date you have been given, in practice you are already working on lots of other contracts which are happening every week up to there, so it is not always easy to start as soon as you would like to on these things.

The Deputy of St. Mary:

Leaving aside the pressure of work on your conveyancing departments, could the boundary inspection, whatever you would like to call it, be done beforehand so the client or the purchaser, in particular, knows that on the last morning they are not going to be faced with a problem?

Collas Crill:

I agree, that would be good practice; certainly I would encourage that. I would not want our ... I would not want to see anyone in our firm going out on that last week. I know it can sometimes happen because it might not be in their control because what will happen is the vendor's lawyers will produce a draft conveyance and it may be that they are the ones that have taken the time to get that out and you do not go onsite until you have got that and got that in hand so you can check everything out. But certainly it is good practice. It should be that those checks are done and the questionnaires are completed at least a week before. That would be fantastic if that could happen. Then obviously then though you have got to get other people involved in that, i.e. banks have got to be doing this ... have got to buy into that as well. Surveyors have got to be able to buy into that, and I just wonder at the moment the reason why it is not happening is volume of work and while that is an ideal world he is still going to have those same issues. I think even if you had that sort of situation where you signed off on agreements of sale and then, say, went to court the following Friday, so you say: "Right, on Friday, the 30th we are going to sign off an agreement of sale. We will go to court there

on the 7th” so everyone knows they can book removal men, it is still going to possibly ... you are still possibly going to have that problem whereby firms have got too much on and they are going to be ... and surveyors and banks and they are all going to be doing everything right up to the 30th and everyone is going to be in a great big lather again, and then it is still ... you are still not even going to court then, you are delaying it that further week. That is the problem. I do agree with you. I think that is something...

The Deputy of St. Mary:

I am not being accusatorial, I am just trying to find out. What you say, you are still thinking the most saving you would do would not be the week of the court transaction but only the previous week. You say the timescale is such it could never be before that, is that what you are saying?

Collas Crill:

Yes.

Le Gallais & Luce:

Because it is dependent on a lot of things. As Paul said, you know, once the instruction comes in the vendor has always got to produce a draft contract, which we will send to the purchasers. First they need that ... well, to check title, and they thoroughly need to check title, and they need to check it from a previous conveyance when the last sale went through. But ideally you would want a draft contract. When you have got the draft contract you check the title, make sure everything is right in the contract and then you will go out onsite to check the contract reflects what the actual situation is with regard to the boundaries. If it does not then you have to try and sort that out. But that procedure, it does depend on when you start, when you get your draft contract for a start. Sometimes you will get clients who will tell you they do not want you to do any work until something is sorted out, like the bank. They want to be sure they have got their mortgage before they incur any cost for their lawyer before checking anything. So, as I say, if there is a delay with the bank and they are only sort of coming up and saying: “Yes, we will lend you the money the week you are supposed to be going to contract”: it does not really give the lawyer enough time to do all of the work that he has got to do before the Friday arrives. So there are lots of different circumstances.

The Deputy of St. Mary:

As I say, I understand where you are coming from. I am just trying to work out whether anything can be done to improve and, to a certain extent then ... I mean neither the vendor nor the purchaser want to spend money unnecessarily. The vendor is probably less likely to waste his money because he ultimately may well find a buyer whereas the purchaser, it might not go through so ... back to my point, it is a definite problem in getting the vendor to ... you would not advise the vendor to waste his money instructing you, preparing your contract before ...

Collas Crill:

Again, the 2 reasons: one is the resource side of the things, is that there will be other priorities of people that actually have got buyers and I do not think vendors will want to incur the cost of a lawyer, but law firms they will not want to ... even if we said: "When you find a buyer we will charge you", too many accounts departments will be ... would frown at that, I feel. I cannot see that happening. Again, loyalty is ... the clients might then move and things like that because that tends to change since we have got a scale of fees, et cetera; people do move around in terms of if they get a better deal. Fair enough, that is okay, but I mean it is a hard one.

[15:30]

The Deputy of St. Mary:

The clients are, quite rightly, the masters of how the transaction goes because they could make it easier for themselves partly if they were prepared to.

Collas Crill:

But if you did have the standard questionnaire thing that we go back to, if the firms could ... so this is one of the things we are driving at the moment. If the firms could agree the list of 20 questions which could almost be circulated to agents, et cetera, so that when a vendor is putting a house on the market everyone could just give them one of these forms: "These are the questions you are going to be asked. Get your answers ready on that." At least that is one thing that straightaway...

The Deputy of St. Mary:

The form will go to the client?

Collas Crill:

Yes, so the vendor will be asked this. Some of the questions the vendor's lawyer will need to answer but generally speaking it is the vendor. So things like: "Please confirm there has been no disputes with the neighbour." That type of thing.

The Deputy of St. Mary:

Yes.

Collas Crill:

Then at least then they have got that ready and that goes ... from day one then a vendor knows: "Right, that can go, that does not give the purchaser any excuse."

The Deputy of St. Mary:

It is almost like questions at...

The Connétable of St. Martin:

That is at estate agent stage?

Collas Crill:

That is right. But the lawyers...

The Connétable of St. Martin:

Not even the lawyer stage. It is prior to that?

Collas Crill:

The lawyers would produce it, I think.

The Connétable of St. Martin:

Produce it, yes. Because you know what you will get.

Collas Crill:

As long as all the lawyers buy into it, and we cannot guarantee that because someone might say: "Well, I am not happy and I want to be asking my 50 questions" and I do not think the Law Society can force the issue on that. Maybe I am wrong. But certainly if you have got the ... certainly the 7 of us on the panel, and the firms we represent a large chunk, and most of the other sensible lawyers out there would hopefully buy into that. If everyone is sending out the same questionnaire I do not think the lawyers can be criticised obviously.

The Connétable of St. Martin:

I mean if I was an estate agent I would be delighted to have your questions. "Yes, please, give it to my client."

Collas Crill:

Yes, because if there are any funny answers that are coming out at that early stage, yes, you know, in terms of the neighbour or, yes, there is a massive great issue with drainage or something like that, then at least it can be dealt with at that stage.

Le Gallais & Luce:

It also does rely on the honesty of the...

The Deputy of St. Mary:

You have covered another point I raised somewhere among this. In England, in fact I did act for my stepmother when she sold a property, where I was involved in it, and the Law Society have a standard form which ... I am not suggesting what you ... it obviously makes the vendor put his or her mind to the questions that are going to be asked and will cover services connected and things like that, disputes and what have you. You need some certificates for gas or boiler as well.

Collas Crill:

Certainly, that would be the idea, yes.

The Deputy of St. Mary:

All can be done without incurring expense at the time on their part.

Collas Crill:

That is it. That is another thing. Rather than that being sent a week into the transaction or 2 weeks, and it being different to the previous one so that you have then got a conveyancer. Because the way it is working at the moment is our conveyancer, sort of applying good practice on it, they get a 50-question thing, they are reluctant to find that out from the client because the client thinks: "What is this? This is awful." So what ours will do is they will part complete it, so they will go through: "We think this is what you will put in. These are the answers." They are just trying to help on the general things but you have got to read through it and they are your responses. Then they go through them on the phone, which would be another half an hour, which in the scheme of things, with everything else that is going on, that is probably ... I do not know, how much is that going to take time? One hour, 2 hours per file? When in reality that could have all been done before? We could have that on the file: "Here you go, there are our standard responses." So that is certainly one thing that...

The Deputy of St. Mary:

You want to get the estate agents to buy into this idea presumably?

Collas Crill:

As Michel has said, I think they almost certainly would, would they not?

Le Gallais & Luce:

Anything that is going to make it quicker for them to get the sale through

The Deputy of St. Mary:

To get their commission.

Le Gallais & Luce:

Then they would be in favour of it, I would have thought.

The Deputy of St. Mary:

It makes sense.

Le Gallais & Luce:

There is no responsibility on them. The only thing is the reliance you can put on the answers that you get. So at the moment most of the answers you get on these questionnaires are caveated.

The Deputy of St. Mary:

Yes, to the best of my belief. Familiar with those.

Le Gallais & Luce:

That is right. Easiest confirmation is about items on the property which are being sold, the contents, electrical items and things like that. They are all caveated saying: "Well, we do not guarantee or give any warranty with regard to these things" even though they have confirmed everything is working and everything is okay.

The Connétable of St. Martin:

It makes the client think.

Le Gallais & Luce:

It does, yes.

The Connétable of St. Martin:

It puts them: "Hang on a minute." That is the sort of thing they are going to need to know, yes.

The Deputy of St. Mary:

I agree. Just leading on from that, is there in existence or do you anticipate there being in existence some form of layman's guide to a property transaction the way you would - not necessarily you - but they were spelt out to a vendor or a purchaser the steps that were taken? Is that treating them a bit too naively?

Le Gallais & Luce:

I think most of us have produced something over the years that do that. I think a lot of us have on our own websites details of different types of transactions and the processes you need to go through.

The Deputy of St. Mary:

That will go to your client when they have gone to you? The point is they will not get to you until the agent's referred them possibly. I mean it is something which you could encourage agents to give out, is what I am getting it, to maybe consider. Or am I being too disrespectful?

Collas Crill:

We all set their own marketing, you could do a conveyancing subcommittee thing: "This is how it works." There would be no harm in doing that.

The Connétable of St. Martin:

I think most people probably look already.

Le Gallais & Luce:

I think they do. Some people like to know all the process.

Collas Crill:

Most firms have a summary of what the process is.

The Deputy of St. Mary:

Yes, in law firms but I am just wondering whether...

Collas Crill:

Yes, but if we had ... no, we could do that. I do not see a problem with that.

Le Gallais & Luce:

I think we have in the past, we have given estate agents sort of brochures and things saying how a particular transaction works, if it is a share transfer transaction, flying freehold, freehold, all the different processes they need to consider and put in place. But one of the things it always used to be in place, which does not seem to be so much now, is the finance. We have things that fall through at the last minute because people cannot get the finance. You would think you would check you can get the finance before you put in the offer.

The Deputy of St. Mary:

That is what we are trying to get at.

Le Gallais & Luce:

Which means you have done a lot of work and you have had to pull out, so you have wasted the other side's time as well because your client has not been able to get the finance. That is very frustrating at times.

The Connétable of St. Martin:

Excuse my ignorance. So the finance really is not granted to people as such, it is granted on property?

Le Gallais & Luce:

At the end of the day, yes, it is. Obviously they will say to people: "Well, we think on your salary if you can borrow X times the salary" they will give them an indication but it is always subject finally to the property, whether or not they are happy with the title, which they are not going to know about until the end of the transaction.

The Connétable of St. Martin:

It is a long time since I did mine. Yes, I see what you are...

The Deputy of St. Mary:

Sorry, I am leaping about on my own agenda. What you said is useful as far as getting the vendor to ... not commit himself but give some thought to the overall transaction. What about a purchaser? We hear that purchasers will buy a property through one agent and then as a safety measure in a way and go on looking for further properties elsewhere, what about some form of initial deposit being paid over?

Collas Crill:

I think the problem with a deposit, and I do not see - I do not know if you - but I do not see that happening too much in terms of purchasers putting an offer in and then basically looking somewhere else because I think ultimately they are instructing the lawyers on it, they are incurring costs, so generally ... I cannot say I have come across that too much whereby they are just sort of playing the vendor. They may sometimes, as Tony said, say: "Do not do anything for a couple of weeks" and you are not allowed to say anything and that is one of those difficult ones: what do you do? But, no, I do not see that happening. The problem with the deposit, again as we go back to the fact that if I am acting for them I am going to wrap that deposit up in so many caveats that you may as well just keep it.

The Deputy of St. Mary:

Even if it was a fairly nominal one, I mean it would still be caveated, would it not?

Collas Crill:

It would be the same, and I think that would then cause huge frustration to a vendor because if the vendor says: "Well, you know, they are serious if they are making it subject to all of this" but these are all things that could come out of the woodwork. You could intend things now off the top of your head that could be wrong with the property.

Le Gallais & Luce:

A lot of people do not have that much spare cash...

The Deputy of St. Mary:

I do appreciate that.

Le Gallais & Luce:

... when they are purchasing a property that they can afford to put down a deposit.

The Deputy of St. Mary:

I am not talking about a 10 per cent or even a 5 per cent but just something, something that demonstrates commitment, does it not? But there probably is not an alternative, is there?

Collas Crill:

I do not think there is. The lawyer and the agents do get a feel for it though if they are acting for a vendor and the purchaser is not serious, and there will be questions asked: "How are you getting on with your searches" and things like that.

The Deputy of St. Mary:

That is right. The point, if an agent sells obviously it is in his interest to instruct you guys straightaway then you will be in touch. You will need to also find out straightaway who the lawyers are for the other side, and there you will smell a rat.

Collas Crill:

Yes, indeed. You get a feel for it. Unfortunately you have to guess a little bit, but again the other problem is you have obviously got to act in accordance with the client's instructions within reason.

The Deputy of St. Mary:

Okay, all right. Do feel free to leap in. I have gone off-piste.

The Connétable of St. Martin:

Very much so.

The Deputy of St. Mary:

Just touching on again, you have touched on the Friday being the only date, what about either the Law Commission, back whenever it was, they felt there was no need to go before the Royal Court sitting via the Bailiff, et cetera.

Collas Crill:

I think the only thing is, I have always felt on that, is that stops delays in that there is a finality to it, you know you have got to be at the court otherwise it is not going to happen. Query whether - and I know I think we talked about this last time - we could have another day. I know there might be resistance but the fact it is just one day a week I think is not probably right. I think it could be 2 days a week but...

The Deputy of St. Mary:

Okay, that is a possibility. My point really was not so much that, it was a composition of the Royal Court for that purpose. You could actually have maybe the Master or someone else.

Collas Crill:

That is right. No, of course. Yes, of course.

The Deputy of St. Mary:

That would mean that would...

Collas Crill:

Yes, I do not see a problem with that.

The Deputy of St. Mary:

A social question: do many clients worry about ... some like to go to the court because it is an event and it is a big transaction in their lives, and as such, even feel nervous about doing that.

Collas Crill:

There is a mixture.

Le Gallais & Luce:

If it is a first-time purchase, first time they have had the opportunity to have a freehold property they would like to go to court. You very often see ... basically what happens. If they have done it quite a few times most of the time you get a Power of Attorney and you go and represent then.

The Deputy of St. Mary:

On a typical court day how much time is spent in doing the transactions; less than an hour, is it not?

Collas Crill:

Well, you are gone by 2.45 p.m., 2.50 p.m.

The Deputy of St. Mary:

No, the lot finish in 45 minutes or so, yes.

Collas Crill:

No, 15. It starts 2.30 p.m., 15, 20 minutes. Yes, it is as quick as that. Yes, it would not need to be in court. It could be...

The Deputy of St. Mary:

No, but equally we are not sort of wasting the Bailiff's valuable time too much by carrying on.

Collas Crill:

No, because they do that and then they do the court list. The court list follows that but, agreed, whether it needs to be the Bailiff or not. It is often Commissioners or Jurats can do it as well.

The Deputy of St. Mary:

Yes, okay.

Collas Crill:

I suppose the other alternative: does it need to go to court at all, i.e. could it be done on signing? I think the only problem with that is ... you tell me how many transactions might you have in a given week?

Le Gallais & Luce:

Yes, we had a look at that list today and it was about 8 and a half of A3.

Collas Crill:

So you might have sort of 20, 25 per week. You try getting clients in to sign 20 different types of agreement and again at least if everyone is going to court, Powers of Attorney, it is just quicker, it gets it quicker.

The Deputy of St. Mary:

It is a focus day, is it not? I understand that.

Collas Crill:

I believe, is it Guernsey, they have 2 days?

The Deputy of St. Mary:

All right. But of course obviously, yes, you need to marry up because it might be in a chain and there is other...

Le Gallais & Luce:

Well, that is the other thing.

The Deputy of St. Mary:

What about the proportion of transactions that are represented by share transfers but presumably you still would ... of course the chain effect you are probably still focusing on Friday largely, do you? Maybe you do not because if you were a builder you would not need to, would you?

Le Gallais & Luce:

You would not, but it depends. If you are a first-time buyer and you are borrowing for the purchase, I think we have some going through today because there was no chain. If you have got a chain of people who are selling to you or buying a freehold property they can only do it on a Friday so you have got to tie up 2 transactions even if it is just the signing of the purchase of the share transfer on a Friday so that you can then go ahead and pass the contract in the afternoon knowing that you are going to get the money from your sale. So sometimes if it is just like a standalone transaction then you can do it any day.

The Deputy of St. Mary:

Have you any idea what percentage are standalones?

Le Gallais & Luce:

As against going to court?

The Deputy of St. Mary:

Yes.

Collas Crill:

Share transfers, a tenth. Less than that, probably less than that actually now because most apartments, the trend is starting to move towards flying freehold, which goes to court anyway. Probably less than a tenth.

Le Gallais & Luce:

They are getting less and less.

Collas Crill:

Yes.

Le Gallais & Luce:

In terms of volume of the clients.

The Connétable of St. Martin:

Tying in with the Friday obviously is the move on the Friday as well, is it not? And I think that is what...

Collas Crill:

But I think that is something that does need to be addressed in terms of...

The Connétable of St. Martin:

Give the keys. Obviously I have been in court, I do not know if you saw me on Friday, because we did one. My poor Procureur has been up there how many times and he thought he went in front of the court to...

Collas Crill:

I saw that. He was very keen.

The Connétable of St. Martin:

I am pleased ... Sir Michael sort of made a joke of it. Yes, that is the only thing. The people in front of me were exchanging keys and you think it is such...

Collas Crill:

I think on that, I think that is where there could be ... that could be dealt with, and again I cannot understand sometimes why the remove cannot take place on the Monday, Tuesday, or whatever. I know there are bank issues potentially and insurance issues but that is the sort of thing whereby if it can ... if something can fall on Friday, and you have paid for removal men for the Saturday morning or Friday afternoon, that is where I think it is. Not necessarily fall, but even if it is delayed, which can happen.

[15:45]

The Deputy of St. Mary:

Under the present system you can complete on Friday and have removal on a different day.

Collas Crill:

You can and again that to me is a sensible way of dealing with it. I mean, as I say, I sold my house recently and we moved ... we have got the removal men in for the Monday or the Tuesday and we did not do an awful lot until the Friday, because I know how the system works and I thought if it is delayed it is fine, it is a week's delay but at least I have got time to put ... and I tell them. I say: "Look, it is going to be this week but it might slip to the following Tuesday because of the court." They knew it so they were not going to charge me for it.

The Deputy of St. Mary:

But your purchaser, for instance, would they ... would your purchaser's borrower be happy to release the money with you still being there. It would probably be...

Collas Crill:

No, but that is the question, is it not? Generally speaking, I would have thought for a couple of days there does not seem to be too much of an issue, if you go beyond that...

Le Gallais & Luce:

The money is not generally released until the Tuesday after the contract anyway. That is when most of the sale proceeds come through and the loans come through is on the Tuesday after the passing of the contract.

The Deputy of St. Mary:

Could one tweak that even more by if you wanted to delay it until the Thursday? Could you build in some sort of sub-agreement which would be the money would not leave the purchaser's solicitor's hands until you are out?

Collas Crill:

The old law was 10 days because there is that law that if a party went bankrupt within a 10-day period. Whether the change of money and the moving out could be linked, at the moment they are not linked in terms of the money has to be paid over on the Tuesday irrespective of whether they have moved out.

The Deputy of St. Mary:

Paid over to the vendor?

Collas Crill:

Yes, there is an undertaking from the purchaser's lawyers that they will be releasing that money on Tuesday without fail. It does not matter what happens in that intervening period.

Le Gallais & Luce:

Even if you do not get the money the lawyers have given an undertaking that they have to pay it. It makes us quite cautious.

The Deputy of St. Mary:

I am sure it does. But that undertaking could be varied, could it not?

Le Gallais & Luce:

It would have to be a change in the Law Society code of conduct.

The Deputy of St. Mary:

So it is not a specified agreement between the 2 parties?

Collas Crill:

At the moment it is the Law Society.

Le Gallais & Luce:

The Law Society, yes.

The Deputy of St. Mary:

Okay.

Le Gallais & Luce:

The reason for that was that, as Paul quite rightly said, it used to be 10 days but they decided that was too long a period for the monies to be handed over, so they put it for the 4 days to make it easier for the bank transfers to take place of the loan monies. Because a contract was passed at 2.30 p.m. in the afternoon the system at the time in terms of electronic transfer funds could not happen on that afternoon. So it had to be either on the Monday or the Tuesday the following day, and they just said the Tuesday because it gave them Monday; time to sort out all the monies to make sure everything was transferred on the Tuesday. You clarified already that this process is done under your Law Society rules rather than law.

Collas Crill:

That is right.

The Deputy of St. Mary:

If it were demonstrated it caused problems, I mean, the Law Society has it within its own powers to amend if required, is that right?

Le Gallais & Luce:

Yes.

The Deputy of St. Mary:

But you may not think that is...

Collas Crill:

No, there is no ... but it is something. It might not even be something that is linked in terms of the payment of the money and the moving out. I suppose you are intimating is that then the vendor does not move out but the money has been released there is a potential issue there, but generally speaking I have never come across...

The Deputy of St. Mary:

There could be other reasons then.

Collas Crill:

Yes. So it is really just as long as the insurers are happy and as long as banks are happy...

Le Gallais & Luce:

You can have a return to people moving in and the money has not transferred, so do you want somebody moving in to a house before you know you have got the money for it?

The Connétable of St. Martin:

But of course moving to a Tuesday or Wednesday or whatever day, I mean it is Tuesday now, all people moving at the same time, it does not make any difference, does it? If it has not gone through on the Friday in the court...

Collas Crill:

No, that is right. But at least if you have got that little bit of time, that little bit of leeway, which can be negotiated at the time, it does happen now. It is not all the removal side of things has got to happen on the Saturday. At least then you have got an opportunity to change it. You will know sort of Friday or even Thursday if it is going to change. You do not often get deals on the Friday suddenly:

“Oh, by the way, it is not happening.” If there is that, the client will know that there is a possibility in the day before or the days leading up to it.

The Deputy of St. Mary:

I have a question here, I am not sure it is relevant. It relates to whether there should be a formal code of conduct setting out work arrangements between lawyers and estate agents. But, in a way, the practical aspects were perhaps covered by the form you were talking about...

Collas Crill:

I do not think there is ... you might see it different. I do not think there is an issue between lawyers and estate agents. I think as long as lawyers and estate agents talk then that is fine. We do not have any issues on that and if the agent at the start gives an unrealistic date to the vendor's or purchaser's perspective it is for the lawyer to say to the client, to the agent: “This is not going to happen at that time” so managing the expectations at the start. So I do not think there needs to be any link.

The Deputy of St. Mary:

I am not trying to create an artificial one.

Collas Crill:

I think maybe there is a sort of best practice thing for the lawyers in terms of when should you go out onsite and things like that. That would be ... but as I have said, the problem with that I foresee is at the moment is, yes, we all know that is best practice but I think certainly certain firms are finding it hard because of the sheer volume that they have got in getting the things and getting the work done in time.

The Deputy of St. Mary:

Perhaps we can leap to that question. We had got one here about the shortage of conveyancers. Is there a problem you see capable of being addressed? One thought we had was whether there should be ... I mean in England you have a licensed conveyancer for instance. Could there be some sort of title to one which it would seem more of a career move, maybe rather than being suited to law in some things? Is that a possibility to be considered?

Le Gallais & Luce:

I was on a Law Society subcommittee to look into training for conveyancers because there were not so many coming through and, to be honest, we found it very difficult to get any kind of consensus on that sort of thing. One of the concerns was from some of the firms, was that if you allow licensed conveyancers then that takes away a whole area of income from lawyers unless licensed

conveyancers have to work for a lawyer. But then what is the point of having that qualification as a licensed conveyancer if you then are still subject to working for a lawyer. You want to be able to do it so that you can work for yourself. So there was a little bit of reluctance on the part of firms to agree to that. Eventually the subcommittee just folded and nothing came of it.

Collas Crill:

I have to say I do not quite ... the only thing I do not understand...

Le Gallais & Luce:

I do not agree with it but...

Collas Crill:

No, I do not understand in terms of attractiveness for a young person coming through I still would say I would have no qualms in recommending it to somebody. I mean it is well paid and also, as well, there is a real requirement for young conveyancers coming through as the older ones are retiring.

The Deputy of St. Mary:

That is what we have heard, yes.

Collas Crill:

I cannot understand it. I know - I do not know if you have got any - we took on one last year, a trainee, and I think there is huge potential for them if they ... it is not too dissimilar to the old days with the young ones coming through, who have been doing it for 40, 50 years now. It is a well-paid profession.

Le Gallais & Luce:

There used to be an issue, we used to go to the schools and explain what conveyancers do and as soon as you said to them that you need to have a good grasp of French, that is it. Most people just did not, they put it to one side as a potential career. But now the contracts are done in English it might be more attractive except for the fact you still need to be able to speak French for the old contracts when you are checking the title back 40 years. Most of those contracts are still in French. So there is an element of reticence there because I do not think the youngsters feel confident enough to be able to do that. That is all part of the training. That was one of the things that we were looking at, is making sure the people were properly trained to read conveyance in French, because it is not necessarily...

Collas Crill:

They pick it up.

Le Gallais & Luce:

They do pick it up, yes.

The Deputy of St. Mary:

I think the vast bulk of conveyancing work, especially on domestic property, is done by non-advocates and non-solicitors, is that right? Or do some ... is there a fairly large...

Collas Crill:

You still get quite involved in...

The Deputy of St. Mary:

I know they are involved in commercial transactions.

Le Gallais & Luce:

We have never ... a lot of firms are tending to appoint conveyancing managers who are senior conveyancers to deal with it and the lawyers are there just to answer any particularly difficult questions, if necessary. But our firm, we tend to involve our lawyers at a much greater level in dealing with the clients as well and just overseeing what the conveyancers do.

Collas Crill:

It is probably still a mixture. We probably say two-thirds conveyancers leading and one-third lawyers and you are probably the same in terms of the volume of transactions.

The Deputy of St. Mary:

Just so you probably know, I only know this because my son's buying a property in England. To my horror found out they were licensed conveyancers and they were going to charge ... their fee was fairly small I have to say for what they were charging, so I can understand my reluctance to ... I would not want to see any procedure which delivered a second-hand service, which I suspect might happen in England.

Le Gallais & Luce:

But then you have got the issues of insurance. The licensed conveyancers have to be insured the same as lawyers are now, insured with professional indemnity.

The Deputy of St. Mary:

Of course, in England, as you know, a minimum of £2 million, I think it is, so it could cover that but then that might encourage them to be fairly gung-ho about ...

Le Gallais & Luce:

Potentially, but you are only going to get away with it if you are not...

The Deputy of St. Mary:

Right. I am trying to leap through my questions. Gazumping and gazundering, is that a real problem?

Collas Crill:

I say no. Again you would see more. Certainly gazumping; not at all in recent times. Now the market is turning round we might see some, I do not know.

Le Gallais & Luce:

I would agree.

Collas Crill:

Purchases price is as discussed.

The Deputy of St. Mary:

Okay, right. Fine. I understand that. It probably will just go whooshing up and maybe we will come back into it.

Collas Crill:

It could do, yes.

Le Gallais & Luce:

Unfortunately...

The Deputy of St. Mary:

But again there is not much you can do about that in the present system. Changing tack slightly. A question on a legal ombudsman or an ombudsman involved with property transactions. We have a Financial Services Ombudsman already. The estate agents, when we saw them, talked about they had spoken to the U.K. one and were prepared to, I think, use his services if required. But - I do not think I am betraying any secrets here - when we had a presentation by the Financial Services one recently, he made the point that once an ombudsman is in place for certain things it is almost natural for his portfolio of situations to be added to. Do you see any advantage or disadvantage in his being

there? I am thinking possibly more from the point of view that would itself maybe lead on to regulatory requirements probably for estate agents rather than you guys because you have a regulation yourselves. I presume you will say you have very few complaints arising from this, apart from maybe the system.

Collas Crill:

No, that is right. I think that is right.

Le Gallais & Luce:

Because ultimately if there are any complaints in regard to service or professional conduct then they would be referred to the Law Society, so if there are any issues there then I think that it would ... there is a mechanism already in place to deal with those. Whether or not that...

The Deputy of St. Mary:

Right, I have got - subject to you throwing anything more at me - I have 2 general final questions. One is a registration process distinct from the present one.

Collas Crill:

Registered title?

The Deputy of St. Mary:

Sort of registered title. I mean that would be the ... reading the Law Commissioner's report they go on about that some years ago.

Collas Crill:

Nice idea but...

The Deputy of St. Mary:

I was going to suggest you were going to say that.

Collas Crill:

Yes, that would solve a lot of problems, would it not, but just in terms of who is going to guarantee title? You are going to need so many people on that to do that.

The Deputy of St. Mary:

Yes, that would involve serious money being thrown at it, so, yes, I think you have summarised it, nice idea that could be done but...

Le Gallais & Luce:

But practically it would take a lot of organisation to get all those titles...

Collas Crill:

It is a huge ... there just would not be the resources. You would have to throw the whole Island, all the conveyancers at it that exist times whatever number and, for all these properties, title to be effectively guaranteed.

The Deputy of St. Mary:

Although again, just borrowing a leaf from the U.K., I came over about 40 years ago and I was still doing two different sets of fees for a first registration of title or subsequent so it took a long process. The basis of the lawyers were, I suppose, do the work for the rest to a certain extent.

Collas Crill:

But who ultimately guarantees it? You would not get ... if we are acting for a purchaser there is no way, and I do not think our insurers would allow us to guarantee that title in perpetuity, and that is the problem you have got and so therefore it is going to have to come from the States.

The Deputy of St. Mary:

Unless it was done ... sorry, I do not want to get side-tracked. Unless there was some sort of financial arrangement whereby the Government felt it easier to subsidise your work, et cetera, on the basis they would in turn take on the ...

Collas Crill:

Yes.

The Deputy of St. Mary:

Yes, okay. All right.

The Connétable of St. Martin:

Which is likely.

The Deputy of St. Mary:

Again, you have to understand where our brief came from. It is from the layman really, they have these problems consistent with what you say and you are tending to certain of them, et cetera.

[16:00]

Is there any other area out there which we should be looking at, which would improve this? I mean our intention is to ... we have been charged with delivering some sort of report so we will do that. I mean whatever you do hopefully it will not cross with what you are doing.

Collas Crill:

Yes, indeed.

The Deputy of St. Mary:

So is there anything in there we should be looking at or thinking of in terms of helping the overall process?

Collas Crill:

I think from our point of view, as I say, we are on it in terms of we are trying to stop the anomalies of transactions which are causing delays. We have dealt with the standard searches and we have dealt with the things I mentioned at the start. All of those things if that is something ... one item less to worry about in a title check, so you do not have to be checking things like powers of attorney and whether they were registered property and the person's name was correctly mentioned, that sort of nonsense, that takes another 10 minutes, 20 minutes and longer if there is an issue, if we can deal with all of that, that will mean that we are able to ... so if we get rid of all the old antiquated stuff we will be able to focus hopefully on the simpler side of things. The only downside on that is obviously as more and more legislation comes in there is more work for us to do. For instance, main requirements, we have obviously got the new thing with surface water and foul sewers that now is something that is coming on to our radar when we are doing searches and things like that. Unfortunately it is a build-up, but that is the thing that we could do in terms of the actual completing on a Friday I think allowing - as long as banks are agreed to it, and insurers - people to move out within a certain period of time, if that can be done, is sensible. I do not know about what you think in terms of more than one court date. That was always something...

Le Gallais & Luce:

One of our members on the committee did suggest that ... found it quite difficult to explain it to large corporations where there are commercial transactions, for instance they are taking on a long lease of premises and they are spending quite a lot of money on it, why they can only do it on a Friday afternoon. It was whether or not they could have a separate system for commercial transactions such as registration of leases, long leases or even acquisition of commercial properties.

The Deputy of St. Mary:

I take the distinction. I mean our instructions are on domestic events although when I think when we asked the Bailiff he tried to extend it.

Collas Crill:

But the fact, if you did not have to have commercial transactions happening on the Friday that would free our resources up a little bit as well. If they could have it any day that is another thing that maybe...

The Deputy of St. Mary:

Resources from the individual firms?

Collas Crill:

Yes. It means if you have just got domestics on a Friday you do not have to be worrying about that 95-page lease as well that could be done on a Monday or a Tuesday or whatever. Then at least that is another thing.

The Deputy of St. Mary:

That is a good point, yes.

Le Gallais & Luce:

They did so from a reputational point of view, a lot of big corporations outside the Island who operate over here do not understand why we do it on a Friday afternoon.

Collas Crill:

It makes us look a little bit...

Le Gallais & Luce:

It makes us look a bit pampered, yes.

The Deputy of St. Mary:

Yes, okay. That is a good point. Guernsey do it on 2 days.

Le Gallais & Luce:

Yes, absolutely and we do not want to be behind Guernsey.

The Deputy of St. Mary:

Right, okay. Have I missed anything?

The Connétable of St. Martin:

I do not think so.

The Deputy of St. Mary:

I am sorry about my...

Collas Crill:

No, it is fine.

The Deputy of St. Mary:

That has been most useful. I like to think we covered most things and your agenda going forward is we just have your ... we are not going to interfere with it but your ... please keep us informed. It would be useful for us.

Collas Crill:

Yes, indeed. We are hoping ... certainly I would hope by the end of the year we will have the questions done and agreed, certainly from that first thing and if we can circulate that to the profession that would be helpful.

The Connétable of St. Martin:

Is it we are wasting our time? Is there a need for what we are trying to do?

Collas Crill:

I do not think there is a need for you to be looking at gazumping and the like, however, yes, we have to take note of the fact that people are ... that the public are unhappy about the fact that everything seems to be last minute. So I think that is something...

Le Gallais & Luce:

I think we could do perhaps a little bit more actually letting people know what the system is and how it works and what they should expect.

The Deputy of St. Mary:

That is what I was coming to earlier on with the idea of some sort of Fool's Guide or whatever you would like to call it.

Le Gallais & Luce:

I do not think that would be a bad thing because I think some people coming into it, it is a complete mystery to them. As they do with a lot of legal things they think we are just hiding things but we perhaps do not do enough to get across to the people what is involved.

The Deputy of St. Mary:

I know you are making a suggestion, is that being done at Law Society level or by individual firms once they are told, as it were?

Le Gallais & Luce:

I think individual firms would have their own systems in place already for advising their...

The Deputy of St. Mary:

But would it help to open it up to people through the Law Society?

Le Gallais & Luce:

It could do, yes. If they put a general thing on the Law Society about how transactions work. As I say, there are different transactions and they work differently. The share transfer obviously you have got to check title, but you have also got to check the company side of things. So people do not understand the distinction and they also do not understand sometimes afterwards that they do have a responsibility as a director or a shareholder of a company to be involved in that. They think this is my house, I own my house and that is all I am interested in. They do not go to meetings. They do not participate. Then when somebody asks them for a contribution they do not understand why.

Collas Crill:

It is managing expectation I think from the start. If we could do that from the start so everyone knows what the position is, however I do think there are a couple of areas where the practices could improve in terms of carrying out searches, visiting properties 2 days before, that is not right. Just as it is not right for the surveyor to be doing it. But we know why it is happening, because people are too busy.

Le Gallais & Luce:

Volume of work. But that is something I think hopefully could be ... but how you bring that into practice, it can only really be a sort of this is the best practice but how do you enforce it? That is the thing.

The Deputy of St. Mary:

We will carry on with our ... Richard Renouf, who you probably know, he is away unfortunately at the moment and would like to have been here, but we will have a ... as you know it is recorded, we will have a transcript, we will go through it and work out what information is going to be useful to us. That is probably it, I think, is it not?

Collas Crill:

But any further questions or if you wanted to come to one of our meetings, turn it the other way, then by all means.

The Deputy of St. Mary:

But anything relevant I am sure we would like to but we would not presume to gate-crash. Thank you, gentlemen. I declare the meeting closed.

Collas Crill:

Lovely, thank you.

Le Gallais & Luce:

Thank you.

[16:06}