



Scrutiny Office

Residential Property Review Panel

Mortgage Providers/Brokers

TUESDAY, 3rd OCTOBER 2017

Panel:

Deputy D. Johnson of St. Mary (Chairman)

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

Deputy R.J. Renouf of St. Ouen

Deputy A.D. Lewis of St. Helier

Witness:

Peter Seymour, Managing Director, The Mortgage Shop

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

Thanks for coming. We are one member short but he will be in shortly. Welcome to this public hearing of the Residential Property Panel and thank you also for your written submission some time ago. We are getting towards the tail end of our project here and having seen all the written representations we would just like to get first hand from various people their involvement. Very basically we have a list of questions but can you start off by saying where you are in the process of...

Scrutiny Officer:

Chairman, there needs to be around table names.

The Deputy of St. Mary:

Sorry, I knew I missed something. My apologies. Yes, for the record can I confirm those of us who are here? I am David Johnson, Deputy of St. Mary, chairman of the panel.

Deputy R.J. Renouf of St. Ouen:

Deputy Richard Renouf, member of the panel.

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

Constable Michel Le Troquer, co-opted on to the panel.

Managing Director, The Mortgage Shop:

Peter Seymour, Managing Director of The Mortgage Shop.

The Deputy of St. Mary:

My apologies for that. Thanks for reminding me. As I was saying, we have seen various people and have read various representations but from your point of view you are also very much involved in the mortgage process. Can you tell us where you come in the batting order of things and the process of the whole thing from where you are?

Managing Director, The Mortgage Shop:

In terms of the process we arrive on the scene at the early stages followed by lenders, valuers, lawyers. That is probably the correct line of the procedure. So we will encourage our ...

[Interruption] Hello, Andrew, how are you? You have heard all this before, I am sure.

Deputy A.D. Lewis of St. Helier:

It is always interesting hearing it again.

Managing Director, The Mortgage Shop:

So we finally encourage our many clients to come to see us to find out how much they can borrow before they even start thinking of looking at a property. So therefore we are already instrumental in ensuring or attempting to ensure that the process, the lead-in process, up to the time that completion takes place, is reduced to the absolute minimum. It is very, very important. We have seen many potential purchases end in tears and a great deal of upset when people have effectively moved into a property without having previously looked to see how much they can borrow and also for us to delve a little bit more deeply into their backgrounds to make sure that they are squeaky clean from the point of view of credit worthiness. That they do not have petty debt or Royal Court judgments or, having come from the U.K. (United Kingdom), have C.C.J.s (County Court Judgment) registered against them and just generally making sure that they will meet the requirements or expectations of a lender. So that is the very first stage which we are at; hopefully before people have even gone out into the marketplace to look at a property.

The Deputy of St. Mary:

Thank you for that. As far as we are concerned that is the order of things but I expect that quite a few put their offer in for a property and then go hunting around for mortgages or is that not your experience?

Managing Director, The Mortgage Shop:

That used to happen a lot more than it does now because people I think at long last realise by listening to peer group and colleagues at work and family and various people that there is a procedure that really ideally needs to be followed, which is getting preapproval for the maximum level of borrowing before going out into the property market.

The Deputy of St. Mary:

So leading on from that, we spoke to agents; they obviously have the same process and make sure they have got funds available. Do you or would you consider or are you ever asked to produce any sort of confirmation of funds or likely availability of funds in principle?

Managing Director, The Mortgage Shop:

We run a 5-minute review option which is open 5 days a week, and at times is so popular we had people queuing out the door. Less so in the last ... this year in particular, but that 5-minute review process is just taken purely on the financial evidence that people give us without there being anything to support it. The 5-minute review process though does start to trigger the process of if people ... if potential purchasers and borrowers like what we are telling them then they will arrange an appointment to come back and they will bring a whole sheath of documents which will form part of the overall mortgage bundle which covers absolutely everything from I.D. (identification) right the way through to taxes that are paid, evidence of income, bank statements, credit cards, any form of debt or any other regularly occurring outgoings. So at that stage we are able to actively identify exactly how much a couple can borrow and we will issue what we call mortgage certificates, if that is required, which can be waived under the nose of estate agents. Estate agents love that sort of thing because it does mean that these are genuine punters.

The Deputy of St. Mary:

I had not realised that service was available. That is good to know, yes.

The Deputy of St. Ouen:

How often is that done that you issue a mortgage certificate?

Managing Director, The Mortgage Shop:

The actual mortgage certificate probably 10 per cent. People frequently come to see us and what we are able to obtain for them is frequently greatly in excess of what they are expecting to borrow,

so therefore a certificate is not issued in those circumstances. The main issue that holds back most people in buying a property in the Island is not income but size of the deposit. That is what restricts people.

Deputy A.D. Lewis:

The extra lending that you can do on deposits, do you broker that sometimes or are they free to go wherever they want presumably?

Managing Director, The Mortgage Shop:

To increase the size of the deposit?

Deputy A.D. Lewis:

No, to acquire the money they need for a deposit. So although it might stop people there are other people that will say: "Okay, we will find the money some other way", often it comes from the "Bank of Mum and Dad", particularly with young buyers, but there does appear to be a lending where you can go and borrow some of your deposit. Do many of your lenders allow a second charge?

Managing Director, The Mortgage Shop:

On 2 counts, yes. Bank of Mum and Dad is responsible for an extraordinarily large number of successful transactions in Jersey and in the U.K. as well. In fact the Bank of Mum and Dad is described as being the ninth largest bank in the British Isles apparently. Rather good of you but I think also very attractively. Many people are able to obtain funds to boost their deposit. Although it is quite extraordinary also the number of couples who are able to save, in our view, phenomenally large amounts of deposit funds merely by saving. They stop going out. You have a young professional couple both on £45,000, £50,000 a year, if one of them stops spending that money and puts it away they have got £50K in the account at the end of the year. Do it for a couple of years and they have got a massive deposit and that is where quite a lot of the funds ... however, we do not encourage or condone, nor do the banks, any form of additional borrowing because that is really outside of the game plan. In any case, the lenders will find out because of the extensive searches through Experian and similar checks, credit checks like that, which would instantly reveal additional borrowings which have been taken on, even if it is left to the moment.

The Deputy of St. Mary:

If the banks knew that there was additional borrowing to raise the deposit they would not be over favourable in giving the big loan, would they?

Managing Director, The Mortgage Shop:

Very rarely, if we have individuals who have a very high level of income, we will arrange a private loan for them or a personal loan for them but that is very, very rare and we will only do that when we are fully aware that is ... know that the lenders were made fully aware of that and also know that the borrowers are not going to have their financial circumstances jeopardised in the future.

The Deputy of St. Ouen:

Just come back to the mortgage certificate you mentioned. The estate agents have been telling us that they would like to see confirmation that purchasers have got a mortgage in place. So I was just wondering: is there a call and do you issue a confirmation that, yes, these clients are able to borrow and the facility is available to them?

Managing Director, The Mortgage Shop:

If they ask for it, yes, we do. As I say, about 10 per cent of the time we will issue a mortgage to them, but it is not always relevant or valid because many of our potential clients come to see us a year, 18 months, 2 years before they are ready to buy and as a consequence ... perhaps they have not any deposit saved whatsoever, and therefore there is no point in issuing a mortgage certificate in a situation like that. Then those people will regularly come back to us, by which time circumstances have changed, incomes have increased probably, they have got their deposit and the advice we have given them previously might no longer be relevant. If there is a far more regular call from agents and from the industry for mortgage certificates then, yes, I think it is something that firms like us should encourage and perhaps insist upon doing.

The Connétable of St. Martin:

Excuse my ignorance; brokers like yourselves, if I was trying to buy a home now, another home, sell my house, needed to upgrade, bigger house or something, I can go direct to a bank first?

Managing Director, The Mortgage Shop:

Of course you can.

The Connétable of St. Martin:

I do not have to go to a broker?

Managing Director, The Mortgage Shop:

No.

The Connétable of St. Martin:

But you are providing a service which you then put direct to a banker or you provide the...

Managing Director, The Mortgage Shop:

We have access to every lender in the Island, many of whom potential borrowers do not even know exist. Whereas you have access principally to your own bank and that bank might not necessarily be in the market to lending mortgage funds or even competitive. Whereas we know at the drop of a hat exactly which type of lender is going to suit an individual, couple, or individual requirements.

The Deputy of St. Mary:

Can we move on to one about involvement in surveyors? You will know which banks employ which surveyors, I suppose. Do you point your clients in a particular direction if you want to do a survey or...?

Managing Director, The Mortgage Shop:

The whole system has changed in the last ... we have had a start in April 2014 when the U.K. regulators introduced the mortgage market review, M.M.R., which strikes fear in the hearts of all lenders. It was intended to eradicate totally the irresponsible - not my words, the regulator's words - lending that helped contribute towards the world financial crisis. Mainly by issuing mortgages which were completely unaffordable from a borrower's point of view, interest only mortgages, mortgages to people who are age challenged, in other words people who are 55, 60 who have no opportunity of repaying the mortgage.

[15:15]

These regulations have changed the whole colour of the way in which banks offer mortgages. It is a very clever ploy because what M.M.R. did was to put the onus on the lender rather than the borrower if anything went wrong. So if a lender had to foreclose on a borrower they were held accountable by the financial authorities and are now. It is a very clever way of doing it. So when if that has happened is that - and I know I am going off on a tangent but it will go back to what I think is relevant - all banks now work on an affordability calculator and while the average rate of interest is 1.75 to 2.25 per cent at the present moment the banks will work on a "what if" basis, a stress rate, which ranges from at the basis we see at 5 per cent to NatWest at about 6.75 per cent, and they will run a calculation and say: "If this couple want to borrow £400,000, if they can afford it at 5 per cent they can have the mortgage and whatever the going rates are." So what they are doing, they are looking at the future. It is apparent that interest rates will start to rise some time or another. I think in reality we are closer to rates rising now than we were 8 years ago at any rate. So this is a very, very effective way of making sure that the correct level of lending is given to

individuals. As part and parcel of M.M.R. a whole raft of other impositions or rules were introduced to include responsibility by the lenders to handle or instruct all valuations in whichever part of the country they are from. Now, rather than mortgage brokers instructing local valuers, all banks will use a centralised valuation service based in the U.K. For most of them Valuations Direct, who are based in Nottingham, look after most of the banks. There is a local service that looks after one of the lenders here. What those contractors will do is that they will farm out on a rotating basis instructions to the different valuers in the Island. What they do not know though is whether those valuers are on holiday or ill. We have 4 principle valuation firms in the Island: Reynolds Associates, Wills Associates and the 2 one-man bands, who are Gary Le Feuvre and Paul Labesse. All we need is Paul Labesse to be on holiday and Gary La Feuvre to be ill and we have suddenly got a massive problem in terms of valuations being done in a timely fashion.

Deputy A.D. Lewis:

Those 4 are supplying most of the banks?

Managing Director, The Mortgage Shop:

Yes.

Deputy A.D. Lewis:

Even though there are lots of other surveyors, the others are listed.

Managing Director, The Mortgage Shop:

Yes, but in reality many of the other surveyors are not qualified to value property. You might have quantity surveyors and building surveyors but these guys are not qualified to specifically value residential or commercial property.

Deputy A.D. Lewis:

But there are more than 4, are there not?

Managing Director, The Mortgage Shop:

Those are the principal 4 firms which are acceptable to lenders. Others have fallen by the wayside either because they have retired or because they have blotted their copy books. So those are the 4 principal ones.

The Deputy of St. Mary:

Maybe they do not want the work. Would that be a problem?

Managing Director, The Mortgage Shop:

Yes, there are others, I can think of a couple of them, who in the light of very high professional indemnity insurance premiums, which they pay every year, they quite simply pulled out of the market because they just did not want the business. They just wanted to become ordinary estate agents rather than doing any of the professional work. So there is an acute shortage. For that reason, and because the responsibilities are farmed out now, delays of up to 10 days to 2 weeks are occurring regularly before a valuer even appears on the doorstep to look at a property where the mortgage has previously been approved for, say, 2 weeks to 10 days before. So that is one area where delays are occurring.

The Deputy of St. Mary:

That is interesting to know. So neither you nor the bank concerned have any input in that at all?

Managing Director, The Mortgage Shop:

No.

The Deputy of St. Mary:

Not even the local bank?

Managing Director, The Mortgage Shop:

No influence whatsoever.

Deputy A.D. Lewis:

Just thinking about some of the other large practices like CBRE, Bull & Co, Buckleys.

Managing Director, The Mortgage Shop:

They are commercial valuers.

Deputy A.D. Lewis:

But they are qualified to...

Managing Director, The Mortgage Shop:

Yes, but they are commercial valuers, we are talking about residential here, I assume.

Deputy A.D. Lewis:

I appreciate that but I mean the skillset, they are qualified surveyors. Maybe they are not interested in the work but I thought they would have been. I am surprised they are not qualified...

Managing Director, The Mortgage Shop:

I think quite frankly that they are busy enough with their current workload.

Deputy A.D. Lewis:

It is not worth their while?

Managing Director, The Mortgage Shop:

Residential valuing is quite an acquired knowledge I think, especially in the current climate where - we might move on to this - maybe we might be seeing the Jersey property market on the move. This is time of the cycle where a professional valuer's name and reputation are on the line from getting it right or wrong.

The Deputy of St. Mary:

Finishing off that aspect: common sense tells you that if one of those gentlemen in the 2-man firms are going to be away they ought to check into head office and say: "Leaving out of here 2 weeks" but I take it that does not happen?

Managing Director, The Mortgage Shop:

I do not know. I do not know what the process is. I really do not know. The valuation instructors seem to work in a very anonymous fashion.

The Deputy of St. Mary:

Anonymous?

Managing Director, The Mortgage Shop:

Anonymous and as a consequence one does not know what goes on.

The Deputy of St. Mary:

With that, is it right to say most credit committees are not on Island either of banks?

Managing Director, The Mortgage Shop:

That is correct.

The Deputy of St. Mary:

So even less input from the Island as a whole then?

Managing Director, The Mortgage Shop:

Yes.

The Deputy of St. Mary:

Mainly the Isle of Man...

Managing Director, The Mortgage Shop:

That is correct, yes.

Deputy A.D. Lewis:

Does the shortage of surveyors cause a bit of a bottleneck regularly?

Managing Director, The Mortgage Shop:

Most of the time, especially this year. But it does not just stop there because the valuers, the property valuers, are also responsible for undertaking surveys. Now if a particular property does not stand up to scrutiny in terms of structure, drains, timber and damp, asbestos, all sorts of problems like that, specialist reports are called for and in respect of the building surveys, these are taking anything up to 4 to 6 weeks before the experts can even visit the property. Now obviously what we are talking about is very critical, 4 to 6 weeks, which is the entire span from making an offer to going to court and coming away with the keys. If the property cannot be surveyed until after that what is happening? That transaction is either going to fail and the property will then be put back on the market and purchased maybe by an unsuspecting buyer who may be a cash buyer, start thinking about the implications here - or alternatively there is a sufficiently long delay for the ... extended by another maybe 3 or 4 weeks for the specialist report to be prepared, only for maybe the property to be condemned at the end of that. This does not happen very often but what is in fact happening is that many potential purchasers are being forced because of the current situation into buying property where they have not correctly or accurately or adequately researched whether that property is going to provide them with a wind and waterproof home for the rest of the time they own it.

The Deputy of St. Ouen:

But they must have got their mortgage in order to do so. How has the mortgage come forward without the...

Managing Director, The Mortgage Shop:

Yes, you are quite right because this depends entirely on whether a structural survey is called for or recommended or whether there are other elements of the report which the lenders are not that interested in. So not all lenders will be prepared to refuse to advance funds on a property where

the valuer has expressed concerned about surveys on that property. It depends also on the land's value. In 90 per cent mortgage obviously it represents a higher risk from the lender's point of view and will require greater scrutiny. A 40 per cent mortgage does mean that there is less for them to worry about in the event of maybe £20,000 worth of new roof to be undertaken.

The Deputy of St. Mary:

Can I get clear in my own mind the distinction between a property valuer and a survey? You are saying that the bank will have a value done but that same valuer might see something which triggers off a request for survey or...

Managing Director, The Mortgage Shop:

That is right. That is quite correct, yes.

The Deputy of St. Mary:

You are not talking about the individual client wanting his own survey, which is something else?

Managing Director, The Mortgage Shop:

Some do, yes. In fact we do because we have a little gang of smaller building surveyors who are not on the panels for the banks and we will employ them to undertake a structural survey or condition survey if people specifically require that. It is usually recommended for a property which is maybe in excess of 100 years old, maybe 80 years old. Properties newer than that are sometimes or generally in better condition.

The Connétable of St. Martin:

Is that before the bank one?

Managing Director, The Mortgage Shop:

Simultaneously.

The Deputy of St. Mary:

Do most clients take your advice on that or do they think: "Well, I really want ... if the bank give me the money that is enough for me"?

Managing Director, The Mortgage Shop:

Quite frankly that might cost £1,500, £2,000 extra and many people are pretty stuck for cash by this stage because of all the fees they have to pay and some of them will say: "We have asked a friendly builder to look at it and he says it is okay."

The Deputy of St. Mary:

I understand that, yes. Aside from the mortgage element, it is obviously a major factor in it, in a general sort of oversight of what is going on, have you come to any conclusions as to what is the most likely reason for an aborted sale, shall I say?

Managing Director, The Mortgage Shop:

I thought about this and consulted my colleagues and made a note here. Low valuation; that is not happening very often. We probably see one in 20 properties that are valued come in under value by the professional valuers. Not a vast amount. Sometimes £10,000, occasionally £20,000, £25,000. We had one last week which was about £60,000 under value and so what we recommend to our potential purchasers is they would revert to the estate agents and say: "This is the price that I am prepared to pay. This is the price which the professional valuers say the property is worth." Quite a lot of the time vendors by then have already committed themselves to purchasing something else and they realise a little bit late in the day to be saying: "We will get the property back on the market" only for it to be undervalued again by another valuer, so they say: "Yes, okay. We will accept the lower figure." Or they might say: "Well, let us split the difference or maybe let us settle for a figure closer to the valuation but still a little bit higher than that." If it is a 90 per cent loan to value mortgage then it is not going to happen. But if it is an 80, 85, 70, 75 per cent mortgage then it can happen because it does not skew the figures too much from the lender's point of view.

The Deputy of St. Mary:

Anything else which might...

Managing Director, The Mortgage Shop:

Sorry, other areas. So that is low valuation. Negative professional reports, a structural engineer, drains, timber and damp and so on. There is another very interesting one here; poor title to the property. Because if a property has not changed hands for 30 or 40 years all sorts of things could have gone on over the boundaries with the neighbouring properties, and I think one of the biggest issues we come across all the time is where extensions, garage extensions or extensions to the property may have been constructed, and one ends up with a bit of gutter or downpipe jutting into an adjoining neighbour's property. That neighbour then has to be part of the contract to agree to offer clear title. We will frequently find that there are disputes over rights of way; vehicular and pedestrian. Illegal development and improvements. I think one of the classic examples is a property which we were doing a mortgage on up at St. Lawrence last year where the garage had been converted into an additional bedroom but the owners, who then became the vendors, had left the garage door in place and then he had built a stud wall on the inside so it still looked like a

garage. Plus, the valuer highlighted this and when the bank saw this they said: "Well, you had better consult your lawyer" and the lawyer said: "Well, the vendors are in breach of planning regulations they must come clean." In this particular case Planning came on the scene and said: "Well, there are insufficient parking spaces in the neighbourhood, by utilising the garage for other purposes you are depriving the neighbourhood of one parking space. You must convert it back so the garage ... the sitting room is turned back into a garage again and everybody is happy." But that obviously caused the delay. I think that amusing little story is a classic example of how things can go wrong without people realising it.

The Deputy of St. Mary:

Yes, and to a certain extent that problem could be solved if it came into ... it was known quite a bit earlier, I mean if you had talked to other people, if this was just volunteered at the outset rather than kept back.

Managing Director, The Mortgage Shop:

Yes, and I will highlight that again in a moment. Decision to pull out if there is a break up of a relationship. Now this is a really interesting one and it is curious how people work. Married couples have tended to commit themselves more to life and when it comes to purchasing a property, there, that commitment continues through to property purchase. But couples who are not married, very interestingly, when they start looking at buying property they think: "Hey, this is quite a big commitment we are doing something jointly, I feel uncomfortable about this" and the number of people who split permanently at the time they are thinking of buying property is quite extraordinary and this does result in any number of transactions failing.

[15:30]

The Deputy of St. Mary:

I am sure that is worthy of an article in some of the weekly magazines.

Managing Director, The Mortgage Shop:

Yes, but that is quite a common occurrence. Those are the principal areas I think where transactions will fail but the suggestion that there is widespread abuse of the system in terms of people pulling out does not, to our knowledge, exist. It does not exist. I think this happens occasionally and I think that we probably saw this about 18 months ago where a particular lady, who is a rather difficult individual, a week before purchasing she wrote to the vendors and said: "I do not think your property is worth what I am paying I am going to knock £10,000 off the purchase price" and this elderly couple, I think, who were going to go into care said: "Well, okay, fine." That is about the limit of the abuse which we have come across.

The Deputy of St. Mary:

Yes. I think there was some unfortunate press comment at the time the panel was established and that we would be looking at the whole spectrum rather than just this aspect that came up.

Deputy A.D. Lewis:

I guess if you are supplying finance and you are confident that it is in place you will see less transactions fall over. One of the biggest complaints we have from members of the public and from lawyers we have interviewed is that often people have not got their finance lined up and the estate agents said the same thing. So it gets to the ninth hour and they still have not quite got it sorted so the deal falls over. You would not see that so much because you have provided the finance and that seems to be...

Managing Director, The Mortgage Shop:

Correct, so we do not see deals like that, we do not see deals fall over for that reason, not at all.

Deputy A.D. Lewis:

Yes, but that seems to be a common reason for it falling over but of course you are right in the middle of making sure that does not happen.

Managing Director, The Mortgage Shop:

Yes. It will only fall over at the very beginning rather than halfway through unless certain important informational facts have not been divulged, which is usually as a result of people who have been living in the U.K. who have concealed County Court judgments which they have had in the past or major credit card problems or something like that. Come to think of it because they were offshore they do not have to divulge this information.

Deputy A.D. Lewis:

Because you have got a relationship with that client and they are buying a house I guess you get to hear the story of the process. So they are satisfied they have got their mortgage sorted that is the main criteria often. They survey ... you have already described as being problematic on occasions but we have got evidence that a number of transactions do get delayed because of the current system that we have. In other words although there is a target date of a Friday it could be this Friday it could be a Friday in 4 weeks' time because it seems to move depending on the law firm you are using and this condition of the chain on other people that you will not have anything to do with. So do you hear stories like that sometimes from clients of yours that have been through a house buying process that has not gone quite to the timescale they had expected, and, if so, what reasons are they given?

Managing Director, The Mortgage Shop:

Buying property in Jersey and I think buying property anywhere is quite fraught and...

Deputy A.D. Lewis:

What do you mean?

Managing Director, The Mortgage Shop:

Sorry?

Deputy A.D. Lewis:

Why do you think that is?

Managing Director, The Mortgage Shop:

Because of the pressures on the individuals. So the poor little first-time buyers or home movers are caught right piggy in the middle here and they are surrounded by ... all this is going on around them but to include estate agents with expectations ... many estate agents will tell a property purchaser: "Well, you have got to be in court in 3 weeks' time" which is barmy, that simply cannot happen and we hear this every week. Also vendors with unacceptable expectations, they have put a deposit on a property they want to buy and they have lost their job so they have to return to the U.K. All sorts of reasons why there is pressure on the vendors and they put unreasonable demands on the purchaser as well. It can turn into a very, very stressful and unpleasant experience for many, many purchasers and borrowers, they are hung up on process. Which is a great shame it should be a happy event a very, very happy event. I have handled formal complaints and I always impart on all my clients: "Go to the Royal Court because it is a real piece of history which you are taking part in, it is wonderful to have a bit of pomp and circumstance so go and do it." But it is not a happy situation for many people unfortunately.

Deputy A.D. Lewis:

What do you think has caused that, is it the processing system we have or estate agents are giving bad advice?

Managing Director, The Mortgage Shop:

I repeat the unrealistic expectations of vendors and their agents.

Deputy A.D. Lewis:

Right. So the advice they receive of short, you know, 3-week transaction periods is completely unrealistic and that often causes the disappointment when it does not happen as expected.

Managing Director, The Mortgage Shop:

Well, we usually get in touch with agents and the like to confirm the process and actually tabulating it week by week so they can see how it works. In my note to you originally I had alluded to the fact that it probably takes 2 weeks to have the mortgage approved, 2 weeks for the valuation process and for the lawyer to then be instructed and then 2 weeks for the mortgage offer to be issued, usually it takes 2 or 3 days, and for the rest of the process to be brought to a conclusion. But very few lawyers will actually - and I am sure you will confirm this - very few lawyers will in fact accept an instruction from potential purchasers until they know that the mortgage process is pretty well concluded. There is no point in doing so because what they are in fact doing is just making a load of copious notes which might not be put to use and they then might have been incurring or chalking up fees on the part of clients who will not be able to proceed.

The Deputy of St. Mary:

It is interesting to hear you say all that, I mean it goes back to your earlier letter - thanks for that - so in a way one of your roles is to dampen the enthusiasm of the proposed lender when he comes to see you which is what we do, more or less, here.

Managing Director, The Mortgage Shop:

Yes.

The Connétable of St. Martin:

Be realistic more so than that.

The Deputy of St. Mary:

Yes, and also you say that the ... if the purchaser's lawyers are not going to be working on the matter until they have got confirmation of the mortgage then I suppose in a way the vendor's lawyers are going to say: "Well, until the purchaser's lawyers get hold of me why should I ...?"

Managing Director, The Mortgage Shop:

Well, the vendor's lawyers are in a slightly different position because they are the ones who do the work. They are the ones who have to do the title search, et cetera, just for the title, have to check the boundaries, check all the other things and...

The Deputy of St. Ouen:

That is the purchaser's lawyers who do that not the vendor's lawyers. The purchaser's lawyers would check the boundaries and check the title.

Managing Director, The Mortgage Shop:

Yes, but based on the draft contract which was sent to them by the vendor's lawyers.

The Deputy of St. Ouen:

Yes.

Managing Director, The Mortgage Shop:

So the vendor's lawyers are really the first in line and who should ideally be the ones who have been triggered a little bit sooner to start the work.

The Deputy of St. Mary:

I accept that. I think the other point is that the vendor is going to say: "Until the purchaser I have lined up has committed himself more ..." it is a chicken and egg situation...

Managing Director, The Mortgage Shop:

It is indeed, yes.

The Deputy of St. Mary:

... "I am not going to instruct my lawyers" and you get these delays which the poor client does not even understand.

Managing Director, The Mortgage Shop:

You will excuse my saying this but certainly it has always been a sort of common belief that if the transaction is going to fail it is going to fail on the Thursday before the Friday because that is when they have to go out to kick the boundary service.

Deputy A.D. Lewis:

Yes, probably should not have said that. Do you think there should be an obligation of the owners of the properties that are selling to do some of the legal work in advance of putting their house on the market? But they will not because there is a cost to that.

Managing Director, The Mortgage Shop:

Well, because it is incurring legal fees.

Deputy A.D. Lewis:

It is incurring legal fees with no guarantee of a sale.

Managing Director, The Mortgage Shop:

Exactly.

Deputy A.D. Lewis:

Whereas if they can put their toe in the water, test the market at no cost to them whatsoever then all of the legal aspects become really the obligation of the purchaser because they want to buy something and get title, correct?

Managing Director, The Mortgage Shop:

Yes.

Deputy A.D. Lewis:

Then the money ... and obviously they would not be buying what they thought they were buying. But do you think there should be a shift more towards the vendor having an obligation to ensuring that they have got even just some documentation? We talked in terms of a logbook almost for each property so you can see that is what you are buying. Like when you buy a car there is a logbook. Would that be of benefit to...

Managing Director, The Mortgage Shop:

It is a great concept but if that was put into practice in the U.K. if you recall for those who have already heard my reports and a whole ... thousands of specialist surveyors were trained up for this but it is a critical win and it just failed how many years ago, 4, 5 years ago? I arranged for a mortgage in France using a French lender and over there the whole system is tied up to a fine art. Purchasers, once they have agreed to purchase a property, are required to pay over a 10 per cent deposit in cash at the time they sign the purchase contract which is called a *compromis de vente*. I would get in touch with the *notaires* who are looking after the transaction and ask them to add into the *compromis de vente* a clause, a clause suspensive which will allow for the return or the refund of the deposit if the vendor ... if the purchasers are not able to obtain mortgage funds.

Deputy A.D. Lewis:

It is usually called a clause get-out, is it not?

Managing Director, The Mortgage Shop:

Yes. Now, this *compromis de vente* now comes accompanied by anything up to 10 different reports: termites, ants or whatever there was too much of in Brittany or Normandy but more particularly asbestos, plumbing, energy reports, radon gas, all sorts of things like that and all of these reports accompany the *compromis de vente*. So all the research has been done and prepared. It is French law and it works perfectly, absolutely perfectly. The whole thing is spat out yet extraordinarily the process takes at least 3 months. Not 4 to 6 weeks but 3 months because

that is the way it works in France, but it does work and really a leaf should be taken out of that book.

Deputy A.D. Lewis:

Yes, it has been spoken about a little bit over this process, the French being near neighbours it is an obvious comparison to make, but of course estate agents are also making a lot more money out of it on their 8 per cent commission so there is ... it is a very different market.

Managing Director, The Mortgage Shop:

For much smaller prices mind you but, yes.

Deputy A.D. Lewis:

Yes, the value is lower but it is a kind of significant commission.

The Connétable of St. Martin:

It still is a get-out clause with that exemption then.

Managing Director, The Mortgage Shop:

Yes.

The Deputy of St. Mary:

Going back to your role, I mean obviously your main ... well, I might well say your only role is to find the mortgage, et cetera. In a sense you will manage movement from thereafter, will you, or will you ... I mean estate ... banks it is a clear process of or whatever might need a bit of chasing. Would you deal with that or...

Managing Director, The Mortgage Shop:

The success of our business has been based on the fact that we do not stop at the mortgage we provide the entire process from start to finish and, yes, we are constantly in touch with estate agents, with the lenders, with the valuers or until recently certainly valuers and surveyors, with insurers, with everybody to make sure the process is working, particularly with lawyers as well because we do have that extra participation.

The Deputy of St. Mary:

So you end up being the chaser almost, do you?

Managing Director, The Mortgage Shop:

Exactly, yes. A facilitator, I think is the word.

The Deputy of St. Mary:

A far better word.

Deputy A.D. Lewis:

Do you worry sometimes about estate agents and the advice that they are giving because although they are supposed to just be brokers, they are clearly giving out advice and they are not licenced or qualified? Some of them are very experienced of course and there seems to be different levels of capability within that service sector. In France of course they are regulated and licenced. Whether this has the impact that one would hope or not I do not know but locally there is no regulation for estate agents, therefore, if they gave the advice that you just mentioned a moment ago, is you can get this through in 3 weeks, clearly you would know as a professional that that is not possible but they have given it as professional advice when they are not professional advisers. Do you think there should be some form of code of conduct or licence and regulation of estate agents so you do not get faced with that problem? Because it is going to end up back on your desk when finally the 3 weeks is not achieved because you know it is not going to be, but the estate agent said it would do.

Managing Director, The Mortgage Shop:

Well, my comments are obviously in the public domain and I do rely upon estate agents as part of our overall process in the success of our business but there certainly is a good reason for there to be greater control because it is a well-known fact that most estate agents will recommend one vendor and will recommend one lawyer and that one particular legal practice is responsible for about 50 or 55 per cent of all transactions in Jersey. It is a small practice as well. Now, I will not comment as to the reason why that one lawyer or legal practice is recommended or why one particular vendor is recommended. The lender offers the highest rates in the Island, sometimes twice as high as what other lenders will offer. So, yes, there are certainly ... perhaps it is misguided advice which is given out by certain estate agents to potential purchasers.

The Deputy of St. Mary:

Apart from recommending the banks do you have a phalanx of private lenders at your disposal, as it were?

Managing Director, The Mortgage Shop:

Private lenders, yes. Going back to M.M.R., the mortgage market review, many, many people who have fallen foul of the regulations, are no longer eligible for a conventional bank mortgage so we will use private lenders. So, in fact, many of our transactions have now had to be through private

lenders. We have a large number of clients who have substantial funds available and we, in a very, very carefully controlled environment, will make recommendations to those lenders that they take on certain projects and this works very successfully and we have had not one failure in 27 years of organising this.

Deputy A.D. Lewis:

Do you use just one lender or can you get multiple lenders for one transaction?

Managing Director, The Mortgage Shop:

Multiple lenders fall into the peer-to-peer lending group which we do not subscribe to. Occasionally we might have a couple of brothers, a brother and sister or 2 brothers-in-law who will link their funds together to offer lending but no more than that. We did look at the opportunity to go to peer and in fact researched it very thoroughly but it was principally a method to provide greater tax efficiency to the lenders and then new tax regulations were introduced so we abandoned that about 5 or 6 years ago. But the peer-to-peer ... the private lending does form a significant part of our activities and it is a very important part of the transaction process in Jersey. Without private lending a number of transactions simply would not happen.

[15:45]

Deputy A.D. Lewis:

Of course I mean they are getting a better interest rate than they would with a High Street bank or whatever.

Managing Director, The Mortgage Shop:

Exactly.

The Connétable of St. Martin:

Is that because the bank would not lend?

Managing Director, The Mortgage Shop:

Mainly because people are restricted by age.

The Connétable of St. Martin:

I have found that.

Deputy A.D. Lewis:

I think we all would.

Managing Director, The Mortgage Shop:

Because quite frankly once you get past the age of about 50, 55, banks will only lend to your retirement age which in the eyes of some banks is 65 - they have got no age regulations yet - or 67 and, if one is a self-employed individual, to age 70. My comments do not apply to buy-to-let mortgages where one can receive those ages up to 75 or 80 but buy-to-let is a completely different thing which you are not especially concerned about. So what happened previously is that banks would offer interest only facilities to these individuals and they would repay those facilities upon the maturity perhaps of an endowment policy. I am going back a very long time now because with endowments, if we were to even talk about endowment policies now we would be struck off J.F.S.C.'s (Jersey Financial Services Commission) list and we would not be able to get indemnity insurance, or the sale of a property or a family inheritance or something like that instead of a business or to the beneficiaries under a trust, but banks will simply no longer offer those facilities. Therefore, the age challenged or mature borrowers will rely upon private funds as will any number of other borrowers, perhaps people who are self-employed individuals who are unable to show 3 years trading accounts, which is what is required by a lender, so we will use private lending for that. In addition, and very unfortunately, it is absolutely impossible to obtain stage payment funding for self-build projects. So we have a number of couples who are gifted a plot of land on a farm or in the back garden by parents or grandparents, they cannot get a mortgage so we provide private funding for those. We tie it up very, very tightly into a very tight building contract and as soon as the practical completion of the building is achieved and the property is then a viable risk for a lender we go to a conventional lender. But in fact what we do, we already have the mortgage pre-approved by the lender 12 months ahead with its guidelines so that this type of lending, which is usually at 7 per cent, is wiped out as quickly as possible. There are an awful lot of people who would have suffered as a result of M.M.R. but we have the solutions.

Deputy A.D. Lewis:

The private lenders are happy to lend the money on what is going to be a temporary basis?

Managing Director, The Mortgage Shop:

Yes.

Deputy A.D. Lewis:

Okay. I am not sure it is relevant to what you do at all but we talked about property transactions only being able to be completed on the one court day. Do you have any views on that? It is perhaps not within your area of concern.

Managing Director, The Mortgage Shop:

I am not bothered quite frankly. It is a sort of feudal thing, is it not, and it is simply a Jersey idea that one should deal with that. Why on earth ... a week is not a very long period, why bother with that because Guernsey I think, do they not have 2 court days?

The Connétable of St. Martin:

Yes, 2 days.

Managing Director, The Mortgage Shop:

The Friday seems to be a very happy arrangement for everybody. All legal practices I think have geared their whole *raison d'être* for the whole of the logistics of their offices to Fridays to the extent that shared transfer transactions, which are not subject to the Royal Courts, goes from the Friday as well most of the time which is a clear indication of the fact that everybody must be satisfied with that. If they were not then many more shared transfer transactions would take place on other times of the week.

The Connétable of St. Martin:

The same could be for commercial property transactions, putting those on a different day of the week away from the Friday. I do not know if that would make a lot of difference.

Managing Director, The Mortgage Shop:

I cannot comment, I do not know.

Deputy A.D. Lewis:

Do you have any of your clients thinking: "Crikey, it is Friday, we have now got to pay overtime for the removal people, we have got to rush around all weekend whereas if we had perhaps gone through on a Thursday, taken Friday off it would have all been a bit smoother" do you ever hear that?

Managing Director, The Mortgage Shop:

I do not know how people manage to find the time to move house in such a limited period of time but it works. What beggars belief is that Christmas ... the final court date before Christmas is usually a very, very popular one. I remember 9 years ago we handled 37 mortgages about a week before Christmas day, it was the biggest completion that we had ever had and were all those people really going to move and get their Christmas tree and lights all set up before Christmas day? I really do not know but whichever day of the week, is it not better to have it on a Friday so

at least people have a weekend when at least they are off rather than a weekday where perhaps they are not?

Deputy A.D. Lewis:

In my experience it obviously takes more than 2 days to move and you will end up paying a lot more for people to work for you at weekends, i.e. removal companies, than you would during the week. So there has always been a ... well, we have had some who had expressed concern that Friday is not the ideal day but, you are right, the legal fraternity seems to be quite comfortable with it.

The Deputy of St. Mary:

I have got just a very general point. You have mentioned surveyors being off-Island and credit needs to be off-Island, is there any area you would like to see an improvement in which would affect the overall process, improve the overall process, shall I say, or you just adapt to what there is effectively?

Managing Director, The Mortgage Shop:

I think that everybody has adapted to the way it is. People have the right attitude because one should always be looking constantly for improvements in efficiency and the likes. This is a very, very important part of most people's adult lives is property purchase and I really do not think it should be rushed. I think that the period of 4 to 6 weeks is a realistic time. For those couples who want to perhaps go their own ways means, you know, couples like ... and a number of them do exist, this does give people the opportunity of thinking and reflecting on what they are doing.

The Deputy of St. Mary:

Can I just go back to your argument of thinking and reflecting? I mean we have discussed previously the idea of English style preliminary contracts, et cetera, I mean would that fit in with your thought process that if you have...

Managing Director, The Mortgage Shop:

Yes, I would love to see that, I think it would help hugely. It would take a lot of the mystery out of purchasing because many people do not even know what on earth they have bought until they have lived in that particular property for a number of weeks, and blocked drains and faulty electrics and a central heating system that does not work, these things are not really covered in any reports which are currently carried out. So you are buying very much of a mystery when you are buying a property of any age.

The Deputy of St. Mary:

Yes, but I mean a preliminary contract would not cover that, would it, it means you were permitted to proceed on a certain date in the future.

Managing Director, The Mortgage Shop:

Yes. Sorry I was working on the assumption it was not just the contract it was the entire package that went with it.

Deputy A.D. Lewis:

If you went the *compromis de vente* route you would have all that, you would have all those reports I think.

Managing Director, The Mortgage Shop:

Yes. So any form of ... I think you are in a better position to answer than I am but certainly any purchase agreement that is set up in Jersey does require a great deal of thought I think before parties sign that agreement because usually in the event of there being a failure then liquidated damages and all sorts of things become payable, and I think we can broaden these comments to the first purchase agreements that Dandara used to issue down at the harbour front on Castle Quay. Now, these contracts tie the people who buy off plan into purchasing a property 3 sometimes 4 years ahead. Most people have not even considered whether they can get a mortgage or not. They are required to put down a 10 per cent and sometimes 5 per cent deposit which was usually borrowed or gifted by parents or relatives, but the thing is if they failed to complete on that contract my understanding was that they lost not only the 10 per cent deposit they paid to the developers but also liquidated damages were due amounting to about 33 per cent of the total value of the property. Fortunately none of these were ever pushed through to completion in court because Dandara saw the error ... saw the problems in front it and were able usually to move the contracts sideways to another purchaser so that the people originally beholden to them were able to rest assured that the contract for service was torn up but this can cause a lot of problems and I really wonder whether it is worth it. Having regard to the relatively small failure rate in the Island, is it really worth it?

The Deputy of St. Mary:

So you would argue it is not just the failure it is the fact that even though they still are successful in completing and still biting their fingernails at 2.00 p.m. on a Friday afternoon not knowing if it is going to go through.

Deputy A.D. Lewis:

Which could be avoided if all those checks were done and that is something that we are getting back to. You have said it yourself with your experience of France and so we agree that there are

not that many contracts that appear to fall over completely but there seem to be quite a large number that do not go through on the date that was expected for all sorts of reasons. You mentioned one: estate agents giving perhaps poor advice on the time it would take right through to surveyors not being available to all sort of things. But if you agree a date, let us say it is 8 weeks rather than 6 weeks because in France, like you say, it is normally 12 weeks, Spain it is 8 weeks. So these are realistic timescales people know they are going to have to stick to because they have signed the contract to say that is the date we are going to go to the *notaire* or the court.

Managing Director, The Mortgage Shop:

Yes. I suspect though that purchasers would not be able to commit their lender, the valuers that the lender employs or their lawyers to that sort of timescale. It is certainly ... all conveyances, and I remember when I was a conveyancer and we used to go to court and we would have maybe some contracts lined up and there was always moves. It was very rare that we would get 100 per cent, in fact there would always be some that failed at the last moment and it happens all the time. We will have maybe a typical Friday where we will have 7 or 8 contracts going through. It is very, very rare that you ever see all of them happen there is just always something that happens at the last moment.

The Deputy of St. Mary:

Okay, so ...

Managing Director, The Mortgage Shop:

They are then carried over to the next week but this does obviously have a knock-on effect with the services who are involved, particularly the removal contractors who must have a hell of a time.

The Connétable of St. Martin:

They do the one from the week before.

Managing Director, The Mortgage Shop:

Well, exactly, yes, that is what they have to do.

The Connétable of St. Martin:

It is something we went back earlier on. Just for my information really, you said about undervalued and the loan not being approved then. Is that because people who would make a lot of money themselves? I did not quite understand, you said if it was undervalued by ...

Managing Director, The Mortgage Shop:

Right. Okay, so I am selling my house to you for £400,000. You arrange a mortgage based on that, you are going to ... you have arranged a 90 per cent mortgage for £360,000 on an agreed purchase price of £400,000. The bank approves your mortgage for £360,000. The valuer then comes and says: "No, hold on it is only worth £350,000." Therefore you cannot get your 90 per cent mortgage and you have to obviously go back and negotiate down to the actual market valuation before the bank will lend you any.

The Connétable of St. Martin:

I understand. I got confused I beg your pardon. I thought the ... no, it was me. I was concerned there were people trying to make money by somebody, it could be a family member, and they have got a bigger loan on a property that was not worth as much.

Managing Director, The Mortgage Shop:

No, it could not happen.

The Connétable of St. Martin:

No, okay.

Managing Director, The Mortgage Shop:

That simply could not happen. The way the process works that could not happen at all.

The Connétable of St. Martin:

You would not want a purchaser to be making money out of getting the loan and selling the house very shortly afterwards for the price it was valued at or worth.

Managing Director, The Mortgage Shop:

Yes.

The Connétable of St. Martin:

Sorry.

Managing Director, The Mortgage Shop:

No, it is fine.

The Deputy of St. Mary:

I am done, what about you gentlemen? Yes.

Deputy A.D. Lewis:

I have got no more questions, thank you.

The Deputy of St. Ouen:

Thanks for your help.

Managing Director, The Mortgage Shop:

Thank you.

[15:58]