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The Residential Property Transactions Review Panel published its report on 19th March 2018 setting out various recommendations to the Chief Minister in relation to residential property transactions in Jersey.

The Panel commenced its review in 2016 following particular concerns about gazumping or gazundering in Jersey. Gazumping is where a homeowner accepts a higher offer from a third party despite having already accepted a bid from someone else. Gazundering is where the proposed purchaser lowers their offer at the last minute.

The Panel's first recommendation was for the Chief Minister to start a consultation into whether pre-sale agreements should now become part of the standard transaction process for residential property transactions and include a financial penalty if the agreement is breached.

At present in the vast majority of cases, no pre-sale agreement is currently entered into meaning that the buyers and sellers both have the freedom to pull out of a freehold transaction until the deal is finalised in the Royal Court.

The report states that only about 5% of transactions fall through and gazumping or gazundering is a rare occurrence in Jersey.

The current system governing property transactions in Jersey was established in the 19th century. I believe that it is important to ensure that any land transfer system evolves to continue to meet the needs of modern society. However I think it is important to also note the positive findings stated in the report such as the fact that residential property transaction in Jersey complete on average in four to six weeks, which is significantly quicker than most other jurisdictions. If preliminary agreements become part of the standard transaction process this may lead to the average transaction taking longer because the parties will still not be in a position to sign the preliminary agreement until the survey has been carried out and the purchaser's lawyers have carried out their due diligence. In addition unless a standard pre-sale agreement is approved by all law firms then having a pre-sale agreement for every transaction is likely to lead to costs increasing due to the additional time incurred in negotiating the pre-sale agreement.

I am aware that when acting for clients familiar with a two stage property process in other jurisdictions they are generally surprised and slightly nervous when I inform them that neither party is bound to complete the freehold transaction until it is passed in the Royal Court. I do therefore think that there is merit in considering a two stage process in order that all parties have more certainty of the completion date.

The Panel also recommended that all Estate Agents should be members of an approved body whose members are subject to a Code of Conduct. Considering most industries are regulated and a property transaction is the biggest investment most consumers are likely to make it seems reasonable and beneficial for the consumer to be protected.

The other recommendations made by the Panel were as follows:-

- More people should be encouraged to train as conveyancers.
- The Chief Minister should investigate the introduction of a local "licenced conveyancer" qualification



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to carry out property transactions.

- The Chief Minister should investigate the introduction of a standard practice whereby a potential buyer would produce evidence of sufficient funding arrangements before making an offer on a property.
- The Chief Minister should consult with the Bailiff, of the feasibility or otherwise of a second Court date for passing contracts each week. At present contracts can only be passed in the Royal Court in a Friday sitting.
- The Chief Minister should consult with necessary parties, as to whether property transactions should be able to complete outside of the Royal Court process.
- The Chief Minister should consult with interested parties, as to the desirability of establishing a land registry in Jersey.

The Residential Property Transactions Review Panel has called for the findings of the consultation to be presented to the States before the end of May 2019.

I believe it is beneficial to consider developing the current system (where necessary) to ensure that it continues to sufficiently serve the needs of modern society. However it is important that there is consultation with the necessary bodies such as the Law Society Conveyancing Sub-Committee to ensure that any developments do not have a detrimental impact on the positive findings of the current system.

For further information on how we can help you with your property transactions or to contact Natalie please email natalieharris@voisinlaw.com or call 01534 500300 or visit our website www.voisinlaw.com