



# Levelling Up, Housing and Communities Committee

## Oral evidence: Improving the home buying and selling process, HC 678

Monday 13 May 2024

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### [Watch the meeting](#)

Members present: Mr Clive Betts (Chair); Ian Byrne; Mrs Natalie Elphicke; Tom Hunt; Andrew Lewer; Mary Robinson; Nadia Whittome.

Questions 1 - 64

### Witnesses

**I:** Kate Faulkner, Chair, Home Buying and Selling Group; Paula Higgins, Chief Executive, HomeOwners Alliance; Maria Harris, Chair, Open Property Data Association.

**II:** Mairead Carroll, Senior Specialist, Property, Royal Institution of Chartered Surveyors; Timothy Douglas, Head of Policy and Campaigns, Propertymark; Beth Rudolf, Director of Delivery, Conveyancing Association.

### Examination of Witnesses

Witnesses: Kate Faulkner, Paula Higgins and Maria Harris.

**Chair:** Welcome, everyone, to this afternoon's session of the Levelling Up, Housing and Communities Select Committee. This afternoon we have the first evidence session in our inquiry into improving the home buying and selling process. There can hardly be many people who have been through the process of buying or selling a home who do not have some ideas about the need for improvement. We are going to explore what those improvements might be, how we can bring them in and how we can make the process, which often is very challenging and frustrating for people, better in the future.

Before I come to our first panel of witnesses, I will ask Committee members to put on record any interests that they may have that may be relevant to this inquiry, apart from having been frustrated by buying or selling a home themselves in the past. I am a vice-chair of the Local Government Association. I will just go around the table and ask



Committee members in order whether they could put on record any interests that they may have as well.

**Mrs Elphicke:** I am a vice-chair of the Local Government Association. I have a councillor who works for my team in my office. I have been involved in the New Homes Quality Board in relation to the new homes standards, which may come up during this inquiry.

**Tom Hunt:** I employ two councillors in my office.

**Andrew Lewer:** I am a vice-president of the LGA.

Q1 **Chair:** I will come over to our witnesses. Thank you very much for coming this afternoon. Can I just go around the table and ask you in turn to say who you are and the organisation that you are here on behalf of?

**Maria Harris:** I am Maria Harris, chair of the Open Property Data Association. My background is in mortgages.

**Kate Faulkner:** I am Kate Faulkner, chair of the Home Buying and Selling Group, which works on behalf of buyers and sellers.

**Paula Higgins:** I am Paula Higgins, CEO and founder of the HomeOwners Alliance. We support and campaign on behalf of homeowners and those who aspire to own as well.

Q2 **Chair:** Thank you all for coming this afternoon to talk about an issue that I am sure has an immediate relevance to so many people in this country. So many people, particularly from the home buying side but also from the selling side, go through what should be one of the happiest experiences of their lives thinking, "We are going to get a brand new home that I and my family can live in. This is somewhere that we really want to purchase," but in the end they come out of it thinking, "I will never do that again," because the process has been so truly awful.

How can we address those concerns? Are they right to feel that frustrated by the process? Who would like to kick off?

**Kate Faulkner:** I will kick off first. One of the things to understand is that the home buying and selling process is often compared to lots of other things that you buy and sell. I have worked in lots of different markets. It is nothing like everything else.

It should be an enjoyable process, but, because we have a shortage of homes, even if you have 10 million quid, you are going to have to compromise. If you start the process to buy a car, a toaster or whatever it might be, you know you are going to be able to buy that. You will probably get one in your budget and you will probably get one to a spec that you like or will at least be able to enjoy. Here, you have no idea if that is going to happen.

If you are a seller and you put your home on the market, to some extent you have no idea whether the price is right. You have no idea how long it



is going to take you to sell your home. You have no idea of all of the problems that might come after an offer is accepted, for example. On the buying side, you are in a position where you are seeing all of these houses, but perhaps you have not even checked whether you as a buyer can afford those properties. As a result, you might be looking at properties and finding one that you absolutely love only then to find out later down the line that you cannot afford it, or that there is something wrong with it because you do not know what you do not know that you do not know in this market.

That is one of the biggest problems. People are not trained to buy and sell. Even if you buy and sell well for the first time, you have first time buyers trading up and trading down. You have people who are investing and people who want to renovate. You then have shared ownership, leasehold and Help to Buy. It is incredibly complicated.

Even if you just have a simple purchase, you are looking at 15 companies being involved in that purchase as well as a buyer and seller. If both parties do not know what they are doing and they do not necessarily choose the quality services that are very much available, it becomes very frustrating. You do not know that you have not bought the right services until way too late down the line. Often at the end of it you are so exhausted that you also do not even want to complain because you are too tired.

On behalf of the industry, though, we should not forget that when people buy and sell, they are having a baby, getting divorced or getting married, somebody has died, or they are in debt; they are already in a highly stressed state, and now they are trying to chuck all their goods in the air and move them to another place, and they are trying to match that with two or three other purchases. The reality is that it is really difficult.

On the other side of it—I mentioned those 15 companies—we have a lot of tremendous experts, from lenders through to removal companies. Quite frankly, it is a miracle that anybody ever moves; it is only because of the work ethic and the tenacity of the people in it that people do get moved. I think of it as a relay race. We have fantastic runners in each sector, but we are not particularly good at passing the baton to each other. Sometimes you have to pass it forwards; sometimes you have to pass it backwards. You only need one or two poor-quality services in the middle, or a buyer and seller who do not do the things that they need to, and suddenly the whole thing collapses.

It is a complicated thing. We can sort it—I am very confident of that; we have worked for that for five and a half years—but it is not easy to do.

**Paula Higgins:** Kate covered it all. Looking at all my little notes here, the other thing I would say is that other countries can do it very well. It is a very stressful situation. It is your biggest purchase. If you get it wrong, it can go badly wrong. It is about the lack of certainty in the process. You can go right up to the nth hour and pull out with no money



off or whatever it is. You can change your mind. You can put the house on the market and change your mind, and you will have no financial penalties.

One of the problems in this country is that it is so uncertain. You can go in without putting any money down or any commitment to the game. You can be a time-waster as a buyer or a seller. People do not do this very often. They are not property experts. They do not learn about it in school. We know that people do not even understand leasehold. We are very short on education.

The estate agents are the first port of call, whether you are a seller or a buyer. They are not sure of the law themselves. All the other bits of the industry are regulated and professional, but the estate agent is the gatekeeper.

**Maria Harris:** Kate was talking about having 15 batons that you are trying to get from one end of the race to the other. It is also not helpful that all those batons are based on paper and forms; they are all slightly different; they all need slightly different things; and none of them talks to the others. The entire process is siloed and fragmented. It is based on pushing bits of paper and documents about, manually checking information, manually checking identity or property details, or validating information between different systems that do not speak to each other.

There is nothing that underpins it. It is not data-driven. It is very much about paper and documents. We have lots of form-based thinking. It is really difficult to get the process from point A to point B for anyone in the industry.

Q3 **Chair:** Somebody else is going to come on to the issue of digitisation and the potential for reservation agreements, which mean that there will be a cost to pulling out. What else should be done? Kate said it is fixable. If it is so easily fixable, what fixes should we be introducing?

**Kate Faulkner:** I did not say it was easy.

**Chair:** I am putting words in your mouth.

**Kate Faulkner:** I definitely said that we can fix it, though. That is one of the things to understand. One of the difficulties that we have had with change is that, for example, on the Home Buying and Selling Group, which was brought together to get everybody involved who we needed to—the minimum number of people who have to be involved—we have 180 people representing different organisations, consumer bodies and the digitisation side.

On the steering group, we have the minimum number we can have to try to say, “This is a recommendation that we want to make.” As a good example of that, rather than having multiple ID and fraud checks, it would be great if we just had one. That would be fantastic for everybody in the industry, especially the buyer and the seller. We would take



something like that and we would make that recommendation, but we would check it with those 35 people and say, "Does this work for you? Does this cross your regulations, your codes or anything like that? Would you support it?" Once they support it, we then have to take it out to the 150 people who are mostly representing the different agents and legal companies that are specifically at the coalface.

As much as we can say, "Yes, this is a fantastic idea," we have to think about the individual legal person doing this. That is all it is: it is one person doing the legals on behalf of a buyer and seller, through to a corporate, a franchise or a network. Whatever we recommend for how to fix something, they all have to say, "Yes, we can do that." When you have a tremendous number of those transactions, which are carried out by individuals who are effectively running companies while also being legal experts, surveying experts or experts in buying and selling a home, it is a very difficult task if you want to change things. We think we know how to do that. We think we know how to work with everybody to get change and to trial and test things, which is very difficult to do.

We have also put forward—I know that you have this—the things that we can do now, the things we can do ourselves. There are things that we need some help from Government. The gov.uk guides are brilliant. Credit to the civil servants who produce the how to buy, how to sell and how to lease guides. We want to add a Building Safety Act guide in there as well; that would be a big help to everybody. Then, as Paula mentioned, we can start educating the consumers and the industry so they understand everything from end to end, and indeed get the media on side, which is really important.

For us, we have things we can do now, which are things like better communication and working together better, and the other side of it is about how we can really revolutionise the process, which is doing things like mandating upfront information, so that when an offer is made that offer is made based on all the information that they know and there is no second-guessing that happens afterwards, which typically collapses 25% to 30%.

**Chair:** We will come on to the information in just a second.

**Paula Higgins:** I agree with all that, but there is something else. We have legislation in place, but it is about the enforcement of the existing legislation. We have to be really careful. Upfront information is a really good idea, but we are getting examples, day in, day out, of estate agents charging £445 non-refundable reservation deposits to people who want to accept an offer or buy a place. Good ideas are being tested, but once they are in the market, if there is no regulation around them, it is the consumers who get shafted.

One thing that has been all over the papers of the week is conditional selling. If you get any mortgage broker here, you will be told that buyers are refused from viewing properties or getting a mortgage because they



have to go to the in-house mortgage broker. That is happening all the time now. It has been happening for years. There also needs to be enforcement of the existing legislation. This is not about the vast majority of estate agents—there are lots of professional people out there, but there are also some rogue traders.

Q4 **Chair:** Should they be regulated?

**Paula Higgins:** They should be regulated, yes, but there should also be enforcement. What they are doing is illegal now, but there is no enforcement. It is really hard as a buyer. You end up not complaining. If you do not get the property in the end, you just move on. You do not want to complain about the estate agent because they are the gateway to the local properties in your area. It is incredibly hard. You can try to complain to trading standards via Citizens Advice, but it is a very convoluted system.

Every week, we get people emailing us saying, “I have been charged £450 to buy a property upfront,” or “There is a £13,500 reservation fee that is non-refundable.” There is the modern method of auction. We see all these sharp practices. Years ago it was sale by tender, where they were putting a 2% commission on buyers. These types of sharp practices need to be stamped out. If we could do that, it would make a huge difference to people buying and selling.

That is where we need regulation. We need to have something for estate agents and we need better enforcement of the existing regulation, perhaps with fines. Maybe the FCA needs to look at it. That is what is happening now. Even though we have the legislation here, it is about enforcement of that legislation.

**Maria Harris:** Kate was talking about collaboration and trying to get that level of engagement and collaboration over quite a broad set of industry participants. We also have to add in that Government Departments are the custodians of lots of property data. It is public data, local authority data or privately sourced data. There is no collaboration across that full end-to-end process of everyone who touches the property transaction or property data in some way. There is no legislation that sits across all of that. There is no one view of how the customer experience should work, what the customer journey should be, or any standardisation of things like policy, legislation, protocols or guidance.

Q5 **Chair:** You have all these different bits of the process. How would you get overarching regulation or co-ordination?

**Maria Harris:** We did it with open banking, but again, that was Government-driven; it was CMA-driven; it was forced upon industry and fintech. Other people had to come in to do that work for them and create a framework, standards and guidance on how to do that. The UK led on open banking—it was such a phenomenal thing to do—and now that has



gone around the world with open finance and other open ecosystems. It is possible to do it, but yes, it is a big piece of work to do.

**Kate Faulkner:** We have already achieved it. The Covid guidance went out, again with amazing help from the civil servants we had. That Covid guidance, from start to finish, looked at this through the buyers' and sellers' eyes. There were about 50 of us on the group talking that through to work out how we could do something that meant we did not get lenders saying, "This is how to work during Covid," the brokers saying, "This is how you should work," and the surveyors saying something else. We had absolute consistency through working together because we got the core people who we needed to work together as well as the people at the coalface. That is how you start. It is possible.

We also did it on stamp duty. Normally there is a cliff edge as soon as you end a stamp duty holiday. We are grateful to Treasury, which kindly extended it for us because we knew there was a problem. In that case, we had extra help. Not only was the industry saying, "Help, we cannot move this many people in this amount of time for the first stamp duty ending at the end of March," but we had help from the media and letters went out to everybody, so that the buyers knew there was a possibility we could not complete on that day.

Natalie mentioned the New Homes Ombudsman. We produced the snagging survey that was agreed by everybody for that. We can do it. We just have to get everybody in a room. We have cracked that part of it.

Q6 **Mary Robinson:** Just for some clarity, we will be talking about conveyancers quite a lot. At one time a solicitor would typically be the conveyancer. Now it has expanded out and there are licensed conveyancers, et cetera. How do you complain about a conveyancer? If it was a solicitor, presumably you would be able to go to the Legal Ombudsman or the Solicitors Regulation Authority. That may be the wrong assumption. Is there no place to complain about a licensed conveyancer or is it the same?

**Paula Higgins:** You can complain to the Council for Licensed Conveyancers. Conveyancers are also regulated.

I get over 4 million home buyers and sellers every year to my website. The complaints are usually to do with newbuild, leasehold and estate agents. For the solicitors and the conveyancers, there are definitely routes through. It is more difficult to complain about an estate agent, particularly if you are a buyer and you feel you were misled or you did not have upfront information, even though the legislation is there.

**Mary Robinson:** Thanks for the clarity.

**Kate Faulkner:** This is something that I see in property time and time again. I work in lettings, and you can also see it in property management. We need to start thinking about how we stop those



complaints in the first place. Many of us do not feel there is enough protection at the start. You have to stop bad agents, bad properties and indeed, in the letting sector, bad landlords from ever being able to operate in the market.

We have a tight stock situation. Whatever rights you give somebody, particularly given the stress of moving, they are not going to complain as they should because it is too late and they are too exhausted. We have to start putting fences at the top of the cliff rather than doing what happens a lot of the time, which is to put more ambulances at the bottom. That is not helping us, hence why the regulation of agents is so essential to fix lettings, home buying and selling, as well as the block management side of things.

**Q7 Chair:** I have one follow-up. Paula, you mentioned that other countries do it better.

**Paula Higgins:** Yes. We can look at the transaction times in other countries. I have looked at the Netherlands and Canada, for instance. In Canada, if you put your house on the market to sell and you agree an offer, you cannot pull out. I have chosen to put my house on the market. There are some stats in the evidence that I gave. Why, at the last minute, can you decide, "I am not going to move now"? You have wasted everyone's time. You have not lost anything; you have no skin in the game. We know about Scotland.

I know that a lot of people look at Norway and places like that. It is important to look at countries that are more similar to the UK in terms of size, complexity, digitisation and the fact that the land records are so old, as opposed to a small country that has an awful lot of money and estate agents who are university educated.

**Q8 Nadia Whittome:** I have a few questions so please be as succinct as possible in your answers. Could you briefly explain what material information is in the home buying and selling process? How important is it?

**Kate Faulkner:** There are two things that we are talking about at the moment. One is specifically material information. That typically refers to the latest requirements from National Trading Standards. There are about 15 things, which are split into part A, part B and part C. National Trading Standards has now said to agents, "When you advertise a property, you must have this information available for buyers." That is the material information.

You then have a wider remit of upfront information. In the Home Buying and Selling Group, people have worked very hard to identify things that a buyer—and not just the buyer, but the lender right through to the removal company—may need to know before they say, "Yes, this is an offer." We are up to 300 things. It is not 300 things for every property; it is maybe 100 things, 50 of which might be the same, but 50 or 60 of





them might be completely different. Think about leasehold, shared ownership and the differences that you might have there.

You have two parts of the data: the material information, which is the latest must-have data, and then the upfront information. All of those need to be able to flow up and down that chain from lender through to removal company, and indeed the Land Registry, Government, et cetera.

**Paula Higgins:** I would add that that is not happening. The material information part A, part B and part C were only published late last year. They are now talking to estate agents and Rightmove, but in reality will we get that information, even the basic stuff? Are we going to get there? When we go on Rightmove, will we be able to see all that information upfront like an auction pack? I do not know.

Q9 **Nadia Whittome:** How important is it?

**Maria Harris:** The material information was meant to make the process for the buyer more informed so that before you go to view a property there is more information available and you can see some of the things that might be really important to your buying decision. In terms of giving an estate agent clarity around what needs to be on the listing, it is good. It is really helpful because it is abundantly clear that this is the information you must include on the listing. That is good for the estate agent and the buyer.

It does not impact anything else to do with your home buying transaction because that is not the information that the mortgage lender needs or the conveyancer needs to do the legal process and the things that get you the keys to the house. It is really important for the listing but not so much for the rest of the home buying process.

**Kate Faulkner:** Just to add one critical thing, if we can crack these 15 pieces of material information, if we can learn how to share and have that information trusted up and down the chain, delivering 300 pieces of information, when required, will be a lot easier. That is the process that we are going through. It is critical to being able to revolutionise the process, as I would call it. It is a start.

Q10 **Nadia Whittome:** Is the National Trading Standards estate and letting agency team's guidance on material information adequate to support the needs of consumers?

**Paula Higgins:** It is, actually. A lot of the information is what sellers would have to provide as a part of the TA6 form. The only gap at the moment—it is more about making it happen—is that there is not enough around newbuild estate charges, which is quite a live issue at the moment. People buying newbuilds are not aware of the service charges and the management structures.

**Maria Harris:** I would say the same for things like shared ownership or social housing. There are clauses or restrictions around even what lender



you can use. There are things in there that are really important to somebody who is looking at that property but that are not included.

**Kate Faulkner:** On the ground, from talking to agents and others, you have parts A, B and C. Parts A and B are pretty okay to deliver. Part C is a little bit trickier. The reason for that is that we have to understand better the limit of what an agent can deliver. Some of those questions could be classed as needing the expertise of a legal person and some of the answers to those questions could need a surveyor. We need that clarity. Again, this will help us to learn the process of how we get that baton crossed between us.

Just to reiterate, bearing in mind that this is a real building block that we need to revolutionise things for the future, we need to get agents to do that even though they are not regulated. Even more scarily, we say that they do not need to be qualified. That is where it is difficult for us to completely get it over the line. We need some help.

**Paula Higgins:** They are selling property. They are not really going to want to show you the warts and all. That is why you want to have that upfront information for buyers, so they can really make a choice about whether they want to view the property.

**Kate Faulkner:** We need a cultural shift in the industry.

Q11 **Nadia Whittome:** Should the guidance on material information from the NTSELAT be formally codified, for example, through legislation?

**Kate Faulkner:** It has to be mandated. There is a reason why we ask for things to be mandated. In that relay race, we do not only have one relay race going around. If you are in a chain, we have three or four relay races going around. If only one of the three homes in the chain is doing the work, it makes no difference.

Without mandating certain of the building blocks that we need to change the process and to make it better for buyers and sellers, we are not able to change it for everybody. If two out of three do not do it, the third one does not benefit, if you see what I mean. That is one of the essential differences with our industry.

**Paula Higgins:** It has been around through the CPRs, but we are not enforcing a lot of stuff that estate agents should be doing. Unfortunately, if you find that you have bought a property that is not fit for purpose and you feel lied to, there is no redress and enforcement behind that. If we had a code, that would at least capture all the estate agents and encourage them to understand what they need to do.

**Maria Harris:** It is really important to make that distinction, though, about material information and the full property pack. Codifying the material information and having really solid listings is good and helpful, but that does not have the biggest impact on the rest of the home buying process. If you are not flushing out the things that a mortgage lender



needs to do, you can start a mortgage application process and then find that the lender cannot lend on that property.

If you were going to take this to what would be most useful for consumers, you would mandate a full digital property pack for every transaction because then the conveyancer, the valuer and everyone has what they need.

**Q12 Nadia Whittome:** Would the digitisation of material information prevent the duplication of work by different parties, such as conveyancers?

**Kate Faulkner:** Yes. That is my shortest answer ever.

**Q13 Nadia Whittome:** How can the industry ensure that buyers interpret the material information provided by sellers accurately, given that buyers usually do not have legal advice at that stage?

**Maria Harris:** Part of the recommendation for material information and a digital property pack is that the seller should have their conveyancer instructed and should check the title and all that information before the property is even listed. That should be the first thing.

A buyer should know that somebody has already started looking at the title and the deeds, has ordered the searches and has found out all the things that are going to impact, so when they instruct their conveyancer they are not starting from the beginning of the race. That is one of the things that need to be included in the mandation. A seller should have to instruct a conveyancer and have that legal work done pre-marketing.

**Kate Faulkner:** I do not know whether you are familiar with the lettings side, but it is now mandated that the gov.uk how to rent guide has to be issued to tenants. We would like to see the same for the how to buy, how to sell and how to lease guides, with an additional guide on the Building Safety Act. That sets out how buyers buy and sellers sell, and it comes from an official source, so it is trusted.

We are then looking to create individual consumer guides. For example, we would have a guide for buyers to say, "Here is what you need to be looking out for. You need to make sure the property you go and see has all this information prior to you going to see it," just like we would be asking them to make sure they are not visiting properties that they are not financially qualified for.

By having those gov.uk guides, we can cascade the information to consumers, so that every single thing that is signed off is signed off by everyone from lenders through to removal companies, everybody agrees with it, and we are not giving out the huge amount of inconsistent information that is being given out at the moment.

**Paula Higgins:** I would not expect consumers to read the full how to buy and how to sell guides. The important thing is that others can interpret it and it is the bible. The estate agents can do that. You want people to



read what they should, but they do not. That is the reality. That is why they look to their estate agents and their conveyancers to make sure they ask the right questions.

Q14 **Nadia Whittome:** One final question for me: what lessons on providing material information upfront can be learned from the previous attempt to introduce home information packs and Scotland's use of home reports?

**Kate Faulkner:** On home information packs, you again need those 35 organisations to agree and to flesh out among themselves how it would work. It was a Government initiative, which is always appreciated. Around that time, I was writing property books for Which? and the really sad thing was that, while the idea of doing it and a lot of the things in it were correct, we did not have the level of technology that we have today. We are much more capable of delivering now.

One of the problems was that, because it was an upfront charge, there was not necessarily the quality of information that needed to be provided, so there were issues there. That is something that Maria and others have been working on to make sure that does not happen again.

The really big thing to understand is that all the material information, the upfront information that is being recommended and the way we are doing it has been worked on for the last five and a half years, to try to get it as right as it can be. We have done it the other way round. We have to do things bottom up, not top down. That is the first biggest lesson that we have learned.

With those property logbooks that we are talking about, they take into account the lettings industry and block management. For example, you cannot just look at something in isolation. You have the rent reform going through at the moment. That is recommending a property portal. That needs to be done in line with the property logbooks that are being created for home buying and selling. You have to have that joined-up approach. Those are the kinds of things that we have learned.

On Scotland and the home reports, Scotland is very different. They are used to paying upfront already. They typically pay for marketing packs, whereas it is typically free in England and Wales. Because the home report was mandated, it meant that everybody did it. You are potentially talking about £1,000 upfront to put your property on the market, but people are more used to that there. Here, unless it is mandated, buyers and sellers are resistant to putting in any money because they are just not used to it. Everything is for free, deferred or whatever. We have to change that.

One of the benefits of the home report, which almost means it is cost neutral for buyers and sellers, is that, when the pack goes out with the valuation on it, my understanding is that valuation is one that will be accepted by the lender. As we said earlier, now, I have no idea what I am going to get for my property; I have no idea whether I am going to get a



property. With a home report in Scotland, you have the certainty, as Paula mentioned, that this is probably the right price to pay for that property because it has been pre-approved.

You also have the condition report, which lists all the things that may need to be corrected on that property, so you know it is £30,000 or a couple of thousand pounds. We have learned from that. Again, the way that we are going to be looking at it—we have a group working on this now—is by asking, “Does that suit the lettings side of things?” One in three properties in lettings has a category 1 hazard. I believe that one of the reasons that happens is that, when people are buying and selling, they do not have to check that the property is safe from a lettings perspective. We need to solve both of those problems.

We might well say that electrical and gas safety checks are the most important thing, particularly with the age of our properties. Again, it is about looking at things holistically. I hope that helps.

**Nadia Whittome:** That is really helpful. Thank you.

Q15 **Mary Robinson:** As we have said, much of the material information is currently found by conveyancers on behalf of the buyer. If sellers were required to provide information at the point of listing, the burden of accessing information would shift from buyers to sellers. There would be an impact to that. In your view, what would be the impact financially or in terms of the legal burden on the seller if and when this burden moves?

**Paula Higgins:** The main impact—it will be a big impact—will be to shorten the transaction time because you have more information in terms of time-wasters and things like that. If you think about it, the person who is most able to pay for that legal work should be the seller, if they are selling their home in the first place. Buyers have all these different costs. The sellers are getting the house ready for sale.

I just want to comment on the HIPs. I worked in the housing Department at the time, although I was not working on that. Just because it failed, that does not mean it was not a good idea. It failed because there were lots of political wranglings there. There are also a lot of vested interests. There are people like surveyors and valuers who get more money each time a transaction fails. Be wary of certain types of industry that quite like the status quo at the moment.

**Maria Harris:** Most people who are selling a house are also buying a house at the same time. Most people who are sellers are buyers. All we are doing is changing the point in time when they pay and moving it to the beginning, while giving them the certainty that the transaction is much more likely to go ahead. They will have more transparency and more control over the timeframe and how long that relay takes, which will enable their buying process to be smoother. At the moment, those things are so out of sync with each other. Asking the seller to do it upfront is the right place to have it.



**Kate Faulkner:** In property, just doing one thing does not work. You have to do a multitude of things. You are absolutely right that the burden now falls upon the seller to provide this information.

The first thing is to digitise property data correctly. We already have agents and legal companies working together, as well as proptech, to come up with ways to make it so that you can press a button and the information is pretty much pulled into an inbox. There are various ways of doing it, but that is one. We have fantastic case studies where legal companies and agents have completely re-engineered the process of putting a property on the market. As a result of that, the legal company is involved much earlier on.

Yes, some information is coming from the seller, but, if we get it right, the burden will not fall on that seller. We still need the expertise of the legal company and the surveying company. We need to work out how much an agent and a seller can do, to what extent we need to get the legal and surveying companies involved and when, and whether we have the right services for them. People are already delivering this and doing it very successfully, and it is reducing the time and the uncertainty.

**Paula Higgins:** We know that lots of people do not do surveys when they are buying. It is absolutely tragic. You have buyers who will be out of pocket thousands of pounds because the seller pulled out last minute or could not find a house to move to. We offer something called home buyers protection insurance. That is incredibly popular. Imagine you are paying out the equivalent of £1,500 for a property, but you have nothing to show for it. Those types of costs are coming out. For someone who is desperately trying to buy property, that is just unfair.

Q16 **Mary Robinson:** Not all sellers pull out or have bad motives.

**Paula Higgins:** Yes, of course.

**Mary Robinson:** There are people who are speculative. They put their property on the market because they are getting ready for a move and they are not very bothered about it, but then they do go ahead and sell.

**Paula Higgins:** I mean when they accept an offer. It is fine if they want to do that. You feel sorry for the estate agents, who are doing all this work. Once they accept that offer, they have chosen to accept the offer. There should be very few reasons to allow them to pull out without any financial penalty.

Q17 **Mary Robinson:** Just exploring this a little bit more, a person who was a bit speculative and whose children have left home might decide to sell their house. "Let me put it on the market and see whether there is any interest." Say they get somebody who wants to buy it. From their point of view, they are going to be taking on a burden in terms of the cost, et cetera. We do not want them to think, "I am not going to be speculative. I am not going to put it on the market because there will be a cost to doing that." It may tighten the market in a little bit. Is that a



consideration?

**Paula Higgins:** Yes. This is why there was the original idea of a reservation deposit. Both sides could put in £1,000. That is one of our suggestions. If the seller pulls out, they lose £1,000. There could be something there.

You have to think about the wider costs of the seller deciding to pull out. A lot of this is the stress of gazumping or gazundering. It does not happen as much as we like to think it does, but it is only in England that we talk about it. This does not happen if once you have agreed the price, you have agreed the price.

Q18 **Mary Robinson:** If we make these changes, do we have to consider giving some support to sellers?

**Kate Faulkner:** In what way?

**Paula Higgins:** You could ask the same for aspiring first-time buyers.

**Kate Faulkner:** It is quite interesting. Some of the people we speak to work in the English and the Scottish markets. In terms of speculative sales, you have to think of the actual cost of that speculative sale to everybody. This is somebody who is going out and buying, and we are putting a property in front of them. They are not sure what is the right offer to make. It is fine to look after the seller, but if we think about the buyer and the agent, who is potentially doing this free of charge, is that the right way to look at it?

We have spoken to people on both sides. You pay £1,000 to put the property on the market in Scotland. We need to get that culture change. We cannot do it without the media. We need their help. We have had that before, and it works. We have to say, "You have to put some skin in the game, and you have to be fair to everybody."

That might mean they do not put it on speculatively. We will have to work with them more closely and try to understand what they want. We will have to say, "You want £300,000, but I am afraid there is no chance of you getting more than £250,000, so let's wait until the market moves," or something like that. We have to think about a better way of dealing with a speculative seller rather than thinking, "Yes, they should just go ahead," because the collapse after that is unfair to everyone.

**Maria Harris:** Taking the Scottish example, after they did bring in that you had to have your property pack upfront, there was no restriction in the market and the transactions did not fall at all. Certainly, other countries like Norway, where it is digital upfront, have not seen any of that drop-off either.

**Kate Faulkner:** There might be a slightly different issue. From the midlands downwards, you will probably have £500 or £1,000 to put your property on the market. However, where you have a £50,000, £60,000 or



£70,000 property—this does exist—you may not have the funds available. In those cases, is it possible to have deferred payment? Those things can and have happened in the past.

This is where it gets complicated and why you have to work with people who are doing this at the coalface all the time. Some people do not want to take the property off the market even though they know it is not going to sell because they do not want to have that cost attached. With the expertise we have in the industry, I cannot believe that we cannot find a way around that.

**Q19 Tom Hunt:** What are the main benefits and costs of using reservation agreements?

**Kate Faulkner:** One of the companies that I have spoken to does not insist that a seller takes a reservation agreement, but around 80% of sellers are choosing to do reservation agreements. The buyer comes with them. They pay £300 each to enter into the reservation agreement. If the sale falls through because they are pulling out—this is not when somebody has died or something like that happens—typically the seller or the buyer would get costs of £2,000.

In terms of benefits, the average fall-through rate is about 25% to 30%, but in this case, it is 6%.

**Tom Hunt:** There is 6% fall-through.

**Kate Faulkner:** Yes. It speeds up the transaction as well. That is just one case. That is my best one. There are about 1,000 agents that are doing it currently. It is very normal in the newbuild market, where it works perfectly well.

**Maria Harris:** It is how they do it in Spain. Everybody in Spain pays a reservation agreement as soon as their offer has been accepted. That is standard practice.

**Paula Higgins:** Yes, I would say exactly that, but, if you have this reservation agreement, you have to make sure there is some regulation. We are seeing really sharp practices. More unscrupulous estate agents are demanding reservation deposits and then keeping them. They are quite substantial.

The other areas is online auctions. There are non-refundable reservation deposits from buyers of £6,500. This could be a good idea, but, if we do not have good regulation around it, it can be abused.

**Q20 Tom Hunt:** How widespread in the UK are they? What percentage of transactions involve reservation agreements?

**Paula Higgins:** It is tiny.

**Maria Harris:** Yes, it is really low here. That is partly due to the information that is available upfront. Why would you put a reservation





agreement on something today when you do not have the full information about the property? You do not know what is in the searches. Nobody has checked the title or the deed. You do not even know whether that property can get a mortgage. You do not know whether it is insurable.

Why would you put a reservation on something like that today when you have no idea what you are buying? Unless we fix having the right information upfront, a reservation agreement is not something that you would ever use.

**Kate Faulkner:** That is backed up by the agents who I talk to. They are doing both. They have the upfront information and they are doing the reservation agreements. The two have to go hand in hand.

Q21 **Tom Hunt:** In Scotland, at the point a seller accepts an offer, that offer becomes binding. I am just wondering about the difference between how the model in Scotland works and reservation agreements. What are the main differences between those two?

**Paula Higgins:** Working that backwards, from a seller's perspective you have the information upfront and you have the home report upfront already. You have that upfront. They just do it in a different way. You could do the provision of the information. If you have the upfront information and the survey, you can enter into the agreement. Here we are doing reservation agreements because you do not have those two other things.

Q22 **Tom Hunt:** In the case of a reservation agreement of £300, though, you just lose the £300 if you pull out. What is the penalty if you pull out in Scotland?

**Paula Higgins:** I do not think you can. If you have agreed to an offer and you are selling your property, you cannot pull out.

**Tom Hunt:** You just cannot.

**Kate Faulkner:** Yes, you effectively enter into an exchange—

**Paula Higgins:** If a buyer puts in an offer and then decides to pull out, they will lose thousands. It is a proper contract. At the moment here people do not have the right information to sign that contract. If you put so much in the reservation agreement without the upfront information, there is a danger that it becomes almost another stage before exchange to completion. That is why it has to be done properly.

Q23 **Tom Hunt:** In Scotland you get that information upfront.

**Paula Higgins:** Exactly, yes.

**Kate Faulkner:** You get everything. Everything is upfront. Your mortgage offer is upfront. All the legal checks have been done and the property has been surveyed.



Q24 **Tom Hunt:** It is not really a fair comparison.

**Paula Higgins:** No. The estate agents there generally work very much alongside the solicitors and legal teams. If a buyer wants to look at a property, the seller has to give them the home report within nine days of it going on to the market.

Q25 **Tom Hunt:** We have a few options here. Either we could have reservation agreements being really widespread, with the regulation that you were talking about, more information being provided upfront, and the penalty of losing 300 or 400 quid if you pull out; or we could have the Scottish approach, where it is very binding and the consequences of pulling out are a lot more significant. What would be better? Is there a danger that the Scottish approach perhaps goes too far?

**Paula Higgins:** It is interesting. It could be that you would be really scared because circumstances change. You have a little bit of skin in the game and you are covering the other person's costs. Having some sort of reservation agreement would give you a bit more flexibility to say, "I am going to pull out and I am going to lose that amount of money." Maybe it is a step too far for it to be a binding offer. It is very different.

A lot of estate agents encourage people to put properties on the market speculatively. They do a lot of door knocking and things like that. It would be a very different culture if we are made offers binding for buyers and sellers.

Q26 **Tom Hunt:** This is a slightly different question. A lot of people have had experience of purchasing a home and it dragging on. In my last purchase, I made an offer in August and it was December by the time it had gone through.

**Paula Higgins:** That is not too bad.

**Maria Harris:** Yes, that is quick.

Q27 **Tom Hunt:** It felt like a long time. It felt like a lifetime. It is a stressful period because you are always wondering whether someone is going to pull out at the last minute, et cetera. A lot of people say that the solicitors who are involved are to blame for taking too long to do things. They often may say, "We have so many different things on. We are working as quickly as we can." Are there enough law firms working in this area? Is there a shortage? Is that why it is taking so long? Does there need to be a bit of a cultural change in terms of expectations for how quickly these things get done? What is the truth of the matter?

**Maria Harris:** If you look at the home buying process today and the steps that you go through from 1 to 10 that you went through from August to December, it is backside forward. You literally do everything in the wrong order. All of the things that you needed to know to get the process to completion happen at the end instead of at the beginning. That is part of the reason it is so bad.



Because everything is paper-driven and uses forms, you are multiplying the effort. You are having to fill in the same information multiple times in multiple formats. The person at the other end is then having to check what you have entered. They are keying it into systems or they are sharing it via email or via systems to other places.

It is not that we do not have enough people. It is that the amount of time we are spending doing inefficient tasks and things that add no value in the wrong order is tying the system up in knots.

If you flipped the entire process on its head, so that your seller had all their information available in a beautiful digital format at the beginning, it had been checked by a property specialist, a lawyer or a conveyancer, and all that work had been done before that property was even listed, there would be nothing to stop you going straight through that process in a reasonable amount of time, at least with the certainty and trust of knowing what is happening during the transaction. Right now, everything is opaque and disjointed, and you are repeatedly doing tasks that add no value.

**Paula Higgins:** It is also the lack of communication. There are lots of Chinese whispers because no one is speaking to each other. We did research on this, and 55% of people who bought in the last two years say they want more joined-up communication. They do not know what is happening up and down the chain. I am not sure how to crack that, but that is the problem.

You do not speak to the buyer who is trying to buy your property. You are speaking through estate agents and conveyancers. Everyone is rubbishing each other. It might be that somebody is thinking of pulling out and has just gone all quiet. Then the conveyancer will say, "Their conveyancer is really slow," when actually, the seller has gone AWOL. There is no transparency of information. You really do not know what is happening, especially in chains.

**Maria Harris:** Lawtech UK did a report in 2022. It found that most transactions generate around 130 documents and around 300 emails/telephone calls between transaction parties to try to get the transaction from August to December. That is the amount of effort there. It is just dead time. It is just inefficient time in the process.

Q28 **Tom Hunt:** You were talking about the system and how it is the wrong way around. Is there a country you have in mind where that is not the case and they are just in a much better place when it comes to the system?

**Maria Harris:** We talked about Norway earlier. In Norway, all that work is done upfront and the data is open source and free. That is hugely helpful. Their land registry is digitised. That was much easier because they have a smaller land registry. They have six main lenders who



worked together and collaborated to get that work done, which was helpful.

Even in places like the States and Australia, it is really common that all the property information is done at the beginning and is checked. As a buyer, you know all that work has been done before you submit a mortgage offer. I live in Spain. That is how it is done in Spain. All the property information, all the title check and everything, is done before you accept an offer. Once you accept an offer, it is binding; you pay to have a reservation agreement. It is really common in lots of other countries.

**Paula Higgins:** It is like that in the Netherlands as well.

Q29 **Andrew Lewer:** We have heard of a lot of flat sales and exchanges in Spain going very badly wrong and people losing their money on flats. If this is a good system, how did that happen?

**Maria Harris:** I did not say it was all good, but they certainly have more information upfront. I do not know about the flats one, but I will have a look and I will email you afterwards.

**Kate Faulkner:** We have a lot of amazing people in this industry. On the conveyancing side—this also goes for agents and surveyors—over the last few years so many things out of their control suddenly landed on their desks, such as the Building Safety Act. I think back to the stamp duty changes. In the old days, you could just go, “Tap, tap, tap,” and this is what the stamp duty would be. The guidance on that is now in excess of 30 pages. That landed on legal companies’ desks. They cannot charge any more for it because it is a hugely competitive market, but they are not tax experts.

The Building Safety Act is a huge amount of extra work. That is costing an extra £1,000 on the purchase of a property from a legal perspective because of the amount of extra work.

Whenever we want to change something that is going to impact home buying and selling—we tried to do it with the leasehold Bill and we are back-engineering it for the Building Safety Act—we also need to run it through the system to say, “What is the role of the agent in this? How does that change? What is the role of the legal company? What is the role of surveying?” Think about Japanese knotweed. All of these changes are put on the industry, but it is totally out of their control, as are the number of transactions. This is one of the few industries I have worked in where that happens.

Q30 **Tom Hunt:** There is one final question for me. In terms of information being provided upfront and information to the buyer, I had brought to my attention recently an example where an individual was purchasing a flat in London. They thought the seller owned 100% of the flat, and it came out right at the end that they only owned a third of it and two-thirds of it



was owned by the housing association. That added another six weeks, apparently, because they had to do the staircasing, which they were not aware of when they purchased it. As it was, it was not a huge deal. It was a bit frustrating. You would have thought that that information would have been provided upfront.

**Paula Higgins:** It should.

**Kate Faulkner:** It should. You are absolutely right.

Q31 **Chair:** The next questions from me are going to be fairly easy to answer and probably fairly quick. You have already talked about digitalisation in your responses to a number of questions. You all think it should happen. Why is it taking such a long time to get it in place?

**Maria Harris:** If you look at where all the property data currently sits—data from the Land Registry and local authorities, and search data—it sits in lots and lots of different places. The reality today is that none of that data at source is in a digital format. It is not structured to a common standard. It is not available over APIs. It is not machine-readable. It is sitting in pdfs, reports, documents, pictures, drawings, contracts, paper, microfiche and everything you can imagine.

The job to digitise that data has not really started in anger. It was one of the recommendations from the last levelling up inquiry in 2017. We had promises from the Government in 2018 that public datasets would be released as open data and that that would include land registry searches, CON29, and planning and building regulations. We are now in 2024 and none of that data is digital.

When we talk about the challenges that the industry is leaning into, it is very hard to digitalise a process when you are not starting with a digital foundation. We have to fix that infrastructure. We have no ecosystem that data sits on for the property industry at all. We have no trust framework for collecting and sharing the data.

Q32 **Chair:** Where should we begin this process, then?

**Maria Harris:** We have recommended several times that we need to start with titles, deeds and CON29. Those are the three biggest impacts on transactions falling through, mortgages falling through or delays to the process. They are the three biggest impact areas.

Q33 **Chair:** That is for the Government, is it?

**Maria Harris:** Yes.

Q34 **Chair:** How long should that take to do?

**Maria Harris:** The local land charges programme has been running for six years now.

**Paula Higgins:** It has done about 30%.



**Maria Harris:** We have managed to do eighty-something local authorities in one local authority search. We have a lot of work to do.

**Kate Faulkner:** It is possible.

**Maria Harris:** It is possible. The technology has definitely moved on. It needs to be done. We are not going to fix this unless we solve our infrastructure problem.

Q35 **Chair:** Is there any estimate of how long it should take, if there were a will to do it?

**Maria Harris:** I would like it to be done within three years. It is achievable to have it done within three years based on the technology and the digitalisation that has already been done in finance and other industries, and other smart data initiatives.

Q36 **Chair:** Should any other organisations be pushing this? Should the Law Society be doing more?

**Maria Harris:** When we were talking before about paper-driven processes and protocols that do not support digital services, that is probably a really good example of forms-based thinking.

There is guidance that still references sending things by fax or doing completions by post. There are things based on forms where the forms are licensed. There is intellectual property on the way those forms are structured and the questions they ask, which means they are not able to be completed in a digital format with data.

The Law Society is a good example of forms-based thinking, but it is not the only one. We have lenders' handbooks from UK Finance that do not support digital identity and digital signatures. Even the Land Registry's own guidance does not support electronic signatures. All those things need to be aligned and they need to be common.

Q37 **Chair:** They are all in the last century; they need to move into this century.

**Maria Harris:** Yes, absolutely.

**Chair:** Do you have any other comments to make on that?

**Kate Faulkner:** From my side, when you first hear about it, it feels like a bit of an impossible task. The reality is that we know what we have to do. We have everybody working together in a way that has never been achieved in the last 30 years. With Government help, we can deliver the best buying and selling service. I know I am being very brave in saying that, but I really believe it. We have an industry that can do it, but we need some help from Government.



**Maria Harris:** We need to move collectively. We all have to take the same step at the same time. Otherwise, the customer is not any better off.

**Kate Faulkner:** That is correct.

**Paula Higgins:** I just looked this up. Around 30% or 96 of the 331 registers of local land charges have been digitised. They are putting more resource into it. Now that they have cracked it, why can we not accelerate that programme? As a consumer, we can look at our taxes. We can do that. Why can I not log into the Land Registry, look up my property data and see it all there? If I see that there are problems, whatever it is, I can take ownership of it. This is my home.

Q38 **Chair:** I was going to ask if there are other sectors that have done this process of digitalisation, and done it well, that can be learned from.

**Maria Harris:** It is interesting. Before I started working in financial services, I worked in the travel industry. Think about the last time you flew: it does not matter where you fly from or which airline you fly on; every airport uses the same three-letter code.; you have the same scanning system for your baggage; ticketing information is in exactly the same standard and structure; everybody has to connect to air traffic control and use the same identifiers. It is just normal.

That standardisation underpins the internet. We have it for three-pin plugs. We literally have standards for everything, and we do not have that for the property industry. It is quite staggering that, for something that is such an important purchase and so complicated, we do not have that infrastructure, when we have it in so many other things that we just take it for granted.

Q39 **Chair:** Are the FAIR data principles laid down by the UK national data strategy easy to adopt?

**Maria Harris:** Yes, that is what we have written our data standards on. In 2020, the Government published the UK national data strategy, which said that all data should adopt FAIR data principles. That just means that data should be digitised in a way that makes it findable, easy to access, interoperable and reusable, and that that data should be able to be trusted and flowing.

Sadly, we have neither data flow, nor standards, nor trust, nor a way to share the data for property. We need to start with FAIR data principles. We have created a data standard for the digital property packs. We have companies that are using that today, and they are going from offer accepted to exchange of contracts in 15 days, with zero fall-throughs, zero fraud, a much better customer experience, more certainty around the moving date, and taking hundreds of hours out of the process because that waste of time is not there.



Absolutely, if we had widespread adoption of standards and we digitised the data at source, we would reform this process dramatically.

**Chair:** What are you going to do with those fax machines?

**Maria Harris:** We will put them in a museum, I think.

**Kate Faulkner:** You are not even allowed to throw them away now.

Q40 **Chair:** It still amazes me. How can we be living in this age and still using fax machines for this important process in people's lives?

**Maria Harris:** I worry about that from a security perspective. When we talk about standards, we do not have data standards or technology standards, but what about the cyber and security controls of our systems? We have people who are still working on Excel spreadsheets. Somebody can set up an estate agent with nothing more than a website. We absolutely have to raise those standards across our industry and ditch fax machines.

**Chair:** On that point, we will conclude this session. Thank you very much indeed for posing some challenges to us about how things could be improved for both the buyers and sellers in this process.

## Examination of Witnesses

Witnesses: Mairead Carroll, Timothy Douglas and Beth Rudolf.

Q41 **Chair:** Thank you very much for coming. Could you say who you are and the organisation that you are here on behalf of today?

**Mairead Carroll:** My name is Mairead Carroll and I am here for the Royal Institution of Chartered Surveyors.

**Beth Rudolf:** My name is Beth Rudolf. I am here for the Conveyancing Association, the Digital Property Market Steering Group, and I am co-chair of the Home Buying and Selling Group with Kate.

**Timothy Douglas:** Good afternoon and thank you very much for the invitation today. I am Timothy Douglas. I am the head of policy and campaigns at Propertymark. Propertymark is a professional regulatory body for property agents.

Q42 **Chair:** Thank you very much for coming this afternoon. I will come to Beth Rudolf first. Clearly, conveyancing is a key part of the whole process of buying and selling; it is when the property transfers from one owner to another. What are the main challenges that you have at present, and what could you be doing better to meet them?

**Beth Rudolf:** The important phrase there is "at present," and that is the problem. Certainly, when I started conveyancing back in the 1990s, my





fastest transaction was 45 minutes; now we are looking at 22 weeks. Of course, we did not have email then, so what on earth has changed?

When you look at the way that we do all the transactions, we have to now recreate the title and the information about the property every time. The difficulty is that, when you send information over to the buyer or the buyer collects some information, if that information conflicts with the previous information, it results in an additional inquiry.

The reason that this has become a real problem is because of the complexity of titles that occurred after the financial crisis—leasehold houses, short leases, onerous terms—and the lenders having to adjust their affordability criteria, so service charges and stuff like that would impact the ability to proceed. We also now have estate rent charges and managed freeholds since the Government's announcement that leasehold houses were not going to be allowed. We have to deal with all the management companies, the property agents and any tenants associations, but without any regulation of them.

On top of that, the scope creep for conveyancers has increased hugely. When I started doing conveyancing, we had one search. We had all the information in the title deeds packet, which was stored in a fireproof safe either by the lender or by the solicitors, so that when the property was sold you would just take out the deeds packet, and in there you would have the deeds, but you would also have all the warranties and guarantees. You would also have any insurance policies. You might even have a memo from the previous lawyer explaining the reason they were able to take a view on a particular element and deal with an issue.

Since the dematerialisation of deeds by the Land Registry in 2002, all the deeds packets were returned to the clients. There was no reason to charge for fireproof safes anymore, and as a result they were lost, because they did not realise how important they were. Unless we get digital property packs and logbooks, we cannot recreate that.

On top of that, as Kate mentioned, we have the scope creep from things like Japanese knotweed. We have environmental issues. Of course, we now have to deal with leasehold estate rent charges and managed freeholds. It is a huge amount of work to do. It used to be that transactions for a sale would probably take seven working hours of a conveyancer, and a purchase would probably take about 10 working hours. If you think that each week, if you are doing manual progressing of a transaction, that takes half an hour, transactions taking 22 weeks means that you are taking 11 hours just to tell people that you are waiting for something. Where we have got to now is a huge problem.

**Q43 Chair:** You are almost making us feel sorry for you. Things have changed, but has the sector responded to those changes in the most effective way?



**Beth Rudolf:** No, and the difficulty is that, because there is this misunderstanding of “buyer beware” applying to all data, conveyancers have not been able to be proactive. Because we think “buyer beware” means that, as a seller’s conveyancer, you do not want to tip them off that there might be a problem, you just do not review any of the documents when they come in at the beginning of a transaction if you are instructed before the property is sold, for example.

This does not apply any more, but the difficulty is that, every time these things change, the conveyancers have been encouraged to put a disclaimer in saying, “The seller does not know this information, so you cannot rely on what they have told you.” You have the William Sindall case and things like that, which mean that all of these disclaimers have grown.

It was only last year that we had the Rossiter case, which again said that the sellers should be providing the information that the average consumer would need, and that “buyer beware” only applies to the intended use and enjoyment of that buyer, so that specific information, and does not apply to things that would impact the average person.

A seller’s conveyancer is also a buyer’s conveyancer, so they know exactly what would impact the average consumer, and they can look at the lenders’ handbook to see what would impact the average lender. We can be proactive, but unfortunately the protocols that we work to currently do not encourage that.

Q44 **Chair:** One of the things that I often get complaints about from constituents—I am sure that colleagues do as well—is that sometimes the view of the conveyancer is so particular and restricted to the title of the plot on which the house sits that other things are missed. One thing that was referred to in the previous evidence session was managed freeholds, which are increasingly common, but often information does not seem to be given clearly to purchasers that that is the situation that they are buying into.

I just had one the other day. I was talking to a constituent who clearly has understanding about the property he has bought in terms of the line around that particular land. There is a bit of land that he has to go over to get to the front of his property, which is in ownership that is certainly very complex. It results in nobody maintaining that, but nobody drew his attention to that when the conveyance was done. Is that the sort of thing that should be picked up, or is it just, “Sorry, it is not the bit you are buying, so tough”?

**Beth Rudolf:** That should be on the advertisement of the property, full stop. There is a law. The Consumer Protection from Unfair Trading Regulations came out in 2008 saying that anything that would impact the average consumer should be included in the advert. We would agree that a ransom strip, as you are describing, should have been explained to the buyer when they were thinking about buying it.



I have done quite a lot of education in nudge mentality and psychology. What you realise is that the psychology of a buyer before they decide to buy a property is very different. When they are looking at a property, they will be much more likely to think, "Is this going to be alright for me?" If I know the service charge is going to be huge, that there is a ransom strip that I will not be able to drive over, and that I will have to sort that out, I am probably going to make a different decision from the one I make when, instead, I have put my offer forward and it has been accepted.

"Hurrah, I have fallen in love with the property. I know that my kids can go to the local school. Everything is brilliant." Anything after that that comes back as being a problem is just a challenge or something I have to overcome, and I will buy it anyway, or I am going to have to pull out because the lender says, "No, you cannot afford this property," at which point the transaction falls through.

Q45 **Chair:** You mean that that information should be given upfront.

**Beth Rudolf:** It needs to be given upfront so that the buyer can digest it, and they can also understand then what it means to them. In the same way, if you get a seller instructing on a property that they are putting on the market, before they find a buyer, if you say, "Fill in these forms," they are absolutely all over it because they know their house is going to sell tomorrow and they just want to get it through. They want to get all the information up together.

If, once you have a buyer who has put forward an offer that the seller has accepted, you then say to the seller, "Provide us with information that might put your buyer off or might cause the transaction to fall through," they are either going to be much slower in providing this information, which is what we find, or they might just twist some of it and say, "I don't know." Then it is up to the buyer to discover that. That then comes much later in the transaction, so you get people pulling out and the huge costs of waste to the whole industry and to the consumer.

Q46 **Chair:** Can I move on to the issue of referral fees? When we did our inquiry as a Committee into leasehold properties—I appreciate that these are newbuild properties—we were shocked at the way that comfortable relationships exist between developers and conveyancers. Fees were paid over, and the prospective purchaser was told, "You go and use that firm of solicitors or those conveyancers, and they will look after you. They know our property and the complications involved, so they will get it done more quickly." Then the new carpet came out as an incentive to the purchaser, almost as part of the package. That is not right, is it?

**Beth Rudolf:** No. If you are getting so much work from one place that you are not going to risk losing it, that is a huge problem. Certainly, we have seen the issues that arose out of that with the mis-selling of leasehold properties.



Some of our members at the Conveyancing Association would point out, though, that if you have referral fees that means that you have SLAs—service level agreements—with referral panel managers. That means that you are going to provide a better service because you signed the service level agreement, but more importantly you know how much work you are going to get in, which means that you feel able to invest in technology and all the sorts of things that can improve the process for the consumer.

Q47 **Chair:** Should we have a review of referral fees and how they should or should not operate?

**Beth Rudolf:** The important thing to note about referral fees is that you can tell a buyer that they are paying a referral fee, but, unless they understand what it means to them, it will not make a difference.

In terms of trying to find a better way to deal with referral fees, other members of ours would say you should cap referral fees. I do not think anybody would recommend banning referral fees, because then it would go back to what it was before they were allowed, which was money in envelopes being passed under the table, holidays being paid for and all sorts of bad behaviour.

Q48 **Chair:** Do we need to regulate them?

**Beth Rudolf:** Regulation is key.

Q49 **Andrew Lewer:** Beth, are so-called conveyancing factories a problem within the industry? If they are a problem, why is that?

**Beth Rudolf:** It depends what you describe as a problem. When you look at the complaints ratios at the Legal Ombudsman, about 0.1% of people who use conveyancers complain to the Legal Ombudsman. That does not change with volume conveyancing companies doing it.

The difficulty is that, of course, they are dealing with 30,000 transactions. It might be that, for a conveyancer only dealing with 100 transactions, it seems that they are always coming across them, and they hear all these complaints about them.

The benefit of those larger conveyancing companies is that they are specialist conveyancers. They invest in the technology and enable the consumer to have the service that they desire. However, of course high street conveyancers can and do also do that.

Q50 **Andrew Lewer:** Do you think it is just a pejorative term in the same way that a small, high street insurance company might call Direct Line an insurance factory, or is there something more to it than that?

**Beth Rudolf:** No, it is definitely a pejorative term. We are talking about volume conveyancers using technology and teams to enable the transaction to be dealt with efficiently.

Q51 **Andrew Lewer:** Do you think the Legal Ombudsman's report in 2012



has been taken seriously by the sector?

**Beth Rudolf:** Yes. If you look at the reports in 2022 and 2023, the number of complaints about conveyancing is half that of the complaints about lawyers doing wills, probate or divorces, yet 23% of the complaints are about delay. It does not matter what you do to try to provide a good service; if your property is in a chain of transactions, then you can only go as quickly as the slowest person in the chain. Unless we mandate the improvements that the last panel were talking about, that is not going to make any difference to the number of complaints received.

Q52 **Andrew Lewer:** Quite often, the default in this Committee is a solution that whatever we are dealing with needs more regulation. We have got to the situation as a society of being breathtakingly overregulated, which is why things take 22 weeks instead of 45 minutes. How would you suggest that conveyancing moves forward in a way that may involve regulation, but that it is better regulation and not just more regulation?

**Beth Rudolf:** When you think about the current regulation of estate agents, if they are letting a property they have to know 70 different bits of legislation. Certainly, those selling property need to know about the Consumer Protection from Unfair Trading Regulations.

The difficulty is that, because they are unregulated, they are also uneducated. They do not know about these things. You can produce as many laws as you like, but it will not make a difference.

For example, my son is currently renting a property. He said to the landlord, "Where is the HMO licence?" Within a week, he had received a section 21 no fault eviction notice. He said, "You also need to note that your EPC is out of date by two years, and it is an F-rated EPC, so you are not allowed to let the property. You did not pay my deposit into a tenancy deposit scheme until late, so you are supposed to give that back to me. By the way, I don't think you have planning permission for the bit behind."

All those things are there, and the fines in total would have come to £12,000 if he was able and wanted to take it to court, but, without the regulation of that property agent when they let it out, how were they supposed to know? It is lucky that his mum knows a little bit about the law, although he did look up a lot of it himself as well. As a result, he is able to say that, but unless we are going to educate consumers—when I say "consumers" I mean estate agents and all stakeholders as well as the people who are buying, selling, renting and letting properties out—we are not going to improve the process.

**Andrew Lewer:** I often think that we do not get enough anecdotes on this Committee, and that was a particularly good one, so thank you very much.

Q53 **Ian Byrne:** Beth, I have to know: did the landlord withdraw the section 21?



**Beth Rudolf:** We do not know yet if he is going to. However, the email that my son is going to send will include a link to this Parliament TV session, and we will see if that helps.

Q54 **Ian Byrne:** You will have to keep us informed.

Tim, are estate agents adequately regulated at the moment?

**Timothy Douglas:** If we are talking about qualification and licensing of property agents, we would say no. There are very limited barriers to operate in the sector. There is not even a minimum requirement to belong to a professional body where they are going to be interacting with the latest information, Government updates and legislation.

What we do have is the Estate Agents Act 1979. That has not been reviewed or amended in any detail for over 40 years. The premise of that legislation is that it is providing a definition of estate agency work. That legislation is enforced by the National Trading Standards estate and letting agency team, but they are enforcing using a negative procedure. They are enforcing against what already should be happening, rather than regulating and licensing agents from the outset.

Q55 **Ian Byrne:** How many rogue estate agents have been taken by that law?

**Timothy Douglas:** It is not a figure I have to hand. The national estate agents have a banning list, and that data would be on there. As an aside, what we also need to do through wider regulation is ensure that that banning list is joined up with the database of rogue landlords and property agents. Those two lists should be combined and are not at the moment.

Q56 **Ian Byrne:** Beth, would you agree that estate agents are not adequately regulated?

**Beth Rudolf:** Yes, absolutely. Without the regulation of property agents, we are not going to solve this. That is very much something that we saw with the misinformation and the mis-selling of leasehold property. I cannot tell you how many emails I get from the Conveyancing Association members absolutely gobsmacked by property agents, particularly on leasehold properties, requiring unreasonable fees to obtain a deed of covenant, which is on a lease dated after 1995 and so is not even required. The Landlord and Tenant (Covenants) Act says that these are enforceable covenants; you do not need a deed of covenant, yet people are being charged £1,000.

Without the regulation of property agents, we are not going to be able to do this. The wonderful thing about the regulation of property agents is that it will deal with agents selling properties, agents managing properties, and agents letting properties. We are talking about the homes of everybody in the country.

**Mairead Carroll:** At RICS, we regulate our members, and so they are held to a set of standards or rules of conduct for their behaviour. They



have to undergo training and qualifications in order to be a member of RICS. We firmly believe that agents should be regulated and that professional bodies should be able to do that regulation in terms of oversight of their members, which they have been doing for many years. We have been around for over 150 years.

We worked with the Property Ombudsman to develop an overarching code for property agents based on the work that Lord Best did.

**Ian Byrne:** We will touch on that in a minute.

**Mairead Carroll:** Sorry, shall I stop then? That is currently with the Department.

Q57 **Ian Byrne:** The HomeOwners Alliance has said that the current system of redress is confusing for consumers. What more needs to be done to support the consumer?

**Mairead Carroll:** If we look at things like the overarching code, that would be a really good start. That would provide a great deal of clarity to consumers about what they can expect from their estate agent and property agent.

We would really like to see surveys done at an earlier stage. We see that about one in four people get a survey. The HomeOwners Alliance has done some great research on surveys recently. It showed that a third of people who got a survey were able to renegotiate on price or to get the work changed, because they realised that things needed to be done and improved.

At the moment, so many people leave their survey to the very last minute. I completely understand why they do that, because it is a big cost. If things go pear-shaped, it is a big cost to bear, so people do not do it. We need to think about finding a way and a system that encourages people to get that survey at an earlier stage, so that they fully understand the condition of the property.

**Beth Rudolf:** Can I just pick up on that and what was said in the earlier session? As you know, in Scotland, the home report includes the single survey and—this is the point—the seller pays for it. There was a comment from Kate that the culture is different in Scotland. It was not when they brought it in, but it did not stop the properties going on the market. You have the same number of properties—the percentage is comparable to England—going on the market before, during and after the implementation of home reports.

We did a survey of home movers and homeowners to ask them what they thought. We got 1,000 responses, 80% of which said the seller should be providing this information upfront. The majority of them had already bought a property within the last 10 years, and so they were the sellers. The feeling was very much that it was down to the seller, because the seller knows they are going to sell the property. The buyer does not know



whether or not they can buy the property. For the majority of people, it is neutral cost, because you are now buying it on your sale instead of a purchase you do not even know if you are going to buy.

**Timothy Douglas:** We should not necessarily just brush over the regulation of property agents. It has a massively important part to play in terms of improving the home buying and selling process by levelling the playing field, improving the education and knowledge of the agent, and ensuring a greater level of consumer protection.

However, there is a wider context here. Transparency International says that, since 2016, £6.7 billion of unsolicited or dirty money has been invested in property in the UK. Why is that? Essentially, it is because anybody can set up a property agency.

We know from our members that, if they hold client money, then they need to have client money protection. They need to put that in pooled or undesignated client accounts. We are seeing the banking community not allowing these client accounts to be opened, or they are closing undesignated accounts with agents who have been with some of the big banks for 30 or 40 years. Ultimately, the agents are the only part of the home buying and selling process that is not regulated. That is where we could get greater trust and co-ordination going forward.

Q58 **Ian Byrne:** In 2018, Lord Best chaired the Regulation of Property Agents Working Group, and he made a number of key recommendations, including creating a new independent regulatory body with powers to enforce a code of conduct. That was in 2018; we are in 2024 now. Should it have been implemented?

**Timothy Douglas:** Yes, certainly. If you look at the legislation that has come in since then, such as the Building Safety Act, the changes we are going to see through the leasehold, and changes through renters reform, it is absolute madness that we are not qualifying or licensing the competency of the individuals who are going to carry out this rather complicated legal and legislative work. We need to see it.

It is understandable. We have had the pandemic in that process. We have probably had too many Housing Ministers and Secretaries of State in that process, but we need the political will from the UK Government to do it. Time is not an excuse. There is existing legislation going through the Houses on the leasehold side and the Renters (Reform) Bill that can be put in as triggers. We are not looking for it overnight, but those triggers should be in. The industry wants it and the consumers need it.

**Ian Byrne:** That is a really good message.

**Beth Rudolf:** The problem that you have also is that we are expecting the public purse to regulate estate agents through National Trading Standards. Of course, National Trading Standards is funded by local





authorities, which have no money, and therefore will rightly be looking at things that impact health and safety.

If we have a regulator, as we do with the legal and financial industries, that is paid for by the people who are regulated, then that will ensure that we are taking it out of the public purse and putting it into the industry where it should be.

**Mairead Carroll:** National Trading Standards technically is not a regulator; it is an enforcement agency, and it can only enforce on the legislation that currently exists.

If you introduce some form of regulation in the way that we regulate our members, you are not just looking at the legislation; you are looking at behaviour and conduct. You are looking at standards across the board, so you are changing the way that you deal with agents, and those agents who are not treating people in the way that they ought to.

**Ian Byrne:** It is a really good message for the current Government and any future Governments as well.

**Timothy Douglas:** The wider issue is that, if you look at redress as well—we have touched on codes of practice—again, it is about that wider co-ordination of what is happening. As Mairead has just alluded to and as I said at the start, National Trading Standards is essentially enforcing a negative licensing regime against the legislation. We need a more proactive approach that licenses and qualifies.

As Mairead has said, as an industry we have looked at an overarching code of practice, but there are other things within the sector that need greater co-ordination. We have redress schemes. All property agents need to belong to a Government-approved redress scheme. However, these redress schemes are not all operating or adjudicating in the same way. One works to a code of practice and another does not. Therefore, there is a lack of co-ordination there.

Through the Renters (Reform) Bill we are bringing in landlord redress, another private rented sector ombudsman. If the three ombudsman schemes are not working together in tandem, there are not adequate timescales for agents to deal with complaints, and communication processes are not set out for landlords, it is going to be a complete mess.

There are already things that they need to look at in order to co-ordinate that, which is a stepping stone to regulation.

Q59 **Andrew Lewer:** What do you think is currently causing the provision of material information in transactions to take so long?

**Mairead Carroll:** There are a number of challenges. Material information is some very specific guidance that has come through from Trading Standards based on the consumer protection regulations of 2008.



The information within the material information guidance is not all the information that you need to buy a property. Not all the information that is within that is material. In the guidance, it will talk about something like deeds and rights, and construction of the property, but something that could be equally material for you as a consumer is that it is on the flight path from Heathrow, or you are just above a tube station and you are dealing with the rumble every morning.

The challenge is that there is so much information that could be material to a consumer, depending on that consumer at that point in time. There is also so much other information coming through that people need to know about it in addition to the material information. The challenge is that it sits in so many different ways, which was alluded to earlier. There are a number of different players who have all this information and are tackled with it.

A challenge for us in terms of material information, as it is, is that there is no legal mandating of an upfront survey or upfront conveyancing, so we are entirely dependent on the seller going out and doing that. The buyer then has to do pretty much the same themselves, if they choose to go down the route of having a survey.

One of the challenges is trying to bring everybody together to work through where that information sits. There is a lot about the digitisation of information. It is really difficult. At the moment, there are so many aspects to this that it becomes quite complicated. It is about how those people interact with each other.

**Q60 Andrew Lewer:** Is there a particular body that is holding things up or having some sort of process requirement that is particularly onerous or time-consuming relative to the others?

**Mairead Carroll:** There is always the challenge of making sure you get the legals right. That is always going to be really important. Trying to get all that information can be quite difficult. It can take a long time to do local authority searches. There are so many things within this that are taking time but that are not necessarily within the gift of an individual. It is within the gift of so many different people. This is where the role of Government has a place.

**Q61 Andrew Lewer:** Do you think that, in the risk culture that we live in, the incentive is always to just double check and make sure that no one can come back at you and trip you up, at the expense of things taking forever, because it is safer to cause everyone annoyance by taking 22 weeks than it is to potentially get something wrong?

**Mairead Carroll:** Working with surveyors, private indemnity insurance has been incredibly tough to get, especially looking at the highly complicated and complex buildings. There is definitely a challenge for people who go down that route, whether they are doing the conveyancing or the surveying on those buildings, because you are taking on an



additional risk that you have not had to face before. Insurers have become slightly nervous about the level of risk that is available. Also, premiums have increased.

There is always going to be that challenge that we are dealing with, and we are in a situation where things have become much more complicated and complex, especially with some of the properties that are being bought and sold now.

**Q62 Andrew Lewer:** Is there an incentive for surveyors to be vague? "There is a roof. There might be something wrong with it, but I cannot really say."

**Mairead Carroll:** Potentially, it could be an incentive. However, in terms of the way we structure the home survey, there is a report on the home survey standard, and we are reviewing that this year to pick up on the feedback that we have had.

The challenge is that, yes, there is that risk, but surveyors have rules on conduct. We have standards that they are expected to adhere to. They also have to make sure that they are meeting their insurance liabilities.

**Beth Rudolf:** From a conveyancer's perspective, we have this belief in the unknown of liability and that, if you are providing upfront information, your liability increases, which of course is rubbish. The liability stays exactly the same. You have to advise your client and you have to do it in the best interests of your client. What happens is that risk reduces.

When we looked at creating the buying and selling property information dataset, we went and had a chat with the insurers and they said, "Yes, this would absolutely reduce the risk," because the information is being provided upfront to the buyer. They get to see it. They get to make a decision that is right for them. If they complain about it later, you can evidence that they had that information, and everybody knows the basis on which the deal has been made.

The difficulty that we have is that, because estate agents are the only ones with a legal obligation to provide the information upfront in terms of material information, we are not getting conveyancers dealing with it when they should. I am also hearing that, when estate agents say to sellers, "Go and instruct your conveyancer. Get them to complete the forms," the solicitors are saying, "No, that is early doors. We will not do that until you have a buyer," completely mucking it up.

The reason for that is that there is one protocol, which is created by the Law Society. The unintended consequences of that are that it does not recognise that things have changed. Certainly, if you look at the Law Society's conveyancing handbook, it referenced the CPRs back in 2008 and said, "Let us wait and see".

The reality is that what we need is to create a protocol that goes across the entire industry; this is what we are doing in the Digital Property



Market Steering Group. As you have heard, the industry needs to collaborate. You are using the same information. The title document is currently obtained by the estate agent, the conveyancer, the mortgage broker and the lender. That is the same document four times. With digital ID, you can double that. At the moment, people are expected to trot in with a passport or a driving licence, whereas if it was digital it would be so much easier because you could just share the certificate confirming that your ID has been verified across everybody.

We need to create a protocol that tells the industry who is going to get what when, and how it is going to be shared. We did go out to industry, and we have 350 respondents in the Digital Property Market Steering Group saying, "Yes, we want this," so 80% said it would be very helpful to have it. That means that we are not reliant upon one entity to update the protocol when things change.

Let us face it: it needs to be iterative. We have the DSIT Bill going through on digital ID and digital assets. We have other things like digital signatures and qualified electronic signatures going through. We need to keep flexing and improving, while at the same time looking after those people who are not able to deal digitally, and either enabling them to deal digitally or ensuring that the analogue process is just as speedy as the digital one.

Q63 **Andrew Lewer:** We might look to get to the stage where someone can do that for them, given that that is going to be where it is at.

**Beth Rudolf:** Yes, that is the thing. If you look at people under 30, 98% have a smartphone; for over-65s, it is 80%. The other 20% may not own a property, but if they do own a property they certainly know people with smart devices. The estate agent could help them. Their sons and daughters could help them.

**Timothy Douglas:** I definitely agree with what Beth is saying. Greater collaboration and reducing duplication are key to all of this.

From the perspective of Propertymark and our members, we know that upfront information is essential for home buyers and sellers to make informed decisions. We have asked members recently and 73% said that providing that information upfront results in an increase in speed; 63% said that producing information upfront results in a reduction in the number of failed sales. We know that there is a positive reason for doing it.

We need to understand that the recent changes through the National Trading Standards estate and letting agency team, parts A, B and C, are not new regulations; they are a new framework of working. That is partly because, as Beth has alluded to, the consumer protection regulations have been in place since 2008. New guidance was issued to the sector in 2020, which was trying to move towards presenting information that agents can use to help consumers understand. We would like to see it go



a bit further and have more practical examples in there of what agents should and should not do.

I was just looking at that guidance. Page 23 states that the CPRs define material information as the information that the average consumer needs, according to the context, to take an informed transactional decision. Within that, what does the average consumer need? What is the meaning of “according to the context” or “to take an informed transactional decision”? We are asking a lot, and there is ambiguity in terms of those CPRs.

The move towards parts A, B and C is positive. It is a new framework for presenting that information. How it is then collected and the liability of it is a different matter, but it is moving things in the right direction.

Q64 **Chair:** There are a lot of frustrated consumers out there thinking, “What is going to happen?” They will be thinking, “What are that lot down in Westminster going to do to improve this situation?” We are going to make recommendations to the Government. What is the most important thing we should be recommending—one each—as a change that should happen?

**Timothy Douglas:** We are only going to get one.

**Chair:** You do not have to agree with each other.

**Timothy Douglas:** Shall I go first?

**Beth Rudolf:** You go first, and then what you do not cover, I will cover.

**Timothy Douglas:** Ultimately, for Propertymark, it is the regulation of property agents. As an aside to that, it is about an overarching strategy for housing and the property sector. Too much is done in isolation between the private rented sector, building safety, and home buying and selling. We need an overarching strategy that brings that all together.

**Chair:** That is cheating; that is two, but we will let it go.

**Beth Rudolf:** Oh dear, you think that is cheating. I agree with all that. We have the Leasehold and Freehold Reform Bill at the moment. We have the opportunity—please take it—to throw in a lot more.

Property agents are not regulated or required to provide upfront information. They are not required to respond to leasehold property inquiries. In fact, a landlord can say, “I am not going to give you this information,” so then we have a problem with building safety and everything else.

We need to simplify titles. We have the perfect storm coming with the estate rent charges, the managed freeholds and the leaseholds, where all of the councils no longer have the money to adopt roadways or public open spaces. We are having to have these complex titles, but because



the community have no control over that, they cannot enforce it and get the work done. We are hearing of roads not good enough for refuse lorries to drive down.

It is the perfect storm coming. We need the regulation of property agents to ensure that people can get this work done and get the service charges at a sensible rate without being ripped off, but then on top of that, for the actual buying of those properties, we need to have that upfront information. I am sorry; I have given you at least three.

**Mairead Carroll:** Regulation of property agents is a universal recommendation, of course. Also, I would recommend some form of Secretary of State adoption of the overarching code. A lot of work has gone into that. It would be a really good framework to start providing clear guidance to the consumers about what they should expect from their property agents.

We would like to talk to Government about more surveys and supporting consumers with understanding the condition of the property that they are going to buy so that they are not in a position where they end up finding there are some hidden nasties that they were not expecting.

**Chair:** Thank you very much indeed for giving those suggestions to us, as well as all the other responses you have given to our questions. That has been very helpful to us in coming to our views eventually about recommendations we will make to the Government.