

Dear Sirs,

The following is the response of the Ogier Property Team to the questions posed by the panel:

The average length of time that transactions take to progress from offer and acceptance to completion:

On average, it takes between three and six weeks from when instruction is first received to the completion of the transaction. We believe this to be one of the shortest time frames for a sale and purchase process to complete, being significantly shorter than, for example the UK (over 6 weeks) and France (10-12 weeks).

The average time to complete transactions:

This appears to cover the same ground as the first question. The length of time taken for a transaction to complete depends on the nature of the sale.

The most significant factors when it comes to timing are

- i. the completion of the necessary valuation and bank mortgage approval procedures. Banks have become slower in providing instructions to surveyors for valuations, and their processing and decision making is often carried out off-Island. There can therefore be delays because purchasers are reluctant to proceed and incur costs until they have received their facility/offer letter;
- ii. buyers undertaking when negotiating a purchase to meet a given date in order to close a deal, without intending to work to the agreed timeframe;
- iii. issues with title or boundaries. These are often capable of resolution but given the expectation to complete in a compressed timeframe, delays in some firms issuing documentation to buyers, and the complexity of title research, they can arise relatively late in the timeline; and
- iv. firms having insufficient capacity to meet the proposed completion dates, often due to quoting excessively low fees and taking on too much work;
- v. the client's own wishes, or client delays in making decisions or processing a mortgage application.

Whether there is evidence of:

- **a widespread problem with late failures of transactions**
- **transactions aborted at a late stage tended to cause one or more parties to incur significant legal and other fees, plus considerable inconvenience**
- **material negative impact on utility providers and other third parties arising from aborted transactions**
- **material legal, financial, administrative and other complications remaining unidentified until the final days of a transaction process**

The short answer is no, there is no evidence of a widespread problem. Problems are usually isolated incidents caused by different factors in each case, there is no main cause.

Transactions can fail because people simply change their minds or decide to renegotiate terms at the last minute. At other times it can be due to issues arising from the valuation or survey. Rarely, a transaction may be aborted as a result of there being title issues which a vendor is unable or unwilling to resolve. When one part of a chain fails it is almost certain that the rest of the chain will fall down too.

Disruption can be minimised where clients are focused, instruct their lawyers in advance and arrange their mortgage in a timely manner.

If a transaction is aborted, the parties may remain liable for their legal fees especially if it is at a late stage although lawyers often charge a much reduced fee.

Whether there are: specific bottlenecks affecting the average rate of progress of transactions; if so, specific options for alleviating such bottlenecks:

The advantage of a single Court slot of Fridays is that it tends to focus matters; on the other hand a week's delay results if any aspect prevents completion on the intended date. This is exacerbated when a Friday is lost for Good Friday and over a Christmas / New Year period, an additional date would assist where the gap is too great.

With the loss of the traditional meeting place at the Public Registry it is important to maintain the forum for property lawyers and conveyancers which is the Samedi Court. Many outstanding matters are moved along by conversations in court before the sitting commences and there is the additional benefit of people knowing each other (the rapport created by this does help).

Alternatively, one might consider replicating the Guernsey system of having Tuesday and Thursday court slots or introducing an additional Court hearing stage.

A system of exchange and completion wouldn't assist whilst specific performance isn't available for immovable property transactions.

Any other matters relating to the existing system of domestic property transactions, arising through evidence gathered:

With an ageing population of quality conveyancers issues will arise in the future without more trainee conveyancers in the industry with formal training and professional body recognition and/or a mandatory registered title system.

With a registered title system, specific enforcement remedy and a code for exchange and completion the system could be modernised to address a number of inherent issues with the existing system. However, that would require a complete overhaul of the fundamentals of local property law requiring considerable investment by Government. Given the number of isolated incidents within the existing system this may not be a justified investment of public funds.