



Economic and International Affairs Scrutiny Panel

Regulation of Jersey Estate Agents

Witness: Broadlands Estates

Thursday, 28 October 2021

Panel:

Deputy D. Johnson of St. Mary (Chair)

Deputy M. Tadier of St. Brelade

Deputy S.G. Luce of St. Martin

Witnesses:

Mr. N. Hurst, Director, Broadlands Estate

[15:20]

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

Good afternoon, everyone, and welcome to this hearing of the Economic and International Affairs Scrutiny Panel and our review into the registration or otherwise of the estate agents. I will begin by introducing the panel and then we will hand over to our witness. I am David Johnson, the Chair of the panel.

Deputy S.G. Luce of St. Martin:

Deputy Steve Luce of St. Martin, Vice Chair of the panel and also giving apologies for Senator Steve Pallett who is unwell today.

Deputy M. Tadier of St. Brelade:

I am Deputy Montfort Tadier of St. Brelade and I have joined the panel just for this particular review.

The Deputy of St. Mary:

Would you like to introduce yourself?

Mr. N. Hurst:

I am Nigel Hurst of Broadlands Estate Agents, one of the directors here on behalf of my colleagues.

The Deputy of St. Mary:

Thank you for that. Again, thank you for coming. As you know, when this review was announced a member of your firm expressed a wish to give the Government the benefit of his experience. You are here in his stead. Generally speaking, does the firm as such have an overview as to whether estate agents should be registered?

Mr. N. Hurst:

Yes, as a whole we do feel that estate agents should have some form of registration, some form of qualification because I think it needs to be done. There are some bad practices out there and for a lot of people it is very easy to just start up an estate agent overnight and advise people on their largest asset when you have little or no experience. We believe we are a very experienced office and some of us have been doing this a very long time. Roger, as you know, 35-40 years whatever it is. I am in year 22 at Broadlands. We are continually coming across evidence of bad practice.

The Deputy of St. Martin:

Is it really as simple as that, to wake up one morning and decide to start selling properties on behalf of people?

Mr. N. Hurst:

Pretty much, yes. You can be selling something in a shop one day and decide: "Right, I am going to start an estate agency." They pop up left, right and centre.

The Deputy of St. Mary:

Can I ask how long has Broadlands itself been a member of the Estate Agents' Association?

Mr. N. Hurst:

I think probably almost since the start, which is 1972, so a very long time. It was before my time anyway. We are member of the Jersey Estate Agents' Association as well.

The Deputy of St. Mary:

That is what I meant really.

Mr. N. Hurst:

The national we have been for many, many years.

The Deputy of St. Martin:

What sort of benefits do you perceive other than obviously it is good to be regulated and to be signed up? Can you see any tangible benefits as a company of being a member of the Estate Agents' Association?

Mr. N. Hurst:

I think being a member of something will give you a bit more credibility when you can back up that you are working under a code of conduct and you are working to the correct procedures. You abide by the laws and rules of the National Association for good behaviour, full disclosure, et cetera.

The Deputy of St. Mary:

The fact that there are so many agents operating out there that should be making a living out of it that do not see the need, does that mean the public actually ... that is what you are aiming at, that management ...

Mr. N. Hurst:

I hope so. I think you will probably find there are different words for the survey out there. You will find a lot of disgruntled people have been treated unfairly or badly by various agents. Not everybody is perfect but there have been instances, particularly in recent years of bad practice and it is not fair on the public. I think if you had people who were regulated ... I mean in recent years everybody else has been regulated, financial advisers, landowners, et cetera, but one can go out there literally become an estate agent overnight. It is fair enough to start with a large firm under the umbrella of somebody else and always being accompanied but to start up on your own is ... we just feel that there should be some form of qualification.

Deputy M. Tadier:

Can you give an example of some of those bad practices or complaints that might get made that you think regulation or qualification would resolve?

Mr. N. Hurst:

There are instances, I am not going to name any specific instances, where the agent has promised something and said: "Oh yes, that belongs to the property and that belongs. Oh, do not worry about that." This, that and the other, then the public will be 2 weeks down the line into lawyer's fees and this that and the other and the estate agent has told them a load of nonsense, ill-advised. That can cost them money.

Deputy M. Tadier:

To play devil's advocate, I guess there are 2 questions or points that might put back to you against the need for regulation or qualification. One is that we have heard from the consumer ... not the Consumer Council but the Trading Standards Department saying that ... they did not come to a conclusion but they told us that there is already good general legislation for consumer protection that can be taken, that they can hear complaints against, including estate agents. I suppose the other natural argument is just should the free market not resolve these things so if a start-up company does not have the experience and is not up to scratch will they not just fail in the Jersey market?

Mr. N. Hurst:

Not necessarily because the public are quite often duped by advertising, by low fees, this, that and the other and I do not think that is the way the public works. They will go to somebody and they may end up having a good experience, they may end up having a bad experience but if they are going to somebody who has the letters after their name, they have done the qualification, then there should be no reason for that to happen.

The Deputy of St. Mary:

On that point, being a more established name you perhaps do not need to use your attachment to the Estate Agents' Association as a marketing tool?

Mr. N. Hurst:

Not necessarily, it is in our marketing, it is on our business cards and I feel it does hold a little bit there but we have been around a long time and, as far as I am aware, we have a very good reputation and we have a lot of experience within the firm. We will not let new people go out on their own. Nobody is actually new in our firm, the most recent is about 3 years. We certainly will not let them advise people that the legal process is this, that and the other without coming to one of the directors first.

The Deputy of St. Mary:

It is a question I should raise with the estate agents themselves but has the Association gone out of its way to market its voice, its status within the public saying you are guaranteed a better service?

Mr. N. Hurst:

I am not sure they have much. I think you have probably spoken to our president in the last not very long. He will give you a lot more information than I will.

The Deputy of St. Martin:

Just coming back to being a member of the local Estate Agents' Association, we have been told about training, about seminars, about other things that the Association put on for members. Do you find that useful as a company?

Mr. N. Hurst:

Yes, it can be. It is useful. It is also useful to speak to the other agents rather than just ... we are all obviously competing against each other to a certain extent but it is good to work with each other as well and try to keep the standards as we would like them to be. Getting together is always a good thing.

The Deputy of St. Martin:

When it comes to training and qualifications then, would you use the Estate Agents' Association as the basis for your training or do you have your own in house methods of saying: "Right our new staff will do A, B and C?"

Mr. N. Hurst:

We train our staff. We do not have anything particularly ... the National Association of Estate Agents has a qualification they can do but it is very complicated and it comes with a file about this big and the vast majority of it is U.K. (United Kingdom) based so not relevant to us here. We would like to see some kind of qualification that is exclusive to Jersey.

The Deputy of St. Martin:

That was going to be my next question which you have conveniently answered. You are quite right, there are, in some places, quite major differences between us and the U.K., and that is important because working in Jersey you know what the Jersey legislation is.

Mr. N. Hurst:

Absolutely. There are pretty vast differences. The U.K.'s exchanging ... pretty much everything is different. We need to have knowledge of rights of way and boundaries and bits and pieces. Basic conveyancing knowledge for an agent is always good. We have seminars occasionally with the conveyancers and they can explain various things, particularly if we get somebody new in the firm, so you are not ill-advising people.

The Deputy of St. Mary:

Going back to that aspect of legal knowledge, is that something you would expect to be incorporated with any sort of code of conduct? That is more of a lawyer thing, is it not?

[15:30]

Mr. N. Hurst:

It is more of a lawyer thing but if you have a basic knowledge of the conveyancing process it is always a good thing because you are the first port of call normally for the applicant or the client, be it the vendor or the buyer, and you are normally the first port of call. They might have gone to the bank first to get a mortgage. Or they should have but they do not always. It is always good to be able to advise them on what the process is of selling. A basic knowledge of that is, I think, paramount.

The Deputy of St. Mary:

If we go back to an earlier review we did, to do with the nature of the property transactions, that whole process, there is a criticism from lawyers that estate agents go out to market before they go to them. I suspect that is the vendor's decision, he wants to see what is there before he instructs his lawyer, is that a fair comment?

Mr. N. Hurst:

It is a fair comment. The process ... there is no fixed way of doing it. If somebody wants to go and buy a house, they do not necessarily go and see a lawyer first because they might be worried they are going to incur fees.

The Deputy of St. Mary:

So more the selling point of view then?

Mr. N. Hurst:

From a selling point of view, they normally come to us first. They do not necessarily speak to the lawyer.

The Deputy of St. Mary:

I think you used the term "right of way" a little while ago now. The first property I looked at a tractor went down the main drive as a right of way and the estate agent knew nothing about it. Would you normally get them to the lawyer fairly early on for advice.

Mr. N. Hurst:

Not necessarily to the lawyer. If there any element of doubt then maybe, if you think your vendor is perhaps trying to keep something aside. It will always come out in the wash with something like the rights of way, for instance. We are going off on a tangent but if there had to be a right of way down their drive we do try and ask as many questions as possible. Are you aware of any this, that, that? Rather than just going ...

The Deputy of St. Mary:

Basically I assume that if you are in favour of compulsory membership of an association then you would expect the codes to cover that sort of requirement.

Mr. N. Hurst:

You would expect so, yes. Some form of training is obviously going to help. Some form of training to get the qualification I think is going to help. You have a basic knowledge of estate agency. I think a basic or fairly good knowledge of estate agency but as it is ...

The Deputy of St. Martin:

Would the basic knowledge be something we could get from an exam from the U.K. or would we need to start and stretch ourselves ...

Mr. N. Hurst:

I think it needs to be tailored, perhaps taken from the U.K. system and tailored to our needs, taking out the U.K. parts of it.

The Deputy of St. Martin:

If we went down that route and had certain qualifications required, like exams from the U.K. but tailored to Jersey specifics, who would you see taking that work on? Would the Association take that on?

Mr. N. Hurst:

I think the Association would certainly contribute. Our current president is a qualified conveyancer, a long-term conveyancer, and I am pretty sure he would be willing to perhaps partake in drawing up some kind of syllabus or whatever to that effect.

The Deputy of St. Mary:

The Institute of Law has just run courses on various things, maybe they might be interested in it.

Mr. N. Hurst:

They might well be. It is all about the cost as well, is it not?

The Deputy of St. Mary:

Yes.

Mr. N. Hurst:

Who is going to fund it?

The Deputy of St. Mary:

There is the question as to whether that would be incorporated within membership fees.

Mr. N. Hurst:

Within the Association we do pay a membership, we do pay a sub and there is, I am sure ... as I say, Nick can probably advise you better on that than I can. That is Nick Dodsley, the president.

The Deputy of St. Martin:

We heard from the Association that they believe that there is somewhere between 25 per cent and 30 per cent of estate agents in Jersey are registered with the Association. To what extent do you think that small affects the quality or the condition of housing transactions in Jersey.

Mr. N. Hurst:

I think there is an effect. You basically get what you pay for. I think more of them should be members but there are lot of them that just do not want to be.

The Deputy of St. Martin:

Are there specific reasons?

Mr. N. Hurst:

I honestly do not know.

The Deputy of St. Mary:

You do get this situation of compulsory membership of the Association and a code that you observe, that would definitely involve some form of not necessarily a disciplinary panel but some form of panel to adjudge whether an offence has been committed. Would you envisage that panel was provided by local agents or do you think that would be too close?

Mr. N. Hurst:

It might be a little close, as in if somebody ... if malpractice is involved, should they be taken to task by the local estate agents? The answer is it probably should be someone outside of that but possibly too close. There are malpractices going on and there is ... we would hope with some form of training, qualification and code of conduct we could cut that down a bit.

The Deputy of St. Martin:

This is difficult question to answer, I am sure, but if we went down the route of proper regulation, due diligence, insurance, all that type of thing that people should have in place, how many so-called estate agents do you think might fall out of the market if we regulated it properly?

Mr. N. Hurst:

Hopefully a few, the bad ones, the bad apples, yes.

The Deputy of St. Martin:

Are we talking half a dozen, are we talking ...

Mr. N. Hurst:

I think you will probably find ... you have probably done a count of how many agencies there are but I believe there are over 50 agencies of which, you know, if you put it ... we have 10 negotiators, a few other firms will have similar numbers to that between them and that adds up to a lot of people in the industry, that is hundreds of people out there selling property and I would hope that the cowboy ones would fall out there.

The Deputy of St. Mary:

Just accepting that, and we are not trying to draw you into anything, do you not think that many of those would feel they could qualify?

Mr. N. Hurst:

That is fine, yes.

The Deputy of St. Mary:

Or do you think they might think it beyond the pale?

Mr. N. Hurst:

I think they might go ... yes, they might see it as: "I am not sure I want to do this, I thought this was easy" but, yeah.

The Deputy of St. Mary:

That is interesting.

Mr. N. Hurst:

I think we would lose a few.

Deputy M. Tadier:

Would the staff of Broadlands, including the directors, be happy to undergo the necessary qualification, albeit that they are very experienced, if it were a requirement? Or do you think there should be an exemption for pre-established long time estate agents?

Mr. N. Hurst:

Good question. I think that is a very good point and personally I think whether you could implement it, whether it would be fair, I do not know, but if you have anyone with, for instance, 10 years' experience in the industry or 15 years' experience in the industry then perhaps they do not need to get the full qualification. I think in previous years to join the National Association of Estate Agents, to become a member, all you had to do was go before a panel of the local representatives. Whereas now to be a member of the National Association, as opposed to associate, you do need to take an exam and that exam is the U.K. one.

Deputy M. Tadier:

Do you think it would be sufficient for ... sorry, there is a delay. Do you think it would be sufficient for the company to be registered or should it apply to everyone working for the company?

Mr. N. Hurst:

I think it should apply to individuals.

The Deputy of St. Martin:

Yes, I guess it would do as much as individuals can move from company to company ...

Mr. N. Hurst:

They do indeed. There is a high turnover in estate agency, not quite so much these days but normally when it is tough out there people tend to jump ship and move. We do not have a high turnover of staff at all but I know that there are a lot of agents out there who have worked for 5, 6, 7 different agencies.

The Deputy of St. Mary:

I think parallel pressure situations where the partners or directors might be qualified but they would still let an associate or someone not fully qualified be the lead client facing person up to a certain stage but the justification, because this what it is, for that is the firm carry the can ...

Mr. N. Hurst:

Absolutely, yes, the buck stops at the top.

The Deputy of St. Mary:

Yes, absolutely. They would need to build in that flexibility.

The Deputy of St. Martin:

It is obviously your submission, from what you have told us this morning you are very much in favour and that cuts down a whole load of questions that we need to ask you because it is very clear where you would like us to be going. Do you think we could just get to a point where those people who might be grandfathered could come before a panel of their local peers to try and ... the starting point might be, okay, at day one you either need to take your qualifications or have done this?

Mr. N. Hurst:

Yes, I think you are absolutely right. The grandfathering point I think would be nice because there are some people out there who do not necessarily get on well with doing some kind of academic degree, so to speak. They know exactly what they are doing. The principals of most of agencies, the large agencies, know exactly what they are doing. They have been doing it long enough and quite frankly to take an exam is a different thing. But people coming newly into the industry should have a minimum qualification before you can even open the doors.

The Deputy of St. Mary:

As an extension to that, and we have raised it before, most professionals have ongoing P.D. (professional development) which could probably apply to the more senior members?

Mr. N. Hurst:

As in ongoing training?

The Deputy of St. Mary:

Yes.

Mr. N. Hurst:

It never does any harm to have a little bit of training. The trouble is the general ... we have had people come over here from the U.K. to do training courses and unfortunately they are not particularly relevant to our situation.

The Deputy of St. Martin:

Which would put you off going to further courses because you think: "Why have I wasted my time?"

Mr. N. Hurst:

Absolutely, why am I wasting my time on it..

The Deputy of St. Mary:

Think of it as a halfway house between those that have been granted property rights to make sure they are up to date with ...

Mr. N. Hurst:

I guess perhaps you could ...

The Deputy of St. Mary:

There could be a requirement to do so many P.D. hours or whatever.

Mr. N. Hurst:

Perhaps. I know some of the older members of the profession would not be overly keen, as always, in suddenly having to put pen to paper and this, that and other but I think we will have to look at that at some stage.

The Deputy of St. Martin:

I do not know if you will know the answer to this question. What do you feel is the mood of the industry generally towards to regulation and registration of the industry.

Mr. N. Hurst:

I think you will find the bigger agencies are all for it. I have spoken to various people from various of the larger agencies and they seem to be all for it. I have not necessarily spoken to anyone in the smaller ones but I am sure perhaps the Jersey Estate Agents' Association guys have to see what their thoughts are. It would be interesting to ask. I know you did send this thing out but did you send it to all the agencies to ask the question?

The Deputy of St. Martin:

I believe we sent it to as many as we could find.

Scrutiny Officer:

Yes, we decided the selection and it has now gone out as a general call for evidence.

Mr. N. Hurst:

There were very little responses I noted on the website?

The Deputy of St. Martin:

Not many.

Scrutiny Officer:

We are waiting for confirmation from others that we can publish them as well because some ...

Mr. N. Hurst:

But they do say they are anonymous, are they not?

Scrutiny Officer:

Sometimes people might not want to publish them at all.

The Deputy of St. Martin:

If the decision was taken to introduce the regulations and we could get the law drafting time and bring it all into force, how long do you think we should be allowing those that would not qualify at the moment, because they are not members, to get the qualifications or get up to speed? Is it something that could be done in 6 months, 12 months? Given that they should have a lot of expertise already, it should be quite a formality.

[15:45]

Mr. N. Hurst:

Absolutely. If you have a certain level of expertise then you should be able to get to get through in 6 to 12 months, yes, I do not see why not. Less, in fact. Depending on how onerous or complicated it is but it has still to be drafted up or even thought of as to what it needs to entail.

The Deputy of St. Mary:

On a more general point, it is not totally relevant to this, but I had the impression that vendors sometimes not play the field but speak to as many agents as they can or want to, is that the case in Jersey, do you see more joint agencies than you would in the U.K. for instance?

Mr. N. Hurst:

I think you probably do, yes. There is a lot of multiple agencies. You only have go to on the general website that draws in everybody websites, and you will see the same house on there 5 times and with 5 different agents. We try to advise against that because it is personal opinion. If you have it with 5 it almost looks a bit desperate but if you have it on with 2 then fine. One even better but that is for the vendor to decide, of course.

The Deputy of St. Mary:

Also if you are just the one you can control that, if you have 5 there then there might be offers coming in left, right and centre you know nothing about, which would make your job more difficult.

Mr. N. Hurst:

Yes, and differing tactics can happen as well. Other agents can be quite aggressive in nature, you have agreed something with the vendor and the other agents are still being ... this is something that should not happened, being very aggressive with the vendors.

The Deputy of St. Mary:

If you were appointed as agent, should the vendor continue to instruct agents on a joint agency without consulting with you?

Mr. N. Hurst:

No, I think they should always consult their agents.

The Deputy of St. Mary:

They should do, does it happen?

Mr. N. Hurst:

Yes, it does. No, you build that relationship to start with and there is no reason why they should suddenly instruct somebody else without coming to you first and letting you know.

The Deputy of St. Mary:

Do you find yourself ...

Mr. N. Hurst:

I do not because they can do what they want within reason. But normally I ask them to give us a little period of grace before they take somebody else on board but it is entirely up to them.

The Deputy of St. Mary:

So you could find yourself being a joint agency with somebody who is not a member of the Estate Agents' Association? You live with that?

Mr. N. Hurst:

Yes. There are certain agencies we do not ... you know, if they want to bring them board we will just say no or we are out.

The Deputy of St. Mary:

Okay, so in a way you do exercise a manner of control possibly?

Mr. N. Hurst:

In a way. In a way.

The Deputy of St. Mary:

As the Deputy said earlier, you are very candid in your views generally which saves us asking some fairly ...

The Deputy of St. Martin:

There is very little left to ask really. We know your views on regulation. We have covered where we might go with qualifications, we have spoken about grandfathering and we have mentioned the timeline. I do not think I have anything else to ask, Chair.

Mr. N. Hurst:

Would I be right in thinking you have already had a conversation with my peers?

The Deputy of St. Martin:

We have spoken to the Association and we had a meeting yesterday with the Minister for Housing and Children, although one associates the Minister for Housing and Children very much more with social housing. He came with an officer too and we had a very useful meeting with him as well.

The Deputy of St. Mary:

Yes, last week we had the law society as well. We are getting towards the end but we are still getting evidence from others and trying to thrash it out a bit and probably would like to hear from more agents who are not members of the Association to get a contrary view.

Mr. N. Hurst:

Some more individual ones. It is probably quite an unusual thing to call in somebody from one agency in particular but, you know, the more the merry.

Scrutiny Officer:

There are more submissions on the website and the hearing from yesterday should be available if you are interested to watch it.

Mr. N. Hurst:

Yes, I will, yes. Thank you very much. I was reading the comments that were on there.

The Deputy of St. Mary:

Montfort, do you have anything else you wish to ask?

Deputy M. Tadier:

No, very good, thank you.

The Deputy of St. Mary:

Excellent. We have taken up enough of your time. Thanks for coming in or being volunteered to come in.

[15:50]