

House of Commons Levelling Up, Housing and Communities Committee

Improving the home buying and selling process: Call for Evidence

Response from Propertymark

April 2024

Background

1. Propertymark is the UK's leading professional body of property agents, with over 18,000 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Consultation – overview

2. The cross-party Levelling Up, Housing and Communities Committee has opened an inquiry into the home buying and selling process. Speaking of the aims of the inquiry, Committee Chair Clive Betts MP stressed that the home buying and selling process in England is often stressful despite the large number of homes that are built and sold every year¹. The Committee will explore the chief obstacles to improving the home buying and selling process, in particular the lack of transparency around conveyancing services 'referral fees' and the regulation of estate agents. The call for evidence will be followed by evidence sessions where consumer, professional and industry bodies will be questioned. By holding the call for evidence and evidence sessions, the Committee will take a series of questions to the Department for Levelling Up, Housing and Communities, as well as the Housing Minister.

Propertymark response – summary

3. Propertymark welcomes the opportunity to respond to the Levelling Up, Housing and Communities Committee's call for evidence on improving the home buying and selling process. Propertymark agrees with the premise presented by Chair Clive Betts MP that the home buying and selling process is often stressful but also that it is slow and often leads to unnecessary fall

¹ <https://committees.parliament.uk/committee/17/levelling-up-housing-and-communities-committee/news/200646/levelling-up-committee-launches-inquiry-on-improving-the-home-buying-and-selling-process/>

throughs when combined to other nations. This has long been acknowledged within and outside of the property sector, which led Propertymark to produce its new position paper, the Future of Home Buying and Selling in April 2024². The paper was informed by roundtables held between Propertymark members exploring the issues present within the current process and potential solutions which has informed much of our response to the questions laid out in the LUHC Committee's inquiry. For the purpose of our response, it can broadly be summarised by the following four positions:

- **Introduce the regulation of property agents with an enforceable Code of Practice to improve the capabilities of estate agents** – this is the best way to remove poor practices within the housing sector and will be the best way to deliver new standards for estate agents to follow within the home buying and selling process.
- **Standardise the process to improve the speed and consistency** – through standardisation, all parties involved in the process will be able to improve their efficiency over time, with less of a dependency on individual relationships.
- **Embrace technology to improve services such as data sharing and verification checks** – real time data sharing technology will improve the ability for all parties involved to access information in real time rather than relying on emails. Embracing new technology to verify the identity of buyers and sellers will reduce fraud and improve the speed in which checks are carried out.
- **Improve transparency to support consumers along the process and improve collaboration with other industries involved** – promoting greater collaboration between all industries involved in the process will help to reduce breakdowns in communication. Involving consumers with data sharing can ensure they have full property information available at the start of the process and can be more actively involved in resolving issues slowing down the process.

Questions

How efficient or effective is the existing process for buying and selling homes? How could this be improved?

² <https://www.propertymark.co.uk/resource/the-future-of-home-buying-and-selling.html>

4. Currently, the home buying process is considerably outdated and inefficient. This makes it slow, especially compared with other countries such as the USA, Australia and Norway, and prone to sales falling through. The number of sales fall throughs in 2022 was just over 312,000³ which costs consumers around £3,369 per fall through⁴. Property agents face similar costs per fall through as well, with an estimated £4,123 loss per fall through in 2021, which is likely to extend across all organisations involved in the home buying and selling process⁵.
5. Considering this, there are five ways that would improve the existing process.
 - Firstly, steps must be taken to improve coordination between agents, conveyancers and other stakeholders involved in the process. A breakdown in communication was the most common reason raised by Propertymark members as to the cause of delays, fall-throughs and a poor experience for clients. This can be resolved through joint guidance being published across all sectors involved in the process which includes best practice guides and clear roles and expectations for each organisation involved.
 - Secondly, linked to the breakdown of communication, is ensuring all parties have real time access to information and data sharing. Much of the data and information shared between parties during the process is paper or email-based, which is a significant factor in the process being outdated and inefficient. This leads to delays if information is not sent or incorrect. Promoting services which enable all parties to work together on documents or have access to them in real time will help enable organisations to collaborate more effectively during the process.
 - Thirdly, steps must be taken to standardise the home buying and selling process. Many Propertymark agents have highlighted that many different legal and conveyancing firms they work with will operate differently and have different expectations of them compared to others. This leads to significant variation with how the process is carried out, leading to inefficiencies within the process that slow it down and can cause sales to fall through. Increasing standardisation will be essential to improve the ability for all organisations

³ <https://www.twentyci.co.uk/phmr/twentyci-property-homemover-report-q4-2023/>

⁴ <https://thenegotiator.co.uk/news/uk-housing-market-news/fall-throughs-still-costing-homesellers-nearly-1-billion-a-year/>

⁵ <https://www.propertymark.co.uk/resource/estate-agents-lose-over-4-000-for-every-property-sale-that-falls-through.html>

involved within the process to work effectively together, as it will set clear tasks and responsibilities for each organisation involved. This will prevent cases where agents have worked well with solicitor firms and conveyancers for years, only for a change in management to change the way they work together. This also helps to reduce the duplication of work, where property information and the identity of buyer and seller for Anti-money laundering proposes can be shared between parties.

- Fourthly, the UK Government must introduce the regulation of property agents, as recommended by the 2019 RoPA Working Group Report chaired by Lord Best⁶. Propertymark members have highlighted that new and inexperienced agents struggle with the process, especially considering that there is no restriction as to who can set up their own estate agency firm. As a consequence, consumers often have little guarantee that the agent will provide a quality service, especially if the agent has not signed up to higher standards through voluntary professional bodies. Additionally, agents are not subject to an overarching code or practice and poor business practices are often left unchallenged. Regulating estate agents will improve the buying and sales process in two ways. Minimum entry requirements and mandatory continuing professional development will ensure that new entrants to the industry will have greater knowledge and skills carry out the home buying and selling process more effectively. Additionally, a new Code of Practice enforced by the redress schemes and with more serious consequences for agents who breach this Code will remove poor practice across the industry.
- Fifthly, there must be a commitment from all parties involved that both the buyer and seller are ready before taking the process forward. During our roundtables, Propertymark agents often stressed that their clients often have not bought or sold homes for over a decade, if at all, and are often not prepared for the amount of work that goes into the process. Many agents stressed that information that incorrect information provided at the beginning of the process or that was withheld can lead to breakdowns in communication that lead to fall throughs. We are aware that the UK Government has issued guidance to consumers⁷, the effectiveness of these guides should be reviewed and updated regularly to reflect industry best practice. The guides can be better disseminated through a

⁶ <https://www.gov.uk/government/publications/regulation-of-property-agents-working-group-report>

⁷ [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/829864/6.5492 - MHCLG - How to Buy Guide WEB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/829864/6.5492_-_MHCLG_-_How_to_Buy_Guide_WEB.PDF)

standardised home buying and selling process, where estate agents go through these guides with potential buyers and sellers.

How could the consumer experience be improved during the process for buying and selling homes?

6. In addition to the points raised earlier, there are two additional ways to improve the consumer experience.

- Firstly, the industry must embrace technology that would increase the speed and accuracy of identity checks. Verifying the identity and financial records of both parties is essential to remove any risks of money laundering and to ensure that the buyer has the means to purchase the property. Failing to do so accurately will lead to a sales fall through at best and at worst the individual posing as the seller could not even own the property. However, this process can be slow or be poorly carried out by the agent. Propertymark is working with Etive and other industry stakeholders on a project to develop a digital identity trust scheme known as MyIdentity. This will create a digital identity of a home buyer/seller which can be used throughout the rest of the sales transaction, as well as future transactions. Not only would this improve the speed to verify a buyer or seller's identity once this system is running, if established as a requirement for all property transactions, it can help to prevent property fraud.
- Secondly, industry practices need to change to avoid a duplication of work for the consumer. In order to comply with the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), estate agents are required to obtain a set amount of information from the seller which must be included within the Property listing, which is often obtained through a Property Information Questionnaire (PIQ) that the seller must fill in⁸. However, solicitors often refuse to be involved in the information gathering process until after the property is brought onto the market. Consumers often then are asked to fill in separate forms for their solicitor, as legal firms have their own separate methods and forms for gathering property information, often disregarding the information obtained in the PIQ.

Is the reliance on voluntary initiatives adequate to improve the buying and selling process, or should improvements be made mandatory through legislation?

⁸ <https://www.nationaltradingstandards.uk/work-areas/estate-agency-team/material-information/>

7. Propertymark disagrees that the reliance on voluntary initiatives alone will improve the buying and selling process. Considering the number of industries involved in the process, relying on voluntary initiatives risks that the improvements are not made across the country, or across all sectors involved as it only takes one organisation in the process that has not adopted new practices to slow the process down.
8. The main concern from our perspective as a voluntary professional body, is that there will be agents and other organisations involved in the process that will ignore best practice and continue to operate as they have done previously. While firms can be incentivised to meet higher standards, such as fewer sales fall throughs, some organisations could look to undercut their competition by providing a worse service at a lower cost but asking for a smaller fee. There will also be firms that are unwilling to change their existing practices, which will negatively impact consumers. As is currently the case, it will be difficult for consumers to assess which firms have worked to improve their practices and those which have not, unless improvements are made mandatory. This is primarily why it is important to introduce the regulation of property agents. Through regulation, the process can be standardised and improved, with more estate agents taking qualifications to improve their ability to take clients through the process. Through a new Code of Practice and effective redress, poor quality services can be gradually erased from the sector. All of this can be driven centrally, regularly reviewed and built upon to ensure the longevity of improvements.

What is the impact of issues in the transaction process, such as gazumping or gazundering, and how could they be remedied?

9. Propertymark is aware of issues such as gazumping and gazundering which can lead to fall throughs and a delayed sales process. Several countries have taken steps to address this issue. In France for example, buyers have a seven-day cooling-off period after making an offer, after which they cannot withdraw from the sale. The Committee should consider this as a solution to these practices. In addition to this, we would recommend that the agent spends more time working with both parties to ensure that the offer on the table is the final offer. This could become part of the standardised process where the agent spends more time with both the buyer and the seller to ensure they are both happy to proceed with the offer.

Would greater use of reservation agreements improve the transaction process?

10. In theory, we agree that greater use of reservation agreements could help to resolve some of the issues for consumers in the home buying and selling process for three reasons. Firstly, it will help ease the stress for buyers who previously could be concerned that another buyer could purchase the house from under them, improving their experience. Secondly, without the pressure on the buyer to put down an offer as soon as possible, the buyer is free to go through and understand the details of the property, including anything that would influence their likelihood of purchasing the property. If conducted at the beginning of the process, this will prevent a more costly fall through and ensures the buyer is happy with their purchase. Thirdly, working with one potential buyer at a time simplifies the process for the seller's side of the process, as they only have to deal with one set of information and can focus all of their communication on one interested buyer. However, this depends on the sector's ability to resolve the issues that prevent reservation agreements from being more widely used, which are fundamental aspects of the home buying and selling process in the UK.

What prevents reservation agreements being more widely used? Why has a short, standardised reservation agreement not been developed, as promised by the then Government in 2018?

11. The primary issue that prevents reservation agreements from being more widely used is that property in England is largely bought in chains, where multiple vendors are in the process of buying a property while they are selling their own. This occurs because vendors often do not have the funds to purchase a property without selling another. This makes issuing reservation agreements difficult for two reasons. Firstly, each sale within the chain occurs separately. This makes coordinating timescales for reservation agreements difficult. Secondly, even if each sale was coordinated with agreed sales dates, one fall through or delay would mean that none of the other transactions could occur, as one vendor would be homeless if they agreed to sell their home through the reservation agreement before they had purchased another property. This is a fundamental aspect of the home buying and selling process that would need to change, unless all property was bought through auction and sellers were more willing to live in temporary accommodation before they buy.

Do buyers have the right information available at the right time during transactions?

12. We do not believe this is always the case. Firstly, there is no guarantee that agents provide all the information they are required to do so upfront, despite the CPRs. Additionally, Propertymark agents who use our Property Information Questionnaires have highlighted difficulties in obtaining all the correct information from the seller. There are barriers in obtaining this information from legal firms and agents often need to verify the information they receive from sellers is correct. For example, some Propertymark members have reported that sellers have provided outdated information on the remaining length of the lease of a property. One way to resolve this is to improve the range of data available from HM Land Registry and to explore ways to improve the accessibility of the data. Propertymark has a separate consultation response on how this can be achieved⁹.

What effect would it have on the transaction process if sellers were required to provide set information about a property when it was marketed?

13. It is currently a legal requirement to provide material information about a property in order for it to be put on the market, the details of which can be found on the National Trading Standards website¹⁰. However, existing UK Government guidance does not acknowledge the amount of information required to provide the agent, stating that the seller will be asked to fill in a Property Information Form by their legal representative¹¹. This is out of date and does not reflect current industry practice. As a solution, we would recommend that the guidance should be updated, and any standardised process should emphasise the need to fill in a Property Information Questionnaire before the property is put onto market. This would improve the speed of the process and considerably reduce the number of fall throughs as the full property information is provided from the outset.

How much data associated with housing transactions still needs to be digitised and how can the digitisation process be accelerated or prioritised?

⁹ <https://www.propertymark.co.uk/resource/agents-need-land-revenue-services-to-be-accessible-and-affordable.html>

¹⁰ <https://www.nationaltradingstandards.uk/work-areas/estate-agency-team/material-information/>

¹¹ https://assets.publishing.service.gov.uk/media/5d72296740f0b6094e69564c/6.5492_-_MHCLG_-_How_to_Sell_Guide_WEB.PDF

14. Propertymark would recommend fully digitising as much data as possible so that all parties can access everything that they need to drive the process forward. However, prioritising and accelerating this process does fall outside of Propertymark's expertise.

What challenges are there to digitisation or providing information at listing?

15. The main challenge that Propertymark can see is the requirement for all parties involved in the home buying and selling process to use the same software or programme to enable them to coordinate effectively. This could be resolved by creating a list of approved providers and framework for the collection and availability of information.

What effect would a mandatory professional qualification for estate agents have?

16. As highlighted throughout this response we believe there would be three main effects from mandating professional qualification for estate agents. Firstly, creating a level playing field for consumers. Secondly, improving the professional capabilities of estate agents. Thirdly, having a positive impact on estate agent business and the sector as a whole that can build trust, compliance and competence.

Should there be a single, legally enforceable Code of Practice for property agents?

17. Yes, as mentioned earlier in the call for evidence, an enforceable Code of Practice with an effective redress for consumers will help erase poor practice in the industry. We proposed a phased approach to the introduction of mandatory professional qualifications and a new Code of Practice for property agents. The first phase of which would be for the UK Government to mandate that agents join a list of approved professional bodies, which have their own Membership rules and professional standards. This can help agents prepare for the introduction of new standards, with professional bodies playing a role in designing what these standards should be. Existing professional bodies have a strong track record and experience in this area which should be reflected in any new regulations.

What impact does the practice of referral fees have, and how would a review, standardisation of practice, or ban affect transactions and consumers?

18. Propertymark disagrees that there is an issue with referral fees in principle. However, we believe that fees need to be transparent and clearly communicated to the buyer and seller before they make any decisions regarding the property transaction. We believe that the existing guidance from the National Trading Standards Estate and Letting Agency Team provides sufficient clarity for all parties involved and should be widely disseminated¹².

¹² https://www.nationaltradingstandards.uk/site_assets/files/Guidance%20for%20EABSs.pdf