

A Moving Experience

by

Edward Brooks

A MOVING EXPERIENCE

MAKING CONVEYANCING EASIER

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INTRODUCTION

With the rise in home ownership over the 1980s more people than ever before have experienced the pleasures and pains of home ownership. To the delights and rewards of possession have been added the disappointment and the frustration of house purchasing. When the housing market was in full swing, as it was when interest rates neared 7 percent, there seemed to be room for everyone on the housing merry-go-round. But with mortgage rates hovering at the 15 percent level, the sheer difficulties of going through the process of buying or selling made the experience more like a suspenseful roller coaster than a simple fairground ride.

In the 1980s a new section of the population had its first experience of property ownership; many became the first in their family to do so. Owner occupation soared from just above half of the population to just about two thirds. Much of the property that came into the private sector for the first time was in the form of council homes, and was notably cheaper than other property which was currently available.

It came to be expected that young professionals would apply for their first mortgage as soon as they had secured their first job, and the notion of being tied down in one locality by the need to keep a place on the list for council housing became for most people a thing of the past.

Against this background, reforms to the process of purchasing a house have been negligible. It remains an arduous experience which adds to the delays and the costs associated with moving house. For most buyers the ordeal involves leaning about mortgage chains and surviving the ever present possibility of both gazumping and gazundering. Many couples discover after all this that the cost of their dream extends quite needlessly far beyond the actual price of the house.

For the Scots it is easier. Though ownership in Scotland has many of the same perils as ownership in England, it lacks some of the worst uncertainties involved in purchase or sale. It does, however, add a few faults of its own.

Various suggestions have been made to adopt the Scottish system of house sales to cover purchases in England and Wales. Perhaps because of ancient national grudges or professional lethargy, there have been no real moves in that direction. In the method of selling houses, as in many other areas, the Scottish system has shown itself to be superior, but other parts of Britain have been slow to copy. The Scottish system is by no means perfect, however. It, too, suffers from quaint practices which might have been suitable in mediaeval days, but which seem entirely inappropriate for modern times. In the case of house sales, for example, it is unlikely than any other nation would will upon itself the method of blind bidding which Scottish purchasers must frequently undergo.

As people nowadays often find they have to go through the process more than once over a period of years, there is a tendency for the rigmarole to become regarded as just one of the unfortunate features of the house market that has to be accepted. There is no reason why it should be. With the housing market relatively flat throughout Britain, perhaps this is an opportune time to look at ways in which the burden can be eased. With interest rates still high, it might also be an appropriate time to find ways of making the process less costly, as well as less difficult and less time-consuming.

The essence of any reform to a system should be to make it easier and less painful. The complexities and convolutions of the housing market are no exception. Entry should require no more money, time or intelligence than is necessary. It should be such as to pose no insuperable barriers to those who are busy, to those who are less well off, or to those unable or unwilling to master abstruse points of law.

It should not penalize unsuccessful attempts, as the present system does. Nor should it confront house hunters with worrying delays, or force them to dip heavily into their savings. It should not require them to engage in logistical juggling, or to command a high degree of intelligence and belligerence simply to prod the system along.

It is not that any particular section of the population is singled out for poor treatment. It is rather that there is a mystique about house purchase which adds worry and fear to the difficulties engendered by an unnecessarily complex and archaic system.

Most sections of society are prepared take the responsibility of purchasing an automobile, without facing a daunting and unfriendly system while they do so. They are not deterred by the fear of the price offered being refused; they do not have to pay for an MOT on every vehicle in which they are interested; and they do not have to wait for ten other people to agree to sell their cars before a purchase can go through. It is not surprising, in view of these differences, that considerably fewer feel at ease in the property market.

The task is to reduce the time, the effort and the cost to every person buying or selling property. It is to make the experience accessible to most of the population without the hazards of unacceptable delay, unnecessary costs, or unwarranted risks.

BOUND IN CHAINS

Housing chains are the source of many of the problems facing house purchasers who have found a property that they wish to purchase. They create several opportunities for uncertainties which can ruin not just one, but a whole train of house purchasers' plans. Considering the numbers of people adversely affected by this each year it is surprising that nothing has been done to rectify this serious failure of the house buying system.

To compound the problem, it appears that chains have grown in length and usage. Today, now that the completion of chains takes longer, there is more time for property prices or market conditions to change, increasing the likelihood that at least one of the sellers or buyers will find themselves either unable or unwilling to go through with the deal.

In a purchasing chain, one glitch upsets the whole sequence of deals. No-one attempting to move to a different house can face lightly the process of starting the whole legal procedure again from scratch. This applies particularly to the people who, previously, would not even have been able to think of buying a house at their age or in their particular circumstances.

To discourage this section of the population from ownership is to undermine the achievements of the 1980s. People who bought their council home, with the relative ease of a system in which chains and gazumping could not occur, are understandably deterred from entering the unsheltered property market.

The actual cost to an individual house purchaser goes beyond the money spent paying professionals, and must include the hassle factor and the earning time lost in the renewed house search. That conveyancing chains have not been reformed is probably a testament to the power of those who make money from the process, the professionals who are paid whether the transaction is completed or not.

The problem is that each link in the chain is a weak one. Any buyer and any seller has the right to back out because any deals done are only provisional. It is the fact that the agreements are provisional which allows the sellers involved to accept higher offers from elsewhere, no matter how late in the process they come. The same fact allows buyers to pull back at the last minute, and offer a lower price than the one already agreed to.

And the effects of the failure of any link are not restricted to merely the buyer and seller of that one property. When one link goes the chances of the whole chain collapsing arise. And with it the expectations of the dozens of people who may be involved.

It may seem like a melodramatic comparison, but to those involved in it, the housing chain is not far removed from the shackles linking a human slave train. The first slave moves and all the rest must move in synchronization. The train is halted if one slave

collapses in exhaustion, with a delay for the shackles to be rerouted if one dies. There is a morbid parallel with current housing chains. Each house buyer can proceed only as fast as the people in front and behind them in the line, and the whole line can only proceed if all move together at the speed of the slowest person.

There are obvious trepidations about entering so uncertain a housing market. With all of the accompanying risks and frustrations, buyers are unwilling to complete a purchase before their current house has been sold, for fear of taking the responsibility of a second mortgage before finishing with the first. For many house owners their new mortgage is the maximum mortgage available on their income, leaving them ill able to afford the burden of two concurrent mortgages. Equally, the seller is keen to assure the sale of their present home but obviously does not want to be made homeless or to spend time and money on temporary accommodation before securing a new one.

In isolation this may seem harmless, but when the practice means that everyone involved in the process wants to avoid even the smallest chance of homelessness, a double mortgage or temporary accommodation, the result is a simultaneous chain, with no theoretical limit to the number of parties involved. Such a chain can be completed either by sheer luck, or when someone does not need to stand rigidly by these requirements.

Most commonly the chain ends (thankfully for all parties, not least the solicitors) with the last buyer coming in as a cash purchaser, or entering the system as a first time buyer with no risk of exposure to concurrent mortgages. Clearly chains can be very lengthy indeed, with no two parties being able to complete the legal agreement until every party involved has reached full agreement.

The longer the delay in settling and completing the chain to the stage at which all parties are able to exchange contracts allows time for prices and market circumstances to vary from the time when initial bids were made. The announcement of new roads, or of planning consent to developments which affect prices positively or negatively, or even a change in personal circumstances, can all slip too easily into the lengthy gap opened up by the time consuming nature of the process. It is hardly surprising that, with contracts not finalized, buyers and sellers withdraw from what would have been a binding agreement in some countries, but is merely voluntary in England.

The basic problem is that the agreement is not binding until near the very end of the process. In practice this means that people are quite within their rights to accept higher offers for their property, or to reduce their own purchase offers. A peculiar feature of this system is that people can bid recklessly, hoping perhaps to be able to raise a mortgage large enough, but with no comeback upon them if they fail. As mortgage chains become longer, the odds rise that at least one of the participants will experience problems in raising the necessary finance on time.

It is not uncommon for one or more participants to drop out of a chain, leaving the others in suspense as desperate efforts are made to find a replacement.

Inherent in such a complex system of arrangements are vast delays. It is important to realize, however, that the reasoning behind the motives of each individual is wholly

understandable. If their fears were really justified in the first place, the system would virtually require them to act as they do. But it is possible to argue that the fears of homelessness on the one hand, and of double mortgages on the other, are greatly exaggerated. In countries where buyer and seller reach contracts independent of other sales going through, the worst fears of buyers and sellers in England do not appear to be realized.

If there were second hand dealers in houses, as there are in cars, the mortgage chains could be broken by sale to such an intermediate agency. But this, in turn, would involve quite radical simplification of the whole conveyancing procedure. Otherwise the cost of the intermediate service would be excessive, and would represent a substantial loss on the value of the house by the seller forced to resort to it.

If there is to be major overhaul of the system of conveyancing in England and Wales, then there are several methods in use in other countries which appear to solve the chief difficulties which are encountered here. The simplest methods appear to be those which involve individual contracts between seller and buyer, contracts which are enforceable no matter what happens outside the sale. The market appears to devise institutions and arrangements which solve in practice the theoretical fears which lie behind most of the problems.

THE AUTOMOTIVE RULE

The difficulties associated with house purchase are highlighted when they lined up against the sheer ease of buying a car. There are similarities between the two items: each usually costs several thousand pounds, people often grow fond of them, and most families make do with only one. But the methods of purchasing a house are steeped in ancient laws and customs that have none of the ease of car sales. The growth of the car industry has spawned a vast market in used cars, dealing with a far more rapid and flexible market than the house market. It has evolved into a fast system of purchase and sale, despite the fact that it is sometimes involves sums large enough to buy homes, sometimes even luxury homes.

Considering the attachment some people have to their cars there is much to sustain this comparison. Families are about as likely to own a car as a house, and are willing sometimes to pay as much per year on the car as they would on a mortgage. The argument that a house is more important than a car and should thus be treated differently is therefore invalid. With the annual cost, and thus the scale of the purchase, comparable, it is instructive to look at the similarities and differences to see which system is best.

An individual wishing to sell a car must weigh up whether they would like a fast sale at a lower price or a slower sale at a higher price. They will generally be able to sell for a higher price if they are prepared to handle the sale personally, via a newspaper column or in one of the many second hand car advertising magazines that exist. However, there is always the convenient alternative of selling it to a car dealer in part exchange for another car, thus killing two birds with one stone.

One cannot help but notice that there is no equivalent form for house sales. The closest to "Motor Mart" magazines for housing can only be the collated sheets of paper issued on request from a series of estate agents. Even here, however, there are virtually no second hand dealers in houses as there are with cars. The vendor of a house must sell to the buyer without the intermediate agency of a dealer.

One can imagine what might happen to car sales if every person wanting to buy a car had first to sell their old one to someone who in turn had to sell their own car first. To make the comparison more realistic, we might further suppose that all of the sales and purchases involved in such a chain had to go through on the same day. If we further allowed any of the buyers or sellers to back out at any time to make a better deal, putting everyone else in the chain back at square one, we might have a fair inkling of what it would do to automotive sales.

The suggestion is not, however, that car sales should be handicapped and hedged about with restrictions and conditions to make them resembles house sales. It is that we should look to the car market to see how an efficient market in houses might be developed.

Although some people might be surprised if the logical conclusions of this argument are digested, and the comparison with car sales is followed to its end, there is nothing inherently implausible about having second hand house dealers. There could theoretically be a "One Stop House Shop" which would operate in the same manner as a car showroom, buying and selling houses in a matter of hours rather than the protracted periods of time currently required.

Following the comparison further, one wonders why home buyers and sellers accept are prepared to pay the estate agents' fees for what is sometimes no more than secretarial verification, with none of the risk being taken by the professional parties involved. The car showroom owner at least has to incorporate calculations within his prices to cover transaction costs involved, and to allow for the risk of not being able to sell the car.

Remarkably, much of the car market arose without parliamentary enforcement and the interference of legislators, and purely by the disciplines of self-regulation in a highly competitive market. This probably reflects the fact that cars are a relatively new sales item compared with houses.

The house market, at least the market surrounding the ancillary services, is highly active, but remarkably uncompetitive. Rarely does one encounter solicitors who offer their services as "cheapest in town, or we refund the difference." Occasional flat fees do appear, but these are isolated. Considering the density of estate agents on the High Street, such competitive offers are conspicuously lacking. While every car dealer plasters his prices on his cars in luminous colours with the sole desire of attracting business, the estate agent prints in quarter inch lettering the house price, carefully omitting any mention of the professional charges.

A car buyer or seller need only consult one of the more comprehensive "Motor Mart" publications to see what they should be paying or asking for virtually every car ever manufactured. Why is it that this form is not adopted for house guides? Published nationwide, the regional house price variations would make this complex. But for a city or town the value of a three bedroom house with two function rooms and reserved parking could be listed for each part of the town that had accommodation of this type. Buyers would find the page listing their requirements, under which there would be a listing of street names where each such properties were to be found, and their current market value.

Car hunters tend to seek out the model desired and the year required, and then to see if they can afford it. If not, they look at a different model. House purchasers could theoretically do the same; yet no such market service exists. The reason is not that houses cost more, or that they are more complicated than cars. It is because the whole process of purchase or sale is so antiquated and so time-consuming that it would be worth no-one's while to act as a middle man.

If the domestic property market were to be reformed so that it resembled, to a certain extent, the car market, there are other parallels which might be copied. In housing the duty to have the property surveyed is that of the buyer; the reverse tends to be true of the car market. The buyer will want to know if the car has passed its MOT, and will

want to look at the service records to see how well the vehicle has been maintained. The seller is expected to provide this service. In the housing market it is the buyer who must go through the expense of ascertaining all of this, employing and paying for the services of surveyors and valuers. If the car market were to adopt this system, while it might find short cuts and ways of coping, it would slow down considerably.

In applying the Automotive Rule it might be said that housing merits unique treatment because of its crucial role in human existence. The fact that food and clothing are at least as essential as shelter does not stop them being bought and sold rapidly in highly developed and competitive markets. There is no reason why housing should not be treated in the same way.

The market in housing is an anachronism only because it has evolved over centuries and resisted change. To look at the motor market is to look at how the house market would have developed had we all been living under the stars until 1900 when the technology to create mass-housing was discovered.

The housing market is in its current form because of the historical development of what was until relatively recently a very small market. As in everything, we can learn from mistakes and experiences of ourselves and others, and use that information to improve things. The plain fact is that the housing market constitutes an obstacle course to baffle and frustrate the unwary. The automobile market, by contrast, is swift and efficient; it enables property worth thousands of pounds to change hands rapidly with minimum inconvenience to either party, and little if any unnecessary expense.

The Automotive Rule should be our guideline for reform of the process of house purchase. In its application we should seek to remove the burdens that make the present system so bureaucratic and cumbersome.

PURCHASING IN SCOTLAND

When an owner in Scotland decides to sell a property, he or she will approach a solicitor to carry out the transaction on their behalf. Since most sellers approach a local solicitor, the latter is likely to know the value of the property, having either dealt with, or been aware of, transactions involving similar properties.

Once it has been visited, the features noted, and a value determined, the property will be advertized. A date for close of offers is agreed with the client and advertized to potential buyers, by which time all interested parties must submit sealed bids. The more buoyant the market the shorter the period of time given, though not so short as to leave buyers pressed for time to arrange financing.

The solicitor will then carry out the equivalent of a search in England, approaching the local authority for details of any planning decisions or work they intend to carry out which could affect the house's value.

For the buyer, the identification of a house or houses that they are interested in is straightforward; they approach a solicitor for details of houses selling in a certain area within a certain rough price range. This has become easier now that some solicitors print magazines listing properties available, area by area, and listing features, lower price range, and method of sale.

Having decided to buy a property, or at least to bid for it, the potential customer deals with the valuation, arranges the necessary finance, and submits an offer which includes a specified date of entry.

The buyer's offer letter will usually describe the property, the date of entry required, the relevant information gained from the search and, of course, the price offered. Conditions are attached, usually to specify that the title and process are valid, but occasionally to cover other details involved.

At the announced time the offers are opened and the arrangements made known to the seller, who will then decide which offer to accept. The highest offer does not necessarily win, as other terms, most commonly the date of entry, may not be suitable to the seller. Taking this into account the seller's solicitor will notify the solicitor dealing with the preferred bid that that bid has been accepted. This stage can be carried out on behalf of the client as he has the implied authority to do so. Qualified acceptances are common, and are then either accepted by the seller's solicitor or negotiated further.

The important point is that the deal is completed without waiting for a number of other house buyers each to search for a property, to complete their financial arrangements, to enter their bids, and to have agreements reached between their lawyers.

The onus is on each buyer, and subsequently each seller, to co-ordinate the timing of the sale to be the most convenient. This may lead to an overlap, in which the client effectively has two mortgages, but because this happens occasionally, bridging loans are available.

The vast majority of property transactions need no such bridging loan, however. Solicitors, well aware of the state of the local market, are in the best position to offer advice as to whether clients should buy before they have sold their own property (as they should if it is a seller's market) or to sell their own house before they undertake the purchase of another (as they should in a buyer's market).

The speed and the certainty which result from this system makes one wonder why it has not yet been adopted on the Southern side of the border. The independence of each contract gives both parties to the house sale a greater flexibility to decide on the terms of the contract. All the evils that haunt the players of Property Roulette in England, including purchase chains, gazumping, and gazundering, are avoided.

For those entering the property market, whether for the first or the fifteenth time, there are less things to worry about. The Scottish system excludes most of the exotic creations of the English system which deter people from entering the market. This counts particularly with those for whom house-ownership has only recently become conceivable. Its extension to England and Wales should allow people wider choices for accommodation, and make it easier for people to move house when their job calls for it.

The Scottish system is by no means perfect. It still requires each potential bidder to undergo the expense of a survey and perhaps a valuation, even though only one will be successful for each property. It still requires the expense of the legal work which accompanies each unsuccessful bid. All of this can add a great deal to the costs of moving house, especially if it takes several attempts before a successful bid is made.

Finally, the traditional method of bidding in Scotland is one guaranteed to make life difficult for potential purchasers. They each enter their bids in sealed envelopes, unaware of what others are offering, and without a guide to what sort of price should be offered. The system might have been devised to make money for the professionals involved in the sale. If so, it bears all the hallmarks of having been devised in the Dark Ages.

Despite these faults, though, the Scottish system of sale is still light years ahead of its counterpart in England. Its central attraction lies in the fact that each sale is independent, unconnected and not dependent upon other sales which might or might not go through at the same time. In this respect it offers an ease and a certainty altogether absent from the English system.

In view of its obvious superiority, and of its popularity not only with purchasers, but with professional conveyancers, an adaptation of that system should be imported to England and Wales, with the object of making each sale and purchase a free-standing operation, independent of the need for other sales and purchases to go through.

BIDDING IN SCOTLAND

The Scottish system, while it scores low in the pain scale, could be vastly improved in its method of price agreement.

With fixed price properties the arrangements are simple: the buyer can sell to whoever agrees to the price, though there is no compulsion to sell to the first such bid. With a sale which invites "offers over" a set amount, a system of blind bidding takes over, guaranteeing a sale, but in a far from perfect manner.

Unable to gauge what other offers will be, and without further information, the bid will be little more than an educated guess, based on the level of finance that can be raised by the purchaser, the surveyor's valuation, and their desire to buy it. The result of such a straightforward application of the rule would probably force buyers to pay well over the odds merely for the security of mind which came by knowing that they were the only people likely to pay so much. This price might in no way reflect the value of the house or reflect what it might raise in the next blind sale.

The existence of this rule merely encourages the less scrupulous professionals to work round its limitations. All it takes is a quick phone call, or a quiet chat in a bar with the seller's solicitor, to discover a price that was likely to secure the deal. And so a sale will be achieved at a more reasonable level than would otherwise have been possible.

Against this, anyone playing strictly by the rules faces a choice between an over-the-top successful bid, or a reasonable bid doomed to failure without a large quantity of luck.

Human nature finds ways round indefensible barriers to the workings of the market. Even for the most trusted of professions the system of blind bidding offers temptations to get the best result for their clients. For that is all they are doing if they circumvent the system of sealed bids. While it may be strictly unlawful, the chance to save thousands of pounds of their client's money must be tempting for some solicitors. Indeed, considering that the solicitors are there primarily to serve their clients, it is surprising that the system of sealed bids has not been abandoned by a determined onslaught from the legal profession.

A slower but fairer alternative system would not satisfy the aim of keeping the process rapid, and solicitor's charges to a minimum. Initial bids would be submitted to the vending solicitor on a certain date and each bidder would then be informed of the highest bid. Revised offers would then be submitted, and this process repeated until no one was willing to surpass the top offer. Though this would be slow, it would offer bidders the chance to find extra finance if the sale went past their initial financial limit, provided they were keen to remain in the running.

Their increased chance of obtaining a desired property would be offset against the increased legal fees. But fairer though it might be, such a system would almost certainly prove too slow for both buyers and sellers, and perhaps involve more legal fees in submitting the various bids than would be found acceptable to any but solicitors.

Fixed price sales would probably grow in popularity as they satisfy the desire of speed and low legal fees, though they may not be the most financially rewarding for the seller. However, there will be a trade off between money and speed. Sellers might be willing to forfeit the money which could be gained in an extended auction, in return for a fast, simple transaction.

Depending on the state of the housing market, it may prove advantageous to have a straight house auction, as happens in many countries throughout the world. Bids would start at the "offers over" figure, which would also act as the reserve price, and the business could be completed in a single session involving all of the interested parties and their solicitors. This method has come into use in the UK in recent years but is rarely considered an option in the majority of house sales.

Buyers would certainly appreciate the prospect of knowing within a matter of minutes whether they would be the new owners of the property, much as sellers would appreciate the ease of sale. The solicitors might find that they were required to put rather more effort into transactions, albeit for rather less reward.

The likeliest prospect is to combine the open system of bidding which prevails in England and Wales, with the individual and enforceable contracts which are constituted by agreements to sale in Scotland. Such a combination appears to offer both the fairness of an open bidding system, and the speed and convenience of the Scottish system of sale.

LOGBOOKS

The current requirements of a solicitor when he commences work on a house purchase are thoroughly dated. They lead to interminable re-inquiries into the same property each time it goes on the market. The identical material may well have been researched by another solicitor only a few months previously. Yet it all has to be done again, and the appropriate parties paid again. Not surprisingly, it all takes time.

The backtracking to discover information already discovered by the previous solicitor, and perhaps every other solicitor ever to deal with the sale of that house, costs the purchaser excessively, slows the process, and helps create the conditions that might encourage gazumping.

The delays are caused by the need to start each search at the beginning by professionals who have no incentive to be speedy in their response, and are sustained by a profession which can gain more in the way of income by being slow. If demand for information rises, as in a time of rapid house movement, the process will slow down even more. While the land registry and local authority could employ more staff, this is unlikely to happen as there will be no additional resources to cover this.

Part of the work could easily be transferred to a more suitable body, allowing the organizations that have the greatest interest in fast, accurate information to take the lead in providing such a service. It is conceivable that such a body could gradually put most of the information onto a computer network, eliminating the need for subsequent laborious searches through files and ledgers.

The introduction of residence logbooks would remove much of the need for the rechecking of data, though there are various details which would still be best stored in a central bureau where verification would be quick and efficient. Proof of the seller having good title, notes of restrictive covenants within the deeds, and checks for petitions against the seller would be the bureau's basic role. If much else was required then the system, and its continual updating, would not be sufficiently up to date. It would have to be a check on the basic validity of the sale.

Each house could be given a form of identification number, as is routinely done for motor vehicles. In this way it could be ascertained over the telephone whether the house was actually the property of the person selling it, in much the same way as one can check the credit rating of an individual using a Visa card or MasterCard. The purchaser's solicitor would be able to do this within a matter of seconds of the client's announcement of interest in the property.

The charge to conveyancers could be linked to the number of sales made each year. Taking the charge as a percentage of the sale value would hardly be fair since the effort and time expended would not vary with the cost of the property.

In the event of disputes the actual records would be taken from the archive, copied and distributed. The system could be administered largely by the building societies and banks, so that immediate changes in the status of the owner could be noted automatically. If the owner defaults on mortgage payments or other debts that are secured to his property, for example, there will be no possibility of a quick sale of the property to escape the consequences. This will become crucial as house sales become possible within a matter of days.

The Land Registry with its bureaucratic lethargy provides an unsuitable vehicle for the collection and maintenance of this sort of data. Only a small minority of homeowners have this problem; something is needed which can cope with the difficulties they pose, by keeping the information readily accessible and constantly updated.

The terms of contract of a sale, legally binding on both parties, can specify to the mutual satisfaction of both parties that the date of entry and of completion of the contract lie within the time span that can accommodate both an update of information, and any enquiries which might follow from it.

However, no matter how fast each aspect of the search is, its completion is no faster than its slowest component. The problem arises of how to speed up requests for information that might affect a property from local authorities. It would be a waste of time and money to develop the rest of the information network only to have the result stalled by the inefficiencies of a local government department.

There has been a growth in the number of sources which must be tapped when a conveyancer carries out a full search. In fact one single centralized register would make the task decidedly more straightforward, less time consuming, and cheaper. The expansion of information sources brings with it the danger that one may be overlooked. Attempts have been made to introduce legislation centralizing information, but so far these have failed.

The use of residence logbooks to hold the detailed and individual information about the property could supplement the basic information available at the central registry. The logbook would serve the same role as a motor vehicle logbook, providing information essential to any decision to purchase a house. It would be updated primarily when the owners were deciding to sell the house, though in advance of it being placed on the market.

This would mean that the onus of having a survey done would be shifted to the seller, meaning that only one survey per sale would be needed. It would be carried out in anticipation of the sale, bringing the time spent on surveying the property between offer and sale to zero. Of course, a buyer would be perfectly entitled to enter into a contract of sale which depended upon the results of an independent survey.

With the survey obstacle removed, the minimum time between offer and sale would be drastically reduced, with the eventual purchaser paying the survey fee as part of the cost of the property. It would involve perhaps another few hundred pounds being added to the price of the house, instead of being paid for in the fees of both successful and unsuccessful bidders.

This is as it should be. An individual selling his car never asks each potential buyer to put the car through an MOT; though if the buyer is unsure as to the car's credentials he can bring along an independent mechanic to provide verification.

In one section the logbook would contain all of the information obtained through searches carried out in the past, including the results of the previous survey carried out when the property was last sold, and the update performed for the current sale. Each entry would be date-stamped by the professional who carried it out, giving it authority, as well as facilitating the process of verification should it be required. The prospective buyer would naturally make sure that the logbook was indeed kept fully up to date.

In another section, work carried out upgrading or maintaining the property would be verified, and details noted, by the tradesmen involved. This matches the way in which automobile service books record work done on the vehicle. This work would be verified and confirmed by the seller's survey prior to the house being placed on the market.

As the burden of both the survey and the search would fall on the vendor, delays to the process of sale would be minimal. Basically the buyer wishes to know that the sale is good, that it is being sold by the owner, and that there are no unknown attachments on the property. The central bureau would confirm all of this from a simple computer screen.

The buyer also wishes to know what rights of way exist, if any, and what planning consents by the local authority, or projects in hand, might affect the value of the house. The logbook will reveal any such matters, and will be date stamped to show that it reflects the current position.

The other required information consists of work and maintenance done on the house, together with the assurance that it was duly performed to a satisfactory standard. Here again, a section of the logbook will reveal record of this, together with the certification of the pre-sale survey commissioned by the vendor to establish that all has been done as it should be.

These separate pieces of information will enormously simplify the work and time required for each sale. They will eliminate most of the delays which hold back completion, and will diminish many of the fears which face prospective purchasers.

It is taken for granted that with the duty to provide adequate and accurate information in the logbook goes liability. Should the information prove defective or unreliable in any way, the purchaser will have a clear case against either the vendor, the professionals who made the logbook entries, or both. In the event of disturbing facts emerging to affect the value of the property, the purchaser will be able to sue for full damages.

In practice the insurance industry is likely to produce a standard insurance policy against losses incurred because of defective information. Thus house buyers will not even have to undertake legal proceedings personally. Instead they will be compensated by insurance companies, who themselves will initiate any legal proceedings required to recover their outlays.

Logbooks thus combine the two essential features required for easy sales. They achieve speed, by cutting out the time which would be needed for separate and independent enquiries, and they eliminate most of the expenses involved in purchases. That they also guard against any risks faced by the buyer is no small additional advantage.

CONCLUSION

The conclusions of this report are that the complex process by which houses are bought and sold in England and Wales has no justification at all in the modern world. While the various procedures may have had their uses in the past, today they constitute an archaic series of rituals which bring uncertainty and delay to those who contemplate house purchase or sale. They also bring expenses which are completely unjustified.

The suggestion is that sales should take place, as in Scotland, by a procedure which makes the agreement to buy or sell into a binding contract. Neither party would be able to back out after such a deal was arrived at, either to accept a higher offer, or to withdraw an offer. In other words both gazumping and gazundering would constitute breach of contract and be actionable accordingly.

The Scottish method of bidding blind by means of sealed offers above a named sum should NOT be adopted for England and Wales. Indeed, it should be ended in Scotland and replaced by a system which features either fixed price sales, or open bidding, including sales by auction. Such systems will give maximum information to prospective purchasers about the sums required to secure purchase, and will minimize the expenses involved in entering bids which are unsuccessful.

Agreements which constitute contracts, together with fixed prices or open bidding, should be supplemented by the creation of a central agency of owner information, and by the use of residence logbooks.

The central agency will enable solicitors or other purchasing agents to obtain the basic information required to proceed with an offer by quoting the house identification number and the solicitor's own number – to enable a charge to be made. It is envisaged that such an agency will be established and run in the interests of the trade itself, and will gradually absorb the information currently available from the Land Registry, placing it onto a computer network and updating it regularly.

The logbook for each house will contain a record of the history of the house and its ownership. It will record date-stamped details of previous searches, and will be updated by the vendor immediately prior to sale. Another section of it will act as a service manual on the house, recording work done on repairs and maintenance. This section will be authenticated by the vendor's surveyor prior to sale.

The vendor and his agents will be liable for inaccuracies in the house logbooks. If there turn out to be factors relevant to the sale and to the value of the house which fail to appear in the appropriate section of the logbook, those who made the inaccurate entries will be liable, either directly or through the vendor. If inadequate or unsatisfactory work fails to show in the section which records maintenance and repairs, then action will be possible against the surveyor who authenticated the entries, either directly or through the vendor.

It is anticipated that the insurance industry would supply 22 policies to cover purchasers in the event of falsification or inadequacies in the records, and that they would indemnify the purchaser, taking action themselves where appropriate to recover the payments thus made.

With such a system of house purchase in place, most of the difficulties, most of the hazards, and many of the costs of the present system will be eliminated. People wanting to buy houses would make an offer through their agents, after the latter had checked with the central agency that the ownership and the sale were in order, and that the house logbook contained satisfactory information concerning the searches and the condition of the house itself.

That offer, if accepted, would constitute a contract on both sides. There would thus be the assurance for both parties that the sale would go through, and go through rapidly. There would be no gazumping or gazundering, because the original agreement would be enforceable in law.

Such a system would make it very much easier to predict the date on which possession would be required or could be obtained, and would enable both parties to the sale to make appropriate arrangements. With such rapidity and certainty over sales, people would be able to predict when they would go through, and be able to time their own sale or purchase to coincide fairly closely. In the event of any overlap or gap, people would be able to reach the sort of short term transitional arrangements which are commonplace in Scotland.

The purchase of a house may always constitute a major item in people's lives, but there is no reason why it need be more difficult or more cumbersome than the purchase of a car. With the system outlined here in place, it will no longer be an action to be approached with trepidation and misgiving.

The housing market has been sluggish for more than a year; the difficulties which people face in moving to a new house and selling their old one have been compounded by an inefficient and outdated system. The new parliament might well be the appropriate time to sweep away that system with all of its quaint and curious customs, and to replace it by a process which is both friendly and fair to buyers and sellers alike.