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Monitoring Industry Initiatives
to Improve the
Homebuying and Selling Process



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Dr Michael Wagstaff, Jill Whitehead and Sian Gibson
Martin Hamblin Research

Dr Douglas Robertson, Housing Policy and Practice Unit,
Stirling University

March 2000

Department of the Environment, Transport and the Regions: London

Department of the Environment, Transport and the Regions
Eland House
Bressenden Place
London SW1E 5DU
Telephone 020 7944 3000
Internet service <http://www.detr.gov.uk/>

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This report refers to research carried out in Australia by Professor Bill Randolph of the University of Western Sydney.

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Executive Summary

Background

This report assesses a number of industry – led initiatives designed to speed up the process of buying and selling a home. The study is intended to inform the future changes in the system of home buying and selling in England and Wales, and it is the second study of three being prepared by Martin Hamblin for the Department of Environment, Transport and the Regions (DETR). The first study, “The key to easier home buying and selling” (DETR 1998) looked at bottlenecks in the system and consumer and professionals’ suggestions for change. One of these suggestions was the introduction of a seller’s pack, already being used by several companies in different locations. This report provides a detailed look at the operation, content and success of full and part seller’s packs and how the industry views these. The third report in the series will be an assessment of a pilot seller’s pack scheme in the Bristol area, being supported by the DETR.

Methodology

The research has involved carrying out depth interviews with organisations that have developed, or are in the process of developing, initiatives that involve the seller of the property doing a greater level of preparatory work before their home is marketed. The research has also involved carrying out interviews with customers of these initiatives, both buyers and sellers.

Table 1: Professionals contacted for the study

Company and location, and contact	Scheme and type of initiative
Bedfords estate agents, Norfolk/Suffolk (David Bedford)	Stand alone survey (McCormick Merrifields or Allied Surveyors)
Michael Cleary, Chartered Civil Engineer, Kent and East Sussex	Stand alone survey – National House Certification Scheme (NHCS)
Advance Surveys, Essex (Victor Beadle, Chartered Surveyor)	Stand alone survey
Allied Surveyors (Colin Robertson, Scotland) (Robert Pearson, England)	Surveys OnLine (Scotland) The Guarantee survey (used by Bedford's)
Ekins Surveyors (owned by The Woolwich plc)	Homefile Survey – part of Wates Fastxchange scheme
The Stokes Partnership, Somerset (Jonathan Stokes, Solicitor)	Legal pack "Fast Track"
Sellers Information Pack (Justin Holder, Chairman)	Legal pack sold on-line to estate agents (national coverage)
The Law Society, London (Neil Gower, Head of Conveyancing Practice)	Transaction 2000, the Law Society's proposals for change to conveyancing practice
Morton Fraser Relocation, Birmingham (John Blakeway, Director) (owned by Morton Fraser law firm of Edinburgh)	Homesale programme for company employees of major blue chip firms (combined pack – legal, survey, insurance, marketing)
Marson's (the solicitors) (Brian Marson, Solicitor)	Legal aspects of combined packs for Wates Fastxchange and Spicer McColl Smart Move
Wates estate agents, Croydon, Surrey (Steve Hayler and Annette Dunbar, estate agents at Selsdon and Purley branches)	Fastxchange combined pack (legal, Homefile survey and insurance) with Ekins the surveyors and Marsons' (the solicitors)
Spicer McColts estate agents (including Felicity J. Lord and Haarts, London and Kent) (Russell Jervis, Spicer-McColl, Colchester, Essex)	Smart Move combined pack (legal, survey, insurance) with Marson's (the solicitors)
Legal and General (coordinated from L and G Head Office in Surrey using 14 estate agents in different areas)	Combined pack (legal/survey) with Eversheds the conveyancers and Legal and General surveyors
Bradford and Bingley Building Society (David Woodcock)	Secure Move survey (currently buyer's survey, but could become part of seller's pack). Also property log and insurance. Use own survey company BBG surveyors
Property Guarantee Company (Paul Oxley)	Stand alone Insurance for second hand property determined by survey, and marketed through estate agents
M(aria) Colemans estate agents, Bristol (M(aria) Coleman)	Combined Open Book scheme (survey/legal), choice of solicitors for sellers, in-house surveyors

Seventeen face to face interviews were conducted with a variety of different organisations covering fourteen industry initiatives. For seven of the initiatives, interviews were undertaken with a small number of *local* estate agents, surveyors and lenders. This was done to get a more detailed understanding of how the initiatives were seen on the ground. Additionally, sixteen telephone depth interviews were undertaken with sellers and twelve face to face interviews with buyers using several of these initiatives.

The initiatives reviewed cover pre-sales seller surveys, legal work and valuation. Some 'seller's packs' include all of these. It is possible to identify a typology of initiatives that explain the different categories. These are:

Stand alone seller surveys

This is where the seller commissions a survey before marketing the property. This category includes a RICS Homebuyers survey or similar, or a civil engineer's report. Initiatives reviewed falling into this category are:

- Advance Surveys (run by Victor Beadle in Essex)
- National House Certification Scheme (administered by Michael Cleary in Kent/East Sussex, U.K. Pilot Scheme)
- Property Guarantee Company, insurance backed survey scheme (Paul Oxley)
- Bedfords estate agent/McCormick Merrifield surveyors (in East Anglia)
- Surveys OnLine (Allied Surveyors in Scotland)

Legal work only (referred to as 'legal pack')

This is where the seller's solicitor prepares a property information form (a summary of boundaries, rights of way, planning consents and fixtures and fittings), a standard contract and a summary of documents held by the seller's solicitor including title deeds, easements, and other property specific documents. The agencies interviewed were:

- Stokes Partnership "Fast Track" scheme based in Somerset

This scheme included a "de-coder" legal profile, handbook, and free title insurance with the legal pack.

- Sellers Information Pack – national on line service commenced February 2000

Seller's pack

Seller's packs vary according to the agency promoting them. They can include:

- Copy of title deeds
- Searches
- Survey report into the condition of building
- Answers to standard preliminary enquiries

- Copies of consents such as planning and building consents, building regulations
- Copies of warranties and guarantees
- Draft contract
- Handbook describing the system and how it works – Stokes only
- Property Profile – a summary of aspects of the property including location and structure, information about listing, conservation areas etc., and property planning history, where appropriate
- Log Book – to enter details about improvements, alterations, extensions, and up-dated information (eg surveys, searches)
- Seller's status report in regard to onward chain and mortgage arrangements (Legal and General)

For leasehold properties it can also include:

- A copy of the lease
- Latest service charge accounts and receipts
- Insurance policy for building, receipts for premiums
- Landlord's regulations

Some seller's packs offer the seller a choice from whom they purchase elements of the pack (such as conveyancing or the survey). These can be thought of as horizontally integrated. Other packs tie the seller into specified agencies and can therefore be defined as vertically integrated. Some packs also include Title Insurance whereby, for a premium (or for free), the seller can insure the Title against possible defects. This is then passed on to the buyer.

Seller's packs reviewed were those run by:

- Legal and General
- Wates Estate Agent's "Fastxchange" (Woolwich Direct/Ekins Surveyors/Marsons Solicitors)
- M(aria) Coleman Estate Agents' "Open Book" scheme in Bristol

Two other agencies that intend to operate a pack were also interviewed. These were:

- Spicer McColl "Smart Move" (Marson's solicitors) (piloted late 1999)
- Bradford and Bingley, "Securemove"

Indirect initiatives

This category relates to initiatives that are not related directly to pre-sales activity within the housing market but which have transferable lessons. The relocation scheme operated by Morton Fraser Relocation in Birmingham falls into this category. We also cover the Law Society's Transaction 2000, their proposals for changes to the system.

A summary of each initiative reviewed is set out in the Annex.

CHAPTER 1

Professionals – costs and time taken to compile the pack

Introduction

- 1.1 Two essential elements of a seller's pack are cost and time. The costs of a pack may be determined by:
- the number of elements in the pack, and which elements are included (surveys being one of the most expensive elements);
 - the presentation of the pack to the public – “how it looks”;
 - the person hours spent in bringing the elements together;
 - the costs of obtaining the elements in the pack (such as local authority charges for searches);
 - the marketing of the pack by professionals to other professionals and the public – advertising and promotion, workshops, seminars;
 - the costs of other professionals in the chain where there are vertical or horizontal linkages between different professionals;
 - the need for a database of customers given a pack, and general computerisation of the process;
 - the acceptance of sellers and buyers of certain levels of charges (such as surveys), according to where they live and the size and type of their properties;
 - the size of the company and their charging policy – whether the scheme is used to increase profits or as a loss leader to encourage business
- 1.2 The time taken to compile a pack will depend on the ease of access of different elements of the pack, and the extent of liaison between different professionals bringing the elements together. In the past blockages have been noted, for example, in the carrying out of condition surveys and searches undertaken by solicitors. The new packs will aim to streamline these processes through simplification, standardisation, coordination, and computerisation. Computerisation of processes, in particular, is seen as a positive way to speed up transactions and avoid past time problems. Similarly, the removal of bureaucratic blockages by professionals and public authorities can save considerable time. The speeding up of processes will not only save time but save money as well, thus reducing overall costs.

Costs of compiling the pack

- 1.3 Costs vary according to the scheme, the value of the property and the part of the country in which the scheme/property is offered. Therefore, there is no direct comparison between schemes, and some larger companies will seek to recover marketing costs when pricing packs. The larger more integrated schemes had much higher costs because of the degree of marketing and promotion, and the number of organisations (eg estate agent, lawyer, surveyor) involved in the scheme. Each participating group would tend to seek their own profit margin, the cost of which could be passed onto the public at a particular stage, or in total at the end of the process. This may change in time as packs become more common, since larger companies have the benefit of economies of scale and should be able to reduce costs for customers. There is some evidence that market pressures for sellers packs may be leading to larger groups considering offering, or beginning to offer, integrated packs which reduce costs for customers. This is particularly true with the anticipated development of on line services where cost reductions can be gained over existing methods of operation.

The survey element

- 1.4 Packs which include a seller's survey will be more expensive than other initiatives, as the seller's survey is usually one of the most expensive elements of the pack. A seller's survey based upon the RICS Homebuyers Survey costs about £250 to £350. Wates Fastxchange (using Ekins surveyors) offer a Homebuyers equivalent (Homefile 2) with energy ratings and security report for £375 rising to £725 for properties over £250,000. Wates is based in the London Borough of Croydon and some surrounding areas such as Dulwich, which have high property prices. Here, £250,000 is the average price for a three bedroom detached or even semi-detached property. Wates offer a cheaper Homefile 1 (£125 to £170) which is more basic and aimed at first time buyers, but also a more exclusive Homefile 3 (£725 to £1,300) aimed at those with executive properties in areas such as Purley and Sanderstead.
- 1.5 The pre-sales survey offered by Bedfords Estate Agent, together with McCormick Merrifield Surveyors or Allied Surveyors, is 10 per cent more expensive than a usual survey – a premium is attached. Bedfords deal with more expensive executive and character properties in East Anglia, from £100,000 upwards. Their fees vary from £350 for a smaller property to £650 for a larger home. The premium is attached because only one survey is carried out (rather than there being separate visits for valuation and survey as might be the case under the conventional buyer's survey). It is common for larger companies or those dealing with properties at the upper end of the market to increase their prices to maintain profit levels.
- 1.6 M(aria) Coleman in Bristol uses an in-house firm of surveyors to carry out a homebuyers equivalent survey. The charge of £175 is included in the overall cost of the pack to the seller at completion, but if the seller withdraws they are liable for this cost up-front. It is estimated that a similar survey would cost £250 elsewhere. The buyer has the option of purchasing the survey, which can be for as little as £25, as the seller is ultimately footing the

bill. Once the buyer purchases the survey it becomes the buyer's property, but until that time the survey is owned by Colemans rather than the seller, as it is Colemans who commission the survey. Originally Colemans' operated a three tier service, but found that the cheaper (bronze) tier was not detailed enough, and the more expensive (gold) tier was not acceptable to clients. They therefore decided to opt for the middle tier (silver) which was both reasonably priced and sufficiently detailed. This appears to equate to Wates Homefile 2, which seems to be more popular with Wates' customers, than their other options. Single tiered pricing would seem to be a simpler route to take, and one which is more price acceptable to clients.

- 1.7 The independent surveyors/engineers such as Michael Cleary or Advance Surveys offer a much cheaper service than the larger integrated companies. Michael Cleary runs the National House Certification Scheme (NHCS) in Kent/East Sussex, a scheme developed by chartered civil engineers. This scheme is like a car MOT, where the client can sell the house with a certificate indicating a clean bill of health or itemising what needs to be done to the property. The engineer provides a thorough inspection of the property and prepares an easy to understand report within 24 hours of the inspection. The report offers recommendations if/where remedial work is required so that the seller and buyer are fully aware of the state of the property. A Stage Two service is offered where any remedial works to be done are specified and a contract is drawn up for the engineer to arrange works by an approved contractor. The works will be inspected and incorporated into the certificate. Information can be updated at any time, or the certificate can be updated on a yearly basis or when other works are carried out. This information could then form part of a house passport to be passed on with a future sale. The price for the report and certificate is only £185, and the certificate is valid for one year.
- 1.8 Advance Surveys scheme is very similar to the NHCS. A survey can be carried out before the property is placed on the market, or within 48 hours of instructions being taken. The survey is undertaken by a qualified chartered surveyor. The report will be valid for 12 weeks from the date of inspection but can be extended for additional twelve week periods. Once again the emphasis is on easy to read documents with suggestions for "Recommended" and "Advised" repairs. "Recommended" repairs are those that should be carried out to protect the integrity of the building or its services and should be considered urgent. "Advised" repairs are those items that will be brought to the parties' attention as something that will need to be attended to under normal maintenance requirements or where possible future costs may be anticipated. If the shortcomings are corrected prior to sale, a simple certificate of re-inspection can be added to the original report. Otherwise the home is sold "warts and all" together with an estimate of the costs of repair. Advance charge £250 for this service, up to a house value of £250,000, plus £50 if a valuation is also required. Re-inspections cost £65 (a separate quotation is offered for more expensive homes).
- 1.9 Allied Surveyors in Scotland are piloting an on line version of a seller's survey called "Surveys OnLine". They point out that most houses in Scottish cities are surveyed up to four times for one sale, because of the "blind bid" system. This leaves many house hunters out of pocket, paying for surveys on houses they are unsuccessful in buying. The Surveys OnLine system offers instant access to an in-depth, Scheme 2 or Homebuyers survey via the Internet for just £50. This comes with a unique one-year guarantee against defect and a home energy rating. The survey is fully indemnified. The system allows for instant commissioning of surveys, immediately available survey reports sent by E Mail, web based invoicing and payment, and links to estate agents, surveyors and lending institutions. Surveys OnLine commissions only one survey per property. This is then made available to all interested parties through the website at www.surveysonline.co.uk or from participating

solicitors offices, estate agents and property centres. The survey price is paid when the property is finally sold. The survey is said to give both the buyer and seller a property report they can rely on and trust. It is planned to take Surveys Online across the UK over the coming months. The aims of the scheme are to provide a pool of surveys and a gateway to all the useful services and information required by property buyers and sellers.

Legal costs

- 1.10 Some integrated organisations make higher legal charges than normal. In the Wates Fastxchange scheme the seller pays £500 inclusive of disbursements. In the Legal and General scheme the legal fee is £350, but it was felt that if sellers shopped around they could probably get the work done for £250. The cost of legal work may have contributed to the poor take up of the Legal and General pack. Legal and General use Eversheds (a bulk conveyancer) and customers are offered a quality conveyancing service, but this was not really explained by the estate agent. Legal and General thought that sellers were not interested in a “premium” service, they were more interested in getting the sale through at the cheapest possible rate.
- 1.11 In the pack operated by Wates the seller’s legal work is paid at the point of sale on a no sale no fee basis. This means that if the transaction does not proceed, for whatever reason, the seller incurs no costs. There appears, however, to be a price to pay. It seems possible that because Eversheds and Marsons risk incurring costs for which they might not be re-inbursed (if the seller pulls out of the transaction or the property does not sell) a premium is added to those transactions that proceed.
- 1.12 In the Stokes Fast Track cases, clients are liable for half the costs of a pack when there is a withdrawal within a set number of weeks – *however, there has never been a need to charge for this to date*. This requirement would recognise the costs that Stokes would have already incurred in setting the wheels of the pack in motion. All Stokes Fast Track customers using the pack so far have gone through to completion, where the service is free until the point of sale. In the case of Colemans, clients who drop out before completion are liable for the full legal costs of the pack which are set at £275 plus £8 office copies plus £85 lender’s charges plus VAT. This is because Colemans use a Panel of three independent solicitors (which the seller can choose from) and their costs have to be covered.
- 1.13 Buyers costs under the Wates scheme include a premium for Title Insurance (Stokes offer this for free). For a one-off premium payable at completion of purchase, the policy provides the buyer with an indemnity against loss or damage suffered because of an undetected defect in the title. Marsons solicitors state that the insurance protects the buyer from mistakes or omissions during the conveyancing process, or any third party such as the seller, upon whom their solicitor relies for information. Additionally it insures that the property is held by the buyer without someone else holding a prior interest and that the buyer has right of access to the property.
- 1.14 It is argued that the Wates pack allied to the Title Insurance will mean that the buyer’s solicitor will only have to make sure the correct paperwork is in place and will not, therefore, need to conduct the normal enquiries and searches. The Law Society believe that

Title insurance is unnecessary as there is a Solicitors Indemnity Fund set up to compensate for lawyers negligence in proving Title.

- 1.15 Sellers Information Pack is a new on-line legal pack service currently aimed at estate agents but likely to be made available to members of the public in future. It can be found at the web site *www.sellerspack.com*. The pack not only includes the usual information found in a legal pack but also marketing and promotional literature which enables the estate agent to sell the idea of the pack to other professionals and to the general public. The cost of the pack is £125 plus VAT plus searches for freehold and £225 plus extras for leasehold. The scheme is nationwide and it is believed that some estate agents are selling the packs on for free as loss leaders to drum up business. A pilot involving 500 agents will be starting in spring 2000. The pack itself takes from about five to fifteen days to compile, which is guaranteed. The local search has an insurance on it to extend its shelf life from three months to one year. The pack is based on an auction pack concept but does not include conveyancing. Liability goes from the seller to the buyer at exchange of contract.

Time taken to compile the pack

- 1.16 Organisations offering a complete sellers pack or a legal pack claimed they were able to compile the pack in a few days, although in practice customers said the time taken was often quite a bit longer. There was a tendency to quote a theoretical time as a selling point, rather than a realistic time. A realistic time would appear to be two or so weeks, rather than less than seven days. Most organisations did point out that the pack tended to reduce the average selling time from three to two months. Searches that can often take a number of days to obtain from the local authority tended to be undertaken in person. There is no doubt that on-line access to search details will assist in speeding up the process (currently being piloted in Bristol by the Law Society). If the pack is not speedily compiled, properties in hot markets can be sold subject to contract before the pack has been assembled. There is anecdotal evidence that some estate agents in very hot market areas are not bothering to print details because there are queues of potential buyers lining up to see the property. A compulsory seller's pack (assuming pre-packaging rather than post-packaging) could mean that these properties take more time to come on to the market. This is a concern for some estate agents, who feel that some consumers will not want to wait. This will be tested in the Bristol Pilot scheme in 2000. (It has been suggested by lawyers that if sellers approached solicitors as a first port of call to compile a pack, this could then be taken to an estates agents when the seller was ready to issue instructions).

CHAPTER 2

Marketing by Professionals

Marketing to Sellers

- 2.1 There were a variety of different ways of marketing the packs depending on the nature of the pack (sellers pack, survey only or legal only), the type of organisation (small independent or part of a large chain) and the financial resources at hand. In some cases marketing was very limited because professional protocols forbade direct marketing to the public – this was particularly the case with chartered civil engineers and chartered surveyors. Frequently marketing was of an informal nature involving networking between professionals such as solicitors, surveyors and estate agents. In these instances, acceptance of the pack by sellers was very highly dependent on the motivation of the professional offering the pack. This could sometimes be a selling agent using a conventional and time-honoured process resistant to change. Smaller organisations such as legal partnerships tended to use in-house resources, especially IT, allowing them to produce ready made leaflets and forms which could be easily copied and disseminated. Of the companies visited, only the larger companies (usually part of a group or a larger independent such as Wates) had a true marketing programme which included advertising and editorials in newspapers, newsletters, seminars, and the production of glossy materials in packs. The exception to this was M. Coleman's who used affordable professional marketing techniques, although only a small independent estate agent.

Advantages posed to sellers by professionals

- 2.2 The main advantages for sellers, as seen by the agencies, are:
- the packs speed up the overall process thus reducing delays in sales;
 - the process is streamlined allowing information to be presented up-front – no-one need be kept in the dark about what is happening;
 - legal work is carried out at the beginning rather than the end of the process (even before the property is marketed by the agent);
 - searches may be carried out on-line to speed up the process, and some clients may have access to an on-line service which keeps them abreast of developments in their sale;
 - early surveys with guarantees/certificates can give an indication of any repairs which may be needed, negating the need to renegotiate price at a later stage;
 - potential buyers can be given the results of surveys (so that they are fully aware of the condition of the property, whether good, bad or indifferent) and legal searches at the time the property is marketed;

- sellers can obtain an early valuation to allow the property to be realistically priced by the agent;
- with some schemes, sellers have the choice of their own surveyors, lawyers or mortgage company, thus allowing them to shop around for the best deals;
- with some schemes, the agent can provide a surveyor, lawyer or mortgage company in a One Stop Shop, providing a fast and seamless service;
- the content of packs can be updated at any time by a professional (to include alterations, extensions, modernisation and local planning requirements) and passed on with the sale of the house like a motorist's log-book.
- depending on the scheme:
 - the seller may only have to pay for part of the pack (together with the buyer);
 - the buyer re-imburses the seller for any monies paid out at the start;
 - the seller may not have to pay anything until the exchange of contracts takes place.
- sellers are provided with simplified, easy to read and understandable material in plain English to help them in the transactions;
- sellers can be provided with promotional materials which further explain how the process works.

Disadvantages for sellers as seen by the professionals

2.3 It is clear that sellers have reservations about the process, in particular:

- sellers do not expect to pay for those items traditionally paid for by buyers, such as surveys;
- sellers do not really understand what a seller's pack is all about and how it relates to them – they lack knowledge that could come from an education programme or marketing campaign by the government or professionals;
- in a buoyant market where properties sell quickly, a seller's pack may not appear relevant;
- the scheme may be seen as too expensive, especially if there is a survey attached which sellers are expected to fund/part fund (some of the surveys on offer were good value but others, especially in the London area, were expensive);
- seller's packs placed extra cost burdens on those living in areas where there was negative equity still;
- in areas where there was a shortage of buyers and an oversupply of homes, seller's packs would not make much difference (this was the case outside the London area where properties could be on the market for over a year in some areas). The Law Society

believed companies should be able to buy up the properties of those wanting to move quickly. This was already done by company re-locators;

- sellers were worried about chains – one person in the chain with a problem could hold up the process. Some professionals, such as the Law Society, believed that this should be solved with easier and cheaper bridging finance;
- some schemes have too many add-ons which increase the cost e.g. warranty insurance and title insurance were disliked by consumers;
- sellers may find that the buyer's lenders will not accept an independent survey or valuation inspection from a qualified professional or small professional company (especially lenders who give panel surveyors exclusive rights, or who use large corporate surveyors);
- sellers may be delayed when a mortgage company makes a mortgage offer to the buyer (for example, references may take time to come through);
- sellers may be scared off by unexpected survey findings which make the sale of their house more difficult rather than easier. Sellers may not want this information passed on to prospective buyers;
- ownership of and liability for the survey is an issue, related to who pays the cost;
- at present sellers do not want to pay for two surveys – as a seller in one situation and a buyer in another;
- sellers may not be in a hurry to sell, and may want to put their toe in the water to test it out. In such circumstances they do not want to pay unnecessary costs up-front;
- sellers want to choose their own legal/survey companies without being restricted to those in a vertically integrated arrangement;
- sellers may be suspicious of the advice of estate agents or lawyers who may not be seen to be independent and consumer oriented.

Promoting the pack to customers

- 2.4 Sellers continue to have suspicions about the benefits of seller's packs – partly because they are inadequately advised. It appears that because estate agents are generally luke-warm, they are not promoting the scheme whole-heartedly to prospective customers. There is evidence that they are only using the scheme for simpler properties – that is, properties where there is vacant possession, properties which are likely to be in good condition, and where the buyer and seller have certain elements in place already. These attitudes can make it difficult to test the schemes satisfactorily. This means that the customer never has full information, or information explained to him/her in sufficient detail. To create a proper functioning market, the customer should have access to full and accurate information, on which to base a decision about purchase.

Take-up of seller's packs

- 2.5 To date, take-up of sellers packs has varied by area and scheme (take-up is highest where the scheme has apparently the right gel of elements needed, pitched at the right price). Legal and General approached 832 sellers in 14 agencies in the South East, South, East Anglia and Midlands, and only 32 agreed to take part. The main reasons for not wanting to pursue the packs were that they were not considered to be of benefit (31 per cent), the seller was not in a hurry to sell (27 per cent), the seller wanted to use their own solicitor (20 per cent), and the legal costs were not competitive (15 per cent).
- 2.6 It is clear that take-up of schemes was highest where there was greatest choice for the consumer – horizontal schemes which offered a choice of practitioners were far more successful than vertical schemes which tied consumers into one company at each stage of the process. Schemes which were organised by solicitors appear to be more successful than those run by estate agents or surveyors (possibly because the legal process is the easiest one to introduce speedier transactions). Stokes Partnership had succeeded in processing 20 cases in Somerset over nine months with an increasing take-up in recent months. In August 1999, the packs accounted for about one third of cases. However, M(aria) Coleman Estate Agents have been running a successful seller's pack (Open Book) on *all* sales for three years in Bristol – this is a horizontal scheme with a choice of legal practitioners for the seller, and an in-house survey. Because the scheme has developed over a period of time, M(aria) Coleman has been able to learn what works or does not work in her local marketplace. In this way, she has been able to keep both legal and survey costs to a minimum for the benefit of the consumer. She believes this has been possible because she is an independent estate agent rather than part of a chain, where the tendency is to enhance profits rather than service.

Marketing to Buyers

Marketing to potential buyers

- 2.7 Marketing to buyers very much depends on the acceptance of the concept by Estate Agents, and how well they have been trained in explaining the benefits of the scheme to customers. M(aria) Coleman's Open Book scheme regularly organises quarterly seminars for first time buyers to introduce them both to the concept of home buying generally and to sellers packs in particular. They have also been adept at using national and local media for promoting sellers packs. Buyers have a number of questions about the process. Firstly, buyers want to be sure they have a property in the best possible condition without any strings attached. Secondly, buyers want to be sure things will go through smoothly, quickly and efficiently, and that delays and problems are avoided. They also want to be sure they will not be gazumped by the seller. Engaging the buyer at the start, especially first time buyers with few pre-conceptions, will assist in the acceptance of sellers packs. They would be more likely to use the process again when they come to sell their home.

Advantages posed to buyers by the professionals

2.8 The main advantages were seen as:

- legal and survey work had already been carried out by the seller enabling an informed offer to be made;
- early survey and valuation means an offer is made at the right price rather than an inflated price (a pre-pack means there is fuller knowledge of the property at the marketing stage);
- the seller will have paid for all or part of the legal/survey work, or this will be shared at the time of exchange of contracts (depending on the scheme);
- there are no unforeseen repairs (work needing doing will be known about) and therefore no need to renegotiate on price at a later stage;
- the buyer can immediately apply for a mortgage on the basis of information already collected about the value and condition of the property;
- if required (depending on the scheme), the buyer can be quickly put in contact with a mortgage company who can offer him/her an "in principle" mortgage within 24 hours or so, subject to status;
- times spent in chains are reduced;
- exchange could take place within seven days, if required, so that the buyer will not be gazumped by another buyer;
- the buyer could be protected by no fault title insurance, should the seller or practitioner let them down.

Disadvantages for buyers seen by the professionals

- the buyer may have less control over the process if the seller's agent/solicitor is operating a vertically integrated scheme – the buyer may prefer to shop around and use their own solicitor/surveyor/mortgage company;
- the buyer may be suspicious of the independence of a seller's survey, even with a guarantee/certificate, and even if they are jointly responsible with the seller for the cost of the survey (one solution may be where the buyer re-imburses the seller for the cost of the survey and it is formally re-assigned to the buyer with all legal rights);
- as shown in *all* cases which involved a mortgage in this study, the lender will still want to carry out their *own* valuation which can cause crucial delays (and many of our customers found there were delays here. See; Chapter Six – Talking to the Consumer). One estate agent suggested lenders should pay for their own valuations, not the customer, whilst most felt the lender should accept the reports of independent surveyors not on their panels;

- surveys could still raise problems with the property which may not be easy to overcome;
- there may still be hold-ups in chains if other parts of the chains are not operating the same system;
- the buyer may not want to move within a short period of time.

Buyer liability

- 2.9 Different schemes dealt with the issue of independent surveys in various ways. Cost may be totally shouldered by the seller or equally shared between buyer and seller. The survey may have to be paid for up front with the seller paying out at the outset, to be re-imbursed by the buyer later on. Or both the buyer and seller will pay half each at the time of exchange of contract or completion – this is an attractive option for the customer as no payments are made up-front. It would require a change in culture on behalf of some professionals, who currently expect immediate payment.
- 2.10 M(aria) Coleman's Open Book operates a different system regarding surveys. Here the estate agent commissions the survey from the surveyor, and has ownership of the survey. The prospective buyer is invited to view the survey, and if an offer is placed on the property, the buyer has the option to purchase the survey from Colemans at any time between offer and completion. The buyer may save costs with this method, but unless s/he buys the survey it cannot be taken away and shown to a mortgage lender. There is an assumption that the lender will carry out its own valuation. In the past there was a danger that the buyer could use the information from the survey, without purchasing it. On one occasion, a prospective buyer tried to obtain a price reduction for damage caused by storms and gales *after* the survey had been carried out. As the valuation had also been carried out before the storms it was possible to disprove the claim. However, Colemans' now make buyers sign a Declaration of Intent, to ensure they understand that they cannot rely on the survey, unless they actually buy a copy of it. Coleman recoups the cost of the survey through the seller, enabling her to offer the survey to the buyer at a low price (as low as £25, dependent on house price). It is recommended that a re-inspection is re-organised after three months (if required), as a precaution against future less favourable selling times. Buyers are not allowed to discuss the survey over the phone if they have not purchased a copy – they are encouraged to come into the estate agents to read it. Similarly, they and their legal advisers are not permitted to have a photocopy of the survey, if they have not purchased it.
- 2.11 In most schemes the surveyor is liable to the seller up to exchange of contracts and to the buyer between exchange and completion, and post-completion. The surveys are backed by the professional indemnity of the independent surveyors, and in some cases by no-fault title insurance. In spite of this, buyers may doubt the veracity of seller surveys and their lenders may still prefer to carry out their own valuations through their own appointed panels. It should be born in mind that presently only forty per cent of buyers carry out a full survey, and most others opt for a simple valuation or buyer's report through the lender (DETR, *The Key to Easier Buying and Selling* 1998). If the emphasis changed to the seller survey, this would place more demands on the surveying profession.

CHAPTER 3

Professionals; the Pack's effect on transactions

- 3.1 Where sellers and buyers had taken up the pack and seen it through to offer and completion, results had been very encouraging. Stokes' Fast Track had managed to achieve a sale (offer to completion) in six weeks, where a chain was involved. A simple case with no chain or complications had gone from offer to exchange in one week. These times were fairly typical for the other transactions which had gone through (Stokes had completed 20). The Law Society believes that simple transactions could go through from offer to exchange in one week, but human elements conspire to extend this. Morton Fraser, the relocation agents, found that the period between offer and exchange was about three to four weeks, including one week for completing legal searches and up to three weeks for completing mortgage valuation and finance. If the mortgage companies were more flexible, the time taken could be even less (e.g. accepting independent surveys). Where buyers started the mortgage process before making an offer there were still delays waiting for confirmed offers (*See Chapter Six; Talking to the consumer*). All eight of the Legal and General sales that had completed were delayed through lenders wanting to do their own valuations and buyers their own surveys (although the Legal and General survey was not as comprehensive as other seller surveys). Wates had made a leasehold sale with vacant possession within six weeks, including three and a half weeks from offer to exchange. Another current leasehold sale with vacant possession had also taken three and a half weeks from offer to exchange.
- 3.2 The greatest benefit was seen in the shortening of the time taken to complete the legal searches and documentation. Legal pre-packs appear to be popular, and would be of benefit if they were introduced on their own, should survey packs prove to be difficult to implement. However, some solicitors would need to be convinced of the benefits of carrying out work up-front. Solicitors are also worried about estate agents taking responsibility for some aspects of conveyancing as they are not professionally qualified nor covered to do this – this raises issues about the possible regulation of estate agents. The ability to carry packs through from one house sale to another (where professionals keep logs or updated records of changes to the home environment) is also seen as a threat to solicitors' livelihoods.
- 3.3 The survey continues to be the area of greatest difficulty. In those instances where only legal packs had been used, the parties relied on lenders to seek a survey and/or valuation inspection *post offer*. This was a major cause of delay (*See Chapter Six – Talking to the Consumer*), which could be avoided by using a pre-packaged seller's survey. In theory, survey packs should cause no problems but in order for them to succeed the following would need to happen:
- costs of surveys would have to be reasonable, especially in the London area;
 - lenders would have to accept independent surveys and valuations – schemes are already guaranteed, certificated or backed by professional indemnity;

- there would have to be a sufficient supply of surveyors and civil engineers to carry out the surveys;
 - surveys would have to be speedily carried out and reported.
- 3.4 Leasehold sales should provide no problems, particularly if there is a move to more use of IT. Stokes uses a database to log leasehold sales of flats which can be used again in the future for sales of other flats in the same blocks. Good relationships are maintained locally with landlords to collect relevant information. This could cause more problems in the London area where there are more flats but evidence from Wates suggests that delays are minimal, and they have used Fastxchange more successfully with leasehold sales than freehold sales to date (this appears to be connected with a fast moving market). For example, the Purley branch of Wates sold a leasehold flat in August 1999, using a pack, where the overall sale took just six weeks from offer to completion, and only three and a half weeks from offer to exchange of contracts. Similarly, the Parkhill, Croydon branch of Wates had another similar leasehold flat at exchange of contracts (at the time of interview) after just three and a half weeks. In both cases the seller only used the legal part of the pack.
- 3.5 Similarly, packs appear to speed up chains and seem to have worked successfully where there have been about four homes in a chain. It is unknown what the effects would be with a bigger chain of about six linked buyers. Part of the success may be to do with the current fast moving market – it may not be quite so beneficial in a slower moving market. Those with businesses outside London feel that other action has to be taken to assist those in chains. The Law Society proposes the introduction of easier and cheaper bridging finance that can be added to a home loan and the ability of “stakeholder” companies to buy homes trapped in a stalemate situation. This is already carried out by company relocation firms for large employers (Morton Fraser felt this could be extended to the domestic market).
- 3.6 There is clearly an issue of London and the South East versus the rest of the country, as this is generally considered to be a hotter property market than in other places. (Notwithstanding that there can be a range of local housing markets within a single location). Nevertheless, the Stokes and M(aria) Coleman schemes seemed to work well in the West Country where sales are steadier – it worked well for a broad spectrum of properties at different price levels with different levels of demand. However, no schemes were available to visit in the North of England, or Wales, and only one scheme in the Midlands which was a relocation scheme. This must be considered significant in itself. Outside of London and the South of England, there is a greater problem of too many homes (ranging from older and less desirable homes to developments of brand new estates) and not enough buyers able or willing to buy, or who can afford to buy at local prices. Here, there is an imbalance between supply and demand, markets are slower and although house prices are lower, local pay levels are also lower. Packs may not be so important in reducing transaction times, if the problem is to achieve a transaction at all.
- 3.7 In relation to this, there is a worry that packs may have the effect of inadvertently reducing the supply of houses coming onto the market. A lot of areas depend on prospective sellers dipping their toes in the market to see if it is to their benefit, especially if there is a shortage of properties for sale but a lot of buyers waiting (as in London and the South East). If sellers realise that they may be liable for costs up-front, they may not be so willing to try toe-dipping, and be more cautious. However, some agencies feel that packs will have the effect of only encouraging serious buyers and reducing time-wasters. Here, it is worthwhile mentioning New South Wales in Australia, where seller's packs have been introduced.

According to Professor Bill Randolph of the University of Western Sydney, the market slowed slightly initially but then it grew again. The market now consists of serious buyers and sellers rather than time-wasters. In the opinion of the professionals, these changes have helped create a proper market environment.

- 3.8 In regard to gazumping and gazundering, it would appear that reduced transactions times tend to help prevent gazumping and gazundering, but they might *not* remove them altogether. The Law Society points out that some agents may engage in misleading practices, whether times are reduced or not. Their views are that estate agents should be better regulated, in order to help remove gazumping and gazundering and other problems. On the other hand, some estate agents believe that there are other factors causing gazumping and gazundering, such as the "greed" of some clients who speedily obtain information needed to make a bid. But it is clear that if legal searches and surveys are carried out early, the information up front would provide less opportunity for an alternative buyer to come along and make another offer. Nevertheless even with a speedy situation, a cash buyer could still interrupt the process and prevent the original sale going through. Similarly, packs may be abandoned if a sale can be achieved through other faster means – Wates recently accepted a cash buyer for one property where a pack had been started, but which proved unnecessary.
- 3.9 In all the discussion about trying to speed the transaction process up, a number of the professionals interviewed noted that there were a variety of other issues which influenced the speed of property exchange. School term times were a key influence for those house buyers and sellers with children, and working out a contract of employment was key to job related moves. The organisation of a move may also take in other personal considerations such as the timing of holidays. There is also a seasonal pattern to house moves with winter and summer being slower periods generally. Not all the delays in the process are caused by property professionals, and as is evident in Scotland the professionals are often instructed to cause delays to fit in with personal timing ambitions. If the system is speeded up, certain individuals could still choose to slow the process down for others in the chain. As was pointed out by many of those interviewed, chains move at the speed of the slowest. This was also a reason why, if a sellers pack is introduced, it needs to be compulsory given that its impact would be diluted if a number of those in the chain did not use this approach. However, if compulsory, the supply side in the market place would have to come up with a good product acceptable to consumers across the board – otherwise the pack's impact would continue to be diluted.

CHAPTER 4

Assessment of the views of property professionals

- 4.1 This chapter attempts to pull together the views of the professionals involved in the different schemes. It also attempts to analyse their reactions and responses to the schemes.
- 4.2 It is difficult to draw solid conclusions from the property professionals' perspectives on these initiatives because most are still at a piloting stage and the operational information is limited, where it exists at all. In essence this study is reporting on on-going experimentation and there is a danger that the only hard data being picked up is the public relations output provided by the respective agencies.
- 4.3 Key motivation behind all these initiatives is that they attempt to speed up the time taken to buy a house by ensuring that key pieces of information about the property are available to potential buyers when the house is initially marketed.
- 4.4 At the time of interview most of the professionals acknowledged there was evidence of market or seller resistance, but this lessened in some local areas where schemes had been running for a period of time and awareness was higher (eg. Colemans Open Book in Bristol). Buyers' reactions are hard to judge given the small sample of contacts available. There is evidence of key agency resistance to some of these initiatives, especially when they are currently operating in an active or 'hot' market. As these initiatives are seen as new and experimental and, therefore, not mainstream, there is an extra cost to agents in engaging with them, both in terms of time and money. The learning curve which such initiatives demand is being resisted. However, if the sellers pack route becomes the accepted method, an active learning environment will emerge very quickly. This will need to be supported by an educational and awareness building programme. This would be aided if the Government took the view that a sellers pack (consisting of specified key components) was a requirement to selling a house.
- 4.5 The content of the pack is a key consideration for all the professionals, given the need for accurate and useful information to speed up the selling time for a house. The survey – which most would see as the key source of information – was considered by some solicitors to be expensive, and as such should not be an up front cost to the seller. They also make the point that the buyer is not likely to be happy with a survey commissioned and paid for by the seller. There will be some pressure to have a basic set of information at the initial marketing stage, which can then be added to when a serious buyer is in place. The problem with this perspective is that it represents little change from the current situation. Certain key professionals, such as solicitors, and the sellers themselves will be keen to minimise their up-front expenditure and would support this approach.
- 4.6 In response to concerns about buyers being uneasy about trusting a seller commissioned survey, two developments have recently taken place. The first of these is the advent of

insurance backed guarantees which provide cover for serious problems which should have been highlighted in the survey. The second is the assigning of the survey to the buyer when the sale is completed through them purchasing what is marketed as an "independent" house survey.

- 4.7 There is clearly a cost in putting the sellers pack together and who covers this outlay prior to the property being sold. One reason why estate agents have emerged as the lead agency in putting the sellers pack together is that they traditionally have had to wait for payment until the property is sold. Lawyers and surveyors tend to want payment almost immediately after the work has been carried out, but this tradition may have to change. Professional cash flow considerations may have an impact on speeding the house buying process up and it has been shown that the most 'successful' packs (in limited terms) offer no sale no fee capacity.
- 4.8 There was much discussion about whether the lenders will accept the valuation placed on a property by a surveyor commissioned by the seller. It would appear that lenders appear to be either disengaged from these initiatives or taking a more measured and cautionary approach. The lenders say they need to be able to appraise the security of their transaction and have confidence in who is undertaking the valuation role. Clearly if sellers packs became standard practice in house buying and selling then the lenders would need to alter their mode of operation, as would other professional groups. Valuation is a difficult issue – should this be provided by an independent surveyor at the time of the pre-sales survey or later by the lender's surveyor? There may be a concern that an early valuation could dampen the potential market, but alternatively this might make pricing more realistic and less subject to market whims. There is also a potential problem where the valuation may differ between different surveyors (seller's and lender's) according to their knowledge of the local market, or lack of it. Bedford's relate an anecdote where a valuation differed by as much as £200,000 on one higher priced property (although this is hardly typical). This would seem to present an argument for standardisation, regulation and independence of the valuation procedure.
- 4.9 In relation to the survey element the key objective is to ensure the potential buyer has information on the property's physical condition up front so they can make appropriate decisions and minimise unnecessary expenditure and frustration by finding problems with the house at a later stage. Having this information right at the start is seen as a means of reducing the scope of "buyer beware". This in itself would represent a sea change in prevailing attitudes towards house purchase in England and Wales. The introduction of a survey rather than a valuation would also represent a major change in past practice in English house buying. Up until now the majority of buyers pay for a valuation which is a requirement of their lender. For most buyers, having a full survey over and above the mortgage company's valuation inspection of the property, would be an entirely new departure. Given this background, surveyors who have most to gain from this development, have shown the greatest degree of innovative practice. The independent surveying practices are also keen to be seen as "independent" experts, in a fashion similar to a Chartered Accountant, where their impartiality and independence is readily accepted by all parties in relation to a set of company accounts.
- 4.10 While the inclusion of a survey would represent new business for surveyors, and this in part explains their enthusiasm and innovation to develop new survey products, questions were raised by estate agents whether surveyors had the capacity to respond to this new market. There was a nationwide shortage of surveyors and new recruits would need to be encouraged to enter the profession. Further, residential surveying was not seen to be as profitable as commercial surveying, and so there would need to be a sea change in attitudes of those currently in the marketplace.

CHAPTER 5

Impact on the market

- 5.1 As is clear from the above discussion the introduction of any new arrangement into the process of buying and selling a house will alter the relative positions and roles of the various actors involved in processing a house sale. Change will result in a new professional culture and the prospect of change is currently resulting in much 'jockeying for position' by the various actors. Attitudes towards change also reflect the accepted professional perspectives of the various actors involved. This study has to acknowledge each of these perspectives, but at the same time try and take an overview which is detached from the vested interests of one group or another.
- 5.2 While the surveyors and estate agents are generally seen to have most to gain from any change, and hence their enthusiasm as illustrated by the level of innovation and experimentation, any change will have to gain support and acceptance by other groups. In this context the attitudes of solicitors and lenders will be especially critical to getting a new well functioning system in place. It was generally expressed by all parties that there was a reluctance to change a system and a set of practices that provide a good and steady income to those currently engaged in the house transaction business. Practice is well established and there is a high degree of conservatism present. There is also some scepticism about new initiatives given a number have come along, only to have a limited impact. Video and on-line marketing were cited, along with factory conveyancing. House buying and selling was seen as a people business which needed the personal touch.
- 5.3 There was, however, a generally held view that house buying and selling was on the cusp of change and greater consumer satisfaction and confidence in the market place was seen to be a key driving force. The creation of new insurance products both for surveys and title reflects this change. The impact of IT was also seen as critical to change, with rapid information exchange being seen both as achievable and desirable. Old methods of correspondence and data retrieval which have been eliminated in other professional areas have yet to have an impact on housing transactions. System compatibility and the need for standardisation in data requirements will in part drive this modernisation. *Information exchange* and the *acceptability of that information* is currently slowing things up, and it is still very evident in the initiatives examined to date. The insistence by lenders for a valuation inspection represents a prime case in point, although lenders say that *acceptability of those who provide this information* (i.e. the reasons why they have panel surveyors) is important to them. They look for evidence that surveyors can do a professional job, which may not apply to all who apply. The surveyors' argument is that all professionally qualified people should be acceptable.
- 5.4 The changes envisaged also raised questions about the future structure of the home buying and selling industry. Will the trend to create linked business conglomerates continue, or will these developments result in the creation of independent or linked operators? There was a feeling, expressed by independent operators that conglomerates were anti competitive and the consumer interest might not be to the fore if all elements in one company are

relying on the sale. The alternative view was that there was a need for streamlining the various functions in the home buying process. These are long standing and deep-rooted tensions. Any change in the current system will have an impact on structure of various businesses. With the advent of new technology and associated investment, plus the requirements of insurance underwriters for new products, plus the likelihood of new operational codes imposed by lenders and by Government to protect consumer interests, it was felt the days of the small independent operator may be numbered. That said, this group have been relatively resilient to date.

- 5.6 Whether the above initiatives represent a response to a consumer agenda is hard to answer. While protecting the consumer interest through the development of new products is one perspective, adding value to your business is another way of looking at these initiatives. Whether such products are needed is also a vexed question. Solicitors could express scepticism of insurances, but to a degree that may only reflect a view that such products could act against their commercial interests. Standardisation and quality control procedures could also undermine previous long established work practices, practices designed to protect the buyer or sellers interests.
- 5.7 The other question that was most raised was whether the consumer is ready for such change. Given the current level of dissatisfaction with the current system, as expressed by consumer, the expectation would be yes. That said, no one should underestimate the educational task ahead, should the system change. The introduction of a sellers pack will not only change professional custom and practice but that of the consumer as well.

CHAPTER 6

Talking to the consumer

- 6.1 In the course of the research PS Martin Hamblin interviewed a series of both buyers and sellers who had made use of one of the types of seller's packs or seller's surveys on offer.
- 6.2 Sixteen telephone depth interviews were undertaken with sellers – the interviews were carried out by Martin Hamblin's telephone answering unit, CENTEL, based in Bristol. These consisted of eight Stokes clients, two Bedford's clients, two Wates clients, three Legal and General clients, and one Michael Cleary client.
- 6.3 In addition twelve in depth interviews were undertaken with buyers – these interviews were undertaken by senior PS Martin Hamblin researchers either face-to-face in the clients' own homes or workplaces, or on the telephone (according to convenience). These consisted of four Stokes clients based in Somerset, three Legal and General clients based in the Greater London area, one Wates client based in the Greater London area, two Coleman's clients based in Bristol, and two Bedford's clients based in Suffolk.
- 6.4 When talking to buyers and sellers, their reasons for using seller's packs were varied. Some of the important reasons were as follows:
- some people need a speedy transaction process, but this was by no means the only or main reason for using a pack – indeed not all wanted the transaction to be faster, but it was a smooth, seamless and stress-free process they were looking for;
 - some sellers thought that by having all the information up front, that this would enhance the saleability of their home to prospective buyers. This was especially the case if the seller had experienced previous abortive sales;
 - from the buyer's point of view it was useful to have all the information in one place especially at the start of the process as this gave them more knowledge about the home they were buying;
 - buyers took out a seller's pack to reduce the prospect of gazumping (and therefore to reduce expenses which could be incurred on a sale) particularly in high price areas experiencing high demand but limited choice of properties;
 - first time buyers wanted a stress free transaction where they could take a back seat and leave the work to others. They were concerned about the lack of information available to first time buyers and often felt they were in a vacuum, dependent on the trust and knowledge of the professionals;
 - there were complaints about the traditional system of waiting for people to respond and the difficulty of contacting the person you want at any one time – one of the sellers was pleased that their solicitors ran a 24 hours system, so that professionals could be reached out of working hours;

- one buyer reported that they wanted to ensure that the transaction went through – having found their ideal property, they did not wish to repeat the search process, and they wanted to be in a situation where they did not have to move again for some time;
- in lower priced areas sellers saw the pack as a way of making house selling easier, so that they could move again in a short period of time. In Somerset, two sellers had moved on, and had sold their new home after only one year. The Stokes scheme operated a “de-coder” legal property profile and handbook system, where updating of search and house condition details was relatively easy;
- on the whole, those who were encouraged to go for a sellers pack were greatly reassured where negotiators or solicitors appeared to have good knowledge of the system, were willing to explain the details of the scheme and could point to examples where it had worked well for other clients.

The Sellers

Table 2: Sellers participating in the schemes

Scheme and type of pack	Type of property and place
Wates Fastxchange One (Legal/survey)	House in Surrey suburban commuter belt
Wates Fastxchange Two (Legal/survey)	Modern flat in large development in Surrey commuter belt (bought by Wates Buyer in table 3)
Legal and General One (Legal/survey)	House in Hertfordshire Commuter Belt
Legal and General Two (Legal/survey)	House in Warwickshire
Legal and General Three (Legal/survey)	Victorian Terrace house in Hertfordshire commuter belt (bought by Legal and General buyer in table 3)
Stokes One (Legal)	Older terraced house in centre of large village in Somerset (bought by Stokes customer in table 3)
Stokes Two (Legal)	Older terraced house in centre of large village in Somerset
Stokes Three (Legal)	Flat in Somerset village
Stokes Four (Legal)	House in Somerset village
Stokes Five (Legal)	Listed period cottage in Somerset, edge of village (bought by Stokes customer in table 3)
Stokes Six (Legal)	House in Somerset village sold as result of divorce
Stokes Seven (Legal)	Higher priced detached house in Somerset village
Stokes Eight (Legal)	Higher Priced house in Dorset village
Michael Cleary (NHCS) (Survey)	Seaside detached character property in East Sussex. Difficult to sell, previous aborted attempts.
Bedford's (Survey)	Luxury home in rural Norfolk
Bedford's (Survey)	House in Suffolk rural area

- 6.5 All those using surveys thought their home had been easier to sell, because the buyer had been able to view the survey before putting in an offer, and so had full knowledge of the state of the property. The buyer also had advance warning of property defects and what would be required to put them right (costs of repairs were itemised where surveys were carried out by

independent surveyors or engineers such as Michael Cleary [the National House Certification Scheme] or Advance surveys). Some of the sellers had experienced problems with past abortive sales, and felt that the surveys helped to attract serious buyers, who realised they could save time and money on the purchase. Clearly, the more difficult sales had stayed on agents' books for a shorter period of time. The sellers felt they had peace of mind, as less things could go wrong with the sale, and therefore there was less risk attached.

- 6.6 Both these sellers and the sellers using surveys in the combined packs had believed that buyers would *not* need to carry out a separate survey. However, it was clear that in spite of the comprehensiveness of the stand alone surveys and the Wates Homefile surveys, some buyers still insisted on carrying out their own surveys (especially if the property was older and had a planning history). In nearly all cases where a mortgage was involved, the lender had refused to accept the survey because it had not been carried out by a panel member. In this instance, a valuation inspection was carried out. The attitude of lenders was felt to be incomprehensible, but most felt that the 'closed shop' they operated would have to change in the near future.
- 6.7 One seller raised the issue of who owns the seller's survey and the responsibility of the surveyor in the likelihood of problems arising. This seller wanted the government scheme to be like Bedford's where the survey is assigned to the buyer on completion, so that the surveyor has a continuing responsibility to the buyer of the property. Here, the buyer reimburses the seller for the full amount of the survey, so that if there are any problems the buyer can sue the surveyor who did the original survey. In other cases, the seller paid for the survey up-front, without knowing if the buyer would use it – for example, the Wates surveys were expensive for the seller, and a buyer contribution would have spread the costs. M(aria) Coleman both commissioned and owned the survey but recouped the costs from the seller (and further costs if the buyer opted to purchase the survey). In general, the preferred allocation of costs between seller and buyer depended on the price and thoroughness of the survey. People were willing to pay (within reason) for a good survey, but the range of prices charged varied considerably (from £175 to £725 for a RICS Homebuyers equivalent), and the customer wanted to see a degree of competition to force survey prices down. Evidence suggested that location played a part in the price of surveys (London was more expensive), but also vertically integrated companies tended to pass prices onto the consumer to keep profit margins high.
- 6.8 The seller who raised the issue was a surveyor himself by profession. He was concerned that the industry might introduce a tick box type of survey that he felt was unworkable, and unsuitable for listed properties, older properties or extended properties (he even felt it would not work with new properties). He felt a simplified Homebuyers Survey and Valuation Report should be the minimum standard. In fact, his views were supported by the buyers, who mostly favoured full surveys, including two who had experienced problems with respectively a listed older property and subsidence. Both sellers and buyers agreed that it was essential that only qualified people carried out the surveys, and that they should be compulsory for all.
- 6.9 In the case of the combined packs, Wates Fastxchange customers were very pleased with the thoroughness of the survey (although costly), but the Legal and General customers were relatively dissatisfied on the whole. This was due to the perceived inadequacy of the Legal and General survey (which appeared to be a basic survey), which necessitated buyers doing their own survey or the lender not accepting the seller's survey. Wates Fastxchange have three levels of surveys available and in this instance our customers paid £375 for a second level survey (including a survey of a leasehold flat). In comparison, the Legal and General

customers paid only £50 for a tick box type of survey (including an older property with a planning history). Some customers (sellers and buyers) felt that surveys should be tiered by *age* of property rather than *price* of property, as seems to be the case at the moment. Some buyers favoured a tiered price over a single price, as it was felt that inspection of a 10 year old property did not begin to compare with inspection of 100 year old home. Sellers were happy with a fuller survey (higher tier) *provided* they received a return on their investment, or they could share the cost with the buyer.

- 6.10 Those who had a stand – alone survey favoured the idea of including a legal pack (especially searches), and they realised that this would necessitate surveyors linking to estate agents/solicitors in order for this to happen. Single surveyors tended to offer cheaper prices than surveyors linked to other professionals, and yet the lenders would only accept surveys from big firms (three or more surveyors), with sophisticated legal bonding and ISO accreditation, all of which forced prices up. All the single surveyors/civil engineers we looked at had full professional indemnity to protect themselves in the event of something going wrong (indeed they were required to have this by their professional institutes). The lender's view is that the lender and buyer as clients need to have an adequate source of recourse if a problem arises with the survey, and thus they seek protection that provides this. The customer would prefer the link between surveyor and lawyer, and other professionals to be a loose one, where choice was available and prices kept low, thus favouring the independent operator. Nevertheless there were those who liked the idea of the Wates Fastxchange package with an attached surveyor – although the same customers often preferred to choose their own solicitor and mortgage company. As there is less knowledge about surveyors (who are not allowed to advertise their services), customers are more likely to accept a name offered by another professional rather than shop around.
- 6.11 Responses show that the legal aspects of packs are very successful and can reduce times taken in transactions. Consumers like the fact that everything is together in one place and there is no waiting around for others to respond. Consumers particularly like legal packs which are presented in plain English and are easy to understand. Buyers would prefer legal packs to be prepared by the seller *prior* to marketing (or at the same time as marketing) rather than post offer, which can sometimes be the system with Stokes Fast Track (and partly the system with Colemans' Open Book, who leave the searches until after the offer). Both sellers and buyers like the idea of access to electronic conveyancing and also computerisation of local authority searches. As far as sellers are concerned those packs which include independent legal advisers for buyers (Wates Fastxchange, Stokes Fast Track) are a distinct advantage as the legal advisers have been trained in the use of the pack, and are positive in the conduct of their transactions. The Legal and General scheme allowed buyers to use their own solicitors, who had no prior knowledge of the packs, and whose culture was often based on lack of speed and delay.
- 6.12 Both buyers and sellers liked the idea of a *handbook* (as provided by Stokes Fast Track) or personalised session to explain the system – both at the beginning of the process (expectation) and end of the process (achievement). People lacked information about how things worked and how long they should take, especially first time buyers and sellers. Customer care was considered very important, and this included the ability to be direct and honest – one seller felt the sellers legal pack had removed the possibility of deceit. Clients liked the legal profession to keep them informed and up to date explaining things, and they liked to deal with staff who were knowledgeable. If there was a problem causing a delay clients wanted to know about it instantly, if necessary receiving a part pack to consider rather than having to wait. Clients expected legal professionals to be flexible, offering evening and weekend services, and substitutes in the event of holidays or illnesses.

- 6.13 Both buyers and sellers liked the idea of a *house passport* where information collected (surveys, searches) could be passed onto the next person and updated periodically through a log book, which could give information about home improvements, planning applications etc. The searches were often a cause of delay, and both buyers and sellers felt that a logbook system for updating existing information, and the collection of new information before the marketing of a property, would speed things up. The availability of updated searches would enhance the property profile (a summary of information about the property written in plain English) contained in some packs (Wates Fastxchange and Stokes Fast Track). Several schemes offered the ability to update information (surveys or searches) as and when required (for example, when major building work was undertaken) for a nominal fee, and the on-line sellers information pack insures their searches for a period of twelve months. Where houses had a long history a house passport would negate the need to collect information with each successive sale. As information was often held by several different organisations, this was also an argument for putting everything in one place in a passport, whether paper copy or electronic version. Electronic information could be held by local land registry offices.
- 6.14 Although legal packs speeded up transactions there were a number of problems. Sellers could be delayed by buyers caught in *chains*, with those further down the line using traditional methods of transactions. Small chains of about 3 people could be influenced by packs. Similarly, they could influence chains in small towns where professionals liaised constantly (as with Stokes). However, once chains lengthened and moved out of town, then sellers could see potential problems. Most of the customers contacted either did not have a chain involved or were part of a smaller chain. Nevertheless, our sellers felt strongly that all those involved in a transaction should try to iron out problems so that chains did not arise in the first place.
- 6.15 Another issue for sellers was making *offers legally binding*. In the Stokes Fast Track system, once an offer was made, the property was taken off the market and subject to a week's cooling off period. However, most sellers wanted buyers to legally commit to the contract (rather than being subject to contract), unless there was a good reason why this could not be done. This would stop buyers withdrawing and sales failing at a late stage (which several people had experienced prior to the current transaction). Several people mentioned the Scottish system as an ideal. This, however, reflects a general *misunderstanding* of how the Scottish system operates. It is not the contract negotiation which is legally binding, but the conclusion of the contract. *However*, by custom and practice, there is a gentleman's agreement between the buyer's and seller's solicitors to treat the contract negotiation as binding. Thus there is a presumption that the contract negotiations are legally binding, when *de facto* they are not (See *The Key to Easier Home Buying and Selling* for more information).
- 6.16 A particular and recurring problem for both professionals and customers is the issue of *lenders* being apparently slow with paperwork or making offers to buyers (although this depends on *when* a buyer seeks a mortgage), or seemingly proscriptive in offering sellers new mortgages on the properties they are buying. One example concerns a seller who wanted to move within a year of taking out a mortgage, but had a penalty clause in their existing mortgage agreement if they moved within five years. The lender concerned invoked the penalty and refused to offer a new mortgage on the seller's new home. This necessitated a change of lender, and thus delay. Several sellers had experienced abortive sales due to buyers being found financially unviable (e.g. they were self-employed), trying to find 100% mortgages or trying to up their mortgages to a higher amount (particularly in high price areas where prices continue to rise). Sellers wanted buyers to come along who were already guaranteed mortgages to the required amount.

The Sellers – Advantages of Sellers Packs

6.17 In summary these were felt to be as follows:

- packs tended to speed things up by about one month on a usual three months transaction period, and were therefore more efficient;
- a seller survey (and accompanying searches) offer advance knowledge of a property, making it more attractive to buyers, and less likely to stay on an agent's books for a long time;
- for the seller, a comprehensive seller survey should negate the need for a buyer or building society to do a separate survey, or even valuation;
- should allow the lender to release mortgage funds earlier and faster, because the transaction is speeded up;
- packs attract only serious buyers, not time wasters;
- packs save buyers money in terms of realistic house prices, fewer purchase costs and less likelihood of aborted transaction;
- packs give sellers peace of mind, as less things could go wrong with a sale, there is less risk attached;
- all the legal information is together in one place cutting out unnecessary, surplus paperwork and postage, and people "messaging you about";
- there is often no need to chase professionals, as everything is being done for you – clients can sit back and let others do the work – less stress all round;
- is helpful for those selling their house for the first time, early work helps to confirm selling price (no haggling), and speed prevents gazumping occurring;
- pre-packaging shows the buyer that the seller is prepared to move fast with the transaction;
- gives more confidence to those who have previously experienced abortive sales using the old system;
- professionals are locked into a customer friendly culture which looks down on delays and deceit;
- the seller is committed to the sale through paying for the pack, which is then transferable to the buyer for his/her exclusive use.

The sellers – recommendations

1. Make offers legally binding.
2. Make packs compulsory so everyone is on the same level playing field.

3. Introduce Home Passport to pass on information to next buyer.
4. Include an independent survey to show to prospective buyers.
5. Mortgage companies to accept surveys/valuations from qualified surveyors.
6. Mortgage companies to become more customer- friendly and make offers of mortgages before offers on the home. Although there were "in principle" mortgage offers available now, sellers wanted this to be strengthened and the timescale between "in principle" and "confirmed" offer reduced.
7. Solicitors acting for buyers to become part of the system as independent legal advisers.
8. Local authority and Land Registry searches to be electronically based.
9. Pre-packaged systems are better than post packaged systems.
10. Provide expert advice on buying and selling a house e.g. Handbook, seminars.
11. Promote sellers packs more and offer all professionals training.
12. Costs of packs should be shared between buyers and sellers.

The Buyers

Table 3: Interviews with buyers

Scheme and type of pack	Type of purchase and Place
Bedfords One (Survey)	Cash buyer (couple) buying executive-style retirement home, East Anglia
Bedfords Two (Survey)	Cash buyer (couple) buying executive-style weekend cottage, East Anglia
Stokes Fast Track One (Legal)	First time buyer (couple) buying modern maisonette in small development in Somerset larger village.
Stokes Fast Track Two (Legal)	Couple moving from Southampton to Somerset to take up new jobs. Selling house recently bought in Southampton. Buying listed period cottage.
Stokes Fast Track Three (Legal)	Couple moving from Southampton to Somerset to retire. Selling home recently bought. Buying older terraced cottage in centre of larger village.
Stoke Fast Track Four (Legal)	Property developer buying two plots of land for new houses in rural area.
Wates Fastxchange (Legal/Survey)	First time buyers (couple) buying modern flat in large development in Surrey commuter belt.
Legal and General One (Legal/Survey)	First time buyers (couple) buying Victorian terraced property in Hertfordshire commuter area.
Legal and General (Legal/Survey)	First time buyer (male) buying between-the-wars terraced home in South London commuter belt.
M(aria) Coleman Open Book (Legal/survey)	First time buyer (female) buying Victorian house in Bristol
M(aria) Coleman Open Book (Legal/survey)	First time buyer (couple) buying house in Bristol. Selling house left to them in will. Previously experienced two aborted purchases.

- 6.18 The survey only purchases (Bedfords) involved cash buyers who did not need a mortgage, one buying a retirement home, the other a weekend cottage. Both used the Bedford's survey rather than commission their own survey, as they found the Bedford's survey to be very thorough and comprehensive. In one of the two cases, the buyer had had to pay for the survey up-front (rather than re-assignment at completion), as the seller had been unable to pay for the seller survey. (This buyer also queried the issues of ownership and re-assignment of surveys commented on by the sellers). This particular survey also needed updating as it had originally been carried out some months beforehand. In the second case, the buyer was not sure the survey would be trustworthy and spoke to the surveyor responsible to re-assure himself of its provenance. In both cases work needed doing on the houses, and the surveys made the buyers aware of what works would be involved. Both were very old period houses and the surveys were couched in user friendly language to describe the structure. In each case, the survey influenced the buyer's choice of home, and helped to decide the final selling price. The survey considerably speeded up the buying process.
- 6.19 There is clearly an issue about survey independence – one of the Bedford's buyers was unsure of the link between Bedford's and the firm of independent surveyors used. This was a loose link (Bedford's state that they have no formal connection with the surveyors they use, and would not wish to pursue such a link), but in other cases, chains of estate agents have surveying companies as wholly owned subsidiaries, which could cause a conflict of interest. The buyer was able to assure himself that the work carried out was to the necessary professional standards and was legally indemnified. It is often said that the reports of two different surveyors will never be the same (the amount of detail may differ or degree of importance attached to a detail may vary). If seller surveys need to be relied on in future, there would have to be a degree of standardisation so that each surveyor would come to a similar conclusion to any other surveyor. However, it is not possible to offer everyone a standard service (see below). Perhaps a buyer may need recourse to an alternative opinion in the same way the patient consults different doctors.
- 6.20 Certainly the buyer needs assuring that he has some kind of legal comeback in the event of problems. One of those using a seller's legal pack (Stokes' Fast Track customer) commissioned his own survey only to uncover undetected problems on moving into the property. The survey he used had "let out" clauses which meant he had no legal entitlement to sue – part of the problem in this case was his use of a chartered surveyor rather than a chartered civil engineer to undertake an inspection of a very old building where structural considerations were important. Put simply, chartered surveyors are able to inspect matters which are "on the surface" but chartered civil engineers are able to "get behind things" and make a more scientific assessment. Buyers and sellers need advice on employing the right professional to do particular types of inspection. This buyer experienced difficulties with obtaining information about listed buildings and monuments, and historical searches that related to the past planning history of his property. In this instance, his standardised legal pack had not been adequate – quite clearly specific cases such as this require a personalised and tailored pack to cope with the peculiarities of the case.
- 6.21 All Stokes Fast Track legal packs are packaged at the earliest possible moment – all their property exchanges are now Fast Tracked. Delivery can be before or after the offer on the property – late notification of the marketing of a property could result in post-packaging. Those using a legal only pack included one first time buyer, one investor buying two plots of land for new houses and two people moving into Somerset from Southampton, one to retire and one to take up a new job. The period of time taken for the different transactions varied from 10 days for the building plots to three months for a listed property where there were problems with defective title. The new development pack took only a matter of days

- to compile, and in two of the transactions packs took respectively 2-3 weeks and 4 weeks to compile (the latter concerned the listed property mentioned above).
- 6.22 In the case of the first time buyer, the buyer had only received the pack one week before completion (after nine weeks), and both the deeds and the pack itself had become lost.
- 6.23 The first time buyer had lacked knowledge about house buying and found the situation stressful, compounded by a lack of communication from Stokes. Progress reports would have been helpful, or part issues of the pack as they became available. The relationship between Stokes, the seller and the buyer needs to be more fully considered, as the buyer clearly expected to hear more from Stokes, although they were representing the seller (in some cases, Stokes was representing both buyer and seller, in different transactions). Because the pack was received late, the buyer never had the opportunity to use the Independent Legal Adviser to go through the pack, they merely signed for it. All clients had the opportunity to go through the pack with the Independent Legal Adviser. The buyer would have preferred an explanation of the pack either from Stokes or the Adviser at the start rather than end of the process. Other buyers supported this view where delays were experienced.
- 6.24 Buyers as well as sellers raised the issue of pre-packaging compared to post-packaging. Delays due to searches could have been avoided if search results had been available at the time of offer. This would have saved a lot of time and worry. Both the first time buyer and the buyer purchasing a listed building, would have preferred advance searches to be carried out by the seller (although it appeared in the latter case that the solicitor did not receive notification of the sale from the estate agent until later). In the case of the listed building the Independent Legal Adviser had been helpful in progressing further searches after the pack had been received but this was quite late on. As the house had a long history, the buyer would prefer a log book to be kept of all the additional information, so that this could be passed on to others later on. This again supports the sellers' view.
- 6.25 In regard to the combined legal/survey packs, interviews were carried out with M(aria) Coleman clients in Bristol, Legal and General clients in the London area, and Wates Fastxchange customer in Croydon, Surrey. The Wates scheme took only six weeks from offer to completion and involved the purchase of a leasehold flat by a first time buyer. In this instance, the buyers were unable to make use of the Woolwich mortgage on offer, as this was unsuitable for first time buyers (they wanted 95 per cent mortgage and only 75 per cent was on offer). A greater choice of mortgage suppliers and products would benefit this scheme – Wates only offered one supplier at each stage whether legal work, survey or mortgage. The buyers were also unable to use the seller's survey even though it was comprehensive, as their eventual building society would not accept it. They did make use of the Independent Legal Adviser, but again felt there should be greater choice as they needed to travel some distance to sign papers. As first time buyers they expected more communication and explanation of procedures. However, overall they were very pleased with FastXchange, and felt it benefited their purchase.
- 6.26 In the Legal and General scheme the buyers did not see very many differences from the norm. The scheme was not fully developed enough to provide sufficient benefits to customers. The survey was particularly disliked – it was felt that this should have been more in depth and thorough, especially for older turn of the century properties. One of the clients had originally been attracted to the house he was buying because of the attached pack, but it was found that the pack was incomplete. Again customers would prefer a pre- rather than a post- pack, and a log book which detailed alterations to the property, searches etc. Customers were concerned about the knowledge of Legal and General professionals in

regard to the new scheme. It would have been helpful if the pack had been set up according to some known standards.

- 6.27 The M(aria) Coleman buyers were very pleased with the service they had received, including one instance where a purchase had fallen through. M(aria) Coleman has been running the scheme for three years, the longest of all the schemes – it has therefore had time to develop. The survey in the pack was felt to be particularly good (a Homebuyers survey) – it was comprehensive and thorough. In this instance the estate agent took ownership of the survey and offered it for sale to the buyer, which could occur at offer, exchange or completion. The buyer could choose just to view the survey prior to the offer being made, or make the purchase either now or later. In both the cases here, the clients chose to view rather than buy. This meant that the survey could not be taken away and shown to a lender – the lenders still carried out a valuation inspection survey. The cost of the survey was still included in the overall fee.
- 6.28 One of the drawbacks of the scheme was felt to be the fact that searches and enquiries were not included as a pre-pack, owing to their cost. However, the case involving the aborted purchase would have found early enquiries useful, as the buyer would not have put an offer on the house concerned if she had known of the boundary problems on the property. This particular case involved a seller hiding crucial information about disputed boundaries, whose instructions were taken in good faith by Coleman's. The potential buyer felt that sellers should be compelled to bring forth all relevant information at the start, and should not put unsaleable properties on the market. This is a clear argument for pre-sale searches to enable the buyer to have all information up front. However, the other Coleman buyer was delighted with most aspects of the transaction but suggested a pre and post legal pack, with the deeds *and* searches coming as pre-pack.
- 6.29 As with the sellers, buyers were unhappy with the conduct of the mortgage companies. Although buyers quite often had "in principle" offers (which they needed to know the price range of properties to view), this took time to translate into actual, firm offers. Delays were quite common and one buyer was told that their mortgage lender was too busy to process their application – they were in a queue (the reasons for the queue were not given). Apparently some lenders experience huge demand where highly competitive deals are on offer and this may cause queues – but customers are not aware of this. Some thought that electronic methods should considerably reduce the turnaround of offers – letters to obtain credit references could be obtained by E-mail. Lenders' insurances on buyer-led surveys or a valuation inspection also created delays. Simple matters such as collecting roll numbers or deeds could sometimes become problematical. By and large, buyers would welcome mortgage offers before putting an offer on a house, or shortly after. The lenders claim that buyers do not start the process earlier enough. Most buyers saw several financial advisers, before settling on a suitable person – they looked for someone who could shop around for the best offers. This was important for first time buyers who were on restricted budgets.

The buyers – advantages of the schemes

- speed, one month was saved on the average transaction period of three months;
- all the paperwork was in one place, with more details than usual;
- professionals were helpful, and independent legal advisers were efficient – faster than solicitors operating traditional schemes;

- if a mortgage was not needed, independent seller surveys saved time and money, and helped to make a home more attractive to buy;
- saved the buyer money in survey and legal fees;
- less haggling, paper-pushing, waiting around for something to happen, chasing of professionals and less stress all round;
- helped prevent gazumping or unexpected price rises;
- helped prevent sellers putting properties on the market which were not yet ready to be sold;
- problems were generally known about early on and were easier and faster to resolve, easier to agree a final selling price.

The buyers – recommendations

6.29 In summary, the buyers recommended the following:

- 1 There should be standard criteria for all packs, except where the purchase involved a listed or similar building (where packs should be tailored according to need).
- 2 Searches should be pre-packed and computerised.
- 3 Training should be encouraged of professionals who introduce new schemes.
- 4 The survey and searches should be regularly updated in a log book and passed in a House Passport to the next person.
- 5 The seller's pack should be compulsory, and include an independent seller survey which itemises the costs of repairs.
- 6 There should be more honesty by both professionals and clients.
- 7 There should be more choice of mortgage products in integrated schemes (Wates).
- 8 Mortgages should be sorted out pre-offer, with a certificate to speed up the release of finance.
- 9 Explanatory booklets for first time buyers and others would be helpful.
- 10 There should be a greater choice of Independent Legal Advisers, who should go through the scheme with customers as and when required (start and finish of process).
- 11 Buyers should be entitled to regular progress reports from sellers' agents/solicitors while the pack is being compiled, with indications of any problems, and partial release of the pack if necessary.

CHAPTER 7

Conclusions

- 7.1 The research has been concerned with reviewing a variety of different initiatives that embrace pre-sales surveys, legal work or a combination of both to form a sellers pack. In this chapter the key issues affecting the potential introduction of sellers packs (the Government's intended measure), are discussed along with the criteria needed for successful implementation.

The variety of initiatives

- 7.2 All the initiatives reviewed are distinguished in some way from each other. Some consist of a complete pack of pre-sales activities others consist of just one element, either a survey or legal work. The sellers pack initiatives, such as the one launched by Wates Fastxchange, M(aria) Coleman's Open Book, and Legal and General are perhaps the most interesting because they are more in keeping with the Government's proposals. However, initiatives such as Allied Surveyors and the National Housing Certification Scheme (both survey schemes) also highlight valuable lessons that need to be taken into account when a final decision is made about the contents of a sellers pack. These lessons are centred upon the way in which the surveyors liability is transferred between seller and buyer, the capacity of the survey to be updated and the protection offered against defects not uncovered at the time of survey.
- 7.3 As schemes vary so do motivations for launching them. Although some schemes are a response to the Government's consultation paper, there is little doubt that the desire for greater market share and greater differentiation in the marketplace has been an important factor behind the development of the schemes. What has also emerged is the willingness of different agencies in the property process to link together to form one complete package. This is seen most clearly with the formal links between estate agents, solicitors, surveyors and mortgage lenders in the Wates Fastxchange scheme. There are looser links which rely on close working relationships (and with greater consumer choice) in the schemes run by the Stokes Partnership Fast Track, Bedfords and M(aria) Coleman's Open Book.
- 7.4 The linkages such as that developed by Stokes Fast Track, Coleman's Open Book and Wates Fastxchange appear to act in favour of the consumer because more of the upfront costs can be met by the various parties. This means that Stokes and Marsons solicitors can prepare documents and undertake searches without needing an upfront fee. This is an important capacity because the research indicates a seller reluctance to pay in advance for surveys or legal work that might not be needed (should the house not sell, the buyer withdraws, or the seller wishes to pull out). Agencies that charge a fee at point of sale only are likely to have a significant market advantage. It is only possible to speculate but if a sellers pack is introduced smaller solicitors and small estate agents might need to develop cross professional linkages to protect their own and the consumers interests.

- 7.5 It is noticeable that with the exception of the Wates Fastxchange scheme no mortgage lender has added innovative practice to the pack. The involvement of Woolwich Direct in the Wates scheme is to offer a mortgage to a potential buyer. Legal and General has recently introduced electronic acceptance in principle from a wide range of lenders, which has speeded up the process significantly, with processing and authorisation within an hour. We have not heard of a scheme whereby the lender uses the pre-sales survey as the basis for assessing the mortgage application.

Benefits of sellers packs and the effects upon transactions

- 7.6 Sellers pack and pre-sales surveys are being promoted on the basis that they speed up the process to exchange of contracts and, if a survey is part of the initiative, give the buyer and seller greater information about the condition of the property. In this way the buyer's investment is protected and the seller can maximise the sale price or pitch it at a level that reflects works needed. The survey means that down valuations become less likely and both buyer and seller get 'peace of mind'.
- 7.7 There is little hard evidence, due to the small number of sales involved, of the impact of pre-sales initiatives on transaction times. The evidence so far suggests that pre-sales surveys or sellers packs will truncate the time between offer and completion by at least four weeks, based on an average 12 weeks transaction. One scheme aims to get the time between offer and exchange down to one week where there are no chains or complications. Pre-sales initiatives will make the conditions for gazumping to occur less likely but they will not stop it altogether. Opportunities will still exist for another buyer to make a higher offer or indeed the existing buyer to lower their offer as a condition of agreeing to exchange contracts (gazundering). It was pointed out to us that not all sellers or buyers want to get to exchange of contracts quickly, especially if the buyer is waiting on the sale of their own property to purchase their intended home. Speed is not always important but it is vital there is confidence in the transaction going ahead.
- 7.8 Much of the agency views on the effects of the initiative on transactions is speculative because there have been too few users upon which to base firm conclusions. Evidence is also hampered because if the pack or pre-sales survey is being used in a chain, only one of the chainlinks is using the initiative. A transaction will only proceed at the pace of the slowest participant.
- 7.9 For some indication of possible time savings it is worth reflecting upon the experience of the Stokes Partnership scheme. One sale took just one week using the Fast Track Sellers Pack. However, no chain was involved. Even with chains Stokes report that the process was considerably faster. The very first Fast Track transaction involved a chain. In this instance, a pack was issued on 28th September 1998, a mortgage was offered on 7th October 1998, a report on title was sent to the lender on 13th October 1998, exchange took place on 5th November 1998 and completion was on 6th November 1998. There were four properties in the chain. The whole process could have taken just four weeks if all in the chain had been ready, but it was subject to "human elements". The legal process had most effect, while the biggest delay was caused by waiting for the mortgage company to secure references. It is also a common view that buyers should also be prepared by having an in principle mortgage offer in place.

- 7.10 Some of the sales were leasehold which in theory could have been more complicated and therefore take longer. These sales were dependent on obtaining information from co-operative landlords. Stokes found that between 4 and 8 weeks could be cut out of the time taken on leasehold sales by using Fast Track. Wates had a similar experience with their leasehold sales. Both operators had sold leasehold flats within six weeks, helped by maintaining a computerised database of relevant information which could be used again for sales in the same location.
- 7.11 There is common agreement among many professionals and consumers, that if pre-sales activities are to be introduced they should be compulsory if the benefits are to be maximised across the transaction. However, there are some dissenting voices such as Stokes. Here, there is a feeling that universal adoption of seller's packs would remove the advantages currently experienced by professionals and consumers operating or using packs in the marketplace. By becoming commonplace they may remove the choice available to consumers – to use, or not to use. But on the other hand, the majority view is that the global use of packs would give advantages to all, as there would be a common system which could be applied to all transactions without disadvantaging any individuals.

Research on the consumer view

- 7.12 The Legal and General undertook regular monitoring of the reasons why sellers declined to take up the pack. Legal and General felt that sellers were not ready for the idea of a pack and that it represented too much of a sea change too soon. People didn't understand it or see the point of it, especially in a fast moving market. Many sellers didn't want the commitment because they were just putting a 'toe in the water' or testing the market. Some of those that took out the pack did not really understand why it was needed, and the general view was that it did not do 'any harm' to have it. However, when we talked to Legal and General customers who had accepted a pack, they felt that their pack had not been sufficiently developed to be properly useable in their transactions (it was incomplete). With improvements to the system, the consumer view should change accordingly.
- 7.13 In some schemes sellers where property was in good condition or 'more up market' were more likely to take out the pre-sales initiative. Sellers of homes in poorer condition and where price was lower were less likely to agree to the pack for fear of what the survey might reveal. Across all market types there was a marked reluctance by sellers to enter into unnecessary expenditure by commissioning a pre-sales survey. However, for more established schemes like M. Coleman's Open Book, this reluctance disappeared whatever the property type.
- 7.14 The Stokes Partnership scheme has met with a reasonably high degree of success. This might in part be due to the scheme being centred upon the legal work rather than the survey. Sellers have a choice about whether they have a survey but the legal work is a core part of the pack. Much of the legal preparation can be undertaken within two or three days of the property being marketed. The local authority searches, which normally take about 10 working days, are done by personal visit (or on-line) and therefore do not hold up the production of the pack.
- 7.15 There is some evidence, based upon our discussions with agencies, to suggest that consumers might be more ready to accept greater legal preparedness than a pre-sales survey. The merits of phasing in the elements to be included in a pack is worth investigating, especially as there is consumer suspicion as to the independence of a survey and a

reluctance by lenders to take the survey into account when assessing whether to lend on the property. Although, of course, the benefit of the survey is that it gives the consumer the full information to engage in the marketplace.

- 7.16 There is a worry that packs may have the effect of inadvertently reducing the supply of houses coming onto the market. A lot of areas depend on prospective sellers dipping their toes in the market so see if it is to their benefit, especially if there is a shortage of properties for sale but a lot of buyers waiting (as in London and the South East). If sellers realise that they may be liable for costs up-front, they may not be so willing to try toe-dipping, and be more cautious. In theory, this could create a supply problem that might fuel house price inflation. However, the Australian experience shows that a settled market soon develops based on serious and well-informed buyers and sellers.

The pre-sales survey

- 7.17 The research has reviewed many pre-sales surveys either as a stand alone initiative or as part of a pack. There are three distinct types of survey being offered. These are:
1. RICS Homebuyers survey or similar that mix information on the structure of the property with opinions about its location, price and marketability.
 2. A structural survey (such as the National Housing Certification Scheme) that focus solely on the structure of the property, possibly undertaken by a Civil Engineer.
 3. A hybrid survey (such as the one devised by Legal and General) that is a stripped down version of the RICS survey that minimises subjective assessments.
- 7.17 The price of each survey is different. The RICS Homebuyers survey costs about £250 (depending upon value of property). The NHCS scheme cost about £185 with costed options for revisits and updating. These are generally at the lower end of the price spectrum with commercial operations charging more, especially in high price areas.
- 7.18 The content and costs of surveys will be an important consideration for sellers and lenders. Sellers will wish to minimise costs whereas lenders will want to obtain information they need to make valuations. The actual content of the survey would need to be agreed by the different lenders if the pre-sales survey is to be the basis upon which valuations are made. Ekins, who act for many of the major lenders, told us that each has their own style for valuation reports and demand different content. There were complaints from the agencies interviewed that lenders still require a valuation inspection to take place that could further delay the transaction by seven to ten days. The lenders say they need to appraise the security for a high cost transaction. A further consideration is the possible shortage of surveyors and civil engineers needed to undertake the volume of work required for pre-sales surveys.
- 7.19 In some schemes the cost of the survey is passed to the buyer at the point of sale. In others insurance is put in place to protect the buyer from defects not uncovered by the surveyor. The point is that there are mechanisms in place to transfer the surveyors' liability to the buyer from the seller. Cost and quality of survey products are critical – the consumer wants a thorough-going survey at a reasonable price, which is both reliable and accurate in its assessment of the condition of the property. If the product is right there is doubt whether insurance add-ons are really necessary, as surveyors existing liability cover should suffice.

An extension of liability cover provisions may again negate the need for separate insurances – one present argument is that insurance makes it easier to sue a negligent professional. Insurance products tend to be based on the American market, and have been developed by U.S. companies. They may not be appropriate for the British housing market, and add a cost onto home buying and selling that consumers do not want.

Implementing sellers packs

- 7.20 There are a number of factors that need to be addressed before the concept of a sellers pack can be implemented successfully.
- 7.21 The first issue is whether consumers and property professionals are ready for the sort of change that the introduction of a sellers pack will necessitate. The Government's research last year into homebuying and selling showed that the process is punctuated by professionals waiting for others to do something. This study has shown that property professionals can act in innovative ways to speed up the process and to make it more consumer oriented, but so far this has been on a very small scale. Lenders in particular have been slow in embracing the initiatives with any conviction. Lenders feel that the pack concept is of more benefit to estate agents, solicitors and valuers, as it encourages more business for them. Lenders with estate agency arms or surveyors are most in favour, for this reason. At present the key issue for lenders is that the information is compiled by a suitably qualified professional and can be relied upon. Therefore, they feel that their entrance into the market comes on a different basis. It should be pointed out that all the schemes looked at in this study involved fully qualified professionals, and by and large the information appeared to be sufficient or in some cases even *more* than was required by lenders. The desire for change matched with changes in practice by the professionals will be necessary for sellers packs to work. These changes can be summarised as:
- preparation of legal documents upfront rather than waiting until after the buyer's mortgage has been approved;
 - quicker, possibly on-line, access to searches;
 - quicker turn round times for valuations and surveys;
 - greater acceptance of pre-sales surveys as the basis for valuations
 - fees recovered at point of sale rather than in advance or after each task.
- 7.22 Standardisation will also be important so that all property professionals use the same forms and administer the pack in the same format. This will need to be tested in any future phase of research.
- 7.23 It is safe to say that the majority of sellers will not sign up to a pack unless they are compelled to do so. The homebuying and selling process in England is based upon the maxim 'buyer beware'. Changing this to 'place greater responsibility on the seller to provide up-front information' represents too much of a cultural shift to be achieved on a voluntary basis. Compulsion is likely to be necessary.

ANNEX

Individual Initiatives

1. Stokes Partnership – Fast Track
2. Legal and General
3. Wates/Ekins/Marsons – Fastxchange
4. Bedfords
5. Morton Fraser Relocation
6. Michael Cleary – N.H.C.S.
7. The Law Society
8. Allied Surveyors
9. Spicer-McColl – Smart Move
10. Bradford & Bingley Building Society – Secure Move
11. Property Guarantee Company
12. Advance Surveys
13. M(aria) Coleman Estate Agents – Open Book
14. Sellers Information Pack

1. Stokes Partnership, Crewkerne, Somerset

Fast Track scheme

WHAT THE INITIATIVE INVOLVES

The aim is to carry out all legal investigations on the property the moment it goes on the market. The pack will contain all the information that a buyer needs to proceed with a purchase, and can be made available even before the first buyer views a property.

The pack contains the following elements:

- Draft contract
- The transfer document
- Mortgage title deed (enclosed or to follow)
- The financial statement
- Property Profile (gives information such as boundaries, drainage, utilities, roads, planning consents, guarantees, deeds of covenants, conversions etc)
- Fast Track handbook (explains the process, gives background information and answers questions)
- Property specific documents eg the Seller's Property Information Form, the Conveyance
- Fast Track Homeownership Protection Policy (Title Insurance prepared by First American Title)
- The pack originally included a Home Warranty but this was found unnecessary, and is no longer included.

With the pack, Stokes expects the legal aspects of conveyancing to be completed within ten working days. The pack can be updated at any time, and would be updated with each successive sale.

The pack is produced in-house in a straightforward typewritten format. The pack has been running since 6th November 1998. In total, 20 properties have gone through Fast Track and another 3 are still in the system, due to clear shortly. This means 40 completions covering both buyers and sellers, over a period of 9 months. This represents approx. 10 per cent of sales over the period. In August 1999, about a third of sales were with Fast Track.

WHAT DOES IT COST?

Fast Track is seen as quick and efficient. It costs no more than present conveyancing prices for the traditional methods. New elements such as the Title Insurance have been included without increasing the price. There are no up-front costs to the seller. The service would be free to the customer up to the *point of sale (exchange of contracts)* – until this time the costs would be absorbed by the professionals whether estate agents, surveyors or solicitors. Payment at the point of sale would mean a change in culture for the professionals involved. At the point of sale, both the buyer and seller would pay half the cost of the pack.

2. Legal and General Insurance

WHAT THE INITIATIVE INVOLVES

Legal and General sellers pack consists of:

- a survey into the condition of the property undertaken by a L&G surveyor. (This is a cut down version of the RICS Homebuyers survey with the subjective assessment of the property and its marketability taken out). The survey does not include a valuation.
- Title Deeds,
- a Property Information questionnaire
- a draft contract.
- Replies to title requisitions
- Draft transfer
- Seller's status report (position in chain, mortgage availability)

Sellers have to use Eversheds (a bulk conveyancer) to undertake the legal work. The pack was piloted in 14 estate agents that Legal and General considered to be the most 'forward thinking' of the agents that they do business with. L&G do not have their own estate agency chain but try to develop close links with agents that sell their products or who employ L&G surveyors (they have their own team of 24 surveyors). The estate agents had responsibility for putting the pack together. L&G provided marketing material and folders in the estate agents own brand. The pilot pack was developed as a direct result of the Government's consultation paper. L&G wanted to test how successful it might be.

Over 600 sellers were approached but only 18 signed up to the pack.

Legal and General run this scheme side by side with a separate buyer's pack which includes buyers' protection insurance and a mortgage acceptance in principle.

WHAT IT COSTS

The costs of the pack were heavily subsidised by L&G. The survey, which would normally cost about £250, was undertaken for free.

Sellers were required to pay a £50 deposit to Eversheds and a further £300 on completion. The total cost of conveyancing through Eversheds was £350. If sellers shopped around they could probably get the work done for £250. L&G thought that the cost of conveyancing contributed to the poor take up of the pack. It was felt by L&G that Eversheds offered a quality conveyancing service but this was not really explained by the estate agents. L&G thought that sellers were not interested in a 'premium' service, they were more interested in getting the sale through at the cheapest possible rate.

3. Wates Estates Agents/Ekins Surveyors/ Marsons Solicitors

Fastxchange Scheme

Fastxchange is a new method of house purchase pioneered by Wates together with Marsons the law firm, Ekins surveyors and Woolwich direct. This is a package which enables the buyer to exchange contracts after seven days. A Wates seller is able to provide the buyer with a survey, mortgage (subject to buyer's status) draft contract, local authority search, as well as enquiries, all backed by title insurance guarantee, within seven days of placing their home. This should enable the buyer to exchange contracts within 24 hours. Wates are the first estate agent in the UK to offer this service. The service is available at all eight branches of Wates in and around the Croydon area in south London/Surrey.

The scheme has been set up in direct response to the government's consultation on the housebuying and selling process. The aim is to reduce the average period from offer to exchange from 11-12 weeks to about one week. The process has been streamlined to remove causes of delay that may occur in the conveyancing process. Wates believe that the majority of sales in the UK will soon be handled in this way.

WHAT THE WATES FASTXCHANGE SELLER'S PACK INCLUDES

- Copies of title documents
- Transaction sellers property information form
- Sellers fixtures, fittings and contents form
- Replies to local authority searches
- Copies of any planning, listed building and building regulations consents
- For new properties, copies of warranties and guarantees
- Any guarantees for work carried out on the property
- An Ekins Surveyors report on the condition of the property
- A draft contract
- A mortgage certificate confirming the maximum available to your buyer, subject to status
- A log book (a report on title with references to covenants, easements etc.)
- The mortgage deed
- A joint ownership form
- The home warranty policy
- The title insurance (First American)

HOW FASTXCHANGE WORKS

Once Wates has been instructed, a Fastxchange consultant visits the seller at home to:

- prepare sales particulars
- instruct Marsons the law firm
- prepare the sales pack including the Transaction Sellers Property Information Form and the Sellers fixtures, fittings and contents form, and other information (*NB these have traditionally been done by solicitors*).

Marsons the law firm will then obtain details of title from the Land Registry (on-line) and draw up the draft contract. They will also arrange for the local authority search to be carried out, the results of which will be available within 48 hours. Most of Wates properties lie within the London Borough of Croydon, which makes it easier to obtain speedier search results. Marsons act for the seller and for the mortgage company (Woolwich direct) making the mortgage offer.

Within 48 hours of instruction a surveyor from Ekins will visit the seller's home to carry out one of three types of survey, recommended by Wates (see costs below). The **Homefile Reports** contain added value, as depending on the scheme chosen, they can include details on the energy rating of the home, security reports and maintenance reports, among other things. The survey is backed by Ekins professional indemnity and in addition, their liability transfers to the buyer of the property at the time of exchange of contracts. If any house faults are found in the survey, Wates will discuss these with the seller. If extra work needs to be done on the property prior to the marketing of the property, then this can be carried out at this stage.

By the end of 7 days, the property will have a draft contract with local authority search, preliminary enquiries, fixtures and fittings list, title insurance and survey. The pack is made available at Wates for any prospective buyer to view. Prospective buyers are then asked to complete a mortgage application form for Woolwich Direct who will issue an offer (up to 90%) within 24 hours, subject to status (and a check on credit worthiness). An exchange can then be arranged within 24 hours, if required. The mortgage instructions go to an independent legal adviser – Wates have three solicitors on board with others interested in the scheme. The legal adviser checks the pack on behalf of the buyer and signs that it meets his/her approval.

The buyer will keep the pack. When s/he sells the property again the pack passes to the independent legal adviser for updating. The pack stays with the property, like the log book of a car. As no new pack will need to be produced, this will considerably speed up the process.

RESPONSE

Fastxchange has now been running since about November 1998. There have only been two definite completions – both in September 1999, both leasehold properties, and both only partly used Fastxchange (clients prefer to use their own professionals such as lender, solicitor or surveyor, in order to save money, or for other reasons). It has been noted that the scheme is more likely to succeed where vacant possession can be easily achieved, as was the case in these two completions.

WHAT IT COSTS

There are two options available to Fastxchange clients:

Option One: the seller pays Ekins surveyors for the costs of the survey, and Wates will include the cost of the local authority search within the existing scale of charges. The buyer pays for other charges (the legal fees are paid on exchange of contracts).

The scale of fees is as follows:

Seller's Fees: £500 inclusive for Fastxchange *plus* surveyor's fees (Homefile 1,2 or 3)

Buyer's Fees: £100 plus VAT for legal advice, *plus* £400 for Fastxchange and costs of disbursements.

The Ekins survey costs are:

Homefile 1 fee £125 if home worth up to £150,000 or £170 if between £150,000 and £300,000,

Homefile 2 fee £375 if home worth up to £250,000 or £725 if home is between £250,000 and £500,000.

Homefile 3 fee £725 if home is worth up to £400,000 or £1,300 if home is between £400,000 and £1million. (Negotiable if over £1 million)

The survey costs appear to be expensive for those with properties over £250,000 (common in the south Croydon area). **Homefile 2** appears to be the most popular survey with clients, being closest to the RICS homebuyer report. **Homefile 2** includes general property information, a valuation (although lenders still expect a separate valuation inspection), insurance reinstatement cost, insurance questionnaire, detailed condition survey, maintenance report, energy rating report, security report, security questionnaire, emergency call, and emergency cover.

Option Two: the seller pays for a Fastxchange pack *excluding* survey. The cost is £100 plus VAT.

4. Bedfords Estate Agents/McCormick and Merrifield, Surveyors/Allied surveyors

WHAT THE INITIATIVE INVOLVES

Bedfords offer sellers the option of obtaining a pre-sales building survey. Ideally, before the property goes on the market, a surveyor carries out a survey of the property at an agreed fee for which the seller pays. However the survey can take place within the first two weeks of the property having been put on the market. Bedfords provide sellers with a list of six potential surveyors, one of which is McCormick & Merrifield. Depending on the length of time the property is on the market, or if any works are carried out after the survey, the surveyor may recommend an update survey. The initiative is aimed at the middle to upper property price bracket (from £100,000).

Potential buyers are provided with a copy of the survey. Once contracts are exchanged the buyer reimburses the full cost of the survey which is then assigned to them. As the contract is between the surveyor and the buyer, this surveyor is liable to the buyer. Bedfords have pre-drafted letters which set out the position of the survey.

WHAT IT COSTS

The initial set up costs of the letters and legal documents in relation to the pre-sales survey were born by McCormick & Merrifield. Repeat costs are minimal, with costs passed between buyer and seller. The cost of the survey is, however, higher at approximately 10 % more than a usual survey. The survey fee varies according to the type of property, and ranges from £350 for a post- 1950s cottage/small house to £650 for a pre- 1950 house valued between £250,000 and £350,000.

5. Morton Fraser Relocation

Morton Fraser is a relocation company owned by an Edinburgh law firm. Their clients are large employers such as government departments and corporate businesses. They have been involved in both selling employee homes and purchasing new homes for clients since 1986.

MFR have three schemes – the Guaranteed Sale Price Scheme, the Marketing Assistance Programme and AESOP (Assisted Employee Sales/Outright Purchase), their new scheme, which has been running since autumn 1998. These schemes are briefly:

1. Guaranteed Sale Price Scheme

This is a traditional homesale scheme which involves buying the employee's house, thus allowing him/her to move to a new location as a cash buyer. MFR then sell the property onwards. They will provide bridging finance, market and sell the property being vacated, ensure title, arrange valuations and mortgages, carry out legal work and organise basic surveys. At the other end they will support the employer by either organising all aspects of the purchase or offer advice to employees. They do not act for individuals.

2. Marketing Assistance Programme

This is a lower cost alternative to the Guaranteed Price Scheme whereby the employee is provided with a detailed house-selling strategy and hands-on assistance to achieve a sale. Using Morton Fraser's Home Marketing Kit, MFR will assist the employee in selling their own home. The employee retains control of the sale process, but has the full backing of MFR's marketing expertise. The employee does not receive a price guarantee or funding.

3. AESOP – Assisted Employee Sale with Outright Purchase

This combines a marketing assistance programme for the employee with the safety net of a sale to a property investment company, if the private sale cannot be achieved. The purpose of the scheme is to assist with the sale of the 50 per cent of employee homes where problems arise, for example, with funding, legal aspects etc. These properties take longer than the average of two months to go under offer. AESOP aims to make the process quicker and easier. The scheme has been in operation on a trial basis involving nine companies. It is being run in partnership with Bradford Property Trust and Solicitors, Moore and Blatch.

The AESOP scheme works by firstly, helping the employee sell the home using MFR's Home Marketing Kit. The kit includes a marketing strategy and relevant information on similar properties recently sold in the area. Secondly, the employee also receives an "open market value" offer for their property from MFR. If the property is not sold within two months of marketing, the employee can accept the offer price from MFR. At this point, MFR resells the property to the Bradford Property Trust, contracts will be exchanged and the property taken off the market. The employee can stay in the home for up to a further three month period if required, until a suitable property is found in their new location. For each case, the employer pays a management fee inclusive of legal fees for the employee's sale. If the employee sells the property to the scheme, a charge is made to the employer of 10 per cent of the property's value. However, there are significant balancing savings with no solicitors' or estate agents' fees and no ongoing costs involved.

All employees on each of the schemes receives "Selling your house with MFR" which includes information on valuation, selecting an estate agent, presentation tips and advice on how to deal with offers.

In addition, **MFR Online** allows customers to check the progress of any of their employees' moves, forward instructions for a new case to Morton Fraser or ask questions of its service without leaving their keyboards. Statistics can be obtained such as offers made, selling periods, gains/losses on sales, costs of moves etc.

WHAT IT COSTS

Companies pay a fee to Morton Fraser for the services on offer, including the marketing kit (the employee pays nothing). The fee will vary according to the services required, the number of employees being moved, and the nature of the removal.

6. Michael Cleary, Chartered Civil Engineer, Hastings, Sussex

National House Certification scheme

WHAT THE INITIATIVE INVOLVES

The House Certificate is intended to be like a car MOT. The client can either sell their house with the benefit of a transferable House Certificate or buy a house with an up to date House Certificate. The House Certificate is prepared and issued by an NHCS (National House Certification Scheme) chartered civil engineer following a house inspection. The NHCS is a scheme organised by chartered civil engineers.

The engineer will normally follow up the estate agent's Particulars of Sale with a thorough inspection of all the physical elements of the property. This covers the exterior and land with the house as well as structural features (such as geology, foundations, walls, beams and lintols, roof structure and covering) and inspection of services and drainage. A short, easy-to-understand report is prepared, written in simple English, usually within 24 hours of the survey. There is an explanation of the findings, and recommendations regarding potential work areas to give the client an idea of the order of priorities. The NHCS report will give a valuation, the expected costs of repairs and the likely valuation after the repairs have been completed.

A Stage Two service is offered where any remedial works to be done are specified (as per the recommendations in the Report) and a Schedule of Works for tendering purposes along with full documentation for the Contract. The selected contractor will be supervised and the finished works certificated. The order for the works can be issued by either the seller or buyer, the costs of which will have been reflected in the price of the property. The scheme mainly applies to older houses, specifically those over ten years old (houses under ten years old will have a National House Building Council [NHBC] warranty).

The Engineer's report and House Certificate are intended to be open documents available not only to the seller but to any prospective buyer through the Estate Agent. These can be updated at any time eg. when major works are carried out, or even on a yearly basis like a motor car (where the certificate can be re-dated if there are no changes) enabling the certificate to be passed on with a further sale of the house.

WHAT IT COSTS

The House Certificate, records and documentation sufficient to appraise the mortgage lender's confirming valuer and inspector is priced at £185. The House Certificate is valid for one year enabling changes to be recorded and generally updated. There is no charge for a goodwill visit not involving any work. Chartered Engineers are not permitted to advertise and so knowledge of the scheme comes from networking. The invoice is not payable until completion of the property transaction and then is through the solicitor upon instruction from the client.

7. Law Society

Transaction 2000

WHAT THE INITIATIVE INVOLVES

TransAction 2000 is the Law Society's proposals for conveyancing reform, based on their TransAction protocol of 1990. TransAction is a marketing package intended to assist in the speeding up, standardisation and streamlining of the housebuying and selling process. TransAction is also known as the "National Conveyancing Protocol" and is now used in the majority of transactions in England and Wales. It includes:

- A standard contract
- Property information forms
- The local search

TransAction 2000 aims to improve and build on the existing scheme, in anticipation of the introduction of a seller's pack by the government. The intention is to prepare work as soon as the seller wants to put his/her property on the market. Its focal point is the **Legal Information form (for either freehold or leasehold properties)**. This is a summary in plain English of all the information the buyer needs to make an informed decision or offer. The form is a summary of documents contained in the Seller's Pack. The Seller's Pack is held by the Seller's solicitors until it is passed to the buyer's solicitor prior to exchange of contracts. This is different from a log book or property profile in that it is not updated or passed on with each sale. Each form is a one off event, on the grounds that sellers are incapable of keeping a document for any length of time. The forms are intended to be user-friendly and are kept short with just basic information on items such as boundaries, rights of way, services, furniture and fittings, planning consents etc.

The forms include a **summary of documents** held by the seller's solicitors which may be consulted if necessary. These documents include the contract, copies of the register, abstracts of title showing covenants and easements, searches and enquiries, planning consents, guarantees and other property specific documents. TransAction 2000 will continue to include a **Seller's Property Information Form** and also a **Fixtures, Fittings and Contents list** in the Seller's Pack held by the seller's solicitor.

The forms and elements in the pack will be piloted in early 2000 in Bristol. The pack will include some other new items including a **standard sales notification form** as at present there is no standard way for a selling agent to inform solicitors of a sale.

What TransAction 2000 does not include

Transaction 2000 does not include a seller's survey, local authority searches commissioned by the seller (it will include searches commissioned by the buyer) nor title insurance. The Law Society believes that sellers will not voluntarily pay up front for a survey or searches (nor will the buyer accept a seller's survey), and that both buyers and sellers will view title insurance as an extra burden in the transaction.

8. Allied Surveyors

Guarantee Survey

WHAT THE INITIATIVE INVOLVES

The Guarantee Survey, is an insurance backed product which provides a defects guarantee to home buyers when they commission a RICS/ISVA Home buyer survey and valuation or the Allied Building Surveyors Building Survey. Where a significant defect is found which has not been reported in the survey the matter can be remedied without major expense to the householder. There is a £500 excess on the policy to cut out frivolous claims. The premium is absorbed within the price of the survey. This initiative was developed to get round the perceived problem that surveys left the home buyer exposed.

Allied have also been developing a seller or **seller survey** in association with Bedford Estate Agents. This has raised questions about how close the relationship should be between a surveyor and an estate agent. The issues that have had to be tackled are whether the duty of care transfers when the buyer buys the house, and the erosion of the position of "caveat emptor".

The Scottish part of Allied is currently developing an **on-line survey** which will be made available to all potential buyers with different levels of data being made available for different levels of payment. This is applicable only to the Scottish context, where each potential buyer will commission a survey or valuation. It is not used as part of a seller's pack.

What it costs?

At present this is a buyers survey but could become a seller's survey. If the Scottish OnLine seller's survey is well used then the seller will not have to pay the £250 cost of an ordinary survey. The OnLine survey costs £50 in comparison to the ordinary survey cost of £250.

9. Spicer-McColl

Smart Move

Spicer-McColl are the largest independent estate agent in Europe. They have four distinct companies: Spicer-McColl, Spicer-Haart, Felicity J. Lord and Haart.

THE INITIATIVE

Spicer-McColl piloted a seller's pack (with the help of Marson's the solicitors) in late 1999 in the following areas:

- 1) Spicer-McColl piloted the initiative from 10 branches in Thanet, Kent with properties selling in the region of £50,000.
- 2) Felicity J. Lord piloted the initiative from eight branches in central London, where properties were likely to be £150,000 or over.

Following on from the success of the pilot, road shows are being run in Kent and Sussex during the first quarter of 2000. The first road show in Ashford attracted fifty estate agents. These are being organised by Marson's (solicitors).

THE PACK

The pack has been developed in consultation with Marson's the solicitors. It includes: a Property information form (incorporating answers to standard preliminary questions, copies of consents, guarantees for work carried out, log book); Land Registry Searches (and standard Local Authority searches); Contract, copy of title deeds and plan; Optional – Homebuyers report survey on behalf of buyer.

For new properties there will also be copies of warranties and guarantees.

For leasehold properties there will also be lease, latest service charge accounts and receipts, insurance policy for building, receipts for premiums, landlord's regulations and memorandum, articles of the landlord.

Sellers' agents will arrange compilation of the pack with prospective buyers having access to the pack to help make a decision. Estate agents will advise all buyers to have an independent legal consultant go through the pack.

Title insurance will also be included in the pack. Marson's recommend this for all their schemes because it makes it easier to sue a solicitor who has been negligent.

Spicer-McColl are looking at getting a panel of mortgage lenders to agree to a "mortgage certificate." Each property would have a certificate giving the amount of mortgage available on it. Buyers would then be put in touch with a mortgage lender via Spicer-McColl.

WHAT IT COSTS

Spicer-McColl predict the cost for sellers will be no more than the cost of a solicitor, estimating that the total cost for the pack would be £400. This is no more than hiring a solicitor independently.

For Spicer-McColl the only additional cost is in training staff (Marsons are undertaking the training) and marketing the initiative. It will however increase staff workload, and it is estimated that it will take around four days to compile the pack.

Spicer-McColl would like to see a way of passing the costs of the pack on to the mortgage lenders, the surveyors or the estate agent or a combination.

10. Bradford and Bingley Building Society

WHAT THE INITIATIVE INVOLVES

The Secure Move survey which is a **buyer's** survey at present (but this may change to seller's survey), and is the equivalent to the RICS House Buyers Report (Scheme Two survey), but with certain refinements. It has also been produced in plain English, hence its Crystal Mark. To an extent it is more of a checklist, and less a set of opinions.

They also offer a SecureMove Building survey for older properties, larger houses or properties where the building is known to have some problems.

The Bradford & Bingley are also in the process of developing a Property Log. This would be provided on disc, following the survey and sale with the new owner being expected to up-date the information. It would extend the shelf life of the survey product.

The Bradford & Bingley is also looking at the possibility of introducing abortive cost insurance as a marketing concept. This, and the other products listed above are all about adding value to the estate agency business.

WHAT IT COSTS

Although there is not a seller's pack in place as yet (it is being proposed) it is their opinion that such a pack should be assembled by estate agents, and not solicitors. As an up front cost it is likely that estate agents would pay for it, and wait for payment on the sale of the property. This would not be the case for either solicitors or surveyors who would not wait for payment. It is likely the cost would become part of the estate agents' sales package.

The survey base fee is £235 for a house with a value of less than £50K, and a ceiling fee of £565 for property above £350 K. Both prices include VAT. The cost of the insurance policy is covered by the Bradford & Bingley on the basis of no blame, up to a maximum of £50,000. The seller will pay for the cost of assembling the proposed seller's pack, but it will only be payable on the completion of sale.

11. Property Guarantee Company (PGC)

WHAT DOES THE INITIATIVE INVOLVE?

It is a property guarantee insurance product which is similar to the NHBC Build Mark. Unlike the NHBC it is available for second hand property, not just new build, and it is determined by an individual survey on the property. NHBC takes one property in the development and surveys that as a proxy for all others. The survey is conducted on behalf of the PGC and therefore gets around the problem of who will trust a seller commissioned survey. This also means that the insurance product can be passed onto the buyer.

There are two components to the product, one is a survey to ascertain that the property is structurally sound and free from design defects. This survey ties into the insurance product that is being purchased. The second component is the insurance policy which can be taken out for three or six years on the basis that the survey reveals the property to be sound.

WHAT DOES IT COST?

The minimum cost of the survey is £150 for a Scheme Two survey, with the price being fixed on the basis of an RICS formula calculated on the property's square meterage. The insurance product premium runs for a minimum of 36 months and a maximum of 72 months. For a moderately priced house of £55-60k this would be £9.90 per month, and for a three bedroom house worth £90k it would be £15.16 per month.

There are four cost elements to this product:

- 1) The survey, for which the seller pays
- 2) The insurance product for which PGC takes a commission from the insurer
- 3) There is an administration cost which with volume will reduce
- 4) Marketing access to other products which will only expand once the scale of business has grown.

The cost of the product to the business therefore varies depending on the scale of activity.

The applicant pays the cost of assembling the pack. The expectation is that when the property is sold the buyer takes on the policy and pays the monthly premiums.

12. Advance Surveys, Essex

WHAT THE INITIATIVE ENTAILS

Advance surveys offers a full pre-marketing service to meet the needs of both sellers and buyers. The expectation is that a survey will be carried out before properties are placed on the market. The survey inspection can be arranged within 48 hours of written instructions being received or confirmed and will be undertaken by a Fellow of the Royal Institution of Chartered Surveyors. The report will be valid for a period of twelve weeks from the date of the inspection but can be extended, if required, by additional twelve week periods. To date, extended periods have not proved necessary.

The survey report is a concise document set out in an easily read and understood fashion. The report covers the condition and structure of the property, comments on services, recommended essential and advised repairs, a rebuilding figure for insurance purposes, an independent valuation and descriptions of the property with information about its location, including a site plan.

Clients have the option of selling the property with known defects at a figure that recognises the costs of repairs. Or they can correct the shortcomings prior to sale with the survey report being notated accordingly following a re-inspection (a simple certificate of further inspection is added to the original survey report).

The company overcomes the question of liability to a subsequent buyer by the seller instructing them to carry out the survey on behalf of an "as yet un-named buyer", with the company's professional liability devolving upon the buyer on exchange of contracts. Therefore, an early survey entails the surveyor acting for both the buyer and seller, and Advance envisage that both would pay the costs – the report is owned by the seller before purchase and the buyer after exchange of contracts. (It is, therefore, not an open report available to any buyer as proposed by Michael Cleary). The Surveyor's professional liability acts as the legal guarantee on the survey.

Advance believe that to encourage support for the scheme from both buyers and sellers, the surveyor (and this should be a chartered surveyor) should not be associated, in anyway, with estate agents, solicitors or lending institutions, whether or not they are involved in any particular transaction. Advance market themselves on the basis of independent, impartial advice. They are currently working on promoting their service as a nationwide pre-sale survey provider. They can already offer an easy access "One Stop" contact point through their web-site and a national freephone telephone number. They are now seeking additional surveyors to work under their "umbrella".

WHAT DOES IT COST?

Advance charge £250 for this service for any dwelling in Essex, of traditional construction, and up to a value of £250,000, plus £50 if a valuation is required. All re-inspections are charged at £65. A separate quotation is offered for other types of homes or more expensive homes. This compares with about £350 for a standard survey report.

13. M(aria) Coleman Estate Agents

Open Book Scheme

WHAT THE INITIATIVE ENTAILS

M(aria) Coleman is an estate agent based in Bristol which has been running an integrated legal and survey pack (Open Book) for three years. This has developed in structure and form over time. Colemans have found that the degree of drop out in transactions over that time has dropped from 31 per cent to 8 per cent. Colemans are ISO accredited, to ensure high standards of operation. Similarly staff are fully trained in both estate agency and the operation of the pack. 42 per cent of their clients are first time buyers. Colemans' spend around one and a quarter hours explaining the Open Book service with *sellers*, so that they are fully aware of what is involved in the scheme. This is backed up with special quarterly seminars for first time *buyers* on the home buying process.

The Open Book scheme includes a seller's survey which is commissioned before or at the time of marketing by Coleman's (available on properties over 10 years old). The survey is owned by Coleman's until such time as the buyer wishes to purchase the survey, which is optional. Colemans use an in-house surveyor to carry out the work. The survey is available to view by buyers, and the buyer may purchase it (for example to show to a lender) at any time between offer and completion. There is no obligation on a buyer to purchase the survey, which reduces their costs. The cost of the survey is recouped through the seller, and may vary in price. The survey is a detailed RICS survey without the valuation. It is intended to be a survey which is capable of being accepted by a building society. The survey is backed by indemnity insurance obtained from a major firm of insurers who back surveys commissioned by lender panel members (who tend to belong to the latter companies). Coleman's explain the content of surveys to buyers so that they are fully aware of any work which may need doing, and the implications for the transaction (eg if an offer needs renegotiating).

The legal pack is in two parts, pre- and post-offer. The title deeds, guarantees and mortgage roll number are obtained in advance but the searches are not carried out until after the offer, for cost reasons. The seller can choose from a panel of three solicitors who have the necessary expertise and experience to compile the pack. Buyers use their own solicitor – there is no independent legal adviser. There is no title insurance.

CONTENT OF THE PACK

- Leaflet – “A Guide to buying your home” using Open Book Pre-Sellers Initiative
- “Vendor property details” form containing information about ownership, mortgage, services, boundaries, freehold or leasehold, central heating, alarm, items under guarantee, if listed or in conservation area, rights of way/easements/wayleaves, who is selling if divorce, power of attorney, information for solicitor, e.g. about title deeds, planning consents, time limits on transactions.
- Professional indemnity undertaking for contractor (if outside contractor looking at works to be done, arising from the survey)
- Declaration of Intent for buyer reading survey

- Sole agency agreement
- Pre-sale survey report (surveyor provided with guidance notes and suggested format) and conditions of engagement for pre-sale surveys

WHAT IT COSTS

Colemans levy an overall fee for services of about £2,000 plus VAT. This is inclusive of solicitors' fees (£275 plus VAT plus £8 office copy entries) and surveyors fees (£175), as well as the marketing and advertising of the property.

14. Sellers Information Pack

WHAT THE INITIATIVE INVOLVES

This is an on-line legal pack offered at the present time to estate agents, mainly through the Professional Guild of Estate Agents. This scheme was started in February 1999 by Justin Holder, an ex-estate agent, and is based in Basingstoke. It went on line in February 2000. A pilot of 500 agents is starting in March 2000. Agents are provided with marketing information to help them sell the concept to customers. The pack takes 5-15 days to compile, but does not include conveyancing which has to be bought separately. Charges are £125 plus VAT plus searches or £225 plus extras for leasehold. The agent has the option as to whether they pass the costs onto the customer or offer it free as a selling point.

One of the selling points of the pack is the insurance on the local search, which extends its shelf life from three to twelve months. Liability for the pack transfers from the seller to the buyer at exchange of contracts.

It is envisaged that ultimately customers will be able to buy the pack direct through the Internet, without going through estate agents.

CONTENT OF THE PACK

- Property Information Sheet
- Contract
- Registered/Unregistered Title
- Property/Leasehold questionnaire
- Fixtures and Fittings and Contents Form
- Local search result
- Water search
- Commons search (where applicable)
- Leasehold information where applicable e.g. Agents, Insurance etc.

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