



# REVIEW OF GUERNSEY CONVEYANCING CHARGES

## 1. Background

Following the adoption of the Guernsey Competition Law in 2012, the Guernsey Competition and Regulatory Authority (GCRA) had been working with local organisations to ensure that anti-competitive practices were eliminated during a subsequent six months' grace period.

One of the areas of investigation was local conveyancing charges in the Island and, at the beginning of 2013, the Guernsey Bar removed its professional conduct rule that set legal fees for property conveyancing transactions at 0.75% of the purchase price. This removal enabled providers of these services to compete with each other on price.

GCRA then closed its investigation.

Exactly ten years on from the removal of fixed legal fees in Guernsey property conveyancing, the objectives of this Review are primarily to focus on the impact that the ending of the conveyance price setting arrangement by law firms has had during the intervening period. This work is to ensure that GCRA has an objective and independent assessment of the cumulative benefits within the property transaction market since 2013 as a result of its original intervention on conveyance fees.

Secondary to this work, Guernsey's conveyancing/property market system and charges in general would also be assessed against a number of other similar jurisdictions.

## 2. Methodology

Local property transactions are recorded at HM Greffe and, over a period of twenty years, these transactions have been logged by 'Unusualities of Guernsey'. GCRA has appreciated having access to this information.

There are a number of caveats which need to be noted in identifying property transactions' turnover before and after the removal of fixed legal fees at the beginning of 2013. These include:

- Every transaction is unique and the involvement of the local legal profession can be straight forward or more complex dependent upon many variables as property boundaries, ownership, timescales, bond conditions, etc.
- Property market supply and demand trends vary considerably over the years and the resourcing of the conveyance market relating to legal requirements can fluctuate with that supply and demand challenge (e.g. new legal firm entrants into the conveyancing market).
- Local property price changes now impact on the fees charged and any substantial increase in prices is positive in terms of having fees not based on a percentage of the transaction cost.
- External economic and social factors (e.g. COVID Pandemic, inflation, interest rates, etc.) have had a significant impact on the local property market.

Therefore, the following process has been followed.

- As referenced by a number of law firms, realty (immovable asset) should be based on **97.5%** of the overall quoted price of the property assuming 2.5% for 'personalty'. The terminology does differ between jurisdictions but the meaning is the same.
- Estimated fees which would have applied if the original fixed percentage (0.75% of the realty) had continued to be in place since the beginning of 2013.
- Estimated legal fees have been based on an assessment of known standard charges and an average of percentage fees which in some instances may be the method of determining charges.

### 3. Findings

The majority of conveyance transactions involve the purchase of local market properties. The remainder cover open market property, land, commercial and other property, etc.

Prior to 2013, any escalation in the price of property immediately impacted on the legal fees charged as these were based on a fixed percentage (i.e. 0.75%) of the property realty value. Since the beginning of 2013, while a small minority of legal firms still based their charges on a percentage of the realty purchase price (albeit much lower than the previous fixed charge of 0.75%), the majority have charged a set fee for a standard conveyance with additional charges applicable for any technical reason relating to the property such as boundary issues.

The following chart (Figure 1) illustrates the total legal fees paid each year since 2013 as a percentage of the realty of the property (set at 97.5% of the total price). Also set out is what the legal fees would have been if the fixed charge of 0.75% had been levied. Since 2013, the fees are based on an average of known actual standard charges or an average of standard fees applied where the actual sum is not fixed/known or where a percentage fee is known.

YEAR	97.5% (REALTY) OF TOTAL VALUE OF PURCHASES (£'000)	TOTAL LEGAL FEES IF 0.75% FEE WAS STILL APPLICABLE (£'000) ON REALTY	ESTIMATE OF TOTAL LEGAL FEES BASED ON AN ESTIMATE OF STANDARD FEES NOW CHARGED (£'000)	TOTAL STANDARD FEES CHARGED AS A PERCENTAGE OF OVERALL VALUE OF PURCHASES
2013	463,255	3,474	2,759	0.60%
2014	405,531	3,041	2,661	0.66%
2015	352,960	2,647	2,371	0.69%
2016	384,740	2,886	2,646	0.67%
2017	500,867	3,757	2,968	0.59%
2018	542,941	4,072	3,075	0.57%
2019	564,007	4,230	3,189	0.57%
2020	708,243	5,312	3,423	0.48%
2021	942,211	7,067	3,698	0.39%
2022 EST	926,250	6,947	3,420	0.37%
<b>TOTAL</b>	<b>5,791,005</b>	<b>43,433</b>	<b>30,210</b>	<b>0.52%</b>

Figure 1 - Original compilation of conveyance transactions source data: 'Unusualities Guernsey'

NB. 2022 overall realty sales value has been based on 2021 findings. While there have been fewer sales (mainly in the Local Market, the value per sale has increased).

The above chart shows that:

- on average over the ten-year period since the fixed percentage charge was abolished, (and not accounting for additional fees incurred as a result of more complex sales), the saving to purchasers has been in the order of £13.2m.
- In percentage terms, the average legal fee per transaction over the ten-year period was 0.52%. However, it should be noted that due to an escalation of property prices over the last couple of years, this percentage has fallen significantly on average to around 0.38% (half the set fee prior to 2013). It is interesting to note that from estate agency feedback, an average figure was given at approximately 0.35%.

- There has been a significant growth in the number of Open Market transactions since 2020 which has boosted overall transactions (67 sales in 2019, 92 sales in 2020, 124 sales in 2021, and 96 sales in 2022).

Given the majority of property transactions relate to Local market sales, if the above analysis is applied specifically to Local Market domestic property transactions and the yearly average fee percentage since 2013 was applied, the following savings have been achieved in this particular market segment (Figure 2).

YEAR	97.5% (REALTY) OF TOTAL LOCAL MARKET VALUE OF PURCHASES (£'000)	TOTAL LEGAL FEES IF 0.75% FEE WAS STILL APPLICABLE (£'000)	TOTAL STANDARD FEES CHARGED AS A PERCENTAGE OF OVERALL VALUE OF PURCHASES	ESTIMATE OF TOTAL LEGAL FEES BASED ON AN ESTIMATE OF STANDARD FEES CHARGED (£'000)
<b>2013</b>	312,511	2,344	0.60%	1,875
<b>2014</b>	268,146	2,011	0.66%	1,770
<b>2015</b>	231,231	1,734	0.69%	1,596
<b>2016</b>	259,831	1,949	0.67%	1,741
<b>2017</b>	307,257	2,304	0.59%	1,813
<b>2018</b>	330,905	2,482	0.57%	1,886
<b>2019</b>	354,266	2,657	0.57%	2,019
<b>2020</b>	425,726	3,193	0.48%	2,043
<b>2021</b>	508,402	3,813	0.39%	1,983
<b>2022</b>	509,681	3,823	0.37%	1,886
<b>TOTAL</b>	<b>3,507,956</b>	<b>26,310</b>	<b>0.53%</b>	<b>18,612</b>

Figure 2 - Original source of Local Market housing sales: States of Guernsey

The saving over the ten-year period in this particular market is approximately £7.7m representing approximately 60% of the overall saving in legal fees relating to the conveyance market since 2013.

General feedback from the estate agents' sector has revealed the following:

- It is now very hard to give purchasers a guide as to how much their fees will be. However, as a guide, one estate agent currently uses a legal fees' estimate of 0.35% of Realty.
- The sliding Stamp Duty scale also makes it difficult to estimate fees/costs on house purchases.
- Approximately 15% of potential property sales fail to complete due to a number of reasons - Bond issues, survey findings, etc.
- Currently, there is an unsettling time in the market with increasing costs and interest rates.
- The general view is that advocates are not seeking to overcharge on unforeseen legal issues within the conveyancing process.
- Due diligence in property transactions has intensified over the last few years.
- It is hard to gauge the financial impact of property transactions as agents aren't involved in the final fee structure.
- A number of legal firms cut back on the size of their conveyancing teams following the change in fee structure in 2013 which also coincided with a subsequent dip in the property market generally.
- On the other hand, there were a number of new entrants in the legal sector just focussing on property conveyancing and offering competitive legal fee structures.
- However, the sudden surge in the property market during the COVID Pandemic placed considerable pressure and stress on the legal sector.

## 4. Conclusions

Undoubtedly, the cessation of a fixed percentage legal fee in the local conveyancing market has been very beneficial to the property market. This reflects what was experienced in Jersey following the implementation of a similar course of action in 2006.

The average cost of legal fees as a percentage of the realty value of the property transaction is currently half of what it was prior to 2013.

The overall saving to the community is in the order of £13m with approximately 60% of this saving (£7.7m) relating to Local Market transactions.

**13 March 2023**

## 5. CONVEYANCE PROCESS IN OTHER JURISDICTIONS

The following section summarises the general conveyance process followed by Guernsey and a number of other jurisdictions with similar legal systems.

### Guernsey - Normal Conveyancing Process

**GUERNSEY**

**General Process**  
Offer made  
Estate Agent prepares Conditions of Sale  
C of S reviewed by purchasers/Vendors Advocate  
Purchaser can opt to sign C of S after all checks complete  
Conveyancing team check Title, site visit and boundaries  
Immunity Certificate issued  
Court to complete

**Additional fees/taxes:**  
Document Duty  
Structural survey £1,000+  
Immunity Certificate £250  
Court/registration fees

**Legal fee structure not specified**

Document duty is payable on the value of the Realty but not the contents. The usual split for property is 97.5% and 2.5% contents.

The Duty is calculated as follows:

- 2.25% up to £250k
- 3.5% from £250k to £400k
- 4% from £400k to £750k
- 4.25% from £750 - £1 million
- 4.5% from £1m - £2 million
- 5.5% from £2m plus

<https://www.guernseyroyalcourt.gg/article/1921/Document-Duty>

Other sliding Document Duty rates apply in respect of property which is not the purchaser's principal home and in respect of downsizing in relation to the purchaser's principal home.

At the time of writing, the average local domestic home sale in Guernsey was £638k.

## Bermuda - Normal Conveyancing Process

### BERMUDA

#### General Process

Offer made  
Vendor's attorney prepares Sales and Purchase Agreement  
Signed subject to T&Cs plus 10% deposit  
Department of Planning inspects site  
Stamp Duty usually divided between vendor/purchaser  
Office to complete

#### Additional fees/taxes:

Appraisal fee starting at \$450  
Structural survey  
Stamp Duty

#### Legal Fees: Fees split by both parties

1% first \$250,000  
0.75% for next \$250,000  
Reduction continues up to £2m+ at 0.125%

The Bermuda government imposes Stamp Duty based on the immovable property purchase price as follows:

- The first \$100,000 is subject to a 2% tax.
- The next \$400,000 is subject to a 3% tax.
- The following \$500,000 is 4%.
- The following \$500,000 (\$1,000,000 but no more than \$1,500,000) is 6%.
- Subsequently (for amounts more than \$1,500,000): 7%

<https://www.gov.bm/stamp-duty-tax-legal-transactions>

#### BOTH PARTIES SPLIT PAYMENT OF THE DUTY

At the time of writing, the average local domestic home sale in Bermuda was not available.

## Jersey - Normal Conveyancing Process

### JERSEY

#### General Process

Offer made  
Legal engagement  
Property site visit, property searches, title  
Solicitor prepares contract  
Checks with onsite visit Planning, Tech Services, Parish  
Contract signed  
Court to complete

#### Additional fees/taxes:

Stamp Duty  
Land transfer Tax (share transfer only)  
Court fees

#### Legal fee structure not specified

Jersey Stamp Duty is charged on the immovable property value as follows:

- Between £300k and £500k
  - £4,000 in respect of the first £300k, plus £2 for each £100 or part of £100 in excess thereof
- Between £500k and £700k
  - £8,000 in respect of the first £500k, plus £2.50 for each £100 or part of £100 in excess thereof
- Between £700k and £1m
  - £13,000 in respect of the first £700k, plus £3 for each £100 or part of £100 in excess thereof
- Between £1m and £1.5m
  - £22,000 in respect of the first £1m, plus £3.50 for each £100 or part of £100 in excess thereof
- Between £1.5m and £2m
  - £39,500 in respect of the first £1.5m, plus £4 for each £100 or part of £100 in excess thereof
- Exceeds £2m
  - £59,500 in respect of the first £2m, plus £5 for each £100 or part of £100 in excess thereof

<https://www.jerseylaw.je/laws/current/Pages/24.960.aspx>

At the time of writing, the average local domestic home sale in Jersey was valued at £700k.



## Isle of Man - Normal Conveyancing Process

### ISLE OF MAN

#### General Process

Offer made  
Seller's advocate prepares the contract  
Searches, title, 'enquiries before contract' reviewed  
Contract signed by both parties  
10% deposit taken  
Conveyancing document produced  
Office to complete

#### Additional fees/taxes:

£400 search fees  
Land Registry fees  
Structural survey

#### Legal fee structure not specified

Land Registry fees are charged on the immovable property value as follows:

- £10.00 per £1,000 up to £500,000
- £20.00 per £1,000 of value exceeding £500,000 up to and including £3m.
- £25.00 per £1,000 exceeding £3m or £250.00 whichever is higher.

<https://www.gov.im/landregistry>

At the time of writing, the average local domestic home sale in Isle of Man was valued at £389k.

## England - Normal Conveyancing Process

### ENGLAND

#### General Process

Offer made

Legal engagement

Property site visit, property searches, title

Contract signed by both parties

Completion between solicitors

#### Additional fees/taxes:

Surveyors survey fee £250 - £600

Stamp Duty

#### Legal fees:

Between £850 - £1,500 inc VAT

Plus search fees between £250 - £300

Stamp Duty charged on the immovable property value is as follows:

- No stamp duty on properties under £250k
- 5% on properties between £250k to £925k
- 10% on properties from £925k to £1.5m
- 12% charged on properties over £1.5m

Extra 3% on second properties

<https://www.gov.uk/stamp-duty-land-tax/residential-property-rates>

At the time of writing, the average local domestic home sale in England was valued at £315k.