

## Solicitor's Certificate: Lifetime Mortgages/Home Reversions

This must be completed only by a Solicitor, Licensed Conveyancer, Barrister or Chartered Legal Executive in Private Practice who holds a current Practising Certificate, Licence or equivalent and has the benefit of Professional Indemnity Insurance in place which meets the minimum requirements of their respective Regulator.

Type of Contract:  Lifetime Mortgage  Home Reversion

Name of Lender/Provider: \_\_\_\_\_

Name[s] of Borrower[s]/Vendor[s] ("my Clients (s)": \_\_\_\_\_

\_\_\_\_\_

Property: \_\_\_\_\_

\_\_\_\_\_

(LTM only) Mortgage Account Number: \_\_\_\_\_

(LTM) Limit/Amount of Loan/(HR)Percentage Acquired/Amount Paid:

### 1. Certification

I hereby certify that my Client(s) has (have) either:-

Please Tick Relevant Box

attended my offices or been visited by me (the Advising Solicitor);

or

has (have) visited or been visited by an Agent Solicitor

## 2. Confirmation if an Agent Solicitor is being used

The name of the Agent Solicitor is (where instructed) [ ] and I confirm and acknowledge that:

(i) notwithstanding the fact an Agent Solicitor has been instructed

[instructed Solicitors] are responsible for the advice given and compliance with the Equity Release Council requirements;

(ii) I have checked the Agent Solicitor has a current Practising Certificate and the benefit of appropriate Professional Indemnity Insurance in place that meets the minimum requirements of their Regulator's Private Practice Requirements.

(iii) The Agent Solicitor has confirmed in writing to me that they have satisfactorily carried out the checks required by Equity Release Council Rule 8.4 together with any other checks I have asked them to carry out.

## 3. Confirmation of advice

I further confirm that I have explained the terms and implications of the above Lifetime Mortgage or Home Reversion to My Client(s) and in particular I have drawn [his/her/their] attention to the following:

1. [He/She/They] might wish to discuss the matter with [his/her/their] heirs/beneficiaries because repayment of the Mortgage/sale of a percentage of [his/her/their] home will reduce the Estate proceeds on [his/her/their] death[s].
2. (HR only): In the event of [his/her/their] early death[s] [he/she/they] might have received little benefit during [his/her/their] lifetime[s] but nonetheless [his/her/their] Estate[s] would be considerably depleted due to sale of [all/part] of the property under this plan.
3. The amount of State or other benefits to which [he/she/they] may be entitled, either now or in the future, may be reduced as a result of proceeding with this Lifetime Mortgage or Home Reversion.
4. The obligations, including those for ongoing insurance and maintenance of the property, placed on [him/her/them] by the contract.
5. (LTM only): The circumstances in which the Lifetime Mortgage becomes repayable.(HR only): The circumstances in which the property will have to be sold and how the proceeds of sale will be shared.
6. The (LTM)(E&W and NI) legal charge/(Scotland) standard security/(HR) contract provides [him/her/them] with security of tenure for the duration of [his/her/their] lifetime[s] provided that [he/she/they] comply with the covenants.
7. [He/She/They] [has/have] agreed to proceed with the above (LTM) Lifetime Mortgage/(HR) Home Reversion as being suitable to [his/her/their] requirements, based on advice provided by [the Lender's representative/Independent Financial Adviser X,Y & Co].

Having considered the above, and on the basis of advice given by [Name of lender/provider, lender's or provider's representative or Independent Financial Adviser], My Client'(s)(s') wishes (wish) to enter this Lifetime Mortgage/Home Reversion contract.

## 4. Confirmation of independence of Solicitor

I confirm that I am acting independently of [name of independent financial adviser] and [name of lender/provider], and that I have acted and advised in the best interests of My Client(s) and complied with all relevant obligations within either:

England & Wales:

- the Solicitors Code of Conduct 2011 (as amended); or
- the Handbook published by the Council for Licensed Conveyancers

Scotland:

- the Solicitors (Scotland) Standards of Conduct, which are contained in Rule B1 of the Law Society of Scotland's Practice Rules (which came into effect on 1 November 2011)

Northern Ireland

- any practice rules or guidance issued by the Law Society of Northern Ireland and in all cases the Rules and Guidance issued by the Equity Release Council and the guidance notes which accompany this Certificate.

## 5. Confirmation of identity

I also confirm that I am satisfied, insofar as it is reasonably possible to verify in accordance with the said rule 8.3 that the identity and signature of my Client(s) has/have been verified, and my Client(s) has/have sufficient mental capacity and is/are not under any duress or undue influence to enter into the Lifetime Mortgage/Home Reversion Contract.

Advising Solicitor's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Advising Solicitor's Signature: \_\_\_\_\_

Advising Solicitor's Firm and Address: \_\_\_\_\_

\_\_\_\_\_

Advising Solicitor's Reference: \_\_\_\_\_

## 6. Confirmation of receipt of advice by Client

I confirm that I have been given the advice set out in clause 3 above. (All clients should sign individually)

Client's Names: \_\_\_\_\_

Client 1's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Client 2's signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Guidance notes for Solicitors on completing the Solicitor's Certificate

## The Solicitor's Certificate

You will receive copies of all the literature provided to your client in relation to this transaction. You are required to explain the terms and implications of the plan to your client and, having done so, sign the Certificate. The provider will not complete the transaction until they have received a Certificate which has been signed and completed by both you and your client(s), whereby you confirm that you have drawn your client's(s') attention to the risks of entering into an equity release transaction and your client(s) confirms that he/they has/have been given the advice set out in the Certificate.

## Guidance on Independence

Clients must use a legal adviser who is independent of the provider's solicitor. If you are advising a client in relation to an equity release transaction, the Equity Release Council requires you to consider whether you are independent of the provider firm or the adviser advising the client on the transaction, by following EITHER –

- the Solicitor's Code of Conduct 2011 (as amended) (for transactions which take place in England or Wales); or
- the Handbook published by the Council for Licensed Conveyancers; or
- the Solicitors (Scotland) Standards of Conduct, which are contained in Rule B1 of the Law Society of Scotland's Practice Rules 2011, which came into force on 1 November 2011, for transactions which take place within Scotland; or
- any practice rules or guidance issued by the Law Society of Northern Ireland; AND, in all cases
- these guidance notes on the Equity Release Council's Rules & Guidance

## Payment of Fees

Whilst you may make payments to an introducer for genuine marketing initiatives, such payments are subject to this guidance. You may not make such a payment, or give other consideration, to a third party who refers clients to you, unless you can show that the payment is wholly unconnected with the referral of any specific client to you. You are therefore not permitted to pay referral fees on a case-by-case basis. Additionally, payments may not be calculated or aggregated on the basis of the number of cases referred.

This also applies regardless of how any referral fee payment (or other consideration) is described if it is connected with the payment of fees on a case-by-case-basis. For example, this would apply to the payment of administrative or marketing fees, payments described as "disbursements" which are not proper disbursements, and panel membership fees. "Other consideration" might include, for example, the provision of services and secondment of staff to the introducer, or an agreement to purchase services or products from the introducer (where such provision or purchase is a condition of referrals on a case-by-case basis being made). For the avoidance of doubt, certain marketing payments which are not connected with payment on a case-by-case basis are permitted, subject to the regulatory obligations of the parties concerned.

If the customer chooses not to instruct their own legal adviser, the adviser or provider (as appropriate) may offer the name of at least one local law firm which has knowledge of equity release products. The adviser or provider must ensure that no pressure or financial inducement is involved in directing customers to any particular law firm either by them or the intermediaries recommending their products.

## **Receipt of Payments**

If you are acting on behalf of the client you may not receive payments or other consideration from the adviser or provider if that payment is dependent on the completion of an equity release transaction.