

# Our Standards

Part B  
Guidance and Good Practice



# Contents

The Equity Release Council's standards have been divided into two sections.

Part A sets out the principles, customer outcomes and rules that must be followed by members of the Council. The document is in the public domain and available to consumers and policy makers.

Visit [www.equityreleasecouncil.com/standards](http://www.equityreleasecouncil.com/standards) to view it.

This document, part B, provides guidance and good practice examples to support members. It is restricted to members only.

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## The purpose of the guidance to the Standards

The guidance to the Standards is designed to complement the principles, required customer outcomes and rules as set out in part A of the Standards. It aims to provide an objective way for firms to identify a common understanding of what good looks like. In addition, it forms part of a toolkit of resources that are available to our members. Other resources are available at the link below.



[www.equityreleasecouncil.com/member-lounge/adviser-toolkit/](http://www.equityreleasecouncil.com/member-lounge/adviser-toolkit/)

## How to use this guide

### IMPORTANT NOTE

This document is for guidance only. Advisers must always refer and adhere to the regulatory regime set out in the Financial Services and Markets Act 2000, and the Financial Conduct Authority (FCA) Handbook. Use of this guide does not alleviate any responsibility or obligation to follow the regulatory regime set out in statute and secondary legislation. For more information on regulatory standards, please contact the FCA, or visit their website [www.fca.org.uk](http://www.fca.org.uk) The Equity Release Council will not be held responsible for regulatory breaches incurred by firms relying on this guide for FCA compliance purposes.

# Adviser guidance

The guidance detailed below is designed to support the principles, guidance and rules from part A of the Standards.

## 1. Qualifications and permissions

All advisers should hold the minimum qualification standards to give equity release advice.

Advisers/firms should have regulatory and licensing permissions with a distinction between restrictions imposed by regulator and those imposed by the firm.

Restrictions and limitations should be disclosed to the client and what referral pathways are in place if needed.



[Chartered Insurance Institute.](#)

[The London Institute of Banking & Finance.](#)

## 2. Initial disclosure to a client

### Advisers should:

- Explain the scope of services that can be provided to clients under company policies and FCA approval.
- Explain the contents of the regulated firm's relevant privacy policy, and how data/information is processed and stored.
- Describe the firm's service – including the range of products offered and if the advice is from the whole of market, tied or restricted and clearly explain the limitations and restrictions to the advice.

- Explain the basis of remuneration – including fees and charges, and whether any marketing agreements are in place.
- Explain how to access the company complaints procedures, the Financial Ombudsman Service (FOS), and entitlement under the Financial Services Compensation Scheme (FSCS).

Adviser firms should have a written policy for personal sensitive data that explains to customers how this will be recorded, used, stored, and shared. They should consider including a link to their privacy policy in their initial disclosure documentation.

## 3. Know your client key considerations

### Advisers should:

- Ensure that there is a clear definition and distinction between advice and guidance. (Advice includes an element of judgement and a recommendation on the course of action that should be taken, and guidance is the statement of relevant facts or figures).
- Use a range of verbal communication options, communicating effectively across all verbal communication formats, including the use of telephone, face-to-face and video conferencing.
- Accurately record all client information in an appropriate financial questionnaire.
- Ensure that personalisation of the advice is driven by capturing the client's own words.

- Demonstrate empathy in conversations and by asking questions, using the appropriate tone of voice and language.
- Ensure the client's objectives are detailed in full and form the fundamental basis of the fact-finding process.
- Recognise that the fact-finding process should not be a tick-box exercise.
- Challenge a client's misconceptions and assumptions, where these might lead to suboptimal outcomes, and document evidence that client attitudes and perceptions have been challenged.
- Consider the client's financial sophistication and previous experience of financial products. Including the effect on understanding of later life products – crystallised intelligence (ability to understand new concepts by reference to past experiences).
- Always provide best advice including the consideration of client solutions from the broader range of later life lending solutions, rather than adopting a narrow focus on equity release or mainstream retirement mortgage products.
- Guide the process so that every applicable section is completed based on a client's individual circumstances.
- Clearly identify the reasons why the client wants to release equity and clearly capture the client's voice, considering their specific situation, in the fact-finding notes.
- If the client wants to consider debt consolidation, ask probing questions to understand the root cause as to how a debt has increased to the extent that consolidation is needed, together with understanding what alternatives the client has considered. Consider whether the client should take advice from an adviser who specialises in debt consolidation advice and has appropriate permissions (if you do not).



[MoneyHelper, Dealing with Debt.](#)

[Citizens Advice, Debt and Money.](#)

[National Debtline.](#)

- Give consideration to life events/stages by gaining an in depth understanding of the client's broad circumstances.
- Consider whether entitlement to a local authority or NHS funding care package might be more appropriate if the funds are being released to pay for long term care-related costs.



[NHS, Continuing Healthcare.](#)

[Age UK, Paying for Permanent Residential Care.](#)

[Unbiased.co.uk, Paying for Long-Term Care.](#)

- Consider whether the client should take advice from a specialist long-term care adviser?
- Consider the client's risk appetite linking between product features and attitude to future inheritance risk.
- Consider using different forms of bridging finance available to clients including credit cards, overdrafts, bridging loans and short-term asset finance.
- Ensure they have fully discussed and discounted (where appropriate) the alternatives to equity release including: the role of downsizing; potential help from family and friends; local authority and disabled facilities grants; other potential sources of income (such as taking in a lodger); using any existing pension funds; and using any existing savings, investments or investment properties.

- Consider whether specialist debt advice would be appropriate.
- Identify client entitlement to state benefits including the three primary groups of means tested, contributory, and conditional including disability.



[Entitledto, Benefits Calculator.](#)

[Gov.uk, Benefits Calculators.](#)

[Turn2us, Checking Benefit Entitlement.](#)

- Check and provide further information to customers, with regard to taxation and welfare benefits which can vary significantly for each person. The Council recognises and endorses the efforts made by many members when using a range of existing systems and calculators to evaluate liability for tax and eligibility for welfare benefits.
- Consider future life stages and triggering events that may affect a client's aspirations, objectives, and plans. These may include the impact of full retirement on their income, potential for receiving future inheritances, the need for long-term care, plans to move home, change in family circumstances.
- Draw out any future changes that might result in, for instance, early repayment charges.
- Recognise the need to make appropriate referrals, including the affects that wealth management, wills and estate planning can have on a client's finances and interest before and after death. Advisers should refer their clients to information providers, and services that are beyond the adviser and firm's expertise, including advice on power of attorney (POA), wills and wealth management.



[unbiased.co.uk,](#)  
[Independent Financial Advisers.](#)

- When recommending a re-mortgage to secure a new fixed rate of interest or further additional capital, undertake an analysis comparing the new plan versus their existing plan, including the implications of any early repayment penalties/charges, set up fees, and any potential positive or negative changes in features and benefits between the two plans.
- Identify client situations that require further attention to detail, or discussions about referrals to third parties (such as residential mortgage brokers, estate planners, wealth managers).
- Identify the client's needs and requirements in the future, such as future private care needs and access to further funds, including drawdown cash reserve facilities and additional borrowing. The anticipated drawdown schedule should be set out at the point of sale.
- Explain how adding set up costs/arrangement fees to the loan (with interest charged) can be more expensive in terms of the overall cost of borrowing than paying for set up costs from own funds on the overall cost of borrowing.

## 4. Research

### Advisers should:

- Use comparison tools or software to calculate accurate comparisons between products.
- Where appropriate, select the most suitable product using alternative or multiple research methods such as comparisons between products over specified periods, and based on future changes.
- Consider refining options based on client requirements, such as inheritance protection, future drawdown needs, probability of early

repayment, payments schedules/frequency, affordability, and potential future moves.

- Recommend that their customers have access to Independent legal advice which is one of the key features of the Council's Statement of Principles and is regarded as an essential aspect of consumer protection.
- If a customer chooses not to instruct their own Solicitor, the adviser member may offer the names of at least one law firm which has experience in equity release products. Members should note that where they pass on details of law firms to customers, they should satisfy themselves that the firms in question have relevant experience in providing legal advice to equity release customers and are familiar with the current products in the marketplace.
- Not accept financial inducements from any third parties, including (but not limited to) providers or solicitors, when directing specific customers to any particular law firm.
- Fully document the choice made by the customer in choosing a particular law firm.

## 5. Presentation and suitability

### Advisers should:

- Demonstrate that the selected product is the most appropriate for the client's needs, documenting advice accordingly and recognising when it is appropriate to refer to a specialist.
- Ensure that, in the case of a joint application, all customers have received all the information presented by the adviser.
- As a matter of good practice, where the provider is aware of any other person being resident at the property who is not party to the contract, such persons should also be advised to take independent legal advice to ensure they understand and accept the implications of

the customer proceeding with the equity release plan.

- Present the advice clearly and precisely using an illustration by providing the client with an overview of the KFI, explaining the individual sections and highlighting those which are most important.
- Document the reasons for a given recommendation.
- Keep quality records of conversations with clients.
- Produce highly professional written outputs, fully reflecting the reasons for decisions taken.
- Ensure that any suitability report templates used are sufficiently tailored so that the final document is bespoke to each client and formatted to clearly reflect their voice, considering the client's specific situation rather than relying on generic standard paragraphs that are not personalised.
- When a client does not have a POA, recommend that they seek advice from a solicitor or a suitably qualified person.
- Satisfy themselves that clients are entering into a commitment which they fully understand, and they are not being coerced into taking a plan which may not be in their best interests.

## 6. Vulnerability and coercion

Advisers should have the right skills and capabilities and clearly understand the FCA definition of vulnerability.

### The four key categories of vulnerability are:

1. Health, such as physical disability, severe or long-term illness, hearing or visual impairment,

poor mental health and low mental capacity or cognitive disabilities.

2. Life events such as caring responsibilities, bereavement, income shock, relationship breakdown and non-standard requirements such as those of ex-offenders, care leavers, refugees.
3. Resilience such as low or erratic income, over indebtedness, low savings, low emotional resilience and lack of support structure.
4. Capability such as low knowledge or confidence in managing financial matters, poor literacy or numeracy skills, low English language skills, poor or non-existent digital skills and learning impairments.

There are many high-level circumstances and events that could lead to a customer being vulnerable. Vulnerability is not static and can evolve or change over time. Vulnerability triggers can include:

- Age, physical or mental health
- Low literacy, numerical and language skills
- Redundancy, relationship breakdown or bereavement
- Medical condition or illness including addiction
- Financial difficulties including financial abuse
- Coercion from a third party or a POA acting for the customer who has not received independent financial advice
- Loneliness and/or lack of support.

#### **Advisers should:**

- Have the right skills and capabilities and clearly understand the FCA definition of vulnerability.
- Encourage family and/or friends to attend meetings.

- Be confident that the person helping the customer has their wellbeing in mind.
- Satisfy themselves that the customer is entering into a commitment which they fully understand, and that they are not being coerced into taking a plan which may not be in their best interests.
- Ensure that the customer's physical and mental health has been considered in relation to the suitability of the plan. If there is any doubt regarding the customer's capacity an independent opinion from a suitably qualified medical practitioner may be required.
- Be aware that when the FCA's Mortgages: Conduct of Business (MCOB) rules refer to the customer's "health" the Council interprets this as meaning both physical and mental, including the customer's capacity to enter into a legal contract. The Mental Capacity Act specifically lists solicitors amongst those deemed competent to assess mental capacity. Therefore the Solicitor who gives the customer independent legal advice about the contract should be able to make this judgment, but if the solicitor does not know the customer well, or has any doubts about the customer's mental capacity, a medical certificate will usually be sought.



[FCA, Occasional  
Paper 8 Practitioners  
Pack.](#)



# Provider guidance

## Provider members should:

- Incorporate provider rule 3.2 into their standard service level agreements. The rule states that each application for business must be supported by a declaration which must be signed by the adviser or, where an application is being submitted online through secure password protected access, that confirms the adviser is appropriately qualified in home reversion plans and or lifetime mortgages as prescribed by the FCA.
- As a matter of good practice, carry out regular oversight checks as part of their due diligence.

## Vulnerable customers

There are many high level circumstances and events that could lead to a customer being vulnerable. Vulnerability is not static and can evolve or change over time. Vulnerability triggers can include:

- Age, physical or mental health.
- Low literacy, numerical and language skills.
- Redundancy, relationship breakdown or bereavement.
- Medical condition or illness including addiction.
- Financial difficulties including financial abuse.
- Coercion from a third-party or a power of attorney acting for the customer who has not received independent financial advice.
- Loneliness and/or lack of support.
- Provider members should: Have the capability to identify and respond to changes in customer vulnerability throughout the product term. There may be a particular role here for training for staff on how to identify changes in vulnerability and to respond accordingly.
- Consider reviewing the effectiveness of frameworks for identifying, capturing and

responding to vulnerability at the point when any borrowing decisions are made. For example, providers could consider creating bitesize guides at key points of the customer journey, that are in plain language and cover a range of important topics.

- Consider third party access options in the absence of a POA and have policies and procedures in place that allow for additional flexibility.

For example, providers could consider having third party mandates or authorities in place that allow different ways of giving another person access to a customer's account.

## Drawdowns

- Look at practical ways to validate that the drawdown is for a legal and legitimate purpose.

For example, the purpose of each loan should be understood. Firms should also ensure that their Financial Crime policies and procedures are reflective of this standard

- Ensure robust quality assurance programmes are in place to assess drawdowns with the aim of improving customer experience and outcomes, and routinely test these to ensure that customers are treated fairly and with empathy and sensitivity to their circumstances.

For example, Providers could consider conducting case reviews on drawdown requests to assess whether the outcome achieved was appropriate;

- Consider the collation of appropriate management information to monitor any adviser, customer and third party behaviour which may give rise to concerns, in order that emerging risks, issues and trends can be identified and acted upon. Provider members should also consider informing adviser firms when a drawdown takes place, the purpose of the drawdown, and the amount.

If there are any reasonable concerns about any particular drawdown request based on the individual circumstances or pattern of transactions, they should consider checking with the original adviser firm. This will ensure that the purpose and amount of the requested drawdown is consistent with the customer's personal circumstances and needs documented when the initial advice was given. If the advising firm is known to be no longer associated with the customer, it would not be appropriate to make contact.

- Consider whether there are circumstances that give rise to an advice need at the point of drawdown and recommend that the customer seeks further advice in such instances.
- Develop a referral process for situations where advice at the point of a drawdown is necessary. This should be supported by a policy that sets out how providers will be updated on the outcome of advice received.
- Make it clear, in their product literature and contract terms, what is or is not acceptable under their definition of long-term care as provider members' definitions of long-term care may vary. For example, the definition should include whether:
  - The provider defines long-term care as care being provided in an institution such as a nursing home.
  - Moving in with family members or friends, to be cared for by family or friends in conjunction with other carers, is acceptable.
  - The provider requires a certificate, signed by an appropriately qualified medical practitioner who specialises in making these assessments, to confirm that the long-term care conditions have been met.

Should a customer fail to abide by the terms and conditions of the contract entered into, and thereby be in breach of the terms of that contract,

the provider may no longer be bound by the terms of the contract and may have the right of enforcement to remedy the breach.

## Guidance for plans with a drawdown facility

Throughout the drawdown process, the equity release market aims to ensure money is released to customers, or their appropriate representatives, who can demonstrate comprehension, capacity and make fully informed decisions, whilst in full consideration of their firm's embedded financial crime, vulnerability, data and capacity policies and always adhering to responsible lending rules.

While it is important to ensure that the further release of money is appropriate, Providers should recognise that being able to access previously agreed borrowing is central to how drawdown has been designed and sold.

Please refer to rules 4.1 and 4.2. These are applicable to both provider and adviser members as cohorts in the end-to-end process and are therefore both in some part obligated to understand the entirety to ensure full understanding of the standards being set.

## Guidance for all members

### Members should:

- Ensure the drawdown process complies with their business' policy for personal sensitive data and explain to customers how this will be recorded, used, stored and shared.
- Develop a process for qualifying whether the customers circumstances have changed since the initial advice (financial, health, other material life events) and deploy a referral process for situations where advice at the point of a drawdown may be necessary and can be provided within the right circumstances. Any referral processes should be supported by a policy that sets out how providers and advisers

will be updated on the outcome of advice received.

- Ensure quality assurance is gained through regular testing of the process for drawdowns with the aim to improve customer experience and outcomes. Seek to ensure customers are treated fairly and with empathy and sensitivity.
- Ensure customers are fully aware of any ongoing potential for liabilities under the taxation and welfare benefits systems in using the facility.
- Encourage customers to have a POA in place where there is no current provision and to consider third party access options in the absence of a POA and have clear policies and procedures in place that allows for additional flexibility while also safeguarding customers.

## Guidance for provider members

### Members should:

Consider the provision of appropriate information to customers throughout the life of the product. For example, providers could consider creating bite-size guides at key points of the customer journey, that are in plain language and cover a range of important topics.

- Consider what and when the ‘triggers’ on drawdown requests would require direct conversation with customers to be required.
- Consider when the ‘triggers’ would give rise to advice to be needed at the point of drawdown and recommend that the customer seeks further advice in such instances.
- Consider advising scripts for staff to help identify the potential risks with drawdown activity (e.g. coercion, vulnerability and capacity) and consider the options for referral including financial adviser, solicitor, medical or other agencies particularly associated with tax or benefits liabilities, or whether referral under fraud is required.

benefits liabilities, or whether referral under fraud is required.

- Consider the collation of appropriate management information to monitor adviser, customer and third-party behaviour which may give rise to concerns, in order that emerging risks, issues and trends can be identified and acted upon.

## Guidance for adviser firms

### Members should:

- Include the drawdown facility on the ‘Checklist for Advisers’ and have robust and comprehensive information contained within the ‘suitability’ report. (see notes in appendix D).
- Contact all customers referred to them for advice by providers with the aim of qualifying the need for advice. The outcome of this contact (whether advice was provided or not) should be shared with the provider subject to customer consent.
- Ensure customers understand that drawdown is not guaranteed and will be charged at the prevailing rate of interest.
- Ensure all customers entering into a drawdown plan understand the need to manage their cash reserve responsibly i.e. not over borrow or drawdown for purposes other than that advised, without referring to their/an adviser.
- Have in place reasonable checks to highlight any past or present customer circumstances which suggest that such a facility is no longer in the customer’s best interests.
- Have in place a process to encourage customers to regularly review their mortgage arrangements to ensure ongoing suitability, particularly if they experience a change in their financial circumstances, health or any other material life change.

## Management Information

The following non-exhaustive list sets out appropriate management information that provider member firms should consider implementing, to monitor the quality and performance of their drawdown processes:

- Customers not using the drawdown facility.
- Customers not using the drawdown for the intended purpose.
- A change in behaviour in using the facility (e.g. rapid use of the drawdown facility; large amounts being drawn down; and drawdowns requested with a considerable time elapsed since initial advance).
- Customers who have little or no drawdown funds remaining.
- Number of customers being referred for support, mental capacity, coercion, advice, legal advice and the outcome.
- Early repayment/product switches.

Where possible firms should share this information with the Council to inform future revisions to the drawdown standards.

## Independent legal advice guidance

For the purposes of this section, all references to “solicitor” shall be taken as meaning “or barrister, or licensed conveyancer or chartered legal executive.” Any such solicitor must hold a current practising certificate and have the benefit of appropriate Professional Indemnity Insurance.

The independent legal advice provided should include (but is not limited to) the risks and rewards associated with the equity release product recommended by the adviser and also the customer’s ongoing obligations under the contract. The legal advice given should not include any financial advice or comments about the suitability of the product.

These rules are therefore intended to ensure that there is always clear evidence that full legal advice has been given, and at least one face-to-face meeting takes place between the customer and a solicitor, whether that is a solicitor from the firm which is advising the customer (“the advising solicitor”) or another solicitor acting under written instructions from the advising firm as its agent (“the agent solicitor”).

This evidence is provided in the form of the Solicitor’s Certificate which must be signed, both by the advising solicitor and by the customer (see legal rule 5.1).

Whether the face-to-face meeting is conducted by the advising solicitor or an agent solicitor acting on the advising solicitor’s instructions, it remains the responsibility of the advising solicitor to complete and sign the Solicitor’s Certificate.

The Council is aware that the advising solicitor may also be part of the same group as the advising financial adviser, under common ownership.

The Council expects that, in such circumstances, the advising solicitor will be completely open with the customer as to the common link with the financial adviser and will adhere to his or her discrete professional code of conduct, requiring him or her to act independently and in the best interests of the customer at all times, ensuring that any conflict of interests is transparent and properly managed.

The advising solicitor will report to the customer, setting out the legal risks and rewards of proceeding, based on the offer which has been issued by the provider. This report will ideally be sent to the customer in advance of the meeting between the solicitor and customer, to allow the customer time to read it and consider any points which need to be clarified.

Where the customer is temporarily living outside the UK at the time the equity release contract is entered into, the advising solicitor must be

registered with the appropriate jurisdiction in the UK but may instruct an agent solicitor outside the jurisdiction. It will remain the responsibility of the advising solicitor who appoints the agent solicitor to satisfy itself that said agent solicitor is appropriately qualified and registered.

In relation to legal rule 5.2 the solicitor who meets the customer face-to-face would not normally expect any other person to be present. In particular, the customer should receive independent advice in the absence of any intended or potential beneficiary, to avoid any duress being exerted by such a person on the customer.

There may be circumstances where it is reasonable for a person who is not a beneficiary of the proposed equity release to be present in order to assist a customer. Such circumstances might include, for example, where a customer requires help to hear or understand what is being said or does not speak English as a first language and requires assistance from an interpreter.

In any circumstances where a third party is present, the Solicitor should satisfy him or herself that this is at the request of the customer, that the request is reasonable, and that the third party's presence and purpose in being present is clearly documented.

It remains the responsibility of the advising solicitor to sign off the Solicitor's Certificate.

As stated at the start of this section, the requirement for customers to receive independent legal advice applies before completion of the initial transaction takes place.

In relation to home reversion plans, further releases are to be treated as new plans and it therefore follows that fresh independent legal advice should always be given before such a release is made.

With regard to lifetime mortgages, where additional sums may be withdrawn over a period

of time ("drawdowns") and are part of the initial contract, these will have been part of the original advice/planning process and will have been subject to the initial independent legal advice. It is not therefore considered necessary for further legal advice to be given in respect of such drawdowns in most circumstances.

The Council acknowledges that there are arguments both in favour of and against requiring independent legal advice to be given in every case where customers seek to release further equity. It has concluded that it would not be appropriate to make this a requirement in every case, but that providers should make their own decisions, having regard to a number of factors and circumstances.

The non-exhaustive list complements the points made within section 6 (customer vulnerability and sets out some of the main factors which should be considered:

The amount of the further advance in relation to the initial contract, for example

The further advance is larger than the initial advance; or

The further advance, together with the initial advance, would take the loan to value of the combined loans above a percentage specified by the provider in its responsible lending policy.

It may be that the cost of seeking additional legal advice would be disproportionate to the amount being sought by the customer, if this is relatively small.

The period of time which has elapsed since the original contract was entered into if the period of time is significant, it may be advisable for the customer to receive further independent legal advice to ensure they fully understand the implications of the new contract.

Equally, however, if the period of time which has elapsed since the contract was entered into is relatively short, this could indicate either that the

customer had not fully understood the implications of the original contract, or had not been properly advised, or could be subject to some coercion by a third party

**Whether there have been any significant changes to the customer's circumstances such as:**

- The death of one party.
- A move to another property.
- Divorce and/or remarriage or co-habitation.
- A member of the family or a friend coming to live with the customer (son/daughter/grandchild/other family member/friend/companion).
- Any significant change to the customer's physical or mental health.
- A Power of Attorney having taken effect since the original application.
- A family member or professional carer attending regularly to give care, or living in the property and what, if any, access to/control over the customer's financial affairs such a person might have.
- The provider/adviser is made aware of particular circumstances which are peculiar to an individual customer.
- Any other issues of which the provider and/or firm providing the independent legal advice is aware which could affect the customer's circumstances or capacity which may not be addressed sufficiently by the financial advice which will be given in connection with the further advance.

It will be for each provider and adviser to decide how much weight needs to be given to any of the above in the individual circumstances.

Where any factor appears to be significant, or more than one factor applies, consideration should be given to whether it would be prudent to

recommend to the customer that further independent legal advice is taken.

In some cases, providers and advisers may consider that it would not be prudent for them to continue with the case unless they had made such a recommendation.

In all cases where further independent legal advice is deemed necessary a new Solicitor's Certificate should be completed prior to the further release or further advance proceeding.

## Use of the Council’s member endorsement mark

Whilst it is entirely a matter for each member to decide whether or not it wishes to display the Council’s member endorsement mark (which appears below) on its literature and websites, the Council is naturally concerned to ensure that non-members do not seek to pass themselves off as members when this is not in fact the case.

The Council is aware that there are some websites which show the Council’s member endorsement mark, but which are not the home websites of Council members. In some cases, the site showing the Council’s member endorsement mark may be linked to a genuine member, but this is not always clear.

The Council therefore asks members to ensure that, in order to avoid misuse of the Council’s member endorsement mark, and to avoid the risk of confusing or misleading potential customers, any website with which they are linked, or through which they accept business, and which shows the Council’s member endorsement mark, should explain clearly and prominently how it is linked to a Council member or members.

This will enable customers to check the list of members on the Council’s website and reassure themselves that they are dealing with reputable firms and sources of information about equity release.

Members are also reminded that the Council issues each new member with a copy of the “Member Endorsement Mark guidelines V2” when they join the Council. The current version is available in the “Document Library” section of the Members’ Lounge of the Council website.

The Council encourages the use of the Council’s member endorsement mark, on press releases, members’ product and marketing material, websites, and other appropriate business collateral.

Membership of The Council should enable the member to demonstrate adherence to a wider set of Council Standards, than the non-member, and the Council endorsement mark will therefore act as a “Kite-Mark” to help customers understand when they are dealing with a member.

The Council’s master brand logo should only be used by members that are partnering with the Council on a given piece of work and only then after gaining express permission via **communications@equityreleasecouncil.com**

All earlier logos have been withdrawn from use.



# Solicitor's Certificate: Lifetime Mortgages/Home Reversions

Notes: All blanks must be fully completed. The form may be completed electronically or in manuscript but any signatures added electronically must be done so using a suitable electronic signature platform only where the Provider permits this.

The form must be completed and signed by a solicitor, licensed conveyancer, chartered legal executive or barrister holding a current practising certificate, licence or equivalent and who is an owner or employee of a business regulated by the Solicitors Regulation Authority, the Law Society of Scotland, the Law Society of Northern Ireland or the Council for Licensed Conveyancers with professional indemnity insurance in place that meets the requirements of their respective regulator. Use of the word 'solicitor' used in this form includes solicitor, licensed conveyancer, chartered legal executive or barrister unless stated otherwise.

Before completing the form you must ensure you have read and can comply in full with the Equity Release Council's Rules and Guidance, section 5. These are available on the Council's website.

<https://www.equityreleasecouncil.com/about/standards/rules-and-guidance/>

Provider/Lender name  
(‘the Provider’) \_\_\_\_\_

Customer(s) full name(s)  
(‘the Customer’) \_\_\_\_\_

Property address including  
postcode (‘the Property’) \_\_\_\_\_

Equity release contract account  
number (‘the Equity release contract ’) \_\_\_\_\_

Financial adviser/intermediary name (‘the Adviser’);  
Advisory Firm, Intermediary Firm \_\_\_\_\_

(LTM) total loan/  
initial drawdown taken \_\_\_\_\_

(Reversion) Percentage released/  
amount paid \_\_\_\_\_

**Continued overleaf**



## Notes

It is a requirement that at least one physical in person meeting takes place between the Solicitor (or their Agent) and the Customer. For the avoidance of doubt, this does not include electronic or telephonic means.

### [Tick the option]

Any Agent instructed by the Solicitor must comply with the definition of a solicitor set out in the Note above.

## I certify and confirm as follows:

1. The Customer(s) has/have attended my offices or been visited by me or an Agent Solicitor acting on my behalf at least once in relation to the Equity release contract;

Either

I hereby certify that my Customer(s) has (have) attended my offices or been visited by me (the Advising Solicitor);

Or I hereby certify that my Customer(s) has (have) visited or been visited by an Agent Solicitor.

The Agent's name is ***(please insert)***

2. Where an Agent has been instructed by me:
  - 2.1 Notwithstanding the fact an Agent solicitor has been instructed I accept and acknowledge that my firm is responsible for the advice given and compliance with the Equity Release Council requirements;
  - 2.2 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 in carrying out work of this nature;
  - 2.3 The Agent Solicitor has confirmed in writing to me that they have satisfactorily carried out the checks required by the Equity Release Council's Rule 5.3 together with any other checks I have asked them to carry out.
  - 2.4 The Agent Solicitor is independent from the Provider and Adviser and is not related to the Customer or is benefitting from the equity release contract save for professional fees and expenses.

Continued overleaf

## Notes

The solicitor instructed by the Customer is responsible for providing the legal advice and ensuring the Customer understands and wishes to proceed and checking any attorney is validly appointed.

Where a Customer is mentally incapacitated, you must satisfy yourself this is the case (you may wish to obtain confirmation from a medical practitioner), and where the Provider agrees and permits this, you must provide this advice to the incapacitated Customer's attorney.

## I certify and confirm as follows:

- 3.** I have explained the terms and implications of the equity release contract to the Customer and in particular I have drawn their attention to the following:
  - 3.1** They may wish to discuss the matter with their heirs or beneficiaries because taking out the equity release contract will reduce the estate proceeds on their death (s) or funding available to pay for long-term residential care.
  - 3.2** Where the equity release contract is a home reversion, in the event of their early death[s] they may have received little benefit during their lifetime[s] but nonetheless their estate[s] would be considerably depleted due to sale of the Property (or part of it) under this equity release contract.
  - 3.3** The amount of state or other benefits to which they may be entitled, either now or in the future, may be reduced as a result of proceeding with the equity release contract.
  - 3.4** The obligations, including those for ongoing insurance and maintenance of the Property, placed on them by the equity release contract's terms and conditions.
  - 3.5** Where the equity release contract is a lifetime mortgage, the circumstances in which the lifetime mortgage becomes repayable.
  - 3.6** Where the equity release contract is a lifetime mortgage, the circumstances in which the Property will have to be sold and how the proceeds of sale will be shared.
  - 3.7** That the equity release contract provides them with security of tenure for the duration of their lifetime[s] provided that they comply with the covenants.
  - 3.8** They have agreed to proceed with the equity release contract as being suitable to their requirements, based on advice provided by the Adviser. Having considered the above, and on the basis of advice given by the Adviser the Customer wishes to enter the equity release contract.

Continued overleaf

## Notes

The Solicitor must not be acting for Provider, Adviser, Occupier or other third party. The Customer must be separately represented.

All Legal advisers must fully comply with their regulator's requirements.

See the Equity Release Council website.

Whilst you may make payments to an introducer for genuine marketing initiatives, such payments are subject to this Guidance and you must not sign the Solicitor's Certificate unless you are compliant with it.

7.2 and 7.3 do not include your legal fees and disbursements for the transaction payable by the Customer.

Continued overleaf

## I certify and confirm as follows:

- 4.1** I am acting independently of the Adviser and Provider.
- 4.2** I have acted in the best interests of the Customer.
- 4.3** I am not related to the Customer.
- 4.4** I am not benefitting from the equity release contract in any way whether directly or indirectly save for payment of my proper costs and disbursements.

- 5.** I have complied with all relevant obligations of my regulatory body, being one of either:  
  
The Solicitors Regulation Authority; the Council for Licensed Conveyancers; the Chartered Institute of Legal Executives; the Law Society of Scotland; the Law Society of Northern Ireland or the Bar Standards Board.

- 6.** I have read the Rules and Guidance relating to legal advisers on the Equity Release Council website and I have complied with them in all respects.

- 7.** Payments and receipts  
  
"Payment" means any payment made to financial advisers, intermediaries, panel managers, technology providers, sourcing websites or similar organisations, unless you can show that the payment is wholly unconnected with the referral of any specific Customer to you. That is, any payment you make to another for a case is not permitted however it is positioned.  
  
"Receipts" means any payment from asset managers, estate agents, financial advisers, intermediaries or other to you however it is termed or positioned.
  - 7.1** I have not made nor will be making any Payment in respect of the equity release contract.
  - 7.2** I acknowledge that referral fees, disbursements, costs or other payments in relation to individual equity release contracts are prohibited under the Equity Release Council's Rules and Guidance.
  - 7.3** I am not receiving any payment from the Provider or Adviser or taking any other Receipts.

**Notes**

**I certify and confirm as follows:**

It is recommended that the Customer is seen separately where possible.

- 8.** I am satisfied, insofar as it is reasonably possible to verify in accordance with the Equity Release Council’s Rule 5.3 that:
  - 8.1** The identity and signature of the Customer has been verified; and
  - 8.2** The Customer has sufficient mental capacity to enter into the Contract; and
  - 8.3** The Customer is/are not under any duress or undue influence to enter into the equity release contract.

The advising solicitor and not the Agent.

**Solicitor signature:**

Print clearly or use a stamp.

**Full name:**

**Firm name and address:**

See Notes above.

**Qualification:**

**Date:**

**Confirmation of receipt of advice by Customer**

I/We confirm that I/we have had at least one in person meeting with a qualified legal adviser and have been given the advice set out in clause 3 above.

Name of Customer

Signature of Customer

Date of signing

# Certificate of Compliance with the Rules and Guidance

For completion by all members

This form must be completed by all members on an annual basis at membership renewal and returned by email to: **admin@equityreleasecouncil.com**

Member name: \_\_\_\_\_

In signing this application form I confirm that I have read, understood, and accepted the following terms and conditions of membership. All members must abide by the Council's Standards, which can be found on the Council website **www.equityreleasecouncil.com**

1. All member firms and individuals will abide by:
  - a. The Council's Standards
  - b. The Council's Overarching Principles and Required Customer Outcomes
2. Attention will be drawn to any amendments which may be made from time to time, but all members are responsible for ensuring they always comply with the current version. Please ensure you read them before signing this form.

**The Council has the right to revoke membership should a firm be in breach of the ERC Rules and Guidance, Overarching Principles and Required Customer Outcomes.**

I confirm that for the period \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ and its subsidiary firms in the ("The Firms"): *Please tick to confirm.*

- Complied where relevant and appropriate with the version of the Council's Standards which applied during that period
- Completed a Fair Value Assessment to ensure that the product/service offered to customers is fair and reasonable, or validated that the existing Fair Value Assessment is still applicable, ie. is the cost of the product/service offered appropriate to the benefits expected by the customer?
- Confirms that neither the firm, nor any individuals within the firm, have been subject to enforcement or disciplinary action of any kind

I also confirm that we will continue to comply with the current version of the Standards as they appear on the Council's website

**ADVISERS ONLY.** I confirm that we will retain on file a completed Council Adviser Checklist for all Equity Release cases

Signed:\* \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

\*Authorised Signatory, Member Firm

**Additional information**

Do you offer services in languages other than English, if so which languages?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please note, this information will be used to assist consumers that do not speak English as their first language.**

# Certificate of Compliance with the Product Standards

For use by PROVIDER firms for any new products or adaptations to products. Please send to [admin@equityreleasecouncil.com](mailto:admin@equityreleasecouncil.com)

Provider member name: \_\_\_\_\_

Name of product: \_\_\_\_\_

Variation names: \_\_\_\_\_

(please list all variations)

e.g. Lite, Max, Gold, Plus etc. \_\_\_\_\_

## Product information

**Section A** - Please tick to confirm which standards this product (and any variations) meets. (Full details can be found within Rule 4.1 of the Council Rules and Guidance).

- |  |   |
|--|---|
| <input type="checkbox"/> Security of tenure                  | <input type="checkbox"/> Right to move to a suitable alternative property         |
| <input type="checkbox"/> Fixed/capped rate                   | <input type="checkbox"/> No negative equity guarantee on each individual property |
| <input type="checkbox"/> Facility to make voluntary payments |   |

We confirm that where the product features do not meet all the product standards in **Section A** above, this is stated prominently on all adviser and consumer facing materials, which states explicitly which standards are not met and illustrates the types of risk this may pose to the customer.

**Section B** - Please tick to confirm which features and options are available with this product.

- |   |   |
|---|---|
| <input type="checkbox"/> Cashback                               | <input type="checkbox"/> Inheritance Protection       |
| <input type="checkbox"/> Gilt linked early repayment charge     | <input type="checkbox"/> Compassionate window         |
| <input type="checkbox"/> Health enhanced terms                  | <input type="checkbox"/> Other - please describe here |
| <input type="checkbox"/> Downsizing protection                  |   |
| <input type="checkbox"/> Non-gilt linked early repayment charge |   |
| <input type="checkbox"/> Drawdown facility                      |   |
| <input type="checkbox"/> Interest payments                      |   |
| <input type="checkbox"/> Protected equity                       |   |

**Section C** – Please confirm by ticking the box below, whether this product meets all the rules (except those of Rule 3 already detailed in Section A above) within the Council Rules and Guidance.

If the product does not, meet these rules please specify any shortfalls below.

- The product meets all the rules
- A Fair Value Assessment has been completed to ensure that the product/service is fair and reasonable
- The product does not meet the following rules

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Your name (print): \_\_\_\_\_ Date: \_\_\_\_\_

Signature & position: \_\_\_\_\_



## Checklist for Advisers

The Equity Release Council has produced a checklist for advisers. It is designed to provide direction when advising customers on equity release. It covers the most significant points to consider in the advice process and when assessing the customer's suitability for equity release.

**Under the Council's Standards all adviser members are required to complete the Checklist for Advisers for all customers where a plan has been recommended and retain the completed document on file.**

Reference should also be made to other industry practice notes for fuller details of the advice requirements outlined in MCOB Chapter 8.

This is not a substitute for carrying out a full Fact Find or providing full advice to your customers on equity release, nor is it a replacement for a Suitability Report. As you will see, the final point asks whether the customer has been given a copy of the Suitability Report and asked to confirm their receipt and acceptance of it.

Please tick the boxes on the following checklist:

Guidance to support this checklist is available to members. To view it please visit [www.equityreleasecouncil.com/adviser-checklist-guidance/](http://www.equityreleasecouncil.com/adviser-checklist-guidance/)

*NOTE: This document and the best practice guidance document that supports it (appendix E) are designed to give professional financial advisers information and tools that they can use to help control and develop their business.*

*They are not intended for customer use and should not be relied upon by any other persons.*

**Use of these documents is restricted to Equity Release Council Members only and should not be shared with or distributed to non-members.**

Customer name:

1. Have you confirmed that you can advise on equity release products from the Whole of the Market or that you are a Tied or Restricted Adviser? As a Tied or Restricted Adviser, have you clearly explained the limitations and restrictions to your advice?
2. Have you confirmed and agreed with the customer how the service delivered to them will be tailored to meet their needs?
3. Have you fully discussed with the customer alternatives to equity release including trading down, grants, use of savings and pension income, financial assistance from any family member and so on – both for the current point in time and how any of these alternatives may be relevant in the future?
4. Have you established or referred for investigation the customer's eligibility for state benefits and the effect equity release benefits may have on them?

Continued overleaf

5. Have you considered the customer's tax position in making this recommendation?
6. Has the customer been advised to speak to their family and any other material beneficiaries of their Will, and to consult an independent legal adviser?
7. Have you explained the impact equity release could have on the customer's estate planning, including the possibility of negative house price inflation?
8. Have you explained to your customer that they should not release funds to be invested to generate wealth or income, with the exception of being for the purpose of Inheritance Tax (IHT) planning?
9. Have you recommended that the customer review their Will or consider making a Will with a suitably qualified person?
10. If your customer does not have a Power of Attorney, have you recommended that they seek advice from a Solicitor or a Suitably Qualified person?
11. Have you advised joint customers that access to the drawdown facility will be removed in the event of either party losing mental capacity, without a registered Power of Attorney?
12. Have you discussed the customer's health and life expectancy and how any released funds may impact on their ability to fund for later life financial requirements such as long-term care?
13. Have you established if the customer has suffered from physical or mental health problems, a bereavement, divorce, emotional or financial difficulties, literacy, numeracy, or any other traumatic event, that may leave them in a vulnerable position?
14. Are you confident that your customer is entering into a commitment which they fully understand, and they are not being coerced into taking a plan which may not be in their best interests?
15. Are you sure the contract you have recommended is the most suitable lifetime mortgage or reversion plan?
16. If the customer is consolidating unsecured debt, have you explained that they are spreading the cost over a potentially longer term, which although may reduce their monthly outgoings, will result in the overall cost of the debt increasing, if no payments are made? Have you also explained the consequences of replacing unsecured debt with secured debt and/ or debt held in a single name to potentially joint life debt and liability?
17. (Prior to any recommendations) have you provided the customer with a fair and balanced overview of the pros and cons of all later life lending options including lifetime mortgages and reversion plans?

**Continued overleaf**

18. If you are recommending that your customer re-mortgages to secure a new fixed rate of interest or further additional capital, have you completed an analysis comparing the new plan versus their existing plan, including, the implications of any early repayment penalties/charges, set up fees, and any potential positive or negative changes in features and benefits between the two plans?
19. Have you advised that any other outstanding mortgage would need to be redeemed before the lifetime mortgage contract can be entered into?
20. Have all fees and risks associated with the product recommended been fully explained, for example:
- Impact of any compound interest.
  - Any early repayment charges.
  - If reversion not receiving the full market value for the percentage sold.
  - If the product is not from an Equity Release Council member and the product does not comply with the Equity Release Council's product Standards, what protections the customer is foregoing.
  - That the opportunity to move the mortgage in the future will be restricted to properties acceptable to the lender. This may rule out moving to age-restricted or sheltered accommodation, depending on the lender's policy at the time.
21. Have you reviewed the customer's needs and objectives, future plans and ongoing commitments including moving home? (This includes income requirements as well as property maintenance and insurance.)
22. Have you set out the drawdown schedule anticipated at the point of sale and explained that future drawdowns are not guaranteed and will be charged at the rate of interest applicable at the time? This should be recorded in your factfind.
23. Have you ensured that the amount released does not exceed the customer's current requirements and is appropriate to their attitude to risk? This includes debt consolidation, if applicable.
24. Has the customer put together a realistic expenditure budget plan for the funds released? This includes making use of drawdown facilities, if applicable.
25. Has the customer been given a Suitability Report, outlining all of the information above?

Adviser Name: \_\_\_\_\_

Adviser Firm: \_\_\_\_\_

Date of Advice: \_\_\_\_\_

**This document is designed to give professional financial advisers information and tools that they can use to help control and develop their business. It is not intended for customer use and should not be relied upon by any other persons.**

# Fees and Charges involved with a Lifetime Mortgage

**Enquiry Stage** No fees payable at time of enquiry.

## Application Stage

### Financial Advice Fee

**Payable to:** Adviser.

Most will only charge on/if loan completes. Some may charge at application.

Always confirm with your adviser the amount and when this fee is payable.

To take out a Lifetime Mortgage it's a regulatory requirement that you must take financial advice.

### Valuation Fee

**Payable to:** Lender.

Your adviser will be able to confirm if the fee is applicable prior to application.

If a follow-up inspection is required you may incur a further charge.

### Legal Fees

**Payable to:** Solicitor on completion of loan.

Many solicitors will not charge if your application does not complete.

## Completion Stage

### Product/Arrangement Fee

**Payable to:** Lender.

This fee can be added to your loan amount but will attract interest.

Your adviser will be able to illustrate the benefit/cost of adding the fee to the loan.

### Funds Transfer Fee

**Payable to:** Lender.

This fee is to cover the cost of transferring the funds to your solicitor once the loan is complete.

## During the lifetime of your loan

### Possible Admin Fees

Applicable in the following circumstances:

- Asking for Duplicate Statements or letters
- Copy of the Agreement or Deeds

- Part sale of land
- Upgrade ground rent or service charge
- Failed payment

**Payable to:** Lender.

Your lender will provide you with a tariff of charges document with your Mortgage Offer. This will confirm the fees they charge for each activity.

## Moving to a new home and porting your loan

Valuation Fee, a Property Transfer Fee, all legal fees and any moving expenses

**Payable to:** Lender.

You must check with your lender whether your loan is portable and if the new property meets their criteria.

## Additional borrowing (Further advance)

Valuation Fee

**Payable to:** Lender.

Your adviser will be able to confirm if the fee is applicable prior to application. If a follow-up inspection is required you may incur a further charge.

Arrangement Fee

**Payable to:** Lender.

These fees will be confirmed in your Lenders Tariff of Charges document that is provided at Offer.

## Early repayment of your loan

Early Repayment Charge

This is payable to the lender if the loan is repaid early. It can be fixed or variable, depending on the product terms, as set out in the Key Facts Illustration and Mortgage Offer.

## Repayment of your loan

Closing (redemption) Fee

**Payable to:** Lender.

This is applicable on all loans regardless of when it is repaid (whether early or on death or entry into long term care). It is to cover the administrative costs of repaying your loan.

## Links to Useful Information

- **The Financial Services and Markets Act 2000**  
[www.legislation.gov.uk/ukpga/2000/8/contents](http://www.legislation.gov.uk/ukpga/2000/8/contents)
- **Data Protection Act 2018**  
[www.legislation.gov.uk/ukpga/2018/12/contents/enacted](http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted)
- **Anti-Money Laundering and terrorist funding legislation**  
[www.fca.org.uk/firms/financial-crime/money-laundering-regulations](http://www.fca.org.uk/firms/financial-crime/money-laundering-regulations)
- **The Financial Conduct Authority (FCA) and its role**  
[www.fca.org.uk/about/the-fca](http://www.fca.org.uk/about/the-fca)
- **Regulatory Rulebooks**  
[www.handbook.fca.org.uk](http://www.handbook.fca.org.uk)
- **The fair treatment of customers FCA Principle 6: 'A firm (adviser) must pay due regard to the interests of its clients and treat them fairly' (TCF)**  
[www.fca.org.uk/firms/fair-treatment-customers](http://www.fca.org.uk/firms/fair-treatment-customers)
- **Means Tested Benefits**  
[www.gov.uk/browse/benefits](http://www.gov.uk/browse/benefits)  
[www.gov.uk/benefits-calculators](http://www.gov.uk/benefits-calculators)  
[www.turn2us.org.uk/Jargon-buster/Means-tested-benefits](http://www.turn2us.org.uk/Jargon-buster/Means-tested-benefits)  
[www.entitledto.co.uk](http://www.entitledto.co.uk)  
[www.ferret.co.uk](http://www.ferret.co.uk)
- **Financial Ombudsman Service (FOS)**  
[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)
- **Financial Services Compensation Scheme (FSCS)**  
[www.fscs.org.uk](http://www.fscs.org.uk)
- **FCA requirement for complaint handling**  
[www.handbook.fca.org.uk/handbook/DISP/1/3.html](http://www.handbook.fca.org.uk/handbook/DISP/1/3.html)
- **Senior Managers and Certification Regime (SM&CR)**  
[www.fca.org.uk/firms/senior-managers-certification-regime](http://www.fca.org.uk/firms/senior-managers-certification-regime)
- **Trade Bodies in the Industry**  
Equity Release Council [www.equityreleasecouncil.com](http://www.equityreleasecouncil.com)  
Association of Mortgage Intermediaries (AMI) [www.a-m-i.org.uk](http://www.a-m-i.org.uk)  
The Investing and Savings Alliance (TISA) [www.tisa.uk.com](http://www.tisa.uk.com)  
UK Finance [www.ukfinance.org.uk](http://www.ukfinance.org.uk)

**Call: 0300 012 0239**

Equity Release Council  
The Smithy  
Sutton Lane  
Dingley  
Market Harborough  
LE16 8HL

Email: [admin@equityreleasecouncil.com](mailto:admin@equityreleasecouncil.com)

[www.equityreleasecouncil.com](http://www.equityreleasecouncil.com)



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**Consumers should check that their chosen plan will meet their needs if they want to move or sell their homes or if they want their family to inherit it. Always seek qualified financial advice.**