Equity Release Council

Our Standards

Part A
Principles, outcomes and rules

Contents

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

This document, 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.

A second document, part B, provides guidance and good practice examples to support members.

Part B is restricted to members only. Visit **www.equityreleasecouncil.com/standards** to view it.

Foreword

Ever since it was launched, in 2012, the Equity Release Council has promoted the highest levels of consumer protection, building on the foundations of its predecessor Safe Home Income Plans, which established the first iteration of these Standards in 1991.

Overtime the Standards have evolved, ensuring that they are always relevant to changing market conditions, to meet the needs of customers and to facilitate innovation in the market.

The Standards are made up of four main components - overarching principles, required customer outcomes, rules, and guidance - but sitting at their heart are the Product Standards.

In this latest edition, the core Product Standards remain unchanged. Our members' customers will continue to benefit from the no negative equity guarantee, secure tenure, the ability to move home and the right to make voluntary penalty free repayments.

However, the Council has introduced a parallel set of Product Standards for a new type of lifetime mortgage that calls for mandatory repayments, albeit for a time limited period.

Doing so sets the direction of travel for the Council's Standards which are set for an overhaul later this year. One which will require in depth consultation with members and industry in order to continue to support new and emerging equity release products.

Statutory rules provide customers with a minimum element of protection but the Council's Standards, to which members adhere on a voluntary basis, build trust. The fact that a firm is willing to go beyond what is required of them by statute is a clear sign of their commitment to pursue the customer's best interests.

This builds the confidence of consumers and of those firms, big and small, whose reputation and business success depend on trust.

Equity release now plays an increasingly important role in meeting family and public aspirations: the aspiration of one generation to help another; the aspiration for a more comfortable retirement; and the aspiration to be able to meet the costs of long-term care should it be needed.

This Council is committed to ensuring its Standards continue to help the later life lending market grow and innovate with confidence. Providing even greater opportunity for our members to support those public policy goals, engaged in this increasingly innovative and vibrant market and putting good consumer outcomes at the heart of their businesses.

Michelle Highman
Chair of the Standards Committee

"Statutory rules provide customers with a minimum element of protection but these Standards, to which Council members adhere on a voluntary basis, build trust. The fact that a firm is willing to go beyond what is required of them by statute is a clear sign of their commitment to pursue the customer's best interests."

Introduction to the Standards

The Standards have been divided into two sections. Part A documents the principles, customer outcomes and rules which must be followed by members of the Equity Release Council. Part B provides guidance and good practice examples to support members to achieve this. Part B is designed for members only.

This document is subject to regular review by the Equity Release Council Standards Committee ("Standards Committee").

It is recognised that there may, from time to time, be exceptional circumstances concerning a particular product or practice which is not in line with the rules, but which may be beneficial to customers or a particular group of customers. Where such exceptional circumstances arise, the Standards Committee will consider what action to take on a case-by-case basis.

Our Standards encompass our proposition, our overarching principles, our required customer outcomes and our rules and guidance for members.

The Equity Release Council ("Council") is a voluntary body which aims to ensure that its members are highly professional and act with integrity and transparency in offering high-quality products and services to customers.

Each member agrees to adhere to a set of Standards. Through these Standards, members can guarantee customers that they offer products and services which conform to the good practices of the sector, ensuring that customers are fully informed and properly protected.

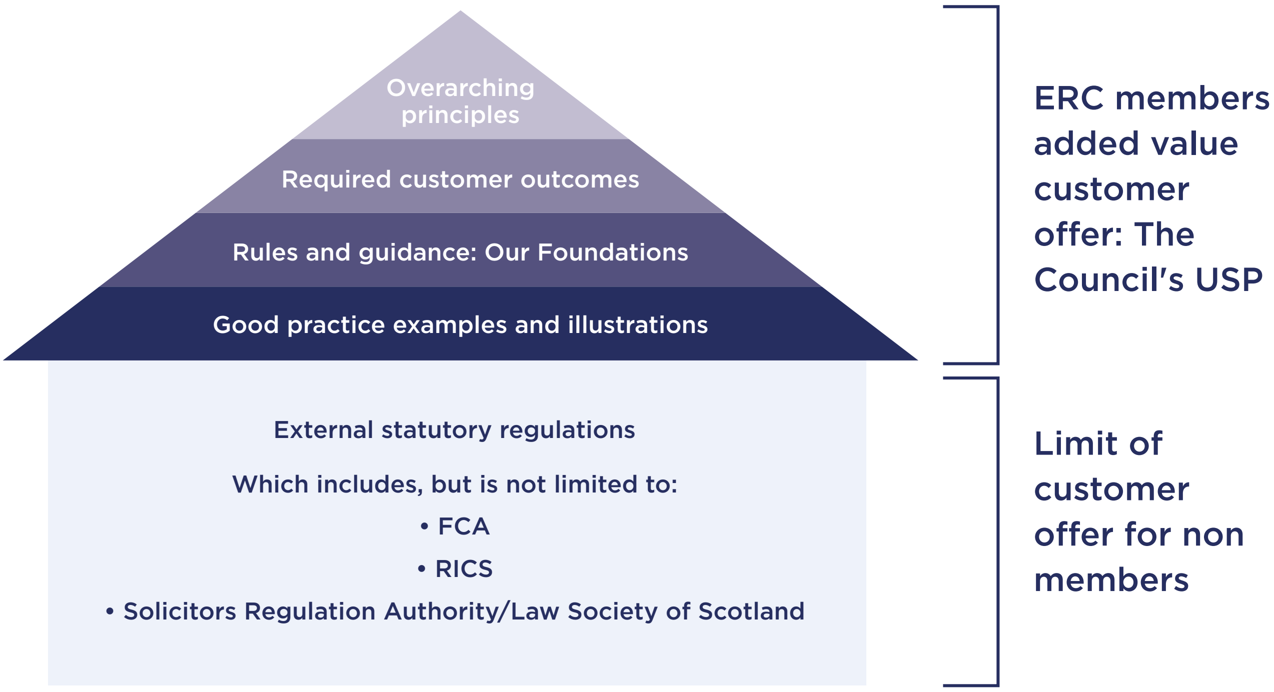
The Standards Committee is incorporated as part of the Council and exists to ensure that equity release products are safe and reliable for consumers. The chair of the Standards Committee is tasked with ensuring that the Council is constantly driving up standards within the sector and sharing good practice and innovation so that people who use products and services from Equity Release Council members can feel confident in their choice.

To ensure representation from across the membership, the Standards Committee is made up from adviser, lawyer and associate members (which includes surveyors and other member types). The Standards Committee also benefits from an independent chair and can be considered an independent entity that plays an advisory role to the board.

The Council also benefits from seven member-led forums, each focused on a different discipline or feature of the market. Namely: advisers, providers, technology, law, funders, risk and conduct, policy and communications.

Representatives from these forums are appointed to the member panel which meets with the Council's board and executive. The member panel is the primary conduit for member to Council structured dialogue.

Our proposition



Overarching principles

Our members will comply with all statutory regulation. In addition, members will agree to comply with the Council's principles, required consumer outcomes, and rules which are set out below and over the following pages.

1. **Members will ensure that all their actions promote public confidence in equity release.**

2. **Members will act at all times to deliver good outcomes for retail customers.**

3. **Members will ensure conflicts of interest are identified swiftly and managed fairly.**

4. **Members will seek to deliver suitable outcomes for customers from initial sale through every point of contact during the life of the product.**

Required customer outcomes

Our members will provide information, advice, and professional services that are clear, transparent and impartial. The five required customer outcomes are as follows:

1. **Members will offer customers the products and services that suit their needs best and which offer fair value.**

2. **The amount charged by a member for a product/service should reflect the benefits customers expect and communicated in a manner customers can understand.**

3. **Members will seek to identify and provide appropriate support to customers who may be exposed to physical, mental and financial vulnerability at any point of contact.**

4. **Members will do their best to make sure that customers understand their rights and responsibilities at every point of contact.**

5. **Customers will be confident that they will be able to live in their own property for as long as they wish, or move to a suitable alternative property, as long as they abide by the terms and conditions of their contract.**

Core Product Standards for lifetime mortgages

The Council's Core Product Standards sit at the heart of its overarching Standards. They give consumers confidence that equity release is safe.

Members can only tell consumers a product meets these standards if it meets all of them. If consumers are offered or are considering a product that does not meet all the standards, the product literature must explain which standards are not met and give an illustration of the types of risk that this might pose.

1. **For lifetime mortgages, the rate must be fixed for each release or, if variable, it must be capped for the life of the loan.**

2. **The consumer must have the right to remain in their property for life or until they need to move into long-term care, provided the property remains their main residence and they abide by the terms and conditions of their contract.**

3. **The consumer must have the right to move to another property as long as certain criteria are met, such as the new property being acceptable to their product provider as continuing security for their equity release loan.**

4. **The product must include a no negative equity guarantee. This means that when the property is sold, and agents' and solicitors' fees have been paid, even if the amount left is not enough to repay the outstanding loan, plus interest, to the provider, neither the consumer nor their estate will be liable to pay any more.**

5. **Customers must have the right to make voluntary penalty-free repayments, subject to lender criteria.**

Further information on the product standards is available in paragraphs 3.7 to 3.7.7 of this document.

Product Standards for mandatory payment lifetime mortgages

Mandatory payment lifetime mortgages came to the market in late 2023. These are lifetime mortgages that have a requirement for payments to be made for a specific period of time.

Ahead of the introduction of mandatory payment lifetime mortgages the Council set up a working group to look at how these products might impact on our Standards, Rules and Guidance from the perspectives of providers and advisers. The working group reviewed the current standards and considered updating them to accommodate the new Mandatory Payment lifetime mortgages. It was unanimously agreed that too much needed to change, and that the new product should have its own bespoke set of equity release Product Standards. Members can only tell consumers a product meets these standards if it meets all of them. The proposed Product Standards are as follows:

1. **For lifetime mortgages, the rate must be fixed for each release or, if variable, it must be capped for the life of the loan.**

2. **The consumer must have the right to remain in their property for life or until they need to move into long-term care, provided the property remains their main residence and they abide by the terms and conditions of their contract including making mandatory payments as agreed.**

3. **The consumer must have the right to move to another property as long as certain criteria are met, such as the new property being acceptable to their product provider as continuing security for their equity release loan.**

4. **The product must include a no negative equity guarantee. This means that when the property is sold, and agents' and solicitors' fees have been paid, even if the amount left is not enough to repay the outstanding loan, plus interest, to the provider, neither the consumer nor their estate will be liable to pay any more. With the exception of arrears plus arrears interest for mandatory payment lifetime mortgages which must be paid by the estate.**

5. **For lifetime mortgages, customers must have the right to make voluntary penalty-free repayments, at least once the mandatory payment period has ended, subject to lender criteria.**

Further information on the product standards for mandatory payment products is available in paragraphs 3.8 to 3.8.7 of this document.

Consumer duty

The Financial Conduct Authority's (FCA) Consumer Duty came into force on 31 July 2023 for most firms. Companies holding closed mortgage and equity release books have until 31 July 2024 to comply.

The Duty is comprised of three elements.

1) A Consumer Principle that requires firms "to act to deliver good outcomes for retail customers".

This principle (12) sets a higher standard than both principle 6 "A firm must pay due regard to the interests of its customers and treat them fairly" and principle 7 "A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading."

2) Cross-cutting rules that require firms to:

- Act in good faith towards retail customers.
- Avoid causing foreseeable harm to retail customers.
- Enable and support retail customers to pursue their financial objectives.

These cross-cutting rules are aimed at developing and clarifying the Consumer Principle's overarching expectations of firm conduct and set out how it should apply in practice. They are to help firms interpret the following four outcomes.

3) Four outcomes:

- The governance of products and services.
- Price and value.
- Consumer understanding.
- Consumer support.

These outcomes are underpinned by a suite of rules and guidance that set out more detailed expectations for firms and their relationships with consumers.

What does it mean for members?

The Duty applies to all those involved in financial services. For the equity release sector, this means:

- Manufacturers, i.e. those companies who develop and offer the product, also known as providers.
- Co-manufacturers, i.e. those funders who significantly influence the product and/or service.
- Distributors, i.e. those who recommend and administer the product application, also known as advisers.

There are some instances where manufacturers can also be distributors but for the purposes of the Council's rules and guidance these are separate entities.

Council members must confirm its principles, outcomes and rules have been adhered to, including the production of a fair value assessment, via an annual attestation statement.

Supplementary Council guidance on fair value assessments and post sales communications.

Webinars and technical bulletins relating to the Duty.

For full and updated information refer to the FCA finalised guidance FG22/5 and the wider www.fca.org website.

Rules

1. All members rules

1.1 Annual Certificate of Compliance:
All members are required to complete and submit, on the anniversary of their admission as members of the Council, an Annual Certificate of Compliance with these rules and guidance.

Equity Release Council Annual Compliance Certificate.

1.2 Fees and charges:
All members are bound by the appropriate regulator's rules on excessive charging.

FCA Handbook, MCOB 12.5 Excessive Charges.

1.3 Member subscriptions:
All subscriptions and fees will be fixed by the board which will have the power, in cases where it considers it appropriate, to waive all or part of the subscription or fees, or any arrears thereof due from a member.

- The subscription and fees levels will be set by the board at two-year intervals, but the board reserves the right to review and amend rates of subscription at a shorter interval if deemed appropriate.
- The subscription year for each member will run for no less than a period of 12 months from the first day of the month following the date on which the member's first subscription is credited to the bank account of the Council or from such other date as the board or executive may determine in respect of any particular member or group of members (i.e. joining date 23rd June 2020 – renewal date 1st July 2021.
- Any member who fails to pay their subscription within three months of it falling due may be excluded from membership, unless the board or executive determines otherwise. If excluded that member shall cease to have any rights or privileges of membership and must return any certificates or cards or any other relevant materials denoting membership to the Council. Such a member shall remain liable to the Council for the amount due unless the board directs otherwise and in association with Article 29 of the Articles of Association.
- Any notices for payment or otherwise formally served by the Council are permitted to be served by electronic, post or other means and will have been deemed to have been served at the expiration of an appropriate timescale for the method of transit and there being no proof that failure of such notice being received is available.

Equity Release Council Membership Information.

Equity Release Council Articles of Association.

2. Adviser rules

An adviser is a qualified mortgage or financial adviser who gives advice and makes recommendations on lifetime mortgages and home reversion plans.

2.1 Members should familiarise themselves with and have in place advice processes that ensure they adhere to all the rules set out by the FCA in its Mortgages and home finance Conduct of Business sourcebook (MCOB). Members should pay particular attention to the rules concerning advised sales in MCOB chapter 8.5A.

2.2 All adviser members must complete testing on an annual basis to confirm their understanding of the Council's rules and guidance. (See part b appendix b).

2.3 Appropriate details of customer's income and any essential and non-essential expenditure should be collected.

2.4 Consideration should be given to the information provided, alongside the customer's likely future position, for example following retirement or any anticipated change in circumstances.

2.5 (SOLELY FOR MANDATORY PAYMENT PRODUCTS) An adviser should satisfy themselves that any mandatory payments for a product are affordable to the customer(s).

2.6 Family involvement:
Where applicable, members should ensure there has been a full discussion as to the implications of the plan for the customer and for their family, and that the customer was made fully aware of such implications. If such a discussion does not take place at the customer's request, the reason for not consulting with their family should be clearly documented.

2.7 Risks, features and benefits:
Members should ensure the customer is advised of the risks, features and benefits of the relevant product before proceeding with an application.

2.8 Physical and mental health:
Members should 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.

FCA, Occasional Paper 8, Practitioners Pack. Equity Release Council, Adviser Guide to Equity Release.

2.9 Joint applications:
In the case of a joint application, members should ensure that both customers are involved in, and have a voice in, discussions concerning the plan and that both have read and understood all information provided by the adviser.

2.10 Wills and LPAs:
Members should ensure that the customer is advised to seek advice about reviewing and updating their existing will or putting in place a will if they do not have one, once a product has been taken out.

Members should also recommend that the customer seeks advice about updating any existing power of attorney (POA) or lasting power of attorney (LPA). If no POA or LPA is in place, the customer should be advised to seek assistance in arranging LPA.

If the customer is taking a drawdown product they should be strongly advised to put Powers of Attorney in place. Failure to do this could me that, if capacity is lost, future drawdown facilities could be jeopardised.

Council Wills and Trusts webinar. Council Powers of Attorney Webinar.

2.11 Suitability report:
Members should ensure the customer receives a written record of their advice and recommendation. This is referred to in these rules as "the suitability report."

2.12 Checklist for advisers:
Members are required to complete the Checklist for Advisers, which is set out at appendix C, (in part B of these Standards) for all customers where a plan has been recommended, (even if the case does not proceed) and ensure each of the points in the checklist have been fully covered.

[Equity Release Council, Adviser Checklist and Supporting Resources.]

2.13 Drawdown:
Advisers should ensure that applicants for drawdown products are made aware that a drawdown facility is not guaranteed and, if agreed, will be charged at the prevailing rate of interest at the time of drawdown. Also that lenders may ask further questions about the purpose of any future drawdown monies at the time requested.

Members must complete the drawdown section included as part of the Council's Checklist for Advisers and ensure that an explanation is included within the suitability report.

[Equity Release Council, Adviser Checklist and Supporting Resources.]

2.14 Customer data:
Firms should have a written policy for personal and/or sensitive data that explains to customers how this will be recorded, used, stored and shared.

[Information Commissioner's Office.]

2.15 Quality assurance:
Members should implement robust quality assurance programmes that aim to improve customer experience and outcomes, and routinely test these to ensure that customers are treated fairly, and with empathy and sensitivity to their individual circumstances.

[Equity Release Council, Competency Framework.]

[Equity Release Council, Adviser Checklist and Supporting Resources.]

2.16 Customer contact:
Firms should contact all customers who are referred to them for advice by provider members with the aim of checking the need for advice. The outcome of this contact (whether advice was provided or not) should be shared with the provider.

2.17 Financial inducements:
Adviser members must 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.

[FCA Handbook, MCOB 2.3 Inducements.]

2.18 Advisers should ensure they are having and evidencing specific conversations around the options available for interest served or capital repayment lifetime mortgage solutions to mitigate the impact of roll-up interest over a longer period of time. This is of particular relevance when advising younger borrowers (55 to 60).

2.19 Second charges
Where an adviser is proposing that a client with an existing lifetime mortgage should effect a second charge, good practice would be to check that a referral to the first chargeholder has first been considered. Evidence of this should be retained on the client file.

3. Provider rules

A provider (also known as a lender) is the financial firm who issues and underwrites lifetime mortgages and home reversion plans.

3.1 Accepting business:
Providers are required to produce a Key Facts Illustration which includes all features, risks and benefits associated with a product prior to accepting an application.

Provider members may only accept applications for equity release products from firms, or their appointed representatives, which:

- Are authorised and regulated by the FCA.
- Have advisers who hold an appropriate equity release qualification.
- Are permitted to advise customers on equity release products and have recommended the product being applied for.

MCOBS.

3.2 Submitting business:
Each application for business must be supported by a declaration 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.

MCOBS Permissions.

3.3 Sales process:
Provider members are not permitted to accept execution-only business, in any circumstances. Sales must always be made on an advised basis with a personal recommendation being given to the customer. This rule also applies to any existing customer seeking to increase borrowing under an existing lifetime mortgage or home reversion contract.

MCOBS.

3.4 Receiving business:
Provider members should not accept business unless they have taken reasonable steps to satisfy themselves that adviser members have followed these rules and taken account of this guidance.

Due Diligence – Guidance.

3.5 Communication:
Provider members should ensure that appropriate ongoing communication with customers is in place throughout the life of the product.

Post Sales Communications – Guidance.

3.6 Customer data:
Provider members should have a written policy for personal and/or sensitive data that explains to customers how this will be recorded, used, stored and shared.

3.7 Core Product standards for lifetime mortgages: Members must only indicate that a product meets the Council's core product standards if that product meets all the standards as described in paragraphs 3.7.1, 3.7.2, 3.7.3, 3.7.4 and 3.7.5. If an equity release product is offered that does not meet all of the core product standards the product provider must state this prominently in adviser and consumer facing literature. The literature must explicitly state which core product standards are not met and give an illustration of the types of risks this poses to a customer. The exception to this is mandatory payment lifetime mortgages which have their own product standards (paragraphs 3.8.1, 3.8.2, 3.8.3, 3.8.4 and 3.8.5).

3.7.1 Right to remain: Customers must have the right to remain in their property for life, or until they move into long-term care, provided the property remains their main residence and they adhere to the terms and conditions of the contract.

3.7.2 Right to move: Customers will be confident that they will be able to live in their own property for as long as they wish, or move to a suitable alternative property, have the ability to move to another property (subject to lending criteria at the time of move) as long as they abide by the terms and conditions of their contract. This means that:

- For home reversion plans customers must be offered a new plan in respect of a suitable alternative property on terms no less favourable than those offered to new customers at the time. A provider member may charge a customer reasonable costs and expenses for entering into the new plan.
- For new lifetime mortgages, additional borrowing and access to cash reserves, each interest rate will remain fixed from the completion date of the application until the loan is repaid or, if they are variable, there must be a "cap" (upper limit) which is fixed from the completion date of the application until the loan is repaid.
- If the new property is of insufficient value to secure the amount owed to the provider, any partial repayment will be limited so that the net amount remaining shall not be less than the percentage of the property value that the provider would advance to a new customer in comparable circumstances.
- No early repayment or similar charge may be made in respect of the property agreed to be the customer's main residence at the time the lifetime mortgage contract was entered into, but a provider member may charge a customer reasonable costs and expenses for transferring a plan to the alternative property.

3.7.3 Right to make penalty free payments, subject to lender criteria: For lifetime mortgages, all products should include a facility for customers to make voluntary repayments.

3.7.4 Interest rates: Interest rates must be either fixed or, if variable, have a cap fixed for the life of the loan.

3.7.5 No Negative Equity Guarantee ("NNEG"): The product must have a NNEG so that, whenever the amount owing to the provider member is to be repaid from the proceeds of sale of the secured property, the amount owing must not exceed the net proceeds of sale (after deduction of selling agents' fees, legal fees, disbursements and reasonable costs). Provided the property is sold for the best price reasonably obtainable, the provider member shall accept the net proceeds of sale in full and final settlement of the amount owing

3.7.6 NNEG: If a customer has more than one lifetime mortgage contract outstanding with a provider member, the NNEG applies to each property individually, so that a member may not seek to recover any shortfall in repayment from the sale of one property, by claiming from the customer, the customer's estate, or the sale, proceeds of any other property

3.7.7 NNEG: Provider members should explain clearly when the NNEG does and does not apply. This explanation should be included in the key facts illustration (KFI) and in the offer document and may also form part of the provider's terms and conditions. The explanation should clarify when the NNEG does apply, for example where the property is sold and there is a shortfall between the proceeds of sale and the amount owed to the provider, and when the NNEG will not apply, for example where:

- The customer repays the loan early without selling the property.
- The customer's beneficiaries wish to keep the property after the customer has died or moved

permanently into long-term care and intend to repay the loan from funds other than the proceeds of sale.

- The property is sold, but not at the best price reasonably obtainable.
- The property has not been kept in a good state of repair.

3.8. Product standards for mandatory payment lifetime mortgages: Members must only indicate that a product meets the Council's product standards for mandatory payment lifetime mortgages if that product meets all the product standards described in paragraphs 3.8.1, 3.8.2, 3.8.3, 3.8.4 and 3.8.5. If an equity release product is offered that does not meet all of these standards the product provider must state prominently. The literature must explicitly state which product standards are not met and give an illustration of the types of risks this poses to a customer.

3.8.1 Right to remain: Customers must have the right to remain in their property for life, or until they move into long-term care, provided the property remains their main residence and they adhere to the terms and conditions of the contract, including making mandatory payments as agreed.

3.8.2 Right to move: Customers will be confident that they will be able to live in their own property for as long as they wish, or move to a suitable alternative property, have the ability to move to another property (subject to lending criteria at the time of move) as long as they abide by the terms and conditions of their contract. This means that:

- For home reversion plans customers must be offered a new plan in respect of a suitable alternative property on terms no less favourable than those offered to new customers at the time. A provider member may charge a customer reasonable costs and expenses for entering into the new plan.
- For new lifetime mortgages, additional borrowing and access to cash reserves, each interest rate will remain fixed from the completion date of the application until the loan is repaid or, if they are variable, there must be a "cap" (upper limit) which is fixed from the completion date of the application until the loan is repaid.
- If the new property is of insufficient value to secure the amount owed to the provider, any partial repayment will be limited so that the net amount remaining shall not be less than the percentage of the property value that the provider would advance to a new customer in comparable circumstances.
- No early repayment or similar charge may be made in respect of the property agreed to be the customer's main residence at the time the lifetime mortgage contract was entered into, but a provider member may charge a customer reasonable costs and expenses for transferring a plan to the alternative property.

3.8.3 Right to make penalty free payments, subject to lender criteria: For mandatory repayment lifetime mortgages all products should include a facility for customers to make voluntary repayments once the mandatory repayment period has ended. It may also be permissible to allow the customer to make voluntary repayments in addition to the mandatory payments, subject to lender criteria.

3.8.4 Interest rates: Interest rates must be either fixed or, if variable, have a cap fixed for the life of the loan.

3.8.5 No Negative Equity Guarantee ("NNEG"): The product must include a no negative equity guarantee. This means that when the property is sold, and agents' and solicitors' fees have been paid, even if the amount left is not enough to repay the outstanding loan, plus interest, to the provider, neither the consumer nor their estate will be liable to pay any more. With the exception of arrears plus arrears interest which must be paid by the estate.

3.8.6 NNEG: If a customer has more than one lifetime mortgage contract outstanding with a provider member, the NNEG applies to each property individually, so that a member may not seek to recover any shortfall in repayment from the sale of one property, by claiming from the customer, the customer's estate, or the sale, proceeds of any other property

3.8.7 NNEG: Provider members should explain clearly when the NNEG does and does not apply. This explanation should be included in the key facts illustration (KFI) and in the offer document and may also form part of the provider's terms and conditions. The explanation should clarify when the NNEG does apply, for example where the property is sold and there is a shortfall between the proceeds of sale and the amount owed to the provider, and when the NNEG will not apply, for example where:

•The customer repays the loan early without selling the property.

- The customer's beneficiaries wish to keep the property after the customer has died or moved permanently into long-term care and intend to repay the loan from funds other than the proceeds of sale.
- The property is sold, but not at the best price reasonably obtainable.
- The property has not been kept in a good state of repair.

3.9 Changes to loan: If a provider significantly changes the terms of the original loan when arranging a further advance, the provider should inform the adviser that this will happen at the beginning of the further advance process.

3.10 Criteria changes: The criteria set out in provider members' contract terms cannot be varied unilaterally, either by the provider member, or any person to whom the provider member may subsequently sell the loan or plan, unless the customer is in breach of the terms.

3.11 Product Certificate: Whenever a provider member introduces a new product, or materially varies an existing product, a Certificate of Compliance with the Product Standards must be completed and submitted to the Council.

4. Drawdown rules

A drawdown is a pre-agreed facility to release additional funds without additional underwriting, up to a limit specified at outset. Note that the provider may review original reasons for wanting a drawdown facility and compare with reasons given for drawdowns in future. Future drawdowns are not guaranteed and will be at the rate applicable at the time requested. This must be made clear to the customer at outset.

4.1 Members must act responsibly in recommending and releasing drawdown monies to customers by ensuring that customers:

a) meet the benchmarks outlined in an appropriate set of financial crime, vulnerability, data and capacity policies.

b) are offered a route to support when required e.g. further advice.

c) have fully understood their effect in relation to accessing monies from a drawdown facility and the costs involved.

4.2 Members must proactively:
a) regularly review the effectiveness of frameworks for identifying, capturing and responding to a range of influencing factors at both the point of sale and when additional borrowing decisions are being made.

b) look at practical ways to validate that drawdowns are for a legal and legitimate purposes.

5. Legal rules

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.

Note that the provider will have separate legal representation. This differs from mainstream mortgage work as the borrower's solicitor checks additional for capacity and understanding. This is not something undertaken normally in the residential market.

5.1 Independent legal advice and the Solicitor's Certificate:

Independent legal advice, setting out the legal obligations, risks and rewards of an equity release product is a mandatory requirement before an equity release plan can be completed. As such, a Solicitor's Certificate, signed by both the advising solicitor and the customer, must always be in place before completion, thereby providing confirmation that the advice referred to has been given. The certificate, which is in a standard form, confirms that the advising solicitor has drawn the customer's attention to the points set out within it.

Solicitor Certificate.

5.2 Face to face meeting requirement:

It is essential that the advising solicitor, or an agent solicitor, should meet the customer face-to-face which, for the avoidance of doubt requires a physical meeting rather than reliance on electronic or telephonic means of communication in order to satisfy the requirements set out in rule 5.3 below. Any person who is acting as attorney or deputy for the customer in the equity release plan must also receive independent legal advice as if he or she were the customer. In cases of physical incapacity, if the provider requires it, both the borrower and attorney (or deputy/guardian as applicable) should be in receipt of the independent legal advice.

Solicitor Certificate for mandatory payment lifetime mortgages.

5.3 Requirements of the solicitor who meets the Customer.

The solicitor (whether this is the advising solicitor or the agent solicitor) who meets the customer face-to-face is required to witness the customer's (or attorney's) signature on any documents which are required to be executed as deeds and to verify (insofar as they are reasonably able to, acting with all due diligence):

- The customer's (or attorney's) identity and signature.
- That the customer (or attorney) has sufficient mental capacity to enter into the equity release contract.
- That the customer (or attorney) is not under any duress or undue influence to enter into the equity release contract.
- That, in the case of joint customers (or attorneys), each agrees to enter into the equity release contract.
- That, in the case of the equity release contract being entered into by an Attorney on behalf of a customer, the Power of Attorney or Deputyship Order under which the equity release contract is to be made is valid and correctly executed.

5.4 Acting as an agent:

Where the solicitor who meets the customer is acting as the agent of the advising solicitor, he or she must act in accordance with the written instructions issued by the advising solicitor and highlight any concerns to the advising solicitor following the meeting with the customer. As such, the advising solicitor must outline the requirements in 5.3 above to the agent solicitor and request confirmation that each element has been satisfied.

Guidance.

5.5 Marketing costs:
Solicitors may pay periodic contributions towards the marketing costs of intermediary firms, such as advisors, in return for non specified numbers of referrals provided such payments are not calculated or aggregated on the basis of the number of cases referred. These are generic payments, designed to publicise the law firm's service in the hope of receiving a non-specified number of referred customers. Solicitors must not therefore make any payment or give any other consideration to an intermediary firm on a case-by-case basis, regardless of the regulator's own rules in this respect.

Solicitors must inform the customer in writing of the amount and frequency of any financial arrangement, including marketing contributions, when issuing customer case documentation at the outset.

6. Property valuation rules

6.1 In respect of all products, an up to date valuation must be carried out by a Royal Institution of Chartered Surveyors (RICS) qualified independent valuer who:

- Is a current member of the RICS and registered under the RICS and registered under the RICS Valuer Registration Scheme (RICS VRS).
- Works in a practice comprising at least two fully qualified RICS members who are also registered under the RICS VRS.
- Works in a practice which carries professional indemnity insurance in compliance with the RICS's requirements.

[Royal Institution of Chartered Surveyors.]

6.2 The onus is on the equity release provider (or its panel manager) to ensure that each individual valuer instructed to undertake valuations on its behalf is RICS VRS registered.

6.3 In the interests of transparency and good customer service, it is good practice for a copy of the valuer's report to be given to the adviser and customer. However, it should also be clear that the purpose of the valuation is for assisting a lending decision and not for the benefit of property condition or valuation advice to the customer.

Equity Release Council

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	I certify and confirm as follows:
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]**	**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)*** ______________________________
Any Agent instructed by the Solicitor must comply with the definition of a solicitor set out in the Note above.	**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.

Continued overleaf

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.

Notes	I certify and confirm as follows:
The Solicitor must not be acting for Provider, Adviser, Occupier or other third party. The Customer must be separately represented.	**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.
All Legal advisers must fully comply with their regulator's requirements.	**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 Committee.
See the Equity Release Council website.	**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.
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.	**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.

Continued overleaf

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

Equity Release Council

Solicitor's Certificate: For Lifetime Mortgages/Home Reversions

For products with a mandatory repayment period only. For products without a mandatory repayment period refer to appendix A1 (and not this version which is appendix A2).

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	I certify and confirm as follows:
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]**	**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)*** ____
Any Agent instructed by the Solicitor must comply with the definition of a solicitor set out in the Note above.	**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.

Continued overleaf

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 security of tenure for the duration of their lifetime[s] provided that they adhere to the covenants. **Where the covenants include a requirement (as opposed to an option) to make repayments, meaning it does not fulfil the obligation of meeting all product standards set by the Equity Release Council then the customer should have been provided with an illustration of the type of risks this poses to them by their financial adviser, including that the failure to meet this obligation for the stipulated period of time may result in the Provider repossessing the property to repay the amount owing under the equity release contract. I have checked they have received the illustration and understand the implications.**

For products without a mandatory repayment period refer to appendix A.

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.

Notes	I certify and confirm as follows:
The Solicitor must not be acting for Provider, Adviser, Occupier or other third party. The Customer must be separately represented.	**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.
All Legal advisers must fully comply with their regulator's requirements.	**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.
See the Equity Release Council website.	**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.
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.	**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.

Continued overleaf

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

Call: 0300 012 0239

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

Email: admin@equityreleasecouncil.com

www.equityreleasecouncil.com

Equity Release Council

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.

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