

# The legal guide to equity release



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# Introduction



**“** Equity release can be a transformative financial product. Used appropriately it can provide a lifeline to hard-up pensioners or enhance the lives of others, and their loved ones. But all potential equity release consumers need the right support and advice to access products that are safe and appropriate, so they can decide if it’s right for them.

Solicitors are essential in the equity release process. They provide legal guidance and support to the consumer throughout the transaction. All mortgages, including equity release, are complex financial products that involve a significant amount of legal documentation and requirements. A solicitor’s role is to ensure that the consumer fully understands the terms and conditions of the mortgage, including any potential risks and implications.

Solicitors also provide essential support to equity release providers too, conducting due diligence and ensuring compliance so our industry remains competitive and sustainable. However, when it comes to equity release, we quite rightly tend to focus on the consumers. Anyone who enters a complex financial transaction as a layperson could be considered relatively vulnerable. Given that the average age of an equity release consumer is 71 that vulnerability can be exacerbated.

The requirement for an individual to have the requisite mental capacity to enter into a contract has long been known. The starting point in assessing mental capacity is an assumption that any individual has mental capacity to make decisions for themselves, unless established otherwise. The person who may lack capacity must be supported to make as many decisions as they can for themselves.

A mental capacity assessment involves a relevant person carefully following the five main principles of the Mental Capacity Act and the Code of Practice to determine whether the adult who may lack capacity can make decisions themselves. Health or social services professionals or solicitors usually conduct formal assessments, although in practice informal assessments can be and are carried out by carers and family members on a day-to-day basis. In equity release contracts, solicitors will often call on GPs or qualified mental health professionals to assist in making an appropriate assessment where doubt exists.

The Council and its predecessor (Safe Home Income Plans) has long since acknowledged the importance of independent legal advice. In fact, to meet the Council's standards all equity release consumers must have at least one in-person face to face meeting with a solicitor during the process. These meetings also enable the solicitor to be certain there is no element of duress or coercion from third parties or even family members, who might stand to benefit from the equity release transaction.

“When you put all the factors together – the transformative nature of the product, the complexity of the product, the potential vulnerability of the client and the role of the solicitor – it becomes abundantly clear how important solicitors are to our sector and why we produced this document.”

When you put all the factors together - the transformative nature of the product, the complexity of the product, the potential vulnerability of the client and the role of the solicitor – it becomes abundantly clear how important solicitors are to our sector and why we produced this document.

It also highlights how the equity release sector can provide a rewarding and interesting career for legal professionals and I hope that this guidance will support many of them to do exactly that. ”



**David Burrowes**  
**Chair of the Equity Release Council**

**Our thanks go to the following firms for their support in producing this guide:**

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EQUITY RELEASE SPECIALISTS

  
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The Equity Release Council is a company limited by guarantee and is registered in England No. 2884568. The company is not authorised under the Financial Services and Markets Act 2000 and is therefore unable to offer investment advice.

The legal guide to equity release is for guidance only. Property solicitors should always adhere to the regime set out by the relevant regulatory authorities. This document is aimed at qualified legal professionals.

# About the Equity Release Council

The Equity Release Council is the representative trade body for the equity release sector. The not-for-profit organisation was first established in 1991 when it was known as Safe Home Income Plans (SHIP).

It acted as an independent voluntary regulator prior to the regulation of the mortgage industry by the FCA, in 2004. The Council seeks to lead a consumer-focused market by setting authoritative standards and protections that enable consumers to trust that equity release is reliable and safe. In 2021 the Council celebrated 30 years of standards evolution. Consumers of Council member-firms receive three levels of protection, encompassing: a structured financial advice process; independent legal advice; and clear product safeguards which include secure tenure for life and a no negative equity guarantee.

Combined with statutory FCA regulations this sets the highest standard of consumer protection for any property-based loan. Council membership has seen significant growth in recent years and membership doubled over 2018 and 2019.

In May 2024 there were more than 750 firms and 1,800 individuals in membership. Since 1991, nearly 650,000 homeowners have accessed more than £46bn of property wealth via Council members, to support their finances.

The Council uniquely represents the entire value chain, including funders, providers, advisers, solicitors, surveyors and other professionals. This makes the Council inclusive and gives it a 360-degree perspective, ensuring it is fully representative and always has a balanced view of the market.

Some of the household names within membership include Aviva, L&G, LV=, Nationwide, Scottish Widows, Saga and Canada Life.

Council members are eligible to display its endorsement logo. This recognisable and trusted logo demonstrates to consumers that the firm is committed to delivering the highest standards of conduct and practice in equity release provision.

Members also benefit from visibility to consumers via the Council's member directory and access to the members' area, where they will find newsletters, technical bulletins, briefings and other resources.

Solicitors are represented on the Council's standards committee and member panel. In addition, they are eligible to join the legal forum where they can help shape policy and resolve sector specific issues.



*The Council's endorsement logo*

The voluntary safeguards and protections that Council members abide by go beyond statutory regulation and are designed to promote confidence in members' products and services. The Council works with government, voluntary and public sectors as well as regulatory, consumer and professional bodies to inform and influence debate and set the right regulatory framework to support the use of property wealth in later life and retirement planning.

**For further information about Council membership visit [www.equityreleasecouncil.com/join-us](http://www.equityreleasecouncil.com/join-us)**

# Section one:

# Purpose of this framework

## 1.1 Purpose of the guide

This guide is a summarised structure that sets out the knowledge and skills that enable businesses and individuals to effectively develop and fulfil roles within their organisation.

It aims to provide an objective way for legal entities to identify a common understanding of what good looks like. This includes some of the competencies required by the firms, as well as individual solicitors who advise consumers in the equity release sector.

## 1.2 Who should use this guide

This guide is aimed at qualified legal professionals who are already working in property law or who are considering entering the sector. It provides information for solicitors who work for consumers and those who work for the providers (or lenders as they are sometimes termed). However, other market participants seeking to gain a broader understanding of the market are likely to find it useful.

It is for guidance only. Property solicitors should always adhere to the regime set out by the relevant regulatory authorities.

Please note the term “solicitor” is defined within Section 8 of the rules and covers a number of legal professionals, such as barristers, chartered legal executives and licensed conveyancers.

## 1.3 How to use this guide

Consider the guide like a syllabus. It isn't a textbook, nor is it a programme of learning. It exists to provide a standard reference guide and will provide support for research. It contains a list of resources that signpost where you can find materials to assist your understanding.

Some references may direct you towards educational/professional bodies, simple online research, or to information produced by the Council, a market participant, or another third party. If you are a member of the Council, you should also look out for technical bulletins that may be issued to support solicitor members. Law firms will already adhere to their own Regulator's code of conduct and therefore this guide should work in tandem with those rules.

It should assist legal entities when representing consumers taking out (or with an existing) equity release product and supplement their standard legal knowledge and obligations with additional considerations in the equity release sector.



# Knowledge



# Section two:

# The equity release sector

## 2.1 Background to the market

Equity release is not a new concept. The first equity release product, a home reversion plan, was launched in 1965 when the average house price was around £4,000.

Since then, much has changed, not least the growth of equity value, but also the range of products and the expansion of the market. Today, equity release forms a significant part of the later life financial planning market and continues to evolve.

While the equity release market is constantly evolving, the commitment to standards and safeguards for consumers, remains steadfast at the Council.

### Later life lending and misconceptions

Equity release is often regarded as a high-risk product. This is not surprising, given the product is long term in nature and the consumer base is potentially vulnerable by nature of its age. This reputation also persists because of the product's historic issues.

Although there are risks associated with equity release, it is important to recognise that, through a combination of product innovation, strong regulations and the Council's Standards, combined with the regulation of the Legal Standards Board, the market has changed for the better. Today, it is considerably more tightly controlled and regulated than it was.

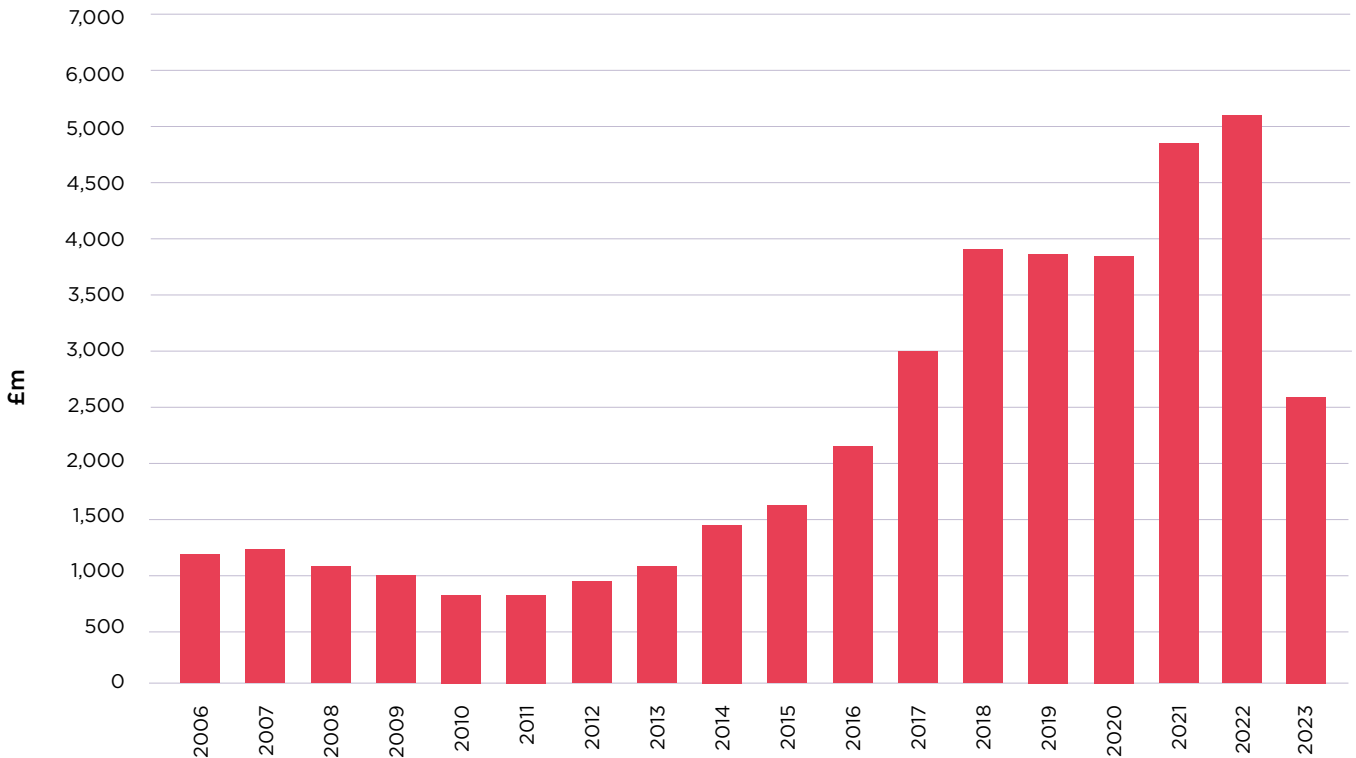
Those involved in the industry should be aware of historic factors and ensure that the advice they are providing deals with each aspect and that each consumer is fully advised on all aspects of their legal transaction.

Some of the common concerns and misconceptions that consumers may have about equity release are:

- **Perceived poor value.**  
Equity release rates are typically slightly higher than residential rates but equity release comes with different product features. People can choose to make repayments or allow the interest to compound and be taken from their estate, which will increase the amount owed.
- **Inflexible features weighted towards providers.**  
Modern equity release comes with many consumer friendly product features. Most come with fixed early repayment charges and in some circumstances the loan can be repaid in full without penalty.
- **Insufficient access to legal advice for consumers.**  
Customers of Council members benefit from independent legal advice which is a cornerstone of the UK equity release market.
- **That the property is at risk.**  
Customers of Council members benefit from secure tenure for life and will never face eviction over arrears.

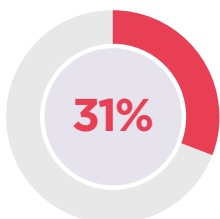
## Equity release history and growth

### Growth of equity release 2006 to 2023

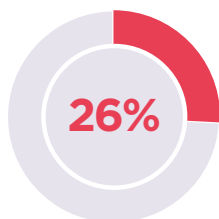


The chart above shows the growth of the equity release market between 2006 and 2022 before an economic shock which affected the entire mortgage industry. Since that shock the UK economy has battled double digit inflation and higher interest rates. However, the long-term drivers for growth remain and house prices have remained robust which means many people still have more property wealth than pensions savings. Consumer attitudes towards later life lending are changing too.

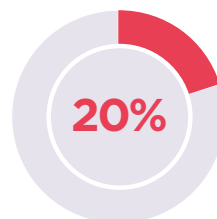
### Meeting changing consumer demands



People who believe accessing their property wealth could improve their retirement finances, up from 25% in 2021.



People who believe a later life mortgage could boost their income in retirement, up from 21% in 2021.



Mortgaged homeowners feel their current loan is unaffordable.



Mortgage homeowners who have or plan to use pension savings to pay off their mortgage.

Over time, property has become more than just a place to live. It forms a major part of many people's overall wealth and, as a result, has evolved into a core part of financial planning, especially for those in advancing years.

## Drivers for growth



Based on the societal changes, it is clear what was once regarded as an option of last resort is now becoming an important part of mainstream later life financial planning. Equity release has the potential to provide solutions not only for those who have an immediate need to access the value of their homes, but also those who want additional funding to improve their lifestyle.

## 2.2 Participants and stakeholders

### Funders

Providers may use their own funds for the equity release products or they may obtain funding from third parties. Funding is often provided by third parties to providers. The funders may also have their own requirements on lending criteria and the providers will have factored these into their own requirements.

### Providers

There are several FCA-regulated financial services companies providing equity release. Most provide lifetime mortgages and a very small number currently deal in home reversion

products. Each provider will have its own criteria in terms of property structure types and legal title requirements.

### Advisers

Financial advice is a regulated activity in the UK, requiring both regulatory permissions and appropriate qualifications.

Equity release products are, almost without exception, only available to clients on an advised basis. This reflects the nature of the marketplace and the complexities that can arise from financial planning in later life.

Any adviser firm that wants to provide advice on equity release products must hold the appropriate regulatory permissions. Similarly, advisers who provide advice and recommendations must be appropriately qualified and hold specialist equity release qualification.

Alongside the regulatory requirements, firms often impose their own licensing requirements – restricting certain activities to those who have received a set level of competence or passed a required course.

It is recommended you look at the **Competence Framework for Financial Advisers** which provides detailed information relevant to those providing financial advice to consumers.

## Valuers/surveyors

Providers instruct a surveyor (regulated by the Royal Institution for Chartered Surveyors) to provide a valuation report on the property which they will use as one of the factors in deciding the amount of equity they are willing to release from the property. The valuer provides other information on the nature and type of the property, assumptions of services and access and other general remarks to assist the provider to underwrite the equity release plan.

The valuation is for the provider only and consumers should be made aware that they should not rely upon any valuation report but instruct their own surveyor if they require a survey on the property, for example if they are purchasing the property using funds provided by the provider.

## The solicitors' roles

During an equity release transaction the provider and the consumer must have separate legal representation. This differs from mainstream mortgage work as the consumer's solicitor must make checks additional for capacity and understanding. This is not something undertaken normally in the residential market.

If anyone else lives in the property who is not on the deeds then depending on the provider they may have to sign an occupiers waiver. This waiver may have to be subject to independent legal advice which again depends on the provider. The consumer's solicitor cannot provide this advice.

More detailed information on the processes is set out in sections 3.4 and 3.5. In summary, some of the other key responsibilities of a solicitor in an equity release transaction include:

1. The consumer's solicitor will represent the consumer's interests throughout the transaction, including negotiating with the provider solicitors and ensuring that the consumer's rights are protected.
2. Reviewing and advising on the equity release plan: The consumer's solicitor will review the equity release plan.
3. Conducting property searches: The consumer's solicitor will conduct searches

to ensure that there are no legal or financial issues with the property, such as outstanding mortgages, liens, or disputes.

4. Preparing legal documents: The provider's solicitor will prepare all the necessary legal documents, including the equity release agreement, mortgage deeds, and any other relevant contracts.
5. Ensuring compliance with legal requirements: Both the provider and the consumers' solicitors must ensure that all legal requirements are met, including regulatory requirements, ensuring that the transaction is carried out in accordance with the law.

## Regulators and regulation

The legal services industry is an integral part of our society, making a significant contribution to the public and private lives of organisations and citizens. If something goes wrong, the consequences can be costly for businesses, people and governments alike. It is no surprise it is tightly controlled.

### England and Wales

The most recent major piece of legislation which fundamentally changed the legal landscape in England and Wales is the Legal Services Act 2007. The Act introduced various reforms which were intended to improve and enhance the way legal services are provided – putting consumers' interests at the very heart of a redesigned and refreshed regulatory framework. The Act regulates the legal services market in England and Wales and covers a wide range of issues ranging from the requirements law firms must comply with before they can operate and how the firms themselves are regulated.

The Act introduced several key changes; three are outlined below:

- The creation of a single supervisory body, the Legal Services Board, responsible for the oversight of all eight approved regulators in the legal services market, including the Law Society, the Bar Council, the Council for Licensed Conveyancers and the Chartered Institute of Legal Executives.

- The introduction of alternative business structures which allows solicitors to form partnerships with non-solicitors and accept external investment along with external ownership.
- Formation of a single body: the Office for Legal Complaints, establishing the Legal Ombudsman, to investigate complaints about the service consumers have received from their legal service provider.

### **Northern Ireland**

In Northern Ireland, by virtue of the provisions of the Legal Complaints and Regulation Act (NI) 2016, the office of the Legal Services Oversight Commissioner replaced the office of the Lay Observer. The first Commissioner was appointed in 2017. However due to the suspension of the Northern Ireland Executive, regulations to enable the Commissioner to undertake her role have not yet been made. The Legal Services Oversight Commissioner is effectively operating as Lay Observer pending the full implementation of the 2016 Act. Once the 2016 Act has been fully implemented, a new Solicitor Complaints Committee will be set up consisting of a majority of lay membership, to include chairperson. The new Committee will have the jurisdiction to award compensation in cases of alleged negligence where the loss suffered does not exceed £5000.

Some of this legislation has wider-reaching ramifications for society, but each is relevant to the roles solicitors perform. Those who are new to the industry are expected to have at least some awareness of these laws, while those who are working as professional solicitors are expected to know more. Experienced solicitors in supervisory positions should be able to apply the provisions of these pieces of legislation to their own practices. Reputable legal briefings, announcements about changes and the legislation itself are easy to access online. Legislation is constantly evolving and new developments can influence businesses. An effective continuing professional development programme should help professionals identify and understand any relevant changes.

### **Scotland**

The Legal Services (Scotland) Act 2010 was introduced to modernise and enhance the provision of legal services in Scotland. The Act sought major transformations including the introduction of alternative business structures (ABS), which allowed non-lawyers ownership interest or management roles in legal firms, thereby encouraging competition, tackling unmet business needs, and driving innovation in service provision.

For solicitors, this Act marked a significant change in the traditional legal service delivery model. The ability to create ABSs might lead to a broadening in the range of services they can offer, open avenues for attracting investment, and provides an opportunity for multidisciplinary practices. However, this new flexibility also came with increased regulatory oversight, as the Act broadened the authority of the Scottish Legal Complaints Commission over complaints against solicitors.

For consumers, the Act aimed to bring benefits in terms of increased choice, potentially lower fees due to competition, and a more diverse availability of legal services. Furthermore, the Act strengthened regulation meant to provide better protection for consumers using these services; enhanced transparency and improved complaints handling also aimed at fostering consumer confidence in the legal system, ultimately promoting greater access to justice in Scotland.

Therefore, while the Act posed both opportunities and challenges for legal professionals, it was fundamentally directed at creating a more accessible, innovative, and competitive legal sector for the benefit of consumers.

### **Regulators**

In a constantly evolving regulatory environment, it is important to understand the requirements of the regulator. Law firms offering conveyancing services including equity release lifetime mortgages and home reversion plans are subject to several independent regulators dependent on the legal status of the firm.

These are:

- Solicitors Regulation Authority (SRA)
- The Council for Licensed Conveyancers (CLC)
- Chartered Institute of Legal Executives (CILEX)
- The Law Society of Scotland
- The Law Society of Northern Ireland
- The Bar Standards Board

All the above are concerned with the regulation of individual legal professionals (solicitors, licensed conveyancers and legal executives and law firms).

While it is good practice for everyone to have a basic level of understanding of each regulator, those working in certain roles will require in depth knowledge by virtue of their own responsibilities.

## Independent legal advice

The Council mandates that all consumers must be provided with legal advice from someone who is regulated by one of the above and has current and sufficient professional indemnity insurance. Any solicitor acting for the consumer must be acting independently of the financial adviser and provider.

Anyone working directly in the equity release and later life lending sector should know about the different products available to consumers. Solicitors are not required to advise on the suitability of products but need to have a sound understanding of the types of equity release products and how they work to advise consumers on the legal implications of taking out an equity release plan.

It is recommended that solicitors refer to **module 5 of the competency framework for advisers**, for a more detailed explanation.

Providers are separately represented and any solicitor acting for a provider must be acting independently of the consumer and the financial adviser.

## The Equity Release Council

The Council is the representative trade body for the equity release sector and exists to promote

The Council builds on the unified voice of its members, while remaining independent from the specific views of individual member firms or particular segments of the equity release market.

high standards of conduct and practice in the provision of and advice on equity release, which have consumer safeguards at heart.

These standards and safeguards have allowed the sector to grow, giving financial advisers and their consumers confidence in the products, dispelling myths about equity release, and educating the public about the potential to access the wealth in their home for a variety of uses.

The reputation and standing of the brand, and the trust developed, have seen Council membership grow, bringing the sector together and helping to strengthen its voice. Providers of equity release plans, solicitors, intermediaries, financial advisers, consultants, surveyors and other industry professionals are all committed to the Standards set down by the Council. The Council builds on the unified voice of its members, while remaining independent from the specific views of individual member firms or particular segments of the equity release market.

Safe Home Income Plans (SHIP) was set up back in 1991. It was a voluntary organisation for equity release providers and required any provider who was a member of SHIP to comply with certain assurances for consumers. Lifetime mortgages and reversion plans were later regulated by the FCA, along with the rest of the mortgage industry.

SHIP was relaunched as the Equity Release Council in 2012 and membership was extended from providers only, to include solicitors, financial advisers, surveyors and other associated parties.

Membership is not mandatory for lending, advising, valuing, providing conveyancing, or

wider but many in the sector who are experts in the field choose to become members and to adhere to the Council's Standards.

## Other stakeholders

Other involved organisations have signed up to be members of the Council. These include companies providing technical solutions as well as consumer groups.

## 2.3 Products

Typically, products are available to those over 55 years or 60 years.

There are two main types of equity release product:

- Lifetime mortgage
- Home reversion.

### Lifetime mortgages

Lifetime mortgages account for most equity release products taken up by consumers. These are a form of legal charge and the consumer will sign a mortgage deed in a standard form which will then be registered in accordance with the jurisdictional requirements for registered and unregistered land so that the provider has a first legal charge.

Lifetime mortgages typically have the following features:

- Roll-up interest products
- Interest-paying products
- Interest rate options – fixed and variable
- Compounding interest on roll-up plans
- Lump sum and drawdown products
- Early repayment charges – fixed or variable (gilt-linked).

### Home reversion products

With reversion products the legal interest in the consumer's property is transferred wholly or

partially to the provider and the provider becomes the legal title holder either on its own or jointly with the consumer. There are different types of reversion products but typically the provider grants a lease for life to the consumer with a peppercorn rent and a declaration of trust. The trust deed or the lease provides for the share of the beneficial interest of the consumer and provider.

## Equity Release Council product standards

The Council has a set of product standards and provider members must only tell a consumer that a product meets these product standards if it meets all of them. If a consumer is offered a product that does not meet all the standards, the provider's product literature must explain which standards are not met.

The Council's product standards are as follows:

- For lifetime mortgages the rate must be fixed for each release or, if variable, the rate must be capped for the life of the loan.
- 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.
- The consumer has the right to move to another property subject to the new property being acceptable to the product provider as continuing security for the equity release.
- The product must have 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 amount due to the provider, neither the consumer nor their estate will be liable to pay any more.
- All consumers taking out new lifetime mortgages which meet the Council's Standards must have the right to make penalty free payments, subject to lending criteria.



# Section three:

# Process and requirements

## 3.1 Entry qualifications

To undertake conveyancing work in England and Wales, you will need to be a qualified solicitor, licensed conveyancer or a chartered legal executive.

- 1. Solicitor:** To become a qualified solicitor, in England and Wales there are a number of different routes you can take, but usually a law degree (LLB) or a degree in another subject and the conversion course, followed by SQE. There are other routes for those qualified in a different jurisdiction or from a different regulator. You should check the SRA website for further details. To become a qualified solicitor in Scotland, the main route is a law degree (LLB) followed by the Diploma in Legal Practice and a two year traineeship. It is possible to qualify if you are qualified in an alternative jurisdiction. You should check the Law Society of Scotland's website for further details. To become a qualified solicitor in Northern Ireland, please refer to the Law Society of Northern Ireland for the routes available.

There are transitional arrangements currently in place for qualification as a solicitor through the LPC route. The LPC will be phased out by 2032 and is being replaced by the Solicitors Qualification Examination (SQE). To become a qualified solicitor via the SQE route, you will need to have a law degree (LLB), a degree in another subject or equivalent level 6 qualification, pass the SQE1 and SQE2 examinations and have completed at least 2 years' full time qualifying

work experience. Once complete, you will need to pass the character and suitability requirements for the SRA."

- 2. Licensed Conveyancer:** To become a licensed conveyancer, you will need to complete a Level 4 Diploma in Conveyancing Law and Practice, which is offered by the Council for Licensed Conveyancers. You will also need to have at least two years of practical experience in conveyancing. Once you have completed these requirements, you can apply to become a licensed conveyancer.
- 3. Chartered Legal Executive:** To become a chartered legal executive, you will need to complete the Chartered Institute of Legal Executives qualification. This involves completing a Level 3 Diploma in Law and Practice, followed by a Level 6 Professional Higher Diploma in Law and Practice. You will also need to have at least three years of practical experience in conveyancing. Once you have completed these requirements, you can apply to become a chartered legal executive.

It is worth noting that there are also non-qualified professionals who can undertake some types of conveyancing work. However, they are not able to provide the full range of services that a solicitor, licensed conveyancer or chartered legal executive can.

## 3.2 Broad requirements

Within the legal industry, it is imperative that all levels of staff are familiar with the elements involved in an equity release transaction. As with any law firm, there will be those staff members who are more experienced and those who require higher levels of supervision.

When dealing with an equity release transaction, the final paperwork must always be signed off by a person with sufficient legal qualification and who is experienced in the sector. It will be the responsibility of that person to ensure the work on the transaction has been completed to the required standard. Different law firms will have their own internal structure for how their staff deal with transactions and the training that is provided for those staff. However, you should always be mindful that when dealing with equity release, you must not only adhere to the strict requirements of the providers' solicitors but also, the strict requirements of your governing body and you should make provisions within your firm to ensure you are fully compliant.

### Good practice and important considerations

#### Equity release solicitors acting for consumers must be proficient in:

- Later life lending products
- residential property conveyancing
- dealing with vulnerable clients

#### Later life lending legal advice within the conveyance process requires:

- Greater due diligence.
- Face to face appointments with all clients at least once (usually when signing the security documentation).
- An understanding of the implications of third party interests on the title and how to remove these in line with requirements of providers.

#### Issues associated with inexperienced legal advisers include:

- Incorrect advice being provided.
- Titles being rejected because they are incorrect or not in accordance with the given provider.
- Delays and additional costs.

#### The role of the consumer's legal adviser:

- Provide face to face legal advice.
- Monitor the consumer for any lack of mental capacity, fraud or duress issues throughout the transaction.
- Represent the consumer and advise as to the benefits and risks associated with the later life lending product that their financial adviser has recommended.
- Ensure a clear legal title is presented to the provider's solicitors.
- Liaise with any third parties to ensure any associated matters are dealt with in accordance with the requirements of the provider's solicitors.
- Deal with all enquiries in a fast and efficient manner whilst maintaining close communication with the consumer and adhering to the requirements of the provider's solicitors.

#### Understanding the impact on leaving an inheritance

- What is the consumer's attitude to leaving inheritance and the legal implications of the contract?
- How might equity release products reduce the amount that can be left on death.
- The importance of early inheritance as a reason for equity release and trading off early inheritance for larger later inheritance.
- Development of product features to protect inheritance for beneficiaries.

#### Perception of leaving debt on death

- Understanding the consumer's concerns about leaving debt to beneficiaries.

- How the no negative equity guarantee works to protect future beneficiaries.
- The factors that will prevent the no negative equity guarantee being implemented?

## Affordability

Prior to the involvement of the solicitor, a financial adviser will go through all affordability concerns. However early identification of shortfall is important and anti money laundering checks and proof of shortfall funds are essential.

### Concerns around risk of losing the home

- The consumer must be made aware of the factors that could affect a provider's decision to repossess a property.
- The consumer must be aware of all

their obligations under the terms of the contract they will be entering into.

- The consumer must be fully advised as to the position following first death or entry into care home of the first person.
- The consumer must be aware of the factors that the provider will rely upon when considering the forced sale of a property.

### Rights of occupancy

- Beneficial and legal ownership will need to be explained to consumers where applicable.
- Implications for non-owner occupiers living in the property.
- The importance and relevance of occupier waiver forms and the general requirement for occupiers to obtain independent legal



advice, depending on their status at the property and the provider's requirements.

### Repossession

- Circumstances by which a provider can seek repossession of a property.
- Circumstances leading to provider seeking possession, to include:
  - Breach of contract that cannot be remedied.
  - Exceeding acceptable timescale for repayment after a qualifying event, such as death or entry into long-term care.
  - The provider will be required to sell the property if the personal representative is not able to sell within a specific time.

### Misunderstanding of product features

- Ensure the consumer is aware of the meaning of terminology within the offer.
- Ensure the consumer is aware of the early repayment charges.

### Mental capacity

- The meaning of mental capacity (defined by the Mental Capacity Act 2005).
- Significance of the consumer lacking capacity and invalidating the contract.
- Key tests of capacity: ability to take in and understand information; to retain it long enough to make decisions; and to process it and to communicate a decision.
- The BRUCE protocol for checking capacity (see below for references and links).
- Specific issues around dementia including variable nature, degenerative, symptoms etc.

### Vulnerability

#### Broader drivers of vulnerability

The four key categories of vulnerability drivers:

- **Health** such as physical disability, severe or long-term illness, addiction, hearing or visual impairment, poor mental health and low mental capacity or cognitive disabilities.



- **Life events** such as caring responsibilities, bereavement, income shock, relationship breakdown and non-standard requirements such as those of ex-offenders, care leavers, refugees.
- **Resilience** such as low or erratic income, over indebtedness, low savings, low emotional resilience, and lack of support structure.
- **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.

### Handling disclosures of vulnerability

- Implications of where the disclosure comes from – the individual themselves or a third party.
- Remaining within data protection legislation.
- Use of appropriate protocols to assist with disclosure, such as:
  - TEXAS – thank, explain, eXplicit consent, ask, signpost (for disclosures from vulnerable person themselves).
  - IDEA (to obtain depth of information, especially in relation to mental illness).
  - CARERS (disclosures from third parties).

For more information on BRUCE, TEXAS, IDEA and CARERS please see the University of Bristol's Personal Finance Research Centres' resources on vulnerability: [www.bristol.ac.uk/geography/research/pfrc/themes/vulnerability/](http://www.bristol.ac.uk/geography/research/pfrc/themes/vulnerability/)

More information can be found by following the links in the resources section.

### Taking mitigating action to deal with the causes of vulnerability

- The range of potential solutions available.
- When to seek help and from whom.
- Importance of allowing the consumer to dictate pace of journey.
- Presenting information in a format appropriate to their vulnerability.
- Recognising the limitations of personal capability and importance of seeking help.

### Powers of attorney

The use of a power of attorney is not usually permitted in equity release transactions unless there is de-facto evidence of a loss of mental capacity, which may be a GP letter or a private medical assessment by a suitably qualified mental health specialist. Some providers permit the use of attorneys for physical incapacity but in that situation, the advice and meeting must be provided to both the consumer and their attorney. This is to mitigate against possible financial abuse and fraud. The solicitor's duty remains with the customer.

### Involving wider authorities and other professionals:

- There may be specialists that can support a particular issue that may be causing a vulnerability.
- There could be sources of help to signpost the consumer to.
- It may be appropriate to refer to the local authority safeguarding team.
- It may be appropriate to report concerns to the police.

## 3.3 Lost mental capacity under an LPA

When dealing with a client who has lost mental capacity, and there is an existing Lasting Power of Attorney (LPA), solicitors play a crucial role in ensuring that the attorney's request to release equity from the client's property is handled appropriately. Below are some of the main considerations and actions for the solicitor.

4. **Verify the LPA:** Check the validity and registration of the LPA (by carrying out a search with the Office of the Public Guardian (OPG100)). Confirm that it authorises the attorney to make decisions related to property and affairs and that the power has not been revoked and whether there are any conditions. Request a certified copy of the registered LPA from the attorney. Check whether the power allows the attorney to act jointly (with another) or jointly and severally (either with another(s) or on their own).
5. **Establish the attorney's Intent:** Engage in open communication with the attorney to understand the purpose and necessity of the proposed equity release. Ensure the attorney is acting in the client's best interests and complying with their fiduciary duties.
6. **Review the LPA document:** Scrutinise the LPA document to determine if it specifically permits the attorney to take equity out of the property. If not explicitly stated, the attorney might need to seek additional legal authority, such as a court order granted by the Court of Protection.
7. **Obtain supporting evidence:** Request evidence from the attorney to substantiate the client's best interests and necessity for the equity release. This might include medical assessments, financial statements, care invoices or expert opinions. Ensure the evidence is recent and comprehensive.
8. **Compliance with the purpose of funds:** Ensure that the attorney's proposed use of funds aligns with both the purpose allowed by the LPA and the proposed equity release. Confirm that it meets the client's needs and best interests, such as funding for medical care or improving the client's quality of life.
9. **Check the attorney has had suitable advice:** Ensure the attorney has obtained professional advice to ensure compliance with legal, financial, and tax requirements. Contact the equity release adviser, especially if it is a further advance and it may have been some time since the initial advice process. Consider referring the attorney to a new adviser, if the previous one is not known.
10. **Document and record:** Keep detailed records of all communications and actions taken regarding the equity release. Maintain a record of the steps followed, the evidence considered, and any legal advice obtained. This documentation will protect all parties involved and demonstrate compliance.
11. **Regular reviews:** Schedule periodic reviews to assess the ongoing suitability of the equity release plan. Evaluate whether it continues to align with the client's best interests and consider obtaining independent expert opinions.
12. **Due to the undertakings which will need to be given to the lender's solicitor, you will need to ensure that you hold the original LPA until registration of the transaction has completed.** This is because the Land Registry may request sight of the LPA. You should ensure you make the attorney aware of this and at the earliest point, provide the attorney with a certified copy of the LPA for them to use until the application and registration is complete.

Note that this guide provides general information. Each case will have unique circumstances and solicitors should tailor their approach accordingly. Always prioritise the client's best interests and ensure compliance with relevant legislation, regulations and codes of conduct.

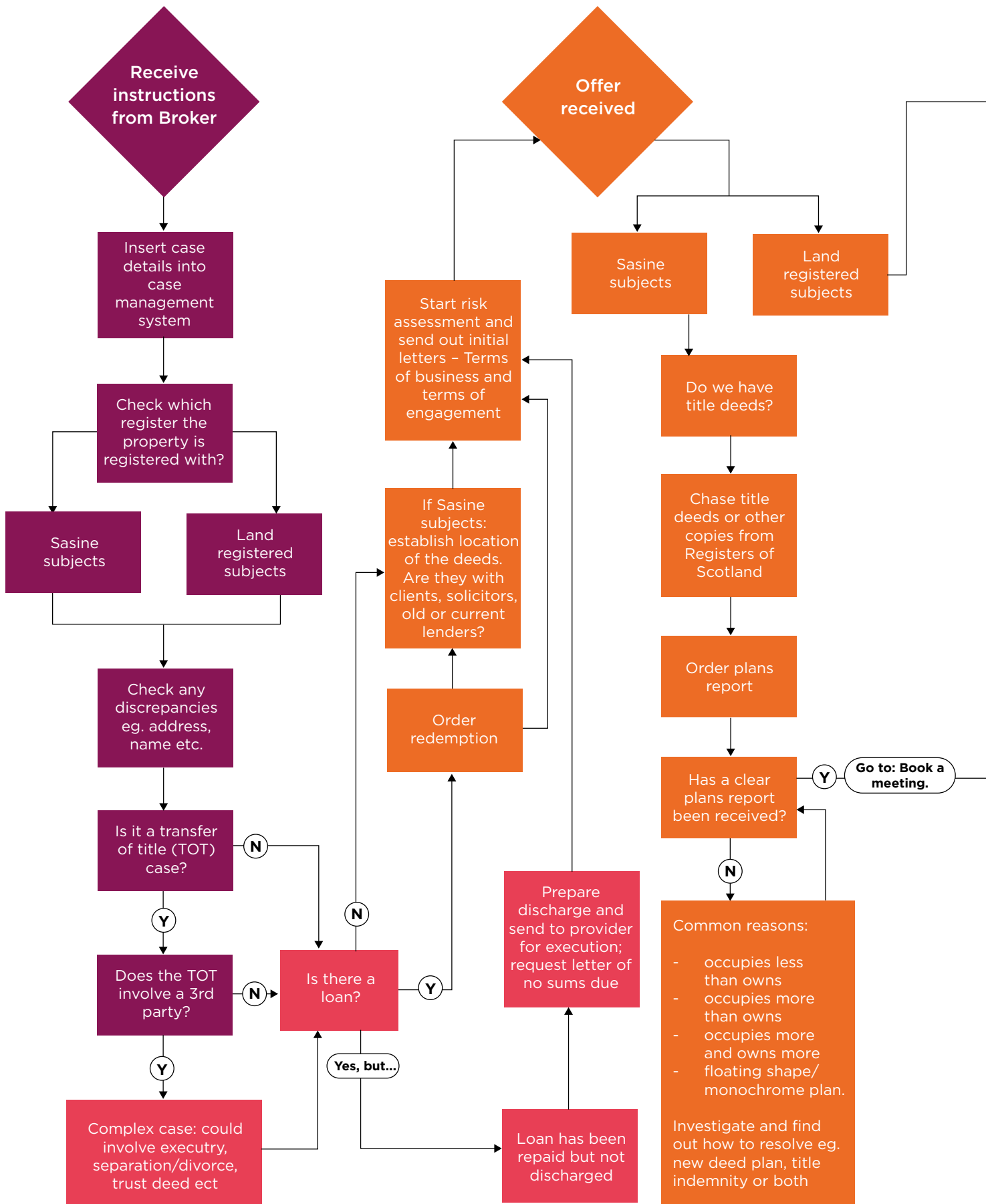
Lasting Powers of Attorney do not apply in Northern Ireland. (see section 3.4c). In Scotland the term used is Power of Attorney (visit [www.publicguardian-scotland.gov.uk/power-of-attorney](http://www.publicguardian-scotland.gov.uk/power-of-attorney) for more).

## 3.4 Typical consumer solicitor processes

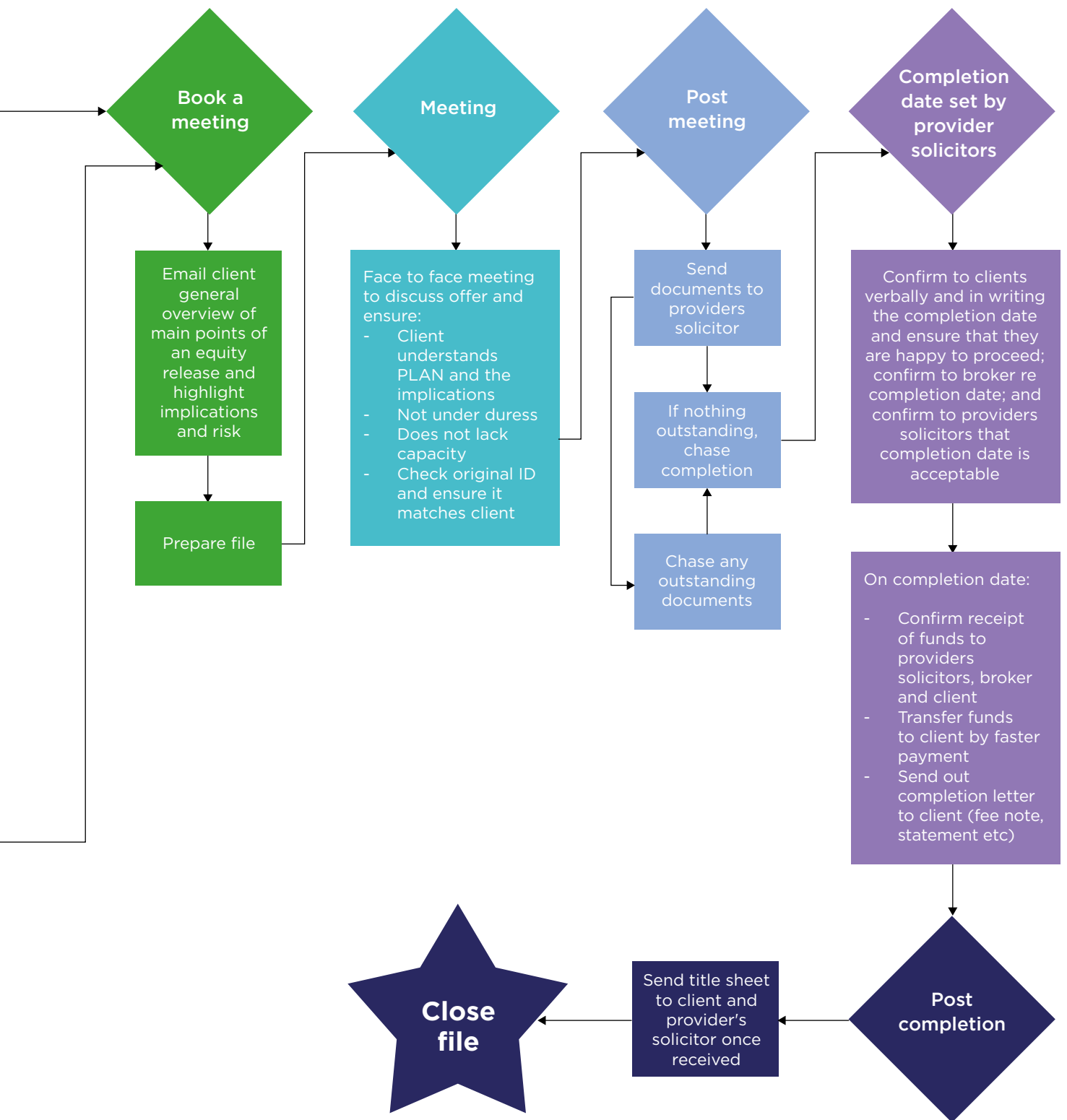
### 3.4a England and Wales



### 3.4b Scotland







### 3.4c Northern Ireland

Broadly speaking the process in Northern Ireland is similar to that in England and Wales, but there are key differences that solicitors must be aware of.

**Land law** in Northern Ireland pre-dates the Law of Property Act 1925 (England and Wales). The majority of title is registered in the Land Registry, however there is still title which is unregistered due to the fact that compulsory first registration was only implemented in 2003.

The classes of title are also slightly different for historical reasons. Title is either freehold, long leasehold (the term of the lease can be up to 10,000 years) or fee farm grant.

There is no equivalent to fee farm grant in England and Wales. It is essentially a freehold title which is subject to the payment of a rent and also forfeiture rights. The Property (NI) Order 1997 prohibits the creation of new fee farm grants and long leasehold title for residential properties, with the exception of apartments.

**The Mental Capacity Act (NI) 2016** is similar to the 2005 Act in England and Wales.

However, only a small part of the Act has been implemented in Northern Ireland, because there has been no functioning government there for some time.

As a result, solicitors there are still governed by the provisions of the Mental Health (NI) Order 1986. Enduring Powers of Attorney and Controllership Orders in respect of capacity cases exist in Northern Ireland, but there are no Lasting Powers of Attorney.

There is a focus on formal Capacity Assessments as opposed to a solicitor checking whether the client has legal capacity. This is generally seen as a positive risk-based approach but it can result in the process taking longer, because of the time required for a formal assessment to take place.

### Receipt of instructions

Upon receipt of instructions, the consumer's solicitor should download a copy of the title for the property they have been instructed to deal with. At this stage, they should be able to identify:

- registered or unregistered
- leasehold or freehold
- solar panel leasehold
- name discrepancies
- address discrepancies
- title discrepancies
- restrictions
- charges
- trusts.

Every level of fee earner within your practice who is dealing with the equity release work should be able to at least identify all the above.

### Processes to rectify title issues

- Should any issues with the title be identified, the consumer's solicitor must work in a methodical way to solve the problem.
- The provider's solicitors will have their own requirements for every problem, and it is essential to liaise with them if unaware of their individual requirements. A solution which appears correct may not suit every provider's requirements and communication is essential if the consumer's solicitor is unfamiliar with the processes.
- The solicitor must immediately seek authority from the consumer to liaise with any third parties who will become involved in the process to remedy the consumer's title.

## Allocating cases according to experience of staff

As with all areas of law, those who are inexperienced should not be left to provide advice to consumers on any matters in which they have no experience.

Straightforward equity release transactions can be dealt with under supervision by members of staff who have less experience but the more complicated matters which involve remedying title issues must have more experienced staff members who are familiar with the procedures required.

Transactions with only minor problems can be dealt with by competent fee earners, as follows:

- occupier consent forms
- shortfall cases
- restrictions or charges on title
- name/address discrepancies.

The following scenarios should be dealt with by the more experienced practitioner, if they have the relevant experience in this area of law (this list is not exhaustive):

- unregistered titles
- solar panel lease
- matrimonial issues (for example, divorce and separation)
- deceased co-owner
- how Trusts affect the legal ownership of the property
- advice which must be provided in connection with a trust and its removal
- lease extensions (statutory or agreed)
- charge of part/title split
- bankruptcy
- incapacity
- duress
- undue influence
- fraud
- lack of consensus between couples

**It is the consumer solicitor's obligation to ensure that there are adequate levels of supervision within their firm and that every case is signed off by a senior member of staff before it proceeds.**

- purchase equity release
- defective titles
- Stamp Duty Land Tax law
- planning consents and building regulations
- the law in relation to rules of inheritance
- rules of intestacy
- individual providers requirements
- third party interests
- matters present on title
- consumer's obligations under the contract
- what can trigger repossession
- the role of the attorney, in relation to the provider

If the consumer's solicitor is unable to adequately advise on any additional matters, they should advise that the consumer seek the appropriate external and expert legal advice before the consumer solicitor proceeds with the equity release transaction.

It is the consumer solicitor's obligation to ensure that there are adequate levels of supervision within their firm and that every case is signed off by a senior member of staff before it proceeds.

The consumer solicitor should immediately contact the consumer to obtain all the required documentation to enable them to produce a clear title to the provider's solicitor prior to completion or, adequate documentation to satisfy the provider's solicitor so that they can simultaneously complete and clear the title to

provide the provider with the first and only legal charge (lifetime mortgage) or a transfer and lease (home reversion plan).

In transactions where third-party solicitors are involved such as matrimonial, lease extensions, solar panels or trust removal, it is imperative that the consumer solicitor liaises closely with the third party's own solicitors and ensure that:

- They are fully aware of the additional requirements of the provider's solicitors so that they can relay this to the third party solicitors when they are carrying out their part of the transaction.
- If there are undertakings to be signed off, the third-party solicitors are aware of this and that they provide the correct undertakings.

- Where there are leases to be varied, the third party solicitors provide the consumer's solicitor with drafts to be approved by the provider's solicitors, before they agree to any final drafts.
- The third party solicitors aware of the time constraints of the transaction the consumer solicitors are dealing with. Encourage them to work to tighter timescales than they would normally, making them aware of the potential consequences of not dealing with the transaction in a timely manner.

### **The consumer solicitor's duty to the consumer**

When dealing with an equity release which is subject to one of these additional requirements, it is the consumer solicitor's duty to keep the



consumer appraised of the progress they are making. They should notify them, at the outset, as to the additional requirements which they must deal with, and they should immediately ensure that they are managing their expectations. The consumer needs to know that their solicitor's progress with the case will depend upon how quickly third party solicitors deal with instructions and queries.

The consumer solicitor should use their experience and knowledge of the individual areas to manage the consumer's expectations. For example, a transaction which has a matrimonial element will usually take longer to complete than a standard transaction, but the time frame will vary dependent upon how far through the matrimonial proceedings the consumer and their spouse are. If the financial consent order has been sealed by the court, then the timeframe should be significantly shorter, but it must still be ensured that the third party solicitors have provided any of the required undertakings.

### Receipt of mortgage offer/home reversion pack

The consumer solicitor will receive a pack of instructions from the provider's solicitors with the consumer's lifetime mortgage offer or home reversion pack, together with a document checklist. This is often referred to as the schedule of requirements. The consumer solicitor must then advise the consumer on the contents thereof, to include:

- Risks and benefits of proceeding
- terms and conditions
- legal obligations
- long-term nature of the contract

The consumer needs to be certain that the product meets their current and reasonably foreseeable needs and, if the consumer is uncertain of this, to go back to their financial adviser for further advice.

The consumer solicitor is free to advise the consumer as they see fit, but it is strongly advised that they do so in writing, so that they and the consumer retain a long-term record as to the

extent of the advice, which might be even more important once the consumer has passed away and their family needs to deal with their estate. Coupled with this, the consumer solicitor is required to arrange a face to face meeting with the consumer which usually takes place at this stage. This allows them to witness the consumer's signature and to comply with the Council's requirements to:

- Verify that the consumer is who they say they are.
- Check that they have sufficient mental capacity to enter into the contract, insofar as it is reasonably able to verify.
- Be sure they are not acting under duress or undue influence.
- If they are a couple, check they both agree to proceed.

### The solicitor's certificate

The offer pack will also contain a document called a **solicitor's certificate**, which is issued by the Council. This needs to be signed by both the consumer solicitor and the consumer. The consumer solicitor needs to go through the content with the consumer to ensure that they fully understand the nature and effect of the product they are taking, and that they agree to proceed. It also confirms that the consumer solicitor is acting independently of the financial adviser and from the provider.

### Post-appointment to completion process

From the receipt of signed documents to completion, the consumer's solicitor needs to ensure:

- Completed correctly (signature, date (if not, to be left blank, etc)).
- Details precisely match consumer (name/address/title).
- Complete pack of documents:
  - Solicitor's certificate
  - mortgage deed (or lease, TR1 and declaration of trust for home reversion)
  - buildings insurance declaration

- signed title plan showing the extent of the property to be charged/sold (if required by the provider)
- additional documents as required by the provider solicitors (e.g. to satisfy special conditions and/or rectification of errors on title)
- provider solicitor checklist fully completed
- valid redemption statements are provided (if required)
- undertakings are provided (if required).

These all need to be sent to the provider solicitor, in accordance with the schedule of requirements.

The provider solicitor may require the consumer's approval for certain special conditions and will require a complete set of documents correctly and completely executed to request completion funds.

Once the provisional completion date is confirmed, the consumer must be contacted to confirm their agreement to the final figures and, if they do not give clear instructions to proceed, the provider solicitor instructed to pause the completion whilst instructions are sought. In particular, the consumer solicitor must ensure that the consumer is made aware that any existing mortgage or other secured charge will need to be repaid from the proceeds of the equity release plan. If there are multiple applicants, both must give clear instructions. The provider's solicitor must be notified if there is an honest belief that the consumer's capacity may be in doubt and/or issues of duress have arisen, whilst this is conclusively resolved.

Funds will be received from the provider solicitor on completion day net of any product fees and the redemption of any existing charges (which they are redeeming). On receipt of funds the consumer solicitor must fulfil any undertakings provided to the provider or third-party solicitors e.g. to redeem charges, forward completed Land Registry forms or original deeds etc. and thereafter forward the balance of the funds to the consumer, after deduction of the financial adviser's fee (subject to authority) and their own fee.

Following completion, and receipt of any required executed documentation (e.g. completed TR1 to remove ex-spouse from title upon payment of funds) the provider's solicitor will register the deed at the Land Registry and forward a copy of the updated title within 14 days of receipt.

If there is a linked transaction, for example, purchase or lease extension, the consumer's solicitor will need to check with the provider's solicitor if they need to register the transaction on completion.

The consumer solicitor should check the completed title register accords with what they understand the entries should be, and especially on first registration or registration of a similar transfer or disposition, to check the extent matches what the consumer owns and intended to secure.

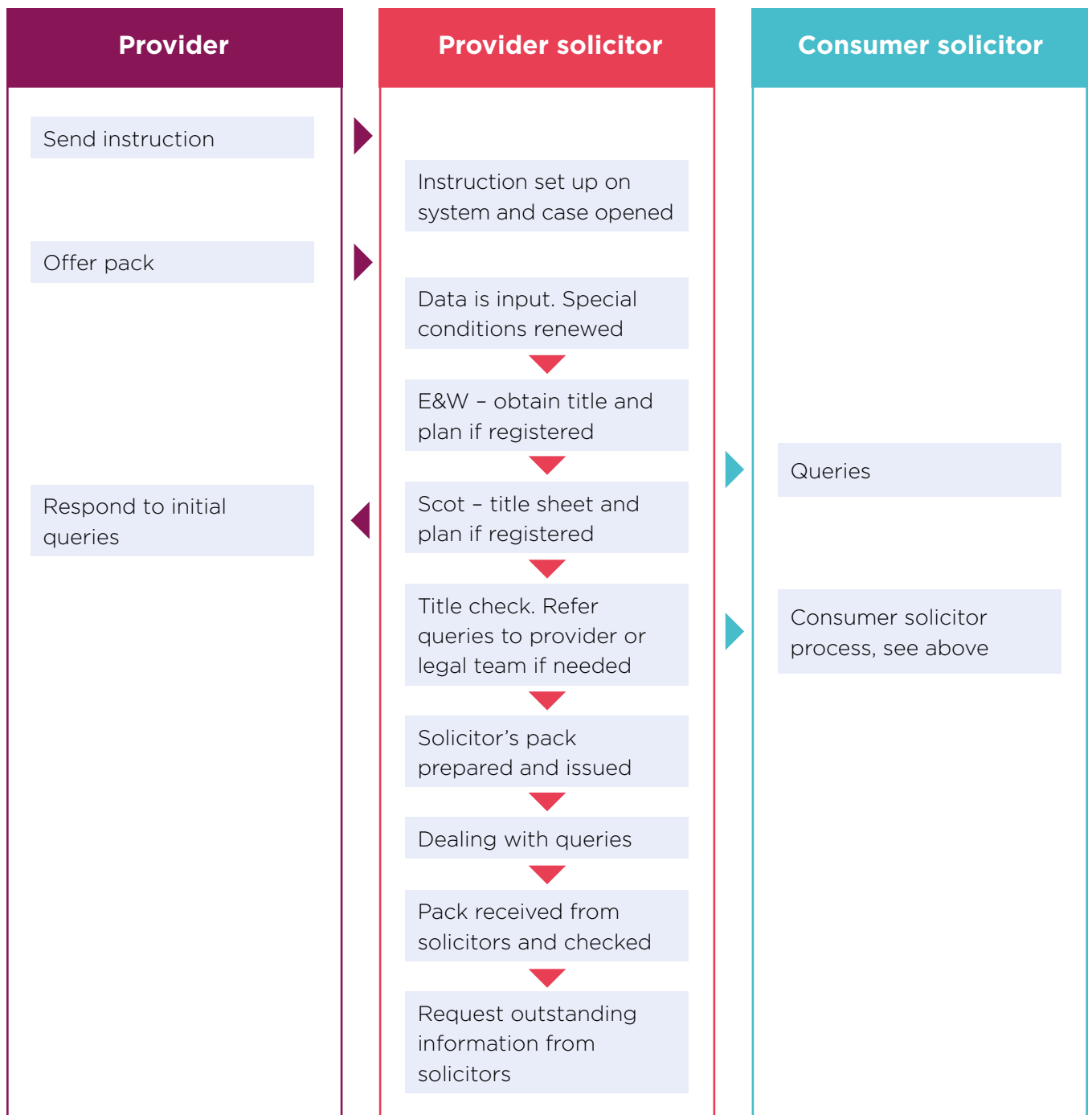
### 3.5 Provider solicitor process

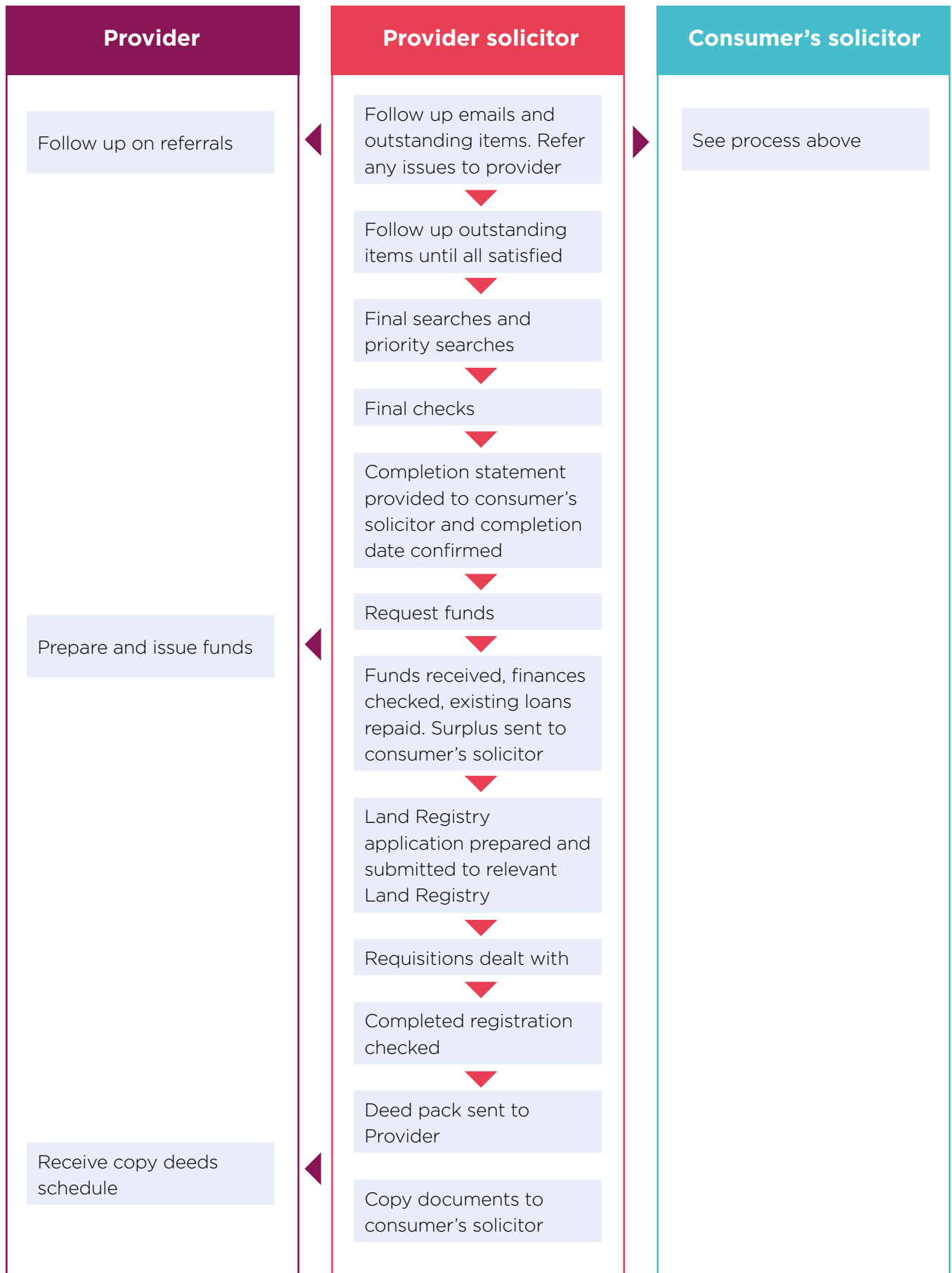
Each firm of solicitors representing a provider may have a slightly different approach to consider the provider’s own processes and requirements.

Care should be taken to read through the instructions provided before returning any

information to the provider solicitor to avoid delays in having to obtain further information or deal with additional enquiries.

The following sets out the key steps in the process from the provider’s solicitor’s perspective. Some providers instruct their solicitors at application stage and others at offer stage. The process steps are the same whatever the jurisdiction.







# Skills



# Section four:

# Soft skills and practical skills

## 4.1 Understanding the consumer solicitor role

This section covers the skills that will help the consumer solicitor to work better, to communicate more effectively and to build stronger relationships with the consumer. While neither a soft skill or a practical skill, this module begins by outlining the importance of understanding their role and the benefit it provides to others.

As a solicitor, it is important to know the requirements of the job and how it fits into the wider business, both within their own sector and in the wider financial services industry. Given the importance of the role, it is also important to appreciate the value that comes from providing good service and the need for integrity in all client dealings.

### Nature of the role and place in organisation

- Own job description.
- Nature and parameter of the role as secretary, paralegal, assistant, manager, solicitor.
- Where this fits into the overall business structure and objectives.

### Responsibility and integrity

#### ALWAYS:

- Ensure that the consumer's best interests are at the forefront of what is done.
- Take responsibility for the legal advice given.
- Act with the highest level of integrity.

- Recognise opportunities to exceed the expectations of the consumer, firm, code of ethics and applicable regulations.
- Recognise potential conflicts of interest between themselves, the consumer and their financial adviser.

### The role of third parties

- Understand that the consumer solicitor must take the consumer's instructions, not those of third parties, unless there is a valid authority to do so, or evidence de-facto loss of mental capacity of the consumer.
- Understand that the consumer is at risk of third party undue influence, duress and, potentially, fraud.
- Involve the consumer's family only where appropriate, ensuring that the consumer receives legal advice independently from any family member or other third party.
- Do not involve family members where they stand to benefit from the equity release.

### Benefit of legal advice

- How solicitors benefit consumers' understanding of the long-term nature of the contract they are entering, as well as the risks, rewards and obligations arising from it.

### Delivering excellent customer service

- Going beyond the basic requirements of the role.
- Delivering a service to consumers that exceeds the service they expect.

- Making consumers feel at ease.
- Giving consumers the opportunity to withdraw, if they feel that the product is not right for them.

## 4.2 Verbal communication

Communication skills are essential in the legal profession. Whether face to face, on the telephone or through other channels, it is vital that solicitors communicate effectively and clearly in verbal conversation.

While most solicitors will have a preferred method of communication, it is a valuable skill to be able to adapt to the needs of the consumer and speak to them in a way that works best for them.

To communicate effectively and clearly, solicitors must:

### Communicate key concepts

- Effectively articulate and communicate information and key concepts to consumers.

### Use and range of verbal communication options

- Communicating effectively across all verbal communication formats.
- Use of telephone, face to face and video conferencing.
- Take consumers' individual circumstances into account (e.g. hard of hearing/ English not first language) and adapt communication accordingly.

### Present information clearly

- Presenting information clearly, concisely and accurately.
- Information fully understood by consumers.

### Demonstrate empathy

- Fully empathise with consumers.

- Converse using the correct tone of voice and language.
- Adapt style to specific person and situation.

### Check consumer understanding

Ensuring the consumer fully understands what their solicitor is trying to say by:

- Empathetic listening and ensuring the consumer has understood.
- Asking appropriate questions to ensure this is the case, including asking a consumer to explain what they understand from what their solicitor has told them.
- Recognising where a consumer has not understood and using different ways of explaining to ensure that this is achieved.
- Introducing other topics into the conversation and then going back to the subject matter.
- Testing whether the consumer can understand, retain, weigh up the pros and cons and communicate their wishes.

### Challenge a consumer's misconceptions/assumptions

A consumer may think they understand a particular topic and how it might affect their circumstances and/or desired outcome, but this should not determine whether a full and concise discussion takes place. A solicitor should be focused on their ability to listen and assist with any misgivings that a consumer may have and recommend a further conversation with their financial adviser. A solicitor should not be drawn into whether the product is suitable for the consumer but should refer the consumer back for additional financial advice if this is in doubt.

### Simplify complex concepts

- Making complicated concepts appear simple and clear.
- Making sure that the consumer understands all the relevant facts, risks rewards and legal obligations before proceeding.

This consumer focus means thinking about the method of communication and the way we communicate to make difficult concepts simple for the consumer. Given that some consumers may be experiencing a range of different stresses, a good solicitor should also be able to demonstrate empathy, putting themselves in consumer's shoes and recognising the effect their situation is having on their life.

## 4.3 Written communication

A major part of a solicitor's job is to provide consumers with written communication, which should present information clearly and effectively. This means using plain English, writing in clear and concise sentences, and avoiding jargon and potentially confusing technical language (legalese).

Not all communication will be directly between the solicitor and the consumers or family members. Quite often, solicitors need to communicate with other professionals, such as financial advisers, product provider solicitors, existing mortgagees, management companies or other firms of solicitors. Just as with consumers, it is important to write in a clear and concise manner.

### Basic writing skills

- Writing clearly, using correct grammar and appropriate language.

### Letters and summaries

- Writing letters or emails to consumers.
- Writing clear, concise, and accurate summaries of consumer meetings.
- Writing detailed attendance notes of telephone conversations with consumers and financial advisers.

### Covering complex topics in writing

- Explaining complicated concepts relating to the subject matter in writing.

Quite often, solicitors need to communicate with other professionals, such as financial advisers, product providers' solicitors, existing mortgagees, management companies or other firms of solicitors.

### Communication with other organisations or third parties

- Communicating effectively with other third parties (provider solicitors, financial advisers, existing mortgagees etc) by email and letter.

### Documenting the retainer

- Creating documents that serve as a record of the extent of the legal advice given, including client care letter, complaint handling procedure and of the advice itself.

### Professional quality of output

- Producing highly professional written outputs, fully reflecting the reasons for decisions taken.
- Keeping quality records of conversations with consumers and financial advisers.
- Ensuring that any mortgage report templates used are sufficiently tailored so the final document is bespoke to each consumer. Guidance notes that are contained in templates must be regarded as prompts and changed, edited and formatted to clearly reflect the consumer's specific situation rather than relying on generic standard paragraphs that are not personalised (e.g. make any special conditions/retainer clear to the consumer to ensure their expectations are managed).

### Summarising detailed output

- Producing concise summaries of more detailed output.
- Making difficult concepts easy to understand.

### Handling issues in writing

- Writing effectively to rectify difficult situations.

### Responding to specific consumer needs

Changing the font size, format and writing style to suit specific needs. For example:

- If the consumer has poor sight.
- If the consumer finds reading difficult.
- If the consumer has learning difficulties relating to reading and understanding written text.
- If English is not their first language use a professional translator and not a family member to ensure that the consumer receives full and independent legal advice.

In many cases, the most important written communication with consumers from their solicitor will be the report explaining how the product works, but there are many other situations that might require either an email or letter. During the advice process, the consumer may have queries

Sometimes the subject matter for the written communication will be extremely complex. In this situation, there is a real skill in being able to explain these concepts in a way that will make sense to the consumer, without the benefit of verbal explanation.

and may even make complaints, requiring a written response. It is important that anything we send to consumers is clear, fair and not misleading.

It should be written in a language the consumer will understand and avoid jargon.

Sometimes the subject matter for the written communication will be extremely complex. In this situation, there is a real skill in being able to explain these concepts in a way that will make sense to the consumer, without the benefit of verbal explanation.

## 4.4 Building a rapport

The legal profession is built on relationships. It is often said that people buy people, and the first step in the legal process is to build a relationship and gain a consumer's trust. Without this, the working relationship is unlikely to be successful.

Solicitors need the ability to build rapport with consumers and develop relationships. Key to this is an understanding of good communication techniques and conversation skills.

### Basic concepts in relation to rapport

- Social etiquette appreciation.
- Communication and the importance of body language.

### Effective consumer relationships

- Establishing, building and maintaining effective relationships.

### Demonstrating empathy

- Demonstrating empathy and an understanding of other people's situations.
- Considerately assessing for vulnerabilities and ensuring that the consumer is catered for accordingly either by referral directly or by recommendation to the consumer.

### **Conversation skills**

- Initiating two-way conversations.
- Ensuring that consumers feel understood.

### **Advanced relationship building**

- Building strong professional relationships to build trust and rapport with consumers.

### **Helping a consumer feel at ease**

- Ability to put the consumer completely at ease and ensure that they are comfortable to say anything that is on their mind.

## **4.5 Presentation**

Good presentation skills are essential for solicitors. When presenting to a consumer, a financial adviser or to a group of people, it is important to have both good verbal and written communication skills. It is also important the solicitor has a strong understanding of the material being presented.

Solicitors should be able to develop presentations and ensure the content is clear and easy to follow. Competent solicitors should be able to confidently present to a range of audiences and adapt their personal style to the needs of the audience, picking up on social cues.

### **Understanding and presenting information**

- The importance of understanding and presenting information to others.

### **Clear and concise presentation**

- Presenting information in a clear and concise manner.
- Presenting regulatory information to consumers in a simple and easy to understand way, in a professional manner.
- Presenting the risks, rewards and legal obligations in a balanced and unbiased

way, to allow the consumer to make their own, informed decision.

### **Presentation tools**

- Using presentation tools, including slides on a screen or presenter.
- Using supporting material on paper.
- Using tools and alternate methods of communication to explain and bring to life potentially complex issues.

### **Confident presentation style**

- Confidently presenting to a group audience.

### **Picking up on consumer cues**

- Intuitively recognising when consumers do not fully understand a certain piece of information.
- Rephrasing and breaking down the information so that it can be more easily understood.

## **4.6 Using technology**

Today's solicitors cannot perform their roles without a good working knowledge of the technology and software used in their profession. Anyone involved in providing legal advice should be able to use basic business software packages and know how to manage cases for consumers, using the industry tools that are approved by their firm or market stakeholders. Those who try to become expert users of legal software and the associated technology will be in the best position to succeed.

### **Basic software skills**

- Operating essential computer software (for example word processing, spreadsheet, email software, case management and CRM systems).

**Use of technology**

- Navigating and using other technologies (such as photocopiers, smart phones, databases, conferencing facilities, marketing software).
- Using communication technologies effectively, such as telephone, email and video conferencing to provide personable advice.
- Incorporating recording functionalities in person or remotely, to make it easier to capture the consumer's voice ensuring appropriate secure measures are taken to protect this form of communication.

**Creating appropriate marketing material**

- Following marketing regulatory guidelines.
- Knowing how to create appropriate marketing for the target audience.

## 4.7 Information analysis and problem solving

Not all consumer situations are straightforward. In many cases the solicitor will be called upon to solve problems as part of the legal advice process, thinking outside the box and resolving conveyancing issues for the consumer. In many cases the solicitor may need to piece together bits of information to develop a view of the situation and fully understand the consumer's circumstances.

**Practical problem-solving skills**

Problem solving through practical tasks, such as:

- Finding a suitable way to overcome communications issues, such as a lack of understanding, or requiring the use of a translator when English is not the first language.
- Helpful sound and written accessibility platforms to assist those with hard of hearing or hard of sight issues.

**Identifying relevant information**

- Identifying pertinent information that may not be given clearly or openly by consumers.

**Lateral thinking**

- Identifying solutions to a consumer's needs and objectives that may not be immediately obvious.

**Analysis of consumer information**

- Analysing consumer information to reach suitable conclusions.

Solicitors should be able to demonstrate an analytical approach to both their consumers' needs and any issues that arise. Being open to alternatives and prepared to step outside your comfort zone may lead to better solutions. It could also enhance the service provided and their own professional development.

## 4.8 Negotiation

Negotiation skills are not always considered part of the legal process, but they are valuable when advising on equity release and later life lending. A solicitor may be required to negotiate with other solicitors, financial advisers or existing providers for a variety of reasons.

All of these negotiations require skill on the part of the solicitor:

**Basic negotiating skills**

- The nature of negotiation.
- Effectively negotiating across a broad range of situations.
- Demonstrating basic levels of autonomy and independent thinking.

**Working with others**

- Participating effectively in negotiation scenarios with other solicitors and employees.

### **Negotiating under pressure**

Negotiating competently in challenging situations, such as when discussing:

- Fees
- complaint handling
- timescales
- coercion from third parties
- expectations.

### **Successful conclusion to negotiations**

Consistently achieving successful outcomes for consumers and the regulated firm when negotiating with third parties, such as:

- Introducers
- third party solicitors
- suppliers
- service providers.

## **4.9 Time management**

Time is a finite resource and those who can manage it effectively will reap benefits. From the solicitor's perspective, it means more efficient working and a better work-life balance. From the firm's perspective, it means better productivity and happier staff. From the consumer perspective, it means important tasks are actioned in a timely manner.

Solicitors need good time and diary management skills to prioritise the most urgent and important tasks and categorise them effectively.

To be able to make the best use of time, competent solicitors are expected to be able to accurately predict the time required for different tasks and plan these into their schedule, managing consumer expectations accordingly.

### **Prioritising time**

- Prioritising time and activities as well as showing effective diary management skills.

### **Allocating time**

- Ensuring time can be allocated and is sufficiently available for tasks and appointments.

### **Diary management**

- Managing diary independently and effectively.

### **Meeting deadlines**

- Meeting internal and external deadlines consistently.
- Punctuality when attending in person, telephone or video meetings with consumers.

### **Managing expectations**

- Managing a consumer's expectations.
- Ability to predict issues/events that may frustrate estimated timescales.

### **Predicting and valuing time required**

- Understanding the time taken for all the tasks within the role, and the corresponding cost/value of this time.



# Appendices

## A: Definitions

Term	Definition
AML	Anti-money laundering
CILEX	Chartered Institute of Legal Executives
CLC	Council for Licensed Conveyancers
FCA	Financial Conduct Authority
Framework	This competence framework document
HMLR	His Majesty's Land Registry
ID	Identification documents
LR(NI)	Land Registry of Northern Ireland
LBTT	Land and Buildings Transaction tax
LTT	Land transaction tax
PII	Professional Indemnity Insurance
Regulator	Solicitors Regulatory Authority (SRA) for solicitors practising in England and Wales, Law Society of Scotland for solicitors practising in Scotland, Law Society of Northern Ireland for solicitors practising in Northern Ireland, the Council for Licensed Conveyancers (CLC), for licensed conveyancers, Chartered Institute of Legal Executives (CILEx) for chartered legal executives and the Bar Standards Board for barristers
RoS	Registers of Scotland
SDLT	Stamp duty land tax
Solicitor	Any solicitor, licensed conveyancer, chartered legal executive or barrister with acceptable professional indemnity insurance and a current practising certificate with their regulator
SRA	The Solicitors Regulation Authority
UKF	UK Finance

## B: Resources

Chartered Institute of Legal Executives	<a href="http://www.cilex.org.uk">www.cilex.org.uk</a>
Property law regulator	<a href="http://www.clc-uk.org">www.clc-uk.org</a>
Society of Licensed Conveyancers	<a href="http://www.conveyancers.org.uk">www.conveyancers.org.uk</a>
Conveyancing Association	<a href="http://www.conveyancingassociation.org.uk">www.conveyancingassociation.org.uk</a>
Equity Release Council	<a href="http://www.equityreleasecouncil.com">www.equityreleasecouncil.com</a>
Financial Conduct Authority	<a href="http://www.fca.org.uk">www.fca.org.uk</a>
His Majesty's Revenue and Customs	<a href="http://www.gov.uk/government/organisations/hm-revenue-customs">www.gov.uk/government/organisations/hm-revenue-customs</a>
Land Registry	<a href="http://www.gov.uk/government/organisations/land-registry">www.gov.uk/government/organisations/land-registry</a>
Office of the Public Guardian	<a href="http://www.gov.uk/government/organisations/office-of-the-public-guardian">www.gov.uk/government/organisations/office-of-the-public-guardian</a>
Welsh Revenue Authority	<a href="http://www.gov.wales/welsh-revenue-authority">www.gov.wales/welsh-revenue-authority</a>
Law Society of Scotland	<a href="http://www.lawscot.org.uk">www.lawscot.org.uk</a>
The Law Society	<a href="http://www.lawsociety.org.uk">www.lawsociety.org.uk</a>
The Law Society of Northern Ireland	<a href="http://www.lawsoc-ni.org">www.lawsoc-ni.org</a>
Legal Ombudsman	<a href="http://www.legalombudsman.org.uk">www.legalombudsman.org.uk</a>
Legal Services Board	<a href="http://www.legalservicesboard.org.uk">www.legalservicesboard.org.uk</a>
UK online legislation library	<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>
Northern Ireland government services	<a href="http://www.nidirect.gov.uk">www.nidirect.gov.uk</a>
HMRC Northern Ireland	<a href="http://www.nidirect.gov.uk/contacts/hm-revenue-customs-hmrc">www.nidirect.gov.uk/contacts/hm-revenue-customs-hmrc</a>
Office of Care and Protection (Northern Ireland)	<a href="http://www.nidirect.gov.uk/contacts/office-care-and-protection">www.nidirect.gov.uk/contacts/office-care-and-protection</a>
Office of Public Guardian (Scotland)	<a href="http://www.publicguardian-scotland.gov.uk">www.publicguardian-scotland.gov.uk</a>
Revenue Scotland	<a href="http://www.revenue.scot">www.revenue.scot</a>
Registers of Scotland	<a href="http://www.ros.gov.uk">www.ros.gov.uk</a>
Society of Later Life Lenders	<a href="http://www.societyoflaterlifeadvisers.org.uk">www.societyoflaterlifeadvisers.org.uk</a>
Solicitors Regulation Authority	<a href="http://www.sra.org.uk">www.sra.org.uk</a>
UK Finance	<a href="http://www.ukfinance.org.uk">www.ukfinance.org.uk</a>

## Start your membership application today

Contact Laura Gibson, Membership Business Development Manager at [laura.gibson@equityreleasecouncil.com](mailto:laura.gibson@equityreleasecouncil.com) to start your membership application.

To find out more about the Council and benefits of being a member visit [www.equityreleasecouncil.com](http://www.equityreleasecouncil.com)



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The legal guide to equity release is for guidance only. Property solicitors should always adhere to the regime set out by the relevant regulatory authorities. This document is aimed at qualified legal professionals and those considering it as a career.