

INDUSTRY SUBMISSION

Economics Legislation
Committee

Inquiry into the Corporations Amendment
(Future of Financial Advice) Bill 2011

February, 2012

Disclaimer:

This submission was developed by the Author and is based on discussions with a range of market practitioners and research provided by various parties.

The views expressed are intended to reflect the collective view of the SEQUAL Membership. However, no representation or warranty is given that either the Author or individual SEQUAL Members subscribe to each of the views herein described.

This Submission has been prepared with care. However, neither the Author nor any SEQUAL Member is responsible for the results of any action taken on the basis of the information provided.

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Acknowledgements:

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The Australian Bureau of Statistics · ASIC · RFI · ACAA · Datamonitor · Deloitte Actuaries · Gadens Lawyers

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Mission and Objectives of SEQUAL

The SEQUAL Mission is to ensure the professionalism of those who offer or distribute Equity Release products for senior Australians. SEQUAL is dedicated to maintaining professional standards of practice within the Australian equity release market.

The primary objectives of SEQUAL are to provide:

1. An industry forum for the collaborative development of an ethical and successful Seniors Equity Release market in Australia.
2. Effective consumer protection through a Code of Conduct and Guidelines by which members of SEQUAL and SEQUAL-accredited Equity Release Consultants ("SERC's") are expected to comply.
3. Representation for the constituent parts of the Australian Seniors Equity Release Market at the national level through a process of consultation with Government, Regulators and Consumer Agencies.
4. A central resource of consumer information on Seniors Equity Release and to enable efficient access to SEQUAL members.

SEQUAL's Role as the peak Equity Release Industry Body

SEQUAL Membership imposes clear Code of Conduct obligations on product providers and the SEQUAL Industry Accreditation protocol requires appropriate standards of practice to be maintained by intermediaries providing product information and advice to consumers.

In this regard, the following attachments to this Submission should be noted:

- § SEQUAL Code of Conduct
- § SEQUAL Guideline –No Negative Equity Guarantee and Default Conditions
- § SEQUAL Guideline –Equity Release Key Facts
- § SEQUAL Guideline –Equity Release Proper Process

SEQUAL's role as the peak industry body for the Australian Senior's Equity Release market is well established. The various Industry Associations representing Finance Brokers and Financial Advisers, have endorsed the significance of SEQUAL's contribution towards professionalism in each of their practitioner guidelines.

In particular, the following attachments to this Submission should be noted:

- § Financial Planning Association Guidance Note
- § CPA Australia Guidance Note for Advising on Reverse Mortgages

SEQUAL Code of Conduct

Each Member of SEQUAL agrees its equity release product(s) will adhere to, and be measured against the following Code of Conduct in dealing with Senior Australians their families and advisers. As a minimum, Members of SEQUAL shall:

1. Treat all Customers with respect and dignity
2. Participate in an ASIC approved External Dispute Resolution Scheme
3. Ensure that all products carry a clear and transparent 'no negative equity' or 'non-recourse' guarantee. That is, the Customer(s) will never owe more than the net realisable value of their property, provided the terms and conditions of the loan have been met
4. Strongly encourage Customer(s) to discuss the transaction with family members and to seek independent financial advice from a qualified financial adviser
5. Strongly encourage Customer(s) to discuss the transaction with Centrelink to ensure they fully understand the impact, if any, on their Centrelink entitlements
6. Ensure that the Customer(s) obtains independent legal advice performed by the solicitor of their choice. Prior to the completion of the transaction, the Customer (s) or their solicitor will be provided with full details of the benefits the Customer (s) will receive, and the obligations they are entering into
7. Clearly and accurately identify all costs to the Customer(s) that are associated with the transaction
8. Not assert or imply to a Customer(s) that the Customer(s) is obligated to purchase any other product or service offered by the Member or any other company in order to enter into an equity release product
9. Provide in writing, a fair and complete package of equity release documents, covering the benefits and obligations of the product. This will include making available to the Customer(s) and their advisers a tool illustrating the potential effect of future house values, interest rates and the impact of any capitalisation of interest where applicable
10. Ensure that all contracts are written to comply with Australian Consumer Law and the consumer protection provisions of any other relevant Legislation, Regulation or Code and ensure compliance, where applicable, with all Guidelines issued by SEQUAL.

SEQUAL Member Commentary

In responding to the invitation from the Economics Legislation Committee ("The Committee") to lodge a submission into their inquiry into the Corporations Amendment (Future of Financial Advice) Bill 2011 ("The Bill"), SEQUAL Members, through this submission, have appropriately focussed on the need for financial advice associated with equity release transactions to be both accessible and affordable.

Under the SEQUAL Code of Conduct, SEQUAL Members must "strongly encourage customers to seek independent financial advice from a qualified financial adviser". However, an obligation to ensure that the customer obtains such advice would result in significant consumer detriment due in part to the strong consumer resistance to obtaining advice on these transactions and the barriers of availability and cost associated with the difficulty in obtaining suitably "scaled" advice of this nature.

SEQUAL welcomes the contribution made by each of the Financial Planners Association (the "FPA") and CPA Australia (the "CPA") in issuing member guidelines (refer attachments) that have the objective of setting out the key factors that should be taken into account when recommending reverse mortgages. In particular, SEQUAL acknowledges the work undertaken by the FPA in working with SEQUAL to design and deliver professional development programs to increase the awareness of the appropriate use of equity release strategies.

Whilst SEQUAL does not seek to comment on the specific provisions of the Bill insofar as they relate to advise remuneration, it is hoped that the SEQUAL Guidelines that relate to Equity Release Key Facts and Equity Release Proper Process (refer attached) will be of interest to the Committee and will form the basis of further discussion between the key stakeholders.

Equity release strategies are likely to emerge as a significant part of retirement funding and will be particularly relevant to the challenge of funding aged care. SEQUAL supports the Productivity Commission's recent observation that:

"Older Australians generally want to remain independent and in control of how and where they live their lives, continue to be connected and relevant to their families and communities, and be able to exercise some measure of choice if they require care".

Home ownership is an important foundation for the retirement plans of many older Australians and it is important to ensure that soundly-based methods of releasing the wealth stored in the home are available and that consumers are well-placed to make fully informed decisions about their retirement funding.

Clearly, there is good reason to explore the options provided through equity release and the family home is now an intrinsic part of the planning process. It is vital that senior Australians have choices when considering the means by which they will meet the challenge of living longer and living well in retirement.

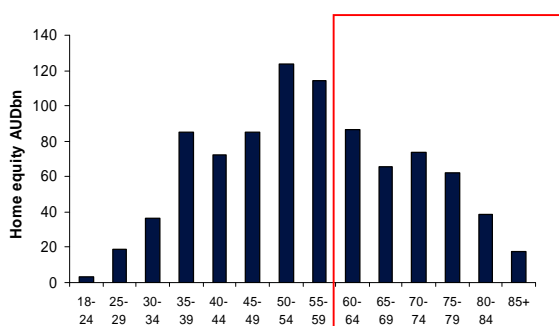
Property Ownership and the Wealth of Senior Australians

Many retirees have left the workforce poorly prepared via superannuation and other investments to fund their lifestyle until the end of their life. "Australia has a low household savings rate which results in our gross national savings rate rank of 17th out of the 28 OECD countries".¹

In addition, more recent retirees, part of the so-called Baby Boomer generation, have increased expectations of their quality of life in retirement without significant liquid funds to enable this to be achieved.

"History, some might say, has been kind to the baby boomers. They have enjoyed affordable housing, access to free education, often generous, welfare benefits and frequently favourable employment markets. Now the baby boomers – those people aged between about 45 and 65 years – will have to respond in a very real way to the challenges of an aging population, where the consequences of their actions now and throughout their lives will have ramifications for the generations to follow".²

The good news is that the majority of Baby Boomers have achieved the "Great Australian Dream" of owning their own home. Total Home Equity (Owner Occupied) was \$887 billion, at the end of 2005. The Over 60s accounted for \$345bn (39%).



Source: Datamonitor

However, the absence of significant levels of savings (superannuation) and a concentration of wealth in an indivisible/illiquid asset (owner-occupied property), has made many older Australians "Asset-Rich but Cash-Poor".

In the past, any retiree in this difficult position, had two choices; significantly reduce their living standards or sell the family home - often having to then move away from an established network of family and friends and in many cases reducing their age pension entitlements.

With the emergence of the Australian equity release market, retirees now have another option – tap into the stored wealth of their home.

¹ IFSA Submission to Australia's Future Tax System Review. October, 2008

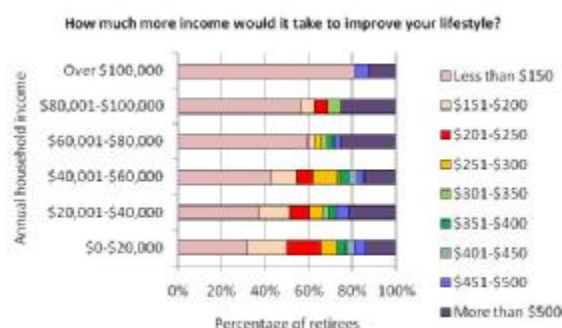
² AMP.NATSEM Income and Wealth Report. Issue No. 16. March 2007

Assisting Older Australians

How Can Equity Release Assist Seniors?

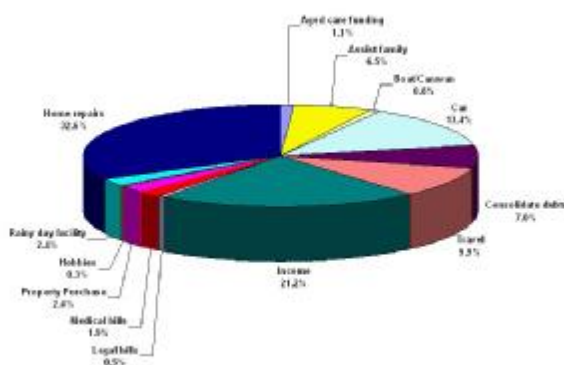
Even a modest draw down through equity release can provide the opportunity for senior Australians to significantly improve their standard of living in retirement.

The *'It's on the House' SEQUAL-RFI Reverse Mortgage Study*³ was conducted in October 2007 with phone interviews of 1000 Australians over the age of 60. This Study found that a modest increase to their income would significantly improve the lives of most retirees, with 50% of those surveyed indicating that as little as \$300 a month would be sufficient.



The Study also showed that a third of retirees (31%) expected to rely on their home as a source of retirement funding and revealed that baby boomers are not optimistic about their ability to fund their retirement, with a third fearing their funds would last only five to 10 years.

Equity Release is used for a variety of reasons by Senior Australians:



Source: ABN Amro Portfolio Analysis

Contrary to popular opinion, it is very rare that the proceeds are used for frivolous reasons. Some use equity release to supplement their retirement income, while others use it to renovate their home or access Care, in many cases to help them cope with a disability.

³ Report available for Download at: http://www.sequal.com.au/images/stories/sequal_rfi_study.pdf

How Can Government Policy assist Older Australians to help themselves?

Senior Australians cannot be classified as a single homogenous group. For pension policy purposes, it may be appropriate to consider the distribution of Government assistance based on home ownership. This distinction is currently applied in the assessment of the Assets Test and in other benefits entitlement (e.g. Rent Assistance).

Home ownership is an important foundation for the retirement plans of many Senior Australians, and it is important to ensure that any method of drawing an income from the wealth stored in the home is soundly based so that Seniors understand the options available to them in order that they can make fully-informed decisions.

Consumer Education is crucial

SEQUAL welcomes the important work undertaken by the Australian Securities & Investments Commission ("ASIC") in developing a general education booklet for Australian Seniors and providing valuable consumer information at its "Money Smart" website. However, much more needs to be done to educate older Australians about their retirement funding options. It should be a priority for Government to ensure that older Australians are not deprived of a better understanding of the role that Equity Release can play in meeting their needs and preferences in retirement.

Government funding of balanced financial literacy programs and counselling services is crucial. SEQUAL acknowledges the valuable contribution made by Centrelink's Financial Information Service ("FIS"), and other agencies such as the National Information Centre for Retirement and Investments ("NICRI"). In particular, SEQUAL continues to encourage Government to maintain funding for NICRI's Equity Release/Reverse Mortgage Information Centre.⁴

Regulation of the Equity Release Market

Forty One Thousand (41,000) senior Australians have released a total of \$3.0 billion of home equity.

SEQUAL is comprised of Equity Release providers that are either Authorised Deposit-taking Institutions (ADI's) or independent providers (Non-ADI's).

The SEQUAL Membership currently includes the following financial institutions:

Australian Seniors Finance	Banksia Financial	BankWest
Bluestone Equity Release	Over Fifty Group	Police & Nurses Credit Union
Royal Bank of Scotland	St George/Westpac	

SEQUAL is well-placed to influence the design and distribution of appropriate Senior's equity release products and the principles of the SEQUAL Code of Conduct provide a clear consumer benefit.

⁴ More Information can be found at: <http://reversemortgage.nicri.org.au>

SEQUAL Policy Guidelines have introduced important consumer protection measures such as the preservation of the benefit of No Negative Equity Guarantee.

SEQUAL supports considered regulation that encourages the development of an ethical and efficient senior's equity release market in Australia. It is important, however, that Government have proper regard for the standards of industry practice that have been achieved by SEQUAL in consultation with Regulatory Bodies, Consumer Advocacy Agencies and Government itself, over an extended period of time.

*'ASIC welcomes industry moves to address consumers concerns about these products including the development of a code of practice by reverse mortgage providers industry group SEQUAL and the efforts of individual product providers to develop innovative provisions that mitigate some of the risks for consumers.'*⁵

SEQUAL supports the Government's National Consumer Credit Reform⁶ initiative and welcomes the opportunity to actively participate in the development of appropriate regulations as a Member of the Treasury's Equity Release Consultation Working Group.

Co-Regulation –Delivering Meaningful Consumer Protection

The Australian Investments and Securities Commission (ASIC) provides a helpful consumer guide "Thinking about Using the Equity in Your Home" wherein (at page 34) it advises consumers to: "Check with the broker or adviser to see if they have training and experience (for example, having completed a skills-based program designed and/or endorsed by SEQUAL) "

The new consumer website provided by ASIC also acknowledges the meaningful consumer protection provided by SEQUAL, as follows:

"We strongly recommend that you only use a lender that is a member of SEQUAL www.sequal.com.au (the industry association). All their members agree to minimum standards".

This statement can be found at the following URL:

<http://www.moneysmart.gov.au/superannuation-and-retirement/income-sources-in-retirement/home-equity-release/reverse-mortgages#2>

Ensuring Quality Advice for Seniors

"In the relatively brief period before many baby boomers must begin to make concrete decisions about their retirement, most will have a series of choices to make about how they can maximise their retirement nest eggs.

*It is those boomers that take full advantage of the range of options available to them who are likely to be better off. Invariably, to get this right, people will need to access good financial advice".*⁷

It is crucial that market practitioners are willing and able to provide reliable advice to Senior Australians. Regulators have acknowledged the contribution being made by industry and they have delivered on their undertaking to "work with industry to promote best practice and identify and appropriately deal with risks for consumers."⁸

⁵ Mr. Greg Tanzer -ASIC Executive Director of Consumer Protection, November 2005

⁶Download the Action Plan: http://www.treasury.gov.au/documents/1381/PDF/NCC_Brochure_02102008.pdf

⁷ "Boomers Doing It For Themselves", AMP.NATSEM Income and Wealth Report Issue 16. March 2007

⁸ ASIC Report 59 Equity Release Products –November, 2005. Download at: [http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/Equity_release_report.pdf/\\$file/Equity_release_report.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/Equity_release_report.pdf/$file/Equity_release_report.pdf)

How Should Government Policy assist the Development of the Equity Release Market?

The Australian Equity Release market is both efficient and ethical. Older Australians have access to well-designed products both in the form of Reverse Mortgages and Home Reversion Schemes. A degree of competition between major banks and non-bank specialist providers delivers a robust environment for consumer benefit. It is therefore not necessary for a Government-backed equity release scheme to be developed.

However, there are a number of important ways in which the Australian Government can encouraged the development of the equity release market and assist older Australians to access the stored value in their homes through legitimate equity release options.

Aiming to find the right balance between public funding and private funding for the care of older Australians (as stated in the key points on page 201 of the Productivity Draft Report), the Government should continue to focus on the existing Taxpayer-funded “Pay-as-You Go” subsidy pillar and “User-Pays” pillar, but also provide more support to strengthen a third funding pillar –Equity Release.

This support for Equity Release should focus on government backed, but privately operated, equity release schemes. There may also be a limited place for government operated schemes which fill the ‘gaps’ that are less attractive to private providers (i.e. small and gradual draw down of equity via the Centrelink Pension Loans Scheme or similar).

However, a Government-provided equity release scheme would face the same funding issues and costs as private providers and together with administration inefficiencies it would be unlikely to provide a scheme at a significantly lower cost.

While the Australian Government is already actively involved in providing information about equity release options via ASIC, a much broader education program is needed. There is a low awareness of equity release and equity release options. Likewise, there low acceptability of equity release to fund aged care, and more so, to fund a better lifestyle in retirement.

Consumer information should address the entitlement of older Australians to access the equity in their own home as well as identify the options available for achieving this and describe the associated risks and benefits in an unbiased way. The information provided by ASIC is helpful but many consumer advocates argue that the national regulator is a poor channel for proactive information dissemination.

There are clear examples of effective and appropriate Government support for Equity release markets elsewhere in the world (in particular, the USA and United Kingdom).

Some Government initiatives are likely to deliver better outcomes for older Australians. For example, the Australian Government could encourage greater competition in the market and increase consumer confidence by providing a No Negative Equity Guarantee (similar to the US market structure), rather than actively compete with industry participants by sponsoring an equity release product. Depending on how this would affect private provider provisions, it may also improve the pricing of equity release products.

⁹ Phase Three Structure –Issues Paper –December, 2009
http://www.supersystemreview.gov.au/content/downloads/structure_issues_paper/Phase_3_Structure.pdf

Attachments:

Attachment A:
SEQUAL Guideline –Key Facts

Attachment B:
SEQUAL Guideline Equity Release Proper Process

Attachment C:
Financial Planning Association Guidance Note

Attachment D:
Mortgage & Finance Association of Australia Guidelines

Attachment E:
CPA Australia Guidance Note for Advising on Reverse Mortgages

Attachment A: SEQUAL Guideline –Key Facts

SEQUAL Guideline: Equity Release Key Fact



SEQUAL provides effective consumer protection through a Member Code of Conduct and Industry Accreditation of Brokers, Planners, Accountants and Legal Advisers. Find a SEQUAL-accredited Equity Release Consultant at: www.sequal.com.au

This SEQUAL Key Facts Guide explains key features of Reverse Mortgages and provides a checklist of issues you will need to carefully consider. The guide contains only general information and does not state the Terms & Conditions of your contract or the particular options, fees and charges that may apply to the product that you select. You should read this guide together with your contract in order to make a fully informed decision.



Important Notice:

The decision to enter into an Equity Release transaction will require you to understand the legal, taxation and financial implications of binding loan documentation. Before entering into a Reverse Mortgage transaction with a SEQUAL Member, you are required to obtain independent legal advice. SEQUAL highly recommends that you also seek independent financial advice to determine whether a Reverse Mortgage is the best option for you. It is important for you to properly consider the impact of Equity Release on both your current and future financial position. You may also want to discuss your decision with family members.



What is Equity Release?

Home Equity is the difference between the value of your home and any outstanding loans you have secured by a mortgage.

The personal wealth of many Senior Australians has been achieved through home ownership but they face retirement with inadequate savings making them "Asset rich but Cash Poor".

Equity Release enables you to access the wealth you have stored in your home and use your home in order to meet other financial needs.



What is a Reverse Mortgage?

A Reverse Mortgage is a loan which, subject to the options available for the product you select, may be advanced as a lump sum, line of credit or scheduled instalments.

Typically, no regular repayments are required to be made under the terms of a Reverse Mortgage as the loan will capitalise over the duration of the facility.

You must provide mortgage security but you do not sell your home in order to obtain a Reverse Mortgage. The loan must be repaid when you decide to sell your home.

All SEQUAL Members are required to provide the protection of a No Negative Equity Guarantee which limits the maximum you can owe to the value of the security you have offered.



What are the Key Issues that will impact my Home Equity?

By releasing equity through a Reverse Mortgage you will affect your level of Home Equity.

Your prospects for preserving Home Equity will depend on a range of factors, including:

- How long your Reverse Mortgage continues.
- The interest rate movements that occur during the term of your loan.
- Changes to the value of your home over this time.



Home Equity Preservation:

A Reverse Mortgage may assist you to fund retirement expenses without having to sell your home.

However, it is important to properly consider the likely impact of equity release on your overall financial position, now and in the future.

Reverse Mortgage Calculators can be helpful for estimating Home Equity Preservation, based on your own assumptions for key issues that impact Home Equity.

The Australian Securities and Investments Commission provides a Reverse Mortgage Calculator at their consumer website www.fido.asic.gov.au



Client Example:

Peter and Melissa are both aged 74. They own their home which is valued at \$350,000.

They decide to take out a Reverse Mortgage for an overseas family visit, to purchase a new car and to supplement their pension with monthly income instalments of \$150 for the next 10 years.

Based on borrowing What they Need, the Total Initial Mortgage is \$68,000 which represents 19.5% of their Home Equity. However, the Maximum Amount they could typically have borrowed would provide a Total Initial Mortgage of \$98,000 or 28% of their Home Equity. Peter and Melissa choose a Reverse Mortgage with the following Fees and Charges:

- Establishment Fee of \$950,
- Ongoing Monthly Fees of \$10 and
- Interest Rate of 7.50%.

Although they were confident that their home would increase in value over the next ten years, Peter and Melissa decided to assume that both the interest rate and the value of their property would not change over the term of the Reverse Mortgage to see what impact that scenario would have on their Home Equity.



Scenario Outcomes:

The following scenarios are based on the assumptions made by Peter and Melissa and illustrate the expected impact on their Home Equity depending on whether they,

Borrow What They Need



Borrow Maximum Available





Important Notice

How much you owe depends on:

- How much you borrowed at the start
- How long you have the loan for
- Whether you receive your loan as a lump sum or as instalment payments
- The interest and fees you pay along the way
- Whether you borrow any more money, and
- Whether you have a No Negative Equity Guarantee (see below).



No Negative Equity Guarantee

All SEQUAL Members are required to offer a No Negative Equity Guarantee (NNEG).

The NNEG provides that the borrower shall never owe more than the value of the property provided they comply with the terms of the contract.

This means that if the balance of the loan exceeds the proceeds of sale of the secured property, no claim for this excess will be made against you or your estate.

It is important that you carefully review your Loan Agreement to identify whether the No Negative Equity Guarantee is subject to any conditions.

SEQUAL has issued a mandatory Code of Conduct Guideline that sets out the minimum general conditions which must be contained in a SEQUAL Member loan agreement as well as the minimum process required in the instance of defaults.

You can read the SEQUAL Code of Conduct and Guidelines at: www.sequal.com.au



Costs:

Entry costs: You may be charged an application or establishment fee, plus valuation costs.

Other ongoing costs: You may be charged regular valuation fees and monthly administration fees. You will also have to pay for insurance, rates and maintenance of your home.

Exit costs: If you decide to repay the loan early, you may be charged an exit fee.

Interest: You will be charged *compound* interest on the loan. This means you pay interest on interest, plus interest on any fees or charges added to the loan added to the loan balance. Over time, compound interest will greatly increase the amount you owe.

You may have the option to choose between Variable and Fixed Interest Rates. However, not all Reverse Mortgage providers offer this choice. Variable Rates move up and down with the market but Fixed Rates do not change during the term of the Fixed Rate option. A Fixed Rate option means that you have certainty about the amount of interest you will pay. However, the Fixed Rate option will typically be priced higher than the prevailing Variable Rate and you may face significant Break Costs if you pay out your Reverse Mortgage before the Fixed Rate period ends.



Checklist:

Issues to Consider...

Borrow What You Need, When You Need It -Prepare a budget of your expenses.

Longevity Risk -Consider your future needs, you may live longer than you think.

Aged Care Needs -You may need to fund Aged Care in later life.

Zero Home Equity and the NNEG -Make sure you are protected from Negative Equity.

Expectations for Inheritance -Discuss your intentions with your family and advisers.



Cautions:

Limiting your options: The more money you borrow and the younger you are when you borrow it, the less money you will have to pay for your needs as you age. You may have high medical expenses and/or need to move into aged care accommodation and if you use up most of your equity too soon, your options may be limited.

Impact on your pension: A reverse mortgage may impact on your pension, especially if you take it as a lump sum, or buy an asset like a car. Contact Centrelink on 132 300 and make an appointment with a Financial Information Service Officer to make sure your pension isn't adversely affected.

Managing the property: Some terms and conditions in the contract may limit your ability to manage the property. For example, you may need to get the lender's approval before you go on a long holiday or wish to bring a new resident into your home, renovate, lease or sell the property. You will also be required to maintain the property to a standard set by the lender.

Forced sale of your home: In some circumstances, if you don't meet the terms and conditions in your contract, your credit provider may be entitled to begin enforcement action, which could include selling your home.

Your partner's rights: If you are living with someone who is not also a borrower under the contract and you die, the loan may become repayable and the other resident may not have any rights. *Tip: some reverse mortgage contracts protect the right of a resident who isn't the borrower to stay in the house after all borrowers have died.*

Your children: The decision to use a Reverse Mortgage may impact your capacity to leave an inheritance to your children. You may want to discuss your decision with your family.



References:

SEQUAL –Senior Australians Equity Release Association of Lenders

Website: www.SEQUAL.com.au

Email: info@sequal.com.au

ERRMIS –Equity Release/Reverse Mortgage Information Service

Website: <http://reversemortgage@nicri.org.au>

Email: reversemortgage@nicri.org.au

Phone: 1800 615 676

ASIC –Australian Securities and Investments Commission

Website: www.fido.gov.au

Phone: 1300 300 630

The Department of Veterans Affairs

Website: www.dva.gov.au

Email: GeneralEnquiries@dva.gov.au

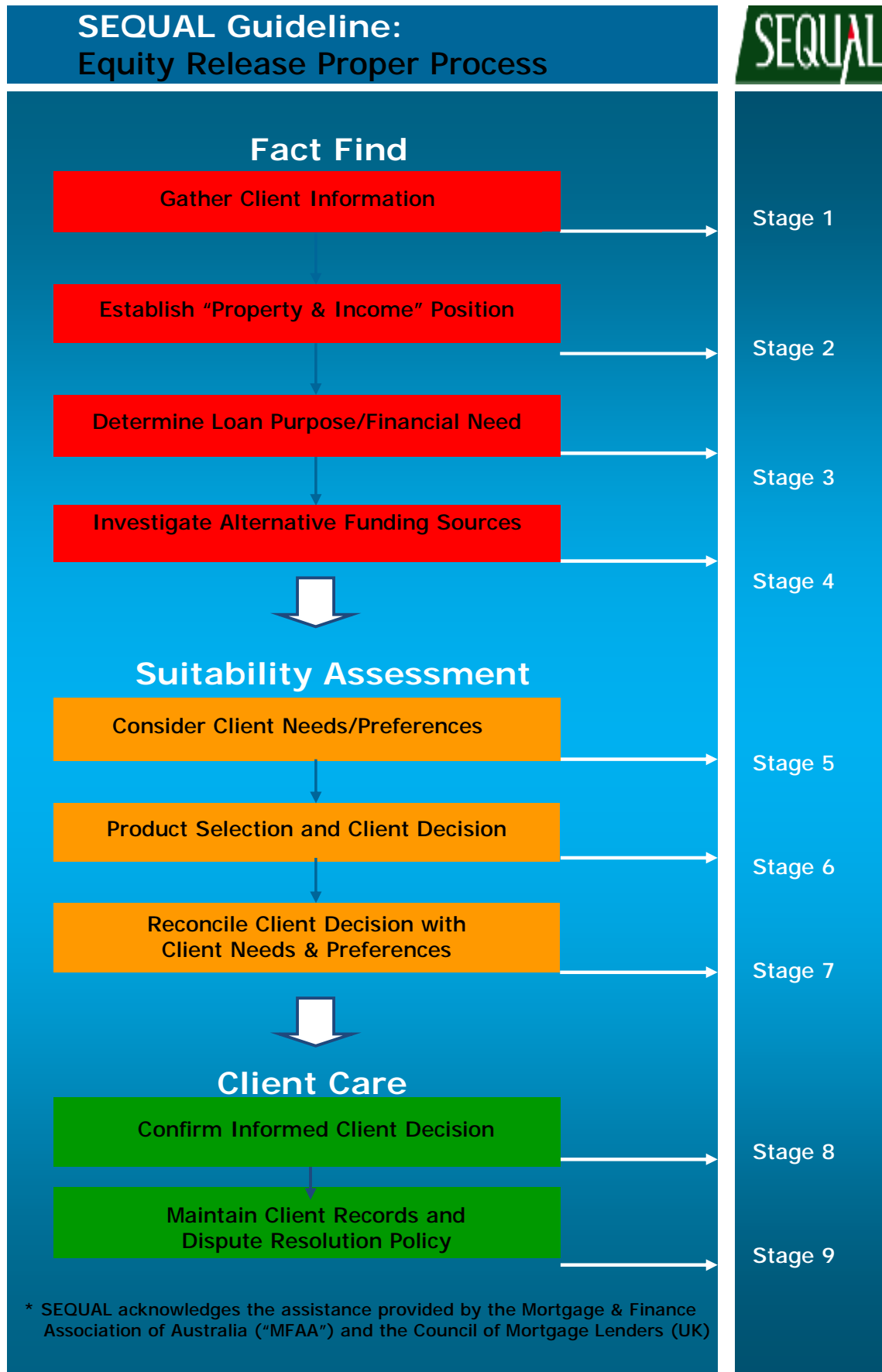
Phone: 13 32 54

Australian Taxation Office

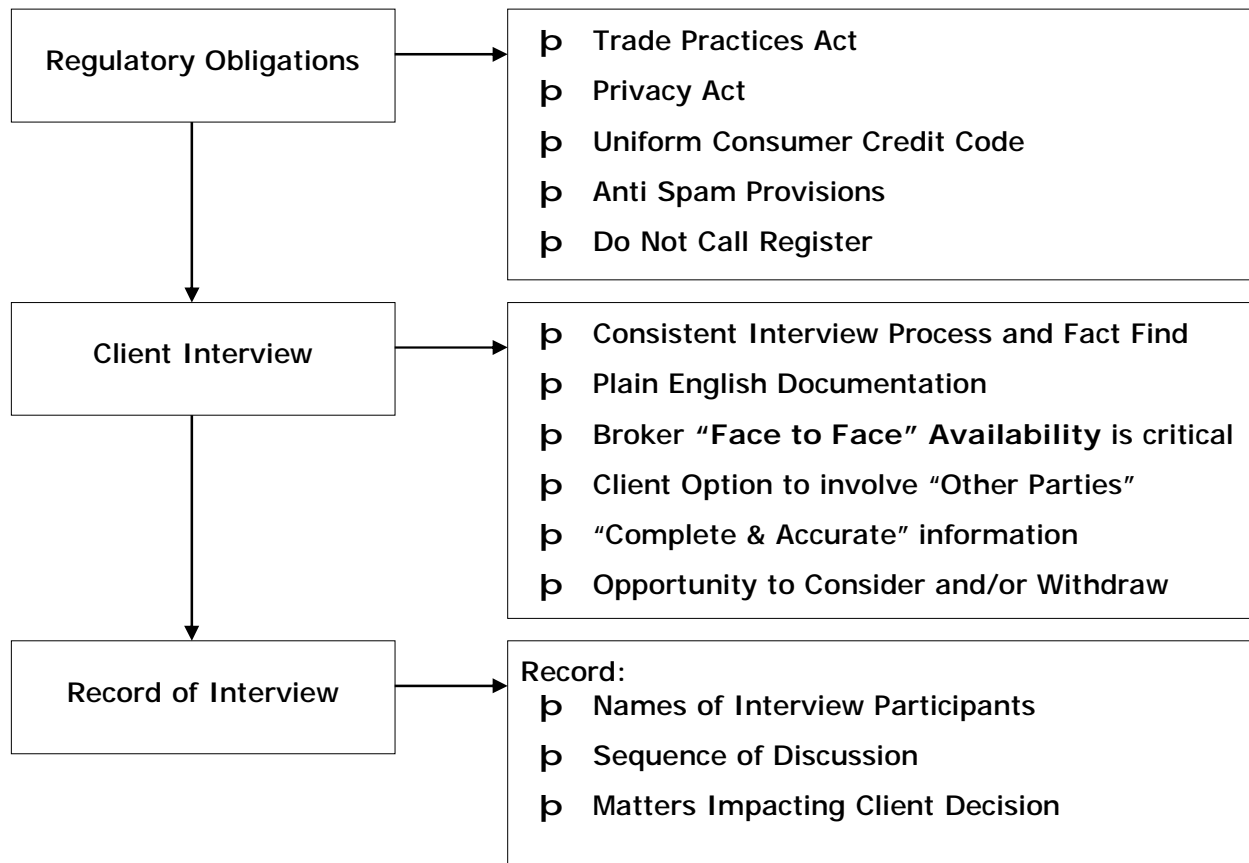
Website: www.ATO.gov.au

Phone: 13 28 61

Attachment B: SEQUAL Guideline – Equity Release Proper Process



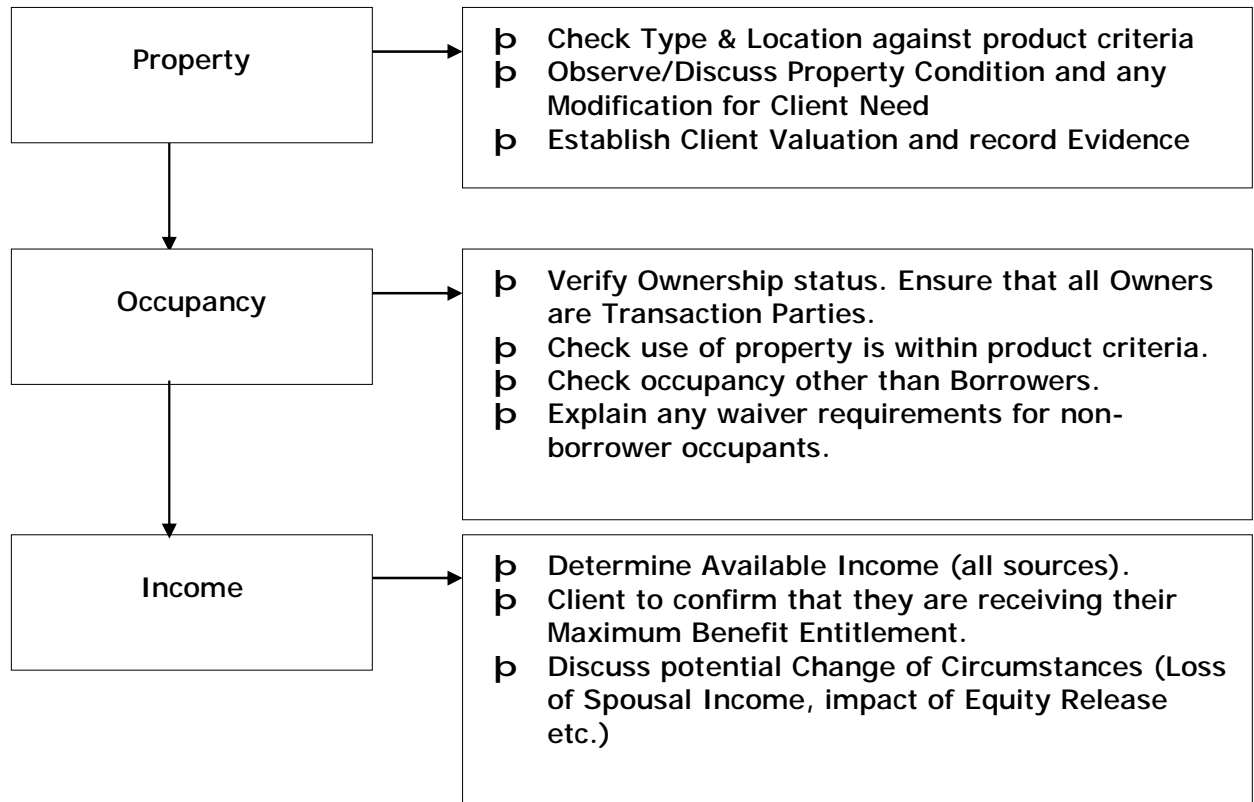
Stage 1 Gather Client Information



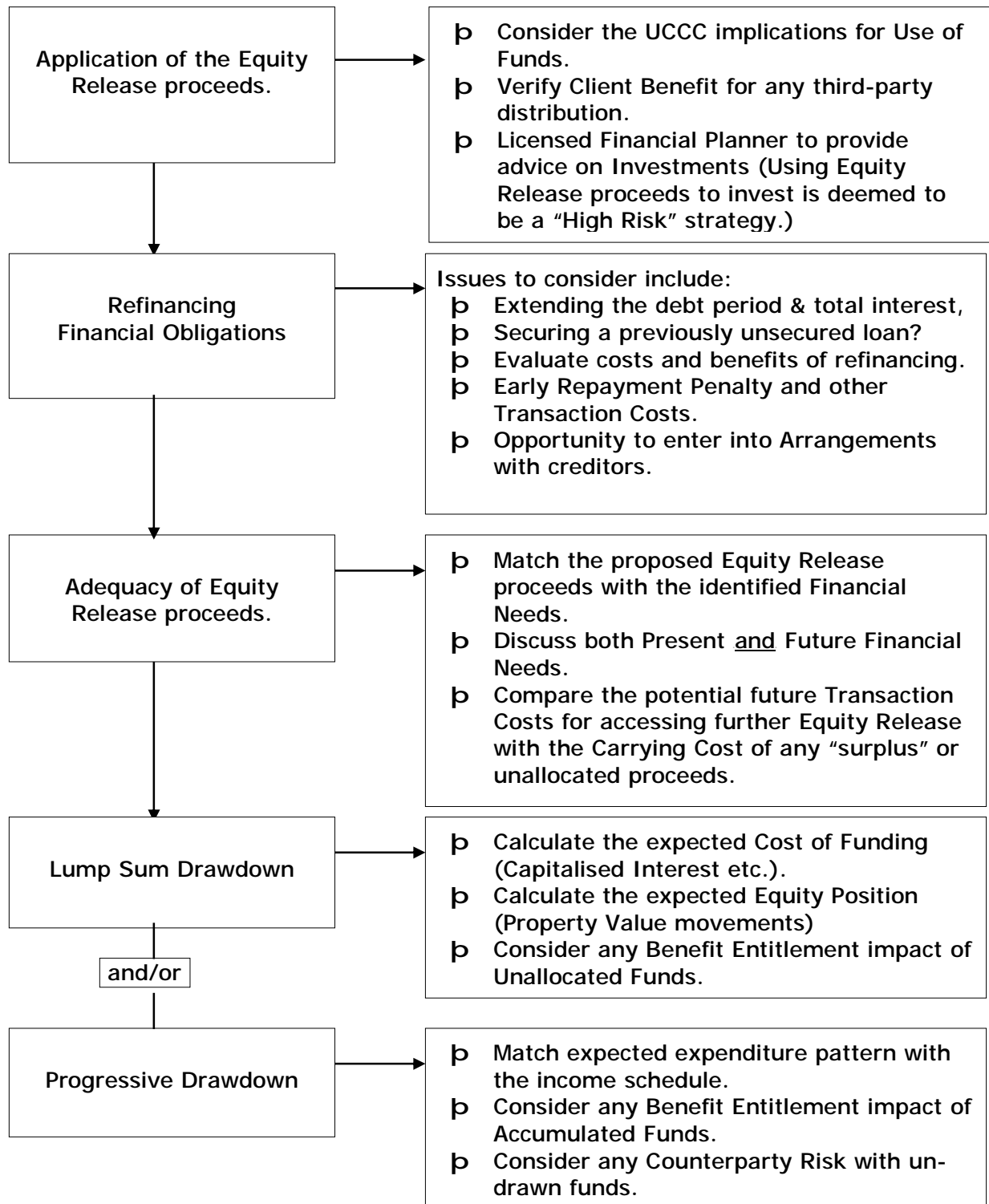
Guidelines:

- § Regulatory Obligations should be considered from the perspective of a "somewhat vulnerable" consumer considering "unfamiliar" products. Apart from strict adherence to Regulation, Reverse Mortgage Consultants ("RMC's") need to consider their clients particular needs. For example, the involvement of "other parties" should always be the Client's decision (caution Trade Practices Act - "Undue Influence").
- § The Client Interview should be conducted according to a consistent method/policy in order to eliminate doubt regarding "Proper Process".
- § The Client's decision-making preferences must be accommodated. Older Client's require sufficient opportunity to carefully consider their decisions.
- § Detailed and contemporaneous "Diary Notes" should be maintained for Equity Release transactions as part of a comprehensive Fact Find. Key Issues such as the Client's Risk Tolerance, Product Selection, Financial Need, Family Circumstances, and Future Expectations etc. should be carefully recorded.

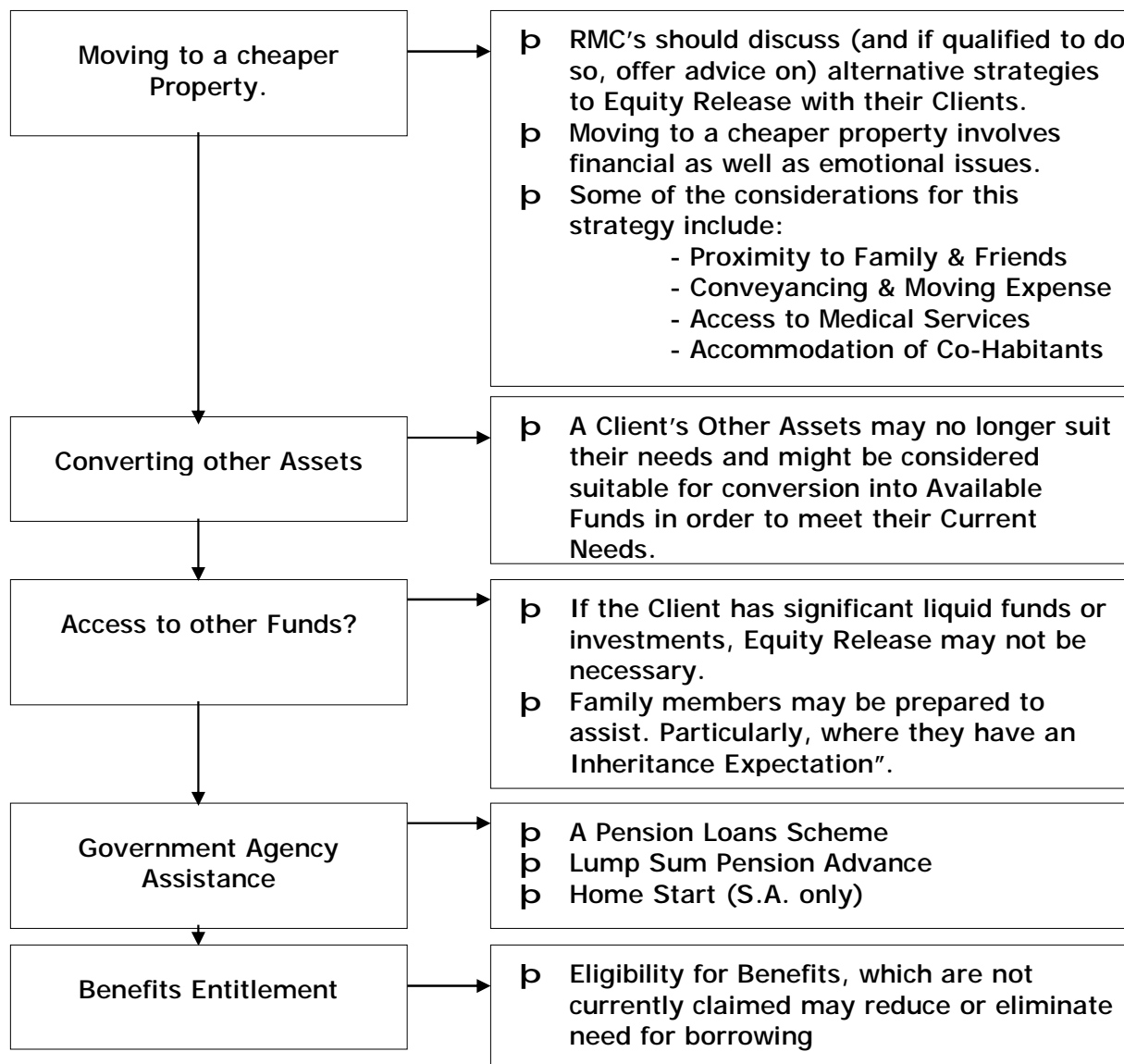
Stage 2
Establish "Property & Income" Position



Stage 3
Determine Loan Purpose/Financial Need



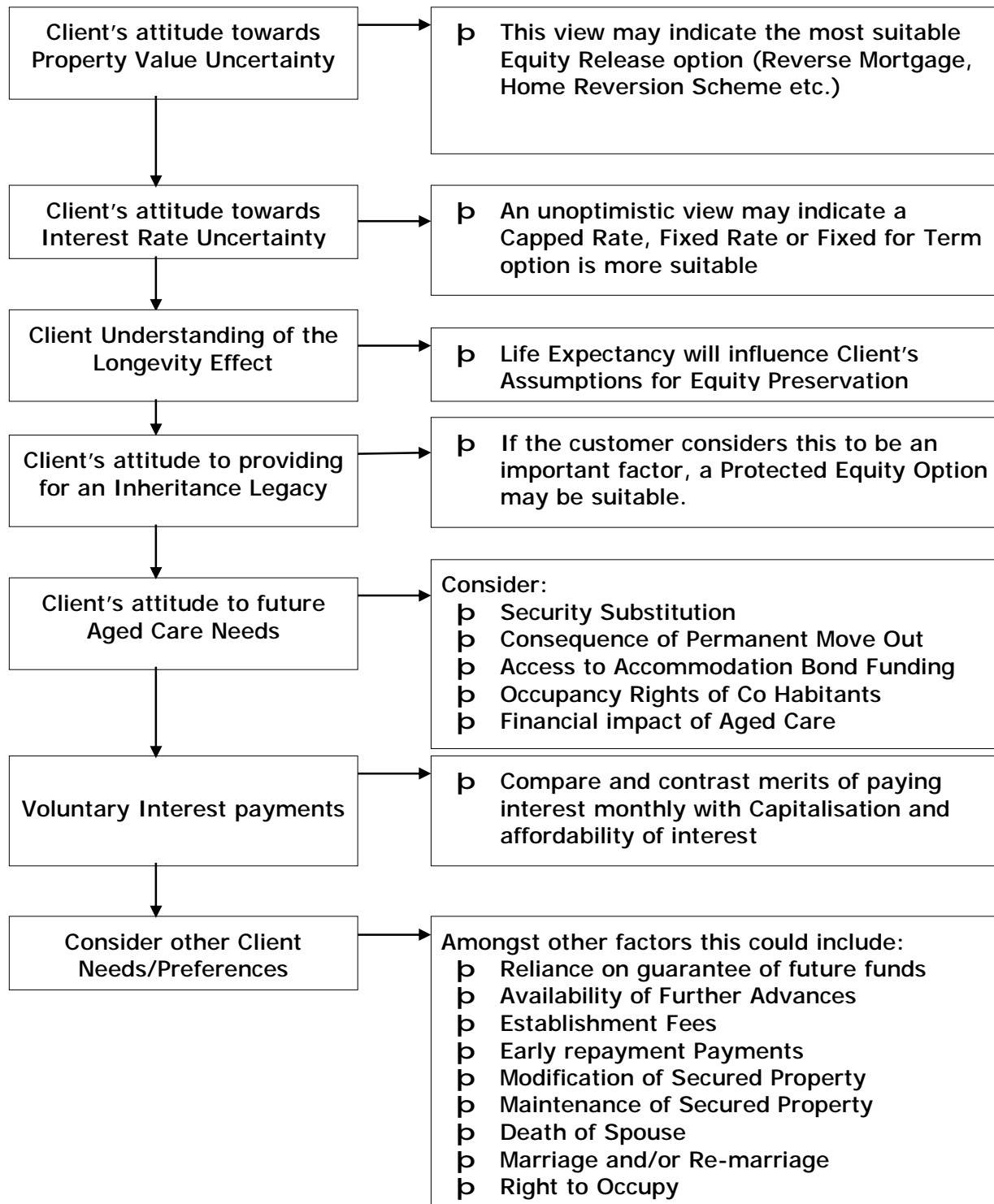
Stage 4 Investigate Alternative Funding Sources



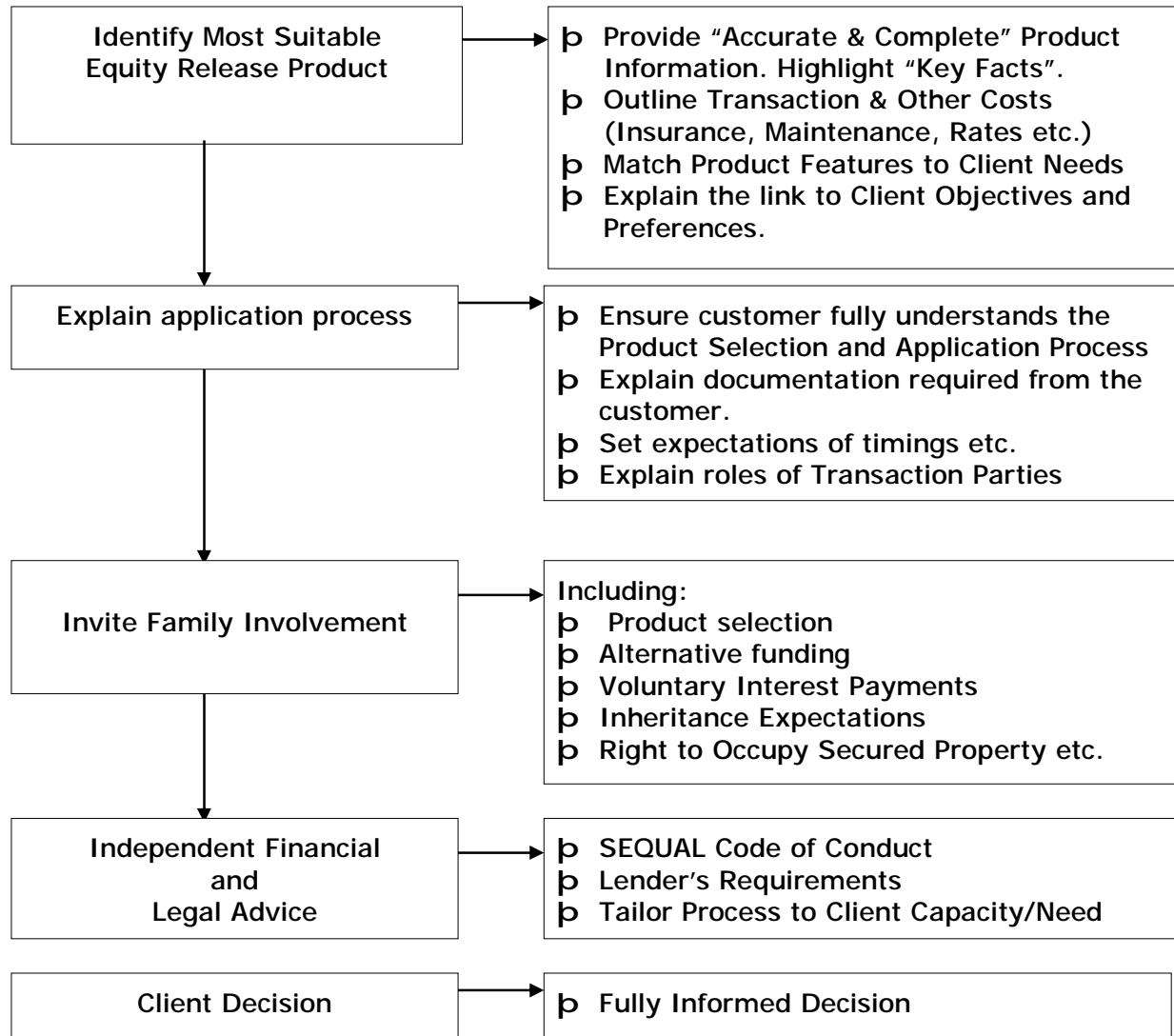
Guidelines:

- § Unless qualified to do so, RMCs MUST NOT PROVIDE CLIENT ADVICE.
- § RMC's must assist their clients to make fully-informed decisions by providing accurate and complete information.
- § Clients should be encouraged to consider alternative strategies to Equity Release and make contact with relevant Agencies (Centrelink, Veterans' Affairs, Department of Family & Community Services etc.

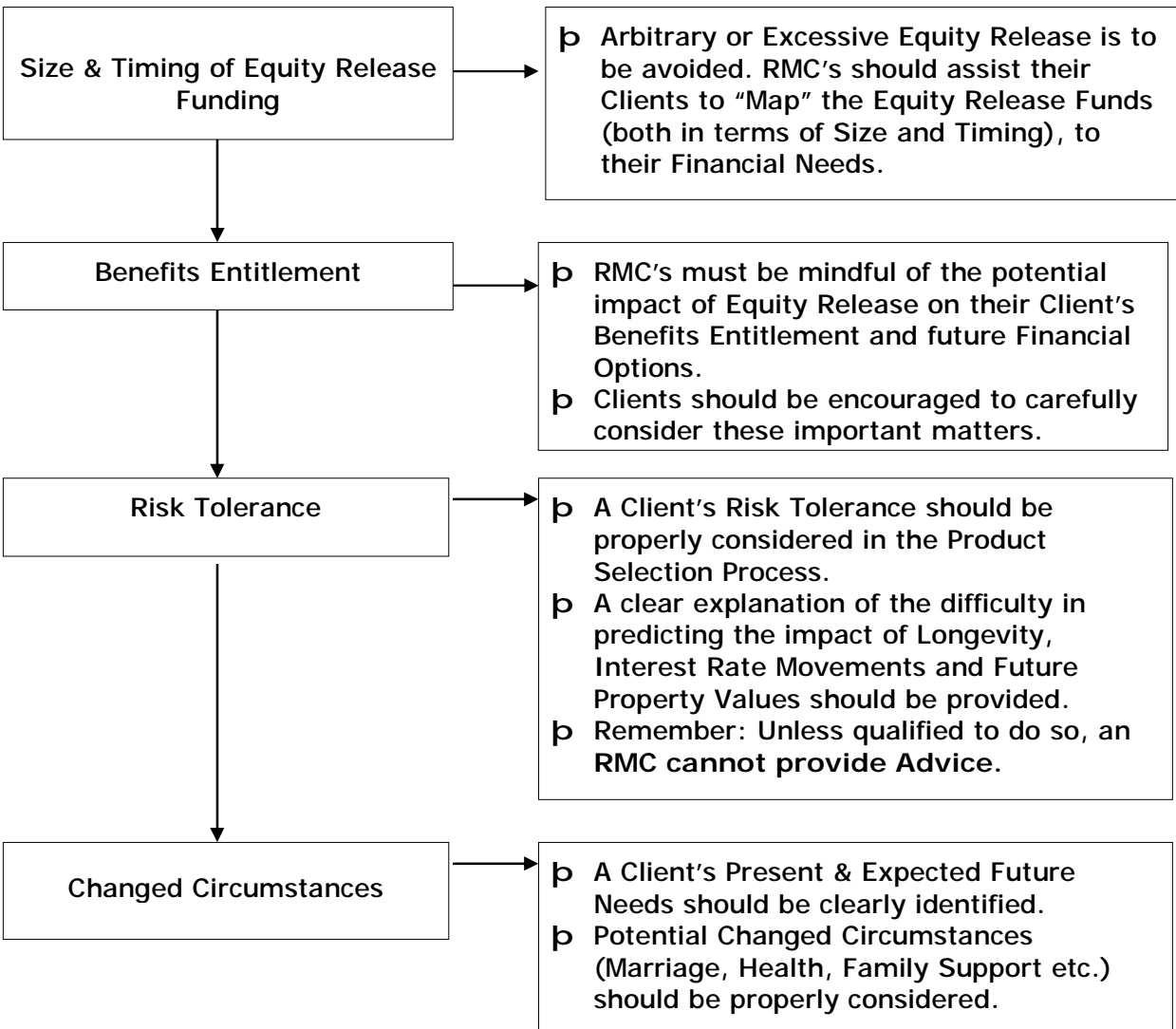
Stage 5
Consider Client Needs/Preferences



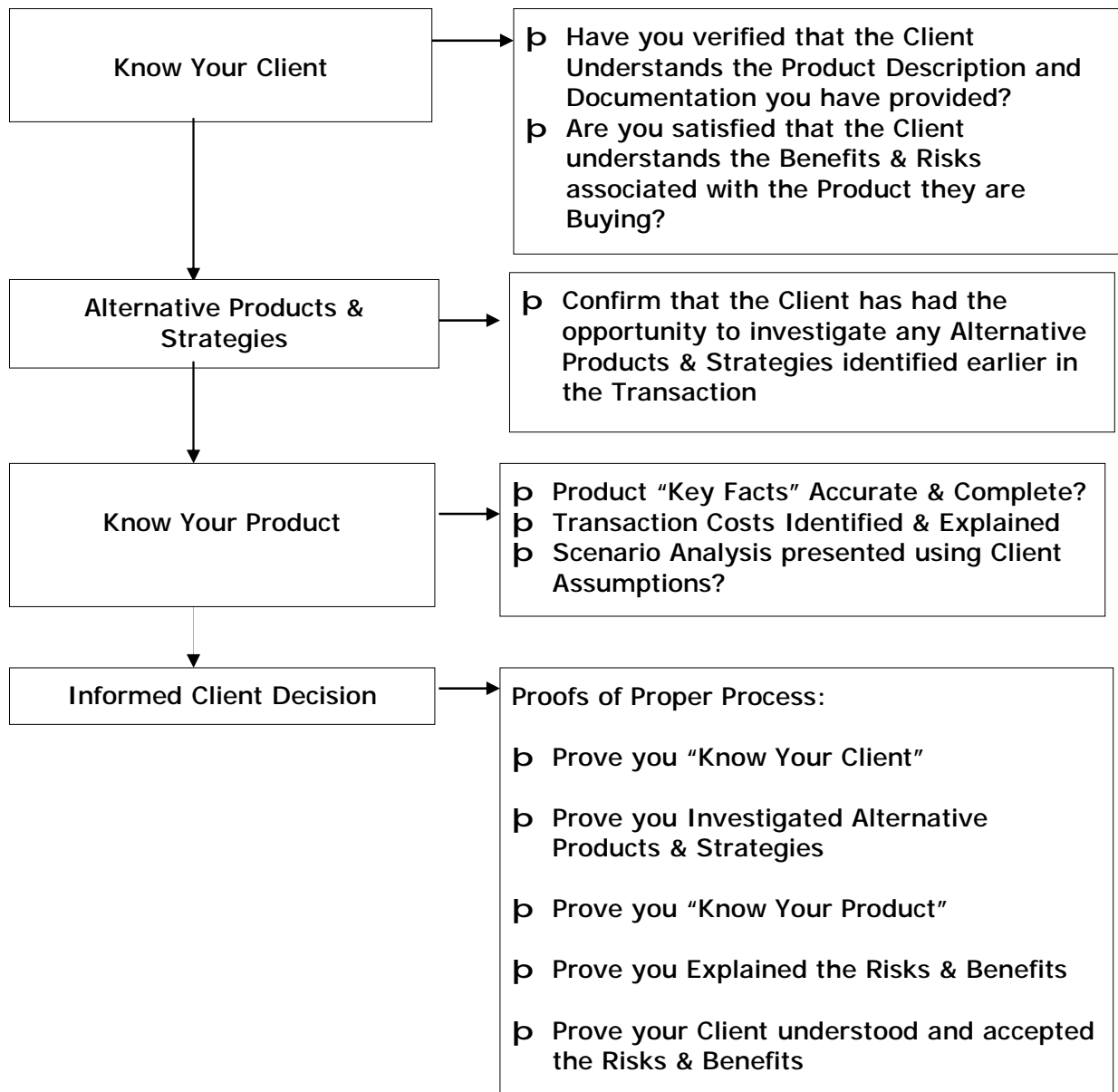
Stage 6
Product Selection and Client Decision

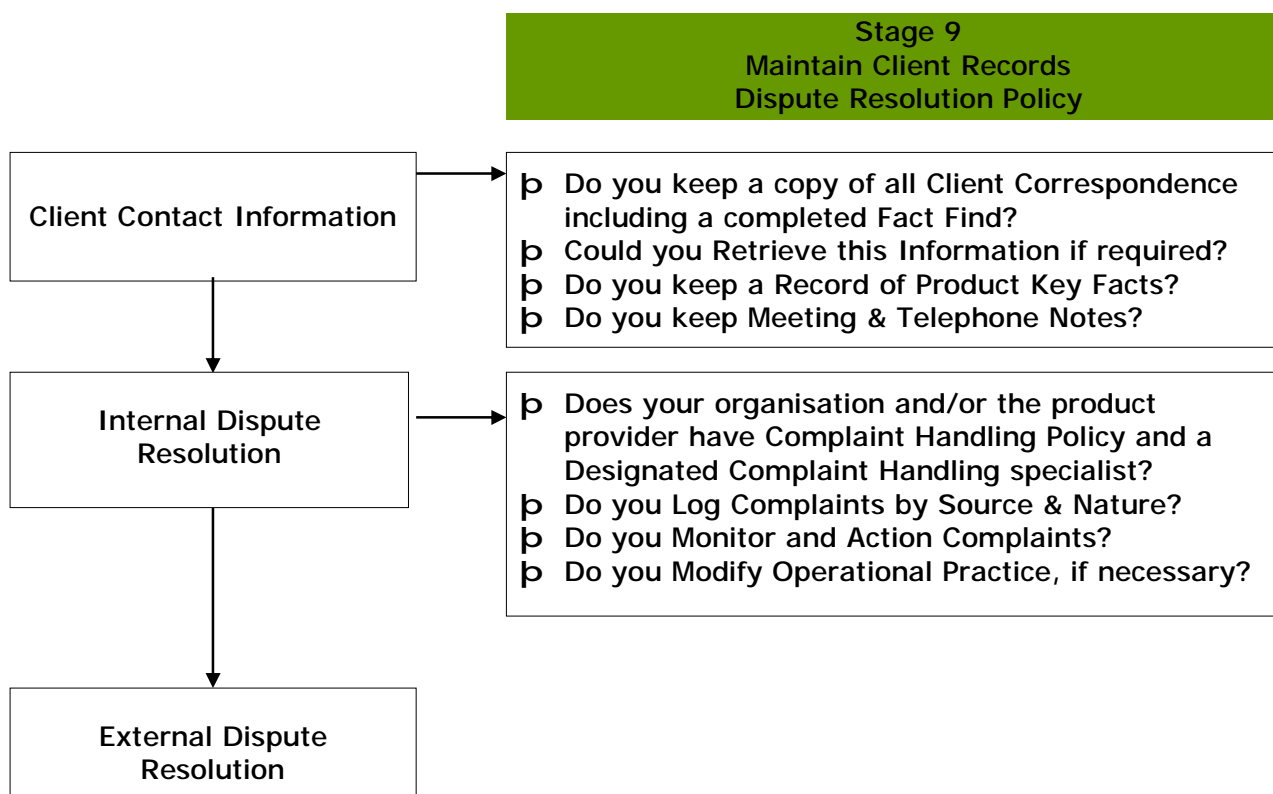


Stage 7
Reconcile Client Decision with
Client Needs & Preferences



Stage 8
Confirm Informed Client Decision





Consumer Complaints against SEQUAL Members or SEQUAL-accredited RMC's:

a) If the Client is seeking monetary compensation:

If the complaint remains unresolved after going through the RMC's and Product Provider's IDR procedures, the Client can refer the matter to an External Dispute Resolution (EDR) scheme. The EDR Scheme must be approved by ASIC for example, The Credit Ombudsman Service Limited (COSL).

All RMC's should be a member of, or be covered by a membership of an ASIC approved EDR scheme.

b) If the Client is not seeking monetary compensation and the complaint is claimed to be a breach of the SEQUAL Code of Conduct:

A Client can refer the matter to the SEQUAL Code Compliance Committee for investigation. SEQUAL has a process to deal with complaints of alleged misconduct against SEQUAL Members and SEQUAL-accredited RMC's.

The SEQUAL Code Compliance Committee has the power to impose various sanctions on a SEQUAL Member or SEQUAL-accredited RMC for misconduct -including expulsion from membership of SEQUAL or removal of the SEQUAL-accredited RMC designation.

Consumer Complaints against providers who are not SEQUAL Members or practitioners who are not SEQUAL-accredited RMC's:

Various Government or Consumer Advocacy Agencies may be able to assist. Alternatively, Clients should seek their own Professional Advice.

Attachment C: Financial Planning Association Guidance Note

Advising on Reverse Mortgages

Guidance for FPA members, November 2007

Reverse mortgages or equity release products have the potential to significantly improve the quality of life of older people with few assets other than the family home. However they do have their risks and are not suitable in all cases so care needs to be taken when advising clients on these products.

One of the major risks with all reverse mortgages is the compounding effect of interest charges which means the accruing debt will usually double every 10 years, rapidly reducing the remaining equity in the home⁹. Whilst some of the earlier products, particularly in the UK developed a bad reputation, the current models have generally overcome these issues particularly those from product issuers who are members of SEQUAL. Many of these new products include features such as interest rate protection and “no negative equity” guarantees. All members of SEQUAL abide by a voluntary industry code of conduct designed to increase awareness of the risks of equity release products and minimise consumer risk.

Notwithstanding these developments, care is still required in selecting equity release products and determining that they are suitable for the client. The FPA has therefore developed these guidelines to assist planners in advising clients on whether equity release products such as reverse mortgages are suitable. The guidance does not in itself make any recommendations about specific reverse mortgage products, although **FPA does strongly recommend that advisers should have completed an FPA or SEQUAL accreditation program before advising on these products.**

Current Regulations

Unlike most other financial products, reverse mortgages are not regulated under the Financial Services Chapters of the *Corporations Act 2001* as they are deemed to be a “credit facility” and are regulated under the Uniform Consumer Credit Code (UCCC)¹⁰. Failure to comply with the Code can lead to civil penalties up to \$500,000 and criminal charges. Information on compliance with the Code is provided in the *Consumer Credit Code Business Checklist*. It should be noted, however, that the UCCC should not provide applicable requirements for advice in this area.

There are discussions currently underway at state and Federal level that may result in reverse mortgages and like products becoming subject to the same disclosure requirements as other financial products based on a national regulatory model. In the meantime guidance on providing advice in this area is covered by the general requirements of industry bodies such as FPA and organizations such as SEQUAL.

Providing Advice on Reverse Mortgages

A 2006 survey on reverse mortgages¹¹ reported that only 32% of overall sales of reverse mortgage products were made by financial planners. Many reverse mortgage product providers require a mortgagor to obtain a certificate from a financial planner to confirm that the potential consequences and appropriateness of reverse mortgages have been explained to the client. This may be required notwithstanding that the mortgage has been sold by a mortgage broker.

Whilst the FPA is not wholly comfortable with this approach it accepts that members should make their own decisions on these matters and may charge a fee commensurate with the work undertaken.

⁹ ASIC Fido page on reverse mortgages

[<http://www.fido.gov.au/fido/fido.nsf/byheadline/Reverse+mortgages?openDocument>]

¹⁰ <http://www.creditcode.gov.au/>

¹¹ Trowbridge Deloitte industry survey – November 2006

http://www.deloitte.com/dtt/press_release/0,1014,sid%253D5527%2526cid%253D136530,00.html

This Guidance therefore is limited to (A) providing general advice on the appropriateness of reverse mortgage for a client and (B) providing specific product advice on reverse mortgages. Obviously, part (B) should not be undertaken in isolation and specific product advice and any recommendations should follow Part (A) and Part (B) guidelines.

(A) Key Issues to consider when advising on reverse mortgages

1. Have alternatives to equity release been considered?

There are a variety of options which may be more appropriate for a client other than a reverse mortgage or other equity release products depending upon the client's requirements. An alternative strategy may be downsizing the family home and thus releasing the required cash.

2. Does the client understand how reverse mortgages work?

It is vitally important that the client fully appreciates the effects of compounding interest and its effect on their remaining home equity. A model such as ASIC's FIDO calculator should be given to the client.

3. Has the Client's Health and life expectancy been taken into account?

The client's health and life expectancy are important issue to consider when advising on reverse mortgages. Whilst health and life expectancy are uncertain issues which are difficult even for experts to determine with any certainty, a client's age and existing health should be taken into account.

4. Has the effect of changing house values been taken into account?

One of the positive factors with reverse mortgages has been the continuing increase in value of house prices which has to a greater or lesser degree offset the effect of compounding interest. Recent slowing of the property market suggests that any future projections in property values should take account of possible slower growth in property values.

5. Has the proposed use of the funds been determined?

Due to the nature of compounding interest it is important that the client only borrow enough to meet their essential requirements. These requirements may include one-off purchases such as a new car or a holiday or home improvements. Conversely it would generally be inappropriate to use the funds to re-invest in other investments such as shares or high risk family ventures depending on the client's circumstances.

6. Has the client's needs, objectives and future plans been taken into account?

Due to the nature of equity release products and their potentially far reaching effects on that basic family asset, the home, it is important that they fulfill the client's stated objectives. For example, if the client's longer term plan is to use the equity in the home to fund their entry to a retirement village it is important that there will be sufficient equity remaining to meet this objective.

7. Has the effect of the client's eligibility for pensions and benefits been considered?

It is possible that any equity release may have an effect on a client's pension or other social security benefits particularly in the short term. Due to the exemption of the family home from most social security benefit tests any equity release should generally not have any long term detrimental effects on entitlements. The client should clearly understand these issues.

8. Is the client's family aware of the client's proposal?

The issue of family inheritance is often the cause of much friction and indeed litigation and it may be appropriate that family members are made aware of the client's proposal and the effect it may have on their inheritance.

In addition to completing the attached checklist of the key issues to be considered, a detailed Record of Advice should also be provided to the client and a copy maintained by the planner. The eight point checklist is designed to provide a guide of the issues to be considered when determining if a reverse mortgage is appropriate for the client. Once that has been determined it will then be necessary to undertake the usual product evaluation and recommendation process.

(B) Providing Product Advice

When making reverse mortgage product recommendations to a client the financial planner should ensure that all applicable and regulatory requirements are met and, in addition to following the Part (A) checklist, the usual procedure should be followed as with any product regulated under FSRA.

1. Before embarking on advising on reverse mortgages members should have completed an accredited training program through one of FPA's accredited courses (see FPA website [LINK]).
2. Members should only provide product advice on those products which are on their Licensee's approved list and on which they have received training.
3. Any product being recommended to a client should meet the SEQUAL Code of Conduct or an equivalent which would include matters such as a no "negative equity" guarantee and clearly defined repayment conditions.

Additional references and guidance may be found at the following locations;

SEQUAL Code of Conduct: www.sequal.com.au

CPA Guidance Notes on reverse mortgages: www.cpaaustralia.com.au

CHOICE information on reverse mortgages: www.choice.com.au

Australian Securities Investment Commission: www.asic.com.au

All ASIC publication on reverse mortgages can be found by searching for "reverse mortgage"