

INDUSTRY SUBMISSION

Productivity Commission Inquiry into
Caring for Older Australians

March, 2011

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 in this submission 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.

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

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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
- Mortgage & Finance Association of Australia Guidelines
- 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 Customers(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 Submission –Overview

In providing comment on the Productivity Commission’s Draft Report “Caring for Older Australians, SEQUAL Members, through this Industry Submission, have appropriately focussed on a key element of the report dealing with the challenge of **“Assisting Older Australians to pay for Care and Support”**.

In particular, this submission will address the following Productivity Commission recommendations:

- Establish an Australian Pensioners Bond Scheme
- Establish an Australian Government backed Equity Release scheme.

SEQUAL submits that it is appropriate that the impact of any Government participation in the Equity Release market be carefully considered and proper regard given to the existing industry structure.

The Australian Seniors Equity Release market operates on an efficient and ethical basis and a range of alternative equity release strategies are available in Australia. It is important that Government act in a manner that will preserve consumer choice rather than impose obligations on older Australians.

SEQUAL continues to encourage Government to consider the broader opportunities to support growth in the equity release market by ensuring that emerging regulation is not unduly restrictive and by extending existing Government initiatives aimed at improving funding in the home loan market to include equity release products.

SEQUAL supports the Productivity Commission’s 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”.

SEQUAL is guided by references in the Draft Report to the views expressed by those well placed to comment on Funding Aged Care, such as:

“Many participants to the inquiry, including consumer organisations, called for greater aged care contributions from those older Australians who had the financial capacity to do so, provided that those in need were protected. Co-contributions were also seen as a way of encouraging people to more closely assess the value of the care and support they were receiving”.

Equity release strategies are likely to emerge as a significant part of retirement funding and the current debate around the levels of Aged Care co-contributions needs to be carefully considered against that growing demand.

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.

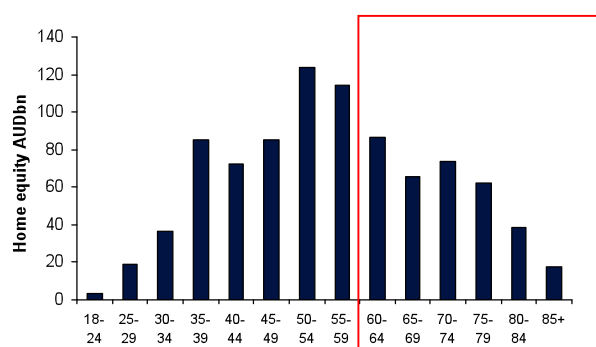
Property Ownership and the Wealth of Senior Australians

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

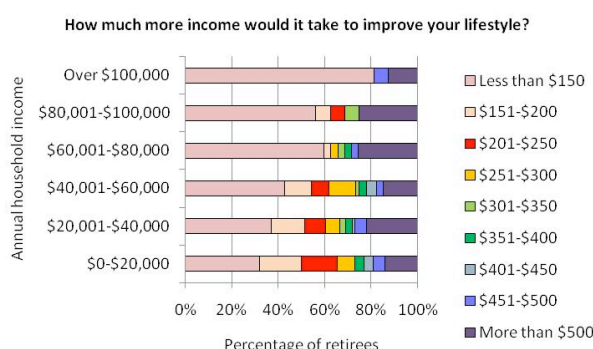
² AMP.NATSEM Income and Wealth Report. Issue No. 16. March 2007

Consultation – Assisting older Australians to pay for care and support

How Can Equity Release Assist Seniors?

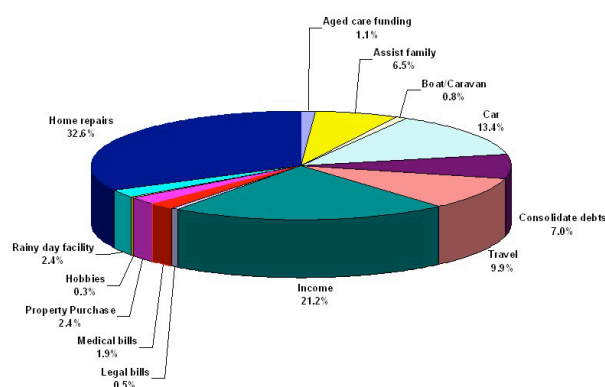
Even a modest draw down through equity release can provide the opportunity for senior Australians to significantly improve their standard of living in retirement.

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

Opportunities to better target assistance to those in need

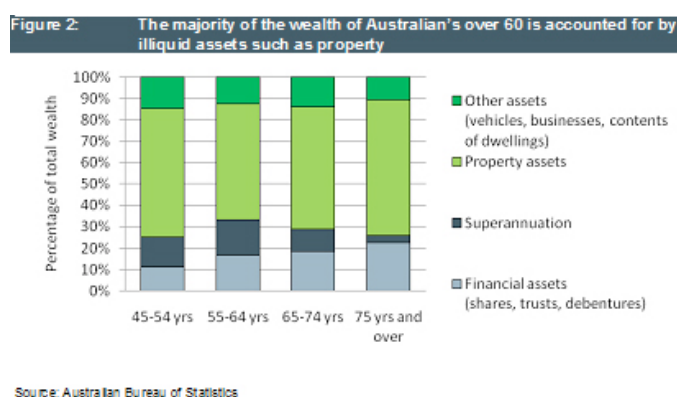
The Productivity Commission recommendations seek to address significant structural issues associated with funding an expanded aged-care system and correct inequitable arrangements. Whilst those who have the capacity will be expected to contribute towards the cost of their care, mandatory quotas and hardship provisions are proposed in order that older Australians will get access to the care they require.

The proposals for the development of both a Pensioners Bond Scheme and a Government-backed Equity Release scheme are aimed at enabling older Australians to access the wealth stored in their home in order to access care without needing to sell their home. However, if people decide to sell their home, they can avoid having the profit included in the Pensions means test by purchasing an Australian Pensions Bond.

It is critically important, however, that older Australians who have accumulated wealth through home ownership are not discriminated against, either as a consequence of their success or age. The primary residence of ordinary Australians is excluded for taxation purposes and many would argue that family home of older Australians should not be treated differently.

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

In terms of targeted assistance, given the fact that well designed equity release options are now widely available to home-owning pensioners, consideration can be given to targeting additional Government income assistance to those most in need -pensioners without the safety net of owning the family home.



However, it is important to understand that some home-owning pensioners have homes which are not suitable for a equity release, possibly due to the low value of their home or its location, and this should be taken into account in any change of entitlements.

Equity Release users should not be penalised under the pension

The already overburdened Aged Care sector faces significant stress as a consequence of the impending demographic shift. Some estimates suggest that the system will more than treble to \$3.6 billion by 2050. It is clear that a comprehensive solution be found.

However, it is also important to ensure that pensioners who utilise equity release are not penalised by losing entitlements under the system.

It is in the national interest to encourage Senior Australians to use their assets sensibly in retirement, including the family home where needed. However, any reductions in benefits that result from accessing equity release will act as a deterrent to do so.

The current Centrelink assessment rules allow most retirees to access equity in their home without adversely affecting their benefits provided, they utilise rather than accumulate the funds accessed through equity release.

Consideration should be given to reviewing the gifting rules where the proceeds come from a currently exempt asset such as the family home.

Regulation of the Equity Release Market

Thirty Eight Thousand (38,000) senior Australians have released a total of \$2.7 billion of home equity.

SEQUAL is comprised of both Reverse Mortgage and Home Reversion Scheme 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	BankWest	Commonwealth Bank
Homesafe Solutions	Over Fifty Group	Police & Nurses Credit Union
Royal Bank of Scotland	St George Bank	Suncorp
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.

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

The Chief Ombudsman of the Financial Ombudsman Service ("FOS"), Colin Neave AM recently noted that:

"Of the Thirty Eight thousand (38,000) existing reverse mortgage borrowers in Australia only five (5) have lodged a complaint and of those complaints, Four (4) were resolved through provider co-operation with no evidence of wrong doing on the part of the provider. What other industry can boast that level of consumer satisfaction"?

SEQUAL supports the Government's National Consumer Credit Reform⁶ initiative and welcomes the opportunity to actively participate in Phase Two of the Action Plan as a Member of the Equity Release Consultation Working Group.

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

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 Accreditation 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. Over 1,500 professionals (Brokers, Planners, Accountants and Lawyers have successfully graduated as SEQUAL-accredited Reverse Mortgage Consultants (“SERCs”).

The SERC designation forms an important part of SEQUAL’s commitment to assisting consumers to easily identify and access properly-trained market practitioners who have gained Industry Accreditation. 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

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)

⁹ Phase Three Structure –Issues Paper –December, 2009

http://www.supersystemreview.gov.au/content/downloads/structure_issues_paper/Phase_3_Structure.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 encourage 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 is 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.

Government Response to Capital Market Disruption.

Since the deregulation of the financial system, the Residential Mortgage-Backed Securities (RMBS) market has provided an important source of funding for new and smaller mortgage lenders to compete with the major banks. However, the recent disruption to the international capital markets has adversely impacted liquidity in the RMBS market.

The Treasurer announced on the 26th September, 2008 that the Australian Office of Financial Management (AOFM) would purchase Australian RMBS as part of the Government's commitment to strong and effective competition in Australia's mortgage markets.

This action followed legislation passed by the Rudd Government in June, 2008 which expanded the range of high-quality assets in which the AOFM can invest. At the time, the Treasurer stated "The Rudd Government is committed to ensuring that Australia's financial markets continue to perform strongly and provide Australian households with a wide range of financial products at competitive prices"

In the past, few Australian Reverse Mortgage providers have accessed the RMBS market (RV-RMBS issuance) in order to fund their reverse Mortgage portfolios, as they have been able to readily access funding through bank-provided credit facilities. In more recent times, the availability of bank funding has tightened as a consequence of the impact of the global credit crisis.

In this environment, the RMBS market could be an important source of funds for Reverse Mortgage providers. However, the Selection Criteria established for the AOFM to invest in RMBS does not provide for Reverse Mortgage transactions.

The combination of these factors has constrained the ability of some Reverse Mortgage providers to access funding and the effect of these conditions is that a number of SEQUAL Members have either withdrawn from the market or have significantly scaled-back their participation.

Given the public interest issues associated with the emergence of an efficient Senior Equity Release market in Australia, consideration must now be given to a timely and effective Government Initiative aimed at preserving competition within the Australian Equity Release market and ensuring that Senior Australians have choices when considering Senior's Equity Release as a means by which to assist them to meet their retirement funding needs.

It may be appropriate to apply existing Government Initiatives (from both Australia and Overseas) to ensure that the Australian Equity Release market is both competitive and stable. For example:

- An extension of the Selection Criteria for investment by the AOFM in RMBS to provide support for Reverse Mortgage RMBS issuance (RV-RMBS)⁹,
- The provision of a Government Guarantee to stabilise bank-provided funding¹⁰ and,
- Government Insurance (Lenders Mortgage Insurance) of Reverse Mortgage transactions.¹¹

SEQUAL is committed to working with the Australian Government to assist Senior Australians to meet the challenge of Living Longer and Living Well.

⁹ Arrangements for the Purchase of RMBS: http://www.aofm.gov.au/content/notices/09_2008.asp

¹⁰ The Australian Government Guarantee Scheme: <http://www.guaranteescheme.gov.au/>

¹¹ The US Home Equity Conversion Mortgage (HECM): <http://www.hud.gov/offices/hsg/sfh/hecm/hecmabou.cfm>

The Role of the Superannuation Industry

The recent disruption to the international capital markets has constrained the ability of some Reverse Mortgage providers to access funding and the effect of these conditions is that a number of SEQUAL Members have either withdrawn from the market or have significantly scaled-back their participation.

Given the public interest issues associated with the emergence of an efficient senior's equity release market in Australia, consideration must now be given to a timely and effective response from the superannuation industry.

SEQUAL supports the view expressed in the Issues Paper provided by the Review Panel that encourages super funds to identify and support innovative products such as Reverse Mortgages.

"... is there any reason why super funds shouldn't be able to compete in the Reverse Mortgage market (as this seems peculiarly compatible with the retirement income function of super funds?"⁹

Attachments:

Attachment A:

SEQUAL Guideline –No Negative Equity Guarantee

Attachment B:

SEQUAL Guideline –Key Facts

Attachment C:

SEQUAL Guideline Equity Release Proper Process

Attachment D:

Financial Planning association Guidance Note

Attachment E:

Mortgage & Finance Association of Australia Guidelines

Attachment F:

CPA Australia Guidance Note for Advising on Reverse Mortgages

Attachment A: SEQUAL Guideline –No Negative Equity Guarantee

SEQUAL Guideline No Negative Equity Guarantee and Default Conditions

1. Background

The SEQUAL Code of Conduct requires all SEQUAL Members 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.

It is necessary that the SEQUAL Code of Conduct be enhanced such that a No Negative Equity Guarantee must be in force without reference to whether the customer is in default. It is also necessary to limit the effect of default clauses on consumers by ensuring proper process is followed.

This Guideline sets out the general conditions which must be contained in contracts as a minimum as well as the minimum process required in the instance of defaults. This Guideline is considered mandatory for all SEQUAL Members as part of their compliance with the SEQUAL Code of Conduct, and is deemed for this purpose to be part of that Code of Conduct.

2. Minimum Contract Requirements – No Negative Equity Guarantee

It is required that the terms of the contract with the borrower must be in the following general terms:

- The NNEG must apply in any situations where a repayment trigger event occurs under the contract.
- The NNEG must guarantee that the lender will not have recourse to recover amounts in excess of the net sales proceeds of the property (i.e. after reasonable sales costs including any government taxes) from the borrower or their estate or any other person in any circumstance other than those specified below:
 - When the repayment trigger is a sale of the property, it is acceptable that the contract specifies that it must be sold at arms-length and only following express permission of the lender prior to the sale, and that non-compliance with this requirement will invalidate the NNEG.
 - The only other situations in which the NNEG can be invalidated where it would otherwise apply is where there has been fraud by the borrower or wilful damage to the security property by the borrower which has resulted in the shortfall.
- If the borrower is in default under the loan for any other reason, the lender cannot use this as a reason to invalidate the NNEG.

3. Minimum Procedural Requirements on Default

- Where there are default conditions in the loan contract, these must be fair and reasonable.
- Where there is a serious default under the contract, it is permissible that the lender can require the loan to be repayable immediately or apply a default rate of interest.
- Except in a situation where there is an immediate threat to the value of the underlying security, the lender must act in accordance with the Uniform Consumer Credit Code as regards notice and follow the process outlined below prior to moving to require the loan to be repaid or applying a default rate of interest:

- Send the borrower a written notice of default specifying a period for rectification of the default (such period being reasonable taking into account the particular circumstances of the default).
- The Lender (or their representative) must personally contact (or make a reasonable attempt to contact) the borrower (or their legal personal representative) prior to the expiry date of the notice to ensure that they have received the notice and understand the consequences of not rectifying the default
- If the borrower remains in default after the period of notice has expired, the lender may commence action for the loan to be repaid in full at that point. Alternatively, it is permitted that the lender can, in these circumstances, choose to charge a higher default rate of interest until the default is rectified, as long as the default rate is reasonable in the circumstances having regard to the nature or cost of the default to the lender.

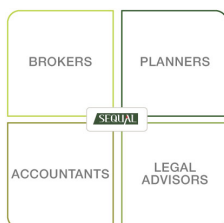
4. Date of Operation

This Guideline came into operation from 1 January 2008 and applies to all contracts issued on or after that date or the date of amendment of the standard contract to comply with this Guideline, whichever is the earliest.

All contracts were reviewed by SEQUAL by or on 1 January 2008, and are reviewed whenever they are amended, or at least annually to ensure compliance with this requirement. SEQUAL maintains a list of complying members, which is available to interested parties, as required.

Attachment B: 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

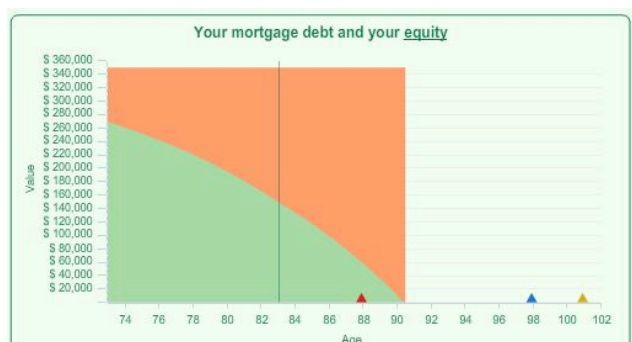


When you are 83 years:

Value of your home	\$ 350,000	▲ 50% of women aged 73 will live to this age
Mortgage Outstanding	\$ 136,455	▲ 10% of women aged 73 will live to this age
Equity Remaining	\$ 213,544	▲ 5% of women aged 73 will live to this age

The graph and figures above are estimates only, based on limited information and are not guaranteed. Consider your own circumstances and seek expert advice.

Borrow Maximum Available



When you are 83 years:

Value of your home	\$ 350,000	▲ 50% of women aged 73 will live to this age
Mortgage Outstanding	\$ 199,817	▲ 10% of women aged 73 will live to this age
Equity Remaining	\$ 150,182	▲ 5% of women aged 73 will live to this age

The graph and figures above are estimates only, based on limited information and are not guaranteed. Consider your own circumstances and seek expert advice.



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 C: SEQUAL Guideline – Equity Release Proper Process

SEQUAL Guideline: Equity Release Proper Process



Fact Find

Gather Client Information

Stage 1

Establish "Property & Income" Position

Stage 2

Determine Loan Purpose/Financial Need

Stage 3

Investigate Alternative Funding Sources

Stage 4

Suitability Assessment

Consider Client Needs/Preferences

Stage 5

Product Selection and Client Decision

Stage 6

Reconcile Client Decision with
Client Needs & Preferences

Stage 7

Client Care

Confirm Informed Client Decision

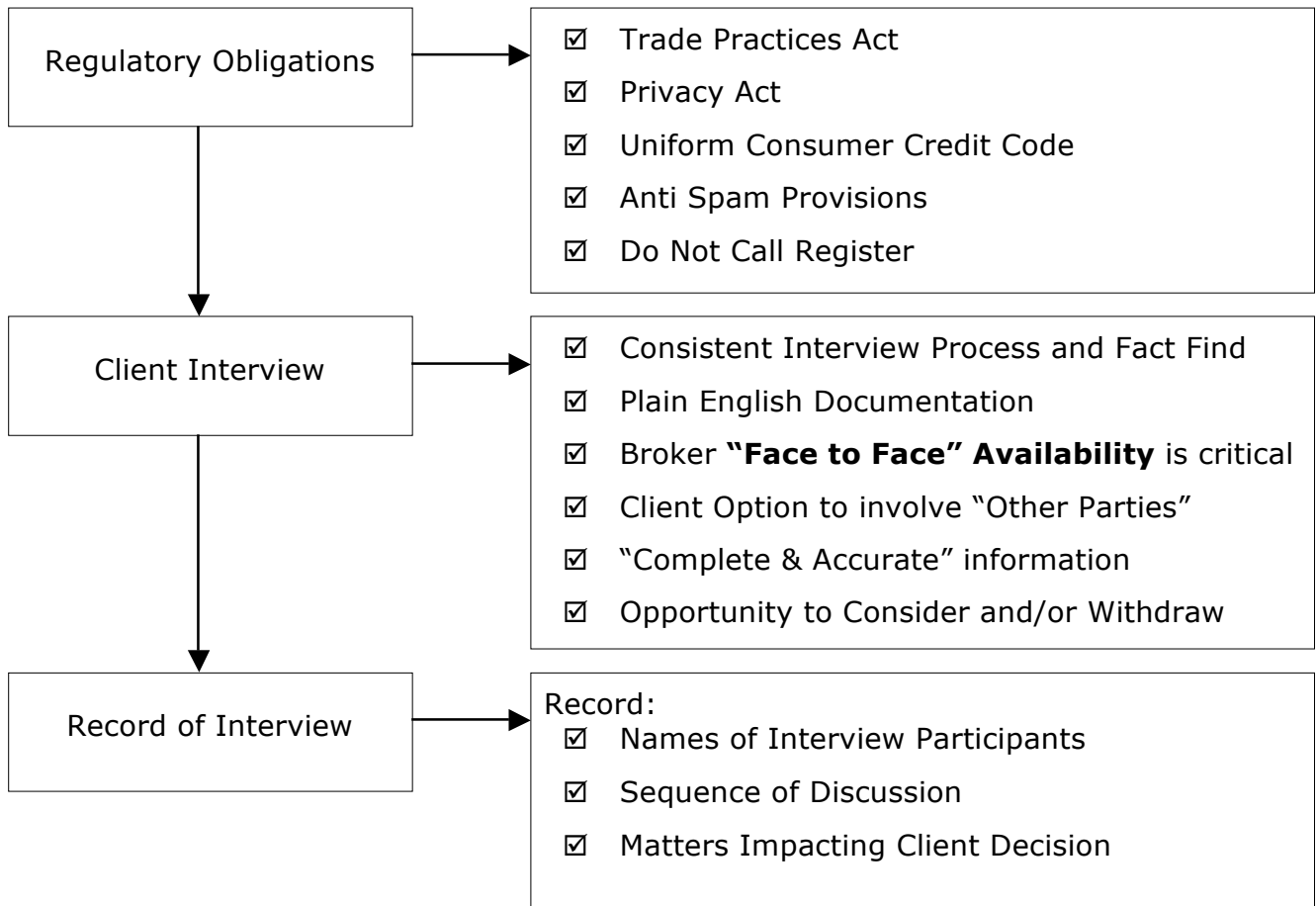
Stage 8

Maintain Client Records and
Dispute Resolution Policy

Stage 9

* SEQUAL acknowledges the assistance provided by the Mortgage & Finance Association of Australia ("MFAA") and the Council of Mortgage Lenders (UK)

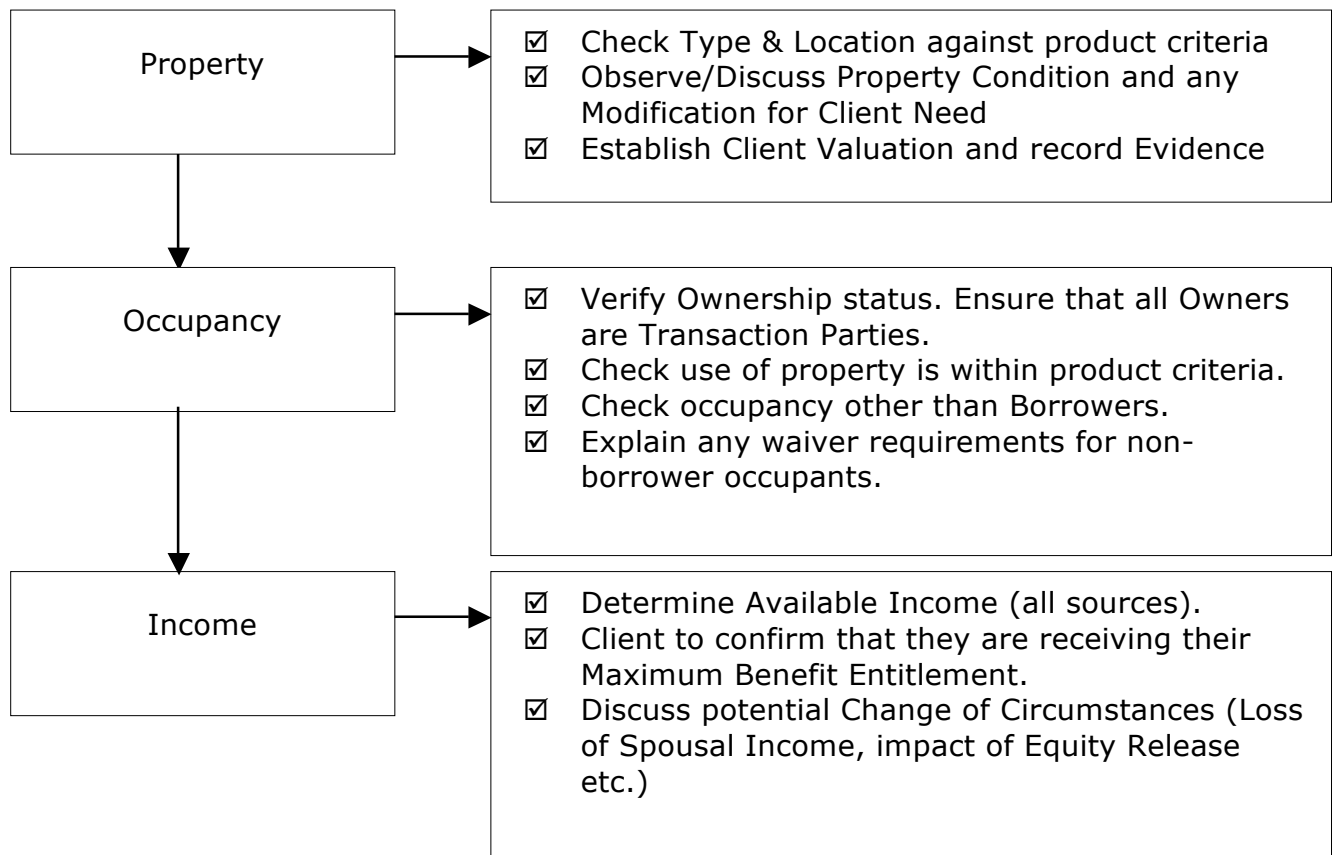
Stage 1
Gather Client Information



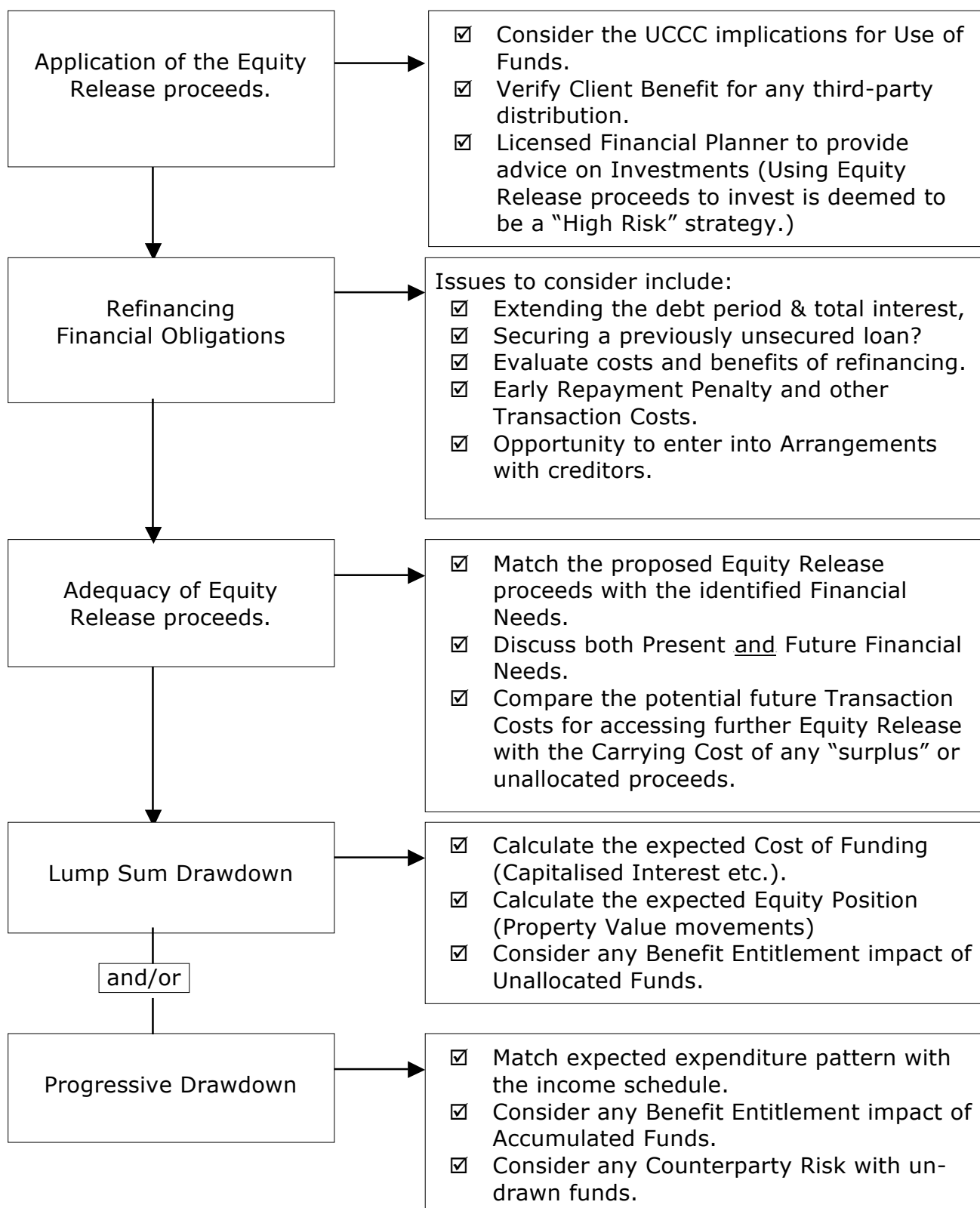
Guidelines:

- 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.

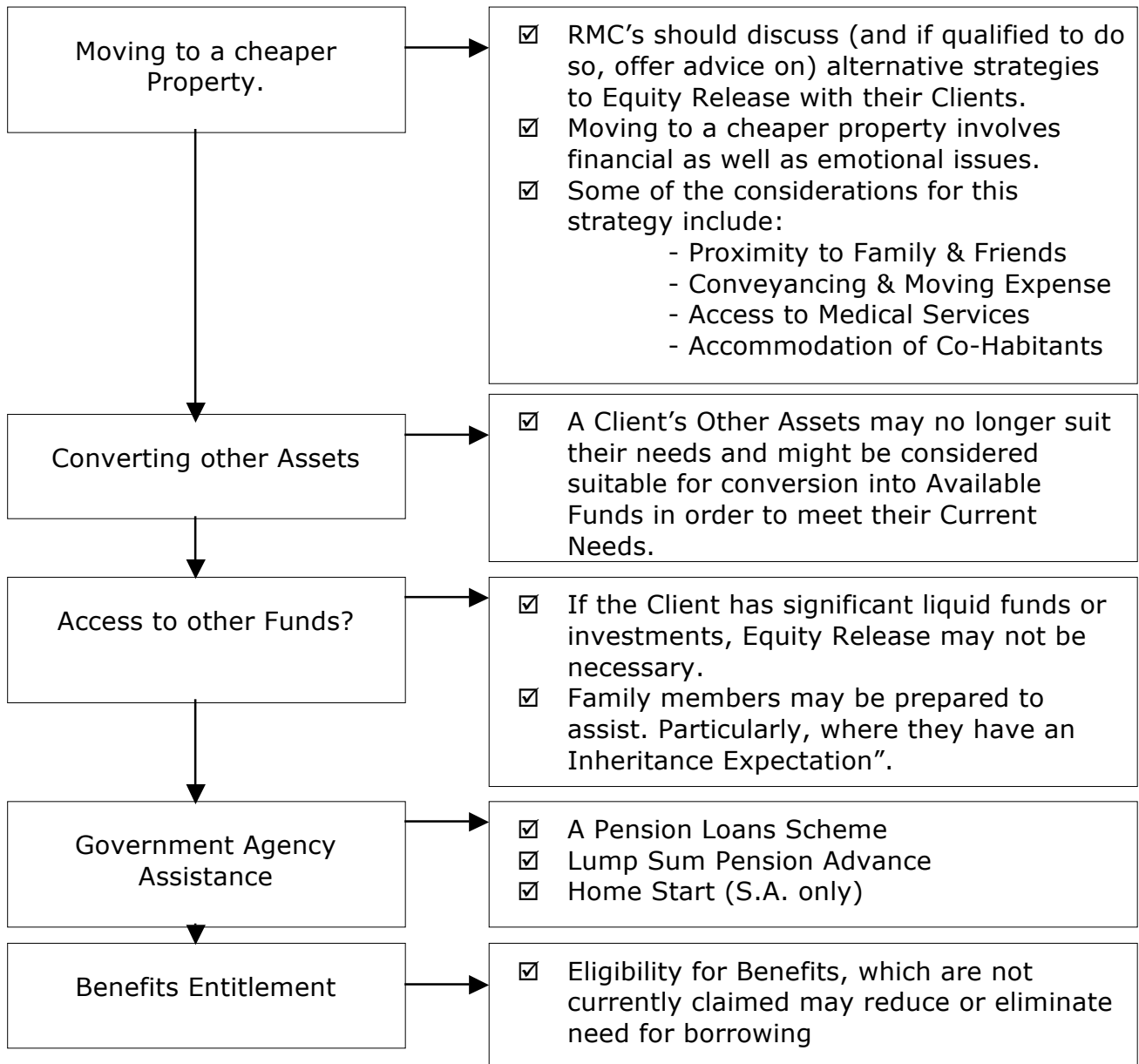
Stage 2
Establish "Property & Income" Position



Stage 3
Determine Loan Purpose/Financial Need



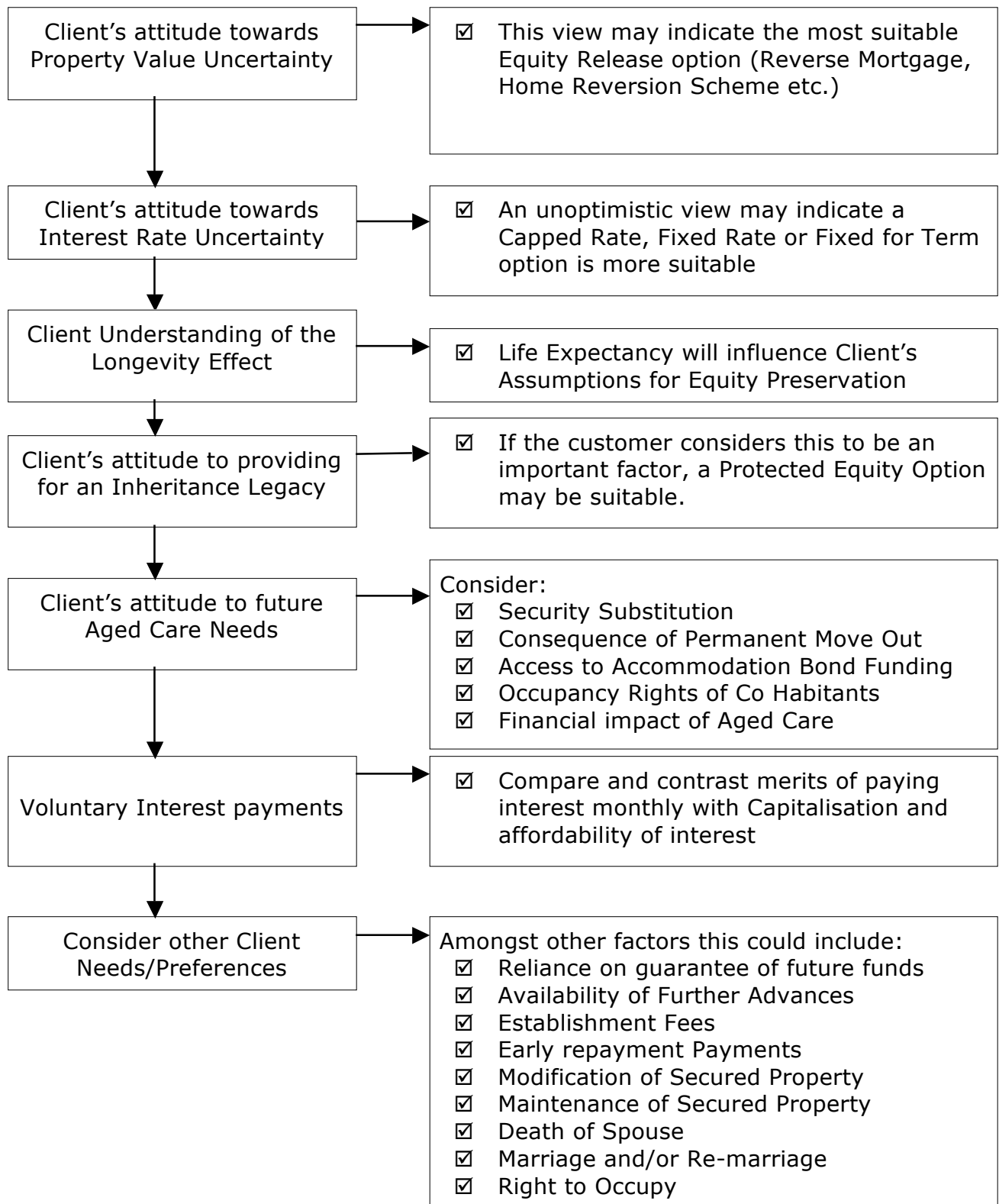
Stage 4 Investigate Alternative Funding Sources



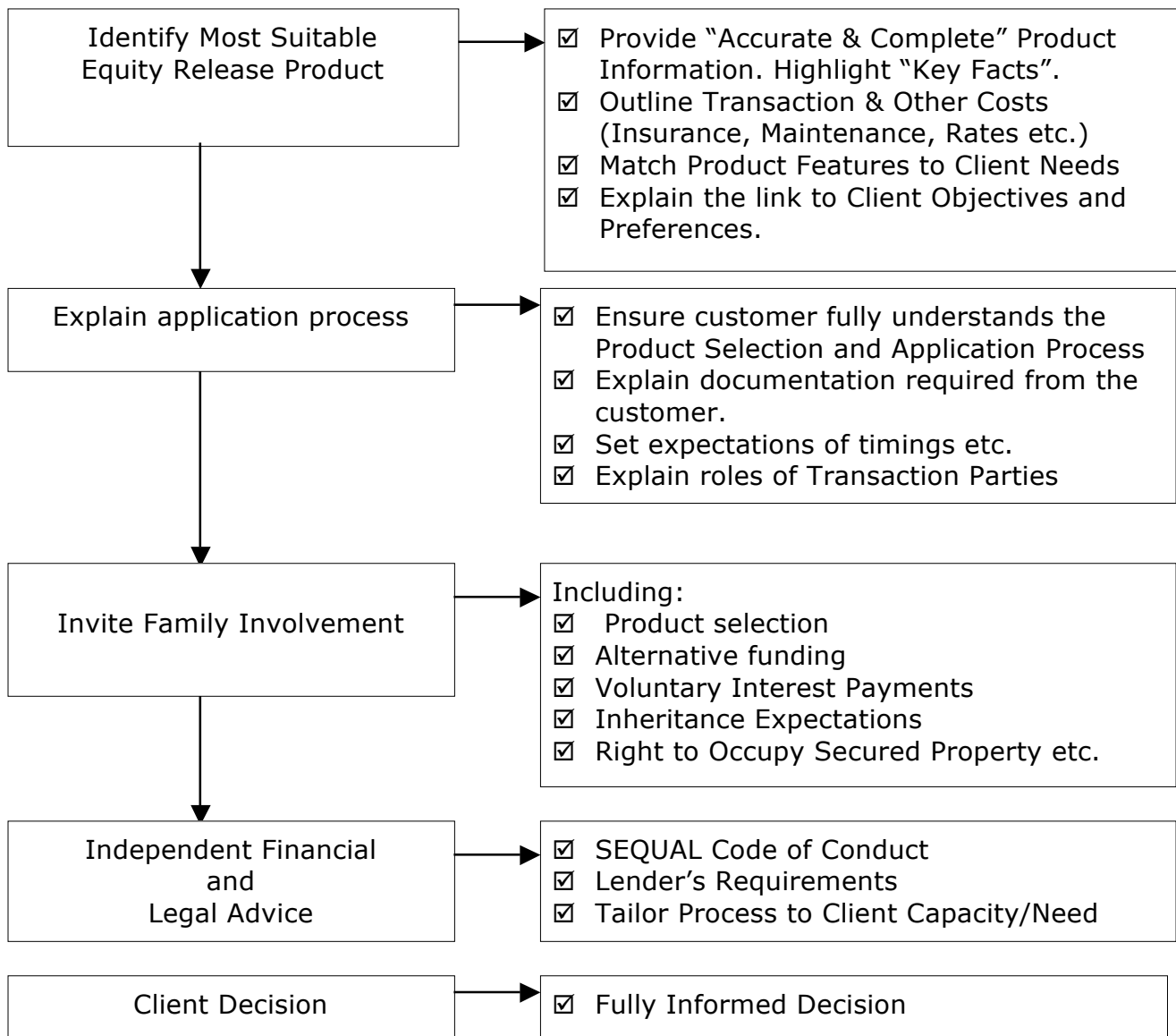
Guidelines:

- 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).

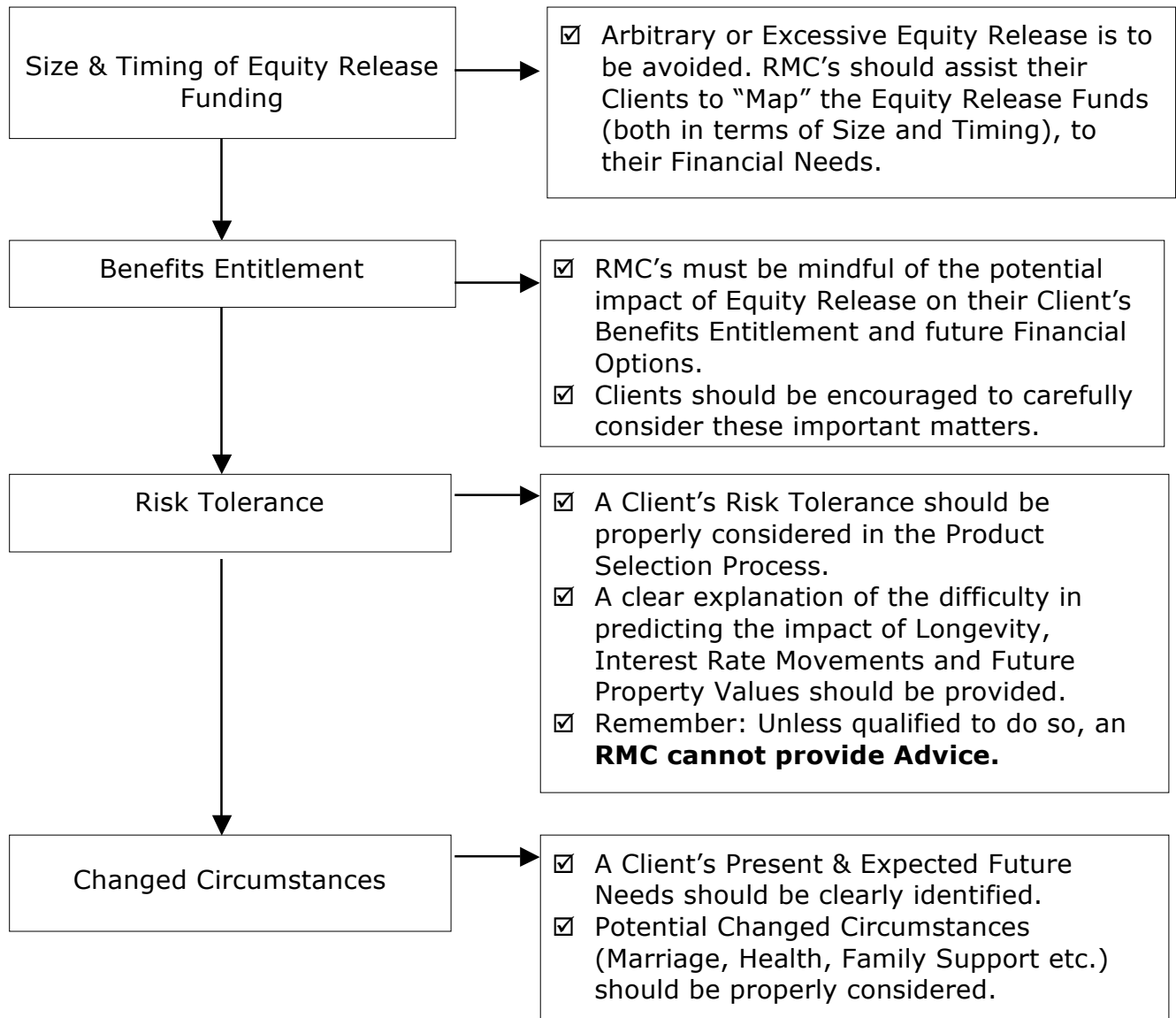
Stage 5 Consider Client Needs/Preferences



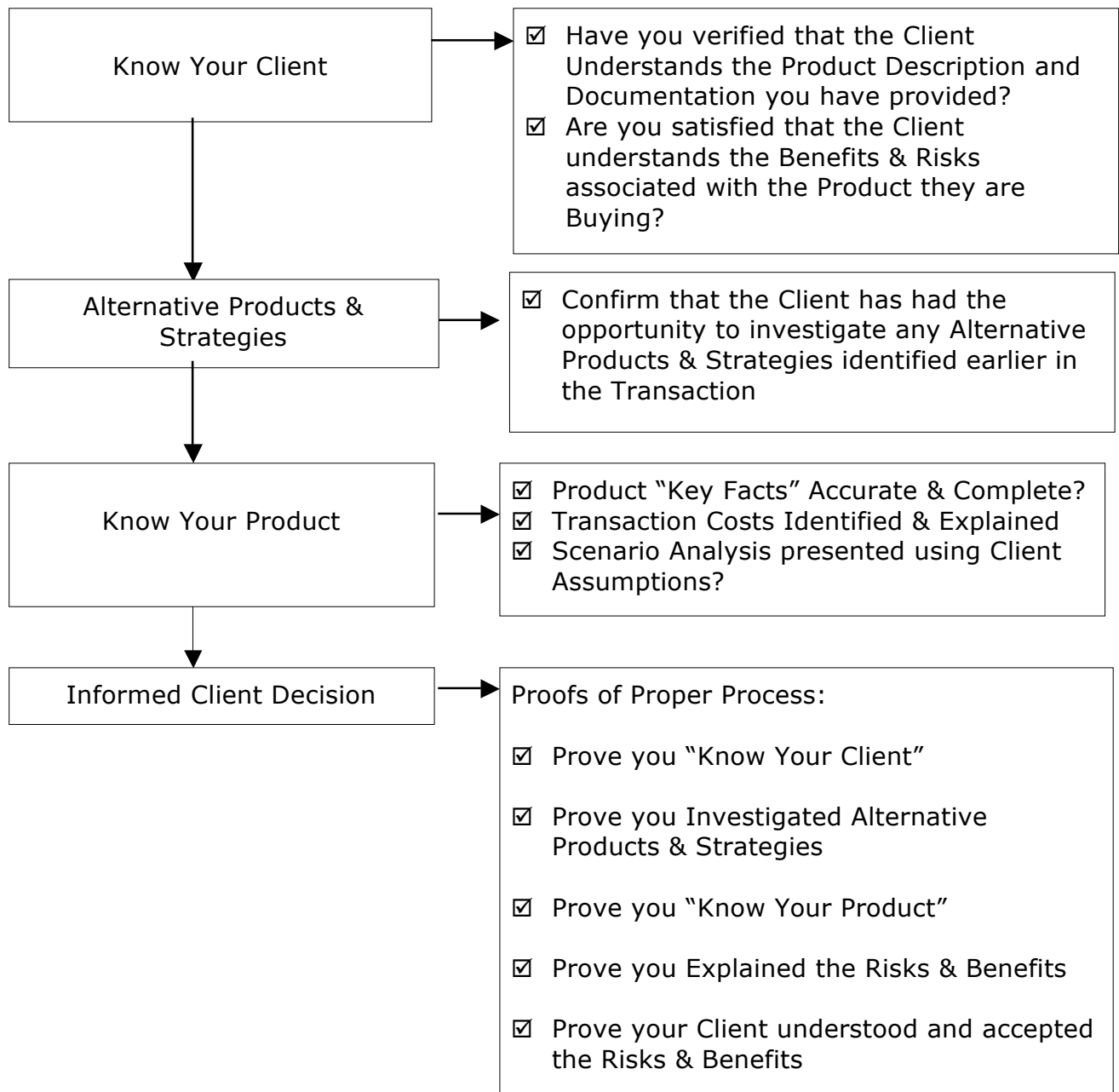
Stage 6
Product Selection and Client Decision



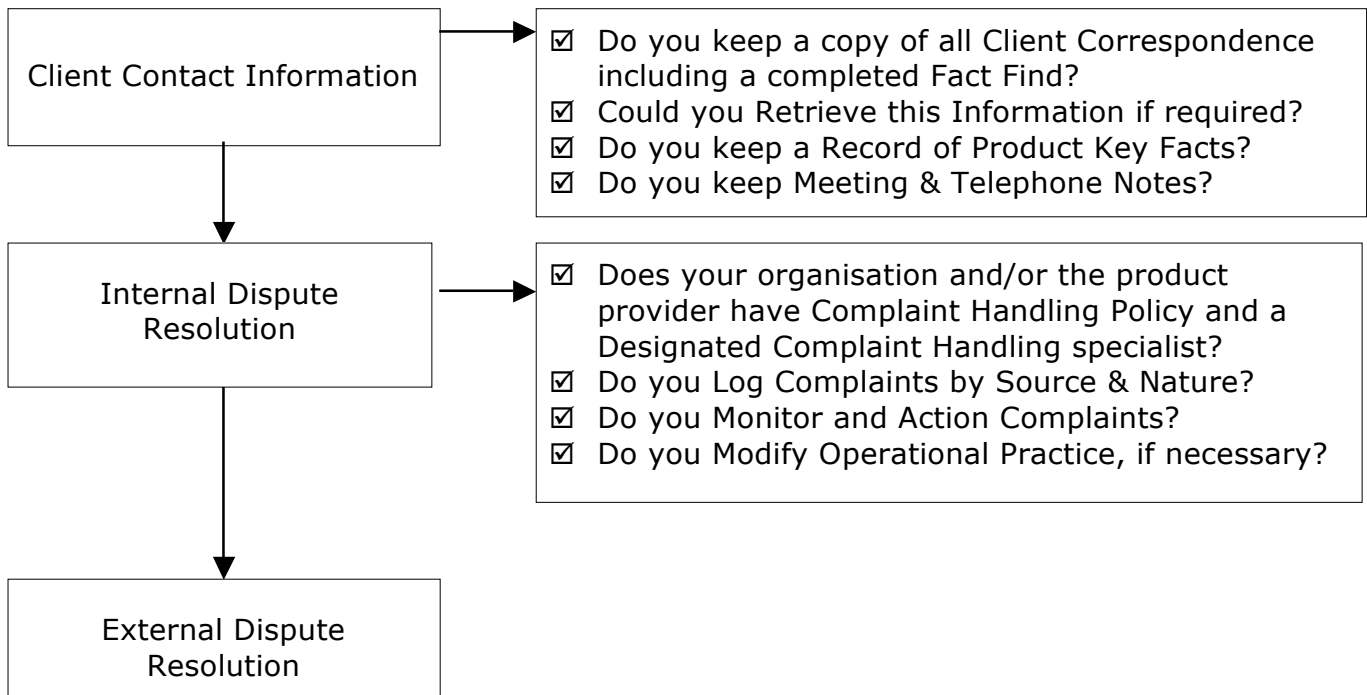
Stage 7
Reconcile Client Decision with
Client Needs & Preferences



Stage 8
Confirm Informed Client Decision



Stage 9
Maintain Client Records
Dispute Resolution Policy



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 D: 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 home¹². 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)¹³. 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 mortgages¹⁴ 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.

¹² ASIC Fido page on reverse mortgages

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

¹³ <http://www.creditcode.gov.au/>

¹⁴ Trowbridge Deloitte industry survey – November 2006

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

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.

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"

Attachment E: Mortgage & Finance Association of Australia Guidelines

The Mortgage and Finance Association of Australia (MFAA)

The MFAA was established in 1980 and is a leading provider of service and advocacy for mortgage brokers, finance brokers, mortgage managers, lenders (bank and non-bank), and originators to assist them develop, foster, and promote the mortgage and finance industry.

The MFAA states its objectives as follows:

- Advocate on behalf of the mortgage and finance professional
- Set and enforce standards which define professionalism for members
- Promote excellence through best practice for the benefit of customers
- Provide relevant, cost effective services and learning and development opportunities for members
- Support the evolution of the mortgage and finance industry

There are currently over 13,000 members of the MFAA.

Equity Release Products

The MFAA Board has resolved that an MFAA member who does not hold SEQUAL accreditation and who sells an equity release product will be guilty of misconduct and subject to sanctions under the MFAA Disciplinary process. MFAA members were given until 31 March 2008 before this protocol was enforced.

The MFAA's measures to ensure that its members adopted appropriate standards when involved in equity release transactions include:

- Promulgating 'The Equity Release Code of Proper Process' in February 2007 to ensure its broker members sold Reverse Mortgage products appropriately.
- Establishing the SEQUAL accredited MFAA Equity Release Education program, which some 400 members have now completed.
- Declaring it a breach of the MFAA Code of Conduct for its members to sell reverse mortgage products if they are not SEQUAL accredited by 31 March 2008.
- Making it a condition of MFAA membership that all members belong to an ASIC approved External Disputes Resolution (EDR) Scheme.