

CHECKLIST FOR EQUITY RELEASE SCHEMES

The Conveyancing Committee of the Law Society of Ireland has developed the following checklist in order to assist practitioners when advising clients in relation to Equity Release Schemes. The committee recommends that the checklist be read together with their ‘Guidelines for Equity Release Schemes’.

- Identify the type of product at hand.
- Maintain independence from the lender.
- Take detailed instructions from the client as to the purpose of the loan and determine whether or not there are any other options available to the client. Advise that an equity release scheme, while providing cash now, may limit the options available to the client later in life.
- Discuss with the client the different types of schemes available to see whether the terms of a different scheme would suit the client’s circumstances better.
- Consider whether or not the client has the capacity to take out an equity release scheme
- Ensure that there is no possibility of undue influence.
- Understand the terms and conditions of the proposed scheme and read through the scheme with the client. Explain the nature of the loan and the legal effect of entering into such a transaction. Particular issues to raise with the client include:
 - What happens to the title to the client’s property?
 - What security does the client, their spouse or any dependent relatives have to remain in the property?
 - When is the loan repayable?
 - What are the interest rates applicable under the proposed scheme?
 - Advise and warn the client of anything that might interfere with their right to possession of the house and of any events of default.
 - Ensure that a Lifetime Mortgage Scheme contains a ‘no negative equity’ guarantee.
 - What are the client’s obligations under the terms of the scheme?
 - Look for any other unusual features of the transaction having regard to the client’s circumstances.
- Recommend that the client arrange to have an independent valuation of the property carried out. This assures protection for the solicitor as the independent valuer can confirm the valuation of the lender’s valuer.
- Recommend strongly that the client obtain independent financial and tax advice. Draft your retainer to exclude the giving of such advice unless you are qualified to provide it.
- Advise the client to consult their Social Welfare Office about the impact of the transaction on any benefits paid to the client before proceeding.

- Discuss involving family members with the client, and document the client's instructions and your advice, particularly if the client does not wish to inform family members.
- Consider the impact the scheme could have on the client's estate, in that monies available for distribution under the estate will be reduced, which means there is potential for family members and beneficiaries to complain later.
- Keep detailed records of all advice given to the client, and record the client's response(s) to your advice. Support all advice by follow-up correspondence.
- Retain your file.

Law Society of Ireland
Conveyancing Committee
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