



INDUSTRY SUBMISSION

Consultation Paper 115

Responsible Lending

October, 2009

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Mission and Objectives of SEQUAL

Since its inception as the peak industry body for the Australian Equity Release market, SEQUAL has worked in the interest of the Australian community.

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 Reverse Mortgage Consultants (“RMCs”) 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 Submission –Overview

SEQUAL supports the introduction of effective Responsible Lending regulation and welcomes the opportunity provided by the Australian Securities and Investments Commission (“ASIC”) to comment on the proposals outlined in Consultation Paper 115.

In providing comment, SEQUAL submits that it is appropriate that proper regard be given to the extensive industry initiatives that currently exist and which encourage responsible lending in the Australian Seniors Equity Release market.

SEQUAL Membership imposes clear Code of Conduct obligations on product providers and SEQUAL Accreditation requires that appropriate standards of practice are maintained by product distributors.

In particular, the following SEQUAL protocols should be noted:

- ✓ SEQUAL Code of Conduct
- ✓ SEQUAL Guideline –Equity Release Key Facts
- ✓ SEQUAL Guideline –Equity Release Proper Process

SEQUAL is concerned that Consultation Paper 115 does not adequately consider the particular and in some instances, unique product and process characteristics of equity release transactions. There is a risk that the impact of the proposals might erode rather than enhance the existing standards of practice associated with SEQUAL Membership and SEQUAL Accreditation.

It is not clear to SEQUAL how some of the proposals will apply to equity release transactions and it is highly desirable that the degree of ambiguity that arises through devices such as “Scalability” and “Reasonable Inquiry Obligations” be eliminated through prescribed Regulatory Guidance.

Whilst the timetable for the implementation of the National Consumer Credit Protection Reform Package is not within the scope of Consultation Paper 115, it is relevant to note that Non Bank Lenders are likely to be disadvantaged by the application of the Responsible Lending provisions six months before the provisions apply to Authorised Deposit-taking Institutions (“ADI’s”).

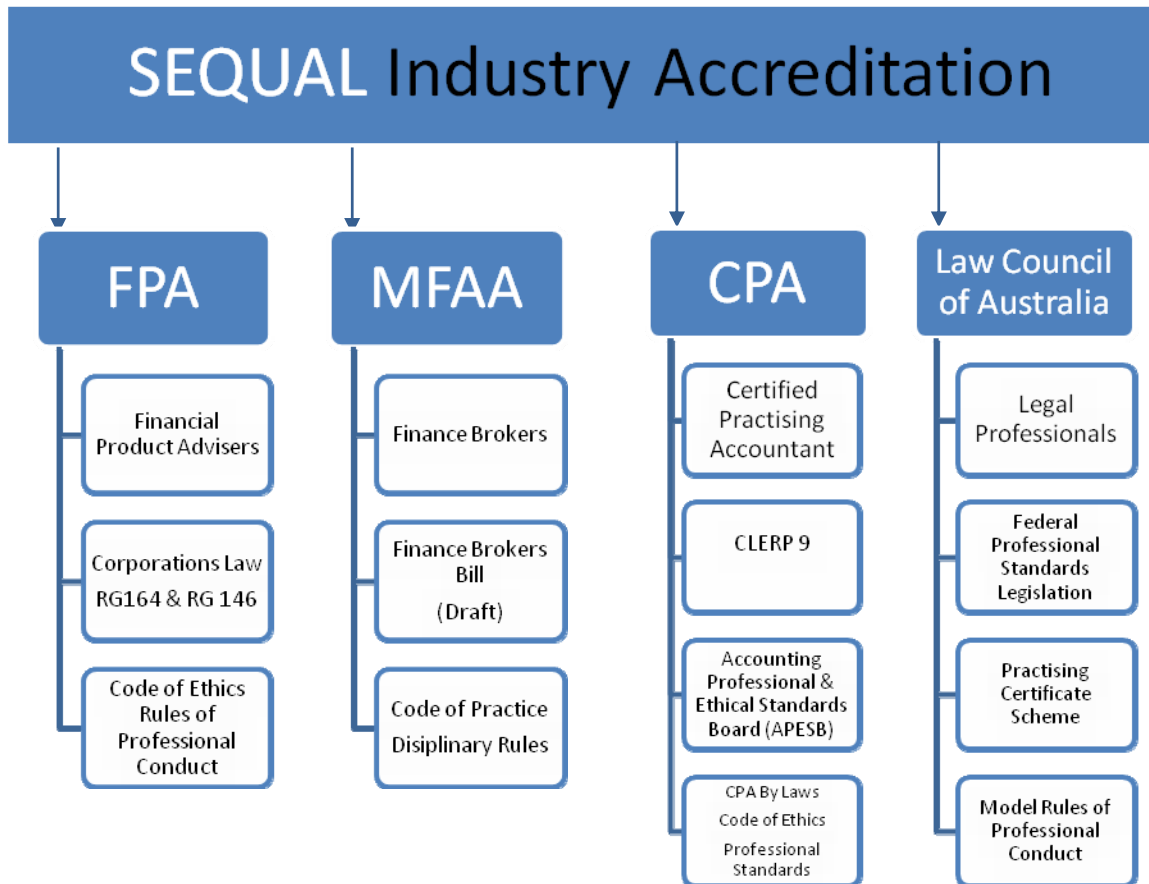
This Industry Submission outlines the existing SEQUAL Membership and SEQUAL Accreditation protocols and provides a response to the proposals and questions provided in Consultation Paper 115. However, the submission is intended to identify the key issues for further discussion with ASIC and SEQUAL welcomes ASIC’s stated intention to discuss the proposed guidance before it is finalised and released.

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.

Equity Release Industry Accreditation



SEQUAL has established an Industry Accreditation protocol in order to raise Professional Standards above the Minimum Education Requirements imposed by legislation and Industry Association Membership.



To give effect to this protocol, SEQUAL has developed the educational standards required for market practitioners to achieve the designation of **Reverse Mortgage Consultant ("RMC")**.

The RMC designation forms an important part of SEQUAL's commitment to assisting consumers to identify properly-trained market practitioners.

Participation in the SEQUAL Equity Release Accreditation program (the "SEQUAL Program"), assists Brokers, Planners, Accountants and Legal Advisers to establish the skills required to be considered a "trusted source" and act in the best interest of their clients.

Maintaining Industry Accreditation

Professional Practice Guidelines

SEQUAL issues Professional Practice Guidelines to assist RMC's to adopt Client Management methods that deliver consistently high standards of consumer protection, across all industry sectors (i.e. Brokers, Planners, Accountants and Legal Advisers).

The **SEQUAL Guideline –Equity Release Proper Process** takes account of the various reports published by ASIC and is modelled on the guide authored by the Council of Mortgage Lenders (UK), as further developed by the current SEQUAL CEO during his term as MFAA Head of Education (refer Attachment B).

Continuing Professional Development (“CPD”) Compliance

In order to maintain Industry Accreditation as a Reverse Mortgage Consultant, RMC's are required to accumulate an annual minimum of Fifteen (15) SEQUAL CPD Activity Points (“CPD Points”).

RMC's are expected to accumulate their CPD Points across a range of competencies which include;; Product & Process, Client Management, Business Development, Ethics & Regulatory Compliance etc.

The accumulation CPD Points is on a self-assessed basis. However, a SEQUAL CPD Activity Record Sheet together with evidence of participation must be retained by the RMC until it is required to be lodged with their annual Industry Accreditation renewal.

The CPD Record may be subject to audit by an authorised SEQUAL Education Officer.

The SEQUAL Education audit considers the Content, Context and Educational Value of the CPD Activities undertaken. RMC's selected for audit are required to submit their Supporting Documents. If the audit results in the claimed CPD Points being inadequate, the RMC will be provided with an opportunity (90 Days) to remedy the non-compliance with CPD Policy.

SEQUAL Practising Certificate

The broad intent of Equity Release Industry Accreditation is to maximise the opportunity for consumers to access properly-trained Equity Release market practitioners across all industry sectors (i.e. Broker, Planner, Accountant or Legal Adviser).

The designation of SEQUAL-accredited RMC reinforces the professional standards set by the various Industry Associations (i.e. FPA, MFAA, CPA or State-based Law Societies).

The SEQUAL Practising Certificate is issued annually to RMC's that have met their on-going obligations for Industry Accreditation. The certificate confirms the standing of RMC's within the Seniors Equity Release market and **enables consumers to easily recognise professionals who have established and maintain their competency to provide reliable Seniors Equity Release information and advice.**

Consultation Paper 115 –Responsible Lending

List of Proposals and Questions

| Proposal | Your feedback |
|--|--|
| <p>B1 We propose to provide guidance (along the lines of paragraphs 20–21, Table 3 and Examples 1 and 2) that the obligation to make reasonable inquiries is scalable—that is, what a credit licensee needs to do to meet this obligation will vary depending on the circumstances.</p> | <p>B1Q1 Do you agree with our proposed approach to guidance about the reasonable inquiries obligation being scalable?</p> <p>B1Q2 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to credit licensees.</p> |
| <p>B2 We propose to provide guidance that we expect credit licensees to decide what inquiries they need to make in order to meet the reasonable inquiries obligation for a given transaction. However, when considering whether a credit licensee has conducted reasonable inquiries, we propose looking at whether the licensee has made inquiries about the kinds of issues listed in paragraphs 23–24.</p> | <p>B2Q1 Do you agree with our proposed approach to guidance about making reasonable inquiries?</p> <p>B2Q2 In your view, are the obligations about making reasonable inquiries consistent with current good business practice?</p> <p>B2Q3 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |
| <p>B3 We propose to issue guidance (along the lines of paragraphs 25–28) that we expect credit licensees to have processes in place to ensure they make inquiries that are reasonable in the circumstances of each transaction.</p> | <p>B3Q1 Do you agree with our proposed approach to guidance about the processes we expect credit licensees to have in place to ensure they make reasonable inquiries?</p> <p>B3Q2 To what degree do you anticipate that you will need to implement new processes (or change your current processes) to comply with the responsible lending obligation to make reasonable inquiries?</p> <p>B3Q3 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |

| Proposal | Your feedback |
|---|---|
| <p>B4 We propose to issue guidance (along the lines of paragraphs 29–33 and Example 3) that the obligation to take reasonable steps to verify the consumer's financial situation will require the licensee to take some positive steps to verify the information provided by the consumer.</p> | <p>B4Q1 Do you agree with the guidance we are proposing to give in relation to verification of information?</p> <p>B4Q2 How consistent are the obligations about verification of information with current good business practice?</p> <p>B4Q3 What changes will you need to make in your business to ensure that you meet the obligation to verify information?</p> <p>B4Q4 Is there any other guidance you think it would be useful for us to give?</p> |
| <p>B5 We propose to issue guidance (along the lines of paragraphs 34–35) about credit licensees relying on information provided in an intermediary's preliminary assessment.</p> | <p>B5Q1 Do you agree with the guidance we are proposing to give in relation to relying on information provided in an intermediary's preliminary assessment?</p> <p>B5Q2 Is there any other guidance you think it would be useful for us to give?</p> |
| <p>C1 We propose to issue guidance that a credit licensee must form a view that a credit contract is 'not unsuitable' before they enter into a credit contract with a consumer, suggest a credit contract to a consumer or assist a consumer to apply for a credit contract, and this view must be based on the reasonable inquiries they have made about the consumer (and any other relevant information they have about the consumer).</p> | <p>C1Q1 Do you agree with our proposed approach to guidance?</p> <p>C1Q2 What changes will you need to make in your business to ensure that you meet the obligation to form a view that a credit contract is not unsuitable for the consumer?</p> <p>C1Q3 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |
| <p>C2 We propose to issue guidance about determining the consumer's financial situation and capacity to repay, including that:</p> <ul style="list-style-type: none"> (a) licensees should take into account all costs associated with the credit contract when determining capacity to repay; (b) licensees should have appropriate processes in place for assessing whether a consumer will be able repay a credit contract without substantial hardship; and (c) generally, consumers should be able to meet the credit contract's obligations from income rather than equity in an asset. | <p>C2Q1 Do you agree with our proposed approach to guidance about determining the consumer's financial situation and capacity to repay?</p> <p>C2Q2 Are the obligations about the capacity to repay consistent with current good business practice?</p> <p>C2Q3 What changes will you need to make in your business to ensure that you meet the obligation to assess whether a consumer has the capacity to repay a credit contract?</p> <p>C2Q4 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |

| Proposal | Your feedback |
|--|--|
| <p>C3 We propose to issue guidance (along the lines of paragraphs 51–57) about factors ASIC will take into account when considering whether a particular situation involves substantial hardship.</p> | <p>C3Q1 Do you agree with our proposed approach to guidance about substantial hardship?</p> <p>C3Q2 Is our proposed guidance in relation to substantial hardship consistent with current good business practice?</p> <p>C3Q3 What changes will you need to make in your business to ensure that you are able to determine whether a credit contract will cause a consumer to experience substantial hardship?</p> <p>C3Q4 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |
| <p>C4 We propose to issue guidance about determining the requirements and objectives of the consumer in relation to the credit contract, including that:</p> <ul style="list-style-type: none"> (a) whether a credit contract meets a consumer's requirements and objectives will vary depending on the circumstances; (b) we expect licensees to have appropriate processes in place for assessing whether a credit contract will meet the consumer's requirements and objectives; and (c) generally, a credit contract will be unsuitable unless it fits the purpose for which the consumer is seeking credit and any particular requirements expressed by the consumer. | <p>C4Q1 Do you agree with our proposed approach to guidance about determining the consumer's requirements and objectives?</p> <p>C4Q2 Is the obligation to determine a consumer's requirements and objectives consistent with current good business practice?</p> <p>C4Q3 What changes will you need to make in your business to ensure that you meet this obligation?</p> <p>C4Q4 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |
| <p>C5 We propose to issue guidance (along the lines of paragraphs 63–64) about factors ASIC will take into account when considering whether a particular credit transaction is fit for purpose.</p> | <p>C5Q1 Do you agree with our proposed approach to guidance about determining whether a particular credit transaction is fit for purpose?</p> <p>C5Q2 Is our proposed guidance consistent with current good business practice?</p> <p>C5Q3 Is there any further guidance we should give? Please provide as much specific information as possible, as this will assist us to provide guidance that is of greater use to you.</p> |

| Proposal | Your feedback |
|--|---|
| <p>C6 We propose to issue guidance that where the consumer is replacing one credit contract with another (or switching between repayment or interest options within a credit contract), the new credit contract or option will generally not meet the consumer's requirements and objectives if the licensee knew (or ought reasonably to have known) that the overall benefits likely to result from the new credit contract (or option) would be lower than under the old credit contract (or option).</p> | <p>C6Q1 Do you agree with the proposed guidance? Why or why not?</p> |
| <p>D1 We propose to issue some brief guidance about our expectations for the form and content of both the preliminary and final written assessment that a credit contract is not unsuitable. The information we expect would be provided in this document includes:</p> <ul style="list-style-type: none"> (a) a summary of what the consumer told the licensee in relation to their financial situation, requirements and objectives; (b) a statement that the licensee has based the assessment on the information provided by the consumer; and (c) a statement that the licensee has assessed a particular credit contract as not unsuitable for the consumer. | <p>D1Q1 Do you agree that this is the type of information that should be included in a written assessment?</p> <p>D1Q2 What changes will you need to make in your business to ensure that you are able to meet this obligation?</p> <p>D1Q3 Do you think any additional information should be included in the written assessment?</p> |

SEQUAL Responses

Proposal B1 -SEQUAL Response

B1Q1

SEQUAL agrees that a degree of flexibility must exist with regard to the expectations that arise with the reasonable inquiry obligation. However, as previously stated, it is not clear to SEQUAL how some of the proposals will apply to equity release transactions and it is highly desirable that the degree of ambiguity that arises through devices such as “Scalability” and “Reasonable Inquiry Obligations” be eliminated through prescribed Regulatory Guidance.

B1Q2

SEQUAL requests that ASIC consider the particular and in some instances, unique product and process characteristics of equity release transactions in order to make it clear credit licensees what scope of inquiry is appropriate to such transactions. For example, it may not necessary to confirm a customer’s credit history and/or capacity to service debt, etc.)

Proposal B2 –SEQUAL Response

B2Q1

As stated at B1Q1.

B2Q2

SEQUAL has developed a Proper Process guideline which outlines what is considered to be good practice. There is a risk that the impact of the proposals might erode rather than enhance the existing standards of practice associated with SEQUAL Membership and SEQUAL Accreditation.

B2Q3

As stated at B1Q1

Proposal B3 –SEQUAL Response

B3Q1

As stated B2Q2

B3Q2

It is unlikely that SEQUAL Members will need to introduce new processes or make significant changes to existing processes.

B3Q3

It would be helpful for ASIC to review the SEQUAL Guideline -Equity Release Proper Process (refer Attachment C) and confirm whether adherence to the Guideline would satisfy the Guidance expectations.

Proposal B4 –SEQUAL Response

B4Q1

It should be made clear that photocopies and other (electronic) copies of documents are acceptable in appropriate circumstances. The Legal System standard should form the benchmark for this requirement.

B4Q2

The obligations are consistent with current good business practice.

B4Q3

It is unlikely that SEQUAL Members will need to introduce new processes or make significant changes to existing processes.

B4Q4

The proposed guidance is adequate.

Proposal B5 –SEQUAL Response

B5Q1

Credit Licensees represent an important introducer channel for the Australian Seniors Equity Release market. The SEQUAL Code of Conduct requires SEQUAL Members to ensure that customers obtain independent legal advice and strongly encourage customers to seek independent financial advice. In this context, SEQUAL agrees with the guidance. However, verification should be a Credit Provider obligation.

B5Q2

The guidance is adequate.

Proposal C1 –SEQUAL Response

C1Q1

It is not clear to SEQUAL how this guidance will apply to equity release transactions and it is highly desirable that the degree of ambiguity that arises with the “Scalability” concept be eliminated through a prescribed Regulatory Guidance.

C1Q2

It is unlikely that SEQUAL Members will need to introduce new processes or make significant changes to existing processes.

C1Q3

As stated at C1Q1.

Proposal C2 –SEQUAL Response

C2Q1

It should not be necessary to confirm a customer’s capacity to repay for a Seniors Equity Release transaction. In particular, a sale of a customer’s principal place of residence in order to comply with their financial obligations under a Seniors Equity Release contract needs to be appropriately dealt with in this guidance.

C2Q2

The proposed obligations to verify a Capacity to Repay are not consistent with current good business practice.

C2Q3

SEQUAL holds the view that it would be inappropriate to require changes in the business practices of its members to accommodate a verification of Capacity to Repay obligation.

C2Q4

It is not clear to SEQUAL how this guidance will apply to equity release transactions and it is highly desirable that the degree of ambiguity that arises with the “Scalability” concept be eliminated through a prescribed Regulatory Guidance.

Proposal C3 –SEQUAL Response

C3Q1

It is not clear to SEQUAL how this guidance will apply to equity release transactions. For example and as previously stated, it should not be necessary to confirm a customer’s capacity to repay for a Seniors Equity Release transaction. Again, a sale of a customer’s principal place of residence in order to comply with their financial obligations under a Seniors Equity Release contract needs to be appropriately dealt with in this guidance refer (53 (f)).

It is particularly important to note the effect of a No Negative Equity Guarantee and to have proper regard for the relevant SEQUAL Guideline (Refer Attachment A).

C3Q2

It is not clear to SEQUAL how this guidance will apply to equity release transactions.

C3Q3

It is highly desirable that the degree of ambiguity that arises with the “Scalability” concept be eliminated through a prescribed Regulatory Guidance.

C3Q4

A prescribed Regulatory Guidance for Seniors Equity Release transaction should be developed through a process of further consultation with SEQUAL.

Proposal C4 –SEQUAL Response

C4Q1

There is a risk that the impact of the proposals might erode rather than enhance the existing standards of practice associated with SEQUAL Membership and SEQUAL Accreditation.

Further, SEQUAL is concerned that Example 8: Reverse Mortgages (Clause 58, Page 29) does not reflect a sufficient understanding of the nature of Reverse Mortgages or have proper regard for consumer needs and expectations. It is completely unreasonable to determine that Fit for Purpose and Suitability tests would be breached in circumstances where a Reverse Mortgage consumer selects an income stream option that does not exceed their life expectancy.

C4Q2

The proposed obligations are not consistent with current good business practice. SEQUAL has developed a Proper Process guideline which outlines what is considered to be good practice.

C4Q3

Any change to accommodate the proposed obligations would be inconsistent with current good business practice.

C4Q4

A prescribed Regulatory Guidance for Seniors Equity Release transaction should be developed through a process of further consultation with SEQUAL.

Proposal C5 –SEQUAL Response

C5Q1

SEQUAL is concerned that Example 11: Product Range (Clause 65,Page 31) does not reflect a sufficient understanding of the nature of Reverse Mortgages or have proper regard for consumer needs and expectations. SEQUAL would welcome the opportunity to further discuss this issue and more generally the Fit for Purpose principle, with ASIC.

C5Q2

It is not clear to SEQUAL how this guidance will apply to equity release transactions.

C5Q3

It would be helpful for ASIC to review the SEQUAL Guideline -Equity Release Proper Process (refer Attachment C) and confirm whether adherence to the Guideline would satisfy the Guidance expectations.

Proposal C6 –SEQUAL Response

C6Q1

It is likely that consumers will seek an equity release solution to repay existing credit contracts in circumstances where they no longer have the capacity to make regular repayments. It is not clear to SEQUAL how this guidance will apply to equity release transactions.

Proposal D1 –SEQUAL Response

D1Q1

It will be difficult for Credit Licensees to provide a statement as to whether the credit contract is not unsuitable for the consumer. Credit Assistants should not be required to provide a Preliminary Assessment unless the Equity Release transaction proceeds to a Conditional Offer. This obligation would be better dealt with by the Credit Provider. However, it is not clear to SEQUAL how this guidance will apply to equity release transactions.

D1Q2

Significant changes to the business practice of SEQUAL Members in order to meet this obligation. There is also a risk that consumers could abuse this process.

D1Q3

It may be appropriate for ASIC to eliminate this uncertainty through a prescribed Regulatory Guidance.

Attachments:

Attachment A:

SEQUAL Guideline –No Negative Equity Guarantee

Attachment B:

SEQUAL Guideline –Key Facts

Attachment C:

SEQUAL Guideline Equity Release Proper Process

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 Reverse Mortgage 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 a Reverse Mortgage 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%.

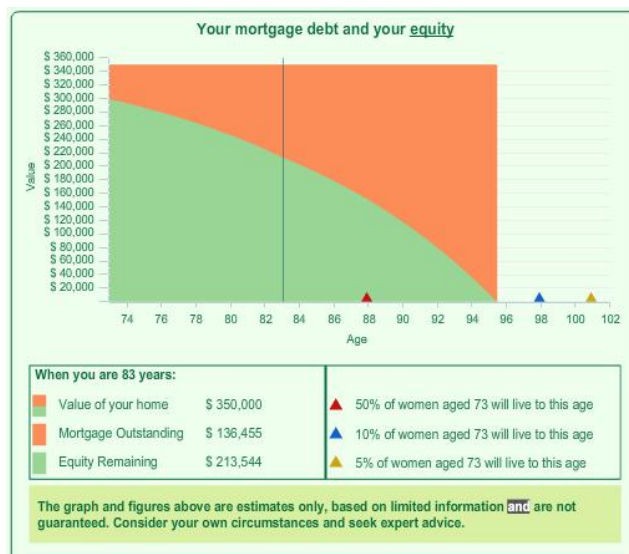
Although they were confident that their home would increase in value over the next ten years, Peter and Melissa decided to assume that both the interest rate and the value of their property would not change over the term of the Reverse Mortgage to see what impact that scenario would have on their Home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



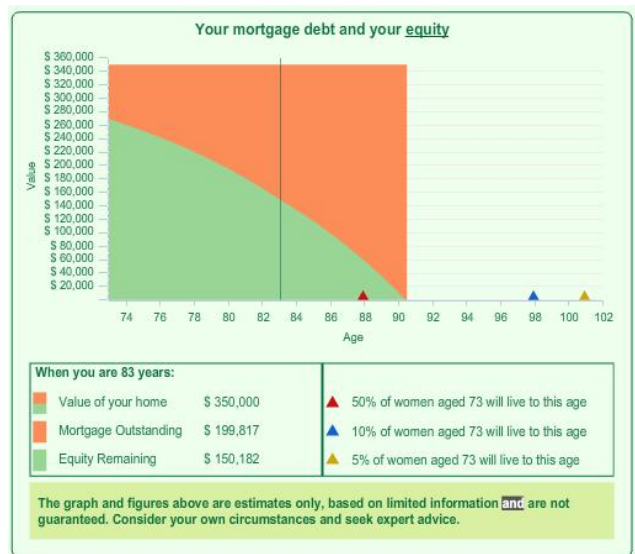
Scenario Outcomes:

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

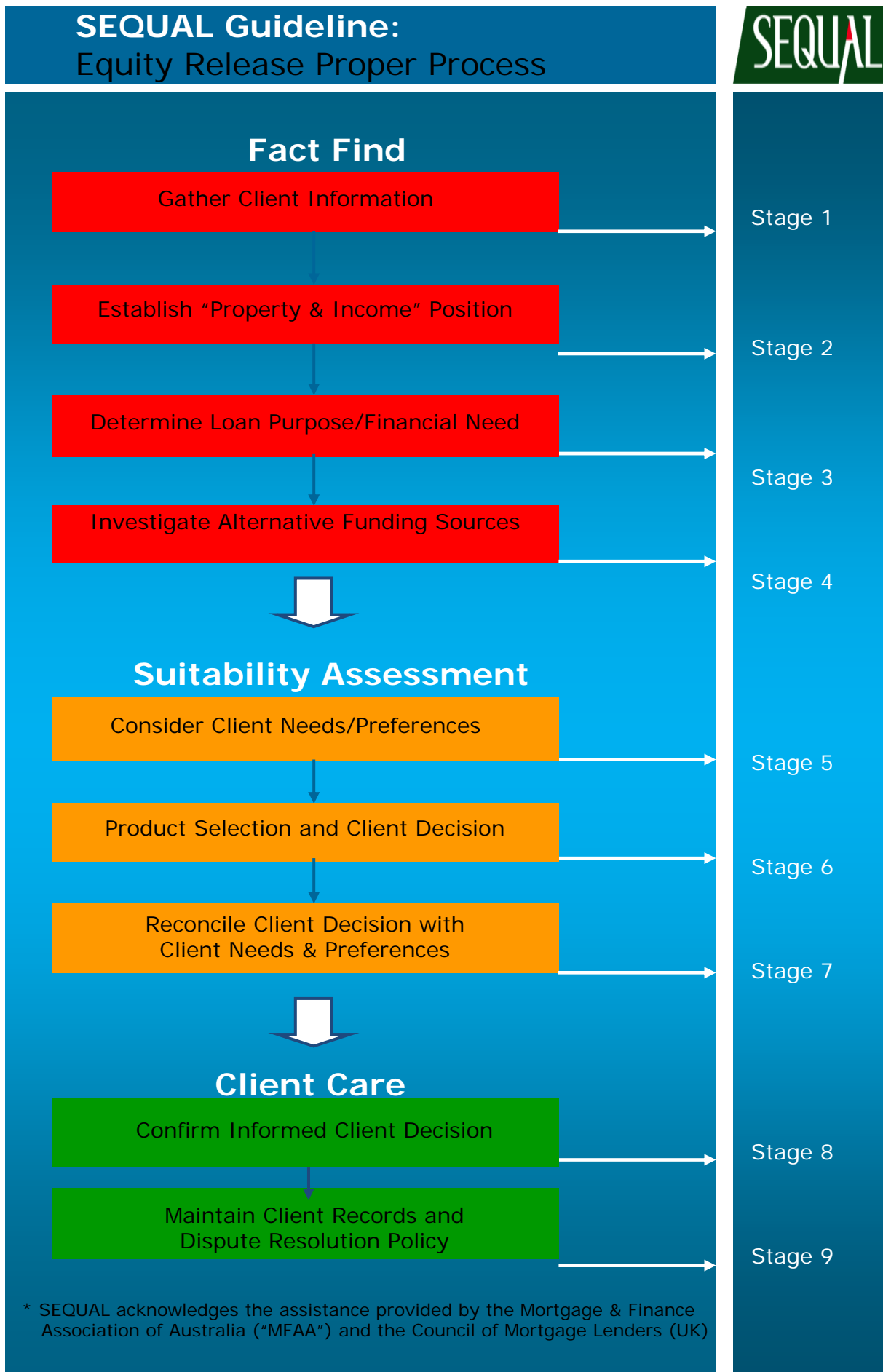
Phone: 13 32 54

Australian Taxation Office

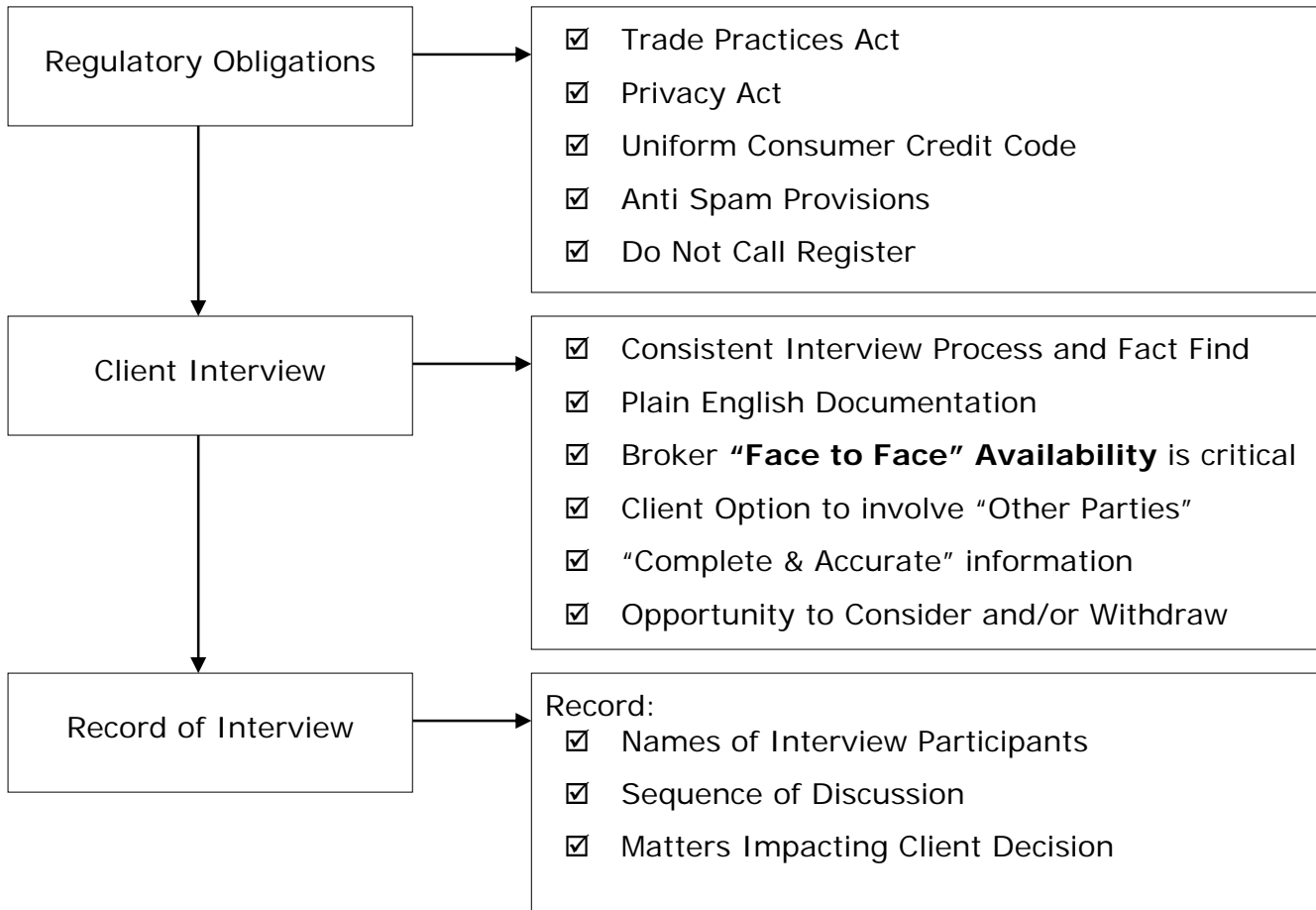
Website: www.ATO.gov.au

Phone: 13 28 61

Attachment C: SEQUAL Guideline – Equity Release Proper Process



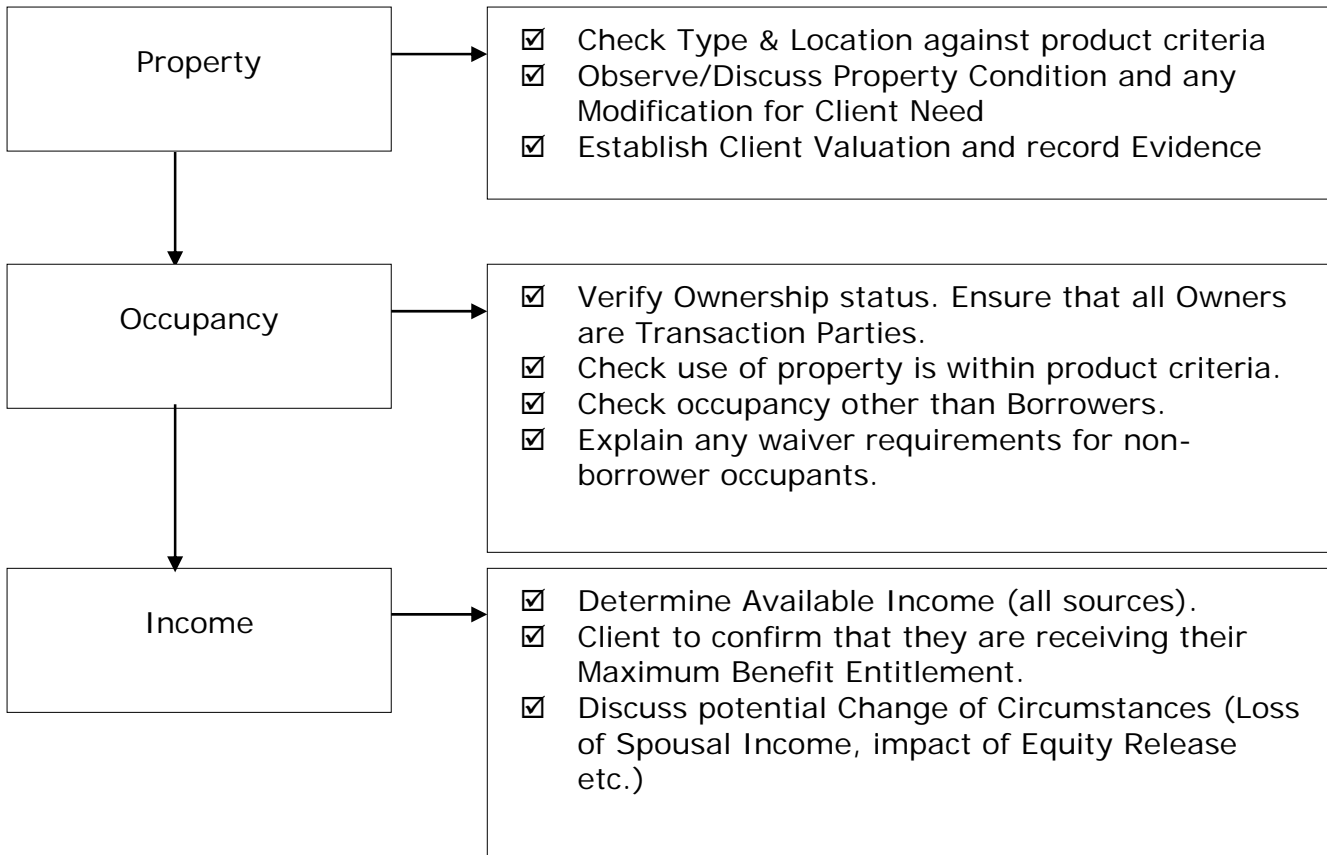
Stage 1
Gather Client Information



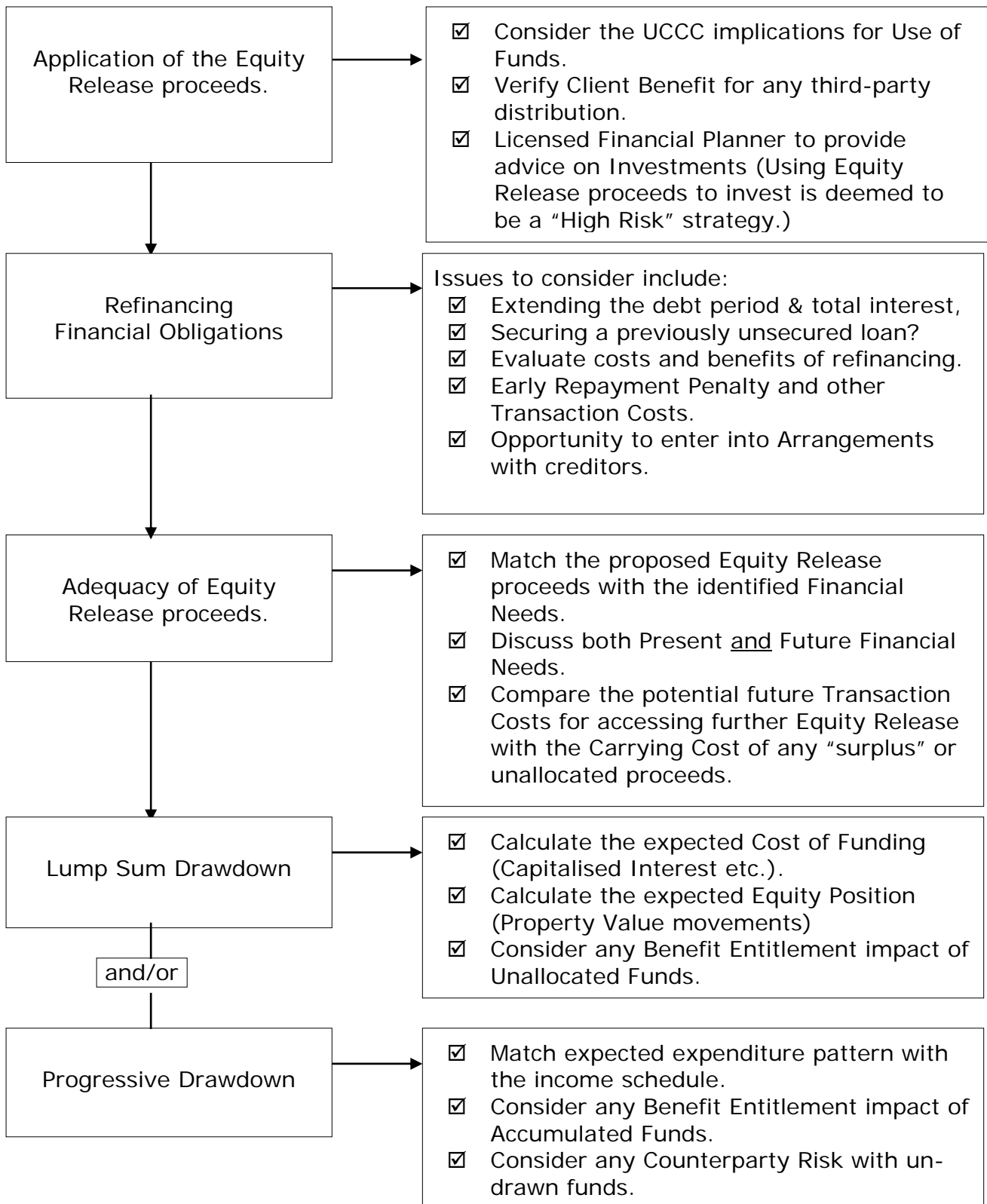
Guidelines:

- 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.

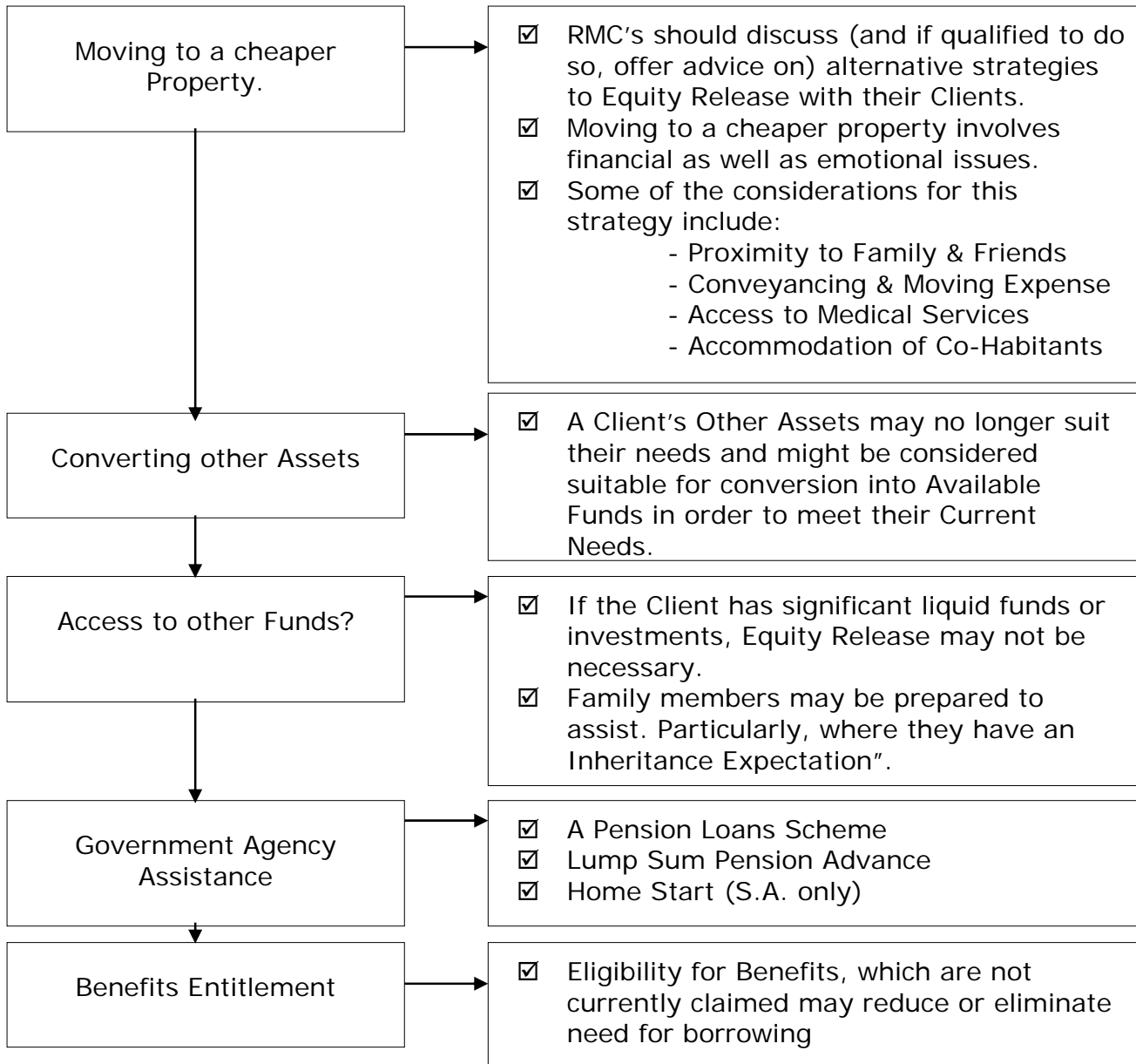
Stage 2
Establish "Property & Income" Position



Stage 3
Determine Loan Purpose/Financial Need

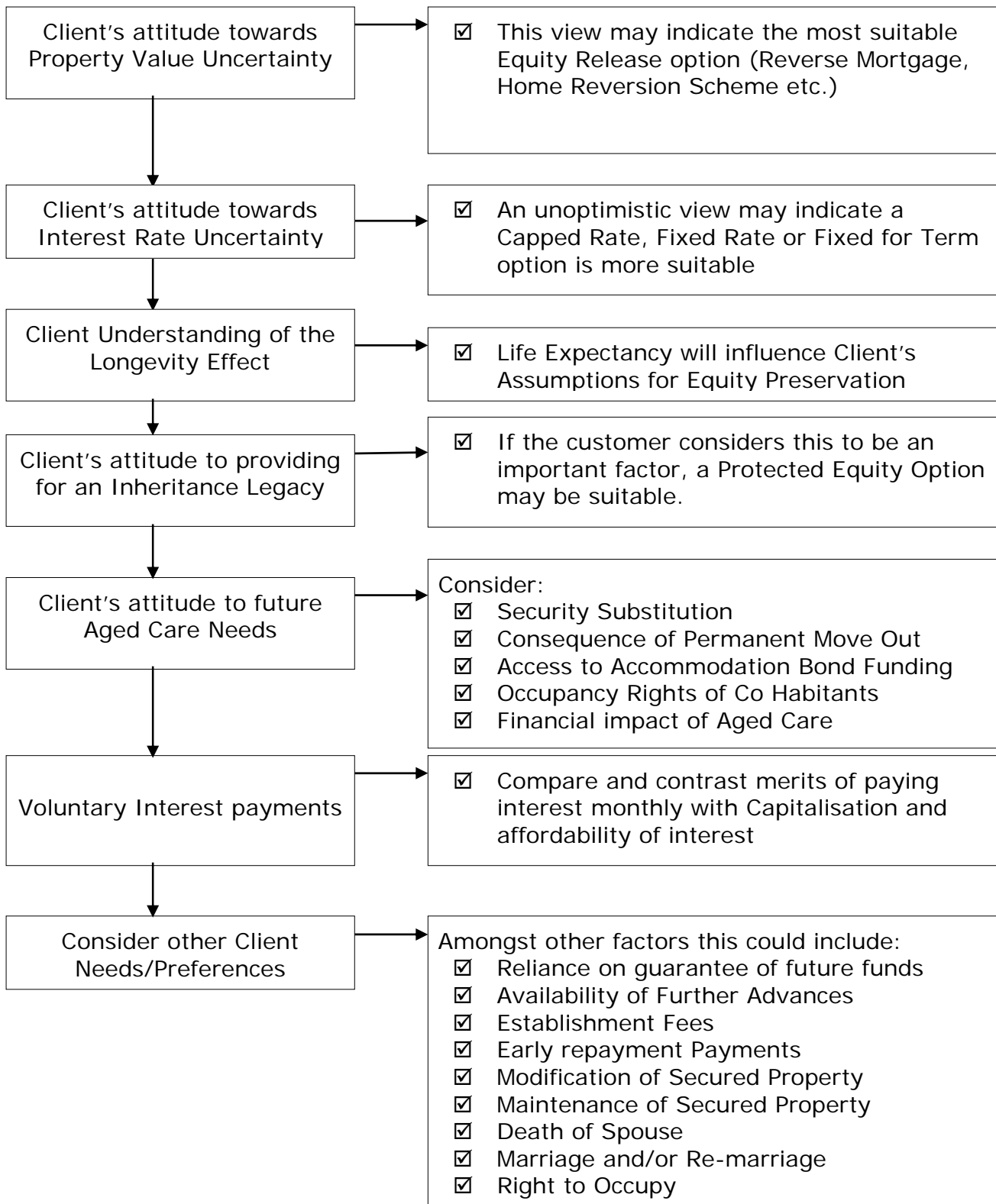


**Stage 4
Investigate Alternative Funding Sources**

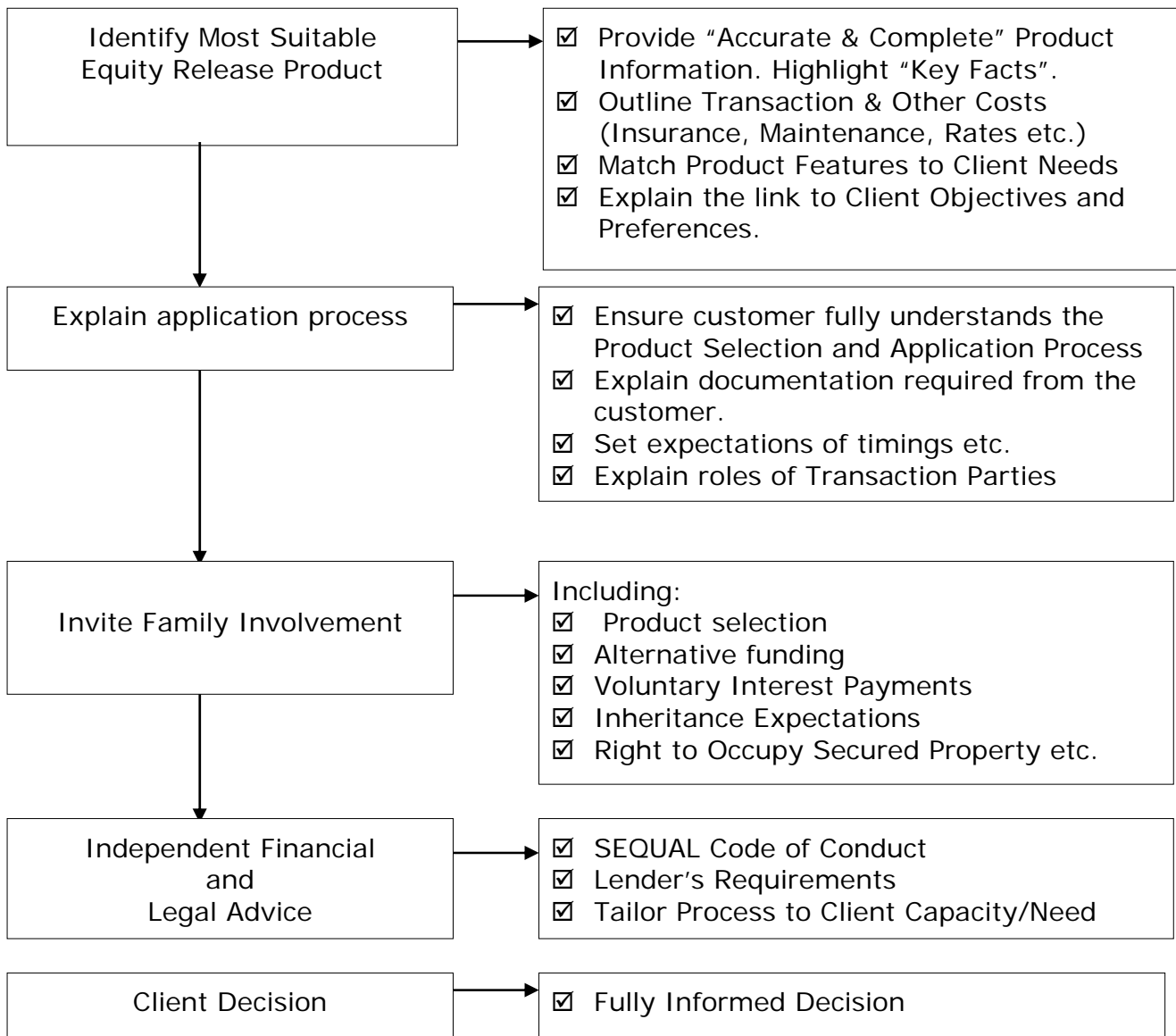


- Guidelines:**
- Unless qualified to do so, RMCs MUST NOT PROVIDE CLIENT ADVICE.
 - RMC's must assist their clients to make fully-informed decisions by providing accurate and complete information.
 - Clients should be encouraged to consider alternative strategies to Equity Release and make contact with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

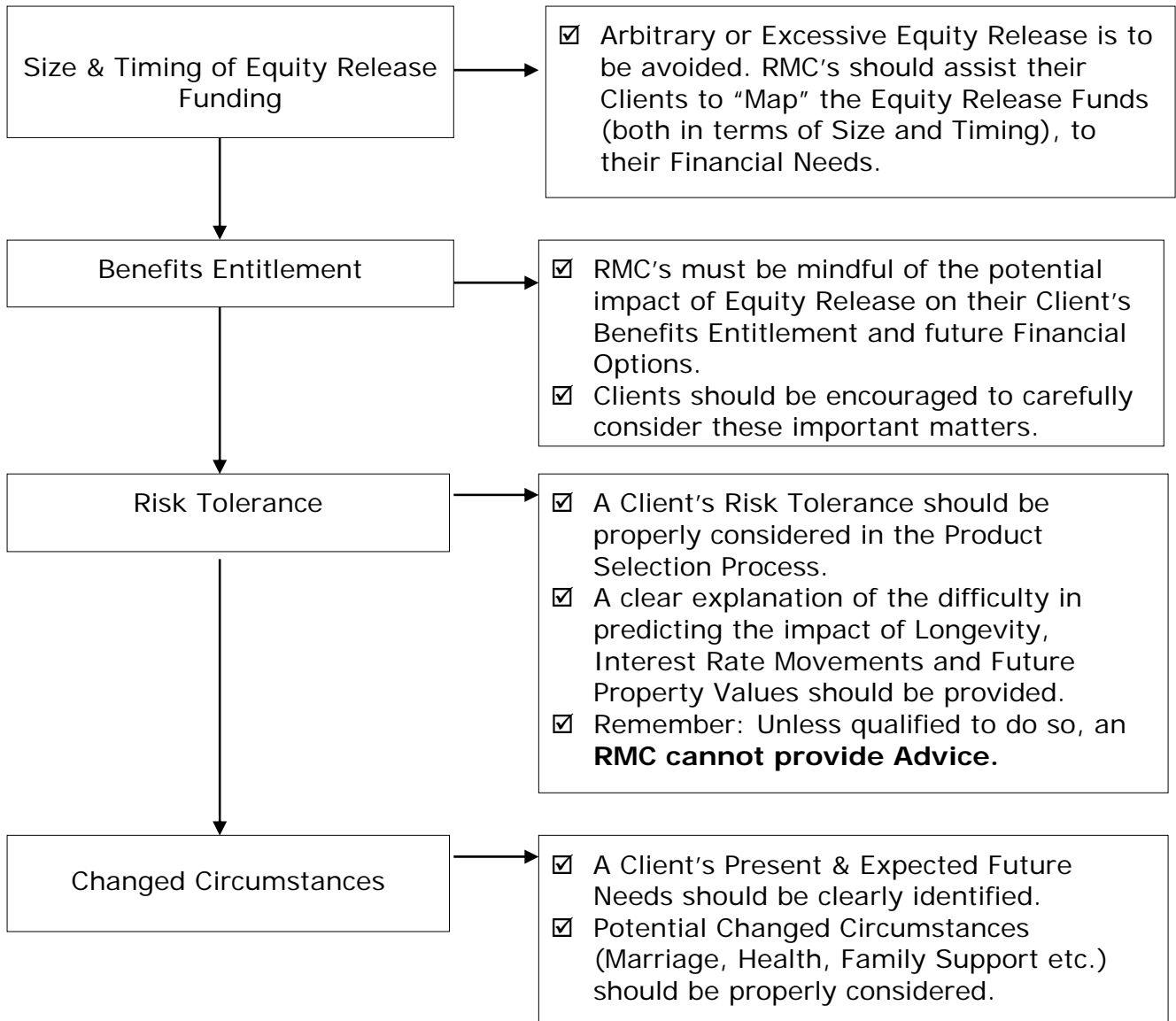
Stage 5
Consider Client Needs/Preferences



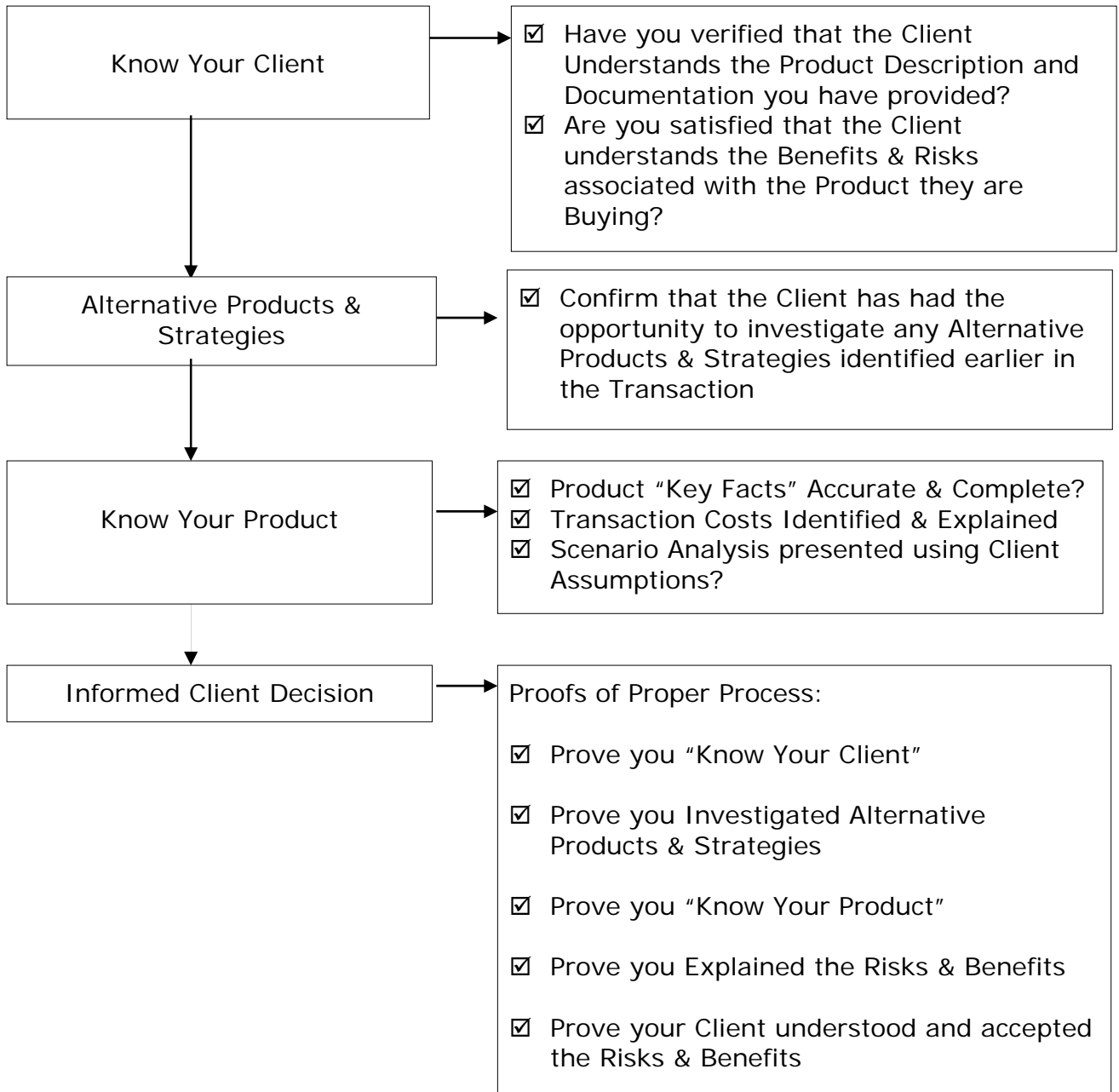
Stage 6
Product Selection and Client Decision



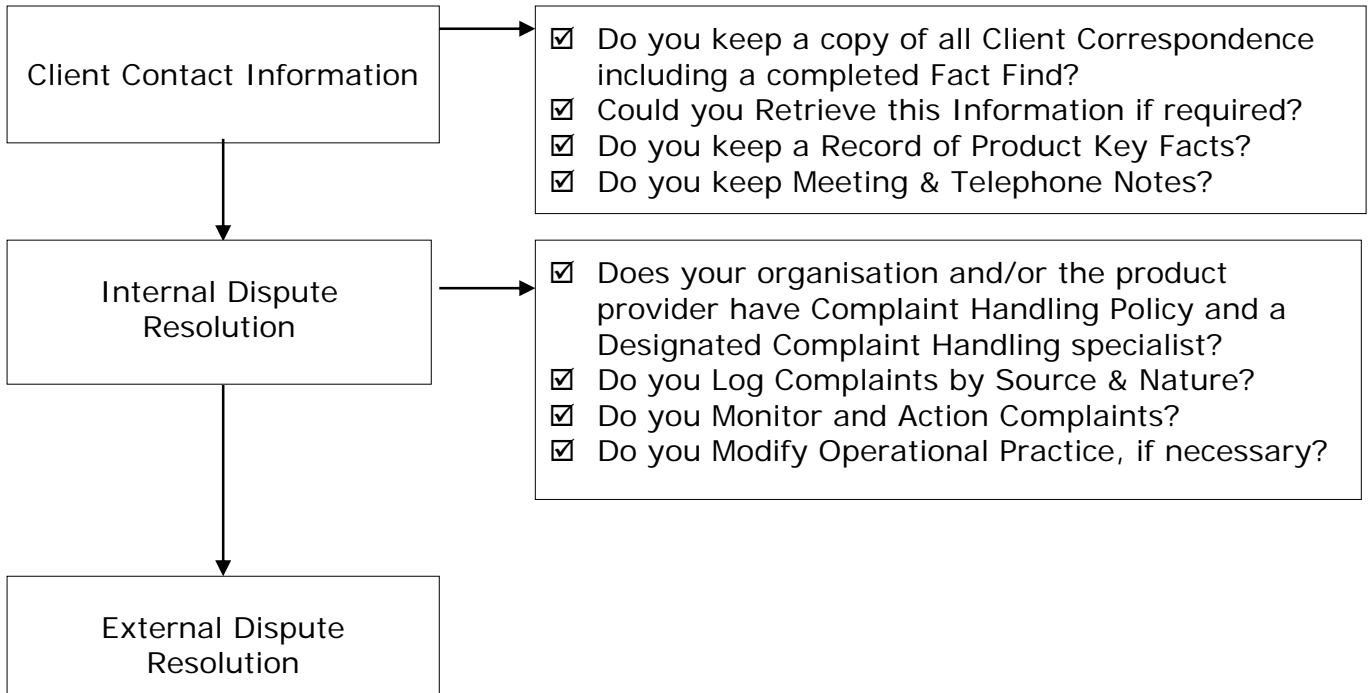
Stage 7
Reconcile Client Decision with Client Needs & Preferences



Stage 8
Confirm Informed Client Decision



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.