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Equity Release Solicitors' Alliance

matters to consider before making a decision

There are a number of issues that you and your family should consider before deciding whether equity release is a suitable option for you. Although the schemes outlined may be helpful in your circumstances, they are not suitable for everyone.

Things to think about:

- Are there better alternatives to equity release for you?
- Have you involved your family in the decision making process?
- What will be the effect on your state benefits?
- Will you be able to move to another property in the future?
- What happens if the amount you owe exceeds the value of your home?
- How much are the costs involved with the scheme?
- Have you obtained independent legal advice?
- Have you considered independent financial advice?

Alternatives to equity release

Equity release should be viewed as a long-term financial arrangement and considered alongside all other options when you are looking to raise capital or increase your income. Some of the options below may be better for you.

Downsizing

Selling your home and buying a cheaper property will enable you to release capital whilst still retaining ownership of your home and avoid having to pay interest on a loan. Downsizing may also significantly reduce household bills and make your home easier to manage. Although this may be considered as a simple option, you should also consider the disadvantages which include moving away from friends and relatives, the costs involved in moving and the effect on means-tested benefits and tax implications.

Other downsizing options which release capital in the process include selling your home and moving into rented accommodation, moving in with a member of the family or you and a member of your family both selling your homes and buying a new home together.

As an alternative to moving from your home, there may also be the opportunity to sell part or convert it. For example, you could convert a detached house into a semi-detached property or into flats, keeping one to live in and then selling or renting the other. If you have a large garden, part of it could be sold to an adjoining owner or to a developer if it is suitable for building. However, if you are considering any of these options you should seek legal advice to ensure there are no restrictions contained in your title deeds.

Grants

If you are considering equity release to raise capital to carry out essential repairs or improvements to your home, there may be grants or loans available. Financial and other assistance may be available to you through Disabled Facilities Grants, Community Equipment Grants, Warm Front Grants, the Social Fund, Home Improvement Agencies, the Home Improvement Trust, Charities, HM Revenue & Customs Rent-a-Room Scheme and Homeshare.

Claiming entitlement benefits

If equity release is being considered as a means of enhancing your income, you should undergo a welfare benefits assessment to ensure you are claiming all means-tested and non-means tested benefits to which you are entitled. There may also be financial assistance available to someone who is caring for you. Some benefits can be backdated and many are not taxable. Although claiming benefits can be time-consuming, complicated and intrusive the benefits may be substantial. A Citizens Advice Bureau or local Age Concern can help you to source benefits and complete the forms.

Savings and Investments

If you already have savings and investments set aside for the future, you should consider using these before entering into an equity release scheme. This will enable you to enhance your standard of living whilst at the same time as reducing your capital and enabling you to claim welfare benefits and possible local authority funding, should you enter a care home in the future. However, you should consider seeking financial advice before cashing in any savings and investments. There may be alternative investment options where your income could be increased simply by changing accounts.

Your financial adviser may also be able to assist you in tracing investments and private pensions which you opened and have lost track of over the years.

Family assistance

It is sensible to discuss equity release with your family to avoid any animosity arising in the future, after your death or being admitted into care. This is a personal decision, and you may not wish to discuss your financial affairs with them for a number of reasons including: being reluctant to ask your children for help; not wanting to be seen as a burden on their own finances; or being concerned should the money have to be repaid if they have financial problems themselves, encounter relationship difficulties or die. There is also the problem of dealing with extended families, particularly if you have been married before and there are step-children in your new relationship.

If you are prepared to involve your family in your financial affairs, there may be a number of options available other than equity release. Your children may be prepared to give you a loan, with or without interest, to be repaid when your home is sold. This will undoubtedly be cheaper than an equity release scheme and may also preserve their inheritance. There may also be the opportunity for you and one of your children to sell your homes and buy a bigger home in which you will all live. Alternatively you could sell your home and move in with one of your children if they have sufficient room to accommodate you, or if you financially contribute towards the extension of their property by constructing a ‘granny-annex’.

Whenever a family arrangement is proposed it is extremely important that all sides to the arrangement seek independent legal advice at the onset to ensure that the pitfalls relating to legal and tax implications are fully explored and that a clear written agreement is prepared, which sets out the intentions of the parties, their responsibilities and arrangements should the agreement come to an end in the future. It is also recommended that all parties to the agreement review their Wills to ensure that they are applicable to the new arrangements that have been put in place.

Involving your family in the decision making process

If you have an open relationship with your family, it is important that you discuss with them that you are considering equity release. They may be able to assist you in explaining the various schemes available and guide you through the process. It will also give your family the opportunity to consider between themselves any alternative solutions and the risks associated with equity release, particularly a reduction in any inheritance for them.

However, involving your family is a personal decision and you may not wish to discuss your finances with them for a number of reasons. If you wish for your children to be involved, it is important that you appreciate that any decision to be made is yours and you should not be pressurised or intimidated by them to make the decision for you. If you have an over-bearing family member you should consider asking someone away from your family to be your advocate and speak for you, who will explain to your children why you are considering equity release and how it will benefit your current financial circumstances. Both your financial adviser and solicitor will be under a professional duty to ensure that you fully understand the extent and meaning of the documentation relating to the equity release scheme and reasonable steps should be taken to ensure that no undue pressure has been put on you to enter into the scheme.

What will be the effect on your state benefits?

The receipt of a lump sum or an income from an equity release scheme may have an effect on your entitlement to means-tested benefits and services, as the payment you will receive will enhance your finances and therefore the release of the equity may leave you no better off.

The rules relating to entitlement to welfare benefits are complex. Your entitlement to non-means-tested benefits, such as State Retirement Pension, Attendance Allowance and Carer’s Allowance, will be dependent upon National Insurance Contributions or other conditions. Means-tested benefits, such as Pension Credit, Council Tax Benefit and certain health benefits, will be based upon your income and savings, and releasing equity from your home may affect your entitlement to these benefits. You should also bear in mind that means-tested benefits include your entitlement to financial assistance from your local authority towards the cost of care in your own home or in a care home.

When assessing your entitlement to welfare benefits and services, the way in which the equity is being release may be treated as income or capital. A scheme paying a lump sum will be treated as capital and one producing regular payments will be treated as income. With some benefits, such as Pension Credit and Council Tax Benefit, if the provider makes payments of capital at regular intervals, the payments received will be treated as income, not capital.

It is recommended that you seek independent financial advice before proceeding with an equity release scheme. A financial adviser advising you on equity release is required to look at the effect the scheme will have on your entitlement to welfare benefits before recommending a particular scheme.

The main benefits and the effect of equity release*

	Not affected by equity release	May be affected by equity release
Benefits for those under pension age	Child Benefit	Income-BasedJobseeker's Allowance (JSA)
	Contribution-Based Jobseeker's Allowance (JSA)	Income Support (up to age 60)
	Disability Living Allowance	Council tax Benefit
	Incapacity Benefit Carer's Allowance	Health Benefits (free prescriptions, free school meals, free milk and vitamins, free sight tests, help with costs of glasses and dental treatment)
		Local authority financial assistance towards the cost of domiciliary care and care home charges
		Community Legal Services
Benefits for those over pension age	Attendance Allowance	Pension Credit (from age 60)
	State Retirement Pension	Council Tax Benefit
	Carer's Allowance	Health Benefits (help with the costs of glasses and dental treatment, other elements are free to those over 60)
		Local authority financial assistance towards the cost of domiciliary care and care home charges
		Community Legal Services

Moving to another property

When looking at a particular equity release scheme you should check the conditions to ensure that there are no complex restrictions on moving when it becomes necessary for health, bereavement or other reasons.

Most lifetime mortgages can be transferred to a new property. If your new home is of lower value, the scheme may have to be reviewed and you will usually have to repay part of the loan. However, if you cannot transfer the scheme to a new property, the whole of the loan will have to be repaid. If you

* Age Concern's 'Equity Release Made Easy' (2008)

have a roll-up lifetime mortgage, the amount owed to the provider may be high and you may not have enough left to buy your new home. There may be early repayment charges to pay and you will also have to meet the costs of moving.

With a home reversion scheme, you are selling all or part of your home to a provider and so you should check the conditions to ensure that there are no restrictions on moving in the future. As with lifetime mortgages, some home reversion schemes can be transferred to a new property. If it cannot be transferred, the provider will be entitled to its share of the proceeds of the sale and you may be left with insufficient money to buy another property. You will also have to meet the costs of moving.

What if the amount you owe exceeds the value of your home?

With a roll-up lifetime mortgage, interest on the amount borrowed is added to the outstanding loan and can grow very fast. If the amount owed is more than your home is worth, this is known as 'negative equity' and the provider may ask you to start paying interest, or on your death, the difference between the amount outstanding on the loan and the value of your home will have to be paid out of your estate.

However, with most lifetime mortgages the provider will be a member of the equity release trade body, SHIP (Safe Home Income Plans) and will incorporate into the scheme a 'no-negative equity' guarantee. This is a commitment by the provider that the amount owed can never exceed the value of your home. Added protection is also given through fixed or capped interest rates so that you will know in advance how much you owe at any given time. This is particularly important if you wish to move to another property in the future.

The costs involved with the scheme

There will be costs to consider when looking at equity release, some of which are incurred when the scheme is set up whereas others may be ongoing. With a lifetime mortgage, some providers will allow some of the costs to be added to the loan to reduce the amount paid by you at the start of the loan; however you will have to pay interest on any of the costs added to the loan. With a home reversion, the provider may pay all or part of the costs in setting up the scheme, leaving you to pay the ongoing costs. If you do not proceed, it may not be possible for you to get back some of the costs and fees you have paid.

The costs and fees that you will need to consider are:

- Arrangement fee: £300 - £900
- Valuation Fee: Based on the value of the property and typically around £300- £500
- Financial Adviser fee: Typically £350 - £900 or expressed as a percentage of the capital involved in the scheme
- Legal Costs: £300 - £900
- Buildings Insurance: Based on value of the property and typically around £200 - £400 per year
- Service charge and rent: calculated independently for leasehold properties
- Rent: With a home reversion scheme you may have to pay a small rent, typically £12 a year
- Early Repayment Charge: Most lifetime mortgages will state what charges you will have to pay if you end the scheme, other than on death or going into care. The early repayment charge may be a penalty, an administration charge, or both.

Obtain independent financial advice

If you are considering equity release, it is important that you speak to an Independent Financial Adviser (IFA) who will assess your finances to see if equity release is the best option. They will undertake a comprehensive factfind and will consider all alternative sources of funds before recommending a particular equity release scheme. If you decide to take out equity release, your IFA will talk you through the array of schemes available and can recommend the most suitable one for you.

Obtain independent legal advice

If you are considering equity release, it is important that you instruct a solicitor immediately to guide you through the process, to establish that your home is of a type acceptable to an equity release provider and to check the title to ensure that there are no onerous conditions, and that it can be used as security.

contact us

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