ersa

guide to equity release

frequently asked questions about equity release

equity release jargon buster

Equity Release Solicitors' Alliance

frequently asked questions

Where can I get financial advice about equity release?

Firms who advise on most types of equity release schemes must be regulated by the Financial Services Authority (FSA), which means they must meet certain standards which the FSA will monitor. In particular, the regulations require that anyone advising on equity release must attain an 'appropriate qualification'. You will have the added security of having access to the Financial Ombudsman Service and the Financial Services Compensation Scheme if things go wrong. Although it is possible to go direct to a provider for an equity release scheme, most providers will only take instructions through a regulated intermediary, commonly known as an independent financial adviser.

The majority of leading equity release providers are members of Safe Home Income Plans (SHIP). See below.

When you ask about equity release schemes, the initial conversation you will have will, in most cases, describe the product or service. You may also receive printed information. What you are receiving is general information and not specific advice focusing on your specific needs and circumstances. You should always ask if it is information or advice that you are receiving. If in doubt, get advice from an independent financial adviser.

To find an independent adviser:

IFA Promotions
Tel: 0800 085 3250
Web: www.unbiased.co.uk

Personal Finance Society
Tel: 020 8530 0852
Web: www.thepfs.org.uk

Society of Later Life Advisers (SOLLA)
Tel: 01795 521767
Web: www.societyoflaterlifeadvisers.co.uk

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What is SHIP?

Safe Home Income Plans (SHIP) is a company launched in 1991, supported by the leading providers of equity release schemes and dedicated entirely to the protection of those looking at equity release schemes. All members of SHIP are pledged to observe the SHIP Code of Conduct:

- to provide fair, simple and complete presentation of their plans
- to ensure legal work is performed by a solicitor of your choice, who will look after your interests
- Your solicitor will be required to sign a certificate that the scheme has been explained to you in full
- Provide you with a ‘no-negative equity guarantee’ to ensure that you will not have to make up any shortfall between the sale price of your home and the amount outstanding on the loan and interest

SHIP
Tel: 0870 241 6060
Web: www.ship-ltd.org

How can I find a specialist solicitor to act for me?

You will need independent legal advice and therefore will need to instruct a solicitor to act for you. Equity release is a specialist area of the law and it is important that you choose a solicitor who has expert understanding of the products and procedures. A specialist solicitor will, in most cases, have in place a streamlined procedure to guide you through the process. This will make the transaction less expensive than engaging a solicitor without experience who would need to go through unfamiliar documentation, which will be time consuming and expensive.

ERSA
Tel: 0800 988 5102
Web: www.ersalaw.co.uk

Should I talk to my family about releasing equity from my home?

Although not a requirement of an equity release scheme, it is important that you consider involving your family in the decision making process so they understand how it may affect any future inheritance. They may also be able to assist you in explaining the various schemes and guide you through the process. However, the decision is yours and you should not be pressurised or intimidated by them to make a decision for you.

Who will be the legal owner of my property?

If you take out a lifetime mortgage, you will still be the legal owner of your home. With a home reversion plan, you no longer own the property, having sold all or part of it to a provider. However, you will have the right to live in it for so long as you wish. It is important that you choose a scheme from a provider who is a member of Safe Home Income Plans (SHIP) which will give you greater protection, as SHIP rules specifically state that you will have the right to remain in the property for life.

What is the difference between a lifetime mortgage and a home reversion?

With a lifetime mortgage, you take out a loan secured on your home, usually at a fixed rate of interest which is added to the loan monthly or yearly, and repaid when you die or move into a care home. With a home reversion you sell all or part of your home to a specialist provider and continue to live there as a tenant of the provider, rent free or at a nominal rent, until you die or move into a care home.

How much can I release from my property?

The amount you can release will depend on your age, the value of your home and the particular product you have chosen. Generally, the older you are, the more you will be able to borrow or the more you will get for selling all or part of your home to the provider. With some schemes, enhanced terms may be available if you are in ill-health with a limited life expectancy. You are recommended to seek advice from an independent financial adviser on the variety of schemes available and to ensure that all your needs and circumstances are taken into consideration.

Can I use my own valuer to value the property?

Your home will be valued by an independent professional valuer appointed by the provider and the valuation will be used to determine the maximum amount available to you as a loan with a lifetime mortgage. With a home reversion the provider will be purchasing all or part of your home and it is important that you consider obtaining your own professional valuation to ensure that the provider's valuation is fair and reasonable. At the end of the scheme your home will be sold subject to market conditions at that time, and any money left over after the sale will be paid to you or your estate.

Who is responsible for the future maintenance and insurance of the property?

You will be responsible for maintaining your home and keeping it in good repair. In the agreement you enter into with the equity release provider, you will agree to the provider reserving the right to check your home is being maintained properly. If you do not maintain your home, the provider could arrange for the necessary repairs to be undertaken and you will be responsible for the costs incurred. You will also be responsible for insuring the property at a sum specified by the provider with the provider's interest being noted on the policy. It will be your responsibility to produce to the provider a copy of the policy on demand.

Can I still release equity if my home needs repairs?

Yes. If the valuation report states that your home needs essential repairs, it may recommend an amount to be retained from the loan until the repairs are completed. If the recommended amount is low, say £5,000 or under, you can still borrow the money, however the equity release provider may ask you to sign a Schedule of Works or to complete the recommended work within a given time, usually six months.

If the valuer recommends a higher cost to undertake the repairs, you can still borrow the money; however the provider may retain all or part of the loan until the work is complete.

I live in a leasehold house with 58 years left on the lease, will a provider accept this as security for a lifetime mortgage?

If your home is leasehold, equity release providers will require a minimum number of years left on the lease, typically 75-80 years. If you fail to meet this requirement it may be possible for you to buy the freehold or extend the lease for a term of 90 years on top of the unexpired term of the existing lease. The costs of acquiring the freehold or extending the lease may be incorporated into the equity release scheme.

What would happen if I wish to move in the future?

Most leading equity release providers belong to SHIP where the members guarantee that you will have the freedom to move to a suitable alternative property without financial penalties. This will enable you to take the scheme to a new property, provided it meets the provider's lending criteria at the time. If the new property is of a lower value, the terms of the equity release scheme may have to be reviewed and part of the mortgage repaid. This is an important issue if you are considering downsizing to a smaller property in the future and intend using some of the capital released during the move to meet your ongoing needs. Part of the capital may have to be repaid to the provider.

If you move to another property where the scheme cannot be transferred, for example into rented accommodation or with a relative, the scheme will come to an end and the loan will have to be repaid. There may also be early repayment charges payable at this stage. There will be no early repayment charges if you move permanently into a care home.

With a home reversion scheme when your home is sold, you will only receive a share of the proceeds of sale proportionate the interest you retained, the remaining proceeds of sale will go to the provider. However, if the home reversion scheme provides a regular income, the income will continue to be paid wherever you move.

If you move, you will also have to pay an administration fee to the provider and the usual costs of moving, including legal, estate agents and removal fees.

What happens if I die or move into long-term care?

If you die or move into long-term care your home will have to be sold and your partner (or spouse/civil partner) and other occupiers will have to vacate the property, unless they had the resources to repay the lifetime mortgage in full or enter into a new scheme with the equity release provider.

If you and your partner (or spouse/civil partner) have a joint lifetime mortgage, your partner can continue to live in the property for so long as he or she wishes. When the property is sold, the contract comes to an end and the lifetime mortgage will have to be repaid. In the event of death this will usually be within 12 months, to allow for bereavement and sufficient time to sell the property.

If you have entered into a home reversion scheme and you die or move into long-term care, the scheme will come to an end and your home will be sold, and the sale proceeds, minus any selling costs, will be divided between the provider and yourself (or your estate if you have died), in the proportions that each party owns. If the home reversion scheme pays a regular income, the income will continue to be paid to you if you move into long-term care, or to your spouse/civil partner if you have a joint plan and die, for the rest of your/their life.

Can I move to sheltered accommodation in the future?

As you advance in years, your circumstances may change and there is a possibility that your condition, or that of your spouse/civil partner, may deteriorate to such an extent that you decide to move into sheltered accommodation.

A number of providers will allow a lifetime mortgage to be transferred to sheltered accommodation so long as the property you are buying meets the providers lending criteria at the time. This will usually be treated in the same way as any other move. If the sheltered accommodation you are buying does not meet the provider’s lending criteria, you will have to sell your home and repay the lifetime mortgage. An early repayment charge is not normally required in these circumstances.

Can I repay the lifetime mortgage early?

A lifetime mortgage is intended to be a long-term loan and most providers have incorporated into their schemes early repayment charges, where the mortgage is repaid before the end of the contract; for example before you die or go into care. Providers calculate these charges differently and you should ensure that these are clearly explained to you.

What can I do if someone is already living with me?

If there are other people living with you when you apply for an equity release scheme, for example family members, friends or carers, they will be asked to sign a waiver of occupation rights and on your death or moving into long-term care they will have to vacate the property. The provider will require the occupier to confirm that independent legal advice has been obtained before signing the waiver.

Unless it is a specialist equity release scheme, it will not be possible to release equity from your home if it is occupied by tenants or anyone else with rights under the Rent Acts.

What if someone else wants to come and live with me?

There is the possibility that you may want someone else to come and live with you in the future, whether it be a partner, friend, relative or carer. Most equity release providers will have no objection to this arrangement provided you ask permission before you allow anyone else to occupy any part of your home. The provider will require the occupier to sign a waiver of occupation rights, having first obtained independent legal advice. On your death or moving into long-term care they will have to vacate the property.

Can anyone else be added to my lifetime mortgage?

After the lifetime mortgage has been set up, it may be possible to add someone to the mortgage if the second person meets the providers minimum age requirements and lending criteria at the time. If the person being added is younger than you, some of the lifetime mortgage may have to be paid back to the provider.

The provider will charge an administration fee and there will also be legal costs associated with the transfer of your home into the joint names of yourself and the other person.

What if I owe more than the property is worth?

If the equity release provider is a member of Safe Home Income Plans (SHIP) you will be provided with a 'no negative equity' guarantee which means that, provided you have complied with the provider's terms and conditions of the equity release scheme you will never owe more than the value of the property. If there is a shortfall between the selling price of your home and the amount outstanding on the lifetime mortgage, including interest, you or your estate will not have to pay the difference.

Could releasing equity affect my entitlement to state benefits?

Entering into an equity release scheme may affect your eligibility for means-tested benefits and services or your tax status. The effect of equity release on state benefits is complex which is why it is important to seek advice from an independent financial adviser before making any decision to release equity from your home. Releasing equity may affect your entitlement to some of the main benefits, including pension credit, council tax benefit, health benefits (free sight tests, dental treatment etc) and local authority financial assistance towards the cost of care. You should also remember that state benefits and tax may change in the future.

Could the equity release scheme reduce the amount of inheritance tax payable on my estate when I die?

If you spend or gift the equity released from your home, it will reduce the value of your estate when you die and this may reduce the amount of inheritance tax payable. Further, with a lifetime mortgage, the interest on the amount borrowed is usually added to the outstanding loan, and this will further reduce the size of your estate. Inheritance tax planning is complex and subject to changes. If you are using an equity release scheme as part of your inheritance tax planning, you should seek professional advice.

My late husband and I made Wills included an inheritance tax trust, can I take out equity release?

For many years, until a change in the law was introduced in July 2008, a popular means of savings inheritance tax was to include a trust in the Wills of married couples or civil partners, to take advantage of the Inheritance Tax exempt nil-rate band on the first to die. The scheme would involve the deceased's share of the property being transferred to the deceased's trustees or being transferred to the survivor subject to a charge (mortgage) in favour of the trustees.

It may be possible to 'undo' this arrangement by consent to enable you to enter into an equity release scheme. However, there will be a number of matters to consider, relating to the distribution of the deceased's estate, tax and welfare benefits, and no steps should be taken without seeking professional advice.

Can I release equity from my home to gift to my children to avoid paying for my future care fees?

Funding long-term care is exceedingly expensive and with the average care home fee of £25,000 a year you may consider looking at ways of decreasing your capital and savings to enable you to qualify for local authority funding, should you be admitted permanently into care in the future.

If you release equity from your home and gift it to your children to avoid payment of future care fees this may be regarded as intentional deprivation of capital and the local authority has powers to enable it to bring the capital back into account when assessing your ability to pay for accommodation charges in a care home. There is no time limit during which a local authority can look back at the purpose of the gift and in certain circumstances can recover money from the person who has received the gift.

The law relating to local authority funding is extremely complex. If you are considering releasing equity from your home as part of a plan to increase your chances of obtaining local authority funding in the future towards the cost of your care, you should seek advice from a solicitor experienced in community care law.

I have power of attorney to manage my mother's property and affairs; can I enter into an equity release scheme to release capital to adapt her home and pay for carers to look after her?

Yes. People would rather live independently in their own home than be admitted into care. Releasing equity to fund the cost of adapting the property to meet physical needs and pay for carers can achieve that objective. There will be a number of issues to consider, including the availability of grants, welfare benefits and planning or building regulation consent.

Most equity release providers will enable the scheme to proceed with the attorney acting on behalf of the person who made the power of attorney, whether it be an enduring power of attorney or lasting power of attorney, provided it has been registered at the Office of the Public Guardian. Registration can take between five to eight weeks.

What other legal issues should I consider with equity release?

Releasing equity from your home will affect the inheritance that you will leave and you should consider making a Will, or reviewing an existing Will to reflect the change in your circumstances. This is particularly important if a member of your family has contributed towards the purchase or upkeep of the property and you had intended leaving the property or part of the proceeds of sale to them. If you die without making a Will, or leave an invalid Will, your estate will be distributed under the Rules of Intestacy which means that your estate may not be distributed as you wished.

You should also consider making a lasting power of attorney to ensure that there is someone appointed to manage your property and affairs should you, at some time in the future, become mentally or physically impaired.

jargon buster

Term	Definition
Annuity	An investment that converts a lump sum into a guaranteed regular income that is taxed.
Arrangement fee	A commitment or administration fee usually paid to the equity release provider to set-up the scheme.
Capital Protection Plan	A feature of a lifetime mortgage where part of the equity in the property can be protected to pass on as an inheritance or part of the capital returned with a home reversion scheme where the home owner has died or moves into long-term care within a given number of years of the property being sold to the provider.
Civil Partnership	A formal relationship between same-sex couples. Civil partners will have some of the same rights and responsibilities as married couples.
Determinable event	An event that will bring the equity release contract to an end; usually on death, admission into long-term care or vacating the property.
Early Repayment Charges	A penalty payable to the equity release provider if you repay your lifetime mortgage before the end of the contract, other than on death, going into care or moving to another acceptable property.
Enduring Power of Attorney	A document made before 1st October 2007 in which a person (the Donor) appoints another (the Attorney) to manage his or her property and affairs. If the Donor becomes mentally incapable, the Attorney is under a duty to register the power at the Office of the Public Guardian to continue using the power on behalf of the Donor.
Equity	The equity (value) you have in your home is its open market value less any mortgage or other debt secured against it.
Equity release	A way of releasing cash from the value of your home without having to move out of it. This is achieved by borrowing against its value or by selling all or part of it in return for a lump sum or regular income.

Term	Definition
ERSA	The Equity Release Solicitors Alliance (ERSA) is a group of established law firms who specialise within the field of equity release. Each member has committed to a charter which guarantees best legal advice to consumers undertaking equity release transaction.
Estate	The capital, savings and investments, less any debts, that you own.
Home reversion	An equity release scheme where you sell all or part of your home to a home reversion provider in return for a lump sum, a regular income or both, and subject to your right to continue living there as a tenant of the provider for so long as you wish.
Home income plan	You take a loan secured against your home and the lump sum you receive is used to buy an annuity that gives you a regular income, usually fixed, for life.
Index Linked	A means of making an inflation proof payment usually by reference to the Retail Prices Index or something similar.
Intestacy	Dying without having made a Will or leaving an invalid Will resulting in your estate being distributed under the Rules of Intestacy which means that people may end up sharing in your estate which you may not have intended.
Land Registry:	A Government Department whose main statutory function is to keep a register of freehold and leasehold land throughout England and Wales
Lasting Power of Attorney	A document made after 1st October 2007 in which a person (the Donor) appoints another (the Attorney) to manage his or her property and affairs. It is also possible to appoint an Attorney for personal welfare to make any decision you could make about your welfare, for example where you live and with whom, accessing personal information like medical records, deciding what you wear, what you eat and how you spend your day. A lasting power of attorney is not valid until it is registered at the Office of the Public Guardian.

Term	Definition
Lifetime mortgage	An equity release scheme where you take out a loan secured on your home with the right to remain in occupation, with the loan being repaid from the proceeds of sale when you die, move into long-term care, or vacate the property.
Long term care	A situation where you are no longer capable of living independently in your own home and being unable to carry out one or more activities of daily living, due to physical or mental impairment.
Mortgage	A loan secured on property.
Negative equity	Where the amount you owe the lender is more than the value of your home.
Provider	A company providing an equity release lifetime mortgage or home reversion scheme.
Roll-up lifetime mortgage	An equity release scheme where you take out a loan, usually at a fixed rate of interest, secured against your home to provide you with a cash lump sum, a regular income, or both. The interest is rolled-up and added to the loan each month or year. You do not have to pay the interest until your home is sold when you die, go into a care home or vacate the property.
Secured	A term used to describe how the equity release provider ensures it gets the money back that it is lending. The provider will place a legal 'charge' over your home and register it at the Land Registry. The provider will have the power to sell your home and get its money back in certain circumstances.
SHIP	Safe Home income Plans Limited is a company representing the majority of the leading equity release providers who are bound to observe a Code of Conduct in their dealings with customers.

further information and advice

Department for Work and Pensions
(Benefits enquiry line)
Telephone: 0800 882200
www.dwp.gov.uk

Equity Release Solicitors Alliance (ERSA)
Telephone: 0800 988 5102
www.ersalaw.co.uk

Financial Services Authority (Consumer Helpline)
Telephone: 0845 606 1234
www.fsa.gov.uk

IFA Promotions Ltd
(To find a Financial Adviser)
Telephone: 0800 085 3250
www.unbiased.co.uk

Safe Home Income Plans (SHIP)
Telephone: 0844 6697 085
www.ship-ltd.org

Age Concern
Telephone: 0800 00 99 66
www.ageconcern.org.uk

Citizens Advice Bureau
www.citizensadvice.org.uk

Please visit the following for information on:

Disabled Facilities Grants
www.livingmadeeasy.org.uk

Community Equipment Grants/Home Improvement Agencies
www.direct.gov.uk

Warm Front Grants
www.warmfront.co.uk
www.energysavingtrust.co.uk

The Social Fund
www.jobcentreplus.gov.uk
www.adviceguide.co.uk

The Home Improvement Trust
www.housingcare.org

HM Revenue & Customs
(Rent-a-Room Scheme)
www.hmrc.gov.uk

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enquiries@ersalaw.co.uk

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