

Guidance for Legal Advisers on Compliance with the SHIP Rules

The Solicitor's Certificate

You will receive copies of all the literature provided to your client in relation to this transaction. You are required to explain the terms and implications of the plan to your client and having done sign the certificate. The provider will not complete the transaction until they have received a signed and completed certificate confirming that you have drawn your client's attention to the risks of entering into an equity release transaction.

Guidance on Independence.

Clients must use a legal adviser who is independent of the provider's solicitor. If you are advising a client in relation to an equity release transaction SHIP also requires you to follow the Solicitor's Code of Conduct when considering whether you are independent of the provider firm or the adviser advising the client on the transaction. Additionally:

Payment of Fees

Whilst you may make payments to an introducer for genuine marketing initiatives it is subject to this guidance. You may not make such a payment, or give other consideration, to a third party who refers clients to you, unless you can show that the payment is wholly unconnected with the referral of any specific client to you. You are therefore not permitted to pay referral fees on a case-by-case basis. Additionally payments may not be calculated or aggregated on the basis of the number of cases referred.

This also applies regardless of how any referral fee payment (or other consideration) is described if it is connected with the payment of fees on a case-by-case-basis. For example, this would apply to the payment of administrative or marketing fees, payments described as "disbursements" which are not proper disbursements, and panel membership fees. "Other consideration" might include, for example, the provision of services and secondment of staff to the introducer, or an agreement to purchase services or products from the introducer (where such provision or purchase is a condition of referrals on a case-by-case basis being made). For the avoidance of doubt, certain marketing payments which are not connected with payment on a case-by-case basis are permitted, subject to the regulatory obligations of the parties concerned.

If the customer chooses not to instruct their own legal adviser, the provider may offer the names of at least two local law firms who have knowledge of equity release products. The provider must ensure that no pressure or financial inducement is involved in directing customers to any particular law firm either by them or the intermediaries recommending their products.

Receipt of Payments

If you are acting on behalf of the client you may not receive payments or other consideration from the adviser, or provider if that payment is dependent on the completion of an equity release transaction.