DomaCom
Equity Release Product

ERP Qualified Adviser

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DomaCom Equity Release Product

Adviser Accreditation Program

Study Guide Module 4

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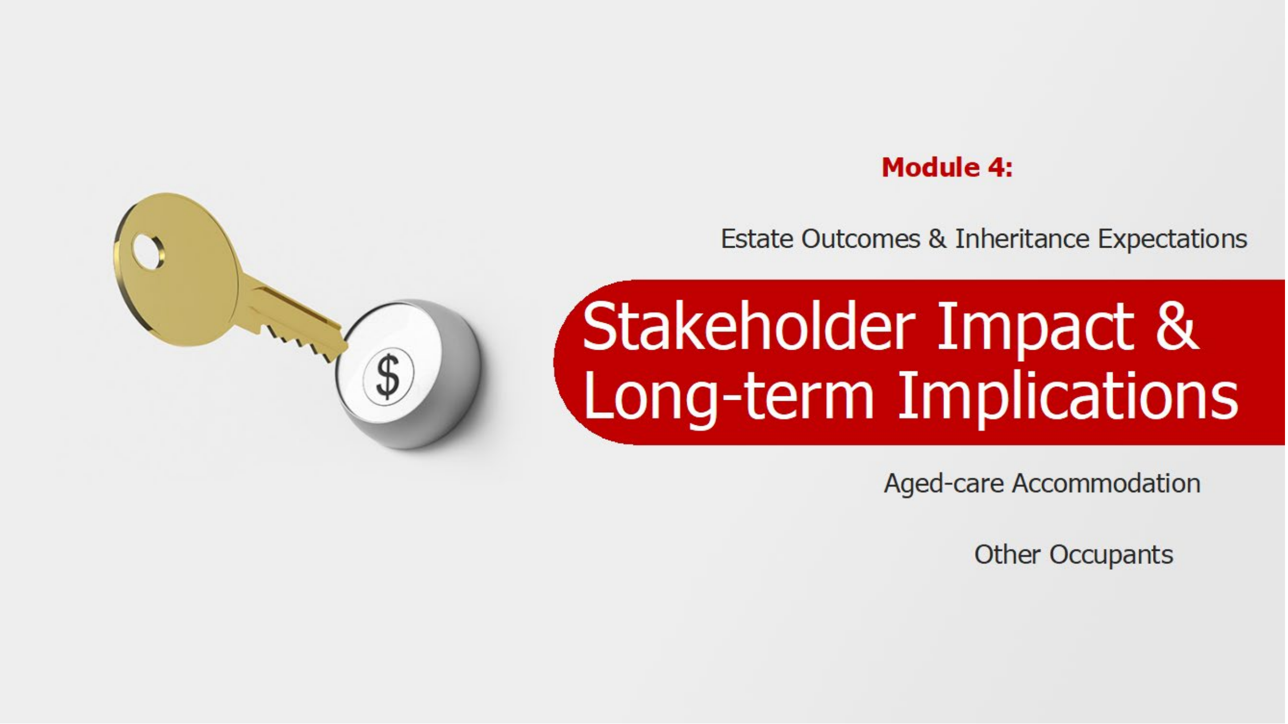
Module 4: Client Scenarios and Long-term Implications



This section of the DomaCom Accredited Adviser study guide examines both the stakeholder impact and long term implications of acquiring the DomaCom equity release product and the broader age-related factors that may impact a client's decision to utilise equity release strategies.

As with any financial product, there are scenarios in which an adviser may determine that the DomaCom ERP is not suitable for a particular client. For example, clients that rank home equity preservation as a high priority in their estate plans, may be a poor fit because of the requirement that fees be paid by selling further interests in the property.

That said, advisers should be alert to the risk of potential inheritors attempting to dissuade their aging relatives from entering into a DomaCom ERP despite clear evidence that this strategy would be of considerable benefit to them.

Even when there is no immediate concerns regarding long-term care needs, advisers should assist their clients to plan for such outcomes. The needs of aging people vary significantly as do the costs incurred in meeting those needs.

4.1 Property Owners and Other Occupants

4.1.1 Protected Life Estate

The ERP client is granted a Continual Right to Abode and subject to there being no Default or Termination event, the ERP client may continue to reside in the Property or nominate who lives in the Property, subject to the Tenancy Documents, until the end of the Term.

Under the terms of the Equity release Deed, the Custodian acknowledges and agrees that nothing in the Equity release Deed or the Mortgage (as applicable) entitles the Custodian to take possession of the Property and exclude the Owner (or other occupier under a Tenancy Document) from the Property during the Term.

4.1.2 Nominated Occupant and Authorised Persons

Nominated Occupant
The ERP client may enter into any Tenancy Documents in relation to the Property provided they obtain the prior consent of the Property Manager and they indemnify the Custodian from and against all claims, liabilities costs or expenses arising directly as a result of any Tenancy Document in relation to the Property.

Authorised Persons
Authorised Persons are authorised to make any written communication or take action on behalf of the ERP client (as Owner) and Custodian respectively under the Equity Release Deed.

Where there are multiple Authorised Persons on behalf of the Owner or Custodian any one Authorised Person may make any written communication or take action on behalf of the Owner or Custodian respectively under the Equity Release Deed.

The Owner and Custodian may vary their respective Authorised Persons by notice to the other. Where there is more than one Owner, all Owners are required to authorise the variation of an Authorised Person in respect of the Owner

4.2 Pay Out Amount and Settlement Options

Important:
Each of the following issues are determined by client circumstances:

- The calculation of the Initial Service Fee applies an annual Service Fee Percentage that is based on the amount of equity released, the ERP client's age, the ERP client's gender and remains the same for the duration of the Equity Release Deed.
- The ERP client is able to nominate whether to receive the Pay Out Amount as either a lump sum or a series of equal monthly payments (Staggered Settlement).

Review:

The Pay Out Amount means the amount required by the ERP client for the sale of the Initial Interest to the Custodian.

The Funding Amount means the amount of funds which the Custodian requires to be raised in order to proceed to Settlement and is equal to the Pay Out Amount plus the Fees.

The Adviser Fee (which is negotiated between the ERP client and their Adviser) can be included in the Funding Amount, as follows:

> Funding Amount = POA + AF + ISF
> where:
> POA is the Pay Out Amount;
> AF is the Adviser Fee (if any); and
> ISF is the Initial Service Fee for the Funding Period

4.3 Equity Exhaustion

Under the Equity Release Deed, the ongoing Service Fees payable by the ERP client will be paid by selling further interests in the Property to the Fund. Over time this could result in their interest in the Property being exhausted.

It is important for ERP client's to consider those factors that may accelerate the erosion of their equity including, but not limited to the following factors:

- Annual Service Fee percentage that applies to their particular circumstances,
- Length of time they occupy the Property,
- Property Maintenance expenses,
- Capital Improvements, and
- Duration of the Funding Periods.

4.4 Termination of the Equity Release Deed by Owner

The ERP client, as Owner of the Property may initiate Termination of the Equity Release Deed, as follows:

4.4.1 Buy Back

The Owner may request the Custodian to determine the Buy Back Payment (including the details and calculations in forming the Buy Back Payment) at any time by giving written notice to the Custodian; and

(a) On receiving the notice under clause 17.1(a) the Custodian will appoint a Valuer to determine the fair market value of the Property within 10 Business Days.

(b) The Valuer must undertake his or her valuation in accordance with the principles set out in clause 20 of this deed. The Owner must pay the costs of the valuation irrespective of whether it ultimately determines to pay the Buy Back Payment payable to the Custodian.

(c) The Buy Back Payment will be the greater of the following:
   (i) the amount that is equal to the Custodian's Interest (expressed as a percentage) multiplied by the value of the Property in accordance with the Valuer's valuation under clause 17.1(b) and
   (ii) the amount that is equal to the Custodian's Interest (expressed as a percentage) multiplied by the Property Price Index.

(d) Within 10 Business Days of the Custodian determining the Buy Back Payment under clause 17.1(c) the Custodian will provide written notice of the Buy Back Payment (including the details and calculations in forming the Buy Back Payment) to the Owner (Buy Back Payment Notice).

(e) The Owner may elect to pay the Buy Back Payment by giving written notice to the Custodian (Buy Back Confirmation) within 10 Business Days of the Buy Back Payment Notice.

(f) The Owner must pay the Buy Back Payment within 10 Business Days of the Buy Back Confirmation. Any payment after this date will not be accepted and a new Buy Back Payment Notice will be required.

(g) Upon receiving the Buy Back Payment, the costs for the Valuation and all other amounts otherwise due to the Custodian by the Owner pursuant to this deed, the Custodian will provide the Owner with:

   (i) a withdrawal of caveat;
   (ii) a discharge of the Mortgage in registrable form; and
   (iii) the certificate of title to the Property,
   and this deed will terminate.

(h) The Owner may elect to withdraw Buy Back Confirmation at any time prior to the Custodian receiving the Buy Back Payment, however it must reimburse the Custodian for any costs or expenses incurred by the Custodian under this clause, including without limitation the costs of the Valuer appointed under clause 17.1(b).

(i) The Owner is liable for all stamp duty (if any) payable on the transfer of the Interest from the Custodian to the Owner following payment of the Buy Back Payment.

4.4.2 Sale to a Third Party

The Owner may request to terminate this deed at any time by giving written notice to the Custodian that it wishes to sell its Remaining Interest to a third party. Upon receipt of this notice, the Custodian may agree to sell the Custodian's Interest together with the Remaining Interest in accordance with clause 17.2 of the equity Release Deed.

(a) The costs associated with the sale of the Property will be shared between the Custodian and Owner in proportion to their respective proprietary interests in the Property.

(b) The sale must be through a public auction unless otherwise agreed by the parties.

(c) The Custodian will not withhold its consent to a sale under clause 17(a) if:
   (i) the sale is an arm's length transaction;
   (ii) the Owner together with the Custodian jointly determine the reserve price which will be based upon the most recent valuation for the Property as well as two written market opinions from local selling agents in that market;
   (iii) the Owner together with the Custodian jointly appoint the selling agent, including the terms of that appointment;
   (iv) any sale by way of auction must not be for less than the reserve price; and
   (v) the sale contract is in a form reasonably acceptable to the Custodian, including any provision reasonably required by the Custodian to ensure that the Owner complies with its obligations under clause 17.2(b) of this deed.

(d) On settlement of the sale of the Property the Owner must pay the Administrator (on behalf of the Custodian) or cause the purchaser to pay the Administrator (on behalf of the Custodian) directly, the Settlement Amount.

(e) Simultaneously on receiving payment under clause 17.2(d), the Custodian must provide the Owner or the purchaser of the Property with a discharge of the Mortgage in registrable form and the certificate of title to the Property.

(f) Upon receiving payment under clause 17.2(d), the Custodian must provide the Owner with a withdrawal of caveat in registrable form and the certificate of title to the Property.

This information is linked to the Equity Release Deed.

4.5 Compulsory Acquisition by a Third Party

4.5.1 Notice

If the ERP client receives notice from any Authority that the Property (or any part of it) will be compulsorily acquired, they must provide the Custodian with a copy of that notice within five Business Days of receipt. If the Custodian wishes to object to the notice or any assessment of the Property's value in that notice then the Custodian must notify the Owner in writing within 30 days of receiving the notice.

4.5.2 Objection to Notice

The ERP client as Owner irrevocably appoints the Custodian to make any objection in the name of the Owner and the Custodian.

The Custodian must pay and bear all costs incurred by the Owner and the Custodian in relation to an objection made, except in circumstances where the objection is successful in which case the Owner must reimburse the Custodian its proportion of the costs.

4.5.3 Termination due to Compulsory Acquisition

If the Property or any part of it is compulsorily acquired then either party may by notice in writing to the other terminate the Equity Release Deed within 60 days of the date of the notice of acquisition.

If either party terminates that deed under these circumstances, then:

(a) the Custodian must appoint a Valuer to determine the fair market value of the Property

(b) the Custodian must pay to the Owner any unallocated Service Fees; and

(c) the Owner must pay the Custodian an amount equal to the greater of the following:

  (i) the amount that is equal to the proportion the Custodian's Interest (expressed as a percentage) bears to the Valuer's valuation under clause 19.3(b); or
  (ii) the amount that is equal to the proportion the Custodian's Interest bears to the amount of compensation received by the Owner from the Authority.

4.5.4 Compensation

If the Property is compulsorily acquired and neither party has terminated the Equity Release Deed, then the Owner must pay a proportion of any compensation received from the Authority equal to the amount that the Custodian's Interest at the time the Property is compulsorily acquired.

4.6 Long Term Care and Aged Care

4.6.1 Expectations for Long Term Care Needs

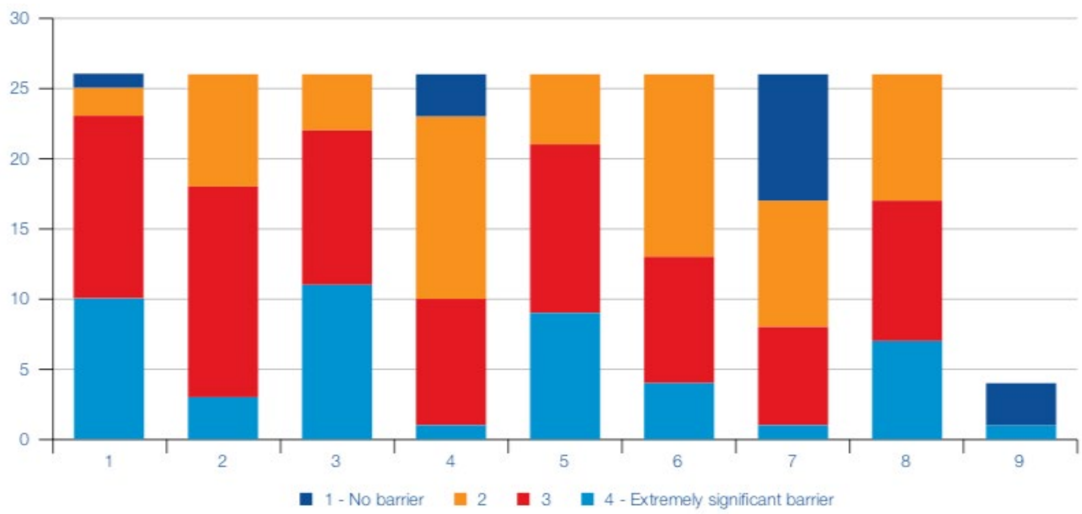
The Productivity Commission report "Caring for Older Australians" cited the difficulty predicting need, affordability of long-term care.

Although the Government covers most long term care outlay in Australia, the Living longer, Living Better" package of April 2012 confirmed that individuals who have the means will be required to contribute more to the cost of care than in the past.

Insurance is an appropriate strategy for dealing with uncertain costs that have uncertain timing, duration and occurrence". However, whilst private voluntary long-term care insurance exists in other countries, such an insurance product has not developed in Australia.

There are significant demand-side barriers to the development of long term care insurance products in Australia and the factors identified in a survey of provider's attitudes published by National Seniors provides some important insights for equity release advisers, as follows:

Rank	Item #	Demand-side Barrier
1	3	Complexity and high-cost of insurance products.
2	1	Ignorance of the risk of future care needs, exacerbated by a lack of advice on risk and/or products, and of financial capability.
3	5	A belief that long-term care is funded by the State, or an expectation that individuals will qualify for free care under a means-tested system.
4	8	Behavioural barriers such as hyperbolic discounting, whereby individuals exaggerate the value of the present and therefore discount the possibility of care needs and/or financial problems arising in the future.
5	2	The unpredictable nature and extent of future care needs.
6	6	A belief that family members will provide care informally, and/or a desire to preserve assets to support informal carers.
7	4	The bequest motive and/or expectation of an inheritance which would cover the cost of care should need arise.
8	7	Distrust of financial services.



4.6.2 Likelihood of Aged Care Needs

In 2016–17, almost all (97%) people in residential aged care were aged 65 and over: some 232,000 of these people used permanent residential aged care and some 57,500 used respite residential aged care.

The capacity of the residential aged care sector has been gradually expanding: the overall number of operational places available in residential aged care rose from 167,000 at 30 June 2007 to 201,000 in 2017 (an increase of 17%). Over the same period, the number of people in permanent residential aged care at 30 June rose from 153,000 to 179,000 (an increase of 17%).

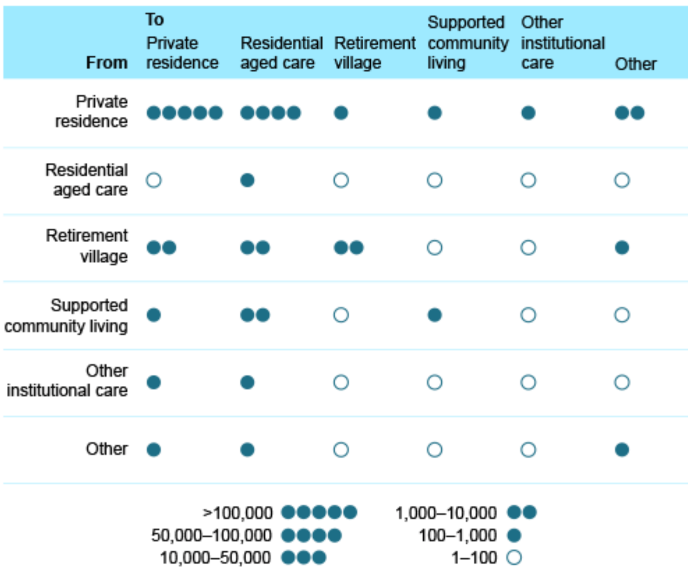
Before people are able to access most government-funded aged care services, they undergo an assessment. Aged Care Assessment Teams (ACAT) conduct assessments in line with the government's Aged Care Assessment Program (ACAP) guidelines and relevant legislation, and approve people for entry into the aged care programs that operate under the Aged Care Act 1997—these are residential aged care (permanent or respite), Home Care and Transition Care.

ACAT assessments are a comprehensive assessment of a person's physical, medical, psychological and social needs, and they identify whether people have activity limitations in 10 specific activities (self-care, movement, moving around, communication, health care tasks, transport, social or community participation, domestic duties, meal preparation and home maintenance).

The majority of completed assessments recommended private residence or residential aged care as the most appropriate settings (Figure 1).

The majority (86%) of completed ACAT assessments were undertaken for people who usually lived in a private residence, and for more than half of these (56%) a private residence was recommended as the most appropriate long-term care setting, while for most of the remainder residential aged care was recommended (29%).

In 2014–15, over 167,000 people had at least one completed ACAT assessment, almost all of whom were aged 65 years and over (96%).



Overall, more than two-thirds of completed ACAT assessments in 2014–15 concluded with approval for either respite or permanent residential aged care (75% and 67% respectively).

Combined, approval was given for both permanent and respite residential aged care in 59% of completed assessments

4.6.2 Funding Aged Care Accommodation

There are two major costs: accommodation fees and care fees.

The average so-called refundable accommodation payment (RAD) is $350,000 but it regularly exceeds $500,000 and can be more than one $1 million depending on the facility and its location.

The RAD can be payable in full or as a daily accommodation payment (DAP) or a combination of both.

Essentially, the RAD is the capital value of the room the resident is occupying, while the DAP is the interest rate set by the government, which is currently 6.22 per cent.

The care fees consist of a basic daily fee equal to 85 per cent of the single rate of pension. Currently set at $47.86 a day, it is payable by everyone. Then there is a means-tested care fee which, depending on the financial position of the resident, can be up to $211.40 a day but is capped at $25,731 per year (or about $60,000 over a lifetime).

The family home is capped at $157,987.20 for the purpose of the means-tested care fee calculation and under certain conditions, such as when a spouse is still living there, it could be totally exempt. The family home is still totally exempt from the age pension tests, so retaining it can mean lower aged care fees and a higher pension.

A hasty decision on how to pay the RAD could impact any number of things including the care fees, Centrelink or Department of Veterans Affairs entitlements, cash flow, tax, asset protection and estate planning objectives.

A payment option that aged care facilities must offer is the ability to draw down on any deposit made. So if a part refundable accommodation payment, or RAD, is paid, then the resident must be able to pay the outstanding daily accommodation payment from the RAD.

This might suit people who only have part of the RAD, or if full RAD payment resulted in cash flow issues. As the refundable accommodation deposit is reduced, the age care provider may ask the resident to top up the RAD, or pay a higher daily accommodation payment.

Where someone is receiving an age pension or part pension, using assets outside the house to pay towards the RAD can increase pension entitlement and reduce the means-tested care fee.

Caution:
Although aged care funding is not a financial product and therefore, not governed by ASIC, the Financial Planning Association argues that after estate planning and establishing a business using various structures, aged care financial advice was the next most complicated area of personal finance.

4.7 Estate Outcomes

4.7.1 Inheritance Expectations

The inheritance of property and wealth is a growing and specialised area of legal practice incorporating estate planning, will drafting, deceased estate administration and litigation.

Wills and estates lawyers assist clients to arrange the orderly transfer of their assets upon death by drafting valid and effective wills that take into account the client's wishes, and consistent with those wishes, are tax effective and preserve assets for the beneficiaries.

They also administer estates to ensure assets are appropriately distributed and engage in litigation around the validity of wills and family provision claims.
Intergenerational tensions and conflict between the desire to leave an inheritance and the need for money to live on in older age are important matters for an ERP client to consider.

When clients reach a certain age and have accumulated a retirement nest egg, they may wish to share some of it with their children or grandchildren.

Some want to make life easier for their heirs now, so they share money while they're still alive.

Others feel no such obligation, or they worry that gifts might sap the ambition of their heirs.

If your client wishes to witness the outcomes of providing financial support for those they care about , equity release may provide the opportunity. The next question to answer is: Can they really afford it?

Before they contemplate any large gifts, these clients should make sure they have enough money for retirement.

Take time to consider what other client scenarios may impact their Long-term Equity:

Notes: