



Family loan checklist

When parents lend money to an adult child.

This checklist surfaces misaligned expectations, security risks, and scope issues at file opening. Using it protects the client's position and keeps the file defensible if family circumstances later change.

Part 1: File trigger

Complete this section when opening the file.

Trigger question:

- Does this matter involve a parent or parents lending money to an adult child (alone or with a partner) to assist with the purchase or refinance of residential property?

If **No**, stop here.

If **Yes**, complete all sections below.

Part 2: Client identification and scope

Complete before accepting instructions.

1. Who is your client in this matter?

- Parent lender(s)
 Child borrower
 Other (specify):

2. Other parties involved (not your client):

- Spouse or partner of the child
 Other lender
 Other (specify):

3. Scope confirmation:

- I have confirmed in writing who I am acting for
 I have confirmed in writing who I am not acting for



4. Any suspicious activity:

- No elder abuse or undue influence
- No conduct of an attorney
- Client has capacity

File note prompt

Record how scope was explained and acknowledged.

Part 3: Independent advice checkpoint

Complete before loan terms are finalised.

Consequence reminder:

Claims commonly arise where unrepresented family members later allege they did not understand the risks or believed the practitioner was protecting their interests.

1. Independent legal advice:

- I have recommended in writing that each non-client party obtain independent legal advice
- Their response has been recorded on file

File note prompt

Attach or reference the written recommendation.

Part 4: Loan structure and intent

Complete when instructions are taken on how the arrangement is meant to work.

1. Options discussed:

- LPLC brochure Parent to child property loans: Things to consider - Client Brochure has been given to clients and discussed

2. Purpose of the loan:

- Purchase
- Refinance
- Other (specify):

3. **Agreed loan amount** \$ _____

4. **Repayment intention:**

- On demand
- By instalments
- On sale of property
- Other (specify):

5. **Is interest intended?**

- Yes
- No
- Undecided

File note prompt

Confirm whether the arrangement is intended to operate like a gift, a loan, or a commercial advance.

Part 5: Security decision point

Complete before drafting documents.

Plain-language definition for the client.

Security is a legal right that protects the lender if the loan is not repaid.

1. **Have you explained how future events could affect repayment, including:**

- Relationship breakdown
- Bankruptcy
- Death
- Competing lenders

2. **Have Property ownership (if known):**

- Sole ownership
- Joint tenancy
- Tenants in common
- Unknown at this stage



3. Security instructions:

- Client instructed that no security is to be taken
- Client instructed that security is to be taken
- Decision deferred

File note prompt

Record the security advice given and the client's instructions, even if security is declined.

Part 6: Document preparation check

Complete when preparing the loan agreement.

1. Does the document address the following arm's length terms?

- Repayment mechanism
- Default and remedies
- Review or variation triggers
- Enforcement pathway

Complete if security is used.

2. Documentation:

- Title search confirms ownership structure
- Any caveat or charge reflects the legal interest held
- VOI of any mortgagors undertaken pursuant to section 87A of the Transfer of Land Act 1958 (Vic)

3. Advice given:

- Value of other security property mortgages is known and clients advised
- Informed lender of need to be noted on any insurance policy for any security property



Part 7: Settlement

Complete in lead up to settlement.

1. Documentation:

- Loan Agreement has been signed by all parties
- Mortgage has been signed by all parties

2. Documentation:

- The first mortgagee has agreed to registration of second mortgage

Complete after settlement.

3. Registration of interests:

- The mortgage/caveat has been registered on title

Part 8: File defensibility confirmation

Complete before closing the intake stage.

1. Advice and instructions:

- Key advice has been confirmed in writing after discussions
- Client instructions have been clearly recorded

2. Professional judgement check:

- I have stepped back and considered whether this arrangement would withstand later scrutiny by third parties

Practitioner name: _____

Date completed: _____