

2023 UNIT SPECIFICATION

Title:	(Unit 12) The Practice of Family Law
Level:	3
Credit Value:	7

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
1. Understand the requirements for the termination of a marriage	1.1 Explain the way in which divorce proceedings are initiated	1.1 Initiating proceedings for the termination of a marriage under s.1 Divorce, Dissolution and Separation (DDSA) Act 2020 and the Family Procedure Rules (FPR) 2010 as amended by the Family Procedure (Amendment) Rules (FPAR) 2022: <ul style="list-style-type: none"> • the ground for a divorce order under s.1(1) DDSA 2020; • establishing the ground under the DDSA 2020, ss1(2) and 1(3); • bar on applications within 1 year of marriage s3 Matrimonial Causes Act (MCA) 1973; • information and documents required to apply for a divorce;

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	<p>1.2 Explain the way in which divorce proceedings are conducted</p> <p>1.3 Identify the requirements of divorce where children are involved</p> <p>1.4 Apply an understanding of the process of divorce to a given situation</p>	<ul style="list-style-type: none"> • options for filing documents to apply for a divorce; • procedure on issue of the application; • methods of service on the respondent, including the acknowledgment of service; <p>1.2 The procedure for divorce under DDSA 2020 and FPR 2010 as amended by FPAR 2022:</p> <ul style="list-style-type: none"> • application for a conditional divorce order and statement in support; • issue of conditional divorce order and its effect; • application for final divorce order; • issue of final divorce order and effect; • funding the procedure; the limited availability of public funding, Legal Aid, Sentencing and Punishment of Offenders Act (LASPOA) 2012. <p>1.3 Arrangements for children:</p> <ul style="list-style-type: none"> • Arrangements for children dealt with under Children Act (CA) 1989; s.41 MCA repealed by s.17 The Children and Families Act (CFA) 2014. <p>1.4 Application to a scenario.</p>
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	<p>2.3 Explain the orders available and identify their appropriate use</p> <p>2.4 Explain the factors the court will take into account in making an order for ancillary relief</p>	<p>2.3 Financial orders in Part 2 MCA 1973, ss 21 – 24, s.25 and s.25A:</p> <ul style="list-style-type: none"> • maintenance pending suit, lump sum order, periodical payments order; • property adjustment orders under s.24 MCA 1973, including transfer of property order, sale of property order and settlement of property order (Mesher order, <u>Mesher v Mesher</u> (1980), and Martin order, <u>Martin v Martin</u> (1976)); <ul style="list-style-type: none"> • pension orders, s.166 Pensions Act 1999; • consent order. <p>2.4 Principles which govern the exercise of the court’s discretion:</p> <ul style="list-style-type: none"> • factors under s.25 MCA 1973; • first consideration for the welfare of minor children, s25(1) MCA 1973; • factors under s.25(2) MCA 1973; • pre-nuptial agreements, eg: <u>Radmacher v Granatino</u> 2010, and Law Commission 2014 Report on pre-nuptial agreements; • ‘clean break’ provisions, s.25A MCA 1973; <u>White v White</u> (2000) and other relevant case law e.g. <u>McFarlane v McFarlane</u> (2004).
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	<p>2.5 Describe the financial provision for children on the breakdown of a relationship</p> <p>2.6 Apply an understanding of the consequences of termination of a relationship to a given situation</p>	<p>2.5 In outline only:</p> <ul style="list-style-type: none"> • the options for the provision of basic child maintenance; • the role of the different agencies involved eg: Child Support Agency (CSA), Child Maintenance Options Service, Child Maintenance Service (CMS) etc; • the general approach to calculating basic child maintenance, Child Support, Pensions and Social Security Act (CSPSSA) 2000; • court powers under CA 1989 to make financial orders for a child. <p>2.6 Application to a scenario.</p>
<p>3. Understand the remedies available in cases of domestic violence</p>	<p>3.1 Explain the role of the police as the first point of contact in the event of domestic violence</p>	<p>3.1 The role of the police in domestic incidents:</p> <ul style="list-style-type: none"> • special domestic violence units; duty of local authorities under Domestic Abuse Act (DAA) 2021 to provide support to victims of abuse and their children in refuges and other accommodation. • police powers to deal with domestic violence e.g. offence of harassment under Protection from Harassment Act (PHA) 1997; power to arrest for common assault to prevent injury under Serious Organised Crime and Police Act (SOCPA) 2005. • power to issue a domestic violence protection notice and to apply for a domestic violence

	<p>3.2 Explain the orders available in the event of domestic violence and how these are used</p> <p>3.3 Explain the procedure used to apply these orders</p>	<p>protection order under Crime and Security Act (CSA) 2010;</p> <ul style="list-style-type: none"> • offence of coercive behaviour which is imprisonable under s.76 Serious Crime Act (SCA) 2015; use of bail conditions to prevent further molestation; • Domestic Abuse Act (DAA) 2021 – statutory definition of domestic abuse, other offences; changes to provide for Domestic Abuse Protection Notices (DAPN) and Domestic Abuse Protection Orders (DAPO); Domestic Abuse Commissioner. <p>3.2 Non-molestation orders and occupation orders:</p> <ul style="list-style-type: none"> • definition of non-molestation order and its use, s42 Family Law Act (FLA) 1996; • definition of an occupation order and its use, the various occupation orders and relevant statutory provisions ss33-41 FLA 1996; • who is eligible to apply as an ‘associated person’, ss62-63 Family Law Act 1996. <p>3.3 The procedure to apply for non-molestation orders and occupation orders:</p> <ul style="list-style-type: none"> • applications on notice; • applications without notice (<i>ex parte</i>) and when an application without notice is appropriate; • outline of the procedure for on notice applications
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	<p>3.4 Outline the methods of enforcement at the court's disposal</p> <p>3.5 Apply an understanding of the remedies available in cases of domestic violence to a given situation</p>	<ul style="list-style-type: none"> • outline of the procedure for without notice (<i>ex parte</i>) applications; • the balance of harm test; • factors considered by the court; • the availability of public funding. <p>3.4 In outline only, the court's powers of enforcement:</p> <ul style="list-style-type: none"> • breach of a non-molestation order is a criminal offence, DVCVA 2004; • power of arrest may be attached to an occupation order and situations when this power may be used. <p>3.5 Application to a scenario.</p>
<p>4. Have a working knowledge of the private law aspects of the Children Act 1989</p>	<p>4.1 Identify the orders available, who may apply and when they are appropriate</p>	<p>4.1 Orders under s8 Children Act (CA) 1989:</p> <ul style="list-style-type: none"> • definition of parental responsibility (s.3(1) CA 1989) and how parental responsibility is/may be acquired; • s.8 CA 1989 orders, as amended by s.12CFA 2014, child arrangement order, prohibited steps order, specific issue order and their uses; • who is entitled to apply for a s.8 CA 1989 order without leave of the court and who may only apply with leave of the court, s.10 (4) CA 1989, s.10(5) CA 1989, s.10(9) CA 1989.

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	4.4 Apply an understanding of the private law aspects of the Children Act to a given situation	4.4 Application to a scenario.
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Unit aim(s)	The learner will understand key concepts, terms and processes in the practice of Family Law
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 63 First Line Family Law Advice and Unit 64 Family Law Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Courses of study leading towards the achievement of the unit may offer the learner the opportunity to satisfy requirements across a number of Level 3 Key Skill areas; most specifically, Communication, Improving own learning and performance, Problem solving and Working with others
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	CILEx (The Chartered Institute of Legal Executives)
Availability for use	Only available to owning awarding body
Availability for delivery	1 September 2011

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