

## 2023 UNIT SPECIFICATION

<b>Title:</b>	<b>(Unit 19) Residential and Commercial Leasehold Conveyancing (Registered land only)</b>	
<b>Level:</b>	<b>3</b>	
<b>Credit Value:</b>	<b>7</b>	

<b>Learning outcomes</b>	<b>Assessment criteria</b>	<b>Knowledge, understanding and skills</b>
<b>The learner will:</b>	<b>The learner can:</b>	
<b>1. Understand the nature of a lease</b>	<p><b>1.1</b> Explain the nature and the characteristics of a lease</p> <p><b>1.2</b> Distinguish between the grant of a lease, an assignment of a lease and the grant and assignment of a sub-lease</p>	<p><b>1.1</b> The nature of a lease and the parties involved. The characteristics of a lease: exclusive possession and a term of a certain duration: fixed term lease and periodic lease.</p> <p><b>1.2</b> The nature and effect of each of these transactions:</p> <ul style="list-style-type: none"> <li>• grant of a lease; an assignment of a lease and the grant and assignment of a sub-lease.</li> </ul>

This specification is for 2023 examinations.

	<p><b>1.3</b> Explain the legal formalities for the creation of a lease and the registration requirements for such a lease</p> <p><b>1.4</b> Describe how a lease can be determined</p> <p><b>1.5</b> Explain the implications of the parties failing to comply with their leasehold promises</p>	<p><b>1.3</b> Definition of a legal estate, i.e. s.1 Law of Property Act 1925 and the formalities required for a deed, i.e.</p> <ul style="list-style-type: none"> <li>• s.52(1) Law of Property Act 1925;</li> <li>• s.1 Law of Property (Miscellaneous Provisions) Act 1989;</li> <li>• s.54(2) Law of Property Act 1925.</li> </ul> <p>Consequence of failure to comply with formalities – equitable lease or licence</p> <p>What transactions are required to be registered at Land Registry: s.27 and s.29 and Schedule 3 paragraphs 1 and 2 Land Registration Act 2002.</p> <p><b>1.4</b> Effluxion of time, surrender, forfeiture, merger, notice to quit.</p> <p><b>1.5</b> Action against tenant:</p> <ul style="list-style-type: none"> <li>• forfeiture;</li> <li>• debt action;</li> <li>• damages;</li> <li>• self-help;</li> <li>• Commercial Rent Arrears Recovery;</li> <li>• injunction/specific performance;</li> <li>• Action against landlord – Damages;</li> <li>• self-help; injunction/specific performance.</li> </ul>
--	---	--

This specification is for 2023 examinations.

	<p><b>1.6</b> Identify the types of leasehold transactions carried out in a conveyancing office</p> <p><b>1.7</b> Describe the advantages and disadvantages of leasing in relation to the landlord and the tenant</p>	<p><b>1.6</b> Residential short leases and residential long leases. Commercial leases.</p> <p><b>1.7</b> Landlord’s retention of a capital asset with the receipt of income. Landlord’s continuing responsibility for the property (repair, insurance, services)</p> <p>Tenant’s flexible term (with limited capital investment). The nature of the lease as a wasting asset. The expiration of the lease and landlord’s enforcement of breach of covenant; forfeiture</p> <p>Commonhold – comparison between long leasehold and commonhold estates.</p>
<p><b>2. Understand the professional conduct implications when instructed to act in a leasehold conveyancing transaction</b></p>	<p><b>2.1</b> Describe the features of responsible leasehold conveyancing practice</p>	<p><b>2.1</b> Main features of the National Conveyancing Protocol (NCP):</p> <ul style="list-style-type: none"> <li>• acting for more than one party in a single transaction;</li> <li>• acting for lender and borrower;</li> <li>• client care obligations;</li> <li>• SRA Standards and Regulations 2019;</li> <li>• anti-money laundering requirements;</li> <li>• UK Finance Mortgage Lenders’ Handbook.</li> </ul>

This specification is for 2023 examinations.

<p><b>3. Understand the requirements of the initial stage for the sale and purchase of a new residential lease</b></p>	<p><b>3.1</b> Explain the information required to progress a sale and purchase of a new residential lease whilst acting for the seller</p> <p><b>3.2</b> Explain the information required to progress a sale and purchase of a new residential lease whilst acting for the buyer</p> <p><b>3.3</b> Apply an understanding of taking instructions to a given situation</p>	<p><b>3.1</b></p> <ul style="list-style-type: none"> <li>• Identity checks;</li> <li>• parties;</li> <li>• property details;</li> <li>• fixtures and fittings;</li> <li>• Property Information Form and other documents e.g. energy performance certificate;</li> <li>• anticipated completion date;</li> <li>• title information;</li> <li>• lender’s consent if existing mortgage on freehold;</li> <li>• instructions on lease terms (detail in 4.5).</li> </ul> <p><b>3.2</b></p> <ul style="list-style-type: none"> <li>• Identity checks;</li> <li>• finance and costs;</li> <li>• parties (co-ownership);</li> <li>• completion date;</li> <li>• survey;</li> <li>• instructions on lease terms (detail in 4.5).</li> </ul> <p><b>3.3</b> Application to a scenario: identify instructions to be taken on specific set of facts.</p>
--	---	---

This specification is for 2023 examinations.

<p><b>4. Understand the requirements of the stage leading up to exchange of contracts for the sale and purchase of a new residential lease</b></p>	<p><b>4.1</b> Describe how to obtain official copies of the register of title</p> <p><b>4.2</b> Explain how to check the seller’s title and the reasons for doing so at this stage of the transaction</p> <p><b>4.3</b> Describe the legal requirements for a valid contract</p> <p><b>4.4</b> Apply an understanding of the Contract of Sale to a given situation</p> <p><b>4.5</b> Describe the key clauses for inclusion in the draft lease</p>	<p><b>4.1</b> Methods of obtaining official copies of the registered title.</p> <p><b>4.2</b> Check register entries and title plan:</p> <ul style="list-style-type: none"> <li>• to confirm that the seller is entitled to grant a lease;</li> <li>• to identify any title defects and any other matters that require to be specifically addressed within the contract.</li> </ul> <p><b>4.3</b> Section 2 Law of Property (Miscellaneous Provisions) Act 1989.</p> <p><b>4.4</b> Application to a scenario:</p> <ul style="list-style-type: none"> <li>• drafting/amending a standard form of sale contract.</li> </ul> <p><b>4.5</b></p> <ul style="list-style-type: none"> <li>• Land Registry Prescribed clauses;</li> <li>• length of term and commencement;</li> <li>• consideration – rent/premium;</li> <li>• description of premises;</li> <li>• rights to be granted and reserved;</li> <li>• arrangements for repair;</li> <li>• insurance;</li> <li>• services;</li> <li>• restrictions on use;</li> <li>• dealings;</li> <li>• alterations;</li> <li>• forfeiture.</li> </ul>
--	--	---

This specification is for 2023 examinations.

	<p><b>4.6</b> Explain what documentation is sent out by the seller's lawyer with the contract</p> <p><b>4.7</b> Evaluate the information the buyer has received prior to exchange of contracts</p> <p><b>4.8</b> Apply an understanding of the title issues and key lease clauses to a given situation</p>	<p><b>4.6</b> Pre-contract package:</p> <ul style="list-style-type: none"> <li>• Draft contract;</li> <li>• draft lease and plan;</li> <li>• evidence of seller's freehold title;</li> <li>• evidence of lender's consent to the grant of the lease (where relevant);</li> <li>• Property Information Forms with supporting documentation and Fixtures Fittings and Contents Form;</li> <li>• planning documentation;</li> <li>• possible management company documentation;</li> <li>• Energy Performance Certificate (EPC) if not already provided by agents.</li> </ul> <p><b>4.7</b></p> <ul style="list-style-type: none"> <li>• Approval of contract and draft lease;</li> <li>• title information;</li> <li>• searches and enquiries: Local Search (LLC1, CON29 &amp; CON290) etc;</li> <li>• Drainage and Water;</li> <li>• Environmental and other searches dependent on locality of the property.</li> </ul> <p><b>4.8</b> Application to a scenario:</p> <ul style="list-style-type: none"> <li>• review official copy entries;</li> <li>• review lease clauses (premises;</li> <li>• repair;</li> <li>• alterations;</li> <li>• dealings;</li> <li>• user etc.)</li> </ul>
--	--	---

This specification is for 2023 examinations.

		<b>Note:</b> Candidates will not be asked to draft new lease clauses.
<b>5. Understand the requirements of the stage from exchange of contracts to the conclusion of the post completion steps for the sale and purchase of a new residential lease</b>	<b>5.1</b> Explain how contracts can be exchanged	<b>5.1</b> Final checks: <ul style="list-style-type: none"> <li>• examples:</li> <li>• mortgage offer;</li> <li>• NHBC (if applicable);</li> <li>• dependent transaction;</li> <li>• client instruction to proceed. Methods of exchange and use of Law Society Formulae.</li> </ul>
	<b>5.2</b> Explain the pre-completion steps for the sale and purchase of a new residential lease	<b>5.2</b> <ul style="list-style-type: none"> <li>• Engrossment and execution of the lease;</li> <li>• execution of mortgage deed;</li> <li>• pre-completion searches;</li> <li>• raising standard form requisitions (Completion Information and Undertakings Form);</li> <li>• apportionment of rent;</li> <li>• certificate of title to secure funds from lender;</li> <li>• completion statement to secure funds from client.</li> </ul>
	<b>5.3</b> Explain how completion of lease is managed	<b>5.3</b> Matters to be dealt with at completion; <ul style="list-style-type: none"> <li>• methods of completion;</li> <li>• release of funds;</li> <li>• documents to be handed over;</li> <li>• dating documents;</li> <li>• keys released.</li> </ul>

This specification is for 2023 examinations.

	<b>5.4</b> Explain how Stamp Duty Land Tax (SDLT) is dealt with in relation to a new lease	<b>5.4</b> What is SDLT (or Land Transaction Tax (LTT) in Wales); <ul style="list-style-type: none"> <li>• rates of duty;</li> <li>• deadlines and penalties;</li> <li>• significance of SDLT5 (or LTT certificate in Wales).</li> </ul>
	<b>5.5</b> Explain the requirement for land registration and how the lease is registered	<b>5.5</b> Land Registration Act 2002; <ul style="list-style-type: none"> <li>• effect of non-registration/late registration. Form AP1;</li> <li>• enclosures;</li> <li>• payment of LR fees;</li> <li>• priority period;</li> <li>• requisitions;</li> <li>• title information document;</li> <li>• evidence of identity (when required).</li> </ul>
	<b>5.6</b> Apply an understanding of work performed post-completion to a given situation	<b>5.6</b> Preparing an application to Land Registry; draft AP1.
<b>6. Understand the requirements of the initial stage for the sale and purchase of an existing residential lease</b>	<b>6.1</b> List the information required to progress a sale and purchase of an existing residential lease whilst acting for the seller	<b>6.1</b> <ul style="list-style-type: none"> <li>• Identity checks, parties;</li> <li>• property details;</li> <li>• fixtures and fittings;</li> <li>• price;</li> <li>• deposit;</li> <li>• Property Information Form and other documents e.g. energy performance certificate;</li> <li>• anticipated completion date;</li> <li>• who is in occupation;</li> <li>• synchronisation; outstanding mortgage.</li> </ul>

This specification is for 2023 examinations.



	<p><b>6.2</b> List the information required to progress a sale and purchase of an existing residential lease whilst acting for the buyer</p> <p><b>6.3</b> Apply an understanding of taking instructions to a given situation</p>	<p><b>6.2</b></p> <ul style="list-style-type: none"> <li>• Identity checks;</li> <li>• finance (mortgage;</li> <li>• deposit) and costs;</li> <li>• parties (co-ownership);</li> <li>• completion date;</li> <li>• survey;</li> <li>• Synchronisation.</li> </ul> <p><b>6.3</b> Application to a scenario: identify instructions to be taken on a specific set of facts.</p>
<p><b>7. Understand the requirements of the stage leading up to exchange of contracts for the sale and purchase of an existing residential lease</b></p>	<p><b>7.1</b> Describe how to obtain the deeds packet and official copies of the register of title</p> <p><b>7.2</b> Explain how to check the seller’s title and the reasons for doing so at this stage of the transaction</p>	<p><b>7.1</b></p> <ul style="list-style-type: none"> <li>• Letter or email to holder of deeds;</li> <li>• methods of obtaining official copies of the register of title.</li> </ul> <p><b>7.2</b></p> <ul style="list-style-type: none"> <li>• Check content of deeds packet;</li> <li>• check up to date official copy entries of the register of title and title plan;</li> <li>• Investigation of title including the terms of the lease – length of residue;</li> <li>• landlord’s consent. To confirm the seller can assign the residue of the lease;</li> <li>• to identify any title defects and any other matters that require to be specifically addressed within the contract.</li> </ul>

This specification is for 2023 examinations.

	<p><b>7.3</b> Explain what documentation is sent out by the seller's lawyer with the contract</p> <p><b>7.4</b> Apply an understanding of a Contract of Sale to a given situation</p> <p><b>7.5</b> Evaluate the information the buyer has received prior to exchange of contracts</p> <p><b>7.6</b> Apply an understanding of pre-contract searches and enquiries and title to a given situation</p>	<p><b>7.3</b></p> <ul style="list-style-type: none"> <li>• Pre-contract package – draft contract;</li> <li>• copy lease;</li> <li>• evidence of title;</li> <li>• insurance policy details and receipts;</li> <li>• receipts for last rent payment and service charge;</li> <li>• Property Information Form, Leasehold Property Information Form and Form LPE1 and supporting documentation;</li> <li>• Fixtures Fittings and Contents Form;</li> <li>• licence to assign; planning documentation;</li> <li>• possible management company documentation;</li> <li>• EPC if not already provided by agents.</li> </ul> <p><b>7.4</b> Application to scenario:</p> <ul style="list-style-type: none"> <li>• drafting/amending a standard form of sale contract.</li> </ul> <p><b>7.5</b> Evaluate the information the buyer has received prior to exchange of contracts.</p> <p><b>7.6</b> Application to a scenario: review of search and enquiry results and official copy entries.</p>
--	---	---

This specification is for 2023 examinations.

<p><b>8. Understand the requirements of the stage from exchange of contracts to completion for the sale and purchase of an existing residential lease</b></p>	<p><b>8.1</b> Explain at what stage contracts can be exchanged and the different methods by which a contract can be exchanged</p> <p><b>8.2</b> Identify issues to be addressed on exchange</p> <p><b>8.3</b> Apply an understanding of exchange of contract to a given situation</p> <p><b>8.4</b> Explain pre-completion searches and requisitions</p> <p><b>8.5</b> Explain a standard Transfer of Whole</p> <p><b>8.6</b> Explain the final pre-completion checks for both the buyer and seller</p>	<p><b>8.1</b> Final checks: examples:</p> <ul style="list-style-type: none"> <li>• mortgage offer;</li> <li>• dependent transaction;</li> <li>• client instruction to proceed. Methods of exchange and use of Law Society Formulae.</li> </ul> <p><b>8.2</b> Utilisation of deposit;</p> <ul style="list-style-type: none"> <li>• buildings insurance (terms of lease);</li> <li>• completion date.</li> </ul> <p><b>8.3</b> Application to a scenario.</p> <p><b>8.4</b> Priority search of whole (Form OS1);</p> <ul style="list-style-type: none"> <li>• bankruptcy search;</li> <li>• standard form requisitions (Completion Information and Undertakings Form);</li> <li>• apportionment of rent payments.</li> </ul> <p><b>8.5</b> Draft TR1;</p> <ul style="list-style-type: none"> <li>• approval;</li> <li>• execution.</li> </ul> <p><b>8.6</b> Buyer:</p> <ul style="list-style-type: none"> <li>• Final check of all documents;</li> <li>• executed TR1;</li> <li>• executed mortgage deed;</li> <li>• signed or approved LTR;</li> </ul>
---	---	---

This specification is for 2023 examinations.

	<p><b>8.7</b> Explain how a completion is managed</p> <p><b>8.8</b> Apply an understanding of completion to a given situation</p>	<ul style="list-style-type: none"> <li>• funds requested for completion date from client and lender (certificate of title)</li> </ul> <p>Seller:</p> <ul style="list-style-type: none"> <li>• Final check of all documents;</li> <li>• executed TR1;</li> <li>• mortgage discharge undertakings;</li> <li>• key release;</li> <li>• mechanics of completion.</li> </ul> <p><b>8.7</b> Matters to be dealt with at completion;</p> <ul style="list-style-type: none"> <li>• release of funds;</li> <li>• documents to be handed over;</li> <li>• dating documents;</li> <li>• keys released.</li> </ul> <p><b>8.8</b> Application to a scenario;</p> <ul style="list-style-type: none"> <li>• drafting OS1;</li> <li>• TR1;</li> <li>• Completion Information and Undertakings Form; completion checklist.</li> </ul>
<p><b>9. Understand the requirements of the post completion stage for the sale and purchase of an existing residential lease</b></p>	<p><b>9.1</b> Explain how SDLT is dealt with in relation to an existing lease</p>	<p><b>9.1</b> What is SDLT (or Land Transaction Tax (LTT) in Wales), general rates of duty;</p> <ul style="list-style-type: none"> <li>• deadlines and penalties;</li> <li>• the significance of SDLT 5 (or LTT certificate in Wales).</li> </ul>

This specification is for 2023 examinations.

	<p><b>9.2</b> Explain the requirements for land registration and how land is registered</p> <p><b>9.3</b> Apply an understanding of work performed post-completion to a given situation</p>	<p><b>9.2</b> Land Registration Act 2002;</p> <ul style="list-style-type: none"> <li>• effect of non-registration/late registration. Form AP1;</li> <li>• enclosures; payment of LR fees;</li> <li>• priority period;</li> <li>• requisitions;</li> <li>• title information document, evidence of identity (when required).</li> </ul> <p><b>9.3</b> Preparing an application to Land Registry and service of notice of assignment including drafting an AP1 for sale of an existing lease and drafting standard of notice of assignment to landlord.</p>
<p><b>10. Understand the key features of a commercial leasehold conveyancing transaction</b></p>	<p><b>10.1</b> Explain the main features of a commercial leasehold transaction</p>	<p><b>10.1</b> Types of property let commercially:</p> <ul style="list-style-type: none"> <li>• office;</li> <li>• retail;</li> <li>• warehouse;</li> <li>• leisure, etc.</li> </ul> <p>The ‘institutional lease’: full repairing and insuring lease with an upwards only rent review</p> <p>Code for leasing business premises, England and Wales 2020.</p>

This specification is for 2023 examinations.

	<p><b>10.2</b> Explain the main differences between commercial and residential leasehold transactions</p>	<p><b>10.2</b> Duration of leasehold term – average length around 5 years. Use of break clauses</p> <p>Procedural features: parties opting not to use a contract</p> <p>Separate representation of buyer and mortgagee</p> <p>VAT considerations on grant and assignment of a commercial lease</p> <p>Environmental issues: ‘Green’ leases; Environmental Protection Act 1990- liability to clean-up contaminated site</p> <p>Premium less usual;</p> <ul style="list-style-type: none"> <li>• market rent payable</li> </ul> <p>Landlord and Tenant Act 1954 Part II - application of the Act</p> <p>contracting –out, tenant rights</p> <p><b>Note:</b> Candidates will not be expected to explain procedures under s.25 or s.26 Landlord and Tenant Act 1954 Part II.</p>
--	---	--

This specification is for 2023 examinations.

<p><b>11. Understand the key clauses in a commercial lease</b></p>	<p><b>11.1</b> Explain the importance of a rent review mechanism in a commercial lease and list the different types of rent review clauses</p> <p><b>11.2</b> Explain the different types of user covenants in a commercial lease</p> <p><b>11.3</b> Explain the lease clauses that restrict parties dealings with the lease</p> <p><b>11.4</b> Explain the provisions dealing with tenant alterations</p> <p><b>11.5</b> Explain the repair obligations</p>	<p><b>11.1</b> Effect of inflation on rent;</p> <ul style="list-style-type: none"> <li>• the impact on the value of the commercial landlord’s interest</li> </ul> <p>Fixed increases - index-linked;</p> <ul style="list-style-type: none"> <li>• turnover;</li> <li>• open-market review.</li> </ul> <p><b>11.2</b> Types of covenants - absolute, qualified and fully qualified. Positive/negative.</p> <p><b>11.3</b> Assignment clauses - whole or part;</p> <ul style="list-style-type: none"> <li>• Landlord and Tenant Act 1927 S19 (1A); authorised guarantee agreements.</li> </ul> <p>Sub-lease clauses - whole or part; provisions the new sub-lease must contain.</p> <p>Other forms of dealing - sharing; parting; charge or mortgaging.</p> <p><b>11.4</b> Lease controls: absolute, qualified and fully qualified. Obligation for reinstatement.</p> <p><b>11.5</b> New property (latent defects)/old property (standard of repair). Exceptions for insured risks.</p>
--	--	---

This specification is for 2023 examinations.

	<b>11.6</b> Apply an understanding of the key commercial lease clauses to a given situation	<b>11.6</b> Application to a scenario.  <b>Note:</b> Candidates will not be asked to draft new lease clauses
--	---	--

This specification is for 2023 examinations.



Additional information about the unit	
Unit aim(s)	The learner will understand the nature of a lease and the requirements for the sale and purchase of a new residential lease and an existing residential lease including exchange of contracts and post completion steps. The unit also covers the key features of a commercial leasehold conveyancing transaction
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	N/A
Details of the relationship between the unit and other standards or curricula (if appropriate)	N/A
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	Chartered Institute of Legal Executives (CILEx)
Availability for delivery	1 <sup>st</sup> September 2013

This specification is for 2023 examinations.