

 CILEX



A7 – Family Law and Practice

Advanced Stage

2025-2026

A7: Family Law and Practice

The aim of this module is to give you the essential knowledge and understanding of law and procedure to equip you to deal with family law cases. The module covers a range of current family law topics that you would encounter in practice, incorporating the formation of adult relationships, matters relating to children, and the breakdown of adult relationships. On completion of the module, you will have the skills to draft basic court documentation, whilst acquiring the knowledge and extended foundations of family law and procedure.

The module covers:

1. Family Law themes
2. Formation of adult relationship: Marriage, Civil Partnership
3. Void and Voidable Marriages and Civil Partnerships
4. Divorce, Dissolution and Judicial Separation
5. Financial Remedy on Divorce/Dissolution
6. Wills, Severance and Intestacy
7. Cohabitants
8. Private Law Children
9. Child Maintenance
10. Public Law Children
11. Domestic Abuse

Learning Outcomes

By the end of this module you will be able to:

1. Demonstrate detailed knowledge and understanding of the principles and rules governing family law
2. Identify and evaluate relevant facts and issues and apply the law to provide advice on a given set of facts
3. Advise on procedural matters in family law cases
4. Draft key documents in family law cases, including application for a matrimonial order and application for a private law children order
5. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the Code of Conduct

Linked online assessment: A7

TQT: 180 hours

Candidates will not be penalised for referring to previous versions of the law, thresholds, or rates if changes have occurred within the six months preceding the examination.

Module Resources

In addition to the VitalSource manual, there is a reading list to accompany the module which is located in the 'Study Guide and Content Updates – Advanced Stage 2nd Editions' document in the VitalSource bookshelf, Training Provider hub and in myCILEX.

Details of updates included in 2025-2026 Module Specification

- 1d: understanding risk and ethics in family practice
- 8a: Jade's Law under the Victims and Prisoners Act 2024
- 11e: appointment of a qualified legal representative under the Domestic Abuse Act 2021

1. Family Law themes

The basis of family law is underpinned by some common themes which those studying and working in family law need to know. There will be legal and ethical obligations to the client, particularly relating to funding options and mediation.

- a) Single family court
 - Structure
 - Allocation of cases and gatekeeping
 - Appeal process
 - Using technology
 - Jurisdiction; impact of European Union (Withdrawal Agreement) Act 2020 including the Hague regime, doctrine of *forum non conveniens* and the forum test
 - Transparency reporting pilot
- b) Funding
 - Legal Aid, Sentencing and Punishment of Offenders Act 2012
 - Legal Aid franchise
 - Access to public funding domestic abuse and forced marriage cases
 - Access to public funding public law children cases
 - Statutory charge
 - Privately paying or self-representation
- c) Mediation
 - S.10 Children and Families Act 2014
 - Part 3 Family Procedure Rules 2010, Practice Direction 3A
 - Mediation, Information and Assessment Meeting (MIAM)
 - Exclusions from Mediation
 - Referral and Instructions to the Mediator
 - Legal aid for mediation
- d) Understanding risk and ethics in family practice

2. Formation of adult relationship: Marriage, Civil Partnership

The basis of family law requires you to consider what type of adult relationship has taken place. This will involve consideration of the rules relating to formation of that adult relationship, and whether they have been complied with, to establish validity of the marriage or civil partnership. Therefore, you will need to know the following:

- a) Key Statutes on formation of a marriage/civil partnership
 - Matrimonial Causes Act 1973
 - Civil Partnership Act 2004
 - Marriage (Same Sex Couples) Act 2013
 - S.9 Marriage (Same Sex Couples) Act 2013 - Transitional arrangements; converting a civil partnership into a marriage
 - The Marriage and Civil Partnership (Minimum Age) Act 2022
- b) Key similarities and differences between a marriage and a civil partnership
 - Property
 - Children
 - Intestacy rules
 - Dissolving the relationship
- c) Provisions relating to capacity to marry/civil partnership
 - Age (The Marriage and Civil Partnership (Minimum Age) Act 2022)
 - Prohibited Degrees
 - Not already married
- d) Provisions relating to formalities to marry/civil partnership
 - Preliminary formalities for Church of England ceremonies
 - Preliminary formalities for non-Church of England ceremonies
 - The marriage ceremony – Civil marriages
 - The marriage ceremony – Church of England ceremonies
 - The marriage ceremony – Quaker and Jewish marriages
 - The marriage ceremony – other religious ceremonies
 - Registration post ceremony
 - Law Commission 2022 report on Celebrating Marriage: A new Weddings Law
 - The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2022 (SI 2022/295)
- e) Different outcomes for failing to comply and their effects
 - Void
 - Non-marriage

3. Void and Voidable Marriages and Civil Partnerships	As well as recognising whether an adult relationship has been formalised in accordance with the law so it is valid, you must also understand the circumstances in which a marriage or civil partnership is void or voidable, and the key differences and effects. Therefore, you will need to know the following: a) The law of nullity: void • S.11(a)-(d) Matrimonial Causes Act 1973 • Effects b) The law of nullity: voidable • S.12(1)(a)-(h) Matrimonial Causes Act 1973 • Statutory bars per s.13 Matrimonial Causes Act 1973 • Effect of securing an order of nullity
4. Divorce, Dissolution and Judicial Separation	All family practitioners will be asked to advise on divorce or dissolution, or other alternatives for the parties to live apart, which will involve consideration of the law and the procedure. Therefore, you will need to know the following: a) Statutory provisions relating to divorce and dissolution • Matrimonial Causes Act 1973 • Civil Partnership Act 2004 • Divorce, Dissolution and Separation Act 2020 b) Effects of the Divorce, Dissolution and Separation Act 2020 • Applications can now be made jointly (both parties to the marriage), or by a sole applicant (either party) • Statement that the marriage or civil partnership has irretrievably broken down; no need to prove one of the five ‘facts’ • Terminology; applicant, respondent, conditional order, final order • Limited grounds to dispute the application c) Bar to applying within one year of marriage or civil partnership • S.3 Matrimonial Causes Act 1973 • S.41 Civil Partnership Act 2004 d) Procedure – Family Procedure Rules 2010 • Deciding whether to make a sole or joint application for divorce or dissolution • Online/‘digital’ divorce and paper divorce application processes • Applying for divorce/dissolution and documents required: application for matrimonial order (D8), marriage certificate, fee, statement of reconciliation (FPR 7) • Service, and methods of service (FPR 6); effective service by email • Applying for the conditional order; sole or joint application, minimum wait-period of 20 weeks • Pronouncement of conditional order

	• Settling financial issues; objecting to the divorce/dissolution on the grounds of grave financial or other hardship • Application for final order; sole or joint application, minimum wait-period of 6 weeks • Final order pronounced e) Judicial Separation as an alternative to divorce / dissolution • S.17 Matrimonial Causes Act 1973 • Statement by one or both parties to the marriage that they seek judicial separation; no longer required to prove one of five 'facts' • Available in the first year of marriage / civil partnership • Key differences between divorce/dissolution and judicial separation; does not end the marriage / civil partnership, parties may not re-marry, financial orders available with exceptions e.g. those relating to pensions
5. Financial Remedies on Divorce/Dissolution	In conjunction with advising a client on divorce/dissolution, you will also advise on how the assets will be divided. As such, financial remedies on divorce/dissolution will be considered. You must have an awareness of the key law and procedures governing financial remedies. Therefore, you will need to know the following: a) The law - Matrimonial Causes Act 1973 • S.25(1) - all the circumstances with first consideration to minor child • S.25(2)(a)-(h) - statutory factors • S.25A clean break principle • Yardstick of equality b) Financial orders - Matrimonial Causes Act 1973 • S.22 - maintenance pending suit • S.23 - periodical payments order • S.23 - lump sum order • S.24 - property adjustment orders • S.24B - pension sharing orders • S.24C - pension attachment • Offsetting • Legal Services Order c) Pre-nuptial agreements • Legal basis • S.25 MCA 1973 consideration • Principles • Law Commission 2014 'Qualifying Nuptial Agreements' d) Procedure – Part 9 Family Procedure Rules 2010 • Making the application within the divorce proceedings or making the application as a stand-alone application • Pre-application Protocol • Importance of the MIAM before issue • Form A (issue) • Online process – Practice Direction 36N

	• FRC Efficiency Statement • Form E (financial questionnaire) • First appointment • Financial Dispute Resolution appointment • Final hearing • Consent orders • Code of Conduct for CILEx/ Solicitors/Code of Conduct for Firms – duty of full and frank disclosure/not to mislead the court
6. Wills, Severance and Intestacy	On receiving instructions from a client regarding financial provision, you should understand how to protect the client's interests in relation to assets from the outset. It is important to understand the role of a CILEx Family Law Practitioner, the authorisation you have and when to escalate to another member of staff. Therefore, you will need to know the following: a) Overview of wills • Validity • Effect on divorce • CILEx Family Law Practitioner responsibilities in respect of advising on making a new Will b) Awareness of the implications of not having a will c) Protecting property rights • Joint or sole • Sole name of other party – registration of home rights notice • Joint names: ○ Preparing a Severance of Joint Tenancy ○ When ○ Effect ○ Filing at the Land Registry
7. Cohabitants	Family practices not only deal with clients who are married or civil partnered, they often deal with clients who live with their partners and often have children. On the breakdown of a cohabitation, family practitioners will need to advise on division of assets and matters relating to children. Therefore, you will need to know the following: a) Define cohabitants b) Cohabitation Contracts/Agreements • Status • Content c) Contrasting consequences and remedies as against married couples and civil partnership couples: • Financial support • Property disputes

	d) The Law – Implied trusts • Joint names or sole name of one party? • Resulting trust • Constructive trust • Lloyds Bank v Rossett (1990) • Stack v Dowden (2007) • Establishing the size of the interest e) Trusts of Land and Appointment of Trustees Act 1996, s.14 and s.15 f) Escalation of contentious matters
8. Private Law Children	Disputes relating to children between separating parents is a key part of family practice work; from disputes relating to whether a person is actually the natural parent, through to who has parental responsibility of a child, and then who the child should live with or see. Additionally, issues may arise on specific aspects of parenting, for example, should the child be immunised, can the child move to another country with the resident parent? Children issues that you may face are far reaching. Therefore, you will need to know the following: a) Parental Responsibility - Children Act 1989: • S.3(1) - definition and examples • Automatic parental responsibility • Acquired parental responsibility • S.4 - application and criteria 'CAR' from Re H (Parental Responsibility) (No 3) (1991) • S.2(5) and S.2(7)- exercise of parental responsibility • Termination of parental responsibility. • Jade's Law under the Victims and Prisoners Act 2024 b) S.8 Children Act 1989 applications: • Child arrangements e.g. relocation • Shared parenting • Specific issue e.g. change of surname • Prohibited steps • Enforcement & committal • S.10(4), S.10(5) and S.10(9) – who can apply • S.1 – general principles • S1(3) – welfare checklist • Practice Direction 12J (as amended by the Domestic Abuse Act 2021) c) Procedure for initiating a s.8 application: Child Arrangements Programme 2014 • MIAM • Application (Form C100) • Allegations of Harm (Form C1A) • Service on Respondent (C100/C1A, C6, C7) • Service on CAFCASS

	• Escalation d) Role of CAFCASS in s.8 applications: • Position and duty • S7 Welfare Reports & s37 Investigations by Local Authorities
9. Child Maintenance	Whilst working in family practice, either stand-alone, or in conjunction with advising on other children matters or financial relief, you may be asked by the resident parent to advise on child maintenance. You will need to know the following: a) The Child Maintenance Service • When would you make the application? • Qualifying child • Rights to receive • Rights to pay • Appeal process • Circumstances where referrals should be made • The Child Support Collection (Domestic Abuse) Act 2023 b) Top-up Maintenance/Financial Provision • s.15 and Schedule 1 Children Act 1989 • Factors to consider • Periodical payments • Lump sum • Property adjustment • Re P (Financial Provision) (2003)
10. Public Law Children	You need to understand the difference between private law children matters and public law children matters. Practices undertaking public law child work will have a legal aid contract, along with a senior solicitor who is a member of the Children Panel. Public law children cases do attract public funding. In such cases, you may be working alongside and therefore you will need to know the following: a) What is a public law case? • Fundamental principles of public law in relation to children; Children Act 1989 • Recognising a vulnerable child • Safeguarding duty and escalation • Low level intervention, s.17 and s.20 • Short term intervention/emergency, s.44 and s.46 • Long term intervention s.31 b) Inter-agency working/referral/assessment • School, neighbours, GP, hospital, health visitor, police, social services • Overview of investigations and assessments carried out
11. Domestic Abuse	There may be cases involving vulnerable clients who have been threatened or subjected to domestic abuse and may face removal from their family home. Such

matters are fast moving and urgent and it often means you have to stop all other work that day to accommodate this client. You will need to know the following:

- a) Part IV Family Law Act 1996
 - Non molestation order
 - Occupation order
- b) Non-molestation order
 - S.62 associated persons
 - S.63 relevant child
 - Define molestation with reference to case law
 - S.42(5) test
 - Terms of the order – general or specific
 - Duration of the order
- c) Occupation order
 - S.62 associated persons
 - S.63 relevant child
 - S.33 applicant entitled to occupy
 - Balance of harm
 - S.33(6) factors
 - S.33(3) orders
 - S.33(10) duration
 - S.35 applicant is a former spouse or former civil partner who is not entitled to occupy
 - Balance of harm
 - S.35(6) factors
 - S.35(10) orders and duration
 - S.36 applicant is a cohabitant or former cohabitant with no entitlement to occupy
 - Balance of harm factors
 - S.36(6) factors
 - S.36(10) orders and duration
 - S.37 and S.38 neither party is entitled to occupy
- d) Applications to be considered as either on notice or without notice
 - Documentation
 - Referrals
- e) Domestic Abuse Act 2021
 - Statutory definition of Domestic Abuse
 - Special Measures directions
 - Prohibition on direct cross-examination and the appointment of a Qualified Legal Representative (QLR)
 - Domestic Abuse Protection Orders and Domestic Abuse Protection Notices
 - Part 3A Family Procedure Rules 2010