



CHIEF EXAMINER REPORT

JANUARY 2024

LEVEL 6 UNIT 9 – Land Law

The purpose of the suggested points for responses is to provide candidates and Training Providers with guidance as to the key points candidates should have included in their answers to the January 2024 examinations.

The suggested points for responses sets out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed in the suggested points for responses or alternative valid responses.

Chief Examiner Overview

The overall number of merit and distinction answers was strong. Candidates and centres are reminded, once again, that breadth of knowledge is crucial.

Other common issues were a lack of reference to primary law (cases and statutes), only addressing part of a question (for example, only discussing how the benefit may pass not the burden of a covenant, or only discussing the formalities required for an easement, not the characteristics), and choosing multi-part questions where clearly the student did not understand one (or more) of the sub-parts.

It was pleasing to see the very best answers including real critical analysis.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached.

Therefore, feedback on candidate performance is limited.

Section A

Question 1	25 marks
This question considered an extremely popular topic (adverse possession) which has traditionally performed very well on the examination. This question was answered by nearly 75% of students and attracted the second highest mean mark across the paper.	
Suggested Points for Response:	
<ul style="list-style-type: none">• Overview of doctrine of adverse possession• Explanation of basic common law requirements for claim in adverse possession• Claims in unregistered land under Limitation Act 1980• Claims in registered land under Sch 6 Land Registration Act 2002• Recognition of policy considerations relating to adverse possession• Reasoned conclusion answering the question asked• Relevant case law relating to factual possession, intention to possess etc.• Discussion of <i>nec vi, nec clam, nec precario</i> maxim• More detailed/nuanced discussion of doctrinal and policy considerations• Intersection between adverse possession and human rights• Impact of s144 LASPO 2012	

Question 2	25 marks
<p>Part (a) was a simple question which was very similar to questions asked previously on this unit. Part(b) performed as expected – it was intended to balance what was largely a simple question in part (a).</p>	
<p>Suggested Points for Response:</p>	
<p>(a) 17 marks</p> <ul style="list-style-type: none"> • Definition of freehold covenant • Explanation of issue of privity of contract between original parties • Explanation of rules relating to running of benefit/burden at common law • Explanation of rules relating to running of benefit/burden in equity • Relevant case law • Reasoned conclusion answering the question asked • Further detail on passing benefit/burden at common law • Exception to common law rule on burden, e.g. doctrine of mutual benefit/burden • Further detail on passing benefit/burden in equity • Relevant statutory provisions e.g. LPA 1925 s56 • Detailed consideration of relevant case law • Consideration of proposals for reform in the area <p>(b) 8 marks</p> <ul style="list-style-type: none"> • Identification of why party may wish to modify/extinguish covenant • Doing so through agreement • Doing so through abandonment • Application of s84 Law of Property Act 1925 • Reasoned conclusion • Further detail on above points • Modifying/extinguishing through unity of seisin • Modifying/extinguishing through estoppel • Relevant case law • Consideration of proposals for reform in the area 	

Question 3	25 marks
Data too limited to provide feedback.	
Suggested Points for Response:	
<p>(a) 17 marks</p> <ul style="list-style-type: none"> • Definition of 'overriding' • Identification of usual rules for when interests bind in registered land • Overriding interests under LRA 1925 s70 • Overriding interests under LRA 2002 • Distinction between legal and equitable rights • Further detail on above points • Detailed discussion/comparison of Sch 1 and Sch 3 LRA 2002 • Comparison with doctrine of notice • Relevant case law <p>(b) 8 marks</p> <ul style="list-style-type: none"> • Definition of overreaching • Relevance in unregistered and registered land • Recognition of why doctrine exists in the law • Explanation of how doctrine operates • Reasoned conclusion • Further discussion on above points 	

Question 4	25 marks
Data too limited to provide feedback.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Definition of a mortgage • Discussion of protection of the mortgagor, likely based on some or all of: <ul style="list-style-type: none"> ○ Rule of no clogs/fetters ○ Right to redeem/ no collateral advantages ○ Prohibition of oppressive or unconscionable terms ○ Relevant legislation on extortionate credit e.g. CCA 2006 ○ Doctrine of undue influence ○ Relief against possession ○ Duties of mortgagee on sale • Discussion of rights of the mortgagee, likely based on some or all of: <ul style="list-style-type: none"> ○ Right to possession ○ Power of sale ○ Appointment of receiver ○ Foreclosure ○ Personal remedy • Reasoned conclusion 	

Section B

Question 1	25 marks
More limited responses attempted to rely on a superficial summary of the general area.	
Suggested Points for Response:	
<p>(a) 11 marks</p> <ul style="list-style-type: none">• Definition of an easement• Discussion of characteristics of an easement• Rights capable of being easement• Ouster principle• Discussion of methods of creating easement• Formalities required for express creation• Application of above points to facts• Relevant case law <p>(b) 6 marks</p> <ul style="list-style-type: none">• Definition of an easement• Discussion of characteristics of an easement• Principle that easement must benefit dominant tenement• Discussion of methods of creating easement• Application of above points to facts• Relevant case law <p>(c) 8 marks</p> <ul style="list-style-type: none">• Definition of an easement• Discussion of methods of creating easement• Implied easements• Application of above points to facts• Relevant case law	

Question 2	25 marks
Data too limited for feedback.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Explanation of doctrine of proprietary estoppel • Need for clear assurance relating to rights in land • Need for reliance upon the assurance • To the detriment of the claimant • Overarching requirement of unconscionability • Potential remedies • Application of above points to facts • Relevant case law • Further depth of discussion • Further relevant case law • Different basis on which remedies can be calculated 	

Question 3	25 marks
Data too limited for feedback.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Distinction between lease and licence • Identification of characteristics of a lease • Requirement for exclusive possession • 'Sham' clauses • Requirement for certainty of term • Periodic tenancies • Formalities for creation of legal lease • Creation of equitable lease under principle in <i>Walsh v Lonsdale</i> • Application of above points to facts • Relevant case law 	

Question 4	25 marks
Data too limited for feedback.	
Suggested Points for Response:	
(a) 7 marks	
<ul style="list-style-type: none">• Explanation of co-ownership• The four unities ('PITT' test)• Presumption as to tenancy in common in commercial property• Resulting trust• Effect of death on tenant in common's share• Application of above points to facts• Relevant case law	
(b) 11 marks	
<ul style="list-style-type: none">• Explanation of co-ownership• Effect of death on joint tenant's share (survivorship)• Severance by notice• Severance by acting upon one's share• Application of above points to facts• Relevant case law	
(c) 7 marks	
<ul style="list-style-type: none">• Identification of s14 TLATA 1996• Identification of s335A Insolvency Act 1986• Application of above points to facts• Relevant case law• Further depth of discussion• Further relevant case law	