



CHIEF EXAMINER REPORT

January 2025

LEVEL 6 UNIT 17 – CONVEYANCING

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 2025 examinations.

The 'suggested points for responses' sections set 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 stronger performing candidates exhibited similar characteristics, in that they possessed both good knowledge and understanding of the academic law underlying the issues presented, as well as the relevant procedures of conveyancing, and brought this knowledge together to offer practical advice to the client. Weaker candidates struggled with both the academic law and the procedures of conveyancing.

Better candidates had clearly made good use of the opportunity to consider the Case Study Materials in advance of the exam and ensured that they understood all the relevant provisions, and clauses, in those materials. Weaker candidates failed to show an understanding of the relevant provisions, and clauses, provided in the Case Study Materials. For example, stronger candidates were able to explain that the forfeiture provision in the lease would be of concern to the lender as it allowed for forfeiture on the bankruptcy of the tenant, whereas weaker candidates did not understand the law, and practicalities of the law, in this area, which was in the Case Study Materials.

Generally, there was a high number of candidates who dealt with conveyancing procedures in a satisfactory manner, although a minority of candidates struggled with the correct procedure and knowledge, particularly on the Law Society Code for Completion by Post.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking this examination limits the scope for constructive and valid feedback to be given and for firm conclusions to be reached and embraced for positive use by candidates.

Therefore, no feedback on candidate performance has been included.

Question 1a	5 marks
Most candidates successfully explained what identification evidence is needed from clients. However candidates were not particularly strong on the statute, and other reasons, why money laundering checks are required.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (can accept reference to the Money Laundering Regulations 2017 as this is what they are referred to as in practice) lawyers involved in property transactions must establish the identity of their clients. (It imposes a duty to carry out customer due diligence which requires checking of identity). • Failure to identify a client leads to a risk of the firm being used for money laundering/firm committing an offence under the Proceeds of Crime Act 2002. • Under the Money Laundering Regulations, for each client we require both proof of their physical identity, for example by a current signed passport or photocard driving licence... • ... and of their address, for example by a utility bill no more than three months old. • In relation to the purchase of Flat 1, we are also acting for a lender, National Westminster Bank plc, and under the Council of Mortgage Lenders Handbook Rule 3.1.2 we must comply with the Money Laundering Regulations and establish the identity of our clients. 	

Question 1b	9 marks
Candidates generally scored well on this question as they had predicted from the Case Study Materials that they would be asked to determine the root document, and the vast majority of candidates successfully chose the correct document for the root. Some candidates struggled with the application of the law in some places, such as explaining how the root document dealt with both the legal and equitable title, and a few students missed the point that we would need to provide the plan from the 1964 conveyance as a pre-root document. Very few candidates mentioned that Central Land Charges searches would be required against the sellers to confirm there was nothing to cast doubt on the sellers' ownership of the title.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The best root document is the conveyance dated 16 September 1981 made between David Garside and James Attara (the Conveyance) because... • ... the deed must be at least 15 years old and the Conveyance is over 15 years old. • ... the deed must deal with the ownership of both the legal and equitable title... • The Conveyance does this as it clearly deals with the legal title and also the beneficial title as the vendor sells as beneficial owner. • The deed should contain a recognisable description of the property. • The Conveyance contains a postal address, however as it does not contain a plan it does not contain a good description of the property. • The Conveyance does state that the property is more particularly delineated on the plan annexed to a conveyance dated 30 March 1964 made Haven Homes (Cornwall) Limited (1) and Stella Cruise (2) which is a suitable description of the property. We will therefore provide the 	

buyer's lawyers with a copy of the 1964 conveyance in addition to the 1981 Conveyance as a pre-root document.

- The deed must contain nothing to cast doubt on the sellers' title...
- ... There does not appear to be anything from the Conveyance to cast any doubt on the sellers' title, however we should perform a Central Land Charges search against the sellers for their period of ownership to see if the results show anything to cast doubt on their title.

Question 1c	13 marks
<p>Most candidates scored well on this question, and successfully drafted the contract details required for the seller, buyer, property etc. The weakest part of this question was the special conditions that would be added to the contract but a number of candidates did pick up some marks by identifying that an indemnity covenant would be required for the covenants in the title (although some candidates were confused which document they needed to refer to in this regard, which was the 1962 conveyance).</p>	
<p>Suggested Points for Response:</p>	
<p>i. The seller KOFI ATTARA and GRACE ATTARA both of 221 Newton Way, Truro, Cornwall TR1 1AT</p>	
<p>ii. The buyer GRAYSON'S BUILDERS LIMITED of 111 Parsons Way, Truro, Cornwall TR4 7HJ</p>	
<p>iii. The property The freehold land known as 221 Newton Way, Truro, Cornwall TR1 1AT more particularly delineated on the plan annexed to a Conveyance made 30th March 1964 between Haven Homes (Cornwall) Limited and Stella Cruise</p>	
<p>iv. The specified incumbrances The covenants conditions and provisions contained mentioned or referred to in a conveyance dated 18 December 1962 made between Joshua Cohen and Haven Homes (Cornwall) Limited (the 1962 Conveyance)</p>	
<p>v. The purchase price and the deposit;</p> <ul style="list-style-type: none"> • Purchase price : £675,000 • Deposit : £67,500 	
<p>vi. Contents price: £2,000</p>	
<p>vii. Any additional special conditions which will be added to the contract; In the Transfer to the Buyer, the Buyer will covenant with the Sellers to observe and perform the covenants contained, mentioned or referred to in the 1962 Conveyance and to indemnify the Sellers against any claims, losses, damages, costs or expenses resulting from any future breach thereof. Changing completion time to earlier than 2pm in the sale contract as these are linked transactions. Responses could include (on vii): Reference to a list of the fixtures (including the shed) to be attached to the contract.</p>	

Question 2a	5 marks
Most candidates could successfully explain the basic differences between an interest-only and repayment mortgage, but candidates were weaker at explaining what should happen at the end of an interest-only mortgage in order to pay off the capital (i.e. that there must be some other financial arrangement in place in order to pay off the capital).	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The monthly payments in a repayment mortgage consist of part capital repayment and part interest on the loan. • At the end of the repayment mortgage term the debt is repaid and no further money is due. • In interest-only mortgages, the borrower only makes interest payments each month and no capital repayment. • In an interest-only mortgage, this type of mortgage is not coupled with any other type of policy (in contrast to something like an endowment mortgage). • The interest-only mortgage is therefore normally only considered where the borrower has other financial arrangements in place for the eventual repayment of the capital (e.g. an ISA). <ul style="list-style-type: none"> ○ Board Resolutions required to approve loan and grant of security ○ Discussion of post meeting matters - filing requirements for security ○ Update Register of Charges ○ Form MR01, fee and security document to CH within 21 days of the date of creation of charge ○ HMLR registration of security over the building 	

Question 2b	11 marks
This question was answered reasonably well by most candidates. Most candidates were able to explain the differences between joint tenants and tenants in common and the vast majority of candidates identified that a beneficial tenancy in common would be most appropriate in this situation (where Mr Attara wanted to provide for his daughter after his death). However candidates do need to remember to explain the basics on a question like this i.e. why is a trust imposed in the first place in a co-ownership situation, and what the imposition of a trust actually does (i.e. splits the legal and equitable titles).	
Suggested Points for Response:	
<ul style="list-style-type: none"> • When more than one person buys a property, a trust of land is imposed over that property under the Trusts of Land and Appointment of Trustees Act 1996. • This splits the ownership of the property so that the legal title is held by trustees, on behalf of the beneficiaries, who own the beneficial title. • Where there are co-owners, the legal title is held in a joint tenancy... • ... however, the beneficial title can be held in either a joint tenancy or in a tenancy in common. • Holding the beneficial title in a joint tenancy means that there are no distinct shares in the property, the parties own it jointly. • If held as beneficial joint tenants, it also means that on the death of a co-owner, the surviving co-owner remains the owner of the whole legal and beneficial interest. This is known as the right of survivorship. • However, with a tenancy in common, each party can own a separate, distinct share. • The right of survivorship does not apply to beneficial tenancies in common, which means that on death, the owner's share passes via that co-owner's estate, either by will or intestacy. • A beneficial tenancy in common is therefore more suitable where purchasers want to make provision for someone else i.e. children, after the co-owner's death. • I would therefore advise my clients that although the legal title needs to be held as a joint tenancy, the beneficial title should be held as a tenancy in common. 	

- This will therefore allow Mr Attara to make provision for Maya in his will and leave his share of the property to her.

Question 2c	6 marks
Generally candidates scored well on this question, with many obtaining full marks. However, candidates should be reminded to ensure that the searches are sufficiently explained where the question has asked for this, and candidates also need to be more precise when describing certain searches i.e. some candidates simply mentioned a mining search without specifying the type of mining (tin or clay as the property was in Cornwall).	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Local Land Charges (LLC1) to determine if there are any local land charges affecting the property. • Enquiries of the Local Authority (CON29), which will determine whether the roads surrounding the block of flats are adopted, give a list of planning permissions, etc. • Drainage and water search (CON29DW), which will determine whether the property has mains drainage and water supply and is attached to the public sewerage system. • Environmental search to determine the possibility of contamination being present. • Flood search as the property is adjacent to a river. This will show whether the property is at risk of flooding. • Mining search (credit either a tin mining search or a clay mining search). This is location specific (Cornwall) and determines whether there is a risk of subsidence from mining activities. 	

Question 3a	11 marks
Candidates generally did not score well on this question. Whilst nearly all candidates had the ability to find the relevant clause in the lease relating to change of use, a number of candidates did not identify that planning permission should be sought for the change of use, and of those that did identify this, many of those candidates did not properly explain why a planning permission would be required in this scenario.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Under clause 6.12 of the Lease, the tenant can only use the property for residential purposes and not for any other use without the landlord's consent. • The Attaras will not therefore be able to run a café from the property unless they get the landlord's consent to do so. • The landlord cannot charge a fine or increase rent for granting consent to a change of use where no structural works are required (which appears to be the case here). • This is also likely to be considered development under the Town and Country Planning Act 1990... • ... because development also includes a material change of use. • The Town and Country Planning (Use Classes) Order 1987 (as amended) splits property uses into various categories. • Whilst a change of use within the same use class is not considered to be development, change of use to a different class is not permitted. • This is also not a change of use that would be permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015. • As such, the Attaras would also need to apply to the local planning authority for planning permission for change of use to open a café from the property. 	

Question 3b	5 marks
<p>Generally this question was answered reasonably well by a number of candidates, but a reasonable number of candidates were unable to identify that the biggest problem with this forfeiture clause was the fact it allows forfeiture on bankruptcy. Given this clause was in the Case Study Materials, that is disappointing as candidates should have picked that up before the exam. Stronger candidates had spotted this and knew what the UK Finance Mortgage Lenders' Handbook says about this, which was commendable.</p>	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The right to forfeit entitles a landlord to re-enter the property (i.e. to determine the lease and recover possession from the tenant) on the happening of specified events, in this case the tenant becoming bankrupt. • Where a tenant has acquired leasehold property with the assistance of mortgage finance and has charged the property as security for the amount advanced, the lender will lose its security if a specified event occurs during the term of the mortgage (in this case the tenant becoming bankrupt). • In a residential lease, it is considered to be unacceptable to allow for forfeiture in the case of bankruptcy of the tenant (section 5.14.2 of the UK Finance Mortgage Lenders' Handbook). • The Attaras are purchasing Flat 1 with a small mortgage from the National Westminster Bank plc. • As National Westminster Bank plc are only providing a small mortgage, they may possibly accept this clause as it is, however we will need to take their advice on this. 	

Question 3c	6 marks
<p>Generally this was answered well by candidates. The vast majority of candidates were able to identify that an NHBC Buildmark cover would apply in this scenario, and were able to sufficiently explaining this guarantee.</p>	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The lease was granted on 2 June 2018 with the term commencing on the same day. The property has therefore been built within the past ten years. • As such, we should check that a building scheme insurance cover will apply... • the most common form of which is NHBC Buildmark cover (will credit in the alternative mention of another type of cover). • Assuming this is NHBC, we are at the stage of cover for years 3-10 from legal completion and so NHBC provides insurance to cover major defects (above a certain sum) which will include structural defects. • This cover will end after 10 years though (which will be in 2028). • This cover will pass to the Attaras without any need for an express assignment. 	

Question 4a	6 marks
<p>Most candidates could identify that the sellers were holding the property as joint tenants (as there was no Form A restriction on the title), and were therefore able to identify the appropriate steps to take to reach completion. A number of candidates identified that it would be prudent to register a notice at the Land Registry for the contract if there was to be a delay, and many identified the need to notify the lender, which was commendable.</p>	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Mr and Mrs Phelps held both the legal estate and beneficial interest in Flat 1 in a joint tenancy. • This is because a 'tenancy in common restriction' has not been entered into the Proprietorship Register of the title for Flat 1. 	

- Under the survivorship rule, on Mrs Phelps' death, Mr Phelps now owns the whole legal estate and beneficial interest in the property.
- We will require the sellers' lawyer to send us an official copy of Mrs Phelps's death certificate which will be sent to HM Land Registry with our application to register title as evidence that Mrs Phelps has died and accordingly survivorship has occurred.
- The TR1 will also need to be amended prior to completion to remove Mrs Phelps as a transferor, thereby showing Mr Phelps as the sole transferor.
- As a party to the transaction has died, this may delay completion. If so, it is prudent to register the contract at HM Land Registry as an agreed notice so that our clients are protected against an attempted sale and/or any third-party dealings affecting Flat 1.

Question 4b

8 marks

Generally this question was not answered well. Many candidates were unclear on how the Law Society Code for Completion by Post works, and very few students identified that a receipt would need to be sent for the chattels. Candidates need to ensure that they understand, and can explain, these formulaic steps in a transaction.

Suggested Points for Response:

- Following completion of the sale of Newton Way, telephone the buyer's lawyer to inform them that the balance of the purchase money has been received...
- ... and that completion has occurred.
- The TR1 should be dated.
- Contact client's estate agent to confirm that completion has occurred and ask them to release the keys to the buyer.
- Post the following documents to the buyer's solicitors as soon as possible and in any event by the end of the working day following completion...
- ... executed and dated TR1...
- ... original deeds as per the Epitome of Title...
- ... a receipt for the chattels (garden shed sold for £2,000).

Question 4c

15 marks

Generally this was answered well. Many candidates were able to identify the registration and SDLT requirements, and most candidates discussed the requirements for post-completion from the lease, although there were some marks that were missed by the majority of candidates (such as identifying that the charge needed to be notified to the lessor and management company as well as the assignment).

Suggested Points for Response:

- Pay SDLT due on the purchase price to HMRC...
- ... using form SDLT 1 (land transaction return)...
- ... within 14 days of completion
- ... following which HMRC will provide an SDLT 5 certificate which will need to be submitted to HM Land Registry to prove that SDLT has been paid to HMRC.
- Register the assignment of the lease...
- ... and National Westminster Bank plc's charge at HM Land Registry...
- ... within the priority period of 30 working days from the date of the OS1 (search of whole) result...
- ... using Form AP1, along with...
- ... certified copy TR1...
- ... certified copy charge...
- ... SDLT 5

- Within one calendar month serve notice on the solicitors for the lessor, and the management company, of the assignment of the lease...
- ... and the charge...
- ... and pay the reasonable fees of the solicitors...
- ... as required under clause 6.17 of the lease of Flat 1.