



## **CHIEF EXAMINER REPORT**

**JUNE 2024**

**LEVEL 6 UNIT 9 - LAND LAW**

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the June 2024 examinations.

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

Candidates will have received credit, where applicable, for other points not addressed.

## Chief Examiner Overview

Several candidates provided strong answers, particularly those who thoroughly addressed all parts of each question. Excellence was demonstrated by candidates who detailed both the characteristics and creation methods of easements and effectively applied the rules for covenants. Recognising key terms, such as "Let," enhanced the accuracy of responses.

In Section B, top answers clearly applied the law to the specific issues, such as in the three-part question on mortgages. Candidates who selected relevant questions and focused on the specific issues showed a solid grasp of the laws and delivered insightful analysis, leading to stronger responses.

## 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 may be limited.

### Section A

Question 1a	9 marks
This question was crafted to balance a more challenging part (a) with a relatively straightforward and frequently covered topic in part (b). It appears that candidates could struggle with part (a) (Relativity of Title) but attempted the question because they were perhaps more familiar with part (b).	
Suggested Points for Response:	
<ul style="list-style-type: none"><li>• Explanation of concept of title;</li><li>• Identification of different legal estates in land;</li><li>• Recognition that more than one estate in the same land may exist;</li><li>• Recognition of equitable interests.</li></ul>	

Question 1b	16 marks
Candidates must be prepared to address all aspects of a topic area rather than focusing on just one.	
Suggested Points for Response:	
<ul style="list-style-type: none"><li>• Definition of land in statute;</li><li>• Recognition land includes corporeal and incorporeal hereditaments;</li><li>• Discussion of 3 dimensions of land e.g. airspace, below ground;</li><li>• Discussion of fixtures and fittings;</li><li>• Tests to determine between fixture and fitting;</li><li>• Case law to support the above.</li></ul>	

Question 2	25 marks
This question was relatively straightforward, and a descriptive answer would suffice. A number of candidates struggled despite this topic being a familiar one.	
Suggested Points for Response:	
<ul style="list-style-type: none"><li>• Explanation of ways in which land can be owned – joint tenancy and tenancy in common;</li><li>• Recognition that only joint tenancy at law;</li><li>• Explanation of severance – converting equitable joint tenancy into tenancy in common with effect of crystallising share;</li><li>• Severance by written notice;</li><li>• Severance by acting upon one's share;</li><li>• Severance by mutual conduct/ by mutual agreement;</li><li>• Case law to support the above.</li></ul>	

Question 3	10 marks
This two-part question covered an often-challenging topic on both registered and unregistered land.	
Suggested Points for Response:	
Part (a)	
<ul style="list-style-type: none"> <li>• Distinction between legal and equitable interests;</li> <li>• Recognition of which interests can be legal;</li> <li>• Principle legal interests bind the world;</li> <li>• Principle that equitable interests do not bind <i>bona fide</i> purchaser for value without notice (“equity’s darling”);</li> <li>• Discussion of notice e.g. constructive notice;</li> <li>• Protecting equitable interests under Land Charges Act 1972.</li> </ul>	
Part (b)	
<ul style="list-style-type: none"> <li>• Distinction between legal and equitable interests;</li> <li>• Recognition of importance of registration;</li> <li>• Principle that interests must be protected by entry upon register;</li> <li>• Interests which override.</li> </ul>	

Question 4	25 marks
This question covered the popular and frequently addressed topic of Proprietary Estoppel. Despite some candidates focusing on generic reviews rather than the specific focus on remedies, attempts were well crafted.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Explanation of doctrine of proprietary estoppel</li> <li>• Brief overview of requirements for estoppel to arise</li> <li>• Approach of giving effect to the promise</li> <li>• Approach based on detriment</li> <li>• Approach based on proportionality</li> <li>• Relevant case law.</li> </ul>	

## Section B

<b>Question 1</b>	25 marks
This question involved a regularly asked topic on constructive and resulting trusts, which well-prepared candidates could anticipate. The question facts related to two properties, but many candidates focused on one property and mostly or completely ignored the second. There were some excellent answers, but addressing only part of the question impacts on chances of performing well.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"><li>• Use of trusts as mechanism to establish and govern co-ownership of land;</li><li>• Identification of trusts arising by operation of law (resulting and constructive);</li><li>• Explanation of operation of resulting trust;</li><li>• Explanation of express common intention constructive trust;</li><li>• Explanation of implied common intention constructive trust;</li><li>• Discussion of quantification of shares in constructive trust;</li><li>• Relevant case law to support discussion.</li></ul>	

<b>Question 2</b>	25 marks
While the specific facts of the question were not overly complex, it appeared that many candidates did not fully appreciate them before answering, leading to the occasional incomplete or incorrect answers.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"><li>• Definition of easement;</li><li>• Identification and explanation of the four essential characteristics of an easement;</li><li>• Application of characteristics to Femi (especially accommodation of dominant tenement and ouster principle);</li><li>• Creation of easement by express grant and requisite formalities;</li><li>• Creation of easement by necessity;</li><li>• Creation of easement by common intention;</li><li>• Creation of easement by prescription;</li><li>• Relevant case law to support discussion.</li></ul>	

<b>Question 3</b>	25 marks
This question addressed a challenging but fundamental area of the subject – covenants - which is often examined.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"><li>• Definition of freehold covenant;</li><li>• Explanation that covenants will apply between original owners;</li><li>• Effect of privity regarding third party enforcement;</li><li>• Running of benefit of covenant in equity;</li><li>• Running of burden of covenant in equity;</li><li>• Running of benefit of covenant in common law;</li><li>• Running of burden of covenant in common law;</li><li>• Doctrine of mutual benefit and burden;</li><li>• Protection of interests by notice on register;</li><li>• Relevant case law to support discussion.</li></ul>	

<b>Question 4a</b>	9 marks
This question focused on the mortgagor's rights and offered a chance to delve into critical aspects of mortgage law. Candidates who engaged with this part had the opportunity to show their understanding of important concepts.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"> <li>• Definition of a mortgage;</li> <li>• Explanation of common law power to strike down oppressive or unconscionable terms;</li> <li>• Explanation of statutory protection against unfair credit relationships;</li> <li>• Application to the scenario;</li> <li>• Relevant law to support discussion.</li> </ul>	

<b>Question 4b</b>	11 marks
This question addressed a specific right of the mortgagee. This part aimed to test the ability to focus on detailed aspects of mortgage law. For those who tackled this section directly, it provided a platform to demonstrate their grasp of specific legal rights.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"> <li>• Explanation of immediate right to possession;</li> <li>• Discussion of how right should be exercised in practice;</li> <li>• Discussion of s36 Administration of Justice Act 1970;</li> <li>• Application to the scenario;</li> <li>• Relevant law to support discussion.</li> </ul>	

<b>Question 4c</b>	5 marks
This question provided a more straightforward element intended to help candidates balance the complexities of parts (a) and (b). However, many candidates struggled to fully utilise this structure to their advantage.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"> <li>• Identification of requirement for registration of interest;</li> <li>• Operation of s30 Land Registration Act 2002;</li> <li>• Application to the scenario;</li> <li>• Relevant law to support discussion.</li> </ul>	