



CHIEF EXAMINER REPORT

JUNE 2025

LEVEL 6 UNIT 20 – FAMILY LAW (PRACTICE)

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 2025 examinations.

The 'suggested points for responses' set 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

In some cases, candidates failed to achieve marks as they did not read and answer questions as instructed. Some included too much information ie appeared to be unable to be selective and to recognise what the question required.

With questions relating to factors (2(a), 3(b) and 4(b) some candidates did not achieve all marks available due to poor answer technique.

Some candidates simply listed the s25 factors but did not provide any explanation of the factor. They then proceeded to discuss information from the scenario but did not clearly link to the factors. To achieve marks fully candidates should:

- Identify the s25 factor
- Include a brief explanation
- Apply to the scenario.

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 1(a)	7 marks
Candidates needed to show knowledge and understanding (KUS) of domicile and habitual residence and apply to the scenario.	
Suggested Points for Response:	
<ul style="list-style-type: none">• Jurisdiction, or place where divorce takes place, can have important impact on financial settlement.• s5(2) Domestic and Matrimonial Proceeding Act (DMPA) 1973 sets out the basis on which a court has jurisdiction.• Involves considering both domicile and habitual residence.• Domicile is established at birth but can change. It indicates a person's main and permanent home.• Dan was born in England and now works in England so his country of domicile is England.• "habitual residence" involves considering a person's "centre of interests".• Dan's "habitual residence" has been England, then America when he lived and worked there but now reverts to England.• He can petition to an English court for a divorce as he is both domiciled and habitually resident in the UK but will need to wait 6 months from 1 March.	

Question 1(b)	5 marks
Higher-scoring candidates showed good understanding of no-fault divorce.	
Suggested Points for Response:	
<ul style="list-style-type: none">• s1 Divorce, Dissolution and Separation Act (DDSA) 2021.• Ground for divorce is irretrievable breakdown of marriage.• DDSA 2021 introduce "no fault" divorce.• The applicant(s) satisfy the ground by submitting a statement that the marriage has irretrievably broken down.• The other party, Matthew, cannot challenge the application.	

Question 1(c)	10 marks
Higher-scoring papers that showed a good working knowledge of the scenario were able to make relevant comments regarding the challenges of service as, with Matthew living in the USA, service would be outside the jurisdiction of an English court.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Complete and submit application form (on-line via divorce portal or by form D8 by post). • Need to send marriage certificate, certificate of reconciliation and fee. • Must also include a statement that the marriage has broken down irretrievably. • A copy of application must be served on Matthew, the respondent, together with an acknowledgement of service form which must normally be returned within 14 days (1) – but as Matthew is in America period is extended to 21 days. • The respondent can no longer contest the divorce, unless there is an issue with procedure. • Once service is acknowledged there is a 20 week “cooling off” period to consider position and sort out finances etc. • After 20 weeks can apply for a conditional order and if all documents in order a certificate of entitlement will be issued. • After 6 weeks and a day can apply for the final order which ends the marriage. • A divorce should be obtained within 6 months. 	

Question 2(a)	15 marks
<p>Higher-scoring papers did include the financial data included in the case study. Lower-scoring answers simply listed the s25 factors but did not provide any explanation of the factor. They then discussed information from the scenario but did not clearly link to the factors.</p> <p>Some candidates made reference to a clean break which would be relevant here and could be achieved by the husband taking out a mortgage on the property to be transferred to him.</p> <p>Some candidates recognised a possible issue re Hoskins Lodge which had been gifted to Mr and Mrs Hoskins by Mr Hoskins parents and therefore could be subject to a claim by Mr Hoskins that it was not a matrimonial asset.</p>	
Suggested Points for Response:	
<ul style="list-style-type: none"> • s25 Matrimonial Causes Act (MCA) 1973 - court must consider all the circumstances of the case, with the first consideration being any minor children. Here there are no minor children to consider. • If the court decides that it will consider making financial orders it must also consider other factors including those listed in s25(2). • S25(2)(a) Resources. <ul style="list-style-type: none"> • Realisable capital resources. • Unrealisable capital resources. • Earnings. • s25(2)(b) needs. • s25(2)(c): Standard of living. • Chaman v Charman [2007] and Miller v Miller [2006]. • s.25(2)(d): Age of parties and length of marriage. • s.25(2)(e): Disability of the parties. • s.25(2)(f): Contributions to the family. • s.25(2)(g): Conduct. • s.25(2)(h): any loss of benefit • Applying the yardstick of equality Mrs Hoskins would be entitled to at least £1,653,000, 50% of the total assets which Mr Hoskins current proposal does not provide and he should review his offer. 	

Question 2(b)	5 marks
<p>Higher-scoring answers included financial data and recognised that the proposal from Mr Hoskins did not reflect a 50/50 split and so was not fair, and they also suggested ways for addressing it.</p>	
Suggested Points for Response:	
<ul style="list-style-type: none"> • An equal division of the realisable assets would lead to Mrs Hoskins being entitled to £1,476,000. * Mr Hoskins current proposal falls short of this by £90,000. • If he takes transfer of Hoskins Lodge he would have the capacity to raise this money by taking out a mortgage. • An equal division of total assets would lead to Mrs Hoskins being entitled to £1,653,000. • The inequality of the parties pension funds should be addressed by Mr Hoskins by offering a pension sharing order. 	

Question 3(a)	12 marks
Higher-scoring candidates identified the order to be requested as instructed in the question, and made reference to the CA principles and factors in this section.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • M/s Jenkins should apply for a Child Arrangements Order (CAO) under s8 Children Act (CA) (1989) in order to formalise contact with Evie. • This is an order which states who a child should live with and who a child should have contact with and how contact should occur – it can be direct or indirect (e.g. phone calls, letters, texts). Mr Thomas would have to comply with the order. • As a grandparent M/s Jenkins does not come within the list of those automatically entitled to apply for a section 8 order under the Children Act 1989 (s.10(4) and (5)). • She will need leave of the court to apply for a CAO (s. 10(2)(b)). • The court would need to consider the application for leave (usually at a hearing) using the factors in s.10(9):- • The nature of the proposed application: <ul style="list-style-type: none"> • M/s Jenkins should be advised to apply for a CAO to identify when and how she should see and spend time with Evie. • The applicant's connection with the child: <ul style="list-style-type: none"> • The Court of Appeal has said that grandparents ought to have a special place in any child's affection worthy of being maintained by contact, <i>Re M</i> [1995] 2 FLR 86. • M/s Jenkins is Evie's maternal grandmother and so has a biological connection to her. Until recently M/s Jenkins was actively involved in Evie's life, providing childcare since birth while her mother worked and latterly when her mother was ill. • Any risk there might be of that proposed application disrupting the child's life to such an extent that he would be harmed by it: <ul style="list-style-type: none"> • In <i>Re M</i> the court said the risk had to be disruption to an extent that the child would be harmed by it. Harm here meant impairment of health and development. A child's upset unhappiness, confusion or anxiety needed to be particularly severe before it could amount to an impairment of emotional, social or behavioural development. • It is highly unlikely on the current facts that Mr Thomas could establish there is any risk of harm as Evie has until recently she had regular contact with her grandmother. In light of her mother's death, not allowing contact is likely to cause more harm. • Applying the s 10(9) criteria it therefore seems likely that M/s Jenkins would be granted leave to apply as she has a strong relationship with Evie. However, the fact that leave has been granted does not create a presumption in favour of a substantive order or elevate a person who is not a natural parent to the position of a natural parent. This would mean that the court would consider the application for the subsequent section 8 order separately. 	

Question 3(b)	18 marks
Higher-scoring candidates listed the CA principles and factors and provided an explanation. They then proceeded to discuss information from the scenario and linked it to the factors.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • In deciding whether to grant a s8 order, the court will consider the principles under the Children Act (CA) 1989. The “welfare principle” states that the welfare of the children will be the court’s paramount consideration. The welfare of the children must be considered above all other wishes including those of the parents. • The welfare checklist lists factors to be considered. • The court will also consider the no delay principle, the no order principle and the presumption of parental involvement. • The court will apply the s.1(3) welfare checklist. <ul style="list-style-type: none"> • The ascertainable wishes and feelings of the child (considered in light of age and understanding). • The child’s physical, emotional and educational need. • The likely effect on the child of any change in circumstances. • The child’s age sex, background etc. • Any harm that the child has suffered or is at risk of suffering. • How capable the parents or grandparents are of meeting the child’s needs. • The range of powers available to the court. • The court will decide this application in accordance with the welfare principle and so it is highly likely that the court will feel that the child arrangements order is in the best interests of Evie and make one in M/s Jenkins favour and may order that Evie live with M/s Jenkins and Tegan. 	

Question 4(a)	9 marks
Higher-scoring answers, in reference to occupation orders, made reference to the requirement that the parties be “personally associated” (Domestic Abuse Act 2021), formerly an associated person, and that the property needed to be the family home.	
Suggested Points for Response	
<ul style="list-style-type: none"> • A non-molestation order under s42 of the Family Law Act 1996 (FLA) will prohibit Mr Lamb from molesting (molestation includes a wide range of activities including physical abuse, threatening behaviour, coercive behaviour) Mrs Lamb or the twins. • In Mrs Lamb’s case, she needs protection from Mr Lamb who has been physically violent and has also been threatening (phone messages) and Mrs Lamb is increasingly fearful for her own safety and that of the twins and they do need somewhere to live safely. • A non-molestation order has an automatic power of arrest attached. If Mr Lamb does not comply Mrs Lamb can simply inform the police who will arrest Mr Lamb. • An occupation order under section 33 of the FLA 1996 will enable Mrs Lamb to request the court to allow her and the twins to continue to live in 12 Dene Court whilst excluding Mr Lamb from entering. • The application for the occupation order will be brought under s33 FLA as 12 Dene Court is owned by Mr Lamb but Mrs Lamb, as his wife, has home rights. • To qualify to apply for both orders Mrs Lamb must establish that she is “personally associated” with Mr Lamb, section 2(1) Domestic Abuse Act (DAA) 2021 – formerly was an associated person (which includes a range of relationships including spouse) under section 62 FLA. • Mrs Lamb is “personally associated” because she and Mr Lamb are married. • To qualify for an occupation order, the relevant property must be a dwelling intended to be the family home and 12 Dene Avenue meets the requirement as it is the family home. • An occupation can have a power of arrest attached if there has been violence or threats of violence, s47 FLA 1996. 	

Question 4(b)	19 marks
Higher-scoring answers focussed on the process of applying for an occupation order and made reference to considerations under s42(5) FLA 1996 in relation to an application for a non-molestation order.	
Suggested Points for Response	
<ul style="list-style-type: none"> • Non-molestation order. • Occupation order; the respective housing needs and housing resources of the parties and any child. • The respective financial resources of the parties. • The likely effect of any order or of any decision by the court not to make such an order on the health, safety and wellbeing of the parties and child. • The conduct of the parties in relation to each other and otherwise. • The court must also consider the balance of harm test under section 33 (7) FLA 1996. 	