



CHIEF EXAMINER REPORT

JUNE 2025

LEVEL 6 UNIT 21 – PROBATE 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

Candidates should make sure they have detailed knowledge of all the topics in the specification. Some candidates demonstrated good knowledge in some areas, but not in others.

Questions such as Q2a and 4b would have been answered better if candidates had used the statute book they are entitled to take into the exam. Topics such as the s9 formalities for executing Wills and guidelines in Family Provision claims would have been answered much better if use had been made of the statute book.

Candidates need to be very familiar with the case study materials in advance of the exam. In particular, candidates did not seem to have knowledge of Document 5 which related to Q3, and which clearly indicated that the administration of Karen Kelly's estate was nearing completion with the assets having been collected in and s27 advertisements having been made. Many candidates provided explanations of steps which had already been completed which will not yield any marks.

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.

Question 1(a)	5 marks
Higher-scoring answers would demonstrate knowledge about how shares are transferred to beneficiaries.	
Suggested Points for Response:	
<ul style="list-style-type: none">• Two stock transfer forms will need to be completed.• They must be signed by the personal representatives.• One must identify that Charles is to receive 25 shares, and the other that Donna is to receive 25 shares.• They must be sent to the registrar of the company / company secretary.• With Donna's share certificate.• And an office copy of the grant.	

Question 1(b)	5 marks
Higher-scoring answers explained the CGT consequences to the estate of the shares being transferred, not to the beneficiaries.	
Suggested Points for Response:	
<ul style="list-style-type: none">• Charles and Donna are specific legatees as they take 25 shares each under a testamentary disposition / Alison's Will.• For Capital Gains Tax (CGT) purposes they are deemed to acquire the shares at the date of Alison's death (15 July 2024).• At the probate value of the shares (£8,000 per share / £200,000 each).• And not at the value when the shares are transferred.• Nor at Alison's acquisition value in 2001 / when she inherited the shares from her father.• So the personal representatives / estate will have no liability for CGT in respect of the shares.• As the transfer of the shares on death is not a chargeable disposition for CGT purposes.	

Question 1(c)	15 marks
Higher-scoring candidates demonstrated knowledge and application of IHT business property relief, and this was a topic which was highlighted in the case study materials.	
Suggested Points for Response:	
<p><u>The relevant principles of Business Property Relief (BPR)</u></p> <ul style="list-style-type: none"> • BPR can reduce the value transferred of relevant business property for Inheritance Tax (IHT) purposes. • 100% relief is available for shareholdings in an unquoted company. • Which is trading at the date of death/transfer. • Subject to a condition that the transferor must have owned the business property /shares throughout a qualifying period of two years ending immediately before the transfer. • Where a lifetime transfer is made the conditions for the relief must be satisfied both at the time of the transfer and the time of death if the transferor dies within 7 years of the transfer. • This means that that the transferee must still own the relevant business property (or other property representing it) at the time of the transferor's death. <p><u>Whether BPR will be available if Brian transfers his shares now</u></p> <ul style="list-style-type: none"> • Brian's shares in Vintage Fare Ltd will be relevant business property as they are shares in an unquoted company. • However, even if Charles and Donna continue to hold their shares for at least 7 years / until Brian dies if earlier. • BPR will not be available to reduce the value transferred. • As Brian has only owned the shares since 6 April 2024 which is less than the two-year qualifying period. <p><u>Whether CGT will be payable if Brian transfers his shares now</u></p> <ul style="list-style-type: none"> • If Brian transfers his shares to Charles and Donna he will be making a chargeable gain for CGT purposes. • Being the difference between the disposal value (£8,050 per share) and his acquisition value (£7,975 per share) of the shares. • Which amounts to £3,750 (£75 per share). • He has an annual exemption of £3,000 (24-25) so £750 could be chargeable to CGT. • However, holdover relief could be available on the gain. • If Brian, Charles and Donna elect to claim the relief. • Holdover relief (under s165 Taxation of Capital Gains Act 1992) is available for the disposal of business assets. • Which are those used for the purpose of a trade, profession or vocation, which includes a restaurant business. • It includes shares in an unquoted company which Vintage Fare Ltd is. 	

Question 2(a)	18 marks
Higher-scoring answers demonstrated knowledge of the central topic of the s9 formalities for the valid execution of a Will, which are set out in the statute book candidates are entitled to take into the exam.	
Suggested Points for Response:	
<u>Valid execution</u> <ul style="list-style-type: none"> • For a Will to be validly executed it must comply with the four stages (formalities) set out in <u>s9 Wills Act 1837</u> for the signing and attestation of Wills. • Firstly, the Will must be in writing and signed by Fadi (or some other person in his presence and by his direction). • Ideally Fadi should also date the Will to prevent problems later. • Although lack of a date will not prevent the Will being valid. • The second stage is that Fadi should intend by his signature to give effect to the Will. • And this will be presumed if Fadi signs in pen / at the bottom of the Will. • The third stage requires two witnesses to be together in the same room as Fadi when he signs the Will. • Or acknowledges his signature if both witnesses did not see him sign the Will. • Finally, after Fadi has signed (or acknowledged) both witnesses must sign the Will in Fadi's presence. • Although there is no need for the witnesses to see each other sign. • And standard execution / attestation clauses indicate that the witnesses did sign in the presence of each other. • The attestation clause at the end of the Will which is drafted for Fadi will raise a presumption of compliance with the s9 formalities. <u>Arrangements for home execution</u> <ul style="list-style-type: none"> • The final copy of the Will could be sent to Fadi at home after he has approved a draft copy of it. • The draft could be sent by email to speed up the approval process. • With a letter explaining the execution process in detail. • And who might be suitable witnesses / who would not be suitable witnesses. • Alternatively, two independent witnesses from Kempstons could take the Will to Fadi's home. • This would have the advantage(s) of ensuring a valid execution / be faster than relying on the post / ensuring the independence of the witnesses / any other relevant advantage. <u>Why not remote witnessing</u> <ul style="list-style-type: none"> • Although video witnessing of Wills was permitted during Covid. • Its use was withdrawn from 1 February 2024 / not extended. • And no Will made on or after this date using video witnessing will be validly executed. 	

Question 2(b)	12 marks
Higher-scoring answers identified a possible money laundering situation. It is a criminal offence for all legal practitioners not to report suspicious activities to their firm's MLRO.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The sum of £25,000 in cash could be evidence of money laundering. • And Marcus will need to consider whether his concerns amount to a suspicious activity (under the Proceeds of Crime Act 2002). • He should make enquires / ask Ghada and Hakim if there is a legitimate reason for the cash. • Which can remove your concern that the money may be tainted by criminal activity. • And which can be backed up by some evidence. • Marcus might also consider whether the presence of cash fits in with what he knows about Fadi. • There is a disclosure regime for people working in a regulated sector. • Which makes it a criminal offence not to disclose a suspicion about a money laundering activity. • The duty applies to all solicitors doing regulated work. • And the administration of estates is a regulated activity. 	
<u>Conclusion</u>	
<ul style="list-style-type: none"> • The fact that Fadi was very private / a bit of a wheeler-dealer may mean that Ghada and / or Hakim are not able to remove your suspicions. • In which case Marcus must make a report to Kemptsons' Money Laundering Reporting Officer (MLRO). 	

Question 3(a)	10 marks
Higher-scoring answers covered the finalisation of an estate after the assets had been collected in rather than from the point of a grant of representation being obtained.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The duty which PRs have is to administer the real and personal estate of a deceased according to law. • Under s25 Administration of Estates Act 1925. • Includes a duty to submit the correct information to His Majesty's Revenue and Customs (HMRC). • And to correct / update the information where circumstances change. • By submitting Form C4 / a Corrective Account where too little (and / or too much) IHT has been paid. • Lisa and Mandy will need to report the increase in value of Karen's flat at 49A Barrett Road Hackney on the form. • From its previous / Probate value of £575,000 given in the IHT400 to its amended / sale value of £650,000. • Showing its increase in value of £75,000. • The value of the estate on the IHT has to be shown (£1,220,000) plus the value of the estate now (£1,295,000). • With a calculation of the total IHT now due (£518,000) and the IHT previously paid (£488,000) • Resulting in a further IHT liability of £30,000. • Plus interest on the unpaid tax. • Although HMRC only require a Form C4 to be submitted 18 months from the date of death (14 June 2024) or when the estate has been finalised. • If the change relates to an item of land this should be reported to HMRC at the time of the sale in this case. 	

Question 3(b)	10 marks
Higher-scoring answers covered the finalisation of an estate after the assets had been collected in rather than from the point of a grant of representation being obtained.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • After completing the Form C4 and paying the additional IHT, Lisa and Mandy will need to apply to HMRC for a discharge from further IHT liability. • By completing form IHT30 (and receiving SL120 back from HMRC). • They will need to register the estate with HMRC through its Trust Registration Service. • As the estate will be deemed a complex estate (because the proceeds of assets sold by the PRs are over £500,000). • And Lisa and Mandy will need to complete formal Income Tax (ICT) and CGT returns for each tax year during the administration period. • Paying any ICT and CGT which is due. • Then they will have to ascertain the amount of residue after administration expenses have been agreed [note CSM state all liabilities have been discharged after statutory adverts expired so no credit for this]. • And prepare / complete/ approve the estate accounts which should include capital, income and distribution accounts. • (No further) approval will be needed from Lisa for her half share of the residue, although she will need to provide a receipt for the money. • However, as Olivia and Paul are minors they will are not entitled to their respective quarter shares of residue until the reach 18 years of age. • So Lisa and Mandy will need to invest this money for them until they reach 18. • And can give a valid receipt for their shares of Kelly's estate. 	

Question 3(c)	5 marks
Data too limited for feedback.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • (Under s3 Trustee Act 2000 (TA 2000)) PRs have the power to invest the trust monies as if they were absolutely entitled to the assets of the trust. • Including (under s8 TA 2000) the power to acquire land. • And (under s34 TA 2000) the power to comprehensively insure land to the full value of the property. • (Under s31 Trustee Act 1925 (TA 1925)) they will have the power to apply any income for the maintenance, education or benefit of the minor (and must accumulate any surplus income). • (Under s32 TA 1925) they will also have the power to apply capital for the advancement or benefit of a beneficiary, up to the whole of that beneficiary's presumptive share. 	

Question 4(a)	8 marks
Candidates are reminded to study the conditions for being able to make an application for a grant of letters of administration online.	
Suggested Points for Response	
<ul style="list-style-type: none"> • Thomas and Violet should apply for a Grant of Letters of Administration (under rule 22 of the Non-Contentious Probate Rules 1987 (NCPR)) • (Under the Non-Contentious Probate (Amendment) Rules 2020) you can only apply for a grant of letters of administration online where all of the following conditions are met: • Firstly, there must only be one applicant who is the only person entitled to the estate • And as both Thomas and Violet are equally entitled this condition cannot be met; • The applicant must be a spouse / civil partner or sole child / adopted child of the deceased • And although Thomas and Violet are children there are more than one of them; • There must also be no claim on the estate; • And this condition will probably not be met as Sean is entitled to make a claim against the estate. • The other conditions will all have been met as Rita was domiciled resident in England and Wales, there is no minority interest in her estate, Thomas and Violet are able to make their own decisions and Rita died after 1 October 2014. (any two of these sufficient for mark) • And as not all of the conditions have been met Thomas and Violet cannot make their application online. 	

Question 4(b)	marks
Higher-scoring answers included the topic of family claims, utilising the I(PF&D)A 1975 as set out in full in the statute book. The law changed in 1996 to enable those living as man and wife to be treated more favourably than claimants (other than spouses). This is a topic which comes up in practice in significant numbers and candidates should ensure they are aware of the provisions in s3(3) of the Act.	
Suggested Points for Response	
<ul style="list-style-type: none"> • If a deceased died on or after 1 January 1996, • which Rita did as she died in June 2025 • a person can apply for financial provision if the intestacy does not make reasonable financial provision for them • and the intestacy rules do not make any financial provision for Sean • if during the whole of the period of two years ending immediately before the date when the deceased died • they were living in the same household as the deceased and <u>as the husband or wife</u> of the deceased (reference to cohabitants insufficient here). • Sean had been living with Rita since November 2009 and continued to live with her until her death • And appeared to be living as her husband as they had formed a relationship, and he had slept in her bedroom. • So Sean will be able to make a claim under this category (s1(1)(ba) Inheritance (Provision for Family and Dependants) Act 1975 (IPFDA)). • In addition to the general s3(1) IPFDA guidelines that the court looks at when considering claims the act also sets out additional guidelines for certain categories of claimant in s3(2), including those who are applying under s1(1)(ba). • The court will have regard to the age of the applicant and the length of the period during which they had lived as husband or wife of the deceased and in the same household as the deceased • And the contribution the applicant made to the welfare of the family of the deceased, (including any contribution made by looking after the home or caring for the family). • Sean is now 57 years old and has lived with Rita for 15 / 16 years in her household as if he was her husband 	

- He had contributed to the welfare of the family by meeting the household expenses which enabled Rita to pay the mortgage
- And they had all shared family holidays and leisure activities such as Sean taking Thomas to Kempston Rovers football matches regularly.