CILEX

CHIEF EXAMINER REPORT

JUNE 2026

LEVEL 6 UNIT 5 – EQUITY & TRUSTS

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 2026 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
Only 5 candidates sat the paper in this session.

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	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of: (i) what constitutes knowing receipt, and (ii) the test for liability (with specific reference to 'unconscionability' and detailed discussion of principles established in BCCI v Akindele (2001) and subsequent cases). • Discussion of: (i) what constitutes dishonest assistance, and (ii) the test for liability (with specific reference to 'dishonesty' and the more recent cases of Abou-Rahmah v Abacha (2007) and Starglade Properties Ltd v Nash (2010), which put earlier cases of Royal Brunei Airlines v Tan (1995), Twinsectra v Yardley (2002) and Barlow Clowes v Eurotrust (2006) in context).	

Question 2	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of separate evolution, principles and function of common law and equity, highlighting emergence of latter as a way of correcting the perceived injustices of the former, with reference to eg Earl of Oxford's Case (1615). • Discussion of Judicature Acts 1873 and 1875 in terms of whether they merely fused the courts or also fused the law: see eg Trustee of the Property of FC Jones & Son v Jones (1996), Westdeutsche Landesbank Girozentrale v Islington LBC (1996), Swindle v Harrison (1997) and MCC Proceeds Inc v Lehman Bros (1998). • Discussion of relevant equitable maxims as indicators of degree of fusion or continued separation ('equity follows the law' and 'equity will not suffer a wrong to be without a remedy' likely to be the most useful examples). • Better answers will note invocation of former in recent 'family home' cases, eg Stack v Dowden (2007), following on from adoption of the equitable constructive trust as a vehicle for achieving a just result (see eg Hussey v Palmer (1972) and Eves v Eves (1975)) and rejection of restrictiveness represented by, eg Lloyds Bank v Rosset (1991). • Discussion of use of equitable remedies in legal actions (eg use of injunctions (credit citation of any relevant authority).	

Question 3(a)	8 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of differences, eg equitable remedies only available when common law damages inadequate, whether remedies discretionary or available as of right, whether remedy acts in rem or in personam. Candidates may well not cite any case law, but if they do it can be credited (within the 6 marks maximum available for discussion (as above)). • Reference to equitable maxims.	

Question 3(b)	17 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Outline of how the remedy of specific performance is consistent with the matters identified in the answer to part (a). • Citation of authorities which illustrate that consistency, eg Cohen v Roche (1927), Sky Petroleum Limited v VIP Petroleum Limited (1974), Beswick v Beswick (1968).	

Question 4	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of the separate nature of discretionary trusts and powers, and the key distinctions between them. • Discussion of relevant authorities discussing the distinction and/or the process of distinguishing between the two as a matter of construction/interpretation, eg Re Weekes' Settlement (1897), Re Combe (1925) and Burrough v Philcox (1840). • Discussion of the earlier significance of the distinction in terms of certainty of objects, but how that distinction has now largely disappeared following McPhail v Doulton (1971). • Discussion of the residual areas of distinction – eg imposition of fiduciary duties in the case of a trust and the duties, remedies and sanctions which arise as a result.	

Section B

Question 1	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	

- A brief contextual discussion re express trusts, resulting trusts and common intention constructive trusts (express and implied).
- Detailed discussion re express and implied common intention constructive trusts (including citation of relevant authority, and with reference to the factors referred to in Stack v Dowden (2007) and Jones v Kernott (2011)). The discussion must draw a clear distinction between qualification and quantification).
- Application of the stated law to the facts re Bettina, including: (i) the impact of the transfer into Anton's sole name on her payment of the deposit, (ii) her contributions towards the living expenses, (iii) her payments towards the mortgage, (iv) the apparent absence of any oral discussions and/or common understanding, (v) the possible size of any share.
- Discussion of the law of proprietary estoppel, with reference to relevant authorities, eg Gillett v Holt (2000), Thorner v Major (2009) and Davies v Davies (2016).
- Application of the stated law to the facts to identify factors for or against the conclusion that Chris has an interest in the property.
- Discussion of the award which would be sufficient to satisfy any equity that Chris may have, with reference to relevant authorities, eg Dodsworth v Dodsworth (1973) and Jennings v Rice (2003).

Question 2	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	

- Meaning of 'charity', with reference to advancement of education (CA 2011, s 3(1)(b)).
- Discussion of 'public benefit' requirement: are pupils a section of the public (eg Re Compton (1945), Oppenheim v Tobacco Securities (1951), Independent Schools Council v Charity Commission for England and Wales (2011)).
- If gift fails as a charitable trust, may be valid as non-charitable purpose trust for the benefit of ascertainable beneficiaries (eg Morice v Bishop of Durham (1804) and Re Denley (1969)).
- Recognition that KLS is an unincorporated association (UA) (eg Conservative and Unionist Central Office v Burrell (1981)) and discussion of the problems re gifts to UAs.
- Could gift be saved using eg Re Recher (1972) or Re Grant (1979))? Is it capricious or serving no useful purpose (Brown v Burdett (1882))?
- Discussion re requirements for valid secret trust over residuary estate (eg Wallgrave v Tebbs (1855), Kasperbauer v Griffith (2000), Moss v Cooper (1861), Re Keen (1937)).
- Conclusion that trust appears valid; if so it is a non-purpose trust within Re Endacott exceptions (eg Pettingall v Pettingall (1842), Re Dean (1889), albeit would a modern-day court apply perpetuity rule more stringently than in earlier cases.

Question 3(a)	12 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Farmhouse - discussion of investment powers, standard of care, standard investment criteria, duty to take appropriate advice, all in terms of relevant provisions of TA 2000. Although there is no indication that K owes a higher standard, there appear to be breaches of duty re the other elements. Remedies include an account and reparation claim re consequential losses. K cannot claim consent (only India was involved in the decision). TA 1925, ss 61 and 62 should be considered.	

Question 3(b)	6 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• £3,000 - receipt of a secret commission is a breach of fiduciary duty, specifically the no profit rule. Liability for a breach of this rule is strict (Williams v Barton (1927)). Applying AG for HK v Reid (1964) and FHR v Cedar Capital (2014), a proprietary claim is always available for a secret commission. Therefore the beneficiaries can claim a constructive trust over the money in the account, and then trace into the antique vase. No defences will be available for this type of claim. Boardman v Phipps (1966).	

Question 3(c)	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• The investment opportunity arose out of K's role as a fiduciary. He is not entitled to exploit it for his personal benefit. It is irrelevant that India declined the opportunity to invest (even if she could be regarded as speaking for the minor beneficiaries). It is equally irrelevant that K may well have been acting in good faith (Regal (Hastings) Ltd v Gulliver [1942)). This is a breach of both the no conflict and no profit rules. There is no defence (see above). K will have to account for the profit he has made.	

Question 4	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• General discussion re three certainties and Knight v Knight (1840). • Legacy (1) - Discussion of certainty of subject matter, with reference to Palmer v Simmonds (1854). Recognition that discretionary trust element is immaterial in light of failure re subject matter. • Legacy (2) - Discussion of certainty of intention, with reference to Lamb v Eames (1871). Discussion re interpretation of provision in light of imperative words used elsewhere. • Legacy (3) - Discussion re certainty of subject matter. Discussion re administrative difficulties (including reference to R v District Auditor ex p West Yorks CC (1986)) and possible directions.	