

Title:	(Unit 7) Family Law
Level:	6
Credit Value:	15

LEARNING OUTCOMES		ASSESSMENT CRITERIA	KNOWLEDGE, UNDERSTANDING AND SKILLS
THE LEARNER WILL:		THE LEARNER CAN:	
1. Understand the underlying legal principles of marriage	1.1	Identify sources of relevant family law including statutes and common law	1.1 A clear understanding of the breadth of relevant legislation: <ul style="list-style-type: none"> eg, Marriage Acts 1949-1994, Matrimonial Causes Act 1973 (MCA 1973), Civil Partnership act 2004 (CPA 2004), Gender Recognition Act 2004 (GRA 2004), Children Act 1989 (CA 1989), Family Law Act 1996 (FLA 1996), Trusts of Land and Appointment of Trustees Act 1996 (TLATA 1996). Reference to the introduction of Marriage (Same Sex Couples) Act 2013, The Children and Families Act 2014, the Civil Partnerships Marriages & Deaths (Registration etc.) Act 2019, the Divorce, Dissolution and Separation Act 2020, the Domestic Abuse Act 2021 and the Marriage and Civil Partnership (minimum age) Act 2022.

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<p>1.2 Explain common law definitions of marriage</p>	<p>1.2 Marriage as a legal relationship: ‘Voluntary union for life of one man to one woman to the exclusion of all others’;</p> <ul style="list-style-type: none"> • relevant case law and statutes, eg, <u>Hyde v Hyde and Woodmansee</u> (1866), Marriage Act 1949; an explanation of consortium rights.
<p>1.3 Analyse the requirements for valid marriage</p>	<p>1.3 Explanation of capacity and formalities in marriage, eg, the parties must be married only to each other (monogomy), the parties must not be within the prohibited degrees the outcomes in <u>Corbett v Corbett</u> (1970); <u>Attorney-General v Akhter & ors</u> (2020)</p> <ul style="list-style-type: none"> • <u>Bellinger v Bellinger</u> (2001), <u>Goodwin v UK</u> (2002); • <u>I v UK</u> (2002), <u>Rees v UK</u> (1987), <u>Cossey v UK</u> (1991) or other relevant case law; • the impact of Articles 8, 12 and 14 European Convention on Human Rights; a summary of the necessity of formalities and impact of jurisdiction in relation to a valid marriage; a summary of the 4 main types of ceremony recognised by law; • analysis of how Marriage Act 1949 governs formalities, eg, must have 2 witnesses, and analysis of those defects which would invalidate a marriage under s25, s49 and s48 Marriage Act 1949. • the increased minimum age of marriage under The Marriage and Civil Partnership (minimum age) Act 2022.

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<p>1.4 Explain the importance of the Gender Recognition Act 2004</p>	<p>1.4 Explanation of Gender Recognition Act 2004;</p> <ul style="list-style-type: none"> • which provides for a gender certificate to be issued which entitles applicant to a new birth certificate for their acquired gender; • analysis of the criteria required to satisfy Gender Recognition Panel under s2 GRA 2004, s.3 GRA 2004 evidence required, and the effects of GRA on married applicants, eg, new ground for a voidable marriage and nullity petition must be issued within 6 months of the issue of interim gender recognition certificate
<p>1.5 Analyse the concept of domicile and foreign marriages</p>	<p>1.5 The importance of the concept of domicile:</p> <ul style="list-style-type: none"> • governs an individual's capacity to marry and validity of the marriage, as domicile links a person with a legal system; • reference to Domicile and Matrimonial Proceedings Act 1973, analysis of the ways in which it can be acquired; ie, application, capacity and validity of marriage; • relevant case law <u>Irvin v Irvin</u> (2001), <u>Agulian v Cyganik</u> (2006); • circumstances when a marriage celebrated abroad will be recognised in England and Wales; • the role of domicile and validity under English law; relevant case law and statute: eg, <u>Cheni v Cheni</u> (1962), <u>Hussein v Hussein</u> (1982), <u>Mohammed v Knott</u> (1969) s47 MCA 1973.
<p>1.6 Analyse the importance of consortium in marriage</p>	<p>1.6 Analysis to distinguish obligations and rights conferred by marriage and how these rights can be lost, illustrate with case law such as <u>Best v Samuel Fox & Co</u> (1952). Consider the differences between same sex marriages and heterosexual marriage and the impact of consortium in both.</p>

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	1.7	apply the law on the underlying principles of marriage to a given situation	1.7	Application of the law to a complex scenario.
	1.8	Critically evaluate a given issue or situation to predict probable legal implications	1.8	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
2. Understand the underlying legal principles of adult partnerships	2.1	Analyse the legal differences between marriage and cohabitation	2.1	<p>An understanding of the rights of partners in marriage, eg, financial support, rights of occupation, property award, children issues, rights to application of sec 8 orders under Children Act 1989;</p> <ul style="list-style-type: none"> • heterosexual cohabitation as an alternative to marriage; • financial support; • property rights; analysis of how cohabitation contracts are becoming popular due to social change and importance in financial matters on breakdown of a relationship; • summary of how court may uphold such contracts as found in relevant case law such as, eg, <u>Sutton v Mishcon de Reya and Another</u> (2004); <u>Gow v Grant</u> (2012) impact of law commission report – cohabitation: • the Financial Consequences of Relationship Breakdown 2007 • Cohabitation Rights Bill.

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<p>2.2 Analyse the main provisions of the Civil Partnership Act 2004</p>	<p>2.2 The purpose and features of CPA 2004, requirements of capacity (s.3(1) CPA 2004) and formalities similar to marriage, allowing same sex partners to register partnerships and have legal rights similar to those of married couples, eg, property rights, financial and inheritance provisions, pension rights; relevant case law, eg, <u>Wilkinson v Kitzinger</u> (2006);</p> <ul style="list-style-type: none"> • impact of Marriage (Same Sex Couples) Act 2013 extension of civil marriage to same-sex couples/existing civil partners to convert civil partnership into a marriage; • protection from violence and molestation: similar rights to those who are married e.g. applying for non-molestation and occupation orders. an analysis of the following CPA 2004 provisions: • financial and property awards on breakdown of civil partnership: • s44 Civil Partnership Act 2004; • Separation Order: • s56 Civil Partnership Act 2004; • Articles 8, 12 and 14 ECHR. the extension of the Civil Partnership Act to heterosexual couples, <u>Steinfeld and Another v Secretary of State for Education</u> Supreme Court decision (2018), the Civil Partnerships Marriages & Deaths (Registration Etc.) Act 2019 and the Civil Partnership (Opposite Sex Couples) Regulations 2019
<p>2.3 Apply the law on the underlying legal principles of adult partnerships to a given situation</p>	<p>2.3 Application of the law to a complex scenario.</p>

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	2.4 Critically evaluate a given issue or situation to predict probable legal implications	2.4 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
3. Understand the underlying legal principles of nullity in marriage	3.1 Explain statutory provisions of invalidity and annulment in marriage 3.2 Analyse the legal consequences of a void marriage	3.1 An explanation of sections 11, 12 and 13 of Matrimonial Causes Act 1973; <ul style="list-style-type: none"> • S.49 and S.50 CPA 2004; • Family Law Act 1986; • differentiation between void and voidable marriages; • recognition of the importance of an overseas nullity of marriage order, divorce order and legal separation as described in s46(1) and (2) Family Law Act 1986; • relevant case law, eg, <u>Dredge v Dredge</u> (1947), <u>Baxter v Baxter</u> (1947), <u>S v S</u> (1962), <u>Ford v Ford</u> (1987), <u>Morgan v Morgan</u> (1959), <u>Mehta v Mehta</u> (1945), <u>Singh v Singh</u> (1971); <u>Szechter v Szechter</u> (1971); • <u>Hirani v Hirani</u> (1982); • <u>H v H</u> (1954); • <u>P v R (Forced Marriage: Annulment: Procedure)</u> (2003) • <u>K v K</u> (2016) EWHC 3380 (fam). 3.2 An explanation of s11 of MCA1973, the grounds and the impact of bars under s13 MCA 1973 on the granting of an order; <ul style="list-style-type: none"> • analysis of the main legal consequences of a void marriage, re property, descendants, inheritance and finance, e.g., effects on the granting of an order on children, property and financial orders available to either spouse, effect on wills and inheritance, relevant case law.

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	<p>3.3 Analyse the legal consequences of a voidable marriage</p>	<p>3.3 An explanation of s12 MCA 1973, the grounds and the impact of bars under s13 MCA 1973 on the granting of an order;</p> <ul style="list-style-type: none"> • s.16 MCA 1973 analysis of the main legal consequences of a voidable marriage, re property, descendants, inheritance and finance, e.g. effects of the granting of an order on property; • <u>Re Roberts (deceased)</u> (1978), and financial orders available to either spouse; Matrimonial Causes Act 1973, and effect on wills; s.18a Wills Act 1837, and effects on inheritance; Inheritance (PFD) act 1975. •
	<p>3.4 Explain the jurisdiction of the courts in England and Wales when considering petition cases for nullity</p>	<p>3.4 An explanation of the requirements for jurisdiction;</p> <ul style="list-style-type: none"> • reference to Brussels II Revised and Domicile and Matrimonial Proceedings Act 1973, an identification of the importance of domicile/habitual residence and its effects with supporting case law, eg, <u>Kapur v Kapur</u> (1985); • <u>Armstrong v Armstrong</u> (2003); • <u>Mark v Mark</u> (2006); • <u>Marinos v Marinos</u> (2007).
	<p>3.5 Explain, in outline, the acceptance of foreign nullity of marriage orders by courts in England and Wales</p>	<p>3.5 Explanation of the requirements set out in s46 Family Law Act 1986 recognising that if s46 is fulfilled, then it is still possible that the order may not be recognised as found in s51 Family Law Act 1986.</p>
	<p>3.6 Apply the law on the underlying legal principles of nullity to a given situation</p>	<p>3.6 Application of the law to a complex scenario.</p>
	<p>3.7 Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>3.7 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate</p>

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4. Understand the underlying legal principles of dissolution of marriage, civil partnership and judicial separation	4.1 Explain the requirements for divorce	4.1 An explanation of divorce law as found in Matrimonial Causes Act 1973 (as amended by the Divorce, Dissolution and Separation Act 2020); <ul style="list-style-type: none"> • ground for divorce in s.1 MCA 1973, s.3 (1) MCA 1973 and s.3(2) MCA 1973; • a clear understanding of these provisions;
	4.2 Analyse the requirements of a conditional order and final order	4.2 Analysis of court's requirements under the MCA 1973; <ul style="list-style-type: none"> • the process for divorce under s1(2)-(5) MCA 1973; • to include statement findings of reconciliation in Family Procedure Rules 2010 and s6(1) MCA 1973; • circumstances when the court will delay granting of a final order under s.10 MCA 1973.
	4.3 Explain the law on divorce and dissolution of religious marriages	4.3 An explanation of the divorce (Religious Marriages) Act 2002 identifying why it was introduced, its key provisions and the remedies it provides.
	4.4 Explain the legal requirements on dissolution of civil partnerships	4.4 An explanation that civil partnership can only be brought to an end by a court order or if one of the parties dies; <ul style="list-style-type: none"> • reference to S.44 CPA 2004 irretrievable breakdown (as amended by the Divorce, Dissolution and Separation Act 2020), s.41 CPA 2004 one year rule, and reference to S.37 and S.38 CPA 2004; • the court has powers to grant 3 orders; • a Dissolution order only if the parties have been married for a year; • a Separation order under s.56-s.57 CPA 2004 which can be applied for at any time; • an order of Annulment.

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	<p>4.5 Analyse the requirements for judicial separation</p>	<p>4.5 An explanation that parties to judicial separation can institute proceedings under s17 MCA 1973 (as amended by the Divorce, Dissolution and Separation Act 2020);</p> <ul style="list-style-type: none"> • ground for judicial separation order under s.17(1); • a clear understanding of this provision; • implications of a refusal under s.41 MCA 1973; • analysis of the following: financial relief available on separation under ss23, 24 and 24a MCA 1973; including the case of <u>AR v JR</u> (2018) • parties relieved from duty to cohabit; • neither party may succeed to property on the intestacy of the other; parties cannot re-marry.
	<p>4.6 Apply the law on dissolution of marriage, civil partnership and judicial separation to a given situation</p>	<p>4.6 Application of the law to a complex scenario.</p>
	<p>4.7 Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>4.7 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>

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<p>5.3 Analyse those orders available for non-molestation and protection from violence</p>	<p>5.3 Analysis of the importance of s42 Family Law Act 1996, clarifying court's power to make an order/s as part of ancillary or other family proceedings under s42 FLA 1996; orders and criteria for without notice orders under s45 FLA 1996;</p> <ul style="list-style-type: none"> • Undertakings; • S46 FLA 1996; • Enforcement and the impact of s.42a FLA 1996 since DVCVA 2004: • S47 FLA 1996; relevant case law examples to include; <u>C v C (Family Division)</u>(1998), <u>George v George</u> (1986) and <u>Vaughan v Vaughan</u> (1973); • And on enforcement <u>Hale v Tanner</u> (2000) consideration of the Protection from Harassment Act 1997 which states any person may apply for order; • Summary of requirements, s.2, s.2a, s.3, s.4, s.4a and s.7 specific reference to s3(3) PHA 1997.
<p>5.4 Apply the law on protection from violence and non-molestation to a given situation</p>	<p>5.4 Application of the law to a complex scenario</p>
<p>5.5 Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>5.5 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>

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<p>6. Understand provisions for family property and ownership</p>	<p>6.1 Explain the effects on property rights of a breakdown of relationships</p>	<p>6.1 An explanation of the property rights of cohabitants, civil partners and married couples;</p> <ul style="list-style-type: none"> • relevant case law <u>Pettitt v Pettitt</u> (1970), <u>Gissing v Gissing</u> (1971) effects of relevant legislation: • Married Women’s Property Act 1882 (MHPA) and the procedure to determine property rights under s17 MHPA 1882; the Law of Property Act 1925 which deals with legal and beneficial interests in land; • Trusts of Land and Appointment of Trustees Act 1996 and powers of sale under ss14 and s15 TLATA 1996; Schedule 1 CA 1989 which deals with financial provision for children.
	<p>6.2 Analyse the impact of express and implied trusts on family property</p>	<p>6.2 An analysis comprising of the following headings at a minimum:</p> <ul style="list-style-type: none"> • monetary, gifts and family home; identification of implied trusts detailing different factors courts will take into account for spouses/civil partners and cohabitants clarifying impact of relevant case law, eg,) <u>Lloyds Bank Plc v Rosset</u> (1990); • <u>Grant v Edwards</u> (1986); • <u>Midland Bank v Dobson</u> (1986); • <u>Oxley v Hiscock</u> (2004); • <u>Stack v Dowden</u> (2007); • <u>Fowler v Barron</u> (2008), <u>Abbott v Abbott</u> (2008), <u>James v Thomas</u> (2008), <u>Jones v Kernott</u> (2011) <u>Vapehorn v Harris</u> (2015). • identifying and distinguishing sole name constructive trusts and joint name constructive trusts; a summary of the powers of court to order sale of property under s17 MHPA 1882 and s14 and s15 Trusts of Land and Appointment of Trustees Act 1996; and relevant case law such as <u>Hudson v Hathway</u> (2022) • establishing the size of the beneficial interest and relevant case law <u>Crossley v Crossley</u> (2005), <u>Aspden v Elvy</u> (2012), analysis of Law Commission Report 2007 entitled Cohabitation: • the Financial Consequences of Relationship Breakdown; • impact of Human Rights Act 1998 Art 8 ECHR.

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	6.3 Analyse acquisition, protection and enforcement of home rights in Family Law	6.3 Analysis of definition of home rights for married couples or Civil Partners under s30(2) FLA 1996; <ul style="list-style-type: none"> analysis of the ways in which home rights can be acquired, including s30(9) FLA 1996 which extends home rights; analysis to include registration of rights.
	6.4 Apply the law on provisions for family property and ownership to a given situation	6.4 Application of the law to a complex scenario.
	6.5 Critically evaluate a given issue or situation to predict probable legal implications	6.5 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
7. Understand provisions for financial relief during and after marriage/civil partnership	7.1 Explain the financial relief available after marriage/civil partnership	7.1 An explanation of financial provision available after marriage: <ul style="list-style-type: none"> Financial remedy orders, eg, maintenance pending suit: s22 MCA 1973; Periodical payment orders: s23(1)(a) MCA 1973; Lump sum orders: s23(1)(c) MCA 1973; Pension orders: s25B and 25C MCA 1973; Property adjustment orders and relevant case law; <u>Mesher v Mesher</u> (1980) and <u>Martin v Martin</u> (1977): S24 MCA 1973; Child orders and orders for sale: S24A MCA 1973;

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<p>7.2 Analyse the factors considered by the court in making an ancillary relief order</p>	<p>7.2 Analysis of s25 MCA 1973 factors - first consideration to welfare of minor child;</p> <ul style="list-style-type: none"> • <u>B v B</u> (2002), <u>Fisher-Aziz v Aziz</u> (2010) clean break provisions in s.25A MCA 1973 and the S.25 statutory factors, the existence of pre and post nuptial agreements and appropriate and relevant case law which includes: • e.g <u>White v White</u> (2000) and its impact on financial relief, and subsequent case law, eg, <u>Miller v Miller</u> (2006); • <u>McFarlane v McFarlane</u> (2006); • <u>Charman v Charman</u> (2007); • <u>L v L (Financial Relief)</u> (2008); • <u>Lambert v Lambert</u> (2003); • <u>M v M</u> (2002); • <u>K v K</u> (2003); • <u>Ella v Ella</u> (2004); • <u>McLeod v McLeod</u> (2009); • <u>Radmacher v Granatino</u> (2011), <u>HOL</u>, <u>Kremen v Agrest</u> (2012), <u>MN v AN</u> (2023); • <u>WC v HC (Financial Remedies Agreements)</u> (Rev 1) (2022); • <u>V v V</u> (2012); • <u>Sharland v Sharland</u> (2015) and <u>Gohil v Gohil</u> (2015); and <u>Vince v Wyatt</u> (2015); • a summary of matters the court must consider when exercising its discretion to make orders. Reference to the divorce (financial provision) bill and law commission report on marital property, needs and agreements. family justice council guidance on financial needs on divorce. • a discussion of ‘forum shopping’ for divorce with reference to <u>Potanina v Potanin</u> (2024).
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<p>7.3 Analyse financial relief orders available for children</p>	<p>7.2 Analysis of the definition of “child of family” under s52(1) MCA 1973;</p> <ul style="list-style-type: none"> • a clear understanding of Child Maintenance Service is the natural point for child support maintenance, including an understanding of when the CMS will have jurisdiction with reference to the duty to maintain under s1 Child Support Act 1991 and the definitions of ‘qualifying children’, ‘absent parent’ and ‘person with care’ under section 3 Child Support Act 1991 and the requirement for habitual residence under s44 Child Support Act 1991. Welfare Reform Act 2012. • an understanding of how child maintenance will be calculated by the CMS • importance of top-up maintenance and of those orders available for the benefit of children, eg, periodical payments orders: • s23(1)(d) MCA 1973; • lump sum orders: • s23(1)(f) MCA 1973; • Property adjustment orders: ss24(1)(a) and (b) MCA 1973; • a summary of matters the court must consider when exercising its discretion to make orders under s25(1) MCA 1973; • court must consider criteria under s25(4) MCA 1973 when making orders against a non-parent, s29 MCA 1973 duration of orders. • an understanding of the Child Support Collection (Domestic Abuse) Act 2023 and the approach that the CMS can take in cases where there is domestic abuse. • a summary of matters the court must consider when exercising its discretion to make orders under s25(1) MCA 1973; • court must consider criteria under s25(4) MCA 1973 when making orders against a non-parent, s29 MCA 1973 duration of orders. • an understanding of the Child Support Collection (Domestic Abuse) Act 2023 and the approach that the CMS can take in cases where there is domestic abuse
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	<p>7.4 Explain the powers of the court to vary or discharge orders of financial relief</p>	<p>7.4 A brief explanation of the powers to vary and discharge as found under s31 MCA 1973;</p> <ul style="list-style-type: none"> • an identification of reasons why applications for variation and discharge mostly relate to periodical payments; • a summary of factors the court must consider when exercising its discretion to make orders and relevant case law including <u>North v North</u> (2007), <u>Grey v Grey</u> (2010), and <u>W v W</u> (2015) <u>EWCA Civ 2012</u>, <u>Mills v Mills</u> (2017) <u>EWCA Civ 129</u> and Supreme court decision.
	<p>7.5 Identify the impact of Human Rights Act 1998 on ancillary relief proceedings</p>	<p>7.5 The impact of Human Rights Act 1998 Articles 6 and 8 ECHR, <u>DWP ex parte Kehoe</u> (2005).</p>
	<p>7.6 Analyse the circumstances for an order of financial relief during marriage/civil partnership</p>	<p>7.6 Analysis of circumstances when orders may be applied for and granted analysis of powers available to family court under (DPMCA 1978);</p> <ul style="list-style-type: none"> • a summary of orders available under and factors under s1 and s2 DPMCA 1978; identification of welfare benefits available for spouse and children. Reference to Welfare Reform Act 2012.
	<p>7.7 Analyse the legal requirements for maintenance agreements</p>	<p>7.7 An explanation of the formality requirements when making a maintenance agreement;</p> <ul style="list-style-type: none"> • analysis of definitions as clarified under s34(2) MCA 1973; • analysis of effects of ss34-36 MCA 1973 which contains special rules applied to agreements. Reference to relevant case law including <u>Edgar v Edgar</u> (1980), <u>Ratcliffe v Ratcliffe</u> (1962).
	<p>7.8 Apply the law on financial relief to a given situation</p>	<p>7.8 Application of the law to a complex scenario.</p>

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	7.9 Critically evaluate a given issue or situation to predict probable legal implications	7.9 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate
8. Understand the legal basis of parental responsibility	8.1 Identify the legal basis of parentage in family law	8.1 Identification of who is the “parent” as a legal definition with relevance of legitimacy; <ul style="list-style-type: none"> • a clear understanding of principles which determine parentage identified in s26 and s20(1) Family Law Reform Act 1969 (FLRA); • the importance of Family Law Reform Act 1969; • the impact of legitimacy in subsequent marriage; • children of void and voidable marriages; children born by donor or artificial insemination; surrogacy; • reference to the Surrogacy Arrangements Act (1985), Human Fertilisation and Embryology Act 2008 and relevant case law <u>re M (Sperm Donor: Father) (2003)</u>, <u>RE: X & Y (2012)</u>, <u>RE: D & L (Surrogacy) (2013)</u>, <u>A v P (Surrogacy) (2011)</u>, identification of evidence required to prove parentage with relevant case law <u>RE T (Paternity: Ordering Blood Tests) (2001)</u> <u>RE Z (a child) (no 2) (2016)</u> declaration of incompatibility with Art 8 and 14 ECHR, <u>AB v CD (2015)</u>. • introduction of the HFEA 2008 (remedial) Order 2018 • Law Commission working on a review of surrogacy arrangements in its 13th programme of reform.

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<p>8.2 Analyse the factors the court will consider in parentage identification cases</p>	<p>8.2 An explanation of the orders available from the court to determine parentage;</p> <ul style="list-style-type: none"> • A summary of scientific tests to evidence parentage of child; • And a child applying for a declaration of paternity under S.56 FLA 1986, consent requirement of child and inferences court can draw from refusal of consent; an analysis of the factors the court will consider in making orders, eg, child's welfare is not the court's paramount consideration in a decision for blood tests; the court can make order under s8 prohibiting steps or certain issues which may arise; the court can appoint guardian under s5(1) CA 1989.
<p>8.3 Analyse the concept of parental responsibility</p>	<p>8.3 Analysis of parental responsibility definition by s3(1) CA 1989;</p> <ul style="list-style-type: none"> • parental responsibility can be held by more than 1 person at any time (s2(5) CA1989); • parental responsibility cannot be transferred or surrendered (s2(9) CA 1989); • impact of HRA 1998 and Articles 8 and 14 ECHR 1998 and relevant case law; • <u>B v B</u> (2000), identification of the effects of Adoption and Children's Act 2002 and common law parental rights and duties; • relevant case law to include: <u>Gillick v West Norfolk and Wisbech Area Health Authority</u> (1985): Gillick competence test; <u>RE A (a Minor)(Blood Transfusion)</u>(1993); • <u>RE G (Parental Responsibility: Education)</u> (1994); • <u>Dawson v Wearmouth</u> (1999).

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	<p>8.4 Identify how Parental Responsibility Orders can be acquired under CA 1989 and ACA 2002</p>	<p>8.4 Identification of people who will have parental responsibility automatically and people who will need to apply;</p> <ul style="list-style-type: none"> • Legal principles in obtaining a parental responsibility order; • Parental responsibility order by agreement; • Parental responsibility order under s4(1)(a) CA 1989; • Identification of the impact of Adoption and Children Act 2002 (ACA); • identification of how parental responsibility order can be lost and factors the court must consider under ss4(2a) and 4(3) CA 1989 with supporting cases, eg, <u>RE H (Minors)(LA; Parental Rights) (No3)(1991)</u> <u>Re P (Terminating Parental Responsibility) (1995)</u>, <u>RE P (Minors)(Parental Responsibility Order)(1998)</u>; • <u>D v E (Termination of Parental Responsibility) (2021)</u> • <u>RE H (a Minor)(Parental Responsibility)(1998)</u>, <u>B v UK (2000)</u>, <u>R v R (2011)</u> EWCH 1535 (Fam).
	<p>8.5 Apply the law on parental responsibility to a given situation</p>	<p>8.5 Application of the law to a complex scenario.</p>
	<p>8.6 Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>8.6 A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>

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<p>9. Understand relevant legal provision in relation to children</p>	<p>9.1 Explain the orders available for private matters under the Children Act 1989 (as amended by Children and Families Act 2014)</p>	<p>9.1 Principles of S.1 CA 1989;</p> <ul style="list-style-type: none"> • welfare, no order, no delay. An explanation of the orders (Child Arrangements Order Prohibited Steps and Specific Issue) with examples of relevant case law available under s8 CA 1989; • a summary of the lifespan of an order and the court’s powers to attach conditions or directions under s11 CA 1989; • identification to include without notice orders and impact of article 6 ECHR, reference to Children and Families Act 2014.
	<p>9.2 Analyse the availability of s8 orders under s8 CA</p>	<p>9.2 Analysis of other proceedings where s8 order can be made as set out in s8(4) CA 1989;</p> <ul style="list-style-type: none"> • Recognition that court can decide to make order of its own volition s10(1)(b); • Court can also make s8 order where there are no other proceedings in progress as in s10(2); • Analysis of who can apply under s10(4) CA 1989 and s4a CA 1989; • A summary of who can apply for orders and limitations under s10(5) CA 1989; • Identification of who will need to seek leave of court to apply for an order and criteria court will follow as under s10(9) CA 1989; a clear understanding of bars on repeat applications; relevant case law, eg, <u>RE M (a Minor)</u> (1994); • <u>RE A (a Child Residence Order; Condition) (No 2)</u> (2003); • <u>Payne v Payne</u> (2001).

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9.3 Analyse the effects of s8 orders in family law

9.3

- Analyse the law relating to contact and domestic violence with case law:
- RE: L;
 - RE: V;
 - RE: M;
 - RE: H (Contact; domestic violence) (2000)
 - RE H-N and others (children) (domestic abuse: finding of fact hearings) [2021]
 - RE B-B (Domestic Abuse Fact-Finding) (Rev 1) [2022],
 - Analyse the law relating to implacably hostile cases with case law:
 - RE: S (2004);
 - RE: C (2007);
 - V v T (2007);
 - Identify effects on parental responsibility of: non-parent under ss12(2) and (3) CA1989, unmarried father under s4 CA 1989; identification of limitations under s13 CA 1989 removal of a child from jurisdiction, changes in surname, religion;
 - Relevant case law, e.g., RE H (Shared Residence; Parental Responsibility) (1995); D v D (Children)(Shared Residence Order) (2001);
 - A v A (Shared Residence) (2004);
 - RE M (Children) (2012)
 - RE N (Change of Religion) (2011);
 - RE T (Change of Surname) (1998);
 - (Payne v Payne) (2001)
 - RE C (internal relocation) (2015) and impact of RE D (children) (2010), Re W (Children) (2011), Re: G (2013) RE K (Relocation; shared care) (2011), RE f (a child) (2013), RE F (a child) (international relocation:
 - Welfare analysis) (2015), ReE M (a child) (2017) EWCA Glaser v United Kingdom (2001);
 - impact of Article 8 ECHR on s8 orders in family law to be included in analysis.

This specification is for the 2026 examination sessions.



	<p>9.4 Explain the powers of the court in family assistance orders</p>	<p>9.4 A brief explanation of the orders which can be made under s16 CA 1989 identifying provisions under the section to advise and assist person named in the order;</p> <ul style="list-style-type: none"> • a summary to support s37 CA 1989 directions; • a clear understanding of the duration of the order; • relevant case law, eg, <u>S v P (Contact Application: Family Assistance Order)</u> (1997); <u>RE E (Family Assistance Order)</u> (1999).
	<p>9.5 Analyse the key legal principles of the Children Act 1989 which courts consider in decisions regarding children</p>	<p>9.5 Analysis of:</p> <ul style="list-style-type: none"> • paramount principle set out in s1(1) CA 1989; • presumption of parental involvement s(1)(2a); • principle of non-intervention under s1(5) CA 1989; • delay principle under s1(2) CA 1989, S.1(3) CA 1989 checklist including requirements of a timetable to avoid delay, reference to case law such as <u>J v C</u> (1970), <u>RE G</u> (2006), <u>RE B (a child)</u> (2009), s11 CA 1989; • impact of Article 6 & 8 ECHR to principles; analysis of factors set out in s1(3) CA 1989 with the use of relevant case law to illustrate application of the factors, and the criteria which court must consider in s10(9) when considering application for leave.
	<p>9.6 Analyse financial relief available for children under the Children's Act 1989</p>	<p>9.6 Analysis of financial relief under Sch 1 CA 1989, identifying possible applicants and range of orders available;</p> <ul style="list-style-type: none"> • A clear understanding of the duration and guidelines courts observe in making financial orders; • Application of financial provisions available for children under Sch 1 CA 1989; • Relevant case law, <u>T v B</u> (2010), <u>K v K</u> (1992), <u>J v C</u> (1999), <u>RE P (Child; Financial Provision)</u> (2003), <u>MB v KB</u> (2007) impact of Welfare Reform Act 2012, <u>Dickson v Rennie</u> (2014) <u>MT v OT</u> (2018).

This specification is for the 2026 examination sessions.



9.7	Apply the law on legal provision in relation to children to a given situation	9.1	Application of the law to a complex scenario.
9.8	Critically evaluate a given issue or situation to predict probable legal implications	9.7	A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.

This specification is for the 2026 examination sessions.



Additional information about the unit	
Unit aim(s)	To accredit a broad and detailed understanding of Family Law
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 63 First Line Family Law Advice and Unit 64 Family Law Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	N/a
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/a
Endorsement of the unit by a sector or other appropriate body (if required)	N/a
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	CILEx (The Chartered Institute of Legal Executives)
Availability for delivery	1 September 2009

This specification is for the 2026 examination sessions.

