

CILEX



P7 – Family Law and Litigation

Professional Stage

2025-2026

P7: Family Practice and Litigation

The aim of this module is to equip you with a detailed knowledge and understanding of the law and procedure regulating family law cases. The module covers the full range of family law areas that you would encounter in practice, including the formation of adult relationships, matters relating to children, and the breakdown of adult relationships. The module incorporates discussion of the complex and specialised areas of parentage and the alternative routes to parenthood, including through surrogacy and adoption. Reflecting the increasing internationalisation of family life, the module also draws on the key challenges faced by families with ties to multiple jurisdictions, notably around child abduction, forced marriage and the validity of marriage ceremonies conducted overseas. The module addresses areas of family law and practice which have undergone significant reform in recent years.

On completion of this module, you will be able to provide competent practical advice to clients about their legal options, as well as the potential risks and benefits of taking a particular course of action. Through the development of drafting and tactical awareness skills, you will be able to prepare your client's case and take steps to resolve disputes whether through an appropriate form of alternative dispute resolution (ADR) or through court proceedings. You will develop your advocacy skills to present clear and compelling arguments. You will be able to work with confidence with current and emerging technologies. You will be capable of explaining funding options to clients and assessing eligibility for legal aid.

This module covers:

1. Preparing cases for court and representing clients
2. Case analysis
3. The Family Court
4. Marriage – Divorce, Dissolution, Judicial Separation, Void and Voidable
5. Financial remedies
6. Cohabitants: cohabitation agreements and division of assets on breakdown
7. Domestic abuse
8. Private law children cases
9. Public law cases
10. Communication skills and people management
11. Drafting

Learning Outcomes

By the end of this module you will be able to:

1. Understand the law and procedure relating to all aspects of family practice
2. Analyse and synthesise a range of materials with appropriate application to a family law case to develop solutions which are in your client's best interests
3. Formulate a case strategy and evolve as necessary to manage a complex case through the family law process
4. Report procedural steps to be taken in a family law case to achieve outcomes and comply with procedural requirements
5. Draft a range of documents for family proceedings
6. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the applicable Codes of Conduct

Linked online assessment: P7

TQT: 300 hours

Prerequisite knowledge: Advanced Stage Family Law and Practice

Module Resources

In addition to the VitalSource manual, there is a reading list to accompany the module which is located in the 'Study Guide and Content Updates – Professional Stage 1st Editions' document in the VitalSource bookshelf, Training Provider hub and in myCILEX.

Details of updates included in 2025-2026 Module Specification

4f: change to wording: Procedure for obtaining a nullity order

- Disputed
- Non-disputed

5f: addition of 'Severing the joint tenancy' and 'Home rights'

8c: addition of 'Victims and Prisoners Act 2024 (Jade's Law)'

1. Preparing cases for court and representing clients	At the centre of family law and practice is the ability to take instructions from clients, advise, and represent at a variety of hearings including applications for a financial remedy, children proceedings and domestic abuse proceedings. This will involve preparing the case for hearing. Often, in advance of pursuing an application, a client will be required to have first attended a Mediation Information and Assessment Meeting (MIAM) to assess whether it is possible for the parties to resolve or narrow issues before going to court. Therefore, you will need to know the following: a) Taking instructions - consideration of funding in family cases and costs • Legal Aid, Sentencing and Punishment of Offenders Act 2012 • Legal Aid Franchise • Entitlement and eligibility • Access to funding in domestic abuse and forced marriage cases • Access to funding in public law child cases • Appeals upon first refusal of funding • Cost implications and recovery, including the statutory charge • Privately paying clients b) Preparing for, and attending, hearings/meetings in family cases to include: • FHDRA of s.8 Children Act application for an order (child arrangements, specific issue and prohibited steps) • Applications for without notice/on notice non-molestation and occupation orders • Applications relating to divorce, dissolution, judicial separation, annulment • Financial remedy applications, first appointment and financial dispute resolution hearing (FDR) • Undertaking mediation • Attending a child protection conference • Attending hearings relating to public law children cases
2. Case analysis	You will be required to process large amounts of documentation and undertake close analysis of a range of materials. Thereafter you will be required to decide upon your course of action on behalf of, and on the basis of, the client's instructions. You will need to know the following: a) Taking instructions • Factual (witnesses) • Expert evidence • Other agencies involved with the family • Funding options with the client b) Analysing the case • Court documentation

	• Documentary evidence e.g. inter-party communications, photographs and records • Witness evidence • Strengths and weaknesses of the client's case • Identifying and acting upon weaknesses in the opponent's case c) Challenging suspected false information/failure to disclose • Professional obligations • Sanctions d) Requirement to attend a Mediation, Information and Assessment Meeting (MIAM) • Preparing for the MIAM • Exclusions from the requirement to attend a MIAM e) Mediation process • Venue for the mediation • Type of mediation (face to face, telephone) • Instruction of the mediator • Role of the mediator • During the mediation process • After the mediation process • Recording an agreement • No settlement – consideration of issuing court proceedings
3. The Family Court	The single family court is the focal point for all family proceedings from divorce, finances, children and domestic abuse cases. You will need to be aware of the structure of the court, the hierarchy of the judiciary and the processes involved in this institution. Therefore, you will need to know the following: a) The Single Family Court • Judiciary and hierarchy • Allocation of cases • Managing gatekeeping • Appeals process and hierarchy • Court bundles • Transparency Reporting pilot b) Using online processes • Digital divorce; online application process • Remote and hybrid hearings • E-mediation process
4. Marriage – Divorce, dissolution, judicial separation, void and voidable	You may be instructed to dissolve a relationship. You may also be asked to advise on the validity of a marriage. You will be required to process information, advise the client, and prepare the necessary applications and documentation for proceedings. To do this you will need to understand the key statutes and provisions relating to marriage, civil partnerships and forced marriage: a) Application of the law and procedure in relation to: • Marriage (Matrimonial Causes Act 1973)

- Civil Partnership Act 2004
- Marriage (Same Sex Couples) Act 2013
- Divorce, Dissolution and Separation Act 2020
- The Marriage and Civil Partnership (Minimum Age) Act 2022

b) Consent to marriage; the impact of duress (forced marriage) and mental disorder

- Protection – civil law - Family Law Act 1996
 - Forced Marriage Protection Orders
- Protection - criminal law - Anti-social Behaviour, Crime and Policing Act 2014
 - Offences and penalties
- Capacity under the Mental Health Act 2007
 - Awareness and protection of the vulnerable client
 - Safeguarding duties

c) Consortium in marriage: differentiation between marriage and civil partnership

d) Marriages with foreign elements

- Issues relating to jurisdiction
- Validity issues (marriages contracted abroad)

e) Advising a client following instructions on validity of marriage, annulment, judicial separation and divorce

- Funding
- Time scales
- Process and procedure
- Costs position

f) Procedure for obtaining a nullity order

- Disputed
- Non-disputed

g) Alternative options to divorce or dissolution

- Judicial separation; difference between divorce/dissolution and judicial separation; process for applying for the judicial separation order
- Deed of Separation/separation agreement as an alternative to proceedings

h) Procedure for divorce

- The divorce application (sole and joint applications)
- Pre-issue and post issue procedure
- Service and methods of service
- Limited grounds to dispute an application for divorce/dissolution
- Application for the conditional order
- The effect of s.10 Divorce (Religious Marriages) Act 2002
- Consideration of parties' finances
- Reaching a settlement (finances)
- Application for a final order
- Objecting to the divorce or dissolution based on grave financial or other hardship

	• Expedited wait periods in exceptional circumstances
5. Financial remedies	You are likely to be asked to act on the financial side of the divorce/dissolution. In high net worth cases this may involve a pre-nuptial agreement so it is important to be able to advise on a client's status and how this may impact on financial remedy decisions. Further, as part of instructions in financial remedy cases you will need to understand how to protect the client's interests in relation to assets from the outset. a) The financial implications of relationship breakdown b) Analysis of the client's financial position • Dealing with suspicion of the dissipation of assets; making appropriate applications; instructing relevant experts • Signposting tax and accountancy advice • Access to welfare benefits c) The law relating to financial remedies/financial orders • Income orders • Property orders • Pension orders d) Application of the section 25 factors - Matrimonial Causes Act 1973 • The implications of pre-nuptial agreements • The principles of the "yard stick of equality" (White, 2000) e) Preparing for and attending hearings in relation to financial remedies - the procedure for financial remedies on divorce/dissolution: • Making the application within the divorce proceedings or making the application as a stand-alone application • The Financial Remedies Court • Fact gathering - the law post Imerman • Drafting Form A (issue) • Gatekeeping: allocation/complexity questionnaire • Chapter 4 'standard track'; chapter 5 'fast track' • Schedule of assets/debts • Case summaries – what attempts have been made by the parties to resolve the issues themselves? • First appointment • Disclosure – Form E and Form D81 • Financial Dispute Resolution Hearing (FDR) • Costs estimates Form H • Final hearing • Drafting and reviewing consent orders • Enforcement • Managing expectations f) Giving advice and making referrals - Wills, Severance and Intestacy • The effect of divorce • The need for a Will • Awareness of Insurances/trustee of pensions providers and death in service policies

	• Severing the joint tenancy • Home rights • Land Registry and applications • Awareness of the rules of intestacy and the implications to the client g) Drafting settlement proposals • Calculating the package for the client
6. Cohabitants: Cohabitation Agreements and division of assets on breakdown	You must have a knowledge and understanding of alternative forms of relationships, such as cohabitants, which may be dealt with by family practitioners but which are regulated by wider areas of law including equity, trusts and property law. You may receive instructions to draft a cohabitation agreement and advise on the effects. Alternatively, you may receive instructions to act when a cohabiting couple are separating, and the assets need to be divided. Therefore, you will need to know the following: a) Drafting cohabitation contracts/agreements including separation agreements b) Drafting statements of case • Property ownership: joint names or sole name of one party? • Resulting trust • Constructive trust • Proprietary estoppel • Establishing the size of the interest • The Trusts of Land and Appointment of Trustees Act 1996
7. Domestic abuse	You must have a detailed knowledge and understanding of the key areas including the provisions relating to non-molestation orders and occupation orders that are available for the victims of domestic abuse, irrespective of their marital status. You may receive instructions to act on such matters, that are the basis of both without notice and on notice applications, and you must act quickly. Therefore, you will need to know the following: a) How to make an application under Part IV of the Family Law Act 1996 • Non-molestation orders • Occupation orders b) Advising on the procedure for Domestic Abuse Proceedings: • Possible exemption from requirement to attend a MIAM • Without notice versus on notice applications • Documents (Witness Statement, Application Notice FL401, Form C8, draft order) • Special measures following the Domestic Abuse Act 2021 • Prohibition on cross examination between victim and alleged perpetrator following the Domestic Abuse Act 2021 c) Preparing and representing on application for enforcement • Automatic powers of arrest ○ Non-molestation order ○ Occupation order d) Drafting witness statements in support of domestic abuse applications

	e) Practical steps • Notification requirements: police, mortgage company, landlord • Service in protection order proceedings • Emergency housing entitlement f) Upcoming reform: Domestic Abuse Protection Notices and Domestic Abuse Protection Orders (currently in pilot)
8. Private law children cases	Private law children cases refer to disputes relating to the living and contact arrangement for children of separated parents (whether married or not). You may also be instructed in a case where the parents cannot agree what should happen in relation to an aspect of their child's upbringing. You will need to know the following: • Definition of parent pursuant to Human Fertilisation and Embryology Act 2008 • Application pursuant to s.20(1) Family Law Reform Act 1969 • Declarations of parentage • Children's rights to know a) Assisted Reproduction Cases: • Defining the types of assisted reproduction • Parental orders and surrogacy • Enforceability of surrogacy arrangements b) Advising clients on Adoption and Special Guardianship options • The Adoption and Children Act 2002 • The Children and Families Act 2014 • Differentiation between Adoption and Special Guardianships • Adoption by a step-parent c) Recap of Parental Responsibility – Children Act 1989 • Limitations on the exercise of parental responsibility • Wardship • Victims and Prisoners Act 2024 (Jade's Law) d) Preparing S.8 Children Act 1989 applications: • Child arrangements • Shared parenting • Specific issue orders • Prohibited steps orders • General principles and the welfare checklist • Relocation cases • Change of surname cases • The involvement of CAFCASS • Case strategy and managing client expectations e) Procedure for s.8 Private Law Children Proceedings: • MIAM (Mediation Information and Assessment Meeting)

	• Application (Form C100) • Allegations of harm (Form C1A) • Service on Respondent • Service on CAFCASS • Respondent's acknowledgment • First Hearing Dispute Resolution Appointment (FHDRA) • Dispute Resolution Appointment (DRA) • Finding of fact hearings • Final hearings • High Court applications (child abduction) • Online applications f) Best practice when dealing with child proceedings • Confidentiality • Diplomacy in drafting and communication • Upholding the paramountcy and no delay principles g) Permanent Removal – Child Abduction Cases • Port alert system • Tipstaff orders • s.8 prohibited steps order • Wardship • The 1980 Hague Convention on the Civil Aspects of International Child Abduction (habitual residence, wrongful removal/retention, right of custody, defences) h) Child maintenance • Making the application • Applying for variation • Dealing with non-payment and appeals • Orders under MCA 1973 and CPA 2004 on divorce and dissolution e.g. lump sum, property • Applications under Schedule 1 Children Act 1989 • The Child Support Collection (Domestic Abuse) Act 2023
9. Public law cases	Public law cases encompass disputes between parents and the State, and intervention in the family, thus breaching Article 8 European Convention on Human Rights (right to respect for private and family life). You may be instructed by a parent to act in care proceedings (and pre action stages), or alternatively you could act as the children's solicitor. Equally, you could work in a local authority children's services department, and be acting on behalf of the local authority. Therefore, you will need to know the following: a) Recap of interventions (low level, short and long term) b) Importance of Inter-agency working • Referral to Children's Services ○ Timescale for response ○ Multi-agency assessment

	• Dealing with s.43 Child assessment orders ○ Alternative to an emergency protection order ○ Assessment of risk and impact on parties e.g. child and parent • Dealing with an application – understanding harm and significant harm • Investigations and assessments carried out – s.47 Children Act 1989 - Child Protection Plan c) Using emergency measures to protect children: • Police Protection Order • Emergency Protection Orders • Effect on parental responsibility • Applying for a Recovery Order d) Long term measures to protect children: • Care and Supervision Orders • Threshold criteria • Finding of fact hearing • Creating and understanding care plans • Effect on parental responsibility • Advice and representation in applications for contact with a child in care. e) Procedure and preparation for Public Law Children Proceedings - compliance with Public Law Outline 2014 • No MIAM • Child protection conference • Legal planning meeting • Letter before proceedings • Stage 1 – issue and allocation (C110A, annex documents) • Stage 2 – case management hearing • Split hearing, ‘finding of fact stage’ • Stage 3 – issues resolution hearing • Final hearing • Judicial review/preventative injunctions
10. Communication skills and people management	Effective communication is a key skill for a successful family practitioner as the work requires skilled people management, the use of both empathetic and sympathetic communication, and compliance with regulatory requirements to achieve the best possible outcome. Building on the skills introduced at the Advanced Stage, you will need to develop the following skills: a) Communication skills • Recognising when an interpreter is required • Eliciting information from other side, relevant witnesses and experts where appropriate • Actively considering whether mediation is appropriate to meet the client’s objectives, and inform about requirement to usually attend a MIAM • Giving advice which is negative to the client’s case

	• Enabling clients to understand and to agree to the necessary steps to be taken in the preparation of the client's case • Persuasive communication towards resolution of issues b) Giving advice and managing challenges in family law with emotional intelligence and empathy – sensitivity in language choice • Clients • Witnesses • Persons with a disability or vulnerability, including elderly clients and minors • Opposing side particularly with public law children cases and inter-agency working/local authority c) Interviewing and advising skills for clients and witnesses d) Awareness of advocacy skills • Awareness of the rights of audience and conduct rules as they apply in family proceedings • Demonstrate understanding of relevant ethical rules, etiquette, and conventions • Identify good practice when dealing with vulnerable clients and witnesses • Examine, cross-examine and re-examine appropriately • Know when it is appropriate to adduce expert evidence • Understand how to manage uncooperative witnesses • Recognise appropriate body language, pace and language • Present coherent and persuasive case • Demonstrate practical understanding of substantive and procedural law • Correctly apply relevant law to facts of case • Maintain standards when working under pressure
11. Drafting	Within the practice of family law there are numerous forms, applications and documents to draft depending on the nature of the case. The objective is to condense material and present it clearly and concisely to achieve its purpose. Therefore, you will need to know the following: a) The nature and purpose of legal documents b) Adapting precedents and pro-formas c) FPR 2010 rules relating to drafting, structure and content: • Drafting applications, orders and case documents (skeleton arguments, chronologies, statements of issues) • Drafting offers to settle and dealing with without prejudice correspondence • Drafting instructions to counsel