

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 14 – PROBATE PRACTICE

Time allowed: 1 hour and 30 minutes plus 15 minutes' reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

Question 1

Reference: Question relates to **Document 1** of the case study materials.

Adrian died without a Will.

(a) Explain how his estate will be distributed and why.

(10 marks)

(b) Explain which grant of representation is appropriate in Adrian's estate and who is entitled to apply for it.

(8 marks)

The administration of the estate is proceeding well and you now have valuations of all assets and liabilities.

(c) Identify what you need to submit to HMRC before you can apply for the grant of representation.

(6 marks)

(Total: 24 marks)

Question 2

Reference: Question relates to **Documents 2 and 3** of the case study materials.

- (a) Explain why Petra needs a new Will, as her 2014 Will appears to reflect her current wishes.

(4 marks)

Mr Andrews has concerns about Petra's mental capacity. He has prepared a letter to request a report from Petra's GP, Dr Halliwell. In particular, he requires information on Petra's testamentary capacity, specifically covering the common law test in Banks v Goodfellow (1870).

- (b) Draft a note to accompany the letter to Dr Halliwell, setting out and explaining this test.

(6 marks)

- (c) Explain which further details Mr Andrews must ask Petra about concerning the ownership of the holiday cottage in Llandudno and why he needs these details.

(5 marks)

Dr Halliwell has now confirmed that Petra has the capacity to make a Will. Since Petra is going to Norfolk soon, she has asked Mr Andrews to post the Will to her to sign. Mr Andrews has asked you to help with a letter setting out clear instructions on how to sign the Will.

- (d) Draft the **contents only** of this letter.

(10 marks)

(Total: 25 marks)

Question 3

Reference: Question relates to **Document 4** of the case study materials.

- (a) Describe what steps Mr Andrews should take, before proceeding to draft the Will in the terms set out in Vihaan Patel's letter.

(3 marks)

Mr Andrews has asked you to assist with the preparation of Dev Patel's Will.

- (b) Identify the key points that should be included in the clause making the gift of residue to Vihaan Patel and Fazia Chabra.

(7 marks)

- (c) Explain the inheritance tax consequences of the gifts made by Dev Patel during his lifetime.

[NOTE TO CANDIDATES: You do NOT need to provide any mathematical calculation.]

(9 marks)

Dev is concerned that because he has left Simon out of his Will, Simon may make a claim against his estate after his death.

- (d) Explain what Dev's executors should do, in order to protect themselves from personal liability against such a claim.

(2 marks)

(Total: 21 marks)

End of Examination Paper