



**CILEX Level 3 Certificate in Law and Practice/
CILEX Level 3 Professional Diploma in Law and Practice**

UNIT 15 – THE PRACTICE OF LAW FOR THE ELDERLY CLIENT

Question paper

January 2023

Time allowed: 1 hour and 45 minutes (includes 15 minutes' reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- You must answer **all** questions.
- This question paper is out of 70 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to use your own printed copy of the pre-release case study materials, as long as the materials are not annotated in any way. Alternatively, you can access the electronic version of the pre-release case study materials available in the examination.
- You are allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

Answer ALL questions

Question 1

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

Following her meeting with Graham Knight, Sarah Mitchell, your supervising lawyer, has doubts about Graham's capacity to make a new Will.

(a) Explain why medical evidence on Graham's mental capacity should be obtained. **(6 marks)**

(b) Explain the following tests used to determine whether a person has mental capacity to make a Will:

(i) the test in *Banks v Goodfellow* (1870); **(4 marks)**

(ii) the two-stage test in the Mental Capacity Act 2005. **(5 marks)**

Additional Information

Graham's doctor has confirmed that Graham does not have capacity to make a new Will, nor to make decisions for himself in respect of his finances. When Sylvia died, Graham made a Property and Financial Affairs Lasting Power of Attorney, which has been registered.

(c) Draft paragraphs for inclusion in a memo to Sarah Mitchell:

(i) explaining the duties and responsibilities of an attorney when managing the financial affairs of a donor; **(10 marks)**

(ii) explaining the principles that the court will apply when considering an application for a Statutory Will. **(5 marks)**

(Total: 30 marks)

Question 2

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

Draft paragraphs to be included in a letter to Izabella:

- (a) explaining the following schemes, including the advantages and disadvantages of each one:
 - (i) a lifetime mortgage; **(10 marks)**
 - (ii) a home reversion plan. **(7 marks)**
 - (b) explaining what effect, if any, the monies raised under an equity release plan would have on her entitlement to continue receiving her existing benefits. **(5 marks)**
- (Total: 22 marks)**

Question 3

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

Following Sarah Mitchell's meeting with Peter and Vivienne, Sarah would like you to prepare some further information for her.

- (a) Explain the Capital Gains Tax consequences for Vivienne if she gives the flat in Nottingham to her son Michael. **(10 marks)**
 - (b) Explain the steps that Peter and Vivienne could take to reduce the Inheritance Tax payable on their estate, both in their lifetime and on their death. **(8 marks)**
- (Total: 18 marks)**

End of the examination