



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 7 – Family Law

Question paper

January 2023

Time allowed: 3 hours and 15 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.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 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 make notes on your scrap paper during the examination.
- You can use your own unmarked copy of the following designated statute book – **Blackstone's Statutes on Family Law 2021 -2022, 30th edition, Rob George, Oxford University Press, 2021.**
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

(Answer at least one question from this section)

1. It is no longer open to judges to offer 'a meal ticket for life' in financial relief proceedings.

Critically analyse this statement.

(25 marks)

2. The family court in England and Wales will always recognise decisions made overseas provided such a decision complies with the laws of the country in which it was made.

Critically evaluate the truth of this statement in relation to the following:

- (a) Marriages entered into outside of England and Wales (foreign marriages);

(15 marks)

- (b) Decrees of nullity made outside England and Wales (foreign decrees of nullity).

(10 marks)

(Total: 25 marks)

3. Critically analyse the extent to which the rights to occupy the family home are greater for married couples and civil partners than for cohabitants.

(25 marks)

4. Critically analyse the extent to which the family court can ask a local authority to become involved in private law proceedings and arrangements involving children.

(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Jamal separated from his ex-partner Emma two years ago. Emma and Jamal have a six-year-old daughter, Lola. Jamal is named on Lola's birth certificate. Initially following their separation, Jamal and Emma were able to co-parent Lola amicably. Lola would spend every Saturday night at Jamal's house, and he would also have her over for a few hours after school every Wednesday.

However, six months ago Jamal started a new relationship and Emma became very angry when she found out about this. Emma stated that she did not want Lola to be around Jamal's new partner because this would confuse and upset her. At first Jamal agreed to ensure his new partner was not around when he was with Emma in order to keep the peace, but the relationship has now progressed, and Jamal has moved in with his new partner. He called Emma to tell her this and to explain that it is not feasible to keep his new partner out of the contact arrangements any longer. During the phone call, Emma insinuated that Jamal's new partner was a drug addict and because of this, she did not want Lola to be around her. As a result, Emma has prevented all contact since that phone call took place four weeks ago. Jamal denies that his new partner uses drugs and believes Emma is simply jealous of the new relationship.

One week ago Jamal received a letter, from a solicitor instructed by Emma, alleging that he had been sending her harassing text messages and asking him not to contact Emma in future. The letter suggested that, if there were any further text messages from Jamal, Emma would be seeking a non-molestation order against him. Jamal accepts that he became frustrated by not being able to see Lola and had sent a number of angry messages to Emma but also followed up with messages apologising when he had calmed down.

Advise Jamal:

- (a) As to what legal steps he could take to be able to see his daughter and what factors the court would consider when deciding whether to make any order;

(15 marks)

- (b) As to what a non-molestation order is and whether one is likely to be granted in this case.

(10 marks)

(Total: 25 marks)

Turn over

Question 2

Barry and Linda are due to get married in a month's time. Barry has recently sold his successful marketing business for £3 million and he intends to use this money to purchase both a family home for himself and Linda and a number of additional investment properties. He wants to ensure that the investment properties remain his alone. He has been advised by a friend that he should consider a prenuptial agreement. Barry has spoken to Linda about this and has said that without this agreement in place, he would not go forward with the wedding. Linda has reluctantly consented to the agreement on this basis and has said that she doesn't want to waste money getting legal advice.

Barry and Linda have previously had discussions about having children once they are married. This is something that Linda wants but Barry is more reluctant. Barry has told Linda that he will agree to having children but only if a provision is included in the agreement to state that he will not have any financial responsibility for any future children that they may have if they then separate.

Linda is in full-time employment as a primary school teacher but intends to move to part-time work in the future when they have children. She has a small amount of money in savings, but this is likely to be used up on the wedding. She has a teachers pension and Barry also has a small private pension. Under the terms of the prenuptial agreement, each party will keep their own pension. They currently have no children.

Advise Barry as to whether a prenuptial agreement, made in these terms, is likely to be upheld by a court.

(25 marks)

Question 3

Aisha and Charles married two and a half years ago. They avoided having an intimate relationship prior to the marriage due to Aisha's religious beliefs. However, on their wedding night, Aisha revealed to Charles that the real reason for their lack of premarital intimacy was because her birth gender was male but she identifies as female. She explained to Charles that she was taking steps to transition to her acquired gender. This came as a huge shock to Charles and they temporarily separated. After a two-month separation period, Charles got back in touch with Aisha and said he missed her and wanted to make their marriage work.

As a condition of continuing with the marriage, Charles said that he did not want to consummate the marriage until Aisha had completed her transition and had her gender reassignment surgery. Aisha said that she understood this and immediately applied for an interim gender recognition certificate, which has now been granted. However, since then she has not applied for a full gender recognition certificate and hasn't taken any steps to book in her gender reassignment surgery, telling Charles that she is scared to undergo surgery, having had a bad experience during a previous surgical procedure. As a result, Charles no longer feels as though he can continue with the relationship and wants to know his options for bringing the marriage to an end.

Advise Charles as to his options.

(25 marks)

Turn over

Question 4

Malia and Simon have been married for five years. They wanted to have children straight away. Unfortunately, shortly after getting married, Malia was rushed into hospital and had to have an emergency hysterectomy. Since the operation, Malia and Simon have both struggled with the idea that they won't have children together. Malia has since confided in one of her friends, Diane, about this. Diane has two children of her own with her husband Edward. Seeing how upset Malia was about the prospect of not being able to have children, Diane has offered to be a surrogate and use her own eggs with Simon's sperm. Edward supports Diane in this decision.

Rather than going through an invasive clinical procedure, they have discussed using an 'at home' informal method to save time. Malia is also very nervous of hospitals since her operation, and they would rather keep the arrangement out of a clinical setting as much as possible. They have agreed that they will put Simon's name on the birth certificate and then deal with any other legalities later. Simon and Malia have discussed giving Diane £5,000 once the baby has been born as a thank you gift. This is in addition to paying for private healthcare throughout the pregnancy.

Simon is happy that this may allow them to have a child but has concerns that Malia is rushing into it without knowing enough about the legalities. He has therefore come to you for advice about the legal implications so that they can be fully informed before agreeing.

Advise Simon.

(25 marks)

End of the examination