



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 7 – FAMILY LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper 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 carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Family Law 2020 – 2021, 29th edition, Rob George, Oxford University Press, 2020.**
- 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.

* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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

1. Discuss the extent to which the concept of 'fault' has a place within modern divorce law in England and Wales.

(25 marks)

2. Analyse the extent to which occupation orders can be used to protect victims of domestic abuse effectively.

(25 marks)

3. Critically compare the financial orders available on divorce under the Matrimonial Causes Act 1973 to the financial orders available to a couple who remain married under the Domestic Proceedings and Magistrates' Courts Act 1978.

(25 marks)

4. Discuss the extent to which the following agreements can be used to protect an individual's future financial position following a relationship breakdown:

(a) a cohabitation contract;

(10 marks)

(b) pre-nuptial and post-nuptial agreements.

(15 marks)

(Total: 25 marks)

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

Question 1

Abraham and Josie were in a relationship for seven years but never married. During that time, they had two children together, Leah (aged four years) and Rebecca (aged two years). Abraham is named on both the children's birth certificates.

Over the last year, the relationship has become strained, as Josie lost her job unexpectedly. The family started to experience financial pressures and Josie began to drink excessively. Matters escalated when Abraham came home from work one day, to find Josie passed out on the sofa when she was supposed to be looking after the children, having drunk a bottle of vodka. The children were very upset by this.

Abraham told Josie that the relationship was over and asked her to go and stay with her mother. Abraham has since refused to allow Josie to see the children, and has stated that he won't resume contact until Josie has sought help for her alcohol issues.

She has now sent him a number of text messages in response, threatening that, if he doesn't let her see the children, she will collect them from nursery and take them to live with her brother three hours away in London. She says there is nothing that he can do about this, because she is the mother, so she has the right to make all the decisions and 'little girls should be with their mothers'.

(a) Advise Abraham whether Josie is correct that she has the right to make all the decisions regarding the children.

(7 marks)

(b) Explain to Abraham whether there are any orders that the court could make to prevent Josie from removing the children from the area, together with the principles and factors that the court would consider.

(18 marks)

(Total: 25 marks)

Question 2

Sarah and Bethany have been in a same-sex relationship for five years. Bethany recently proposed to Sarah, while they were on holiday in the south of France. However, the couple are now confused about their options, because they have heard that they can choose between a civil partnership and a marriage.

They have also decided that they would like to have a child together as soon as possible after they have married or entered into a civil partnership. However, they have heard that the process for them to have a child could be expensive.

One of their friends, Marcus, has indicated that he would be willing to donate his sperm to them, and he has suggested that they could do this without going through a formal clinic. Sarah and Bethany have agreed that Sarah would be the child's biological mother, but Bethany wants to ensure that she has the same rights in law as Sarah, when it comes to making decisions for the child. Sarah and Bethany also want to ensure that Marcus will not have any such rights, and that his role would simply be as a 'donor' rather than a 'father'.

- (a) Advise Sarah and Bethany about the differences between a civil partnership and a marriage.

(10 marks)

- (b) Advise Sarah and Bethany about the potential consequences of using an unregulated method of sperm donation.

(15 marks)

(Total: 25 marks)

Question 3

Jane and Mohammed have been in a relationship for six months. They do not live together. Jane lives with Liam, her eight-year-old son from a previous relationship.

At first, the relationship went well, but over the last two months, Mohammed has become very controlling of Jane. He has pushed to see her more often and, if she refuses, he has become abusive towards her, moaning that she is always putting her son before him. He has also repeatedly accused her of seeing someone else behind his back. On one occasion, he followed her on a night out with her friends, before confronting her in a restaurant and shouting abuse at her. This has led Jane to be reluctant to leave the house, to prevent any further embarrassing incidents.

Matters escalated this week, when Mohammed turned up at Jane's house unexpectedly in the middle of the night, banging on the door. When she refused to let him in, he accused her of having another man in the house and tried to break down the door. He shouted through the door that he was going to kill her and her son, if she didn't let him in. At this point, Jane called the police, but Mohammed left before they arrived. The police have indicated that they have spoken to Mohammed and given him a warning, but have insufficient evidence to be able to take any further action.

Since Jane contacted the police, she has been receiving abusive text messages from Mohammed's best friend, Damian, calling her a 'snitch'. He has also posted a series of derogatory messages about Jane on his social media accounts. When Jane asked Damian to take these down, he refused, stating that he can say whatever he likes online.

Advise Jane what civil court orders or family court orders may be available to protect her against both Mohammed and Damian.

(25 marks)

Question 4

Jemima and Kian have been married for 12 years, but separated two years ago, after Jemima discovered that Kian was having an affair with one of his work colleagues. Since the separation, Jemima has continued to live in the family home with their two children, Robert (aged eight years) and Simon (aged ten years). Kian has been providing child maintenance of £600 per calendar month. The parties have both agreed to divorce on the basis of two years' separation, and this has now reached decree nisi stage.

Kian is a chief superintendent in the police force, earning £85,000 per annum, and has a police pension with a current value of £300,000. He also has savings of £20,000. Jemima is a dentist and works part-time (three days a week). Her salary is £30,000 per annum. She has an NHS pension with a current value of £200,000.

The mortgage on the family home was paid off five years ago, using money that Jemima had inherited from her mother (£100,000). The family home is now estimated to be worth £350,000. There was an additional £40,000 of inheritance that Jemima holds in savings in her name.

Kian has remained in a relationship with his work colleague, Andrea, and is now expecting a baby with her. Kian and Andrea live together in a small rented flat, but they are keen to buy a house together and wish to marry as soon as Kian and Jemima's divorce is finalised. Kian has indicated that he would like the family home to be sold, so that he can have his share of the equity to put towards this new property.

Advise Kian on what financial orders a court is likely to make and why.

(25 marks)

End of Examination Paper