



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 2018-2019, 27th edition, Claire Fenton-Glynn, Oxford University Press, 2018.**
- 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. (a) Analyse the differences between a civil partnership and a marriage, with reference to the appropriate legislation.

(13 marks)

- (b) Compare and discuss the implications for a civil partnership and a marriage of one party applying for a gender recognition certificate.

(5 marks)

- (c) Consider to what extent the difference in choice of legal relationships between same-sex and opposite-sex couples could be considered discriminatory.

(7 marks)

(Total: 25 marks)

2. Critically assess whether the concept of voidable marriage is still relevant in English family law.

(25 marks)

3. Discuss to what extent fathers of 'legitimate' children are treated differently to fathers of 'illegitimate' children in England and Wales.

(25 marks)

4. (a) Discuss to what extent the principle of fairness will dictate that there should be an equal division of capital assets in matrimonial financial proceedings.

(20 marks)

- (b) Discuss whether the use of a pre-nuptial agreement can justify a departure from the sharing principle.

(5 marks)

(Total: 25 marks)

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

Question 1

Samantha and James married in England in 2004, when they were both 23 years old. All the requirements for a valid marriage were met. Samantha and James have two children together: Ethan (aged 11) and Neil (aged 5).

In 2018, Samantha and James were struggling to pay off credit card debts that they had built up during their marriage, as well as meeting the mortgage and household bills on their property. They therefore decided to take in a lodger, Benjamin, to help with paying the bills.

On Christmas Day 2018, James announced that he and Benjamin had fallen in love and would be moving into a flat that they planned to rent together. Despite being devastated and shocked by this news, Samantha did not want to ruin the children's Christmas, and she asked James to stay until the New Year. James moved out on New Year's Day, when Samantha believes that he and Benjamin moved in together.

James took with him the family car, which is causing problems for Samantha when taking the children to school. When she asked him about this, he was very dismissive of her and insinuated that it was her fault, because she had forced him into the arms of Benjamin and they now needed the car to get to work. Following their separation, James also wrote a number of disparaging remarks about Samantha and the children on his social media page.

A couple of weeks ago, James contacted Samantha, to say that he had made a huge mistake and wanted to resume their relationship. He blamed the relationship with Benjamin on a mid-life crisis.

Samantha cannot forgive James and wants to move on with her life away from him. She therefore wants to take steps to divorce formally. She has communicated this to James, but he refuses to accept this. He has indicated that he will take whatever steps are needed to prevent the divorce from going ahead and believes that she can learn to forgive him in time.

(a) Advise Samantha on how to bring the marriage to an end in the circumstances described and explain whether there are any ways that James can prevent the divorce from going ahead.

(20 marks)

(b) Explain whether and how your advice would change if it had been Samantha who had had the affair with Benjamin?

(5 marks)

(Total: 25 marks)

Turn over

Question 2

Alan and Monica were in a relationship from 2003 until March this year. They lived together for most of their relationship, but they never married. They had two children during that time, Holly (DOB: 25/12/05) and Teddy (DOB: 10/09/08). Alan was named on Teddy's birth certificate, but he is not named on Holly's. He does not know why his name was not included on Holly's birth certificate.

Alan has always had a very good relationship with the children and considers himself a very devoted father. Monica works in retail and, as a result, works most weekends. The children therefore used to spend most of their time with Alan, when they were not at school.

The relationship ended because Monica discovered that Alan had been having an affair. Alan has now moved into a small one-bedroom flat with his new partner. The children have remained living with Monica. Since the separation, Monica has prevented Alan from seeing their two children and is refusing to speak to him altogether. Alan has discovered that the children are staying at Monica's mother's house every weekend, while she is at work. She has recently suggested to their friends that Holly is not Alan's biological child. She has also suggested that she is going to pursue him for 'as much maintenance as she can get'. There is currently no formal arrangement in place for child maintenance.

Alan has received a number of text messages from Holly, saying that she misses him and does not like spending time at her grandmother's at the weekends.

Alan wants advice about what legal steps he can take to see his children. Ideally, he would like the children to spend each weekend with him. He also wants to know if he can refuse to pay any money for the children's upbringing until he gets to see them.

(a) Advise Alan what legal steps he can take to see the children and to have greater input into their lives.

(20 marks)

(b) Advise Alan whether he can refuse to pay child maintenance for the children in the meantime.

(5 marks)

(Total: 25 marks)

Question 3

Sophie and Jamal have been in a relationship since September 2017, after meeting in the pub where Sophie works.

In the beginning, their relationship was good. They had occasional arguments, but no more than other couples did. However, things soured in August 2018, when Jamal lost his job and struggled to find new employment. He would go to work with Sophie, to sit at the bar and keep her company on her shifts. However, Jamal started to get jealous of the bar manager, Jeff, with whom Sophie got on well. Jamal's jealousy increased the more he had to drink, and it would lead to him shouting insults at Sophie.

Money started to become a problem in the period after Jamal lost his job, and Sophie had to lend him money to pay his rent. Jamal convinced Sophie that it would make more sense, given his financial situation, for him to move into the flat that she rented. Sophie reluctantly agreed. They moved in together in November 2018, and Sophie added Jamal's name to the tenancy agreement.

In January 2019, a serious argument erupted between Sophie and Jamal about Jamal's financial situation. Sophie felt as though Jamal was not making any effort to find new employment. She tried to walk away from him, but he grabbed her by the hair, before shoving her onto the bed.

The next day Jamal promised it would never happen again and that he would cut down on his drinking. He also started going to the job centre again. Things were then fine for the next few months.

However, another incident occurred two days ago, as Sophie was getting ready for work. Jamal was drinking alcohol and watching TV. As Sophie was leaving for work, she suggested that he might help her out a bit by doing the washing up while she was at work. Jamal lost his temper and said to Sophie that it was her fault he was the way he was, because she was always after other men. He then pushed her hard onto the floor. Sophie managed to get up and ran out of the flat. He shouted after her: 'When I get hold of you, I will kill you'.

Sophie has stayed with her mum since the incident, as she was too scared to return home. She contacted the police, but they have indicated that there is insufficient evidence for them to take the matter further and that Sophie may want to seek protection through the family courts instead. Sophie went to the doctor's today after suffering a panic attack and has been diagnosed with an anxiety disorder.

Advise Sophie about what protective orders might be available to her.

(25 marks)

Turn over

Question 4

Malik (aged 37) and Rima (aged 39) were married in 2004. They have two children: Sami, who was born in February 2005, and Jerome, who was born in April 2007. Although Rima had qualified as an accountant before her marriage, she did not continue working once Sami was born. Malik is a police officer and earns £37,000 per annum. In 2014, Malik discharged the mortgage on the large five-bedroom matrimonial home with money he had inherited. The property is in joint names and is estimated to be worth £450,000.

In the summer of 2017, the parties separated, with Rima remaining in the home with the children and Malik going to live in a small rented flat. Rima would like to remain in the home, which is near the children's school. Malik considers the arrangement to be temporary and would like the house to be sold.

Malik and Rima did have a joint bank account that held savings of somewhere in the region of £12,000. Malik also used to pay £1,500 into this each month to cover all the household expenses. However, Malik has now removed all of the money from the account and is refusing to give Rima or the children anything. As a result, Rima is starting to run up a considerable amount of debt on her credit cards. Malik, on the other hand, has no debts, is leading an extravagant lifestyle with regular dinners in restaurants, and has just booked a holiday to Dubai with his friends. Rima is shocked by this, because they had a relatively modest lifestyle when they were together.

Rima was recently diagnosed with rheumatoid arthritis, and doctors have indicated that she may need to make adjustments to her home in the future to accommodate her needs. The symptoms of her arthritis also make driving difficult.

Rima has a very small pension pot from her previous career worth £20,000, but Malik has a much larger police pension pot, which is valued at £480,000.

Explain to Rima the financial orders that the court would be likely to make in this case and how the court would make its decision.

(25 marks)

End of Examination Paper

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