



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 15 – THE PRACTICE OF LAW FOR THE ELDERLY CLIENT*

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.

* This unit is a component of the **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

Question 1

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

Following his meeting with Henry Mogg, Thomas Andrews says that he is concerned whether Henry Mogg has the mental capacity to make a Will or a Lasting Power of Attorney.

Draft paragraphs for inclusion in a memorandum for Thomas Andrews, explaining the following:

- (a) the tests used to determine whether a person has mental capacity in:
 - (i) the Mental Capacity Act 2005; **(6 marks)**
 - (ii) Banks v Goodfellow (1870); **(3 marks)**
- (b) why medical evidence on Henry Mogg's mental capacity should be obtained. **(6 marks)**

Medical evidence is obtained, which confirms that Henry does have the mental capacity to make both a Will and a Lasting Power of Attorney.

- (c) Draft paragraphs for inclusion in a letter to Henry, explaining the duties and responsibilities of an attorney when managing the financial affairs of a donor. **(10 marks)**

(Total: 25 marks)

Question 2

Reference: Question relates to **Document 2** of the case study materials.

Elsie may be entitled to a Disabled Facilities Grant from the local authority to make modifications to her house that will enable her to continue living there.

(a) Explain the qualifying criteria that Elsie will have to meet, in order to be eligible for this Grant.

(8 marks)

(b) Explain which extra state benefits Elsie could be entitled to.

(3 marks)

Following receipt of your letter, Elsie telephones to say that she has decided to sell the antique diamond ring, in order to raise the funds that she needs. Elsie pays tax at the basic rate.

(c) (i) Explain the principle of Capital Gains Tax.

(2 marks)

(ii) Explain the Capital Gains Tax consequences if Elsie sells the antique diamond ring.

[**NOTE:** You do **not** need to provide a mathematical calculation, unless this will help you to illustrate your answer.]

(7 marks)

(Total: 20 marks)

Turn over

Question 3

Reference: Question relates to **Document 3** of the case study materials.

(a) Arjun has telephoned Mr Andrews to say that Dr Lowe has confirmed that Indira does **not** have capacity to make either a Will or a Lasting Power of Attorney or to manage her affairs. Mr Andrews advises Arjun to seek a Deputyship Order.

(i) Identify and explain the contents of the documentation to be sent with the application form (COP1) to the Court of Protection.

(8 marks)

(ii) Outline the procedure for obtaining a Deputyship Order after the application form (COP1) has been submitted.

(10 marks)

Arjun has now been appointed as Indira's Deputy. He wishes to apply to the Court of Protection for a Statutory Will, so that he will inherit Indira's estate.

(b) Identify the principles that the court will apply, when considering Arjun's application.

(7 marks)

(Total: 25 marks)

End of Examination Paper

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