

**CHIEF EXAMINER COMMENTS WITH  
SUGGESTED POINTS FOR RESPONSES**

**JANUARY 2021**

**LEVEL 6 – UNIT 14 – LAW OF WILLS & SUCCESSION**

**Note to Candidates and Learning Centre Tutors:**

The purpose of the suggested points for responses is to provide candidates and learning centre tutors with guidance as to the key points candidates should have included in their answers to the January 2021 examinations. The suggested points for responses sets out a response that a good (merit/distinction) candidate would have provided. Candidates will have received credit, where applicable, for other points not addressed by the marking scheme.

Candidates and learning centre tutors should review the suggested points for responses in conjunction with the question papers and the Chief Examiners' **comments contained within this report**, which provide feedback on candidate performance in the examination.

**CHIEF EXAMINER COMMENTS**

Candidates tend to find section A academic essay questions more demanding than the section B questions. Essay questions require evidence of specialist knowledge, citation, and detailed knowledge of relevant case law. Candidates are then required to show that they understand the principles of the questions through careful analysis. Many candidates lost relatively easy marks through not relating the analysis to the facts given in the question. This was most noticeable in section A question 2, when some easy marks were available for commenting that the intestacy rules are unfair if the marriage is of short duration, particularly if it is a second marriage and there are children from the first marriage.

## CANDIDATE PERFORMANCE FOR EACH QUESTION

### Section A

#### Question 1

Most candidates saw this question as an opportunity to write all that they knew about mental capacity to make a will and the well-known test outlined in Banks V Goodfellow. Stronger candidates appreciated that knowledge and approval examines specific rather than general intention. They then went on to highlight where the burden of proof lies and the special circumstances surrounding blind and illiterate testators. There was good analysis of suspicious circumstances and undue influence with reference to case law.

#### Question 2

By far the most popular question on the paper. This was unsurprising as this area has been frequently tested and should be familiar to all candidates. It was therefore disappointing that many candidates were not aware of the increase in the statutory legacy to £270,000 and how the definition of personal chattels has been simplified to exclude business assets and assets held for investment purposes. For a couple with significant investments or business assets this can greatly impact upon what the surviving spouse is entitled to. Ownership of the family home was covered well by most candidates. The majority emphasised saying that whether the spousal entitlement is unfair depends largely on whether the marital home is held as joint tenants, tenants in common or in the sole name of the first to die. Overall, the marks awarded for this question were very good with some candidates scoring 18 marks and above.

#### Question 3

A poorly answered question only attempted by a few. The main failing in part (a) was to talk about codicils only and not to outline the effects of revival and how it can save a gift in previous form from failing. Part (b) also earned relatively low marks with candidates not covering, in sufficient detail, the main provisions of s21 Administration of Justice Act 1982.

#### Question 4

Another unpopular question. The rules in relation to solvent and insolvent estates have been tested regularly in recent sittings. Possibly because this is presented in an essay format rather than a problem scenario may have made some candidates shy away from the question.

## Section B

### Question 1

This produced some good answers with candidates understanding and applying to the scenario the rules regarding witnessing of wills. Most candidates referred to the requirement for mental and physical presence and argued whether Jonathan's signature, as witness, was valid given that he did not sign in Roger's presence. The need for Roger to make a positive contribution to the act of signing was also well discussed. The class closing rules were not adequately explained by some candidates and very few mentioned the cases of Pearkes v Mosley (1880) and Andrews v Partington (1791).

### Question 2

Again, a question which produced some encouraging scripts with candidates explaining the order of payment of debts in a logical, organised manner. Nearly every candidate recognised that the estate is solvent, the mortgage attaches to "The View" and that the pecuniary legacies will abate. A few lost marks for not saying that the house and car will pass to Daniel and Harold respectively.

### Question 3

An unpopular question reflecting that this area has not been examined for some time. In 3(a), a common failing was not stating that an executor's duties are to collect and safeguard the assets of the estate. Question 3(b) produced some better results although few commented on the fact that Devdan should not use an estate asset for his own personal use. In 3(c) the defences available to Devdan were better understood with most candidates covering s61 TA 1925.

### Question 4

Some mixed responses to this question. Revocation by destruction is always a favourite area for candidates and the main points that the destruction must occur in the testator's presence and that the destruction is not valid if a result of a mistaken belief were well cited. Parts (a) and (b) earned some good marks. At part (c) most candidates realised that Mary's will was invalid because of a second witness signature. As well as covering the formalities adequately, most candidates said that the March 2016 Will shall apply and that the gift to charity lapses so there is a partial intestacy. However, the presumption of conditional revocation was not mentioned by the weaker candidates. If a new will turns out not to be valid then the general presumption is that the previous Will remains valid.

## SUGGESTED POINTS FOR RESPONSES

### LEVEL 6 – UNIT 14 – LAW OF WILLS & SUCCESSION

The purpose of this document is to provide candidates and learning centre tutors with guidance as to the key points candidates should have included in their answers to the January 2021 examinations. The Suggested Points for Responses do not for all questions set out all the points which candidates may have included in their responses to the questions. Candidates will have received credit, where applicable, for other points not addressed.

Candidates and learning centre tutors should review this document in conjunction with the question papers and the Chief Examiners' reports which provide feedback on candidate's performance in the examination.

#### Section A

Question Number	Suggested Points for Responses	Marks (Max)
QA1	<p>An answer which consists of reasoned analysis, breaking down the issue into sections and using supporting evidence for and against.</p> <ul style="list-style-type: none"><li>• Requirement for testamentary capacity and testamentary intention (animus testandi or knowledge and approval) to exist for a will to be valid - testator can have testamentary capacity but lack testamentary intention</li><li>• A Testator may have testamentary capacity, he may lack testamentary intention i.e. where the will reflects wishes of third party rather than the testator. The burden of proof of testamentary intention is on the propounder - the rebuttable presumption and the switch of evidential burden</li><li>• The circumstances in which the rebuttable presumption does not apply (blind/illiterate testators and suspicious circumstances) - Explanation of suspicious circumstances</li><li>• Analysis of the position of blind/illiterate testators</li><li>• "suspicious circumstances" <b>Barry V Butlin (1883)</b></li><li>• Relevant cases such as <b>Sherrington v Sherrington (2005), Knight v Edonya (2009), Schrader v Schrader (2013) Wyneczenko v Plucinska-Surowka (2005) (7)</b></li><li>• <b>Reference to Parfitt v Lawless (1872) re</b> need actual evidence of undue influence</li><li>• Evidence is required to rebut the presumption</li><li>• Reference to precautions that could be taken</li></ul>	25
<b>Total: 25 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
QA2	<p data-bbox="363 271 1315 338">An answer which consists of reasoned evaluation, offering opinion/verdict which is supported with evidence.</p> <ul data-bbox="411 376 1315 1832" style="list-style-type: none"> <li data-bbox="411 376 1230 443">• Strict order of entitlement in s46 AEA 1925 (1) and statutory trust in s47 AEA 1925 (2)</li> <li data-bbox="411 450 1011 483">• 28-day survivorship period to inherit</li> <li data-bbox="411 490 1257 524">• Surviving spouse entitlement amended by ITPA 2014</li> <li data-bbox="411 530 1305 658">• Discuss that the ITPA 2014 was enacted following a Law Commission Report and perceived unfairness in AEA 1925 provisions aimed to provide a simplification of entitlement</li> <li data-bbox="411 665 1193 732">• Surviving spouse entitlement where there are no children - takes all the estate</li> <li data-bbox="411 739 1305 806">• Discuss whether this is fair in all circumstances i.e. surviving spouse is spouse of a relatively short marriage</li> <li data-bbox="411 813 1305 981">• Surviving spouse entitlement where there are children- personal chattels defined in s55 (1) (X) AEA 1925 (1) statutory legacy plus interest from date of death currently £270,000 and half of residue absolutely with the remaining half going to the children</li> <li data-bbox="411 987 1305 1155">• Discuss that the definition of personal chattels has been simplified but under new definition business assets and investments, which could be substantial, will not automatically pass to the surviving spouse but may fall into residue</li> <li data-bbox="411 1162 1315 1267">• Discuss that the statutory legacy is subject to a 5-year review, and that this was delayed to 2020 but the legacy was then increased from £250,000</li> <li data-bbox="411 1274 1294 1341">• Discuss that the surviving spouse now receives half the residue absolutely, rather than in trust as previously.</li> <li data-bbox="411 1348 1075 1382">• Discuss whether half of residue sufficient</li> <li data-bbox="411 1388 1289 1628">• Discuss provisions in relation to the family home- depends on nature of ownership - if in sole name there is a right to appropriate family home within 12 months of grant- home will be valued at date of appropriation- equality money may need to be paid - issue will be extent to which home is an asset of estate and money available to spouse</li> <li data-bbox="411 1635 1283 1803">• Discuss that if provision not adequate a claim can be made under the Inheritance (Provisions for Family and Dependents Act 1975) which has a more generous surviving spouse standard, "such provision as is reasonable in all the circumstances."</li> <li data-bbox="411 1809 772 1832">• Reasoned conclusion</li> </ul>	25
<b>Total: 25 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
QA3a	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• S22 Wills Act 1837 permits 2 methods of revival - express revival or constructive revival</li> <li>• Discuss that a will that is destroyed cannot be revived</li> <li>• There must be clear evidence of an intention to revive shown in 1 of 3 ways, <b>In the Goods of Steele (1868)</b></li> <li>• So, a codicil must clearly refer to a previous revoked will and show intention if it is to revive it</li> <li>• There must be certainty of the testator's intention, <b>Marsh v Marsh (1860)</b> and <b>Re Dear (1975)</b>, or other cases</li> <li>• S34 Wills Act 1837 - the effect of revival - the revived will is valid as at the date of revival and can therefore save a gift in previous form from failing</li> <li>• Revived will is valid from the date of revival and so may affect property bequeathed, <b>Re Reeves (1928) (1)</b> and save unattested <u>alterations made</u> before revival and gifts that might have failed e.g. where a beneficiary or their spouse has witnessed the will but codicil has unrelated witnesses (1) , <b>Anderson v Anderson 1872</b></li> <li>• Discuss in <b>The Estate of Davis (1952)</b></li> </ul>	15
QA3b	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• <u>S21 AJA 1982</u> has codified the rules relating to the admission of external evidence re the construction of wills- and sets out 3 alternative conditions, 1 of which must be satisfied for the admission of alternative evidence</li> <li>• The impact of s21 - that many earlier cases involving the construction of a will are obsolete and might be decided differently today e.g. <b>Perrins v Morgan 1943</b></li> <li>• <b>S21 (1) (a): insofar</b> as any part of the will is meaningless-lack of meaning must be apparent from the will itself</li> <li>• <b>S21 (1) (b):</b> insofar as the language used in any part of it is ambiguous on the face of it - this condition deals with patent ambiguity, language is clearly ambiguous and extrinsic evidence is now permitted to establish testator's intentions.</li> <li>• <b>S21 (1) (c):</b> insofar as evidence other than evidence of the testator's intention shows that the language used in any part of it is ambiguous in the light of the surrounding circumstances - this relates to latent ambiguity where there is no obvious ambiguity- once the</li> </ul>	10

	<p>ambiguity is evident, then extrinsic evidence may be admitted</p> <ul style="list-style-type: none"><li>• S21 (1) c - latent ambiguity - will allow admission of evidence to create ambiguity - <b>Re Jackson (1933)</b></li><li>• Discussion of relevant cases such as <b>Re Williams (1985)</b>, <b>Tyrell v Tyrell (2002)</b>, <b>Spurling v Broadhurst (2012)</b>, <b>Pinnel v Anison (2005)</b>, <b>Sandover v Brown (2004)</b></li><li>• Reasoned conclusion</li></ul>	
<b>Total: 25 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
QA4	<p data-bbox="363 282 1315 353">An answer which consists of reasoned evaluation, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li data-bbox="416 389 1299 528">• A solvent estate - sufficient assets to pay debts- though may not be sufficient to pay the legacies- insolvent estate will not have sufficient assets to pay debts - so beneficiaries get nothing</li> <li data-bbox="416 533 1278 703">• Importance of taking care to identify whether estate is solvent or not as the rules relating to the payment of debts differ - if insolvent some creditors may not get what they are due as there is an order of priority for payment that must be complied with.</li> <li data-bbox="416 707 1305 1093">• Rules also take into account whether debts are secured debts- debts secured on property or other asset by mortgage or charge-the secured lender is in a privileged position has right to sell asset to recover debt-though if asset insufficient to repay whole debt the balance will have to be claimed as an unsecured debt-or unsecured where the claim is against the estate. <b>Re Birmingham, Savage Stannard (1959), Re Holt (1916), Re Neeld (1962), Re Fisons Will Trusts (1950), Re Fegan (1928), Re Valpy (1906), Ross v Perrin-Hughes (2004)</b></li> <li data-bbox="416 1097 1273 1267">• Secured debts in solvent estates - s35 AEA 1925 - the debt will be secured against the estate - unless a contrary intention is shown in the will - when the debt will be paid by the estate - which may have an impact on payments to other creditors if there are few assets.</li> <li data-bbox="416 1272 1230 1487">• Unsecured debts in solvent estates - unless testator directs source from which debts should be paid-the statutory order stated in s34 must be applied - knowledge of statutory order - <b>Re Worthington (1933), Re John (1933), Re James (1947), Re Meldrum's Will Trust (1952)</b></li> <li data-bbox="416 1491 1299 1590">• Solvent estates - all the debts will be paid – the issue is which assets should be used to pay the debts-but the beneficiaries might not receive their legacies in full.</li> <li data-bbox="416 1594 635 1626">• Marshalling</li> <li data-bbox="416 1630 1310 1977">• Payment of debts in insolvent estates is governed by IA 1986 and AIEDPO 1986 - priority given to funeral costs, testamentary expenses and administration expenses above all other debts including secured debts - the order of priority is: <ol style="list-style-type: none"> <li data-bbox="464 1809 1278 1841">1. Funeral, testamentary and administration expenses</li> <li data-bbox="464 1845 884 1877">2. Specially preferred debts</li> <li data-bbox="464 1881 1278 1944">3. Preferred debts (occupational pension schemes and remuneration due to deceased's employees)</li> <li data-bbox="464 1948 735 1980">4. Ordinary debts</li> </ol> </li> </ul>	25

	<p>5. Deferred debts - debts in each category rank equally, and one category must be paid in full before moving to the next category</p> <ul style="list-style-type: none"><li>• Discussion that some categories of debts may not be paid as assets may be exhausted by a superior category</li><li>• Personal representatives must follow the order or they will be personally liable for breach of duty- will have to pay all debts of the higher class of which they have notice - but if pay an inferior debt without undue haste and without notice of a superior debt the personal representative PR will not be personally liable.</li><li>• Key reason that care must be taken is that if the personal representatives in an insolvent estate do not follow the rules, they may incur personal liability.</li></ul>	
<b>Total: 25 marks</b>		

## Section B

Question Number	Suggested Points for Responses	Marks (Max)
QB1	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• S9 WA 1837 sets out formalities for a will to be validly executed</li> <li>• In writing - widely defined - and signed by testator, or someone in his presence and at his direction</li> <li>• Testator must intend signature to give effect to the will</li> <li>• Signature must be made/acknowledged in the presence of 2 witnesses present at the same time</li> <li>• Witnesses must sign/acknowledge in the presence of the testator, but not necessarily in the presence of each other.</li> <li>• Explanation that presence requires both mental and physical presence - <b>Brown v Skirrow (1902), Casson v Dade (1781)</b></li> <li>• Roger's will is type written which is "in writing".</li> <li>• Roger's signature - <b>Barrett v Benn (2012)</b> - did Roger make a positive contribution with some aid, or not?</li> <li>• Discuss whether Roger signed in the presence of both witnesses - Susan yes - but Jonathan was the other side of the lawn.</li> <li>• Whether witnesses signed or acknowledged in presence of testator - Susan did but Jonathan did not as he signed whilst Roger was dealing with his dog- did Jonathan acknowledge his signature?</li> <li>• Roger's will has no formal attestation clause which would raise a presumption of due execution, and to avoid issues, but this is not essential for the validity of the will</li> <li>• Conclude: on facts given, there may be an issue with Jonathan's signature which may affect the validity of the will.</li> <li>• Testators do not need to identify beneficiaries by name in a will - they can make a class gift to benefit a group of beneficiaries determined at a later date such as their death</li> <li>• Discuss that Roger has included a class gift in his will - "to my nieces and nephews but only when they are 21"</li> <li>• Rules of construction have been developed to assist in determining members of the class - <b>Pearkes v Mosley (1880)</b> - the rules deal with immediate vested interest e.g. "to all my nieces and nephews where class closes at death if a member is alive at the time - and immediate contingent interests e.g. "to all my nieces and nephews who survive me and reach the age of 18"- providing there are members of this class closes at the time of the testator's death or the class closes when a beneficiary meets the contingency - <b>Andrews v Partington</b></li> </ul>	25

	<p><b>(1791)</b>- one exception is that the class will include a child en ventre sa mere - <b>Vinter v Francis (1789)</b></p> <ul style="list-style-type: none"><li>• Roger's bequest - there are 3 nieces and 4 nephews living at his death - identify when class closed (depends on their ages) - child <i>en ventre sa mere</i> will also be a member of class.</li></ul>	
<b>Total: 25 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
QB2	<p data-bbox="328 271 1278 338">An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul data-bbox="392 376 1278 1720" style="list-style-type: none"> <li data-bbox="392 376 1278 477">• Order of payment of debts depends on whether estate is solvent- assets sufficient to meet debts and liabilities- or insolvent</li> <li data-bbox="392 483 1278 551">• Executors should look at secured debts first and then unsecured debts</li> <li data-bbox="392 557 1278 725">• S35 Administration of Estates Act 1925 - property against which a debt is secured - beneficiary, not estate, is liable for payment of the debt - unless there is a contrary intention - beneficiary may have to sell the asset to pay the debt</li> <li data-bbox="392 732 1278 833">• Discuss bequest of "The View" - subject to a mortgage- as there is no contrary intention in the will, Daniel will be liable to pay the mortgage off</li> <li data-bbox="392 840 1278 1008">• Discuss that the estate is solvent - the total assets £598,470 exceed the debts of £17,200- but, taking into account that the house and car are specifically bequeathed, the assets not specifically bequeathed only total £17,500</li> <li data-bbox="392 1014 1278 1149">• Funds for payment of the unsecured debts can be specified by the testator in an express provision, otherwise the Statutory Order under s34 AEA 1925 must be applied</li> <li data-bbox="392 1155 1278 1223">• 1 Property undisposed of by the will - as there is a residuary bequest in the will this does not apply.</li> <li data-bbox="392 1229 1278 1442">• 2 Residue disposed of by the will subject to a fund for pecuniary legacies - the assets not specifically bequeathed amount to £17,500 and the legacies amount to £10,000, so the £7,500 left will need to be used to pay debts - so there will be no residue - there is a shortfall of £9,700.</li> <li data-bbox="392 1449 1278 1516">• 3 and 4 Property specifically given or charged for payment of debts – there is none.</li> <li data-bbox="392 1523 1278 1646">• 5. The pecuniary legacy fund - here it is £10,000 - this will be needed to cover the shortfall of £9,700 leaving £300 in the legacy fund - so the legacies will abate, and Anita and Rachel will receive £150 each.</li> <li data-bbox="392 1653 1278 1720">• 6 Property specifically bequeathed - the house and the car will pass to Daniel and Harold respectively.</li> </ul>	25
<b>Total: 25 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
QB3a	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• S25 AEA 1925-executors' duties are to collect and safeguard assets, pay debts and distribute estate to those entitled- should be carried out with due diligence.</li> <li>• Discuss that there is a breakdown of trust between the executors and the beneficiary here <b>Re Steele (2010), Khan v Crossland (2012)</b></li> <li>• Distribute that Ryna has a range of options open to her- she could request an inventory and account under s25 AEA 1925, she has a right to compel due administration, if there had been undue delay she could claim devastavit, and she could ask the court to use its powers under s116 Senior Courts Act 1981 to pass over Devdan in favour of her, though Devdan unlikely to agree - <b>Re Potter 1899)</b></li> <li>• Ryna and George could make an application to the court under s61 Senior Courts Act 1981 and Civil Procedure Rules 1998.</li> </ul>	8
QB3b	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• Executors can be liable to beneficiaries for devastavit- misappropriation and maladministration e.g. using estate assets as own and failing to distribute – <b>Re Morgan (1889)</b></li> <li>• Discuss that Devdan should not use the house (an estate asset) for personal use unless he pays rent to the estate for the house whilst he is occupying it if he does not, he is liable for misappropriation.</li> <li>• Discuss that the antique clocks need to be accounted for pass to George as per the will-if they have been sold as Ryna is suggesting –then Devdan liable for maladministration</li> </ul>	5
QB3c	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• S61 TA 1925- executor has acted honestly and reasonably.</li> <li>• Discuss that the delay in preparing the probate papers was through no fault on Devdan's part</li> <li>• S27 TA 1925 statutory notices</li> <li>• Discuss that the delay in placing these was owing to the solicitors dealing with the estate</li> <li>• Where a beneficiary <i>sui juris</i> has acquiesced</li> </ul>	12

	<ul style="list-style-type: none"><li>• Discuss that Ryna as beneficiary has acquiesced to the breach by not raising any objections when Devdan moved into "The Stone House".</li><li>• Plene administravit</li><li>• Application</li><li>• Reference to executor's year</li><li>• IFPDA 1975</li><li>• Reasoned conclusion</li></ul>	
<b>Total: 25 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
QB4a	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• S20 WA 1837 - revocation of will by destruction-burning, tearing etc - <b>Cheese v Lovejoy (1877)</b>- destruction must be complete - destruction by another for testator - <b>Re De Kremer (1965), In the Goods of Dadds (1857)</b></li> <li>• Discussion that destruction of will by solicitor following telephone conversation does not comply as destruction not done in Oscar's presence</li> <li>• Testator must intend to destroy – Gill v Gill (1909) - but not valid if under mistaken belief - <b>Southerden (1925)</b></li> <li>• Discuss Oscar's mistaken belief led to instruction to destroy</li> <li>• <b>In the Estate of Adams (1990) In the Goods of Nunn (1836) In the Goods of Gullan (1858) In the Goods of Dadds (1857)</b></li> <li>• Conclude: Oscar's will remains valid and Mary will inherit</li> </ul>	10
QB4b	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• R14 NCPR 2014 - affidavit of terms, condition and execution</li> <li>• Explain that affidavit would explain that original will as destroyed - that this was not Oscar's intention and why</li> <li>• Could be sworn by solicitor who prepared the will, or someone else with relevant knowledge</li> </ul>	5
QB4c	<p>An answer which consists of reasoned analysis, offering opinion which is supported by evidence.</p> <ul style="list-style-type: none"> <li>• S20 WA 1837 - a will can be revoked by a later will that is valid - expressly through a revocation clause- <b>Kitcat v King (1930)</b> - or by implication where the later will deals with whole estate including a residuary gift- question of construction and must be logical inconsistencies between the 2 documents – <b>Perdoni v Curati (2012), Dempsey v Lawson (1877)</b></li> <li>• S9 WA 1837 - formalities – including need for 2 witnesses to witness testator's signature.</li> <li>• Dependent relative revocation - where a new will that purports to revoke an old will is invalid then old will remains valid- Re Jones (1976)</li> <li>• As 2019 will is invalid, March 2016 will shall apply</li> <li>• Reference to bequest to Julie under 2016 will</li> <li>• Presumption of conditional revocation i.e. if new will turns out not to be valid, the old one remains valid <b>Re Jones (1976)</b></li> </ul>	10

	<ul style="list-style-type: none"> <li>• Discuss that 2019 will does not include an express revocation clause but apparently revokes 2016 will by implication as there are changes in bequest i.e. niece omitted, and different animal rescue organisation included</li> <li>• Discuss 2019 will is invalid as no 2<sup>nd</sup> witness</li> <li>• Reasoned conclusion that 2016 will still to be valid. Therefore, gift to Oscar stands – but gift to charity lapses as it no longer exists so partial intestacy</li> </ul>	
<b>Total: 25 marks</b>		