

**CHIEF EXAMINER COMMENTS WITH SUGGESTED ANSWERS**

**LEVEL 6 - UNIT 17 - CONVEYANCING**

**JUNE 2019**

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

The purpose of the suggested answers is to provide candidates and learning centre tutors with guidance as to the key points candidates should have included in their answers to the June 2019 examinations. The suggested answers set out a response that a good (merit/distinction) candidate would have provided. The suggested answers 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 by the suggested answers.

Candidates and learning centre tutors should review the suggested answers 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**

As stated in previous reports most candidates had revised the Case Study Materials (CSM) and used this to direct their preparation for the examination. Answers that passed demonstrated the conveyancing knowledge and practice, which would be expected, from a junior conveyancing practitioner. Capable candidates, answered the question set, clearly explained the issues raised by each question, clearly stated the relevant conveyancing knowledge and procedure and clearly applied this to the facts to reach reasoned conclusions and/or give clear advice.

Poor candidates, i.e. those that failed the assessment, clearly had not shown any understanding of the Learning Outcomes nor the KUS for the Unit. As with previous cohorts, many of those who failed did not make the transition from merely regurgitating information (for example providing lists of information), for which no marks were given, as the Practice Units tests practical application of the law to the facts.

Again, as noted in previous reports, a large number of the candidates that failed the paper did so badly (i.e. gaining below 40%).

Some of the reasons for this included:

- candidates failing to answer the question set, thereby gaining no credit;
- some candidates did not even understand the scope of the question thereby demonstrating a complete lack of conveyancing knowledge and understanding;
- a large proportion of candidates were unable to explain/define terms properly;
- a large number of answers contained contradictions where candidates contradicted what they stated in an earlier part of their answer thereby gaining no credit;
- for a number of candidates, the grammar used in answering questions was so poor that the answers often did not make sense;
- all candidates from one centre either all failed the paper and/or provided the same wrong answer to particular questions;
- in a number of answers from the same centres, most/all candidates tended to give the same wrong answers or the same correct answers and thus seemed to be 'prompted' by centres on the contents of the CSMs and prompted on how to answer potential questions. This raises two issues. First, in many cases the prompted answers were all wrong. Second, this must raise professional conduct issues and quality issues about the integrity of the assessment as surely answers to examination questions must be the candidate's own work, and centres and/or no-one else should be able to go through the CSMs with candidates and/or prompt answers;
- a number of candidates failed to answer questions in order, i.e. tackled questions in a random order (e.g. by starting with 4a, next 1b, etc.) and lost considerable marks as the facts stated in the question paper developed in a linear order throughout the questions.

Again, as with recent conveyancing papers, this question paper had been designed to prevent candidates, who merely revised and learnt by heart the suggested answers from previous conveyancing papers, from getting credit. Questions were designed to ask candidates to apply their knowledge of conveyancing law and procedure. This prevented model answers from past papers gaining any credit. This approach has worked as those who had merely memorised past answers failed this examination.

## CANDIDATE PERFORMANCE FOR EACH QUESTION

Common errors on specific questions is given below:

### **Question 1**

- (a)** Documents included in the pre-contract pack on the sale of a freehold property.

This was generally answered well by most candidates with many scoring 7/8 marks. Many candidates had clearly prepared using the Case Study Materials (CSMs) and had identified issues such as the need for proof of name change, the additional sums payable for the furniture, the needs for a building regulations certificate for the recently installed gas boiler, etc.

A few candidates, who identified many of the above issues, lost credit by failing to explain their answers properly, for example by not making explicit reference to key documents or facts e.g. by not stating which documents referred to Samantha Khan's (nee Rogers) different names, etc.

Poor answers tended to merely repeat lists of items they had learnt/taken from textbooks and gained little credit as these answers were not geared to the actual property and/or facts in question. For example, saying guarantees or building regulations need to be provided is too general (for what?).

**(b)** Whether a non-owning occupier of a property has an overriding interest.

This was answered fairly well by most candidates who identified the issue and performed an analysis whether there is an overriding interest by looking at an 'interest in land' and 'occupation of land' and applying these elements to the facts. Most answers stated that the buyers' lawyers would require vacant possession on completion, looked at the need for Noor Khan to sign special condition 7 of the contract (explained the effect of this) and also looked at professional conduct issues.

Some answers went into too much analysis of whether the £20,000 payment made by Noor, was either a gift or loan, but gained no credit for this as with respect, that is irrelevant, as the buyers are only concerned that any beneficial interest in the land is overreached and also that special condition 7 in the contract is signed by the non-owning occupier.

Poor answers only talked about overreaching Noor Khan's beneficial interest, however it should be noted that the correct approach would be for Noor Khan to sign the contract (see above). Poor answers asked whether she is in occupation and/or that there is a need for the buyers to inspect the property thereby overlooking the point that her occupation had been disclosed by the sellers to the buyers in the Property Information Form. Any overriding interest would be binding on the buyers. It is important that law is applied to the facts provided in the CSMs.

## **Question 2**

**(a)** What proof of payment will the buyers' lawyers require in relation to purchasing a leasehold flat?

This was answered averagely by most candidates with many scoring 3 marks out of 6. Most answers identified the need to obtain copies of receipts and/or proof of payments in relation to ground rent and service charge, that this is also a requirement of the lender, related this the need to apportion figures on completion, and also to avoid forfeiture for non-payment of rent. Most answers overlooked s167 of the Commonhold and Leasehold Reform Act 2002 and S45(2) Law of Property Act 1925.

Poor answers totally missed the above points and discussed money laundering. All of the candidates from one centre bizarrely talked about the need for the sellers' lawyers to provide the buyers' lawyers with copies of the sellers' bank statements, which is clearly a breach of the duty of confidentiality and would never happen in practice.

## **2(b)**

Identification of documentation that the sellers' lawyers failed to include in the contract pack on the sale of a leasehold flat.

This was answered well by most candidates with many scoring 4 or 5 marks out of 5 and so had clearly related their answers to the facts given in the scenario and the leasehold property covered by the scenario.

Poor answers merely repeated lists they had pre-learnt and failed to gear answers to the facts thus showing no understanding. A number of answers mentioned the need for the EPC even though it was stated in the CSMs that this had already been provided. A few answers demonstrated no understanding that this transaction was the assignment of an existing lease for example, by requesting a 'draft copy of the proposed lease'.

Some candidates were too imprecise thereby gaining no marks, for example, by requesting the 'Fixtures and Fittings Form' or the 'Fixtures and Contents Form' rather than the 'Fittings and Contents Form'. This is a practice paper and candidates must use the correct terminology.

**(c)** Assessment of whether the forfeiture provisions in a residential lease are acceptable to your client.

This was answered poorly by many candidates with most scoring either 2 or 3 marks out of 5. Most answers clearly explained the two grounds on which the landlord could forfeit the lease, but often failed to state what the lender's requirements are under 5.14.2 of the UKFLH, or if they did, they failed to relate this to the facts. Many candidates merely said these provisions were unacceptable, even though these are standard forfeiture provisions.

Some candidates gained no credit as they merely said the provisions were acceptable without giving reasons why they reached that conclusion.

A number of candidates said they would refer the forfeiture provisions to the lender, thus demonstrating a complete lack of understanding of the lender's requirements under the UKFLH.

**(d)** Identification that the leasehold property being purchased has 'good leasehold title', the problems associated with this class of title and steps to overcome these problems.

This question was answered averagely by most candidates with many scoring 6/7 out of 11.

Most candidates correctly identified the type of title, explained how it was defective, that it is not acceptable to the lender and also the steps that could be taken to resolve this - such as having the freehold title deduced, the buyers' lawyers certifying that the title is good and marketable, or the sellers' lawyers providing a good leasehold title indemnity insurance policy at their own cost.

Many answers failed to look at the practicalities of the above solutions, for example by not discussing the likelihood that the superior title is unavailable, etc. Some candidates incorrectly stated that indemnity insurance should be

provided at the buyers' own cost, even though this is clearly a defect in the sellers' title.

### **Question 3**

**(a)** Drafting parts of a sale contract for a freehold property.

This question was answered well by most candidates with many scoring 10 marks or more out of 13.

Common errors included:

- Failing to state the full names (including middle names) and/or full addresses of the sellers and buyers;
- Failing to define the specified incumbrances properly (e.g. by incorrectly stating the sale was subject to those matters contained in the Charges register or in a specific conveyance) and/or failing to exclude the financial charges;
- For the deposit a number of candidates lost credit as they only stated the percentage rather than the actual figure;
- A proportion of candidates either made errors in the figures stated and/or miscalculated the balance (often failing to deal with the contents price properly); and
- Special conditions - many candidates correctly identified the special conditions to be added to the contract but failed to actually draft these. Credit was given for any relevant special conditions added by candidates not shown in the suggested answers.

**(b)** Dealing with results of pre-contract search showing that the purchase property is within an area with a high risk of surface water flooding.

This was answered averagely by most candidates with many scoring 4 or 5 out of 8.

Most answers identified the issues that such an adverse search raises and how it could be dealt with such as checking the sellers' responses in the PIF, raising enquiries with the sellers' lawyers, the need to perform a specific flood risk search, etc.

Many answers identified Flood Re, but none assessed whether cover applies to blocks of residential flats. Greater understanding of this important area is required.

Some answers suggested that the sellers should about flood indemnity insurance.

**(c)** Identification of the Law Society formula to be used to exchange contracts on a 'sale property' at the bottom of the chain, also on a 'purchase property' at the top of the chain, and following exchange what you would receive from the buyer's lawyers and what you would send to the seller's lawyers.

This was answered poorly by many candidates. Most candidates failed to answer the question that was set and instead wrote down everything they knew about exchange of contracts thereby gaining no credit. Some candidates incorrectly said formula B would be used on both properties - this is clearly

incorrect as there is a chain here. Candidates must note that formula C is used at the bottom of the chain and works upwards, and finally formula B is used at the very top of the chain.

Many candidates stated deposits as percentages, but failed to state the actual amounts, thereby gaining no credit, it should be noted that this is a practice paper and actual amounts are required. Further, only a few candidates noted that we could require the buyers' lawyers to send their clients' deposit up through the chain directly to the sellers' lawyers.

#### **Question 4**

**(a)** Pre-completion searches to be performed on a registered leasehold property.

This was answered poorly by many candidates with most scoring 2 or 3 marks out of 5. It must be said that the Chief Examiner was disappointed with the numerous and dangerous errors made by many candidates. Some candidates incorrectly stated the need to perform an OS2 search, rather than an OS1 search, which would provide no protection whatsoever to the lender or buyers – this is particularly concerning. The majority of candidates also got the priority search period incorrect, for example by stating 30 days for the OS1, rather than 30 working days, and 15 days, rather than 15 working days, for the K16. A number of candidates mentioned irrelevant searches such as K16 searches against the sellers, etc.

These issues have been raised in past reports. Centres and candidates need to address these serious misunderstandings in relation to priority searches.

**(b)** Death of a co-owner seller of a registered leasehold property and steps required to protect the buyers.

This was answered averagely by many candidates. Most candidates identified that the legal and beneficial titles were held in a joint tenancy, thus on death of one co-owner, survivorship occurs and evidence of death in the form of a death certificate is required. Good answers identified that it would only take a maximum of three days to obtain the death certificate and so any delay would only be for a short period.

Poor answers said the property was held in a tenancy in common or gave answers that covered both alternative ways that a property can be held by co-owners (i.e. joint tenancy and tenancy in common) thereby gaining no marks – candidates must be able to identify how the legal and beneficial titles are held by co-owners.

Some candidates talked about the need for a grant to be obtained and PRs appointed which is patently incorrect. Others talked about the need to appoint a second trustee to overreach as a co-owner had died and gained no marks as this approach is incorrect, even though some of these candidates had correctly identified how the property was held by the co-owners. Some candidates did not know how the property was being held by the co-owners as they talked about the need to raise requisitions with the sellers' lawyers – this is fundamental and basic knowledge which every candidate should know.

A large number of candidates incorrectly said that the contract would have to be redrafted. Note the contract cannot be redrafted, but the TR1 will need to be to take account of the change in ownership following Mrs Robinson's death.

Too many candidates focused on remedies whereas the focus should have been how to get completion back on track ASAP.

**(c)** Post completion steps to be taken in relation to a registered leasehold property and the time limits that apply.

This was answered poorly to averagely by most candidates with many scoring 4 to 6 marks out of 11.

In relation to SDLT candidates were credited for stating either that it had to be paid within 14 or 30 days of completion, as the change in procedure occurred within 6 months of the date of the examination. However, many candidates incorrectly stated working days, rather than days, and so gained no marks. Most candidates correctly stated the exact amount of duty to be paid and the forms to be used – candidates who failed to do this gained no credit. Some candidates incorrectly stated '15 days'.

Many candidates failed to clearly state the transactions that needed to be registered, for example transfer and Metro Bank's charge. Credit was given to those who mentioned making an application to discharge Barclays Bank's charge over the property (but credit was given only where the name of the mortgagee was given).

Most candidates did not deal with the notice provisions well. Candidates needed to refer to the specific lease provision, summarise it and apply it to the facts; thus, both a notice of assignment and of charge were needed, and a fee of £15 each, payable to the landlord, would need to accompany the notice.

## **SUGGESTED ANSWERS**

### **LEVEL 6 - UNIT 17 – CONVEYANCING**

**JUNE 2019**

#### **Question 1(a)**

The following must be included with the pre-contract package for Outram Street under the Law Society Conveyancing Protocol (the Protocol):

- i. The draft sale contract;
- ii. Official copies of the freehold register and title plan which must not be more than six months old;
- iii. An official copy of the conveyance dated 3 April 1907 made between (1) The Owners of the Middlesbrough Estate Ltd (2) Arthur Vinter and (3) Emily Reeve because this is a filed document and it contains covenants which the property is sold subject to, and the buyer will need to know what these are;

- iv. The Proprietorship register states that Samantha Rogers and Abdul Khan are the registered proprietors whereas Documents 1 and 2 identify the owners as Samantha Khan and Abdul Khan. Under the Protocol where the name of a registered proprietor is different to that of the sellers we are required to provide an explanation and/or proof of name change which will be a certified copy of the marriage certificate of Samantha Khan (nee Rogers)
- v. The Replies to the Property Information Form (TA6);
- vi. The Replies to the Fittings and Contents Form (TA10) as carpets and curtains are included in the sale, and other contents are being sold for an additional price. These are the leather three-piece suite, the oak dining table and chairs and four rugs;
- vii. In 2012, the clients replaced a gas boiler at Outram Street and we will need to provide a copy of the building regulations certificate issued under the competent person self-certification scheme.

### **1(b)**

An adult non-owning occupier may have an overriding interest in Outram Street, which is an interest that is not registered but will be binding on the purchaser and their lender.

Two elements are required to establish an overriding interest – occupation and a legal and/or equitable interest in land.

Is Noor Khan in occupation of Outram Street?

The extract from the Property Information Form shows that Noor Khan is 67 years old, an adult, who is in occupation of Outram Street. Note under the Land Registration Act 2002, if the sellers failed to disclose Noor Khan's occupation to the buyers, and her occupation was not apparent on a reasonable inspection of the property then any interest she may have in Outram Street would not be overriding; however in this instance it has been disclosed in the PIF.

Does Noor Khan have a legal and/or equitable interest in Outram Street?

We note from Document 2 that in 2002, Noor Khan contributed £20,000 towards the purchase of Outram Street and as a consequence, provided the money was not given as a gift, Samantha Khan and Abdul Khan are holding part of the legal title of Outram Street in a resulting trust in favour of Noor Khan.

In conclusion, Noor Khan is likely to have an overriding interest in Outram Street.

Although an interest under a trust of land will be overreached upon sale by two legal owners (Samantha and Abdul Khan), this will not deal with any other type of interest and will not ensure vacant possession if Noor Khan refuses to vacate. Further, the buyers' lawyers will not want to investigate whether Noor Khan has an overriding interest in the property. As she is an adult occupier of the property, they will assume that she does have an overriding interest.

The buyers' lawyers will insist that Noor Khan signs special condition 7 of the sale contract agreeing to the sale of Outram Street, agreeing that she will

vacate the property on or before completion and that she will release the property from any right or interest in it she may have.

We will need to write to Noor Khan to see whether she is willing to sign the above clause, however we will not be able to act for her as there is a conflict of interest between Mrs and Mrs Khan and Noor Khan. When writing to Noor Khan we should make it clear that agreeing to sign the provision will have a serious impact on her rights and she should seek independent legal advice.

### **Question 2(a)**

I will require the sellers' lawyers to confirm that last three years payments of both ground rent and service charge have been paid and confirm that evidence in the form of clear rent receipts will be provided on or before completion.

This allows us to determine whether there are any arrears or overpayments of ground rent and/or service charge so that this can be taken into account when calculating apportionments on completion under SCS 6.3.

As we are also instructed to act for Metro Bank plc we must comply with 5.14.12 of the UKFLH which states that we must obtain on completion a clear receipt or other appropriate written confirmation for the last payment of ground rent and service charge from the lessor or managing agents on behalf of the lessor.

If the rent is not paid (clause 1 of the lease reserves the service charge as rent) the risk for the buyer and lender is that the lessor can forfeit the lease for non-payment of rent.

A ground rent receipt provides protection to the prospective tenant and lender because it is issued by the landlord/landlord's agent, and the act of accepting a payment waives the right to forfeit the lease for any one-off breaches of covenant that the sellers made during their period of ownership – this does not apply to ongoing breaches.

Under s.167 Commonhold and Leasehold Reform Act 2002 the lessor cannot forfeit a lease of a residential property for a failure to pay ground rent and/or service charge where the debt has been owed for less than three years or where the sum owed does not exceed £500.

S45(2) Law of Property Act 1925 states that where the sellers provide the buyer with a receipt for the last payment of rent, then the buyer must assume that the seller has complied with all of the lessee's obligations in the lease, unless the contract for sale states otherwise. This protects the sellers from answering additional requisitions relating to compliance of the lessees' covenants.

### **(b)**

I would have expected the sellers' lawyers to have included the following additional documentation in the contract pack for Flat 1:

- i. Official Copy of the title plan to the leasehold title, less than six months old
- ii. A draft transfer

- iii. A draft contract
- iv. The Replies to the Property Information Form (TA6)
- v. The Law Society Fittings and Contents Form (TA10)
- vi. The replies to the Leasehold Information Form (TA7)
- vii. LPE1 and LPE2 or in the alternative replies to enquiries made of the landlord/managing agents

## **2(c)**

The forfeiture provision is contained in clause 5 of the lease of Flat 1. The lessor is entitled to forfeit the lease where the rent or any part of the rent has remained unpaid for 21 days or more, after becoming due, or where the lessee breaches any other lessee covenants within the lease. These are standard forfeiture conditions, which are contained in most residential leases.

The clients are funding their purchase with a mortgage from Metro Bank and thus the Bank's instructions are important. 5.14.2 of the UK Finance Lenders' Handbook (UKFLH) states that there must be no provision for forfeiture on the insolvency of the tenant or any superior tenant. There no such provision and so these provisions are therefore acceptable.

## **(d)**

Flat 1 is registered with good leasehold title which means when the lease was originally registered at HM Land Registry the freehold title was not provided and accordingly the Land Registry cannot determine whether the lease was validly granted.

The risk for the buyers and Metro Bank plc, the lender, is that the title can be extinguished if it is subsequently shown that the lease was not validly granted. Further, the buyers would purchase the leasehold subject to any encumbrances or defects that affect the superior title even though these are unknown. Finally, the lease may have been granted in breach of a condition affecting the superior title such as a restrictive covenant preventing the freeholder owner from granting a residential lease.

Good leasehold title is not acceptable to the lender, Metro Bank plc, however under 5.6.2 of the UK Lenders Handbook a number of options are available:

- i. First, is for the sellers' lawyers to deduce the freehold title for a period of 15 years prior to the lease being originally granted. This would permit us, when registering the assignment of the lease to our clients, to also make an application to HM Land Registry to upgrade the title from good leasehold title to absolute title. However, as the title is good leasehold it is unlikely that the seller's lawyers will have sufficient evidence to deduce the superior title.
- ii. Second is for us to certify to the lender that the title is good and marketable when sending the certificate of title to the lender. We would not be willing to do this as we cannot determine whether the title is good and marketable.
- iii. Third, the quickest and usually cheapest option is for the sellers, at their own cost, to provide a good leasehold title indemnity policy in favour of our clients and lender (and any subsequent owners) in the sum of £195,000. This will cover our clients and their lender for their

losses should the title be extinguished, or where any onerous encumbrances that affect the freehold title are enforced and have a detrimental effect on the leasehold title. If the sellers' lawyers agree to this option, we would add a special condition to the contract specifying that the sellers would at their own cost provide a good leasehold title indemnity policy to the buyers in the sum of £195,000 on or before completion.

### **Question 3(a)**

Seller : Samantha Jennifer Khan and Abdul Khan both of 94 Outram Street, Middlesbrough, TS1 4EL

Buyer: Elliot Rouse and Shelly Rouse both of 89 Acre Lane, Hartford, Merseyside, L14 7HL

Property: 94 Outram Street, Middlesbrough, TS1 4EL

Title number : TES444554

Specified incumbrances: All matters referred to in the Registers of the above numbered Title save for entries numbered 2 and 3 in the Charges Register.

Title guarantee: Full

Purchase price: £147,500 (one hundred and forty even thousand five hundred pounds)

Deposit: £7,375 (seven thousand three hundred and seventy-five pounds)

Contents price (if separate): £2,500 (two thousand five hundred pounds)

Balance: £142,625 (one hundred and forty-two thousand and six hundred and twenty-five pounds)

Special Conditions [credit was given for any other relevant special conditions drafted by candidate's]:

Name Noor Khan

The transfer shall contain a covenant by the buyers that the buyers will (by way of indemnity only) observe and perform the covenants referred to in entry number 1 of the charges register and will indemnify and keep the sellers and their estates indemnified against all actions, proceedings, costs, damages or expenses incurred or suffered by the sellers or their estates in respect of any future breach, non-observance or non-performance of these covenants

### **(b)**

Under clause 1 of the fifth schedule to the lease the landlord is responsible for buildings insurance, and my clients will be responsible for insuring for contents insurance.

I would need to take the following action as a consequence of the Groundsure search result:

I will advise our clients that Flat 1 is in an area where there is a high risk of flooding which may make the property harder to sell in future, insure and/or to re-mortgage.

I would perform a dedicated flood search.

I will check the sellers' replies to questions 6 and 7.1 of the Property Information Form (TA6) to see the sellers have disclosed if any policy of insurance has been refused or the premiums for such insurance increased because of any flooding and/or whether the property has suffered from surface flooding in the past.

If such information has been disclosed I would request further particulars from the sellers' lawyers, if not disclosed then I would raise the following requisition with the sellers' lawyers:

"Please confirm whether the Property has suffered from surface flooding in the past, and whether any policy of insurance has been refused or the premiums for such insurance increased because of any flooding or risk of flooding at Flat 1."

I would also raise a similar requisition with the landlord, who has an obligation provide buildings insurance, and request a copy of the landlord's building/block insurance to ascertain whether it covers flood risk.

The property probably is not eligible for Flood Re this is because the service charge payable for Flat 1 is 14.285% of the lessor's costs of insuring and repairing the estate and therefore is likely to be part of a block that comprises more than three residential units. I would take instructions from my clients to determine how many flats there are in the block or estate.

I would also need to report the results of this search to the lender to see whether they will be happy to proceed with the loan. I will require my clients consent to report this matter to the lender and I will have to cease acting for the lender if they refuse such consent.

I may also follow this issue up with the clients' surveyor, as recommended by the Law Society's Practice Note on flood risk, to see whether additional survey steps are required as a result of the search.

### **3(c)**

I will use formula C to exchange contracts on Outram Street, as this is at the bottom of the chain and will use formula B to exchange contracts on Flat 1, as this is at the top of the chain.

Following the exchange of contracts on Outram Street I would expect to receive the buyers' signed part contract and a cheque for £7,375 in respect of the 5% deposit being paid by the buyers, alternatively, I could have directed the buyers' lawyers to send this money directly to Stringer and Co, the lawyers acting for the sellers in my clients' purchase.

Following the exchange of contracts on Flat 1, I will send Stringer and Co my clients' signed part contract and cheque in the sum of £19,500 made up of the £7,375 paid by my clients' buyers, with the balance of £12,125 being paid by my clients, or if I directed the buyers' solicitors to forward the deposit of

£7,375 directly to Stringer and Co then I would forward a cheque in the sum of £12,125 to the sellers' lawyers.

#### **Question 4(a)**

I will perform the following pre-completion searches for Flat 1:

- i. An official search of whole with priority using form OS1 which provides a priority period of 30 working days in which to register both the assignment of the lease and charge at HM Land Registry.
- ii. A bankruptcy search using form K16 against both Samantha Jennifer Khan and Abdul Khan as they are obtaining a mortgage from Metro Bank Plc and the lender will not want to lend to a bankrupt. The priority period is 15 working days in which to complete the charge.

#### **(b)**

Mr and Mrs Robinson held both the legal and beneficial estates in the property in a joint tenancy this is because a 'tenancy in common restriction' has not been entered into the Proprietorship Register of the title for Flat 1. This means that on Mrs Robinson's death her interest in the property automatically moved to Mr Robinson via survivorship.

We will require the sellers' solicitors to send us an official copy of Mrs Robinson's death certificate which will be sent to HM Land Registry with our application to register the title as evidence that Mrs Robinson has died and accordingly survivorship has occurred. The transfer will also need to be amended prior to completion to remove Mrs Robinson as a transferor, thereby showing Mr Robinson as the sole transferor.

As a party to the transaction has died and there will be a delayed completion it is prudent to register the contract at HM Land Registry as an agreed notice so that our clients are protected against an attempted sale and/or any third-party dealings affecting Flat 1. The signed contract acts as sufficient evidence that the applicants (the buyers') have a right to register such a notice.

#### **(c)**

Following completion, I will undertake the following post completion steps in relation to Flat 1:

- i. Pay SDLT of £1,400 to HMRC using form SDLT1 within 14 days of completion following which HMRC will provide me with a SDLT5 certificate which will need to be submitted to HM Land Registry to prove that SDLT has been paid to HMRC.
- ii. Apply to HMLR to discharge Barclays Bank's existing charge or to check that it has been automatically discharged. Apply to register the assignment of the lease and Metro Bank's charge at HM Land Registry within the priority period of 30 working days of completion provided by the priority search of whole. Further, a failure to register the transfer and/or charge within the 30-working day priority period provided by the priority search of whole (OS1) could allow third parties to register an interest against the title, which would be binding on our clients and the lender. If this happened, we would be negligent and in breach of

our instructions and duty to the clients and/or lender accordingly liable for any losses suffered as a consequence.

- iii.** Within one calendar month of each transaction, serve notice on the lessor of the assignment of the lease with a cheque for £15 and notice of the charge with a cheque for £15 as required under clause 3(f) of the lease of Flat 1.