

## 2021 UNIT SPECIFICATION

<b>Title:</b>	(Unit 8) Immigration Law
<b>Level</b>	6
<b>Credit Value:</b>	15

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
<p><b>1. Understand the framework of immigration control in the UK</b></p>	<p><b>1.1</b> Identify the sources of immigration law</p>	<p><b>1.1</b> In particular,</p> <ul style="list-style-type: none"> <li>• Immigration Act 1971</li> <li>• Nationality, Immigration and Asylum Act 2002</li> <li>• Immigration, Asylum and Nationality Act 2006</li> <li>• UK Borders Act 2007</li> <li>• Borders, Citizenship and Immigration Act 2009</li> <li>• Immigration Act 2014</li> <li>• immigration rules in HC 395 and linked appendices</li> <li>• Home Office policy documents (IDIs, APIs etc).</li> <li>• Knowledge of Immigration Act 2016 and new offence of illegal working inserted into the Immigration Act 1971 at s.24B.</li> </ul>

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	<p><b>1.2</b> Explain the exclusionary nature of immigration control</p> <p><b>1.3</b> Analyse the operation of immigration control</p>	<ul style="list-style-type: none"> <li>• Knowledge of amendments made by Part 2 Immigration Act 2016, preventing illegal migrants accessing services and Part 3 Immigration Act introducing measures to enforce immigration laws. Introduction of a new electronic entry clearance visa.</li> </ul> <p><b>1.2</b> Right of abode;</p> <ul style="list-style-type: none"> <li>• concepts of subject to immigration control, entry clearance, leave to enter and remain;</li> <li>• the significance of the common travel area;</li> <li>• access to public funds and housing by those seeking to live in the UK e.g “No recourse to public funds” conditions attached to leave;</li> <li>• application and nature of immigration rules.</li> </ul> <p><b>1.3</b> Legal basis:</p> <ul style="list-style-type: none"> <li>• Immigration Act 1971;</li> <li>• operation of entry clearance, leave to enter, leave to remain;</li> <li>• personnel of immigration control;</li> <li>• enforcement of immigration control through civil and criminal law including the main offences and civil penalties for employers:</li> <li>• the impact of Equality Act 2010.</li> <li>• Immigration Act 2014 - right to rent scheme, 30-day travel visa for visa of more than 6 months, introduction of Immigration Health Surcharge (IHS) including circumstances in which this can be waived.</li> </ul>
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	<p><b>1.4</b> Analyse the role of discretion in immigration law</p> <p><b>1.5</b> Apply an understanding of the framework of immigration control to a given situation</p> <p><b>1.6</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<ul style="list-style-type: none"> <li>• New paras 25CA-CB of Sch 2 to the Immigration Act 1971 – an authorised officer can enter and search premises of illegal migrant to seize driving licence. s.24C of the Immigration Act 1971 – creates an offence of driving with or without a licence if the driver is not lawfully resident in the UK.</li> <li>• Awareness that leave under s.3C of the Immigration Act 1971 may be cancelled under the Immigration Act 2016 s.3C(3A).</li> </ul> <p><b>1.4</b> Discretion to allow entry and leave to remain outside the rules;</p> <ul style="list-style-type: none"> <li>• key Home Office policies including carers;</li> <li>• legitimate expectation;</li> <li>• unlawful detention: common law fairness.</li> </ul> <p><b>1.5</b> Application of understanding to a complex scenario.</p> <ul style="list-style-type: none"> <li>• Understanding how to make an application for entry clearance/leave to remain, including online applications</li> <li>• Understanding how to make an application for a fee waiver.</li> </ul> <p><b>1.6</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
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<p><b>2. Understand the routes to admission for the purposes of employment or self-employment</b></p>	<p><b>2.1</b> Classify the different routes to employment and self-employment</p> <p><b>2.2</b> Describe the features of and criteria for the principal categories for entry for employment and self-employment</p>	<p><b>2.1</b> An explanation of the rationale for the Points Based System (PBS) and a clear differentiation of the categories within it.</p> <p><b>2.2</b> Nature of categories within Tier 1 PBS (investor, exceptional talent, and new categories of start-up visa and innovator visa); Removal of new applicants in the entrepreneur and graduate entrepreneur categories and transitional arrangements for immigrants with extant leave in these categories)</p> <ul style="list-style-type: none"> <li>• basis of award of points under Tier 1;</li> <li>• Tier 1 (General) visas closed in April 2018. Family members can still apply to join their spouses in the UK;</li> <li>• relationship must now be subsisting and genuine;</li> <li>• basis of award of points under Tier 2 PBS, requirement to be sponsored, applicability of the ‘resident labour market test’;</li> <li>• exceptions to the ‘resident labour market test’ introduced.</li> <li>• Criteria for entry under Tier 5 PBS routes (temporary workers: creative and sporting, charity workers, religious, government authorised exchange and international agreement; and youth mobility scheme) – Additional restrictions on religious and charity workers</li> <li>• Introduction of £35,000 minimum earning threshold for Tier 2 settlement, including</li> </ul>
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	<p><b>2.3</b> Explain the rights of family members of economic migrants</p> <p><b>2.4</b> Summarise the stages an economic migrant goes through on the road to settlement</p> <p><b>2.5</b> Analyse the recent and forthcoming changes to this area of law</p>	<p>exceptions in the immigration rules and related appendices</p> <ul style="list-style-type: none"> <li>• Tier 2 PBS - ‘Immigration skill charge’ introduced by s70A of the Immigration Act 2016.</li> <li>• No bar to settlement for Tier 2 visa holders with more than 60 days gap in employment.</li> </ul> <p><b>2.3</b> Right to join principal migrant;</p> <ul style="list-style-type: none"> <li>• rules that are applied (eg: maintenance funds);</li> <li>• right to work once in UK.</li> </ul> <p><b>2.4</b> Leave granted in stages, different periods of leave required for settlement dependent on Tier</p> <ul style="list-style-type: none"> <li>• application fees;</li> <li>• knowledge of life in the UK.</li> <li>• Absences requirement leading to settlement extended to dependants.</li> </ul> <p><b>2.5</b> Creation of PBS and its frequent modification;</p> <ul style="list-style-type: none"> <li>• strict and detailed requirements with no built in evidential flexibility; <u>Shahzad</u> [2012] UKUT 81 (IAC), <u>Alam v SSHD</u> [2012] EWCA Civ 960, <u>Mudiyanselage v SSHD</u> [2018] EWCA Civ 65, <u>Harpreet Singh v SSHD</u> [2018] EWCA Civ 2861</li> <li>• basic awareness of previous routes to employment/self-employment and how to switch into PBS;</li> </ul>
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	<p><b>2.6</b> Apply an understanding of the routes to admission to a given situation</p> <p><b>2.7</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<ul style="list-style-type: none"> <li>• Genuineness tests in the PBS.</li> </ul> <p><b>2.6</b> Application of understanding to a complex scenario.</p> <ul style="list-style-type: none"> <li>• Understanding how to make an application for employment and self-employment.</li> </ul> <p><b>2.7</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
<p><b>3. Understand the rules on the admission of family members</b></p>	<p><b>3.1</b> Identify the rules for entry, stay and settlement for spouses and partners, children and other relatives</p>	<p><b>3.1</b> Knowledge and understanding of requirements for leave to enter and remain in Appendix FM covering spouses, civil partners, unmarried partners, fiancé(e)s/proposed civil partners;</p> <ul style="list-style-type: none"> <li>• probationary period of leave;</li> <li>• domestic violence and bereaved spouse rules;</li> <li>• children; adopted children; dependent relatives;</li> <li>• knowledge of the rules includes the criteria/qualifications for entry under these rules, the rules on entry clearance and switching into these categories within the UK.</li> <li>• Knowledge of definition of a partner in GEN 1.2 and understanding of the general, suitability and eligibility (including relationship, English language and financial) requirements for both leave to enter, limited leave to remain and indefinite leave to remain.</li> </ul>

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	<p><b>3.2</b> Explain the application process from visa to settlement</p> <p><b>3.3</b> Analyse the rules for maintenance and accommodation without recourse to public funds</p>	<ul style="list-style-type: none"> <li>• Knowledge and understanding of requirements to produce relevant documentation under Appendix FM-SE.</li> <li>• Knowledge and understanding of the requirements of the 5 year and 10-year routes to settlement under Appendix FM.</li> </ul> <p><b>3.2</b> Entry clearance;</p> <ul style="list-style-type: none"> <li>• leave to enter;</li> <li>• periods of leave granted;</li> <li>• leave to remain;</li> <li>• settlement;</li> <li>• fees payable throughout;</li> <li>• knowledge of language and life (KoLL)</li> <li>• Secure English Language Test (SELT) for citizenship and settlement.</li> </ul> <p><b>3.3</b> Understanding of income threshold in Appendix FM for partners of £18,600 per couple, an extra £3,800 for first non-British child and an extra £2,400 per extra child (E-ECP 3.1);</p> <ul style="list-style-type: none"> <li>• sources of relevant income under E-ECP 3.2 (eg: only income of partner in UK for entry clearance application, no allowance for third party support). <u>MM and Others</u> (2014) CA upholding minimum income requirement at £18,600 per couple and finding no Article 8 breach. Supreme Court ruling on minimum income requirement and Appendix FM rules in R (on the application of <u>MM (Lebanon)</u>) (<u>Appellant</u>) v</li> </ul>
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	<p><b>3.4</b> Apply an understanding of the immigration rules for family members to a given situation</p> <p><b>3.5</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><u>Secretary of State for the Home Department</u> (Respondent).</p> <ul style="list-style-type: none"> <li>• Understanding of maintenance and accommodation requirements that apply to parents of British children exercising rights of access.</li> <li>• Understanding requirements of Appendix FM-SE regarding documentation for evidencing income; eg: section A1 Appendix FM-SE on permitted sources of income and section 2 on documentation required for salaried employment.</li> <li>• Understand that accommodation must be ‘adequate’, eg: at least one room for exclusive use of a couple, not overcrowded and not contravening public health regulations (E-ECP 3.4).</li> <li>• Understanding of Section EX and provisions relating to exceptional circumstances in Appendix FM.</li> </ul> <p><b>3.4</b> Application of understanding to a complex scenario.</p> <ul style="list-style-type: none"> <li>• A clear understanding of how an application for a family-based visa can be made.</li> <li>• Applying the financial requirement under Appendix FM to a given scenario.</li> </ul> <p><b>3.5</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
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<p><b>4. Understand the other key UK immigration categories and rules</b></p>	<p><b>4.1</b> Identify the rules for students and other young people and their families</p> <p><b>4.2</b> Explain the rules for the different categories of visitor</p>	<p><b>4.1</b> The requirements in Tier 4 relating to students and their families under paragraph 245ZV and Tier 5 relating to youth mobility.</p> <ul style="list-style-type: none"> <li>• Rules on switching from Tier 4 to Tier 2 for non-PhD courses.</li> <li>• Requirements of CAS and obligations of sponsoring institution</li> <li>• Maintenance and accommodation requirements, course requirements, English language ability and genuineness/intention to study - <u>R (Global Vision College Ltd) v SSHD</u> [2014] EWCA Cov 659, <u>R (on the application of Mushtaq) v ECO Islamabad, Pakistan</u> [2015] UKUT 00224, <u>R (on the application of Hazret Kose) v SSHD</u> [2011] EWHC 5294 (admin)</li> </ul> <p><b>4.2</b> Immigration rules 40 to 56Z covering general visitors, transit, private medical treatment, parents of children at school, marriage visitors, student visitors;</p> <ul style="list-style-type: none"> <li>• an understanding of rules and policy on conducting business as a visitor.</li> <li>• New rules on obtaining separate transit visas for visitors with standard or marriage/civil partnership visit visas.</li> <li>• Genuineness and intention to return - <u>Mostafa (Article 8 in entry clearance)</u> [2015] UKUT 00112 (IAC), <u>Kaur (visit appeals; Article 8)</u> [2015] UKUT 00487 (IAC)</li> </ul>
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	<p><b>4.3</b> Explain the rules for returning residents</p> <p><b>4.4</b> Analyse the general grounds for refusal</p> <p><b>4.5</b> Apply an understanding of these other key UK immigration categories and rules to a given situation</p> <p><b>4.6</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><b>4.3</b> Knowledge of rules and policy on returning residents, i.e.: immigration rules 18 to 20.</p> <p><b>4.4</b> Covering immigration rules 320 to 323C: mandatory and discretionary refusals (particularly rules 320(7A) and (7B) and parallel criteria in Appendix FM;  <ul style="list-style-type: none"> <li>• refusal of leave to those with entry clearance by immigration officers.</li> </ul> </p> <p><b>4.5</b> Application of understanding to a complex scenario.  <ul style="list-style-type: none"> <li>• A clear understanding of how an application can be made.</li> </ul> </p> <p><b>4.6</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
<b>5. Understand modern British nationality law</b>	<p><b>5.1</b> Identify the different forms of British nationality</p> <p><b>5.2</b> Differentiate between the different forms of British nationality</p> <p><b>5.3</b> Explain acquisition of British citizenship by birth and by descent</p>	<p><b>5.1</b> British citizens;  <ul style="list-style-type: none"> <li>• British Overseas Territories Citizens;</li> <li>• British Overseas Citizens;</li> <li>• British subjects;</li> <li>• British Protected Persons.</li> </ul> </p> <p><b>5.2</b> Right of abode;  <ul style="list-style-type: none"> <li>• benefits to BOTC citizens under British Overseas Territories Act 2002;</li> <li>• rules on transmission to next generation.</li> </ul> </p> <p><b>5.3</b> Post-British Nationality Act 1981 transmission by birth and by descent; definition of “father” – s.65 Immigration Act 2016, British</p>

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	<p><b>5.4</b> Explain acquisition of British nationality by registration (adults and minors) and naturalisation</p> <p><b>5.5</b> Analyse the application of the provisions on deprivation and renunciation of citizenship</p>	<p>Nationality (proof of paternity regulations) 2006 and 2015.</p> <ul style="list-style-type: none"> <li>• Windrush scheme applications.</li> </ul> <p><b>5.4</b> Requirements for registration of adults and minors;</p> <ul style="list-style-type: none"> <li>• Criteria for registration under s.1(3) and s.1(4) BNA 1981</li> <li>• Criteria for registration by discretion under s.3(1) BNA 1981</li> <li>• Good character requirements - <u>TN (Afghanistan) v SSHD[2015]</u> UKSC 40, <u>R (Hiri) v SSHD[2014]</u> EWHC 254 (Admin), <u>R (DC) v SSHD[2018]</u> EWHC 399 (Admin)</li> <li>• <u>(R (Williams) v SSHD [2017]</u> EWCA Civ98 – SSHD is entitled to refuse to extend fee waivers to nationality cases.</li> </ul> <p>Requirements for naturalisation</p> <ul style="list-style-type: none"> <li>• criteria for naturalisation under s.6(1) and s.6(2) BNA 1981;</li> <li>• Good character requirements – see above caselaw</li> <li>• Knowledge of language and life (KoLL).</li> </ul> <p><b>5.5</b> Circumstances which may lead to deprivation of British Citizenship (eg: s40 and 40A BNA 1981);</p> <ul style="list-style-type: none"> <li>• the process;</li> <li>• right of appeal;</li> <li>• renunciation and re-acquisition law and process (eg: s12-13 BNA 1981). The new section 40 (4A) BNA 1981, inserted by the Immigration Act 2014, permitting</li> </ul>
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	<p><b>5.6</b> Apply an understanding of modern British nationality law to a given situation</p> <p><b>5.7</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>deprivation of citizenship in certain situations, even if such deprivation renders a person stateless.</p> <ul style="list-style-type: none"> <li>• <u>Aziz</u> [2018] EWCA Civ 1884, <u>K2 v. the United Kingdom</u> (Application no. 42387/13), <u>R (Hysaj &amp; Ors) v SSHD</u> [2017] UKSC 82</li> <li>• A clear understanding of how an application for British citizenship can be made.</li> </ul> <p><b>5.6</b> Application of understanding to a complex scenario.</p> <p><b>5.7</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
<p><b>6. Understand the law governing the free movement of persons in the EEA</b></p>	<p><b>6.1</b> Explain the free movement rights of European Economic Area citizens</p>	<p><b>6.1</b> Which countries are members of the EC/EU and the EEA respectively and the role of Switzerland;</p> <ul style="list-style-type: none"> <li>• different types of qualified person;</li> <li>• identify rights under EC Treaties, right of initial residence;</li> <li>• extended residence;</li> <li>• permanent residence;</li> <li>• right to be accompanied by family members;</li> <li>• differences between rights under Directive 2004/38/EC and Immigration (European Economic Area) Regulations 2016;</li> <li>• interpretation of these rights by CJEU and UK courts.</li> </ul>

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	<p><b>6.2</b> Analyse the free movement rights of third country family members</p>	<ul style="list-style-type: none"> <li>• No changes to the rights and status of EU citizens in the UK whilst the UK remains in the transition period (currently due to end on 31<sup>st</sup> December 2020, but which may be extended) following the British exit from the EU which took place on 31<sup>st</sup> January 2020.</li> <li>• Applications under the EU settlement scheme and Appendix EU – understanding of settled and pre-settled status.</li> </ul> <p><b>6.2</b> Family members;</p> <ul style="list-style-type: none"> <li>• application of provisions on extended family members;</li> <li>• rights of entry;</li> <li>• residence;</li> <li>• permanent residence;</li> <li>• different circumstances where rights can be retained independently of the EU national exercising Treaty rights: relevance of <u>IAT</u> and <u>Surinder Singh ex parte SSHD</u> (1992), and implications for spouse or partner, where British national has exercised treaty rights in EU state then enters UK to exercise treaty right;</li> <li>• relevance of <u>Metock v Ireland</u> (2008) and other CJEU cases;</li> <li>• <u>Ruiz Zambrano</u> (2011), <u>Chen</u> (2004), Ibrahim/Teixeira carers, <u>Shirley McCarthy</u> (2011) and <u>Dereci</u> (2011) relating to the rights of Union citizen children and adults who have not exercised free movement; understanding of derivative rights of</li> </ul>
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	<p><b>6.3</b> Analyse protection against deportation under EU free movement law</p> <p><b>6.4</b> Explain the benefits to Turkish nationals of the Turkish Association Agreement</p> <p><b>6.5</b> Apply an understanding of the law governing the free movement of persons in the EU to a given situation</p>	<p>residence, e.g. where minor children, whose parents are both third country nationals, have right to be brought up in EU territory so derive right to reside with them -<u>Ruiz Zambrano</u> (2011).</p> <ul style="list-style-type: none"> <li>• Applications under the EU settlement scheme and Appendix EU – understanding of settled and pre-settled status.</li> </ul> <p><b>6.3</b> Different periods of residence; different permissible considerations.</p> <p><b>6.4</b> ‘Standstill clause’ of Ankara Agreement;</p> <ul style="list-style-type: none"> <li>• freezing of immigration law in 1973 (more generous terms for business persons, more generous switching rules);</li> <li>• right to renew work permit with same employer once granted after 1 year;</li> <li>• same profession but different employer after 3 years;</li> <li>• free access to labour market after 4 years.</li> <li>• <u>R (Aydogdu) v Secretary of State for the Home Department (Ankara Agreement – family members – settlement)</u> [2017] UKUT 167 (IAC) – Turkish nationals unable to settle after 4 years since 16 March 2018.</li> <li>• <u>Appendix ECAA requirements</u></li> </ul> <p><b>6.5</b> Application of understanding to a complex scenario.</p> <ul style="list-style-type: none"> <li>• A clear understanding of how an EU application can be made.</li> </ul>
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	<b>6.6</b> Critically evaluate a given issue or situation to predict probable legal implications	<b>6.6</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
<b>7. Understand the law of refugee status and asylum application process</b>	<b>7.1</b> Explain the legal definition of a refugee	<b>7.1</b> Article 1A (2) of 1951 UN Convention Relating to the Status of Refugees as amended by the 1967 Protocol including <ul style="list-style-type: none"> <li>• ‘well-founded fear’ (standard of proof, personal credibility and future risk elements);</li> <li>• ‘of being persecuted’;</li> <li>• ‘Convention reasons’;</li> <li>• ‘protection’;</li> <li>• reference to the terms of the Refugee Qualification Directive and domestic Protection Regulations, and also relevant key case law, eg: <u>Ravichandran (1996)</u>, <u>Robinson (1997)</u>, <u>Demirkaya (1999)</u>, <u>Shah and Islam (1999)</u>, <u>Karanakaran (2000)</u>, <u>Horvath (2000)</u>, <u>Montoya v SSHD (2002)</u> <u>Januzi (2006)</u>, <u>K and Fornah (2006)</u>; <u>AH (Sudan) and Others (FC) (2007)</u>, <u>PS Sri Lanka (2008)</u>, <u>AA (Uganda (2008) HJ (Iran) (2010)</u>, <u>RT (Zimbabwe) and others v SSHD (2012)</u>; Temporary Protection Directive and its implications.</li> </ul>
	<b>7.2</b> Analyse the requirements of a claim for refugee status	<b>7.7</b> A clear understanding of factors affecting credibility/truthfulness; <ul style="list-style-type: none"> <li>• s8 AI (TC) A 2004, para 339I HC 395, para 339L HC 395;</li> <li>• key credibility principles in eg: <u>Karakas (1998)</u>, <u>Karanakaran (2000)</u>, <u>Mibanga (2005)</u>, <u>TK (Burundi) (2009)</u>, <u>KS (benefit of</u></li> </ul>

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	<p><b>7.3</b> Analyse the cessation and exclusion clauses of the Refugee Convention</p> <p><b>7.4</b> Explain the process and relevant stages of making a claim for asylum in the UK</p>	<p><u>the doubt</u>) (2014) UKUT 00552 (IAC),</p> <ul style="list-style-type: none"> <li>• use of country information with regards to credibility and proving future risk and more sophisticated concepts emerging from case law, eg: risk based on future activities, being ‘discreet’, internal relocation, sufficiency of protection, conscientious objection, civil war and differential impact, persecution by state and non-state actors.</li> <li>• Changes to asylum application from EU nationals - invalid unless exceptional circumstances apply.</li> </ul> <p><b>7.3</b> Circumstances where cessation and/or exclusion may arise and potential triggers for both;</p> <ul style="list-style-type: none"> <li>• terms and application of s72 of Nationality, Immigration and Asylum Act 2002 and accompanying regulations.</li> <li>• Relevant caselaw including <u>KJ (Sri Lanka) v SSHD</u> (2009), <u>R (on the application of JS) (Sri Lanka)</u> (2010), <u>Al-Sirri v SSHD</u> (2012).</li> </ul> <p><b>7.4</b> Features of the asylum process, including</p> <ul style="list-style-type: none"> <li>• Screening;</li> <li>• PIF/PIQ and substantive asylum interview;</li> <li>• Asylum decision options; appeal structure; awareness of asylum support for welfare;</li> <li>• type of status granted and period of leave;</li> <li>• travel documents; refugee family reunion rules.</li> <li>• Procedure and requirements relating to fresh claims</li> </ul>
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	<p><b>7.5</b> Analyse the law on third country removals</p> <p><b>7.6</b> Apply an understanding of the law of refugee status and asylum application process to a given situation</p> <p><b>7.7</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p><b>7.5</b> Awareness of ‘Dublin III’ (Council Regulation (EU) No 604/2013) and the hierarchy of criteria;</p> <ul style="list-style-type: none"> <li>• challenges to decisions through judicial review;</li> <li>• scheme of third country removals in Immigration and Asylum (Treatment of Claimants etc) Act 2004.</li> </ul> <p><b>7.6</b> Application of understanding to a complex scenario.</p> <ul style="list-style-type: none"> <li>• A clear understanding of how an asylum claim can be made.</li> </ul> <p><b>7.7</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
<p><b>8. Understand the law of human rights claims for protection and humanitarian protection</b></p>	<p><b>8.1</b> Explain the application of human rights law in an international protection context</p>	<p><b>8.1</b> An understanding of the European Convention on Human Rights and Human Rights Act 1998 and applicability to Home Office and Tribunal decisions;</p> <ul style="list-style-type: none"> <li>• human rights appeals and grounds within the First-tier Tribunal;</li> <li>• terms and interpretation of articles, in particular Article 3 and Article 8 of the ECHR;</li> <li>• fundamental Strasbourg and UK case law on both, eg: <u>Pretty v United Kingdom</u> (2002) 35 EHRR 167, <u>Ullah and Do v SSHD</u> (2004), <u>Ireland v UK (App. no. 5310/71)</u>, <u>Soering v UK (App. no. 14038/88)</u>, <u>Chahal v UK (App. no. 22414/93)</u>, <u>Bensaid v UK (App. no. 44599/98)</u>, <u>N v UK (App. no.</u></li> </ul>

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	<p><b>8.2</b> Analyse the circumstances where an in-country Article 8 claim might be successful</p>	<p><u>26565/05</u>), <u>Paposhvilli v Belgium</u> [2017] Imm AR 867, AM (Zimbabwe) &amp; <u>Anor v Secretary of State for the Home Department</u> [2018] EWCA Civ 64:</p> <ul style="list-style-type: none"> <li>• relationship between Art 3 ECHR and protections under Refugee Convention 1951.</li> <li>• Article 4 ECHR and cases involving current and future threat of trafficking, forced prostitution or bonded labour e.g <u>Rantsev v Cyprus and Russia</u> (Application no. 25965/04), <u>MS (Pakistan) v SSHD</u> [2020] UKSC 9 PO (Nigeria) (2011) EWCA Civ 132).</li> <li>• Understanding of significance of reasonable grounds decision and conclusive grounds decision insofar as they relate to the consideration of protection claims.</li> </ul> <p><b>8.2</b> A clear understanding of the principles of Article 8 case law, eg:</p> <ul style="list-style-type: none"> <li>• <u>SSHD, ex parte Amjad Mahmood</u> (2000), <u>Boultif v Switzerland</u> (App. no. 54273/00), <u>Uner v Netherlands</u> (App. no. 46410/99), <u>Razgar v SSHD</u> (2004), <u>Huang v SSHD</u> (2007);</li> <li>• <u>EM (Lebanon)</u> (2008) <u>EB Kosovo</u> (2008), <u>Chikwamba</u> (2008), <u>Beoku-Betts</u> (2008), <u>VW and AB</u> (2009), <u>ZH (Tanzania)</u> (2011);</li> <li>• <u>Zoumbas</u> (2013) s55 BCIA 2009; understanding of circumstances where high tests and thresholds for Article 8 might be satisfied. <u>Onwuje v SSHD</u> (2018)</li> </ul>
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	<p><b>8.3</b> Explain the regime of humanitarian protection</p> <p><b>8.4</b> Summarise the discretionary leave policy</p> <p><b>8.5</b> Apply an understanding of the law of human rights claims for protection and humanitarian protection to a given situation</p>	<p><u>EWCA Civ 331</u> - an entrepreneur's ownership of, and involvement in, his or her business may also be regarded as an aspect of their private life for the purpose of Article 8.</p> <p><b>8.3</b> An understanding the Refugee Qualification Directive (and domestic Protection Regulations) and definition of 'serious harm';</p> <ul style="list-style-type: none"> <li>• indiscriminate violence protection;</li> <li>• type of status granted and steps towards settlement; active reviews;</li> <li>• family reunion;</li> <li>• Procedures Directive and changes to HC 395 and UK law as a result.</li> <li>• Caselaw including <u>Elgafaji</u> [2009] EUECJ c-465/07, <u>QD (Iraq) v SSHD</u> [2009] <u>EWCA Civ 620</u>,</li> <li>• Exclusion from Humanitarian Protection</li> </ul> <p><b>8.4</b> An understanding of DL policy on unaccompanied minors; grants in response to Article 8 claims;</p> <ul style="list-style-type: none"> <li>• type of status granted;</li> <li>• steps towards settlement;</li> <li>• active reviews.</li> </ul> <p><b>8.5</b> Application of understanding to a complex scenario.</p>
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	<b>8.6</b> Critically evaluate a given issue or situation to predict probable legal implications	<b>8.6</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.
<b>9. Understand the law on deportation and removal</b>	<b>9.1</b> Describe the law on and process of deportation and administrative removal	<b>9.1</b> Power to detain and detention process found in Schedule 2 and 3 of the Immigration Act 1971 (as amended). Liability for deportation and administrative removal; <ul style="list-style-type: none"> <li>• exclusion from deportation under s7 Immigration Act 1971;</li> <li>• different stages of the process;</li> <li>• the grounds for administrative removal under s10(1) IAA 1999 of any person who ‘requires leave to enter or remain in the United Kingdom but does not have it’ and power to remove member of family of person facing removal under s10(2) IAA 1999 (as amended by Immigration Act 2014 s1).</li> <li>• Grounds for deportation under s3(5)(a), and s3(6) IA 1971;</li> <li>• automatic deportation under s32 UK Borders Act 2007;</li> <li>• implications of <u>R v Kluxen</u> (2010);</li> <li>• revocation of a deportation order, restrictions on revocation, effect of revocation and rights of appeal.</li> <li>• Statutory public interest considerations under Part 5A Nationality Asylum and Immigration Act 2002 (as inserted by s19 Immigration Act 2014) and under paras 390-395 HC 395 and paras 398-399A HC395. Section 94B Nationality Immigration and Asylum Act exception to</li> </ul>

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	<p><b>9.2</b> Compare the differences between deportation and removal</p> <p><b>9.3</b> Analyse the principles behind deportation</p>	<p>the right of an in country deportation appeal where no real risk of serious irreversible harm (as inserted by Immigration Act 2014 s17). Immigration (European Economic Area) (Amendment) No.2 Regulation 2014 – Appeals against a deportation decision no longer prevents removal unless the exceptions apply. Removals and appeals changed by the Immigration Act 2014; power of removal, notice of liability for removal, removal directions, types of removal notices.</p> <p><b>9.2</b> Presumption in favour of deportation;</p> <ul style="list-style-type: none"> <li>• weight to be given to public interest;</li> <li>• s.117C NIAA 2002 additional considerations in the cases of foreign criminals, as defined in s.117D (as amended by Immigration Act 2014). Exclusion for 10 years or permanently;</li> <li>• need to apply for revocation;</li> <li>• likely detention in run up to any appeal: re-entry ban after administrative removal.</li> </ul> <p><b>9.3</b> Who is likely to be considered for deportation or removal;</p> <ul style="list-style-type: none"> <li>• arguing deportation or removal cases: relevance of Article 8 ECHR Key case law, eg: <u>N (Kenya) (2004)</u> <u>EWCA Civ 1094</u>, arguing reasonableness of relocation for third parties and relevant case law, eg: <u>Amjad Mahmood (2000)</u>, <u>Huang (2007)</u>, <u>JO (Uganda)</u> and <u>JT (Ivory Coast) (2010)</u>;</li> </ul>
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	<p><b>9.4</b> Apply an understanding of the law on deportation and removal to a given situation</p> <p><b>9.5</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<ul style="list-style-type: none"> <li>• paras 398, 399 and 399A HC 395 guidance on Home Office decision making and interpreting ‘insurmountable obstacles’ and ‘exceptional circumstances’ (now replaced by ‘very compelling circumstances’);</li> <li>• Liability for automatic deportation under s32 UKBA 2007;</li> <li>• relevant case law on deportation of foreign criminals eg: <u>SS Nigeria</u> (2013) (automatic deportation and article 8), <u>MF (Nigeria)</u> (2013) (immigration rules and article 8), <u>SSHD v KF (Nigeria) [2019]</u> <u>EWCA Civ 2051</u>, <u>SSHD v PG (Jamaica) [2019]</u> <u>EWCA Civ 1213</u> (meaning of ‘unduly harsh’).</li> </ul> <p><b>9.4</b> Application of understanding to a complex scenario.</p> <ul style="list-style-type: none"> <li>• A clear understanding of how a deportation order/removal notices can be made.</li> </ul> <p><b>9.5</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
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<p><b>10. Understand the appeals process and other remedies</b></p>	<p><b>10.1</b> Describe the structure of the statutory appeals process</p> <p><b>10.2</b> Explain the key provisions of the appeals procedure rules</p>	<p><b>10.1</b> Appeal to First-tier Tribunal;</p> <ul style="list-style-type: none"> <li>• Upper Tribunal; Court of Appeal;</li> <li>• Supreme Court; ECtHR;</li> <li>• also the parallel processes relating to the European Court of Justice and judicial review, including the exercise of any right to administrative review.</li> <li>• Section 92 NIAA 2002 on avenues of appeal (as inserted by Immigration Act 2014). Rights and grounds of appeal under s82 and s84 NIAA 2002 (as amended by s15 Immigration Act 2014).</li> <li>• Out of country appeals where claim certified under s94B NIAA 2002 – impact of <u>R (Kiarie and Byndloss) v SSHD</u> (2017) UKSC on human rights appeals.</li> <li>• Deemed refusal of leave to enter under para 2A of Sch 2 Immigration Act 1971 – empowers an immigration officer to cancel a passenger who arrives with continuing leave without right of appeal. No rights of appeal for applicants seeking entry to the UK as a family visitor.</li> </ul> <p><b>10.2</b> Lodging appeals; time limits for first-instance appeals and applications to appeal further;</p> <ul style="list-style-type: none"> <li>• procedure for allegations of, and tests for accepting, out of time appeals and applications;</li> <li>• case management powers;</li> <li>• The First-tier Tribunal Procedure Rules 2014.</li> <li>• Upper Tribunal Procedure Rules 2008</li> </ul>
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	<p><b>10.3</b> Explain the possible uses of judicial review in an immigration and asylum context</p> <p><b>10.4</b> Analyse the strengths and weaknesses of a case for bail made through the immigration bail application process</p>	<ul style="list-style-type: none"> <li>• Pre-action protocol for Judicial Review.</li> </ul> <p><b>10.3</b> Fresh claims under immigration rule 353;</p> <ul style="list-style-type: none"> <li>• 3<sup>rd</sup> country cases; failures to follow policies (and extent to which this can be remedied in the tribunal and/or courts);</li> <li>• abuse of process;</li> <li>• legitimate expectation. Decisions with no statutory right of appeal and the remedy of judicial review where no appealable decision has been made.</li> <li>• Increased need for judicial review after appeal rights restricted by Immigration Act 2014.</li> <li>• Curtailment of leave in country no longer attracts a right of appeal.</li> </ul> <p><b>10.4</b> Release and bail and factors relevant to bail. Mandatory use of B1 form;</p> <ul style="list-style-type: none"> <li>• day listing policy;</li> <li>• information needed to apply for bail; sureties not essential but can be very helpful;</li> <li>• what makes a good surety;</li> <li>• role of personal recognizance. Prevention of</li> <li>• renewal of bail applications for 28 days unless material change of circumstances. Awareness that The Immigration Act 2016 repealed paras 21-25 and 29-34 of Sch 2 to the Immigration Act 1971 and most of Sch 3. Awareness that Temporary Admission and</li> </ul>
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	<p><b>10.5</b> Apply an understanding of the appeals process and other remedies to a given situation</p> <p><b>10.6</b> Critically evaluate a given issue or situation to predict probable legal implications</p>	<p>Temporary Release have now been abolished under s61 and Schedule 10 of IA 2016 and replaced with immigration bail</p> <ul style="list-style-type: none"> <li>• Bail applications are made to the Home Office and if this is refused, applications are made to the First-Tier. The tribunal is no longer permitted to grant bail in any circumstances for eight days after arrival or if removal is (supposed to be) within 14 days. The introduction of automatic bail hearings.</li> <li>• Knowledge of relevant caselaw to lawfulness of detention e.g <u>Hardial Singh</u> (1983).</li> </ul> <p><b>10.5</b> Application of understanding to a complex scenario.</p> <p><b>10.6</b> A reasoned opinion of likely legal implications, including remedies and defences, where appropriate.</p>
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Additional information about the unit	
Unit aim(s)	To accredit a broad and detailed understanding of Immigration Law
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards
Details of the relationship between the unit and other standards or curricula (if appropriate)	N/A
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	CILEx (The Chartered Institute of Legal Executives)
Availability for use	Available to all Awarding Bodies to award credit (shared)
Availability for delivery	1 September 2009

This specification is for 2022 examinations.