

MODULE DIRECTORY

CILEX Paralegal

CILEX Advanced Paralegal

CILEX Lawyer

**ACADEMIC DISCIPLINE: Blue Light
Academy**

**INSTITUTE OF MANAGEMENT AND
HEALTH**

2024-2025

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INTRODUCTION

This Module Directory includes all the modules for Levels 3, 5 & 6 of the CILEX Portfolio, within the Blue Light Academy in the academic year 2024-2025.

This directory accompanies the Programme of Study Handbook, which will provide you with details of which modules you will be studying for your programme this year in the 'Programme of Study' section. This directory may include modules that are running on other programmes of study within your Academic Discipline/Institute. If you require assistance in identifying the modules for your programme of study, please contact the Programme Manager (whose name and contact details are provided in the accompanying Programme of Study Handbook), or the relevant Institute Office.

The University has made every effort to make the information as full and as accurate as possible, but you should note that minor changes in the organisation of modules between the planning stage and the actual teaching are inevitable. We shall try to keep any such changes to a minimum, and you will receive plenty of advance warning in the event of any alteration. We would also be grateful if you would let us know about any changes that you think might be helpful if introduced into future handbooks.

MODULES

 CILEX



A1 – Dispute Resolution and Litigation

Advanced Stage

2024

A1: Dispute Resolution and Litigation

The aim of this module is to give you the essential knowledge and understanding of how disputes are resolved through the litigation process or through alternative dispute resolution methods. You will cover all stages of a case, from first considerations in dispute resolution through to enforcement of judgments following a trial. You will consider alternative methods of dispute resolution, taking into account the client's wishes, together with the steps that can be taken to protect the client's costs position. You will gain an understanding of how costs underpin the litigation process and be able to conduct the case accordingly.

The module covers:

1. Establishing the cause of action
2. Limitation
3. Funding
4. Obtaining pre-action remedies and information
5. The overriding objective and resolving a dispute without litigation
6. The courts case management powers and costs
7. Damages and entitlement to and calculation of claims for interest
8. Preparing and issuing a Part 7 claim
9. The defendant's response
10. Focus on statements of case
11. Case Management
12. Witness evidence
13. Expert evidence
14. Disclosure
15. Interim applications
16. Focus on discontinuance, negotiation, and settlement before trial
17. Preparations for trial
18. Appeals
19. Enforcement

Learning Outcomes

By the end of this module you will be able to:

1. Identify within the relevant frameworks for alternative dispute resolution and litigation an appropriate means for resolution of issues arising in contract and tort and apply to a set of facts
2. Understand the client's position with reference to the law, facts and evidence and assist the client towards a resolution of their dispute
3. Advise a client with regard to tactical and strategic steps to place the client at an advantage
4. Analyse a situation and make appropriate recommendations to the client which are in their best interests

Linked online assessment:
A1 TQT: 180 hours

Details of updates included in 2024 Module Specification

- 5d: Churchill v Merthyr Tydfil Borough Council [2023] (Churchill) (ADDITION)
- 5d: Halsey vs Milton Keynes General NHS Trust (2004) (DELETION)
- 6c: Fixed recoverable costs (ADDITION)
- 11d: The Intermediate Track Part 26.9 and Part 28 (ADDITION)

1. Establishing the cause of action	One of the first considerations when providing advice is whether the facts of the dispute give right to a cause of action. Building on the knowledge and understanding of the law of contract and tort covered at Foundation level will help you determine whether a cause of action arises and whether there is a cause of action in both contract and tort. Therefore, you will need to know the following: a) Multiple causes of action b) Interrelationship of contract and tort
2. Limitation	It is necessary to establish what the cause of action is because the right to bring a claim may become statute barred due to its relevant limitation period. You must know the relevant time limits for bringing a claim and when the limitation period may be extended or excluded. Therefore, you will need to know the following: a) The purpose of limitation of actions • To ensure claims are not stale and can still be investigated • Fairness to the parties – prejudice • To adhere to the overriding objective to deal with cases justly and expeditiously • To ensure the parties are on an equal footing b) Limitation Act 1980 • Claims in contract; s.5 • Non-personal injury claims in tort; s.2 • Personal injury claims • s.11 and s.11A • s.14 • s.33 • Incapacity; s.28 • Fraud and mistake; s.32 c) Claims for contribution • ss.1, 2 and 3 Civil Liability (Contribution) Act 1978 • s.10 Limitation Act 1980

3. Funding	Understanding how a litigation matter will be funded is essential. This may determine whether or not proceedings can be commenced. Therefore, you will need to know the following: a) Conditional fee agreements • Content and terms • Notification requirements • Success fees • Application and calculation of liabilities b) Damages-based agreements • Content and terms • Notification requirements • Success fees • Application and calculation of liabilities c) Fixed fees and hourly rate retainers • Awareness of Portals for Low Value Personal Injury claims e.g. Road Traffic Accidents and EL and PL claims d) Third party funding • Litigation crowd funding solutions e) Legal aid • Availability
4. Obtaining pre-action remedies and information	An effective litigation trainee will be able to consider whether a pre-action remedy is appropriate and, if so, how to apply for it. Therefore, building further on the knowledge gained at Foundation Stage about remedies, you will need to know the following: a) Injunctions • Practice Direction 25A • Outline of procedure; making an application; evidence; urgent application without notice b) Pre-action disclosure and non-party disclosure: • Part 31.16

5. The overriding objective and resolving a dispute without litigation

Litigation is controlled by the court even before a claim has been issued. This ensures that the parties give full consideration to the possibility of settlement. You must understand the workings and relevance of the Practice Direction – Pre-Action Conduct and Protocols and specific protocols, and the Civil Procedure Rules generally. Therefore, you will need to know the following:

- a) The framework for litigation
 - The Civil Procedure Rules
 - Part 1 The overriding objective
- b) The Practice Direction – Pre-Action Conduct
 - When it is applicable
 - Requirements
- c) Overview of The Pre-Action Protocols including awareness of resolution of personal injury and money disputes through the three stages of the online portals:
 - Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents ('the RTA Protocol')
 - Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims
 - Pre-action disclosure of documents
 - Money Claim Online
- d) Awareness of methods of Alternative Dispute Resolution (ADR)
 - Litigation as a last resort
 - The aims of ADR and the court's approach
 - Consideration and timing of ADR
 - Unreasonable refusal to consider ADR; *Churchill v Merthyr Tydfil Borough Council* [2023] (Churchill)
 - Mediation
 - Early Neutral Evaluation
 - Arbitration
 - Negotiation including round table meetings
 - Online Dispute Resolution

6. The court's case management powers and costs

The courts have wide case management powers and the right to sanction a party which has failed to comply with Rules, Practice Directions and Orders. This can have costs consequences and you must understand how, when and what costs may be ordered, how they are assessed and how a party can be penalised in costs. Therefore, you will need to know the following:

- a) The court's case management powers
 - Part 1 The overriding objective
 - Part 3 General powers (CPR3.1; and 3.1A)
- b) Sanctions and application for relief from sanction
 - Types of sanction
 - When sanctions might apply
 - The duty of the court to enforce compliance with rules, Practice Directions and Orders
 - Power to make orders of own initiative
 - Power to strike out of own initiative or on application contrasted with an outline of applications for summary judgement
 - Application for relief against sanction and factors to be taken into account (Denton)
 - Costs consequences
- c) General principles of costs and orders relating to costs
 - Parts 44 and 45
 - Court's discretion
 - Basis of assessment
 - Factors to be taken into account
 - Cases where costs orders deemed to be made
 - Court's powers in relation to misconduct
 - Scope and effect of Qualified One-way Costs Shifting
 - **Fixed recoverable costs**
- d) Costs management and budgeting
 - Court's case management powers (Part 3)
 - Filing and exchanging budgets and budget discussion reports; precedents
 - Costs management order
 - Costs management conferences
 - Cost capping orders
- e) Outline of applications for security for costs
 - Part 25
 - Conditions to be satisfied
- f) Assessment of costs
 - Part 47
 - Summary assessment
 - Detailed assessment

7. Damages and entitlement to and calculation of claims for interest	You must understand the purpose of an award for damages and any entitlement to interest. You must understand how a claim for interest is made and the court's discretion to award statutory interest. Different heads of claim may attract different rates of interest and, in contract claims, there is an additional statutory entitlement to interest. Therefore, you will need to know the following: a) Statutory interest • Entitlement to interest • Court's discretion as to rate and period • Unreasonable delay; Part 16: Requirement for a claim for interest to be stated • Senior Courts Act 1981 • County Courts Act 1984 b) Claims in tort • Generally: the purpose of an award • Personal injury claims: ○ Outline of types of awards for general damages including provisional damages; applicable rate of interest and calculation ○ Outline of awards for special damages and applicable rates of interest and calculation c) Claims in contract • Generally: the purpose of damages • Contractual entitlement to interest • Late Payment of Commercial Debts (Interest) Act 1998 ○ Rate of interest ○ Calculation ○ Compensation
8. Preparing and issuing a Part 7 claim	If a claim cannot be resolved during the pre-action phase, proceedings may be commenced by the claimant. You must understand how and when the claim form must be filed and be able to identify who should be sued and how they should be described and how to draft, issue and serve a claim form. Therefore, you will need to know the following: a) Jurisdiction of the court and allocation of business b) Identify and describe the correct parties c) Joint and several liability d) Part 16 Contents of the claim form (N1) including the required statement of value • Part 7 issuing proceedings including documents to be sent to the court • Part 6 ○ Service of a claim form within the jurisdiction ○ Methods of service

	○ Time limit for service and where to serve ○ Deemed dates of service and time limits for serving Proceedings ○ Service of a claim form outside the jurisdiction, with or without the court's permission ○ Service by an alternative method and technology permitted
9. The defendant's response	Usually, the particulars of claim are served at the same time as the claim form. You must understand when a defendant is required to respond to the documents received and the defendant's options when responding to the claim in addition to the time limits for response to avoid default judgment. Therefore, you will need to know the following: a) Time limits for response b) Part 9 Defendant's options: • Admissions • Filing an acknowledgment of service, • Filing a defence • Consequences of not filing ○ Request for default judgment c) Part 12 requesting default judgment d) Part 13 setting aside default judgment
10. Focus on statements of case	You must understand the purpose of statements of case and what they should contain along with the evidence required to enable the court to decide on appropriate case management and track allocation. You must know what is required in a statement of case. Therefore, you will need to know the following: a) Statements of case • Examples b) Structure and purpose of the statement of case c) Part 16 • Contents of the particulars of claim • Contents of the defence • Part 9 Defendant's options ○ The scope and import of admissions • Inclusion of counterclaims and other additional claims (Parts 15 and 20) • Reply to defence d) Part 22 and PD 22 Statements of Truth • Purpose of the statement of truth • Documents to be verified • Form of the statement of truth • Who should sign? • Consequences of failure to verify • Contempt

11. Case Management	As part of its case management role, after a defendant has filed its defence, the court officer will, after an assessment of various factors, provisionally allocate the claim to the most suitable track. The parties will then be asked to complete a directions questionnaire to help the court firmly decide upon the correct track and the directions for future conduct. You must understand this process. Therefore, you will need to know the following: a) Part 26 and PD 26 • Preliminary allocation • Directions questionnaire • Content • Requirement for completion • Stay to allow settlement • Agreeing directions ○ Varying standard directions ○ Seeking permission to use expert evidence • Scope of the tracks • Matters which are relevant and not relevant to allocation to track b) The Small Claims Track Part 27 • The scope and conduct of claims on the small claims track c) The Fast Track Part 28 • Standard directions d) The Intermediate Track Part 26.9 and Part 28 • Scope of the Intermediate Track e) The Multi-track Part 29 • case management and case management conferences f) Costs and costs budgets g) Consequences of non-compliance; varying the timetables; extensions of time h) Notice of allocation
12. Evidence	Evidence is required to establish an issue. Any fact which needs to be proved should be proved at trial by a witness' oral evidence. That evidence, along with other evidence, such as documentary and expert evidence, provide the basis for the court's decision in the case as to whether to make a finding of liability and award damages. You must get the witness evidence right. Therefore, you will need to know the following: a) What is witness evidence? b) Who may give evidence?

	c) Part 32: court's power to control evidence d) Part 33 e) The civil burden and standard of proof f) Factual witness statements: • Structure of a witness statement • Function of the witness statement at trial • Statements of truth ○ Part 22 • Consequences of failure to comply with court direction for exchange of statements ○ Inbuilt sanction
13. Expert evidence	The court seeks to restrict expert evidence to that which is needed to be used. Knowing when expert evidence might be necessary, how to obtain the court's permission and how to instruct an expert are important. Therefore, you will need to know the following: a) The nature of expert evidence distinct from lay witness evidence b) Part 35 and PD 35 c) Power of court to restrict expert evidence d) Seeking the court's permission e) Determining need for expert evidence f) Choice and instruction of experts • Single experts • Single joint experts • The letter of instruction g) Duties of experts • The expert's report • Questions to and discussion between experts
14. Disclosure	Documentary evidence is a form of lay evidence. The objective of requiring the parties to disclose relevant documents links to the overriding objective and the need to enable the court to deal with a case justly and at proportionate cost. Even at the pre-action stage, the parties must consider disclosure of documents with the aim of achieving a compromise of the claim at an early stage if possible. Therefore, you will need to know the following: a) Part 31

	b) The process of standard disclosure: • The meaning of a 'document' ○ Electronic documents • Duty of disclosure ○ Reasonableness of search ○ Meaning of disclosure ○ Meaning of inspection ○ Right of inspection ○ Documents referred to in statements of case c) Withholding inspection ○ Legal professional privilege ○ Documents having dual purpose ○ Without prejudice communications d) Consequences of false disclosure statements e) Review of documents on inspection f) Requiring specific disclosure g) Requiring disclosure by non-parties
15. Interim applications	During the course of the litigation process, occasions will arise when a party may need to make an application to the court to ask for the court's assistance, particularly in enforcing compliance with orders which have been made. Knowing how to make an application is important. Therefore, you will need to know the following: a) Part 23 b) General applications • Outline of common reasons for applications and examples under Part 18 and Part 25 (application for interim payments) • Completion of the application notice: common orders including unless orders and costs orders c) Requirements for service and applications which may be dealt with without hearing d) Setting aside or varying orders made without notice e) Power of the court to proceed in the absence of a party f) Schedules of costs and summary assessment g) Telephone hearings, video links and conferencing

16. Focus on discontinuance, negotiation and settlement before trial

Following disclosure and exchange of evidence, the parties are in a position to evaluate the claim and consider the strengths and weaknesses on both sides. The possibility of resolution should again come to the forefront of relevant considerations. It may be possible to settle the case in full or at least to minimise the issues between the parties which in turn should minimise costs and wasted court time. There are several options to consider. Therefore, you will need to know the following:

- a) Part 38
- b) Discontinuance
 - Why and when a party may discontinue
 - Procedure
 - Court's permission
 - Liability for costs on discontinuance
 - Effect of QOCS
- c) Negotiation
 - Without prejudice offers
 - Calderbank offers
 - Effect on costs
- d) Part 36
 - Effective Part 36 offers
 - Clarification
 - Withdrawal and varying terms
 - Acceptance
 - Restriction on disclosure
 - Status of offers outside Part 36
 - Costs consequences on acceptance and on judgment
 - QOCS in personal injury claims
- e) Consent orders and Tomlin orders
 - Purpose and differences
 - Structure and drafting effective wording
- f) Claims involving minors and persons under a disability
 - Approval hearings where proceedings have been issued
 - Approval hearings where proceedings have not been issued (Part 8)
 - Requirements
 - Procedure

17. Preparations for trial	Specific preparations which must be undertaken to ensure that the case is ready for final hearing before the judge including the need to keep the prospect of resolution in focus. You must know how to prepare for trial including awareness of the role of counsel, where instructed. Therefore, you will need to know the following: a) Pre-trial checklists • Purpose and content b) Trial bundles • Purpose • Contents • Obligations for preparation c) Organising and preparing witnesses • Refreshing the witness' memory • Arranging attendance of witnesses • Part 34 • Issue and service of witness summonses • Travelling expenses and compensation • Failure of a party or a witness to attend trial • Video links and remote evidence d) Continuing efforts towards resolution • Possible need to seek counsel's advice on evidence, liability and quantum • Managing expectations • Explaining possible outcomes • Explaining risks of litigation • Explaining ongoing need to consider compromise
18. Appeals	Each party at trial (or at an earlier hearing) hopes to be the successful party. But at every hearing and every trial, each party runs the risk of an adverse outcome. An adverse outcome is not necessarily a wrong decision by the court, but occasionally it is necessary to appeal a decision. Therefore, you will need to know the following: a) Decisions which may be appealed b) Part 52 • Grounds of appeal • Permission to appeal • Destination of appeals • Time limits for appeals • Skeleton arguments

19. Enforcement

If a judgment debtor does not pay the judgment sum on time in accordance with the court judgment or order, steps can be taken to enforce the judgment. Therefore, you will need to know the following:

- a) How and when a judgment may be enforced
 - Date when judgment takes effect
 - Date when judgment may be enforced
 - Interest on judgment debts
 - Judgments Act 1838
 - Rate
 - Date from when interest runs
- b) Suitable enquiries to be made as to the financial viability of the debtor
- c) Part 71 procedure
- d) Methods of enforcement:
 - High Court and County Court enforcement
 - Taking control of goods
 - Attachment of Earnings Orders
 - Charging Orders
 - Third-party debt orders



A2 – Criminal Law and Litigation

Advanced Stage

2024

A2: Criminal Law and Litigation

The aim of this module is to give you, the trainee, the essential knowledge and understanding of criminal law and its end-to-end process; how in practice a case commences; its progress through the Criminal Justice System to conclusion.

The module covers:

1. The context of the criminal law
2. The hierarchy of the criminal court system
3. Principles of criminal liability
4. Key criminal offences and defences
5. Acting for a defendant
6. Key stakeholders and procedural matters within the criminal justice system
7. Dealing with vulnerable clients and witnesses

Learning Outcomes

By the end of this module you will be able to:

1. Outline the purpose and function of the criminal law and recognise key differences between the civil and criminal law
2. Identify classification of offences and which court they are heard in
3. Apply the practical process and procedures of the Criminal Justice System, its forms, courts, and duties of the participants in the Criminal Justice System including the role of the police, various prosecuting authorities and the defence in bringing and defending a case
4. Represent and advise a client who is in custody in a police station, acting in the client's best interests and in accordance with the standards required of a Police Station Accredited Representative
5. Be able to advise a client on their plea whilst taking the necessary strategic steps in order to prepare their case and fully represent and act in their best interests

Linked online assessment:

A2 TQT: 180 hours

Details of updates included in 2024 Module Specification

- 1c: (including where the burden of proof is reversed) (ADDITION)
- 7a: The definition of vulnerable and intimidated witnesses, within the context of the Youth Justice and Criminal Evidence Act 1999 (CORRECTION)
- 7d: and an intermediary (ADDITION)
- 7e: The power to restrict reporting on certain adult witnesses, e.g. members of the LGBTQ+ community conferred under s.46 YJCEA 1999 (CORRECTION)
- 7f: Giving Evidence by live link where special measures are not available (ADDITION)

1. The context of the criminal law	To work in any area of criminal practice you will need to have a broad understanding of the criminal law; the purpose, functions and context of criminal law, the classification of criminal offences and the relationship between civil and criminal law. Therefore, you will need to know the following: a) Fundamental principles, aims, theory, scope and function of the criminal law; including recognition of the balance between individual autonomy and community welfare, fault-based element of crime, retributive justice and rehabilitation b) The classification of offences • Summary only • Either way • Indictable only c) The burden and standard of proof in a criminal case (including where the burden of proof is reversed) d) The relationship between criminal and civil law; the difference in standard of proof, remedies and knowledge of the key offences arising in both civil and criminal law, for example: • Misrepresentation • Negligence • Gross negligence • Harassment • Assault
2. Hierarchy of the Criminal Court System	An understanding of the hierarchy of the criminal court system is essential. Therefore, you will need to know the following: a) The magistrates' court • Procedure: ○ First appearance/plea before venue/allocation ○ Summary offences/Either-way offences ○ Indictable only offences / "sending" • Relevant provisions of the Bail Act 1976 ○ Right to bail and exceptions ○ Appeals by the prosecution against the grant of bail ○ Breach of bail • The importance of accuracy of pre-trial forms • Trials • Overview of sentencing powers of the magistrates' court • Right to appeal to the Crown Court against conviction and/or sentence, or where appropriate to the Administrative Court in the Divisional Court of the Queen's Bench (on a point of law)

	b) The Crown Court • Overview of process and procedures • Plea and Trial Preparation Hearing (PTPH) forms • Types of hearings • Pleas • Trials • General sentencing powers • Rights of appeal c) The Administrative Court • Divisional court of the Queen's Bench • Appeal by way of case stated and judicial review • Overview of the process, procedure and purpose • Appeals ○ Magistrates' court ○ Crown Court d) Court of Appeal (Criminal Division) • Overview of process and procedures • Appeal against conviction from the Crown Court • Appeal against sentence and unduly lenient sentences e) The Supreme Court • Key decisions on criminal cases
3. Principles of Criminal Liability	You need to have a sound understanding of the elements of a crime in order to advise a client based on their instructions and the evidence against them. Therefore, you will need to know the following: a) Actus reus • Definition • The actus reus for each of the key offences within this module • Voluntary and involuntary conduct and the impact of this on proving the elements of an offence • The distinction between conduct, circumstances and result of the actus reus within the offence b) Mens rea • Definition • The mens rea for each of the key offences within this module • Direct intention • Recklessness: subjective recklessness (R v Cunningham/Stephenson), objective recklessness (R v Caldwell) and RV G & R c) Strict liability • Definition and purpose • The types of offences it applies to e.g. driving offences

4. Key Criminal Offences & Defences	You will need to be aware of the elements of key criminal offences with which a client might be charged, the sentencing guidelines for each offence and some of the key defences: a) Theft; Theft Act 1968 b) Criminal damage; Criminal Damage Act 1971 c) Murder; contrary to common law d) Manslaughter: • Voluntary manslaughter • Involuntary manslaughter - Unlawful act/Constructive manslaughter e) Non-fatal offences against the person; • Assault and battery s.39 Criminal Justice Act 1988 • Actual bodily harm – s47 Offences Against the Person Act 1861 f) Knife crime – possession of a bladed article, having an offensive weapon in a public place. g) Rape and sexual assault, including the definition of consent (s76 Sexual Offences Act 2003) and the use of the SOA 1956 in relation to non-recent sexual offences h) 'Hate Crime' - understanding the impact on sentencing of crimes motivated by hostility of the victim as set out in s66 Sentencing Act 2020 i) Defences • Self-defence /defence of another/ prevention of crime including meaning of reasonable force • Intoxication: voluntary and involuntary • 'Good reason' as a defence to possession of a bladed article • Understanding consent as a defence to alleged sexual offences
5. Acting for a Defendant	When acting for a defendant you will need to know the steps required to fully prepare a client's defence as the case progresses. Therefore, you will need to know the following: a) The role of defence through the Police Station Accreditation scheme; relevance and application of the Codes of Practice under Police and Criminal Evidence Act 1984 (PACE 1984) • Obtaining relevant information from the client • Client care: managing clients in difficult circumstances, e.g. withdrawing from drugs • Application of the Codes of Practice under PACE 1984 at the police station, including lawful arrest, identification and the client's rights

- Advising the client on how to respond in interview based on the evidence disclosed and other circumstances of the case
 - How to make and handle complaints against the police
 - Bail pending further investigation
 - Bail after charge, alternatives to charging, commencing a case other than by charge
- b) Obtaining adequate funding:
- Legal Aid
 - Private funding
 - Insurance policy cover
- c) Compliance with regulatory requirements and knowledge of the key requirements most relevant to criminal law, i.e.
- The Solicitors' Regulatory Authority Code of Conduct
 - SQM Standard/Lexcel
 - Legal Services Commission terms and conditions
 - Private Client terms and conditions
- d) Awareness of the Criminal Procedure Rules and application to procedure
- e) Preparation of a client's case, including:
- Obtaining full instructions on evidence served
 - Providing plea advice to client including possible reduction in sentence for early guilty plea
 - Defence witness statements in accordance with requirements of s9 Criminal Justice Act 1967, to further the objectives set out in the Criminal Procedure Rules
 - Ensuring ongoing compliance with SRA Code of Conduct throughout the case
 - Disclosure of evidence including expert evidence.
- f) Managing conflicts of interests when representing a co-defendant
- g) Advising a client on the impact of cautions and convictions on Disclosure and Barring Service checks, including spent convictions and filtering of some offences

6. Key Stakeholders and Procedural Matters Within the Criminal Justice System

Working in criminal law requires an awareness of the key stakeholders in the Criminal Justice System; their roles, functions and procedures. You will need to know the sequence of its procedures to provide support, care and conduct through the life of a criminal case. Therefore, you will need to know the following:

- a) Role and function of the police:
 - The role and responsibilities of the police in relation to investigation, arrest, detention, bail and charge
 - Requirements of PACE (Police & Criminal Evidence Act) 1984
 - Alternative disposals, e.g. cautions, Single Justice Procedure Notices, Domestic Violence Protection Orders
- b) Role and function of the CPS:
 - Effects of the Prosecution of Offences Act 1985
 - The CPS as an independent body
 - Adherence to the Code for Crown Prosecutors and other statutory duties and powers to prosecute individuals, and various business entities
 - Relationship with the police, defence, courts and other prosecuting agencies
 - Making the charging decision (Full Code Test and Threshold Test from the Code for Crown Prosecutors)
 - Preparing and presenting cases at Court including disclosure of evidence
 - Supporting witnesses and victims
- c) Other prosecuting authorities, and an overview of the types of offences they prosecute, e.g.
 - Local authorities
 - Health & Safety Executive
 - Financial Services Authority
- d) Role and function of the probation service:
 - Preparation of pre-sentence reports and recommendation of appropriate sentencing
 - Overseeing of offenders released on licence or subject to community sentences
 - Exercising powers of recall to prison for those in breach of post-release licence conditions
 - Bringing proceedings in the magistrates' or Crown Court where conditions of a community sentence/suspended sentence have been breached
 - Working with some victims of sexual or violent offences
- e) Role and function of Youth Offending Teams:
 - YOT as part of local authority, and separate to the police and CPS
 - Crime Prevention Programmes aimed at under 18s
 - Helping young people and their families at the station and in Court
 - Supervising and supporting young people who are under community or custodial sentences

7. Dealing with vulnerable clients and witnesses

Working in criminal law can be rewarding and also challenging. You will need to develop skills to recognise when defendants/clients and witnesses are vulnerable, and deal with these individuals professionally and sensitively. You will therefore need to know:

- a) The definition of vulnerable and intimidated witnesses, within the context of the Youth Justice and Criminal Evidence Act 1999
- b) The meaning of special measures, and overview of the measures available at the discretion of the Court
- c) Eligibility for special measures for adult victims of sexual offences
- d) The limited special measures available for young or otherwise vulnerable offenders, including access to an appropriate adult and an intermediary
- e) The power to restrict reporting on certain adult witnesses, e.g. members of the LGBTQ+ community conferred under s.46 YJCEA 1999
- f) Giving Evidence by live link where special measures are not available

 **CILEX**



A3 – Property and Conveyancing

Advanced Stage

2024

A3: Property and Conveyancing

The aim of this module is to give you the essential knowledge and understanding of the underlying law relating to conveyancing and how the law relates to practice. There is a focus on the creation of third-party rights in registered and unregistered land and how these issues might affect a buyer of land. The module also covers the grant and assignment of a long residential lease and the conveyancing procedures involved in those transactions.

The module covers:

1. Underpinning land law
2. Underpinning law of trusts
3. Unregistered title
4. Registration of title at HMLR
5. Third party interests in registered land
6. Third party rights in land – easements
7. Third party rights in land – covenants
8. Third party rights in land – mortgages
9. Adverse possession
10. Co-ownership – overreaching; severance; registering restriction at HMLR; co-owner disagreements
11. Underpinning landlord and tenant law
12. Leases – common provisions
13. Leases and HMLR
14. Overview of the conveyancing transaction – residential leasehold
15. Grant, sale and purchase of a long residential lease
16. Particular issues with long residential leases
17. Enfranchisement / tenant protection
18. Remedies – notice to complete
19. Remedies – failure to complete
20. Short term residential tenancies

Learning Outcomes

By the end of this module, you will be able to:

1. Identify the main third party rights encountered in conveyancing and how they are created and enforced
2. Identify the procedures required to carry out a conveyancing transaction involving the sale/purchase of unregistered land, and the steps required to procure registration of the title at HM Land Registry
3. Identify the issues arising on, and the procedures required to carry out, a transfer of part of a registered title
4. Describe the underpinning law relevant to landlord and tenant matters and the common provisions found in a lease
5. Identify the procedures required to carry out a residential leasehold conveyancing transaction on the grant and assignment of a lease
6. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the applicable Codes of Conduct

Linked online assessment:

A3 TQT: 180 hours

Prerequisite knowledge – Subjects covered by the Foundation Stage Introduction to Property and Private Client module

Details of updates included in 2024 Module Specification

- 12a: Key lease clauses
 - Extent of the demise (ADDITION)
 - Tenant covenants (in outline), with particular reference to repair, alterations, use and dealings (assignment, underletting, etc) (ADDITION)
 - Landlord covenants (in outline), with particular reference to covenant for quiet enjoyment, insurance and services/service charge (ADDITION)
- 20: Renters (Reform) Bill 2023 (ADDITION)

1. Underpinning land law	Developing a further understanding of the key land law concepts, to support those covered at Foundation Stage of the CPQ, is a vital starting point for a trainee in the property department. Therefore, you will need to know the following: a) Formalities required for the express creation of legal interests • Mortgages • Easements • Rentcharges; estate rentcharges • Profits à prendre (in outline): profits à prendre in gross; profits appurtenant • Rights of entry: contained in leases and rentcharges b) Formalities required for the express creation of equitable interests • Equitable mortgages • Restrictive covenants • Positive covenants • Estate contracts c) Statutory requirements for a deed and the exceptions to the requirements for a deed • Assent of land • Disclaimer of a lease under Insolvency Act 1986 • Surrender of a lease • Leases and tenancies not required to be made in writing Law of Property Act 1925 (LPA 1925)
2. Underpinning law of trusts	An understanding of the law of trusts as it relates to property transactions is vital to giving appropriate co-ownership advice and to understanding the remedies that might be available in the event of default. Therefore, you will need to know the following: a) Types of trust • Implied, resulting and constructive trusts • Relevant case law • Purpose trusts b) Formalities for the creation of an express trust of land c) Rights of trustees and beneficiaries under Trusts of Land and Appointment of Trustees Act 1996 (TLATA 1996) • Right to occupy • Right to be consulted • Resolution of disputes

3. Unregistered Title	Conveyancers will encounter fewer unregistered titles, but an understanding of the principles of unregistered land and how the seller will deduce title is important for trainees. Therefore, you will need to know the following: a) Key unregistered title documents • Conveyance • Mortgage deed • Deed of gift • Assent • Full land charges searches b) The root of title • Requirements of a good root • Risks of accepting a short root c) Title deeds and epitome of title • Form and content of epitome • Obtaining original documents on completion • Sales of part: endorsement of memoranda, retention of original deeds d) Title passes on completion e) Protection of third party interests - land charges • Main classes of land charges • Registration of land charges; importance of registering against the correct name • The doctrine of notice • Registration constitutes notice f) Enforcement of third party interests • Legal interests; binding on third parties • Equitable interests g) The doctrine of notice • Actual • Constructive • Imputed h) Unregistered interests which override on first registration; Land Registration Act 2002 (LRA 2002) Sch 1
4. Registration of title at HMLR	A detailed understanding of the nature of registered title, the triggers for registration and the format of the register is essential. Therefore, you will need to know the following: a) LRA 2002 – (in outline) • Purpose • Main provisions • Land Registration Rules

- b) The main triggers for first registration and voluntary registration
 - Deeds of gift
 - Assents
 - Conveyance on sale
 - Creation of a leasehold interest of more than 7 years in duration
 - Assignment of a lease which has more than 7 years to run
 - Creation of a first legal charge over unregistered land
 - Voluntary first registration
- c) Estates that can be substantively registered
 - Estates in land
 - Rentcharges
 - Franchises (in outline)
 - Profits à prendre in gross (in outline)
- d) The contents of the registers of title
 - Property register
 - Proprietorship register
 - Charges register
 - How rights are shown on the title
 - How mortgages are shown on the title
 - Class of title
 - The different classes of title
 - Upgrading the class of title
 - What HM Land Registry (HMLR) forms are needed to upgrade title
- e) The filed (title) plan
- f) Cautions against first registration
 - Purpose
 - HMLR Practice Guide (LRPG) 3
 - Who can apply
 - How the application is made
 - HMLR Form CT1
 - Cancellation
- g) Dealings with registered land
 - Dispositions which must be registered:
 - transfers of whole and transfers of part of a registered title;
 - charges over a registered title
 - grant of a lease for a term of more than 7 years out of a registered title
 - creation of other legal interests (easements, etc)
 - Relation to practice – registration application which must be made following completion
- h) Third party interests that override registration - LRA 2002 Sch 3

5. Third party interests in registered land	A detailed understanding of how third party rights are protected in registered land is essential. Therefore, you will need to know the following a) Third party interests • How they are protected • Legal mortgages • Legal easements b) Notices • Purpose • Agreed notice; HMLR Form AN1 • Unilateral notice; HMLR Form UN1 • Cancellation or removal • LRP 19 c) Restrictions • Purpose • Registration – HMLR Forms: TR1, TP1, AS1, RX1, CH1 • Removal – withdrawal or cancellation • HMLR PG19 • Relation to practice – purpose and wording of the HMLR Form A restriction
6. Third party rights in land – easements	It is necessary to recognise whether an easement is required or has been created because rights are fundamental to the use and enjoyment of land. Therefore, you will need to know the following: a) Characteristics of an easement • The rule in <i>Re Ellenborough Park</i> [1956] • Relevant case law b) How easements are created • Express grant and reservation by deed • Implied grant and reservation by necessity • Common intention • Implied grant by: ○ The rule in <i>Wheeldon v Burrows</i> [1879] ○ LPA 1925, s 62 (subject to no contrary intention) • Grant by prescription • Easements as an overriding interest in registered land • Profits and acquisition of profits • Relation to practice: right of access; right to use services; grant by prescription – link to statutory declaration / statement of truth and indemnity insurance

	c) The difference between express grant and reservation • Relation to practice – the wording for Form TP1 to ensure that the benefit and burden of easements granted or reserved run with the land transferred or the land retained • The risks from enlargement d) Protection of easements: registered land and unregistered land • Relation to practice – how the benefit and burden of easements are shown on a registered title; how rights might be contained in a conveyance or deed of easement in an unregistered title e) How easements are discharged • How easements can be determined or extinguished: unity of seisin; intensification; estoppel; abandonment
7. Third party rights in land – covenants	An effective conveyancer must be able to recognise whether a covenant affects land, whether it might be enforceable and the nature of the covenant. Therefore, you will need to know the following: a) Classification of covenants • Restrictive; Positive; Personal b) Formalities required for the creation of freehold covenants • Relation to practice – how the burden of a covenant is shown on a registered title; the requirement for registration as a Class D(ii) land charge if burdened land is unregistered at the date of creation; the importance of a full land charges search on a purchase of unregistered land c) Rules for determining if freehold covenant runs at law or in equity • Original contracting parties • Successors in title - restrictive covenants – the benefit and burden • Positive covenants – how to enforce: <i>Halsall v Brizell</i> [1957]; chain of indemnity covenants; grant of a lease (or commonhold scheme – in outline); right of entry coupled with a rentcharge • Relation to practice – recognising restrictive, positive and personal covenants in a registered title; link to pre-contract enquiries and whether there is any evidence of breach of covenant; the wording of a Form TP1 imposing a restrictive covenant on the land transferred and/or the land retained; link to indemnity insurance d) How a freehold covenant can be extinguished or modified • By deed • Common ownership • LPA 1925, s 84

8. Third party rights in land – mortgages

An effective conveyancer must be able to recognise whether a buyer needs to secure borrowing by way of mortgage and how that security should be protected, the position in the event of default by the borrower and the priority of mortgages. Therefore, you will need to know the following:

- a) Formalities for the creation of legal and equitable mortgages; equity of redemption
 - Equitable mortgages
 - Charge by way of legal mortgage
- b) Protection of mortgages
 - Registered land
 - Unregistered land
 - Relation to practice – recognise a mortgage on a charges register and the lender's restriction; the mortgage deed if the title is unregistered and the requirement for a second or subsequent mortgage to be registered as a Class C(i) land charge; the importance of a full land charges search
- c) Methods of enforcement of a mortgage by a mortgage lender
 - Possession
 - Order for sale
 - Appointment of receiver
 - Action in debt
 - Foreclosure
- d) Priority of mortgages
 - Relation to practice – how priority of mortgages affects sale by a mortgagee, the distribution of the proceeds of sale and what documents must be produced to perfect the title
- e) Mortgages by companies
 - Fixed charge
 - Floating charge
 - Registration at Companies House

9. Adverse possession

An effective conveyancer must recognise when a party does not have documentary evidence of title to land and how an adverse possession claim will differ depending on whether the title is registered or unregistered. Therefore, you will need to know the following:

- a) Adverse possession in unregistered land
 - Limitation Act 1980
 - Period of adverse possession
 - Procedure for application to HMLR
 - Class of title normally granted on an adverse possession application

	b) Adverse possession in registered land • LRA 2002 • Post 12.10.03 procedure • Limitation Act 1980 • Period of adverse possession • Procedure for application to HMLR • Class of title available for adverse possession application • Relation to practice – a seller may have occupied land to which they do not have title which might result in an adverse possession application; use of statutory declaration / statement of truth; link to the need for indemnity insurance c) Impact of human rights on development of law of adverse possession (in outline)
10. Co-ownership – overreaching; severance; registering restriction at HMLR; Co-owner Disagreements	Recognising the behind-the-scenes beneficial interest and knowing how to deal with this on behalf of a buyer is essential for a conveyancer. Therefore, you will need to know the following: a) Overreaching • Identifying the behind-the-scenes beneficial interest • The position of the sole trustee of the legal estate • How to effect overreaching • The impact on the contract for sale • Considerations for the buyer’s conveyancer: identification of second trustee; making the HMLR application • Drafting the provision for the transfer b) Severance • Methods - written notice; treatment of share; disposal; agreement; course of dealings; forfeiture; bankruptcy • Drafting the notice of severance • Effective service of the notice; <i>Kinch v Bullard</i> [1998] c) Registering the Form A restriction at HMLR • Form SEV • Form RX1 d) Co-ownership advice • Common situations where co-ownership advice must be given • Risks of conflict • Development of case law • Inequality of contribution to purchase – tenancy in common advice • Drafting a straightforward declaration of trust e) Co-owners failing to agree on a sale – in outline • TLATA 1996, s 14; applying to court • TLATA 1996, s 15; factors court will take into account in considering an order under TLATA 1996, s 14

11. Underpinning landlord and tenant law

A detailed understanding of the characteristics of a lease and the different types of lease and the privity of contract rules are essential for any conveyancer. An outline understanding of the remedies for breach and how a lease is terminated is also important. Therefore, you will need to know the following:

- a) Characteristics of a lease
 - Lease v licence distinction
 - *Street v Mountford* [1985]
- b) Formalities for the creation of a lease (recap from section 2)
 - Requirement of a deed
 - Equitable leases
- c) Common types of lease
 - Fixed term tenancies
 - Periodic tenancies
 - Reversionary leases (in outline)
 - Tenancies at will (in outline)
- d) Remedies for breach of leasehold covenant
 - Commercial Rent Arrears Recovery
 - Forfeiture
 - Waiver
 - Self help
- e) Termination of leases
 - Expiry
 - Notice
 - Surrender and merger
 - Forfeiture
 - Frustration
- f) Landlord and Tenant (Covenants) Act 1995
 - Privity of contract rule for pre-01.01.1996 leases and for leases granted on or after that date (in outline)

12. Leases – common provisions	An understanding of the key terms relating to leases is essential whether acting for a landlord or a tenant and whether it is a residential or commercial property. Therefore, you will need to know the following: a) Key lease clauses • Rent • Term • Extent of the demise • Tenant covenants (in outline), with particular reference to repair, alterations, use and dealings (assignment, underletting, etc) • Landlord covenants (in outline), with particular reference to covenant for quiet enjoyment, insurance and services/service charge • Mutual rights • Landlord to enforce covenants in other leases • Forfeiture b) Statutory protection • Covenants against assignment: absolute; qualified - Landlord and Tenant Act 1927 (LTA 1927), s 19(1)(a) • Alterations: absolute; qualified - LTA 1927, s19(2) • Use; absolute; qualified - LTA 1927, s 19(3) • Service charge / management company; service charge regime - Landlord and Tenant Act 1985
13. Leases and HMLR	An effective conveyancer must understand when a lease is registrable at HMLR and the land registration requirements. Therefore, you will need to know the following: • The importance of the lease plan; HMLR PG 40 • HMLR's change of approach to the creation of leasehold title plans
14. Overview of the conveyancing transaction – residential leasehold	Knowing how a leasehold transaction progresses from instructions to registration on behalf of a landlord or a tenant is essential. Therefore, you will need to know the following: Link the grant of a new lease and the assignment of an existing lease to the basic conveyancing overview: a) Key stages (pre-contract, exchange, pre-completion, completion, post-completion) b) Key steps to take on behalf of seller and buyer (flowchart) c) The use of checklists d) How the Law Society Conveyancing Protocol (the Protocol) applies to leasehold residential transactions

15. The sale and purchase of a long residential lease

An effective conveyancer must know the process for the grant of a new lease and the assignment of an existing residential lease. Therefore, you will need to know the following:

- a) Grant of a new lease
 - The provisions of the Protocol
 - Taking instructions from the landlord on key lease content
 - HMLR compliant plan
 - Pre-contract searches and enquires (specific issues relating to long leasehold flats and houses)
 - Drafting the contract with lease annexed; Standard Condition 8.2
 - Documents to include in the contract pack
 - Approving the draft lease
 - Lender requirements
 - Exchange and preparing for completion: preparation of original and counterpart
 - Pre-completion tasks – priority search (Form OS1 or OS2) and other specific issues
 - Completion – documents received by tenant’s conveyancer
 - SDLT in England and LTT in Wales: payable on premium and net present value
 - Registration at HMLR
 - Notice of mortgage if required
- b) Assignment of an existing lease
 - The provisions of the Protocol
 - Is landlord’s consent required; Standard Condition 8.3
 - Drafting the contract
 - Documents to include in the contract pack: in addition to standard documents: copy lease, Leasehold Information Form, management company information, form LPE1, service charge accounts, buildings insurance, ground rent and service charge receipt, copy freehold title, copy share certificate in freehold or management company (if relevant)
 - Approving the contract
 - Pre-contract searches and enquires (specific issues relating to long leasehold flats and houses)
 - Exchange and preparing for completion: Standard Condition 6.3 apportionments
 - Pre-completion tasks – priority search (Form OS1 or OS2) and other specific issues relating to long leasehold flats and houses
 - Completion – documents received by buyer’s conveyancer
 - SDLT or LTT
 - Registration at HMLR
 - Notice of assignment and mortgage (if required)
 - Transfer share in management company to buyer (if required)

16. Current concerns with long residential leases	Long residential leases have become a complex topic in practice and represent a risk to conveyancers in terms of the advice to give to buyer and lender clients. Therefore, you will need to know the following: a) Residue and ground rent issues • Insufficient remaining term of lease; what is an acceptable residue? • Ground rents – Housing Act 1988 (HA 1988); risk of a lease with ground rent over £250 (or £1000) in London falling within ambit of HA 1988; the risk of termination under Ground 8 of Schedule 2 of HA 1988; • In outline, what provisions can be included in a new lease or a deed of variation to mitigate the effect of this risk? • Ground rents – the problem with doubling every 10 years • View of lenders • Possible solutions: deed of variation; enfranchisement (in outline only) • Leasehold Reform (Ground Rent) Act 2022 - peppercorn ground rent for new, qualifying long residential leasehold properties in England and Wales
17. Enfranchisement / tenant protection	A conveyancer must have an understanding in outline of the protections afforded to tenants of long leases of houses and flats. The conveyancer must appreciate that these are specialist areas of practice. The government has indicated its intention to reform these provisions, so an outline understanding of the proposed reforms is important. Therefore, you will need to know the following: a) Leasehold Reform Act 1967 • Protection of tenants who have a long lease of a house • Qualifying conditions • Procedure • Extend the term b) Leasehold Reform, Housing and Urban Development Act 1993 • Protection of tenants who have a long lease of a flat • Qualifying conditions • Acquisition of freehold • Extension of lease • Possible reform – Leasehold and Freehold Reform Bill 2023-24 – further proposals for reform (outline only)
18. Remedies – notice to complete	A conveyancer must understand the remedies available under the Standard Conditions of Sale in the event of late completion. Therefore, you will need to know the following: • Time for completion in the contract • Late completion; interest due at the contract rate • Notice to complete procedure • Standard Condition 6.8 • Drafting a notice to complete • Recent case law

19. Remedies – failure to complete	A conveyancer is unlikely to deal with litigation which might arise following a failure to complete a conveyancing transaction. But a conveyancer must have an outline understanding of the key remedies available in the event of non-completion. Therefore, you will need to know the following in relation to failure to complete: • Time of the essence • Damages • When the right to rescind arises • Standard Condition 7 • Equitable remedies in general • Specific performance • Misrepresentation • Suing under the covenants for title
20. Short term residential tenancies	A conveyancer must have an outline understanding of the key short-term residential tenancies. Therefore, you will also need to know the following in relation to the statutory framework which regulates those tenancies: • In outline only - HA 1988: assured tenancy; assured shorthold tenancy; exclusions; security of tenure; recovering possession; proposed future changes • Outline of Tenancy Deposit Scheme • Outline of Tenant Fees Act 2019 and Renting Homes (Fees etc.) (Wales) Act 2019: permitted payments; prohibited payments. • Outline of Housing (Wales) Act 2014: registration and licensing of landlords, etc • Right to rent checks • Outline of Rent Act 1977 tenancies: protected tenancies; exclusions; rent control; recovery of possession • Outline of Renting Homes (Wales) Act 2016: secure contract; standard contract; exclusions; termination • Selling a property subject to a tenancy: contract drafting, key issues arising • Renters (Reform) Bill 2023

CILEX

CPQ

A4 and A5 – Professional and Legal Skills

Advanced Stage

2024

A4 and A5: Professional and Legal Skills

The aim of this module is to develop the essential professional and legal skills introduced at Foundation Stage, helping you to progress your legal career.

A successful legal professional is one who has the skills to increase both individual and team productivity and efficiency. The skills developed at the Advanced Stage will allow you to do this through the development of your interpersonal skills, appreciation of the importance of continuous learning and an increased commercial awareness. You will also consider the potential impact of technology on the role you perform and the legal sector.

The module covers:

- Succeeding in the legal environment; The role of the senior paralegal in a legal environment
 - Personal impact
 - Working in a team
 - Setting standards
 - Client first approach
 - Commercial focus
 - The impact of technology
- Effective communication
 - Communicating with internal and external clients
- Using technology to carry out legal research

Learning Outcomes

By the end of this module you will be able to:

- Understand the purpose of an organisational strategy and how it aligns to individual and team targets and the role you play
- Understand how a legal entity operates and the opportunities technology presents
- Identify personal skills and knowledge gaps
- Understand accounts rules including handling a client's money
- Communicate more effectively, including accurate legal writing and drafting
- Apply a brief to carry out effective legal research, to support a legal outcome

Linked online assessment: A4 and A5

A4: Succeeding in the Legal Environment

1. Personal Impact

Your interpersonal skills are fundamental to achieving success in an organisation. You will need to effectively manage and develop relationships with others, whether they are internal or external clients. You are likely not just to have to manage your own workload, but to actively organise and monitor others within the organisation. Your focus needs to be on achieving the common goals of the organisation you work for.

a) Interpersonal relationships

- Illustrate how emotional intelligence is used to understand the needs and feelings of others to create a positive, high-functioning workplace
- Show how an understanding of interpersonal skills can help manage and resolve conflict situations
 - Identify conflict
 - Understand why conflict exists
 - Strategies to manage conflict
- Define resilience and identify how it can be built in the workplace
- Understand the principles of assertiveness
- Know how to motivate others to achieve the common goals of the organisation
- Understand your role as an informal mentor

b) Diversity and respect

- Actively consider the impact of equality, diversity, and cultural difference within the workplace
- Review legal transactions through the lens of diversity and cultural difference
 - Clients
 - Third Parties

c) Time Management

- Plan, organise and monitor your own time in a work environment
 - Keeping files up to date
 - Communicating with clients and third parties in a timely manner
- Monitor others' time management and act if necessary, to ensure goals are met
- Understand how to overcome barriers to effective time management for self and others
- Effectively manage chargeable and non-chargeable time
- Manage your workload and self-care

d) Building rapport and effective working relationships

- Build rapport with internal and external clients
- Ensure that knowledge is shared promptly with the appropriate person
- Identify opportunities to share knowledge and resources

	• Acknowledge and respond to the needs of others; respecting differences e) Networking • Create internal networks • Identify the potential to create external networks • Understand how technology can be used to create a networking opportunity
2. Working in a team	You will be central to the team achieving its designated goals, whether you have set them, or they have been set by others in the organisation. You should use technology to enhance working in a team, personally supporting others to achieve common goals. a) Role within a team and the organisation • Participate as a key member of the team in order to achieve the designated goals: ○ Setting deadlines and prioritising ○ SMART action planning ○ Target setting ○ Accepting responsibility b) The impact of technology on teams • Use technology to support and enhance team collaboration • Technology to support remote working • Use of digital planning tools c) Manage team workload • Support others when needed to achieve goals • Understand the principles and benefits of delegated responsibility d) Decision making and developing solutions • Analyse information from different sources to develop a reasoned conclusion • Apply strategies to challenge information in a professional manner ○ Considerer alternative views and test the validity of ideas ○ Analyse alternative solutions using qualitative and quantitative data • Prioritise key issues • Appreciate when more expert help is required, identifying linkages, inconsistencies and ambiguities
3. Setting Standards	The profession is ever-changing, and you will be encouraged and supported through any changes to ensure that you are continuously developing and working towards becoming successful. You should always conduct business in line with the code for professional and personal conduct. Appraisal and CPD are important, and

	you should actively engage in the appraisal process, as an appraisee and an appraiser, setting performance targets for yourself and others, giving and receiving feedback. a) External Regulation • Apply the duties and responsibilities of the code for professional and personal conduct throughout internal and external transactions b) Accounts rules and handling client money • Understand the CILEx accounts rules ○ Ability to record and account for client money ensuring it is allocated promptly ○ Understand the need to keep client money safe and away from that of the business ○ Understand when and how to account for interest to the client ○ Know how to rectify mistakes on an account ○ Understand money held as an agent/stakeholder • Double Entry bookkeeping – in outline ○ Understand the requirement to post entries to the client ledger account and the appropriate cash books of a legal entity ○ Understand when and how to send a bill of costs and charge applicable VAT • Understand when it is appropriate to provide the client with a financial statement • Understand what is meant by a disbursement • Know how to deal with errors on an account c) Appraisal and CPD as a driver for improvement • Understand the importance of appraisals, as an appraiser and appraisee • Understand the different ways in which appraisals are used e.g. 360 appraisal, rating scale, management by objective • Set performance targets for self and others ○ SMART objectives • Identify and pursue opportunities for CPD ○ CILEx CPD requirements and support • Act on feedback to improve performance ○ Use reflective practice models e.g. Gibbs reflective cycle • Understand how formal and informal feedback is given to allow others to improve performance
4. Client First Approach	Successful performance involves ensuring that the needs of a client are in line with the firm's professional and ethical obligations. You will be required to manage internal and external client expectations. To be able to do this you need to

	understand how your organisation puts client service at the centre of its culture, creating and implementing service standards for clients. a) The relationship of external client service to the success of the organisation • Understand how to provide a client focused service • Know how an organisation's objectives can go beyond profit • Effectively manage external client expectations ○ Delivering negative news ○ Questioning ○ Agreement on deliverables ○ Managing risk ○ Managing internal drivers b) The importance of the internal client • Understand how internal client relationships are reflective of the culture of the organisation • Implement client service standards for internal clients • Effectively manage internal client expectations ○ Delivering negative news ○ Questioning ○ Agreement on deliverables and timing c) Fulfilling professional and ethical considerations • Ensure that clients are served in an ethical and professional way
5. Commercial Focus	Regardless of the type of organisation you work for, there needs to be a commercial focus to ensure that you maximise performance and in the case of private practice, generate revenue. Although you are not expected to be an accountant, a basic understanding of accounts is essential. You also need to recognise the potential for opportunity, considering both legal and non-legal aspects, be aware of what can impact on performance, considering how they can be mitigated. Therefore, you should know: a) Opportunities to practice law • Identify potential non-contentious and contentious work within an organisation • Identify ways of mitigating factors which impact on an organisation structure b) Commercial opportunities in a legal practice • Recognise opportunities within the organisation to diversify or expand ○ Apply knowledge of recent or current external issues facing legal entities • Explain what factors impact on performance within the legal organisation

	○ The definition and purpose of organisational strategy ○ Understand how a competitive advantage arises and how a firm can differentiate themselves from competitors. ○ Awareness of budgets and how they are used in a business ○ Types of key performance indicators and the use of them in motivating teams • Understand the role of 'senior paralegal' in generating income ○ Offer additional services and articulate value to the client c) Basic finance and business accounts awareness • Basic finance terminology e.g. income/capital and profit • Identify and understand the function, principles, and main components of a statement of profit and loss and a balance sheet - the relationship to a trial balance • Understand the taxation system as it applied to individuals and corporations
6. The Impact of Technology	The legal professional requires an appreciation of the potential impact of the growth in technology for the legal sector. You will use standard software applications on an almost daily basis, however your knowledge will need to go further and you will be required to understand where specific technology such as artificial intelligence, can be used effectively in the legal environment. As the use of technology becomes more prevalent in the legal office, you need to actively consider how you mitigate against hacking, fraudulent activity and so forth. Therefore, you need to know the following: a) Different types of software applications used in the workplace • Use standard software applications within the business environment • Understand the limitations of using specific types of software applications • Understand the benefits and limitations of a website b) The use of systems in practice • Understand the core principles of legal technology e.g. databases, search, automation • Explain how IT specific systems benefit practice e.g. efficiency, client satisfaction, automation of routine tasks • Have an overview of types of systems used ○ Customer Relationship Management systems ○ Case Management systems ○ Cloud computing ○ Cloud file sharing • Be aware of the use of specific systems in non-contentious and contentious work c) Use technology to communicate • Use online communication in the legal environment: Skype, Teams, Zoom etc. • Differentiate in language and format between internal and external communication

	• Differentiate in language between formal and informal communication. • Use the appropriate etiquette in communicating using IT systems. d) The risks associated with office technology • Illustrate how the risks associated with office technology can be mitigated ○ Cybersecurity ○ Emotional impact e) Explain how legal technology is changing the landscape of the legal sector and consider opportunities for your own firm/legal department • Overview of: ○ Smart contracting ○ Use of AI ○ Cybercrime ○ Encryption ○ Predictive coding ○ Legal apps ○ Legal spend management systems ○ DIY law ○ Unbundling Services ○ Using technology for marketing law firms
7. Communication with Internal and External Clients	You will likely have daily communication with internal and external clients, as well as third parties such as the Land Registry, the Court or another lawyer. As such, you will need to use all your skills as an effective communicator, including the ability to negotiate effectively and take accurate instructions. Both your oral and written communication needs to be effective and appropriate. You will need to demonstrate the ability to draft appropriate documentation which has no spelling errors and is grammatically correct. a) The importance of effective communication within a legal environment • Use appropriate methods of communication with a range of clients and third parties • Prepare for and conduct successful client interviews • Prepare for and undertake straightforward negotiations and influence in favour of a preferred solution ○ Principled negotiation ○ Positional bargaining ○ Collaborative and distributive negotiation ○ BATNA (best alternative to negotiated agreement) • Explain why specific methods are used in specific circumstances • Illustrate where barriers have been overcome to effective communication b) The use of verbal communication to effectively communicate a message • Provide questions for different situations with internal and external clients and third parties • Tailor the message for different audiences, conveying the message concisely and, where appropriate, persuasively

- Speak at the appropriate pace
 - Maintain high professional and ethical standards under pressure
- c) The role non-verbal cues play in effective communication
- Explain how non-verbal cues helps with effective communication
 - Act on non-verbal cues to change approach in communication e.g. eye contact, posture, facial expression, personal space and distancing
- d) Actively listen to internal and external clients to effectively meet their requirements
- Use critical listening to evaluate and analyse
 - Use reflective listening skills to paraphrase
 - Take accurate instructions relating to legal matters from colleagues and client
 - Understand how to communicate with vulnerable clients
- e) The importance of effective and accurate legal writing
- Effectively take notes on which to then base correspondence
 - Draft correspondence, which is accurate, clear and unambiguous
 - Draft correspondence, which is grammatically correct, with no spelling mistakes
- f) Drafting original and precedent forms of communication
- Create different forms of written communication by drafting:
 - Routine letter
 - Client care letter
 - Attendance note
 - Matter creation form
 - Email
 - Website correspondence
 - File note

A5: Using Technology to carry out Legal Research

8. Conducting Legal Research

Legal research is an essential aspect of your practice and you ensure that you plan and execute your research in a timely and purposeful way. You can effectively use research tools for any legal purpose, whether that be contentious or non-contentious in nature. In respect of findings, you demonstrate your ability to use the information found in a constructive way to provide legal advice.

- a) The scope and purpose of legal research, ascertain the legal context and issues
 - Use legal research to support or challenge legal reasoning
 - Use legal research to provide supporting information in the preparation for hearings, advocacy or negotiations
 - Reach a conclusion upon which legal advice can be based
 - Identify the legal issues raised by the problem
 - Formulate the questions that need to be investigated and answered
 - Use non-legal sources of information and secondary sources to narrow the issues and gain an overview
- b) Determining the most appropriate legal resources to use
 - Use 'finding tools' such as databases, search engines or indexes to carry out legal research.
 - Justify the use of primary and secondary sources.
 - Understand the financial drivers in respect of choice.
- c) The importance of search terminology to use legal sources effectively
 - Use 'indexed' and 'free-text' searching to carry out legal research.
 - Correctly use search terms and connectors to effectively search.
 - Understand the potential dangers of unstructured internet searches.
- d) Using primary sources (Acts of Parliament, statutory instruments and case law) to inform research
 - Utilise appropriate information from an Act or Statutory Instrument in reaching a conclusion
 - Cite information from the Act or Statutory Instrument appropriately
 - Utilise appropriate information from a case in reaching a conclusion

	• Cite information from the case appropriately e) Evaluating different online sources • Distinguish the utility of a source in respect of the research being undertaken and use ethically • Use a primary source to access other primary and secondary sources • Fake news - filtering information e.g. snopes f) Applying research to reach a conclusion and communicating the results • Apply you own research findings to a problem to reach a conclusion which is clear • Reflect on the appropriateness of the research techniques employed • Provide a response to the problem researched to the intended audience in an appropriate format, which is accurate and concise g) The ethics and legality of information use • Cite sources of research using a recognised and accepted format e.g. Oxford Standard for Citation of Legal Authorities (OSCOLA)
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A6 – Wills, Probate and Private Client

Advanced Stage

2024

A6: Wills, Probate and Private Client

The aim of this module is to give you the essential knowledge and understanding of the law relating to trusts together with the law and procedure relating to the drafting and construction of Wills and intestacy. On completion of the module, you will be able to draft a basic Will and codicil. Throughout, you must be able to recognise risks and consider appropriate steps to mitigate them.

The module covers:

1. Equitable Principles Underlying Wills and Probate
2. Creation of Trusts
3. Risk management in Wills and Probate
4. The role of the Personal Representatives
5. Will drafting - preliminary considerations
6. Content and structure of a Will
7. Mirror and Mutual Wills; classes of gift; failure of gifts
8. Capacity to make a Will
9. Revocation and alteration of Wills
10. Wills - gifts; key administrative clauses in Wills
11. Intestacy

Learning Outcomes

By the end of this module a trainee will be able to:

1. Describe and apply the underpinning laws relevant to Wills and trusts
2. Understand the particular risks in relation to Will drafting and be able to take steps to mitigate those risks
3. Draft a straightforward, valid Will and codicil which give effect to the client's instructions
4. Analyse a situation and apply the intestacy rules
5. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the Code of Conduct

Linked online assessment:

A6 TQT: 180 hours

Details of updates included in 2024 Module Specification

- 5a: (ADDITION)
 - Testator's personal circumstances
 - Separated from spouse or civil partner, but not yet obtained official court documentation to confirm divorce/dissolution
 - Contemplating marriage/civil partnership, engaged and date set for union
 - Clarification as to why financial provision has not been made for certain beneficiaries
- 8a: Burden of proving capacity (DELETION)

1. Equitable Principles Underlying Wills and Probate	In a private client department, there must be an awareness of the laws of equity, being able to identify and explain the nature and terms of various trusts. Therefore, you will need to know the following: a) Common law and equity • How and why the law of equity developed • The relationship between the common law and equity today b) Trusts • The nature of a trust • The role of trustees • Different types of trust with examples - life insurance, trusts created in lifetime, discretionary trusts and interest in possession trusts c) Equitable remedies
2. Creation of Trusts	Understanding how a trust is created together with examples of trusts that can be created without a formal trust deed and to be able to advise clients accordingly will be required. Therefore, you will need to know the following: a) Why have a trust – client motivations b) Creation of a trust • The three certainties ○ Intention ○ Subject matter ○ Objects c) Types of trust • Trusts that are not in writing • Secret trusts and half secret trusts – when and how they are created; the risks of them and potential alternatives • Purpose trusts • Personal injury trusts (in outline); set up to hold payment received as a result of injury; bare trust; discretionary trust; beneficiary; impact on benefits

3. Risk management in Wills and Probate	A trainee in the private client department must be able to recognise risk and ways to mitigate risk to protect themselves and the firm. Therefore, you need to know the following: a) Key risks • Taking instructions from your client; recognising duress and undue influence • Will draftsman's capabilities • Duty of care; White v Jones [1995] • Assessment of capacity; the 'Golden Rule' • Recognising and avoiding conflicts of interest • Clients whose first language is not English • Requirement for speed if preparing a 'death bed' Will • Will signing • Dealing with a notice of severance when co-owned land is referred to in a Will b) Mitigating risk • Face to face meetings • Attendance notes • Capacity report • Use of checklists • Deadlines c) Rights, remedies and powers of beneficiaries
4. The role of Personal Representatives	It is important to understand the role of a personal representative and the associated risks. Therefore, you will need to know the following: a) Powers, duties and liabilities of personal representatives • s25 Administration of Estate Act 1925 • Appropriations • s31 and s32 Trustee Act 1925 • Trustee Act 2000 powers • The administrative year • Charging to act b) Protection available to personal representatives • s27 Trustee Act adverts • Missing beneficiaries • Court applications

5. Will drafting - preliminary considerations	When drafting a Will, understanding the key preliminary considerations that will affect the content of a Will and how to offer advice in relation to it, will be required. Therefore, you will need to know the following: a) Testator's personal circumstances • Separated from spouse or civil partner, but not yet divorced / civil partnership dissolved • Contemplating marriage/civil partnership to a specific person • Clarification as to why financial provision has not been made for certain potential beneficiaries b) Appointment of executors and trustees • Lay or Professional; trust corporation • Responsibility and risk • Conflicts • Charging c) Charging clauses • Purpose • Risks • Law Society guidance d) Guardians • Explanation of parental responsibly • Joint Guardians • Choice of guardians; same people as trustees? • Willingness to act e) Foreign element • Foreign Property/Domicile (in outline) • Does client have overseas property/existing foreign Will? • Are these to be encompassed or revoked? • EU Succession Regulation (Brussels IV) • Elections that can be made if the property in Spain f) Assets that fall outside the Will • Who will inherit these assets? • Jointly owned assets • Life insurance • Death in service • Pensions • Donationes mortis causa • Consider nominations, severance or creating a trust g) Claims that may be made against the estate • Considerations when Will drafting
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	• Letters of wishes h) Other Wills • Living Wills • Statutory Wills
6. Content and structure of a Will	To support a client in drafting a Will requires an appreciation of the format and content of a Will. Therefore, you will need to know the following: a) Purpose of a Will • Tax advantages; options for basic IHT planning • Overview of the tax implications of trusts in Wills • Care home fee planning • Choice of executors • Appointing guardians • Appointing trustees • Making provisions to avoid the intestacy rules • Deciding recipients and timing of inheritance • Charitable giving and its effect on IHT b) Format and structure of a Will • s9 Will Act 1837 • In writing • Signature; Payne v Payne [2018]; signature by another • With intent; Marley v Rawlings [2014] • Witnesses; s15 Will Act 1837 • Attestation clause • CPR Part 8 • s24 Wills Act 1937 c) Codicil • Content of a codicil • The risks of making a codicil
7. Mirror and Mutual Wills; classes of gift; failure of gifts	A trainee in the private client department must be aware of mirror Wills and mutual Wills and the different classes of gifts. Therefore, you will need to know the following: a) Mirror Wills and mutual Wills • The difference between them • The implications of a mutual Will b) Gifts • Class gifts and class closing rules • Immediate vested gift and deferred vested gift • Contingent gifts • Early closing

	• Gifts to children by description; legitimate; legitimated; illegitimate and adopted • Gender recognition • Surrogacy and fertilisation treatment c) Failure of gifts • Lapse • Commorientes rule – S184 LPA 1925 & survivorship clauses • S33 Will Act 1837 • Ademption • Forfeiture Act 1982 & EDP (FRLS) Act 2011 • Disclaimer • S15 Wills Act 1837 • Uncertainty • Illegal, immoral or contrary to public policy d) Extrinsic evidence • s 21 Administration of Justice Act • Interpretation of a Will
8. Capacity to make a Will	A trainee in the private client department must understand the capacity requirements to make a Will. Therefore, you will need to know the following: a) Testamentary capacity • The rules relating to capacity to make a Will and intention • Banks v Goodfellow [1870]; sound mind, sound memory and sound understanding; Key v Key [2010] • Burden on proofing capacity • Capacity to execute a Will; Parker v Felgate [1883] • Obtaining a capacity report b) Knowledge and Approval • Presumption in favour • Absence of presumption; deaf/dumb testator; inability to write; blind; illiterate; directed another to sign on their behalf c) Undertaking Mental Capacity Assessment training

9. Revocation and alteration of Wills	A request may be made for a Will to be revoked and you should understand the effect of alterations and other actions that can affect the validity of a Will. You also need to know how Wills can be rectified if there are errors. Therefore, you will need to know the following: a) Revocation of Wills • By marriage/civil partnership • s18 Will Act 1837 • Effect of divorce • Revocation by a later Will or codicil • Destruction; s20 Wills Act 1837; Cheese v Lovejoy [1877], Re Adams [1990] • Intention to revoke • Conditional revocation • Lost and destroyed Wills • R54 NCPD procedure • Ferneley v Napier and Others [2010] • Severance of joint tenancy b) Alterations to Wills • s21 Wills Act 1837 • Republication and how this can affect interpretation and construction of an earlier Will • Revival – s22 Wills Act 1837 • Incorporation by reference; doctrine of incorporation – dispositive, identifiable and in existence • Rectification; omitting, changing and supplying words; s20 Administration of Justice Act 1982
10. Wills - gifts; key administrative clauses in Wills	There are different types of gift, and you must be aware of the practical and professional conduct implications in relation to them and key administrative clauses to include in a Will. Therefore, you need to know the following: a) Gifts • Specific, general, demonstrative and pecuniary gifts • Tax • Gifts to minors • Contingent gifts • Gifts contingent on age - possible effect on Residential Nil Rate Band • Expenses - carriage and insurance b) Gifts to the draftsman • Professional Conduct • Law Society Guidance • Wintle v Nye [1959]

- c) Gifts to unincorporated associations
 - The four options
- d) Charitable gifts
 - Identification
 - Cy pres
 - Receipt clause
 - Taxation purposes
- e) Residuary gifts
 - Provision for payment of debts and legacies
 - Absolute gift
 - Successive interests
 - Contingent interest
 - Substitutional gifts
- f) Survivorship clauses
 - s184 Law of Property Act 1925
 - IHT considerations
- g) Administrative Powers
 - Appropriation without consent
 - Consultation with beneficiaries - s11 Trusts of Land and Appointment of Trustees Act 1996
 - Receipt clause
 - Business
 - Investment
 - s31 and s 32 Trustee Act 1925
 - Standard Administrative Provisions
- h) Attestation clauses
 - Standard
 - Special cases
- i) STEP administrative provisions

11. Intestacy

A trainee in the private client department must know and be able to apply the rules of intestacy. Therefore, you will need to know the following:

- a) Intestacy
 - The difference between intestacy and partial intestacy and how to avoid a partial intestacy
 - Inheritance and Trustees Powers Act 2014
 - The statutory rules relating to the devolution of estates on intestacy, s47 Administration of Estates Act 1925; the statutory trusts
 - The order of beneficial entitlement; s46 Administration of Estates Act 1925
 - The entitlement of spouses / civil partners; the 28-day survivorship condition; S46(2A) Administration of Estates Act 1925; the right to elect to take the matrimonial home
 - Bona vacantia
 - Unclaimed estates list
 - The position of co-habitees



A7 – Family Law and Practice

Advanced Stage

2024

A7: Family Law and Practice

The aim of this module is to give you the essential knowledge and understanding of law and procedure to equip you to deal with family law cases. The module covers a range of current family law topics that you would encounter in practice, incorporating the formation of adult relationships, matters relating to children, and the breakdown of adult relationships. On completion of the module, you will have the skills to draft basic court documentation, whilst acquiring the knowledge and extended foundations of family law and procedure.

The module covers:

1. Family Law themes
2. Formation of adult relationship: Marriage, Civil Partnership
3. Void and Voidable Marriages and Civil Partnerships
4. Divorce, Dissolution and Judicial Separation
5. Financial Remedy on Divorce/Dissolution
6. Wills, Severance and Intestacy
7. Cohabitants
8. Private Law Children
9. Child Maintenance
10. Public Law Children
11. Domestic Abuse

Learning Outcomes

By the end of this module you will be able to:

1. Demonstrate detailed knowledge and understanding of the principles and rules governing family law
2. Identify and evaluate relevant facts and issues and apply the law to provide advice on a given set of facts
3. Advise on procedural matters in family law cases
4. Draft key documents in family law cases, including application for a matrimonial order and application for a private law children order
5. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the Code of Conduct

Linked online assessment:

A7 TQT: 180 hours

Details of updates included in 2024 Module Specification

- 8a: Proposed amendment to the Victims and Prisoners Bill (impacting parental responsibility – amendment is designed to automatically rescind PR for parents convicted of murder or voluntary manslaughter against their co-parent).
- 9a: The Child Support Collection (Domestic Abuse) Act 2023 (which allows the Child Maintenance Service to intervene in cases where abuse is evident, using its powers to collect and make payments to ensure that victims of domestic abuse can receive child maintenance without contact from their abuser).

1. Family Law themes

The basis of family law is underpinned by some common themes which those studying and working in family law need to know. There will be legal and ethical obligations to the client, particularly relating to funding options and mediation.

a) Single family court

- Structure
- Allocation of cases and gatekeeping
- Appeal process
- Using technology
- Jurisdiction; impact of European Union (Withdrawal Agreement) Act 2020 including the Hague regime, doctrine of *forum non conveniens* and the forum test
- Transparency reporting pilot

b) Funding

- Legal Aid, Sentencing and Punishment of Offenders Act 2012
- Legal Aid franchise
- Access to public funding domestic abuse and forced marriage cases
- Access to public funding public law children cases
- Statutory charge
- Privately paying or self-representation

c) Mediation

- S.10 Children and Families Act 2014
- Part 3 Family Procedure Rules 2010, Practice Direction 3A
- Mediation, Information and Assessment Meeting (MIAM)
- Exclusions from Mediation
- Referral and Instructions to the Mediator
- Legal aid for mediation

2. Formation of adult relationship: Marriage, Civil Partnership

The basis of family law requires you to consider what type of adult relationship has taken place. This will involve consideration of the rules relating to formation of that adult relationship, and whether they have been complied with, to establish validity of the marriage or civil partnership. Therefore, you will need to know the following:

- a) Key Statutes on formation of a marriage/civil partnership
 - Matrimonial Causes Act 1973
 - Civil Partnership Act 2004
 - Marriage (Same Sex Couples) Act 2013
 - S.9 Marriage (Same Sex Couples) Act 2013 - Transitional arrangements; converting a civil partnership into a marriage
 - The Marriage and Civil Partnership (Minimum Age) Act 2022
- b) Key similarities and differences between a marriage and a civil partnership
 - Property
 - Children
 - Intestacy rules
 - Dissolving the relationship
- c) Provisions relating to capacity to marry/civil partnership
 - Age (The Marriage and Civil Partnership (Minimum Age) Act 2022)
 - Prohibited Degrees
 - Not already married
- d) Provisions relating to formalities to marry/civil partnership
 - Preliminary formalities for Church of England ceremonies
 - Preliminary formalities for non-Church of England ceremonies
 - The marriage ceremony – Civil marriages
 - The marriage ceremony – Church of England ceremonies
 - The marriage ceremony – Quaker and Jewish marriages
 - The marriage ceremony – other religious ceremonies
 - Registration post ceremony
 - Law Commission 2022 report on Celebrating Marriage: A new Weddings Law
 - The Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2022 (SI 2022/295)
- e) Different outcomes for failing to comply and their effects
 - Void
 - Non-marriage

3. Void and Voidable Marriages and Civil Partnerships	As well as recognising whether an adult relationship has been formalised in accordance with the law so it is valid, you must also understand the circumstances in which a marriage or civil partnership is void or voidable, and the key differences and effects. Therefore, you will need to know the following: a) The law of nullity: void • S.11(a)-(d) Matrimonial Causes Act 1973 • Effects b) The law of nullity: voidable • S.12(1)(a)-(h) Matrimonial Causes Act 1973 • Statutory bars per s.13 Matrimonial Causes Act 1973 • Effect of securing an order of nullity
4. Divorce, Dissolution and Judicial Separation	All family practitioners will be asked to advise on divorce or dissolution, or other alternatives for the parties to live apart, which will involve consideration of the law and the procedure. Therefore, you will need to know the following: a) Statutory provisions relating to divorce and dissolution • Matrimonial Causes Act 1973 • Civil Partnership Act 2004 • Divorce, Dissolution and Separation Act 2020 b) Effects of the Divorce, Dissolution and Separation Act 2020 • Applications can now be made jointly (both parties to the marriage), or by a sole applicant (either party) • Statement that the marriage or civil partnership has irretrievably broken down; no need to prove one of the five ‘facts’ • Terminology; applicant, respondent, conditional order, final order • Limited grounds to dispute the application c) Bar to applying within one year of marriage or civil partnership • S.3 Matrimonial Causes Act 1973 • S.41 Civil Partnership Act 2004 d) Procedure – Family Procedure Rules 2010 • Deciding whether to make a sole or joint application for divorce or dissolution • Online/’digital’ divorce and paper divorce application processes • Applying for divorce/dissolution and documents required: application for matrimonial order (D8), marriage certificate, fee, statement of reconciliation (FPR 7) • Service, and methods of service (FPR 6); effective service by email • Applying for the conditional order; sole or joint application, minimum wait-period of 20 weeks • Pronouncement of conditional order

	• Settling financial issues; objecting to the divorce/dissolution on the grounds of grave financial or other hardship • Application for final order; sole or joint application, minimum wait-period of 6 weeks • Final order pronounced e) Judicial Separation as an alternative to divorce / dissolution • S.17 Matrimonial Causes Act 1973 • Statement by one or both parties to the marriage that they seek judicial separation; no longer required to prove one of five 'facts' • Available in the first year of marriage / civil partnership • Key differences between divorce/dissolution and judicial separation; does not end the marriage / civil partnership, parties may not re-marry, financial orders available with exceptions e.g. those relating to pensions
5. Financial Relief on Divorce/Dissolution	In conjunction with advising a client on divorce/dissolution, you will also advise on how the assets will be divided. As such, financial relief on divorce/dissolution will be considered. You must have an awareness of the key law and procedures governing financial relief. Therefore, you will need to know the following: a) The law - Matrimonial Causes Act 1973 • S.25(1) - all the circumstances with first consideration to minor child • S.25(2)(a)-(h) - statutory factors • S.25A clean break principle • Yardstick of equality b) Financial orders - Matrimonial Causes Act 1973 • S.22 - maintenance pending suit • S.23 - periodical payments order • S.23 - lump sum order • S.24 - property adjustment orders • S.24B - pension sharing orders • S.24C - pension attachment • Offsetting • Legal Services Order c) Pre-nuptial agreements • Legal basis • S.25 MCA 1973 consideration • Principles • Law Commission 2014 'Qualifying Nuptial Agreements' d) Procedure – Part 9 Family Procedure Rules 2010 • Making the application within the divorce proceedings or making the application as a stand-alone application • Pre-application Protocol • Importance of the MIAM before issue • Form A (issue) • Online process – Practice Direction 36N

	• FRC Efficiency Statement • Form E (financial questionnaire) • First appointment • Financial Dispute Resolution appointment • Final hearing • Consent orders • Code of Conduct for CILEx/ Solicitors/Code of Conduct for Firms – duty of full and frank disclosure/not to mislead the court
6. Wills, Severance and Intestacy	On receiving instructions from a client regarding financial provision, you should understand how to protect the client's interests in relation to assets from the outset. It is important to understand the role of a CILEx Family Law Practitioner, the authorisation you have and when to escalate to another member of staff. Therefore, you will need to know the following: a) Overview of wills • Validity • Effect on divorce • CILEx Family Law Practitioner responsibilities in respect to advising on making a new Will b) Awareness of the implications of not having a will c) Protecting property rights • Joint or sole • Sole name of other party – registration of home rights notice • Joint names: ○ Preparing a Severance of Joint Tenancy ○ When ○ Effect ○ Filing at the land registry
7. Cohabitants	Family practices not only deal with clients who are married or civil partnered, they often deal with clients who live with their partners and often have children. On the breakdown of a cohabitation, family practitioners will need to advise on division of assets and matters relating to children. Therefore, you will need to know the following: a) Define cohabitants b) Cohabitation Contracts/Agreements • Status • Content c) Contrasting consequences and remedies as against married couples and civil partnership couples: • Financial support • Property disputes

	d) The Law – Implied trusts • Joint names or sole name of one party? • Resulting trust • Constructive trust • Lloyds Bank v Rossett (1990) • Stack v Dowden (2007) • Establishing the size of the interest e) Trusts of Land and Appointment of Trustees Act 1996, s.14 and s.15 f) Escalation of contentious matters
8. Private Law Children	Disputes relating to children between separating parents is a key part of family practice work; from disputes relating to whether a person is actually the natural parent, through to who has parental responsibility of a child, and then who the child should live with or see. Additionally, issues may arise on specific aspects of parenting, for example, should the child be immunised, can the child move to another country with the resident parent? Children issues that you may face are far reaching. Therefore, you will need to know the following: a) Parental Responsibility - Children Act 1989: • S.3(1) - definition and examples • Automatic parental responsibility • Acquired parental responsibility • S.4 - application and criteria 'CAR' from Re H (Parental Responsibility) (No 3) (1991) • S.2(5) and S.2(7)- exercise of parental responsibility • Termination of parental responsibility. • Proposed amendment to the Victims and Prisoners Bill, automatically rescinding PR for parents convicted of murder or voluntary manslaughter against their co-parent. b) S.8 Children Act 1989 applications: • Child arrangements e.g. relocation • Shared parenting • Specific issue e.g. change of surname • Prohibited steps • Enforcement & committal • S.10(4), S.10(5) and S.10(9) – who can apply • S.1 – general principles • S1(3) – welfare checklist • Practice Direction 12J (as amended by the Domestic Abuse Act 2021) c) Procedure for initiating a s.8 application: Child Arrangements Programme 2014 • MIAM • Application (Form C100) • Allegations of Harm (Form C1A)

	• Service on Respondent (C100/C1A, C6, C7) • Service on CAFCASS • Escalation d) Role of CAFCASS in s.8 applications: • Position and duty • S7 Welfare Reports & s37 Investigations by Local Authorities
9. Child Maintenance	Whilst working in family practice, either stand-alone, or in conjunction with advising on other children matters or financial relief, you may be asked by the resident parent to advise on child maintenance. You will need to know the following: a) The Child Maintenance Service • When would you make the application? • Qualifying child • Rights to receive • Rights to pay • Appeal process • Circumstances where referrals should be made • The Child Support Collection (Domestic Abuse) Act 2023 b) Top-up Maintenance/Financial Provision • s.15 and Schedule 1 Children Act 1989 • Factors to consider • Periodical payments • Lump sum • Property adjustment • Re P (Financial Provision) (2003)
10. Public Law Children	You need to understand the difference between private law children matters and public law children matters. Practices undertaking public law child work will have a legal aid contract, along with a senior solicitor who is a member of the Children Panel. Public law children cases do attract public funding. In such cases, you may be working alongside and therefore you will need to know the following: a) What is a public law case? • Fundamental principles of public law in relation to children; Children Act 1989 • Recognising a vulnerable child • Safeguarding duty and escalation • Low level intervention, s.17 and s.20 • Short term intervention/emergency, s.44 and s.46 • Long term intervention s.31 b) Inter-agency working/referral/assessment • School, neighbours, GP, hospital, health visitor, police, social services • Overview of investigations and assessments carried out

11. Domestic Abuse

There may be cases involving vulnerable clients who have been threatened or subjected to domestic abuse and may face removal from their family home. Such matters are fast moving and urgent and it often means you have to stop all other work that day to accommodate this client. You will need to know the following:

- a) Part IV Family Law Act 1996
 - Non molestation order
 - Occupation order
- b) Non-molestation order
 - S.62 associated persons
 - S.63 relevant child
 - Define molestation with reference to case law
 - S.42(5) test
 - Terms of the order – general or specific
 - Duration of the order
- c) Occupation order
 - S.62 associated persons
 - S.63 relevant child
 - S.33 applicant entitled to occupy
 - Balance of harm
 - S.33(6) factors
 - S.33(3) orders
 - S.33(10) duration
 - S.35 applicant is a former spouse or former civil partner who is not entitled to occupy
 - Balance of harm
 - S.35(6) factors
 - S.35(10) orders and duration
 - S.36 applicant is a cohabitant or former cohabitant with no entitlement to occupy
 - Balance of harm factors
 - S.36(6) factors
 - S.36(10) orders and duration
 - S.37 and S.38 neither party is entitled to occupy
- d) Applications to be considered as either on notice or without notice
 - Documentation
 - Referrals
- e) Domestic Abuse Act 2021
 - Statutory definition of Domestic Abuse
 - Special Measures directions
 - Prohibition on direct cross-examination
 - Domestic Abuse Protection Orders and Domestic Abuse Protection Notices
 - Part 3A Family Procedure Rules 2010

 **CILEX**



A8 – Business and Employment Law

Advanced Stage

2024

A8: Business and Employment Law

The overall aim of this module is to give you, the trainee, the essential knowledge and understanding of common business structures, including how they are formed and operate within relevant legal frameworks. It will also ensure awareness of associated internal procedures, liability issues for owners and managers and how such businesses may come to an end through insolvency. The module will additionally provide an outline of the key issues on employer/employee relationships and taxation, including of profits and capital gains arising in the business (building on the knowledge of business accounts from the Advanced Stage Skills module).

The module covers:

1. The types of business structure
2. Starting a business; formation of the different types of business structure
3. Running and growing a business
4. Company procedures
5. Dissolution, insolvency and winding up
6. Taxation
7. Introduction to Employment Law

Learning Outcomes

By the end of this module, you will be able to:

1. Identify and advise upon the most appropriate form of business structure for a client, based on their instructions
2. Explain to a client how to set up their chosen form of business structure and identify the advantages and disadvantages of each business medium
3. Understand the liability arising from the main forms of business ownership and how to bring a business entity to an end
4. Draft the key documents relating to company procedures
5. Understand in outline the key taxes that will be encountered when running a business and common employment issues that will arise

Linked online assessment:

A8 TQT: 180 hours

Candidates will be provided with up-to-date tax rates and allowances in relation to:

- Income tax
- Capital gains tax
- Corporation tax
- VAT, including the VAT registration threshold

Details of updates included in 2024 Module Specification

- 1(b) and 2(d): Reference added to the new **The Economic Crime and Corporate Transparency Act 2023 (in force from 4 March 2024)**
- 3(c): reference added to the meaning and significance of PSCs
- 3(d): 'Identity verification' added
- 7(a): addition of 'Personal service'
- 7(d): addition of 'TUPE but requires qualifying period'

1. The types of business structure

Knowledge and understanding of the core characteristics of main types of business structure are essential to the work of a trainee in the business department. Therefore, you will need to know the distinguishing features of the following:

- a) Business structures
 - Sole traders
 - Partnerships
 - Limited liability partnerships (LLPs)
 - Companies limited by shares (both private and public)
 - Companies limited by guarantee
- b) The legislation relevant to these structures, including:
 - The Companies Act 2006 (CA 2006)
 - The Partnership Act 1890 (PA 1890)
 - The Limited Liability Partnerships Act 2000 (LLPA 2000)
 - The Insolvency Act 1986 (IA 1986)
 - The Economic Crime and Corporate Transparency Act 2023 (in force from 4 March 2024)

2. Starting a business; Formation of the different types of business structure

The different types of business structure are formed in different ways. You must be aware of the varying formalities in order to advise the client adequately and be able to carry out the necessary formalities, including drafting appropriate documents. Therefore, you will need to know the following:

- a) Sole trader
 - No prescribed formation procedure
 - Regulation of choice of business name under s1192 CA 2006
- b) Partnerships
 - No prescribed formation procedure
 - Definition of a partnership under ss1 to 2 PA 1890
 - Relevant case law
 - Partnership agreements: no requirement but advisable
 - Key content of a partnership agreement
- c) Limited liability partnerships
 - Governed by the LLPA 2000
 - Legal requirements of an LLPA
 - Registration process under the LLPA: prescribed documentation and fee
 - Agreements: no requirement but advisable
 - Regulation of choice of business name under CA 2006

	d) Companies limited by shares • Incorporation governed by the CA 2006 • Registration process with Companies House, including relevant documentation and fee • Required company constitution ○ Memorandum and articles of association ○ Model articles • Identity verification under the Economic Crime and Corporate Transparency Act 2023 • Use of 'off the shelf' companies • Regulation of choice of company and business name under CA 2006 • Public companies: minimum authorised capital requirement; s763 CA 2006 • Brief comparison with other forms of company e) Promoters and pre-incorporation contracts • Nature of promoter • s51 CA 2006 • Potential personal liability • Protection from liability
3. Running and growing a business	A trainee in the business department must understand and be able to advise on the nature of ownership and consequent liability issues, and how the businesses may be managed and run. You must be able to distinguish between unlimited and limited liability, and outline the possible management structures, day to day running issues and associated regulation. Therefore, you will need to know the following: a) Sole trader • Business owner • Self-finances: cash or a loan; personal guarantees • Potential personal liability for business debts • Freedom to manage • Business transfer procedure b) Partnerships • Each partner owns part of the business • Jointly and severally liable • Partners are agents (s5 PA 1890); differences between actual (express or implied) and apparent authority • Fiduciary duties in outline • Freedom to manage • Partnership agreements: govern management structure; limits on authority to incur debts/liabilities • PA 1890 implies in absence of express agreement

- Liability of partnership for acts of individual partner: ss6 to 8, 14 and 17 PA 1890
- Partnership property: ss20 and 21 PA 1890
- Exit routes under PA 1890 in absence of express agreement
- Consequences of breach of partnership agreement
- Expulsion of a partner

c) Companies limited by shares

- Separate legal personality
- The entity can sue and be sued and enter into contracts
 - Entering into contracts and execution of documents: ss43 and 44 CA 2006
- Owners are shareholders
- Shareholders; limited liability
- Meaning and significance of persons of significant control (PSCs)
- Corporate veil; separation between the shareholders and the company; Salomon v Salomon [1897]
- Lifting of corporate veil
 - Overview of elements of 'test'
- Nature and purpose of the company's constitution:
 - s33 CA 2006
- Management of company: directors; CA 2006; company constitution
- Limits on capacity and directors' authority; ss39 and 40 CA 2006
- Transfers
 - Procedure for transfer of shares
 - Stock transfer forms
 - Register of members
 - Restrictions in articles

d) Company directors and secretary

- Appointment; s154 CA 2006 and Model Article 17; members' or directors' resolution - including minimum number
- Identity verification
- De facto and shadow directors
- Executive, non-executive and alternate directors
- Duties under ss170 to 177 CA 2006
- Regulation by the articles of association; Model Articles for Private Companies Limited by Shares
- Removal and CDDA
- Service contracts
- Company secretary: required for a public company; not required for private companies

e) Day to day running of the business

- Hiring and firing

	○ Sole trader ○ Partnerships ○ Companies • Data control - broad principles
4. Company procedures	A company is regulated by the CA 2006, which lays down a number of requirements for company decision-making and proceedings. There are also numerous disclosure requirements. You must be able to advise clients appropriately, including completing relevant forms, drafting generic text in documents and commenting critically on documents including board minutes. Therefore, you will need to know the following: a) Directors' proceedings • Governed by the articles of association • Form - board meetings and other forms including written directors' resolutions • Notice • Quorum and voting ○ Remote voting procedures • Resolutions • Declarations of interest s177 CA 2006; conflict of interest MA 14 b) Shareholder proceedings • CA 2006 provisions • General meetings • Annual general meeting requirements • Notice • Quorum • Ordinary and special resolutions • Written resolutions • Voting • Proxies and poll votes • Examples: change of company name; change of articles of association c) Company administration and disclosure requirements • Filing requirements such as resolutions, and forms, following: ○ Change of registered office ○ Change of name ○ Appointment and departure of director ○ Change of articles • Accounts • Penalties for non-compliance • Company searches • Statutory records

	○ Company books, such as register of members and directors ○ PSC register
5. Dissolution, insolvency and winding up	Bringing a business entity to an end is largely procedural and is governed by the Insolvency Act 1986. You must be able to advise clients appropriately, including drafting relevant forms and documents. Therefore, you will need to know the following: a) Definition of insolvency • Statutory test for corporate insolvency: s123 IA 1986 • Initiation of winding up or bankruptcy proceedings • Statutory demands b) Personal bankruptcy • Outline of procedure • Implications for sole trader, partner, company director c) Dissolution of a partnership • Service of notice; automatic termination; PA 1890 provisions, ss32, 33, 35 and 44 • Partnership agreement d) Outlines of company winding up procedures • Members' voluntary winding up • Creditors' voluntary winding up • Compulsory winding up • Appointment of liquidator • Powers of liquidator • Winding up process • Order of priority and distribution of assets • Implications for company directors

6. Taxation

A trainee in the business department must have an outline understanding of the key taxation issues that may encountered by their clients in the context of running a business. Therefore, you will need to know the following:

- a) Income tax
 - What is income tax
 - Rates and tax year
 - Allowances and reliefs
 - Taxable income: elements for simple calculation
 - Income tax on employment related shares
- b) Capital gains tax (CGT)
 - What is CGT
 - Rates and tax year
 - What is a disposal
 - When is CGT not payable?
 - Chargeable gain: elements for simple calculation
 - Outline nature of allowances and reliefs:
 - Annual allowance
 - Business asset disposal relief
 - Roll-over on replacement of qualifying business assets
 - Roll-over on incorporation
 - Holdover relief
- c) Corporation tax
 - What is corporation tax
 - Rates and financial year
 - Trading losses in outline
 - Research and development expenditure
 - Goodwill and intellectual property
 - Distributions
 - Taxable income and gains: elements for simple calculation
- d) Tax avoidance: General Anti-Abuse Rule
- e) VAT
 - What is VAT
 - Scope
 - Inputs and outputs
 - Registration
 - Rates
 - Exempt supplies
 - VAT records
 - VAT returns
 - Flat rate scheme
 - Making tax digital

	f) Stamp duty on transfer of shares: • Rate • Certificate where consideration £1,000 or less g) Employment related taxes/obligations • PAYE • National Insurance
7. Introduction to Employment Law	To provide effective advice to clients running a business, trainees must understand common employment law rights, the implications of engaging and dismissing employees, and should be able to identify potential issues with an employer's proposed course of action. You should also recognise TUPE and its impact on certain commercial transactions. Therefore, you will need to know the following: a) Employment status • Status determines the level of rights/protections in law • Self Employed Contractor ○ Supervision ○ Invoices ○ Tax status ○ Rights of substitution ○ Providing equipment • Worker ○ Zero hours contracts ○ Limited rights to subcontract ○ No obligation to accept hours when offered but once accepted must attend work • Employee ○ Mutuality of obligations ○ Degree of control and supervision ○ Personal service b) Recruitment • Sourcing employees and advertising • Discrimination in recruitment and selection ○ The protected characteristics under the Equality Act 2010 • Pre employment checks ○ Obtaining references ○ DBS checks ○ Right to work checks ○ Qualification checks • Appointment ○ s.1 Employment Rights Act 1996 statement of terms ○ The contract of employment ○ Automatic enrolment pension obligations

- c) Employment Rights
 - Protection from discrimination
 - National Minimum Wage
 - Statutory sick pay
 - Eligibility and when it's paid
 - Contractual sick pay
 - Working Time Regulations 1998
 - Maternity/family friendly rights
 - Protection from unfair dismissal (s.94 ERA 1996)
 - Protection from unlawful deduction from wages (s.13 ERA 1996/breach of contract considerations)

- d) Terminating Employment
 - Definition of termination s.95 ERA 1996
 - Wrongful dismissal
 - Statutory notice and contractual notice
 - Unfair dismissal
 - s.94 and the potentially fair reasons for dismissal in outline
 - Automatic Unfair Dismissal and key AUD grounds:
 - Pregnancy/maternity and other family reasons
 - Asserting a statutory right
 - Whistleblowing
 - Trade union activity
 - Health and safety
 - TUPE (but requires qualifying period).
 - Redundancy
 - Definition
 - Statutory redundancy payment
 - Offer of alternative employment
 - Possibility of claim for unfair dismissal
 - Discrimination on termination of employment
 - Situations where termination is because of, or linked to, a protected characteristic

- e) Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)
 - Outline of when TUPE applies to a business transfer and its significance.

CILEX

CPQ

F1 – Legal Systems

Foundation Stage

2024

F1: Legal Systems

The aim of this module is to give you a fundamental knowledge and understanding of key elements of the English legal system and the constitution. The module explores the distinction between civil and criminal law and that between common law and equity, as well as the hierarchy of the courts. There is a focus on the creation of law, legislative and executive powers as well as the power of the judiciary, including interpretation, precedent, and judicial review. In addition, the module will introduce the framework for the protection of civil liberties, human rights and equality within the UK.

On completion of the module, you will be able to assess the appropriate track for a civil case and decide the appropriate court of first instance for a criminal matter. You will demonstrate practical knowledge of the most appropriate method of ADR based on circumstances, be able to identify whether a case has merit to warrant application for judicial review and analyse whether a particular characteristic is protected under the Equality Act 2010.

The module covers:

- Structure and classification of law; common law and equity
- The English legal system; criminal and civil courts and procedures
- Provision and regulation of legal services
- The nature of the UK constitution – the roles and powers of the legislature, the executive and the judiciary and sources of law
- The protection of civil liberties, human rights and equality

Learning Outcomes

By the end of this module you will be able to:

1. Explain the structure and classification of the law and how the UK legal system operates, understanding court hierarchy, objectives and available remedies
2. Be able to make sound assessments of the appropriate court, procedures and remedies based on a set of facts and recommendations for methods of settling disputes outside the court system
3. Identify key roles and personnel involved in the provision of legal services in England and Wales, including lay persons, and explain how the sector is regulated
4. Describe how legislation is created and interacts with common law, and demonstrate practical knowledge of the doctrine of precedent, being able to rationalise a case decision in a given scenario
5. Explain the nature and structure of the UK constitution and its key principles, and be able to assess whether there are sufficient grounds for judicial review based on a set of facts
6. Describe how human rights and equality are protected in law, and be able to practically apply this knowledge to a given scenario

Linked online assessment:

F1 TQT: 80 hours

Details of updates included in 2024 Module Specification

- 3c and 3d – correcting references to regulatory bodies
- 3d – amending citation of the AMLR
- 4a – clarification of key principles of UK constitution
- 9d – clarification of the forms of prohibited conduct under the Equality Act 2010, and specifying the PSED

1. The structure of law and its classifications	As a trainee in any legal services role, you must be able to explain how the law is classified. This requires understanding of the distinction between civil and criminal law, and common law and equity, especially in relation to remedies. Therefore you will need to know the following: a) The classification, impact and all-pervasive nature of law • How law affects our daily lives • Definitions of civil and criminal law • Definitions of, and comparisons between, common law and equity and legislation b) Distinguishing civil and criminal law • Burden and standard of proof • Objectives • Remedies • Case citation c) Distinguishing common law and equity • The meaning of equity • Why and how equity was created, and its relationship to the common law, including the Judicature Acts 1873-75 • The maxims of equity and equitable remedies • Equitable innovations; mortgages and trusts
2. The English legal system	It is vital that you, as a trainee legal practitioner, have an overview and understanding of both the criminal and civil courts in England and Wales; the protocols in relation to civil cases, the prosecution of criminal offences and alternatives to judicial resolution of disputes. You will therefore need to have practical knowledge of: a) The criminal legal system in England and Wales: • The roles, function, jurisdiction and personnel of the Magistrates Court, Crown Court, Court of Appeal and Supreme Court, including the role of laypersons b) Different types of offence: summary offences, offences triable either way and offences triable only on indictment • The main objectives of the Criminal Procedure Rules 2015 including the purpose of the overriding objective • The prosecution of criminal offences by the Crown Prosecution Service, including the Full Code Test, and an understanding of private prosecution

- c) The civil legal system in England and Wales:
 - The roles, function and personnel of Tribunals, the County Court, the High Court, the Court of Appeal and the United Kingdom Supreme Court
 - The main objectives of the Civil Procedure Rules 1998 including the purpose of the overriding objective
 - Jurisdiction of the County Court or High Court; allocation of cases and the three-track system (small claims, fast track and multi-track)
 - Practice direction 26
 - The Practice Direction - Pre-action conduct and protocols
- d) The system of appeal routes within the court hierarchy, for both civil and criminal cases, including:
 - Appeals in criminal cases
 - From the Magistrates to the Crown Court, including appeals against conviction and to the Divisional Court of the High Court by means of case stated on a point of law
 - Crown Court appeals against conviction and/or sentence to the Court of Appeal
 - The role of the Criminal Division of the Court of Appeal
 - The role of the Criminal Cases Review Commission
 - Appeals in civil cases
 - Appeals in Tribunals
 - County Court or High Court appeals against Judgment to Civil Division of Court of Appeal
 - Appeals to the Supreme Court
- e) The concept of the legal personality; natural and juristic persons, including incorporated companies and limited liability partnerships, and examples of when it may be appropriate to 'pierce the corporate veil'
- f) The options for settling disputes outside the court system and the advantages and disadvantages of different types of Alternative Dispute Resolution (ADR), including:
 - Alternative Dispute Resolution (ADR) and comparison of the features of negotiation, mediation and conciliation, arbitration
 - Online Dispute Resolution (ODR)
 - Circumstances in which and by whom these different types of resolution might be used
 - Alternative criminal out of court solutions, including:
 - Penalty notices
 - Warnings
 - Cautions
 - Conditional caution and diversion
- g) Emerging concepts of online courts

3. The provision of legal services and its regulation

As a trainee in the legal services sector, you will work alongside various qualified legal professionals in the administration of legal cases. You are responsible for ensuring that the work you do is compliant with relevant regulatory requirements, and that you work in an ethically responsible manner. Therefore, you will need to know the following:

- a) The formal training and work undertaken by different legal professionals within England and Wales, including:
 - Chartered legal executives
 - Solicitors
 - Barristers
- b) The role of the Lord Chancellor/Secretary of State for Justice and the main types of judge, including the appointment and jurisdiction of each level of judge:
 - Justices of the Supreme Court
 - Lords Justices of Appeal
 - High Court Judges
 - Circuit Judges
 - Recorders
 - District Judges

This section follows on from learning in the Ethics and Professional Responsibility 1. module:

- c) The role, purpose and authority of regulatory bodies relevant to the legal profession, including:
 - Solicitors Regulation Authority (SRA)
 - CILEx Regulation
 - Bar Standards Board (BSB)
 - Financial Conduct Authority (FCA)
- d) Regulatory safeguards and professional ethics governing professional services and client/customer engagement in legal, financial, and accounting services, including:
 - Collection, storage and use of client data, with reference to the Data Protection Act 2018 and General Data Protection Regulation and cybersecurity
 - Financial crime and associated legislation including compliance with anti-money laundering guidance, with reference to Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended)
 - Receiving and dealing with client money with reference to CILEx Regulation accounts outcomes and the Solicitors Regulation Authority Accounts Rules
 - Compliance with the Principles set out in the Solicitors Regulation Authority Code of Conduct for Solicitors and the CILEx Regulation Code of Conduct, particularly in relation to

	maintaining trust and acting fairly, competence, conflict of interests and confidentiality and disclosure • Personal responsibility for compliance with regulatory requirements
4. The nature of the UK constitution	Legal practitioners must have an underpinning knowledge of how the UK constitution was formed and has developed over time, in order to understanding the many conventions still prevalent in modern law and politics. Therefore, you will need to know the following: a) Understanding the UK constitution • The purpose, function and uncodified nature of the UK constitution • Key principles: ○ parliamentary sovereignty ○ the rule of law ○ the separation of powers b) Sources from which the UK constitution is derived • Key constitutional documents (including Magna Carta and the Bill of Rights) • Acts of Parliament • Common law • Royal Prerogative • Constitutional conventions • International law; including impact of European Convention on Human Rights and the Human Rights Act 1998, and of EU law c) Political governance and power • The Westminster model of government and its key elements • The unitary nature of the state and the devolution of power to Scotland, Wales and Northern Ireland
5. Legislative power	Building on your knowledge of the UK constitution, in order to become an effective legal practitioner, you must be able to effectively navigate and analyse sources of law. This requires an understanding of the location and operation of legislative power within the UK. Therefore, you will need to know the following: a) The structure of the UK legislature • The bicameral system • The composition and functions of the House of Commons and House of Lords • The role of the monarch

	b) Primary legislation; creation of Acts of Parliament • Definition of primary legislation • Consultation processes prior to the introduction of a bill to Parliament: green and white papers; the Law Commission; formal consultation processes • Types of Bills: Public Bills (Government and Private Members' Bills); Private Bills; Hybrid Bills • The stages and creation of an Act of Parliament: Speaker's Certificate; First Reading; Second Reading; Committee Stage; Report Stage; Third Reading and Royal Assent in the House of Commons and House of Lords • The Parliament Acts 1911-1949 • The Structure and content of an Act of Parliament c) Secondary (or delegated) legislation, its creation and control • Types of delegated legislation • Parliamentary control over delegated legislation: publication, laying before Parliament; Parliamentary committees; how the controls are effected in practice. • Judicial control over delegated legislation; substantive and procedural <i>ultra vires</i> • Advantages and disadvantages of delegated legislation
6. Executive power	It is essential for a trainee in the legal services sector to understand the role, function and power of the executive in the governance of the country. Therefore, you will need to know the following: a) Key roles within the executive branch of the constitution • Prime Minister • Secretaries of State • Cabinet ministers • Civil Service b) The role of the Crown • Exercise of prerogative powers, including the interaction between prerogative and legislative power c) Mechanisms of political accountability for the exercise of executive power, including the conventions of individual ministerial responsibility and collective cabinet responsibility
7. Judicial Power	Trainee legal practitioners must develop skills and knowledge to effectively analyse and apply the law. It is therefore crucial that you acquire an understanding of the role and function of the judiciary, the development of the common law, the meaning of key phrases and

	terms such as <i>ratio decidendi</i> and how case law interacts with legislation. Therefore, you will need to know the following: a) Judicial independence and impartiality, including the independence of the Supreme Court b) An overview of common law • Citation of cases • How common law is developed, including judgments, <i>ratio decidendi</i> and <i>obiter dicta</i> • The hierarchy of the Courts and the doctrines of precedent and <i>stare decisis</i> • Binding and persuasive judgments • The interplay of common law and legislation c) The status of decisions and impact of the following • The United Kingdom Supreme Court (with reference to the Practice Statement on Judicial Precedent 1966) • The Court of Appeal (with reference to <i>Young v Bristol Aeroplane Co Ltd</i> (1944) and other relevant case law) • The High Court • Other influential courts: the European Court of Justice, The European Court of Human Rights and the Privy Council • EU law following the United Kingdom's withdrawal from the European Union
8. Judicial review	Legal practitioners must have a foundational understanding of the use of judicial review as a mechanism for challenging executive decision making. Therefore, you will need to know the following: a) The purpose of judicial review and its constitutional significance b) The grounds for judicial review: illegality, procedural unfairness and irrationality (including <i>Wednesbury</i> reasonableness) c) Remedies for successful application for judicial review: • Mandatory orders • Prohibiting orders • Quashing orders • Injunctions • Declarations • Damages d) The role of the Upper Tribunal in judicial review, with reference to the Tribunals, Courts and Enforcement Act 2007.

9. The protection of civil liberties, human rights and equality

All trainees in the legal services sector, regardless of their branch or specialism, will need to have an understanding and awareness of how the law protects human rights and equality within the UK. Therefore, you will need to know the following:

- a) The European Convention on Human Rights and its impact on domestic law, including:
 - The rights protected by the Convention
 - The enshrinement of ECHR into domestic law by the Human Rights Act 1998
- b) The protection of human rights under the Human Rights Act 1998
 - Section 2 and the impact of the case law of the European Court of Human Rights in UK courts
 - Section 3 and the power to interpret legislation compatibly with convention rights
 - Section 4 and declarations of incompatibility
 - Section 6 and legal challenges to unlawful acts of public authorities
- c) An overview of the powers of the state and rights of the individual in the investigation and process of criminal proceedings, in particular the use of force, investigation of crime and detainee's rights, with relevance to the convention rights
- d) An overview of the Equality Act 2010, including:
 - Protected characteristics
 - Prohibited conduct; direct discrimination, indirect discrimination, harassment, victimisation.
 - the Public Sector Equality Duty

CILEX

CPQ

F2 – The Law of Tort

Foundation Stage

2024

F2: The Law of Tort

The aim of this module is to give you a fundamental knowledge and understanding of the law of tort, the contexts in which it operates and the relationships which it affects. This will enable you to understand how rights and interests are protected by statute and common law; how and when duties and obligations arise; how a breach of a statutory or common law duty may give rise to a cause of action; what full and partial defences might be available to challenge a claim and the potential remedies available.

You will be able to evaluate the strengths and weaknesses of a client's position, be able to offer recommendations and advise in the client's best interests.

Throughout this module you must recognise the limit of your authority and experience and must know when to seek assistance.

The module covers:

1. Tort law in outline
2. Negligence
3. Employers' liability
4. Occupier's liability
5. Outline of the law relating to highways
6. Trespass and nuisance
7. Defences
8. Causation and remedies in tort

Learning Outcomes

By the end of this module you will be able to:

1. Identify the applicable law and apply to a matter with reference to the facts and the evidence including identifying overlapping causes of action
2. Evaluate the strengths and weaknesses of a client's position with reference to the law, facts and evidence
3. Advise a client with regard to liability and prospects of success
4. Make appropriate recommendations to the client which is in their best interests.

Linked online assessment: F2 TQT:

100 hours

Details of updates included in 2024 Module Specification

- No changes were deemed necessary

1. Tort law in outline	The law of tort is a fundamental part of civil law and from which numerous causes of action derive. You must understand the scope of the law of tort, its purpose, who it protects and how, and its intended outcomes. Therefore, you will need to know the following: a) The function of the law of tort • Nature of tort law • Its purpose in terms of outcomes • Interests which the law protects: ○ The rights of individuals and organisations including the effect of the Human Rights Act 1998: ○ Articles 6 and 8 ○ Property interests (personal and land) ○ Economic interests
2. Negligence	The tort of negligence is an example of the evolution of common law principles to protect individuals or organisations, to whom a duty is owed by others, from damage caused by a breach of that duty. The tort of negligence does not just aim to protect from physical harm but also from economic losses caused by the breach and you must understand the scope of the tort. Therefore, you will need to know the following: a) The evolution of the common law principles of negligence b) The duty of care • The neighbour test and its application • The standard of care: the concept of reasonableness • Acts and omissions • Reasonable foreseeability of injury • Proximity • Fair, just and reasonable • Categories of established duties c) Breach of duty • The reasonable man • The standard of care expected of those persons having particular professional or recognised skill e.g. medical personnel; lawyers; financial advisors; estate agents and surveyors • Reasonable foreseeability and factors taken into account • Magnitude of risk including likelihood of injury and severity of consequences; cost of precautions and the defendant's objective d) Causation and damage e) Factual Causation - The "but for" test

	f) Breaks in the chain of causation: novus actus interveniens • The intervening act of the claimant • The intervening act of another g) Reasonable foreseeability: foresight not hindsight h) Remoteness of damage • Factors taken into account to determine remoteness • Rescuers • The “egg-shell” skull rule i) Outline of res ipsa loquitur: how the circumstances of an accident may give rise to an inference of negligence • Requirements • An unexplained occurrence outside the ordinary course of events under the management or control of the defendant • Effect of the maxim • Rebuttal of the maxim by reasonable explanation
3. Employers’ liability	The principles of negligence form the basis of understanding how an employer’s liability arises to employees and others. Employers have a contractual and statutory duty to their employees and can be liable for the negligence of employees or independent contractors which causes damage to property or to others. You must recognise whether an employer is liable in a given set of circumstances. Therefore, you will need to know the following: a) Scope of duty • The Health and Safety at Work Act 1974 and the general concept of the duty owed under the workplace regulations e.g. the Management of Health and Safety at Work Regulations 1999 in terms of reasonableness • Common law duty • Contractual duty • Defences • Liability for independent contractors b) Vicarious liability • Employees employed under a contract of employment • Relationships akin to employment and worker status • Scope of duty owed by employer for harm to others • The course of employment ○ Dishonesty ○ Disobedience ○ Criminal activity

4. Occupiers' liability	The principles of negligence form the basis of understanding how an occupier may be held liable to others for dangers arising due to the state of the premises or for things done or omitted to be done on the premises. Therefore, you will also need to know the following: a) The duty owed in negligence at common law b) Occupiers' Liability Act 1957 • Meaning of occupier • Meaning of premises • The state of the premises including things done or omitted to be done • Visitors ○ Meaning ○ The scope and standard of the duty owed ○ Time-limited permission ○ Geographical and space restrictions ○ Warnings and obvious risks ○ Child visitors ○ Factors to be taken into account ○ Age ○ Allurements • Liability for independent contractors: ○ Factors to be taken into account including insurance cover • Limitations on liability • Unfair Contract Terms Act 1977 • Law Reform (Personal Injuries) Act 1948 c) Occupiers' Liability Act 1984 • Difference between a visitor and a trespasser • The scope and standard of any duty owed under the Act including conditions to be satisfied • Where dangers are obvious
5. Outline of the law relating to highways	The principles of negligence form the basis of your understanding of how a highway authority may be held liable to others for dangers arising due to the state of the highway. In addition to the common law duty in negligence, to complement your knowledge, you also need to know about the statutory framework. Therefore, you will need to know the following: a) The Highways Act 1980 • The statutory duty to maintain (s.41) • The extent of the duty and factors to be taken into account • Transient hazards • The defence of reasonable care (s.58) b) Public rights of way – Countryside and Rights of way Act 2000

	c) Local authority adopted highways
6. Trespass and nuisance	Relating to negligence, occupier's liability and highways, occupation of land can give rise to a liability to others. You should also know how the law protects the right to ownership and enjoyment of land. Trespass and nuisance are potential causes of action including the imposition of strict liability. Therefore, you will need to know the following: a) Trespass to land • What constitutes trespass • Duration • Defences ○ Common law e.g. Licence ○ Under statute e.g. police or other enforcement officials b) Nuisance • What constitutes nuisance • Public nuisance ○ Meaning of public nuisance ○ Understanding of the statutory offence of intentionally or recklessly causing public nuisance under the Police, Crime, Sentencing and Courts Act 2022. • Private nuisance • Meaning of private nuisance ○ Balance of interests: unlawful interference with use or enjoyment of land contrasted with reasonable use of land ○ Proprietary interest ○ Factors to be taken into account: ○ Reasonableness: -Sensitivity; extent of harm caused; locality; malice; usefulness of defendant's conduct • Defences and arguments ○ Prescription (private only) ○ Statutory authority ○ Coming to nuisance; usefulness of defendant's conduct c) The rule in Rylands v Fletcher • The scope of strict liability • Persons liable • The non-natural use of land • Dangerous things and things likely to do mischief e.g. water, fire, explosives; escape

7. Defences	A cause of action may arise which may result in the imposition of liability. When considering liability, you should also consider what general defences might be available to a defendant which may provide a full or partial defence to any claim. Therefore, you will need to know the following: a) Volenti non fit injuria • Knowledge of risk • Notice of risk • Acceptance of risk • Participants in or spectators at activities and events b) Ex turpi causa non oritur action • Course of committing an offence c) Law Reform (Contributory Negligence) Act 1945 • Effect of contribution to accident • Effect of contribution to injury d) Volunteer, rescue and imperilled situations
8. Causation and remedies in tort	Causation is important, that is, the need to show a link between the breach of duty or infringement of a right or interest and the damage caused and what remedy is most suitable. Therefore, you will need to know the following: a) Remoteness of damage • Egg shell skull • Foreseeability ○ The Wagon Mound • Intervening acts • Pure Economic Loss • Physical Damage • Defective goods or property • Damages in personal injury claims ○ Purpose, measure and assessment of general damages ○ Purpose, measure and assessment of special damages ○ Non-compensatory damages; Aggravated and exemplary damages ○ Injunctions: Mandatory; Prohibitory ○ Contributory negligence: Law Reform (Contributory Negligence) Act 1945; Effect on damages; Children ○ Mitigation and betterment

CILEX

CPQ

F3 – Contract Law

Foundation Stage

2024

F3: Contract Law

The aim of this module is to give you the essential knowledge and understanding of the law of contract, the contexts in which it operates and how it may underpin commercial, professional, and individual relationships. This will enable you to understand how and when contractual obligations arise in the broad business environment including your own professional business environment; how to advise clients on the formation of a valid contract in non-contentious matters, and advise in potentially contentious matters, whether a contract exists and what, if any, obligations have been created.

The module covers:

1. Contract law in outline
2. The formation of a valid contract: offer and acceptance
3. The formation of a valid contract: consideration
4. The formation of a valid contract: intention to create legal relations and capacity
5. The content of a contract
6. Vitiating factors
7. Performance, termination and breach of contract
8. Causation and remedies for breach of contract

Throughout this module you must recognise the limit of your authority and experience and must know when to seek assistance.

Learning Outcomes

By the end of this module you will be able to:

1. Identify the professional context in which you are advising, and applicable law based on the facts and the evidence
2. Understand the client's position with reference to the law, facts and evidence
3. Advise a client with regard to non-contentious and contentious contractual matters
4. Make appropriate recommendations to the client which is in their best interests.

Linked online assessment:

F3 TQT: 100 hours

Details of updates included in 2024 Module Specification

- 5c Presentation correction
- 5c Clarification on verbal statements as terms
- 5d clarification on the terms implied by the courts with express reference to terms implied in law rather than just those implied on the facts
- 5e reference to 'reasonableness and interpretation' removed because it is already part of what is listed.
- 6b Negligent misstatement expressed as 'negligent misstatement at common law' for clarification.
- 8a Clarified with an express reference to 'factual' causation

1. Contract law in outline

Contract law underpins many relationships including those in an employment, commercial, professional and consumer context. You need to understand how rights and interests are created, protected and enforceable by law and why some contracts are not permitted where they are contrary to public policy. Therefore, you will need to know the following:

- a) Privity of contract and third-party rights
 - Enforceability of a contract by a third party
 - Contracts (Rights of Third Parties) Act 1999
 - Assignment of contractual rights and liabilities
- b) Professional relationships
 - Examples for context
 - Professional services contracts
 - Commercial contracts
 - Contracts of employment
 - Contracts of good faith
 - Insurance contracts
 - The Consumer Insurance (Disclosure and Representations) Act 2012
 - Standard form contracts
 - Battle of the forms
 - Boilerplate clauses
 - Purpose
 - Examples: entire agreement; no representation or reliance; exclusion of third-party rights
- c) Business and consumer contracts
 - Sale of Goods Act 1979
 - Supply of Goods and Services Act 1982
 - Consumer Protection Act 1987
 - Consumer Rights Act 2015
- d) Illegality and public policy
 - Factors which make contracts illegal
 - Contracts to commit a crime; tort or fraud
 - Consequences
 - Ousting the jurisdiction of the courts
 - Terms which prevent a person seeking the assistance of the courts
 - Consequences
 - Restraint of trade e.g. employees; businesses

2. The formation of a valid contract: offer and acceptance

You need to understand how a contract is formed and the necessary components to establish agreement between the parties; how and why each of these components is a vital ingredient in the formation of a valid contract. Therefore, you need to know about:

a) Offer:

- Definition
- How an offer is made
- Verbally
- In writing
- By conduct
- Invitations to treat
- Factors distinguishing an offer from an invitation to treat e.g.: displays, advertisements, auctions, passengers, self-service and automated machines; mere puff; auctions; tenders and online transactions
 - Statements of price
- Communication of the offer
 - Requirement for communication
- Communication may be to a definite person or to a wider group
- Withdrawal of offer
 - Requirement of withdrawal or revocation before acceptance
 - When does revocation of the offer take place?
- Counter-offers and rejection of offers
 - Communication of rejection or counter-offer
 - Effect of counter-offer
- Termination by lapse of time
 - Acceptance to be within a time prescribed in the offer
 - Acceptance to be within a reasonable period of time

b) Acceptance

- Definition and effect of acceptance to bring about agreement
- Methods of communication of acceptance and relevant timing as to when acceptance is made
 - Acceptance complying with the terms of the offer
- Instantaneous acceptance
 - Verbal acceptance face to face
 - By telephone
- Acceptance in writing
- By post and email
- Standard form contracts and the battle of the forms

c) New methods of contract formation

- Overview of smart contracting
- Using video communications
- Text messages

3. The formation of a valid contract: consideration

You need to understand the central importance of consideration to the creation of a contract and what is capable of amounting to consideration. Therefore, you will need to know the following:

- a) Consideration
 - Definition
 - Requirement for simple contracts
 - Bare promises
 - Distinction between executory, executed and past consideration
 - Requirements that consideration must:
 - Move from the promisee
 - Be legal
 - Be possible
 - Not be past
 - Performance of existing duties as consideration
 - Sufficiency and adequacy of consideration
 - Bad bargains and caveat emptor
 - Satisfaction of debts
 - Promissory estoppel

4. The formation of a valid contract: intention to create legal relations and capacity

For a contract to be valid, there must be intention to create legal relations and the contracting parties must have capacity. Therefore, you will need to know the following:

- a) Intention to create legal relations
 - Presumptions and rebuttals
 - Business
 - Presumption of intention to create legal relations
 - Acceptance subject to contract
 - Social and domestic
 - Family agreements and clear intention to be bound
 - Mutuality between the parties
- b) Capacity
 - Minors and others under an incapacity
 - Minors' Contracts Act 1987
 - Contracts for necessities
 - Debts
 - Beneficial contracts of service
 - Voidable contracts
 - Partnerships
 - Limited liability partnerships
 - Companies
 - The importance of identifying the contracting parties

5. The content of a contract

Understanding of the content of written and verbal contracts is vital to the formation of a valid contract. This will enable you to interpret: - what the words mean; how the words used impact on the obligations arising; and why some terms are not permitted. You will also understand why it is sometimes necessary to imply terms into the contract so that it makes business sense. Therefore, you will need to know the following:

- a) Verbal and written contracts
 - Contracts may be verbal or in writing
 - Contracts which must be in writing
- b) Interpretation of contracts
 - Principles of interpretation
 - Intention of the parties
 - Documentary, factual and commercial context
- c) Express terms
 - Definition of express terms
 - Conditions: definition
 - Time made of the essence by express agreement or implied by the facts
 - Warranties: definition
 - Innominate/intermediate terms: definition
 - Incorporation of written terms into verbal contracts -
 - Verbal statements as terms rather than representations
 - Verbal statements adding terms to a written contract (the rules on incorporation)
- d) Implied terms at common law and under statute
 - Implied terms in fact: The business efficacy test
 - Implied terms in fact: The officious bystander test
 - Implied terms in law
 - Implied terms must not be contradictory to an express term
 - Custom and trade practice and course of dealing
 - Terms implied by statute
 - Sale of Goods Act 1979
 - Supply of Goods and Services Act 1982
 - Consumer Rights Act 2015
- e) Control of exemption clauses, and unfair terms
 - The 'contra proferentem' rule
 - Use of the incorporation rules
 - Unfair Contract Terms Act 1977
 - Consumer Rights Act 2015
- f) Consumer Protection Act 1987

6. Vitiating factors

You must understand the importance of clear and unambiguous agreement between the parties about the contract and its terms and why mistake, misrepresentation, duress or undue influence can vitiate or “spoil” the contract. Therefore, you will need to know the following:

a) Mistake

- Common mistake
 - The grounds for common mistake
- The effect of a unilateral mistake as to:
 - Terms of the contract
 - Identity of the subject matter
 - Ownership of the subject matter
 - Existence of the subject matter
 - Quality of the subject matter
 - Identity of the contracting party
- Effect of mistakenly signed documents

b) Misrepresentation

- Requirements:
 - Statement of fact rather than opinion or puff
 - A statement which is false and unambiguous
 - Subsequent falsity
 - Reasonable reliance and inducements
- Innocent and negligent misrepresentation and misstatement
 - Negligent misstatement at common law
 - Negligent & innocent misrepresentations - s2(1) Misrepresentation Act 1967
- Fraudulent misrepresentation
 - s.2 Fraud Act 2006

c) Remedies

- Rescission and the bars to rescission
- Damages in lieu under s.2(2) of the Misrepresentation Act 1967
- Damages at common law
- Damages under s.2(1) of the Misrepresentation Act 1967

d) Duress and Undue Influence

- Meaning of duress
 - Nature and effect
 - Threat of harm to a person or goods
 - The requirements
- Economic duress
 - As distinct from ordinary commercial pressure
 - The requirements
- Meaning of undue influence
 - Presumed undue influence: scope, requirements and effect
 - Actual undue influence: scope, requirements and effect
 - Consequences (rescission)

7. Performance, termination and breach of contract

You need to be able to explain how and why a contract may be discharged through performance, part-performance and agreement and so release the parties from their obligations. You should understand how and why: - time may be an important factor in the performance of a contract; some contracts may be breached; some contracts may be frustrated and made incapable of performance. Therefore, you will need to know the following:

- a) Performance of the contract
 - Substantial performance
 - Divisible and severable contracts
- b) Discharge by agreement
 - Accord and satisfaction
- c) Breach of contract:
 - Effect of a breach of warranty
 - Repudiatory breach and anticipatory breach
 - Events giving rise to repudiation by innocent party:
 - Breach of condition or a sufficiently serious breach of an innominate/intermediate term
 - A refusal to perform the contract
- d) Discharge by frustration
 - Definition
 - Grounds for frustration:
 - Physical impossibility
 - Destruction of subject matter
 - Illness or death
 - Unavailability
 - Failure of a source
 - Supervening illegality
 - Impossibility of a common purpose
 - The function of force majeure clauses
 - Limits to the application of the frustration principle
 - Effect of a frustrated contract: Common law and s1 Law Reform (Frustrated Contracts) Act 1943

8. Causation and remedies for breach of contract

Where a breach of contract arises, there is a need to show a link between the contractual breach and the contracting parties with the damage caused and the obligations for mitigation to limit the loss. You should consider what remedy is most suitable dependent on the facts. Therefore, you will need to know the following:

- a) Causation
 - Factual cause of loss
 - Remoteness of loss
- b) Common law remedies
 - Damages and heads of damages
 - Financial and non-financial loss
 - Measure and assessment of damages
- c) Equitable remedies
 - Specific performance
 - Injunction
- d) Statutory remedies:
 - Ss22;23;24,55,56 Consumer Rights Act 2015
- e) Mitigation of loss
- f) Indemnities and guarantees

 CILEX

 CPQ

F4 – Introduction to Property and Private Client

Foundation Stage

2024

F4: Introduction to Property and Private Client

The aim of this module is to give you the essential knowledge and understanding of the law and procedure relating to conveyancing and probate. There is a focus on the procedures required to act on a sale and purchase in a freehold residential conveyancing transaction. In addition, the module will introduce you to the purpose and content of a Will, the Intestacy Rules, how to apply for a Grant of Probate and the appointment of Personal Representatives. On completion of the module, you will know how to draft a straightforward contract of sale and transfer (TR1).

Throughout this module you must recognise the limit of your authority and experience and must know when to seek assistance.

The module covers:

- Organisations
- Underpinning land law
- Technical basics – the documents – property and private client
- Co-ownership
- Regulatory matters
- Technical basics – applying for probate and intestacy; personal representatives
- Technical basics – entitlement to act and personnel – property and private client
- Overview of the conveyancing transaction
- Taking instructions, initial steps and advice
- Deducing and investigating title
- Sale – drafting the contract and preparing the pre contract package
- Purchase – pre contract searches and enquiries
- Financing a purchase
- Reporting to client and exchange of contracts
- Preparing for completion
- Completion
- Post completion

Learning Outcomes

By the end of this module you will be able to:

1. Explain the professional framework and organisations that you will encounter in conveyancing and probate practice
2. Describe the underpinning law relevant to the transfer of title and the preparation of a Will
3. Identify the key risks encountered in a conveyancing transaction including conduct issues, money laundering and post completion deadlines
4. Identify the procedures required to apply for a Grant of Probate and to carry out a residential freehold conveyancing sale and purchase with a registered title from taking instructions to registration of a buyer's title following completion
5. Know how to draft a contract and a transfer (TR1) and advise a client on appropriate procedures and next steps in a straightforward conveyancing transaction

Linked assessment: F4

TQT: 180 hours



Details of updates included in 2024 Module Specification

- 2c: Rewording, so as to avoid duplication – ‘The two legal estates in land – freehold and leasehold and the distinction between them (also commonhold – in outline)’
- 2d: Addition of ‘Characteristics of a valid lease’
- 2f: Addition (partial) – ‘Easements in outline; characteristics of an easement; how they are created; the difference between express grant, implied grant and presumed grant and express reservation; how they can be terminated; their significance to the conveyancing transaction’
- 2f: Deletion of ‘intention to create a legal relationship’
- 2f: Deletion of ‘endowment’
- 3a: Addition and rewording – ‘Requirements for signature of a contract and signature and witnessing of a deed; including e-signatures’
- 3c: Addition of ‘Different types of gifts in Wills; gifts to children; ademption and lapse of gifts’
- 3c: Deletion of ‘remote witnessing of Wills (video witnessing: Covid 19)’
- 4a: Addition of ‘types of co-ownership’
- 7a: Addition of ‘chain of representation if executor dies during administration of the estate’
- 9c: Amendment of form names ‘RICS Home Survey Levels, 1, 2 and 3’

Key Concepts and Initial Steps

1. Organisations

A trainee in the property and private client departments must deal with a number of organisations. In addition to the regulators already covered in the Ethics and Professional Responsibility module 1, you will need to know the following:

- a) Law Society
 - Conveyancing Protocol and Transaction (TA) forms: purpose and outline content of the Protocol, Property Information Form (TA6), Fittings and Contents Form (TA10), Leasehold Information Form (TA7), Completion Information and undertakings Form (TA13)
 - Conveyancing Quality Scheme (CQS)
- b) Council for Licensed Conveyancers (CLC)
 - Purpose of the CLC
 - CLC Code of Conduct, in outline
- c) Probate Registry
 - Purpose of the Probate Registry
 - Function of HM Courts and Tribunals Service (HMCTS) Probate
 - Applications for a Grant (in outline)
- d) HM Land Registry (HMLR)
 - Function of HMLR – in outline
 - Land Registration Act 2002 (LRA 2002); Land Registration Rules 2003
 - Applications to HMLR; use of the Portal; e-services; postal application
- e) Mortgage lenders
 - Purpose of UK Finance and the Building Societies Association
 - The difference between the UK Finance Mortgage Lenders Handbook and the Building Societies Association Mortgage Instructions
- f) Society of Trust and Estate Practitioners (STEP)
 - Purpose of STEP; status of STEP Trusts and Estates Practitioner
 - Code of Conduct (in outline)
 - STEP Standard Provisions for Wills (in outline)

2. Underpinning land law

An understanding of the key land law concepts is a vital starting point. Therefore, you will need to know the following:

- a) Common law and equity
 - Difference between common law and equity; equitable principles; legal and equitable remedies
 - Historical development (outline only)
 - Legal status of a Will and the fact that it is not a document of title
 - Equitable rights in a conveyancing transaction
- b) Definition of land
 - Law of Property Act 1925 (LPA 1925) definition
 - Distinction between real and personal property
 - Distinction between legal and equitable rights – in outline
 - Distinction between a fixture and a fitting
- c) Estates and interests in land
 - The two legal estates in land – freehold and leasehold and the distinction between them (also commonhold – in outline)
 - The five legal interests in land
- d) Leasehold land – in outline
 - Key principles of leasehold land
 - Characteristics of a valid lease
 - Leases of different types of property: residential, commercial
 - Key terms of a lease: landlord covenants; tenant covenants; rent; term; forfeiture
- e) Title to land
 - Difference between unregistered and registered title
 - Compulsory first registration of title; the triggers for registration
 - Format of a typical register of title – Property register, proprietorship register and charges register; the significance of the title plan
 - Definition of an overriding interest; significance of a non-owning occupier in a conveyancing transaction
- f) Third party rights in land
 - Third party rights and their significance
 - Easements in outline; characteristics of an easement; how they are created; the difference between express grant, implied grant and presumed grant and express reservation; how they can be terminated; their significance to the conveyancing transaction
 - Creation of covenants in outline and the difference between restrictive and positive covenants
 - Mortgages; how a legal mortgage is created; the different types of mortgage (repayment, pension, interest only); the significance of redeeming a mortgage and the undertaking risk for the seller's conveyancer; remedies of the mortgagee

3. Technical basics.
Documents: -
property and private
client

An effective property and private client trainee must be able to draft documents clearly and accurately and understand the legal significance of the documents that are produced. Therefore, you will need to know the following:

- a) Contracts and deeds
 - Difference between a contract and a deed
 - Requirements for signature of a contract and signature and witnessing of a deed; including e-signatures
 - s1 LP(MP)A 1989 re deeds
- b) The requirements for a valid contract relating to land
 - Offer
 - Acceptance
 - Consideration
 - Intention to create a legal relationship
 - s2 LP(MP)A 1989
- c) Wills and codicils
 - Purpose of a Will; reasons for making a Will; purpose of a codicil
 - Format and structure of a Will; s9 Wills Act 1837
 - Capacity to make a Will; the tests in *Banks v Goodfellow* [1870] and Mental Capacity Act 2005
 - Different types of gifts in Wills; gifts to children; ademption and lapse of gifts
 - The requirements for signature and witnessing of a Will and codicil; s15 Wills Act 1837; dealing with a testator who is blind, illiterate, where another signs on their behalf Revocation of a will, by marriage/ civil partnership, another will/codicil, destruction or testator's declaration.
- d) Different types of document and their significance to conveyancing
 - Conveyance
 - Deed of gift
 - Transfer of whole (TR1)
 - Transfer of part (TP1)
 - Declarations of trust
 - Mortgage deed
 - Assent
- e) Statutory declarations and statements of truth
 - The purpose
 - The basic format
 - Execution formalities for a statutory declaration or statement of truth

	f) Provision of documents in a conveyancing transaction– originals and copies • Significance of original documents; holding deeds on undertaking to a mortgage lender; when to release originals • An examined copy of a document • An abstract • An ‘office copy’ of a Grant of Probate (or Letters of Administration) • A ‘certified copy’ and how it is produced • The status of unverified photocopied documents • Use of the HMLR Portal
4. Co-ownership	An understanding of the rules of co-ownership is vital to carrying out client instructions in relation to (a) making a Will and the distribution of assets on death and (b) a conveyancing transaction. Therefore, you will need to know the following: a) Legal estate and beneficial interest • Difference between the legal estate and the beneficial interest; types of co-ownership; when a co-ownership situation arises; trust of land; Trusts of Land and Appointment of Trustees Act 1996 (TLATA 1996) b) Co-ownership and Wills • How the two options for co-ownership of the beneficial interest affect a gift of property in a Will; significance of doctrine of survivorship in relation to a co-owned property held on a beneficial joint tenancy; severance of a beneficial joint tenancy c) Co-ownership and registered titles • Beneficial joint tenancy and how to recognise it in a registered title; beneficial tenancy in common and how to recognise it in a registered title d) Co-ownership and conveyancing • When to give co-ownership advice in a conveyancing transaction; recognising and avoiding conflicts of interest in relation to co-ownership • Importance of a declaration of trust and a Will in relation to co-ownership • Principles of overreaching; need for trustees of land to give a valid receipt for the purchase; need to comply with a Form A restriction in a registered title

5. Regulatory matters

To be an effective conveyancing and private client trainee you must understand conduct and regulatory issues which are pervasive and specific to your area of practice. Property transactions involve high risk. Therefore, you will need to know the following:

- a) Codes of Conduct
 - Confidentiality and conflicts of interest in conveyancing (in outline); contract races; acting for buyer and seller in the same transaction
 - Dealing with elderly and vulnerable clients in relation to property
 - Avoiding conflicts of interest when drafting Wills; gifts to legal advisers
 - Contrast the CILEX Code of Conduct, Council for Licensed Conveyancers Code of Conduct and the SRA Codes of Conduct, in outline
- b) Client care and client identification
 - The 'client care' letter; ensuring that it meets the client's needs
 - Legal fees, VAT and disbursements; typical legal fees and disbursements on a residential conveyancing transaction (sale or purchase)
 - Informing the client about the firm's complaints procedure and their rights
 - Risk of fraud in conveyancing transactions; need for client identification in conveyancing transactions; best practice in relation to client identification; challenges of client identification when dealing with an elderly or vulnerable client
- c) Undertakings
 - Recognising an undertaking
 - Limitations on who can/should give an undertaking
 - Best practice in relation to undertakings; recording the giving and release of an undertaking
 - Examples of undertakings in a conveyancing transaction; Completion Information and Undertakings Form (TA13)
 - Risk of implied undertakings in a conveyancing transaction; relevance to formulae for exchange of contracts
- d) Money
 - Money laundering risks in conveyancing transactions
 - SRA Accounts Rules and the difference between office account and client account; client account not to be used as a banking facility
 - Importance of cleared funds; avoiding a breach of SRA Accounts Rules
 - Cybercrime risks; identifying the bank account to which funds will be sent
 - Third Party Managed Accounts (in outline)
 - SRA Transparency Rules (in outline)

	e) Taxation – a trainee will not be giving advice on the taxation aspects of a transaction, but should have an awareness of the relevant principles (in outline) • Capital gains tax (CGT) and how it relates to a conveyancing transaction • Stamp duty land tax (SDLT) in England and Land transaction tax (LTT) in Wales (in outline); how these relate to a conveyancing transaction • Inheritance tax (IHT) and how it relates to Wills and probate (in outline) • Importance of limiting or qualifying any taxation advice given to clients
6. Technical basics. Applying for a Grant of Probate; intestacy; personal representatives	An effective private client trainee must know what steps to take when a person has died, how to obtain a Grant of Probate or be able to recognise when an intestacy has arisen. Therefore, you will need to know the following: a) Preliminary steps when a person has died • Register the death • Arrange the funeral • Notify government organisations, banks, building societies • Locate the Will if there is one • Value the estate • Consider payment of debts • Advertise in the Gazette b) Circumstances where a Grant is not required • Property held as joint tenants • Life assurance policies • Pension schemes • Life interests in trust property • Statutory nominations c) Applying for a Grant of Probate – in outline • IHT forms to be sent to HMRC if applicable; IHT400; IHT 421 • Online applications for Grant of Probate • Paper applications for Grant of Probate • Documents to be lodged: probate application form with legal statement/statement of truth (online or paper version as applicable); probate fees; the Will • Renouncing probate • Power reserved • Caveats and citations • Payment of any IHT due d) Intestacy • Difference between property passing under a Will and on intestacy • Difference between intestacy and partial intestacy

	• Operation of the statutory trust of land; s 33 Administration of Estates Act 1925 (as amended) (AEA 1925) • Order of entitlement; including entitlement of spouses/civil partners; s46(2A) AEA 1925 e) Duties, Powers and Remedies • Duties, powers and remedies of personal representatives; collecting of assets, payment of debts, payment of tax, distribution of tax, distribution of estate, preparation of estate accounts • Duties, powers and remedies of trustees • Rights and remedies and beneficiaries
7. Technical basics. Entitlement to act and personnel: - property and private client	Recognising when a party has the authority to act in relation to a probate or conveyancing matter is essential to the effective administration of an estate or conveyancing transaction. Often, one person will be acting in more than one capacity. Therefore, you will need to know the following: a) Personal Representatives • Executors - appointment under the Will - executors; power reserved; renunciation; chain of representation if executor dies during administration of the estate • Administrators – appointment where there is no Will or appointment of executors by a Will; r 20 or 22 NCPR 1987 • Authority to act – derives from Will if executor; derives from Grant if administrator b) Administration of an estate - different types of Grant • Grant of Probate • Grant of Letters of Administration • Grant of Letters of Administration with Will annexed • Significance of the Grant when dealing with the sale of a property in a probate matter c) The seller in a conveyancing transaction • Checking the seller is the owner of the property and entitled to sell – considered in relation to registered land; the proprietorship register • Obtaining instructions from all co-owners; avoiding conflicts of interest • Checking that a surviving co-owner is entitled to sell (registered land only); surviving beneficial joint tenant; appointment of a second trustee • Lasting Powers of Attorney; Enduring Powers of Attorney; identification of the donor and the attorney; risks of acting in an attorney situation; identifying the client d) Risks of parties who are not clients of the firm • Beneficiary of an estate • Non-owing occupier on a sale of a property

	• Parents or family members gifting a deposit on a purchase • Family members and elderly or vulnerable clients; the risks of undue influence in a transaction • Aggrieved party on the other side of a transaction (e.g. a seller or buyer); professional conduct issues • Mortgage brokers; other estate agents; confidentiality risks
The Conveyancing Transaction	
8. Overview of the conveyancing transaction	An understanding of the overall conveyancing process is essential. This is important for those who only deal with one aspect of the conveyancing process in their role. Therefore, you will need to know the following: a) Key stages • Pre contract • Exchange of contracts • Pre completion • Completion • Post completion b) Key steps to take on behalf of seller and buyer in a freehold residential conveyancing transaction (flowchart); use of checklists c) Significance of a related sale and purchase and whether the clients want to synchronise them
9. Taking instructions, initial steps and advice	The importance of taking clear and comprehensive instructions at the outset of a matter must be understood along with the initial steps to take and advice to give once the retainer with the client has been created. Therefore, you will need to know the following: a) Preliminary matters • Checklists to take instructions on a residential conveyancing sale and purchase; opening a file • Significance of the Energy Performance Certificate (EPC) and how it is obtained • Content of the estate agent's memorandum of sale b) Initial advice to seller • Ensuring that instructions are taken from all co-owners of a jointly owned property; obtaining details of any adult non-owning occupier • Determining whether the title to the land is registered or unregistered; HMLR Map Search service or the Search of the Index Map • Seller's duty of disclosure under the contract; the wider potential liability for misrepresentation when completing the Property Information Form (TA6) and replying to pre-contract enquiries

	c) Initial advice to buyer • Ensuring that instructions are taken from all prospective buyers • Caveat emptor; importance of commissioning an independent survey; types of survey (mortgage valuation, RICS Home Survey Levels, 1, 2 and 3) and the extent that reliance can be placed on them • Co-ownership advice (in outline) d) Preliminary steps to take on a sale once retainer created • Confirm instructions with buyer's conveyancer • Obtain title – if registered: official copies of register of title and any documents referred to and title plan; use of HMLR Portal • Obtain title – if unregistered: understand significance if deeds held by a lender; draft appropriate undertaking for release of title deeds • Property Information Form and Fittings and Contents form to seller; explain that buyer can rely on the information provided • If there is a mortgage – obtain an indicative redemption figure e) Preliminary steps to take on a purchase once retainer created • Confirm instructions with seller's conveyancer • Obtain money from client on account of searches
10. Deducing and investigating title	A conveyancing trainee must, when acting on behalf of a seller, be able to recognise whether the seller is entitled to sell the property and whether there are any obvious defects in the seller's title before drafting the contract and deducing title. When acting on behalf of a buyer, a conveyancing trainee must understand the basic format of a registered freehold title and be able to identify any inconsistencies between the title deduced and the contract. Therefore, you will need to know the following: a) Form of title in a registered freehold transaction • Format of a registered freehold title; the three parts of the register (property, proprietorship, charges); title plan • Classes of title; possibility of upgrade of class of title if less than absolute • Difference between a notice and a restriction and their effect (in outline); how to register and remove them; particular significance of a Form A restriction in conveyancing b) Deducing title – seller's conveyancer • Importance of confirming that the seller is entitled to enter into the contract and convey/transfer the property • Method of deducing title in a registered freehold transaction • Investigating the title for obvious defects (remedied prior to submitting the draft contract and deducing title) • Checks: which type of title guarantee is appropriate; incumbrances to be considered within the draft contract

	c) Investigating title – buyer’s conveyancer • Reviewing the draft contract • Investigating a registered freehold title against the draft contract; due diligence checks of register entries and title plan; overriding interests affecting the property; raising requisitions on title with the seller’s conveyancer
11. Sale – drafting the contract and preparing the pre contract package	A conveyancing trainee must understand the form and content of the contract for sale. Therefore, you will need to know the following: a) The form of the contract • Content of a contract incorporating the Standard Conditions of Sale (5th edition - 2018 revision) (SCS); standard conditions -2.2, 3.1, 5.1.1, 6.1; special conditions of sale • Title guarantee; contract rate • Deposit; holding as stakeholder; holding as agent for the seller; related transactions and the Standard Conditions of Sale • Drafting a basic contract of sale for a residential registered freehold transaction • Significance of adult non-owning occupier; special condition 7 b) The content of the contract package • Draft contract in duplicate • Official copies and title plan to deduce seller’s title • Other relevant documents relating to the seller's title (e.g. death certificate, grant of probate, evidence of change of name) • Conveyancing Protocol forms (Property Information Form, Fittings and Contents form) • Other relevant documents (e.g. guarantees, planning permissions, new build warranty)
12. Purchase - pre contract searches and enquiries	A conveyancing trainee must know the purpose of the standard pre-contract searches which should be obtained on every purchase and be able to distinguish these from non-standard searches. They must be able to identify important further enquiries which might arise as a result. Therefore, you will need to know the following: a) Pre contract searches – standard • Local search; LLC1, CON29Drainage and water search • Environmental search • Physical inspection of the property by the buyer • Methods of carrying out these searches b) Pre contract searches – non standard • Chancel repair liability search • Company search

	• Bankruptcy search (and the need to repeat before completion) • Location specific searches (e.g. commons registration, coal mining, flood risk) • Methods to carry out these searches c) Pre contract enquiries • The importance of reviewing the Property Information Form and considering responses of concern: ○ Boundary discrepancies ○ Disputes ○ Japanese knotweed ○ Insurance claims ○ Flooding ○ Non owning occupiers ○ Rights and informal arrangements • Key issues arising from the most common search results (e.g., adoption of road fronting the property; the property being connected to public foul drainage and water services) • Procedure for raising straightforward pre-contract enquiries
13. Financing a purchase	A conveyancing trainee must know how a buyer client proposes funding their purchase of a property. Therefore, you need to know the following: a) Cash • Checking source of funds and source of wealth • The link to money laundering b) Mortgage financing • Acting for lender and borrower; avoiding conflicts of interest • The relevance of the balance of the purchase money coming from the borrower's own resources; risk of a gifted deposit • Form and content of a standard mortgage offer • Key terms of a mortgage offer; advising on the terms of the offer (noting the prohibition on giving specific financial advice) • Reporting to the lender; obtaining the borrower's consent first; understanding the risk of proceeding without receiving written confirmation from the lender that the issue is satisfied / resolved • Non owning occupiers consent form • The mortgage deed c) Government backed assistance schemes – in outline • Help to Buy ISA (now closed to new accounts) • Lifetime ISA • Mortgage guarantee scheme

14. Reporting to client and Exchange of contracts

A conveyancing trainee must understand the importance of reporting to a buyer client on a purchase and of the necessity to review a file prior to exchange of contracts. They must understand the purpose and significance of exchange of contracts. Therefore, you will need to know the following:

- a) Report to client on purchase
 - The purpose of reporting to the client and how this might be done ; ensure the report meets the client's needs and client understands the information
- b) Pre exchange file review – sale
 - Checks:
 - Answering pre contract enquiries; when indiscriminate enquiries can be disregarded under the Protocol
 - Relevance of obtaining indicative redemption figures on all registered charges before exchange of contracts
 - Process of agreeing the form of the contract with the buyer's conveyancer; additional special conditions to reflect the agreement between the seller and buyer
 - Relevance of obtaining the seller's signature to the contract prior to exchange of contracts
 - Informing the seller regarding insurance obligations
 - The use of a checklist
- c) Pre exchange file review – purchase
 - Checks
 - Search results received
 - Pre contract enquiries responses
 - Financing
 - Lender has authorised the conveyancer to proceed in the light of any issues reported
 - Cleared deposit from the buyer
 - Informing a buyer regarding insurance obligations, with reference to Standard Condition 5
 - Obtaining the buyer's signature to the contract prior to exchange of contracts
 - Use of a checklist
- d) Preparing to exchange – sale and purchase
 - Agreeing the same completion date; synchronizing the transactions
 - Irrevocable authority to exchange contracts
- e) Exchange of contracts
 - Methods for exchange of contracts
 - The Law Society's formulae for exchange; their purpose; the requirements for a memorandum of exchange; the implied undertakings
 - Immediate steps post exchange

15. Preparing for completion	Preparing in a timely manner for completion of a transaction is a vital part of the conveyancing process. Therefore, you will need to know the following: a) Preparing to complete - sale • Obtain redemption figure for all mortgages • Approve the TR1 and obtain seller's signature to the engrossed transfer • Witnessing of signatures and use of e-signatures • Prepare a completion statement; calculate net sale proceeds • Reply to Completion Information and Undertakings Form (TA13); significance and risk of undertaking to redeem any mortgages b) Preparing to complete - purchase • Pre completion searches • Replies to Completion Information and Undertakings Form (TA13); undertaking received to redeem all mortgages out of the net sale proceeds and evidence of discharge • Preparing a completion statement • Obtain funds required for completion; importance of cleared funds; submit certificate of title and request for release of mortgage funds to mortgage lender (if any); check lender's requirements regarding holding SDLT/LTT and HMLR fees prior to release of mortgage funds • Draft the TR1; prepare an engrossment once approved; obtain buyer's signature to engrossed transfer, if required • Obtain buyer's signature to mortgage deed, if any • Obtain signed SDLT1 (in England) or LTT return (in Wales); secure client's authority to submit SDLT1 or LTT return, if required • Witnessing of signatures and use of e-signatures
16. Completion	Completion is one of the most important stages in the transaction and must be carried out in a timely manner. Therefore, you will need to know the following: a) Time for completion b) Process of completion • Methods of completion • Law Society's Code for Completion by Post (2019) (in outline); mechanics of completion; telegraphic transfer of funds; receipt of funds; notification to all relevant parties by seller's conveyancer that completion has taken place • Practicalities on the day of completion for the client: release of keys; removals; vacating (on a sale) or moving in (on a purchase)

17. Post completion

A conveyancing trainee must understand that the post completion work on a conveyancing transaction is a high-risk phase of the matter. There are important deadlines to be met and tasks to be carried out. Therefore, you will need to know the following:

- a) Post completion – sale
 - Send signed, dated TR1 (and any other relevant documents)
 - Redeem any mortgages on the day of completion out of the sale proceeds
 - Send evidence of discharge of any mortgages to buyer's conveyancer and seek release from undertaking given on completion
 - Pay estate agent's fee; account to client for any net sale proceeds; check file balances; Close file
- b) Post completion – purchase
 - Date mortgage deed, if any
 - Deal with any SDLT (in England) or LTT (in Wales) requirements:
 - Land transaction return (SDLT1), paying any SDLT; penalties; significance of land transaction Return certificate (SDLT5)
 - Submit land transaction return, paying LTT; penalties; significance of land transaction certificate
 - Receive documents from seller's conveyancer and check validly executed
 - Submit HMLR application on AP1 within OS1 priority period; documents to submit; use HMLR Portal (electronic Document Registration Service or Digital Registration Service)/postal application; significance of a failure to submit within the OS1 priority period; HMLR identification requirements
 - Nature and purpose of HMLR requisitions (in outline)
 - Checks:
 - Title Information Document received from HMLR
 - requirements of mortgage lender (if any) for sending documents to lender
 - Copy of Title Information Document to client; seeking instructions regarding the storage or otherwise of any documents
 - Check file balances
 - Close file

 CILEX



F5/F6 – Professional and Legal Skills

Foundation Stage

2024

Professional and Legal Skills

The aim of this module is to equip you with the professional and legal skills required to perform the role of a paralegal in a fast-paced legal environment. There is a focus on how to conduct yourself and your work effectively and efficiently and how you will be able to support a team. On completion of the module, you will be able to conduct legal research and have a greater appreciation of effective communication in an increasingly high-tech legal environment.

The module covers:

1. Succeeding in a Legal Environment; The Role of the Paralegal in a Legal Environment
 - Personal Impact
 - Working in a Team
 - Setting Standards
 - Client First Approach
 - Commercial Focus
 - The Impact of Technology
2. Effective Communication
3. Communicating with internal and external clients
4. Using Technology to carry out Legal Research; Conducting Legal Research

Learning Outcomes

By the end of this module you will be able to:

1. Understand the essential work skills a Paralegal requires
2. Explain how the role of the paralegal contributes to the law firm commercially
3. Understand how technology is being used in the legal sector
4. Demonstrate the skills required for effective communication with internal and external clients
5. Be able to undertake basic legal research

Linked online assessments:

- F5 Succeeding in a legal environment
- F6 Legal Research

TQT: 100 hours

F5. Succeeding in a Legal Environment

Your Role as a Paralegal in a Legal Environment

1. Personal Impact

A paralegal will interact with staff at all levels of the organisation, as well as with external clients. You will need an appreciation your conduct and personal impact on others, to be effective in the workplace.

- a) Interpersonal relationships
 - Understand techniques to create a positive impression e.g. conduct, respect, inclusion, reliability
 - Recognise negative behaviours in yourself and others
 - Know why it is important to be honest and reliable in all professional dealings
 - Appreciate the importance of attention to detail and the implications/risks of not being so
 - Cultivate a positive 'can do' attitude
- b) Equality, diversity and respect
 - Recognise and respect equal opportunity and diversity
 - Understand the importance of cultural difference in a legal environment
- c) Time Management
 - Understand the importance of good time management
 - Plan, prioritise and organise own time in a work environment
 - Be aware of the value of billing time, understanding chargeable and non-chargeable time
 - Identify barriers to effective time management and know how to overcome them
 - Identify the impact on the business of poor time management
- d) Building rapport and effective working relationships
 - Identify opportunities for sharing knowledge promptly with the right person
 - Understand the opportunities for Identifying and using information sources
- e) Networking
 - Understand the importance of networking internally and externally
 - Identify opportunities to develop internal networks

2. Working in a Team	All employees will be part of a team, regardless of the size of the organisation. You have opportunity to impact positively or negatively on your team. Understanding your role in the team and how to contribute will be important in building a strong professional reputation. a) Role within a team and the organisation • Define different types of organisational teams; functional, problem-solving, project teams • Develop and contribute ideas and use a mentor • Know when to seek assistance b) Managing team workload • Recognise the importance of pro-actively supporting others to manage team workload • Identify core information to understand issues • Consider approaches to reporting progress effectively c) The impact of technology on teams • Understand how technology can be used to record and share information and the requirements for sharing data with others, including risks • Understand the importance of virtual team development, meetings and networking
3. Setting Standards	You should be able to demonstrate an awareness of the general requirements of the CILEx professional standard. You should also be able to understand the importance of appraisals and CPD in achieving continuous improvement. a) External Regulation • Be aware of the CILEx professional standards • Understand the duties and responsibilities of the code for professional and personal conduct b) Appraisal and CPD as a driver for improvement • Recognise the self-appraisal role in your personal development; skills, technical and operational competence • Understand the value of seeking and taking on board regular feedback • Understand the CILEx CPD requirements ○ Identify where to access CPD ○ Know how to communicate CPD requirements to a supervisor ○ Create and implement a personal development plan

4. Client First Approach	The successful paralegal trainee needs a client centred approach to deliver a high-quality service on time, every time. Whether you are dealing with internal or external clients, the same level of service needs to be achieved. a) The relationship of external client service to the success of the organisation • Appreciate how service chains operate in a legal environment • Know how the role involves supporting client care b) The importance of the internal client • Recognise the direct link between internal clients and the quality of service received by the external client • Understand what client service standards apply to internal clients and how they may differ from those applied to external clients c) The impact of client relationships on the success of the lawyer • Understand the ways in which client relationships can be nurtured d) Fulfilling professional and ethical considerations • Understand how clients are served in an ethical and professional way
5. Commercial Focus	A commercial approach is vital to a successful law practice and an essential attitude for a trainee to develop. Regardless of the environment you find yourself in, whether that be working in the private or public sector, you need to think commercially for the enterprise to succeed. a) Opportunities to practise law • Know the types of organisations where law is practised • Distinguish between contentious and non-contentious work • Recognise the factors which impact on different organisational structures b) Commercial opportunities in a legal practice • Explain how a commercial law generates income • Identify the factors that can impact on an organisation's performance • Identify the range of services provided by a law firm c) The impact of non-legal functions within a legal organisation structure • Understand how non-legal functions interact with the legal function

6. The Impact of Technology	Technology has increasing importance in professional services. From case management systems and accounting software to artificial intelligence, the legal professional needs an awareness of the current and potential impact of technology. a) Different types of software applications used in the workplace • Understand how to use standard software applications in the business environment, for word processing, creation of spreadsheets and using databases b) The appropriate use of systems in practice • Understand the place of systems in a legal environment including: ○ Customer Relationship Management systems ○ Case Management systems ○ Cloud computing ○ Cloud file sharing c) Using technology to communicate • Identify the differences in communicating formal and informal business information • Understand etiquette in communicating using IT systems d) The risks associated with office technology • Identify the risks associated with office technology when dealing with external clients ○ Systems e.g. security and access management ○ Data e.g. confidentiality, ethical walls, data protection and data transfers
Effective Communication	
7. Communication with Internal and External Clients	Communication skills are fundamental to building confidence with clients and peers. You will have to communicate effectively, both orally and in writing, with internal and external clients. This will involve speaking to individuals, listening to what they have to say and noticing the way they respond to the message you are giving them. When you communicate in writing, you must ensure that there are no spelling errors and that the document is grammatically correct. a) The importance of effective communication within a legal environment • Identify the range of internal and external clients a legal professional will communicate with • Identify the ways in which legal professionals communicate with clients and third parties • Understand the range and appropriate methods of communication to use with specific clients and third parties • Understand the internal and external barriers to effective communication in a legal environment

	b) The use of verbal communication to effectively communicate a message • Prepare effectively for verbal communication situations e.g. interviews with clients • Distinguish between the types of question to be used in different situations • Understand the effect tone of voice and language can have on the receiving party c) The role non-verbal cues play in effective communication • Recognise different types of non-verbal communication • Understand the range of non-verbal responses and the effect they can have on the communication process d) Actively listening to internal and external clients in order to effectively meet their requirements • Accurately receive and interpret messages while communicating • Use active listening skills to fully understand the message e) The importance of effective and accurate legal writing • Understand the effect well written legal correspondence has on those who receive it • Be able to effectively take notes upon which others can then base correspondence • Be able to recognise correspondence, which is grammatically correct, with no spelling mistakes f) Drafting original and precedent forms of communication • Understand the importance of the client care letter • Understand the content of the client care letter • Understand the differences between a: ○ Routine letter ○ Client letter ○ Attendance note ○ Matter creation form ○ Email ○ Text ○ Website correspondence
F6. Using Technology to Carry Out Legal Research	

8. Conducting Legal Research

Essential to the provision of good legal advice is the ability to effectively research the law. You need to be able to find the appropriate sources, understanding the weight to be given to them and then use those sources to answer the legal problem.

- a) The scope and purpose of legal research, ascertain the legal context and issues
 - Understand how legal professionals use research as a tool for a prescribed reason to contribute to an agreed outcome
 - Identify the legal issues raised by the problem
 - Identify the types of question that need to be investigated and answered
- b) Determining the most appropriate legal resources to use
 - Understand the range of resources available to carry out legal research, including print and online resources
 - Distinguish between primary and secondary sources
 - Demonstrate an understanding of the strengths and weaknesses and validity of different formats
- c) The importance of search terminology to use legal sources effectively
 - Understand the terminology associated with research on electronic formats
 - Evaluate the benefits and dangers of internet searches
- d) Using primary sources (Acts of Parliament, statutory instruments and case law) to inform research
 - Demonstrate knowledge of the structure of Acts and Statutory Instruments
 - Appropriately cite legislation
 - Demonstrate knowledge of the structure of law report
 - Appropriately cite law reports
- e) Evaluating different online sources
 - Differentiate between primary and secondary sources in terms of validity e.g. reliability and relevance
- f) Applying research to reach a conclusion and communicating the results
 - Apply research findings to a problem to reach a conclusion which is clear
 - Provide a response to a problem that has been researched in an appropriate format
- g) The ethics and legality of information use
 - Understand relevant intellectual property rights (copyright and fair use)