

INSTITUTE OF LEGAL EXECUTIVES

UNIT 15 – PRACTICE OF LAW FOR THE ELDERLY CLIENT*

Time allowed: 1 hour and 30 minutes plus 15 minutes reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the paper or in your answer booklet during this time if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the ILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

Question 1

Reference: Question relates to **Document 1, Document 2** and **Document 3** of the case study materials.

- (a) (i) Explain when Valerie's power to act under the Enduring Power of Attorney arose and whether it continues to be effective. **(4 marks)**
- (ii) Explain why Frank's death does not have any effect upon Valerie's appointment as attorney. **(2 marks)**
- (iii) Describe by reference to the required documentation the procedure for registering Dorothy's Enduring Power of Attorney **and** the role of the Office of the Public Guardian in the registration process. **(9 marks)**
- (b) (i) Outline the action Tom could take to prevent his mother's Enduring Power of Attorney from being registered. **(2 marks)**
- (ii) List **three** of the grounds on which this could be done. **(3 marks)**
- (iii) Briefly explain whether or not your firm can advise Tom in connection with this action. **(3 marks)**

Question 1 – Additional Information

Several months later, Valerie calls into your office to let you know that as her mother's health has declined, Dorothy has now moved into a care home. Valerie is concerned that she has been unable to find her mother's will, despite a thorough search, and asks you to prepare a replacement will for her mother. Valerie hands you a note which she has written outlining what the will should say.

- (c) (i) Explain why you cannot act on these instructions to make a will for Dorothy. **(4 marks)**
- (ii) By reference only to the Mental Capacity Act 2005, outline the main points you would want a medical practitioner to confirm about Dorothy's mental capacity before you could take instructions to make a new will for her. **(4 marks)**
- (iii) The medical practitioner's response says that Dorothy does not have the necessary mental capacity to make a new will.

Explain the basis on which a new will could be made for Dorothy.

(4 marks)

(Total: 35 marks)

Question 2

Reference: Question relates to **Document 1** and **Document 4** of the study materials.

Following your consideration of the attendance note (**Document 4**) in preparation for the forthcoming meeting, answer the following questions:

(a) What would be the taxation and other financial consequences to Ajay and Kasu if they gifted their house to their children while they continued to live there?

(9 marks)

(b) Outline Ajay and Kasu's current entitlement to receive state pension and related benefits.

(9 marks)

(c) If Ajay does move into a care home:

(i) Outline the factors the local authority will consider to determine whether it will contribute towards Ajay's care home costs **and** conclude whether Ajay will qualify.

(10 marks)

(ii) What additional funding may be available if Ajay required **nursing care**?

(4 marks)

(d) Explain how, if at all, the payment of Ajay's care home costs will be affected if Ajay and Kasu sell their house so that Kasu can move into a smaller less valuable property.

(3 marks)

(Total: 35 marks)

End of Examination Paper

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