

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 **Documents 1, 2 and 3** of the case study materials.

- (a) (i) Explain why you cannot act upon the instructions received from Roland to prepare the power of attorney.
(3 marks)
- (ii) What steps should you take to deal with this issue?
(5 marks)
- (b) (i) What does the Mental Capacity Act 2005 say about capacity, and what test does it provide to decide whether a person lacks capacity?
(6 marks)
- (ii) Given the doubt about Patricia's capacity what steps should you take to deal with this issue?
(5 marks)
- (c) If it is established Patricia no longer has mental capacity to give instructions, what advice should you give and to whom?
(6 marks)

(Total: 25 marks)

Question 2

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

- (a) Explain to Maya how she could use her home as security to raise funds by:
- (i) an equity release scheme; **(5 marks)**
 - (ii) a home income/reversion plan. **(5 marks)**
- (b) If Maya decides to raise £150,000 by using her home as security;
- (i) Explain the effect, if any, on her entitlement to receive state pension and benefits. **(4 marks)**
 - (ii) In what circumstances may she incur any income tax liability as a result? **(2 marks)**

Additional Information

Following the meeting between your supervising solicitor and Maya, Maya has telephoned and left the following message:

- She has agreed to give her son £150,000 to enable him to extend his home to provide her with living accommodation.
 - She would like you to advise her and her son upon what they have agreed.
- (c) Explain to Maya the potential issues involved in making this gift to her son, and how she could safeguard her position (do **not** include a discussion of the possible taxation consequences). **(7 marks)**
- (d) Explain to Maya why you cannot advise both her and her son about their agreement. **(2 marks)**

(Total: 25 marks)

Question 3

Reference: Question relates to **Documents 1 and 5** of the case study materials.

(a) Explain to George the nature and effect of a Living Will (Advance Decision).

(4 marks)

(b) George decides that he wants his children to be able to make the decision to refuse treatment to prolong his life if he was being kept alive by a life support machine.

(i) How can this objective be achieved?

(3 marks)

(ii) State the information you would need to complete the documentation.

(8 marks)

(iii) Outline the procedure to be followed after the document is executed.

(5 marks)

(Total: 20 marks)

End of Examination Paper