

## INSTITUTE OF LEGAL EXECUTIVES

### UNIT 15 – THE 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**

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**Question 1**

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

- (a) Explain why you are unable to accept instructions from Laura to prepare Brenda's lasting power of attorney.

**(3 marks)**

- (b) What steps would you take to establish whether or not Brenda is able to give you valid instructions?

**(4 marks)**

If it is established that Brenda no longer has the mental capacity to give instructions to make a lasting power of attorney:

- (c) Identify the type of application that Laura could make to the Court of Protection and briefly explain its effect.

**(4 marks)**

- (d) What would Laura need to lodge at the Court to make such an application?  
**(No credit will be given for form numbers only)**

**(7 marks)**

**Additional Information**

Following the meeting between your supervising solicitor and Brenda Leese, and it having been established that Brenda no longer has mental capacity to make a lasting power of attorney or will, her niece Laura brings into the office an Enduring Power of Attorney made by Brenda Leese in 1998 appointing her brother James Roberts and her niece Laura jointly and severally as her attorneys.

- (e) Explain whether or not Laura can use the Enduring Power of Attorney now.

**(4 marks)**

- (f) Explain whether it would be possible for Brenda's will to be changed so that Laura, James and Henry can all benefit from Brenda's estate in the event of her death.

**(7 marks)**

**(Total: 29 marks)**

## Question 2

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

(a) If Brenda continues to live in her home, what additional state benefits would both Brenda and Laura be entitled to receive and why?

**(9 marks)**

(b) If Brenda has to go to live in a care home, what financial assistance may be available to Brenda from the Local Authority for the payment of the care home fees until her house is sold?

**(9 marks)**

**(Total: 18 marks)**

## Question 3

Reference: Question relates to **Documents 1, 4 and 5** of the case study materials.

Fatima is now proposing to live in the holiday home on the Isle of Wight permanently and to make a lifetime gift of her home in Bedford to her three children.

(a) What Capital Gains Tax consequences would there be to Fatima?

**(8 marks)**

(b) What Inheritance Tax consequences would there be to Fatima's estate?

**(9 marks)**

(c) Explain whether there are any other ways of lifetime giving that she could use to save inheritance tax.

**(6 marks)**

**(Total: 23 marks)**

**End of Examination Paper**