

**INSTITUTE OF LEGAL EXECUTIVES**

**UNIT 20 - PRACTICE OF FAMILY LAW\***

**Time allowed: 3 hours 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 may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Family Law 2011-2012, M Oldham, Oxford University Press, 2011.**
- 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 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LAW AND**

### Question 1

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

It is one week since you received Timothy's memorandum. Mrs Stevens has telephoned the office this morning for an update about her divorce proceedings. She confirms that nothing has changed since she filed the original divorce documentation and that provided her husband does co-operate with the divorce she does not wish to claim a costs order against him.

(a) Advise Mrs Stevens about her husband's possible responses to the divorce proceedings.

**(6 marks)**

(b) Advise Mrs Stevens how she could proceed with the divorce if her husband fails to return the necessary documentation to the court.

**(8 marks)**

(c) Assume now that her husband has returned the necessary documentation to the court to confirm that he will co-operate with the divorce proceedings and has signed himself "N.E. Stevens". Using the attached D80B Affidavit in support of divorce (**Document A**), draft the paperwork required for Mrs Stevens to proceed with the divorce.

**(9 marks)**

**(Total: 23 marks)**

**Important: Write your candidate number clearly on Document A and attach it securely to your answer booklet.**

### Question 2

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

You have an appointment to see Mrs Fiona Palmer later today in order to discuss her case prior to your attendance at the Financial Dispute Resolution Hearing.

(a) Explain what factors the court would look at in determining her application for financial relief.

**(23 marks)**

(b) Advise Mrs Palmer whether she is likely to obtain the orders that she has applied for.

**(7 marks)**

**(Total: 30 marks)**

### Question 3

Reference: Question relates to **Document 5** of the case study materials.

Your secretary tells you that Mr Hussain has been into reception. He has asked for an urgent appointment to see you later today. She explains that he has been served with a court order. She hands you a copy of the court order (**Document B**) together with the attendance note she took of her conversation with him (**Document C**). As requested, Mr Hussain attends at the office later this afternoon to seek your advice.

- (a) Explain the nature and effect of the court order to Mr Hussain

**(12 marks)**

- (b) Discuss the factors which the court will apply when deciding whether to grant the order sought by Mrs Hussain and explain what you believe the outcome of the Hearing may be.

**(8 marks)**

**(Total: 20 marks)**

### Question 4

Reference: Question relates to **Document 5** of the case study materials.

During his attendance at the office, Mr Hussain confirms that he wishes to proceed with the necessary court action to enable him to see his children.

- (a) Using the attached C100 form (**Document D**), draft the court application for Mr Hussain.

**(12 marks)**

**Important: Write your candidate number clearly on Document D and attach it securely to your answer booklet.**

- (b) Explain how the court would approach Mr. Hussain's application if Mrs Hussain was successful in establishing her allegations of domestic abuse.

**(Do not consider section 1(3) Children Act 1989 checklist.)**

**(6 marks)**

- (c) Advise Mr Hussain on the court's enforcement powers should his ex-wife fail to abide by the terms of the section 8 order sought.

**(9 marks)**

**(Total: 27 marks)**

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**DOCUMENT A**  
**(this relates to Question 1(c))**

## Affidavit in support of divorce/dissolution/ (judicial) separation – unreasonable behaviour

Section 1(2)(b) Matrimonial Causes Act 1973  
Section 117(3)(a) Civil Partnership Act 2004

To be completed by the Petitioner	
Name of court	Case No.
Name of Petitioner	
Name of Respondent	

If completing this form by hand, please use **black ink and BLOCK CAPITAL LETTERS** and tick the boxes that apply.

### About the petition

- Have you read the petition for  divorce  dissolution  (judicial) separation in this case?  
 Yes  No
- Do you wish to alter or add to any statement in the divorce/dissolution/(judicial) separation petition?  
 Yes  No

If Yes, please state the alterations or additions to be made.

- Subject to these alterations or additions (if any) is everything stated in your divorce/dissolution/(judicial) separation petition true?  
 Yes  No

If any statement is not within your own knowledge, please indicate this and state whether it is true to the best of your information and belief.

- If you consider that the Respondent's behaviour has affected your health, state the effect it has had.

5. Is the Respondent's behaviour as set out in your petition continuing?

Yes  No

If the Respondent's behaviour is not continuing, what was the date of the final incident relied upon in your petition?

/   /

6. Since the date given in answer to question 5 (or if no date was given to that question, since the date of your application for a divorce/dissolution/(judicial) separation petition), have you lived at the same address as the Respondent for a period of more than 6 months?

Yes  No

If Yes, state the address and the period giving dates, and describe the arrangements for sharing the accommodation.

Address(es)	Dates	
	From	To
	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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Arrangements for sharing the accommodation		

### About the children of the family

7. Have you read the statement of arrangements filed in this case?

Yes  No

8. Do you wish to alter anything in the statement of arrangements or add to it?

Yes     No

If Yes, state the alterations or additions.

9. Subject to these alterations and additions (if any) is everything stated in the statement of arrangements true?

Yes     No

If any statement is not within your own knowledge, indicate this and state whether it is true and correct to the best of your information and belief.

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**DOCUMENT B - to be used with Questions 3 and 4**

[Court Crest]  
Case number of

In the Bedford County Court

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**Non-Molestation Order**

(Under section 42 of the  
Family Law Act 1996)

**MELISSA HUSSAIN**

**APPLICANT**

Ref

**-and-**

**KHALID HUSSAIN**

**RESPONDENT**

Ref

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**Important Notice to the Respondent: Khalid Hussain**

**You must obey this order. You should read it carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to apply to the court to change or cancel the order.**

**If without reasonable excuse you do anything which you are forbidden from doing by this order you will be committing a criminal offence and liable on conviction to a term of imprisonment not exceeding 5 years or to a fine or to both.**

**Alternatively, if you do not obey this order you will be guilty of contempt of court, and may be sent to prison.**

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Before District Judge Peters sitting at the Bedford County Court

Upon hearing the Solicitor for Melissa Hussain and upon hearing oral evidence only from Melissa Hussain and upon the Respondent Khalid Hussain having no notice of the hearing. It is ordered that:

1. The respondent Khalid Hussain is forbidden to:
  - (a) use or threaten to use violence against the Applicant Melissa Hussain and must not instruct encourage or in any way suggest that any other person should do so
  - (b) intimidate harass or pester the Applicant Melissa Hussain and must not instruct or encourage or in any way suggest that any other person should do so
  - (c) telephone text e-mail or otherwise contact or attempt to contact the Applicant Melissa Hussain
2. This order shall last until 4pm on [*1 week from date of without notice hearing*]
3. The costs of the application be reserved until the next hearing which shall be on [*date a week from today*] at 10.30am for 45 minutes.

This order is made without notice to the Respondent -

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### **Note to the Arresting Officer**

Under section 42A of the Family Law Act 1996 breach of a non-molestation order is a criminal offence punishable by up to five years imprisonment. It is an arrestable offence and it is not necessary to obtain a warrant.

"A person who without reasonable excuse does anything that he is prohibited from doing by a non-molestation order is guilty of an offence." *Family Law Act 1996, Section 42A (1)*

## DOCUMENT C to be used with Questions 3 and 4

(Attendance note re: Khalid Hussain)

Attended upon Mr Hussain who had come into reception to ask to see someone urgently about his case.

He was very upset. He handed to me a document which he said had been personally served upon him last night (see **Document B** attached).

He explained that after he saw Timothy, later that morning he had received a text from Imran saying that he and Ayeshah really needed to see him. He went straight around to his ex-wife's house and rang the doorbell. Imran came to the door and Ayeshah also came running out to him and gave him a big hug. Mr Hussain said that Imran was just explaining to him that he had texted because his mum had popped to her sister's around the corner, when his ex-wife pulled into the driveway in her car.

Mr Hussain said that his ex-wife started screaming and shouting at him to keep away from her and the children. She said "You've chosen her above us, you've made your bed and now you've got to lie in it". She started to drag Ayeshah inside. Mr Hussain said that he was really worried that Melissa was going to hurt Ayeshah who was distraught so he tried to intervene to pull Melissa off her. He said that he did not hurt Melissa in any way.

Melissa pushed Mr Hussain away and lost her balance, falling into the front door and knocking her head on it. He said that this seemed to really enrage her and she shouted "You've really done it now." Melissa got both the children inside the house and slammed the front door. He could hear that Ayeshah was still crying but he was worried that if he stayed there it would only make matters worse.

He drove home and about an hour later got a text from Imran saying that he and Ayeshah were okay. Later in the day, at about 6pm there was a knock at the front door. When Mr Hussain answered it he found a man standing there. The man tapped him on the chest with a large brown envelope and said "you're served mate, you'd better see a lawyer pronto".

Mr Hussain said the envelope contained a number of documents including the order which he had with him. He explained that he needed to go to work but could make it back later in the afternoon for an appointment.

Time taken: 18 minutes.

**DOCUMENT D**  
**(this relates to Question 4(a))**

C100

**Application under the Children Act 1989 for a residence, contact, prohibited steps, specific issue section 8 order or to vary or discharge a section 8 order**

**To be completed by the court**

Name of court

Date issued

Case number

Before completing this form please read the leaflet 'CB1 – Making an application – Children and the Family Courts'. You can get a copy of from your local court or at [www.justice.gov.uk](http://www.justice.gov.uk).

- Failure to complete every question or state if it does not apply, could delay the case, as the court will have to ask you to provide the additional information required.
- If there is not enough space please attach separate sheets, clearly showing the details of the children, parties, question and page number they refer to.
- Cafcass/CAFCASS CYMRU will carry out checks as it considers necessary. See Section J of leaflet CB1 for more information about Cafcass and CAFCASS CYMRU.

**1. Summary of application**

Some people need permission to apply - See Section C of the leaflet CB1 for details on who needs permission and how to get permission

Have you applied to the court for permission to make this application?  Yes  Permission not required

Your name (the applicant(s))

The respondent's name(s)

See Sections G and H of the booklet CB1.

Please list the name(s) of the child(ren) and the type(s) of order you are applying for, starting with the oldest. To understand which order to apply for read the booklet CB1 Section D.

Child 1 - Full name of child	Date of birth	Gender	Order(s) applied for
	<input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="checkbox"/> Male <input type="checkbox"/> Female	
Relationship to applicant(s)		Relationship to respondent(s)	
<input type="text"/>		<input type="text"/>	

Child 2 - Full name of child	Date of birth	Gender	Order(s) applied for
	<input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="checkbox"/> Male <input type="checkbox"/> Female	
Relationship to applicant(s)		Relationship to respondent(s)	
<input type="text"/>		<input type="text"/>	

Child 3 - Full name of child	Date of birth	Gender	Order(s) applied for
	<input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="checkbox"/> Male <input type="checkbox"/> Female	
Relationship to applicant(s)		Relationship to respondent(s)	
<input type="text"/>		<input type="text"/>	

**C100** Application under the Children Act 1989 for a residence, contact, prohibited steps, specific issue section 8 order or to vary or discharge a section 8 order (04.11)

2. About you (the applicant(s))

**Applicant 1 (You)**

**Applicant 2 (if applicable)**

Full names



Previous names (if any)



Gender

 Male  Female

 Male  Female

Date of birth (If under 18 read section R of leaflet CB1)

  /   /    
  /   /    

Place of birth (town/county/country)



**If you do not wish your address to be made known to the respondent,** leave the details below blank and complete Confidential contact details Form C8.

Address



Postcode

Postcode

Home telephone number



Mobile telephone number



Email address



Have you lived at this address for more than 5 years?

 Yes  No

 Yes  No

If No, please provide details of all previous addresses you have lived at for the last 5 years.

If you do not wish your contact details to be made known to the Respondent, leave the details blank and complete Confidential contact details Form C8



#### 4. Others who should be given notice

There may be other people who should be notified of your application, for example, someone who cares for the child but is not a parent. Sections G and I of the the booklet '**CB1 - Making an application - Children and the Family Courts**' explain who others are.

	Person 1	Person 2
Full names	<input type="text"/>	<input type="text"/>
Previous names (if known)	<input type="text"/>	<input type="text"/>
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Male <input type="checkbox"/> Female
Date of birth	<input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Address	<input type="text"/>	<input type="text"/>
Postcode	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<input type="text"/>	<input type="text"/>

Please state their relationship to the children listed on page 1. If their relationship is not the same to each child please state their relationship to each child.



## 5. Solicitors details

Do you have a solicitor acting for you?

 Yes No

If No, see section R of leaflet CB1 for more information

If Yes, please give the following details

Your solicitor's name

Name of firm

Address

Postcode

Telephone number

Fax number

DX number

Solicitor's Reference

Email address

## 6. The child(ren)

Are any of the children known to the local authority children's services?

Yes     No     Don't know

If Yes please state which child and the name of the Local Authority and Social worker (if known)

Are any of the children the subject of a child protection plan

Yes     No     Don't know

Do all the children share the same parents?

Yes     No

If Yes, what are the name of the parents?

If No, please give details of each parent and their children involved in this application

Please state everyone who has parental responsibility for each child and how they have parental responsibility (e.g. 'child's mother', 'child's father and was married to the mother when the child was born' etc.)  
(See Section E of leaflet CB1 for more information)

Who do the children currently live with?

Applicant(s)     Respondent(s)     Other

If other, please give the full address of the child, the names of any adults living with the children and their relationship to or involvement with the child.

If you do not wish this information to be made known to the Respondent, leave the details blank and complete Confidential contact details Form C8

## 7. Why are you making this application?

Please give brief details:

- any previous agreements (formal or informal), and how they have broken down
- your reasons for bringing this application to the court
- what you want the court to do
- reasons given by the respondent(s) for their actions in relation to this application.

**Do not give a full statement, please provide a summary of any relevant grounds and reasons.** You may be asked to provide a full statement later.

## 8. Agreements about residence and/or contact

Have you received a copy of the 'Parenting Plan: Putting your children first: A guide for separating parents', booklet?

 Yes No

If No, you can get a copy free of charge from your local court or you can download a copy from the website [www.tso.co.uk](http://www.tso.co.uk)

Have you attended a mediation information/assessment meeting as suggested in the pre-action protocol and/or attached form FM1?

 Yes No

You can find your nearest family mediation service by visiting the government's website DirectGov ([www.direct.gov.uk](http://www.direct.gov.uk)) and search using the words 'family mediation'. You will find a database of accredited family mediation services on the website.

Please give brief details about:

- If you attended a mediation information/assessment meeting what was the outcome?
- If you attended full mediation sessions what was the outcome?
- If you did not use mediation please explain why



## 11. Attending the court

Section N of the the booklet 'CB1 - Making an application - Children and the Family Courts' provides information about attending court.

**If you require an interpreter, you must tell the court now so that one can be arranged.**

Do you or any of the parties need an interpreter at court?

Yes  No

If Yes, please specify the language and dialect:

If attending the court, do you or any of the parties involved have a disability for which you require special assistance or special facilities?

Yes  No

If Yes, please say what the needs are

Please say whether the court needs to make any special arrangements for you to attend court (e.g. providing you with a separate waiting room from the respondent or other security provisions).

Court staff may get in touch with you about the requirements

## 12. Statement of truth

\*[I believe] [The applicant/respondent believes] that the facts stated in this application are true.

\*delete as appropriate

\*I am duly authorised by the applicant/respondent to sign this statement.

Print full name

Name of applicant solicitors firm

Signed

Dated

(Applicant) (Applicant's solicitor)

Position or office held  
(If signing on behalf of firm or company)

**Proceedings for contempt of court may be brought against a person who makes or causes to be made, a false statement in a document verified by a statement of truth.**

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**What to do now**

- Check you have attached copies of any **relevant orders** (as per Section 10).
- Check you have completed and **signed** Section 12.
- You must provide a **copy** of the application and attached documents for each of the respondents and one for the Children and Family Court Advisory and Support Service (Cafcass or CAFCASS CYMRU).
- Check you have included dates of birth for all parties and children
- Is Form C1A attached (if applicable)?
- Are any additional sheets attached?
- If you have included additional sheets you must add the names of the parties and children at the top of the page and details of the questions and page number the additional sheets relate to.
- Check you have attached the correct fee. The leaflet 'EX50 County court fees' provides information about court fees you will have to pay.

**Now take or send your application with the correct fee and correct number of copies to the court.**

**Court fees**

You may be exempt from paying all or part of the fee. The combined booklet and application form 'EX160A Court Fees - Do you have to pay them' gives more information. You can get a copy from the court or download a copy from our website at [www.justice.gov.uk](http://www.justice.gov.uk)

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