



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 7 – FAMILY LAW\*

**Time allowed: 3 hours plus 15 minutes reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper 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 question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. The question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- 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 2012-2013, 21st edition, M Oldham, Oxford University Press, 2012.**
- Candidates must comply with the CILEX 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 CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. In the case of *Re C (A Child)* (2007), the Court of Appeal stated "there is no need for the courts to act robustly in cases where contact is being denied."

Critically analyse this statement with reference to recent case law, statute and the European Convention on Human Rights (ECHR).

**(25 marks)**

- 2 (a) Critically evaluate the court's view of cohabitation contracts and whether reform of rights of cohabitants is likely in the future.

**(13 marks)**

- (b) Analyse the key similarities and differences between marriage/civil partnership and cohabitation.

**(12 marks)**

**(Total: 25 marks)**

- 3 (a) Analyse when a foreign decree of nullity, divorce or judicial separation will be recognised as valid by the English Courts.

**(8 marks)**

- (b) Critically evaluate the two stage divorce process, and how the court can defer decree absolute under S.41 Matrimonial Causes Act 1973 (MCA 1973).

**(17 marks)**

**(Total: 25 marks)**

- 4 The court's approach to dealing with financial relief applications on divorce and dissolution has changed substantially over the last decade.

Critically analyse this statement with reference to how the case law has developed.

**(25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Alice Porter entered a formal civil partnership with her long term partner, Tracey Goldburn, five years ago. Alice, at the request of Tracey, gave up work when they entered into the civil partnership. Alice has a 13 year old daughter, Claire, and a 10 year old son, Peter, from her previous marriage.

The family home was purchased in the sole name of Tracey shortly before they entered into their civil partnership.

Tracey lost her job about six months ago and has been unable to find work since, which has led to Tracey drinking excessive amounts of alcohol on a daily basis, causing her to become irritable and aggressive. On other occasions she becomes withdrawn and completely ignores Alice and the children. She regularly shouts at the children for making a mess and tells them they are nothing to do with her. She is particularly critical of Alice in terms of her cooking and completing general household chores.

Three weeks ago when Alice took the children to the park, Tracey, who had been drinking, followed Alice there. She shouted verbal abuse at Alice and the children, and then grabbed Alice by her hair and dragged her home. The children were extremely upset and have been emotionally withdrawn since the incident. The verbal abuse and threats of violence have continued.

Alice could no longer cope with Tracey's behaviour and yesterday left the family home with the children. Whilst Alice was trying to leave the house, Tracey punched Alice in the face. The children were screaming. Peter tried to prevent the incident but was also punched by Tracey. Tracey told Alice "you can run but you cannot hide, I will find you."

Alice is currently staying in a womens' refuge with the children. Alice does not want to return to live at the family home. She wants to end her civil partnership to Tracey as soon as possible, and she wants protection from further abuse.

Advise Alice whether she can end her civil partnership to Tracey and gain protection from violence for herself and the children.

**(Total: 25 marks)**

**Turn over**

## Question 2

Amir, aged 31 years and Shakira, aged 20 years, met in 2011, having been introduced by their respective parents at their homes in Manchester. Both parents insisted that they were suitable for each other, and a wedding was arranged for July 2012. Despite being unhappy Shakira believed that she could not disobey her parents wishes and so went ahead with the wedding.

Amir and Shakira were married in July 2012 in Manchester, and moved into a local property. On the wedding night Shakira told Amir that it was a marriage in name only and refused to have sexual intercourse with him. Since that time Amir has made numerous attempts to make the relationship work, including trying to have a sexual relationship, but his efforts have been rejected by Shakira.

In August 2012, whilst driving home from work, Shakira was involved in a serious road traffic accident which left her with 70% burns all over her body, and severe facial disfigurement.

Amir, and his family have cared for Shakira since the accident, and Shakira has grown fond of Amir and wishes their marriage to work. Despite her horrific injuries, she is recovering well, and wishes to have a sexual relationship with Amir.

Amir, having been shocked by the extent of the accident and caring for his wife during recent months, is repulsed when he even looks at Shakira, and the thought of a sexual relationship with her horrifies him.

Amir now wishes to end his marriage to Shakira, as soon as possible, but does not want the stigma of a divorce.

Shakira has recently been told that Amir already has a wife, who he married four years ago when he lived in London.

Explain:

- (a) How the marriage can be ended without the stigma of divorce and any obstacles they may face.

**(15 marks)**

- (b) What the position would be if Amir was already married.

**(10 marks)**

**(Total: 25 marks)**

### Question 3

Peter and Maria have lived together as cohabitees for 7 years in the family

They have a child together, Sarah, who is 2 years of age. At the time that Sarah was conceived the relationship had problems. This led to Maria having a brief sexual relationship with a work colleague, which Peter knew about.

Since having Sarah, the relationship has changed and Peter spends more and more time away from home, preferring to spend time with work colleagues. Maria juggles her time between working and childcare, with help from her parents.

Last week Peter announced that he no longer wanted a relationship with Maria, and that he wanted her to move out of the house as soon as possible. Maria now lives with her parents. Peter has stated that he will maintain Sarah. Peter wants regular contact with Sarah.

Maria is extremely upset by the breakdown of the relationship, and the manner in which she has been forced out of her home.

Maria told Peter he had no rights in respect of Sarah because he is not the father.

Advise Peter:

- (a) What action he can take to establish parentage and the potential difficulties he may face.

**(12 marks)**

- (b) If he is the father, how he can ensure he is involved in the important decisions affecting Sarah's upbringing.

**(13 marks)**

**(Total: 25 marks)**

**Turn over**

#### Question 4

James and Carl, aged 45 years and 40 years respectively, had lived together for 1 year before entering into their civil partnership on 15<sup>th</sup> June 2010. In 2009 Carl divorced his wife with whom he has two children, Elizabeth and Adam now aged 11 and 10 years respectively.

When they became civil partners, it was agreed that Carl would give up his career as a Vet to stay at home, tend to the house, gardens and domestic chores, and prepare for the adoption of children. Shortly after the civil partnership Carl's ex wife was killed in a car accident and the children went to live with him and James. James welcomed the idea of having a family. Carl now cares for the children on a day to day basis. Carl is financially dependent on James. James treats the children as his own, and maintains them financially. James continues to work as a Consultant Surgeon, earning in excess of £200,000 per annum. They have a lavish lifestyle.

Recently James and Carl have been arguing. James feels that Carl enjoys the fruits of his high income, but undertakes fewer and fewer household chores, employing other people to do the work whilst he socialises with friends. Carl resents this saying he works extremely hard keeping a nice home and caring for the children. James misses the single lifestyle.

James has started to spend more time at work and has fallen in love with a colleague Andrew. James has told Carl that he must find a job and support himself and the children or claim state benefits, as he will no longer support Carl and the children. James said he never wanted the children anyway.

Carl is devastated and thinks this is a phase James is going through and that in time their relationship will be fine. Carl is prepared to wait and see what happens, but is worried in the intervening period that he has no financial support.

Advise Carl of the likelihood of gaining immediate financial support for himself and the children from James, and the considerations that will be taken into account.

**(25 marks)**

**End of Examination Paper**

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