

# ANNEX 3: CHARTERED LEGAL EXECUTIVE LITIGATOR AND ADVOCATE (FAMILY LITIGATION)

A Chartered Legal Executive (Family Litigation) must follow the Chartered Legal Executive route to qualification as being a CILEx Fellow is a pre-requisite of practising family litigation independently.

The technical knowledge requirements are set out below and must be coupled with the general qualification route to Chartered Legal Executive status. Where knowledge outcomes have been met as part of the route to qualification as a Chartered Legal Executive, this need not be repeated.

Chartered Legal Executive knowledge requirements should be set and assessed at Level 6 as a minimum

In addition to demonstrating this knowledge, individuals must also demonstrate the requirements set out in the competence framework, contextualised for their area of practice.

## TECHNICAL KNOWLEDGE REQUIREMENTS:

### GENERAL KNOWLEDGE REQUIREMENTS FOR ALL CHARTERED LEGAL EXECUTIVES

<b>MINIMUM CONTENT:</b>
<b>STAGE 1</b>
Introduction to law and legal practice
Introduction to dispute resolution
Introduction to conveyancing
Introduction to criminal practice
Introduction to wills and probate
Introduction to public law
Introduction to equality and human rights law
Introduction to legal technology
Conduct and professional ethics
<b>STAGE 2</b>
Contextualised legal technology
Conduct and professional ethics
<b>CHARTERED LEGAL EXECUTIVE</b>
Basic accounts
Specialist legal technology
Conduct and professional ethics

### KNOWLEDGE REQUIREMENTS SPECIFIC TO A CHARTERED LEGAL EXECUTIVE (FAMILY LITIGATION)

<b>MINIMUM CONTENT:</b>
<b>Family Law</b>
Formation of marriage and civil partnership
Validity of marriage and civil partnerships
Dissolution, nullity, judicial separation and divorce
Financial provision during and after marriage/civil partnership
Provisions for family property and ownership
Inheritance and intestacy
Cohabitation and financial consequences of a relationship breakdown including the Trusts of Land and Appointment of Trustees Act 1996

Domestic violence and abuse
Legal basis of parental responsibility
Legal provisions relating to private matters under the Children Act 1989
<b>Family law practice</b>
The Family Court
Alternative dispute resolution in family law
Law and procedure relating to termination of a marriage/civil partnership
Pre-marital agreements
Financial orders following divorce or dissolution
Pensions in financial proceedings
Procedures for financial orders, including variation and enforcement
Protection orders and procedures in cases of domestic violence and abuse
Private children law procedures
Child abduction
Public children procedures
<b>Child care law practice</b>
Legal framework governing children proceedings including the public law proceedings from the Children Act 1989
Role, powers and duties of personnel involved in child protection processes and proceedings
Duties of local authorities in relation to the welfare and protection of children
Law and procedures relating to care and supervision orders
Options for securing a permanent placement for a child
Emergency interventions

## **COMPETENCE REQUIREMENTS:**

### **1. APPLICATION OF LAW AND PRACTICE**

- ✓ Undertake legal research
  - Use relevant sources and appropriate research tools
  - Apply current law to the research problem
  - Record and present findings accurately and clearly
- ✓ Critically analyse facts and law
- ✓ Synthesise all relevant information to provide advice
- ✓ Find solutions where possible
- ✓ Draft legal documents and other communications
  - Apply the principles of good drafting to produce clear, unambiguous and accurate documents [and agreements] with appropriate language structure and formatting and which meet all formal and legal requirements
  - Select forms and precedents and use, adapt and edit them in a way that is appropriate to family proceedings and proceedings relating to children
  - Draft a document, whether from scratch or by using precedents that forms a coherent whole and, which reflects the client's wishes and objectives, and where appropriate advances the matter and manages client risk

### **2. COMMUNICATION**

- ✓ Communicate orally and in writing, clearly and effectively:
  - Choose the most appropriate method of communication, including electronic communication and observing appropriate etiquette
  - Use language tailored to the audience and the purposes of the communication
  - Apply oral communication and listening skills to build trust, ask questions and understand, to provide explanation and advice as appropriate
  - Produce clear, unambiguous and accurate written communications with appropriate language and structure
  - Demonstrate emotional competence to achieve effective communication
- ✓ Negotiate effectively
  - Identify when negotiation is necessary
  - Demonstrate effective preparation and planning and apply strategies which reflect an understanding of the client's objectives, expectations and risk, and which seeks to manage those appropriately as far as possible

- Identify and evaluate the interests, strengths, weaknesses and risks of other parties who have an interest in the matter being negotiated
- Choose and explain the most appropriate method of negotiation (e.g. letter, face to face meeting etc.)
- Take the necessary steps to ensure agreement/compromise reached is clear and lawful, and where appropriate, legally binding
- Behave ethically in negotiating agreement or compromise
- ✓ Advocate/oral presentation
  - Comply with the rights of audience and conduct rules as they apply in Family proceedings

*(Chambers rights only)*

  - Draft:
    - a skeleton argument using case analysis and theory, and
    - a consent order

*(Open court rights)*

  - Analyse relevant facts and law to achieve effective preparation which anticipates and responds to potential counter arguments and challenges, and which advances the client's case
  - Apply principles of good writing and drafting in the preparation and presentation of written submissions
  - Make oral presentations that are clear, succinct, focused, relevant to the context, persuasive and appropriate to the audience
  - Respond to arguments and questions presented during a hearing
  - Demonstrate courtesy and respect for equality and diversity
  - Examine, cross-examine and re-examine appropriately and using emotional competence
  - Identify when it is appropriate to adduce expert evidence and challenge expert evidence effectively
  - Demonstrate good practice when dealing with vulnerable clients and witnesses
  - Deal effectively with uncooperative witnesses
  - Identify issues of ethical and professional conduct and take appropriate action
  - Act according to the requirements of court etiquette and conventions of advocacy
- ✓ Develop, maintain and manage 3<sup>rd</sup> party relationships
  - Work both independently and as part of a team
  - Conduct effective interviews with potential witnesses
  - Deal with others involved in a matter appropriately, professionally and ethically
  - Provide others involved in a matter with appropriate information, instructions and guidance

- Identify and where appropriate instruct an advocate or expert

### **3. CLIENT RELATIONSHIP**

- ✓ Take instructions
  - Conduct effective interviews with a client to achieve a full understanding of the facts
  - Identify and obtain and where appropriate, investigate all relevant facts
  - Recognise when information is missing or held by 3<sup>rd</sup> parties and acquire the necessary consents to obtain it
  - Identify and apply specific requirements relating to children and vulnerable clients
- ✓ Evaluate options and risks to the client
  - Analyse the strengths and weaknesses of the prosecution case or defence
  - Evaluate options and formulate a strategy compatible with the client's objectives which is legally, ethically and procedurally sustainable
  - Identify issues, including the client's personal circumstances, which may impact on the achievement of the client's objectives,
- ✓ Give advice
  - Communicate clear, accurate and practical advice, both orally and in writing, on matters relating to law, procedure and strategy and possible outcomes if family proceedings
  - Give clear and accurate advice on funding
- ✓ Provide good customer service
  - Identify the steps which need to be taken to achieve the client's wishes or further their objectives and plan and implement their progress
  - Communicate with the client on progress towards achieving their objectives, as far as practicable, including risks which have not previously been identified

### **4. EFFECTIVE WORKING PRACTICES**

- ✓ Progress matters
  - Deal with matters without causing delay
  - Identify and manage risks as far as practicable to the achievement of the client's objectives
- ✓ Plan workload and manage files
  - Plan and prioritise workload and manage files and tasks concurrently and efficiently, making best use of resources and exercising effective judgement
  - Maintain files and records in accordance with office and regulatory procedures

- Seek support where necessary
- Manage financial transactions on the file
- ✓ Caseload management
- ✓ Understand and utilise innovation where appropriate

## **5. BUSINESS AWARENESS**

- ✓ Identify and evaluate options and risks to the business in which you work
- ✓ Undertake business development
- ✓ Network
- ✓ Identify marketing opportunities
- ✓ Understand and use financial management tools

## **6. SELF DEVELOPMENT**

You will be able to:

- ✓ Reflect and self-evaluate, including understanding your own limitations and the need for adaptability.
- ✓ Develop awareness of the role of your own emotions within the workplace and recognise the emotions and vulnerabilities of clients.
- ✓ Foster personal physical and mental wellbeing and contribute where possible to a positive workplace environment.
- ✓ Identify and undertake professional development necessary to ensure competence and good practice and a commitment to supervisory requirements.
- ✓ Demonstrate leadership and management skills (optional).

## **7. CONDUCT, ETHICS AND PROFESSIONALISM**

- ✓ Understand and put into practice the CILEx Regulation Code of Conduct and the CILEx Rights of Audience Conduct Rules
  - Apply professional obligations in a diverse range of situations relating to substantive law and the rules of professional conduct
  - Apply obligations to the court, clients, other lawyers and the public
- ✓ Understand and put into practice all relevant legal and regulatory requirements (e.g. data protection, anti-money laundering legislation and regulation, conflicts, withdrawal from a case, undertakings, confidentiality and privilege)
- ✓ Understand and put into practice the principles of client care
- ✓ Provide certainty and clarity as to the legal services being provided and the basis of charging and draft compliant client care letters
- ✓ Understand and put into practice complaint handling requirements

- Apply the conduct rules
- Take the necessary steps required in the event that a mistake (or an act of negligence) has occurred
- ✓ Identify issues where ethical, legal and regulatory requirements are engaged and take appropriate action
- ✓ Recognise and handle value conflicts and ethical dilemmas to maintain professional integrity
- ✓ Resist pressure to condone, ignore or act unethically

## **8. USE OF TECHNOLOGY**

- ✓ Use available technology as it is used in family proceedings and proceedings relating to children
- ✓ Identify uses for emerging technology in family and child care law and practice and recommend its implementation where appropriate
- ✓ Understand ethical challenges and the limitations of technology and use technology ethically