

# ANNEX 7: CHARTERED LEGAL EXECUTIVE (EMPLOYMENT)

A Chartered Legal Executive (Employment) may follow the Chartered Legal Executive route to qualification.

The technical knowledge requirements are set out below and must be coupled with the general qualification route to Chartered Legal Executive status where this authorisation is sought. 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 (EMPLOYMENT)

<b>MINIMUM CONTENT:</b>
<b>Employment Law and Practice</b>
An understanding of the law relating to the formation and structure of the employment relationship including the statutory definitions of “employee” and “worker”.
An understanding of the various means of engaging labour and the respective legal implications of each as well as the rights and obligations of each of the parties.
An understanding of the contract of employment: legality; formalities and; express and implied terms.
An understanding of the use of express terms to protect the business interests of the employer
An understanding of ‘Vicarious liability’ of employers for certain actions of employees

An understanding of the remuneration package, including holiday pay pay and working time regulation and family friendly policies
An understanding of termination of a contract and the consequences at common law and statute
An understanding of the protections given to workers against unlawful treatment, unfair, constructive and wrongful dismissal and redundancy
An understanding of the principles and concepts which underpin the law on discrimination in the workplace including equal pay
An understanding of the law and policy relating to fair reasons for dismissal
An understanding of the law and procedure relating to presenting and defending claims for unlawful treatment, unfair and wrongful dismissal, including remedies available, recoupment of benefits and of interest on Employment Tribunal awards
An understanding of the tax implications of termination payments and Employment Tribunal awards
An understanding of the law and procedure relating to presenting and defending claims of discrimination
An understanding of employment rights and protections governed by the Transfer of Undertaking Regulations
An understanding of the role of ACAS
An understanding of the processes leading to a settlement of employment disputes and compromise agreements
An understanding of the implications of Insolvency and Employment Law
Understanding best practice in HRM
Throughout to demonstrate an ability to act honestly and with integrity and in accordance with the principles of professional conduct rules

## **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
  - 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 employment law and employment and discrimination disputes and proceedings
  - Correctly use numbering, schedules, recitals, definitions and boilerplate provisions in the drafting of documents and agreements
  - Draft a document, whether from scratch or by using precedents, that forms a coherent whole and, which reflects the client's objectives, and where appropriate advances the matter and provides a clear risk analysis

### **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
  - Recommend any appropriate employment ADR processes which would be in the best interest of the client and advise the client as to how to pursue a particular ADR process and achieve lawful and binding settlement

- Demonstrate effective preparation and planning and apply strategies which reflect an understanding of the client's objectives, expectations and risk, and which manages those appropriately
  - 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 or settlement reached is clear and lawful, and legally binding
  - Behave ethically in negotiating agreement or settlement
- ✓ Advocate/oral presentation
    - Make oral presentations that are clear, succinct, focused, relevant to the context, persuasive and appropriate to the audience
  - ✓ Advocate (*employment tribunal - optional*)
    - Apply principles of good writing and drafting in the preparation and presentation of written submissions
    - Devise and sustain arguments and questions based on the appropriate use of the main modes of enquiry found in Employment Law
    - 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
    - Make oral presentations that are clear, succinct, focused, relevant to the context, persuasive and appropriate to the audience
    - Respond to arguments presented during a hearing
    - Demonstrate courtesy and respect for equality and diversity
    - Examine, cross-examine and re-examine appropriately 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 across a range of employment disputes
    - Deal with other professionals involved in a matter appropriately, professionally and ethically
    - Provide other professionals involved in a matter with appropriate information, instructions and guidance
    - Identify when to instruct an advocate or expert

### **3. CLIENT RELATIONSHIP**

- ✓ Take instructions
  - Conduct effective interviews with a client to achieve a full understanding of the client's objectives and concerns, and where appropriate, the nature of any claim or defence which may have arisen
  - Identify, seek to obtain and, where appropriate investigate all relevant facts
  - Recognise where information is missing or held by 3<sup>rd</sup> parties and acquire the necessary consent to obtain it
  - Identify actual or potential conflicts and act accordingly
- ✓ Evaluate options and risks to the client
  - Formulate a case strategy which is compatible with the client's objectives and is legally and procedurally sustainable
  - Identify issues, including the client's personal circumstances, which may impact on the achievement of the client's objectives
  - Identify any alternative means of achieving the client's wishes and objectives
- ✓ Give advice
  - Communicate clear, accurate and practical advice, both orally and in writing to employers and workers on matters relating to employment law, procedure, strategy and to the prospects of success in employment and discrimination disputes
- ✓ Provide clear and accurate advice on funding
- ✓ Manage expectations
- ✓ Provide good customer service
  - Identify the steps which need to be taken to achieve or further the clients' objectives as far as practicable and plan and implement their progress
  - Communicate with the client on progress towards achieving their objectives, 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 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**

- ✓ 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
  - 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

- ✓ Understand and put into practice, principles of equality and diversity, including the needs of vulnerable consumers
- ✓ Identify situations where ethical, legal or regulatory requirements are engaged and take appropriate action
- ✓ Resist pressure to condone, ignore or act unethically

## **8. USE OF TECHNOLOGY**

- ✓ Use available technology as it is used in employment law matters and disputes
- ✓ identify uses for emerging technology in employment law practice and recommend its implementation where appropriate
- ✓ Understand ethical challenges of technology and use technology ethically