

# Family Law Accreditation Scheme Advanced

## Knowledge and skills criteria

Education and Training Unit  
Version 1

### Element 1: knowledge of law, procedure and ethics

Applicants must be able to demonstrate ongoing competence in each of the areas in respect of which they were successfully assessed to achieve membership of the Family Law Accreditation Scheme.

Additionally, applicants must be able to demonstrate a detailed knowledge of and an ability to apply, the law, procedure and ethics in each of their chosen specialist areas.

Applicants must also be able to demonstrate, in each of their chosen specialist areas of practice:-

- 1.1 a detailed knowledge of and ability to apply ethical principles, particularly those relevant to issues arising from family breakdown, including knowledge of codes of conduct, Practice Directions, the Family Law Protocol and best practice guidance issued by the Solicitors Regulation Authority (SRA);
- 1.2 a clear understanding of and ability to comply with the professional and statutory obligations and duties of solicitors;
- 1.3 a detailed knowledge of and ability to apply both statutory and professional obligations in relation to confidentiality, particularly in cases involving children;
- 1.4 a detailed knowledge of and ability to apply the Rules of Evidence;
- 1.5 a detailed knowledge of how and when to instruct experts, including Counsel;
- 1.6 an understanding of and ability to apply the Human Rights Act 1998 and the impact of the Act in relation to family practice;
- 1.7 an awareness of and ability to apply alternative methods of resolving disputes, including in particular:
  - mediation;
  - early neutral evaluation;
  - negotiation between solicitors.

For alternative formats, email [info.services@sra.org.uk](mailto:info.services@sra.org.uk) or telephone 0870 606 2555.

## **Specialist areas of practice**

Note: In all areas where knowledge of law is required, applicants will be expected also to know the case law arising from that legislation.

### **Children Law – Private**

- 2.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law relating to:-
- private law Children Act proceedings and those aspects of public law which impact on private law proceedings, including section 37 of the Children Act 1989;
  - emergency orders;
  - appeals procedures;
  - the ambit of the High Court jurisdiction;
  - the statutory provisions surrounding confidentiality;
  - implacable hostility to contact.
- 2.2 Applicants must be able to demonstrate an understanding of and ability to apply the law relating to:
- wardship and the inherent jurisdiction;
  - adoption;
  - Part IV of the Family Law Act 1996 (as amended);
  - child support legislation;
  - Adoption & Children Act 2002
- 2.3 Applicants must be able to demonstrate a detailed knowledge and experience of practice and procedure in all aspects of private law children cases, including:-
- procedure in contested cases;
  - emergency procedures;
  - allocation of cases;
  - the role of CAFCASS.

### **Cohabitation**

- 3.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law relating to:
- implied, constructive and resulting trusts, equitable doctrines and remedies;
  - the Trusts of Land and Appointment of Trustees Act 1996;
  - licences, rights, remedies and the procedure for applications under Part IV Family Law Act 1996, including Schedule 7;
  - contractual liabilities;
  - the Married Women's Property Act 1882;
  - Children Act 1989, Schedule 1;
  - Intestacy;
  - the Inheritance (Provision for Family and Dependents) Act 1975 (as amended by the Law Reform (Succession) Act 1995;

- the Protection from Harassment Act 1997;
- child support legislation;
- Civil Partnership Act 2004

3.2 Applicants must be able to demonstrate a detailed knowledge and experience of all aspects of practice and procedure including:

- the principles of cohabitation agreements;
- interlocutory remedies, including civil proceedings;
- emergency proceedings;
- appeals procedure.

### **Violence in the home**

4.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law relating to:

- Part IV of the Family Law Act 1996 (as amended).

4.2 Applicants must be able to demonstrate an understanding of the law and ability to apply relating to:

- the Protection from Harassment Act 1997;
- the torts of assault and trespass.

4.3 Applicants must be able to demonstrate a detailed knowledge and experience of practice and procedure in relation to applications under the above provisions, including:

- non-molestation and occupation orders;
- the acceptance of undertakings;
- remedies ancillary to occupation orders;
- enforceability of orders;
- screening for domestic abuse;
- awareness of police procedures.

### **Limited means cases**

5.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law relating to:

- sections 22 to 31 Matrimonial Causes Act 1973;
- child support legislation;
- public funding and the statutory charge.

5.2 Applicants must be able to demonstrate an understanding of and ability to apply the law relating to:

- welfare benefits;
- insolvency;
- housing.

5.3 Applicants must be able to demonstrate a detailed knowledge and experience of practice and procedure relating to cases where the parties' financial assets are of limited value, including:

- cases where the parties or either of them has debts;
- cases where the matrimonial home is rented, and/or where the parties are faced with possession proceedings;
- cases where the matrimonial home is mortgaged and the parties are faced with re-possession proceedings and/or where there is negative equity in the property;
- cases where one party is in receipt of, or likely to need welfare benefits.

### **Conduct of and advice in ancillary relief**

6.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law relating to:

- sections 21 to 40 Matrimonial Causes Act 1973;
- Rules 2.51 to 2.70 Family Proceedings Rules 1991;
- the Ancillary Relief Protocol.
- section 37 Supreme Court Act 1981;
- the relevant parts of the Civil Procedure Rules 1998;
- developing case law.

6.2 Applicants must be able to demonstrate a detailed knowledge and experience of practice and procedure relating to the conduct of ancillary relief cases, including:

- the role of the advocate;
- preparing offers and protecting clients position on costs;
- preparing for and representing clients at:
  - interlocutory hearings;
  - first appointments;
  - financial dispute resolution hearings;
  - final hearings (although applicants will not be required to demonstrate experience of conducting those hearings themselves);
- preparing:
  - chronologies;
  - schedules of assets;
  - skeleton arguments;
  - written submissions;
  - a Calderbank offer.
- drafting and obtaining emergency orders for ancillary relief;
- enforcing those orders;

- drafting and obtaining orders in non-emergency ancillary relief cases.
- obtaining asset valuations;
- obtaining and assessing information
- issues relevant to agreeing a clean break settlement;
- matters to which the court should have regard in exercising its powers

### **Complex asset cases**

7.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law relating to:

- remedies available under the Matrimonial Causes Act 1973;
- asset sheltering, through off-shore trusts, companies and other entities;
- pension provision;
- relevant trust law;
- section 37 Supreme Court Act 1981.

7.2 Applicants must be able to demonstrate an understanding of and ability to apply the law relating to:

- tax, including revenue or VAT fraud;
- companies, including flotation and borrowing against company assets;
- jurisdiction;
- search and find orders (formerly Anton Pillar);
- freezing orders (formerly Mareva);
- Applications to prevent parties leaving the jurisdiction;
- the relevant parts of the Civil Procedure Rules 1998
- dealing with inherited assets.

7.3 Applicants must be able to demonstrate a detailed knowledge and experience of practice and procedure relating to the conduct of cases involving complex assets, including:

- obtaining asset valuations;
- obtaining and assessing information
- drafting, obtaining and enforcing orders;
- issues relevant to agreeing a clean break settlement;
- matters to which the court should have regard in exercising its powers.

### **Child abduction and wardship**

8.1 Applicants must be able to demonstrate a detailed knowledge of and ability to apply the law in relation to:

- The Hague Convention on Civil Aspects of the International Child Abduction 1980;
- The European Convention 20<sup>th</sup> May 1980;
- The Child Abduction and Custody Act 1985;
- The Children Act 1989;

- Wardship.

8.2 Applicants will be required to demonstrate a detailed knowledge and experience of practice and procedure in child abduction cases, including:

- Lawful removal from the jurisdiction;
- the procedure on notification of an abduction;
- what amounts to wrongful retention;
- the meaning of habitual residence, rights of access and custody;
- defences to a charge of child abduction;
- procedure for recovery of a child from a convention country;
- procedure for recovery of a child from a non-convention country.

## **Element 2: Understanding and dealing sensitively with the client and the case**

Applicants must be able to demonstrate the ability to understand the client's issues, needs and objectives and to advise appropriately.

- (i) Applicants must be able to demonstrate an ability to manage the client's case. This will be evidenced by:
- understanding the client's emotional state;
  - obtaining relevant information from the client;
  - identifying underlying as well as presenting issues;
  - obtaining details of the client's objectives and advising accordingly;
  - understanding the client's needs, both immediate and longer-term and advising accordingly;
  - analysing material presented by the client and other parties;
  - applying the relevant law to the issues presented and advising the client appropriately;
  - managing the client's expectations and giving early advice on likely outcomes;
  - undertaking and explaining to the client a costs benefit analysis;
  - identifying and explaining to the client any risks involved in pursuing a particular course of action;
  - agreeing and implementing with the client a strategy for dealing with the issues;
  - identifying and meeting any key dates;
  - in consultation with the client, keeping the strategy under review and amending as appropriate;
  - keeping the client properly informed, including regular information about costs, throughout the case.
- (ii) Applicants must be able to demonstrate an awareness of issues of race, gender, or other diversity and an ability to communicate appropriately with the client when those issues are identified.

### **Element 3: Professional skills**

Applicants must be able to demonstrate skills appropriate to those undertaking family cases.

- (i) Applicants must be able to demonstrate the following skills:
- legal analysis;
  - communication;
  - drafting (including pleadings and consent orders);
  - advocacy (where appropriate);
  - negotiation;
  - case management;
  - numeracy.
- (ii) Applicants must be able to demonstrate an ability to analyse and reflect upon their work. In particular, applicants should identify any areas which could have been dealt with differently and what alternative courses of action might have been more appropriate.
- (iii) Applicants must be able to demonstrate a commitment to personal development. In particular, applicants must show details of CPD undertaken over the last 12 months and identify their learning objectives and the CPD they plan to undertake over the next 12 months.