ANNEX 6: CHARTERED LEGAL EXECUTIVE (PROBATE) OR CILEX PRACTITIONER (PROBATE)[1]

There are two available routes that individuals can take to be authorised to practise probate independently.

Individuals seeking to be authorised as a Chartered Legal Executive (Probate) must follow the Chartered Legal Executive route to qualification.

Alternatively, an individual may complete the knowledge requirements specific to becoming a CILEX Practitioner (Probate) (for stage 1 highlighted in grey + stage 2), in which case they will be authorised as a CILEX Practitioner (Probate) and not a Chartered Legal Executive.

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.

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

Chartered Legal Executive and CILEX Practitioner requirements should be set and assessed at Level 6 as a minimum.

[1] This document forms the education standards for Probate Practitioners

TECHNICAL KNOWLEDGE REQUIREMENTS:

GENERAL KNOWLEDGE REQUIREMENTS FOR ALL CHARTERED LEGAL EXECUTIVES

MINIMUM CONTENT:
STAGE 1
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
STAGE 2
Contextualised legal technology
Conduct and professional ethics
CHARTERED LEGAL EXECUTIVE Or CILEX PRACTITIONER
Basic accounts
Specialist legal technology
Conduct and professional ethics

KNOWLEDGE REQUIREMENTS SPECIFIC TO A CHARTERED LEGAL EXECUTIVE (PROBATE) OR CILEX PRACTITIONER (PROBATE)

MINIMUM CONTENT:
Wills and Probate Practice
Formal requirements for making a will
Testamentary capacity and intention
Duress and undue influence
Legal principles relating to appointment of executors, trustees and guardians
Legal principles relating to legacies, devises and residuary dispositions
Practicalities when dealing with the execution of a will
Alterations to a will and the use of codicils

Revocation
Principles of construction
Assets passing outside of a will
Entitlement to property on intestacy
Law and procedure relating to Grants of Representation including de bonis non and limited grants
Use of caveats, citations and standing searches
Powers, duties and liabilities of personal representatives
Law and practice relating to the administration and distribution of the estate including taxation of personal representatives and beneficiaries
Claims against the estate under the Inheritance (Provision For Family and Dependants) Act 1975 and the effect on the distribution of the estate and the operation of the intestacy rules
Effect of post death variations and disclaimers
The preparation and purpose of estate accounts
Key principles of inheritance tax relating to lifetime transfers, transfers on death and trusts
Inheritance Tax – rates, allowances, exemptions, reliefs, and liability and burden
Rules for the submission of IHT accounts to HMRC and payment of IHT including the instalment option
Basic principles of income tax and capital gains tax applying to personal representatives, trustees and beneficiaries
Basic estate planning in lifetime and by will, including anti-avoidance provisions
The law and procedure relating to Enduring and Lasting Powers of Attorney
Living and statutory wills
Requirements for mental capacity when making lifetime gifts and the law and procedure relating to the appointment of Deputies when required
Equity and trusts
The role of equity and equitable principles
Equitable remedies
The creation of trusts including those created expressly or imposed by law (statutory trusts, implied trusts, resulting trusts and constructive trusts)
Basic rules relating to charitable and other purpose trusts
The duties, remedies, liabilities and powers of trustees
Rights, remedies and powers of beneficiaries
Anti-money laundering legislation, trust registration and Data Protection requirements affecting personal representatives and trustees

COMPETENCE REQUIREMENTS:

1. **APPLICATION OF LAW AND PRACTICE**

   - ✓ Undertake legal research
   - ✓ Critically analyse facts and law
   - ✓ Synthesise all relevant information to provide advice
   - ✓ Find solutions where possible
   - ✓ Draft legal documents

2. **COMMUNICATION**

   - ✓ Communicate orally and in writing, clearly and effectively
   - ✓ Negotiate effectively
   - ✓ Deliver advocacy/oral presentations
   - ✓ Develop, maintain and manage 3rd party relationships

3. **CLIENT RELATIONSHIPS**

   - ✓ Take instructions
   - ✓ Evaluate options and risks to your client
   - ✓ Give advice
   - ✓ Provide good customer service

4. **EFFECTIVE WORKING PRACTICES**

   - ✓ Progress matters
   - ✓ Plan workload and manage files
   - ✓ Manage caseload

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 Code of Conduct
- ✓ 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
- ✓ Understand and put into practice principles of equality, diversity and inclusion, 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 probate
- ✓ Identify uses for emerging technology in probate and recommend its implementation where appropriate
- ✓ Understand ethical challenges and the limitations of technology and use technology ethically