

# ANNEX 6: CHARTERED LEGAL EXECUTIVE (PROBATE) OR CILEX PRACTITIONER (PROBATE)<sup>1</sup>

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.

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<sup>1</sup> This document forms the education standards for Probate Practitioners

## TECHNICAL KNOWLEDGE REQUIREMENTS:

### GENERAL KNOWLEDGE REQUIREMENTS FOR ALL CHARTERED LEGAL EXECUTIVES

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| <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 Or CILEX PRACTITIONER</b> |
| Basic accounts   |
| Specialist legal technology                            |
| Conduct and professional ethics                        |

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

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| <b>MINIMUM CONTENT:</b>                           |
| <b>Wills and Probate Practice</b>                 |
| Formal requirements for making a will             |
| Testamentary capacity and intention               |
| Duress and undue influence                        |
| Legal principles relating to legacies and devises |
| Execution of a will                               |
| Alterations to a will and the use of codicils     |
| Revocation  |

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| Principles of construction   |
| Assets passing outside of a will   |
| Statutory rules for entitlement to property on intestacy, including the Inheritance and Trustees Powers Act 2014   |
| Law and procedure relating to Grants of Representation   |
| Powers, duties and liabilities of personal representatives   |
| Law and practice relating to the administration and distribution of the estate including taxation  |
| 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 of estate accounts   |
| Key principles of inheritance tax relating to lifetime transfers, potentially exempt transfers and transfers on death  |
| Inheritance Tax – exemptions and reliefs, anti-avoidance provisions  |
| Rules for the submission of IHT accounts to HMRC   |
| Basic principles of income tax, capital gains tax and IHT applying to trusts   |
| Basic inheritance tax planning in lifetime and in the will   |
| The law and procedure relating to Enduring and Lasting Powers of Attorney  |
| Living and statutory wills   |
| Requirements for mental capacity   |
| <b>Equity and trusts</b>   |
| The role of equity and equitable principles  |
| Equitable remedies   |
| The creation of trusts including when trusts will be implied by law (resulting trusts, constructive trusts and secret trusts)  |
| Rules relating to purpose trusts   |
| The duties, remedies and powers of personal representatives and trustees   |
| Rights, remedies and powers of beneficiaries   |
| Anti-money laundering legislation  |

## **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 3<sup>rd</sup> 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