**ANNEX 6: WILLS AND PROBATE PRACTITIONER**

A Wills and Probate Practitioner may follow the Chartered Legal Executive route to qualification or they may complete the knowledge requirements specific to becoming a wills and probate practitioner, highlighted in grey for stage 1 + stage 2.

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.

Practitioner 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 CILEx PRACTITIONERS**

|  |
| --- |
| **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 |
| **PRACTITIONER** |
| Basic accounts |
| Specialist legal technology |
| Conduct and professional ethics |

**KNOWLEDGE REQUIREMENTS SPECIFIC TO WILLS AND PROBATE PRACTITIONER**

|  |
| --- |
| **MINIMUM CONTENT:** |
| **Wills and Probate Practice** |
| 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 |
| Principles of construction |
| Statutory rules for entitlement to property on intestacy |
| 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 |
| 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 |
| 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 |
|  |
| **Equity and trusts** |
| The role of equity and equitable principles |
| Equitable remedies |
| The creation of trusts including when trusts will be implied by law |
| 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**

Using the technical knowledge from the wills and probate framework, you will be able to:

* Find solutions
* 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
* Draft legal documents
  + Apply the principles of good drafting to produce clear, unambiguous and accurate documents and agreements with appropriate language, structure and formatting which meet all formal and legal requirements
  + Select precedents and templates and use, adapt and edit appropriate to the matter or transaction
  + 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, which reflects the clients objectives and, where appropriate, advances the matter or transaction and manages client risk

1. **COMMUNICATION**

You will be able to:

* Communicate orally and in writing, clearly and effectively:
  + Choose the most appropriate method of communication, including electronic communication
  + 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
  + Apply the principles of good writing to produce clear, unambiguous and accurate written communications with appropriate language and structure
  + Use electronic communication appropriately, observing email etiquette
  + Demonstrate emotional intelligence to achieve effective communication
* Negotiate
  + 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 manages those appropriately
  + Identify and evaluate the interests, strengths, weaknesses and risks of other parties who have an interest in the agreement or compromise
  + 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 compromise reached is clear and lawful, and where appropriate, legally binding
  + Apply ethical behaviours in negotiating agreement or compromise
* Advocacy/oral presentation
  + Apply oral presentation techniques clearly, succinctly and persuasively, appropriate to the audience and focussed and relevant to the context
* Develop, maintain and manage 3rd party relationships
  + Work both independently and as part of a team
  + 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
* Develop, maintain and manage 3rd party relationships
  + Work both independently and as part of a team
  + 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

1. **CLIENT RELATIONSHIP**

You will be able to:

* Take instructions
  + Conduct effective interviews with a client to achieve a full understanding of the client’s wishes, objectives and concerns
  + Identify and obtain all relevant information necessary to achieve the client’s wishes, objectives and concerns
  + Recognise where information is missing or held by 3rd parties and acquire the necessary consents to obtain it
  + Obtain all information necessary to understand the roles and interests of the parties involved in the matter to give advice, plan for the progress and completion of the matter
  + Identify actual or potential conflicts and act accordingly
* Evaluate options and risks to the client
  + Be alert to issues of undue influence and duress
  + Identify issues, including the client’s personal circumstances, which may impact on the achievement of the client’s wishes and objectives,
  + Identify any alternative means of achieving the client’s wishes and objectives
* Give advice
  + Give and communicate clear, accurate and practical advice, both orally and in writing, relevant to the matter
* Manage expectations
* Provide 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 , including any risks which have not previously been identified

1. **EFFECTIVE WORKING PRACTICES**

You will be able to:

* Progress matters
  + Deal with matters without causing delay
  + Identify and manage risks 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 procedures
  + Seek support where necessary
  + Manage financial transactions on the file
* Project manage
* Understand and utilise innovation (entrepreneurship)

1. **BUSINESS AWARENESS**

You will be able to:

* Identify and evaluate options and risks to the business is which you work
* Undertake business development
* Network
* Identify marketing opportunities
* Understand and use financial management

1. **SELF DEVELOPMENT**

You will be able to:

* Reflect and self-evaluate, open to change
* Understand your own limitations
* Identify and undertake professional development necessary to ensure continuing competence and good practice and a commitment to supervisory requirements
* Be resilient
* Demonstrate leadership and management including management of others

1. **CONDUCT, ETHICS AND PROFESSIONALISM**

You will be able to:

* Identify, 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
* Identify, understand and put into practice all 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 Including being able to draft a client care letter
* Provide certainty and clarity as to the legal services being provided and the basis of charging
* 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, diversity and inclusion, including the needs of vulnerable consumers
* Recognise and handle value conflicts and ethical dilemmas to maintain professional integrity
* Understand and apply ethical concepts and resist pressure to condone, ignore or act unethically

1. **USE OF TECHNOLOGY**

You will be able to:

* Use available technology and systems as it is used in will drafting and the administration of estates and associated matters
* Identify uses for emerging technology in wills and probate practice
* Understand ethical challenges and the limitations of technology and use technology ethically
* Use technology ethically