

GUERNSEY BAR EXAMINATION

09:30AM TUESDAY 20 MAY 2025

PAPER FOUR

FAMILY LAW

THREE HOURS

CANDIDATES ARE REQUIRED TO ANSWER ALL QUESTIONS. THE MARKS AVAILABLE FOR EACH QUESTION ARE SHOWN BELOW.

- **QUESTION 1 – 20 MARKS**
- **QUESTION 2 – 20 MARKS**
- **QUESTION 3 – 20 MARKS**
- **QUESTION 4 – 20 MARKS**
- **QUESTION 5 – 20 MARKS**

MARKS WILL BE GIVEN FOR REFERENCES TO APPLICABLE LEGISLATION AND CASE LAW.

PLEASE ENSURE THAT THE FOLLOWING IS CLEARLY MARKED ON EACH PAGE OF YOUR ANSWER SCRIPT:

- **NAME OF PAPER**
- **CANDIDATE LETTER**
- **QUESTION NUMBER**
- **PART NUMBER OF QUESTIONS (if applicable)**

MATERIALS PROVIDED (all consolidated texts, where applicable):

1. **The Children (Guernsey and Alderney) Law, 2008**
2. **The Family Proceedings (Guernsey and Alderney) Rules, 2009**
3. **Matrimonial Causes Law, 2022**

Question 1

Josh (aged 60) and Edith (aged 55) have been married for 35 years. They have adult children from the marriage. Josh and Edith were born and married in England, they moved to Guernsey in April 2024 and split up a few months later. Before they married, Josh and Edith entered into a pre-nuptial agreement. They both had legal advice on the terms. The agreement states that it is intended to govern the terms of any separation or divorce, regardless of where proceedings take place. The agreement states further that, in the event of a breakdown of the marriage, Josh and Edith shall divide jointly owned property in equal shares, they will each retain any assets held in their sole name and there will be no spousal provision.

Before the marriage, Josh inherited a portfolio from his father which has remained in his sole name. It is now worth £2.5 million. He has an occupational pension with a CETV of £500,000. Edith has nothing in her sole name but expects to inherit something from her (fit and healthy) parents in due course. Josh and Edith have the following assets in their joint names: the matrimonial home worth £5 million and savings of £750,000. Edith has not worked since the marriage. Josh earns £100,000 net per annum and must retire from his job at the age of 65. Edith has a new boyfriend and they are planning to live together soon.

Josh would like to get divorced and would like to settle finances in accordance with the pre-nuptial agreement. Josh would like you to advise Edith too, as they both wish to keep legal fees to a minimum.

Advise Josh.
(20 marks)

Question 2

You are acting for Emma in her divorce from Robert. Emma and Robert have two young children, and they have agreed that the children will have their main home with Emma, and a good level of contact with Robert. A divorce order has been made and Robert has moved out of the family home. Robert is a litigant in person. Emma is keen to sort out financial matters, but she knows nothing about Robert's finances beyond the fact that he has a good job as an accountant and has, to date, paid all of the household bills. They do not have a joint account, and Robert pays Emma £1,000 each month to buy food and 'anything else' she needs. Emma does not work. She is very short on cash and is worried that Robert may stop paying funds to her and that he may not continue to pay the bills. She cannot afford to pay your legal costs. Robert thinks that things should stay as they are and has refused to make financial disclosure. You have advised Emma that proceedings will have to be issued to make progress towards resolving the finances.

Advise Emma on the following:

- i. What procedure will you follow to obtain financial information from Robert, and to resolve financial issues?
[7 marks]
- ii. Emma is keen to settle finances by agreement. Is this still possible and what steps might be helpful?
[5 marks]
- iii. Robert is a litigant in person. To what extent, if at all, should you assist Robert during the course of the proceedings?
[3 marks]
- iv. What can Emma do to obtain greater financial security in the short term while finances are being resolved, and what principles will apply?
[5 marks]

Question 3

You are advising Freda in relation to her children. Freda lived with her partner, James, for fifteen years. They have two children together: Oliver aged ten and Joshua aged five. James is named as the father on the children's birth certificates. Joshua has a developmental delay, and the family GP says that he requires an autism assessment. James and Freda both cared for the children when they were together. They work full time but can work flexible hours during the week. Oliver has expressed a wish to spend equal amounts of time with his parents. Both James and Freda are able to meet Joshua's needs, Joshua becomes distressed if he does not see both parents regularly.

James and Freda split up six months ago. James did not want the relationship to end. He has been bombarding Freda with text and WhatsApp messages – sometimes up to 300 messages a day. Some of the messages are abusive. Freda is not physically afraid of James; however, she now feels anxious and has been prescribed medication. For various reasons, Freda cannot change her phone number.

James and Freda have been unable to agree arrangements for the children. James would like the children to spend their weekdays with Freda, and all of their weekends and school holidays with him. Freda feels that would not be in their best interests. She suggests a shared care arrangement which alternates weekends. This will enable handovers to take place at school to minimise contact between parents. She proposes:

Week 1

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Mum	Mum	Dad	Dad	Mum	Mum	Mum

Week 2

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Mum	Mum	Dad	Dad	Dad	Dad	Dad

School holidays would be shared equally between parents.

James has made it clear that he will not permit Joshua to have an assessment for autism. He is sure that Joshua will grow out of it.

- i. How can the disagreements in relation to the children's living arrangements and the autism assessment be resolved? Include reference to procedure, but in outline only
[10 marks]
- ii. Draft the order that you feel would be appropriate in relation to the children
[7 marks]
- iii. What, if anything can Freda do to stop James from sending the messages?
[3 marks]

Question 4

Jane is the mother of Poppy, aged 13. Poppy has been refusing to attend school for some time and has fallen in with a bad crowd. Recently, she has been getting into trouble with the police and has been staying out at night. Jane is concerned that Poppy is drinking alcohol when out with her friends, and that she may be having sex with her 14-year-old boyfriend. Jane struggles with her mental health. Her neighbours have accused her of being drunk 'most of the time' and have complained to the police about alleged anti-social behaviour, which Jane denies. The alleged anti-social behaviour has included loud parties that run late into the night. Last Friday night the police found Poppy wandering the streets of St Peter Port, she was very drunk and appeared to have been physically assaulted. Poppy told the police that she might be pregnant, but she has subsequently had a negative pregnancy test. The police took Poppy home but discovered that Jane was out with her boyfriend and that there was nobody in the house. Poppy was taken to the home of her grandparents to spend the night, and Jane has not seen her since. Poppy's grandparents are worried about her, and they think that Poppy should live with them. Jane has just been informed that the police have made a referral to the Convenor.

- i. Advise Jane as to what applications may be made by her or by others, and the principles that will apply.

[20 marks]

Question 5

You are acting for Jemima, the mother of Kerry (aged 12) and Borris (aged 6). The children have lived with Jemima since birth; the identity of their father is not known. The Committee for Health and Social Care has applied for a community parenting order. The children are currently in foster care, under an Interim Community Parenting order. In October 2024, Kerry made a disclosure to a teacher, alleging that Jemima hit her regularly with a belt. During a subsequent police investigation, which did not lead to a criminal charge, Kerry underwent a physical examination, and marks were found on her body. It was also discovered that Borris had been treated for a fractured arm as a young baby. At an early stage of the proceedings, a single joint expert, Dr Floof, was appointed to opine in relation to the children and has opined (i) that Borris' historic fracture was non-accidental, and likely to have been caused when his arm was twisted with force and (ii) that Kerry has healed but visible marks on her buttocks and thighs consistent with having been struck on repeated occasions with a thick belt. Jemima is adamant that she has never hurt the children, and that Dr Floof is wrong. Jemima wants a second opinion but insists that she does not want anyone else to know about it. If it is helpful, then she will let you disclose it. The final hearing was due to take place next month, but the Committee has now suggested that there should be a split hearing, with a fact find hearing to take place before the final hearing. The court has decided to have a directions hearing to decide the way forward.

- i. Explain why the children's injuries are relevant to the Committee's application. Should there be a fact find hearing, and how will the relevant court determine the facts?
[15 marks]
- ii. What can be done about the expert?
[5 marks]