Registered Land
(refer to Chapter 3 of Unlocking Land Law)

The problem
Francois and Helen decided to live together. In 2007 Francois purchased a three-bed roomed house, Wisteria Villa in his name with money that he had inherited from his grandmother and Helen moved in with him. The title to the house was unregistered. He also had a small mortgage, which they agreed he would pay at present because she was a student but she said she would contribute to the mortgage after she got a job. Early in 2008 she was offered a part-time job and started to contribute a small amount towards the mortgage. To help with the bills they decided to take two lodgers. In January 2010 Josie moved in. They granted her a two-year lease. Later in the year Terri also moved in. She said she wanted some stability and they granted her a four-year lease. At the back of their house there was a very large field and Francois agreed that their next-door neighbour Brian could park his van in the field. This was agreed as an express easement and was granted formally in a deed.

Recently Francois and Helen have fallen out. Helen went away for two months thinking that things would improve if they spent some time apart. When she returned she found someone in the house measuring for carpets and curtains. He said he was called Paul and he had purchased the house last week. Francois is nowhere to be seen.

Advise Helen, Josie, Terri and Brian as to whether or not their rights will be binding on Paul.

Note: In answering this question you should think carefully about which rights are binding on a purchaser. Consider the difference between those rights, which require registration in order to be binding, and those rights, which will automatically be binding because they take effect as rights that override the register.

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1 Consider which rules will be used for the initial purchase of the property was purchased and the requirements for registration under the LRA 2002.
2 Consider whether she will have a share where she does not contribute to the initial purchase and she does not immediately take on the responsibility of paying the mortgage repayments.
3 Helen’s contributions towards the mortgage could now be seen as giving her an interest in equity in the property and such a right could be entered on the register.
4 Consider whether such a lease will take effect in law and what form must be used for its creation. Will a short lease bind Paul? Must it be entered on the register?
5 Consider whether such a lease will take effect in law and consider what form must be used for its creation. Will his lease bind Paul? Must it be entered on the register?
6 Has Brian’s easement been properly created? Must it be entered on the register? Will it be binding on Paul the purchaser?
7 Paul is now the owner of the property. He would be bound by all registrable interests entered on the register and all rights that override the register.
Advising Helen, Josie, Terri and Brian

Knowledge Requirement:
You need to:

- Explain how the land registration system works
- Decide whether this is first or subsequent registration of title
- Explain the effect of failure to register a title on purchase of land
- Explain which rights in the land need to be registered and which take effect as interest which override the register
- Identify on which register each right must be entered
- Identify the form that each entry on the register must be made

Application Requirement
Identify:

- That the initial title of the property is unregistered
- That any purchase of land acts as a trigger for registration of the title where title is unregistered
- That where land is purchased with unregistered title then the purchase must be made using the rules for unregistered land and after purchase the purchaser must take steps to register the title
- Initially Francois is the legal owner of the property
- That Helen does not have a legal estate but she may have an equitable interest in the land which is capable of registration;
- If Helen has failed to register her interest it may take effect as an interest which overrides the register
- That Josie may have a legal estate in the land which overrides the register and it does not matter how the lease was created
- That Terri may have a legal estate in the land, which overrides the register. This will depend on whether or not the lease conforms to the requirements of s.52 LPA 1925 i.e. whether it was made by deed
- That Brian has a legal easement. The easement will only take effect in law once it has been entered on the register and it will then be binding on subsequent purchasers including Paul.

Discuss:

- First registration and the need to register the title within two months of purchase and failure to register will result in the transfer becoming void. Since this is first registration then rights will be protected under schedule 1 LRA 2002
- Helen has a right under a constructive trust and her interest is capable of registration as a restriction on the proprietorship register
- If Helen does not enter her right on the proprietorship register then she could claim a right under Para 2 Schedule 1 LRA 2002 which protects rights of persons with rights in land in actual occupation of the land. This right will bind any purchaser unless it is overreached. Williams & Glyn’s Bank v Boland [1981]
- Josie’s rights will be protected under Schedule 1 Para 1 because she has a legal lease in land which does not require any particular form in order for it to take effect as a legal lease
- Terri’s rights will also be protected under Schedule 1 Para 1 provided that the lease was created by deed. If it was not created by deed it cannot override and will not bind Paul
- Brian’s rights depend on entry on the register because all legal easements created expressly in registered land depend on entry on the register for legal effect. The right will be entered as an agreed notice on the charges register of Wisteria Villa. There should also be an entry on the property register of Brian’s House to show that he has a right over Francois’s property, which enhances his own land i.e. the right to park on the land.