

## CASE STUDY MATERIALS

January 2011

Level 3

PRACTICE OF LAW FOR THE ELDERLY CLIENT

Subject Code L3-15



## INSTITUTE OF LEGAL EXECUTIVES

### UNIT 15 – PRACTICE OF LAW FOR THE ELDERLY CLIENT\*

## CASE STUDY MATERIALS

### Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the materials with your tutor/s either face to face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relates to the case study materials.

### Instructions to Candidates Before the Examination

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or text books into the examination.
- In the examination, candidates must comply with the ILEX Examination Regulations.

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\* This unit is a component of the following ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

## ADVANCE INSTRUCTIONS TO STUDENTS

You are a trainee Legal Executive employed by the firm of Kempstons of Manor House, Bedford, MK42 7AB. The firm is a busy high street practice, which has been established in Bedford since 1902 and has a large and varied client base. Your supervising solicitor is Thomas Andrews.

You arrive at your desk one morning to find the following documents:

- Document 1**            Memo from supervising solicitor, Thomas Andrews.
- Document 2**            Attendance note of a meeting with Carole Ellis and Peter Ellis.
- Document 3**            Letter from Peter Ellis.
- Document 4**            Attendance note of a meeting with John Turner.

## DOCUMENT 1

## Memo

**To:** Trainee Legal Executive  
**From:** Thomas Andrews  
**Date:** [Today's date]  
**Re:** **Various Matters**

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I would appreciate you assisting me with several new matters upon which I have just taken instructions. These are as follows:

**Carole Ellis**

Carole Ellis is a new client. I would like you to consider the attendance note of a meeting I had yesterday with Mrs Ellis and her son, Peter Ellis (**Document 2**), and the subsequent letter I received from her son (**Document 3**). I would like you to consider the various issues arising from these instructions so that I can then discuss them with you. I will then let you know what I want you to do next.

**John Turner**

I have seen John Turner, for whom I have acted previously in connection with his divorce and, more recently concerning his business matters.

He has now closed his business, mainly because it was no longer profitable, but also because of his health problems.

Please consider my attendance note of the meeting I had with him yesterday (**Document 4**). I would like you to consider the points which we discussed and then to research them as necessary in preparation for a further meeting I am to have with him. I would like you to attend that meeting as well.

## DOCUMENT 2

## Attendance Note

**Attending:** Carole Ellis and Peter Ellis

**Fee Earner:** Thomas Andrews

**Date:** [yesterday's date]

**Time engaged:** 45 minutes

**Reference:** TA.ELLI/1

Attending Mrs Carole Ellis of 54 Caterham Walk, Ellingham, Bedford, MK12 3WE, who was born on 5 July 1925. She was accompanied by her son, Peter Ellis. She told me that I had been recommended by a friend, and as we walked into the interview room I noticed that she was using a stick and was having some difficulty in speaking fluently.

After we were seated, her son told me that his mother had suffered a stroke recently which had affected her physically and impaired her speech. He explained to me that until his mother had suffered a stroke, she had been able to deal with all her affairs herself. Speaking slowly, she told me that she was a widow and a retired school teacher. I was having some difficulty in following what she was saying and, perhaps sensing this, her son then started to speak on her behalf. He explained that he and his sister, Kathryn Parker, have been helping their mother since her stroke, and that she now wished to appoint them as her attorneys.

I spoke directly to Mrs Ellis and she simply nodded in agreement to what her son had just told me. I then explained in some detail the nature and effect of a Lasting Power of Attorney and the different types. She indicated that she only wanted to make one dealing with her property and financial affairs.

During our discussion, I suggested that she consider appointing both her children as her attorneys on a joint and several basis. I then explained to Mrs Ellis the points she would need to consider and upon which I would need her instructions. I also explained to her the purpose and reason for having a certificate provider. Her son asked me if I could provide the certificate. I said that it was up to his mother to choose her certificate provider, but I indicated that if I felt able to do so, then I could provide the certificate.

Mrs Ellis was looking extremely tired and her son was by now answering all the questions I was asking. I therefore suggested that I provide Mrs Ellis with some information sheets and other literature on Lasting Powers of Attorney for her to consider. I handed these to her and said that once she had had the opportunity of considering what we had discussed, she could then let me have her further instructions.

**DOCUMENT 3**  
**Letter from Peter Ellis**

Mr Peter Ellis  
26 Close Road  
Bedford  
MK42 2XR  
(Today's date)

Delivered by Hand

Dear Mr Andrews

**Re: My Mother – Carole Ellis**

I refer to the meeting you had with my mother and myself yesterday.

My mother does wish to make a Lasting Power of Attorney relating to her property and financial affairs. She wishes to appoint myself and my sister as her attorneys, although I shall be assisting her on a day to day basis. My sister, Mrs Kathryn Parker, lives at 212 Cove Cottage, Penzance, Cornwall, PR11 2ZY. She was born on 26 August 1952 and I was born on 5 October 1950.

My mother has said that she wishes any decisions concerning her house to be made by us both, but any other decisions can be made by either me or my sister. If either of us were unable to act as her attorneys for any reason, then my mother would want her twin brother, Arnold Clarke, to act as an attorney. He lives at 460 Woburn Avenue, Bedford, MK42 6ST. He was also born on 5 July 1925.

My mother does not want to include any restrictions or conditions, but does wish us to continue to be advised by a financial adviser about the investment and management of her investment portfolio.

As my mother wants her Lasting Power of Attorney to be able to be used immediately, she appreciates that it must be registered, and she would wish her sister, Miss Anne Clarke of 12 Church Walk Cambridge CA2 4TR, to be notified.

Yours sincerely

Peter Ellis

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## DOCUMENT 4

## Attendance Note

**Attending:** John Turner  
**Fee Earner:** Thomas Andrews  
**Date:** [Yesterday's date]  
**Time engaged:** 30 minutes  
**Reference:** TA.TUR1/1

Attending John Turner for whom I had acted previously in his divorce and, more recently, in connection with his business matters.

John reminded me that it was now six years since his divorce and he commented upon what an expensive exercise it was. Although his former wife has remarried, he has remained single. As I was aware, his business has performed very poorly during recent years and he told me that it had now ceased trading.

John said that his health problems had got worse, that he was going to have to have further treatment indefinitely and that his physical condition would progressively deteriorate. He will be 65 years of age on his birthday in February and, realistically, will not work again.

After his divorce he had tried to build up his business, but despite considerable effort and the injection of capital, it had not been a success. During the last eighteen months he told me that his focus had switched increasingly to his health problems and, as he did not have any medical insurance, he had had to sell most of his investments in order to pay for his treatment.

He told me that he was finding it increasingly difficult to manage on his own in his home and, with some emotion, he told me that he had had to employ a care assistant to help him in washing and dressing each day for the past three months.

I asked him about his family and he said that his son, David, worked in the City of London and was earning a very good salary. John mentioned that his son was prepared to assist him financially if necessary. He has had little contact with his daughter, Mary, since his divorce. His widowed mother, who is now 87 years of age, is in good health and lives nearby.

John wants to continue living in his home, although he anticipates that it will need some adaptation in the future in order to meet his needs.

I asked him what his assets comprised of and he told me that they were as follows:

26 Brook Road Bedford (no mortgage)	£265,000
Bank accounts	£1,500
ISA's	£4,000
Premium Bonds	£200
An interest in 142 Ash Crescent Bedford	
Value – (occupied by his mother)	£85,000

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He told me that he had business debts of around £20,000.

John has received a forecast from the Pensions Agency stating that he has paid sufficient National Insurance contributions to qualify for a basic state pension when he reaches 65 but not a second state pension. John still contributes to a private pension, but does not know what income this will provide, although he estimates in the region of £150 per week. His only other source of income is the small amount of interest which he receives on his savings.

I asked him about the property in which his mother lived, and he said that he was not sure whether it was transferred into his mother's name or into the joint names of his mother and himself when his father died.

John said that he wanted my guidance and advice upon his financial position, and upon how he could maximise his income and raise funds in order to maintain a reasonable standard of living and, at the same time, be able to pay off his debts and meet his anticipated medical treatment fees.

I said I would need time to consider his instructions and to consider his situation prior to having another meeting.

**End of Case Study Materials**

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