

CASE STUDY MATERIALS

June 2012
Level 3
PRACTICE OF LAW FOR THE ELDERLY CLIENT
Subject Code L3-15

ilex

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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.

Turn over

* 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**

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are employed by the firm of Kempstons of 101 High Street Bedford MK43 7AB. The firm is a large high street practice 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** Memorandum from supervising solicitor, Thomas Andrews.
- Document 2** Attendance note of a meeting with Brenda Leese.
- Document 3** Letter from Laura Simm.
- Document 4** Attendance note of a meeting with Fatima Khan.
- Document 5** Schedule of assets of Fatima Khan.

DOCUMENT 1

MEMORANDUM

To: Trainee Legal Executive
From: Thomas Andrews
Date: (Today's date)
Re: Various Client Matters

I would appreciate your assistance in dealing with two new clients from whom I have taken instructions this week. They are as follows:

Brenda Leese

I met her at her home yesterday and I would like you to consider my attendance note of that meeting (**Document 2**), and the letter I received earlier today from her niece, Laura Simm (**Document 3**). I would like you to consider the various issues arising from my meeting and the letter so that I can discuss them with you.

Fatima Khan

I have recently completed the administration of the estate of Fatima Khan's husband, Yasir Khan. Fatima has already given me instructions to prepare a new will on her behalf. I had a further discussion with her yesterday, and you will see from my attendance note of that meeting (**Document 4**), the points she raised with me regarding her tax planning. She also handed me a schedule of her assets (**Document 5**). I would like you to familiarise yourself with her circumstances and consider her position generally, so that I can then obtain your views before I advise her further.

Thomas Andrews

ATTENDANCE NOTE

Attending: Brenda Leese
Fee Earner: Thomas Andrews
Date: (Yesterday's date)
Time Engaged: 1 hour
Reference: TA.2012.Leese

Attending Mrs Brenda Leese at her home at 10 Waterside Mews Bedford MK12 2EZ. I was met at the door by Mrs Laura Simm who introduced herself to me as the niece of Brenda Leese. She had arranged the appointment on behalf of her aunt. Laura introduced me to her aunt. With some prompting from her niece, Brenda said that she wanted advice upon her will and a power of attorney.

Family Background

I said it would be helpful if she could provide me with some information about herself and her circumstances.

As Brenda was very quietly spoken I moved to sit next to her. She told me that she was a widow and that her husband, Harold had died in 1997. She said that her brother, James Roberts, was still alive and that neither she nor her brother had any children. Brenda told me that she had a sister, Patricia Baker, and said that she lived nearby. Laura immediately interrupted and reminded her aunt that her sister Patricia had died in 2006. Laura said that she was Patricia Baker's daughter and that she also had a younger brother, Henry Baker.

Brenda told me that her husband had dealt with their finances and after his death, her sister Patricia had been of considerable help to her and her niece was now helping her. From what she said, I gathered that Brenda had little contact with her brother James.

As I listened to Brenda I noticed that she had some bruising on her face. Laura commented that her aunt had recently had a fall and had banged her head on the kitchen table as she fell. I asked Brenda if she was recovering from her fall and she seemed extremely vague and did not appear to recall having fallen. Laura explained to me that her aunt had suffered a number of falls this year and she was becoming increasingly concerned about her aunt.

Laura said that she was now spending a great deal of time caring for her aunt and smiling said that it was a full time job in itself. She mentioned that she was not employed at the present time. She told me that a carer came in each morning for an hour to help her aunt get up, dress, and wash. Laura said that she did everything else for her aunt and called in several times during the day to help prepare her aunt's meals. She also explained that as her aunt could see herself into bed in the evenings, she only needed to care for her aunt during the day. I asked her how long she had been helping her aunt and she said since

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Brenda told me that she was very grateful to Laura and said she was her daughter to her. She also commented that her son was very good to her and before I could say anything, Laura reminded her aunt that she did not have a son. It was apparent to me that Brenda easily became confused. Laura told me that because her aunt was becoming increasingly vulnerable it would be best if she was now to deal with her aunt's financial affairs.

Power of Attorney

I explained to them both the role of an attorney and what a lasting power of attorney entailed, and I produced some explanatory leaflets for Brenda to consider. I asked Brenda if she had ever made an enduring power of attorney. She looked confused and did not answer. Laura said that she thought that her aunt may have made one after her husband's death because she remembered signing a document that had also been signed by her uncle, James Roberts. I said it would be helpful if that document could be found.

The Will

I saw that Laura had taken a will envelope from a file of papers and, as she passed it to me, she said that she had already been through her aunt's papers and had found her aunt's will but no other documents. Laura thought the title deeds to her aunt's property may be stored at the bank, and she will check.

I also noted that the envelope containing Brenda's will had already been opened, and Laura said that she had already read the will to her aunt. I looked at the will which had been made in 1980. It appointed Brenda's late husband William Leese as her executor and beneficiary, and in the event of him predeceasing her, Patricia Baker and James Roberts were appointed as her executors and trustees. Her residuary estate was to pass to them in equal shares and, in the event of either of them predeceasing her, the residuary estate was to pass to the survivor in its entirety. I asked Brenda if that was what she still wanted, but she only started to talk about her late husband. Sounding a little irritated, Laura said that her aunt wanted her estate to be divided equally between herself, her brother Henry, and her uncle James. I said that I could prepare a new will for her aunt's consideration.

Finances

I noticed that Brenda had closed her eyes by this time and appeared not to be listening to what I was saying. Laura said that she had noted recently that her aunt could be talkative one minute, but would then suddenly drop off to sleep. In answer to my question about her aunt's finances, Laura said that her aunt received a state pension, a pension from her former employer that was quite generous, and a widow's pension from her late husband's employer. So far as she was aware, her aunt had savings of around £25,000.

Laura commented that her aunt would be spending some money soon in purchasing an orthopaedic bed, armchair, and a new television. Laura also said that as her aunt's house needed modernising, she was coming to the view that her aunt might be better in a care home, particularly if she continued to decline as she had done during the last six months. I commented that it was fortunate that she lived nearby and had time to spend helping her aunt.

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At this point Brenda awoke and seemed a little startled to see me sat nearby, asked who I was. I explained that I had come to see her and I was now leaving. I gave her my business card. I said I would consider what we had discussed. She thanked me for coming and her niece showed me to the door. Laura Simm apologised to me on her aunt's behalf for having fallen asleep and said that she felt it important that she should be able to deal with everything on her aunt's behalf. She said that if she found any further documents she would contact me immediately.

232 Cambridge Road
Bedford
MK12 3WF

(Today's date)

Mr Thomas Andrews
Kempstons
Solicitors
101 High Street
Bedford
MK42 7AB

Dear Mr Andrews

Mrs Brenda Leese

Thank you for coming to see my aunt yesterday. Your patience was greatly appreciated.

Immediately following the meeting I called at my aunt's bank and enquired about the documents they were holding on behalf of my aunt. Although the bank were not prepared to show me the documents without specific authority from my aunt, they confirmed that they were holding the title deeds and some other documents. I thought I would let you have this information straight away. As soon as the documents have been released to my aunt I will bring them into your office.

I should be grateful if you would proceed with the preparation of the documents on my aunt's behalf which we discussed during the meeting yesterday.

If you require any additional information, please do not hesitate to contact me.

Yours sincerely

Laura Simm

Turn over

ATTENDANCE NOTE

Attending: Fatima Khan
Fee Earner: Thomas Andrews
Date: (yesterday's date)
Time Engaged: 40 minutes
Reference: TA. 2012. Khan

Attending Mrs Fatima Khan who told me that she had been giving further thought to the matters which we had discussed last month when I had taken her instructions upon her will. She reminded me that it was the first anniversary of her husband's death this week. I asked her how she was getting on and she said that she was now coping better than she had done during the months immediately following his death.

Although she had thought about the gifts she wished to make to her children in her will, she has been giving further thought to her financial situation. She told me that she wanted to plan so that her children would not have to pay inheritance tax on her estate.

Fatima Khan told me that she had a friend in a very similar situation to her own. She said her friend had told her that if she gave assets to her children then no inheritance tax would be payable on those assets.

At this stage, she produced and handed to me a schedule of her assets and income which she had prepared. She reminded me that during our previous discussion I had suggested that she prepare a schedule of her assets before she gave further thought to the legacies which she wished to include in her will.

I recalled that in his will her late husband, Yasir Khan had given legacies to the family in his will and she reminded me that he had given gifts totalling £75,000 to their three children and four grandchildren. The remainder of his estate had passed to her. She said that although she would like to make gifts to her children and grandchildren in her will, she would also prefer to make gifts to them during her lifetime so that she could help them financially now. Fatima said that she was already contributing towards the payment of two of her grandchildren's school fees and with a smile, she said that she would prefer to benefit her family now rather than make them wait until she was dead.

I had a look at the schedule of assets and income which she had produced and I asked her if she intended to remain in her home in Bedford. She replied that although it was too large for her needs, she had not made any final decision yet because she also had the holiday home on the Isle of Wight. It brings in a good income she has more than enough for her current needs. She is still considering the possibility of going to live there.

It was agreed that she would contact me again when she had given further thought to where she might live.

DOCUMENT 5

Mrs Fatima Khan**SCHEDULE OF ASSETS**

| | |
|-------------------------------------|----------------|
| Property 32 Wellington Lane Bedford | £450,000 |
| Holiday home on the Isle of Wight | £175,000 |
| Jewellery | £5,000 |
| Personal and household belongings | £2,000 |
| Car | £6,500 |
| Premium bonds | £20,000 |
| Bank accounts | £2,500 |
| Shareholdings | £42,000 |
| National Savings | £50,000 |
| Other investments (ISA's, Bonds) | <u>£15,000</u> |
| | £768,000 |

INCOME PER WEEK

| | |
|---------------------------------------------------|-------------|
| State Retirement Pension | £110 |
| Annuity income | £160 |
| Widows pension- late husband's former employer | £75 |
| Average rental income from Isle of Wight property | £250 |
| Average income from other savings | <u>£100</u> |
| Total | £695 |

End of Case Study Materials



