

**CASE STUDY MATERIALS**

June 2013  
Level 3  
PRACTICE OF LAW FOR THE ELDERLY CLIENT  
Subject Code L3-15



CHARTERED INSTITUTE  
OF LEGAL EXECUTIVES

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**THE CHARTERED 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 CILEx Examination Regulations.

*Turn over*

\* This unit is a component of the following CILEx qualifications: **LEVEL 3 CERTIFICATE IN LAW AND**

**CASE STUDY MATERIALS**

**ADVANCE INSTRUCTIONS TO CANDIDATES**

You are employed by the firm Kempstons of 101 High Street, Bedford, MK42 7AB. The firm is a large high street practice. Your supervising lawyer 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 Mary Barton and Jill O'Sullivan.

**Document 3** Email from Jill O'Sullivan to Thomas Andrews.

**Document 4** Attendance note of a meeting with Ernest and Patricia Stephens.

**DOCUMENT 1**

**MEMORANDUM**

**To:** Trainee Lawyer

**From:** Thomas Andrews

**Date:** (Today's date)

**Re:** New Client Matters

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**Mary Barton**

Mary Barton is a new client who has been introduced to me by her daughter, Jill O'Sullivan. I have acted for Jill for a number of years. I had a meeting with them yesterday and I would like you to consider my attendance note of that meeting (**Document 2**), and the email I received earlier this morning from her daughter (**Document 3**). I would like to discuss with you the issues that arise from my meeting and the email.

**Ernest and Patricia Stephens**

I attended Ernest and Patricia Stephens yesterday. I had not met them before. Please read my attendance note (**Document 4**) of that meeting so that we can then have a discussion before I contact them again.

*Thomas Andrews*

## ATTENDANCE NOTE

**Attending:** Mary Barton and Jill O'Sullivan

**Date:** (Yesterday's date)

**Time engaged:** 1 hour

**Reference:** TA/2013/Barton

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Attending Mrs Mary Barton and her daughter, Mrs Jill O'Sullivan. Jill reminded me that when she had seen me last month she had mentioned that her mother would be coming to see me for some general advice. Mrs Barton asked me to call her Mary, and then started to give me some details of her background.

Mary told me that she lived at 10 Bush Lane, Cambridge, CB10 9MS and that since the death of her husband John in 2005, she had suffered various health setbacks. In particular, she had suffered a stroke last year which had permanently restricted the movement in her left arm and leg. She said this had caused her to have various falls while at home and most recently, when she was out shopping. She became a little upset as she told me what had happened and Jill intervened to say that her mother's confidence had been affected by recent events and this had led them to start to plan for the future.

Jill said that her mother had just celebrated her 80<sup>th</sup> birthday. As her mother was staying with her this week, it was an ideal opportunity for her mother to come to see me. She said that her mother had previously dealt with a solicitor over many years, but he had recently retired.

Jill said that she has a brother, Richard, who was single and worked abroad. Consequently, she helps her mother as best she can, but it takes her 30 minutes to drive to her mother's house and she cannot be there every day. Jill commented that she had a husband and two teenage children to look after as well as working part-time in Bedford at a bookshop. She currently earns £95 per week.

Mary then told me that she was finding that she was unable to manage on her own since her last fall four months ago. Carers had been coming in to help her get washed and dressed in the morning and to assist her getting ready for bed in the evening. I could tell from what she was saying that she was very worried about falling again. Jill mentioned that the District Nurse was having to call to see her mother several times a week and commented that this was a great help. Jill said that she visited her mother during the week whenever she could manage and spent quite a lot of time at weekends helping her mother with the household tasks.

Mary told me that although she would have preferred to continue living in her home she recognised that she does need help. She commented that she was now finding it particularly difficult to stand for more than a few minutes unaided and this made it difficult for her to prepare her meals or to do any housework. She also told me that she did not want to have to go and live in a care home if at all possible.

## CASE STUDY MATERIALS

Jill said that her mother and late father had lived in the family home in Cambridge for over 50 years and she had fond memories of living there when she was a girl. However, it is an old and large property that is far too big for her mother's needs. Mary told me that the cost of maintaining the property since her husband's death had been considerable and had used up much of her savings, and Jill commented that she could not help her mother financially.

They told me that they had been coming to the view that the house was going to have to be sold and asked if I would deal with the conveyancing. I said I would let them have an estimate of my firm's costs. I asked about the value of the property and they said it was valued at around £380,000 and was not subject to a mortgage. Jill told me that although no final decision had yet been made, she would like her mother to come to live with her and her husband and they were looking into converting a downstairs room into a bedroom with an en-suite shower for Mary to use.

Mary asked what I thought about her situation and how best she could organise her finances in the future. I said that before I could give her my thoughts and advise her, I would need some details of her finances. I did say that I appreciated her position, recognised that she was making major decisions about her future and that she needed to take her time before making any final decisions.

## EMAIL

**From:** [jillo'sullivan@sullivans56.co.uk](mailto:jillo'sullivan@sullivans56.co.uk)  
**Sent:** (Today's date)  
**To:** [t.andrews@kempstons.co.uk](mailto:t.andrews@kempstons.co.uk)  
**Re:** My Mother – Mary Barton

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Dear Thomas

Thanks for seeing us yesterday. My mother found you easy to talk to and I think she felt generally reassured by simply talking to someone about her present situation.

My mother is receiving a state pension, including age addition, of £199.05 per week. She also receives a widow's pension from my late father's employers, this being £76.95 per week. She tells me that she has savings of around £25,000.

My mother received my father's entire estate when he died and the house was automatically transferred into her sole name. I forgot to mention during our discussion yesterday that in 2007, my mother was advised to transfer the property into the joint names of her and myself. We now own it jointly as tenants in common in equal shares.

As you will have gathered from our discussion yesterday, my mother is very concerned about the cost of maintaining the property, and I do not think it is affordable. I am frustrated by the fact that I cannot contribute financially. Although I did not say it yesterday, I am also worried about how I am going to be able to cope looking after my family as well as my mother. I do need to continue working part-time and all I can say is that I will do my best. Please contact me by email if you require any further information.

Kind regards

Jill O'Sullivan

## ATTENDANCE NOTE

**Attending:** Ernest and Patricia Stephens

**Date:** (Yesterday's date)

**Time engaged:** 30 minutes

**Reference:** TA/2013/Stephens

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Attending Ernest Stephens and his wife, Patricia Stephens. She told me that they lived at 10 College Walk, Bedford, MK10 2AC. I had not met them previously and Mrs Stephens said that I had been recommended to them by their neighbour. She asked me to call them by their first names.

Patricia told me that they had moved from Yorkshire to Bedford so that they could be closer to their daughter, Isabelle and their grandchildren. She commented that my office was particularly convenient because it was in the same road as Dr Graham's surgery. She said that they had walked from his surgery because her husband had just been to see Dr Graham.

Patricia said that she wanted me to advise them both on powers of attorney. She said that both she and her husband had made enduring powers of attorney about ten years ago, and she thought that the documents were stored at their former solicitor's office in Leeds. I asked who they had appointed as their attorneys and she said each other. She said that their visit to me had been prompted by comments made by some of their friends who had made lasting powers of attorney dealing with financial and health matters.

I explained to them the nature and effect of a lasting power of attorney and the two types of lasting power of attorney. I also explained that their enduring powers of attorney would only enable their property and financial affairs to be dealt with by their attorneys. I handed to Patricia some explanatory leaflets on lasting powers of attorney for them to read.

I had noticed that Ernest had not said much at all, although he seemed to be listening intently to what was being said by his wife. Patricia said that her husband was becoming increasingly deaf and commented that he had had a rough time recently because he had several falls and that was why he had just been to see Dr Graham. She said that her husband was 89 years of age and considerably older than she was and added, that she was 74 years of age. Lowering her voice she also told me that her husband was becoming very forgetful and seemed to easily get muddled.

I asked about their family and she said that their daughter, Isabelle had three children who were all at school in Bedford. She said that their son, Tom lived in Yorkshire and that they did not see that much of him even when they lived in Leeds, and were less likely to see him now that they had moved to Bedford. She added that they only saw Tom when he wanted some money from them anyway.

## CASE STUDY MATERIALS

Patricia said Tom was a problem and had caused them considerable worry in the years because he had got into trouble with the Police, although she did not give any details, and I did not think it appropriate to ask. Patricia also said that when they had made their enduring powers of attorney they had also made wills leaving legacies of £50,000 each to their children with the remainder of their estates passing to the survivor of them both. She said that Tom had already received more than that amount from them in the past few years. Consequently, because they wanted to treat their children equally and fairly, she said that she and her husband wanted to change their wills by cancelling Tom's legacy. She told me that they wanted to retain the legacy to their daughter Isabelle and wished to add legacies of £5,000 to each of their three grandchildren. Turning to her husband and shaking his arm, she asked him if this was correct and he appeared to nod in agreement.

I had by this stage noticed that Ernest did not appear to be listening and that his eyes were shut. Consequently, I said I would contact them once I had considered what she had told me.

**End of Case Study Materials**

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