

CASE STUDY MATERIALS

June 2012
Level 6
PRACTICE OF FAMILY LAW
Subject Code L6-20



INSTITUTE OF LEGAL EXECUTIVES
UNIT 20 – PRACTICE OF FAMILY LAW*
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 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**.

ADVANCE INSTRUCTIONS TO STUDENTS

You are a trainee Legal Executive employed by the firm Kempstons LLP of The Manor House, Bedford MK42 7AB. The firm's telephone number is (01234) 622964; fax (01234) 622965 and their DX address is Bedford 3721. The firm is a high street practice and one-third of the firm's caseload consists of matrimonial work. The matrimonial team at Kempstons LLP is headed up by the matrimonial partner Georgina Brooks F.Inst.L.Ex. The local court which is also the designated divorce county court is Bedford County Court.

You arrive at work to find the following documents on your desk:

- Document 1** Memo from your supervising partner, Georgina Brooks
- Document 2** Attendance note re Delroy Johnson
- Document 3** E-mail from Ian Tomlinson
- Document 4** Attendance note re Hayley Owens



DOCUMENT 1

Memorandum

To: Trainee Legal Executive

From: Georgina Brooks

Date: Today's date

Re: Matters to be attended to in my absence

As we discussed, I am going to be absent from the office on annual leave for a fortnight from tomorrow. I would be grateful if you could please attend to the following cases during my absence:-

1. Delroy Johnson

I attended upon Mr Johnson for a first appointment earlier this week. I attach an attendance note of my meeting with him (**Document 2** attached). I would be grateful if you would please look after this file during my absence.

2. Ian Tomlinson

Mr Tomlinson has made an appointment to come into the office next week. He is an existing client of the firm. His details are Ian Edward Tomlinson d.o.b. 12/09/1972. I acted for him in 2011. I attach an e-mail which I received from him yesterday (**Document 3** attached).

3. Hayley Owens

Ms Owens is a new client. I saw her for a first appointment earlier today and attach a copy of the attendance note of this meeting (**Document 4** attached).

Many thanks,

Georgina

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DOCUMENT 2

(Attendance note re: Delroy Johnson)

Client: Delroy Johnson

Date: (June 2012)

Fee earner: Georgina Brooks

File ref: GB/LR/J412

Time taken: 1 hour

Attendance on Mr Delroy Johnson who is a new client. Obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues. His details are as follows:-

Full Name: Delroy Wesley Johnson

D.O.B.: 22/02/1968

Address: 33 Rosebank Court, Clayton, Barnardshire, BH11 4KO

Phone number: 077 827 83362 (mobile)

Occupation: Teacher

Mr Johnson wanted advice about a separation agreement. He explained that he and his wife Keisha Precious Johnson (d.o.b. 19/03/1971) were currently separated. They have been married for twenty-two years. They have 2 children: Zachary Lemarr Johnson (d.o.b. 11/06/1999) and Alisha Candice Johnson (d.o.b. 05/01/2001). The parties' matrimonial home is 12 Long Lane, Clayton, Barnardshire, BH10 6MT. It's a 3 bedroom semi-detached property held in Mrs Johnson's sole name.

Mr Johnson is a teacher, at the local Academy and his wife is the office manager of a local accountancy firm. Both children attend Park View High School, Park Avenue, Clayton. Although it is a little early to say, Mr Johnson thinks it likely that both children will go on to further education and university.

Mr Johnson explained that he and his wife had grown apart in recent years. The couple had been very young when they married and he felt that they now had little to bind them together, other than their children. When they first married they had received a lot of financial help from Keisha's family as Keisha's father was a very successful businessman who ran his own company. As a wedding gift he had purchased a home for the couple which was put in Keisha's sole name, so they had never had to pay a mortgage. Later this financial assistance had become the source of arguments between the couple as Mr Johnson felt that due to the money, Keisha's family expected to be able to dictate how the couple lived their life. For example soon after the marriage, Keisha's father had wanted Mr Johnson to give up teaching and re-train as an accountant. After the children were born and started their schooling Keisha's father had wanted them to be privately educated which Mr Johnson had resisted. These and other issues caused friction between the couple and in late 2009 they sought marriage

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guidance counselling from Relate. In 2010 they decided on a trial separation. On 1 June 2010 Mr Johnson moved into the rented accommodation he now occupies at 33 Rosebank Court. Keisha and the children remained at the former matrimonial home. The trial separation proved difficult for the children to adjust to so the couple did agree to attempt a reconciliation. Mr Johnson moved back into the matrimonial home over the Christmas period of 2010 but ended up moving back into his rented house by mid January 2011. There have been no further attempts at a reconciliation.

I discussed with Mr Johnson his options relating to his marriage breakdown. Mr Johnson told me that he and Keisha have the following assets:-

- Former matrimonial home: 12 Long Lane: valued at £250,000
- Life assurance policy (Keisha's sole name): surrender value of £50,000
- Shares (joint names) £35,000
- Cash ISAs (joint names) £25,000

Mr Johnson has a pension through his work as a teacher, he doesn't know the current value of it but last year it was worth about £30,000. He confirmed he would obtain an up to date figure for me. Keisha does not have any pension provision.

It was agreed that Mr Johnson would consider his options relating to the marriage. He wants to discuss matters with Keisha and will revert to me when he has had an opportunity to do so.

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DOCUMENT 3
(e-mail from Ian Tomlinson)

(Date: Yesterday's date)

Hi Georgina,

I don't know if you remember me but I came to see you at the start of last year as I was having problems seeing my kids?

As it's been a while, I thought I'd set out a bit about the background for you first. I split up with my ex-girlfriend, Natalie Quick in 2009. We have 2 children: Sophie Ursula Quick (d.o.b. 14/04/2002) and Freddie Vincent Quick (d.o.b. 05/10/03). When we split we agreed that the kids would stay living with Natalie in what had been our family home (54 Connor Court, Clayton, Barnardshire BH2 8PF). Natalie bought out my share in the house and I bought a new place just in my name. I'm still in that property, the address is 5 the Fairways, Clayton Barnardshire, BH2 8LH.

I made sure that I stayed local to where the kids were living so that I could see them a lot and also so that I could play a big part in their lives. To be honest it would have been easier after the split if I could have moved nearer to my new workplace (I'm still working as an IT consultant but at a different company) as it's an 80 mile round-trip every day, but the kids come first.

When we first split Natalie and I agreed that we would do everything we could to make it less traumatic for Sophie and Freddie. We didn't bother seeing solicitors at that stage as we wanted to sort matters out ourselves and keep things amicable. I'd generally have the kids to stay every other weekend. I'd pick them up from school Friday and then drop them back at Natalie's Sunday evening. On weeks when I wasn't seeing the kids at the weekend I'd take them to mine for their tea on Wednesday night, so would pick them up from school (they both still attend St. Claire's C.P. School in Brewery Lane, Clayton) and get them back to Natalie's by about 8pm.

Everything worked well until I lost my job in late 2010. Until then I'd been paying regular maintenance to Natalie for the kids but when I lost my job I had to stop paying her. I promised I'd make it up to her when I got another position but she told me that that wasn't good enough and if I couldn't be bothered to pay towards my own kids then I didn't deserve to see them.

That's when I came to see you for advice. You told me my rights and wrote to Natalie and that did the trick at the time, we went back to the old arrangements. I think it helped that I got another job about a month later so was able to continue my normal maintenance payments! Things have gone great until a couple of months ago. There's been the odd hitch, like Natalie having to take the children to the doctor's if they're poorly, even if it's when they're with me. Anyway I think it's probably easier if I come to see you to explain things in detail. I'm off work next week so if I could come in then that would be really helpful.

Just to put you in the picture, Natalie is getting married next month. I've met her new partner (Nick) and he seems good with the kids so it's not that I've got a

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problem with him, it's Natalie that's the problem. She seems to want me to take the picture now that she's met Nick so that she can play "happy families" with him and the kids. She's cancelled a few of the kids' visits to me. On one occasion Nick had booked for them to go to Disneyland Paris for the weekend. Then on 12 May this year it was Natalie's 40th birthday so they were all going out for a meal to celebrate on the Saturday night. They've not moved in together yet, apparently they're waiting until after the wedding.

There have been a couple of Wednesdays too when Nick has taken the kids to the swimming pool at his health club which has meant that I haven't had them over for their tea. I get the feeling that Natalie is trying to push me out of the kids' lives, maybe I'm paranoid but she's always been a bit headstrong, when they were born she insisted on them taking her surname and she wouldn't subsequently let me change it to mine! Don't get me wrong I think Natalie's a great mother and I don't want to take the kids away from her, I just want to see them and be involved with their lives. I'd be grateful if I could see you to discuss everything properly. Look forward to hearing from you with an appointment

Best wishes,

Ian

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DOCUMENT 4

(Attendance note re: Hayley Owens)

Client: Hayley Owens

Date: (Today's date)

Fee earner: Georgina Brooks

File ref: GB/LR/O168

Time taken: 1 hour

Attendance upon Hayley Owens who is a new client. Obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues. Her details are as follows:-

Full Name: Hayley Owens

D.O.B.: 17/01/1979

Address: 2 River View, Clayton, Barnardshire BH5 8KP

Phone number: 077 725 29833 (mobile)

Occupation: Hotel receptionist

Hayley has been with her partner Russell Young (d.o.b. 01/02/82) for six years. They have 1 child: Madison Owens (d.o.b. 05/11/07). The parties' home is a 3 bedroom property which is a private tenancy held in the couple's joint names. Their landlord is Mr Harvey Yates. Hayley is currently not working but hopes to return to her previous employment as a hotel receptionist within the next year. Russell is an estate agent with a local firm.

Hayley appeared very shaken and had a black eye and bruising to her arms. She told me that Russell had attacked her the previous evening but that it wasn't the first time that this had happened. She explained that when she met Russell she had been married to Rob Hopkins and that she and Russell had had an affair. She had subsequently left Rob for Russell. She told me that right from the start of their relationship Russell had been very possessive. Initially she found this flattering but after a while it began to worry her as Russell didn't like her going out without him or seeing her friends and family.

She said that this possessiveness had grown to be the cause of many arguments between them but that whilst Russell had always been verbally abusive to her he had only become physically abusive in the last twelve months. She explained that after their daughter was born she had started to rebuild her relationship with her family and later, as Madison got older Hayley had started to see more of her old friends. Over the last year Hayley had had a regular arrangement where she went out with her friends once a month and either Russell or her mother would look after Madison. Russell hadn't liked this at all. Whenever she went out with her friends she would arrive back home to be confronted by Russell who would bombard her with questions about the evening and invariably they would have a heated argument. About six months ago during one of these arguments

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Russell accused Hayley of using these evenings out as a cover for her affair. She had denied this but he wouldn't believe her and he asked her to stop going out. She said that she had seriously considered giving up the evenings out as she was worried that the arguments were becoming more heated but her friends had persuaded her to continue going out with them. Two months ago on her evening out, she arrived home to find Russell waiting for her, as usual. She could tell that he had been drinking so she told him how irresponsible he was, drinking when he was in charge of Madison. Russell slapped her across the face saying "Shut up, I'm sick of baby-sitting so that you can go out and cheat on me." Hayley had been very shocked at the violence. She had wanted to leave the house with Madison immediately but none of her friends or family had enough room for them both so in the end she had slept in the spare room. The following day Russell had been very apologetic about the incident and promised that it wouldn't happen again.

However earlier this month when Hayley got home after her evening out, Russell had met her by the door and it was obvious that he'd been drinking again. When she got inside he pushed her against the wall. She tried to wriggle free but he pinned her against the wall saying "I know you're cheating on me, I'll get the proof, then you'll be sorry." He then punched her in the stomach and stormed out of the house. She later found out that he had gone to stay with his brother who lives in a 2 bedroom flat around the corner. The following day when Russell returned he was again very apologetic. He said that it was the drink that made him act like that and that it would never happen again.

Last night Russell had gone out drinking with his work colleagues and he got home drunk about 4am. Hayley was in bed, Russell grabbed her by the arms and said that one of his colleagues had seen her out with another man. Hayley denied it and said his colleague was mistaken but Russell dragged her out of bed listing recent dates when he'd babysat and saying that he'd known for months she was cheating on him but now he had the proof. Hayley tried to leave the bedroom, telling Russell she couldn't reason with him when he was in this state and he should sleep things off. This enraged Russell further, he stepped in front of her, blocking her way out shouting "you must think I'm stupid, you cheated on Rob and now you're cheating on me." He then punched her in the face. She fell to the floor and he took hold of her arms and shook her shouting "you whore, you're not going to leave me like you did Rob, I'll kill you first." At this point their daughter Madison appeared at the bedroom door, crying. She ran over to Russell and tried to get him to let go of Hayley. Russell shook Madison off with such force that she fell against the door frame and banged her head. This shocked Russell into stopping. He started crying and apologising and then ran downstairs.

Hayley saw that Madison had a cut on the top of her head so she got herself and Madison dressed and put a few of their things in a bag. She went downstairs and found Russell asleep on the sofa. She then got Madison and drove to the A&E department of the local hospital. The doctor told Hayley that Madison had mild concussion and treated Hayley's cuts and bruises. He asked Hayley if she wanted him to call the police but she said that she would do it herself. She drove to her mother's where she telephoned the local police station. She was told that the domestic abuse liaison officer was out dealing with an incident. The police officer Hayley spoke to suggested that if it was urgent she should see a solicitor so she had left Madison with her mother and come to see me. Hayley said that last

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night's incident where Madison had been hurt was the final straw. She could not stand by and watch her daughter get caught up in Russell's violence. I advised her about the law and her options and then used devolved powers to grant her emergency legal representation. I told her to have photographs taken of the bruising to her face and body.

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