

**CASE STUDY MATERIALS**

January 2013  
Level 6  
PRACTICE OF FAMILY LAW  
Subject Code L6-20



CHARTERED INSTITUTE  
OF LEGAL EXECUTIVES

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**UNIT 20 – THE 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 CILEX Examination Regulations.

***Turn over***

\* This unit is a component of the following CILEX 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 Lawyer 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, Amelia Morgan. 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 Amelia Morgan
- Document 2** Attendance Note re Paula Fletcher
- Document 3** Attendance Note re Zainab Uddin
- Document 4** Letter from Lowtons LLP
- Document 5** Attendance Note re Gareth Vaughan

DOCUMENT 1

Memorandum

**To:** Trainee Lawyer

**From:** Amelia Morgan

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

**Re:** Matters to be attended to in my absence

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As we discussed, I am going to be absent from the office for the next three weeks on my honeymoon. I would be grateful if you could please attend to the following cases during my absence:

**1. Paula Fletcher**

Miss Fletcher is a new client. I saw her for a first appointment yesterday and attach a copy of the attendance note of this meeting (**Document 2**). Could you please attend upon her today and deal with any action required on this case?

**2. Zainab Uddin**

I have been dealing with Zainab's divorce proceedings and am currently trying to resolve the ancillary finances. I attach an attendance note of my meeting with her last week (**Document 3**). Subsequent to that meeting I received a letter from her husband's lawyers (**Document 4** attached) which I have just forwarded to her.

**3. Gareth Vaughan**

I am assisting Mr Vaughan with his divorce proceedings. I attach a copy of the attendance note confirming my initial attendance on him last week (**Document 5**). I would be grateful if you could please progress the case during my absence.

Many thanks,

Amelia

(Attendance Note re: Paula Fletcher)

**Client:** Paula Fletcher

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

**Fee earner:** Amelia Morgan

**File ref:** AM/LR/F142

**Time taken:** 1 hour

Attendance upon Paula Fletcher who is a new client. She was seeking advice following incidents of domestic abuse. I completed the necessary conflict checks and obtained the proof of identity documentation. Paula had bruising to the right cheek and a cut below her right eye.

Her details are as follows:-

Full Name: Paula Lynne Fletcher

D.O.B.: 01/10/1985

Address: 52 Church Road, Clayton, Barnardshire BH14 9PX

Temporary address: 3 Station Road, Clayton, Barnardshire BH12 4BM (Mother's)

Phone number: 07932695387 (mobile)

Occupation: Unemployed

Paula has been living with her partner Neil Steven Harris (d.o.b. 23/01/82) for two years. They have 1 child: Ruby Quinn Fletcher (d.o.b. 17/03/12).

The couple's home is a 2 bedroom terraced house. It is a council tenancy from Barnardshire County Council, Guildhall, Clayton, Barnardshire and is held in Neil's sole name. Paula is currently unemployed. Neil is employed as a HGV driver. Paula said that he didn't earn very much from this job. Paula has no savings. Neil has an ISA in his sole name which Paula estimates is worth £3,000.

Paula explained that problems started about a year after the couple moved in together when Neil began controlling her life. Initially she had been flattered by the fact that he couldn't bear to let her out of his sight. She said that his work meant that he would be out on the road for some time but would then return home for a week off. On a number of occasions he had persuaded her to stay home with him when he had time-off. At that point she had had a job so she had rung in sick to be able to spend the time with him. This resulted in her being sacked and subsequently becoming increasingly financially dependent on Neil.

Neil also dissuaded Paula from seeing her friends and family. He would pick on things that they had said or done as evidence that they were as he put it "using

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her" and she had been influenced by this and had gradually cut off her contact with them.

Paula admitted that her pregnancy with Ruby was unplanned. She said that Neil had been furious when she initially told him the news and had suggested that she get rid of it. She said that she had threatened to leave him and after this he seemed to come around to the idea. However, about six months into her pregnancy he started to criticise the state of the house when he got back from his trips and he also criticised her appearance, saying that she was putting on too much weight.

The violence first started towards the end of Paula's pregnancy in early 2012. Matters worsened after Ruby's birth. Paula said that Neil was totally unsympathetic to her trying to settle Ruby into a routine and that he became increasingly critical and irate about Ruby's crying telling Paula that she was a useless mother and that she had trapped him.

Paula said that at this point Neil would regularly slap, shake and punch her whenever he lost his temper with her. She explained that she would try not to do anything to upset him but felt that she was living on a knife-edge. She realised that she could not continue to live with Neil so on the occasions that he was on trips away she started to secretly get back in contact with her mother using her mobile phone. Recently, over the last month she had begun taking Ruby to see her mother.

Paula told me that it was Neil's discovery of this yesterday that had lead to the worst incident to date. She explained that Neil had returned home late the night before. In the morning she had got up as usual to cook him his breakfast. She forgot that she had left her mobile phone in the bedroom. She heard Neil run down the stairs and the next thing she knew he grabbed the kitchen knife and held it to her face saying that he couldn't believe that she was going behind his back running to her mother after everything he'd done for her. Ruby who was there in her high chair, started screaming. Neil dropped the knife but moved towards Ruby saying that he was sick of hearing her screaming and would find something to shut her up. Paula managed to get to Ruby first and took her in her arms. Neil punched Paula in the face whilst she was holding Ruby and told her to make sure she shut the baby up or he'd "shut them both up for good".

As soon as Neil went to sleep that night Paula got Ruby and went to her mother's. Her mother lives in a 1 bedroom bungalow so cannot accommodate Paula and Ruby for long. Neil's brother lives alone in a 2 bedroom property in the Clayton area.

Paula telephoned the local police station from her mother's home this morning and was told that unfortunately the domestic abuse liaison officer was unavailable. The police officer suggested that because the matter was urgent she should see a lawyer instead.

I used devolved powers to grant Paula emergency legal representation. As the court had already closed that day I advised her to remain at her mother's today and asked her to return to the office tomorrow.

**Turn over**

(Attendance Note re: Zainab Uddin)

**Client:** Zainab Uddin

**Date:** [dated last Tuesday]

**Fee earner:** Amelia Morgan

**File ref:** AM/LR/U120

**Time taken:** 1 hour

Attended upon Zainab. She is aware that the decree nisi was pronounced in relation to her 2 year separation petition last week. I noted that her husband, Yusuf, would also have received a copy of the pronouncement through his lawyers. Confirmed that I would contact her with the necessary application forms in respect of the final stage of the divorce of her 15 year marriage in due course.

Zainab wanted an update on her application for ancillary relief. I explained that further to our attendance at court for the First Appointment we had now received the joint valuation of the matrimonial home from the surveyors. I noted that they had suggested a figure of £150,000 which she thought sounded fair for a 3 bedroom property in their local area. I confirmed the current summary of the parties' assets following disclosure:-

- Former matrimonial home: 15 Park View Clayton: held in the parties' joint names as joint tenants and valued at £150,000  
less mortgage of £20,000  
: net equity £130,000
- Joint life assurance policy with a surrender value of £10,000
- Shares in Yusuf's sole name £30,000
- Cash ISAs in Zainab's sole name £10,000
- Cash ISAs in Yusuf's sole name £15,000
  
- Yusuf's pension: C.E.T.V. £22,000
- Zainab's pension: C.E.T.V £20,000

Zainab (35) is currently still working part-time and earns approximately £18,000 net per annum. Yusuf (38) earns £25,000 net per annum. Zainab confirmed that she is receiving child maintenance from Yusuf via the Department for Work and Pensions.

The parties' two children Malik (13) and Hana (10) remain with Zainab in the former matrimonial home which is a semi-detached 3 bedroom property. Zainab explained that Yusuf is still living in rented accommodation but is anxious to purchase a property once the finances are resolved. He has told Zainab that he has seen a 3 bedroom terraced property in a less salubrious area which needs some work doing on it for £110,000.

I confirmed that I would be in touch with Zainab closer to the timing of the Financial Dispute Resolution appointment to review the case with her.

(Letter from Lowtons LLP Yusuf Uddin's lawyers)

Kempstons LLP,  
The Manor House,  
Bedford,  
MK42 7AB

Your Ref: AM/LR/U120

[dated last Friday]  
**Without Prejudice**

**Dear Sirs,**

**Re: Your client: Zainab Uddin**  
**Our client: Yusuf Uddin**

Further to our letter of 18th December 2012 we have now received the valuation report of Messrs Parkers in relation to the former matrimonial home. We can confirm that our client accepts the figure of £150,000.

We attach a Notice of Severance\* in relation to the former matrimonial home and would be grateful if you would kindly acknowledge safe receipt.

Our client has instructed us to put forward the following offer in full and final settlement of your client's claims, in advance of the parties' FDR Hearing:-

- 1) that the former matrimonial home, 15 Park View Clayton Barnardshire, be transferred to your client subject to your client paying a lump sum of £65,000 to our client with your client undertaking to use her best endeavours to secure our client's release from the mortgage;
- 2) that the joint life assurance policy be surrendered and the proceeds paid to our client;
- 3) that both parties retain their own remaining assets (including their pensions);
- 4) that our client continues to pay child maintenance through the Department for Work and Pensions;
- 5) that there should in all other respects be a clean break in respect of all capital and income claims between the parties;
- 6) that both parties bear their own costs.

We look forward to hearing from you with the necessary acknowledgement and when you have had an opportunity of taking your client's instructions.

Yours faithfully,

*Lowtons LLP.*

**(\*Note to candidates: you can assume that the Notice of Severance referred to is attached to this letter and is correctly drafted.)**

(Attendance Note re: Gareth Vaughan)

**Client:** Gareth Vaughan

**Date:** [11th January 2013]

**Fee earner:** Amelia Morgan

**File ref:** AM/LR/V154

**Time taken:** 1 hour

Attendance on Mr Gareth Vaughan 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: Gareth William Vaughan

D.O.B.: 12/12/1974

Address: 25 Dawsons Drive, Clayton, Barnardshire, BH10 3YL

Phone number: 07721694253 (mobile)

Occupation: Human Resources Manager

Mr Vaughan wanted advice about his options following the breakdown of his relationship with his wife. He confirmed that he and his wife Eleanor Jane Vaughan (d.o.b. 03/05/1978) had been having difficulties with their marriage for some time.

The couple have been married for thirteen years. They have 2 children: Barney Charles Vaughan (d.o.b.18/02/2001) and Daisy Iris Vaughan (d.o.b. 24/07/2006). The parties' matrimonial home is 25 Dawsons Drive, Clayton, Barnardshire, BH10 3YL. It's a 3 bedroom semi-detached property held in the couple's joint names. Mr. Vaughan is a Human Resources Manager for an insurance company and his wife works part-time at a call-centre. Both parties are currently still living together at the matrimonial home.

Mr Vaughan explained that things had first started to go wrong about three years ago. He said that he and his wife had always wanted children together and they were both delighted when Barney and then Daisy were born. They felt that their family was now complete.

However, in 2010 his wife said that she thought they should have another child. Mr Vaughan said that he had been very taken aback by her change of heart but that they had discussed matters and agreed that financially things could become very difficult for them if they had another child. He said that his wife seemed to accept this and for a while everything seemed to have settled down.

In terms of the parties' financial situation, Mr Vaughan explained that things had actually worsened in the summer of 2010 as his wife had run up a number of gambling debts via online bingo websites.



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In January 2011 Mr Vaughan and his wife went to Rome for the week to celebrate their wedding anniversary. He said that his parents looked after Ben and Daisy so that the couple could have a weekend away without the children. Mr Vaughan told me that the weekend had turned into something of a disaster as at dinner on the last night, his wife again brought up the subject of them having another child. They had ended up arguing heatedly about that and the gambling debts and his wife had stormed out of the restaurant after saying that if he wouldn't give her another child then she would find someone who would.

When the couple returned home, Mr Vaughan had suggested to his wife that they attend counselling at Relate and his wife had agreed to this. They attended three sessions of counselling in February and March 2011 which appeared to Mr Vaughan to put the marriage back on track with the couple again agreeing the decision that they would have no further children.

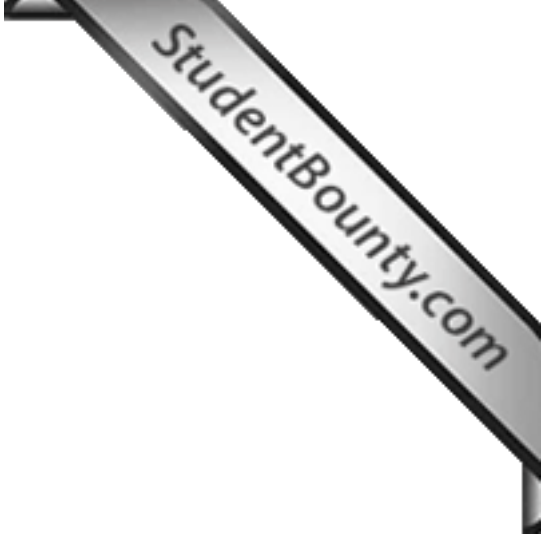
In January 2012 Mr Vaughan received an e-mail to his work e-mail address from a sender whom he did not recognise. When he opened the e-mail he found that it was from a woman who claimed that her husband was having an affair with Mr Vaughan's wife. Attached to the e-mail were copies of e-mails sent via a dating site from Mrs Vaughan to the woman's husband. Mr Vaughan confronted his wife about the e-mail and she admitted that she had joined a dating site and swapped e-mails with the man concerned but that she had never met him and had certainly not had an affair with him.

Mr Vaughan had been devastated by this news but believed his wife's assurance that she had not had an affair so had decided to give the marriage another chance. He told me that the final blow had come on 3<sup>rd</sup> December 2012 when his wife told him that she no longer loved him and that she wanted to end the marriage whilst she still had the chance to meet someone else and have another child. He had moved into the spare room that night and agreed that in due course he would find somewhere else to live.

I explained to Mr Vaughan the ground for divorce and the five facts. He told me that he would like to start a divorce as soon as possible and would think over his options and let me know how he wanted to proceed.

On a separate point Mr Vaughan mentioned that his parents would also be contacting me concerning an issue relating to the children.

## End of Case Study Materials



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