

CASE STUDY MATERIALS

January 2021
Level 6
THE PRACTICE OF FAMILY LAW
Subject Code L6-20



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

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 these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these 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 relate to these case study materials.

Instructions to Candidates Before the Examination

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEx Examination Regulations – Online Examinations or with the CILEx Examination Regulations – Online Examinations with Remote Invigilation.

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* 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**

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ADVANCE INSTRUCTIONS TO CANDIDATES

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 DX address 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 Carrie Hynes. The local family court is in Bedford.

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

- Document 1** Memo from Carrie Hynes
- Document 2** Attendance Note re Miriam Aronowitz
- Document 3** Attendance Note re Natalie Shaw
- Document 4** Email from Yvette and John Bamford
- Document 5** Attendance Note re Rose Fielding

DOCUMENT 1

Memo

To: Trainee Lawyer
From: Carrie Hynes
Date: [Yesterday's date]
Re: Matters to be attended to in my absence

As I mentioned, I am going to be absent from the office for the next week on annual leave. I would be grateful if you could please attend to the following cases during my absence:

1. Miriam Aronowitz

Mrs Aronowitz is a new client. I saw her for a first appointment today and attach a copy of the attendance note of this meeting (**Document 2**). Please deal with her case in my absence.

2. Natalie Shaw

I have been dealing with Mrs Shaw's divorce proceedings and am currently trying to resolve the related financial matters. I attach an attendance note of my meeting with her last Wednesday (**Document 3**). Please deal with any queries that arise while I'm on leave.

3. Mr and Mrs Bamford

I attach a copy of an email I received from Yvette and John Bamford earlier today (**Document 4**). Please take any action required on this case during my absence.

4. Rose Fielding

Miss Fielding is a new client, who attended at the office late this afternoon. I attach a copy of the attendance note of this meeting (**Document 5**). Please progress the case as required.

Many thanks,

Carrie

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DOCUMENT 2

Attendance Note re Miriam Aronowitz

Client: Miriam Aronowitz

Date: [Yesterday's date]

Fee earner: Carrie Hynes

File ref: CH/LR/A239

Time taken: 1 hour

Attendance on Mrs Miriam Aronowitz, who is a new client. I obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues. Her details are as follows:

Full name: Miriam Aronowitz (née Hirsch)

D.O.B: 07/04/1978

Address: 3 Westminster Close, Clayton, Barnardshire, BH14 9KB

Phone number: 07983820941 (mobile)

Occupation: Pharmacist

Mrs Aronowitz was seeking advice about her options following the breakdown of her relationship with her husband. She has been separated from her husband, Daniel (D.O.B. 29/11/1977), for some time.

The parties married in February 2002. They have one child: Elijah Aronowitz (D.O.B. 05/08/2006). The former family home is 3 Westminster Close, Clayton, Barnardshire, BH14 9KB. It is a three-bedroom detached property, held in the couple's joint names. Mrs Aronowitz lives there with Elijah. Mr Aronowitz lives at 9 Queen's Drive, Clayton, Barnardshire, BH10 2EB. He is a property developer and earns over £100,000 per annum.

The first problems with the marriage were in March 2015, when Mrs Aronowitz found out that her husband was having an affair. As soon as she confronted him about it, he promised to end it immediately and begged her to forgive him and give their marriage another chance. Mrs Aronowitz believes that her husband did end the affair at that point. She had felt that she should try to reconcile with him for the sake of Elijah.

The couple attended some marriage counselling sessions and Mrs Aronowitz was hopeful that they could put her husband's affair behind them. However, she had difficulty in trusting her husband and, in November 2015, she asked her husband to move out of the family home, which he did on 10 November 2015.

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Elijah struggled to adjust to the new situation at home, so the parties agreed to give things another try and Mr Aronowitz moved back in on 10 December 2015. Despite the parties' best efforts, the reconciliation did not last. Mr Aronowitz moved out of the family home into his current accommodation on 10 March 2016.

The parties have not lived together since this point. Neither Mrs Aronowitz nor her husband have been involved with anyone else since then; they have just drifted apart.

Mrs Aronowitz has discussed a divorce with her husband, but he seems reluctant to do so, telling her that as neither of them want to remarry, he does not see the point. His reluctance has come as a surprise to Mrs Aronowitz, as he does not strictly follow their faith, although she is aware that his parents strongly disapprove of divorce.

I explained the ground for divorce and the five facts. Mrs Aronowitz indicated that she would like to start divorce proceedings as soon as possible, so will consider her options and let me know how she wants to proceed. She will send me the marriage certificate and her financial details in due course. She mentioned that her husband has a number of financial assets, including shares and investment properties including the house at 9 Queen's Drive, which is a three-bedroom detached house. For Elijah's sake, she wishes to keep the relationship with her husband as amicable as possible and to keep the divorce costs to a minimum.

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DOCUMENT 3

Attendance Note re Natalie Shaw

Client: Natalie Shaw

Date: [Last Wednesday]

Fee earner: Carrie Hynes

File ref: CH/LR/S140

Time taken: 1 hour

Attendance upon Mrs Shaw. She has received notification from the court that the decree nisi will be pronounced in relation to her behaviour petition in two weeks' time. She handed me the draft Financial Statement that I had asked her to complete in support of her application for a financial order. She had asked one of the local estate agents to provide her with informal property valuations for the parties' two houses.

We discussed the valuations that she had put into her Financial Statement:

- Former family home: 8, Beattie Drive, Clayton – held in the parties' joint names: £399,000,
less mortgage of: £125,000
net equity = £274,000
- Investment property: 21 Palmer Street, Clayton, held in the parties' joint names: £210,000 (mortgage-free)
- Joint life assurance policy with a surrender value of: £160,000
- Shares in Mrs Shaw's sole name: £35,000
- Shares in joint names: £105,000
- Cash ISAs in Mrs Shaw's sole name: £15,000
- Savings in Mr Shaw's sole name: £150,000
- Mrs Shaw's pension: C.E. £105,000

Her husband, Kieran, has obtained his own valuations of the two properties, and has emailed copies of them to her. They state a value for the family home of £350,000 and for the investment property of £240,000. Apparently, he has put these figures into his Financial Statement. Mrs Shaw does not accept these figures.

We reviewed the orders that Mrs Shaw has applied for in her Financial Statement. She wants an outright transfer to her of the former family home, where she is living with the parties' two children, Theo and Willow. It is a four-bedroom property. Theo is due to sit his GCSEs this year, and Willow is in the last year of primary school. Mr Shaw has told his wife that he wants to sell the former family home and divide the proceeds, and that she and the children should move to a three-bedroom property in Clayton.

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Mr Shaw is living in the couple's investment property: 21 Palmer Street. He has told his wife that he wants this property transferred into his sole name. Mrs Shaw would like to sell this property.

She believes that her husband's pension C.E. is worth about £295,000 and she wants a share of it. The couple have argued about this, and Mr Shaw has made it clear that she should not have any orders in relation to his pension and that he wants a clean break.

Mrs Shaw wants spousal maintenance. She is still working part-time as a health and safety officer. She believes that she will struggle to increase her hours until Willow attends high school. Her husband continues to work full-time as a production manager.

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DOCUMENT 4

Email from Yvette and John Bamford

To: Carrie Hynes
From: Yvette and John Bamford
Date: [Yesterday's date]
Subject: Problems with seeing our grandchildren

Dear Miss Hynes

We need advice about the problems we are having seeing our two grandchildren since our son Iwan separated from his ex-partner.

Our grandchildren are Harper (aged 13) and Logan (aged 6). They live with their mother, our son's ex-partner, Victoria Richards. Iwan separated from Victoria in October 2020. He is a retail manager, which means that he often has to work over the weekend. He does see the children regularly, but his weekend work commitments mean that he does not spend as much time with them as he would like.

Until the separation, Harper and Logan would stay with us every other Saturday night and for part of their school holidays. We were also happy to step in to look after the children if any problems arose, such as if one of them was poorly and Victoria or Iwan had to go into work. The arrangements worked well and the children were happy and settled.

After Iwan separated from Victoria, we began to have problems with these arrangements. The first time that we had problems was during the children's October half-term holidays. We were expecting to have Harper and Logan to stay with us for a few days, but the day before they were due to come to us, Victoria texted to say that her parents were visiting and that she wanted Harper and Logan to spend time with them. She told us she would sort something out for us to see the children at a later date.

Whilst we were disappointed, we could appreciate that Victoria would want the children to spend time with her parents. We waited to hear from her but, having heard nothing by the end of the week, we texted her but got no reply.

We saw the children the following Saturday, but the next time they were due to visit we received a text from Victoria, saying that Logan was poorly and that she thought Harper might be coming down with it too. Again, we understood why Victoria was cancelling. However, on the Sunday, we had a text from Harper, saying that she hoped we would be better soon.

Although the next visits went ahead, by mid-December Victoria was finding excuses to collect the children from us early, saying that she needed to take them Christmas shopping or that they had been invited to their friends' house.

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Things came to a head over Christmas, when Victoria told us she was taking the children to stay with her parents. We realised that this meant we wouldn't be able to see them over Christmas at all.

We were upset by this, but were worried about making things worse if we tried to discuss it with Victoria. We received a number of texts from Harper over Christmas, saying that she and Logan missed us and hoped to see us soon.

We have not seen the children since mid-December. We have tried telephoning and texting Victoria, but to no avail. We have even called round, but got no answer when we knocked on the door, despite the lights being on and Victoria's car being parked in the drive.

We would be grateful for your help with this.

Regards,

Yvette and John Bamford

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DOCUMENT 5

Attendance Note re Rose Fielding

Client: Rose Fielding

Date: [Yesterday's date]

Fee earner: Carrie Hynes

File ref: CH/LR/F290

Time taken: 1 hour

Attendance upon Rose Fielding, who is a new client. She needed urgent advice following some incidents of domestic abuse. I completed the necessary conflict checks and obtained the proof of identity documentation. There were no issues. I saw that Rose had a cut on her right cheek and bruises on her wrists. Her details are as follows:

Full Name: Rose Fielding

D.O.B: 16/02/1985

Address: 10 Haytor Road, Clayton, Barnardshire, BH9 7YS

Temporary address: Flat 2 Beech View, Clayton, Barnardshire, BH10 9BU (Mother's)

Phone number: 07720499720 (mobile)

Miss Fielding has been living with her partner, George Pauling (D.O.B. 28/05/1990), for eight years. They have one daughter, Bethany Fielding (D.O.B. 10/11/2013). The couple live together at 10 Haytor Road, Clayton, a two-bedroom semi-detached house, which they rent from a private landlord in their joint names. Mr Pauling works as a freelance IT consultant. Miss Fielding is a part-time nursery nurse.

Miss Fielding told me that she and Mr Pauling met in summer 2012, when he came to the nursery where she worked to set up a new IT system. She had recently separated from her partner and admits that she was rather vulnerable at that time. The couple began seeing each other, and Miss Fielding found Mr Pauling to be very charming and attentive.

The couple moved in together in early 2013. Soon after, Miss Fielding became pregnant with their daughter Bethany. Whilst the pregnancy was unplanned, Mr Pauling had been very supportive.

When Bethany started school, Miss Fielding increased her hours to three days a week. She said that Mr Pauling had always tended to leave all of the childcare arrangements to her, saying that she was the expert, but that recently he had seemed to take little interest in Bethany.

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She told me that things had started to change about six months ago, when one of Mr Pauling's school friends, Ollie, returned from living abroad to live in a two-bedroom house nearby. Mr Pauling began to go out to the pub every Friday with Ollie. Miss Fielding explained that when he returned from the pub, he would often be drunk and would start an argument with her. He would pick on her appearance, saying that she was a frump and that Ollie had suggested that he trade her in for a younger model. He would make references to her being older than him, calling her a child-snatcher.

Last month, during one of these arguments, she started to cry. This seemed to infuriate Mr Pauling and he lashed out at her, slapping her across the face. The following day, he apologised and said that he was just trying to calm her down, as she had clearly been hysterical.

Miss Fielding was shocked by the incident but thought that it was a one-off. However, last week, when Mr Pauling came back from the pub, he was in a particularly bad mood. He started shouting and swearing at Miss Fielding. He accused her of trapping him, saying the pregnancy was deliberate and that she had ruined his life. She started crying, and he slapped her hard across the face and then punched her repeatedly on the body. Bethany must have heard the shouting, as she came downstairs and said 'Daddy stop'. This seemed to have an effect, as Mr Pauling stopped and immediately left the house. He didn't return that night. Miss Fielding thinks that he probably stayed at Ollie's. Mr Pauling's parents also own a three-bedroom property in the locality.

By this point, Miss Fielding realised that she needed to leave Mr Pauling, but the only relative she has nearby is her mother, who lives in a one-bedroom flat in a retirement complex. She collected some particulars from the local letting agency in the hope that she could afford to rent somewhere else, although she told me that she had put them in the bin, as they were all too expensive.

Last night, she came home from work to find Mr Pauling in the kitchen with the letting agency particulars in his hand. He waved them in her face and asked her what she thought she was doing. He had clearly been drinking heavily. Bethany was upstairs, so Miss Fielding's first thought was to go and check on her. Mr Pauling blocked her way out of the kitchen, grabbing her by the wrists. He said that she wasn't going to shame him by leaving him, and he moved towards the kitchen drawers and got out a knife, which he waved in front of her face. Miss Fielding screamed and Bethany must have heard, as she came into the kitchen. When he saw Bethany, Mr Pauling dropped the knife and ran out the back door. Miss Fielding got a few things together for herself and Bethany, and drove them over to her mother's flat. She told me that she cannot stay there for long. She received a text from Mr Pauling, saying he would kill her if he saw her.

Miss Fielding telephoned the local police station this morning, but they informed her that their domestic abuse liaison officer was out on a call, so they advised her to seek legal advice. I used devolved powers to grant Miss Fielding legal representation and, as the court had closed, I advised her to remain at her mother's and return to the office tomorrow.

End of Case Study Materials