

CASE STUDY MATERIALS

June 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 of Kempstons LLP, The Manor House, Bedford, MK42 7AB. The firm's telephone number is (01234) 622964; fax (01234) 622965; and its 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, Milo Barnes. The local family court is in Bedford.

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

- Document 1** Memo from Milo Barnes
- Document 2** Attendance Note re Tamara Fitzpatrick
- Document 3** Attendance Note re Jameelah Adebayo
- Document 4** Email from Owen Williamson
- Document 5** Attendance Note re Christine Gordon

DOCUMENT 1

MEMO FROM MILO BARNES

To: Trainee Lawyer
From: Milo Barnes
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. Tamara Fitzpatrick

Mrs Fitzpatrick 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. Jameelah Adebayo

I have been dealing with Mrs Adebayo'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. Owen Williamson

I attach a copy of an email I received from Mr Williamson earlier today [**Document 4**]. Please take any action required on this case during my absence.

4. Christine Gordon

Mrs Gordon 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,

Milo

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DOCUMENT 2

ATTENDANCE NOTE RE TAMARA FITZPATRICK

Client: Tamara Fitzpatrick (née Vann)

Date: [Yesterday's date]

Fee earner: Milo Barnes

File ref: MB/LR/F171

Time taken: 1 hour

Attendance on Mrs Tamara Fitzpatrick, 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: Tamara Fitzpatrick

D.O.B: 20/09/1981

Address: 5 Weaverside, Clayton, Barnardshire, BH10 8BW

Phone number: 07970910832 (mobile)

Occupation: Environmental Consultant

Mrs Fitzpatrick was seeking advice about her options following the breakdown of her relationship with her husband, Russell Fitzpatrick (D.O.B. 01/08/1980).

The couple were married on 10 July 2020, having cohabited for ten years prior to that. They have one daughter, Isadora Fitzpatrick (D.O.B. 24/07/2014).

Mrs Fitzpatrick explained that she had first felt there were problems with the relationship about two years ago. At that point, she had returned to full-time work, as Isadora had started primary school. Mr Fitzpatrick has a demanding job as a police inspector (he earns approximately £58,000 gross per annum), and when Mrs Fitzpatrick was caring for Isadora and working part-time, she had taken on the majority of responsibilities relating to the household. However, she found it difficult to continue this after she returned to work full-time.

This led to the couple having numerous arguments about the division of household chores. Mrs Fitzpatrick said she felt that Russell had been very unsupportive of her return to full-time work and that he had pressurised her to go back to a part-time role, as this had suited him better. She felt that she had been forced to put her career on hold for many years to further his career, and she was unwilling to reduce her working hours. The couple had attended counselling sessions in late 2019, to try to tackle these issues. These had succeeded in putting the relationship back on track, so much so that the couple had taken the decision to marry.

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Mrs Fitzpatrick explained that, unfortunately, about a month after the marriage, matters had started to deteriorate again. Her husband had been part of a particularly gruelling police investigation, and so it was not long before the couple started to resume their arguments about the household division of labour and whether Mrs Fitzpatrick should reduce her hours. They engaged in some further counselling sessions, to try to save their relationship. However, although the counselling sessions were productive, by November 2020 Mrs Fitzpatrick started to suspect that her husband was having an affair. When she confronted him about it, he admitted that he had formed a close relationship with a work colleague, Candice, but that he had now ended this, and he begged Mrs Fitzpatrick to forgive him.

Mrs Fitzpatrick explained that she had tried to put this episode behind them for the sake of Isadora. However, she found it hard to trust her husband, and it was clear that they both now felt that the marriage was at an end.

I advised Mrs Fitzpatrick of her legal position, and she confirmed that she would contact me if she wanted to proceed.

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DOCUMENT 3

ATTENDANCE NOTE RE JAMEELAH ADEBAYO

Client: Jameelah Adebayo

Date: [Last Wednesday]

Fee earner: Milo Barnes

File ref: MB/LR/A276

Time taken: 1 hour

Attendance upon Mrs Adebayo. She has received notification from the court that the decree nisi in relation to her 15-year marriage will be pronounced in three weeks' time.

I updated Mrs Adebayo on her application for financial orders following our attendance at court for the First Directions Appointment. I confirmed that we had now received the joint valuation of the former family home from the surveyors. They suggest a figure of £425,000, which she thought sounded realistic for a three-bedroom semi-detached property in the local area.

I summarised the parties' assets following disclosure:

- Former family home: 1 Regent's Gate, Clayton: registered in the parties' joint names and valued at £425,000
less mortgage of £175,000
net equity: £250,000
- Joint life assurance policy with a surrender value of £80,000
- Shares in Mr Adebayo's sole name: £65,000
- Savings in Mrs Adebayo's sole name: £30,000
- Savings in Mr Adebayo's sole name: £52,000

- Mr Adebayo's pension: C.E. £74,000
- Mrs Adebayo's pension: C.E. £28,000

Mrs Adebayo (39) is currently still working part-time and earns approximately £25,000 net per annum. Her husband Kofi (41) earns £50,000 net per annum. Mrs Adebayo confirmed that she is receiving child maintenance from her husband via the CMS.

The parties' two children, Salim (13) and Zina (11), remain with Mrs Adebayo in the former family home. Mr Adebayo is still living in rented accommodation but wants to purchase a property once the finances are resolved. He has told Mrs Adebayo that he has seen a three-bedroom semi-detached property in the area for £395,000. It needs some renovation.

We agreed that I would be in touch with Mrs Adebayo shortly before the Financial Dispute Resolution appointment, to review the case with her.

DOCUMENT 4

EMAIL FROM OWEN WILLIAMSON

To: Milo Barnes
From: Owen Williamson
Subject: Evangeline
Date: [Yesterday's date]

Hi Milo,

How are you, I hope you're well? I'm emailing as I need some help in resolving some problems which have occurred in relation to my daughter Evangeline.

I don't know if you remember, but I separated from Evangeline's mum, Heidi Lomax, about two years ago. At that point, we agreed the arrangements for Evangeline between us, without the need to go to court. I continue to work full-time, whereas Heidi still works part-time, so I was happy for Evangeline (who is now 7), to live with Heidi and spend every other weekend and half of her school holidays with me. Evangeline seems to have adapted well to these arrangements and is settled and happy.

One thing which is bothering me is that Heidi makes all of the decisions relating to Evangeline without consulting me. Heidi says that this is only right, because Evangeline lives with her, but I don't think that this is fair, as Evangeline spends a lot of time with me too.

When Evangeline was born, I remember that Heidi registered the birth without me and without naming me as the father. Heidi said that she couldn't wait for me to have the time off work to go with her! Whenever I try to discuss this issue with Heidi, she just changes the subject.

Another problem which has arisen is that my parents have paid for me and Evangeline to go on holiday with them to France for a fortnight during Evangeline's summer holidays in August this year. My parents thought it would be a nice surprise, as I wasn't able to take Evangeline abroad last year, as money was a bit tight. They were able to take advantage of a special offer, but this meant they had to pay in full when they booked. I was horrified that when I told Heidi about the holiday, she said that she hoped my parents could get some of their money back, as Evangeline wouldn't be going. When I asked her why, she just said that she had her own holiday plans, but I know from Evangeline that nothing has been booked yet. Evangeline is very upset about the situation with the holiday. Unfortunately, my parents told her about it when they booked it, and she was so excited when she saw photos of the pool and children's play areas at the hotel.

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I'd be grateful if I could come in to discuss these matters with you as soon as possible?

Many thanks,

Owen

DOCUMENT 5

ATTENDANCE NOTE RE CHRISTINE GORDON

Client: Christine Gordon

Date: [Yesterday's date]

Fee earner: Milo Barnes

File ref: MB/LR/G310

Time taken: 1 hour

Attendance upon Christine Gordon, 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 she had a cut on her right cheek and bruises to her face. Her details are as follows:

Full Name: Christine Gordon

D.O.B: 03/05/1995

Address: 21 East View, Clayton, Barnardshire, BH13 5AP

Temporary address: 6 Newhaven Court, Clayton, Barnardshire, BH11 9JS (sister's)

Phone number: 07830932719 (mobile)

Mrs Gordon has been married to her husband Nicholas Gordon (D.O.B. 14/10/1993) for four years. They have one son, Porter (D.O.B. 28/01/2018). The couple live together at 21 East View, Clayton, a two-bedroom semi-detached house, which is owned in Mr Gordon's sole name. Mr Gordon works as a recruitment consultant and earns £40,000 per annum. Mrs Gordon is a part-time receptionist at the local hotel and earns £21,000 per annum.

She explained that she had met her husband five years ago, when she had used the recruitment agency he works for. At that time, she had just left university and her parents had recently retired to live in Spain. She admitted that she had been swept off her feet by her husband and they were married within a year of their first meeting. On reflection, she thinks that she rushed into the relationship, as she was missing her parents and looking for some emotional and financial stability.

Mrs Gordon thinks her husband also now regrets their hasty marriage, as in recent months he has seemed bitter and resentful of her. He has become verbally abusive towards her, criticising her spending and the state of the house, and saying he wished he could divorce her but that it would cost him too much. She thinks that the trigger for the abuse is her husband's drinking. While her husband has always liked a drink, over the past few months he has been drinking heavily every day.

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Two weeks ago, Mrs Gordon tried to broach the subject of his heavy drinking with her husband. She had picked up some leaflets about local organisations that provide support and had left these on the table in the living room. When Mr Gordon returned from work, he had as usual started to drink. Later in the evening, Mrs Gordon was checking on Porter, when she heard her husband run up the stairs. He came into the nursery with the leaflets in his hand. He waved them in Mrs Gordon's face and shouted: 'What the **** are these?' Mrs Gordon tried to get past her husband as she was worried about waking Porter, but Mr Gordon blocked her way. She tried to pacify her husband, explaining that she just thought he needed some help. He punched her in the stomach and then pushed her, causing her to knock her head against the wall. The argument woke Porter, who started crying. Mr Gordon left the house and did not return until the following day. Mrs Gordon thinks he may have stayed with his parents, who own a three-bedroom bungalow nearby.

The couple did not discuss the incident and Mrs Gordon hoped that it had been a one-off, but yesterday afternoon, when she returned home from work having collected Porter from nursery, she found that her husband was already at home. It was clear that he was drunk, as he was slumped on the sofa surrounded by empty beer cans. She took Porter upstairs and gave him some toys to play with, telling him to stay in his room.

She began to pack a suitcase with some of her and Porter's belongings. As she was still packing, she heard her husband come into the bedroom. He struck her hard across the back of the head and she fell to the floor. He pulled her up and struck her across her face repeatedly. She heard him say: 'Make sure you don't come back, bitch, or I'll finish this'. She then heard Porter's voice saying, 'Daddy stop', and the sound of Mr Gordon leaving the room and the front door slamming.

Mrs Gordon immediately rang her sister, who came to collect her and Porter and took them back to her flat. Her sister rents a one-bedroom flat, so they cannot stay there for long. Later that night, Mrs Gordon received a text from her husband, saying: 'I mean it, come back and you're dead'.

This morning, Mrs Gordon telephoned the local police station, but was told that unfortunately the domestic abuse liaison officer was out dealing with another matter. The police officer told her that as the matter was urgent, she should see a lawyer instead.

I used devolved powers to grant Mrs Gordon emergency legal representation. As the court had already closed for the day, I advised her to remain at her sister's today and to return to the office first thing tomorrow.

End of Case Study Materials