



January 2022
Level 3
THE PRACTICE OF LAW FOR
THE ELDERLY CLIENT
Subject Code L3-15

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES
UNIT 15 – THE 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 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

- 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 textbooks into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are employed as a trainee solicitor by the firm of Simpson & Partners of 100 High Street, Bedford MK42 7AB.

Your supervising solicitor is Anthony Weale. He hands you several files and the following related documents:

Document 1 Attendance note of a meeting with Margaret Davies and Sophie Taylor

Document 2 Attendance note of a telephone call with Sophie Taylor

Document 3 Attendance note of a meeting with Michael and Sarah Jacobs

DOCUMENT 1

ATTENDANCE NOTE

Attending: Margaret Davies and Sophie Taylor

Date: 4 January 2022

Time engaged: 45 minutes

Reference: AW/2022/Davies

Attending Margaret Davies in the office to discuss her Enduring Power of Attorney (EPA). Also present was her daughter Sophie Taylor. Sophie had brought Margaret to the office because Margaret no longer drives.

I acted for Margaret and her husband Peter in 2006, when they made Living Wills containing Advance Decisions. In addition, Margaret and Peter made Enduring Powers of Attorney (EPAs) appointing each other and Sophie as Attorneys. The Attorneys were appointed jointly and severally. The EPAs did not have any restrictions in them. When Peter was diagnosed with dementia in 2011, Margaret and Sophie registered Peter's EPA with the Office of the Public Guardian.

Peter died ten months ago and Margaret now lives alone. Sophie lives nearby with her family, and visits Margaret at least twice a week.

Sophie explained that Margaret's memory has not been very good since Peter died and that Margaret is very forgetful these days. Sophie gave an example of when Margaret forgot to pay her electricity bill and the utility company cut off the supply. Sophie helped Margaret to get reconnected and to set up a direct debit to avoid this from happening again. Sophie also explained that Margaret is often misplacing her bank card and not remembering transactions which appear on her bank statements. For almost six months now, Sophie has been using Margaret's EPA with her consent, and Margaret agreed that this was the right thing for Sophie to do.

The cause of Margaret's memory loss is currently unknown. Margaret's doctor has referred her to the memory clinic, and an appointment has been made for Margaret to attend the clinic next week. They hope to have a better idea of the cause of Margaret's memory loss after that appointment.

I asked about her health, and Margaret said she has good days and bad days. Margaret has arthritis, and some days she finds it hard to get out of bed or walk without a walking stick. Margaret told me that since Peter had died, she has been more reliant on Sophie to help her around the house and with her financial affairs. Margaret went on to explain that Sophie is her only child, and that Sophie is married to Brian and they have two adult children together, Rosie and Hannah. Margaret has a younger brother but no other relatives.

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Margaret said she finds it hard to climb stairs now. Sophie explained that they are looking to have a stair lift fitted for Margaret at home, but Margaret does not have enough money to afford to do so. Margaret also needs a shower room, as she finds it hard to get in and out of the bath. Margaret said that she is worried about leaving her home, as it is the home she and Peter bought when they got married. Margaret does not want to have to sell her home or go into a nursing home.

Sophie said Margaret's house needs updating. She reassured Margaret that she will do everything she can to make sure Margaret can continue to live in her home. However, Sophie is worried that Margaret will not be able to afford to adapt her home to enable her to continue living there.

Margaret and Sophie want to ensure that Margaret's affairs are in order, as her memory is getting worse. I said I would consider the situation and write to Margaret with my advice.

ATTENDANCE NOTE

Attending: Sophie Taylor
Date: 10 January 2022
Time engaged: 10 minutes
Reference: AW/2022/Davies

Attending Margaret Davies's daughter, Sophie Taylor, on the telephone. Sophie was calling to let me know that Margaret has attended the memory clinic.

Unfortunately, Margaret did not perform well on the memory tests. As such, Margaret has been diagnosed with the early stages of Alzheimer's Disease. Margaret will soon be starting medication to slow down the condition.

Now more than ever, Sophie is concerned about Margaret's ability to manage her own financial affairs, and she wants to know what she can do to help her mother.

I explained to Sophie that I will send her a letter, setting out the options available to her.

ATTENDANCE NOTE

Attending: Michael and Sarah Jacobs

Date: 12 January 2022

Time engaged: 45 minutes

Reference: AW/2022/Jacobs

Attending Michael and Sarah Jacobs in the office. My colleague has acted for Michael before. Michael and Sarah have come in to discuss various matters.

By way of background, Michael and Sarah explained that they are married and together they have a 25-year-old daughter called Leah. Leah is single and works in London, where she lives in rented accommodation. Michael and Sarah are unhappy about Leah renting. Leah has saved some money for a deposit on a house, but London house prices are so high that she will be unable to buy a property herself. Michael and Sarah want to help Leah buy her first home.

Michael and Sarah made Wills three years ago, leaving everything to each other if one of them should die. If they both die, Leah will inherit their estate. Michael and Sarah appreciate that when Leah inherits their estate, she will have lots of money to buy what she wants. However, Michael and Sarah want to see Leah happy in her own home while they are both alive. For this reason, they want to give Leah some money to help her purchase a property.

Michael and Sarah's combined estate is worth in the region of £1.2 million. Michael has his own construction company, which he inherited from his late father eight years ago. The business is doing well and they live a very comfortable life. Michael and Sarah have a portfolio of rental properties, one of which is in the South-East. They bought this property for £300,000, but it has recently been valued at £450,000. Michael and Sarah have encountered difficulties in renting out this particular property, so they are considering selling it. They wish to gift the net proceeds of sale to Leah, so she can purchase a property in her sole name.

Michael and Sarah do not have Lasting Powers of Attorney (LPAs) and had heard stories about what would happen if they lost capacity. Their close friend recently had a stroke, which left him paralysed on one side of his body. The friend's wife did not have an LPA for her husband, and that caused problems for them as a family. Michael and Sarah do not want something like this to happen to them, and asked if there is anything they can do to protect themselves in such situations.

Sarah also wanted some advice regarding her mother, Judith. Judith is 81 years old and lives in her own home near Sarah and Michael. Judith's sister, who is older than Judith, has recently been taken into a care home and she has had to sell her house to pay for her care costs. Sarah is worried that this might happen to her mother, and that Judith will be forced to sell her home to pay for her care.

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Sarah and Judith feel very strongly about this, and Judith is considering transferring her property to Sarah. Judith has approximately £12,000 of savings and receives a basic state pension.

Judith also needs to update her Will.

I explained that I would write to Michael and Sarah, setting out my advice and the options available to them.

End of Case Study Materials