

CASE STUDY MATERIALS

January 2018
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

- 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 except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

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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**

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer employed by the firm 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, Lois Price. The local family court is in Bedford.

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

- Document 1** Memorandum from Lois Price
- Document 2** Attendance Note re Chloe Vine
- Document 3** Attendance Note re Sadia Mahmood
- Document 4** Email from Janet and William Dunn
- Document 5** Attendance Note re Ursula Fairhurst

DOCUMENT 1

MEMORANDUM

To: Trainee Lawyer
From: Lois Price
Date: [Today's date]
Re: Matters to be attended to in my absence

I am going to be absent from the office for the next fortnight on annual leave. Please attend to the following cases during my absence:

1. Chloe Vine

Mrs Vine 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**). Please deal with this case in my absence.

2. Sadia Mahmood

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

3. Janet and William Dunn

I attach a copy of an email I received from Mr and Mrs Dunn yesterday (**Document 4**). Please can you progress the case for me?

4. Ursula Fairhurst

Miss Fairhurst is a new client, who attended at the office late yesterday afternoon. I attach a copy of the attendance note of this meeting (**Document 5**). Please take any action required on this case during my absence.

Many thanks,

Lois

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DOCUMENT 2

Attendance Note re Chloe Vine

Client: Chloe Vine
Date: [Yesterday's date]
Fee earner: Lois Price
File ref: LP/LR/V125
Time taken: 1 hour

Attendance on Mrs Chloe Vine, 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: Chloe Vine
D.o.b: 08/10/1981
Address: 1 Croft Crescent, Clayton, Barnardshire, BH11 5GW
Phone number: 07740753124 (mobile)
Occupation: Physiotherapist

Mrs Vine wanted advice about her options following the breakdown of her relationship with her husband. She told me that she had been separated from her husband, Owen Vine (d.o.b. 18/02/1978), for some time.

The parties married in May 2007. They have two children: Gabrielle Vine (d.o.b. 28/03/2008) and Evan Vine (d.o.b. 16/01/2010). The former family home is 1 Croft Crescent, Clayton, Barnardshire, BH11 5GW. It is a three-bedroom, semi-detached property, held in the couple's joint names. Mrs Vine lives there with Gabrielle and Evan. Mr Vine lives at 14 Meadow View, Clayton, Barnardshire, BH12 9UD. He is an architect with a local firm.

Mrs Vine explained that in April 2011, she discovered that her husband was having an affair with a work colleague of his, Freya. When Mrs Vine confronted her husband, he admitted to the affair, but promised that he would end it immediately. Mrs Vine insisted that he move out of the family home. However, in May 2011, after some relationship counselling, the couple agreed to give their marriage a second chance, and Mr Vine moved back into the family home. Mrs Vine told me that she had found it difficult to trust her husband after the affair, and the reconciliation came to an end on 31 December 2012, when Mr Vine moved out of the family home into his current accommodation.

The children had been very upset when Mr Vine moved out, so the couple had attempted a further reconciliation. Mr Vine had moved back into the family home on 20 February 2013. Mrs Vine said that their relationship had soon become strained again, and Mr Vine had moved back out of the family home on 20 March 2013. The parties have not lived together since this point. She told me that since her husband ended the affair, neither she nor her husband had been involved with anyone else – they had just drifted apart.

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Mrs Vine explained that she has asked her husband for a divorce but he refuses, saying that he has no plans to remarry, so he does not see the point in them divorcing. Mrs Vine is surprised at his reluctance to divorce, as he does not follow any faith. She thinks that he is concerned that his parents would be unhappy with the position, as they strongly disapprove of divorce.

Mrs Vine feels that she cannot continue with the current situation and she would like a divorce. She confirmed that she will let me have the marriage certificate and her financial details in due course. She mentioned that Mr Vine earns a generous salary and that he has a number of assets, including shares, savings and the property at Meadow View, which is a three-bedroom, detached house.

I explained to Mrs Vine the ground for divorce and the five facts. She indicated that she would like to start divorce proceedings as soon as possible and would consider her options and let me know how she wants to proceed.

She would like to keep the relationship with her husband as amicable as possible for the sake of the children, and she is also anxious to keep the divorce costs to a minimum.

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DOCUMENT 3

Attendance note re Sadia Mahmood

Client: Sadia Mahmood

Date: [Last Wednesday]

Fee earner: Lois Price

File ref: LP/LR/M124

Time taken: 1 hour

Attendance upon Mrs Mahmood. She confirmed that she had received notification that the decree nisi would be pronounced in relation to her two years' separation petition later this month. Mrs Mahmood handed me her draft financial statement, which I had asked her to complete to assist with her application for financial relief. She told me that she had spoken to her husband, Nasser, about obtaining valuations of the former family home and their investment property, but he had been reluctant to agree to instructing an estate agent, so she had just approached one of the local agents herself.

The valuations of the parties' assets in Mrs Mahmood's statement are as follows:

- Former family home: 8 Mason Drive, held in the parties' joint names £550,000, less mortgage of £180,000 net equity = £370,000
- Investment property: 23 Bright Street, Clayton, held in the parties' joint names: £200,000 (this property is mortgage-free)
- Joint life assurance policy with a surrender value of £80,000
- Shares in Mrs Mahmood's sole name £10,000
- Shares in joint names £55,000
- Savings in Mrs Mahmood's sole name £28,000
- Savings in Mr Mahmood's sole name £75,000
- Mrs Mahmood's pension CE: £35,000
- Mr Mahmood's pension CE: £80,000.

Mr Mahmood is a mechanical engineer and he works full-time. Mrs Mahmood works part-time as a pharmacist at the local chemist's.

We discussed the financial orders that Mrs Mahmood wishes to apply for. She wants an outright transfer to her of the former family home. This is a four-bedroom, detached property. She currently lives there with the parties' two children, Aisha and Rashid. Aisha will be sitting her GCSE exams later this year. Rashid is in his last year of primary school. Mrs Mahmood confirmed that she had reached an agreement with Nasser about him paying child maintenance for the children. The children stay with him every other Saturday night.

Mrs Mahmood would like to sell the parties' investment property and divide the proceeds. She would like a pension sharing order in respect of her husband's pension, and she also wishes to pursue spousal maintenance from her husband.

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I confirmed that I would prepare the formal financial statement to lodge at court and exchange with Mr Mahmood's lawyers, and would get back to Mrs Mahmood once I received her husband's financial statement to progress matters.

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DOCUMENT 4

Email from Janet and William Dunn

To: Lois Price
From: Janet and William Dunn
Date: [Yesterday's date]
Subject: Hattie and Tom Dunn

Dear Miss Price

I'm emailing to ask whether you are able to advise my husband, William, and I about difficulties we are having in seeing our grandchildren, Hattie and Tom. Hattie is 12 years old and Tom is nine.

The problems started when our son, Kevin Dunn, separated from the children's mother, Zoe Lewis, in early October 2017. Since the separation, the children have remained in the former family home with Zoe. Kevin has moved out into a rented house nearby. Fortunately, he still sees Hattie and Tom fairly regularly. We don't want to jeopardise the arrangements he has made with Zoe, as we're aware that she has made it clear to him that she doesn't want us to be part of these arrangements.

Until Kevin separated from Zoe, we saw Hattie and Tom regularly. We saw them at least once a week every Saturday, and during their school holidays they would come and stay with us at our home. Both Kevin and Zoe seemed happy with these arrangements and they were also keen to approach us for help if, for example, they needed a babysitter. Zoe's parents live some distance away and her father suffers from health problems, which makes it difficult for him to travel.

We encountered problems with our arrangements immediately after Kevin and Zoe separated. We had been due to have the children stay with us during their October half-term holiday. However, on the Friday the children broke up from school, we received a text from Zoe, saying that we wouldn't be seeing Hattie and Tom, as she was taking them to visit her parents for the week.

Although we were disappointed, as it was so soon after Zoe's separation from Kevin we understood that she might want to spend some time with her parents. We also felt that it would be good for the children to see their maternal grandparents.

The week following half-term, we visited the children on the Saturday as usual. However Zoe cut short our visit after an hour, saying that the children were tired after their half-term travels and that she wanted them to have a quiet afternoon in readiness for school the following week. Both Hattie and Tom seemed disappointed that we were leaving so early, but we did as Zoe asked. In the weeks that followed, Zoe always found a reason to cut short our Saturday visits. We tried to speak to her about it and even suggested changing our visit to a Sunday, but she refused to discuss the situation.

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Matters came to a head in late November, when we got a text from Zoe saying that the children had commitments over the next few weekends, so we wouldn't be able to see them. Shortly after receiving Zoe's text, we received a text from Hattie, saying that she and Tom missed us and that she hoped to see us when we got back from holiday! We tried to contact Zoe about this, but she didn't return our calls or texts. We drove to their home, where we saw Tom standing at his bedroom window and he waved at us. When Zoe answered the door, she refused to let us see Hattie or Tom. She told us that she didn't think that we should see the children for a while, as she needed time to settle them into a new routine following the separation.

We were very upset by this, but we didn't want to make things more difficult, so we stayed away. However, during December we received a number of texts from Hattie, asking when she and Tom would see us. We replied to say that we would be speaking to her Mum about it. We didn't want to worry Hattie, by telling her about the problems we were having making arrangements with Zoe.

Things didn't improve, as we didn't see the children at all over the Christmas period, despite repeated attempts to contact Zoe to make arrangements. When we visited the house on Christmas Day, there was no one home.

Since that point, we have tried everything to speak to Zoe about this, but now she won't even take our calls, and we think she has changed her telephone number. We continue to receive texts from Hattie, saying that she and Tom miss us. We would be grateful if we could come in to see you about this as a matter of urgency.

Janet and William Dunn

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Attendance Note re Ursula Fairhurst

Client: Ursula Fairhurst
Date: [Yesterday's date]
Fee earner: Lois Price
File ref: LP/LR/F232
Time taken: 1 hour

Attendance upon Ursula Fairhurst, 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 noted that Ursula had bruises on her face and cuts to her lower arms. Her details are as follows:

Full name: Ursula May Fairhurst
D.o.b: 20/04/1978
Address: 5 West Avenue, Clayton, Barnardshire, BH8 2PW
Temporary address: 16 Eden Road, Clayton, Barnardshire, BH7 5KE (Sister's)
Phone number: 07713756823 (mobile)

Miss Fairhurst has been living with her partner, Iwan Quinn (d.o.b. 06/10/79), for seven years. They have one daughter, Yasmin Fairhurst (d.o.b. 12/09/12). The couple live together at 5 West Avenue, Clayton, which is a three-bedroom, detached house that they rent from a private landlord in their joint names. Mr Quinn works as a graphic designer. Miss Fairhurst is a marketing manager.

Miss Fairhurst explained that she and Mr Quinn met at a marketing event that she had organised in autumn 2010. Mr Quinn had recently divorced from his wife, and Miss Fairhurst had just ended a long-term relationship as a result of her then partner being unfaithful. She explained that they had initially bonded over their recent romantic disappointments, as Mr Quinn had confided in her that his ex-wife had been unfaithful to him.

The couple moved in together in early 2011. Their daughter Yasmin was born in September 2012, and the couple had agreed that Miss Fairhurst would give up work to look after her. Miss Fairhurst told me that problems first occurred in October 2017, when she returned to work full-time. She explained that when she returned home from work, Mr Quinn would question her about every element of her day, including who she had met and where she had been. Initially, she was pleased, as she thought that he was just taking an interest in how she was settling back into work. However, as time went on, she realised that Mr Quinn became annoyed if she mentioned that she had spoken with male colleagues at work, and this led to heated arguments between the couple.

Mr Quinn also began to comment on Miss Fairhurst's appearance when she left for work in the mornings, accusing her of wearing too much make-up and inappropriate clothing, telling her that she looked like a 'cheap call-girl'.

Miss Fairhurst told me that she believed that Mr Quinn's behaviour was a reaction to the breakdown of his marriage. In late November, she had suggested to him that they should attend counselling together, but he had been furious at this suggestion and the couple had argued. During the argument, Mr Quinn had slapped Miss Fairhurst across the face. Miss Fairhurst said that she was so

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shocked that she had taken Yasmin with her to stay at her sister's that night. While she was there, she received numerous apologetic texts from Mr Quinn, in which he said that he was under pressure at work, and he promised that it would never happen again.

Miss Fairhurst had returned home the following day, as she had hoped that it was a one-off incident. She decided to see if she could contact Mr Quinn's ex-wife, to find out what had happened to make Mr Quinn behave so suspiciously. She managed to track down the former Mrs Quinn on Facebook and sent her a message.

In mid-December, one of Miss Fairhurst's colleagues mentioned that she had seen Mr Quinn outside the office on a number of occasions over the last few weeks and that he had called into reception a couple of times. When Miss Fairhurst returned home from work that day, she confronted Mr Quinn about this. Mr Quinn immediately flew into a violent rage with her. He punched her in the stomach and shouted that he had to check where she was, as she was a 'lying whore'. He was about to punch her again, when Yasmin walked into the room. Miss Fairhurst said that she had put a brave face on for Yasmin, and had pretended that she and Mr Quinn were play-fighting, but Yasmin had been very upset by the incident. Later that evening, Mr Quinn had apologised profusely to Miss Fairhurst and promised that it would never happen again.

Miss Fairhurst said that for Yasmin's sake she remained with Mr Quinn over the Christmas period. She told me that things seemed to calm down over the holidays when she was at home, and she was hopeful that they might be able to put the incidents behind them.

Yesterday, when she returned home from work, Miss Fairhurst checked her phone and saw that she had received a reply to the message she had sent to Mrs Quinn. In the reply, Mrs Quinn said that she had never been unfaithful to Mr Quinn, but that his suspicion and jealousy had led to him attacking her, and this was the reason she had divorced him. Miss Fairhurst told me that she had been making a meal for Yasmin, when she heard Mr Quinn arrive home. After a few minutes, Mr Quinn came into the kitchen and told Yasmin to go upstairs. He had Miss Fairhurst's phone in his hand. As soon as Yasmin left the room, Miss Fairhurst tried to run out of the back door, but Mr Quinn grabbed her by the wrists, shouting that he would make her sorry for spying on him. She tried to break free, but he pinned her to the wall and punched her repeatedly in the face. She thinks she must have screamed, because Yasmin came into the kitchen, at which point Mr Quinn stopped and walked out of the house.

Miss Fairhurst quickly packed some clothes for herself and Yasmin and drove to her sister's home, where they stayed the night. This morning, Miss Fairhurst received a text from Mr Quinn, saying that she should stay away from him unless she wanted more of the same. She told me that she cannot stay at her sister's for any length of time, as her sister and brother-in-law live in a two-bedroom house with their two young children. Mr Quinn's brother, who is single, has a two-bedroom property and his parents also live locally in a three-bedroom property.

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

End of Case Study Materials

