

## CASE STUDY MATERIALS

January 2019  
Level 6  
PROBATE PRACTICE  
Subject Code L6-21



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 21 – PROBATE PRACTICE\*

### 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**

## CASE STUDY MATERIALS

### ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer and work in the Private Client Department of Kempstons, The Manor House, Bedford, MK42 7AB (DX: BD345987).

Your supervising Chartered Legal Executive and head of department is Marcus Wu.

You arrive at work to find the following awaiting your attention:

- DOCUMENT 1**      Email from Marcus Wu dated 27 December 2018 re: Estate of Yolanda Mazur
- DOCUMENT 2**      Memorandum of severance dated 1 January 1990 relating to 3 Vicarage Road, Bedford
- DOCUMENT 3**      Note from Yolanda Mazur to Cyril Brown dated 31 October 2016
- DOCUMENT 4**      Email from Marcus Wu dated 28 December 2018 re: Estate of Rose Khan
- DOCUMENT 5**      Attendance note dated 16 November 2016 re: Will of Rose Khan
- DOCUMENT 6**      Email from Marcus Wu dated 27 December 2018 re: Estate of Herbert Fox
- DOCUMENT 7**      Email from Marcus Wu dated 28 December 2018 re: Estate of Isla Brown
- DOCUMENT 8**      Will of Isla Brown dated 1 January 2018

**DOCUMENT 1**

**EMAIL**

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: 27 December 2018

Subject: Yolanda Mazur deceased

I have been consulted by Cyril Brown (aged 80), a long-standing client of the firm.

Cyril's partner, Yolanda Mazur, died on 1 November 2018 in a car accident. Yolanda never made a Will. Cyril and Yolanda moved in together in 1974, when she emigrated from Poland, but neither of them has ever been married. Yolanda had two surviving children from a previous relationship: Bartek (aged 50) and his sister Julia (aged 52). Neither of them has ever been married or had children. Bartek and Julia own and run a successful chain of Polish restaurants. Yolanda's other daughter, Anna, died three years ago, leaving a widower, Peter, and two sons: Tony (aged 18) and Marcel (aged 7). Anna won the lottery in 2002 and left her estate in trust for Tony and Marcel.

Cyril and Yolanda purchased number 3 Vicarage Road, Bedford, together in 1974. It is an unregistered freehold property. They kept the deeds in their bungalow in a locked box, to which Yolanda had the only set of keys. In 1990, they signed a memorandum of severance (copy attached to this email) (**Document 2**). Two years before she died, Yolanda gave Cyril the keys for the locked deed box and a note (**Document 3**). This was just before she had an operation to repair a heart valve. Six months before she died, Cyril returned the deed box keys to Yolanda, as she wanted to store their passports in the box.

Cyril was also badly hurt in the car accident (he now uses a wheelchair) and he only now feels able to deal with her estate.

Yolanda had a cash ISA containing £225,000 and a joint bank account with Cyril containing £7,000. Number 3 Vicarage Road is currently worth £150,000. Yolanda had no liabilities at the date of her death, and her funeral had been pre-paid. Cyril was self-employed, but is now retired. He has no savings or any private pension, so wants to administer the estate as quickly as possible, as he is struggling on the state pension. Yolanda had an excellent occupational pension of £25,000 per year, which supported them both. This pension ceased on her death.

**Turn over**

DOCUMENT 2

MEMORANDUM OF SEVERANCE

THIS DEED is dated 1st January 1990

Parties

- (1) Cyril Brown of 3 Vicarage Road, Bedford MK44 9DZ ("First Owner").
- (2) Yolanda Mazur of 3 Vicarage Road, Bedford MK44 9DZ ("Second Owner").

**BACKGROUND**

- (A) On 8<sup>th</sup> March 1974 the property known as 3 Vicarage Road, Bedford MK44 9DZ as comprised in a Conveyance of that date made between Samia Haddad of the one part and the First Owner and the Second Owner of the other part ("the Property") was conveyed to the First Owner and the Second Owner to hold on trust for themselves as beneficial joint tenants.
- (B) The First Owner and the Second Owner wish to sever the said beneficial joint tenancy with effect from the date of this deed.
- (C) The First Owner and the Second Owner also wish to declare and confirm the extent of their respective beneficial interests in the Property.

**Declaration of trust**

The First Owner and the Second Owner agree to sever their joint tenancy of the Property with effect from the date of this deed and declare that they shall henceforth hold the Property on trust for themselves as beneficial tenants in common in equal shares.

**Endorsement**

The First Owner and the Second Owner agree to endorse a memorandum of this declaration on the said Conveyance.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Signed as a deed by Cyril  
Brown in the presence of:

*Cyril Brown*

.....

*A Smith*

5 Purland Drive Reading

CYRIL BROWN

Signed as a deed by Yolanda  
Mazur in the presence of:

*Y Mazur*

.....

*A Smith*

5 Purland Drive Reading

YOLANDA MAZUR

NOTE FROM YOLANDA MAZUR TO CYRIL BROWN

31st October 2016

To my Darling Cyril

Here are the keys to the deed box - if anything happens to me when I have my operation I want you to have our lovely home.

Lots of love

Yolanda

DOCUMENT 4

EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: 28 December 2018

Subject: Rose Khan deceased

Fatima Khan came to see me last week. Her mother, Rose Khan, died a month ago, leaving a validly executed Will appointing Fatima as the sole executor and sole beneficiary. The Will was prepared by a firm of Will writers. She brought a copy of the firm's Will file with her to the meeting. It only contains the initial attendance note (**Document 5**).

Her mother left a complex estate of £2 million, including a share portfolio in publicly quoted shares valued at £1 million and a property valued at £750,000.

Rose's other daughters, Ali and Sara, have each been to see solicitors, as they are shocked that they have been disinherited, despite the fact that they were on good terms with their mother. Fatima is financially independent. If her siblings have reasonable claims against the estate, she does not wish to waste money on litigation.

Even if Ali and Sara decide not to make any formal claims, Fatima will probably want to make some provision for each of them. If she does so, she will want to do this in the most tax-efficient method possible. Fatima sold her own share portfolio two months ago and faces substantial capital gains tax liabilities. She has already decided she wants to give £50,000 of her inheritance to her neighbour Callam (who has been a big support to her) and £70,000 to Birmingham University.

Fatima wants us to act in the administration of Rose's estate. I shall want you to assist me.

**[NOTE TO CANDIDATES: A copy of the Will is NOT attached and it will NOT be required for the assessment.]**

**DOCUMENT 5**

**ATTENDANCE NOTE**

Date: 16 November 2016

Meeting with: Rose Khan

Present: Peter Smith, Mrs Rose Khan and Fatima Khan

Meeting with Mrs Khan to take some Will instructions. She is 90 years old. Her husband died earlier this week, so her daughter Fatima thinks it is time to get her Will sorted. Fatima had previously arranged this appointment for her mother to come and see me.

Fatima mentioned something about a medical diagnosis relating to her mother, but I didn't like to pry.

Mrs Khan speaks excellent English, but when we talked about her husband, she began to cry and speak in Urdu. Luckily, Fatima translated for me during those points in the meeting.

Mrs Khan told me that she has three children – Fatima, Ali and Sara. She told me that her only assets are her house and £150,000 worth of quoted shares. She has no idea how much her house is worth. She wants to leave everything to Fatima now (but I presume she means in her Will), given the appalling behaviour of Ali and Sara. I felt unable to ask her any more details about this behaviour, because it is so personal.

I said I would prepare a Will to reflect her wishes and arrange another appointment, so that the Will can be correctly signed and witnessed.

Peter Smith  
Will writer

**Turn over**

## DOCUMENT 6

## EMAIL

From: Marcus Wu (marcus.wu@kempstons.co.uk)  
 To: Trainee lawyer  
 Date: 27 December 2018  
 Subject: Herbert Fox deceased

I met with Gideon Fox last week. He is the son of Herbert Fox, who died in November 2018. Gideon is the sole executor and sole beneficiary of his father's estate.

Herbert was married to Gideon's mother Maria, who died in 1980. No grant was needed for Maria's estate, as she had no savings and the family at that time lived in rented accommodation. Herbert remarried in 1986, but his new wife, June, died in 1995. Again, no grant was needed, because everything June owned (£20,000 cash) passed by survivorship to Herbert, and the family home, which they were then living in, was in Herbert's sole name.

Herbert's estate consists of:

**Assets:**

Cash in bank	£504,000
100 shares in Fox Café Ltd – an unquoted company (owned for 10 years)	£800,000
Buy-to-let property	£525,000
Jewellery	£10,000
Life insurance placed in Trust for Gideon in 1980	<u>£50,000</u>
	<u>£1,889,000</u>

**Liabilities:**

Funeral	£6,000
Other debts	<u>£3,000</u>
	<u>£9,000</u>

Herbert sold his home for £3 million in May 2017 and moved into a care home. He gave his grandson David a gift of £2 million in June 2017 by way of tax planning. David has used the cash gift to move house. The only other lifetime gifts were made by cheque every Christmas – £6,000 to the Church, £250 to each grandchild and £3,000 to his only godson. The godson never cashed his last cheque from Christmas 2017.

I shall want you to help me obtain a grant and deal with the administration of the estate.

**DOCUMENT 7**

**EMAIL**

From: Marcus Wu (marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: 28 December 2018

Subject: Isla Brown deceased

I have been consulted by Donna Gunter, the niece of Isla.

Isla died two weeks ago, leaving a homemade Will (**Document 8**), a copy of which is attached to this email.

Donna has various concerns about the Will as follows.

The life insurance policy was placed in trust in March 2010, and Donna and her husband Henry are the trustees. Donna's daughter Ruth is named as the beneficiary of the policy. Ruth is 21 years old.

Isla was formerly married to Petra Brown. She divorced Petra in 2015. Isla has no surviving children, parents or siblings. Isla's only sister, Zoe, died in 2010, leaving Donna as her only child.

Isla was burgled in February 2018 and all her jewellery was stolen. She used some of the insurance payout to buy an oil painting. Isla's friend Ana Hall is 30 years old.

Isla's friend Lord Bell died suddenly five months ago. His young son Xavier (aged 5) has inherited the title and is now the current Lord Bell.

Two months ago, Isla wanted to amend the Will, so as to give more money to Ruth. Isla amended the Will in her own handwriting in order to increase the legacy.

Isla's godson Michael died one month ago. Michael's wife is pregnant with twins, due in three months' time.

Isla left the following assets:

Jewellery: £15,000  
Painting: £20,000  
Cash: £210,000  
Life insurance: £300,000.

She did not own a property. She had no liabilities; the funeral was pre-paid.

I shall want you to help me obtain a grant and deal with the administration of the estate.

**Turn over**

DOCUMENT 8

WILL OF ISLA BROWN

This is the last Will of me Isla Brown of 3 Liverpool Gardens Bedford.

1. I revoke all other Wills
2. I appoint my niece Donna Gunter as my executor
3. I give £10,000 to Petra Brown of 15 Thorn Drive Bedford
4. I give £5,000 to my friend Lord Bell of Cheadle Manor Cheadle
5. I give my life insurance policy to Petra Brown of 15 Thorn Drive Bedford
6. I give ~~£10,000~~ to my grand-niece Ruth Gunter of 5 Mosley Road Bedford <sup>18/10/18</sup>  
£100,000
7. I give all my jewellery to my friend Ana Hall of 17 Morefield Road Luton
8. Subject to the above gifts I give my entire estate to my godson Michael Smithson absolutely

Signed this 1<sup>st</sup> day of January 2018 )

*Isla Brown*

By the Testatrix in our joint presence )

And then by us in hers

Donna Gunter

5 Mosley Road Bedford

*Henry Gunter*

*5 Mosley Road Bedford*

**End of Case Study Materials**



