



June 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

- 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 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.

Turn over

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are employed as a trainee lawyer by the firm of Kempstons, 101 High Street, Bedford MK42 7AB.

Your supervising solicitor is Katie Matthews. She hands you a number of files and the following related documents:

Document 1 Attendance note of a meeting with Andres Carlos and his daughter Sandra Ball

Document 2 Attendance note of a meeting with Babak Hussein

Document 3 Attendance note of a meeting with David Taylor

ATTENDANCE NOTE

Attending: Andres Carlos and Sandra Ball

Date: 3 June 2022

Time engaged: 45 minutes

Reference: KM/2022/Andres

Attending Andres Carlos in the office to discuss Lasting Power of Attorney (LPAs). Also present was his daughter Sandra Ball, who had arranged this appointment for Andres. We have not acted for Andres or Sandra before but we have acted for Sandra's neighbour who recommended us to Sandra.

Sandra explained that her father, Andres, who was born in Italy, does not speak very good English. Andres knows enough English to have a general conversation but in complex matters, Sandra has to accompany him to translate anything that is said into Italian. Andres greeted me and was able to provide me with his full name, address and date of birth.

Sandra went on to explain that Andres is awaiting a knee operation and because he finds it hard to walk, he now uses a wheelchair. Because of Andres' poor English and now his lack of mobility, Sandra is finding it hard to help him manage his affairs. For example, if Andres needs to go to the bank, Sandra has to borrow her husband's large car to be able to fit the wheelchair in. Sandra is also encountering difficulties with the hospital, who refuse to tell her about Andres' operation.

Sandra has heard from friends and family that life would be much easier for her and Andres, if she had powers of attorney over Andres' finances and health and welfare.

I asked Andres if he was married and had any other children. Sandra instantly replied to say that Andres' wife, her mother, died four years ago and that Andres has another child, Lucas, who is Sandra's older brother. Sandra explained that Lucas does not take any interest in Andres. Lucas lives a very busy life and rarely visits Andres. Sandra was clear that Lucas did not want to be involved in issues concerning Andres' finances or health.

I asked Andres what his views were on the matter and he just smiled. He then said he is very grateful to have a daughter like Sandra, although Sandra did have to help with the translation of some of the words Andres used. Andres said "Yes" to most of the questions I asked but I was not satisfied that he fully understood what I was saying.

In addition, Sandra explained that Andres has seen his GP recently about his memory, as Andres sometimes forgets things, and his GP has referred him to a memory clinic. He is currently waiting for an appointment and has not had any diagnosis for his memory loss.

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I explained the purpose and effect of LPAs, but Andres did not seem to understand and kept looking at Sandra who would translate what I was saying into Italian.

Sandra went on to explain that Andres wishes to update his Will and handed me a copy of Andres' current Will, which leaves the residue of his estate equally to Sandra and Lucas. Sandra said that Andres wants to leave £25,000 to each of Sandra's three children and then she turned to Andres and said, "Isn't that right dad?". Andres just nodded and smiled.

Andres was not communicating with me directly and I did not understand the conversations Andres and Sandra were having in Italian. I could see that Andres was getting tired and anxious. I suggested we arrange another meeting after Andres has been seen at the memory clinic.

ATTENDANCE NOTE

Attending: Babak Hussein

Date: 6 June 2022

Time engaged: 45 minutes

Reference: KM/2022/Hussein

Attending Babak Hussein in the office for some advice regarding his long-term care. Babak is a long-standing client of the firm. We first acted for him and his late wife Maryam approximately 10 years ago when they came to us to make Wills.

Maryam died two years ago and Babak is now 75 years old and lives alone at home. Babak has come in today to tell us about his medical condition. He was diagnosed with multiple sclerosis (a degenerative disease) six years ago. Following a recent medical review with his consultant, Babak has been told that within the next two years, he will unfortunately need full-time carers or will have to consider going into a care home. Babak does not want to go into a care home and is adamant that he wants to continue living in his own home. However, he is worried that he will not have enough money to pay for carers.

I asked Babak if he had any children or family that could help with his care. Babak explained that he has four children but they all live over three hours' drive away.

Babak is retired and his only source of income is from a state pension and a very small occupational pension which total £8,000 gross each year. Babak owns his home but does not have much savings. Four years ago, one of his sons was going through financial difficulty and ran into debt. Babak gave him some money to help pay off that debt knowing that he may need the money to pay for his own care in the future.

Currently Babak lives in a three-bedroom house with an upstairs bathroom. Babak struggles to climb the stairs now and will, in time, need to have the bathroom converted into a shower room as well as having a stairlift fitted. The house is also very cold as it has single glazed windows. Babak has been meaning to change the windows to double glazing for some time but he has not been able to afford to do so.

I advised Babak that I will consider his position and write to him setting out the options available.

ATTENDANCE NOTE

Attending: David Taylor
Date: 7 June 2022
Time engaged: 45 minutes
Reference: KM/2022/Taylor

Attending David Taylor in the office to discuss his estate. David's wife Kathleen died last year and by her Will left all of her assets to David. David's estate is now worth £800,000; comprising his main property worth £500,000 and £300,000 of savings and investments.

David is 58 years old and healthy. He works as a consultant IT engineer and has no plans to retire as yet. David has three children; Stephen, Angela and Bethany, who are all married and have good jobs and own their own homes. David also has two grandchildren aged 8 and 12.

David receives a good income from his consultancy work and does not have to use any of his savings and investments. He does not feel he will spend all the savings he has because of his good income and is considering giving some of the money to his grandchildren and possibly to his children.

David hands you a copy of his Will from which you note that he is leaving the residue of his estate equally to his three children.

David is concerned about Inheritance Tax and read in the newspaper recently that if he transfers his property to his children now, then the value of the property will not form part of his estate for Inheritance Tax when he dies. Of course, he wants to be able to continue living in the property for as long as he wishes to.

David then goes on to explain that he has an elderly aunt, Sylvia, who is 84 years old. Sylvia is David's mother's sister who has never been married and does not have any children. After David's mother died, he started to look after Sylvia, often visiting her two or three times a week and taking her shopping. Sylvia has dementia and is also partially blind and deaf and is consequently unable to look after her financial affairs. David is looking at moving Sylvia into a care home as it is becoming unsafe for her to continue living alone in her own home.

David wants to be able to sell Sylvia's house to pay for her care in the care home and wants some information regarding a power of attorney. He is also concerned that Sylvia's estate will have a large Inheritance Tax liability as she is worth more than £1 million. David wants to know if he can make gifts on Sylvia's behalf as he assumes that she would want her assets to pass to him and his family rather than be used to pay Inheritance Tax.

I said I would write to David summarising the options available to him and Sylvia.

End of Case Study Materials

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