

CASE STUDY MATERIALS

September 2020
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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* This unit is a component of the **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS and LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

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ADVANCE INSTRUCTIONS TO CANDIDATES

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

Your supervising lawyer is Mr Thomas Andrews. He hands you a number of files and the following documents:

- Document 1** Attendance note of meeting with Frank James
- Document 2** Telephone attendance note of call with Bethan Roberts
- Document 3** Attendance note of meeting with Bethan Roberts
- Document 4** Attendance note of meeting with Henry King

DOCUMENT 1

ATTENDANCE NOTE

Attending: Frank James
Date: [Today's date]
Reference: TA/James/2020
Time spent: 45 minutes
Attended by: Thomas Andrews

Attending Frank James of 67 Greyfriars Road, Bedford, MK11 5YP. Frank is an existing client. I acted for him a few years ago. Frank was accompanied by his neighbour, Hui Yin Dong. Frank explained that Hui Yin had given him a lift to our office and asked if it would be alright for Hui Yin to sit in on the meeting.

Frank is 83 years old. He explained that he wanted my advice about setting up a Lasting Power of Attorney.

Frank told me that his second wife, Evelyn, died last year and, as a result, he has recently been reviewing his affairs. He says that he wrote his Will before he married Evelyn and had left everything to his nieces Maisie and Jenny.

He explained that he has suffered health problems since Evelyn's death. He had a stroke six months ago, and although he is recovering, progress is slow. As a result of the stroke, he has difficulty walking and can no longer drive. Frank said that he struggles with everyday tasks and has a carer who comes in every morning to help him wash and dress.

In addition, Frank explained that his memory is failing and he said that he sometimes gets confused. He said that his doctor has advised him that his memory problems could be as a result of the stroke. However, he is particularly worried because he feels that his memory has deteriorated significantly in the last six months.

I asked Frank a little more about his personal circumstances. He lives alone. He has no children and of his two brothers, only the youngest, Bob, is still alive. His older brother, Larry, died many years ago. Larry had one daughter, Jenny, who lives away but keeps in touch with Frank and visits him every few months.

Bob is 81 and housebound. He lives with his daughter Maisie in Kempston. Maisie picks Frank up every week and takes him to visit Bob. She also does Frank's shopping. It was at Maisie's suggestion that Frank came in to see me today. Maisie had suggested that, given his health problems, he should think about making a Lasting Power of Attorney. This would enable someone to deal with his financial affairs, if needed.

Hui Yin is Frank's next-door neighbour. She pops in to see Frank every day, to make sure that he is alright and to check whether he needs anything. Hui Yin also helps Frank with his paperwork and organising his affairs.

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Frank said that he had also thought about asking Hui Yin to be his attorney, but Hui Yin works part-time and has two small children. She is very busy. He also thought it would be unfair for only one person to have the responsibility of dealing with his finances. He has considered asking Maisie, but she has a lot on her plate looking after Bob. Jenny also works full-time and lives away. Frank is unsure what to do for the best, and that was why he is seeking my advice.

I explained the nature and effect of a Lasting Power of Attorney, but I wasn't convinced that Frank completely understood what I was saying, because he appeared to be getting tired and losing concentration. I gave Frank a couple of explanatory leaflets. Frank did not pick them up, as he didn't seem to realise they were for him. Hui Yin said that she would go through them with him.

At that point, Frank said that he was ready to go home and Hui Yin had to help him to his feet. As they left, I asked Frank to get in touch with me, once he has had a chance to think about what we have discussed.

DOCUMENT 2

TELEPHONE ATTENDANCE NOTE

Attending: Bethan Roberts
Date: [One week ago]
Reference: TA/Roberts/2020
Time spent: 30 minutes
Attended by: Thomas Andrews

Bethan Roberts telephoned me. Bethan is an existing client, as we acted for her in the administration of her father's estate last year. She is currently in Germany on business. Bethan has a son, Owain, who lives in Canada.

Bethan says that her mother, Gwyneth, is suffering from Alzheimer's Disease and has recently moved into a care home. She had been staying with her daughter, Bethan's sister, Ceri, and went to the care home initially for a trial period. Ceri herself is suffering from ill health and had been struggling to look after Gwyneth. Gwyneth seemed happy in the care home and settled in very quickly. As a result, the family decided that it would be for the best if Gwyneth moved there permanently.

Although they are happy with her care, Bethan says that her mother's condition has deteriorated quite rapidly since she has been at the care home. Bethan works away in Germany a lot and is unable to visit her mother regularly. However, Ceri visits Gwyneth twice a week and has expressed concern about her condition. Ceri says that Gwyneth appears to have little awareness of what is going on around her, and when Ceri visits her, Gwyneth often doesn't recognise her at first.

Bethan went to see her mother two weeks ago and, although Gwyneth seemed to know who she was, she hardly spoke to Bethan and was preoccupied with her scarf, which she kept twisting and untwisting. After a while, she fell asleep, so Bethan says that she had a brief chat with the care staff and then left.

After the visit, Bethan got in touch with her mother's GP, Dr Higgins. She has asked Dr Higgins to go and see Gwyneth, to assess her mental capacity.

Bethan is concerned because, although she discussed sorting out a power of attorney with Gwyneth some time ago, they never got round to doing it. Gwyneth made a Will last year, shortly after her husband died. Bethan says that she wished that they had done the power of attorney at the same time. She is particularly concerned, because the care home fees have just gone up and, although Gwyneth has some investments and savings, she doesn't think there will be enough money to pay the fees for much longer, and therefore they are likely to have to sell her house.

Bethan says that she will come and see me in the office next week, when she returns to England.

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DOCUMENT 3

ATTENDANCE NOTE

Attending: Bethan Roberts
Date: [Today's date]
Reference: TA/Roberts/2020
Time spent: 15 minutes
Attended by: Thomas Andrews

Following my telephone conversation with her (**Document 2**), Bethan called into the office today. She has received a copy of the medical report from Dr Higgins, which she brought with her. This confirms that Gwyneth lacks mental capacity to manage her affairs.

Bethan also brought in a copy of Gwyneth's Will.

Bethan says that she has spoken to Ceri and they have been through their mother's paperwork, including her bank and savings accounts. It seems that her savings are running out and there is only enough money to pay for another six months of care home fees.

Bethan says that they need to sell Gwyneth's house as soon as possible. She has had it valued and it is worth £425,000. The estate agent says that it is likely to sell quickly, as it is a good-sized family home in a popular area.

I assured her that we would be able to deal with the sale of the house. I told her that I would review all the papers and get in touch with her shortly, to discuss the next steps.

DOCUMENT 4

ATTENDANCE NOTE

Attending: Henry King
Date: [Today's date]
Reference: TA/King/2020
Time spent: 1 hour
Attended by: Thomas Andrews

Attending Henry King at his home, 77 Royal Parade, Kempston, MK14 9AD.

I acted for Henry and his late wife, Maud, when they bought 77 Royal Parade about 12 years ago. Maud died three years ago, and Henry now lives alone. He has two children, his daughter Victoria and son David, who both live locally. David is married with two teenage children, and Victoria is single and lives alone.

Henry's sister, Amelia, an artist, also died three years ago, and left Henry a landscape painting, one of her early works. Amelia's work has become very popular since her death, with her landscapes attracting special attention. Henry was Amelia's executor and, at the time of her death, the painting was worth £5,000. A local auctioneer has recently valued it at £65,000. The painting is of great sentimental value to Henry, but he realises that, due to his financial circumstances, he may need to sell it in the near future.

Henry suffers from Parkinson's Disease. He has been particularly unwell recently, experiencing stiffness in his limbs and finding his movement becoming increasingly slow. He can now only walk short distances and is finding climbing the stairs difficult, which is a problem since he doesn't have a toilet or bathroom downstairs. He is also finding it more and more challenging to do things for himself. He has carers who come in in the mornings to help him get up, wash and dress, and more recently they have been coming again at night, to help him get ready for and get into bed.

Victoria has been trying to persuade him to move to assisted living accommodation, but he is happy and settled in his own home and is worried about sacrificing his independence. In addition, Henry's house is located close to his local church hall, where he attends a weekly lunch club and plays card games. He has many friends locally and is worried that he would be lonely, if he moved.

I asked Henry about his financial position. He says that he has practically no savings. Before he retired, he ran his business as a sole trader and now realises that he did not invest enough in his pension fund. As a result, most of his savings have been used up in living costs. He receives the state pension and a modest private pension. His only other income is an attendance allowance, which he receives at the lower rate. Henry says that although this is sufficient to live on, there is very little left over at the end of the month.

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Henry says that the house is in his sole name and he thinks it is currently worth about £375,000. He says he knows that it needs modernising, and in particular the roof needs replacing. However, he doesn't have any spare money to carry out the work.

Henry says that he needs advice about his financial situation.

End of Case Study Materials

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