

CASE STUDY MATERIALS

June 2017
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.

Turn over

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

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are employed as a trainee lawyer by the firm of Kempstons of 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 a meeting with George Atland
- Document 2** Attendance note of a telephone call with Pablo Ennes
- Document 3** Attendance note of a meeting with Mildred Young

DOCUMENT 1

ATTENDANCE NOTE

Attending: George Atland
Date: [Today's date]
Reference: TA/Atland/2017

Attending George Atland of 77 Herron Drive, Bedford, MK13 3YX, who is an existing client. I acted for him a few years ago when I prepared his Will. On this occasion, George was accompanied by his neighbour's daughter, Rachel Quayle. George explained that she had driven him to our offices and he asked if she could sit in on the meeting.

George is 81 years old. He told me that in the five years since we had last met, a few things have changed in his life. As a result, he said that he may need to make some alterations to his Will. In addition, he said that he wanted my advice about a lasting power of attorney.

George explained that the executors in his existing Will are his two older brothers, Henry and Edward. Sadly, his eldest brother, Henry, has died, and Edward has moved to Wales to be near his daughter. As a result, George no longer sees Edward very often. Henry and Edward are also named in the Will as his main beneficiaries.

George also told me that he has suffered health problems over the last few years. He had a stroke about 18 months ago, and although he has largely recovered, he still has difficulty walking and can no longer drive. In addition, his memory is failing and he says that he sometimes gets confused. As we were talking, he seemed to lose his train of thought and was unable to remember the other changes he wanted to make to his Will. Rachel commented that he had written them down, but that he had forgotten to bring the note with him.

I asked George a little more about his personal circumstances. His wife died 10 years ago and they had no children. He lives alone. Rachel is the daughter of his next door neighbour, Frank Quayle. Rachel lives locally and visits her father two or three times a week. She always pops in to check on George at the same time. She often does his shopping and sometimes takes him to appointments, although he also uses a local taxi firm. George said that he is still receiving treatment as a result of his stroke and he has recently started to receive the assistance of a carer, who comes in every morning to help him wash and dress.

George said that he has read about lasting powers of attorney and, due to his failing memory and absentmindedness, he was considering make a lasting power of attorney so that someone could deal with his financial affairs, if needed. George said that he thought Edward might be able to assist him, and he said Henry's son, David, lives locally and visits him regularly. George said that Henry also has a daughter, Violet, who lives in Bedford. However, he says that she is a bossy character and she and David do not get on. In addition, Violet's husband, James, seems unable to hold down a job and George thinks they have money problems. George has no other relatives, although he said he regards Rachel as 'family'.

Turn over

CASE STUDY MATERIALS

George said he thought it would be unfair for only one person to have the responsibility of dealing with his finances, but was 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 George was keeping up with what I was saying, so I also gave George a couple of explanatory leaflets. George did not pick them up as he didn't seem to realise they were for him. Rachel said that she would go through them with him.

George seemed suddenly tired and Rachel had to help him out of the room. As he left, I asked him to get in touch with me when he has had a chance to think about what we have discussed.

DOCUMENT 2

TELEPHONE ATTENDANCE NOTE

Attending: Pablo Ennes
Date: [Yesterday's date]
Reference: TA/Ennes/2017

Pablo Ennes telephoned me from his home in Austin, Texas. Pablo is an existing client, who has been living and working in America for the last three years. His mother, Sofia Ennes, is suffering from dementia and has been living in a care home in Bedford for the last 18 months. Pablo is coming to England next week to visit Sofia and to sort out her affairs.

Pablo explained that his mother's condition has substantially deteriorated since he saw her last, some six months ago. His cousins, Teresa and Lucia, visit Sofia regularly and have been in touch with him because they are concerned about their aunt Sofia. They say that she has little awareness of what is going on around her, and when they visit her, she doesn't recognise them initially. Pablo has made arrangements with his employer to work in their London office for a few weeks so that he can spend some time with Sofia.

Pablo is concerned because Sofia's Will is out of date, and although he discussed sorting out a power of attorney with her some time ago, she never got around to doing it. He says that her savings are running out and she is going to need to sell her house to be able to continue paying her care home fees. Pablo has spoken to her GP, Dr Keele, whom he says has some concerns about Sofia's capacity to manage her own affairs.

Pablo says that his mother wrote her Will 10 years ago, shortly before his father died. He says that he is an only child and is currently single with no children of his own. His mother was very close to her sister, Zara, who died 35 years ago, leaving behind her three young daughters, Isabella, Teresa and Lucia. Sofia was very close to her nieces and was like a mother to them after Zara's death. Sofia has remained in close contact with Zara's husband, Oliver, who also goes to see her at the care home. In her Will, Sofia left her estate to her husband Walter, and in the event of him dying before her, then one half to Pablo and the other half to be divided equally between Isabella, Teresa and Lucia.

Isabella had been living with Sofia in Sofia's house, but they fell out just before Sofia moved into the care home. Sofia told Pablo that she felt Isabella was forcing her to move into the care home so that she could get her hands on her house and move her boyfriend in. Since then, Sofia has had no contact with Isabella. Isabella has now moved away and has never been to visit Sofia. Pablo says that whenever he visits Sofia, she talks about cutting Isabella out of her Will and leaving Isabella's share to Teresa and Lucia. Teresa and Lucia go to see their aunt every week, which is a comfort to Pablo as he is only able to visit her once or twice a year.

Pablo says that apart from the house, 81 Grove Close, Milton Keynes, MK15 8YY, which is now unoccupied, and savings of about £10,000, his mother has no other assets. She receives a state pension but has no other income. All the other savings and investments that she had have been used to pay the care home fees.

Turn over

CASE STUDY MATERIALS

Pablo says that he would like to sort out his mother's affairs while he is in the UK. He says that Sofia's current Will and the deeds to her house are in the bank. He says that he has asked Dr Keele to prepare a report giving his opinion on Sofia's mental capacity.

Pablo says that he will come and see me in the office when he comes back to England.

DOCUMENT 3

ATTENDANCE NOTE

Attending: Mildred Young

Date: [Today's date]

Reference: TA/Young.M / 2017

Attending Mildred Young at her home 33 Ridgewood Drive, Cambridge, CB15 7YH

I acted for Mildred and her late husband, Charles, when they bought 33 Ridgewood Drive about 15 years ago. Charles died five years ago and Mildred now lives alone. She has two children, Ursula and Brian, who both live locally. Ursula is married with two teenage children and Brian is a bachelor.

Mildred's sister, Nancy, died three years ago, and left Mildred her small, one-bedroomed flat. At the time, Mildred had considered selling it, and a local estate agent had valued it at £105,000. She thinks it is now worth about £125,000. Brian has been struggling financially after being made redundant, and he currently lives in the flat, rent-free. However, he has recently started a new job with good prospects and has asked Mildred whether she would consider selling the flat to him. He insists that he would pay her the market value for it. She says that she would never want to live there as it is in quite a remote location, away from the shops and local amenities.

In any event, Mildred is happy in her own home, which is conveniently located close to the local high street. All her friends live nearby and so does her daughter, Ursula. She sees both Ursula and her grandchildren very often. In fact, her grandchildren often come to visit her after school and they stay with her until Ursula gets home from work.

In the last few years, Mildred has been suffering from arthritis. It has been particularly bad recently so she can only walk short distances and needs to use a stick. She is finding it increasingly difficult to do things for herself. She has a carer, who comes in the mornings to help her get up, wash and dress, and the carer comes again at night to help her get ready for and into bed. Mildred has difficulty climbing the stairs at home, which is a particular problem since she does not have a downstairs toilet or bathroom. She doesn't know whether it would be feasible to install a stairlift. Ursula has suggested that she should consider moving to a retirement home, but she doesn't want to leave her house and is worried that if she moved to a retirement home, she would lose her independence.

I asked Mildred about her financial circumstances. She said that she had practically no savings. She said that she receives the state pension and a small private pension of £7,500 gross per annum. Her only other income is an attendance allowance, which she receives at the lower rate. Mildred says that although this is sufficient to meet her living requirements, there is very little left over at the end of the month.

Mildred says that the house is in her sole name and she thinks it is currently worth about £300,000. She says she knows it is in need of modernisation, and in

Turn over

CASE STUDY MATERIALS

particular she is worried that the roof needs replacing. However, she doesn't have any spare money to carry out the work.

Mildred says that she will have a chat with Brian about the flat and will let me know if she decides to sell it to him.

End of Case Study Materials