

CASE STUDY MATERIALS

January 2014

Level 6

PRACTICE OF FAMILY LAW

Subject Code L6-20



CHARTERED INSTITUTE
OF LEGAL EXECUTIVES

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UNIT 20 – 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 the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the 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 relates to the 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 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 of The Manor House, Bedford, MK42 7AB. The firm's telephone number is (01234) 622964; fax (01234) 622965 and their 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 Jane Harper. The local court which is also the designated divorce county court is Bedford County Court.

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

- | | |
|------------|---|
| Document 1 | Memo from Jane Harper |
| Document 2 | Attendance Note re William Allen |
| Document 3 | Marriage Certificate of William Allen |
| Document 4 | Telephone Attendance Note re Darshana Singh |
| Document 5 | E-mail from Nicholas Griffiths |
| Document 6 | Attendance Note re Claire Mitchell |

DOCUMENT 1

Memorandum

To: Trainee Lawyer

From: Jane Harper

Date: [Today's date]

Re: Matters to be attended to in my absence

As we discussed, I am going to be absent from the office for the next fortnight on annual leave. I would be grateful if you could please attend to the following cases during my absence:

1. William Allen

Mr Allen is a new client. I saw him for a first appointment yesterday and attach a copy of the Attendance Note of this meeting (**Document 2** attached) and a copy of his marriage certificate (**Document 3** attached). Please deal with this case in my absence.

2. Darshana Singh

I have been dealing with Mrs Singh's divorce proceedings and am currently trying to resolve the ancillary finances. I attach an Attendance Note of a telephone conversation that I had with her earlier today (**Document 4** attached). Please deal with any issues that arise while I'm away.

3. Nicholas Griffiths

Mr Griffiths is a returning client. I acted for him a number of years ago in connection with his divorce. I attach a copy of an e-mail which I received from him yesterday (**Document 5** attached). Please arrange an appointment with him to discuss his concerns.

4. Claire Mitchell

Miss Mitchell is a new client who attended at the office late this afternoon. I attach a copy of the Attendance Note of this meeting (**Document 6** attached). Please progress this case in my absence.

Many thanks,

Jane

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DOCUMENT 2

(Attendance Note re: William Allen)

Client: William Allen

Date: [Yesterday's date]

Fee earner: Jane Harper

File ref: JH/LR/A215

Time taken: 1 hour

Attendance on Mr William Allen who is a new client. I obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues. His details are as follows:

Full Name: William David Allen

D.O.B.: 02/08/1970

Address: 3 The Laurels, Clayton, Barnardshire, BH11 4OT

Phone number: 07751492350 (mobile)

Occupation: Architect

Mr Allen wanted advice about his options following the breakdown of his marriage. His wife is Francesca Allen (d.o.b. 07/01/1975). The couple have been married for ten years. Mr Allen had brought in his marriage certificate, which he handed to me.

He and his wife have two children: Bryony Allen (d.o.b. 23/06/2006) and Quinn Allen (d.o.b. 17/09/2008). The parties' matrimonial home is 3 The Laurels, Clayton, Barnardshire, BH11 4OT. It's a four-bedroom semi-detached property held in the couple's joint names. Both parties are currently still living at the property. Mr Allen is an architect, who is in practice in Clayton. His wife is a health and safety officer with the local Council.

Mr Allen explained that there had never been any problems in the marriage until early 2013 when he started to suspect that his wife Frankie was having an affair. She was routinely returning home from work later than usual in the evenings and was always checking her mobile phone. In February 2013, Frankie announced that she was going away for a spa weekend with her friends. Mr Allen thought it was a little odd as his wife had always been dismissive of spa treatments in the past but he had agreed to her going on the trip. The spa weekend took place on the first weekend in March. On the Saturday afternoon, while his wife was away, Mr Allen had taken the children to a local adventure playground. Unfortunately, Quinn had fallen from one of the swings and fractured his wrist so Mr Allen had to take Quinn to the Accident and Emergency ward of the local hospital for treatment. While he was at the hospital, Mr Allen telephoned his wife's mobile but found that it was switched off. He then telephoned the hotel where his wife had said she was staying but they told him they had no record of her being a guest with them. When he telephoned one of the friends that his wife was

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supposed to be away with she told him that she had no idea where Frank was and that she didn't know anything about a spa weekend.

When his wife returned home on the Sunday evening Mr Allen confronted her about what had happened. She broke down in tears and admitted that she had been having an affair with a colleague from work (Paul Roberts) and she had been away with him that weekend, but that she now realised that she had made a huge mistake. She begged Mr Allen to forgive her. Mr Allen told me that he had decided to reconcile with his wife, partly for the sake of the children.

He confirmed that things had then seemed to return to normal for a number of months although he noticed that by the end of November 2013 his wife was receiving lots of text messages on her phone. On December 23rd Mr Allen was helping the children to wrap their presents for their Mum. He had needed a pen for the labels so was looking in Frankie's handbag when he came across a jewellery box containing a pair of earrings. There was a gift card in the box which read "To my darling Frankie, sorry that I can't spend Christmas with you, all my love Paul". Mr Allen immediately confronted his wife about his discovery. She admitted that she had started seeing Paul again in early November 2013 but she promised that she would now end the affair.

Mr Allen told me that he had moved into the spare room from that night onwards. He believes that his marriage is at an end and would like to start divorce proceedings as soon as possible.

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CERTIFIED COPY of an ENTRY OF MARRIAGE**Pursuant to the Marriage Act 1949****Registration District** of Clayton**Marriage solemnized at** St. Matthew's Church**in the****Parish of** Clayton **in the County of** Barnardshire

Columns:-	1	2	3	4	5	6	7	8
No.	When married	Name and surname	Age	Condition	Rank or profession	Residence at the time of marriage	Father's name and surname	Rank or profession of father
61	1 July 2003	William David Allen	32	Bachelor	Architect	5 Powell Drive, Clayton, Barnardshire	James Allen	Civil Engineer
		Francesca Kenwright	28	Spinster	Health and Safety Officer	5 Powell Drive, Clayton, Barnardshire	Iain Kenwright	Quarry Manager

Married in the *Parish Church* according to the rites and ceremonies of the *Church of England* after *Banns* by me
 The marriage *William David Allen* in the presence *J. Allen*
 was solemnized between us *Francesca Kenwright* of us *I. Kenwright*

I *Matthew Peters* Vicar of St Matthew's Church Clayton do hereby certify that this is a true copy of entry No. 61 in the Register Book of Marriages in the said Church
 WITNESS MY HAND this 1st day of July 2003

CAUTION: Any person who (i) falsifies any of the particulars on this certificate or (ii) uses a falsified certificate knowing it to be false is liable to prosecution

DOCUMENT 4

(Telephone Attendance Note re: Darshana Singh)

Client: Darshana Singh

Date: [Today's date]

Fee earner: Jane Harper

File ref: JH/LR/S231

Time taken: 15 minutes

Telephone attendance upon Mrs Singh. I confirmed that she would shortly receive the decree nisi, to be pronounced in relation to her two-year separation petition.

Mrs Singh told me that she had spoken to the valuer who was carrying out the joint valuation on the former matrimonial home and he had suggested a valuation of £450,000. The valuer confirmed he would send through written details of this valuation to me and Mr Singh's lawyer, shortly.

I ran through the up-to-date figures for the parties' assets with Mrs Singh:

- Former matrimonial home: 15 Grosvenor Close, Clayton (Land Registry Title Number BD56410) held in Mr Singh's sole name, valued at £450,000 less mortgage of £150,000; net equity £300,000
- Investment property: 7 Central Avenue held in Mr Singh's sole name and valued at £110,000 (this property is mortgage free)
- Joint life assurance policy with a surrender value of £40,000
- Shares in Mr Singh's sole name £80,000
- Shares in Mrs Singh's sole name £20,000
- Cash ISAs in Mr Singh's sole name £40,000
- Cash ISAs in Mrs Singh's sole name £15,000

- Mr Singh's pension: C.E.T.V. £150,000
- Mrs Singh's pension: C.E.T.V £50,000

Mrs Singh confirmed that her husband Ranjit is continuing to voluntarily pay child maintenance for the couple's two children, Vikram (15) and Uma (13). They also visit and stay with him regularly at his new house. She is anxious to reach an amicable agreement about all of the couple's finances and avoid court if possible, although she does want to remain in the former matrimonial home with the children. I assured her that we would explore all possibilities for agreeing matters but failing that would pursue the application for financial relief that we had made in the petition.

I noted that once I received the formal valuation from the valuer I could meet with Mrs Singh to discuss her financial position and her options. I suggested that she contact me if she had any queries in the meantime.

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DOCUMENT 5

(e-mail from Nicholas Griffiths)

Hi Jane,

I don't know if you remember me but you acted for me in my divorce from my wife Zara back in 1999. We agreed our finances and we had no children so it all went through quite quickly.

I now need your advice on another matter please. After I divorced Zara, in about 2001 I met my ex-partner Yvette Oliver (d.o.b. 10/05/1972). Yvette and I have two children: Ethan (d.o.b. 30/09/2003) and Isla (d.o.b. 08/04/2008). We set up home in the house I'd retained after my divorce from Zara (16 Shotwick Way, Clayton, Barnardshire, BH12 7LY). If you remember you transferred it into my sole name as part of the financial settlement?

Yvette and I started having problems in our relationship in 2010. We seemed to be constantly rowing. One of the issues we would argue about is the fact that she has always excluded me from making any decisions about the children, for example, she chose which primary school to send them to. I wanted them to go to the school around the corner where I went. After all, I was born in Clayton and she comes from Bedford so I figured I knew the place better, but she insisted on sending them to a different school as she knew the Head there. I've also never been able to take them to the doctor or dentist as she said I don't have the authority to do this. I should have known that I was going to have problems from the start, as she registered both Ethan's and Isla's births without any mention of me and gave them both her surname too!

Things got worse between Yvette and me when I lost my job in the summer of 2011. Yvette increased her working hours to work full-time and I stayed at home and looked after Ethan and Isla. I would say that we reversed roles really; Yvette was the breadwinner and I was the stay-at-home dad. I really enjoyed this but Yvette was resentful of how close I became to the kids and how they would come to me, not her, if they needed anything. By the beginning of 2013 I had concerns that Yvette was seeing someone else. She seemed distracted and had no patience with me or the kids. She would go out one or two nights a week saying that she was meeting her friends. She was also reluctant to spend time with me and the children at the weekend and Ethan and Isla started to notice this too.

Things came to a head at the end of October 2013 when I found out that Yvette was indeed involved with another man. No sooner had I found out than Yvette had moved in with him! His name's Joe Richards. She's been living with him at 23 Barratt Drive, Clayton, Barnardshire, BH12 2EW since 15th November 2013. She's seen Ethan and Isla for the day every Saturday since she moved out. I've encouraged this as I know they need to see their Mum. However, last Saturday she told the children that they'd soon be moving to live with her and Joe. The children were really upset; they love their Mum but they're used to me looking after them. I'd never stop them seeing her but I'd be really grateful if I could have an appointment to see you to discuss what's happened so that I know the legal position. I'm working again now; I've managed to find a job with flexible hours to fit around the kids. My e-mail's nick.griffiths@yahoo.co.uk and my mobile number is 07781491957. I don't know if you need it for your records but my date of birth is 15/01/1971. Thanks in advance,

Nick

DOCUMENT 6

(Attendance Note re: Claire Mitchell)

Client: Claire Mitchell

Date: [Today's date]

Fee earner: Jane Harper

File ref: JH/LR/M101

Time taken: 1 hour

Attendance upon Claire Mitchell, who is a new client. She was very distressed and wanted immediate advice following some incidents of domestic abuse. I completed the necessary conflict checks and obtained the proof of identity documentation. There were no issues.

Her details are as follows:

Full Name: Claire Mitchell

D.O.B.: 13/10/1989

Address: 2 East Terrace, Clayton, Barnardshire, BH2 5BU

Phone number: 07869316438 (mobile)

Claire has been living with her partner Peter Lewis (d.o.b. 09/11/82) for seven years. They have two children: Tyler Mitchell-Lewis (d.o.b. 02/05/08) and Kayla Mitchell-Lewis (d.o.b. 21/06/13).

They live at 2 East Terrace, which is a three-bedroom terraced house rented from a private landlord (Vernon Jeffries), in Claire and Peter's joint names. Peter works full-time as a mechanic at a local garage and Claire has recently returned to her part-time work as a secretary following her maternity leave.

Claire told me that over the past six months she had noticed a change in Peter's behaviour. She said that he had become very bad-tempered and moody with her and the children. She had tried to discuss this change in his behaviour with him but this only made him more bad-tempered with her. She thinks that the trigger for this change in behaviour was the birth of their daughter Kayla. Although Claire had been keen to have another child she explained that Peter had not been. He had initially been completely opposed to the idea but a few years after Tyler was born, he seemed to relent. However, soon after Kayla was born, Peter's behaviour changed. Claire admitted that Kayla's birth had put a strain on their finances and also that she had had some problems with Tyler's behaviour since the birth of his sister.

Initially, Peter had been verbally abusive towards Claire. When he lost his temper he would shout at her, accusing her of being a bad mother for failing to control Tyler and blaming her for their financial problems. Frequently during these altercations he would shake her or slap her. Claire was worried about the children hearing these arguments. However, last night matters escalated and the level of violence had shocked and frightened Claire. She explained that she had

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got home after collecting Tyler from school to find Peter waiting for them at the front door. As soon as they got inside the house he started shouting and swearing at them. It appears that Tyler had broken Peter's mobile phone; Claire did remember telling him off for playing with it that morning. Unfortunately, this incident was in addition to Tyler having broken the television set when he had knocked it over at the weekend.

Claire told Tyler to go upstairs. She tried to pass Peter in the hall but he blocked her way through. He then slapped her across the face and taking her arm, dragged her into the kitchen to show her the broken phone. Claire said that she had tried to calm him down but she could see that he had lost control. Peter punched her in the stomach repeatedly. She fell to the floor and hit her head, briefly losing consciousness. When she came around, Peter was standing over her with a knife in his hand. Claire saw Tyler come in to the kitchen and run up to Peter. Tyler tugged at Peter's jeans and Peter turned around with the knife still in his hand. At that point the front doorbell rang; it was Claire's mother bringing Kayla home. As soon as Peter heard the bell he dropped the knife and ran out of the back door. As he was leaving he pointed at Claire and said "I've not finished with you yet".

Claire managed to get up from the floor and answer the door to her mother. Her mother took the children to sit with a neighbour and then took Claire to the local hospital to be checked over. Claire and the children stayed with her mother last night. She thinks that Peter went to his parents' house. They live in a two-bedroom bungalow in 3 Carson Close, Clayton. Claire explained that she can't stay long at her mother's as she only has a one-bedroom housing association bungalow so it's too cramped.

I used devolved powers to grant Claire emergency legal representation and as the court had closed I advised her to remain at her mother's and return to the office tomorrow.

End of Case Study Materials

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