



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 21 - Probate Practice

VERSION 2 - Case study materials

January 2023

Information for candidates

- You should familiarise yourself with these case study materials before the examination, taking time to consider the themes raised in the materials.
- You should consider the way in which your knowledge and understanding relate to these materials.
- In the examination, you will be presented with a set of questions which will relate to these materials.
- You may discuss these materials with your tutor(s).

Instructions and information to candidates during the examination

- You are allowed to take your own clean/unannotated copy of this document into the examination. Alternatively, you can access the electronic version of this document in the examination.
- You are allowed to take your own unmarked copy of the following designated statute book into the examination - Blackstone's Statutes on Property Law 30th edition, Meryl Thomas, Oxford University Press, 2022
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

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ADVANCE INSTRUCTIONS TO CANDIDATES

DOCUMENT 1 : Email from Marcus Wu

DOCUMENT 2 : Email from Marcus Wu

DOCUMENT 3 : Will Of Robert Bell

DOCUMENT 4 : Email from Senior Partner at Kempstons

DOCUMENT 5 : Will Of Grace O'Donnell

DOCUMENT 6 : Email from Senior Partner at Kempstons

DOCUMENT 1

Email from : Marcus Wu

To : Trainee Lawyer

Subject : Sidney and Teresa Price

I have been instructed by Sidney and Teresa Price, who are new clients of the firm. Teresa telephoned my secretary, saying that she wanted somebody to go out and see them at home to take their full instructions on making Wills for them both.

I went out to see them yesterday and was greeted at the door by their carer, Beatrice, and then went up to see the clients in their bedroom. Teresa was sitting up in bed and Sidney sat next to me. Teresa led the conversation and Sidney said very little during the meeting. Teresa told me that she was bedridden and was terminally ill and had six months to live. Her husband was also unwell – he has been told that he has symptoms of dementia. Teresa told me that she was unsure whether they had made Wills before.

In terms of background, the clients are married. This is Sidney's second marriage, and Teresa's first marriage. He has two children from his first marriage. He is not close to them but has stayed in touch with them from time to time.

The clients are in their mid-seventies and got married five years ago. In terms of assets, their house is in Sidney's sole name and, on doing some research after the meeting, I reckon it is now worth about £300,000. There is no mortgage. In addition, Sidney has a portfolio with the bank worth £250,000.

Teresa owns a property in Buckinghamshire which is currently let out and she also owns premium bonds with NS&I worth £50,000. She has £10,000 in her current account.

Regarding Sidney's pension, in addition to the state pension, he has a works pension from which he is receiving £1,000 per month. Teresa receives the state pension only and she is supported by her husband; she treats this as maintenance by him.

Teresa told me that Sidney was partially sighted and might have problems reading the Will.

During the meeting, Teresa mentioned that in this case she was likely to be the first one to die and was worried that her husband might change his Will in the future.

Teresa went on to tell me what they were both seeking in their Wills: they want to appoint each other as executor and leave all their estate to each other, and on the second death they want to leave their house and the remainder of their estate to their carer, Beatrice, in consideration of all the help she has given to Teresa during the last few months, which has been a very challenging time.

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DOCUMENT 2

Email from : Marcus Wu

To : Trainee Lawyer

Subject : Seta Patel

I have been consulted by Rajid Patel, who told me that his mother died six months ago. In her Will she left everything to her daughters but nothing to him and she also appointed her daughters as her executors. He told me that his mother was 80. He said that she died in a nursing home and that she changed her Will only a year ago. Rajid brought a copy of her Will into the office and he told me that the name of one of his sisters has been misspelt and that she has changed her address.

Mr Patel told me that he believed he was included in her previous Will and cannot believe he has now been omitted from the will as he was close to her, visiting her at least once a week. He said that this was more surprising because he had fallen on hard times, having recently been divorced, with hardly a penny left, and was in receipt of state benefits as he was unfit to work. He had recently been evicted by his landlord and was having to rely on friends for a bed at night.

His mother owned her house in London, which was worth £650,000. In addition, she had £20,000 in the bank and a life insurance policy he believes was worth £100,000 and that it is written in trust. Finally, she had a joint bank account with one of her daughters, with a balance of around £30,000 to cover ongoing expenses such as clothes, hairdressing and other expenses. He strongly suspected, though, that his sister had dipped into this money for her own needs.

As far as he was aware, she was self-funding and paid for her care home fees. She also had a funeral plan, which she had just set up.

DOCUMENT 3
WILL OF ROBERT BELL

1. Identification and revocation

I Robert Bell of 21 High Street Bedford revoke all former Wills and declare this to be my last Will ('my Will').

2. Appointment of Executors and Trustees

2.1 I appoint as my executor and trustee my brother Gareth Bell.

2.2 In my Will the expression 'my Trustees' means my executors and the trustees of my Will and of any trust arising under it and the expression 'my trustees' shall also mean one trustee if there is only one.

3. Specific Gift

I give free of tax to my said brother my Rolex watch.

4. Pecuniary Gift

I give free of tax ten thousand pounds (£10,000) to my said brother's children and if more than one in equal shares.

5. Gift of Residue

Subject to the above gifts and to payment of my debts, funeral, and testamentary expenses I give all my estate to my said brother absolutely.

6. Substitutional gifts of residue

If my said brother dies before me, I give all my estate subject to the gift in clause 4 above to my said brother's children and if more than one in equal shares.

7. Survivorship

Any beneficiary who is not proved to have survived me by twenty-eight days shall be treated as having died before me.

Attestation

Signed this day of 2022

**By the Testator in our
joint presence and then by us in his presence**

[NOTE: You should assume that the Will was validly executed]

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DOCUMENT 4

Email from : Senior Partner

To : Trainee Lawyer

An existing client of mine, Gareth Bell, wants my advice about his brother's estate.

Robert Bell, his brother, died on 1st January 2023, aged 60 and left a Will (see above).

He is particularly worried because this is a taxable estate and no tax has been paid yet.

He went on to tell me that his brother was single, his wife having died three years ago on 1st January 2020 and he had no children. Their parents had died before them several years ago.

Gareth was the only surviving relative. He went on to tell me that three years ago on 1st December 2019, his brother was trying to save tax and gave him £3000, and one year ago on 1st December 2021, he gave him £50,000 in shares.

His assets comprise as follows :

Assets

House: 10 Acacia Avenue, Bedford	£500,000.00
Savings with Lloyds Bank	10,000.00
Shares with Lloyds Bank	400,000.00
Personal effects	<u>20,000.00</u>
	930,000.00

Liabilities

Mortgage with Halifax bank	50,000.00
Halifax credit card	10,000.00
Funeral account	<u>6,000.00</u>
	66,000.00

DOCUMENT 5

WILL OF GRACE O'DONNELL

1. Identification and revocation

I Grace O'Donnell of 21 Market Street Bedford revoke all former Wills and declare this to be my last Will ('my Will').

2. Appointment of Executors and Trustees

- 2.1** I appoint the partners in the firm of Kempstons Solicitors to be the executors and trustees of my will
- 2.2** In my Will the expression 'my Trustees' means my executors and the trustees of my Will and of any trust arising under it and the expression 'my trustees' shall also mean one trustee if there is only one.

3. Pecuniary Gifts

- 3.1** To my niece Charlotte O'Leary the sum of £5000 free of tax.
- 3.2** To my nephew Max O'Leary the sum of £5000 free of tax on reaching 18.

4. Gift of Residue

Subject to the above gifts and to payment of my debts, funeral, and testamentary expenses I give all my estate to my civil partner Alice O'Donnell on trust for her during her life and on her death as to the capital and income to such of my brothers and sisters as shall survive me and if more than one in equal shares.

5. Survivorship

Any beneficiary who is not proved to have survived me by twenty-eight days shall be treated as having died before me.

6. Trustees' Powers

My Trustees shall in addition to and without prejudice to all statutory powers have the following powers provided that they shall not exercise any of their powers to conflict with the beneficial provisions of my Will.

6.1 Advancement of Capital

To pay or apply capital in accordance with section 32 Trustee Act 1932.

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6.2 Maintenance

To apply or accumulate income in accordance with section 31 Trustee Act 1925 but subject to the following variations:

6.3 My Trustees may apply income for the benefit of a beneficiary as they think fit.

Attestation

Signed this day of 2022

**By the Testatrix in our
joint presence and then by us in her presence**

[NOTE: You should assume that the Will has been validly executed]

DOCUMENT 6

Email from: Senior partner
To: Trainee Lawyer

An existing client of mine, Alice O'Donnell, came in to see me last week. She was very sad that her partner, Grace, had died recently after being diagnosed with cancer last year. She told me that Alice was her civil partner.

Alice is included in Grace's Will. She knows that everything is left on trust for her but does not know what this means. Alice knows that the partners at Kempstons are appointed as executors and trustees of Grace's Will and she has brought in the death certificate, and produced a list, below, of her partner's assets and liabilities.

Assets

99 Montpellier Road, Bedford (a flat) worth	£550,000.00
Cash at bank	£300,000.00
NS&I	<u>£20,000.00</u>
	£870,000.00

Liabilities

Funeral account	£5,000.00
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End of the case study materials