



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

Case study materials

January 2025

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 designated statute book into the examination - Blackstone's *Statutes on Property Law, 31st edition, Meryl Thomas, Oxford University Press, 2023*.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer, and you work in the Private Client Department of Kempstons, 14 East Street, Bedford, MK42 7CD (DX: BD345987).

Your supervising Chartered Legal Executive and head of department is Marcus Wu.

You arrive at work to find the following awaiting your attention:

DOCUMENT 1: Email from Marcus Wu re: Isla Innes and Jaime Jimenez

DOCUMENT 2: Email from Marcus Wu re: Arthur Abbott deceased

DOCUMENT 3: Will of Arthur Abbott

DOCUMENT 4: Email from Marcus Wu re: Niki Nash deceased

DOCUMENT 5: Will of Niki Nash

DOCUMENT 6: Statement of Assets and Liabilities of Niki Nash

DOCUMENT 7: Email from Marcus Wu re: Vince Upton deceased

DOCUMENT 8: Statement of Assets and Liabilities of Vince Upton

CASE STUDY MATERIALS

DOCUMENT 1

EMAIL FROM MARCUS WU RE: ISLA INNES AND JAIME JIMENEZ

From: Marcus Wu (Marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: [*Yesterday's date*]

Subject: Isla Innes and Jaime Jimenez

Isla Innes and Jaime Jimenez are new clients of the firm and the firm has carried out full customer due diligence. I met them for the first time yesterday when they came into the office together, with Isla having made an initial appointment to make Wills for them to leave everything to each other.

Jaime is aged 57 and is a widower. Isla told me that she and Jaime had met online in a bereavement forum in October last year. Jaime is still suffering from depression following the death of his late wife Mia in September 2024. It is also the anniversary of him last seeing his parents as both of them died from covid in 2020. They had lived in Madrid and the last time Jaime had visited them was in January 2020.

Isla explained that she is 31 years old and moved in with Jaime just before Christmas last year. She joined the bereavement forum following the death of her mother. Isla said she had been finding it hard to adjust to being on her own as she did not get on with her stepfather and had no contact with her birth father.

According to Isla, her landlord had given her notice to quit her flat in October, which was to take effect at the end of December 2024 as he wanted to put her rent up and she could not afford the increased amount he was asking. She had not been able to find alternative accommodation she could afford and Jaime had said she could move into his spare room. Jaime smiled when Isla confirmed that they had started living together as husband and wife on New Year's Eve 2024.

Isla told me that Jaime was born and brought up in Spain but came to live in Bedford with his wife Mia in 1990, just after they married. Mia taught Spanish at the local comprehensive school until she died from cancer. Jaime works on a food-production line at a local factory. Isla tells me that he is not very outgoing and that his English is still not very good as he always relied on Mia when they went out.

I asked Jaime if he had any other relatives and Isla replied on Jaime's behalf that Jaime's only relatives are his sister Krystyn, aged 55 and Krystyn's son, Luis, aged 30. Apparently, Krystyn emigrated from Spain to the United States in 1991 and Jaime has not seen her since, although they have kept in touch at birthdays and Christmas.

When I asked about the assets that each of them has, Isla informed me that she has nothing other than a few items of jewellery she inherited from her mother, which are worth no more than £1,000. On the other hand, Jaime now owns his house, 55 River Terrace, Bedford, outright as life insurance covered the outstanding mortgage balance when Mia died. Isla says she has researched values of other local properties and the house is probably worth around £375,000. Isla carried on saying that she helped Jaime open a savings account in his name and that it now has £235,000 in it. She thinks that some of the money came from money he inherited from his parents.

Isla instructed me that she wants to appoint Jaime to be the sole executor and beneficiary of her Will and Jaime wants her to be the sole executor and beneficiary of his Will. I asked Jaime specifically to confirm that this is what he wanted and he just replied 'Yes.'

CASE STUDY MATERIALS

They had not considered substitutional provisions for the death of the survivor and I have explained that I will need further information from each of them on this before Wills can be drafted for them.

I shall want you to take this matter on for me under my supervision.

EMAIL FROM MARCUS WU RE: ARTHUR ABBOTT DECEASED

From: Marcus Wu (Marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: [Yesterday's date]

Subject: Arthur Abbott deceased

I met Charles Abbott and Daniel Abbott this morning. Their father, Arthur, died on 12 November 2024 aged 74 following a stroke. Charles is a longstanding client of Kempstons, although we have not acted for Arthur or Daniel before.

Arthur made a Will in July 2015 at the same time as he retired. Charles handed me Arthur's original Will (**Document 3**) and I noted that Black and Blue Solicitors in Bedford appear to have prepared the Will for Arthur.

Charles and Daniel are the only children of Arthur and Brenda Abbott. Charles was born in 1979 and has two children Esme aged 12 and Fran aged 10. Daniel was born in 1982 and has no children.

Arthur and Brenda divorced in November 1994 after Brenda found out that Arthur had been having an affair with a work colleague. Arthur moved out of the family home and in May 1995 bought the property at 6 Ash Lane, Tempsford, which he still lived in at the time of his death. As far as Charles and Daniel knew, Arthur had always lived alone after the divorce.

Charles and Daniel continued to live with their mother and saw very little of Arthur for the next few years following the divorce. Charles started to have more contact with Arthur once Charles started college and passed his driving test.

Charles and Daniel found paperwork to show that Arthur's net assets amounted to approximately £355,000.

Charles and Daniel also found documents that Arthur had stored in a box in his attic. The documents showed that a child maintenance order had been made against Arthur in late 1994 for a child named Grace Green, born in October 1994. Neither Charles nor Daniel had been aware that Arthur had another child. Through social media, Charles has been able to contact Grace who confirmed that her mother had told her that Arthur was her father, however Arthur had always refused to have any contact with either Grace or her mother. Grace has a son of her own now, Harry, who is two years old and she is pregnant with another baby due in May this year.

Charles explained to me that Daniel is still very upset at what he believes are the implications of the wording of Arthur's Will. Charles and Daniel requested a copy of Black and Blue Solicitors file notes from 2015 when Arthur made his Will, as well as requesting the original Will itself.

I have now read the file notes which indicate that Arthur mentioned only Charles, Daniel and Charles' children as relatives. Also, there is no evidence that Arthur received any advice as to the legal effect of leaving his residuary estate to his 'issue' and 'in equal shares'.

I shall want you to help me deal with the administration of Arthur's estate and provide any further advice that Charles and Daniel may require.

WILL OF ARTHUR ABBOTT

This is the last Will and testament of me Arthur Abbott of 6 Ash Lane, Tempsford, Bedfordshire.

1. I revoke all other Wills.
2. I appoint my sons Charles Abbott and Daniel Abbott as my executors.
3. Subject to the payment of my debts, funeral and testamentary expenses I give my entire estate to my issue in equal shares.

Signed on *23 July 2015*

By *Arthur Abbott*

In our joint presence
and then by us in his

Barry Brown
Paralegal
Black and Blue
Solicitors
Bedford

Barbara Beige
Paralegal
Black and Blue
Solicitors
Bedford

EMAIL FROM MARCUS WU RE: NIKI NASH DECEASED

From: Marcus Wu (Marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: [Yesterday's date]

Subject: Niki Nash Deceased

I met Otka Onderko and Palmer Nash yesterday and they informed me of the death of Niki Nash on 7 January 2025, aged 48, following a road traffic accident. Otka thought that Kempstons had prepared a Will for Niki after the death of her parents but she had not been able to find a copy of it. Following the meeting, I have retrieved Niki's original Will from our strongroom. **(Document 5)**.

Otka, who is 46 years old, explained to me that she moved to England in 2005 after the Czech Republic had joined the European Union in 2004. She met Niki in February 2007 and they started cohabiting in February 2008; entering into a Civil Partnership on 23 June 2013. Otka said she still has Czechian nationality but has permission to remain in the UK under the EU Settlement Scheme and she has provided the firm with evidence of this.

Niki and Otka were living together at 8 Fen Walk, Bedford with their adopted daughter, Tessa, who is now aged 15. Tessa was six years old in 2015 when they adopted her. Otka and Palmer confirmed that Niki had no natural children of her own.

Palmer, aged 52, is Niki's brother and lives at 2 Wetlands View, Bedford. His only child, Quinn, aged 24, lives at 45 Willow Walk, Cambridge. She is studying for a PhD in Physics at the University of Cambridge and has no children. Palmer also explained that his and Niki's parents had died in a skiing accident in February 2012. They had not been wealthy but in addition to some personal gifts given to him and Niki, they had each inherited £175,000.

The only other relative Palmer and Niki had was their uncle, Ralph Rigby. Palmer told me that their Uncle Ralph had died in November 2022, leaving an estate that was supposed to be divided equally between a charity, him and Niki. Palmer said he should not grumble but it seemed unfair that Niki and he had to pay Inheritance Tax (IHT) of £230,000 between them, while the charity got their share free from IHT. He hoped that there would not be too much IHT payable on Niki's estate.

Otka told me that she had been through all of Niki's papers and had drawn up a statement of her assets and liabilities, which she handed to me **(Document 6)**. Niki used an Independent Financial Adviser to help her invest some of the money she inherited from Ralph. This adviser has provided Otka with the valuation of the portfolio of stocks and shares that is shown in the statement prepared by Otka. At the same time as making these investments in September 2023, Niki gave the sum of £100,000 to Tessa, which was placed in a savings account in Tessa's name.

Otka was concerned about being able to carry on living at 8 Fen Walk as it was held in Niki's sole name. I reassured her that in view of the size of Niki's estate there was no need for her to worry about it at this stage.

I confirmed that I would be in touch with them shortly to let them know whether there was any record of Kempstons having made a Will for Niki.

I shall want you to help me deal with the administration of Niki's estate and provide any further advice that Otka and Palmer may require.

WILL OF NIKI NASH

This is the last Will and testament of me Niki Nash of 8 Fen Walk, Bedford, Bedfordshire.

1. I revoke all other Wills and declare this to be my last Will ("my Will").
2. I appoint as my executors and trustees ("my Trustees") my partner Otko Onderko of 8 Fen Walk, Bedford and my brother Palmer Nash of 2 Wetlands View, Bedford.
3. I give to my niece Quinn Nash of 2 Wetlands View, Bedford the personal effects which I inherited from my mother Susan Nash and which are itemised in her estate accounts prepared by Kempstons, Solicitors dated 15 June 2012 a copy of which is to be stored with my Will.
4. 4.1 Subject to the above gift and to payment of my debts funeral and testamentary expenses I give the residue of my estate to my Trustees absolutely.

4.2 Subject to clause 4.1 my Trustees shall divide my estate equally between my partner Otko Onderko and my brother Palmer Nash.

4.3 If any of them shall die before me leaving issue their share shall be divided equally between such issue in equal shares per stirpes.

4.4 If the trusts of one half of my estate fail, that half is to be added to the other half.
5. My Trustees shall have all statutory powers and authority in existence at the date of my death.

Signed on *27 July 2012*

By Niki Nash

In our joint presence
and then by us in his

Marcus Wu
Chartered Legal Executive
Kempstons
Bedford

Marie Walters
Trainee Legal Executive
Kempstons
Bedford

STATEMENT OF ASSETS AND LIABILITIES OF NIKI NASH

<u>ASSETS</u>	£
Freehold of 8 Fen Walk, Bedford	375,000
Bedford Bank Current Account	3,420
Bedford Bank Savings Account	155,000
Portfolio of Quoted Stocks and Shares	264,659
Personal effects inherited from mother	2,400
Other personal and household effects	3,600
2023 Tesla Model S motor car	<u>76,000</u>
<u>Total assets</u>	<u>£880,079</u>
<u>LIABILITIES</u>	
Funeral account	4,750
Utility bills	<u>329</u>
<u>Total liabilities</u>	<u>£5,079</u>
<u>NET ESTATE</u>	<u>£875,000</u>

EMAIL FROM MARCUS WU RE: VINCE UPTON DECEASED

From: Marcus Wu (Marcus.wu@kempstons.co.uk)

To: Trainee lawyer

Date: [Yesterday's date]

Subject: Vince Upton deceased

I had a meeting with Xander Upton today. Xander, aged 42, and his father Walter Upton, aged 66, run Upton's Vehicle Breakdown and Repairs together. Kempstons acts for them whenever they need legal advice. Xander reminded me that I had acted for him and his wife last year when they updated their Wills.

Xander explained to me that his younger brother, Vince, died last week, aged 39. Vince had been stabbed and died from his injuries. CCTV had captured the incident, and someone has been charged and admitted to the killing.

Vince had moved away from Bedford to London in 2005, following a fall out with Walter who could not accept that Vince wanted to work in the music industry rather than working in the family business. Vince and Walter were still estranged but Xander told me that he and his mother, Ursula, tried to keep in contact with Vince although it was not easy as he lived a rather chaotic lifestyle and never seemed to settle anywhere for long.

Vince was renting a furnished studio flat in Brick Lane, Tower Hamlets. Xander told me that the day after the police had notified the family that Vince had died, the landlord, Yang Yuan, was on the phone to them insisting that his room be cleared of his belongings by the end of that weekend as he had new tenants who wanted to rent it.

Xander had managed to go to Vince's flat and empty it for the landlord last weekend. There was very little of value apart from Vince's guitars, which could be sold online. Xander threw out all of Vince's food and open cleaning products. He brought Vince's correspondence and few possessions back to Bedford; they are currently stored in Xander's garage. Xander is hoping a charity shop will take the clothing and the personal effects other than the guitars and amplifier.

It appears that Vince was in debt to several creditors. While Xander was clearing the bedsit, a payday loan debt collector came round demanding payment of a loan plus the interest on it, the landlord said he was owed three weeks rent and from the correspondence it looked like Vince had an overdraft at the bank and was behind with his utility bill payments.

Vince's parents, Walter and Ursula, have said they will organise and pay for Vince's funeral once his body has been released for burial but Walter is not willing to get involved any further and does not want Ursula to be involved either. Xander is worried about the debts and in particular does not want any debt collectors turning up at his home and bothering his wife and two young children.

Xander has let me have a note of all Vince's assets and the debts he is aware of and I have prepared a statement of assets and liabilities (**Document 8**). There was also a homemade Will that Vince had signed, appointing Xander as his executor and leaving everything to Xander. I have studied it and it appears to be valid.

I should like you to help me advise Xander further about Vince's estate.

STATEMENT OF ASSETS AND LIABILITIES OF VINCE UPTON

<u>ASSETS</u>	£
Bedford Bank current account	78.52
2008 Fender Stratocaster Guitar	1,345.00
Fender Champion Amplifier	175.00
Cordoba Paco Flamenco Classical Guitar	350.00
Other household and personal effects	<u>50.00</u>
	<u>£1,998.52</u>
 <u>LIABILITIES</u>	
Yang Yuan rent arrears	1,155.00
Electricity owing to date of death, including arrears	373.39
Water owing to date of death, including arrears	126.13
Payday loan	<u>850.00</u>
	<u>£2,504.52</u>
 NET AMOUNT OWED BY ESTATE	 <u>(£506.00)</u>

End of the case study materials