



SQE2 sample question and discussion of answer

Interview and attendance note/legal analysis (Wills and Intestacy, Probate Administration and Practice)

Reviewed 2 December 2024

Candidates will undertake 16 assessments in SQE2. To pass SQE2 candidates will need to obtain the overall pass mark for SQE2.

This sample question and discussion of answer is an example of an interview and attendance note/legal analysis assessment. Candidates will have 10 minutes to consider the email and/or documents followed by 25 minutes to conduct the interview with the client. They will then have 25 minutes to write, by hand, an attendance note / legal analysis of the interview they have just completed.

For further details, see the SQE2 Assessment Specification.

Please note that the sample questions are provided to give an indication of the type of tasks that candidates could be set. They do not represent all the material that will be covered in

Question and additional candidate papers

Email to Candidate

From: Partner
Sent: 5 July 202#
To: Candidate
Subject: Megan Davies (Gareth Davies deceased)

Megan Davies is an established client of the firm whom I was due to see today about the estate of her brother, Gareth Davies. Unfortunately, I have had a family bereavement and cannot make the meeting. I spoke to Megan briefly this morning and she was happy with my suggestion that you could conduct the interview instead of me.

Megan has already emailed me a copy of Gareth's will, which you will find attached. You will see from the will that Megan is one of Gareth's executors. She intends to administer the estate without our help, as she has experience of acting as executor for both her parents.

She is instructing us to give her some initial advice about specific questions she has about the distribution of the estate and Inheritance Tax implications. I understand that she also has a query about whether she can act as sole executor.

I have already confirmed to Megan that the will is valid, so you do not need to discuss the validity of the will with her.

I will be working on the file with you, so following your meeting, please write a full attendance note / case analysis setting out all the advice we should give to the client in relation to the issues above, as well as any other matters you discuss at the meeting. Please also include any key facts, next steps for us/the client, and any professional conduct issues that arise. I have already taken the client's contact details, and the necessary identity checks have been completed, so please do not worry about those matters.

Thanks

Partner

ATTACHMENT:

Will of Gareth Davies

Note to Candidates:

You are not required to deal with, nor will you be asked about, client care matters (including costs) or money laundering issues.

This is the last will of me GARETH DAVIES of 22 Glynbridge Gardens Bridgend
Bridgend County CF31 1LW which I make this 2nd day of October 2019

1. I revoke all former Wills and Codicils made by me
2. I appoint my sisters **ERIN DAVIES** and **MEGAN DAVIES** to be my executors
3. I give my 1973 Austin Mini Clubman car to my said sister **MEGAN DAVIES**
4. I give all the rest of my estate (after the payment of my debts funeral and testamentary expenses and the aforementioned gifts) to my daughter **FFION MORGAN** and my colleague **OWAIN HUGHES** as tenants in common in equal shares absolutely

Signed by the said **GARETH DAVIES**

in our joint presence and then

Gareth Davies

by us in his

Anton Hope

ANTON HOPE
26 Glynbridge Gardens
Bridgend
Bridgend County
CF31 1LW

Joanne Cooper

JOANNE COOPER
24 Glynbridge Gardens
Bridgend
Bridgend County
CF31 1LW

Note to Candidates:

This is a copy of the original will. You may assume the original will was executed in accordance with the provisions of Section 9 of the Wills Act 1837 and that the testator had full testamentary capacity.

Discussion of answer: Interview

Interview (Wills and Intestacy, Probate Administration and Practice)

SAMPLE RECORDING

A recording of a sample candidate performance is provided below. This recording is an example of a candidate who would be assessed as clearly passing the Client Interview assessment.

The recording is not perfect nor a model answer and there are further points which could be made.

The link to the recording is here:

[SQE2 Wills and Intestacy, Probate Administration and Practice Oral Interview: Sample Candidate Performance](#)

ANALYSIS

Why has the sample candidate clearly passed the assessment?

The following guidance is not intended to be prescriptive but will help you to understand why the sample candidate in the recording would be graded as clearly passing in relation to the assessment criteria for the assessment.

The assessment criteria

The assessment criteria for interviewing are as follows:

Skills

1. Listen to the client and use questioning effectively to enable the client to tell the solicitor what is important to them.
2. Communicate and explain in a way that is suitable for the client to understand.
3. Conduct themselves in a professional manner and treat the client with courtesy, respect and politeness including respecting diversity where relevant.
4. Demonstrate client-focus in their approach to the client and the issues (i.e. demonstrate an understanding of the problem from the client’s point of view and what the client wants to achieve, not just from a legal perspective).
5. Establish and maintain an effective relationship with the client to build trust and confidence.

The candidate’s performance in relation to the criteria above was clearly competent for the following reasons:

SKILLS CRITERIA	
Listen to the client and use questioning effectively to enable the client to tell the solicitor what is important to them	<p>The candidate asks questions to elicit specific details about Gareth (e.g. his date of death) and information about his family.</p> <p>The candidate seeks clarification in response to the client’s answers, such as around her belief that Gareth’s wife will not wish to challenge the will, and recaps information to check understanding.</p> <p>The candidate avoids interrupting the client, although he does sometimes make assumptions in his questions (for example, that Gareth was single and that Sammy lived with his mother).</p>

<p>Communicate and explain in a way that is suitable for the client to understand</p>	<p>The candidate uses language that is generally easily understood by the client, for example, when explaining reserving and renouncing powers, or Inheritance Tax.</p>
<p>Conduct themselves in a professional manner and treat the client with courtesy, respect and politeness including respecting diversity where relevant</p>	<p>The candidate treats the client with courtesy and respect, showing some sensitivity (about Gareth’s and Ffion’s deaths, and when explaining about the gift of the car). He is occasionally overly casual but not impolite.</p> <p>The candidate refers to the information provided, showing that he is organised. He sometimes changes his mind about what he wants to talk about mid-sentence, but he does not lose control of the interview.</p>
<p>Demonstrate client-focus in their approach to the client and the issues (i.e. demonstrate an understanding of the problem from the client’s point of view and what the client wants to achieve, not just from a legal perspective)</p>	<p>The candidate appreciates that the client has experience of acting as a personal representative and wants to deal with her brother’s estate herself rather than use the firm.</p> <p>The candidate understands the family relationships, including why Erin does not want to act.</p> <p>The candidate is interested in and addresses all of the client’s concerns (although the client might feel that they would like more information about how to implement the options suggested for what they want to achieve).</p>
<p>Establish and maintain an effective relationship with the client so as to build trust and confidence</p>	<p>The candidate reassures the client on points that he will return to during the interview, and he does return to these points. He is also clear that certain matters will be confirmed in writing.</p> <p>The candidate offers next steps and actions for the client, indicating he would be happy to help with any further questions or the application process, maintaining an effective relationship.</p>

Discussion of answer: Attendance note / legal analysis

KEY LEGAL POINTS

These include the following:

Note that exact citations (e.g. provisions of the Wills Act 1837 or Inheritance Tax Act 1984) are not required.

Executors

- Considering whether there are any options available to Erin as an executor in circumstances where she does not want to act.
- Identifying whether Megan can act alone as executor if Erin does not act.

Interpretation of the gift of the car

- Considering the type of gift made of the car in the will.
- Identifying the consequences for Megan (as beneficiary of the gift) of the car having been sold before Gareth's death.

Distribution of the estate

- Considering the terms upon which the residuary estate is held for Ffion and Owain and any provisions for substitution where it is held in equal shares for them and they have both died before Gareth.
- Identifying how Ffion's and Owain's shares of residue will each pass.

Inheritance Tax

- Identifying Gareth's taxable estate.
- Considering the available nil rate bands and any exemptions available.
- Applying the appropriate rate of tax to Gareth's estate.

SAMPLE ANSWER

This answer is an example of a candidate who would be assessed as clearly passing the competency requirements of the attendance note / legal analysis assessment.

This answer is not perfect nor a model answer and there are further points which could be made.

Please note that candidates may incorporate notes made during their preparation and/or the interview by referencing them in writing their attendance note/legal analysis. The sample answer has been presented as one document, not referring to the interview notes, for ease of reading.

Sample Answer

Attending Megan Davies regarding late brother's estate – Gareth Davies.

Deceased

DOB: 2 Feb 1963

DOD: 5 June 2024

Plumber

Megan certain this is Gareth's last will (told it's valid). Death a shock.

Family

Sister Erin has recent health issues – will act if needs to. Client wants to know if she can act alone.

Gareth married to Lowri Davies. (Happy with terms of will – Gareth had discussed it with her. She has a good pension income. Client doesn't think she or anyone else will challenge will.)

Couple had one daughter – Ffion – residuary beneficiary – she died last year (17 May 2023, aged 40). She leaves husband Dylan and daughter Bethan. No other children.

Owain died in November 2023 (unsure re date) – Gareth's apprentice from age 16, and like a son to him. Owain's son Sammy is 3 years old. Owain and Sammy's mum broke up shortly after Sammy was born. They weren't married. Sammy lives with his grandparents.

In relation to Gareth's wider family there is just Erin and client. Erin will act if she needs to but would rather not due to recent ill health. I asked if Erin had taken any steps to deal with the estate and client said that she hadn't (no intermeddling). I explained this was good as she could step away completely (by renouncing) or for the time being only with option to return at a later date.

Assets and debts

Assets

House / land

The house the deceased and his wife lived in was rented – never owned property. Lowri still lives there and pays the bills.

Bank accounts

- Current Barclays £25k sole.
- Savings Lloyds £52k sole.
- Santander £1k joint with Lowri.

(Banks not notified of death.)

Investments

250 shares in Tesco. Client googled value – £1,650.
Stocks and shares ISA £8,000.

Household contents / chattels

Client was unsure. He had very little – just a mobile phone really. Property was rented unfurnished. Client thinks joint contents worth £3,000.

The car in the will was sold a few weeks ago and the £4,000 proceeds of sale were given to client as cash in an envelope by Lowri. Client wants to know if entitled to it.

Debts

No rent arrears.

Joint utilities – Lowri.

Tesco credit card – £900.

Pensions / life assurance / death in service

I asked about pensions and life assurance and he had death in service only of £45,000 and Lowri will get widow's pension of £7,500.

Advice

1. Money received for car

I told Megan she couldn't keep the money as the gift of the car is specific to the car only and the money in the envelope is part of the residue of the estate.

2. Residue

Client queried entitlement under residue. It's split between Ffion and Owain. No provision for substitution in the will. Different rules apply because Ffion related to

Gareth. I said I'd check but thought that Ffion's share would pass to Bethan (s.33). Intestacy rules apply to Owain's share, which would pass to Lowri, who is first entitled (wife survived by 30 days). To be followed up in writing. (Advice to confirm that money in envelope is to be divided as per residue.)

3. IHT

Client is also concerned re IHT. Lifetime gift made in April 2021 – Gareth gave Ffion £150,000. Confirmed gift – to help buy a house (from inheritance Gareth received following mum's death). No other gifts of note.

Each estate gets a NRB, but this is reduced by value of any gifts in 7 years up to Gareth's death (£150k). Do not think IHT payable but advised client this might change if any other assets or gifts come to light.

Said would send full IHT report after meeting. (Report to confirm that value of the NRB should be included at £325,000 less the gift of £150,000. Also, confirm to client term is nil rate band (think I misspoke in meeting and said "nil band rate".)

Next steps

- Said would send letter in next couple of days confirming above.
- Formal valuations needed to start application for probate – Megan will deal.
- She will get back in touch if she needs further help. (Dealt with parents' estates.)

ANALYSIS

Why has the sample answer clearly passed the assessment?

The following guidance is not intended to be prescriptive but will help you to understand why the sample candidate in the recording would be graded as clearly passing in relation to the assessment criteria for the assessment.

The assessment criteria

The assessment criteria for the attendance note/legal analysis are as follows:

Skills

1. Record all relevant information.
2. Identify appropriate next steps.
3. Provide client-focused advice (i.e. advice which demonstrates an understanding of the problem from the client's point of view and what the client wants to achieve, not just from a legal perspective).

Application of law

4. Apply the law correctly to the client's situation.
5. Apply the law comprehensively to the client's situation, identifying any ethical and professional conduct issues and exercising judgment to resolve them honestly and with integrity.

The sample answer in relation to the criteria above was clearly competent for the following reasons:

SKILLS CRITERIA	
Record all relevant information	<p>The candidate has included key facts set out in the assessment documents and elicited in the client interview, such as details of Gareth's family and relationships, as well as his assets and liabilities.</p> <p>The candidate has also elicited that Gareth sold the 1973 Austin Mini Clubman car for £4,000, and that Gareth gave Ffion a large gift in April 2021.</p>
Identify appropriate next steps	<p>The candidate has identified that they would write to Megan confirming the advice.</p> <p>The candidate has also identified a step that Megan could take.</p>
Provide client-focused advice	<p>The candidate has demonstrated an understanding of the client's concerns from the client's perspective; for example, that Megan wants to know if she can act alone because Erin has not been well. They address all of Megan's concerns and acknowledge</p>

	that the client is not expecting an ongoing relationship with the firm after receiving this advice.
LAW CRITERIA	
Apply the law correctly to the client's situation	The candidate has identified the relevant fundamental legal principles and applied them correctly to the facts of the client's case. For example, the candidate has identified that Erin does not have to act as executor, and that the gift of the car fails because the gift is specific to the car.
Apply the law comprehensively to the client's situation, identifying any ethical and professional conduct issues and exercising judgment to resolve them honestly and with integrity	The candidate's advice is sufficiently detailed in the context of the factual issues. For example, the candidate's advice has explained why Owain's share passes under the intestacy rules but Ffion's does not. The candidate also explains that the lifetime gift reduces the nil rate band.