



SQE2 sample question and discussion of answer

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

Last reviewed on 28 November 2023

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 a client interview and attendance note/legal analysis assessment.

Candidates have 10 minutes to consider the email and any documents. They then have 25 minutes to conduct the interview with the client. Candidates have 25 minutes to write, by hand, an attendance note/legal analysis of the interview they have just completed.

For further detail 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 SQE2. Future questions may not take exactly the same format.

Question and additional candidate papers

Email to Candidate

From: Partner
Sent: 5 May 202#
To: Candidate
Subject: Damian Robins

Damian Robins is a new client. He has made an appointment to see you today following the death of his sister, Astrid Green. He has sent me a copy of his sister's will which you will find attached.

You will see from the will that Damian is one of the executors. He intends to administer the estate without our help but he is instructing us to give him some initial advice about the following:

- who should act as executors;
- how the estate should be distributed. I understand some of the assets mentioned in the will were no longer owned by the deceased when she died; and
- an explanation of whether any inheritance tax will be payable.

Astrid's family situation is a little complicated, so Damian has kindly provided us with a brief summary of Astrid's family, which I have also attached to this email. This should be useful when considering the terms of Astrid's will.

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 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/or the client, and any professional conduct issues that arise.

Thanks

Partner

Attachments:

1. Copy will of Astrid Green
2. Details of the family of Astrid Green

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 ASTRID GREEN of 99 Castle Street Grays Essex RM16 7YY which I make this *12th* day of *June 2010*

1. I REVOKE all former Wills and Codicils made by me
2. I APPOINT my husband COLIN GREEN and my brother DAMIAN ROBINS and my sister JOAN KNIGHT to be my executors and trustees ("my Trustees")
3. I MAKE the following gifts in each case free of tax:
 - a) To my son FRANK GREEN my grandfather's carriage clock which was given to my grandfather on his retirement from ABC plc
 - b) To each of my granddaughters GAYNOR GREEN and SUSAN GREEN the sum of £500
 - c) To my nephew JOHN ROBINS 500 shares in ABC plc
4. I GIVE the remainder of my estate (after payment of my debts funeral and testamentary expenses and the aforementioned gifts) to my Trustees to hold upon trust for such of the children of my sister JOAN KNIGHT as shall survive me and attain the age of 21 years and if more than one in equal shares absolutely

SIGNED by the said ASTRID GREEN
in our joint presence and then by us in hers

Astrid Green

George Jones

George Jones
18 Cooper Street
Hackney
London
E9 7TR

Hairdresser

Sheila Jones

Sheila Jones
18 Cooper Street
Hackney
London
E9 7TR

Cleaner

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.

Brief details of the family of Astrid Green, deceased Astrid Green:

The deceased – died 1 April 202#; married Colin Green – divorced 2012

Astrid's son (her only child):

Frank Green (aged 40); married to Helen; two children - Gaynor Green (aged 19) and Susan Green (aged 16)

Siblings:

Brother: Damian Robins (aged 60); married to Elena Robins; one child – John Robins (aged 38)

Sister: Joan Knight (aged 70); Astrid's twin sister; widowed; two children – Fiona and Jack (twins – aged 36). Jack died last week, leaving a widow, Maureen, but no children.

Other relatives:

None: Astrid's parents died many years ago.

Client information (provided to the client not the candidate)

Client Information (Damian Robins)

Your name: Damian Robins
Your address: 46 Cunningham Crescent, London, SE23 0AD
Tel: 07715 766654
Date of birth: 16 February 19#
Age: 60
Email: d.robins@gmail.com

About you

You are married to Elena and you have one child, John. You and Elena are retired civil servants. You are one of three children (see below).

You are an intelligent, confident and articulate man. You are efficient and good with paperwork and technology. Now that you have retired, you have quite a lot of spare time. You are one of the executors appointed in your sister's will and you are sure that after some initial guidance from the solicitor you would be quite capable of dealing with her estate without any further professional assistance.

You were not impressed with the solicitors who dealt with your late father's estate, as they were slow and expensive. Your experience with them has somewhat coloured your view of the legal profession.

You were close to your sister and to the other members of your family who have recently died, but tend not to let your emotions show and you will be able to discuss your late family without becoming visibly upset.

Astrid Green

Your sister, Astrid Green, died over a month ago of an inoperable brain tumour. You knew that she was unwell and so it was not a surprise but you are sad nevertheless. Knowing does not always make it easier. She was a great big sister and friend to you. You feel like you have lost your "protector and best friend" and you are keen to administer her estate correctly and see that her wishes are carried out.

Astrid's personal details are as follows:

Full name	Astrid Green
Last address	99 Castle Street, Grays, Essex, RM16 7YY
Age	70 (Born 19 January 19#)
Date of death	1 April 202#
Marital status	Divorced
Occupation	Retired school teacher

Astrid's will and family situation is a little complicated and that is why you have come to see a solicitor. You have already provided the solicitor with a copy of the will that Astrid made in 2010 and also a brief summary of her and your family.

Further details related to Astrid's will

The other executors:

In addition to you, there are two other people mentioned as executors in the will.

Colin Green

Colin is Astrid's former husband. Colin and Astrid divorced in 2012. Colin has not re-married. He has a good pension and is quite wealthy, having inherited a large sum of money from his aunt two years ago. You have not discussed the will with him, but think that his son, Frank, is likely to have informed him of its contents because you gave a copy of the will to Frank.

You are sure that the divorce was finalised and that there was a clean break settlement i.e. no further payments are due.

Joan Knight

Joan is Astrid's widowed twin sister and, of course, your sister too. She had cancer a couple of years ago. She has responded well to her treatment and the prognosis is good. However, she is still quite weak and would prefer not to act as executor. In addition, she is still very upset about the death of her son Jack (see below) and has enough to worry about without the added burden of acting as her sister's executor. Joan has not done anything in relation to the administration of Astrid's estate.

The other people mentioned in Astrid's will:

Frank Green

Frank Green (aged 40) is Astrid's son. Frank is married to Helen and they have two daughters: Gaynor Green and Susan Green – see below.

Gaynor Green and Susan Green (Astrid's granddaughters)

Gaynor (aged 19) and Susan (aged 16) are the only children of Frank Green (see above).

John Robins

John Robins (aged 38) is your only child and Astrid's nephew. John is single and has no children.

Joan Knight's children

Joan had twins. (They run in the family.) Fiona is 36, single and has no children. Her twin brother, Jack, died of a heart attack on Monday last week, only a few weeks after Astrid died, which has been a double blow to the family. Jack was married to Maureen and had no children. You do not know if Jack made a will.

Items mentioned in Astrid's will:

The carriage clock

Astrid's house was burgled a few years ago. One of the items taken by the burglars was the carriage clock that she inherited from her grandfather. Although this was of great sentimental value to her and the family, it was only worth about £50.

Shares in ABC plc

You and Astrid each inherited 500 shares in ABC plc on the death of your grandfather. Astrid sold her shares two years ago. You do not know how much she received for them but you still have your shares which are currently worth about £1,000.

Astrid's property and finances

Assets:

House - Astrid owned and lived at 99 Castle Street, which is a small 2 bedroomed terraced house. It is free of mortgage and is worth approximately £250,000. She did not own any other house.

Car - she did not own a car.

Other personal belongings – Astrid did not own anything of any particular value. You estimate that all her personal belongings are worth approximately £2,000.

Bank accounts and investments – Astrid had a current account with NatWest. You think that there is a current balance of about £3,000. She also had savings accounts with HSBC and Santander. Again, you are not sure of the balances, but think there is about £10,000 in HSBC and maybe £5,000 or so with Santander.

You can find out the balances, if required.

Insurance policies – Astrid had a life policy with LifeCo Ltd and you have the policy document at home. You sent a death certificate to LifeCo Ltd and you have received a letter in reply confirming that the sum of £10,000 is due to the estate under the policy and that it will be paid to the personal representatives. You can send a copy of the letter to the solicitor, if required.

Pension - Astrid was in receipt of state and occupational pensions of about £2,500 per month. You do not know if there has been any overpayment (or underpayment) of these pensions nor whether a lump sum payment is due as a result of Astrid's death under the occupational pension. If necessary, you can make enquiries of the occupational pension provider.

Debts & expenses:

Astrid used a Marks and Spencer credit card for convenience but always paid the full balance due each month. You are not aware of any other debts and are confident that

there are unlikely to be any except for the final credit card bill. You are not sure how much this will be – maybe a couple of hundred pounds.

Funeral expenses – these plus the funeral reception cost £5,100 in total which you paid out of your own funds. You have the receipts at home. You also registered the death and paid for three death certificates out of your own funds. You do not recall the exact cost of the death certificates but you have the receipt at home.

Gifts:

Astrid did not make any lifetime gifts

Other:

Astrid did not have any interests under a trust.

Family and dependants

There are no other members of the family and Astrid did not have any dependants. You do not think anyone is likely to object to the terms of the will.

Further information

- You believe this to be the only will Astrid ever made.
- You found the original will in Astrid's house (in a file of personal papers that Astrid had prepared in anticipation of the sad day when she would die) and you now have it securely locked in a cupboard in your house.
- Your sister was perfectly competent mentally when she made the will – and indeed right up to her death.
- Your views on the will if asked:
 - You were not particularly surprised to see that Astrid had made little provision for her son, Frank, in her will. Astrid had known it was likely that Colin would inherit a significant amount from his aunt and that it was probable that he would pass this to their son, Frank. You gave Frank a copy of Astrid's will and he has told you that he does not object to its terms. Colin has ample assets of his own to live on.
 - Astrid had always been very close to her twin sister, Joan. Joan's late husband had squandered money which had upset Astrid a great deal. You think that by making provision for Joan's children in her will, Astrid was trying to compensate them for their father's unwise spending. You have no problem with this and are content with the terms of the will.

Summary of the advice you are seeking

1. Executors

You would like to know who should act as executors. Joan would prefer not to act and Colin is divorced from Astrid. You would like to know if you could act on your own.

2. Distribution of the estate

You wish the solicitor to advise you as to how the estate will be distributed bearing in mind Jack's death and the fact that some of the assets mentioned in the will were no longer in Astrid's possession at her death.

3. Inheritance tax

You would like to know if any inheritance tax is payable, and to be given an explanation of how this is worked out.

You would like to be sent a letter in which the solicitor sets out the situation with regard to the executors, how the estate will be distributed and whether any inheritance tax is payable and, if so, how much.

Discussion of answer

Attendance Note/Legal Analysis

KEY LEGAL POINTS

These include the following:

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

Executors

- Considering the effect of divorce on the provision in the will appointing Colin as an executor.
- Identifying the options available to Joan, as an executor who does not wish to act (and does not appear to have intermeddled).
- Considering whether Damian can act alone as executor, despite the gift in the will to a minor.

Distribution of the estate

- Identifying that the gift of the carriage clock is a specific gift and considering the effect of the gift in light of the fact that Astrid no longer owned the clock when she died.
- Identifying that the gift of the ABC shares appears to be a general legacy and considering the effect of the gift in light of the fact that Astrid no longer owned any ABC shares when she died.
- Identifying that Susan is a minor beneficiary and considering the effect of her not being able to give a valid receipt.
- Considering the effect of Jack dying after Astrid, having satisfied the age contingency in the will.

Inheritance Tax

- Identifying the taxable estate.
- Identifying whether a lump sum payment is due from the occupational pension provider and, if so, ascertaining its tax status.
- Identifying the value of the taxable estate and the available nil rate band (subject to confirmation of the exact date of death value of the net taxable estate).
- Applying the appropriate rate of tax given that the estate appears to fall within the nil rate band.

SAMPLE ANSWER

A sample answer is provided below. This answer is an example of a candidate who would be assessed as clearly passing the competency requirements of the assessment. This answer is not perfect nor a model answer and there are further points which could be made.

Please note that, rather than copying from the notes taken in the interview, candidates can make reference to these notes in the attendance note. The sample answer has been presented as one document, not referring to the interview notes, for ease of reading.

Sample answer

Candidate attending Damian Robins regarding the estate of his sister, Astrid Green, who died on 1 April 202#.

Name: Damian Robins
Address: 46 Cunningham Crescent, London, SE23 0AD;
Tel: 07715 766654
Email: d.robins@gmail.com

Damian provided a copy of Astrid's will and brief details of her family but intends to administer the estate himself (he is retired and good with paperwork).

He gave me details of Astrid's assets plus further details about her family (see below) – he was very close to his sister. Damian's nephew also recently died.

Astrid lived at the address in the will. Born 19 January 19#. She was a retired school teacher, and did not remarry after she and Colin Green divorced in 2012.

The will (dated 12 June 2010) appoints Damian as executor along with his sister, Joan Knight, and Astrid's former husband, Colin Green. Colin and Astrid divorced in 2012 and his appointment will therefore not take effect. Joan is Astrid's twin sister. Joan's son died recently and Joan is recovering from cancer treatment so she would prefer not to act as executor. She has not assisted in the administration of the estate to date and can therefore renounce her executorship or have power reserved to her. I'll need to check this with her but Damian can act as the sole executor.

Astrid's will appears to have been validly signed. About the gifts, I said to Damian:

- a) Astrid's son, Frank Green, survived Astrid but the carriage clock identified in clause 3(a) was stolen in a burglary prior to her death – gift fails.
- b) Gaynor and Susan Green survived Astrid and will each receive £500. Gaynor is aged 19 and will be entitled to receive her gift. Susan is under 18 and cannot give a receipt for her legacy. Her parents could give a receipt instead.
- c) The gift of shares to John Robins is a general legacy. Astrid sold her shares in ABC plc before her death. The executors will therefore have to buy shares or pay John the sum which would purchase them.

The residue of the estate (the assets less debts, expenses and legacies) assees to Joan's twins, Fiona and Jack. They both survived Astrid and satisfied the age contingency in the will. However, Jack died on Monday last week and because of this Jack's share of the residue will pass as per his will or intestacy.

Assets:

99 Castle Street – small 2 bedrooomed property, mortgage free, £250,000.
Astrid did not own any other property.

Personal belongings (no car) - 2,000
NatWest current account - £3,000
HSBC savings account - £10,000
Santander savings account - £5,000
Life Policy with LifeCo Ltd - £10,000 – the proceeds are payable to the estate

Pensions – Astrid was in receipt of state and occupational pensions totaling £2,500 per month. Damian isn't sure whether there has been an under- or overpayment of pension nor if a lump sum payment is due under the occupational pension.

Debts:

M & S credit card – Astrid always paid the monthly balance in full. Probably £200 owed.

Funeral costs - £5,100 – paid by Damian

Administration Expenses: 3 death certificates – paid for by Damian.

Astrid made no lifetime gifts - nil rate band is therefore £325,000.

Based on the above values, it does not appear that Astrid's estate will be liable to inheritance tax as it is within the available nil rate band. This is subject to verification of the above figures.

Next steps

- Write to Damian confirming the above advice.
- Request Damian to:
 - Obtain the exact date of death values relating to all assets of the estate;
 - supply a copy of the letter confirming that the proceeds of the life policy are payable to the estate; and
 - make enquiries of the occupational pension provider as to whether any payments are due.
- Consider whether the payment(s), if any, from the occupational pension provider form part of the taxable estate.

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 answer would be graded as clearly passing in relation to the assessment criteria for the assessment.

The assessment criteria

Interviewing will be marked by the assessor playing the role of the client and will be marked on skills only. The **attendance note/legal analysis** will be marked by a solicitor who will assess candidates on both skills and application of law. Marking is based on global professional judgements rather than a tick box or checklist approach.

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 so as to build trust and confidence.

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 judgement to resolve them honestly and with integrity.

The sample answer in relation to the **attendance note/legal analysis** criteria above was clearly competent for the following reasons:

SKILLS CRITERIA

Identify relevant facts	The candidate has identified the key facts set out in the assessment documents and elicited from the client interview. For example, the candidate has appreciated from the assessment documents that Damian, Colin and Joan are named as executors but Colin and Astrid divorced after Astrid executed her will. The candidate has also elicited from the client the fact that Joan does not wish to act as executor and Damian is willing to act alone.
Identify appropriate next steps	The candidate has identified that it is necessary to follow up the interview with written advice to the client, and identified other appropriate practical next steps for the client.
Provide client-focused advice	The candidate has demonstrated an understanding the client's concerns from the client's perspective, addressing both the legal issues (e.g. the question of who can act as executor) and the related personal concerns (e.g. the question of whether Damian can act alone, because Joan would prefer not to act).
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 there will be no inheritance tax to pay because Astrid's estate is below the nil rate band, noting that the relevant nil rate band is £325,000 and relying on information elicited from the client to determine that Astrid had a full nil rate band available.
Apply the law comprehensively to the client's situation, identifying any ethical and professional conduct issues and exercising judgement to resolve them honestly and with integrity	The candidate's legal analysis is sufficiently detailed in the context of the client's case. For example, the candidate has explained in detail what happens to Jack's share of the residue, identifying what is meant by "residue" and noting that both Fiona and Jack are both entitled to the residue (having survived Astrid and satisfied the age contingency) before explaining that Jack's share will consequently pass either under his own will or the intestacy rules.