



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

Unit 19 – The Practice of Employment Law

Case study materials

January 2024

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 Employment Law 2022-2023, 32nd edition, Richard Kidner, 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.

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CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons, The Manor House, Bedford, MK42 7AB. Your supervising partner is Hasim Erdogan. You arrive at work and are given the following documentation to review and consider.

DOCUMENT 1: Email from Bina Carter to Hasim Erdogan dated 1 December 2023

DOCUMENT 2: Memorandum from Hasim Erdogan dated 5 December 2023

DOCUMENT 3: Attendance note dated 8 December 2023 Hasim Erdogan (Advocate)
Jay Farrow (Client)

DOCUMENT 4: Email from Jay Farrow to Hasim Erdogan dated 11 December 2023

DOCUMENT 5 Attendance note dated 12 December 2023 Hasim Erdogan (Advocate)
Patricia Marquette (Client)

DOCUMENT 6: Memorandum from Hasim Erdogan dated 13 December 2023

EMAIL

From: Bina Carter

Sent: 1 December 2023, 10:10

To: Hasim Erdogan

Subject: Problems at work

Hi

I used to work at an off-licence called DrinksNCo but I was fired last week. I want to know if I can sue my boss.

I am a gay woman and my wife is pregnant. Last month, I needed an hour off work to drive my wife to a hospital appointment to check that the baby is growing. I haven't asked for any time off in the 12 months I've been working at the off-licence so I didn't think it would be an issue. I asked my boss, Judy, for the time off and she said no. This was the first time I told Judy that I have a wife and that I am gay; she didn't know before I asked for the leave.

When I told my friend at work, Adam, about this he told me that Judy let him have time off work to take his girlfriend to hospital appointments when she was pregnant. I told Judy about this, and she told me that 'such leave applies to male and female parents only, not to your situation'.

This isn't the first time Judy has treated me differently to Adam. Adam is also allowed time off work whenever his migraines are bad (he has one eye, and being able to see out of only one eye gives him migraines) but I wasn't allowed time off when I had bad migraines (I get mine because I'm a recovering alcoholic).

Anyway, I still carried on doing my work because I need money. Then last week I was fired. What happened was that my wife came to pick me up from work and she came into the shop. My wife was trying to be friendly and chat to Judy, and mentioned that she worked in an off-licence for a few months when she was younger.

That night, I got an email from Judy telling me that I'm fired because my wife used to work for a 'competitor', so my employment 'creates a conflict of interest'. I don't believe this is the real reason I was fired. I think I was fired because Judy found out that I'm gay and she doesn't like gay people. Everything was fine before she found out I have a wife. Can you help?

Thanks

Bina Carter

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CASE STUDY MATERIALS

DOCUMENT 2

MEMORANDUM

To: Trainee Lawyer

From: Hasim Erdogan

Client: Bina Carter

Date: 5 December 2023

Good morning

Please see the email from Bina Carter, sent on 1 December 2023 (**Document 1**).

I had a follow-up phone call with Ms Carter earlier today and I will be acting for her in her claim against DrinksNCo.

Please see further particulars below and kindly prepare to assist me with this case.

Thanks

Hasim Erdogan

Name: Bina Carter

D.O.B. 22. 3. 1994

Address: 10 The Road, Surrey, KT6 RRJ

Position and employer: cashier at DrinksNCo Off Licence Ltd.

Employer's address and head office: 20 High Street, KT1 AAF

Employment duration: 18 November 2022 to 26 November 2023 (12 months)

Salary: £15,000 pa

ATTENDANCE NOTE

Meeting attended by: Hasim Erdogan (Advocate) Jay Farrow (Client)

Date: 8 December 2023

Meeting with Jay Farrow, owner of ISea Ltd, a clothing design business.

ISea Ltd includes Clause 2.4 in all contracts of employment, noted below.

Clause 2.4 'ISea Ltd strictly prohibits any and all employees from working, in any capacity, for a competitor of ISea Ltd. This restriction begins on the first day of employment and continues for 24 months after the end of the contract of employment, irrespective of the reason for the contract ending. The definition of 'a competitor' will be at the sole discretion of ISea Ltd and can include any business worldwide'.

Clause 2.4 was recently (October 2023) challenged in tribunal and was held to be unenforceable against a former employee who had worked for ISea Ltd as a junior store attendant for six months.

In October 2023, Katy Keller resigned from ISea Ltd after working as the head designer for the company for five years and eight months. On completing the required four-week notice period, Ms Keller began working for 'Light Wears', an online clothing design business with its physical head office located two miles from the head office of ISea Ltd.

ISea Ltd has not attempted to enforce Clause 2.4 against Ms Keller owing to the tribunal ruling the clause unenforceable against a former junior employee (as noted above).

In December 2023, Jay Farrow found out that Ms Keller was sharing information with 'Light Wears' that he considers to be confidential to ISea Ltd. Mr Farrow seeks clarification of legal rights.

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EMAIL

From: Jay Farrow

Sent: 11 December 2023, 14:55

To: Hasim Erdogan

Subject: Policies

Hi Hasim

I attended a meeting with you on 8th December to discuss a matter concerning my company, ISea Ltd, and a former employee, Katy Keller.

I now seek your advice on a separate and unrelated matter concerning employee relations at ISea Ltd.

Earlier this week, I had to issue a written disciplinary warning to an employee for her personal use of the internet during working hours. The employee has disputed this warning on the basis of her 'not being made aware of any restriction on the personal use of internet during working hours.'

The ISea Ltd company handbook does not include specific restrictions on the personal use of the internet at work. It was assumed that common sense would dictate that personal browsing of the internet during working hours would not be allowed. However, given the employee's reaction to the warning, I am now unsure as to whether we should be more explicit in our policies.

Your guidance would be appreciated.

Thanks.

Jay Farrow

ATTENDANCE NOTE

Meeting attended by: Hasim Erdogan (Advocate) Patricia Marquette (Client)

Date: 12 December 2023

Patricia Marquette was employed by Owls Arts Ltd. for three years as a secretary for Mr Wright (MD). Ms Marquette states that on joining the company Mr Wright approached her for an intimate relationship. She agreed to meet him for drinks and a consensual 'one-off sexual encounter' occurred between them in September 2023.

Following this encounter, Ms Marquette made it clear to Mr Wright that she 'would not be continuing with any kind of romantic relationship' with him. Ms Marquette states that Mr Wright was 'very upset' with her when she made this statement to him. The following week, Mr Wright began to exclude Ms Marquette from staff meetings that she was due to attend. Ms Marquette states that this prevented her from interacting with more senior staff with an aim to learn more about the company and to eventually further her position.

On 30 October, following her exclusion from the third meeting in a month, Ms Marquette made a complaint to Owls Arts Ltd. that Mr Wright was limiting her opportunities in the company as a means of 'retribution' for her not having a romantic relationship with him. Ms Marquette states that Owls Arts Ltd. appeared to take no action as on learning of her complaint, Mr Wright continued to exclude her from meetings. He then also began to require Ms Marquette to 'work late' so that she could 'learn more about the company'.

These events led to Ms Marquette's resignation on 20 November 2023. She emailed Owls Arts Ltd. on 25 November 2023, stating that she had been treated unfairly by the company and would be seeking legal advice.

On 5 December 2023, Owls Arts Ltd. responded to Ms Marquette's email of 25 November 2023, with the offer of a financial amount in exchange for her not pursuing any claims against Owls Arts Ltd.; the amount offered is equivalent to one week of Ms Marquette's wages when employed by the company.

Ms Marquette states that she does not wish to pursue a legal claim against Owls Arts Ltd. as she is concerned about the costs if she were to lose the case, as well as the 'intimate details' of her complaint being made public.

Ms Marquette seeks representation to negotiate the amount offered to settle out of court.

MEMORANDUM

To: Trainee Lawyer

From: Hasim Erdogan

Client: Raekwon Smith

Date: 13 December 2023

Hi

I had a meeting today with a potential new client, Raekwon Smith. Raekwon's company, HotelHome, is experiencing some issues with employees. Please read the details below and prepare to assist me.

Thanks.

Issue 1: Tony Taylor is employed by HotelHome as a porter. Mr Taylor was dismissed after six months of employment and brought a complaint against HotelHome for wrongful dismissal. HotelHome offered Mr Taylor a settlement sum of £3,800, which he accepted. Mr Taylor is now again threatening to bring a claim for wrongful dismissal against HotelHome. I have reviewed the relevant settlement agreement and note that the legal adviser to Mr Taylor was a member of the legal department of HotelHome.

Issue 2: In November 2023, HotelHome transferred a group of workers responsible for its kitchen-cleaning services to another local hotel, Zoe's Rooms. HotelHome required the group of employees being transferred to sign a document stating that they agreed to 'opt out' of TUPE 2006 provisions. This document also required the employees to agree that they would seek independent legal advice on the effect of the transfer on their working rights and conditions, and that HotelHome would not provide them with this advice.

After the transfer, Zoe's Rooms lowered the wages of the transferred employees to match those of their existing workers who undertake the same role.

End of the case study materials

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