

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – EMPLOYMENT LAW*

Time allowed: 1 hour and 30 minutes plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

SECTION A

(Answer ALL questions in Section A)

1. Identify **one** advantage and **one** disadvantage of working under a contract of service rather than a contract for services.
(2 marks)
2. Explain the implied duty of good faith.
(3 marks)
3. Explain the importance of establishing the date on which continuous employment begins.
(2 marks)
4. Describe the prohibited conduct of harassment under s.26 Equality Act 2010.
(4 marks)
5. Identify **three** ways in which a dismissal may occur, citing the relevant legislation.
(4 marks)
6. Explain the circumstances in which a duty to provide work could be implied.
(4 marks)
7. Identify what factors are taken into account when calculating the basic award for unfair dismissal.
(4 marks)
8. Identify the preliminary requirements needed to bring a claim for unfair dismissal.
(3 marks)
9. Explain the law relating to deductions from pay.
(3 marks)
10. Define the term 'quantum of damages'.
(1 mark)

(Total Marks for Section A: 30 marks)

SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Laurel, aged 24, has worked as a security officer in a large store called Paula's Produce (PP) for three years. Each month, Laurel is emailed a shift schedule to mark off the shifts she would like to work. She usually selects Tuesday to Thursday and Saturdays. Laurel works from 7am to 8pm. Laurel is paid £9.50 per hour. Laurel has always declined work during August, as she likes to work as a security officer at festivals.

Laurel provides her own black shoes, trousers and shirts. However, PP provides her with a stab-proof vest, a bodycam and a walkie-talkie radio. Laurel is given a staff discount card to use and staff lunch vouchers, valued at £3 per day.

Ned delivers boxes of biscuits to PP every Saturday. When there are any broken biscuits, Ned often gives them to the security officers for free. Laurel always eats some of the broken biscuits, before putting the rest in the staffroom for everyone to share. The sharing of the broken biscuits was suggested by Pierce, a manager who often eats some of the broken biscuits.

Last Saturday, Olly, a different manager at PP, saw Laurel and Thomas, another security officer, eating the broken biscuits. Olly instantly dismissed Laurel for gross misconduct. Olly stated that eating store food without paying for it is considered theft. Olly said that he would let Thomas off with a warning this time.

Scenario 1 Questions

1. Explain Laurel's employment status.
(9 marks)
2. Assume, for the purposes of this question, that Laurel is an employee.
 - (a) Explain whether PP is acting within the statutory requirements in relation to the pay that Laurel receives.
(4 marks)
 - (b) Explain whether PP is acting within the statutory requirements in relation to the hours that Laurel works.
(10 marks)**(Total: 14 marks)**
3. Explain whether Laurel is likely to be successful in a claim for wrongful dismissal.
(8 marks)
4. Assuming that Laurel is successful in her claim for wrongful dismissal, explain the damages she would receive.
(6 marks)
5. Outline what claim Laurel could potentially bring under the Equality Act 2010.
(3 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Kevin, who is 60 years old, works as a delivery driver for Speedy Deliveries (SD), a car parts delivery company in Kempston.

Kevin drives a company van to make the deliveries. Kevin is a good worker and is always on time for his shifts. He has been awarded the 'employee of the month' bonus four times in the last year.

One day, Kevin parked his van dangerously on the corner of the road to deliver a car part to a busy garage. While he was inside the garage, a bus had difficulty in passing his van and dented the side of it. Kevin did not notice this at the time.

When Kevin went into work the next day, he was met by Eddie, one of the managers. Eddie was furious about the damaged van and shouted at Kevin: 'You old fool! You should get your eyes tested, as you're obviously too blind to drive.' Kevin tried to explain that he knew nothing about the dent, and that it must have been another vehicle that had caused it. Eddie told him to leave immediately, as blind people shouldn't be allowed to drive.

Tia, another delivery driver, who overheard the conversation, told Eddie that it is discrimination to talk to Kevin like that. Tia also suggested that Eddie should check to see if there are any CCTV images of the accident, as she knew that the garage had CCTV cameras. Eddie told her to mind her own business. Eddie said that he was happy to get rid of Kevin, as the company needed a younger image anyway, and if she didn't like it, she could also leave. Later that day, Tia noticed that Eddie had swapped all her early shifts for late shifts and had cancelled her pre-arranged holiday.

Scenario 2 Questions

1. Identify **three** potentially fair reasons for dismissal.
(3 marks)
2. (a) Explain whether Eddie has a potentially fair reason to dismiss Kevin for the damage to the van.
(10 marks)

(b) Explain the necessity for Eddie to act with substantive fairness, when making his decision to dismiss Kevin.
(7 marks)
(Total: 17 marks)
3. Explain what claims Kevin can make under the Equality Act 2010.
(10 marks)
4. (a) Explain whether Tia has a claim under the Equality Act 2010.
(7 marks)

(b) Identify the remedies that would be available to Tia, if she were successful in her claim under the Equality Act 2010.
(3 marks)
(Total: 10 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Andy is the manager of the cleaning and administrative staff at the University of Kempston (UOK).

Jeff is a full-time member of the cleaning team. Jeff has a blood-clotting illness and must take medication daily. He has recently had to have time off due to his illness. Jeff's doctor has finally declared him fit for work, but Jeff must avoid standing for long periods. Jeff returned to work on 1 May 2021.

On his return to work, Jeff was given light duties for one week. However, from week two, Jeff's role returned to normal. Jeff was struggling to clean the long corridors, as his legs were hurting and there was nowhere to sit down. On 20 May, he asked Andy if he could clean the offices instead, because there were chairs that he could use. Andy refused, saying: 'All staff must be treated equally'.

Mo, who is a Muslim, works at UOK in an administrative role. Mo completed a holiday request form, asking for 11 May off work to celebrate Ramadan with his family and friends. Andy received the request just as he saw Mo leave the prayer room and return to his desk. Andy stormed into the office and shouted at Mo, in front of everyone, 'Don't you think you have used all your holiday entitlement being in that prayer room all day every day? You lot all think you're entitled to everything.' Andy then left the office.

Andy did not authorise the holiday and, subsequently, Mo told Andy that he would be taking him to court for race discrimination.

Scenario 3 Questions

1. (a) Explain the duty to make reasonable adjustments in relation to a person's disability.

(6 marks)

- (b) Explain the factors that the Employment Tribunal would consider, when deciding whether an adjustment is reasonable.

(5 marks)

(Total: 11 marks)

2. (a) Explain whether Andy's statement to Jeff is correct that he does not have to make reasonable adjustments, as 'All staff must be treated equally'.

(7 marks)

- (b) Explain the consequences for an employer who unlawfully fails to make reasonable adjustments.

(2 marks)

(Total: 9 marks)

3. (a) Explain whether it is likely that Mo will be able to claim successfully for race discrimination.

(6 marks)

- (b) Explain the burden of proof in a discrimination claim.

(3 marks)

(Total: 9 marks)

4. (a) Explain what is meant by 'constructive dismissal'.

(5 marks)

- (b) Explain whether Mo is likely to be successful in a claim for constructive dismissal, if he feels that he has no choice but to resign from UOK.

(6 marks)

(Total: 11 marks)

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper