

CASE STUDY MATERIALS

January 2021
Level 6
THE PRACTICE OF EMPLOYMENT LAW
Subject Code L6-19



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 19 – THE PRACTICE OF EMPLOYMENT LAW*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEx Examination Regulations – Online Examinations or with the CILEx Examination Regulations – Online Examinations with Remote Invigilation.

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* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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 Stephen Soule.

You arrive at work and are given the following documentation to review and consider:

- DOCUMENT 1** Email from Marianne Goode to Stephen Soule, dated 10 November 2020
- DOCUMENT 2** Memorandum from Stephen Soule, dated 23 November 2020
- DOCUMENT 3** Email from Janet Rai to Stephen Soule, dated 1 December 2020
- DOCUMENT 4** Memorandum from Stephen Soule, dated 3 December 2020
- DOCUMENT 5** Email from Owen Zahid to Stephen Soule, dated 4 December 2020
- DOCUMENT 6** Attendance note from Stephen Soule, dated 10 December 2020

DOCUMENT 1

EMAIL

From: Goode, Marianne
Sent: 10 November 2020, 11:30
To: Soule, Stephen
Subject: Compulsory Retirement

Hello,

I have been teaching at Leaf Preparatory School, a private school, for the past 30 years. I have been a loyal and dedicated employee and have never had any disciplinary issues throughout my entire time with the school. I have also successfully managed a team of teaching assistants. I am due to celebrate my 65th birthday in two months and fully expect to continue in my teaching role for the foreseeable future.

However, the head of the school, Ms Doherty, recently invited me to attend a meeting with her. At the meeting, she explained that, due to the considerable physical and mental demands of being the teacher of a group of 20 children aged five to six years, the school has a retirement age of 65 years for all employees. Therefore, I am expected to retire from my teaching position after my next birthday.

Ms Doherty further stated that the policy is a means of ensuring a diverse workforce; it has been noted that the majority of the teachers at the school are Caucasian (white) and over 50 years of age. Ms Doherty suggested that younger teachers tend to come from a wider range of ethnic backgrounds, so the retirement policy helps to promote cultural and racial diversity within the workforce.

Finally, Ms Doherty claimed that she had received complaints from several parents regarding my performance as a teacher and the standard of care within my classroom. She showed me three letters that were evidently sent by the parents of children in my class, suggesting that I did not observe nor monitor the children closely enough. These parents have threatened to take further action against the school on this matter.

I explained to Ms Doherty that I am in good health and have never struggled to cope with the children. I believe these parents are simply complaining because of my age.

I would be grateful if you could let me know my rights in this situation.

Many thanks

Marianne Goode

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DOCUMENT 2

MEMORANDUM

To: Trainee Lawyer

From: Stephen Soule

Client: Marianne Goode

Date: 23 November 2020

Good morning,

I am currently acting for this client, Marianne Goode, on a separate and unrelated matter, as follows.

Ms Goode has been accused of discrimination in the workplace.

Marianne Goode attended a meeting on 22/11/20. She has been accused of harassing one of the teaching assistants in her team, Ethan Paul, by making a 'crude joke' regarding his sexual orientation. Ms Goode admits that she made the remark, which was that Ethan Paul 'looked very butch today', when dressed for a class visit to a local nature reserve. She claims that she has only ever made one such 'joke' about Mr Paul and that she meant no harm. Ms Goode informs me that she has since found out that he is heterosexual.

Please prepare to assist me with representing this client.

DOCUMENT 3

EMAIL

From: Rai, Janet
Sent: 1 December 2020, 16:18
To: Soule, Stephen
Subject: Employee Issues

Greetings,

I am the director of a beauty products supply store, Quality Ltd. I am currently experiencing some issues with one of my former employees, Ian Faire, and I would appreciate your advice.

Mr Faire worked for Quality Ltd for the past three years as a finance manager, joining the company when he was just 21 years of age. He was a good employee with a clean disciplinary record.

However, a week ago, I noticed that a total of £15,000 was missing from the company bank account. This amount had been slowly taken over the preceding year, and Mr Faire was one of just five employees who had access to this account.

After an internal investigation, we discovered that the account to which the stolen funds had been transferred belonged to Mr Faire's sister, who has no connection with Quality Ltd. The company therefore concluded that Mr Faire was responsible for the theft, and he was immediately dismissed for gross misconduct.

Although I concede that the company investigation was brief, we felt that there was no need for more resources to be spent on investigating the matter further, once we had discovered that Mr Faire was the person likely to be responsible for the theft. This was due to his sister's name being on the bank account containing the stolen money.

Mr Faire has always denied that he had anything to do with the missing funds. He further claims that, given the nature of the allegations against him, the company investigation into the incident was, to use his words, 'insufficient and lacking impartiality'. Mr Faire has now initiated proceedings against Quality Ltd for unfair dismissal.

Your advice would be much appreciated.

Best wishes,

Janet Rai

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DOCUMENT 4

MEMORANDUM

To: Trainee Lawyer
From: Stephen Soule
Client: Janet Rai
Date: 3 December 2020

Hi,

I am currently representing Janet Rai in defending an unfair dismissal claim.

I have received further correspondence from this client today, asking for representation in a separate and unrelated matter.

Please note the points below and prepare to assist me with this case.

Thanks.

Tyrone Hart has been employed by Quality Ltd as a team leader for six years. Mr Hart's partner gave birth to their first child in October 2020 and he applied for shared parental leave. This application was allowed. However, Mr Hart has raised a complaint that his contractual payment for shared parental leave did not compare to that allowed for maternity leave and is therefore discriminatory.

In December 2020, Mr Hart's child sadly passed away. He requested time off from work to grieve, his request was approved and he was allowed two days' unpaid leave. However, the company postponed this leave for four weeks, until after its busiest season had passed and until it had received the necessary evidence in the form of a copy of the child's death certificate.

Mr Hart claims that his rights have been breached by Quality Ltd.

DOCUMENT 5

EMAIL

From: Zahid, Owen
Sent: 4 December 2020, 17:29
To: Soule, Stephen
Subject: Employee Dismissal

Hello,

I am the director of Pretty Spaces Ltd and I am writing to you regarding one of my employees, Tanisha Kaur. Ms Kaur has been employed as a gardener by our company for the past 10 months. Her work, and that of her colleagues, consisted of carrying out a range of garden maintenance and improvement activities at the homes of our clients.

Ms Kaur recently requested a meeting with me, during which she raised concerns regarding the safety of the equipment provided to her and to other gardeners. She stated that many pieces of gardening equipment appear to be 'out of date, faulty and potentially quite dangerous'. I concede that the gardening equipment does need to be replaced as it is quite old; however, the company is not doing well this year and cannot afford such a significant expense at this time. I assured Ms Kaur that I was not aware of any injuries caused by our equipment and that, in my opinion, the appliances provided to gardeners by the company are safe to use.

A week after this exchange, I found out that Ms Kaur has been discussing her concerns about the equipment with her fellow employees. When I questioned her on this, she admitted she had done so, and claimed she was motivated by concern for the safety of her co-workers and clients. I did not accept this explanation, and I believe that Ms Kaur engaged in these discussions in retaliation, as she was unhappy with my decision not to provide her with new equipment. The company therefore took the decision to dismiss Ms Kaur for misconduct.

Ms Kaur has since brought a claim for unfair dismissal against Pretty Spaces Ltd. The company is willing to defend its actions and is preparing for the tribunal. However, due to the potentially highly damaging nature of Ms Kaur's accusations, we seek your advice as to any means by which we can ensure that the exchanges within the tribunal remain private.

On a separate but related matter, Pretty Spaces Ltd inserts a standard clause into all employee contracts, Clause 8, which prevents any employee from working for any other gardening company within a 20-mile radius for a year after leaving the company. Clause 8 is contained in Ms Kaur's contract. However, given her recent actions, I am concerned that she may challenge this contractual provision.

I look forward to receiving your advice on these matters.

Thank you.

Owen Zahid
(Director, Pretty Spaces Ltd)

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DOCUMENT 6

ATTENDANCE NOTE

Meeting attended by: Stephen Soule (advocate) and Fifi Carter (client)

Date: 10 December 2020

Fifi Carter, owner of a mobile pet-grooming firm, Handsome Dogs, attended a meeting to discuss the two issues below.

Issue 1

Handsome Dogs has been providing mobile pet-grooming services in south-east London for two years. The business recently took over the mobile pet-grooming operations of a competitor, Best Dogs Ltd, thereby extending its field to cover north London. Twenty dog groomers and two administrative assistants were transferred to Handsome Dogs as a result of the transfer.

Jamie Langer was one of the transferred administrative assistants. However, his employment was terminated by Handsome Dogs three weeks later.

Ms Carter states that she terminated Mr Langer's employment as the firm is planning to move to new, smaller offices that will not accommodate two more employees. Ms Carter further adds that Mr Langer was chosen for dismissal as he was unwilling to accept the same wages as existing employees.

Mr Langer is pursuing a claim of unfair dismissal against Handsome Dogs.

Issue 2

The computer systems operating at the offices of Handsome Dogs were recently infected with a computer virus. An investigation established that the virus entered through an employee's computer, when they visited an infected site. The website in question was accessed during the employee's working hours and contained adult content.

The employee concerned, Kerry Eagles, was dismissed for gross misconduct.

Ms Eagles claims that she was unaware of any company restriction on the visiting of legal, unrestricted websites during lunch breaks. The company has no policy on employee internet use nor any other company-specific policies regulating employee conduct.

Ms Eagles is pursuing a claim for unfair dismissal against Handsome Dogs.

End of Case Study Materials