



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 4 – EMPLOYMENT LAW\*

**Time allowed: 3 hours 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.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Employment Law 2018–2019, 28th edition, Richard Kidner, Oxford University Press, 2018.**
- 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 following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. 'Atypical jobs are a central dimension of labour market inequality.'  
(Dieckhoff, M., Gash, V., Mertens, A. & Romeu-Gordo, L. (2015))

Critically evaluate, in light of this statement, whether the law governing part-time and fixed-term contracts effectively protects female atypical workers.

**(25 marks)**

2. (a) Critically analyse the law on harassment under the Equality Act 2010.  
**(15 marks)**

(b) Explain what remedies are available in a successful claim for harassment.

**(10 marks)**

**(Total: 25 marks)**

3. (a) Explain the principle of wrongful dismissal and how damages for this type of claim are assessed.

**(10 marks)**

(b) Critically evaluate, using relevant case law, whether damages can be recovered for the manner of a dismissal.

**(15 marks)**

**(Total: 25 marks)**

4. Critically analyse, using relevant case law, whether implied terms are useful in employment contracts.

**(25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Miles has been employed as a secretary at Penhaligon Limited for seven years. Recently, Penhaligon Limited decided to cut costs after an audit exercise. It invested in new software, so that secretaries no longer need to work as many hours as they used to. Miles's manager asked Miles to reduce his hours significantly, but he refused. Miles's contract entitled him to work the hours he was doing, but Penhaligon Limited no longer needed him to work those hours, so Miles was dismissed.

Niku has been employed as an IT analyst at Penhaligon Limited for five years. She is an excellent employee and has never had any warnings at work. Niku always works very hard. She has worked particularly hard during the last month, upgrading the company's IT system, and has usually been the last one to leave the office at night. However, Niku was dismissed without notice last week for leaving the office lights on at the end of the day, for not completing a building check and for leaving her keys in an unsecured location.

(a) Identify the reason for Miles's dismissal.

**(7 marks)**

(b) Advise Niku what statutory dismissal claim she can bring against Penhaligon Limited and on the likelihood of success of the claim.

**(12 marks)**

(c) Advise Niku on the potential remedies.

**(6 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

Olivia is an operations manager at Budd Systems Limited. She went on maternity leave in April 2019. Recently, she decided to extend her maternity leave until April 2020. Olivia is wondering whether she will return to the same position when she goes back to Budd Systems Limited and whether she can work flexibly.

Pui-Lam is a senior engineer and Head of the Engineering Department at Budd Systems Limited. When he joined the company six years ago, he signed an employment contract containing the following clause:

'9.1 You shall not ... within the period of six months from the Termination Date ... directly or indirectly engage or be concerned or interested in any business carried on in competition with any of the businesses of the Company or any Group Company which were carried on at the Termination Date or during the period of twelve months prior to that date and with which you were materially concerned during such period'.

The mutual expectation when Pui-Lam joined the company, as an engineering specialist, was that he would rise quickly through the ranks. Within six years, Pui-Lam became Head of the Engineering Department. He is now disputing the enforceability of clause 9.1, as he resigned last week and wants to work for a rival company in France. He has given the correct amount of notice.

Advise Olivia and Pui-Lam.

**(25 marks)**

### Question 3

Paul has been employed as a Modern Languages teacher at Archbishop Holmes School ('AHS') for ten years. He suffers from chronic fatigue syndrome. His employer is aware of this and initially made reasonable adjustments to his teaching schedule to accommodate his health needs. Following a change in management, however, new initiatives and targets were introduced, which increased his workload. Consequently, Paul is now suffering from stress and his health has deteriorated.

During a period of acute stress, Paul took the decision to show an 18-rated film to a group of 16-year-old students, without obtaining consent from their parents or the school. When AHS discovered this, Paul was disciplined and dismissed for gross misconduct. The disciplinary panel seriously considered representations on Paul's behalf that his decision to show the film had flowed from the stress he was under or from his underlying health issues. However, the panel rejected this explanation.

Reema is a science teacher at the same school. While performing a science experiment for the Year 10 students last week, Reema poured too much sulphuric acid into a glass beaker. A mini explosion followed, which damaged the laboratory bench. When her manager found out about this incident, he told Reema that the cost of repairing the laboratory bench, approximately £190, would be deducted from her salary next month.

- (a) Advise Paul whether he can bring a section 15 Equality Act 2010 claim against AHS and on the remedies available if he is successful.

**(18 marks)**

- (b) Advise Reema what claim she has against AHS and on the remedies available if she is successful.

**(7 marks)**

**(Total: 25 marks)**

**Turn over**

#### **Question 4**

Bristol City Council (BCC) owns a site, which previously comprised of a sports centre and adjoining car park at Allerton Road, Bristol. BCC contracted out the sports centre and adjoining car park to Fenchurch Leisure. Fenchurch Leisure had a contract with BCC to manage the sports centre and adjoining car park. Fenchurch Leisure then subcontracted the management of the car park to Jupiter Limited.

Ben is a car park attendant employed by Jupiter Limited at the Allerton Road site. In May 2017, the sports centre at Allerton Road closed. As a result, Fenchurch Leisure gave up the sports centre and car park contract. BCC took control of the whole site and closed the adjoining car park. BCC then licensed the car park to a local doctor's clinic for a short period, before taking the management of the site back in-house and running it as a public car park. Ben has continued working at the site. He wishes to know what his employment status is, as car park attendants working for BCC at other sites, enjoy better terms and conditions than he does.

Ebba has been employed as an administrative assistant at Jupiter Limited for four years. Last month, she was called into a meeting with her manager, Francesco. Francesco had received some complaints from other members of staff about Ebba and wanted to investigate these complaints. Subsequently, Ebba raised a grievance about the meeting, as: she was only given 30 minutes' notice of it; it was held at the end of a long working day; and it was attended by an external consultant and the human resources director of Jupiter Limited, as well as by Francesco. Ebba believes that her grievance was not dealt with in a timely manner and she is thinking of resigning.

Advise Ben and Ebba.

***(25 marks)***

**End of Examination Paper**

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