



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 19 – THE PRACTICE OF EMPLOYMENT LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials 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 are compulsory. You must answer ALL the questions.**
- 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 2016-2017, 26th edition, Richard Kidner, Oxford University Press, 2016.**
- 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, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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Question 1

Reference: Question relates to **Document 1** of the case study materials.

Simone is still very upset at what happened, but does not want to leave Consume 24.

- (a) Advise Simone what employment claim (if any) she may have in respect of Raj's conduct.

(7 marks)

- (b) Advise Simone whether Consume 24 could be held liable for Raj's conduct.

(5 marks)

- (c) Advise Simone of the powers available to the Employment Tribunal, the size of any financial award and costs order against Consume 24 in the event of a successful claim.

(8 marks)

(Total: 20 marks)

Question 2

Reference: Question relates to **Document 2** of the case study materials.

Assume that Carina is aware that Monica Allin is covering Deepa's caseload. Carina phoned the office to say that, on 9 January, Amy further criticised her for being slow and also said (again in the presence of the whole office) that she may no longer express milk during the day as Amy finds it 'unhygienic' and 'revolting'. Carina left work extremely upset.

- (a) Draft a letter of advice (in Monica's name) to Carina containing the following:

- her legal position;
- an evaluation of the range of options available to Carina for dealing with this matter;
- the basis of any award, should she be successful at an Employment Tribunal. Include calculations where necessary.

[Do not include a restatement of the facts within the letter.]

(15 marks)

Assume that Carina and Dodsons agree to settle Carina's claim(s), which had been listed for final hearing by the Employment Tribunal.

- (b) Explain what is required to withdraw the claim following resolution by way of a settlement agreement and whether a Chartered Legal Executive, working for a law clinic that is neither regulated by the SRA nor by CILEx Regulation, may act as an independent legal adviser for the settlement.

(5 marks)

(Total: 20 marks)

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Question 3

Reference: Question relates to **Documents 3, 4 and 5** of the case study materials.

- (a) Advise Apollo whether TUPE would apply to its sale of TC to Roadhog.
(8 marks)

Assume that Gene Hudson's ET1 was received by the Employment Tribunal on 12 January 2017. It was then stamped and posted to Apollo on the same day. The ET1 was received on 16 January.

- (b) Draft Apollo's detailed response (only Section 6 of the ET3) to Gene's ET1.

Note: Please write your answer to this question in your answer booklet.

(17 marks)

John Sanders has provided further information regarding Nic Perrera, to whom he referred in his email. Nic (short for Nicola) has asked for time off to attend her long-term girlfriend's first ante-natal class at the local health centre. The class is scheduled to last about an hour and Nic would be away from work for two hours in total.

- (c) Advise Apollo as to its rights and obligations regarding this request.

(5 marks)

(Total: 30 marks)

Question 4

Reference: Question relates to **Documents 6 and 7** of the case study materials.

A further inspection by Alka of the pharmacy's internal records reveals systematic overvaluing of NHS rebates. She cannot tell Neeraj because of his likely involvement, but she feels that she must do something.

- (a) Advise Alka whether she can tell anyone, about the overvaluing of NHS rebates, without breaching her contractual obligations.

(5 marks)

While Neeraj is away, an NHS investigator visits the Bedford pharmacy to examine some of the rebates claimed by the business. Alka assists the investigator and later makes a formal statement. Neeraj is subsequently arrested for fraud. On 4 January 2017, Alka receives notification from Healglow's solicitors of her immediate dismissal.

- (b) Advise Alka what claims (if any) she will have against Healglow. Include calculations where necessary.

(10 marks)

Alka completes the ACAS Early Conciliation form online. She does this on 5 January 2017. Healglow is contacted by ACAS on 9 January. Discussions regarding settlement break down on 13 January. ACAS sends out the ACAS Conciliation Certificate the same day by email. It is opened by Alka on 14 January. The ACAS officer tells Alka that Neeraj Kapoor has indicated that if she lodges a claim in an Employment Tribunal, he will apply to have parts of the final hearing in private, as public knowledge of his arrest may prejudice any further investigations by the NHS investigators.

- (c) Advise Alka what is the last date on which she can submit her ET1 and in what circumstances the tribunal may grant Mr Kapoor's request.

(7 marks)

Alka had applied for a Pharmacist position at The Pharmhouse, a national chain of pharmacies, and was offered the job with a salary of £38,450 per annum subject to satisfactory references. This offer has been suddenly withdrawn.

- (d) Advise Alka of Healglow's legal duty regarding the provision of a reference and what legal redress she may have.

(8 marks)

(Total: 30 marks)

End of Examination Paper

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