

CASE STUDY MATERIALS

January 2019
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

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or textbooks except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEX Examination Regulations.

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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 Jamal Jones.

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

- Document 1** Attendance note dated 1 November 2018 from Jamal Jones
- Document 2** Memorandum dated 2 November 2018 from Jamal Jones
- Document 3** Email from Jennifer Keys to Jamal Jones dated 30 October 2018
- Document 4** Attendance note dated 30 November 2018 from Jamal Jones
- Document 5** Memorandum dated 12 December 2018 from Jamal Jones
- Document 6** Email from Frances Sonny to Jamal Jones dated 14 December 2018

DOCUMENT 1

ATTENDANCE NOTE

Client: Karl Green

Fee Earner: Jamal Jones

Date: 1 November 2018

Time: 60 minutes

Karl Green (Mr Green) came to the office last week to discuss issues he is experiencing with an employee, Carly Smith (Ms Smith). Mr Green is the managing director of a company called Prognomen Ltd, which operates as a business development consultancy. It employs a total of 10 full-time staff, of whom three deal with office administration. Ms Smith is one of these three employees of Prognomen Ltd and has worked at the company as a secretary for four years.

Mr Green explained that Ms Smith was in a road traffic accident earlier this year and suffered an injury resulting in partial hearing loss in both her ears. This injury has made it difficult for Ms Smith to perform her duties as a secretary. In particular, she can no longer take minutes of meetings between consultants and their clients, as she cannot hear the discussions; this is her main duty under her job description.

Mr Green states that he attempted to find alternative duties for Ms Smith and moved her to the reception area to deal with clients. However, she was unable to perform this task, due to struggling to hear the clients.

Mr Green believes he has done all he can to accommodate Ms Smith and notes that, despite being registered as legally deaf, Ms Smith refuses to wear a hearing aid, which might allow her to once again perform her job. Ms Smith has requested that an amplified speaker system be fitted in the meeting rooms, so that she can resume taking minutes of meetings. However, Mr Green states that the building is unsuitable for this modification and, as a result, the cost would be unreasonable, particularly as the business is currently trading at a small loss.

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DOCUMENT 2

MEMORANDUM

To: Trainee Lawyer
From: Jamal Jones
Client: Karl Green
Date: 2 November 2018

I am acting for Karl Green in relation to issues he is having with one of his employees (**Document 1**).

Mr Green is also experiencing legal issues with a former employee, David Selby, and I am writing to you with reference to this case.

Mr Green dismissed Mr Selby last month, as he no longer felt their working relationship was productive, due to having 'incompatible interests'.

Mr Green had concerns that Mr Selby might challenge this dismissal and is therefore offering Mr Selby the sum of £10,000 for his agreement to accept the dismissal and take the matter no further.

Mr Green drafted a proposed settlement agreement himself and has forwarded the document for our opinion. Please find the draft below.

Thank you.

'This agreement is between Prognomen Ltd (The Company) and David Selby (You) and is effective from You agree that your employment with the Company was terminated on 01/10/18. You have been offered a sum of £10,000 in exchange for your agreement not to pursue any claims against the company.'

'You agree that a legal representative has advised you of your rights and you agree to waive all rights in exchange for the sum of £10,000 being paid into your bank account within 24 hours of the signing of this agreement'

DOCUMENT 3

EMAIL

From: Keys, Jennifer
Sent: 30 October 2018, 17:11
To: Jones, Jamal
Subject: Employee issues

Hi Jamal,

I'm looking forward to our meeting this Friday. To facilitate discussions, I have set out a few key points I hope you will be able to assist me with; please see below. My business provides additional tutorial support for schoolchildren and an after-school club. Our main hours of operation are weekdays during school term from 3pm to 8pm, and this is when I need all of my staff on duty. We also offer a range of tutorial classes at the weekend and during school holidays, but I only need a proportion of my staff available for these.

First, Keith Brown, who has been employed by my company for just eight months, has become quite insistent that I allow him time off to collect his six-year-old child from school. I allowed him time off for this reason on two previous occasions, as he claimed his childminder had let him down. He has twice mentioned to me that he would like regular time off to collect his child from school and stated that he will make up the working hours at the weekend. I was quite clear in my response to him that, as I run an educational establishment, my busiest times are on weekdays, and particularly the hours when parents are collecting their children from school.

The second issue I am having is with another one of my employees, Sam Cartwright. Sam is 72 years old and, due to his age, I no longer feel he is able to perform his duties as office cleaner efficiently, as he struggles to lift the cleaning equipment and has left the office in an untidy state on several occasions. However, he refuses to retire, despite my repeated suggestion that he do so.

Finally, another employee, Tia Reef, has found out that she is paid 10% less than her male colleague, Joel Paul, and is also entitled to three days fewer paid leave per year than him, despite having the same job title. I have tried to explain to Tia that the difference in pay is because Joel has been at the company twice as long as Tia, so he has received more annual pay increments and he holds a relevant higher-level qualification that Tia does not hold; however, she did not appear to accept this explanation.

As you can see, my employee relations are quite strained at the moment. I look forward to discussing these matters with you later this week.

Regards,

Jennifer Keys

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DOCUMENT 4

ATTENDANCE NOTE

Client: Gita Patel

Fee Earner: Jamal Jones

Date: 30 November 2018

Time: 30 minutes

Gita Patel telephone conference.

Ms Patel has recently set up an information technology (IT) company and is seeking advice on company documentation that will define employment relations with the team of staff she intends to hire.

Ms Patel stated that she intends to utilise solely legislation that governs the employer–employee relationship, thereby negating the need for creating tailored company documentation to oversee relations with her employees.

Ms Patel states that she prefers to rely on statutory provisions, and considers that company-specific provisions are unnecessary and could potentially lead to conflict between her company policies and legislation.

DOCUMENT 5

MEMORANDUM

To: Trainee Lawyer
From: Jamal Jones
Client: Gita Patel
Date: 12 December 2018

I am currently acting for Gita Patel in relation to employment documentation (**Document 4**).

Ms Patel had a follow-up appointment with me yesterday and raised further issues, as noted below. Please familiarise yourself with these points.

Ms Patel is starting an IT company, and is providing the funding for the business, but lacks technical knowledge of the field. Ms Patel intends to hire a manager, Rambert Clarke, who has over 15 years' experience within the IT industry, to run the company for her.

Ms Patel understands that this will mean placing a great deal of trust in Mr Clarke; in particular when liaising with clients, as she will probably not be present and would, in any event, not understand the technical aspects of such discussions. Ms Patel appreciates that she needs to give Mr Clarke the authority and independence to conduct his managerial duties. However, she is concerned that he may build up business and client contacts that he may take with him, should he eventually leave her organisation.

Ms Patel is therefore seeking to ensure that Mr Clarke cannot interfere in any way with her clients, should he leave her employment.

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DOCUMENT 6

EMAIL

From: Sonny, Frances
Sent: 14 December 2018, 14:25
To: Jones, Jamal
Subject: Follow-up on employment issues

Dear Jamal,

Thank you for meeting with me last week to discuss the problems I had been having with my employer. To brief you once again on the main points of my situation, I have been working as a dressmaker at 'Dress Well Ltd' for the past five years and my employer has recently taken on a new manager, Seema Matra, who has been trying to enforce longer working shift patterns. However, I believe these longer shifts could potentially result in a decrease in the quality of the products we produce, as the work is intricate and requires that attention is consistently high. For this reason, the company always used to prefer shorter shifts.

Following our discussion last week, I had a meeting with Ms Matra and explained that I did not think the new shifts were a good idea for the reasons stated above. She said she felt my concerns had no merit, but she would nonetheless note them. I heard nothing more from Ms Matra until two days later, when she called me into her office and explained that I was being dismissed on the grounds of my repeated lateness. This was the first I had heard of this, as the only occasion on which my lateness for work was ever raised was about 18 months ago. At that time, I had a number of personal problems at home. I was late for work on several occasions and received a verbal warning. Since then, I have always been punctual.

I am considering pursuing a claim against the company for unfair dismissal. However, I am concerned about the prospect of success. Furthermore, I would appreciate knowing whether my pursuing a claim of unfair dismissal at tribunal would be financially worthwhile, and if any decision made at tribunal would be final and binding.

Just to confirm, my date of birth is 8 April 1960.

Thank you.

Best regards,

Frances

End of Case Study Materials