

CASE STUDY MATERIALS

January 2020
Level 3
THE PRACTICE OF EMPLOYMENT LAW
Subject Code L3-13



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 13 – 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 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer at Kempstons, The Manor House, Bedford, MK42 7AB. You work in the employment department and your supervising partner is Kelly Mitre.

Kelly would like you to continue with your training. To this end, she has left some files on your desk that she would like you to work on. She has provided you with a memorandum, which sets out further information on the files she has given you:

- Document 1** Memorandum from Kelly Mitre to Trainee Lawyer
- Document 2** Attendance Note of meeting with Jez Marvel of Specialist Bolivian Food Ltd
- Document 3** Email from Barbara Gant of Brandabourne Accounting Ltd
- Document 4** Telephone Message from Sarita Chaudry
- Document 5** Memorandum from Richard Surtees to Trainee Lawyer

DOCUMENT 1

MEMORANDUM FROM KELLY MITRE TO TRAINEE LAWYER

To: Trainee Lawyer

From: Kelly Mitre

Date: [Today's date]

I have left the relevant files on your desk. Please read through them carefully and ensure that you carry out the required work.

1. **Specialist Bolivian Food Ltd** (file ref: SBF/KM/110/19). Due to the nature of the issues that Jez Marvel has raised (**Document 2**), I would like you to advise him as soon as possible.
2. **Brandabourne Accounting Ltd** (file ref: BA/KM/98/19). Brandabourne Accounting Ltd is on a retainer and we give them regular advice on employment law matters. Barbara Gant, the Managing Director and sole shareholder of Brandabourne Accounting Ltd, has sent me an email (**Document 3**). Please advise her accordingly.
3. **Sarita Chaudry** (file ref: SC/KM/114/20). Further to the telephone message received from Mrs Chaudry (**Document 4**), I would like you to contact her and arrange an appointment for you to meet with her.
4. You will also find on your desk a memorandum from Richard concerning the advice clinic (**Document 5**). As I will be unable to cover the advice clinic this week, I would like you to do so.

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DOCUMENT 2

**ATTENDANCE NOTE OF MEETING WITH JEZ MARVEL
OF SPECIALIST BOLIVIAN FOOD LTD**

Nature of attendance: Meeting between Kelly Mitre and Jez Marvel

Date of attendance: [Date]

Time engaged: 15 units

I met with Jez Marvel, the Managing Director of Specialist Bolivian Food Ltd (SBF), at our offices. SBF is an importer of cured meats, which it supplies to Bolivian restaurants and supermarkets throughout the UK. The business operates in a specialist market, with only a limited number of competitors in the UK.

Restrictive Covenants

Alfonso Landivar used to be the Marketing and Advertising Manager, and he had the responsibility for SBF's advertising and social media platforms. He handed in his notice and, after leaving SBF, started working for a competitor, Latin American Express Ltd (LAE), in an almost identical marketing role. Since Alfonso Landivar left SBF and started working for LAE, SBF has suffered a significant drop in business.

In Alfonso Landivar's contract of employment with SBF, there were restrictive covenants relating to non-dealing and non-poaching. The non-poaching covenant prevented him from soliciting business from SBF's customers for a period of 12 months post-termination of his contract of employment.

The non-dealing covenant prohibited him from directly or indirectly competing with SBF for 12 months post-termination, including working for a business substantially similar to SBF.

Reference

Helen Rodgers, Head of Food Development at SBF, has also just handed in her notice. She has informed Jez Marvel that her new job offer is subject to a satisfactory reference from her present employer, and she is expecting him to provide it.

Jez Marvel is not happy with Helen Rodgers leaving the company at this crucial time. He wishes to provide a 'warts and all' reference, which will reflect badly on her.

He has heard rumours from other employees that Helen Rodgers is an alcoholic, and that she has been seen drinking alcohol during working hours. He suspects that this may be a reason for her recent poor sickness record, and not, as she has indicated, due to her treatment for an existing skin complaint.

DOCUMENT 3

**EMAIL FROM BARBARA GANT
OF BRANDABOURNE ACCOUNTING LTD**

From: B.Gant@Brandabourneacc.co.uk
To: Kelly.Mitre@Kempstons.org
Time: 10:32
Date: [Date]
Subject: Employment Advice

Hello Kelly,

I hope you are well.

I may have a problem with Jake Eastman, one of my ex-employees. Jake's role was in client liaison. He was to stay in contact with clients and update them in respect of their account. The role is very much about keeping the client happy.

I received a phone call from a client, informing me that Jake Eastman had not been in regular contact with her and that she felt that her account was of little importance to us. I managed to convince her that this was not the case and, as a consequence, she did not move her account.

To be honest, I was furious with Jake Eastman and I went straight over to his desk after the phone call and sacked him. I then got security to escort him from the premises. His parting words were: 'You will pay for this!'

That was five weeks ago and, up until this week, I had heard no more from him. Yesterday, I received an email **[not reproduced]** from him, stating that he had taken legal advice and that he was going to take the matter further. A little advice from you on what I can expect would be helpful.

On another note, unfortunately the auditing department here is not performing as well as it should, and is not covering the expenses of running the department. There are three employees in the department, and one of them will have to go.

I would like it to be Ronnie Cash. He has not been focusing on his work recently due to a recent addition to his family, and he keeps complaining that he is not getting enough sleep. To be honest, he was never that effective as an auditor and he has not brought in any work over the last six months, unlike the other two, who are at least trying.

I know I will have to pay Ronnie Cash a redundancy payment, but I don't expect that to be a substantial amount, as he is 39 and has only worked at the company for seven years. His salary works out to approximately £720 a week.

Barbara

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DOCUMENT 4

TELEPHONE MESSAGE FROM SARITA CHAUDRY

Name: Sarita Chaudry
Time: 15:21
Date: [Date]
Message Taker: Richard Surtees
Telephone No.: 0298230483

Message

Potential new client, who telephoned about her experience of an interview for the position of nail technician at the Mighty Nail Bar. She applied for the position, having seen the advert in the local paper.

She was shortlisted and asked to attend an interview. At the interview, she was informed that she would not be employed, because: 'I would not be a good fit with the existing staff'. Sarita Chaudry suspects that this was because of her Indian heritage, as the Mighty Nail Bar only seems to employ Caucasian women.

Please telephone her to arrange an appointment.

I have asked her to bring the documentation, such as the job specification, with her to the appointment.

Thanks

Richard

Secretary to Kelly Mitre

DOCUMENT 5

MEMORANDUM FROM RICHARD SURTEES TO TRAINEE LAWYER

To: Trainee Lawyer
From: Richard Surtees, Secretary to Kelly Mitre
Date: [Today's date]
Re: Advice Clinic

Kelly has asked me to write a brief memorandum about who you will be seeing at this week's advice clinic. The following people have confirmed their attendance:

1. Robert Kilter 4.30 pm

Mr Kilter has worked for New Age Acrylics Ltd for eight months. Throughout that time he has been paid £7.70 an hour. He has just found out that other members of staff are paid a higher rate.

2. Rachel Heathton 5.00 pm

Ms Heathton was a manager at Benningtons Funeral Directors for over nine years. She has just been dismissed without any notice. The managing partner claimed that her attitude was inappropriate. She has had no prior indication that this was the case and is shocked at what has happened.

3. Arthur Carlton 5.30 pm

Mr Carlton has worked at Busby Housing Insurance Plc for eight years and, until recently, has had no disciplinary action taken against him. Last week, his employer held a formal disciplinary meeting the day after he had to leave work early, as his son had been taken ill at school. Mr Carlton informed his line manager before he left and confirmed that he would be in work the following day. He has received a formal written warning for leaving work early.

End of Case Study Materials

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