

CASE STUDY MATERIALS

January 2020
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**

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons, The Manor House, Bedford, MK42 7AB. Your supervising partner is Katharine Arias.

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

- Document 1** Email from Jack Carlisle to Katharine Arias dated 1 November 2019
- Document 2** Memorandum from Katharine Arias dated 4 November 2019
- Document 3** Email from Adam Brown to Katharine Arias dated 5 November 2019
- Document 4** Memorandum from Katharine Arias dated 11 November 2019
- Document 5** Attendance note from Katharine Arias dated 18 November 2019
- Document 6** Email from Yasha Benny to Katharine Arias dated 25 November 2019

DOCUMENT 1

EMAIL

From: Carlisle, Jack
Sent: 1 November 2019, 12:18
To: Arias, Katharine
Subject: Employee Issues

Dear Katharine,

My name is Jack Carlisle and I am the Managing Director of Fancy Fabrics Ltd. We have been successfully trading for the past five years, and now have a staff of 32 employees. However, I have recently been having some problems with a couple of my employees and I hope you can assist me on these matters. I have outlined the key issues below and look forward to hearing from you.

Kasey Tanner

Miss Tanner is my personal secretary. She has been working with me since I started the company and I have always considered ours to be a friendly and informal relationship. However, I recently made an innocuous remark about her appearance, stating that she looked 'very attractive' when she wore a form-fitting dress to the workplace. I added that she should 'wear fitted dresses more often', as she looked so good. As I mentioned, we have known each other several years and I considered this offhand remark to be harmless. However, Miss Tanner has since been avoiding me, and I am concerned that I may have overstepped the mark; in her mind at least.

I maintain that there was nothing untoward in the comment, and Miss Tanner never struck me as a particularly sensitive or shy individual. In fact, she often wears attention-grabbing outfits to work and never seems to mind compliments from her fellow employees based on her appearance. I would appreciate it, if you could please confirm I have done nothing wrong in the eyes of the law, as her stand-offish behaviour is beginning to concern me.

Paul Costa

Mr Costa is a transgender male, who has been with the company for four years. He recently told us that his partner is pregnant and he would need one afternoon off to accompany her to her first antenatal appointment. Mr Costa notified his manager that he would need the time off at the beginning of next month.

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Upon making this request, Mr Costa's line manager, Anil Gurdy, stated that he was refusing the request for time off. When Mr Costa queried this, Mr Gurdy told Mr Costa that he would not be allowed the time off, as he was obviously not the biological father of the child, 'as women cannot father children'. I later issued Mr Gurdy with a verbal warning in relation to this remark.

Upon being refused time off for the reasons given above, Mr Costa insulted Mr Gurdy, using an offensive racial slur. On learning of this incident later the same day, I sent Mr Costa an email, terminating his employment with immediate effect.

I believe that all actions taken by myself and by Fancy Fabrics Ltd were acceptable in the circumstances. I would appreciate it, if you could please put my mind at ease by confirming this.

Best,

Jack Carlisle

DOCUMENT 2

MEMORANDUM

To: Trainee Lawyer
From: Katharine Arias
Client: Jack Carlisle
Date: 4 November 2019

Further to the email from Jack Carlisle dated 1 November (**Document 1**), this client has called me today to explain how matters have progressed since his last email.

Please find key points of our telephone meeting noted below.

Mr Carlisle states that he has received written notification that Kasey Tanner has started the process of taking Fancy Fabrics Ltd to employment tribunal, on the basis of harassment. Mr Carlisle has consequently prohibited Ms Tanner from attending all company meetings and has moved her to a different workspace, until this matter is resolved. He states he has done this as he believes she is bad for staff morale and that she may spread her 'unsupported allegations' to other employees.

Please prepare to support me with this case.

Thanks

Katharine

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DOCUMENT 3

EMAIL

From: Brown, Adam
Sent: 5 November 2019, 14:30
To: Arias, Katharine
Subject: Employment Issues

Dear Katharine,

I am writing to you in my capacity as director of Wired Connections Ltd, a Manchester-based organisation specialising in the provision of business communications resources.

We hired Jaclyn Bower in March 2018, to act as our primary negotiator with key clients in the London area. Ms Bower has over 15 years' experience in business management roles, so we were happy to give her this integral senior role in our company.

In June 2019, Ms Bower made a request to work part-time due to personal issues. As she was a valued employee, in whom we had already invested much time and resources, we agreed to her request, rather than risk losing her as a member of our team. However, I have now learned that, rather than using this time for 'personal matters', Ms Bower has set up a freelance consultancy service within the same field as our business. When I queried this with her, Ms Bower claimed that this is just a 'sideline' that occupies her time a few hours a week and allows her to work from home.

I believe that Ms Bower's decision to work part-time and to start offering consultancy services is not due to personal issues, but rather due to relations between herself and the company having soured, after we refused her request for time off over and above her leave entitlement in March 2019, following her divorce. I was unable to allow her this time off due to the company being in the midst of negotiating with a major prospective client in London. Ms Bower was in possession of confidential information entrusted to her to use in the negotiation, and we could not simply divulge this material to another employee who could take her place.

I am concerned that we have no protection against Ms Bower using the position she holds with our company to further her freelance consultancy work.

I kindly seek your advice.

Regards,

Adam Brown

DOCUMENT 4
MEMORANDUM

To: Trainee Lawyer
From: Katharine Arias
Client: Adam Brown
Date: 11 November 2019

You will have read the email from our client, Adam Brown (**Document 3**), and I would now like you to prepare to assist me with this case. I have spoken to Mr Brown today, and he has confirmed that the contract of employment between Wired Connections Ltd and Ms Jaclyn Bower does not contain any restrictive covenants.

Thanks,

Katharine

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DOCUMENT 5

ATTENDANCE NOTE

Client: Winnie Chung
Fee Earner: Katharine Arias
Date: 18 November 2019
Time: 50 minutes

I saw Winnie Chung in person last week. She is the owner of a restaurant, Finest Burgers Ltd. The business has a staff of 30 employees. Ms Chung sought advice on issues with a former employee, Keshawn Lette.

Keshawn Lette has been employed as the manager of Finest Burgers Ltd for the past 12 months, after being promoted from his previous post of assistant manager (issues with his conduct did not come to light until after his promotion to manager). Mr Lette originally joined Finest Burgers Ltd 24 months ago, when it took over the provision of catering services previously delivered by Superb Lunches Ltd. Several employees were transferred to Finest Burgers Ltd at that time, including Mr Lette.

Ms Chung had been satisfied with Mr Lette's overall managerial performance, aside from 'personally and privately' finding his manner when communicating with staff at times quite 'curt'. However, she told me that this was something which had not been mentioned to her by anyone else at the company.

Last month, Ms Chung learned that Mr Lette's previous employer, Superb Lunches Ltd, had issued him with a verbal warning, and later a written warning, following several disputes with a colleague. The written warning was issued two months prior to Finest Burgers Ltd taking over the provision of services from Superb Lunches Ltd. Ms Chung terminated Mr Lette's employment with immediate effect one day, after finding out about his prior disciplinary record.

Upon his contract being terminated, Mr Lette told Ms Chung: 'I will see you in court'. This incident occurred over three weeks ago, and she has heard nothing further from Mr Lette.

Ms Chung states that rather than 'waiting for him to drag our good name through the courts', she is considering offering Mr Lette a fixed sum to take the matter of his dismissal no further. She wants this monetary amount to cover not only this issue, but also to prevent Mr Lette from later seeking action against the company on any other basis.

DOCUMENT 6

EMAIL

From: Benny, Yasha
Sent: 25 November 2019, 10:17
To: Arias, Katharine
Subject: Employment Issues

Dear Katharine,

May I please seek your advice on the matters below?

I have been working at Gathering Solutions Ltd as an account manager for the past eight years. I had no problems with my employer, until I announced my pregnancy two months ago. Since that time, I have no longer been included in meetings regarding forthcoming projects. When I queried this with my manager, I was told that I was not invited to these meetings as the projects being discussed were 'outside my areas of expertise'.

However, I know this to be untrue, as my colleague, Richard Parker, is involved in all these meetings/projects and we come from the same technical background and have the same level of experience. This has made me feel quite insecure in my position at the company and uncertain about what will happen to my role in my absence when on maternity leave.

Although I believe I have been treated unfairly, I am very concerned about the prospect of bringing any legal claim against my employer, primarily because I know nothing about such processes. I would also not wish to damage my own reputation or incur financial losses.

Your advice would be much appreciated.

Thanks and regards,

Yasha Benny

End of Case Study Materials

