

**CASE STUDY MATERIALS**

June 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 May 2019 from Aisha Syed
- Document 2**      Email from Diego Jones to Aisha Syed 25 April 2019
- Document 3**      Email from Diego Jones to Aisha Syed 30 April 2019
- Document 4**      Email from Josephine Boone to Aisha Syed 20 May 2019
- Document 5**      Attendance note dated 10 June 2019 from Aisha Syed
- Document 6**      Memorandum from Aisha Syed re Lars Benson dated 10 June 2019

**DOCUMENT 1**

**ATTENDANCE NOTE**

**Client:** Keenan Adubo

**Fee Earner:** Aisha Syed

**Date:** 1 May 2019

**Time:** 60 minutes

Keenan Adubo attended a meeting last week. Mr Adubo is the managing director of a speciality cake-making company, Best Bakes Ltd, which employs 40 people. He is currently experiencing issues with two of his employees, details below.

**Employee 1: Tammy Jones**

Ms Jones, a mother of four minor children, has been employed by Best Bakes as an assistant baker since the company opened five years ago. Ms Jones has regularly been late for work at least three out of the five days a week she works; this has been ongoing for the past six months. Ms Jones accepts her frequent lateness, which she states is due to her youngest child, Sam, starting a new school six months ago. Ms Jones states that, as her son has special needs, he cannot attend a local school, and needs to be taken to a school outside the local area that can accommodate his needs.

Mr Adubo states that Ms Jones frequently challenges him and insists he should be allowing her the time to drop her child at school in the mornings, as the stress of constantly worrying about being late is starting to affect her health. She states that her current working hours of 9am to 6pm could easily be changed to 9.30pm to 6.30pm as the business operates 24 hours, so her starting later and finishing later would have no effect on production, particularly as there is a team of 12 employees working that shift, so her absence would not be felt. Ms Jones has now sent him an email, reminding him that she has asked for her hours to be altered to accommodate her need to get her son to school.

Ms Jones has requested that this change be officially implemented from 1 July. Although she would like the change to be immediate, she claims that this will give Mr Adubo time to find someone willing to cover the 30 minutes, should this be necessary.

Mr Adubo states that he is empathetic to Ms Jones's situation, and that she is correct that her 30-minute absence in the early mornings would not be detrimental to the business. However, he states that he is running a business, and does not wish to be dictated to by Ms Jones, as this would open the door to other employees making similar requests. No other employee has ever made a request for flexible working, and he wishes to keep it that way.

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### **Employee 2: Joe Smith**

Mr Smith has been employed by Best Bakes Ltd for two years as a manager. Mr Smith told Mr Adubo that he felt the hygiene practices at the factory were poor and would fail to meet legal and industry standards. Mr Adubo responded to Mr Smith's concerns by engaging a specialist consultant, who produced new, written cleaning and storage policies for use throughout the company, which ensured that all relevant hygiene standards were not only met but exceeded.

However, despite these improvements and the fact that his concerns had been addressed, Mr Smith gave a paid interview to a journalist from a local free newspaper, in which he stated that he felt the hygiene standards within Best Bakes were poor. During the three months following this published interview, Best Bakes Ltd experienced a 10% decline in business from the area in which the paper is distributed.

Mr Adubo held a meeting with Mr Smith after he saw the published interview and questioned his behaviour. Mr Smith defended his actions, by claiming he had a moral duty to make the issue publicly known. Mr Adubo, however, believes his behaviour was in response to the company recently terminating the employment of Mr Smith's sister, due to her being found guilty of stealing from the business.

Following their meeting, Mr Adubo terminated Mr Smith's employment contract for breach of implied duties. Mr Smith is now threatening legal action against Best Bakes Ltd.

DOCUMENT 2

EMAIL

**From:** Jones, Diego  
**Sent:** 25 April 2019, 17:11  
**To:** Syed, Aisha  
**Subject:** Employment Issues

Hi Aisha

I would appreciate it, if you could advise me on some problems I've been having at work.

I have been employed by Deluxe Deliveries Ltd for six years and have recently begun experiencing some issues with my colleague, Maria Cole. The problems arose when Ms Cole began repeatedly suggesting that we meet for a drink after work. When I declined, she then began repeatedly suggesting that we meet for a 'dinner date' after work instead. These constant invitations made me very uncomfortable and, after turning down an invitation for about the tenth time, Ms Cole stated that I must be 'gay and into men' – much to the amusement of everyone else in the break room, when she made this comment. When I complained to my manager, Tyler Dennehy, he suggested I should feel flattered by the attention of a woman and I should 'man up'.

The problems then escalated, as Ms Cole begun to also mock my speech. I am originally from Spain and have retained my accent. Ms Cole, however, appears to think I am from India. She calls me the 'Gay Asian' and has repeatedly made the comment that she 'didn't think Asian religions allowed people to be gay', and that I must be a social outcast in my community.

I again made a complaint to my manager, Tyler Dennehy, and he said he would 'have a word with Maria', but if he has, which I doubt, it has had no effect, as she continues to engage in the behaviour described above.

Mr Dennehy also suggested that perhaps I would prefer working the night shift, if I am 'so desperate to escape Ms Cole's attention'. I declined this offer, as I do not wish to work the night shift, and am not contractually required to, but Mr Dennehy has nonetheless begun to put me on this working pattern.

I believe I have been treated appallingly by both Ms Cole and Mr Dennehy and your advice as to my rights would be much appreciated.

Regards,

Diego

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DOCUMENT 3

EMAIL

**From:** Jones, Diego  
**Sent:** 30 April 2019, 14:31  
**To:** Syed, Aisha  
**Subject:** Employment Issues 2

Hi Aisha

Further to my previous email regarding issues I've been experiencing at Deluxe Deliveries Ltd, I am writing to seek your advice on a further matter that has arisen since my initial correspondence to you.

I have been working with Deluxe Deliveries Ltd for six years as a logistics manager in charge of a unit that undertakes transportation of textiles on behalf of customers. Three weeks ago, I was told that because Deluxe Deliveries Ltd had been experiencing some financial difficulties over the past six months, certain activities, including my unit, were to be taken over by a new contractor, Pete's Logistics Ltd.

I was told that my job would not be affected, as it was merely a change to a specific part of the organisation, and my work activities would still cover the transportation of textiles. The working location and all other aspects would remain the same. Therefore, after Pete's Logistics took over, I was surprised to be told that they would be changing both my working hours and my salary. My hours would be cut from 40 hours per week to 35 hours per week and my wages would be reduced by 10%.

When I queried these changes, I was told that such measures are essential, as the amount of management input required has reduced, as a result of one customer terminating its contract following the transfer, and the need to bring terms and conditions into line with those of the existing workforce of Pete's Logistics.

Could you please let me know my legal rights in relation to the above?

Thank you.

Diego Jones

DOCUMENT 4

EMAIL

**From:** Booke, Josephine  
**Sent:** 20 May 2019, 11:45  
**To:** Syed, Aisha  
**Subject:** Employee Issues

Hi Aisha

As you know, I am the personnel director at Combo Boilers Ltd. I've been having some problems with a couple of my employees, and I hope you might be able to shed some light on things for me.

Firstly, my employee Kenneth Pang requested to take some time off last month as his eldest son, who is 16 years of age, needed to have his wisdom teeth removed, which would involve inpatient surgery.

I did not allow him the time off, as he gave me less than 24 hours' notice, despite having the hospital appointment booked three weeks in advance. Mr Pang is now claiming that my refusal was based on him being male, as I allowed a female employee, Sarah Zack, time off in 'similar circumstances'. However, I allowed Ms Zack time off on the day her infant child had a tooth knocked out after being elbowed by another child at nursery.

Mr Pang has stated that he will be pursuing a claim against me.

The other problem I have been experiencing is with another employee, Jodi Alley. I recently needed to take disciplinary action against Ms Alley for inappropriate behaviour within the work environment, in the form of repeatedly taking items of stationery home with her.

Ms Alley now claims that this disciplinary process caused her a great deal of distress. I am shocked by this suggestion, as the company followed all necessary regulations. Ms Alley claims that several of her colleagues were made aware of the disciplinary measures brought against her, and that she found this extremely embarrassing.

I ensured that I maintained written notes throughout the process, as required, and it would appear that these notes fell into the hands of another staff member, who then made them public. While this was not my intention, it did serve as a good reminder to other staff that we do not take the removal of supplies lightly. Furthermore, Ms Alley claimed that the time lapse between the incident and the disciplinary process was excessive (it exceeded nine months), during which time she felt stressed and worried, which affected her health.

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However, this time lapse between incident and disciplinary meeting was due to the company needing to source a sign language interpreter, as Ms Alley is registered deaf. The company could not hold the disciplinary meeting without this interpreter, which delayed the entire process, as we needed not only to source such a person, but to also get quotes, as these services tend to be quite expensive.

Upon completion of the disciplinary process, it was decided that Ms Alley's contract would be terminated. She was given the notice period she was contractually due, during which time she was required to be on garden leave.

Ms Alley is now claiming that her rights have been breached.

Your advice on the matter would be much appreciated.

Josephine Booke

**DOCUMENT 5**

**ATTENDANCE NOTE**

**Client:** Lars Benson

**Fee Earner:** Aisha Syed

**Date:** 10 June 2019

**Time:** 30 minutes

Meeting attended by Lars Benson, a director at Corp Tech Ltd.

Mr Benson explained that Corp Tech Ltd had recently entered into a settlement agreement with one of its former employees, Carrie White. The settlement agreement fundamentally stated that Ms White would not pursue claims against Corp Tech Ltd in relation to her dismissal in exchange for the sum of £25,000.

This settlement agreement included a clause requiring Ms White to confirm that she had taken all the legal steps required of employees when entering a settlement agreement. She signed the agreement, thereby affirming this clause.

However, Corp Tech Ltd has since become aware that Ms White consulted her own personal accountant, Tanya Karl, on the settlement agreement. When queried on this point, Ms White stated that she preferred to seek her accountant's advice, despite her lacking expertise in the area, as they had a longstanding professional relationship, and their previous dealings had been covered by Ms Karl's professional insurance policy.

Corp Tech Ltd now seeks to void the settlement agreement.

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**DOCUMENT 6**

**MEMORANDUM**

**To:** Trainee Lawyer  
**From:** Aisha Syed  
**Client:** Lars Benson  
**Date:** 10 June 2019

I am currently acting for this client in determining the validity of a settlement agreement between his employer and one of their former employees (**Document 5**).

I would appreciate it, if you could familiarise yourself with the details below and prepare to advise the client on this separate and unrelated matter.

Mr Benson, a director at Corp Tech Ltd, has just phoned to tell me that he has taken on a new client, Kelly Quon, with whom he initiated contact during a corporate dinner in November 2018, at which he was representing his then employer, Aces Accounts Ltd.

Mr Benson and Ms Quon exchanged contact details during this corporate dinner, but had no further dealings until after the termination of Mr Benson's contract of employment with Aces Accounts in early March 2019. Ms Quon contacted Mr Benson in late March 2019.

Mr Benson's contract with Aces Accounts contained several restrictive covenants, some key points of which are as follows for your reference:

'Clause 12.1 You agree that upon termination of your employment you will not have any direct contact with the former employer's clients, customers or suppliers, even if the client, customer or supplier initiated the contact ... this restriction will last 12 months from termination of employment ... and will cover a 5 mile radius from the location of your employment.'

Mr Benson states that he has done nothing wrong in liaising with Ms Quon, as she was never a client of Aces Accounts Ltd, as negotiations between herself and the company failed to result in any agreement.

Mr Benson nonetheless, wishes to clarify his legal position and to be made aware of any potential legal repercussions resulting from his actions.

**End of Case Study Materials**



