

CASE STUDY MATERIALS

January 2013
Level 3
PRACTICE OF EMPLOYMENT LAW
Subject Code L3-13



CHARTERED INSTITUTE
OF LEGAL EXECUTIVES

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THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 13 – 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 the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the 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 relates to the 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 text books into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

Turn over

* This unit is a component of the following CILEx qualifications: **LEVEL 3 CERTIFICATE IN LAW AND**

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons, Manor House, Bedford, MK43 7AB. The firm is a busy high street practice with a successful employment department. Your supervisor is David Ross, a partner in the firm.

Your firm runs a successful advice clinic each week at which new clients get some basic legal advice for free in the hope that the firm will be instructed for future work. David Ross has left a note of the new clients you will be seeing in the advice clinic this week.

David Ross has also sent you a memorandum concerning new clients Thomson and Thomson and Matt Remy. You are asked to familiarise yourself with all documentation provided in advance of your meetings with the clients.

- Document 1** Email from Alex Thomson of Thomson and Thomson
- Document 2** Memorandum regarding advice clinic
- Document 3** Memorandum from David Ross regarding Matt Remy
- Document 4** Extract of an ET1 drafted by Matt Remy

DOCUMENT 1

**Email from Alex Thomson of
Thomson and Thomson**

Hi David

It was nice to see you again last week. Following your advice I have redrafted some of my interview questions and would be grateful if you would check them again. The interviews are on Friday, so the sooner the better really.

1. Why do you want to leave your current employer?
2. Why do you want to work for us?
3. What salary would you expect?
4. Will you be making a request for flexible working?
5. We require all new employees to pass a written test after the interview. Will you require any adjustments for a disability?
6. How old are you? We have a policy of not employing anyone over the age of 50 as they are not physically fit enough to operate the heavier machinery.
7. How much time off sick have you had in the last year?
8. Do you have any disciplinary proceedings against you which have not been resolved?
9. How many days holiday do you require?

Turn over

Memorandum

To: Trainee lawyer
From: A Jones (Secretary)
Date: [Today]
Re: **Advice Clinic**

I understand from David that you are running this week's advice clinic.

We have only had two enquiries so far but they are usually booked in at the last minute, so you may be busy! David suggested you may need some preliminary details to help you consider what issues may arise when you see them.

The clients so far for this week's advice clinic are as follows:

1. Rupi Ghuman - 4.30pm

Rupi currently works for a small stationery firm in Bedford called 'Stats us'. She is concerned that due to staff sickness she has been working very long hours. She had to cancel her holiday to Spain at Easter, as there was no one to cover reception whilst she was away. Rupi works hard and enjoys her job but feels that regularly working 50 hour weeks is making her ill. Last week she worked 56 hours and complained to her boss stating she would not be willing to do so again this week.

Rupi is worried as that the end of the firm's holiday year is approaching she will not be able to take any more holiday and may lose her holiday entitlement.

2. Sue Daker - 5pm

Sue is a senior shop assistant at a small branch of a large bakers in Bedford. The shop is one of a chain of 36 bakers' shops across the country. Sue is responsible for running the shop when the manager is away as she is the most senior member of staff and she has been with the company for 11 years.

However, two months ago a new trendy sandwich shop opened next door and the bakers have been losing lots of customers to the extent that last week two members of staff were made redundant. Sue is able to cope with running the shop despite having less staff as it is not very busy at all. She is worried that she may also lose her job or be made to move to the branch in Nottingham where they are desperate for new staff. This is over a 100 miles away and she does not want to go there.

I will let you know when anyone else books in.

A Jones

DOCUMENT 3

Memorandum

To: Trainee lawyer
From: D Ross
Date: [Today]
Re: **New client Matt Remy**

I had a quick chat with Matt at last week's advice clinic. He has now sent in the ET1 form he drafted and submitted to the Bedford Employment Tribunal (**Document 4**). He has yet to hear anything from his former employers in response to the form which he only sent in last week, so it is still early days.

Matt will be coming in to see you next week when I am away as he is concerned about what happens next and how his claim will progress. He really just wants to get another job and try to forget this ever happened.

It seems a nice easy claim for you to deal with, at least initially. Let me know what you think before your meeting with Matt.

Regards
David

Extract of ET1 FORM

See pages 7 - 11

Employment Tribunals Claim Form

Special Notice

This interactive form enables you to make a claim to an Employment Tribunal by completing and editing the form offline. You can save a part of fully completed form, email a saved form to another person to amend or for approval, and submit it securely online to the Employment Tribunals. Please make sure you have read the guidance notes on our website on how to make a claim before you fill in the form. We are unable to accept any attachments included or sent with this form.

Multiple Claims – If this claim is one of a number of claims arising out of the same or similar circumstances please fill in a claim form for the first claimant and then give the other claimants on the multiple form (maximum 28 claims). If more than 28 claims need to be submitted please create a multiple claims .csv file. For guidelines please click here <http://www.employmenttribunals.gov.uk/multiple/index.htm>, enter the details in the correct column and attach the .csv file to this form below before submitting this claim form.

For Claimants in England and Wales - If someone is advising or representing you in relation to your claim, they must, unless they are a practising solicitor or barrister, be authorised to do so, wherever they are based (including Scotland, the Channel Islands and all of Europe). Trade Union officials, Citizens' Advice Bureau advisors or a personal friend helping you present your claim may be exempted from these requirements. However, to check your representatives status, and for more information, telephone 0845 450 6858 or go to www.claimsregulation.gov.uk

Select the type of claim you wish to make:

- I want to make a claim.
- I want to make a claim on behalf of more than one person.

Select the reason(s) for the claim:

- Unfair dismissal or constructive dismissal
- Discrimination
- Redundancy payments
- Other payments you are owed
- Other complaints

Submit completed claim

Need Help?

If you require any help completing your form or have a general question about the tribunals process please contact the Employment Tribunals Enquiry Line on **08457 959 775** or minicom **08457 573 722** between 9am and 5pm Monday to Friday (closed on Bank Holidays).

If you require technical support please click below to email us.

[Support Request](#)

We regret we cannot provide any legal advice.

Please Note:

By law, your claim must be submitted using an approved form supplied by the Employment Tribunals (We are unable to accept any attachments included or sent with the form except for .csv file templates issued with multiple claims from our website), and you must provide the information marked with * and, if it is relevant, the information marked with (see 'Information needed' before a claim can be accepted')

General Information:

Once you have completed your form you can submit it securely online to the TS. On-line forms are processed faster than those posted.



1 Your details

1.1 Title: Mr Mrs Miss Ms Other

1.2* First name (or names): Matthew

1.3* Surname or family name: Remy

1.4 Date of birth (date/month/year): 13/11/1960 Are you: male? female?

1.5* Address: Number or Name 21a
Street Bell Street
+ Town/City Kempston
County Bedfordshire
Postcode MK42 6AA

1.6 Phone number including area code (where we can contact you in the day time): 01234 666777
Mobile number (if different):

1.7 How would you prefer us to communicate with you? E-mail Post
(Please tick only one box)

E-mail address: matt99@zmail.com

2 Respondent's details

2.1* Give the name of your employer or the organisation you are claiming against: Burrage Haulage

2.2* Address: Number or Name 23
Street Tern Hill Industrial Park
+ Town/City Bedford
County Bedfordshire
Postcode MK42 8BA

Phone number:

2.3* If you worked at a different address from the one you have given at 2.2, please give the full address and postcode.

Postcode

Phone number:

If there are other respondents please complete **Section 11**.

3 Employment details

3.1 Please give the following information if possible.

When did your employment start?

Is your employment continuing?

 Yes

 No

If your employment has ceased, or you are in a period of notice, when did it, or will it, end?

3.2 Please say what job you do or did.

4 Earnings and benefits

4.1 How many hours on average do, or did, you work each week?

 hours each week

4.2 How much are, or were, you paid?

Pay before tax

£ .00

 Hourly

Normal take-home pay (including overtime, commission, bonuses and so on)

£ .00

 Weekly

 Monthly

 Yearly

4.3 If your employment has ended, did you work (or were you paid for) a period of notice?

 Yes

 No

If 'Yes', how many weeks' or months' notice did you work, or were you paid for?

 weeks

 months

4.4 Were you in your employer's pension scheme?

 Yes

 No

Please answer 4.5 to 4.9 if your claim, or part of it, is about unfair or constructive dismissal.

4.5 If you received any other benefits, e.g. company car, medical insurance, etc, from your employer, please give details.

I received a company mobile for both business and personal use. I also had use of a discounted medical insurance scheme.

4.6 Since leaving your employment have you got another job?

 Yes

 No

If 'No', please now go straight to section 4.9.

4.7 Please say when you started (or will start) work.

4.8 Please say how much you are now earning (or will earn). £ .00 each

4.9 Please tick the box to say what you want if your case is successful:

- a To get your old job back and compensation (reinstatement)
- b To get another job with the same employer and compensation (re-engagement)
- c Compensation only

5 Your claim

5.1* Please tick one or more of the boxes below. In the space provided, describe the event, or series of events, that have caused you to make this claim:

a I was unfairly dismissed (including constructive dismissal)

b I was discriminated against on the grounds of

Sex (including equal pay)

Race

Disability

Religion or belief

Sexual orientation

Age

c I am claiming a redundancy payment

d I am owed

notice pay

holiday pay

arrears of pay

other payments

e Other complaints

5.2* Please set out the background and details of your claim in the space below.

The details of your claim should include **the date when the event(s) you are complaining about happened**; for example, if your claim relates to discrimination give the dates of all the incidents you are complaining about, or at least the date of the last incident. If your complaint is about payments you are owed please give the dates of the period covered.

Please use the blank sheet at the end of the form if needed.

1. I was employed by the respondent company as a delivery driver. Last June, I was temporarily promoted to drivers' supervisor, but when the job was formally advertised, I did not get the job. I was surprised as I had done really well, productivity had increased and all my drivers were much happier due to the new shift system I had introduced.

2. At my interview for the permanent role of drivers' supervisor I felt the panel were quite negative. Afterwards I saw another candidate I did not know, leaving the premises in a car with the Managing Director. I think they must have known each other as they were very friendly. The other candidate was Adam Whittle who was given the job.

3. When Adam started work with us two weeks later in September 2012, it became clear he did not like the shift system I had introduced and had a totally different approach to managing the drivers. I realised I would have to be supportive of anything he wanted to do so I didn't look bitter. I tried but he did not want to listen to any advice I gave him and never bothered to talk to me. In a team meeting in October in front of all the drivers he said "Matt, everything you did before was totally rubbish. I don't know how the company is still running. We need to unpick the disaster and start again". I was so stunned I did not know what to do and so sat there whilst

he outlined his plans for change.

4. After the meeting I approached the Managing Director's wife, Susan, as she runs the office and asked for a meeting with her husband. She asked me about what had happened and assured me it was just Adam's style of working and it would all be fine if I gave him some time.

5. On 1st November 2012, I was called to the Managing Director's office and told I was dismissed for gross misconduct. Adam was present. I asked for an explanation and was told I had been caught using my lorry inappropriately and making fraudulent expenses claims. All the lorries have satellite tracking devices and they said my lorry had made an unauthorised detour of 12 miles the day before, which was against company policy. I tried to explain that I had encountered an accident and had diverted away from the motorway to ensure I made my deliveries on time but they were not listening.

6. I have tried to speak to Susan and her husband, but they are refusing to take my phone calls. I do not think they will give me a reference to help me get another job. I am very annoyed as I am owed two weeks holiday pay as well as about 20 hours overtime from last month. I have been a loyal employee and have only had problems since Adam started. I think he has set me up. I have been unfairly dismissed.

- 5.3 If your claim consists of, or includes, a claim that you are making a protected disclosure under the Employment Rights Act 1996 (otherwise known as a 'whistleblowing' claim), please tick the box below if you wish a copy of this form, or information from it, to be forwarded on your behalf to a relevant regulator (known as a 'prescribed person' under the relevant legislation) by the Tribunals Service.

6 What compensation or remedy are you seeking?

- 6.1 Completion of this section is optional, but may help if you state what compensation or remedy you are seeking from your employer as a result of this complaint. If you specify an amount, please explain how you have calculated that figure.

I am seeking my notice period, outstanding holiday pay and overtime. I seek compensation for my loss of earnings.

7 Other information

- 7.1 Please do not send a covering letter with this form. You should add any extra information you want us to know here. Please use the blank sheet at the end of the form if needed.

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End of Case Study Materials