



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 6 – EMPLOYMENT LAW\*

**Time allowed: 1 hour and 30 minutes plus 15 minutes reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **The question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios in Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE**, **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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**SECTION A****(Answer ALL questions in Section A)**

1. Identify **three** examples of employment rights available to employees under statute or regulations.  
**(3 marks)**
2. Aki has been employed by the same employer for 18 years and wishes to resign. Explain what period of notice Aki has to give his employer.  
**(3 marks)**
3. Identify and explain any **two** implied duties which an employee owes to their employer.  
**(4 marks)**
4. Section 1 Employment Rights Act 1996 requires an employee to be given formal notice of certain terms of their employment. Give **two** examples of such terms.  
**(2 marks)**
5. Define wrongful dismissal and give **one** example of the type of loss that can be claimed.  
**(2 marks)**
6. List **five** protected characteristics contained in the Equality Act 2010.  
**(5 marks)**
7. Louise has worked for an insurance company for three years. She is dismissed following an argument with her boss. What preliminary qualifying requirements would Louise have to meet before she could present a claim for unfair dismissal?  
**(5 marks)**
8. Identify the remedies available in a claim for unfair dismissal.  
**(3 marks)**
9. Explain what is meant by the term 'mutuality of obligation' in the case of *Carmichael v National Power* (1999).  
**(3 marks)**

**(Total Marks for Section A: 30 marks)**

## SECTION B

(There are three scenarios in Section B. Answer the questions related to  
**ONE of the scenarios ONLY**)

### Scenario 1

Julia has been promoted to manager of an estate agents in Kempston called 'Meadows'. Julia manages a team of employees that deals with sales and lettings of properties in the area.

Anna is the office junior and has been employed for three years. She is persistently late for work and often takes more than the hour allowed for her lunch break.

Steve has been employed as a trainee estate agent since May 2012. When he started work, he was told that his job was conditional on him passing his estate agency examinations within six months. He has been employed for 18 months, but he has failed his examinations on three separate occasions. Julia tells him that in these circumstances, he must leave the firm immediately as she needs a qualified estate agent in his role.

In the office, there is a petty cash tin which is used for buying tea and coffee. Julia puts a £50 note in the petty cash tin on Monday morning. When she opens the cash tin the next day, the £50 note has gone. Julia searches the desks of her team and finds a £50 note in the top drawer of Bob's desk. Bob is the administrative assistant and his wife has recently been made redundant. Bob refuses to answer any questions about how the £50 note came to be in his desk drawer, so Julia dismisses him on the spot.

Madhuri, the most senior estate agent, has worked at 'Meadows' for 12 years. She hands in her letter of resignation to Julia, explaining that she has set up her own estate agency two doors down from 'Meadows'. Julia is concerned about the effect of this on 'Meadows' business but is unsure what she can do as Madhuri has never signed a written contract of employment.

## Scenario 1 Questions

1. Identify and explain the steps in the formal procedure that Julia should follow if she decides to discipline Anna.

**(8 marks)**

2. Advise Julia whether:

(a) Steve satisfies the eligibility criteria for an unfair dismissal claim.

**(7 marks)**

(b) Steve may have a potential claim for wrongful dismissal and, if so, what he may be entitled to.

**(5 marks)**

**(Total: 12 marks)**

3. Bob issues a claim for unfair dismissal against 'Meadows'. Advise Julia whether 'Meadows' can successfully defend his claim.

**(10 marks)**

4. Julia is asked to recruit a new senior estate agent to replace Madhuri. Considering Madhuri's actions, identify and explain **two** clauses which Julia should now include in the new employee's contract of employment.

**(10 marks)**

**(Total Marks for Scenario 1: 40 marks)**

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## Scenario 2

'Raising your Roof' is a small building company owned by Robert that specialises in loft conversions.

Ellie is a supervisor of a team of labourers. She has been with the firm for five years. Robert meets Ellie every morning to give her the job list and she organises which site the labourers go to and what jobs they will do. While at work, Ellie wears a 'Raising your Roof' T-shirt. Robert pays her without deducting tax and national insurance.

Ellie uses her own van for work and Robert has arranged for it to be painted with the company logo. Ellie is responsible for the running and maintenance costs of the van. When Ellie is busy, Robert has confirmed she can send her husband to do her job at 'Raising your Roof'.

Ellie was recently disciplined by Robert following an incident at the 'Raising your Roof' Christmas party. Ellie had got very drunk and had posted a photograph of herself on a social networking site dancing on the bonnet of her van. She was given a Final Written Warning which she thinks is unfair given that it is her van and she was not drunk while at work.

Ian is seventeen and started working for 'Raising your Roof' as an administrative assistant three months ago. His role involves preparing quotations and invoices. He is paid £5.20 per hour but has not been given any other details of his employment conditions. Robert has told him that he is not entitled to anything in writing.

Willow is an accountant employed by the firm. She suffered a back injury in an accident and has been on long-term sick leave for 15 months. She still has pain when sitting still for long periods of time. Willow wants to return to work but is worried about whether she will cope with full-time hours.

## Scenario 2 Questions

1. In relation to Ellie:
  - (a) Explain which factors indicate that she may be an employee of the company and what legal tests apply.  
**(8 marks)**
  - (b) Explain which factors indicate that she may be self-employed and what legal tests apply.  
**(6 marks)**
  - (c) Explain the procedures which should be followed if Ellie challenges the Final Written Warning that she has received.  
**(4 marks)****(Total: 18 marks)**
  
2. Explain to Ian what paperwork he is entitled to from his employer, by when and what action he can take if he does not receive the paperwork.  
**(8 marks)**
  
3.
  - (a) Advise Willow whether her back problem constitutes a disability under s.6 Equality Act 2010.  
**(8 marks)**
  - (b) Identify and explain the legal obligation owed by 'Raising your Roof' to Willow.  
**(4 marks)**
  - (c) State **two** examples of the steps that could be taken to assist Willow's return to work.  
**(2 marks)****(Total: 14 marks)**

**(Total Marks for Scenario 2: 40 marks)**

### Scenario 3

Donatella owns an upmarket hair and beauty salon in Kempston 'Donatella's'.

Her chief stylist Maria has recently returned from maternity leave to work full-time. Maria has asked Donatella if she can reduce her hours but Donatella has refused her request on the basis that she does not employ part-time staff.

Donatella promotes her junior hair stylist Thomas, to senior hair stylist, to work alongside Maria. Thomas is homosexual and he and his partner, George, have recently adopted a child.

Maria does not believe that gay people should be able to adopt and she is unhappy at Thomas' promotion. Maria tells the receptionist to give her all of Thomas' wealthier clients which means that Thomas loses out on generous tips. When Thomas complains, she tells him to "stop being a big girl". Thomas also hears her gossiping about him to her clients and telling them that "people like Thomas shouldn't adopt children". This is very distressing for Thomas and makes him reluctant to come into work.

Ahmed, another junior hair stylist, has been working a 60 hour week in the salon for the past six months and he sees the way that Maria is treating Thomas. Ahmed has a word with Maria to explain how unhappy her behaviour is making Thomas. Ahmed tells her that if she continues, he will support Thomas in bringing a grievance and will act as a witness. Maria tells Ahmed to stay out of it. She warns him that if he supports Thomas, she will tell Donatella that he is a liar and should be sacked. Maria also threatens Ahmed that she will use all her contacts to ensure he is not successful in his hairdressing career.



### Scenario 3 Questions

1. Advise Maria:
  - (a) Identify and explain the type of discrimination claim that Maria may be able to bring against 'Donatella's'.  
**(8 marks)**
  - (b) Identify and explain what remedies are available to her.  
**(6 marks)****(Total: 14 marks)**
  
2. Identify and explain the type of discrimination claims that Thomas may be able to bring against 'Donatella's' regarding Maria's behaviour.  
**(10 marks)**
  
3. Explain who has the burden of proof in a discrimination claim and how this works.  
**(4 marks)**
  
4. Explain what type of discrimination claim Ahmed may have against 'Donatella's' and why.  
**(8 marks)**
  
5. Explain what other statutory claim Ahmed could bring against 'Donatella's'.  
**(4 marks)**

**(Total Marks for Scenario 3: 40 marks)**

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