

CASE STUDY MATERIALS

June 2013
Level 6
PRACTICE OF EMPLOYMENT LAW
Subject Code L6-19



CHARTERED INSTITUTE
OF LEGAL EXECUTIVES

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UNIT 19 – 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 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

ADVANCE INSTRUCTIONS TO CANDIDATES

You work in the Employment Law Department at the firm of Kempstons of Manor House, Bedford, MK42 7AB. Your supervising lawyer is Helen Ulyatt and your local Employment Tribunal is situated in Bedford.

As part of your ongoing training you have been given a number of employment files to work on.

1) The **Change Up Ltd** file (file ref: CU/HU/61/13). Kempstons act for the Respondent in respect of the Claim brought by Aaron Dennar. The managing director, Jamie McLeod, has indicated that the company will defend the Claim. Your client provides customers with the opportunity to be driven around a specially designed track in high-performance sports cars by a racing driver. Further details can be obtained from the ET1 (extract only) and the letter attached with these Case Study Materials as **Documents 1 and 2**.

2) The **Open and Ready Publishing Ltd** file (file ref: ORP/HU/51/13). Kempstons have been retained by Open and Ready Publishing Ltd to give general employment law advice, to draft employment-related documentation and to act on their behalf where they require representation. The client is a general publisher whereby all of the important and valuable clients have a dedicated account manager. Further details can be obtained from the Attendance Note attached with these Case Study Materials as **Document 3**.

3) The **Donald Monk** file (file ref: DM/HU/73/13). Kempstons act for the potential Claimant in this case. He has been able to find another job having been out of work for only four weeks. A decision will need to be made soon to ensure that he is not beyond the time limits as to any application to be made to Bedford Employment Tribunal. Further details can be obtained from the File Note attached with these Case Study Materials as **Document 4**.

4) The **Sabrina Kingsly** file (file ref: SK/HU/14/13). Sabrina Kingsly is half of a double act working at the Happy Ever After Cabaret, run and owned by Alain Pierre. Since she announced her pregnancy, Alain Pierre has been increasingly difficult. Further details can be obtained from the note attached with these Case Study Materials as **Document 5**.

Turn over

DOCUMENT 1

Extracts from ET1 completed by Aaron Dennar

1.2 First name Aaron
1.3 Surname Dennar
1.4 Date of birth 12/09/1952

3.1 Please give the following information if possible.

When did your employment start? 3/07/2007
Is your employment continuing? No
If your employment has ceased, or you are in a period of notice, when did it, or will it, end? 15/04/2013

3.2 Please say what job you do or did. Racing Driver

5.1 a I was unfairly dismissed (including constructive dismissal).
b I was discriminated against on the grounds of Age.

5.2 Details of the Claim

On the 9 January this year Jamie McLeod, the managing director of Change Up Ltd, had a meeting with myself and the other drivers concerning the track times around the racing circuit. He told us that from that day we would all be required to reach a minimum lap time when taking out customers. At the meeting I raised my concerns about health and safety but Jamie McLeod just laughed as if I had made a joke. Nothing more was said at the meeting and although all of the drivers were present, I felt that he was singling me out.

The following two weeks I was slower than the other drivers but I managed to reach the lap time set by Jamie McLeod. On 9 February I took two customers out on the track but the weather conditions were such that I could not reach the required lap times as I felt it would be dangerous. The customers complained to Jamie McLeod that they did not have a good experience on the track and when Jamie McLeod raised the issue with me I maintained my view that it would have been dangerous to go any faster.

Soon after, I received a letter from Jamie McLeod dated 16 February stating that it was a warning that would be placed on my personnel file. I was very upset on receiving this letter as I felt he was insinuating that because of my age I was not able to drive as fast as the other drivers, something which I do not believe is the case. I have always driven safely and I would not compromise the safety of my passengers.

CASE STUDY MATERIALS

The weather conditions did not get any better over the next couple of weeks. I failed to meet the minimum lap time set. On 27 February I attended a disciplinary meeting held by Jamie McLeod. I was accompanied by a colleague and it was put to me that I was considerably slower around the circuit than the other drivers. I agreed that I had been slower but that it was due to my safety concerns. Jamie McLeod raised the issue of my age and that perhaps I was just naturally getting slower. I informed him that my age had nothing to do with me slowing down. Jamie McLeod then decided at the meeting that I would receive a final written warning.

After the meeting I was put under so much pressure to reach the required speed that I felt that I had to take risks. Even though I felt I was going at an unsafe speed in the conditions, I managed to maintain an acceptable speed as far as Jamie McLeod was concerned. On the weekend of 13 and 14 April I was unable to meet the required lap times.

On 15 April I was called to a further meeting with Jamie McLeod and I was told that my recent lap times were unacceptable. I was asked what I had to say for myself and I replied that I could not be expected to work under this level of pressure and I resigned there and then. Jamie McLeod seemed pleased that his plan had worked and accepted my resignation.

The only reason Jamie McLeod introduced the minimum lap speed was so that he could get rid of me. The reason why he did not want me to work for the company any longer was because of my age; I do not fit with the company's 'young image'. I have not had any further contact with anyone from the company since leaving.

Turn over

DOCUMENT 2

Letter

Change Up Ltd
Feel the Need for Speed



16 Jakeson Road, Kempston, MK40 2AD

Mr A Dennar
21 The Mews
Kempston
MK41 7PJ

16 February 2013

Dear Aaron

Re: Customer Complaints

Further to our recent conversation concerning the complaints received from two customers last week, I thought it would be appropriate to write to you to confirm what had been discussed.

You agreed that the speed at which you took the customers round the track was not as fast as the other drivers on that day and furthermore that it was in your view due to the weather and subsequent driving conditions. You suggested that to go faster would have been dangerous and that you had the safety of the customers at heart.

I question this view as the weather conditions were not especially difficult and the other drivers were able to maintain appropriate speeds. To my mind you have been getting slower going around the circuit over the past three months and if you are to be retained by the company you need to increase your speeds when taking customers out.

Please take this letter as a warning which will be placed on your personnel file. If you do not improve then a formal disciplinary will be initiated.

Yours sincerely

Jamie McLeod

Managing Director

Attendance Note (Re: Open and Ready Publishing Ltd)

Attendance on: Sarah Hedley
Attended by: Helen Ulyatt
Date: [Yesterday's Date]
Time Taken: 40 minutes – attendance
5 minutes – dictating Attendance Note

Attended Sarah Hedley who is the Personnel Manager at Open and Ready Publishing Ltd at their offices in Kempston.

She has contacted us due to potential claims for unfair dismissal from two members of staff who were recently dismissed. Neither has, as of yet, commenced a Claim but Ms Hedley is mindful that as they were only dismissed a week ago, there is plenty of time for them to do so.

Lesley Thyme worked for the company as a telesales executive, a junior position in the company, for nearly six years. Throughout that time she appeared to be a 'model' employee, meeting her deadlines and ensuring that the work produced was of a high standard. About six months ago she received a warning about accessing social media while she was supposed to be working and, though a note was made on her personnel file to this effect, nothing else was done about it.

Last week a fellow employee, who is also a 'friend' with Lesley Thyme on a social networking site, made her supervisor aware of a post that Lesley had placed on the site. The post read 'Open and Ready Publishing ... Probably the worst publisher in the world!' Subsequently Lesley attended a disciplinary hearing and was dismissed.

The second situation involves the dismissal of Melanie Hampton. Melanie Hampton had worked for the company for just over two years as an account manager, a senior position within the company. Melanie has posted a comment of a sexual nature relating to an actor who is considerably younger than her on a social media site. The post has been seen by other members of staff and reported to the HR department. A disciplinary hearing was held and Melanie was dismissed.

Turn over

File Note (Re: Donald Monk)**To:** Trainee Lawyer**Client:** Donald Monk**Date:** [Today's Date]**File Ref:** DM/HU/73/13**From:** Helen Ulyatt

I have had a meeting with Donald Monk concerning his termination of employment.

Donald Monk is 42 years old and had been employed for four years as a Logistics Co-ordinator at the Ledman & Davis warehouse in Kempston. The warehouse facilities are used by a number of businesses from which goods arrive, are stored and then despatched. Donald's role was exclusively for Connors General Stores, which has a number of shops throughout England.

At the beginning of the year Donald was put on notice by Ledman & Davis that Connors General Stores would not be renewing their contract as they had arranged for their goods to be stored at their purpose-built warehouse in Bedford. Donald assumed that he would be re-allocated to another business customer at the end of the contract. The contract with Ledman & Davis came to an end on 31 March 2013.

On 1 April Donald turned up at the Ledman & Davis warehouse to be told by his supervisor that he was no longer employed by Ledman & Davis but by Connors General Stores and that he should go to their warehouse in Bedford. Confused, Donald attended the warehouse in Bedford to be told that he was definitely not employed by Connors General Stores and he should discuss the matter further with Ledman & Davis.

Both Ledman & Davis and Connors General Stores refused to discuss the matter further insisting that the other is the employer of Donald Monk. At the time Donald Monk's employment ended he was being paid £34,000 net per annum and had a final salary pension. He was entitled to four weeks' notice which he never received.

Helen Ulyatt

DOCUMENT 5

Note from Sabrina Kingsly to Alain Pierre of Happy Ever After Caba

[Date]

Dear Alain

After I told you I was pregnant, I thought you would be a little more understanding than you are currently being. I find the difficulties you are putting in my way, to attend my appointments, particularly upsetting.

I cannot talk to you at work so I thought the only way I could communicate with you is by writing to you. I want this sorted out Alain otherwise I will take the matter further. I know you and Danny don't get on but he is my partner in the show and he is the father of my baby. Don't take out on me the problems you are having with him!

I hope we can sort this out, I really do. Can we have a meeting to discuss this further?

Regards

Sabrina

End of Case Study Materials

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