



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 19 – PRACTICE OF EMPLOYMENT LAW*

Time allowed: 3 hours plus 15 minutes reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials 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 paper or in your answer booklet during this time if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Employment Law 2012-2013, 22nd Edition, Richard Kidner, Oxford University Press 2012.**
- 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 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

Question 1

Reference: Question relates to **Documents 1 and 2** of the case materials.

- (a) Explain what issues you need to cover when drafting the Response in respect of the claim for unfair dismissal and age discrimination. You should ignore any Health and Safety issues.

(8 marks)

- (b) We have indicated that we will be looking to recover costs should we successfully defend the claim.

Explain the rules relating to the provision of costs in employment cases and indicate whether we are likely to be successful in the current situation.

(6 marks)

- (c) Jamie McLeod is anxious that a similar situation will not arise in the future and requires advice on how he can establish a compulsory retirement age for his drivers.

Advise him on what basis this can be achieved.

(6 marks)

(Total: 20 marks)

Question 2

Reference: Question relates to **Document 3** of the case study materials.

- (a) Open and Ready Publishing Ltd do not have a social media policy in respect of their staff.

Draft a simple policy which will regulate access to and use of social media sites.

(11 marks)

- (b) Upon your advice the employer's HR department seeks to avoid the claims for unfair dismissal by using Compromise Agreements. Negotiations continue as to the basis of the Agreement.

Explain the basis in law of such negotiations in subsequent tribunal proceedings if agreement cannot be reached.

(5 marks)

- (c) Unfortunately, both of the former employees decide not to continue with the negotiations and the matter proceeds to the Employment Tribunal.

Explain which elements of their respective cases you consider significant.

(9 marks)

- (d) Melanie Hampton has a restrictive covenant in her contract of employment which prevents her from working for a competitor.

Explain the effect, on the assumption that the restrictive covenant is valid, of any decision the Employment Tribunal would have in respect of the enforceability of the covenant.

(5 marks)

(Total: 30 marks)

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Question 3

Reference: Question relates to **Document 4** of the case study materials.

- (a) Advise Donald Monk as to which business will be the Respondent in any claim he will make, explaining what will need to be taken into consideration in reaching a decision.

(11 marks)

- (b) A Claim is made and a Response is received. The Employment Tribunal considers that a Case Management Discussion is required.

Explain to Donald Monk why such a discussion is required and what matters will be considered.

(6 marks)

- (c) Draft a Schedule of Loss to be submitted to the Employment Tribunal. In drafting the Schedule it should be noted that Donald Monk was out of work for only three weeks and he would have been entitled to a bonus had he still been employed by Ledman & Davis of £500 net. His current employment pays a higher salary but does not provide a final salary pension. You calculate his loss of pension up to the Tribunal hearing as being £720.

(10 marks)

(Total: 27 marks)

Question 4

Reference: Question relates to **Document 5** of the case study materials.

- (a) Explain what protection Sabrina has in respect of her appointments.

(5 marks)

- (b) Having had a meeting with Alain, Sabrina continued to attend her antenatal appointments and subsequently went on maternity leave. While on maternity leave she received a letter from Alain explaining to her that she has been selected for redundancy.

Advise Sabrina about her rights in this situation.

(5 marks)

- (c) Sabrina subsequently proceeds with a Claim against Alain Pierre. The Employment Judge decides that a Deposit Order is required.

Explain on what basis such an Order can be made and why such an Order would be made in this case.

(6 marks)

- (d) Sabrina is unsuccessful in her claim and you decide to take the matter further as fresh evidence has become available.

Explain on what basis this new evidence can be used to challenge the decision of the Employment Tribunal.

(7 marks)

(Total: 23 marks)

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