

## CASE STUDY MATERIALS

January 2014

Level 6

THE PRACTICE OF EMPLOYMENT LAW

Subject Code L6-19



CHARTERED INSTITUTE  
OF LEGAL EXECUTIVES

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## 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 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 are a trainee lawyer in the firm of Kempstons, The Manor House, Bedford MK42 7AB. You are in the Employment Law team and your supervising partner is Alice Mountbatten. Your local Employment Tribunal is situated in Bedford.

You arrive at work on Monday morning and receive a call from Alice. She informs you that she is ill and asks that you cover her appointments. She has also asked that you check her post and progress any matters that require attention.

She briefly mentions the following matters:

1. The Oluf Pork Pie Limited file (file ref: AM/OPPL/2389). Kempstons act for Oluf Pork Pie Limited, a new client of the firm. Brian Cotter is the Managing Director of Oluf Pork Pie Limited and has two queries on employment law. He called last week for an update and I told him that I will revert to him this week. More details of this case can be obtained from the copy Attendance Note (**Document 1**) and the email from Brian Cotter (**Document 2**) attached with these Case Study Materials.
2. The Danielle Hoberge file (file ref: AM/DH/7086). Kempstons act for Danielle Hoberge, who works at Secret Gardens Centre in Kempston. She recently found out that she is pregnant and is concerned about her employment law rights. Further details of this case can be obtained from the copy memorandum attached with these Case Study Materials (**Document 3**).
3. The Edward Kettering file (file ref: AM/EK/3928). Kempstons act for Edward Kettering, who also works at Secret Gardens Centre in Kempston. Edward is 64 years old and was told to retire in three months. He is unhappy about this and wants advice. I am planning to meet him next week. More details of this case can be found from the copy letter from the client attached with these Case Study Materials (**Document 4**).
4. The Felicity Ling file (file ref: AM/FL/2415) Felicity Ling is an employee at Head Master, a local hairdressing salon in Kempston. Felicity was dismissed from work last week. She is unhappy with the dismissal. Further details of this case can be found from the copy Attendance Note (**Document 5**) and letter of dismissal (**Document 6**) attached with these Case Study Materials.

**DOCUMENT 1** Attendance Note recording interview with Brian Cotter of Oluf Pork Pie Limited

**DOCUMENT 2** Email from Brian Cotter of Oluf Pork Pie Limited to Alice Mountbatten

**DOCUMENT 3** Memorandum on the Danielle Hoberge file

**DOCUMENT 4** Letter from Edward Kettering to Alice Mountbatten

**DOCUMENT 5** Attendance Note recording interview with Felicity Ling

**DOCUMENT 6** Letter of dismissal regarding Felicity Ling

ATTENDANCE NOTE

Client: Brian Cotter Managing Director of Oluf Pork Pie Limited

Fee earner: Alice Mountbatten

File reference: AM/OPPL/2389

Date: January 2014

Time: 45 minutes

Alice Mountbatten attending Brian Cotter, Managing Director of Oluf Pork Pie Limited. Oluf Pork Pie Limited is a new client and the usual conflict checks have been carried out. His details are as follows:

Name: Brian Matthew Cotter

Date of birth: 12/10/1966

Address: Oluf Pork Pie Limited, 27 Arlene Road, Kempston, Bedford, MK21 7YT

Telephone number: 01234 663201

Email address: [B.M.Cotter@opp.co.uk](mailto:B.M.Cotter@opp.co.uk)

Brian was approached by one of his employees, Reenu Pavlak, two days ago. Reenu has worked at the company for five years and is a hardworking, honest and reliable employee. Reenu wanted to speak to Brian in confidence about her line manager, Tim Geere. Reenu is Tim's Personal Assistant and Tim is the Regional Manager at Oluf Pork Pie Limited. Tim has worked there for eight years. Reenu has been working late for the past two weeks, since Christmas is a particularly busy time for the company. One evening, Reenu was filing some paperwork when a piece of paper with Tim's handwriting fell from one of the files onto the floor. Reenu saw that it was a pork pie recipe and it appeared that Tim had written 'OPP Recipe' on the sheet. Reenu is concerned about this incident since she knows that the recipe of the company's pork pie is a trade secret and closely guarded by the Oluf family. Only the founders of the company, Peter and Yvonne Oluf, and their son, Hans Oluf, have access to the secret recipe. Over the next few days, Reenu noticed that someone called Ronald Willows met with Tim several times in the office before they left together.

Last week, when Ronald Willows left the office with Tim, Tim said to Reenu: 'I am sure that you will join us in our new business adventure shortly'. Reenu did not reply to Tim's statement. She has subsequently heard a rumour at the local pub that Ronald and Tim have formed a new pork pie company in Kempston and have taken out a lease. She strongly suspects that Tim has given the secret recipe to Ronald.

Reenu is worried and does not want to be seen as a 'snitch' or a troublemaker. She enjoys working with Tim but is concerned about his behaviour. Brian assured Reenu that Tim's matter will be investigated. Brian has heard of whistleblowing policies but is sure that the company does not have one. He is keen to protect Reenu since she is a valued employee.

**Turn over**

## CASE STUDY MATERIALS

Brian said that Tim handed in his notice today. I replied that I will need to see a copy of Tim's employment contract before I can give detailed advice. Brian will email me the employment contract as soon as possible. He is worried about the fact that Tim potentially has a copy of the secret recipe and that Tim is working for a rival business.

DOCUMENT 2

EMAIL

**From:** Cotter, Brian  
**Sent:** 11 January 2014 15:09  
**To:** Mountbatten, Alice  
**Subject:** Employment Issues at Oluf Pork Pie Limited

Dear Alice

Thanks for your time yesterday. It was good to talk to you. I have read Tim's employment contract and found these three clauses which I think are relevant:

'6.1 The Employee must not at any time during his employment (except so far as is necessary and proper in the course of his employment) or at any time after his employment has terminated disclose to any person any information as to the practice business dealings or affairs of the Employer or any of the Employer's customers or clients or as to any other matters which may come to his knowledge by reason of his employment.

6.2 The Employee must not for a period of six months from the termination of the Appointment directly or indirectly engage or be concerned in the business of food manufacturing within a radius of two miles from the Company's head office.

6.3 While employed by this Company and for six months after the termination of the employment, the Employee shall not seek to:

- (a) Canvass or solicit business, orders or custom for any products or services provided by this business from any customer, supplier or sponsor.
- (b) Solicit or entice away any member of the Company's staff or freelances.'

I have also checked that we do not have anything with regard to whistleblowing in the employees' contracts or handbook. Is this something I should have for the company? We have a health and safety policy in the handbook.

Regards

Brian

**Turn over**

MEMORANDUM

To: Trainee Lawyer

From: Alice Mountbatten

Client: Danielle Hoberge

File reference: AM/DH/7086

Date: January 2014

I attended Danielle Hoberge. Our firm has previously acted for Danielle on a conveyancing matter.

Danielle has worked at Secret Gardens Centre for four years as a Customer Assistant. She enjoys working there as she has an interest in gardening and enjoys meeting customers. Her colleagues are supportive and when she was off work with a viral infection last year her manager, Ken Jones, was supportive and sympathetic. About two months ago, Danielle found out that she is pregnant. She asked Ken for time off in order to attend antenatal classes. Ken said that she can attend the classes but this will be unpaid. Danielle is confused because she thought she is entitled to paid leave when attending antenatal classes.

Danielle informed Ken last week that she would like to take 52 weeks maternity leave. Ken is annoyed with the long period of absence and told her that she can only have 26 weeks of maternity leave. He explained that 'everyone has to help out during this tough economic period'. Danielle would like some clarification on antenatal and maternity rights. I read a copy of her employment contract at the meeting and it states that she is entitled to the statutory minimum for antenatal and maternity rights. I told Danielle that I will double-check the statutory details and send her a letter within five working days. Can you familiarise yourself with this file please.

The Rose  
10 Rose  
Kempston  
Bedford  
MK14 3IB

Mrs Alice Mountbatten  
Kempstons  
The Manor House  
Bedford  
MK42 7AB

January 2014

Dear Alice

Employment Law Advice

It's been a while since you gave me some advice on redundancy pay when I worked for Rolew Limited back in 2002. I am grateful for your advice and would like some help with another employment matter.

After I was made redundant by Rolew Limited, I was happy to find a new job as a lorry driver at Secret Gardens Centre on Orchard Road, Kempston. I enjoy working there. When I first started working at Secret Gardens Centre, I had a family to provide for, so I put my heart and soul into the new job. I have worked there for 10 years now and, to my immense shock, I was called into a meeting with Ken Jones, my manager at Secret Gardens Centre, three days ago. Ken told me that I am now 64 years old and am 'getting on a bit for the job'. He said that he has noticed I am getting slower with carrying and loading heavy items such as fertilisers, garden tools and big plants. He also said that my parking is less accurate these days and claimed that I scratched the paint off the rear bumper of the company lorry. He knows that I am entitled to 3 months notice so he said that I will have to go in 3 months time and make way for a younger lorry driver.

I told Ken that I am still fit and healthy and have a clean driving licence. I admit that I am finding lifting and loading heavy items difficult after my hip replacement last year. I suffer from back pain as well and have done so for many years. I do not make a fuss about it though. I disagree with Ken's argument that my parking is less accurate these days. The rear bumper was slightly scratched as I was trying to avoid a fox when parking the lorry late one evening. All in all, I am upset and angry with what Ken has done to me. I have served the garden centre for 10 years and the feedback has been very good. I love my job and would really like to stay on for a few more years. I would be grateful for your advice. If you wish to meet, I am available most days before 2 pm as I work the afternoon shift.

Thank you.

Yours sincerely

*Edward Kettering*

Edward Kettering



ATTENDANCE NOTE

Client: Felicity Ling

Fee earner: Alice Mountbatten

File reference: AM/FL/2415

Date: 13 January 2014

Time: 35 minutes

Felicity Ling is a new client of our firm. I obtained the proof of identify documentation and carried out the usual conflict checks. There are no problems. Her details are as follows:

Full name: Felicity Kar Ling

Date of birth: 21/05/1989

Address: 55 Longford Drive, Clayton, Bedfordshire, BH19 5WD

Phone number: 07436 998233

Occupation: Hair stylist

Felicity has worked for Head Master, a hairdressing salon at 46 Victoria Street, Kempston, Bedford, MK29 8HF since 1 January 2007. Head Master employs 10 staff in Kempston. Felicity commenced as a trainee and qualified as a hair stylist five years ago. She won 'Young Hairdresser of the Year Award', a regional competition for budding hairdressers, in 2012. She was very pleased with the award and her career was looking bright. She has never received any oral or written warning about her work.

Her personal life, however, is not going well. She started dating a colleague, James Pond, around a year ago. They work at the same hair salon. They have had several arguments and rows while at work. One day, Felicity turned up to work with bruises on her face and left arm. She was reluctant to tell her manager, Zoe Mumford, what happened when she asked about the bruises. Felicity later confided to her close friend and colleague, Anushka Patel, that James beat her following a heated disagreement at home. She added that it is not the first time that James has beaten her up following arguments.

Last month, James and Felicity started arguing at the hair salon about the appropriate hairstyle for a client. This argument escalated when Felicity started shouting in front of colleagues and other clients. She said that she was upset with James and felt humiliated when he questioned her judgement about hairstyles. After all, she has won the 'Young Hairdresser of the Year Award'. She was also tired of the abuse she has suffered from James. In the heat of the moment, she picked up a bottle of hairspray next to her and sprayed it at James. James protected himself with his arms and had minor irritation to his eyes. Zoe, who was standing behind the reception desk, saw everything. She told Felicity that she was dismissed instantly. Felicity tried to explain that James has been abusing her at home and she is fed up of it but Zoe escorted her to the door. Felicity left and had no opportunity to explain her actions.



## CASE STUDY MATERIALS

Felicity is upset as to what has happened. She had no intention of injuring J and the dismissal was certainly a shock to her. She loves her job as a hair stylist and wants to carry on working, albeit at a different salon. She wants my advice on the dismissal. I made a copy of the dismissal letter (shown at **Document 6**) and told her that I will contact her and get back to her as soon as possible.

*Turn over*

LETTER OF DISMISSAL

Head Master Hairdressing Salon

Head Master Hairdressing Salon  
46 Victoria Street  
Kempston  
Bedford, MK29 8HF  
Tel: 01234 550728

24 December 2013

Miss Felicity Ling  
55 Longford Drive  
Clayton  
Bedfordshire  
BH19 5WD

Dear Felicity

It is with regret that I write to formally terminate your employment. We cannot support your employment after the incident at the hair salon last week. You assaulted a colleague who required hospital treatment. The incident also took place in front of colleagues and clients. The incident is unfortunate since your commitment to the company in the early years was appreciated. I know many of our regular customers will miss the contact with you as you built many good relationships with customers over the years. Nevertheless, your behaviour is entirely unreasonable and therefore you are dismissed.

I should inform you that you have the right to appeal against this decision and if you wish to do so I will arrange a meeting to consider the appeal, following which a written decision will be issued to you. You have the right to be accompanied by a trade union representative or colleague. If you wish to exercise your right to appeal please advise me in writing within five working days of this letter.

Yours sincerely

*Zoe Mumford*

Zoe Mumford  
Branch Manager

**End of Case Study Materials**



