

Unit 13



Title:	The Practice of Employment Law
Level:	3
Credit Value:	7

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
1 Understand the practical scope of employment law practice	1.1 Explain different features of employment law practice	1.1 Examples of typical employment law practice: covering advice and /or representation on initially forming an employment relationship, managing the continuance of the relationship, ending the relationship and following its termination; difference between the contentious and non-contentious areas of employment law practice; the potential legal, social and commercial implications of employment law practice
2 Understand the legal implications of recruitment	2.1 Identify potential legal pitfalls in job advertisements, interviews or consequent recruitment process 2.2 Explain the discrimination cause(s) of action which may arise	2.1 Analysis of job advertisements, interviews and recruitment process; identification of common issues and problems; the consequences of incorrect and/or inappropriate information 2.2 In outline only, the protected characteristics under Equality Act 2010. Age (s5), Disability (s15), Gender re-assignment (s7), Marriage and civil partnership (s8), Religion and other belief (s10), Sex (s11), Race (s9), Pregnancy and Maternity (s18), Sexual orientation (s12); core provisions of the Equality Act 2010; an understanding of direct and indirect

	<p>2.3 Explain the remedies available to job applicants following a successful discrimination claim</p> <p>2.4 Describe the legal and practical issues which can arise concerning the provision of, and reliance on, references given by employers</p> <p>2.5 Apply an understanding of the principal legal and practical advice to a given situation</p>	<p>discrimination which may arise in the recruitment and selection process</p> <p>2.3 An outline of the potential remedies available for discriminatory advertisements including the exposure of the publisher of the advertisement</p> <p>2.4 The duty of care arising concerning the provision of references, including a basic awareness of: data protection issues under the Data Protection Act 1998, the duty of care in negligence, contractual duties, potential victimisation discrimination claims concerning the provision of references; case law, e.g. <i>Spring v Guardian Assurance plc (1995)</i></p> <p>2.5 Application to a scenario</p>
<p>3 Understand the essential statutory principles governing the employment contract</p>	<p>3.1 List the elements of the written particulars of employment which must be supplied to employees within two months of starting employment</p> <p>3.2 Identify other main statutory requirements which regulate the content of contractual terms</p> <p>3.3 Describe the remedies available in the employment tribunal to the employee where the employer fails to comply with</p>	<p>3.1 The contents of sections 1-7 ERA 1996</p> <p>3.2 An outline of the following: Working Time Regulations 1998: 48 hour working week, opt outs, minimum paid holiday entitlement; National Minimum Wage Act 1998: current adult rate only; s86 ERA 1996: minimum notice period; Welfare Reform & Benefits Act 1999: minimum pension provision</p> <p>3.3 s11 ERA 1996 and the right to apply to an employment tribunal where the statement not supplied, including the remedies of a</p>

	<p>the legislative requirements</p> <p>3.4 Apply an understanding of the essential statutory principles to a given situation</p>	<p>declaration and 2-4 weeks pay</p> <p>3.4 Application to a scenario; identifying statements which do not comply with the written particulars; poorly drafted terms</p>
<p>4 Understand additional desirable contractual terms and policies which further define the employment relationship</p>	<p>4.1 Explain standard additional employment terms which may also be incorporated into the contract of employment</p> <p>4.2 Describe the role of policies and procedures within an employer organisation</p> <p>4.3 Explain the reasons for key policies and procedures</p> <p>4.4 Apply an understanding of core desirable contractual terms and policies to a given situation</p>	<p>4.1 Provisions over and above matters governed by the written particulars including: probationary period clauses, gross misconduct clauses and the power to dismiss summarily, payments in lieu of notice, garden leave, restrictive covenants, protection of confidential information; their rationale: either they are implied to protect employees or are expressly included as they are desirable from an employer's perspective</p> <p>4.2 The importance of preventing claims arising by the adoption, implementation and review of a comprehensive up to date company handbook</p> <p>4.3 Core policies: Discipline, Dismissal and Grievance; Internet and communications use; Equal opportunities; Whistle blowing; Health and Safety; Flexible working; outlining their typical provisions</p> <p>4.4 Application to a scenario; analysing poorly drafted terms; drafting of simple terms for inclusion in a contract</p>
<p>5 Understand the right to request flexible working, maternity and paternity leave and pay and other family friendly policies</p>	<p>5.1 Explain the right to time off for ante natal care and when ordinary and additional maternity leave and pay will be granted</p> <p>5.2 Explain entitlement to paternity and adoption leave and pay</p>	<p>5.1 and 5.2 Basic maternity, paternity and adoption leave and pay rights; understand the role of a policy governing such matters based on a working knowledge of: ante natal care provisions and remedies; compulsory, ordinary and additional maternity leave: Maternity and</p>

	<p>5.3 Explain the right to request flexible working for carers of adults and children</p> <p>5.4 Explain the right to unpaid parental leave and time off for dependants</p> <p>5.5 Identify when an employee may claim pregnancy or maternity discrimination</p> <p>5.6 Apply an understanding of these rights and entitlements to a given situation</p>	<p>Paternity Leave (Amendment) Regulations 2002, Employment Act 2002 and Part VIII ERA 1996 as amended; Maternity and Paternity Pay Social Security Contributions and Benefits Act 1992 as amended</p> <p>5.3 Right to request flexible working under the Employment Act 2002 and Work & Families Act 2006, including an awareness of the qualifying criteria, the permitted grounds of refusal and remedies</p> <p>5.4 The right to unpaid parental leave, the amount of leave and the remedies under the following for parental leave: Employment Rights Act 1996, Employment Relations Act 1999, Employment Act 2002, Maternity and Parental Leave etc Regulations 1999; time off for dependants: Employment Rights Act 1996, Employment Relations Act 1999</p> <p>5.5 Equality Act 2010, protected characteristic of pregnant woman and one who is on maternity leave or about to take maternity leave. s18 Equality Act 2010</p> <p>5.6 Application to a given scenario</p>
6 Understand how to manage redundancy situations	<p>6.1 Describe the three main circumstances in which a genuine redundancy can arise</p> <p>6.2 Explain the main elements of a fair redundancy procedure</p>	<p>6.1 Definitions in section 139 ERA 1996.</p> <p>6.2 The necessary stages in a planned redundancy including, identification of the pool, seeking volunteers, application of objective criteria for selection, individual and collective consultation,</p>

	<p>6.3 Identify the likely remedies available following a poorly handled redundancy</p> <p>6.4 Apply an understanding of redundancy procedure to a given situation</p>	<p>right to appeal etc (including the provisions of s188 and s193 of Trade Union and Labour Relations (Consolidation) Act 1992 'TULCRA')</p> <p>6.3 The remedies available to an employee who has been unfairly selected for redundancy; the calculation of a statutory redundancy payment and an awareness of the further compensation available</p> <p>6.4 Application to a scenario: simple calculation of a statutory redundancy payment</p>
7 Understand how to manage dismissals	<p>7.1 Identify the eligibility criteria to pursue a claim of unfair dismissal</p> <p>7.2 Identify the six potentially fair reasons to dismiss</p> <p>7.3 Explain the procedure which must be followed prior to a dismissal, including fairness in all the circumstances, the band of reasonable responses and the role of fair procedure</p> <p>7.4 Identify the remedies available to an</p>	<p>7.1.An outline of: preliminary qualifying requirements (including constructive dismissal) eg, <i>Western Excavating v Sharpe (1978)</i></p> <p>7.2 Explain the six potentially fair reasons under s.98 ERA 1996 (capability; conduct; redundancy; retirement statutory illegality; some other substantial reason); recognition and application of automatically unfair reasons for dismissal</p> <p>7.3 Building upon 6.1 & 6.2 above, an understanding of the Employment Act 2008 in respect of the ACAS Code of Practice on Disciplinary and Grievance Procedures; an understanding of the ACAS Code of Practice, fair procedure including the procedural fairness for a conduct dismissal, eg, <i>BHS v Burchell (1978)</i> and the band of reasonable responses of the employer derived from, eg, <i>HSBC Bank v Madden (2001)</i></p> <p>7.4 The function of the Employment Tribunal;</p>

	<p>employee when the employer implements an unfair dismissal</p> <p>7.5 Apply an understanding of the management of dismissals to a given situation</p>	<p>compensation (consideration to include calculation of basic award and advice on compensatory elements including the potential increase or decrease to the awards for failure to follow the ACAS Code of Practice by either claimant or respondent and the role of mitigation); awareness of further remedies of reinstatement and reengagement</p> <p>7.5 Application to a scenario; simple compensation calculations</p>
<p>8 Understand how to submit a simple claim in an employment tribunal</p>	<p>8.1 Identify the formal elements of an ET1 or ET3 form</p> <p>8.2 Describe the main time limits for lodging claims in the tribunal and the rules governing extensions of those time limits</p> <p>8.3 List the processes and orders available in the tribunal and their appropriate use</p> <p>8.4 Apply an understanding of the employment tribunal procedures to a given situation</p>	<p>8.1 Understanding of the purpose of the form; completion of the form based on an unfair dismissal scenario</p> <p>8.2 The time limits for unfair dismissal and a selection of other claims including claims for statutory redundancy payments; a working knowledge of the circumstances in which time may be extended including the fixed three month extension and the extensions available under the not reasonably practicable and just and equitable tests</p> <p>8.3 The key stages of a tribunal claim including some core aspects of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 as amended for example concerning witness orders and requests for documents</p> <p>8.4 Application to a scenario; completing an ET1 or ET3 form</p>

Additional information about the unit	
Unit aim(s)	The learner will understand key concepts, terms and processes in the practice of Employment Law
Unit expiry date	31 March 2015
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 45 First Line Employment Legal Advice and Unit 46 Employment Legal Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Courses of study leading towards the achievement of the unit may offer the learner the opportunity to satisfy requirements across a number of Level 3 Key Skill areas; most specifically, Communication, Improving own learning and performance, Problem solving and Working with others
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	ILEX (Institute of Legal Executives)
Availability for use	Only available to owning awarding body
Availability for delivery	1 September 2011

This specification is for 2012 examinations