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Activity 1.1 | 1.2 | 1.3

The purpose employment law is for employees and employers. It's guiding principles, which can be divided into two groups: the substantive issues of employment law –and those concerning the procedural issues

The substantive issues focus on that all employers should treat employees ethically and respectful way. Their principles are fairness, reasonableness, equal treatment, and harmonization.

The procedural issues focus on the guide where employees have managed and employment policies and procedures put into practice. Their principles are:
Natural justice, Consultation, Consent, Freedom

The role of employment law is set in various ways. These include:
Primary legislation – also known as statute – is published in Acts of Parliament. These set out the key principles of law. Important acts relating to employment law include:

- Equality Act 2010
- Employment Act 2002
- Trade Union Act 2016.

Common law – also known as case law – It's from judges' decisions, not being created by Parliament. A precedent set by a court can be either 'binding'

Most secondary legislation takes the form of statutory instruments or regulations. These are issued by government ministers using powers delegated to them under the Acts of Parliament and they take the form of sets of regulations and orders. These typically contain a lot more detailed legislation than their 'Parent Acts'. The settlement agreements are used to deal with workplace problems.
The Equality Act 2010 contains a number of key concepts, including:
Protected characteristics are mainly for the protection of people. It simply covers the following

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation.

Associative discrimination is discrimination against a person when they have an association with someone with a particular protected characteristic.
Perceptive discrimination is discrimination against a person because the discriminator thinks the person has different perceptive
Direct discrimination is when you're treated differently for certain reasons.

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Indirect discrimination occurs when the practice or rule which is common for everybody to follow, but it has a worse effect on some people rather than other.
Positive action is the Act in which employers are able to remove barriers that might prevent certain people being employed by or their organization.

To make a claim to an Employment Tribunal, a claimant must submit form ET1 detailing the specifics of his or her claim. The form must also include the claimant's Early Conciliation number to indicate that he or she has engaged with the Early Conciliation process.
The main jurisdictions are:

- Unfair dismissal
- Redundancy payment
- Deductions from wages
- Racial discrimination
- Sex discrimination
- Disability discrimination
- Equal pay
- Breach of contract.

The claimant does not need to specify the jurisdiction under which they are making a claim because this will be determined by the Employment Tribunal office.
For example, if the claimant has been dismissed, the claim form must reach the Employment Tribunal within three months of dismissal. If the claimant is alleging that sex discrimination has occurred, the form must reach the Employment Tribunal within three months of the alleged act of discrimination. In certain circumstances, claimants have six months to submit their claim. These include:
Unfair dismissal for unofficial industrial action
Redundancy payment
Equal pay.

The preliminary hearing is held before the main tribunal hearing. This is by an Employment Tribunal judge sitting alone with no other panel members.

A preliminary hearing is held when the issue that needs to be determined before a full hearing can go ahead.
The tribunal hearing is when the case is heard by an Employment Tribunal panel (although judges can sit alone in unfair dismissal cases). The panel comprises:

- An employment tribunal judge
- Two lay members.
- The day of the hearing

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Activity 2.1 | 2.2

An offer letter is a formal document that the employer wishes to offer. Once accepted by the candidate, both parties are legally bound by it.

Offer letters may be the conditional or unconditional type of offer.

A conditional offer includes that the candidate must meet satisfactory references and/or academic qualifications. An unconditional offer makes no such stipulations.

If an offer is conditional, and the individual fails to meet the standards, the offer becomes void.

If an applicant accepts an unconditional offer but subsequently changes their mind, an organization can demand the individual works for the notice period contained in the contract.

There is no statutory requirement to include details of any probationary period in a contract of employment.
The law requires that employees are provided with a Written Statement of Initial Employment Particulars within two months of joining an organization (Employment Rights Act, 1996).

The employees are provided with a Written Statement and what must be included in the Written Statement are set out below:

- The name of the employer and the employee
- The date employment began
- The date when the employee's continuous service began
- Job title
- The scale or rate of remuneration paid
- The intervals at which the remuneration will be paid, Holidays and holiday pay
- Rules on incapacity for work eg. sick pay
- Terms & conditions relating to pensions and pension schemes
- Notice period

If the role is not a permanent position, expected contract length

- Place of work
- Any collective agreements
- The disciplinary rules
- Any disciplinary decision
- Redress of any grievance
- Additional particulars are required to work outside the United Kingdom for more than one month.

Written Statement is not the same thing as a contract (Daniels, 2016), not least because it is permissible to have an orally-agreed contract.

However, there are two issues:

- An employer may wish to add further elements as into a contract beyond by the Written Statement
- Standalone Written Statement

Employment terms Can be agreed in writing or agreed orally. There are two types of terms:

- Express terms
- Implied terms.

Implied terms can develop from areas such as case law rulings, Government legislation, collective trade union agreements, and custom and practice. The duty of mutual trust and confidence is a key implied term. Where an employer breaches the duty, an employee could resign and claim constructive dismissal. In a contract of employment, organisations commonly incorporate the following express terms.

- Probationary periods
- Mobility rules (should the organisation require the employee to relocate)
- Flexibility on duties required by the role
- Protecting confidential information during and after the employment relationship
- Intellectual property ownership
- Rules on working for competitors, poaching staff, etc. (known as restrictive covenants).

Organisational literature and line managers will often refer to their ‘employees’. Employees benefit from protections under law that other categories of staff do not.

If an individual is not an employee, his or her employment status could fall into one of two other categories:

- Worker
- Self-employed (an independent contractor hired under a contract for services).
- Legislation that applies to employees, but not workers and the self-employed include:
- Right to claim unfair dismissal
- Right to receive statutory redundancy pay.

However, some areas of employment law apply to employees and workers equally. These include:

- Legislation on discrimination, as brought together in the Equality Act 2010
- Working Time Regulations 1998
- National Minimum Wage Regulations 1998.

Employment Tribunals in determining employment status is the mutual obligations test. An obligation the employer owes the employee and, in turn, how much of an obligation the employee owes the employer.

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Activity 3.1 | 3.2 | 3.3

Methods of varying the contract of employment is transfer of employee. Other than transfer ,below are the factors:
Using a contractual right can explained in two ways:

- There is a clear and unambiguous clause permitting the change in question
- The existing clause is broad enough to give the employer the ability to make the changes.

- By agreement: For an offer, acceptance, consideration and an intention to create a legally binding agreement.
- By implication: Agreement can be implied if the employee continues to work without protesting after a change to the contract that has been imposed by the employer.
- Unilateral (imposed) variation will be imposed on the employee. This could be a change to their duties or a requirement to adapt to new technology.
- Dismissal and re-engagement:If the employer uses this approach, the contracts should be terminated by serving proper notice according to the terms of the contract. At the same time, the employer should offer re-employment on the revised terms.
-

The Other considerations to bear in mind are:

- Working time ,Discrimination ,Avoiding unfair dismissal claims , Constructive dismissal, Consultation, Overcoming objections.
- Redundancy is one of the five potentially fair reasons for dismissal. It is important to note that if a person is to be dismissed because of redundancy, the circumstances surrounding the dismissal must fit into the statutory definition of redundancy as specified by the law.
- Some examples are :
- The whole business closes down
- Part of the business closes or a multi site company decides to trade in other areas
- The employer no longer needs to employ people for work of a particular kind

The purpose of collective consultation, therefore, is to consider the points made by the employee representatives and consider if redundancies can be reduced or avoided. The information that must be given in writing by the employer at the start of the consultation.

- The reason for the proposed redundancies
- The number and description (i.e. the types of jobs involved) of the employees who it proposes to make redundant
- The total number of employees at the establishment who are to be affected
- The proposed method of selection
- The procedure to be followed in dealing with the redundancies

The method of calculating the redundancy payment, if it differs from the statutory payment.In addition, the Agency Workers Regulations 2010 added the following three points which must be included in the information that is given:

- The number of agency workers working under the supervision and direction of the employer
- Which parts of the organisation the agency workers are engaged in
- The type of work which the agency workers do.

The identification of the pool for selection involves the employer affected by the redundancy situation. Employers must act from genuine motives. The following factors may be relevant:

- Whether other groups of employees are doing similar work to the group from which selections have been made
- Whether employees' jobs are interchangeable
- Whether an employee's inclusion in the unit is consistent with his or her previous position
- Whether the selection unit was agreed with the union.

Business transfers and the law tends to be on changing contracts and redundancy situations. For example, focusing on getting the process correct, and in the right order, will stand you in good stead.

As well as defining business transfers, we will explore who transfers and the process of consultation. Then we will look at objections to a transfer and protection against contract change/dismissal.

When a business is transferred from one employer to another or where there is a change of service provider, TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) will provide this protection

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Activity 4.1 | 2.2 | 3.3

The major statutory rights that workers have in the area of working time, including annual leave, rest periods, the working week and night work.
Following are the purposes of the Working Time Regulations:

- Any period during which a worker is receiving relevant training
- Working lunches
- Time spent travelling as part of work
- Time spent working abroad
- Homework
- Annual leave.
- Employees are entitled to be paid the equivalent of one week's pay for each week of leave.
- Employers may choose to:
- Shut down for a certain period –
- Nominate particular dates as days of closure
- Determine the maximum amounts of leave that can be taken on any one occasion
- Determine the number of workers who can be off at any one time.
- Workers who are taken ill either just before or during a prearranged holiday would take sick leave

A break of at least 20 minutes, spent away from the workstation, if the working day is longer than six hours Workers can work more than 48 hours in any given week as long as they work less than 48 hours in another week and no more than 48 hours a week on average over any 17-week period.

The reference period can be extended to 52 weeks with the agreement of the workforce.
Night work is defined as a period that is not less than seven hours in length and includes the normal hours of 12am (midnight) to 5am. Where an employer has no agreement of what constitutes 'night work' in its organisation, it is taken to mean the period between 11pm and 6am.

Equal Pay Act, which required employers to 'give equal treatment as regards terms and conditions of employment to men and to women', was introduced in 1970. This legislation is now part of the Equality Act 2010.The focus is only on pay, it does actually address all terms and conditions of employment, including benefits, working hours, training and development and career progression.

Material reasons that have been presented to Employment Tribunals in the past, with mixed success, include:

- The employees were members of different negotiating groups
- The terms and conditions of all employees were collectively bargained
- The employees had different levels of experience
- One employee's pay had been 'red-circled' (i.e. maintained at a higher level after moving to a lower grade job)
- The employees worked in different locations.
- The Legislation will explore three others:
- Unlawful deductions from wages
- National Minimum Wage

- Itemised pay statements.
-

If an employer loses an equal pay claim, the Employment Tribunal can order it to carry out an equal pay audit of the entire organisation. The tribunal will set the time frame for this and can also order the organisation to publish and retain the results on its website for up to three years.

Maternity leave is divided into two separate periods:

- Ordinary maternity leave (OML): All women must take at least two weeks' leave (four weeks for factory or workshop workers) immediately following the date of childbirth
- Additional maternity leave (AML): It can run for a maximum of 26 weeks from the end of OML, giving the mother a maximum of 12 months' maternity leave.
- To qualify for paternity leave, the employee must:
- Have worked for the same employer for at least 26 continuous weeks at the 15th week before the EWC
- Be the father of the child or the mother's husband or partner
- Expect to have some responsibility for the upbringing of the child.
- Adoption Rights: An employee taking adoption leave is entitled to statutory adoption pay (SAP), which is exactly the same as SMP, and his or her rights under the contract of employment continue.

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Activity 5.1 | 5.2 | 5.3

Discrimination's two forms of in unreasonable workplace behaviour – bullying and harassment. For Example, teasing a male employee about his baldness would not constitute discrimination in the same way as teasing an individual about his or her race or religion, for instance.

Interpretation of some of the characteristics, such as belief, and disability, has developed through case law.
The law protects individuals with Disability, Age, Marital Status, Race ,Gender , Religion, Sex, Sexual Orientation of the nine protected characteristics from harassment. Pregnancy and maternity are not covered by the law's provisions on harassment. Harassment is unlawful under the Equality Act. If an individual feels that an actions related to protected characteristics has created an 'offensive environment', they can make a harassment claim. Bullying is not, in and of itself, unlawful. However, it cannot be ignored by employers as it harms productivity and could lead to a breach of implied mutual trust and confidence, leaving employers open to constructive dismissal claims.

In cases of both harassment and bullying, an employer is responsible for actions carried out by its workers. This employer does not have to have assisted with, supported or condoned the actions taken by its employees to be vicariously liable.
Health and Safety at Work Act (1974) requires that employers ensure, as far as is 'reasonably practicable', the health, safety and welfare at work of all employees. The employer's duties encompass the following aspects:

- Safe and adequate plant and equipment
- Safe premises and/or place of work
- Competent and safe fellow employees
- A safe system of work.
- The employer's duties encompass the following aspects:
- Take reasonable care for the health and safety of themselves and others who may be adversely affected by their acts or omissions at work
- Co-operate with their employer as is necessary to enable health and safety requirements to be met.

The wellbeing initiatives that employers may choose to implement. Here are the few in list:

- Employee health checks
- Private medical insurance
- Employee Assistance Programme
- Gym membership
- Mindfulness and meditation training
- Mental health awareness programmes
- Stress management initiatives
- Resilience training
- Employee recognition schemes

The right to freedom of association law also gives employees rights to associate with others, including the right to join together with other workers as part of a trade union to protect their interests. Three of the main areas over which these rules apply concern:

- Trade union recognition
- Disclosure of information
- Industrial conflict.

When a trade union has been officially granted recognition, the employer is required to negotiate with the trade union on issues covered by collective bargaining, such as pay and redundancy terms (ACAS, 2016).

There are four routes to recognition:

- Voluntary – when the agreement is made voluntarily between employer and trade union
- Semi-voluntary – when the trade union makes a formal approach to the employer, which is agreed to by the employer
- Automatic recognition
- Recognition by ballot.

The Disclosure of information act makes provision for information to be disclosed which:

- It would be good industrial relations practice to divulge
- Without which the trade union would be impeded in its efforts to conduct collective bargaining with the employer.
- The Industrial conflict law allows workers to go on strike or take other action – such as refusing to carry out overtime work – known as ‘action short of a strike’.
- For instance, a ballot to gauge support of industrial action must be held, with the employer given written notice (at least seven days before the ballot is due to take place) of:
- The ballot itself
- The date of the proposed ballot
- All those employees to be balloted, including the names, numbers, employee categories and workplaces of those concerned.

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Activity 6.1 | 6.2

The phrase ‘bringing the company into disrepute’ refers to a situation where an employee’s conduct, behaviour or activities outside of the workplace becomes known and, due to their employment in a particular role, the conduct, behaviour or activity becomes associated with that employer. It is a very difficult area and careful consideration is needed for each case. Employers often include specific clauses in the contract of employment for all employees to enable the company to terminate employment should their conduct outside work fall into this category.

Conduct and behaviour which might be included here are sexual conduct, activities for organisations which are against the values of the organisation for which the person works, misuse of social media, including detrimental comments about the organisation, or expressions of opinion which could be linked to the organisation.

One of the most frequent activities an HR practitioner gets involved with is disciplinary, grievance and dismissal procedures. It is a key expectation of employers that a practitioner can advise on the processes and procedures which must be adopted to ensure fairness, reasonableness and lawfulness.
Dismissal of an employee occurs when:

- The employer terminates the contract, either with or without giving notice
- A fixed-term contract ends and is not renewed
- The employee leaves, with or without giving notice, in circumstances in which they are entitled to do so because of the employer’s conduct. This is called constructive dismissal.
- Unfair dismissal: The basis of unfair dismissal law is that employees have the right to be treated fairly. The main example introduces a concept of 'fairness' into most dismissals.
- Wrongful dismissal: It occurs when the employer terminates the contract of employment and, in doing so, breaches the contract. The most common example is terminating a contract without giving the contractual notice period.
- Fair dismissal: To be potentially ‘fair’, a dismissal must be for one of these reasons:
- Capability or qualifications
- Conduct
- Illegality or contravention of a statutory duty
- Some other substantial reason
- Redundancy.
- The Processes to avoid unfair dismissal discussed with Notification, Hearing, Appeal.

An investigating officer is often appointed, although this is not legally required. The investigating officer should be someone not involved in the case who is unbiased. To ensure a thorough investigation, the Investigating Officer must identify:

- Relevant policy and procedure
- Precise issue(s) to be investigated
- How investigation will be conducted
- All documentation relevant
- Appropriate witnesses.

- Automatically unfair dismissal: This occurs where an employer has given a specific reason for the dismissal which has been defined by law as unfair. Automatically unfair reasons for dismissal can be grouped into examples which require a period of continuity of employment to bring a claim and those which do not require a period of continuity of employment to bring a claim.
- Constructive dismissal: Constructive dismissal happens when an employee resigns as a result of the actions of the employer. The most common breach is that of the implied term of 'mutual trust and confidence' between the employer and employee.

The adequate warning of a disciplinary hearing and their right to be accompanied by an appropriate person of their choosing also discussing the right of appeal after a hearing. Employers should specify how long formal disciplinary warnings should stay on an individual's record.

- First written warning – 6 months
- Final written warning – 1 year.
- An appeal may be raised by employees for a number of reasons, such as new evidence, inconsistency of the penalty in other cases or the severity of the penalty. The appeal may take the form of a re-hearing or a review of the disciplinary sanction given – it will depend on the grounds of the appeal.

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