

MODULE HANDBOOK

Advanced Application of Employment Law

BMHR7019

LEVEL 7

INSTITUTE OF MANAGEMENT AND HEALTH

Semester 1 and 2
2022-2023

BMHR7019 - Advanced Application of Employment Law PG Dip/MA in Strategic People Management – Level 7

Lecturer: Capital Law
E-mail: R.Thomas@CapitalLaw.co.uk

Module Code	BMHR7019
Title	Advanced Application of Employment Law
Date	09.12.2022
Level	7
Credits	15
Pre-Requisites	None

AIMS

- The purpose of this module is to provide learners with the knowledge, understanding and skills required to brief organisations on the consequences of current and future developments in employment law, and to give up-to-date, timely and accurate advice concerning the practical application of legal principles at work in different jurisdictions. The module will provide learners with the key principles that underpin UK and EU employment law, their purpose, the major defences that employers are able to deploy when defending cases, and the potential organisational costs and reputational risks associated with losing them.
- Employment law continues to expand both in terms of volume and complexity and the amount of regulation covering the employment relationship and the workplace has grown substantially in recent years, including additional duties placed on public bodies to actively promote equality. While organisations can source specialist advice on more complex and unprecedented issues from legal advisers, people professionals need to be sufficiently aware of major, current and coming developments in the regulatory environment to ensure organisations are fully prepared and also able to anticipate legal problems associated with proposed decisions or plans before they are implemented. In the context of increasing numbers of claims to employment tribunals, they take a leading role in handling issues and disputes at work and in leading an organisation's response when a formal legal claim is contemplated or pursued, including preparing and presenting responses to employment tribunal claims and they need to fulfil each of these requirements to a professional standard. The module promotes critical reflection on theory and practice from an ethical and professional standpoint, and provides opportunities for applied learning and continuous professional development.
- This module will equip you with the knowledge required to operate at CIPD Chartered Member level, by exploring topics covered in the core knowledge area of People Practice, specialist area of employee relations and the core behaviours of professional courage and influence and situational decision-making.
- The assessment of this unit will include providing advice based on scenarios and designing a leaflet for managers.

LEARNING OUTCOMES

- Explain the core principles that underpin employment law as it applies in the UK including common law, their purpose, origin and practical implications.
- Advise colleagues about significant legal implications of decisions, plans or proposals in the employment field.
- Advise about the appropriate action that should be taken in workplace scenarios where employment regulation applies.
- Play a leading role in determining the appropriate organisational response when legal action on the part of a worker or employee is anticipated, threatened or taken.
- Participate in the preparation, presentation and settling of employment tribunal cases.

- Know how to keep their knowledge of developments in employment law up to date and advice about the impact of these developments on employment policy and practice in their organisations.

INDICATIVE CONTENT

By the end of the module you will be able to:

1. Explain the core principles that underpin employment law as it applies in the UK including common law, their purpose, origin and practical implications.

The following comprises a list of the areas of employment law that form the scope of the module:

- accessing employment rights: employment status, worker status, continuity of employment, immigration regulations
- contracts of employment: establishing and changing contracts, express and implied terms, written statements of major terms and conditions
- discrimination law: the law as it relates to discrimination on grounds of sex or marital status, race, ethnicity or national origin, religion or belief, sexual orientation, disability, age, part-time and fixed-term work and the employment of ex-offenders
- dismissal law: unfair dismissal, constructive dismissal, wrongful dismissal, redundancy payments
- health and safety: criminal sanctions and their enforcement, personal injury law as it relates to the workplace, Working Time Regulations
- wages and salaries: unlawful deductions, the National Minimum Wage regulations, equal pay law, the payment of Statutory Sick Pay (SSP)
- transfer of undertakings law: rights relating to dismissal, terms and conditions of employment, consultation and continuity of employment in transfer situations
- family-friendly employment law: rights for primary carers; maternity, shared parental, paternity and adoptive pay and leave entitlements; the law relating to ante-natal care; the health and safety of pregnant workers; parental leave; time off for family emergencies; the right to request flexible working
- confidentiality issues: data protection law, interception of communications, the protection of trade secrets, the law on 'whistle-blowing'
- collective employment law: freedom of association, rights of trade union officials, industrial action, collective bargaining, right to be accompanied by a trade union representative, consultation rights

2. Advise colleagues about significant legal implications of decisions, plans or proposals in the employment field.

The practical impact of the above body of law on day-to-day management activities and decision-making in organisations; the level and nature of risk associated with acting unlawfully, particularly where significant change is contemplated or planned.

3. Advise about the appropriate action that should be taken in workplace scenarios where employment regulation applies.

Approaches to recommend that are both lawful and effective in fields such as recruitment and selection, establishing terms and conditions, maintaining the working environment, managing performance, communication and involvement, discipline, pay and reward, training and development, allocating work and managing retirement.

4. Play a leading role in determining the appropriate organisational response when legal action on the part of a worker or employee is anticipated, threatened or taken.

Managing disciplinary and grievance procedures, undertaking disciplinary investigations, taking witness statements; sources of information on the expectations of the law, employer defences and on case law precedents.

5. Participate in the preparation, presentation and settling of employment tribunal cases.

Employment tribunals and other courts with jurisdiction to hear employment-related matters, tribunal procedures, rules of evidence, remedies; assessing the risks and potential costs associated with defending or settling claims in practice; alternative means of resolving disputes through mediation and arbitration.

6. Know how to keep their knowledge of developments in employment law up to date and advice about the impact of these developments on employment policy and practice in their organisations.

Sources of information about employment law and its evolution, including ACAS and the CIPD; key current and anticipated future developments and their practical significance for organisations.

Study Time Allocation

The study time for the module is divided as follows:

Activity type	Hours	Percentage
Scheduled learning	30	20
Independent learning	120	80
Placement learning		
TOTAL	150	100%

ASSESSMENT

Assessment Component 1

(Tick one)

☐ Written exam ☒ Coursework ☐ Practical

Mode of assessment	Volume	Weighting
Case Study - answers to scenarios and leaflet for school staff.	Response to CEO/MD containing advice on specific scenarios (3000 words). Leaflet for school staff on essential employment legislation relating to Equality (1500 words), aimed at mitigating risk to the organisation.	100%

Assessment Summary

Activity type	Percentage
Written exam	
Coursework	100
Practical	
TOTAL	100%

This course is accredited by the CIPD and is mapped to the core knowledge and core behaviours of the CIPD Profession Map. Completion of the qualification leads to Level 7 Associate status with the CIPD.

INDICATIVE READING LIST

Module Code	BMHR7019	
Module Title	Advanced Application of Employment Law	
Classification	Reading List entry	Electronic*
Essential	Lewis, D. and Sargeant, M. (2020) <i>Employment law: the essentials</i> . 15th edn. London. CIPD Kogan Page.	☐
Further	Kidner, R. (2019) <i>Blackstone's Statutes on Employment law</i> . Oxford: Oxford University Press Daniels, K. (2019) <i>Introduction to employment law: fundamentals for HR and business students</i> . 5th edn. London: Kogan Page	

Please refer to the current Moodle page for further reading.

LEVEL 7 ASSESSMENT SPECIFICATION

Student name:		Student ID number:	
Programme:	PGDip/MA in Strategic People Management		
Module:	Advanced Application of Employment Law		
Module code:	BMHR7019	Contribution to Overall Module Assessment (%):	100
Lecturer:	Capital Law	Internal Verifier:	Julie Thomas
Assignment Title:	Providing appropriate advice to two UK based organisations.	Word count (or equivalent):	Written Response 3000 words Leaflet 1500 words
Submission deadline:	15 th May 2023	Return date of provisional marks & written feedback:	13 th June 2023
Submission method:	All written assessments, where practical and possible, must be submitted via Turnitin unless otherwise instructed by the Lecturer. (Please DO NOT put this assessment specification into Turnitin or it will match many similarities with other students' submissions.) Alternative submission method (if applicable): Late submission of the assessment will result in a late penalty mark. Penalties for late submission: Up to one week late, maximum mark of 50%. Over one week late, 0%. Only the Extenuating Circumstances Panel may approve a change to submission dates.		
Academic honesty / referencing:	Academic honesty is required. In the main body of your submission you must give credit to authors on whose research and ideas your work is based. Append to your submission a reference list that indicates the books, articles, etc. that you have used, cited or quoted in order to complete this assessment.		

Module Learning Outcomes (from module syllabus)

- Explain the core principles that underpin employment law as it applies in the UK including common law, their purpose, origin and practical implications.
- Advise colleagues about significant legal implications of decisions, plans or proposals in the employment field.
- Advise about the appropriate action that should be taken in workplace scenarios where employment regulation applies.
- Play a leading role in determining the appropriate organisational response when legal action on the part of a worker or employee is anticipated, threatened or taken.
- Participate in the preparation, presentation and settling of employment tribunal cases.
- Know how to keep their knowledge of developments in employment law up to date and advice about the impact of these developments on employment policy and practice in their organisations.

TASK DESCRIPTION

Task 1 has 2 sections: A and B.

Section A is worth 50 marks and Section B is worth 10 marks.

The maximum mark obtainable for a question or part of a question is shown below the question.

Task 2 is worth 40 marks in total.

TASK 1 - LIST OF DOCUMENTS for Section A

1. An extract from the ET1 completed by Alison Ambrosia dated 16 March 2023 (Box 8.2 of the ET1 form only is included – please accept that the form was correctly completed)
2. A statement from Steve Smith dated 27 March 2023
3. A report of investigation carried out by Derek Duggan dated 22 March 2023

DOCUMENT 1 - SECTION A

Insert for Box 8.2 of Alison Ambrosia's Employment Tribunal Claim form - ET1

1. I am 33 years old and joined Scrumpy Cider Limited as a sales representative on 1 July 2020 on a salary of £30,000 per annum. The company has its head office in Taunton and smaller offices in Exeter and Newport. At first I was based in the Exeter office and reported to Alex Thomas who was in charge of that office. My job was to visit pubs and restaurants in the Southwest region to inform buyers about my company's products and to try and persuade them to order our new ranges. I got on really well and exceeded all of my sales targets.

2. As a result of my success in the Southwest, I was asked to take on a sales position that covered Wales. I was delighted with the promotion and had a pay rise to £34,000 per annum. The promotion meant that I had to move house, as I would now be working out of the Newport office.

3. I started work at the Newport office on 1 December 2022. My new line manager was Steve Smith, area sales manager for Wales. I spent the first two weeks of the new job with Steve, first being introduced to the head office procedures and then visiting clients with him. When we were on the road, we travelled together in his car. I left my car at the office in Newport.

4. At first, I thought Steve was just being friendly but his attention began to make me feel uncomfortable. He told me he was pleased to have a new woman on his team because he thought it was what the company needed to perk up its sales. He said that I had a great figure and suggested that if I wore short skirts the team would definitely be on for a bonus.

5. The last day that we were together on the road (as part of my induction period) was 19 December 2022. At Steve's suggestion, we stopped for a drink. After one drink, I said I wanted to go home. Steve insisted on buying another one. I was dependent on him for a lift back to my car in Newport so had no choice. Steve kept telling me we were going to be a great team and patting my leg. I tried to move away but he kept moving to follow me. I asked him not to touch me because it was making me feel uncomfortable.

6. One of my clients was a Mr Richard Rees, landlord of a pub in Newport. I first visited him on 17 December 2022. He made me feel very uncomfortable. He commented on my legs and said that he thought he could be persuaded to order more from the company, but he might need a little personal attention. I have never had any problem in the past dealing with unwanted attention from clients I had visited, so hoped I would be able to cope better on a second visit.

7. I visited Mr Rees again in January. Mr Rees had changed the appointment time and I found we were the only people in the pub. His behaviour scared me. He sat between the door and me. He then commented on what a pity it was that I was wearing trousers and a loose jacket and that I should show off my figure more. He started to massage my shoulders and told me a close relationship would be good for business and he could put more orders my way if I was nice to him.

8. My visits to Mr Rees had really shaken me and I did not want to go back to see him. I told Steve Smith what had happened in our weekly meeting on 8 January. Instead of being supportive and suggesting how I should deal with the situation, Steve told me not to over react. He said that Mr Rees obviously liked me and I could use this to boost our sales. He said, "Well you can't afford to lose any sales in that area, I suggest you just smile, flash your legs and make the best of it".

9. I was very upset by this and still did not know how to deal with Mr Rees. I tried to avoid visiting him by dealing with him on the telephone. Steve called me in to his office to say Mr Rees had complained that I had not arranged a visit to discuss his complaint about an error relating to his last order. Steve said if I did not visit him, he would make it a disciplinary matter.

10. I had no choice but to arrange a further meeting with Mr Rees on 1 February to follow up on his complaint. I was concerned that we might lose his business. At the meeting, he once again made a number of suggestive remarks, which I found offensive. I was conscious of the fact that I might get into trouble if I lost his custom and I therefore decided to pretend that I had a migraine and left early. I was supposed to meet Mr Rees again at the end of February, but I phoned in sick on the day of the meeting.

11. Steve and I were to give a joint presentation at a convention in London on Saturday 3 March as part of the launch of our new product range. We stayed overnight at the hotel on 2 March since the presentation was at 9 a.m. on Saturday. Steve suggested we go to his room after dinner on the Friday to discuss the presentation. I agreed to this, as the public areas of the hotel were overcrowded.

12. When we got to his room, Steve wanted to have a drink and a chat before getting down to work. I said I wanted to get the work done. After about an hour, I went to the bathroom. When I came back into the room, I saw Steve lying on the bed. He gestured for me to join him on the bed. I tried to leave but found the door was locked. I had been last in but had not locked the door. I managed to undo it and ran back to my room.

13. I was very upset and had an asthma attack for the first time in several years. Steve knocked on my door a bit later but I would not open it. He said he was sorry and asked me to forget about it. He said he was leaving my handbag and jacket by the door. I had left them in his room.

14. I went to the presentation but did not speak to Steve except for the purposes of the presentation. I left immediately it was over and came home. I went to the doctor on the Monday and was signed off work for a week with stress. I could not face the thought of going back to work and seeing Steve Smith again. I therefore sent my letter of resignation to the company. In my letter of resignation, I explained what had happened at the London convention. I also explained the problems I had been having with Richard Rees. I have not received a response to my letter.

15. I have been forced out of my job because of all that has happened to me since moving to the Newport office. I cannot face the prospect of returning to the company and I wish to claim compensation for the discrimination I suffered and for losing my job. I now face a very uncertain future and I am not sure when I will be well enough to work again. Given the economic situation, I do not know how long it will take me to find another job.

Alison Ambrosia

Statement of Steve Smith

I, Steve Smith, will say as follows:

1. I am 47 and I have worked for Scrumpy Cider Limited for about 8 years. I have been Area Sales Manager with responsibility for Wales for the last 5 years. During that time, I have had a number of female sales representatives working for me. I am aware of the company's equal opportunities policy and I have never had a problem with working alongside women. I have always tried to treat the men and women working for me in the same way.
2. Alison Ambrosia relocated to the Newport office on 1 December 2022. As her manager, I had to introduce her to her new sales region. We spent a couple of days in the office going over various matters then we went on the road together.
3. We spent quite a lot of time in the car together, travelling between appointments. Inevitably, we chatted socially as well as about work. Alison told me quite a lot about herself. She told me she had married someone she had been at college with. I got the impression from what she said that she was not very happy in her marriage as her husband had recently been made redundant and was finding it difficult to find a new job. From what she told me, they did not have very much in common.
4. Alison is a very attractive woman. Sometimes she seemed to fish for compliments so I tried to go along with this. We had developed quite a lively banter by this time. I did tell her she had a great figure and said that if she wore short skirts the team would probably get a bonus, but this was said as a joke. She had just complained to me that she was getting fat and had difficulty getting into her dress.
5. I think it is important to develop a good relationship with my staff since we are quite a small team. When we had finished business for the day, I sometimes suggested that we go for a drink. Alison never had any hesitation about this. I did not get the impression that she was desperate to get home. Usually, we just had one drink and then I took her back to Newport where she had left her car.
6. On the last day before she was to go out on her own, I did suggest that we have a second drink to celebrate the end of her induction period. She initially said "no" in a rather half-hearted manner but it did not take much persuasion. I did pat her leg in a friendly fashion but I did not mean anything by it. I am quite a tactile person. She did ask me to stop but did so in a way that made me feel it had not bothered her particularly. I got the impression that she was flirting with me a bit, but I did not touch her again.
7. I do recall Alison mentioning Richard Rees to me at a meeting. I cannot recall exactly when this was. I did not get the impression that it was a big problem. I think she said something in passing about having had some hassle from him. I think I said something like, "I am sure you can cope with it". I did not think any more about it until I had a call from Richard Rees complaining that Alison had not arranged a meeting to discuss an outstanding complaint. It is very important that our sales representatives visit our clients regularly if relationships are to be maintained. Since this was the first time I had received a complaint about Alison, I did not take disciplinary proceedings, but I did warn her that I would do so unless she did visit him. I have given warnings to male sales representatives in the past when they have been shirking on their visits.
8. Alison and I did go to London to give a presentation on 3 March and stayed overnight at the hotel the night before. Apart from this, Alison's account of what happened is inaccurate.
9. The presentation was straightforward and we did not need to go over this. We had dinner together then I said I was going to watch TV in my room and I would see Alison in the morning. She said she had a few things she wanted to talk about before the next day and we agreed that it might be better to go to one of our rooms to talk about the presentation. When we got to my room, she asked me a couple of questions about the presentation. I got the impression that they had been an excuse to join me, as she did not want to be on her own. She started talking about her husband and how pleased she was to be away. She told me he had become boring and never wanted to do anything or go anywhere. She said that his idea of a good time was watching TV all day with an occasional break to play on his PS3.
10. I offered her a drink from the mini bar as I thought it would help her to relax. However, she then seemed to get cold feet about coming to my room and started talking about work and the need to get on with preparing for the presentation. I genuinely thought she was flirting with me. I had drunk quite a lot that evening and had the idea that maybe if I surprised her, she would go along with things. She went off to the bathroom and while she was there, I got on the bed with a bottle of wine and two glasses. When Alison came out of the bathroom, I gestured for her to join me. She ran out of the room. She seemed to have some difficulty opening the door, but I had not locked it.

11. I felt very foolish and ashamed. I have never done anything like that before and had kept my business and social lives separate. After a while, I went to Alison's room to apologise. I took her jacket and handbag, which she had left behind. I do not remember exactly what I said. Alison did not open the door.

12. Alison did the presentation with me on Saturday. She did not mention anything about the night before which I was relieved about. I did not think it could have bothered her too much since she was there to do the presentation with me. I had the impression from our conversations that she was not someone who was easily shocked.

13. I expected to see Alison in the office the following week but she did not come in. Her husband rang reception and left a message to say she was ill and would be sending a doctor's certificate. Later the following week, I had a call to say that Alison had sent in a resignation letter. I was horrified when I heard the claims that she was making against me. I did not do anything that was not initiated by her. I can only think that she is making up these allegations to explain her resignation to her husband.

14. I am now facing a disciplinary meeting and the company has said that they are considering demotion and dismissal as possible outcomes. I now wish Alison Ambrosia had never come to work with me.

15. This statement is true to the best of my knowledge and belief.

Steve Smith

DOCUMENT 3 - SECTION A

Report of Investigation into Allegations against Steve Smith

Reasons for Investigation

Alison Ambrosia resigned from Scrumpy Cider Limited on 9 March 2023. In her letter of resignation, she said she did not feel she could continue to work with her manager, Steve Smith, after what had taken place when staying overnight at a hotel on 2 March 2023 before a trade convention which was to take place the following day. She also said she could no longer face visiting one of our clients, Richard Rees, who had been troubling her.

Investigations carried out

I interviewed Steve Smith putting to him points from Alison Ambrosia's letter and the application to the employment tribunal. I also spoke to Peter Purves now in the Midlands region, who had previously had responsibility for Alison Ambrosia's area. In addition, I contacted Sophie Williams who had previously worked for Steve Smith but left the company after a short period.

Conversation with Steve Smith

Steve accepted that he had made remarks attributed to him when he and Alison were on the road together as part of the induction period. However, he said this was light-hearted banter, participated in by her. He admitted touching her leg but said this was just a friendly pat and he stopped doing this when she asked him to.

Steve said he thought Alison mentioned something to him about Richard Rees but this was just a remark in passing and he did not think there was a serious problem. He said he did not recall making any remarks about flashing her legs. Steve admits he did not contact anyone else who had previously dealt with Richard Rees or seek guidance from anyone else in the company. He admits that he threatened Alison with disciplinary proceedings if she did not visit Richard Rees after Mr Rees had complained, but he said he would have done this with anyone who was not keeping in contact with clients.

Steve admits that he and Alison were together in his hotel room and that he lay on the bed. However, he claims that she led him on and then got cold feet and ran out. He says that they both agreed to go somewhere more private to talk, as the rest of the hotel was very busy. He admits that he might have misconstrued Alison's intentions and thought that she was interested in spending time alone with him.

Conversation with Peter Purves

I asked Peter Purves what he knew about Richard Rees. He said Mr Rees was a rather odd character, but he did not have any problems with him. However, Peter had taken about 6 weeks off work at one stage when he broke his leg and a female colleague had covered for him. She had visited Richard Rees once in this period and had reported to Peter that Richard Rees was "a real creep" and kept staring at her and making

excuses to brush against her. This employee has since left the company and I have not been able to trace her.

Peter did not know whether she had reported her problems to Steve Smith, however, Peter said he had mentioned it to Steve Smith when they were discussing the changeover. Peter said he had told Steve he would need to keep an eye on Richard Rees. Peter also told me that Steve had sometimes changed the sales representative dealing with a particular client when they had not hit it off.

Conversation with Sophie Williams

On checking the personnel records, I discovered that Steve Smith had previously had two female sales representatives working for him. Each of these had left within a fairly short period. There was no note on file as to why they had left. I was unable to trace one of them, but I did have a brief conversation with Sophie Williams. She said that she had not enjoyed working with Steve Smith as he thought he was "God's gift to women". She said that she felt under pressure to work long hours and he expected her to stay behind for a drink or go to the pub to discuss business. She said that she wanted a better work/life balance and so decided to move on.

Conclusion

Steve Smith admits making remarks at various points in December 2022. He says that this was just lighthearted banter and if anything Alison was flirting with him. It is not clear that Alison told him the remarks were offensive. He says that he is a tactile person and may have touched her arm or patted her leg, but he maintains that there were no sexual overtones to his actions. It appears that he did stop touching her when she asked him to do so.

He maintains that Alison did not make the nature of her problems with Mr Rees sufficiently clear and so he did not think he needed to interfere.

He also says that what happened in the hotel room is a private matter between him and Alison and has nothing to do with the job. He maintains that on that weekend he did form the impression that she was genuinely interested in him and he thought there was the possibility that they might form a relationship.

Derek Duggan - Investigating Officer for Scrumpy Cider Limited

Questions – Task 1 A and B

TASK 1 - SECTION A (answer both questions in section A)

Question 1:

You are a HR consultant who has been asked to provide advice to Scrumpy Cider Ltd.

Scrumpy Cider Limited ("Scrumpy Cider") produces and markets cider made from apples grown in Somerset. The company employs 100 staff and has its head office in Taunton. The owner and Managing Director, Mr Bob Braeburn, recently received a letter from the Employment Tribunal dated 15 March 2023 with a claim form (ET1) enclosed.

(Note - Prior to making the claim, the claimant completed an early conciliation form and sent it to ACAS. The early conciliation process did not resolve the matter and the claimant was issued with an early conciliation certificate.)

Several documents, including an extract from the ET1, are provided for you to read. Once you have read and considered the documents, please answer the following questions:

1. Advise in a memo to Bob Braeburn (Owner & MD) how and when the company should respond to the claim by Alison Ambrosia. Include in your memo an explanation of the claim(s) that Miss Ambrosia might have against both Scrumpy Cider and Steve Smith. Your memo should include:

- (i) How and when to respond to the ET1

- (ii) Details of the grounds of any claim(s)
- (iii) Defences to the claim(s)
- (iv) An analysis of the facts of the case, the relevant legal principles and relevant case law in support of your advice.

25 marks

Question 2

List and explain the possible remedies that could ensue if this matter went to a final Employment Tribunal hearing in which Miss Ambrosia was successful with her claims. You should include in this answer:

- (i) advice about the factors that a tribunal will look at when considering the amount of the award and the likely amount of any award;
- (ii) any factors that might reduce or increase the level of any award made by the tribunal; and
- (iii) whether you would recommend settling the case rather than proceeding to a tribunal and, if so, your reasons for this.

25 marks

TASK 1 - SECTION B

You receive an e mail from Bob Braeburn...

For the last few years Scrumpy Cider has outsourced its IT and payroll function to a company called Payment Providers. Payment Providers provide these services to a wide range of clients in England and Wales. We would like to dispense with Payment Providers services, as we have enough of our own staff in house who can deal with such matters.

Are there any legal issues that I need to be aware of?

I look forward to receiving your response in time for the next Management Board meeting.

Thanks,

Bob Braeburn

Prepare a briefing note setting out the advice that you would give to the Management Board on the issues raised in the email.

10 marks

Question- Task 2

Sapphire Davies recently started a new job as an English Teacher at Tyndall High School. She was hired by Fraser Brown, the headteacher.

Sapphire is transgender. She began her transition 4 months ago and has not had any surgery to reaffirm her gender. Accordingly, when applying for the role, she used her new pronouns (she/her) and the preposition 'Miss.' Mr Brown was not aware that Sapphire was transgender throughout the application process and only

realised when he saw her come in to the school over the summer to set up her classroom. It is now Sapphire's first week at school.

Mr Brown is concerned about how some of his other employees have reacted to Sapphire. On Sapphire's first day, Mr Brown and Mr Plum (a Maths Teacher at Tyndall High) were chatting in the hall when they saw Sapphire go into the women's toilets. Mr Plum remarked that 'his kind shouldn't be going in there.'

Sapphire has been eating school dinners for her lunch every day this week, the Dinner Lady, Lisa, has asked her various questions about her transition. Lisa has also been posting her opinions about gender on her Instagram account 'Lisa_Thinks.' Her most recent post was a quote stating, "God chooses your gender, not you."

Mr Brown is eager to ensure that his staff and the school itself treat Sapphire appropriately and in accordance with the relevant laws. He has asked you to do some research and prepare a leaflet for school staff which provides practical, step-by-step guidance on:

- The legal protections in place for transgender individuals and others that don't identify with binary genders;
- What risks/potential claims the school could face if it falls foul of the law; and
- What the school could do, on a practical level, to support anyone going through a transition/anyone that has already transitioned.

The leaflet needs to be easy to read and provide clear, concise guidance for the staff at Tyndall High. It's important that, whilst the legal framework is explained, the leaflet also provides helpful, practical suggested solutions for promoting an inclusive work force and mitigating legal risk.

40 marks

Please note the following when completing your assignment:

1. Writing: Written in English in an appropriate business/academic style
2. Focus: Focus only on the tasks set in the assignment.
3. Length: 3000 words for task 1 and 1500 words for task 2
4. Formatting: Task 1 - Typed on A4 paper in Times New Roman or Arial font 12 with at least 2.5 centimetre space at each edge. Task 2 – students' choice.
5. Document format: Task 1 - Provide written responses to the CEO (memo, briefing note), include name or ID number on a cover sheet. Task 2 – students' choice. Both should include a bibliography using Harvard referencing throughout.
6. Research: Research should use reliable and relevant sources of information e.g. case authority, legislation and academic books. The research should be extensive.
7. Marks are to be distributed as detailed above and will take into consideration the five generic assessment criteria, with equal weighting.

GUIDANCE FOR STUDENTS IN THE COMPLETION OF TASKS

NOTE: The guidance offered below is linked to the five generic assessment criteria overleaf.

1. Engagement with Literature Skills

Your work must be informed and supported by scholarly material that is *relevant* to and *focused* on the task(s) set; you should make use of scholarly reviews and primary sources, as appropriate (for example, refereed research articles and/or original materials appropriate to the discipline). You should provide evidence that you have accessed a wide *range* of sources, which may be academic, governmental and industrial; these sources may include academic journal articles, textbooks, current news articles, organisational documents, and websites. You should consider the *credibility* of your sources; academic journals are normally highly credible sources while websites require careful consideration/selection and should be used sparingly. Any sources you use should be current and up-to-date, mostly published within the last five years or so, though seminal/important works in the field may be older. You must provide *evidence* of your research/own reading throughout your work, using correctly a suitable referencing system, including in-text citations in the main body of your work and a reference list at the end of your work.

Guidance specific to this assessment: *Your work should be appropriately underpinned with case law and other sources such as ACAS documents and statutes.*

2. Knowledge and Understanding Skills

At level 7, you should be able to demonstrate a systematic understanding of knowledge, and a critical awareness of current problems and/or new insights, much of which is at, or informed by, the forefront of your academic discipline, field of study or area of professional practice, with a comprehensive understanding of techniques applicable to your own research or advanced scholarship. Your work must demonstrate your growing mastery of these concepts, principles, current challenges, innovation and insights associated with the subject area. *Knowledge* relates to the facts, information and skills you have acquired through your learning. You demonstrate your *understanding* by interpreting the meaning of the facts and information (knowledge). This means that you need to select and include in your work the contemporary concepts, techniques, models, theories, etc. appropriate to the task(s) set. You should be able to explain the theories, concepts, etc. meaningfully to show your understanding. Your mark/grade will also depend upon the *extent* to which you demonstrate your knowledge and understanding; ideally each should be complete and detailed, with comprehensive coverage.

Guidance specific to this assessment: *You should demonstrate the most up to date employment law knowledge associated with each scenario.*

3. Cognitive and Intellectual Skills

You should be able to: evaluate critically current research and advanced scholarship in the discipline; evaluate methodologies and develop critiques of them and, where appropriate, to propose new hypotheses; deal with complex issues both systematically and creatively to make sound judgements in the absence of complete data. Your work must contain evidence of logical, analytical thinking, evaluation and synthesis. For example, to examine and break information down into parts, make inferences, compile, compare and contrast information. This means not just describing what! But also justifying: Why? How? When? Who? Where? At what cost? At all times, you must provide justification for your arguments and judgements. Evidence that you have reflected upon the ideas of experts within the subject area is crucial to you providing a reasoned and informed debate within your work. Your choice of methodologies to gather data and information must be rigorously defended. Furthermore, you should provide evidence that you are able to make sound judgements and convincing arguments using data and concepts. Sound, valid, persuasive conclusions are necessary and must be derived from the content of your work. Where relevant, alternative solutions and recommendations may be proposed.

Guidance specific to this assessment: *Risks and benefits of the advice given should be explored and the most appropriate course of action determined based on evidence.*

4. Practical Skills

At level 7, you should be able to demonstrate originality in the application of knowledge, together with a practical understanding of how established techniques of research and enquiry are used to create and interpret knowledge in the discipline. This includes acting autonomously in planning and implementing tasks at a professional or equivalent level, originality in tackling and solving problems, and decision-making in complex and unpredictable contexts or situations.

You should be able to demonstrate mastery of the leading edge subject-related concepts and ideas as they relate to real world situations and/or particular contexts. How do they work in practice? You will deploy models, methods, techniques, and/or theories, in those contexts or circumstances, to assess current situations, perhaps to formulate plans or plausible, justifiable recommendations to solve problems, or to propose new models, or to create artefacts, which may be innovative and creative, thereby demonstrating your understanding of how the boundaries of knowledge are advanced through research and/or application. This is likely to involve, for instance, the use of real world artefacts, examples and cases, the application of a model within an organisation and/or benchmarking one theory or organisation against others.

Guidance specific to this assessment: *Your advice should be practical and appropriate for each business.*

5. Transferable Skills for Life and Professional Practice

Your work must provide evidence of the qualities and transferable skills necessary for postgraduate-level employment in circumstances requiring sound judgement, personal responsibility and initiative in complex and unpredictable professional environments. This includes demonstrating: the independent learning ability for continuing professional development to advance existing skills and acquire new competences of a professional nature that will enable you to assume significant responsibility within organisations; that you can initiate and complete tasks, projects and procedures, whether individually and/or collaboratively, to a professional level; that you can use appropriate media to effectively communicate information, arguments and analysis in a variety of forms for a variety of audiences; fluency of expression; clarity and effectiveness in presentation and organisation. Work should be coherent and well-structured in presentation and organisation.

Guidance specific to this assessment: *Your work should be written in a way that is appropriate for the audience in terms of language used, style and content. There should be no spelling or grammar errors. Your work should be professionally presented and written in a sophisticated yet accessible manner.*

GENERIC ASSESSMENT CRITERIA

Level 7

In accordance with the Framework for Higher Education Qualifications, at the end of Level 7 students should be able to demonstrate: a systematic understanding of knowledge, and a critical awareness of current problems and/or new insights, much of which is at, or informed by, the forefront of their academic discipline or area of professional practice; a comprehensive understanding of techniques applicable to their own research or advanced scholarship; originality in the application of knowledge, together with a practical understanding of how established techniques of research and enquiry are used to create and interpret knowledge in the discipline; conceptual understanding that enables the student to evaluate critically current research and advanced scholarship in the discipline to evaluate methodologies and develop critiques of them and, where appropriate, to propose new hypotheses. They will be able to deal with complex issues both systematically and creatively, make sound judgements in the absence of complete data, and communicate their conclusions clearly to specialist and non-specialist audiences. They will demonstrate self-direction and originality in tackling and solving problems, and act autonomously in planning and implementing tasks at a professional or equivalent level to continue to advance their knowledge and understanding, and to develop new skills to a high level. They the qualities and transferable skills necessary for employment requiring the exercise of initiative and personal responsibility; decision-making in complex and unpredictable situations/professional environments; and the independent learning ability required for continuing professional development.

Level 7	FAIL	FAIL	MARGINAL FAIL	SATISFACTORY (Pass)	GOOD to VERY GOOD (Merit)	EXCELLENT (Distinction)	EXCEPTIONAL (Distinction)
Category	0-29%	30-44%	45-49%	50-59%	60-69%	70-84%	85-100%
Engagement with literature (including current research, referencing, academic conventions and academic honesty)	Little or no evidence of reading and/or reliance on inappropriate sources. Views and findings mostly unsupported and non-authoritative. Referencing conventions used incoherently or largely absent.	Poor engagement with essential reading. No evidence of wider reading. Reliance on inappropriate sources, and/or indiscriminate use of sources. Heavily reliant on information gained through class contact. Inconsistent and weak use of referencing.	Engagement with a very limited range of relevant and credible sources. Some omissions and minor errors. Referencing conventions evident though not always applied accurately or consistently.	Engagement with an appropriate range of research-informed literature, including sources retrieved independently. Some over-reliance on texts. Referencing may show minor inaccuracies or inconsistencies.	Engagement with a wide range of research-informed literature, including sources retrieved independently. Selection of relevant and credible sources. Very good use of referencing, with no/very few inaccuracies or inconsistencies.	Engagement with an extensive range of relevant and credible literature, informed by the latest research. Consistently accurate application of referencing.	Exceptional engagement with an extensive range of relevant and credible literature, informed by the latest research. High-level referencing skills consistently and professionally applied.
Knowledge and	Major gaps in knowledge and	Gaps in knowledge, with	Limited knowledge and	Knowledge is accurate and	Knowledge has a well-defined	Excellent mastery of a	Exceptional mastery of a

Level 7	FAIL	FAIL	MARGINAL FAIL	SATISFACTORY (Pass)	GOOD to VERY GOOD (Merit)	EXCELLENT (Distinction)	EXCEPTIONAL (Distinction)
Category	0-29%	30-44%	45-49%	50-59%	60-69%	70-84%	85-100%
understanding (A systematic, conceptual understanding of knowledge, and a critical awareness of current problems and/or new insights, much of which is at, or informed by, the forefront of the discipline; a comprehensive understanding of techniques applicable to their own research)	understanding of the subject matter is not systematic. Substantial inaccuracies. No awareness of current problems, insights or the latest research and/or advanced scholarship within the discipline.	only superficial systematic understanding. Some significant inaccuracies and/or irrelevant material. No critical awareness of current problems, insights, or latest research within the discipline.	systematic understanding of the concepts and principles within the subject area, which to some marginal extent, is informed by current research and scholarship. Some critical awareness of current problems and/or new insights, but often under-developed.	reasonably detailed. A systematic understanding of the field of study informed by, to some extent, current research and scholarship. A critical awareness of current problems and/or new insights though this may be under-developed occasionally.	focus, which is reasonably extensive, coherent and detailed, with a critical awareness of current problems and/or new insights. Exhibits good understanding of the breadth and depth of contemporary and established views, and the work is, at least in part, well-informed by current research and scholarship.	complex and specialised area of knowledge. A systematic, excellent understanding of the concepts of the subject informed by current research and scholarship. Highly critical awareness of current problems and/or new insights. A critical, awareness of how the boundaries of knowledge are advanced through research.	complex and specialised area of knowledge. An exceptionally critical awareness of current problems and/or new insights. An outstanding understanding of the concepts of the subject, well-informed by current research and scholarship. A critical, sophisticated and nuanced awareness of how the boundaries of knowledge are advanced through research.
Cognitive and intellectual skills (Critical evaluation of current research and methodologies and develop critiques of them and, where appropriate, to propose new hypotheses; make sound	Wholly or almost wholly descriptive work. Little or no evaluation or critique or attempt at a systematic approach. Failure to develop arguments, leading to illogical or invalid	Largely descriptive work, with superficial use of critical evaluation of research and methodologies. Absent or weak development of hypotheses and judgements. Information accepted uncritically, uses	Limited attempt at critical evaluation/ critique of current research and methodologies, tending towards description. Limited attempt to propose new hypotheses. Can deal with complex issues	Some critical evaluation/ critique of current research and methodologies, though slightly underdeveloped in places, Proposes adequate but limited new hypotheses, where relevant.	Sound critical evaluation/ critique of current research and methodologies, Proposes new hypotheses, where appropriate. Can deal with complex issues systematically and with some	Excellent critical evaluation/ critique of current research and methodologies, Proposes innovative hypotheses, where appropriate. Can synthesise complex issues systematically	Exceptional critical evaluation/ critique of current research and methodologies, Proposes innovative hypotheses, where appropriate. Exemplary systematic and

Level 7	FAIL	FAIL	MARGINAL FAIL	SATISFACTORY (Pass)	GOOD to VERY GOOD (Merit)	EXCELLENT (Distinction)	EXCEPTIONAL (Distinction)
Category	0-29%	30-44%	45-49%	50-59%	60-69%	70-84%	85-100%
judgements in the absence of complete data.)	judgements. Unsubstantiated generalisations, made without use of credible evidence.	generalised statements made with scant evidence and unsubstantiated opinions. Ideas sometimes illogical and contradictory.	but not systematically or creatively. Some evidence to support emerging judgements but these may be underdeveloped or with a little inconsistency / mis-interpretation. May assert rather than argue a case.	Can deal with complex issues but not fully systematically or creatively. Ability to make judgements based on data (that may be incomplete) but with some tendency to assert/state opinion rather than argue on the basis of reason and evidence.	creativity. Ability to make sound judgements based on data (that may be incomplete)	and creatively. Ability to investigate contradictory or incomplete information and make strong, persuasive, arguments and sophisticated judgements.	creative synthesis of complex issues. Ability to investigate contradictory or incomplete information and make strong, persuasive, arguments and sophisticated, nuanced, judgements. Potential for journal publication or doctoral research.
Practical skills (Originality / creativity in the application of knowledge, tools and techniques and in tackling and solving problems in complex and unpredictable professional situations; practical use of established techniques of research and enquiry to create and interpret knowledge in the discipline.)	Limited or no use of methods, materials, tools and/or techniques. Little or no appreciation of the context of the application. Limited understanding of the application of theory to practice or making appropriate links between the two. Very weak problem-solving skills in complex and	Rudimentary application of methods, materials, tools and/or techniques but without consideration and competence. Flawed appreciation of the context of the application. Weak understanding of the application of theory to practice, with only occasional evidence of	An awareness and mostly appropriate application of well-established methods, materials, tools and/or techniques, with occasional errors. Basic appreciation of the context of the application. Theoretical knowledge and understanding applied in practice, but not always making	An appropriate application of standard methods, materials, tools and/or techniques. Clear appreciation of the context of the application. Mainly consistent, accurate and logical application of theory to practice, making appropriate links between the two.	A very good application of a range of methods, materials, tools and/or techniques. Very good consideration of the context of the application, with perceptive insights. Can identify problems and propose appropriate solutions in complex and unpredictable contexts.	An advanced application of knowledge, methods, materials, tools and/or techniques. The context of the application is well considered, and insightful. Can identify complex problems and propose excellent solutions. An excellent grasp of techniques applicable to own research or	Exceptional application skills in complex, unpredictable, contexts, drawing skilfully on the latest research within the discipline. Can identify complex problems and propose sophisticated, original solutions. An outstanding application of techniques applicable to own research or

Level 7	FAIL	FAIL	MARGINAL FAIL	SATISFACTORY (Pass)	GOOD to VERY GOOD (Merit)	EXCELLENT (Distinction)	EXCEPTIONAL (Distinction)
Category	0-29%	30-44%	45-49%	50-59%	60-69%	70-84%	85-100%
	unpredictable contexts.	making appropriate links between the two. Weak problem-solving skills in complex and unpredictable contexts.	logical links between the two. Can identify problems and propose basic solutions without fully appreciating the complexity of unpredictable contexts.	Can identify problems and propose mostly appropriate solutions in complex and unpredictable contexts, with elements of originality.	Evidence of originality and creativity.	advanced scholarship. Shows originality in application of knowledge and techniques, and of how established techniques of enquiry create and interpret knowledge in the discipline.	advanced scholarship. Shows originality in application of knowledge and techniques, and of how established techniques of enquiry create and interpret knowledge in the discipline with assimilation and development of cutting edge processes and techniques.
Transferable skills for life and professional practice (Exercise of self-direction, autonomy and personal responsibility; plan and implement tasks at a professional level; independent learning; use appropriate media to communicate effectively and professionally to a variety of audiences; fluency of expression; systematic	Communication medium is inappropriate or misapplied. Work is poorly structured, disorganised and/or confusingly expressed. Very weak use of language and/or very inappropriate style. Little or no evidence of autonomy (or collaboration, where relevant) in the completion of tasks. Little or no evidence of	Communication medium is poorly designed and/or not suitable for the audience. Work is poorly presented in a disjointed manner. It is loosely, and at times incoherently, structured, with information and ideas often poorly expressed. Weak use of language and/or inappropriate style. Weak independent	Can communicate in a suitable medium but with some room for improvement. Mostly ordered presentation and structure in which relevant ideas / concepts are reasonably expressed. Work may lack coherence in places. Can work as part of a team, but with limited involvement in group activities.	Can communicate effectively in a suitable format, but may have minor errors. Mostly coherent, organised work, in a suitable structure and is for the most part clearly expressed. Can work effectively independently and/or as part of a team, with clear contribution to group activities. Demonstrates the skills	Can communicate well, confidently and consistently in a suitable format. Work is coherent, fluent, well-structured and organised. Can work very well autonomously and/or as part of a team, with a good contribution to group activities. Demonstrates comprehensive professional, postgraduate	Can communicate professionally confidently and consistently in a suitable format. Work is coherent, very fluent and is presented professionally. Can work autonomously with initiative. Where relevant can work professionally within a team, showing leadership skills as appropriate, managing	Can communicate with an exceptionally high level of professionalism. Work is remarkably coherent, very fluent and is presented professionally. Can work outstandingly well and professionally within a team, showing advanced leadership skills. Demonstrates exemplary

Level 7	FAIL	FAIL	MARGINAL FAIL	SATISFACTORY (Pass)	GOOD to VERY GOOD (Merit)	EXCELLENT (Distinction)	EXCEPTIONAL (Distinction)
Category	0-29%	30-44%	45-49%	50-59%	60-69%	70-84%	85-100%
approach; clarity and effectiveness in presentation and organisation.)	the skills required in professional, postgraduate employment.	initiative (or collaboration, if relevant). Limited evidence of the skills required in professional, postgraduate employment.	Demonstrates some but not all of the basic skills required in professional, postgraduate employment, with some areas of minor weakness.	required in professional, postgraduate employment, with some areas of strength and some of minor weakness.	employment skills.	conflict and meeting obligations. Demonstrates excellent professional, postgraduate employment skills and a strong appetite for further development.	professional, postgraduate employment skills and a strong appetite for further development.

THIS DOCUMENT IS ALSO AVAILABLE IN WELSH