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LAW7014 –B EMPLOYMENT LAW

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Question 1

Protection against Wrongful Dismissal

The term dismissal related to Employment refers to the termination of a contract. Wrongful Dismissal usually refers to that breach of contract without notifying the employee the grounds or reasons. The contract of employment generally includes the ² terms and conditions of employment which serves as the basis of employment. The terms and conditions cover all the ethical, moral, social and economic grounds of employment. The Wrongful Dismissal defies all the ethical and legal processes by which an employee is terminated by an employer. Wrongful Dismissal can include not serving the employee notice period or any warnings (acas.org.uk, 2023). The dismissal done also should consist of clearing all dues and benefits the employee is entitled to receive. In the context of a wrongful dismissal the employer provides no notice of termination and pays which the employee is entitled to receive under law.

The termination of an employee's contracts includes all the clauses that verifies and justifies the employer's action. Breaching the contract is illegal and is considered a crime under law. In the United Kingdom or UK, an employee's rights of dismissal differ from one another based on the type of contract and dismissal done. Wrongful Dismissal is therefore not the same as Unlawful Dismissal. It is usually by violating all the legal obligations an employer has over his/her/their employees. The rights of employees are violated on moral grounds wrongfully and constructively (gov.uk, 2023). The term usually requires the interference and inspection of legal authorities and employees can take their employers to the Employment Tribunal if their rights are violated.

The employment issues in the UK are mainly overviewed and legally surveyed under the Employment Rights Act 1996. This Act is instrumental in explaining the employees their rights and also pivotal in understanding the factors that both the employees and employers legally possess. This includes ² the terms and conditions of employment. However in the case of a wrongful dismissal it is the employees who have the legal advantage as per law. An employee can ⁶ resort to the Employment Rights Act 1996 and the provisions and sections within it. Part 1, Part 2 and Part 3 of the Employment Rights Act 1996 specifically guarantee the rights of an employee regarding their acceptance, particulars and documentation of the employees. These aforementioned parts also guarantee the payment and benefits an employee is entitled to receive (legislation.gov.uk, 2023). The employee can in the Employment Tribunal access sections within Parts 1, 2 and 3 to assert the rights which he/she/they are entitled to receive from an employer.

Specifically the employee can sue the employer in the employment Tribunal by accessing the provisions laid in Part 7, Sections 64-70A which guarantee the protection of rights even during suspension and termination (legislation.gov.uk, 2023). These rights are specific and assert the employee to exercise his/her/their moral and social rights which in a case of Wrongful Dismissal is violated. The employee can also access the provisions laid within Part 9, Sections 86-93 of the Employment Rights Act 1996 which guarantees the employee rights on termination specifically (legislation.gov.uk, 2023). These rights entitle the employee to receive a noticeable clause, a minimum notice period as per the contract and rights to receiving a statement from the employer explaining the reason for termination. This part additionally entitles the employee rights to approach the Employment Tribunal for a legal remedy.

The Employment Rights Act 1996 encompasses the employee's moral, social, economic, legal and cultural rights regarding employment in the UK. The entire Part 10, Sections 94-110 provide the most pivotal aspect of an employee's rights (legislation.gov.uk, 2023). The aforementioned sections give grounds for protection regarding dismissal of an employee's contracts. Section 94 specifically bestows or grants the right an employee has over his/her/their employer. Section 98 provides the fairness of contract that guarantees the employee to rely on the terms and conditions of contract. Additionally Section 98A confers the employee the right to question the fairness of procedure the employer followed to render him/her/their termination clause.

The progress of employment law can be understood by following the evolution in core principles the Employment Rights Act 1996 stands on. In *Addis v Gramophone Co Ltd [1909] AC 488*, a case of wrongful dismissal, the plaintiff was awarded damages based on the breach of contract by the employer (Rowan 2021). Gramophone Co Ltd also had to award compensation for the loss of trust the plaintiff faced. Additionally in *Gwynedd council v. Barratt & Another ewca civ 1322*, the Employment Tribunal upheld the claims made by the plaintiff and questioned the grounds on which the defendant, a school, fired their teachers (judiciary.uk, 2023). It was found by the Tribunal that the grounds of shutdown do not permit them to violate the terms and conditions.

Protection against Disability Discrimination

Disability Discrimination is an act of segregating, bigotry and intolerance against physically or impaired individuals. The act of putting these individuals at a disadvantage that are unsuitable for their physical or mental wellbeing is defined as Disability Discrimination. The act of discrimination could be an act done once or could also be repetitive in nature

(equalityhumanrights.com, 2023). The discrimination is done to create boundaries and barriers related to both physical and mental state of being of the employees. It also includes the introduction of policies from an employer's side at a workplace that discards them of the advantage to work with such impairment of the body and mind. The situation of discrimination excludes the inclusion of moral, ethical and social understanding of a disabled individual and puts him in a space that violates the employee's integrity and dignity. In the United Kingdom or UK the aspect of Disability rights generally include an employee's rights to work with respect and care and is also entitled to receive the general and special benefits the law guarantees in the country (equalityhumanrights.com, 2023). The country has a specific code of conduct assigned for the employers to deal with disabled employees.

Disability Discrimination in the UK is dealt with by law under the provisions of the Equality Act, 2010. The law specifically addresses that the intention though is a factor to address the issue of discrimination; however intention is not a specific factor to provide protection under law. Acts of disability discrimination that are unintentional are also protected under law in the UK. A disabled person in the UK has the right to be protected under law from any discriminatory acts that occurred in their course of employment. The discriminated employees have the right to access the Equality Act 2010 and the provisions and sections within it. The UK law assigns protection, education, employment, police protection and equal health care to the disabled citizens (gov.uk, 2023). Additionally The Equality Act 2010 and The United Nations Convention on disability rights ensure protection and help individuals to uphold their rights.

Discrimination done against an individual on the grounds of inherent and accidental disability is a crime as per law. The Equality Act, 2010 in Chapter 1, Sections 4-12 assigns disabled individuals the characteristics of protection based on which an employee or individual can claim the protection (legislation.gov.uk, 2023). These sections assign protection from discrimination done based on age, disability, gender reassignment, race, religion or belief, marriage or civil partnerships, sex and sexual orientation. Any individual or employee in a company and organisation therefore has the fundamental right of being from diverse backgrounds and equally enjoys all the elementary rights.

The topic specifies the aspect of Disability when being discriminated against and infringed of his/her/their rights. Disability Discrimination is of six types such as, Direct Discrimination, Indirect discrimination, Negligence to make proper arrangements, discriminating on the grounds of Inherent Disability, Harassment and Victimisation (parliament.uk, 2023). Direct discrimination generally consists of bigotry, intolerance and verbal or physical acts to harm

the individuals. Indirect discrimination on the other hand includes making situations inaccessible for these individuals. It includes segregating these individuals institutionally. Failure to recommend policies is inclusive of making policies intentionally or unintentionally that fails to accommodate disabled individuals. It also incorporates behaving irrationally and making unfavourable arrangements to harass these disabled individuals. This eventually leads to victimisation.

Disability Discrimination constitutes types of minor and long term impairment medically identifiable and includes diagnosis as per the requirements of the Equality Act, 2010. The law specifically grants protection to individuals who can medically address their situation in the court of law (Evans and Reher 2022). In *A v Pennine Care NHS Foundation Trust [2012] UKSC 2*, the plaintiff approached the court with the claims that he was discriminated against and dismissed from work by the defendant NHS Foundation. The claimant had a stammering issue and was diagnosed medically. This required the employer to make reasonable arrangements for the employee to perform his duties of a telecaller (Hardwick 2020). Instead the employer fired the employee on the grounds of his inherent physical disability. The court held that the discrimination and dismissal was unjustified and must be compensated by the defendant with reference to the Equality Act 2010. Therefore, an employer or individual can refer to the entire act of 2010. Additionally the individual can access Part 5, 8 and 11 of the Equality Act 2010 to highlight the entitlement of rights and benefits related to work (legislation.gov.uk, 2023). The protection against Disability Discrimination is structured, constructive and is enforceable when proven by medical diagnosis.

Protection against Unlawful Deduction of Wages

Unlawful Deduction of Wages is defined as a situation in which an employer makes deductions or curtails from an employee's salary without citing a specific reason. The deduction of wages usually states a situation when an employee fails to perform the occupational obligations. Under UK law the subject of Unlawful Deduction of Wages is covered by the Employment rights Act, 1996 (legislation.gov.uk, 2023). Unlawful Deduction of Wages is an act of crime recognised by the law in the UK. The act also includes underpaying and reducing financial benefits of an employee by the employer.

Unlawful Deduction of Wages also revolves around the concept of an employer extracting financial advantages over an employee's work. The unlawful deduction is a criterion for the employees to consider and evaluate their deductions and approach the Employment Tribunal when required. Section 27 of the Employment Rights Act, 1996 specifically defines the term Wages (legislation.gov.uk, 2023). Wages under the aforementioned section includes all the

statutory payment grounds for an employee to receive legally with reference to the job and its terms and conditions.

Unlawful Deduction specifically quotes situations under which an employer under unidentified reasons deducts, subtract or curtail an employee's wages. The employer cannot deduct any amount under grounds unauthorised by law. The employer has to state the reasons, show the grounds and abide by the amount permitted by law for the individual to legally deduct wages. The lawful deductions include situations under which statutory deductions or subtractions are permitted by the Employment Rights Act, 1996. Situations where the worker or employee has consented for such deductions to be made must also be included in the employee's terms and conditions of the contract (klglaw.co.uk, 2023). Statutory deductions can also be made to compensate for an overpayment, loans and benefits paid to an employee in advance. The Employment Rights Act, 1996 confers protection to all workers irrespective of the background. Therefore, the employee's rights are protected under statute in respect of deduction of wages by the employer. The employer cannot resort to any other grounds that the law does not permit.

The employee can consult the provisions laid under Part 2, Sections 13-27B which deals with the protection of an employee's wages. The provisions specifically identify the grounds under which an employee can consult the Employment Tribunal for any issues or deductions of wage (legislation.gov.uk, 2023). These sections help identify the grounds under which the employee's salary is protected. Section 13 and 14 under Chapter 2 of the Employment Rights Act, 1996 states the grounds of unlawful deductions and excepted deductions (legislation.gov.uk, 2023). Section 13 especially quotes the reasons under which deductions cannot be made. Any deductions without the consent of the employee are termed as unlawful and that will require the employee to consult the Employment Tribunal.

The term consent is pivotal to pinpoint the breach of an employee's contract and any monetary deduction made thereof from such absence of consent. Lawful deductions are deductions that the law permits outside the consent aspect of an employee. This includes deductions of money based on the UK's tax policy and also for participating in any unlawful arrangement, industrial strikes or actions. Deductions of wages of an employee in the retail and hospitality sector include situations in which that employee has caused damage to any product or caused a workplace hazard. In *Uber BV v Aslam [2021] UKSC 5*, the claimant or plaintiff accused the organisation of deducting wages for not working on a public holiday (ilo.org, 2023). The court upheld the plaintiff's claim and denied Uber their right to deduct

wages on a national holiday. This aligns with the context of the subject, Unlawful Deduction of Wages and guarantees employee statutory rights to receive pay without any deductions.

Question 2

1. Advising Anna

Hurt or Grievous injury or harm refers to the case where a person has inflicted a serious harm or caused a serious wound to another person. The concept of hurt or grievous injury refers to the idea where a person has intentionally and maliciously caused another person harm or bodily injury. Grievous bodily injury or harm of a person also includes the element of assault under ¹¹Section 39 of the Criminal Justice Act, 1988 (sentencingcouncil.org.uk, 2023). The term assault is relevant to the aforementioned case study regarding Anna where she suffered injuries while performing her daily job. A person however, has to intend to inflict harm or conduct in ways for the other person to believe the occurrence of an assault. While suggesting Anna this can be asserted that the concept of intentionally causing assault is missing. However this was an act of negligence which is also a reason in cases of harm or grievous injury caused by accidents.

The concept of grievous injury or harm can also be dealt ⁹under Section 20 of the Offences against the Person Act, 1861. This section highlights that the person to be dealt with by law is required to maliciously injure, hurt or cause harm to another person using sharp instruments (legislation.gov.uk, 2023). In Anna's case the negligence of duty of care ¹by her employer Revolve Easy and Blackdagger caused her to suffer serious injuries. In *Dominion Natural Gas v Collins and Perkins [1909] AC 640, PC*, it was held that the defendant suffered from the indirect negligence of the gas company and was entitled to pay the defendant who were victims in this case compensation and remedies (swarb.co.uk, 2023). The suggestions to Anna therefore require scrutiny under law and reference to statutes to assess her condition. In Anna's course of employment she is entitled to receive all the benefits including the duty of care and protection against unhealthy and unsafe working conditions. Anna suffered serious injuries due to negligence of duty of care which gives her reasons to claim compensation and remedy for the hurt caused to her by her employer.

2. Advising Revolve Easy

The term damages according to UK law refer to money that is lost by a person due to the wrong action of a person intentionally. The provision of damages comes under consumer regulation 1999 in the UK (Assets.publishing.service.gov.uk, 2022). Companies in the UK have the responsibility to protect their employees and to protect their morale, economic rights and fundamental duties. In the case of Revolve Easy there is a question regarding safety for both employees such as Blackdagger and Anna. The provided case study defines an unpleasant incident in this company which is not the part of Revolve Easy. The incident has

happened due to the whole funfair ground and this has broken the concentration of Blackdagger and has disrupted his performance level.

The Revolve Easy can defend them from the claim of Anna by expanding that this incident has not happened due to their action. Moreover, this organisation can display the employee right in the UK in order to save Anna's claim. This company can say that they focus on safeguarding its employees but the incident has happened due to funfair and not for their faults. The Revolve Easy can focus on employee and labour act and regulation of the UK in order to show that this incident has not happened due to their negligence.

The Revolve Easy can display that Anna has full employment in this company and thus she has understanding about terms and conditions of that organisation along with the risk of this kind of job. Moreover, Revolve Easy can say that this organisation focuses on the safeguarding process for Anna, pays her salaries and provides support to her about obligatory duties. The Revolve Easy also can say the shifting of concentration of Blackdagger is not because of the company's action. Thus Revolve Easy has no intention to hurt Anna but this company has to maintain a duty of care and thus the Revolve Easy will have to support Anna. Thus diminishing Anna's claim is not a true justification to Anna by the Revolve Easy.

3. Advising Blackdagger

Employees in the UK have the right to get protection about their physical and mental damages from their companies in which they work. In the case of Blackdagger wrongly hurting Anna, who is the colleague in Revolve Easy has no intention to hurt her. Moreover, the profession has to follow the duty of care. Blackdagger can seek compensation from the Revolve Easy due to the stress caused by working in this company and has made an unpleasant incident in the funfair ground which has caused harm to Anna. The Revolve Easy cannot dismiss the claim of Blackdagger's under "part 10 section 100 of the employment Act 1996 in the UK " ([Assets.publishing.service.gov.uk](https://assets.publishing.service.gov.uk), 2022). Blackdagger can apply this act in order to explain the negligence of duty of care on him. Moreover he also can claim against Revolve Easy for compensation under [Equality Act 2010 \(Assets.publishing.service.gov.uk, 2022\)](https://assets.publishing.service.gov.uk). He can claim for disruption of mental health and enhancement of stress level.

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