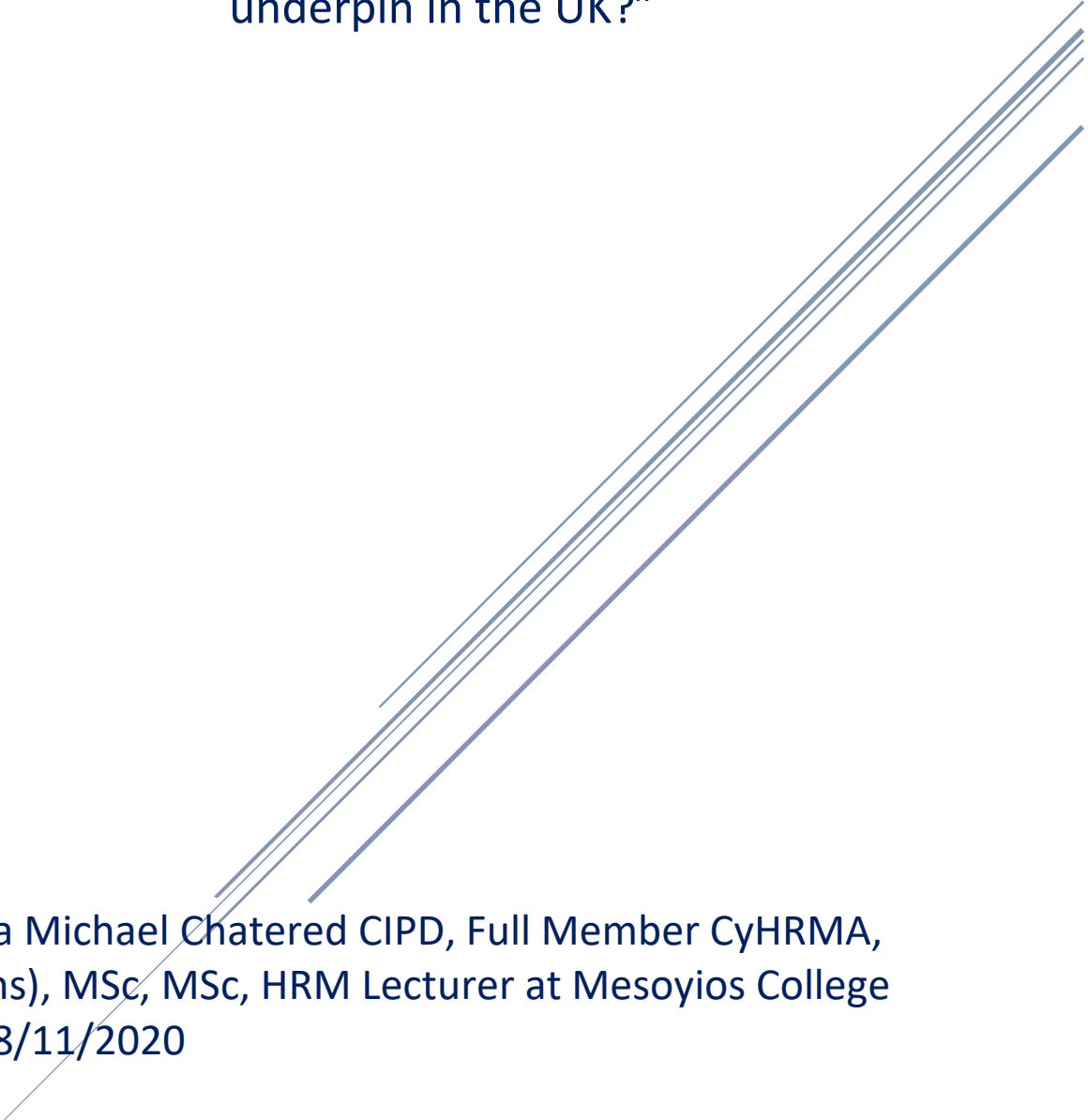


# MESOYIOS COLLEGE RESEARCH

Research Question:

What is the impact of Employment Law principles that underpin in the UK?"



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**Abstract:**

The purpose of this research paper is to provide HR professionals and top management leaders with the knowledge, understanding and skills required to brief organisations without any legal consequences. There are 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.

This research paper will provide HR professionals and top management leaders 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, senior human resource (HR) 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.

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# The impact of Employment Law principles that underpin in the UK

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## **Objectives:**

The main objectives are to increase the skills and knowledge of HR professionals and top management leaders 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 fulfill 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 research is suitable for HR professionals and top management leaders who:**

1. have responsibility for HR and top management leaders in decision making within an organisation at either operational, tactical or more strategic level
2. are HR professionals and top management leaders in a team or HR functional management role who are seeking to enhance and develop their career
3. have responsibilities for the HR function and activities within an organisation without a specialist function
4. are independent or employed consultants who support organisations in meeting their goals

## **Introduction**

The employment laws currently in use in the United Kingdom can be traced back to the 14<sup>th</sup> century when the government of the United Kingdom started introducing laws to help define the relationship between the employer and the employees (Pyzdek & Keller 2014). The employment laws, as defined in the Acts, common law, Regulations, and equity are underpinned on the principle that employees are human beings and must be treated as such in the workplace. These laws are meant to define how employees, employers, and trade unions should relate to ensure that the workplace environment is conducive for the employees and employers. These laws define rights and freedoms of the employees and employers, and circumstances under which employees are allowed to take industrial action against the employer. The guiding principle is that employees should be given the dignity they deserve without being subjected to workplace environment that is punitive in nature.

## **Principles of Law and how it applies in my Organisation**

### ***i. Accessing employment rights***

It is important to look at the principles of law as it applies in an organisational setting in different cases. Accessing employment rights was designed to ensure that companies do not employ discriminative policies when hiring new employees. It was based on the principle that every person has a right to employment as long as he or she has the right qualifications needed for that particular job. Employment status and work status helps in defining the position of an employee within an organisation and the responsibilities he or she is expected of based on the employment contract (Waal 2013). Continuity of employment was based on the principle that one should always be assured of the security of his or her job. It seeks to eliminate cases of abrupt and unjustified retrenchments. The immigration rights on the other hand are meant to protect the rights of immigrants working locally in the United Kingdom. In my current

organisation, these policies are important in protecting the interest of both foreign and local employees from oppressive managerial decision. I would strongly advise my organisation to observe these laws and regulations in order to avoid cases where this firm is sued by its employees.

**ii. Contracts of employment**

Contracts of employment, especially the issue of establishing and changing contracts are very critical processes that managers must be keen on when undertaking to avoid any law suits at a future date. The express and implied terms must be clear in such contracts (Shields, Brown, & Kaine 2015). For instance, when the contract expressly states that employees should avoid smoking within the firm's premises it should be clear to them that the organisation prohibits any action that may harm other employees. The employees should understand the spirit behind every written statement of major terms and conditions. It should be clear to them why these terms and conditions are set within the organisation and how all stakeholders stand to benefit.

**iii. Discrimination law**

The United Kingdom has very strict laws about discrimination. Discrimination based on gender, marital status, ethnicity, race, sexual orientation, religion, or such other demographical factors are strictly forbidden in the country. In my organisation, the management has a responsibility to ensure that its internal policies are in line with the labour laws that prohibit any form of discrimination. Management policies should not be seen to be discriminative in any way. The management should also come up with organisational policies which can protect employee-employee discrimination. The ex-offenders and part-time workers should also be treated with equal respect without any form of prejudice. These policies are meant to protect employees who may otherwise be discriminated against because of things beyond their personal control.

**iv. Dismissal law**

The principle underpinning the dismissal law must be clearly understood by any organisation that has legally hired employees. It holds that when one has to be dismissed, there must be a just cause for that and it must be done in a humane way. Unfair or wrongful dismissal is illegal in the United Kingdom (Shoemaker & Sigler 2014). Cases of redundancy payments or constructive dismissal may arise in an organisation. However, the management is strongly advised to ensure that cases of unjustified dismissal are eliminated. There must be a good reason for one to be eliminated.

**v. Health and Safety**

The United Kingdom has laws that govern employees' health and safety when they are in the workplace. The law prohibits individuals (whether in top leadership or not) from inflicting physical injury on other employees. Anyone who attacks a colleague is held criminally responsible for their actions and legal actions must be taken against them. The management of the firm is expected to act swiftly against such individuals. Personal injury sustained in the workplace should be appropriately compensated. The management is expected to put measures in place to help protect employees from such injuries. The law also requires employers to respect working time regulations as a way of protecting the interest of their employees.

**vi. Wages and salaries**

Employment laws in the United Kingdom also define wages and salaries issues that employers must respect. The National Minimum Wage Act of 1998 defines what employers should give their employees at bare minimum based on their age. The law, which was revised in 2014, sets the minimum wage at £6.50 for adults who are over 21 years (Trim & Lee 2014). My organisation must understand that the labour laws prohibit unlawful deductions of the wages of employees. The law demands that the pay should be equal to the work done. Issues such as payment of statutory sick pay and fully paid holidays cannot be ignored by my organisation. They are issues that can lead to litigation if they are not handled as per the set laws and regulations.

**vii. Transfer of Undertakings**

Transfer Undertakings of 2006 are regulations in the United Kingdom meant to help in implementing the European Union Business Transfer Directive (Oakland 2014). It stipulates conditions under which an employer can dismiss an employee. It also demands that employees must clearly define terms and

conditions of employment to their workers. Principles guiding consultation and continuity of employment in transfer situation should also be made clear to the employee as demanded for in this regulation.

**viii. Family friendly employment law**

The principle underpinning family friendly laws is that workers interests should be protected to ensure that their working environment is as sustainable as possible. The United Kingdom requires employers to have insurance plans for their employees. That is why employees' right to primary care must be respected. Similarly, paternity, maternity, and adoptive rights must also be taken into consideration by the organisation. The law also defines regulations regarding anti-natal care, health and safety of pregnant employees, parental leave, and time off for family emergencies (Petraq 2015). Employees also have the right to request for flexible working in case they family issues that justifies such a request.

**ix. Confidentiality issues**

The confidentiality laws as based on the principle that employees are entitled to their privacy, especially when they share sensitive information with their employers. Interception of communication is illegal, unless there is a legal justification for it to happen. Data protection laws also protect the employer to ensure that employees do not share sensitive information about the firm to third parties. Both the employee and the employer are expected to protect a firm's trade secretes as much as possible. Law on whistle blowing was designed to protect employees who reveal dark secretes of their employers such as illegal activities going on in the firm.

**x. Collective employment laws**

The organisation will also need to understand and respect collective employment laws as stated in various legal documents in the United Kingdom. Employees' freedom of association, right to industrial action, and collecting bargaining is clearly defined in the law. The organisation must also respect rights of trade union officials, consultation rights, and the right of employees to be accompanied by trade union officials. According to Monden and Minagawa (2015), collective employment laws were designed to ensure that employees can form trade unions to protect their interests. Although some of the careers in the modern workplace environment require individual employees to champion for their own interests, the United Kingdom still allows employees to unionise if they feel that they can have a better position to bargain for their rights.

### **Legal Implications of Decisions, Plans, or Proposals in the Employment Field**

I had situations where I had to advise some of my colleagues on actions that had significant legal implications not only to the firm but also to them as employees. The first incident was on handling customer complaint. One of the customers had come back claiming that the product that he bought from the firm was of substandard quality and had caused injury to one of his child. The client wanted the firm to acknowledge the fact that the product was substandard and to find a way of replacing it to avoid any legal action. The colleague, acting in the interest of the firm, wanted to accept the firm's responsibility and to replace the product to avoid any legal actions. However, the client had no official document showing that he had purchased the product from the firm. He only brought with him a piece of the product that he claimed had broken. It was not easy ascertaining if the brand was ours.

I warned him against taking that decision because of the legal ramifications. Such a decision would have meant that the firm acknowledges selling a faulty product to the client. It would have validated any law suits against the firm. The management would not have spared him for having taken such a wrong decision. We demanded proper documentation from this client. He promised to come back with the documents accompanied by his lawyer. However, we never saw him again. It is a proof that this man wanted to scam our firm. Following this incident, I advised the marketing manager to send a memo to the sales officers and customer service employees on how to deal with such situations.

In another incident, one of our employees was standing in for a friend who had to attend to a personal issue without informing the supervisor. The colleague had completed his shift but decided to stand in for the other friend who was to report to work late. They were both working in the production department. Because of fatigue, the colleague failed to follow safety procedures set in this department and sustained a serious injury while standing in for the friend. The firm paid all the hospital bills and granted him

three weeks of fully paid leave. However, when he came back he started considering suing the firm for a bigger compensation because of the injury. I advised him that such a move might have serious impact on his career at this firm. He was very likely going to lose the case because he was at work illegally based on the rules set by the production department. It was also his mistake that he sustained such an injury because of his failure to follow the set safety procedures. As such the firm would not be liable for his own mistakes at the firm. In fact, the firm had demonstrated its loyalty when his medical bills were fully paid without the management blaming him for the injuries sustained. He realised that the firm had acted in good faith and that it was his turn to be faithful to the firm. He decided not to sue the company after that discussion

### **Actions in Workplace Scenarios Where Employment Regulations Applies**

The management of any company must be careful when taking actions in the workplace scenario where employment regulations of the United Kingdom apply. The first case is the recruitment and selection. The law prohibits this firm from being discriminative when hiring its employees. As such, the human resource department should try to ensure that the primary basis of hiring its employees is qualification. Hiring should not be seen as being based on race, gender, religion, or any other demographical factor that might be considered discriminative. When coming up with terms and conditions of employment, the management must take into consideration the existing regulations as defined in the employment laws. The organisational policies should not be in conflict with national laws.

It is the responsibility of this company, as defined in the employment law, to ensure that working environment is conducive and sustainable to the employees. Employees should feel safe in their workplaces. Safety standards set by the government should be reflected in the planning of the working environment. As Madjid (2014) notes, it is also in the interest of the management to ensure that performance of the employees are properly managed. However, managing performance should not mean that employees are subjected to undue pressure that may cause them stress at work. Another critical issue that the management must put into consideration is communication and involvement of the employees. As per the existing employment laws in the United Kingdom, a firm is at liberty to come up with a communication system that it considers suitable for its operations. However, the chosen model of communication should not limit the ability of the employees to communicate with top managers, especially on issues that affect their operations. The firm is also at liberty to come up with appropriate plans of how to involve its employees on various projects. However, care should be taken to ensure that the chosen plan is not in any way discriminative or oppressive to the employees.

The United Kingdom has laws and regulations that define the minimum wage that can be given to an employee. As such, minimum pay and reward must be based on the set regulations to avoid any legal action against the firm. The law also requires organisations hiring people who are below 18 years to be responsible for their education. It means that training and development may be a requirement in case some of the firm's employees are under 18 years. Currently, the firm only hires people of legal age. It means that training and development can be designed based on terms and conditions that this firm considers appropriate. When it comes to work allocation, the firm has the liberty to organise its employees in a manner that it considers would be most productive. However, Dimon (2013) advises that it should not be done in a discriminative way. The firm should not be seen to be oppressive to a section of their employees based on their race, religion, sexual orientation, age, or such other related demographical factors. Retirement management should also be done as per the law. Currently, the legal age of retirement for men in the United Kingdom is 65 years. It is expected that this firm will respect this regulation and avoid cases of forcing their employees into early retirement without a just cause.

### **Keeping Up To Date with Development in Employment Law**

Employment law keeps on changing and it is the responsibility of the management of this company to keep up to date with these developments. As Barsalou (2015) says, failing to know about changes in employment laws may force a firm to pay fine for actions that would have been taken at no cost at all. One of the best ways of keeping up to date in employment laws is to regularly go through the newspapers. Most of the major employment legislations are often carried in the major dailies because of the interest of the

public. The management can also make a habit of getting new legislations regarding employment law from the government printer on a monthly basis. The human resource department can visit the government printer on a monthly basis in order to know if an employment bill is already published or passed into a law within the country. It will be the best way of ensuring that any new legislation regarding employment is well known to the management. The knowledge will help the firm to realign its internal operations and procedures with the existing laws in the country.

One of the anticipated developments in employment law that may have significant impact on this firm is the retirement age. As Demartini (2013) says, retirement age in the United Kingdom has been on the rise over the recent past. Currently, men are expected to retire at 65 years while women retire at 63 years. However, there are new proposals that may soon be implemented that changes retirement age. By 2018, the retirement age for women is expected to be 65 years. Longoni (2014) says that there are plans to increase the retirement age to 67 years soon after. This is specifically so because of the growing population of the elderly in the society. However, this new development may have significant impact on this company based on the activities employees are expected to do. Most of the activities in the production, marketing, and procurement departments are physical jobs that require energetic people.

## **Conclusions**

Taking everything into consideration organisations can source specialist advice on more complex and unprecedented issues from legal advisers, HR professionals need to be sufficiently aware of major, current and coming developments in the regulatory environment.

The main concept was to ensure organisations that are fully prepared and also able to anticipate legal problems associated with proposed decisions or plans before they are implemented. In the context of taking 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.

This research paper promotes critical reflection on theory and practice from an ethical and professional standpoint, and provides opportunities for applied learning and continuous professional development.

On completion of this research paper HR professional and top management leaders were able to:

- 1 Understand the core principles that underpin employment law as it applies in the UK, including common law, their purpose, origin and practical implications.
- 2 Advise colleagues about significant legal implications of decisions, plans or proposals in the employment field.
- 3 Advise about the appropriate action that should be taken in workplace scenarios where employment regulation applies.
- 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.
- 5 Know how to keep their knowledge of developments in employment law up to date and advise about the impact of these developments on employment policy and practice in their organisations.

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