us to convince them at the pre-hearing that the claim does not merit a full hearing. Considering the facts, I'd actually recommend that there would be some form of written presentation first, because firstly it costs less, and secondly you're not dragged out of the office, which of course would also incur costs. Actually, it would cost the company less, because I don't have to leave here and appear in court for the pre-hearing.

Gwen: OK. Costs are not really an issue for us. The issue for us is winning and getting this out of the way. Are you sure that doing this in writing is the best way to approach the problem?

Jane: On the basis of everything that I've read so far, I can see nothing whatsoever to be gained by anyone by actually allowing this to go to the full hearing. The defence is so strong. Although she does have the right to claim for wrongful dismissal, her conduct as an employee in removing confidential information from the building is clearly a breach of her employment duties. These are contracts of good faith between employer and employee. Of the utmost good faith. She really doesn't have ... let's put it this way, she doesn't have a legal leg to stand on, I don't think, at the end of the day.

Gwen: OK, very good, Jane. Thank you for your help and, as I said, I'll send you an email with the revised entry of appearance form, as well as all the details of the theft, right after my meeting. Talk to you later.

Jane: OK, thank you. Bye.

Listening B

Ms Brewer: Good morning, Mrs Howard, Mr Howard. Please come in.

Mrs Howard: Good morning, Ms Brewer.

Mr Howard: Hello.

Ms Brewer: Please have a seat. Coffee? Mineral water?

Mrs Howard: No, thanks, I'm fine.

Mr Howard: Not for me, thanks.

Ms Brewer: Right, then. Um, on the phone, you told me that you wanted to speak to me about drug testing at your company. Maybe you could tell me something about what's going on at your company at the moment. How's business?

Mrs Howard: Well, not bad, we can't complain, can we, John?

Mr Howard: No, business is fine. Actually the demand for cleaning services and facility management is growing in the region. But we're here to ask for your advice – we think we have a drug problem among our employees ...

Mrs Howard: ... and we're considering starting drug testing, some sort of programme that all the employees have to participate in. We just can't tolerate the current situation. There are at least three of the younger men, window cleaners, who we're sure, really sure, are taking drugs, even while they're on the job, and one of the supervisors, who we think is also ...

Mr Howard: It's just that we think it's dangerous.

Mrs Howard: ... and it's bad for our reputation.

Ms Brewer: Right. If I could just jump in here and summarise what you've been telling me. You suspect that several of your employees abuse drugs and so you're contemplating implementing a drug-testing programme, is that correct?

Mr and Mrs Howard: Yeah.

Ms Brewer: And you'd like me to inform you about the legality of such a course of action.

Mr Howard: Yes, that's right.

Ms Brewer: Well, first of all, I should say that the legal position on drug testing at work is not at all clear at present. There's no direct legislation, and important legal questions depend on the interpretation of numerous provisions in health and safety, employment, human rights and data-protection law. This is a very tricky area, and one would have to proceed very carefully.

Mrs Howard: What do you mean?

Ms Brewer: Well, if you were to subject your employees to drug testing, and you found out that a worker abused illegal substances and then terminated his employment, there's a good chance that you could be sued for violating the employee's right to privacy.

Mr Howard: But what about *my* rights? Such as my right as an employer to maintain a drug-free workplace?

Mrs Howard: Exactly!

Ms Brewer: I agree with you, Mr Howard, but we have to look at what the law says. Generally speaking, the courts in our jurisdiction have only tended to rule in favour of the employer in those cases where the dismissed employee has been engaged in safety-sensitive work. And where the employer has implemented a long-term workplace safety policy that included not only drug testing, but also the opportunity for the workers to get treatment for their drug problems.

Mr Howard: But that would take too long! I don't think we can risk waiting until they've had a chance to kick their drug habits!

Mrs Howard: John is right – we need to act on this now.

Ms Brewer: I'm afraid I have to disagree with you both. In my opinion, you risk more by acting hastily, by making a knee-jerk reaction to the problem. You risk costly litigation that you'd most likely lose.

Mrs Howard: That may be true, but we can't just sit back and do nothing.

Mr Howard: I couldn't agree more! There must be something we can do to respond to the situation right now. After all, these three workers are window cleaners, and there's most definitely a safety issue involved. We're responsible for the safety of our workers and for the safety of others ...

Ms Brewer: I see your point – you're absolutely right – you do bear responsibility for the safety of others. Let me suggest something you could do immediately: you could consider re-assigning the workers in question to different tasks, to jobs that are less safety-sensitive. And then you could launch a new workplace safety initiative, concentrating on drug and alcohol abuse, with employee meetings, memos and the like informing your workers of the new policy ...

Mrs Howard: Mm, that's not a bad idea ...

Unit 9

Listening A, Exercise 4.1

Now, I'd like to move on to the retention-of-title clause. Every supplier of goods should include a retention-of-title clause in their contract terms. As you know, this clause states that the buyer does not own the goods until payment is made. Thus if the buyer goes out of business before paying for the goods, the supplier can recover the goods.

If the clause is drafted badly, it may be treated as a charge. This means that, as a charge, it should be registered at Companies House. If the supplier fails to register a charge, it's generally void and can't be enforced. That's why lawyers drafting such clauses should do their best to ensure that the clause does not become a charge. If a supplier has a high-value contract, it's a good idea for him to make the effort to register the clause as a charge. It doesn't cost anything, and it's a very sensible thing to do. However, in most cases, where hundreds of sales of goods are made each day, registering each one under company law is just not feasible.

Well, now I'd like to give you five useful tips for drafting retention clauses.