

**GCE**

## **Applied Business**

Advanced GCE

Unit **F256**: Business Law

### **Mark Scheme for June 2013**

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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## Annotations

Annotation	Meaning
	The response given is 'Unclear' to the marker.
	'Benefit of doubt' but credit given.
	To indicate the response is in 'Context' of the relevant case study.
	Response is incorrect, no credit can be given.
	Use for Level of response answers to indicate Level 1.
	Use for Level of response answers to indicate Level 2.
	Use for Level of response answers to indicate Level 3.
	Use for Level of response answers to indicate Level 4.
	The response is not incorrect but has 'Not answered the question'.
	Own figure rule. Used where indicated in the mark scheme.
	'Repeat' Response repeats the same marking point.
	'Noted but no credit given' or to indicate all or part blank answer pages have been seen by the marker.
	Correct point/answer. Credit can be given.
	No use of context/Context cannot be awarded

**Subject-specific Marking Instructions****Testing of QWC**

*In this external assessment the assessment of QWC will take place in Question 3e which is a levels of response question and carries 14 marks.*

*Marks are embedded within this question for assessing the quality of written communication. The following criteria are embedded within the levels of response for Question 3e.*

**Level 4:**

Ability to present relevant material in a well planned and logical sequence. Material clearly structured using appropriate business terminology confidently and accurately. Sentences, consistently relevant are well structured in a way that directly answers question. There will be few, if any errors of grammar, punctuation and spelling.

[4 marks representing the appropriate level of written communication are embedded in this level of response].

**Level 3:**

Ability to present relevant material in a planned and logical sequence. Appropriate business terminology used. Sentences for the most part relevant presented in a balanced, logical and coherent manner which addresses the question. There will be occasional errors of grammar, punctuation and spelling.

[3 marks representing the appropriate level of written communication are embedded in this level of response]

**Level 2:**

Limited ability to organise relevant material. Some appropriate business terminology used. Sentences are not always relevant with material presented in a way that does not always address the question. There may be noticeable errors of grammar, punctuation and spelling.

[2 marks representing the appropriate level of written communication are embedded in this level of response]

**Level 1:**

Ability to communicate at least one point using some appropriate business terminology. Sentences have limited coherence and structure, often being of doubtful relevance to the main focus of question. Errors of grammar, punctuation and spelling may be noticeable and intrusive.

[1 mark representing the appropriate level of written communication is embedded in this level of response]

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Question		Answer	Marks	Guidance
1	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• unsafe/dangerous product</li> <li>• potential to injure/cause harm</li> <li>• liability as manufacturer</li> <li>• teddies used normal way/suitable for play</li> <li>• not unreasonable to expect the bears to be safe.</li> </ul> <p>Exemplar Responses:</p> <p>Eg A sharp pin is unsafe (1), manufacturers are required to supply safe products (1).</p> <p>Eg The Consumer Protection Act requires manufacturers (1) to make safe products (1).</p> <p>Eg It appears the eye came out when the bear was being handled normally (1), therefore, the product was dangerous (1).</p>	2	<p>AO1 1 AO2 1</p> <p>One mark for a correct identification up to a maximum of one identification, plus a further one mark for explanation.</p>
	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• breaking the agreement</li> <li>• not complying with all of the terms</li> <li>• failure/refusal to perform.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Not meeting all of the terms given in the contract (1).</p> <p>Eg Breaking the conditions of the agreement (1).</p> <p>Eg Not doing everything they should (1).</p>	1	<p>AO1 1</p> <p>For one mark.</p> <p><b>No</b> context required.</p> <p>Do <b>not</b> award examples.</p>

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Question		Answer	Marks	Guidance
	(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• court settlement</li> <li>• damages (liquidated/unliquidated)/compensation</li> <li>• additional payment</li> <li>• letter of apology</li> <li>• credit note</li> <li>• a refund or partial refund of charges</li> <li>• give a discount.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Compensation could be paid (1); this is usually awarded by the courts (1).</p> <p>Eg <i>HJD Ltd</i> could send a letter of apology to the supplier (1) in the hope that the supplier will continue dealing with the company in future (1).</p> <p>Eg A discount could be offered (1) to encourage future trade between the two parties (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for each correct identification, up to a maximum of two identifications, plus a further one mark for each of two explanations.</p> <p>Accept explanations relating to method or purpose.</p> <p><b>No</b> context required.</p>
	(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• The Insolvency Act.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Insolvency Act (1).</p> <p>Eg Insolvency (1).</p>	1	<p>AO1 1</p> <p>For one mark.</p> <p>Do <b>not</b> award incorrect names for the Act even if they have 'insolvency' in their title, eg do <b>not</b> award "The Business Insolvency Act".</p>

Question		Answer	Marks	Guidance
	(e)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• moratorium on payments to creditors</li> <li>• gives time to sort out the company's problems</li> <li>• temporarily avoids liquidation</li> <li>• suspends a wind-up petition</li> <li>• to keep the company as a going concern</li> <li>• to get a better price for the company's assets</li> <li>• insolvency practitioners can use specialist skills.</li> </ul> <p>Exemplar Responses:</p> <p>Eg It stops creditors being able to apply for a wind-up order (1), allowing time to sort out the company's affairs (1).</p> <p>Eg The administrator will be used to dealing with companies in difficulty (1) and is more likely to be able to negotiate a suitable deal (1).</p> <p>Eg It keeps the company as a going concern (1) rather than going out of existence (1).</p>	2	<p>AO1 1 AO2 1</p> <p>One mark for a correct identification, plus a further one mark for explanation.</p> <p>Explanations <b>must</b> relate to benefit.</p>

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Question		Answer	Marks	Guidance
	(f)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• must not be copied</li> <li>• can take legal action against anyone copying it</li> <li>• sell the rights</li> <li>• distinctive/unique symbol</li> <li>• marketing/branding advantages</li> <li>• 'Furry Friends' can be distinguished from other brands.</li> </ul> <p>Exemplar Responses:</p> <p>Eg No one is allowed to copy the symbol (1), giving <i>HJD Ltd</i> a marketing advantage (1).</p> <p>Eg It should stop other businesses from copying its product (1). <i>HJD Ltd</i> can take a business to court if it copies its product (1).</p> <p>Eg A trade mark strengthens brand image (1), allowing the company to charge higher prices than it otherwise would be able to (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p>



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Question		Answer	Marks	Guidance
2	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• to ensure the company operates legally</li> <li>• to ensure the company only trades when solvent</li> <li>• to ensure the company meets its tax liability</li> <li>• to manage affairs for the interest of shareholders</li> <li>• to make decisions as part of the board</li> <li>• to submit documents to Companies House</li> <li>• to make strategic policy decisions.</li> </ul> <p>Exemplar Responses:</p> <p>Eg To make policy decisions for the company (1).</p> <p>Eg To act in the interest of shareholders (1).</p> <p>Eg To ensure the company meets legal obligations (1).</p>	2	<p>AO1 2</p> <p>One mark for each correct identification up to a maximum of two identifications.</p> <p><b>No</b> context required.</p>

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Question	Answer	Marks	Guidance
(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• publish accounts/financial records each year</li> <li>• company names ending in Ltd/plc</li> <li>• company names and registered address published on all letters/notices, cheques, receipts, etc</li> <li>• Memorandum of Association required</li> <li>• Articles of Association required</li> <li>• Form IN01 (forms 10 and 12)</li> <li>• AGMs</li> <li>• limited liability</li> <li>• issue of shares</li> <li>• director(s) and secretary required</li> <li>• codified common law duties of directors.</li> </ul> <p>Exemplar Responses:</p> <p>Eg The company must have a Memorandum of Association (1). This document states the type of operation in which the company can be involved (1).</p> <p>Eg A company can issue shares to raise funds (1). A public limited company can sell these shares on the stock exchange (1).</p> <p>Eg The Companies Act grants companies limited liability (1). This means that shareholders cannot lose more than they have invested in the business (1).</p>	8	<p>AO1 4 AO2 4</p> <p>One mark for each correct identification up to a maximum of four identifications, plus a further one mark for each of four developments.</p> <p>Accept any correct detail as to content or purpose for awarding of the development marks.</p> <p>Do <b>not</b> accept 'publish records', unless clearly referring to financial records.</p> <p>Do <b>not</b> award 'tax'.</p> <p><b>No</b> context required.</p>

Question	Answer	Marks	Guidance
(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• plc requires a Certificate of Incorporation to trade</li> <li>• plc min share capital £50,000</li> <li>• only a plc can sell shares on the stock exchange</li> <li>• a plc needs to publish its financial records whereas an Ltd only needs to file them at Companies House</li> <li>• an Ltd can submit simplified accounts</li> <li>• a plc needs a prospectus in order to float on the stock exchange</li> <li>• holding an AGM is a mandatory requirement for a plc</li> <li>• minimum membership – 2 shareholders for a plc, only 1 for an Ltd</li> <li>• the company secretary in a plc must be qualified</li> <li>• different nomenclature – plc or Ltd after name.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Private limited companies can choose whether to hold an AGM (1). Public limited company must invite its shareholders to such a meeting once a year (1).</p> <p>Eg There is no minimum share capital required for a private limited company (1). A public limited company must raise at least £50,000 of authorised share capital (1).</p> <p>Eg A private limited company can begin trading as soon as it has submitted its Memorandum and Articles of Association (1). A public limited company must wait until it receives its Certificate of Incorporation (1).</p>	6	<p>AO1 3 AO2 3</p> <p>One mark for each correct identification, up to a maximum of three identifications, plus a further one mark for each of three developments.</p> <p>Do <b>not</b> accept answers relating to the size of the company, because size is not a <b>legal</b> difference.</p> <p>Do <b>not</b> award answers which get the differences the wrong way round, eg do <b>not</b> award 'an Ltd can trade on the stock exchange but a plc cannot'.</p> <p>Do <b>not</b> award answers which do not declare which way round the difference is, eg do <b>not</b> award 'one can trade on the stock exchange but the other cannot'.</p> <p><b>No</b> context required.</p>

Question	Answer	Marks	Guidance
(d)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> <li>• availability of finance</li> <li>• share price volatility</li> <li>• loss of family control</li> <li>• divorce between ownership and control</li> <li>• public scrutiny</li> <li>• media attention/publicity</li> <li>• reaction of competition</li> <li>• accounting procedures</li> <li>• publication of financial date</li> <li>• bureaucratic and regulatory requirements, eg AGM</li> <li>• risk of takeover</li> <li>• re-registration documentation and procedures</li> <li>• time</li> <li>• financial cost</li> <li>• opportunity cost.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Public limited companies are likely to be able to raise more finance than private limited companies <b>(L1)</b>. By floating on the stock exchange <i>HJD</i> is likely to receive enough extra finance to fund the purchase of the new state-of-the-art <b>(CONT)</b> machinery <b>(L2)</b>. This would allow the company to automate and maintain its market share <b>(L3)</b>. Given that its bank refused its previous overdraft extension application <b>(CONT)</b>, it is unlikely that it will get funding from its bank and so given the very large amount of capital required, going public appears to be the only sensible solution <b>(L4)</b>.</p>	14	<p>AO1 2 AO2 3 AO3 4 AO4 5</p> <p><b>NB Limited liability is not an issue.</b></p> <p><b>Level 4 (10–14 marks)</b> Candidate evaluates the advantage(s)/disadvantage(s) to <i>HJD</i> of being a private limited company/a public limited company.</p> <p><b>Level 3 (6–9 marks)</b> Candidate analyses the advantage(s)/disadvantage(s) to <i>HJD</i> of being a private limited company/a public limited company.</p> <p><b>Level 2 (3–5 marks)</b> Candidate applies knowledge and understanding of the advantage(s)/disadvantage(s) to <i>HJD</i> of being a private limited company/a public limited company.</p> <p><b>Level 1 (1–2 marks)</b> Candidate identifies advantage(s)/disadvantage(s) of being a private limited company/a public limited company with no use of context.</p> <p><b>Please indicate each time a candidate achieves a particular level as this will help you to allocate the marks within that level.</b></p> <p><b>Context should be annotated every time L2/L4 is awarded with the icon 'CONT'.</b></p> <p>Non-contextual answer <b>max</b> level 1.</p>

Question			Answer	Marks	Guidance
					<p><b>Level 1 (1–2 marks)</b>  [1 mark] candidate identifies <b>one</b> advantage/disadvantage of being an Ltd/plc with no use of context.  [2 marks] candidate identifies <b>more than one</b> advantage/disadvantage of being an Ltd/plc with no use of context.</p> <p><b>Level 2 (3–5 marks) Look for something more than <i>HJD</i>.</b>  [3 marks] candidate applies understanding to suggest <b>one</b> advantage/disadvantage to <i>HJD</i> of being an Ltd/plc.  [4–5 marks] candidate applies understanding to suggest <b>more than one</b> advantage/disadvantage to <i>HJD</i> of being an Ltd/plc.</p> <p><b>Level 3 (6–9 marks)</b>  [6 marks] candidate analyses <b>one</b> advantage/disadvantage to <i>HJD</i> of being an Ltd/plc.  [7–9 marks] candidate analyses <b>more than one</b> advantage/disadvantage to <i>HJD</i> of being an Ltd/plc.</p> <p><b>Level 4 (10–14 marks)</b>  [10 marks] candidate gives a <b>weak but contextualised</b> justification for their decision supported by previous analysis.  [11–12 marks] candidate gives a <b>detailed contextualised</b> justification for their decision supported by previous analysis.  [13–14 marks] candidate gives a <b>detailed and specific contextualised</b> justification for their decision supported by previous analysis.</p> <p><b>Level annotation required.</b></p>

Question		Answer	Marks	Guidance
3	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• offer legal advice</li> <li>• help/counselling/support/someone to talk to</li> <li>• collective bargaining</li> <li>• sense of belonging</li> <li>• use of the helpline</li> <li>• obtain information leaflets</li> <li>• might be able to negotiate improved redundancy settlements/timings.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Trade unions usually have a confidential helpline (1) where an employee can find out what level of redundancy pay to expect (1).</p> <p>Eg Trade unions have trained legal staff (1) who will be able to advise the employees of <i>HJD Ltd</i> about their rights (1).</p> <p>Eg A trade union uses its collective powers (1) and may be able to negotiate with <i>HJD Ltd</i>'s directors on behalf of the staff (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p>
	(b)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• losing their job/being dismissed/termination of contract of employment</li> <li>• due to a rationalisation of the workforce/fewer staff required</li> <li>• job function outdated/no longer required.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Losing your job (1) because the employer no longer requires as many staff (1).</p> <p>Eg Having your contract of employment terminated (1) because the job role you perform is no longer needed by the business (1).</p> <p>Eg Being dismissed from a job role (1) which will not be replaced by a new member of staff (1).</p>	2	<p>AO1 2</p> <p>Up to two marks.</p> <p>Do <b>not</b> accept 'being sacked'.</p> <p>'Through no fault of their own' is an insufficient explanation, because it also applies to unfair dismissal.</p> <p>For full marks the fact that the workforce is to be contracted or a particular function is no longer required needs to be addressed.</p> <p><b>No</b> context required.</p>

Question	Answer	Marks	Guidance
(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• to meet legal requirements</li> <li>• to comply with the Employment Rights/Employment Relations Act</li> <li>• to treat employees as fairly as possible</li> <li>• to keep employees' stress levels as low as possible</li> <li>• to gain respect from employees</li> <li>• to gain co-operation from employees</li> <li>• to avoid legal proceedings being taken against the company</li> <li>• to make the process as smooth as possible</li> <li>• to minimise bad press/publicity</li> <li>• to preserve reputation</li> <li>• to ease negotiations with trade unions.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Following statutory dismissal procedures will ensure that the company meets legal requirements (1) and does not end up paying compensation (1) due to court action (1).</p> <p>Eg To minimise the trauma to employees (1) thus allowing them to work as productively as possible whilst they remain at the company (1), maximising company profits (1).</p> <p>Eg To avoid bad publicity (1) which may have a negative impact on the sale of the bears (1) and profits (1).</p>	6	<p>AO1 2 AO2 4</p> <p>One mark for each correct identification up to a maximum of two identifications, plus up to two further marks for each of two explanations.</p>

Question	Answer	Marks	Guidance
(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• to meet legal requirements</li> <li>• to meet eight week deadline</li> <li>• to comply with the Employment Rights Act</li> <li>• to formalise the new employment with <i>HJD plc</i></li> <li>• to clarify new job roles/responsibilities</li> <li>• opportunity to change terms and conditions</li> <li>• can be referred back to in case of disputes with staff</li> <li>• to minimise future disputes</li> <li>• written evidence of terms.</li> </ul> <p>Exemplar Responses:</p> <p>Eg To clarify the production staff's new job roles now that they are using computer controlled machines (1), reducing the likelihood of future disputes arising (1).</p> <p>Eg New contracts are required because the employees will now have a new employer – the plc (1). If <i>HJD plc</i> did not issue new contracts it would be in breach of the Employment Rights Act (1).</p> <p>Eg To formalise machine operators' new employment (1) thus meeting legal requirements (1).</p>	4	<p>AO1 2 AO2 2</p> <p>One mark for each correct identification up to a maximum of two identifications, plus a further one mark for each of two explanations.</p>



Question	Answer	Marks	Guidance
(e)*	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> <li>• employee records – major changes, lots of updating required</li> <li>• confidentiality of email addresses of those registered on the website</li> <li>• better information/improved administration – targeted marketing/email offers</li> <li>• avoid confusion/misdelivery of greetings cards</li> <li>• publicity/reputation/word of mouth</li> <li>• complaints – time/cost/reputation</li> <li>• legal action – time/cost/publicity</li> <li>• legal remedies – fine/ imprisonment/closure</li> <li>• selling of data – source of income?</li> <li>• effect on sales levels</li> <li>• profit margins/profitability</li> <li>• labour – time/cost</li> <li>• organisational procedures – time/cost/staff/skills/ training</li> <li>• duty to disclose data on request.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Password protection and data encryption software may need to be purchased in order to keep data secure <b>(L1)</b>. <i>HJD Ltd</i> will need to spend money protecting the data it is going to collect from those registering on its new website <b>(CONT)</b> <b>(L2)</b>. This will increase costs in the short run <b>(L3)</b>. However, spending a relatively small amount of money now should avoid legal action being taken against <i>HJD Ltd</i> for failing to protect the email addresses of those registering an interest on the site <b>(CONT)</b>, saving court costs and compensation claims and increasing profits in the long run <b>(L4)</b>.</p>	14	<p>AO1 2 AO2 3 AO3 4 AO4 5</p> <p>QWC is assessed in this question.</p> <p><b>Level 4 (10–14 marks)</b> Candidate evaluates the cost(s)/benefit(s) to <i>HJD</i> of complying with the Data Protection Act.</p> <p><b>Level 3 (6–9 marks)</b> Candidate analyses the cost(s)/benefit(s) to <i>HJD</i> of complying with the Data Protection Act.</p> <p><b>Level 2 (3–5 marks)</b> Candidate applies knowledge and understanding of the cost(s)/benefit(s) to <i>HJD</i> of complying with the Data Protection Act.</p> <p><b>Level 1 (1–2 marks)</b> Candidate identifies the cost(s)/benefit(s) of complying with the Data Protection Act with no use of context.</p> <p><b>Please indicate each time a candidate achieves a particular level as this will help you to allocate the marks within that level.</b></p> <p><b>Context should be annotated every time L2/L4 is awarded with the icon 'CONT'.</b></p> <p>Non-contextual answer <b>max</b> level 1.</p> <p><b>Level 1 (1–2 marks)</b> [1 mark] candidate identifies <b>one</b> cost/benefit of complying with the Data Protection Act with no use of context. [2 marks] candidate identifies <b>more than one</b> cost/benefit of complying with the Data Protection Act with no use of context.</p>

Question			Answer	Marks	Guidance
					<p><b>Level 2 (3–5 marks) Look for something more than <i>HJD</i>.</b>  [3 marks] candidate applies understanding to suggest <b>one</b> cost/benefit to <i>HJD</i> of complying with the Data Protection Act.  [4–5 marks] candidate applies understanding to suggest <b>more than one</b> cost/benefit to <i>HJD</i> of complying with the Data Protection Act.</p> <p><b>Level 3 (6–9 marks)</b>  [6 marks] candidate analyses <b>one</b> cost/benefit to <i>HJD</i> of complying with the Data Protection Act.  [7–9 marks] candidate analyses <b>more than one</b> cost/ benefit to <i>HJD</i> of complying with the Data Protection Act.</p> <p><b>Level 4 (10–14 marks)</b>  [10 marks] candidate makes a <b>weak</b> evaluation of the cost/benefit to <i>HJD</i> of complying with the Data Protection Act supported by previous analysis.  [11–12 marks] candidate makes a <b>detailed</b> evaluation of the cost/benefit to <i>HJD</i> of complying with the Data Protection Act supported by previous analysis.  [13–14 marks] candidate makes a <b>detailed and specific</b> evaluation of the cost/benefit to <i>HJD</i> of complying with the Data Protection Act supported by previous analysis.</p> <p><b>Level annotation required.</b></p>

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4	(a)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• Common law/case law</li> <li>• Statute law/Acts of Parliament</li> <li>• European Union Law.</li> </ul> <p>Exemplar Responses: Eg Common law (1).</p> <p>Eg Statute (1)</p> <p>Eg EU legislation (1).</p>	2	<p>AO1 2</p> <p>One mark for each correct identification up to a maximum of two identifications.</p> <p><b>No</b> context required.</p>

Question	Answer	Marks	Guidance
(b)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> <li>• provide a safe plant</li> <li>• safe use, handling, storage and transportation</li> <li>• walkways and forklift truck operating areas</li> <li>• regular safety inspections</li> <li>• keeping an accident book</li> <li>• safety signs</li> <li>• satisfactory emergency procedures</li> <li>• provision of first aid kits</li> <li>• trained first aiders</li> <li>• provision of training</li> <li>• provision of protective clothing</li> <li>• guards on machinery</li> <li>• adequate breaks.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Whilst the automated machines can run continuously (<b>CONT</b>) the workers need to be given breaks (<b>L2</b>). This will mean that the Production Manager needs to organise a rota to cover each machine when its Machine Supervisor is having a break (<b>L2</b>).</p> <p>Eg Walkways must be marked out (<b>L1</b>) in order to ensure that the forklift trucks used to load the fabric (<b>CONT</b>) onto the machines do not run over any of the production workers (<b>L2</b>).</p> <p>Eg A trained first aider must be available in the factory at all times (<b>L1</b>) in case someone cuts themselves (<b>L1</b>).</p>	6	<p>AO1 2 AO2 4</p> <p><b>Level 2 (3–6 marks)</b> Candidate applies knowledge and understanding in order to suggest health and safety measure(s) <i>HJD plc</i> should take in order to ensure its new working practices comply with the Health and Safety at Work Act.</p> <p><b>Level 1 (1–2 marks)</b> Candidate shows knowledge of the Health and Safety at Work Act with no use of context.</p> <p>Accept 'risk assessment'.</p> <p><b>Please indicate each time a candidate achieves a particular level as this will help you to allocate the marks within that level.</b></p> <p>No matter how detailed a candidate's knowledge of the Health and Safety at Work Act is, if it is not applied to <i>HJD plc</i> it must be awarded L1 and a maximum of 2 marks.</p> <p>A candidate who has given a simple but accurate response applied to <i>HJD plc</i>'s new working practices must be awarded L2 and a minimum of 3 marks.</p> <p><b>Level annotation required.</b></p>

F256/01

Mark Scheme

June 2013

Question		Answer	Marks	Guidance
	(c)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• a judicial body</li> <li>• arbiter/judge</li> <li>• less formal than a court</li> <li>• settles disputes between employers and employees</li> <li>• public hearing</li> <li>• independent/cannot give advice.</li> </ul> <p>Exemplar Responses:</p> <p>Eg A judicial body (1) which listens to employees' grievances (1).</p> <p>Eg It is like a court but no one wears wigs (1), the atmosphere is less formal (1).</p> <p>Eg A place where a worker can go to get a judgement (1) on a dispute which they have with their employment over employment rights (1).</p>	2	<p>AO1 2</p> <p>Up to two marks.</p> <p>Accept 'it is a court'.</p> <p><b>No</b> context required.</p>
	(d)	<p>Indicative content:</p> <ul style="list-style-type: none"> <li>• an incident/injury/accident occurs</li> <li>• employee partially to blame/responsible</li> <li>• employee's contribution makes the situation worse</li> <li>• harm made more likely by employee's actions.</li> </ul> <p>Exemplar Responses:</p> <p>Eg Contributory negligence means that an employee has, at least in part, contributed to (1) their own injury (1).</p> <p>Eg Contributory negligence is where the behaviour of an employee (1) makes an accident more likely to happen (1).</p>	2	<p>AO1 2</p> <p>Up to two marks.</p> <p>For full marks the fact that the employee is at least partially responsible for their own downfall needs to be addressed.</p> <p>Do <b>not</b> accept examples.</p> <p><b>No</b> context required.</p>

Question	Answer	Marks	Guidance
(e)	<p>Use levels of response criteria.</p> <p>Indicative content:</p> <ul style="list-style-type: none"> <li>• training arranged by employer</li> <li>• missed the training</li> <li>• illness/absence valid?</li> <li>• £1500 wasted cost to employer</li> <li>• employer refused to rebook the training</li> <li>• told to pay for training herself</li> <li>• instruction manual provided</li> <li>• other Machine Supervisors could help</li> <li>• employee attitude – lack of confidence; too embarrassed to ask for help</li> <li>• kept trying herself but wasted lots of fabric</li> <li>• unsafe working practices/Carla's state of mind</li> <li>• Carla put in danger</li> <li>• shouted at</li> <li>• humiliated in front of office staff</li> <li>• mocked by manager</li> <li>• frightened and tearful because of the dangerous misfeed</li> <li>• manager's reaction to Carla's outburst</li> <li>• contributory negligence – fabric misfeed/training issues</li> <li>• Carla did not want the job</li> <li>• Carla is a sewing machinist by trade</li> <li>• competence/incompetence.</li> </ul> <p>Exemplar Response:            Eg The level of training received by an employee is an important factor when deciding a constructive dismissal case (<b>L1</b>). In Carla's case she did not receive any training because she did not attend the course which <i>HJD plc</i> had booked for her at a cost of £1500 (<b>CONT</b>) (<b>L2</b>).            If Carla was genuinely ill then she had every right to expect <i>HJD plc</i> to rebook the training and she can rightly claim for constructive</p>	14	<p>AO1 2 AO2 3 AO3 4 AO4 5</p> <p><b>Level 4 (10–14 marks)</b>            Candidate evaluates Carla's claim for constructive dismissal.</p> <p><b>Level 3 (6–9 marks)</b>            Candidate analyses Carla's claim for constructive dismissal.</p> <p><b>Level 2 (3–5 marks)</b>            Candidate applies knowledge and understanding of the factor(s) of relevance in constructive dismissal to Carla's case.</p> <p><b>Level 1 (1–2 marks)</b>            Candidate identifies factor(s) of relevance in a constructive dismissal case with no use of context.</p> <p><b>Please indicate each time a candidate achieves a particular level as this will help you to allocate the marks within that level.</b></p> <p><b>Context should be annotated every time L2/L4 is awarded with the icon 'CONT'.</b></p> <p>Non-contextual answer <b>max</b> level 1.</p> <p><b>Level 1 (1–2 marks)</b>            [1 mark] candidate identifies <b>one</b> factor of relevance in a constructive dismissal case but with no use of context.</p> <p>[2 marks] candidate identifies <b>more than one</b> factor of relevance in a constructive dismissal case but with no use of context.</p>

Question	Answer	Marks	Guidance
	<p>dismissal because her manager should never have let her operate the machine without training <b>(L3)</b>. On the other hand, she could have gained the necessary skills and knowledge by asking the other Machine Supervisors for help <b>(L2)</b>. The fact that she refused to ask for help, even when encouraged to do so by her manager, weakens Carla's case because this refusal to seek help made matters worse <b>(L3)</b>. Overall, Carla is likely to succeed with her claim for constructive dismissal because <i>HJD plc</i> clearly thought that providing an instruction manual for such a complicated piece of machinery was adequate training. When approached to rebook the training the manager refused, giving Carla no choice but to leave unless she wanted to put her own health in danger <b>(L4)</b>.</p>		<p><b>Level 2 (3–5 marks) Look for something more than <i>HJD/Carla</i>.</b>  [3 marks] candidate applies understanding to suggest <b>one</b> factor of relevance in Carla's constructive dismissal case.  [4–5 marks] candidate applies understanding to suggest <b>more than one</b> factor of relevance in Carla's constructive dismissal case.</p> <p><b>Level 3 (6–9 marks)</b>  [6 marks] candidate analyses <b>one</b> factor of relevance in Carla's constructive dismissal case.  [7–9 marks] candidate analyses <b>more than one</b> factor of relevance in Carla's constructive dismissal case.</p> <p><b>Level 4 (10–14 marks)</b>  [10 marks] candidate gives a <b>weak</b> justification for their verdict on Carla's case supported by previous analysis.  [11–12 marks] candidate gives a <b>detailed</b> justification for their verdict on Carla's case supported by previous analysis.  [13–14 marks] candidate gives a <b>detailed and specific</b> justification for their verdict on Carla's case supported by previous analysis.</p> <p><b>Level annotation required.</b></p>

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