

Mark Scheme for June 2012

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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 used in the detailed Mark Scheme

Annotation	Meaning
	Tick
	Cross
	Benefit of doubt
	Benefit of doubt not given
	Repeat
	Extendable vertical wavy line
	Omission mark
	Level 1
	Level 2
	Level 3
	Expansion of a point
	Development of point
	Vague
	Not answered question

Question		Answer	Marks	Guidance
1	(a)	<p>Candidates will identify up to three of the following situations:</p> <p>a Unfair dismissal b Wrongful dismissal c Unauthorised deductions from pay eg holiday pay, sick pay d Less favourable treatment because of being part-time e Less favourable treatment for making a disclosure in the public interest/whistleblowing f Unlawful discrimination including unequal pay, maternity and paternity rights g Unfair hours of work eg insufficient entitlement to holidays, including breach of the Working Time Directive</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct situation identified (maximum 3 marks). Accept alternative wordings. Credit health and safety reference. For unfair dismissal credit unfair redundancy.</p>
	(b)	Candidates will tick boxes (i), (iii) and (v).	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct scenario identified (maximum 3 marks).</p>
Total			6	

Question		Answer	Marks	Guidance
2	(a)	<p>Candidates will identify as follows:</p> <p>Situation 1: Harassment Situation 2: Indirect Situation 3: Direct</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct type identified (maximum 3 marks).</p>

Question		Answer	Marks	Guidance	
				Content	Levels of response
	(b) (i)	Candidates will explain the following: Sex/gender discrimination	9	(i) <ul style="list-style-type: none"> This is where it is unlawful for an employer to discriminate because of sex, gender or marital status There is no apparent justification for the difference in treatment, especially since Louise has more experience than any other candidate Unless there is a reason for 'positive action' Louise will be able to show she has been discriminated against. 	ASSESSMENT OBJECTIVE 2 For each of the three situations give credit as follows: L3: 3 marks for a number of points or good reasoning. L2: 2 marks for identifying 2 basic points or adequate reasoning. L1: 1 mark for identifying 1 basic point or limited reasoning.
	(ii)	Disability discrimination		<ul style="list-style-type: none"> This is when a disabled worker is not given the same employment rights as other workers An employer has to make 'reasonable adjustments' so that a disabled worker is not at a substantial disadvantage and Graham's company has done this by putting the ramp up to the front door If it is unreasonable or unfair not to let Graham work in a different office there will be discrimination but if this cannot be done without a lot of disruption there will be no discrimination 	0 marks – no response or no response worthy of credit. For the type of discrimination, credit direct/indirect discrimination if supported by reasoning. (i) Credit in the context of reasonableness or fairness, the company making a contribution to the cost of Graham's wheelchair. (ii) Candidates can reach a decision either way provided supported by reasoned arguments.
	(iii)	Age discrimination		<ul style="list-style-type: none"> A person cannot be denied a job because of age Sometimes an age-based reason is reasonable if it is 'proportionate' and in pursuit of a 'legitimate aim' but 	Credit will not be given for identifying a remedy. (maximum 9 marks)

Question			Answer	Marks	Guidance	
					Content	Levels of response
					<p>expense is not such an aim</p> <ul style="list-style-type: none"> Unless there is an objectively good reason to replace Henrietta with a younger teacher Henrietta will be able to show that she has been discriminated against. 	

Question	Answer	Marks	Guidance	
(c)	<p>Candidates will discuss any two of the following:</p> <ul style="list-style-type: none"> • Employees spend a lot of time at work and they need to feel comfortable so that they can do their best and are treated fairly • Employees need to know that there is fairness in their workplace and that if they work hard everyone has the same chance to be promoted for doing well • Employees need to know that there is equality in the workplace and everyone has the chance to get a job as long as they are the best person • Employees need to know that there will not be any prejudice or stereotyping in their workplace and so they will be more productive as they will have trust in their employer • Employees need to know that harassment and bullying are not tolerated in their workplace so they can work better and feel that they work for a good employer • Any other relevant comment. 	6	<p>Credit should be given for both breadth and depth.</p> <p>Using examples attracts some credit.</p>	<p>ASSESSMENT OBJECTIVE 3 For each reason discussed:</p> <p>L3: 3 marks for each point further developed.</p> <p>L2: 2 marks for each point developed.</p> <p>L1: 1 mark for each point identified.</p> <p>0 marks – no response or no response worthy of credit.</p> <p>(maximum 6 marks)</p>
	Total	18		

Question			Answer	Marks	Guidance
3	(a)		Candidates will insert from the list in this order: <ul style="list-style-type: none"> • Instruments • Management • Manual 	3	ASSESSMENT OBJECTIVE 1 1 mark each for each correct answer. (maximum 3 marks)

Question			Answer	Marks	Guidance
3	(b)		Candidates will mark the boxes as follows: <ul style="list-style-type: none"> i Duty not met ii Duty met iii Duty not met iv Duty met v Duty not met vi Duty met 	6	ASSESSMENT OBJECTIVE 2 1 mark each for each correct answer (maximum 6 marks).
3	(c)	(i)	Candidates will identify the following: <ul style="list-style-type: none"> • The breach or why things need to improve • A time limit in which things must be put right 	2	ASSESSMENT OBJECTIVE 1 1 mark for each correct identification (maximum 2 marks). Credit what must be improved

Question		Answer	Marks	Guidance
	(ii)	<p>Candidates will identify any one of the following:</p> <ul style="list-style-type: none"> • that the employer can appeal to a tribunal • employer can ask for clarification of what needs to be done • employer can make good the breach. 	1	<p>ASSESSMENT OBJECTIVE 1 The answer must relate to the employer.</p>
	(d)	<p>Candidates will explain up to three of the following:</p> <ol style="list-style-type: none"> 1 A reasonable temperature must be maintained during working hours and the thermometer here suggests the temperature is too high which breaches the Regulations. 2 There must be sufficient ventilation in the workplace. There is no evidence of windows, doors, fans or air conditioning. 3 There must be suitable and sufficient lighting and the broken light means the Regulations are breached because there is not enough light to work by. 4 Chairs suitable for the workstations must be provided as the Regulations say employees must be comfortable and safe and using a stool breaches the Regulations. 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark for each identification of a breach of the Regulations and 1 mark for each explanation of a breach.</p> <p>(maximum 6 marks).</p> <p>Credit risk of falling glass leading to possible injury.</p>
Total			18	

Question			Answer	Marks	Guidance
4	(a)	(i)	<p>Candidates will identify up to three of the following:</p> <ul style="list-style-type: none"> • Members of the armed forces • House of Lords and House of Commons staff • Apprentices whose service ends at the end of the apprenticeship contract • Crown servants or employees in a public office including the police • Merchant seamen • Share fishermen • Persons who have not worked continuously for an employer for more than 2 years • Persons with a fixed term contract of less than 2 years which has not been renewed 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each example identified</p> <p>(maximum 3 marks).</p> <p>Accept alternative wordings.</p> <p>Identifying each of the armed forces separately will only attract one mark.</p> <p>Credit members of House of Commons/House of Lords.</p> <p>Credit fishermen.</p> <p>Credit army/air force/naval worker.</p>
		(ii)	<p>Candidates will identify the following reasons:</p> <ul style="list-style-type: none"> • William – last in, first out • Emma – disciplinary records • Joseph – asking for volunteers 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each reason identified</p> <p>(maximum 3 marks).</p>
	(b)	(i)	<p>Candidates will tick (i), (ii) and (v).</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct tick</p> <p>(maximum 3 marks).</p> <p>Award zero marks if more than three boxes have been ticked</p>

Question		Answer	Marks	Content	Guidance
					Levels of response
	(ii)	<p>Candidates will discuss any three of the following:</p> <ul style="list-style-type: none"> • It must be shown that the employer genuinely believed the employee had done something wrong on the basis of a thorough investigation and that the employee was given all the information gathered in the investigation or the dismissal may be unfair • The employee must have a chance to put his/her case and to have someone with them if that was appropriate as without this the decision will be unfair • There should be a disciplinary hearing chaired by someone impartial and the employee should be warned about this and be given enough time to prepare or the dismissal may be unfair • If there is an allegation of gross misconduct the employee must know the penalty as if they do not know the dismissal may be unfair • If there are mitigating factors they should have been taken into account, it must be considered whether any alternative measures were possible or the dismissal may be unfair • The employee must be properly informed of their right to appeal and given a chance to appeal or the dismissal will be unfair • The notice period for dismissal must accord with the contract of employment otherwise the dismissal may be unfair 	9	<p>Credit should be given for both breadth and depth.</p> <p>Using examples attracts some credit.</p>	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows:</p> <p>L3: 7-9 marks – points explained with good reasoning and with effective communication through discussion. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p>L2: 4-6 marks – points made with some elaboration and adequate communication. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p>L1: 1-3 marks – basic points made with basic communication. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p>0 marks – no response or no response worthy of credit.</p> <p>If only one reason is discussed than maximum top L1.</p> <p>To get into L3 overall at least two of the reasons discussed must each be in L3.</p> <p>(Maximum 9 Marks)</p>

Question			Answer	Marks	Guidance	
					Content	Levels of response
			<ul style="list-style-type: none"> • An attempt by the employer to dismiss in circumstances which amount to discrimination allows the employee to access protection procedures. • An attempt by an employer to dismiss for being a member of a trade union can amount to unfair dismissal meaning the employee can access protection procedures. • An attempt by an employer to dismiss an employee for making a complaint can amount to unfair dismissal meaning the employee can access protection procedures. • An attempt by an employer to dismiss an employee which would amount to a breach of their statutory rights can amount to unfair dismissal meaning the employee can access protection procedures. • Any other relevant comment. 			
			Total	18		

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