

GCSE

Law

Unit **B143**: Employment Rights and Responsibilities

General Certificate of Secondary Education

Mark Scheme for June 2014

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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.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Meaning
	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
	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

Subject-specific marking instructions

QWC is assessed in question 4 (d).

Blank answer spaces

To be sure you have not missed any candidate responses you must check every page of the question paper and annotate any blank answer spaces with the following annotation:

**Additional Objects**

You must also check any additional pages (shown as Additional Objects) which the candidate has chosen to use. Add



Question			Answer	Mark	Guidance
1	(a)		<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> • Maintain trust and confidence between parties. • Encourage parties to act in good faith. • Make sure health and safety is guaranteed. 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct aim identified</p> <p>(maximum 3 marks)</p>

Question			Answer	Mark	Guidance
1	(b)	i	<p>Candidates will identify as follows:</p> <p>Express</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for correct term identified</p> <p>(maximum 1 mark)</p>
1	(b)	ii	<p>Candidates will identify as follows:</p> <p>Implied</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for correct term identified</p> <p>(maximum 1 mark)</p>
1	(b)	iii	<p>Candidates will identify as follows:</p> <p>Express</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for correct term identified</p> <p>(maximum 1 mark)</p>

Question			Answer	Mark	Guidance
2	(a)	i	<p>Candidates will identify as follows:</p> <p>Direct discrimination</p>	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for a correct identification.</p> <p>(maximum 1 mark)</p>
2	(a)	ii	<p>Candidates will identify as follows:</p> <p>Harassment</p>	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for a correct identification.</p> <p>(maximum 1 mark)</p>
2	(a)	iii	<p>Candidates will identify as follows:</p> <p>Victimisation</p>	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for a correct identification.</p> <p>(maximum 1 mark)</p>

Question		Answer	Mark	Guidance
2	(b)	<p>(i) Claire</p> <ul style="list-style-type: none"> • Age discrimination • Age is not normally a reason to deny someone a job. Claire has the energy and experience to do the job • Claire has been discriminated against. <p>Alternatively:</p> <ul style="list-style-type: none"> • The restriction could be deemed to be reasonable and proportionate as the hours are long and Claire has to be able to relate to young people • Claire has not been discriminated against. <p>(ii) Dmitry</p> <ul style="list-style-type: none"> • Sex discrimination • The policy that Dmitry cannot examine female patients alone is unlawful and unfair • Dmitry has been discriminated against. <p>(iii) Mike</p> <ul style="list-style-type: none"> • Disability discrimination • Since Mike used to use his laptop the change does not seem reasonable • Mike has been discriminated against. 	9	<p>ASSESSMENT OBJECTIVE 2</p> <p>Levels of response</p> <p>For each of the three scenarios give credit as follows:</p> <p>Level 3: 3 marks for a number of points or good reasoning.</p> <p>Level 2: 2 marks for identifying two basic points or adequate reasoning.</p> <p>Level 1: 1 mark for identifying one basic point or limited reasoning.</p> <p>0 marks – no response or no response worthy of credit.</p> <p>(maximum 3 marks for each scenario, maximum 9 marks overall)</p> <p>For Claire candidates must follow one of the alternative lines of reasoning.</p> <p>Candidates can reach Level 2 for good reasoning even if the wrong conclusion is reached.</p>

Question		Answer	Mark	Guidance
2	(c)	<p><u>Employers</u> Candidates will discuss any <u>one</u> of the following:</p> <ul style="list-style-type: none"> • They will be seen as fair and just so they can attract good workers and improve their business. • By treating everyone equally workers will feel encouraged to apply for promotions and the employer will have good applicants to choose from. • By preventing stereotyping or prejudice an employer's decisions cannot be biased and other employees will have no bad examples to follow. • By preventing bullying and harassment workers will be happy and it gives the employer a reputation which is good for business. • By being good employers no money is spent fighting discrimination cases so the employer could pay existing employees more or improve the business. <p><u>Employees</u> Candidates will discuss any <u>one</u> of the following:</p> <ul style="list-style-type: none"> • People should be protected from discrimination so that they feel comfortable at work. • If there is fairness in the workplace they will want to work hard as everyone has the same chance to be promoted. • If there is equality in the workplace they will know that jobs will be achieved by merit alone. • Without prejudice or stereotyping in the workplace and they will be more productive and earn more. • If harassment and bullying are not tolerated in the workplace employees will feel happier and work better. 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Levels of response</p> <p>Candidates will score as follows for each of the two reasons:</p> <p>Level 3: 3 marks – develops a discussion of a relevant issue.</p> <p>Level 2: - 2 marks – identifies a relevant issue with some elaboration.</p> <p>Level 1: - 1 mark – identifies a relevant issue or makes any valid point.</p> <p>0 marks – no response or nothing worthy of credit</p> <p>Credit should be given for both breadth and depth.</p> <p>One reason must be from the perspective of an employer and one from that of an employee</p> <p>Using examples attracts some credit.</p> <p>Credit any other relevant comments.</p> <p>(maximum 3 marks for each perspective, maximum 6 marks overall)</p>

Question		Answer	Mark	Guidance
3	(a)	<p>Candidates will insert the following <u>in this</u> order:</p> <ul style="list-style-type: none"> • Judges • Commission • Prohibition 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark each for each correct answer given in the correct order.</p> <p>(maximum 3 marks)</p>

Question		Answer	Mark	Guidance
3	(b) i	<p>Candidates will give the following explanation:</p> <p>As an employee Akbar has a duty to take reasonable care of his own health and safety.</p>	1	<p>NB each of the answers in question 3(b) must be linked to the person in breach of the duty</p> <p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for a correct answer.</p> <p>Credit recognition that Akbar has consciously made the decision.</p> <p>(maximum 1 mark)</p>
3	(b) ii	<p>Candidates will give the following explanation:</p> <p>As an employer Christine has a duty to provide a safe and well-maintained workplace including safe access and exits.</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for a correct answer</p> <p>(maximum 1 mark)</p>
3	(b) iii	<p>Candidates will give the following explanation:</p> <p>As an employer David's boss has a duty to provide safe storage methods for substances.</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for a correct answer</p> <p>There must be a clear link to the duty to provide safe storage</p> <p>(maximum 1 mark)</p>

Question			Answer	Mark	Guidance
3	(b)	iv	<p>Candidates will give the following explanation:</p> <p>As an employee Jim has a duty to take reasonable care of the health and safety of anyone who could be adversely affected by his acts or omissions.</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for a correct answer</p> <p>(maximum 1 mark)</p>
3	(b)	v	<p>Candidates will give the following explanation:</p> <p>As an employer Sophie's company has a duty to provide a safe working environment with adequate welfare facilities.</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for a correct answer</p> <p>(maximum 1 mark)</p>
3	(b)	vi	<p>Candidates will give the following explanation:</p> <p>As an employer Magda's boss has a duty to provide necessary information and training.</p>	1	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for a correct answer</p> <p>Credit as a BOD that the manager required Magda to read the instructions but they were not there.</p> <p>(maximum 1 mark)</p>

Question			Answer	Mark	Guidance
3	(c)	i	<p>Candidates will identify up to <u>two</u> of the following:</p> <ul style="list-style-type: none"> • A safe place of work. • Competent fellow employees. 	2	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark each for each correct answer.</p> <p>(maximum 2 marks)</p>
3	(c)	ii	<p>Candidates will identify the following:</p> <ul style="list-style-type: none"> • An employer need only do what is reasonable. 	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for a correct identification.</p> <p>(maximum 1 mark)</p>
3	(d)		<p>Candidates will name and describe the following:</p> <ol style="list-style-type: none"> 1. Workplace (Health, Safety and Welfare) Regulations <ul style="list-style-type: none"> • Storage and changing facilities must be provided if necessary 2. Personal Protective Equipment (PPE) Regulations <ul style="list-style-type: none"> • PPE must be maintained in good repair for the task 3. Management of Health and Safety at Work Regulations <ul style="list-style-type: none"> • Must be clear procedures to deal with imminent danger including evacuation 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows for each of the three pictures:</p> <p>2 marks – names the correct regulation and describes the area being breached.</p> <p>1 mark – either names the correct regulation or describes the area being breached.</p> <p>0 marks – no response or nothing worthy of credit</p> <p>(maximum 2 marks for each description, maximum 6 marks overall)</p>

Question		Answer	Mark	Guidance
4	(a)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> • The offence was so serious that it is gross misconduct • There is evidence of gross misconduct • The employer must go through a fair procedure • A reasonable employer would have made the same decision/the decision was fair and reasonable in the circumstances. 	3	<p>ASSESSMENT OBJECTIVE 1 1 mark for each reason identified</p> <p>Fair procedure can include elements such as consideration of mitigating circumstances. These will be annotated with a BOD.</p> <p>(maximum 3 marks)</p>
Question		Answer	Mark	Guidance
4	(b)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> • Employment Tribunal. • County Court. • High Court. 	3	<p>ASSESSMENT OBJECTIVE 1 1 mark for each place identified</p> <p>Credit Tribunal as BOD</p> <p>(maximum 3 marks)</p>
Question		Answer	Mark	Guidance
4	(c)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> • Members of the Armed Forces. • Members of the police services. • House of Lords/House of Commons staff. • Apprentices whose service ends at the time of their apprenticeship contract. • Crown servants. • Servants in a public office. • Someone who been employed for less than 2 years. • Merchant seamen. • Share fishermen. 	3	<p>ASSESSMENT OBJECTIVE 1 1 mark for each correct identification.</p> <p>(maximum 3 marks)</p>

Question		Answer	Mark	Guidance
4	(d)*	<p>Use Levels of response</p> <p>Candidates will discuss any <u>three</u> of the following:</p> <ul style="list-style-type: none"> • Gross Misconduct - if an employee's conduct is so bad eg violence, harassment, bullying, theft, arson, that it makes them a danger to themselves or others, and has a negative impact on the employer's business dismissal can be fair. • Misconduct – if an employee's misconduct falls short of gross misconduct eg persistent lateness or absenteeism for no good reason and the employer has taken the necessary procedural steps dismissal can be fair. • Sickness - if an employee is incapable of doing their job dismissal can be fair as the employer may need another employee to cover the one who is sick but they must have consulted with the employee and health professionals as well as making any reasonable adjustments and offering an alternative job if possible. • Incompetence - if an employee is incapable dismissal can be fair as they are bad for the employer's business but the employee must have been warned, given training if appropriate and given the chance to improve. • Redundancy - if a business runs into financial problems, changes how it operates or closes down it is fair to dismiss employees or businesses could not develop and survive but redundancy must follow clear and fair principles. • Illegality - if an employee cannot work without breaking the law dismissal can be fair as long as the employer has looked at all alternatives first. • Credit any other substantial reason. 	9	<p>ASSESSMENT OBJECTIVE 3</p> <p>QWC is assessed in this question.</p> <p>Level of response</p> <p>Candidates will score as follows:</p> <p>Level 3: 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>Level 2: 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>Level 1: 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 Level 1.</p> <p>To get into Level 3 overall at least two of the reasons discussed must each be in Level 3.</p> <p>Credit should be given for both breadth and depth</p> <p>Using examples attracts some credit (maximum 9 marks)</p>

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