

**Q1.**

- (a) Any company or person who has employees must undertake a risk assessment, even if very briefly. [2]
- (b) Members of the public visit site/ cleaners employed by other companies work on site, etc. [1]
- (c) Look for hazards
  - Decide who might be harmed and how
  - Evaluate risks and decide if more needs to be done
  - Record your findings
  - Review your assessment and revise if necessary.
  - Where Risk = probability (likelihood) x seriousness (effect). [3]
- (d) Employers are required to act on the findings of the risk assessment. Namely:
  - Make arrangements for implementing health and safety measures
  - Appoint competent people (for example, a qualified engineer) to help them implement the arrangements.
  - Set up emergency procedures
  - Provide clear information and training to employees
  - Work together with other employers sharing the same work place[4]
- (e) Yes, Simon even has a legal obligation to speak out, because employees have a duty of care for themselves and each other under the law. [2]
- (f) If he is still with the works team, he should start by challenging the team leader – perhaps diplomatically [1]. If no explanation is forthcoming, he should report the discrepancy between the safety manual and actual practice to his line manager [1]. If the latter ignores him or does not act, he should consider approaching the Health+Safety Executive: there are anonymous submission forms for this process, if required. [1]. More radical whistle-blowing (eg going directly to the press) would probably be counter-productive. Students should consider the difficulty of Simon's very junior position and justify the particular course of action (of which there are many) they propose [1].
- (g) All of them are potentially legally liable. The manager had a duty to induct Simon properly, not just give him a big safety manual (as per IET rules of conduct, and ethical considerations). [1]. The same applies to the team leader. [1]. Given that neither of these acted in Simon's case, all employees are probably inducted badly. If the team leader is an isolated case of this sort of behaviour in the company, he would be in a serious legal position, possibly facing a prison term given his blatant breach of company standards[1]. If this is a company-wide culture, he could argue mitigating circumstances. Given his newness and naivety in the job, Simon is probably safe from prosecution, but both morally and (at least technically) in legal sense he is also liable, much less so than the others [1].

**Q2.**

- (a) Reference to and a brief discussion of the following IET Rules (exact wording not required):
- (i) "Members shall not undertake responsibility as an electrical engineer, which they do not believe themselves competent to discharge." [2]  
"Members shall accept personal responsibility for all work done by themselves or under their supervision or direction, and shall take all reasonable steps to ensure that persons working under their authority are competent to carry out the tasks assigned to them and that they accept personal responsibility for work done under the authority delegated to them." [2]
  - (ii) "Members shall take all reasonable steps to avoid waste of natural resources, damage of the environment, and wasteful damage or destruction of the products of human skill and industry." [2]  
"Members shall at all times take all reasonable care to ensure that their work and the products of their work constitute no avoidable danger of death or injury or ill health to any person." [2]  
"Members whose professional advice is not accepted shall take all reasonable steps to ensure that the person overruling or neglecting their advice is aware of any danger which they believe may result from such overruling or neglect." [2]
  - (iii) "Members shall not recklessly or maliciously injure or attempt to injure, whether directly or indirectly, the professional reputation, prospects or business of another." [2]  
"Members shall not improperly disclose any information concerning the business of their employer or of any past employer." [2]
- (b) (i) Examples of the sort of activity would include: learning in depth about developments in a technical field, learning about new specialist areas, the taking on of management responsibility, publication of books or articles, development of project management skills and/or financial management skills, establishment of quality control systems, etc. [3]
- (ii) Evidential records such certificates of attendance at advanced training courses, publications, internal reports, reports for clients, evidence of achievement in, say, the management of significant projects. I.e. a portfolio of evidence, perhaps put together under the auspices of a suitable mentor [2].
- (iii) Application with above evidence. Interview [1].

**Q3.**

- (a) Various examples are possible, only two are given as model answers.
- i) Company A begins to manufacture a device which has previously been patented by Company B. Company B sues Company A.
  - or; Company A breaches the terms of a licensing agreement with company B to manufacture a product which has previously been patented by Company B; e.g. Company A does not report to B total sales, and hence royalties owed. Company B sues company A. [2]
  - ii) Author A copies a section of a book written by author B. Author A (or his/her publisher) sues author B (or his/her publisher).
  - or; Software house A copies code developed by Company B via an employee of A who has recently moved from B. Company B sues A. [2]
  - iii) Company A (which is operating in the same market sector and Company B) adopts a logo or design which is very close to the logo or design of an existing and established Company B. Even though Company B has not formally registered the logo, it sues A for 'passing off' as B.
  - or; A restaurant opens called 'The Chef's Speciality' in a town which has an established and very successful restaurant called 'The Chef's Special'. Its style clearly mimics the established restaurant and actually fools some of its clients that it is part of the same chain of restaurants. The Chef's Special sues The Chef's Speciality for passing off. [2]
- (b) Luminus Ltd. will clearly own this intellectual property [1] because it was derived by Mark under the remit of his job description and the purpose of his employment. [1]
- (c) Since this is clearly outside the remit of Mark's job [1], he will certainly own the IP provided he not does use his working time at Luminus Ltd. to develop the idea.[1]  
**Complications:** If he does use up time at work at his employer's expense to develop the idea, and especially if he uses equipment/computers/printers etc. or the time of another employee such as his PA to test or pursue exploitation of the idea then Luminus Ltd. might have a case for owning at least part of the IP [1]. It is possible that Mark's employment contract may encompass any IP he generates, but this is unlikely to be the case and may not necessarily upheld by a court. If the invention derives from a process or device very closely related to his work (such as a way of manufacturing cigarette-shaped parts for lighting devices) Luminus Ltd. might also make a case for owning some of the IP. [1]
- (d) We can infer Mark has no knowledge of the cigarette market. The cigarette market is dominated by very large established players.[1] It would therefore be absurd to contemplate setting up his own cigarette manufacturing business, especially since he has limited time to work on the project. [1] He should first seek the advice of a patent agent [1] with the intention of protecting his idea by filing a patent. [1] Once the protection is in place, the only tenable commercial option is to license or sell the patent to one or more cigarette manufacturing companies. [1] Before approaching manufacturers, he should ensure they sign non-disclosure (confidentiality) agreements [1]. It may be may be best to license an exclusive license to one manufacturer, perhaps for a limited term [1]. Nonexclusive licensing could conceivably be more lucrative if the technology is a 'musthave'. [1]

**Q4.**

**(a)**

**Definitions:**

to define terms such as 'client' and 'customer' to save space [1]

to define terms such as 'hardware' and 'software' which will help interpretation of the contract

[1]

**Software Specification:**

to define what the software will do, and how it will do it [1]

of crucial importance that this is complete and correct OR provision is made for changes during development [1]

**Liquidated Damages:**

to quantify the amount payable for late delivery [1]

must be genuine estimation of financial loss not a penalty [1]

**Escrow:**

to protect the client in the case of the software house going out of business [1]

source code and other design documents deposited with an independent person [1]

**Confidentiality:**

both parties may gain access to trade secrets and other sensitive information relating to the each other during development. This term will state explicitly how such information may or may not be used. [2]

**Maintenance:**

to define the duties of the supplier to correct errors [1]

the duration of maintenance will need to be defined [1]

**(b)(i)** Miss Flower not party to any contract [1]

Could sue for negligence [1]

Prove duty of care/a breach of that duty/consequential loss [1]

Discussion of whether to sue software company or manufacturer, and remoteness [1]

**(ii)** Supply of Goods and Services Act (1982) implies the terms that service must be carried out with 'reasonable' skill into the contract. [2]

A discussion or reasonableness [1]

Also, possible breach of explicit term in contract [1]