



CHIEF EXAMINER REPORT

JANUARY 2026

LEVEL 6 UNIT 19 – EMPLOYMENT PRACTICE

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the January 2026 examinations.

The 'suggested points for responses' set out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

Chief Examiner Overview

Generally, candidates scored proportionately lower on the questions requiring them to discuss/explain remedies available for specific claims in questions 1aⁱⁱ and 4b. The candidates lacked detail in their answers and generally only covered the remedies available to them on a 'headline' basis.

Generally, in question 2aⁱⁱⁱ, candidates discussed the requirements of equal pay. However, lacked detail, discussion and knowledge on the application of the 'material factor' defence available to the employer.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance may be limited.

Question 1(a)(i)	12 marks
All candidates demonstrated a good knowledge of the law in the area of discrimination because of gender reassignment and applied it well to the question, highlighting the law in the area and identifying correctly the acts of potential discrimination. Candidates could have improved their score by identifying the company could be vicariously liable for the acts of their employees.	
Suggested Points for Response:	
• The Equality Act 2010 protects the characteristic of gender reassignment. No surgery or medical interventions needed to be considered to have a reassigned gender. • The Equality Act 2010 discrimination includes s26 harassment which is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. • The comments made to Elaine Baxter regarding her sex life and being a man in a dress are harassment. Consider the power dynamic and two statements. • s13 direct discrimination occurs where an individual is treated less favourably because of a protected characteristic. • Elaine Baxter has been directly discriminated against as she is no longer being promoted following transitioning to living as a woman. • CobsWeb Pub appears to have condoned the discrimination by agreeing to refuse the promotion, they have done nothing to prevent nor address the discrimination. S109 individual liability and s110 vicarious liability of employer.	

Question 1(a)(ii)	8 marks
Candidates identified the injury to feelings award. However, candidates lost points because there was no substantive discussion regarding the <i>Vento</i> bands and an opinion regarding where the employee would sit within these bands. Also, there were points lost when candidates focused solely on injury to feeling awards did not discuss the financial losses which could be claimable.	
Suggested Points for Response:	
• Remedies sought: The ET may make an order of declaration of rights s124 (2) (a) EA 2010, a recommendation s124 (2) (c), compensation with no upper limit s124 (2) (financial loss, loss of earnings and injury to feelings). • Explain that Elaine Baxter may seek recovery for injury to feelings and loss of promotion opportunity • Credit any reasoned response on the damages Elaine Baxter can seek. • Likely in middle <i>Vento</i> band due to the harassment and loss of promotion.	

Question 1(b)	9 marks
Candidates did identify the law in this area. However, there was little application. Candidates could have improved their score for this question if they had done so, by citing arguments in support of why it would be proportionate for a privacy order to be granted for a gender reassigned person. Candidates could also improve their score by outlining the types of privacy orders which are available.	
Suggested Points for Response:	
- As a general rule, cases brought to tribunal can be heard in public and freely reported upon. However, there are some exceptions to this rule found under r50 Sch 1 Employment Tribunal (Constitution and Rules of Procedure) Rules 2013 which deals with tribunals' power to prevent or restrict public disclosure of proceedings, so far as it considers necessary in the interests of justice or to protect any rights under the ECHR. - These powers are used sparingly and restrictions on reporting are generally only granted where the case is of an intimate nature involving sexual misconduct or other cases which are likely to cause significant embarrassment to the complainant. - When considering whether to make an order restricting reporting of a case, a tribunal must balance the ECHR principles of freedom of expression and open justice, <i>Storer v British Gas</i> (2000). - Credit any reasoned argument as to whether a case brought by Elaine Baxter against CobsWeb Pub would have restricted reporting.	

Question 2(a)(i)	7 marks
Generally candidates scored well on this question and showed a good understanding why policies were important and outlined the reasons why.	
Suggested Points for Response:	
- Company policies are a means of establishing the standards expected within a specific organisation. - These policies exist alongside statutory provisions governing the employer -employee relationship. The policies often support or enhance legislative aims. - Policies are only guidance but can be incorporated into the employment contract. - Allows employees to be aware of acceptable and unacceptable behaviour within their specific workplace. - Encourages recruitment and raises the reputation of the company. • Can be used as a standard in disciplinary and grievance procedures, particularly where they reflect the ACAS Code of Conduct	

Question2(a)(ii)	6 marks
Generally, the candidates identified the majority of the requirements for there to be a valid settlement agreement.	
Suggested Points for Response:	
• Explain that a settlement agreement must meet the requirements of s203 (3) Employment Rights Act 1996 and S111A of the ERA 1996. • The agreement must be in writing and relating to a particular proceeding or complaint. • The employee must have received independent advice from a qualified professional completely independent of the employer. • This adviser must inform the employee on the terms and effect of the proposed agreement • The adviser must be a relevant independent adviser under the Employment Rights Act 1996 s203 (3A), Employment Rights (Dispute Resolution) Act 1998 s9 and must be covered by a professional indemnity insurance in respect of the advice given. • The adviser must be identified in the agreement and the agreement must state that the above conditions are satisfied.	

Question 2(a)(iii)	7 marks
All candidates showed knowledge of the principal law in the area of equal pay and applied it well. Where candidates lost points was surrounding the 'material factor' defence open to an employer. Candidates could improve their score by identifying what this defence is and how it could be applied to this scenario.	
Suggested Points for Response:	
• s66 Equality Act 2010, a sex equality clause is incorporated into every contract of employment. • A comparator should work at the same establishment and do work of equal value, s64, s65 . • Nikita Noor is paid 8% less than her male colleague doing the same job at the same establishment. • Use relevant case law. • There is a material justification defence where the difference in payment is based upon a reason other than sex, s69. This defence is not applicable to the facts in the case study. Cite relevant case law • Yellow Buds Ltd has breached the s66 rights of Nikita Noor.	

Question 2(b)	10 marks
This was a 10-mark question and candidates could improve their score by including all aspects of a legally compliant non-solicitation clause. Candidates highlighted some, but not all.	
Suggested Points for Response:	
• Covenant of non – solicitation ‘You’ agree that upon termination of your employment, you will not, on your own behalf or on behalf of another legal or natural person, solicit or entice any current or former clients of ‘The Company’. • The definition of solicitation includes any form of verbal or written encouragement or diversion of business activities away from ‘The Company’. • The definition of clients and customers includes any entity or person with whom you had direct contact with, or specific knowledge of, through your role with ‘The Company’. • This restriction will remain in place for a period of 12 months immediately following the termination of your employment with ‘The Company’. • You will not during this time, for yourself or on behalf of any other person or business enterprise, engage in any form of solicitation of current or former clients •or customers of ‘The Company’ within 10 miles of the location of your former employment.	

Question 3(a)	11 marks
All candidates showed a very good knowledge of the statutory requirements of emergency time off for dependents and time off for antenatal appointments and applied it well.	
Suggested Points for Response:	
• Carl Sanders is an employee of Giraffe Ltd. Employment Rights Act 1996 s57A an employee is allowed paid time off to respond to emergencies involving a dependant or a child under the age of 18 years. Emergencies include when a dependant is injured. • Carl Sanders’s six-year-old child is a dependant and hospital accident and emergency treatment is sought. The mother of the child is unable to take the child to the hospital due to ill health. • It appears his right to paid emergency leave has been breached. • Carl Sanders has the right to leave to accompany his partner to 2 antenatal appointments, s55 Employment Rights Act 1996. This right cannot be unreasonably refused. • He has been granted leave on three occasions. The fourth request is not a legal right and also does not appear to be ‘unreasonably refused’.	

Question 3(b)	9 marks
Candidates could have improved their score by including further information and detail regarding what the criteria of disability is, what the duty is to make reasonable adjustments and then applied this duty to the specific part of the question relating to the adjustment, with a reasoned conclusion as to whether the employer had breached their duty in this respect.	
Suggested Points for Response:	
• The Equality Act 2010 prohibits discrimination on the basis of disability. • S6 EA 2010 defines disability as a physical or mental impairment having a substantial and long-term adverse effect on an individual's ability to carry out their normal day-to-day activities, Paterson v Metropolitan Police Commissioner (2007). • Carl Sanders' condition meets the definition, and he has a disability under the statute as his condition is chronic, since childhood, lifelong prognosis, medication prescribed to enable normal functioning. • An employer has a duty to make to make reasonable adjustments to accommodate a disabled person within the workplace. s39 (5) EA 2010, s20 EA 2010. The employer can justify not making adjustments on the basis of costs. However, a one-off payment of £500 seems a reasonable adjustment. • The employer cannot attribute the cost of the adjustment to the disabled employee. Asking Carl Sanders to bring equipment from his home may be considered attributing the cost to him. • It is not discrimination to treat a disabled person more favourably than a person not having a disability. So the justification of not making changes to accommodate Carl Sanders due to showing him 'preferable treatment' is not valid.	

Question 4(a)	8 marks
Generally candidates showed good knowledge in the area of maternity leave and maternity pay. Candidates could have improved their score by going into further detail in their application and providing a conclusion.	
Suggested Points for Response:	
• The Maternity and Parental Leave Regulations 1999 regulation 8 all employees have the right to take ordinary maternity leave (OML) of a period of 26 weeks, regardless of length of service. • The regulations also allow for additional maternity leave (AML), a period of 26 weeks leave taken immediately after the ordinary. • UnderCut Ltd had a duty to give Meena Yates ordinary maternity leave. • To qualify for SMP you must be an employee, have worked continuously for the employer for at least 26 weeks, ending with the 15th week before the week the baby is due, have an average weekly earnings of at least £125 a week, up to the end of the 15th week before the baby is due. • UnderCut Ltd did not have a duty to provide Meena Yates with paid statutory maternity pay.	

Question 4(b)	13 marks
Whilst candidates demonstrated knowledge in the substantive area of pregnancy discrimination. Candidates could have improved their score in the remedy part of the question. By including further details highlighting their knowledge of the <i>Vento</i> bands and the financial losses element of the remedy available.	
Suggested Points for Response:	
• Meena Yates has been dismissed on the basis of her pregnancy . • This is automatic unfair dismissal, s98 ERA 1996, so the 8 month duration of employment does not preclude a claim. • Employees are also protected against detrimental (unfair) treatment or automatic unfair dismissal because of pregnancy or maternity leave (Employment Rights Act 1996 s99 and Maternity and Parental Leave etc Regulations 1999 reg. 19). • This protection applies to employees only from day one of your employment. • Remedies for unfair dismissal: ERA s.112 , compensation reengagement or reinstatement. • Basic award and compensatory award under s123 ERA. Subject to a maximum statutory amount of 52 weeks gross pay or a statutory amount (per Jan 2026). • The compensatory award is uncapped as the dismissal is based on an unlawful discrimination and breach of the EA 2010. • Consider remedies under the EA 2010 for discrimination	