

July 2012

Examiners' Report

NEBOSH National Diploma in Occupational Health and Safety - Unit A



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NEBOSH NATIONAL DIPLOMA IN OCCUPATIONAL HEALTH AND SAFETY

Unit A: Managing health and safety

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CONTENTS

Introduction	2
General comments	3
Comments on individual questions	4

Introduction

NEBOSH (The National Examination Board in Occupational Safety and Health) was formed in 1979 as an independent examining board and awarding body with charitable status. We offer a comprehensive range of globally-recognised, vocationally-related qualifications designed to meet the health, safety, environmental and risk management needs of all places of work in both the private and public sectors. Courses leading to NEBOSH qualifications attract around 35,000 candidates annually and are offered by over 500 course providers, with examinations taken in over 100 countries around the world. Our qualifications are recognised by the relevant professional membership bodies including the Institution of Occupational Safety and Health (IOSH) and the International Institute of Risk and Safety Management (IIRSM).

NEBOSH is an awarding body to be recognised and regulated by the Scottish Qualifications Authority (SQA).

Where appropriate, NEBOSH follows the latest version of the “*GCSE, GCE, Principal Learning and Project Code of Practice*” published by the regulatory authorities in relation to examination setting and marking. While not obliged to adhere to this code, NEBOSH regards it as best practice to do so.

Candidates’ scripts are marked by a team of Examiners appointed by NEBOSH on the basis of their qualifications and experience. The standard of the qualification is determined by NEBOSH, which is overseen by the NEBOSH Council comprising nominees from, amongst others, the Health and Safety Executive (HSE), the Confederation of British Industry (CBI), the Trades Union Congress (TUC) and the Institution of Occupational Safety and Health (IOSH). Representatives of course providers, from both the public and private sectors, are elected to the NEBOSH Council.

This report on the examination provides information on the performance of candidates which it is hoped will be useful to candidates and tutors in preparation for future examinations. It is intended to be constructive and informative and to promote better understanding of the syllabus content and the application of assessment criteria.

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General comments

Many candidates are well prepared for this unit assessment and provide comprehensive and relevant answers in response to the demands of the question paper. This includes the ability to demonstrate understanding of knowledge by applying it to workplace situations.

There are always some candidates, however, who appear to be unprepared for the unit assessment and who show both a lack of knowledge of the syllabus content and a lack of understanding of how key concepts should be applied to workplace situations.

In order to meet the pass standard for this assessment, acquisition of knowledge and understanding across the syllabus are prerequisites. However, candidates need to demonstrate their knowledge and understanding in answering the questions set. Referral of candidates in this unit is invariably because they are unable to write a full, well-informed answer to one or more of the questions asked.

Some candidates find it difficult to relate their learning to the questions and as a result offer responses reliant on recalled knowledge and conjecture and fail to demonstrate a sufficient degree of understanding. Candidates should prepare themselves for this vocational examination by ensuring their understanding, not rote-learning pre-prepared answers.

Candidates should therefore note that Examiners' Reports are **not** written to provide 'sample answers' but to give examples of what Examiners were expecting and more specifically to highlight areas of under performance.

Common pitfalls

It is recognised that many candidates are well prepared for their assessments. However, recurrent issues, as outlined below, continue to prevent some candidates reaching their full potential in the assessment.

- Many candidates fail to apply the basic principles of examination technique and for some candidates this means the difference between a pass and a referral.
- In some instances, candidates do not attempt all the required questions or are failing to provide complete answers. Candidates are advised to always attempt an answer to a compulsory question, even when the mind goes blank. Applying basic health and safety management principles can generate credit worthy points.
- Some candidates fail to answer the question set and instead provide information that may be relevant to the topic but is irrelevant to the question and cannot therefore be awarded marks.
- Many candidates fail to apply the command words (also known as action verbs, eg describe, outline, etc). Command words are the instructions that guide the candidate on the depth of answer required. If, for instance, a question asks the candidate to 'describe' something, then few marks will be awarded to an answer that is an outline. Similarly the command word 'identify' requires more information than a 'list'.
- Some candidates fail to separate their answers into the different sub-sections of the questions. These candidates could gain marks for the different sections if they clearly indicated which part of the question they were answering (by using the numbering from the question in their answer, for example). Structuring their answers to address the different parts of the question can also help in logically drawing out the points to be made in response.
- Candidates need to plan their time effectively. Some candidates fail to make good use of their time and give excessive detail in some answers leaving insufficient time to address all of the questions.
- Candidates should also be aware that Examiners cannot award marks if handwriting is illegible.
- Candidates should note that it is not necessary to start a new page in their answer booklet for each section of a question.

UNIT A – Managing health and safety

Section A – all questions compulsory

Question 1 *The senior managers at your workplace participate in formal annual reviews of health and safety performance as part of the health and safety management system.*

Outline the types of information that should form the inputs to this review process. (10)

In answer to this question, Examiners were looking to candidates to outline different types of information that should form the inputs to a review process, such as internal performance data, health and safety objectives, organisational changes and benchmark information. The question required reference to a range of information types but many candidates simply concentrated on examples of reactive and proactive performance measures and information from audits. Results of employee participation and consultation and changes to legal or other standards are also valid inputs to the review process, as is progress from previous reviews and therefore were relevant to this question.

A key word in the question was ‘types’ of information and candidates who gave numerous examples of a particular type such as reactive performance measures restricted the marks available to them.

Question 2 *With respect to an Improvement Notice served under Section 21 of The Health and Safety at Work etc Act 1974:*

- (a) *if the party on whom it was served wishes to appeal, **identify**:*
- (i) *the statutory timescale;* (1)
 - (ii) *the judicial body that would hear a first appeal against the notice;* (1)
 - (iii) *the possible outcomes of the appeal.* (2)
- (b) *If the outcome of the appeal is subject to a further appeal, **identify** the judicial body that will hear the further appeal.* (1)
- (c) *If the requirements of the notice are ignored, **outline** the penalties which are available on conviction for failing to comply with the notice.* (5)

This question was assessing basic knowledge of enforcement notices, the appeal process against them and penalties for failing to comply. The question specified exactly what was required in each section and candidates were expected to identify that a first appeal would be brought to an employment tribunal within 21 days with options to affirm, amend or withdraw the notice. Few candidates were able to identify the High Court QBD as the judicial body that would hear a further appeal against the

notice (in England and Wales) and there was some confusion over the specific penalties available on conviction for non-compliance.

Failure to earn marks seemed to be purely the result of a lack of knowledge with a wide range of courts suggested for a further appeal and a general unawareness of the levels of penalties that the courts could impose.

Question 3 ***Identify** the four common risk management strategies that may be used to manage business risks, including health and safety risk, **AND** outline the principles of **EACH** strategy.* (10)

In this question, candidates were expected to identify avoidance, reduction, transfer and retention as the four common risk management strategies. Those who knew the strategies were then able to outline the principles of each strategy. In considering risk retention, candidates should have distinguished retention with knowledge, where risks are recognised and evaluated, from retention without knowledge, where risks are not identified.

Candidates who failed to grasp the subject of this question provided information about risk management in general, often based around the hierarchy of control, and consequently earned few, if any, marks. Several candidates went into great detail about risk assessments and generalised about policies, procedures and practices. A relatively common failing was to consider that transferring a risk to another party was a method of risk avoidance.

Question 4 (a) ***Outline** reasons for establishing effective consultation arrangements with employees on health and safety matters in the workplace.* (4)

 (b) ***Outline** a range of formal and informal consultation arrangements that may contribute to effective consultation on health and safety matters in the workplace.* (6)

This question was concerned with the benefits of, and procedures for, consultation in the workplace and was designed to assess candidates' understanding of the reasons for and the arrangements available to deliver effective consultation.

In answering part (a), development of employee ownership of safety measures, improved perception about the value of health and safety and utilising employee knowledge were all valid reasons, in addition to compliance with statutory requirements.

Good answers to part (b) were structured under the headings of 'informal' and 'formal' which helped candidates to focus on the full range of available arrangements which could include establishing a safety committee; consultation with union appointed safety representatives or elected representatives of employee safety; day to day informal consultation with employees at the workplace; tool box talks and use of team meetings for ad-hoc consultation on safety issues.

A significant number of candidates saw consultation as communication (generally one way in their examples) with means such as notice boards and posters mentioned.

Question 5 *European Union Directives affecting health and safety are made using a specific legislative procedure.*

- (a) (i) **Identify** this procedure. (1)
- (ii) **Identify** the European Union bodies that are involved in the procedure. (3)
- (iii) **Outline** the principles of 'qualified majority voting' which is used at one point in the procedure. (2)
- (b) The Treaty of Rome contains two different Articles under which Directives affecting health and safety may be made.
- Outline** the purpose of **EACH** of these two different Articles. (4)
-

Candidates who were familiar with the legislative procedure for making European Union Directives affecting health and safety and the Articles under which such Directives may be made would have little difficulty answering this question. It specified exactly what was required in each section and in part (a) candidates were expected to identify the co-decision procedure, the European Union bodies involved in the procedure and the principles of 'qualified majority voting' used to ensure that a few large countries alone cannot achieve a majority vote.

For part (b), candidates needed to distinguish Articles 95 and 137 of the Treaty of Rome (or as they have now become, Articles 114 and 153 the Treaty on the Functioning of the EU) by outlining their different purposes: removal of barriers to trade and harmonising product standards; and setting and encouraging improvement in standards for health and safety at work, respectively.

Very few candidates were confident in their basic knowledge about the influence of Europe in UK law despite the fact that the role of Parliament, Council and Commission in the Co-Decision Procedure and the significance of qualified majority voting are specifically mentioned in the syllabus, along with the distinction between Directives made under specific Articles of the Treaty of Rome. Knowledge of these factual requirements applied to this specifically structured question would have enabled candidates to achieve high marks in each section.

Question 6 *Select a range of internal and external information sources **AND** outline how **EACH** source contributes to risk assessment.* (10)

This question was concerned with a particular aspect of risk assessment, the use of internal and external sources of information. Candidates who recognised this were able to identify an appropriate range of such sources, but for the Examiner to award any marks, candidates had to outline how each source contributed to the assessment of risk. Those who structured their answer in terms of internal and external sources were generally able to identify a wider range of examples. These could include internal sources, such as proactive monitoring data from inspections and audits, providing information on the use and reliability of controls for different hazards. External sources could include manufacturers' information or data sheets providing hazard information, or insurance companies, enforcement officers and consultants providing guidance on risk control standards. In order to achieve good marks, a broad range of examples was required.

Candidates who failed to recognise the theme of the question answered a different one concerning the methodology of risk assessment, with significant reference to the HSE's 5 steps approach. Those who were able to identify sources of information were

tempted to describe the information itself rather than indicate how it would contribute to risk assessment. Candidates who could identify a range of internal and external information sources and outline how they contributed to risk assessment were able to achieve high marks on this question.

Section B – *three from five questions to be attempted*

- Question 7** (a) *An employee has suffered long-term lung damage as a result of exposure to hazardous substances at his place of work. As a result, the employee has, on medical advice, been moved to alternative work away from the substances concerned.*

Outline the types of cost to the employer which may arise from this situation.

(12)

- (b) *Ill-health caused or made worse by work is a greater cause of harm to workers than the more traditional safety-related causes such as falls from height or machinery accidents.*

Identify the national sources of data **AND give** examples of conclusions that have been drawn from these sources, which support the statement above.

Detailed statistics or data are **not** required in your answer.

(8)

The first part of this question provided candidates with a scenario in which exposure to hazardous substances had caused long-term lung damage to an employee, requiring a move to alternative work and they were expected to establish the types of cost to the employer which may arise from this situation. Candidates who thought broadly about the full range of possible costs could achieve marks by considering compensation and criminal costs, those associated with moving the worker to a new position (such as overtime and training), administration costs, those associated with risk control measures and also with lost productivity. However, few candidates referred to issues such as intervention costs to the HSE, NHS cost recovery or costs associated with non-NHS medical treatment.

In part (b), candidates were required to consider the premise that occupational ill-health is a greater cause of harm to workers than safety-related causes and, firstly, identify the sources of data that could be used to support this statement. The majority of candidates attempting this question identified the HSE as producing statistics annually on injury and ill-health but few were aware of other national sources of data on ill-health such as health service reporting and data from occupational physicians. Very few candidates understood the second part of (b) and were thus unable to give examples of conclusions drawn from these sources such as the majority of person-days lost for work-related injury and ill-health are for ill-health, the largest cause of work-related death is occupational cancer and that the number of new cases of ill-health per year is greater than the number of RIDDOR injuries.

In answering part (a), many candidates did not identify a wide enough range of possible costs, writing at length on a few examples and therefore limiting their available marks. To answer part (b), candidates needed a wider view of the current position regarding work-related injury and illness and familiarity with Labour Force Survey data published by the HSE would have provided this overview.

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- Question 8** *A forklift truck is used to move loaded pallets in a large distribution warehouse. On one particular occasion the truck skidded on a patch of oil. As a consequence the truck collided with an unaccompanied visitor and crushed the visitor's leg.*
- (a) **Outline** reasons why the accident should be investigated. (4)
- (b) *The initial responses of reporting and securing the scene of the accident have been carried out.*
- Outline** the actions which should be taken in order to collect evidence for an investigation of the accident. (8)
- (c) *The investigation reveals that there have been previous skidding incidents which had not been reported and the company therefore decides to introduce a formal system for reporting 'near miss' incidents.*
- Outline** the factors that should be considered when developing and implementing such a system. (8)
-

In this question, candidates were required to consider issues associated with accident investigation and begin by outlining the reasons why accidents should be investigated.

In the next part of the question, candidates were asked to give an outline of the actions which should be taken in order to collect evidence for an investigation of the accident, starting with photographs and measurements, through examination of documents, to interviews with relevant persons. In answering this section, candidates were expected to relate the investigation to the scenario given, so examining the condition of the forklift truck, maintenance records, emergency spillage procedures and loads carried, including forward visibility, were all relevant.

The last part of the question was concerned with the development and implementation of a 'near miss' reporting system. Relevant factors to consider included consultation with employees, simplicity of the system, provision of information and training, involvement of management in investigations, and identification, implementation and monitoring of remedial action. The need for quick, positive feedback, collation and analysis of data and consideration resource implications were additional factors that candidates could have included in their answers.

This question was extremely popular and generally well answered, with the majority of candidates understanding the need to identify the underlying and immediate causes of the accident and also to prevent reoccurrence. In part (b), several candidates went into great detail about accident reporting in general and the investigation of the accident, but failed to identify the actions that should be taken in order to collect evidence for an investigation of the accident. In part (c), candidates who provided too much detail on limited aspects of the system such as definition of a near miss, consultation and training, failed to achieve high marks for this section.

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- Question 9** **Explain** the classification of human failure as described in the Health and Safety Executive (HSE) publication 'Reducing Error and Influencing Behaviour' (HSG48) **AND give** a practical example for **EACH** element of the classification. (20)
-

Candidates familiar with the classification of human failure from HSG48 recognised that failure is split into violation (deliberate deviations associated with non-compliance) and error (unintended deviation from accepted standard). Those who then methodically

subdivided violations into routine, situational and exceptional, and errors into skill-based error and mistakes, established a framework which could then be used to explain each type of failure.

In discussing violations, candidates should have explained that a routine violation involves continually breaking a rule or procedure to the extent that it becomes the normal way of working. A suitable example could have been the Clapham rail crash where it became routine not to use prescribed maintenance methods. In the case of a situational violation, rules are broken due to pressures from the job such as insufficient staff for the workload, time pressures, adverse conditions or because the right equipment for the job is not available. Exceptional violations are rare and only happen when things have gone wrong and a risk is taken to solve an urgent problem or is believed to be the lesser of two evils.

Skill-based error can be divided into slips (action 'not as planned' during low concentration work, such as operating the wrong switch) and lapses (forgetting to carry out an action, such as a tanker driver driving away without disconnecting a hose). Mistakes involve the wrong action being taken although the worker believes to be correct and can be divided into rule-based and knowledge-based. In using examples to differentiate these, candidates could have cited the rule based mistake from HSG48 where a tank could be safely filled in 30 minutes but resulted in an overflow when the same rule was applied at an increased flow rate. The Flixborough disaster provided a suitable example of a knowledge based mistake where a bellows modification without suitable engineering experience led to loss of containment and an explosion of a flammable vapour cloud.

Candidates who were able to reproduce the diagram from HSG48 could use it to show their understanding of the classification system and to work through each element logically. Those familiar with the examples of each type of failure quoted in that guidance could use these to support their answers, although other relevant examples could also be used. Candidates who were unfamiliar with HSG48 did not answer this question well. Those who were familiar with the subject were quite able to explain the different categories although in a few cases the examples provided indicated they did not always understand the distinctions between them. In general, candidates seemed to understand violations better than errors and some candidates became confused when sub-dividing errors. Common failings were to forget the 'skill based' category of errors or not to sub-divide skill based errors or mistakes which restricted the marks available. A small number of candidates outlined human behaviour in general without relating it to error, whilst others indicated how to prevent errors, which was not asked for in the question.

Question 10 *A small food company imports and blends natural ingredients, many in powder form. This creates a dusty environment but, since the company believes that the ingredients are inherently safe, the only means of controlling dust levels is by natural ventilation. An employee of the company has recently been diagnosed as severely asthmatic. He claims that he informed the company on starting employment that he suffered from chest problems but no masks were provided or further precautions taken. He also claims that his symptoms have considerably worsened during his three years with the company.*

Explain the legal actions that might be available to the employee in a claim for compensation against his employer, clearly showing what he would need to prove for the actions to succeed. Use case law to support your answer where applicable.

(20)

This question provided a scenario in which an employee is considering claiming compensation against his employer. Candidates were required to explain the legal

actions available in a claim for compensation and what would need to be proved for the actions to succeed. Those who recognised that the employer had not fully discharged his duty of care to protect the employee from exposure to dust (potentially a substance hazardous to health) were able to identify that the employee could initiate a double-barrelled action for negligence and breach of statutory duty. It was then necessary to explain, in relation to the scenario given, what the employee needed to prove for each of these actions to succeed.

In discussing whether the employee could bring a claim for negligence, candidates should have noted that the employer did not do everything reasonable to provide a healthy place of work and that it was reasonably foreseeable that dust would cause or exacerbate respiratory problems. Whether damage arose from the breach would depend on medical evidence. Example of case law to support this could include *Wilsons & Clyde Coal v English* and *Paris v Stepney Borough Council* and, whilst candidates did not need to include details of what happened in the case, they were expected to outline its legal relevance to the argument.

In considering a claim for breach of statutory duty, candidates were expected to identify that the employer could be in breach of the Management of Health and Safety at Work Regulations 1999 (MHSWR) through lack of risk assessment, inadequate arrangements, no health surveillance and no provision of health and safety information. Since the case involved exposure to dust there was also the possibility of breaches of the Control of Substances Hazardous to Health Regulations 2002 (COSHH) depending on the levels of exposure. These could include inadequate assessment, inadequate control by ventilation, lack of monitoring, lack of health surveillance and inadequate information, instruction and training.

This question produced some very good answers from candidates who were familiar with the concept of a double-barrelled action and could explore both actions in terms of proof required. However, in considering breach of statutory duty claims, many answers were constructed around the Health and Safety at Work Act, which was not directly relevant to this case and excluded MHSW and COSHH regulations which were. A few candidates focused entirely on negligence to the exclusion of breach of statutory duty and when providing case law, candidates did not always outline the legal point in the case to support their argument.

Question 11 *A number of external bodies may influence health and safety standards in an organisation.*

*Using specific examples of external bodies, **explain** in **EACH** case why they influence internal decision making on health and safety matters in an organisation.*

(20)

This was a popular question exploring the external influences on health and safety standards in an organisation. Candidates were required not only to identify relevant external bodies but also to explain the nature of their influence on internal decision making on health and safety matters in an organisation. Candidates who did best approached the question in a methodical way, identifying a broad range of bodies such as Parliament, enforcing authorities, courts, clients, customers, contractors etc. then for each body explaining the nature of the influence. So, for example, Parliament produces legislation which compels organisations to comply with in order to behave lawfully or avoid prosecution; enforcing authorities may take enforcement action with associated costs to the organisation if good practice in health and safety is not followed; courts interpret the law and their judgements dictate to organisations how to comply with the law and avoid prosecution or civil liability.

This question was generally well answered with most candidates gaining good marks. However a number of answers failed to explain the ways in which the external source influenced internal decision making and as a result lost marks. There was also a tendency to describe the activities of the bodies identified rather than explain their influence on decision making within organisations. Some candidates failed to provide a sufficiently broad range of bodies and considered police, HSE, Local Authority and fire service separately rather than within the body of enforcing authorities. Few candidates considered the role of the courts or that competitors may reduce profits available for health and safety expenditure or be a source of benchmarking for good practice.



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