

Examiner's report

CTSI Professional Competency Framework

Stage 1: Unit 2 Examiner's Report September 2021

General

12 students sat the examination, only one failing to gain a pass mark. The highest mark achieved by one candidate was 74%. Pleasingly, 6 people achieved marks between 60-69%. The four remaining were in the forties.

Section A

Q1 10 candidates attempted this, the most popular question on the paper. Most provided competent answers.

In respect of Section 11 of The Regulatory Enforcement and Sanctions Act 2008, in the context of a regulatory system, all decision-making processes should be based on the consistent application of risk management tools, in order to ensure that existing and new regulations contribute to managing uncertainty and achieving legislative objectives. The Regulators' Code lays down a standard for regulators to follow

Risk should be considered at every stage of a regulatory process.

Risk is a combination of the hazard and likelihood of non-compliance - the risk rating depends on both hazard and likelihood.

The steps for risk assessment are:

- Identify the level of hazard
- Identify the likelihood of non-compliance
- Apply the likelihood of non-compliance to the level of hazard to determine the level of risk

Regulators have limited resources and Regulatory activity costs money. Those businesses that pose the highest risk should have the highest rating and inspected more frequently. Regulators should base their regulatory activities on risk and should take an evidence-based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks. Regulators, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance.

The benefits of such an approach are that those businesses that comply will gain recognition and reduced levels of inspection. Resources are targeted to where they are needed most to those that need it and those that do not comply.

Enforcement strategies should vary depending on a business's risk. For example, businesses with a high number of instances of non-compliance should be assigned a higher level of risk, and therefore inspected more frequently. Similarly, these businesses may face more severe forms of enforcement action should non-compliance be identified on a regular basis, as opposed to businesses that have a robust, positive record of compliance, or new businesses with no record at all.

Q2 The Office for Product Safety & Standards is part of the Department for Business Energy & Industrial Strategy Responsibilities including:

Primary Authority

Industrial Strategy commitments to local better regulation

Technical regulation on behalf of government

Approval of types of utility meters and provision for accuracy testing

EU Exit preparation for technical regulation

International regulatory delivery

NMO Technical Services

Sponsorship of British Hallmarking Councils:

- the national regulator for all consumer products, except for vehicles, medicines and food.
- the national regulator for legal metrology, ensuring weighing and measuring instruments are accurate and reliable.
- lead Government policy on product safety, metrology, hallmarking and market surveillance, and are responsible for product safety at our borders.
- lead standards and accreditation policy across Government, working with the British Standards Institution and the United Kingdom Accreditation Service, providing benchmarks for the manufacture of safe products and assuring the quality of testing, calibration and certification services.

OPSS is the UK Government's enforcement authority for a range of goods-based and standards-based regulations.

Q3 No students attempted this question. It was perhaps a more difficult and less straightforward question than the other options.

The Macrory report suggested in 2006 a range of options that could be used, rather than prosecution. The idea behind these principles was that a range of options was needed in order to gain compliance.

There are a variety of reasons why a business may not comply with the law these range from simple ignorance of the law, lack of understanding, failure of current systems, lack of resources through to criminality. By using options such as advice and training this would not alienate businesses but would get them onside. Regulators want business to comply. Given the diverse nature of tools at our disposal Regulators can now enforce in a sympathetic way that will encourage compliance. This allows officers to, hopefully, lead a business from non-compliance to compliance in a sympathetic and straightforward way.

Q4 Some good answers for this question of the 9 people who attempted it, up to a maximum of 9 marks out of 10.

I expected students to point out the different options that are available, such as Challenge 25, and how these systems work. These are essentially due diligence systems which should prevent Under Age sales. Students should be able to describe the requirements such as requisite notices on display in the shop, regular updated, and recorded, staff training, till prompts and a refusals book.. There were a range of other suggestions such as “It is a good idea to ensure that the related products can be observed from the till points.” There were also suggestions regarding acceptable proof of age schemes, such as the PASS scheme, passports and photo driving licences.

Q5 Four students answered this question 3 providing very good answers.

Some quoting the Care Act 2014, applicable to local authorities and one mentioning the six principles of the Act. Students looked at a couple of areas, ranging from scams to rogue traders, to underage sales. They drew from their experience within their own local authorities looking at how protection is afforded to vulnerable groups: these included how they combat scams, for example by fitting call blockers, having fast response teams for rogue traders and doorstep crimes, to carrying out test purchases for underage sales to protect young people.

Q6 Although 8 attempted this question, many did not read it properly and stated what a Primary Authority was all about, hence not scoring many marks.

Those who did read and understand the question stated that Small local authorities with limited staff will spend most of their time on priority areas which vary from authority to authority. They will tend to be generalists rather than specialists and therefore will not have the detailed knowledge required to offer targeted and tailored advice to businesses. When businesses are looking for a PA partner then they would tend to go where they believe expertise exists that links to their business. Many large authorities have PA teams offering advice and guidance on many legislative areas, they become known to the larger and national companies. Being a PA can be time consuming as a SPOC is provided to the business. In a local authority with only a few officers this would have a detrimental effect on the work of that department.

Section B

General Comments

Frustratingly, where questions were divided in to two or more parts, some failed to indicate which part was which and some failed to answer anything other than part a).

A plan would have helped in this situation but very few used his method which could have increased their marks.

- Q7** a) Students could have used any specific piece of law to show how they benefit the business and thus the local economy with examples of what they do and how they operate. The business complies with the law which can enhance consumer satisfaction increasing the customer base. Suggestions can be made by Regulators on the best methods to employ with compliance, also give advice on new product development in respect of labelling and compliance. In simplistic economic terms the business that receives helpful advice and guidance will stay clear of any compliance issues and be more competitive. They can sell more products and increase their local reputation. A business will employ staff and pay business rates which helps the local and national economy. Staff are themselves consumers and they will spend much of their wages locally, all of which benefits the economy. We only have to look at what has happened under Covid to see the devastating effect on the economy of businesses closed and under threat.
- b) Essentially you need to carry out a cost benefit analysis. Whilst resources are needed to carry out compliance checks, this should have a beneficial effect in that there will be fewer infringements and less of a need for prosecution, which can be a drain on resources. Using risk assessment will have

benefits, in those businesses that comply should receive fewer visits as they go from higher to lower risk assessments. There should be a proportionate reduction in complaints, as businesses comply consumer satisfaction should increase. Visits to ensure compliance give a level playing field for all traders, not allowing the trading advantage some businesses have from not following the law.

- Q8** As this question was about the preparation for a training session, it was a shame that only two people thought they would actually describe that preparation. Those that did not missed out on a couple of rather easy marks.
- a) I expected students to provide a comprehensive run down of the common duties that TSS perform, a couple did not know what trading standards functions were.
 - b) This range of options for offences will be wide and depending upon what is chosen will depend upon whether: witness statements are needed, samples purchased and analysed. Defendants interviewed under caution. RIPA authorisations may be required for surveillance, search warrants obtained etc. As with part a) a couple of students failed to identify an offence.
 - c) Police work in a variety of ways with TSS and some authorities have a police officer working on secondment. Police are often used as they have powers that we do not. They are needed when searching a premises with a warrant essentially for protection. TSS have no powers of arrest and often offences uncovered can be those that we enforce or those that the police enforce. Police have access to various databases that TSS do not, which can provide better intelligence, for example ANPR used to track rogue traders. More sophisticated crime can need more expertise and assistance. In areas of counterfeiting, it is often found that organised crime is behind it. A police force can provide advice and assistance often taking the lead on complex investigations using the relative expertise on both sides. TSS cannot stop a vehicle a police officer can and are used for road traffic enforcement to check for overloaded vehicles.
- Q9** This was a popular question and the majority obtained above average marks.
- a) I expected students to explain the main areas of business entity: sole trader, partnership limited company and plc, giving the advantages and disadvantages of each.
 - b) Businesses often start as a sole trader or partnership. It is difficult to get funds to develop as banks are generally reluctant to give loans to small businesses. If they are successful then they may well consider moving to the next stage which would be a limited company. Here their individual assets are protected and they have limited liability. As they are now a company, they have to register with Companies House, submit accounts and details of Directors. As their details are essentially in the public domain and accounts are published, banks are more inclined to lend to Ltd companies when they wish to expand. Although there are examples of very successful limited companies in order to go to the next step in growing their organisation a business would consider becoming a plc. They need at least £50K of share capital to do this but they can buy and sell shares in the company. Many who wish to expand further consider a stock market listing in order to raise large amounts of capital to expand.
- Q10** Generally well answered one person achieving 32 out of 35 and excellent answer. I think some may have struggled with this question if they had not had any practical experience since being employed, because of the Covid epidemic.
- a) Suggestions could have been: take statements from those that have purchased goods, when they bought them, could they identify the people in the store? Do they have the products and are they

prepare to give evidence and allow use of their purchased products as evidence? What price did they pay, was there any advertising material in the shop, did they get receipts.? Are there any business details on the receipts were there any details of owners up inside shop? How many suffered from any rash or similar problems, did they go to their doctor? If so who and can the doctor give a statement as to cause of said rash? Some students stated they would ask permission to take the products from the complainants, with permission, and have them tested.

- b) Most agreed for the need to carry out a formal visit to the shop. Needing details of owners plus any workers in the shop, as they may be owners but not admitting to it. Any advertising notices may be required as evidence. Do they have invoices for the purchase of the articles?
Need to take someone with them from Anti-Counterfeiting Group, or the named brands, to give an initial identification of the products as genuine or otherwise.
May need a warrant if you suspect any problems, plus police to accompany you.
Potential counterfeit goods would need to be seized and stored appropriately. Samples of alleged perfumes that caused a rash would need analysing for harmful ingredients.
Any vans that can be identified as belonging to the shop or occupants' details should be taken and checked for registered owners. Check with the council to see to whom the shop is leased. Are there bank details, should any search of ownership lead to a blank end?