



Specimen coursework assignment

M94 – Motor insurance

The following is a specimen coursework assignment including questions and indicative answers.

It provides guidance to the style and format of coursework questions that will be asked and indicates the length and breadth of answers sought by markers. The answers given are not intended to be the definitive answers; well-reasoned alternative answers will also gain marks.

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Top tips for answering coursework questions

- A coursework assignment should be between 5,000 and 10,000 words in total, depending on your writing style.
- The coursework questions link to the learning outcomes shown on the M94 syllabus as follows:

Questions	Learning Outcomes	Chapter(s) in the Study Text – it is important to remember that your answer requires applied knowledge and you will need to build upon the material shown in the Study Text	Maximum marks per answer
1	Learning Outcome 1	Chapters 1 and 2	10 marks
2	Learning Outcome 2	Chapter 3	10 marks
3	Learning Outcome 2	Chapter 3	20 marks
4	Learning Outcome 3	Chapter 4	20 marks
5	Learning Outcome 4	Chapters 5 and 6	10 marks
6	Learning Outcome 4	Chapters 5 and 6	30 marks
7	Learning Outcome 5	Chapters 7 and 8	20 marks
8	Across more than one Learning Outcome	Across more than one chapter	30 marks
9	Across more than one Learning Outcome	Across more than one chapter	30 marks
10	Across more than one Learning Outcome	Across more than one chapter	20 marks

- Read each question carefully and highlight key words such as **analyse, describe, discuss, explain, identify, justify, recommend with reason(s)** and **state**. Please refer to the 'Glossary of key words' in this document.
- Read the Learning Outcome/s and related study text for each question before answering it.
- Ensure that you spend time planning your answers before writing them.
- Ensure that your answers reflect the context of the questions. Your answers must be based on the facts and/or figures used in the questions.
- Ensure that you answer **all** questions. Address **all** the issues raised in each question. For example, if **three** issues are required, check that you have addressed all **three** issues.
- Do **not** group parts together. If there are parts (a) and (b), answer them separately.
- Unless other instructions are given, assume that there is equal weighting for each point raised or asked.
- Ensure that the length and breadth of each answer matches the maximum marks available. For example, a 30 mark question requires more breadth than a 10 or 20 mark question.

Coursework – assignment

Submission Rules

Before commencing work you need to fully familiarise yourself with the Mixed assessment candidate guidelines, including:

- A coursework assignment should be between 5,000 and 10,000 words in total, depending on your writing style.
- Font type and size to be used in your assignments (Arial – size 11).
- Rules relating to referencing third party work.
- Penalties for contravention of the rules relating to plagiarism and collaboration.
- Deadline for the submission of coursework assignment (within 6 months from enrolment date).

Important notes

- Make sure you read each question carefully – marks will not be awarded for irrelevant material.
- Check the number of marks allocated to each question and ensure that your answer is sufficient in its length and breadth.
- This assignment consists of 10 questions which range between 10 and 30 marks.
- Questions 1 to 7 follow the syllabus learning outcomes in order.
- Questions 8 to 10 cover a number of syllabus learning outcomes.
- The total marks available are 200. You need to obtain 120 marks to pass this assignment.
- There is not always a single correct answer for a question and marks will be awarded for all valid responses.

M94 SPECIMEN COURSEWORK QUESTIONS

Question 1 - Learning Outcome 1 (10 marks)

A motor trader, specialising in agricultural vehicles, lent one of their tractors to an agricultural sub-contractor. The sub-contractor was driving the tractor to a farm on a route which took him both on roads and on farm tracks.

During this journey, the sub-contractor was involved in an accident with a third party vehicle. Subsequently, it is discovered that the tractor had defective brakes at the time of the accident. The motor trader submits a claim to its motor insurer for the damage to the tractor and the damage to the third party vehicle.

- (a) Identify **two** important considerations that the motor insurer will take into account when considering its liability. (2)
- (b) Explain the rationale for the **two** considerations that you have chosen above. (8)

Question 2 - Learning Outcome 2 (10 marks)

A comprehensive motor insurance policy was issued to Miss Jones for her car by HJ plc, a motor insurer. The policy includes various settlement options for claims involving loss of or damage to the insured vehicle and its contents.

Miss Jones reports to HJ plc a claim which arose from an electrical fault in the car's engine. The fault caused a fire which significantly damaged the car and its contents.

Identify, with justification, **five** considerations, including policy wording conditions, that HJ plc may take into account in deciding how to settle the claim. (10)

Question 3 - Learning Outcome 2 (20 marks)

Mr Rogers, an employee of XYZ plc, has a car provided by XYZ plc. As the car provided by XYZ plc has broken down, Mr Rogers decides to use his private car to travel to an urgent business meeting at a client's premises.

Both the XYZ plc car and Mr Rogers' private car are comprehensively insured.

Whilst driving to the urgent business meeting, Mr Rogers causes a collision with a third party vehicle, insured on a comprehensive motor policy, which is driven by Miss Smith. Both cars are damaged in the collision. Miss Smith's motor insurer seeks compensation from XYZ plc and Mr Rogers for the damage to her car.

- (a) Explain the extent of third party cover which can be available under XYZ plc's motor fleet policy in respect of a claim made by Miss Smith's motor insurer. (8)
- (b) Explain the extent of third party cover which can be available under Mr Rogers' private car policy in respect of a claim made by Miss Smith's motor insurer. (8)
- (c) Explain the extent of cover available under Mr Rogers' private car policy for the damage to his car. (4)

Question 4 - Learning Outcome 3 (20 marks)

You are an underwriter for an insurer who is targeting new drivers as potential customers. In order to create a policy which is more appealing to their target customers, the insurer is considering the automation of its motor insurance processes. This automation will dispense with paper based documentation and replace it with electronically issued documentation. This will include dispensing with proposal forms and replacing them with statements of fact.

- (a) Explain, with justification, **five** implications of automating the motor insurance processes. (15)
- (b) Identify, with justification, **one** potential ethical issue that might arise from automating the motor insurance processes. (5)

Question 5 - Learning Outcome 4 (10 marks)

You are an underwriter working for QWR plc, a motor insurer. A motor trade policyholder is considering offering a self-drive hire facility. The motor trader will have 25 vehicles available for self-drive hire. The motor trade policyholder contacts you to cover this self-drive facility.

- (a) Identify, with justification, **one** rating method you would use in pricing insurance for this self-drive facility. (4)

- (b) Identify, with justification, **three** disadvantages for QWR plc of the rating method chosen above. (6)

Question 6 - Learning Outcome 4 (30 marks)

You are an underwriter for a motor insurer. A direct client, Mr and Mrs Davis, have approached you to review their motor insurance arrangements.

Mr and Mrs Davis are the directors and owners of a catering business which has five permanent employees; and it often uses temporary employees depending on the size of an individual event. They specialise in events such as weddings, funerals and parties. These events take place within a 30 mile radius of their home which is in a major city.

The business is based in an outbuilding which is situated alongside their home where they live with their children.

The catering business owns a number of vehicles which include two cars for their personal use, two vans for use in catering, a motorcycle for quick deliveries and two cars for the use of their children who are aged 19 and 25 years respectively. In addition, Mrs Davis owns a high performance convertible sports car which is only used during the summer. Apart from the convertible sports car which is garaged, all vehicles are kept in the open at the premises overnight.

Currently, all the vehicles are comprehensively insured on a motor fleet basis with open driving, except for the convertible sports car which is limited to drivers aged 25 years and above.

One of the permanent employees had two speeding convictions last year, for which they received a total of 6 endorsement points on their driving licence

An employee, who regularly employed on a temporary basis, has a diagnosis of epilepsy.

One of the vans has a two-year No Claims Discount (NCD) entitlement and one of the cars has a three-year NCD. All other vehicles have no NCD, due to a number of minor own damage claims.

- (a) Describe, with justification, **five** significant rating factors you would take into account, for the scenario above. (15)
- (b) Identify, with justification, **five** underwriting recommendations which would make the insurance risk more attractive to you. (15)

Question 7 - Learning Outcome 5 (20 marks)

Mr Wilkins is the owner of a prestigious car which suffers damage in an accident for which he makes a claim under his comprehensive motor insurance policy. As a result of the accident the car is undriveable. The insurer arranges for their recommended repairer to collect the car from the scene of the accident and take it to their workshop, where the insurer's motor engineer approves the vehicle repair.

Mr Wilkins has received his car back from the approved repairer, but is unhappy with the quality of the repair work carried out. In particular, he feels that the value of his car has been diminished due to poor paint work. Mr Wilkins submits a complaint to the insurer.

- (a) Identify, with justification, **two** options available to the insurer to address the complaint. (8)
- (b) Explain, with justification, **three** options available to Mr Wilkins should his complaint not be resolved to his satisfaction. (12)

Question 8 - Across more than one Learning Outcome (30 marks)

KJ plc owns a commercial vehicle which is insured with AB plc, a UK-based motor insurer, on a named driver basis.

Gary, an employee of KJ plc, who is not a named driver, is driving the commercial vehicle owned by KJ plc on a public road with the permission of his employer. The vehicle owned by KJ plc is overloaded and crashes into an oncoming vehicle. Both vehicles are damaged beyond economic repair.

The driver of the oncoming vehicle alleges that he has suffered whiplash as a result of the crash. It is subsequently established that he was not wearing a seatbelt at the time of the accident. The insurer of the third party seeks compensation from KJ plc for the vehicle damage and the third party driver also seeks compensation from KJ plc for his personal injury. KJ plc notify AB plc of the accident and submit a claim.

- (a) Explain the position of AB plc under the insurance policy they have issued. (12)
- (b) Explain any recovery rights that AB plc might have against KJ plc. (6)
- (c) Explain, with justification, how AB plc could investigate and handle the third party personal injury claim. (12)

Question 9 - Across more than one Learning Outcome (30 marks)

Anne is 17 years old and has just passed her driving test. Her mother, Julie, who owns a vehicle, arranges to have it comprehensively insured with MB plc, a UK-based motor insurer. Julie is shown on the schedule of insurance as the main driver, with Anne as a named driver.

Anne drives the vehicle to work on a daily basis. Whilst Anne is driving the vehicle, she causes an accident involving another vehicle. This accident results in damage to both vehicles and personal injury to the driver of the other vehicle. Julie submits a claim to MB plc, seeking indemnity for the damage to her vehicle. The third party driver also submits a claim to Anne for compensation for the personal injury that they sustained.

MB plc's motor engineer's report states that Julie's vehicle is beyond economic repair. MB plc obtain a police report stating that Anne was the cause of the accident and was exceeding the speed limit.

- (a) Explain, with justification, the liability of MB plc for the own vehicle damage claim. (15)
- (b) Explain, with justification, the liability of MB plc for the third party damage and personal injury. (15)

Question 10 - Across more than one Learning Outcome (20 marks)

Tony has insured his car for the last five years on a comprehensive basis with KA plc, a UK-based motor insurer. Tony was convicted a few months ago of dangerous driving due to the use of a mobile phone whilst driving his car. Tony did not disclose the dangerous driving conviction to KA plc when he renewed his policy.

Tony was recently involved in a collision between his car and another vehicle, where the third party driver was at fault. He submits a claim to KA plc for the damage to his car. During their investigation of the claim, KA plc become aware of Tony's dangerous driving conviction.

- (a) Explain how the conviction affects KA plc's handling of the claim. (12)
- (b) Explain, with justification, **two** significant options that Tony might pursue to recover compensation for damage to his car, if KA plc decline his claim. (8)

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M94 SPECIMEN COURSEWORK QUESTIONS AND ANSWERS

Question 1 - Learning Outcome 1 (10 marks)

A motor trader, specialising in agricultural vehicles, lent one of their tractors to an agricultural sub-contractor. The sub-contractor was driving the tractor to a farm on a route which took him both on roads and on farm tracks.

During this journey, the sub-contractor was involved in an accident with a third party vehicle. Subsequently, it is discovered that the tractor had defective brakes at the time of the accident. The motor trader submits a claim to its motor insurer for the damage to the tractor and the damage to the third party vehicle.

- (a) Identify **two** important considerations that the motor insurer will take into account when considering its liability. (2)
- (b) Explain the rationale for the **two** considerations that you have chosen above. (8)

Answer to Question 1 (Learning Outcome 1)

- (a) Two important considerations are:-
- Whether the insurer will offer indemnity to the motor trader on the basis that the tractor is found to have defective brakes following an accident.
 - Whether the insurer is obliged to pick up the third party claim as either RTA insurer or Article 75 Insurer, and is the farm track deemed a 'road or other public place' under the Road Traffic Act 1988.
- (b) The fact that the tractor has been found to have defective brakes following the accident is an important consideration. **Part VI Third Party Liabilities, Section 148 of the Road Traffic Act 1988** (RTA) provides that certain conditions and restrictions shall be of no effect for the purposes of the insurer's RTA liability. One of these prohibited conditions and restrictions is 'the condition of the vehicle'.

The motor insurer can reject the claim submitted by the motor trader for own damage to the tractor, as the defective brakes to the vehicle contravene a policy condition which places a duty on the policyholder to keep the insured vehicle in a roadworthy condition. However, this does not mean that the insurer can escape its RTA liability in respect of the damage sustained to the third party vehicle. I assume that the sub-contractor is negligent for the accident, as the motor trader has submitted the costs for the third party vehicle to its insurer. In considering whether the insurer has an RTA liability we need to establish whether the farm track which the accident occurred on is deemed a "road or other public place" as defined by **S.192(1)** of the RTA. This definition is described as "a highway or any other road to which the public has access and includes bridges over which a road passes".

If the farm track is deemed a road then the Insurer will have a RTA liability and will have to settle the third party claim subject to the limits required by legislation, which is unlimited damages for third party death and bodily injury and £1m damages for third party property damage. However, the fact that a third party vehicle was even on this farm track could mean that it is seen to be a “road or other public place”. Refer **Cutter v Eagle Star (1998)** (CII study text on Motor insurance, 2014). Should the Insurer have an RTA insurer liability, it can then seek to be reimbursed for any monies paid out to the third party from the motor trader, their policyholder, as permitted under subsections **3 & 4 of Section 148** of the RTA.

If the farm track is deemed to not be a road or other public place as defined under the RTA, it is therefore the case that indemnity can be declined and the motor trader would be left to deal with the third party claim himself as his insurer would have no involvement under the RTA.

Question 2 - Learning Outcome 2 (10 marks)

A comprehensive motor insurance policy was issued to Miss Jones for her car by HJ plc, a motor insurer. The policy includes various settlement options for claims involving loss of or damage to the insured vehicle and its contents.

Miss Jones reports to HJ plc a claim which arose from an electrical fault in the car's engine. The fault caused a fire which significantly damaged the car and its contents.

Identify, with justification, **five** considerations, including policy wording conditions, that HJ plc may take into account in deciding how to settle the claim. (10)

Answer to Question 2 (Learning Outcome 2)

Five considerations with justification are as follows:

- The comprehensive policy may specifically exclude mechanical, electrical, and electronic or computer breakdown, but any resultant fire damage to the car from this electrical failure would be covered. This means in this case that the engine fault itself which caused the fire would not be covered, however the resultant fire damage to the car would be. The cost of repairing or replacing the electrical fault needs to be identified and deducted from the cost of the fire damage claim settlement.
- The engineer would have reported on whether the car is repairable or uneconomical to repair, as a total loss. The insurer will clearly state in the operative clause of the policy that they will at their option, pay for the damage to be repaired, repair or replace what is stolen or damaged or pay the amount of the loss or the damage. They will also state that they will not pay any more than the

market value of the car, immediately prior to the fire. If the car is not repairable and is subject to a hire purchase or leasing agreement, then the insurer would need to make a payment, up to the market value less the excluded damage and any excess, of any outstanding amount to the hire purchase or leasing company. Any balance left, after paying the hire purchase or leasing company, is paid to the insured. If the car is repairable then it would be taken to the repairing garage, where Miss Jones will have to pay for the cost of repairing or replacing the electrical fault with the insurer paying for the remainder of the damage, subject to any applicable excess.

- A further consideration is to deduct any fire excess or other compulsory/voluntary excesses applicable from the settlement figure.
- It is not clear here whether the car is repairable or not, but the insurer would normally look to reimburse any damaged personal effects, especially under a comprehensive policy, which were in the car and damaged as a result of the fire subject to a usual limit of around £100 - £150. This will cover items such as coats, spectacles and CDs, etc. but will normally exclude money, stamps, tickets, etc. If a child seat was damaged in the car, the insurer would normally state in the policy that they will contribute up to £100 per child seat even if there is no apparent damage. This complies with legislation introduced in 2006.
- The insurer will not usually pay any more than £500 for permanent fitted stereo equipment in the car and this would be paid if the car is repairable. If the car is a total loss, then this cost is usually calculated within the market value. Any vehicle accessories also damaged would also be paid for, subject to a policy limit which is usually of the order of £500.

If this is a new car the insurer may also have a new car replacement option in the policy, which in the event of a total loss claim, provides the insured with a new car of the same make and model. If the fire can be attributed to a manufacturing defect, the insurer may look to make a recovery from the manufacturer under the tort of negligence.

Question 3 - Learning Outcome 2 (20 marks)

Mr Rogers, an employee of XYZ plc, has a car provided by XYZ plc. As the car provided by XYZ plc has broken down, Mr Rogers decides to use his private car to travel to an urgent business meeting at a client's premises.

Both the XYZ plc car and Mr Rogers' private car are comprehensively insured.

Whilst driving to the urgent business meeting, Mr Rogers causes a collision with a third party vehicle, insured on a comprehensive motor policy, which is driven by Miss Smith. Both cars are damaged in the collision. Miss Smith's motor insurer seeks compensation from XYZ plc and Mr Rogers for the damage to her car.

- (a) Explain the extent of third party cover which can be available under XYZ plc's motor fleet policy in respect of a claim made by Miss Smith's motor insurer. (8)
- (b) Explain the extent of third party cover which can be available under Mr Rogers' private car policy in respect of a claim made by Miss Smith's motor insurer. (8)
- (c) Explain the extent of cover available under Mr Rogers' private car policy for the damage to his car. (4)

Answer to Question 3 (Learning Outcome 2)

- (a) XYZ's motor fleet policy will likely provide some contingent liability cover as this is common in the market.

We do not know in this case whether XYZ sanctioned the use of the private motor vehicle. If they did, XYZ can incur vicarious liability (one party becomes liable for the actions of another) for allowing an employee to use their own vehicle for XYZ's business purposes.

Contingent liability cover can also provide for situations where one party, XYZ, relies on another, Mr Jones, to arrange insurance where subsequently that cover is inoperative. For example Mr Jones's policy may only cover social domestic and pleasure use, thereby excluding business use. Protection for vicarious liability, provided under the personal policy extension of indemnity, to the employer would fail should Mr Jones's policy be invalid and so, without contingent liability cover, XYZ would be exposed to claims from Miss Smith's motor insurer, without the benefit of being able to seek indemnity from an insurer.

With the motor fleet contingent liability cover in place, XYZ's insurer would look to deal with the claim. Note that the contingent liability cover does not extend to indemnify Mr Jones, should Miss Smith's insurers take action against him as it only protects XYZ.

The motor fleet policy may also provide an occasional business use extension. This would provide for those occasions where an employee's own car needs to be insured for business use but the employee's own policy does not cover such use, or where it's impracticable to be arranged. For example, Mr Jones may not have been able to extend his own policy to cover the business trip. This extension is limited solely to the business of XYZ, as it excludes social domestic and pleasure, and would be inoperative if there were any other policy covering the loss/liability. This cover does indemnify both XYZ and Mr Jones, the latter at XYZ's request. It is not a contingent cover but a primary cover. If the extension were on a comprehensive basis it would extend to the damage to Mr Jones's car, in addition to Miss Smith's insurer's claim. There will be a certificate of motor insurance issued to XYZ in respect of this cover.

- (b) Mr Jones' personal private car policy will contain a schedule and certificate of motor insurance detailing the use of the car and restrictions applicable. Many policies are restricted to 'Use for social domestic & pleasure purposes excluding use for any business purposes'. There will be an exception contained within the policy wording that 'the policy does not provide insurance where any car covered is being used for purposes that are not permitted by your certificate of motor insurance'. Should Mr Jones's certificate contain the above restriction of use there will be no cover under the policy for travel to a business meeting. The policy would not respond to any claim from Miss Smith's insurers as under the **Road Traffic Act 1988** a restriction on use of a vehicle is not one of those prohibited restrictions, Section 148, respect of third party liability.

As Mr Jones would thus be uninsured, the Motor Insurers' Bureau (MIB) would be the next consideration with possible liability under The Domestic Regulations, Article 75 (CII study text on Motor insurance, 2014). However the Uninsured Drivers' Agreement does not apply to subrogated claims where an insurer has indemnified their insured for their own damage repairs and then seeks recovery of their outlay. In this circumstance Miss Smith's insurer would look to Mr Jones for recovery.

The policy may, however, have been extended to include 'personal business use' (often known as Class 1 cover), i.e. use by the policyholder in person in connection with the policyholder's business excluding commercial travelling, or for any purpose in connection with the motor trade. If this is the case and XYZ plc's business is not motor trading and Mr Jones was not 'commercial travelling' then his insurers should meet the claim. This would apply if Miss Smith's insurers sought indemnity, utilising the subrogation clause in her policy to take over her rights against either Mr Jones or XYZ.

Mr Jones's policy will include an extension of cover and provide indemnity to 'the employer of any person using any vehicle for which cover is provided while the vehicle is being used for business purposes permitted by your certificate of insurance' (CII study text on Motor insurance, 2014).

Note that Mr Jones's policy use may have been extended further to cover what is often known as Class 3 which does not exclude commercial travelling or use in connection with the motor trade.

- (c) Mr Jones' comprehensive policy will provide cover for damage to his own car (subject to use being included as detailed above). There will generally be an own damage excess applicable (compulsory, voluntary or both) which Mr Jones will have to meet.

Mr Jones is entitled to be indemnified, i.e. placed in the same position that existed immediately prior to the loss, but the insurer can choose to do this by:

- i) Paying for the damage to be repaired
- ii) Repair or replace what is damaged
- iii) Paying the amount of the loss or damage.

Should insurers make a payment for either own or third party damage the no claims bonus will be lost, or in the event there is excess protection, it may be scaled back according to the insurer's no claim discount structure.

Should the use of the car not be insured then Mr Jones will receive no indemnity for his own car's damage under his private car policy.

Question 4 - Learning Outcome 3 (20 marks)

You are an underwriter for an insurer who is targeting new drivers as potential customers. In order to create a policy which is more appealing to their target customers, the insurer is considering the automation of its motor insurance processes. This automation will dispense with paper based documentation and replace it with electronically issued documentation. This will include dispensing with proposal forms and replacing them with statements of fact.

- (a) Explain, with justification, **five** implications of automating the motor insurance processes. (15)
- (b) Identify, with justification, **one** potential ethical issue that might arise from automating the motor insurance processes. (5)

Answer to Question 4 (Learning Outcome 3)

- (a) Five implications of automating the motor Insurance policy, to support the engagement with new drivers many of whom will be relatively young and technically proficient in e-commerce will be:
- i) Documents issued electronically offer a speedier means of access and delivery which benefits the policyholder, who does not need to receive them by post. This means that they are in possession of the policy booklet, schedule and Insurance certificate within a very short time frame and in whatever location they happen to be in at the time. Automating the motor policy will benefit the younger target audience, who will likely store and access their

documents on a variety of devices, including tablets and their mobile phone, so that they are available immediately whenever they are required.

- ii) Automated documentation also reduces paper, printing and postage costs. The younger target audience tend to be very environmentally conscious. The reduction in paper, printing and postage will also increase the profitability, productivity and consistency of the motor insurer allowing them to reduce the cost for their target audience. Automation can also provide an excellent audit trail, showing where and when information is provided.
 - iii) It is advantageous to the customer as they can access their policy documentation in a portal. Younger people often tend to prefer communication by electronic means and therefore completion of forms online will appeal. It also makes the delivery and surrendering of certificates of motor insurance easier for the policyholder, encouraging compliance by this younger audience. However, with the introduction of the **Deregulation Act** in 2015, it is no longer a legal requirement to return the certificate of motor insurance for mid-term cancellation.
 - iv) Replacing a paper based proposal form with a statement of facts serves to promote consistency making sure the customer understands the questions asked, as responses are given by electronic means or over the telephone. This will assist the younger audience who may be less familiar with the Insurance process.
 - v) Automating the policy process ensures compliance, security, an audit trail and better data analysis. Electronically issued documents, unlike paper-based documents, if suitably managed cannot be mishandled, lost, stolen or copied and shared with unauthorised individuals.
- (b) One potential ethical issue if we choose to issue certificates of motor insurance by electronic transmission (attachment to an email or access to our website) is that the policyholder must agree to receive the certificates electronically and we will need to ensure that it is delivered to the electronic address requested by the customer. Our customers' sensitive personal data must continue to be protected in the usual way. If issued by access to the website the certificate of motor insurance must be available there and we must tell the customer where it is and how to access it. It must remain available there until the policyholder has no legal need for it and we must take steps to ensure the website remains available. However, as the target audience are new drivers, and the majority will be young, they will likely be comfortable with the technology.

Question 5 - Learning Outcome 4 (10 marks)

You are an underwriter working for QWR plc, a motor insurer. A motor trade policyholder is considering offering a self-drive hire facility. The motor trader will have 25 vehicles available for self-drive hire. The motor trade policyholder contacts you to cover this self-drive facility.

- (a) Identify, with justification, **one** rating method you would use in pricing insurance for this self-drive facility. (4)
- (b) Identify, with justification, **three** disadvantages for QWR plc of the rating method chosen above. (6)

Answer to Question 5 (Learning Outcome 4)

- (a) Rating for a 25 vehicle fleet of self-drive hire vehicles will require prior research given that this will, effectively, be a new venture for the motor trader and so I have no fully relevant past experience for this particular risk. Writing self-drive hire risks is particularly difficult as I have no knowledge at inception of the drivers, actual usage, etc. who may seek to hire a vehicle.

I would specify the vehicles to be insured under the policy and charge an annual flat rate for each vehicle, the flat rate being dependent on the vehicle type, e.g. small private car, executive car, multi-seater vehicle with up to 8 seats or small commercial vehicle.

The client should also consider insuring the vehicles under the motor trade policy for the times they are laid-up and/or are being driven by the motor-trade employees unless we add on this cover to the self-drive hire insurance policy.

This per vehicle methodology is more suitable for a fleet with a small number of vehicles, rather than using a turnover rating method. It is unusual in the market to find turnover based quotations for the newer small self-drive hire fleets as the rate % of turnover is better suited to larger established risks, with claims experience and hiring experience to assist in rating. It would also be difficult for the client to estimate accurately his turnover in the first year of operation. Turnover rating requires careful consideration of the rate, dependent of the make-up of the fleet and also rating for the contingency risk taken when the client hires vehicles out using the customer's own insurance policy.

There are some policies offered in the market with a daily hire premium rate but with 25 vehicles I would be reluctant to work on this basis as we would have a lot of administration and document issues, such as the issue of numerous cover notes, for both the client and ourselves. This system works better for the motor trader with only a few vehicles and should be computer-based for ease of operation.

- (b) There are disadvantages for QWR plc arising out of the per vehicle rating methodology:
- i) The rate would be set at inception of the policy based on assessment of the risk presented. If QWR was to find that vehicles spent more time laid-up than being hired they would be paying the same premium for a reduced risk. The daily rate or turnover methodologies both vary premiums (above a minimum/deposit) with hire usage. Also should the QWR customer need to arrange cover under his own motor policy (perhaps due to his accident or conviction record excluding him from the annual policy) this would not be taken into account in premium charged.
 - ii) Vehicles are specified and any changes will need to be notified and amendment documentation issued. This would prevent the client swapping and changing easily. As a motor trader, QWR may wish to utilise vehicles they have taken in part-exchange so that when sales are slow the stock still generates an income. This is made more difficult by the specified vehicle rating.
 - iii) QWR will need to operate the hire and have trained staff who can ensure that the vehicle hire and insurance documentation is completed for each hirer and driver/s. This will often take the form of a completed application form together with the driver's DVLA record/licence. The staff must check that each driver complies with the terms and restrictions of the policy and that the business usage required is acceptable. The terms will have been set by me but QWR may decide to be stricter in order to control the risk still further. For example, the policy may say no driver with more than 6 conviction points in the last 3 years but QWR may choose only to provide vehicles to drivers with 3 or less points. The insurer will audit check that documentation is being correctly and fully completed. A turnover based policy will often dispense with the requirement for the forms to be submitted to the insurer, although they should be retained in case of an incident as I may request a sample for checking from time to time.

Question 6 - Learning Outcome 4 (30 marks)

You are an underwriter for a motor insurer. A direct client, Mr and Mrs Davis, have approached you to review their motor insurance arrangements.

Mr and Mrs Davis are the directors and owners of a catering business which has five permanent employees; and it often uses temporary employees depending on the size of an individual event. They specialise in events such as weddings, funerals and parties. These events take place within a 30 mile radius of their home which is in a major city.

The business is based in an outbuilding which is situated alongside their home where they live with their children.

The catering business owns a number of vehicles which include two cars for their personal use, two vans for use in catering, a motorcycle for quick deliveries and two cars for the use of their children who are aged 19 and 25 years respectively. In addition, Mrs Davis owns a high performance convertible sports car which is only used during the summer. Apart from the convertible sports car which is garaged, all vehicles are kept in the open at the premises overnight.

Currently, all the vehicles are comprehensively insured on a motor fleet basis with open driving, except for the convertible sports car which is limited to drivers aged 25 years and above.

One of the permanent employees had two speeding convictions last year, for which they received a total of 6 endorsement points on their driving licence.

An employee, who is regularly employed on a temporary basis, has diagnosis of epilepsy.

One of the vans has a two-year No Claims Discount (NCD) entitlement and one of the cars has a three-year NCD. All other vehicles have no NCD, due to a number of minor own damage claims.

- (a) Describe, with justification, **five** significant rating factors you would take into account, for the scenario above. (15)

- (b) Identify, with justification, **five** underwriting recommendations which would make the insurance risk more attractive to you. (15)

Answer to Question 6 (Learning Outcome 4)

(a) Five significant ratings that an insurer would take into account when determining, acceptance, premium and policy terms and conditions are:

- **District of garaging or use** – If the vehicle is being used in an area of high traffic density (like a city) there is likely to be a higher frequency of claims. In addition, urban areas experience more crime rates than rural areas (motor theft and vandalism). Areas prone to flooding can be identified by geographical area. Some cities in the UK are fraud hotspots and some motor insurers do not insure at all in these areas, otherwise they charge a very high premium. I know that Mr and Mrs Davies live in a major city and therefore the premium will reflect this. All events for their business take place within a 30-mile radius of their home and so the district of use is quite small but probably with high traffic density, especially for the vehicles used directly for their business such as the vans and motorcycle. However, insurers tend to take account of districts when rating and this is usually the area in which the vehicle is garaged or kept, even though the radius for the business use vehicles is very small. The post coding of addresses offers insurers a convenient way of identifying addresses by relatively small geographical areas which allow insurers to group into rating districts risks which comprise similar risk profiles. Insurers may have up to 50 rating districts but goods carrying vehicles will be rated on fewer districts, reflecting the wider radius these would cover. Again this is a disadvantage for Mr and Mrs Davies due to the small radius that their business vehicles cover. Perhaps their broker can look at a ‘pay as you drive’ policy, especially for the commercial vehicles.
- **Age of driver** - Age of the driver is a significant rating factor in motor insurance and can have a huge bearing on the premium. Young drivers, due to their high accident frequency, are usually analysed in two categories, 17-20 years and 21-24 years. Also drivers past middle age will see a trend of their premium rising as they reach old age to reflect the increased risk. Mr & Mrs Davies have two children who are 19 and 25 years old. The younger child will therefore incur a larger premium and a young drivers excess likely to be in the region of £250 in the event of having an accident whereas the 25-year-old is likely to escape having a young drivers excess applied. The age of the driver also encompasses past accident and conviction history. While the **Equalities Act** prohibits age discrimination, there is an exception with insurers who can continue to use age as a factor in assessing risk.

Classification of Vehicle – This is important as it is the subject matter of the insurance. Each individual vehicle is assessed according to a number of factors, rating performance and repair cost and allocated to a group. Other factors in deciding on a group are the new car price, vehicle performance and cost of replacement parts. Insurers would pay particular attention to the high performance convertible sports car when deciding on acceptance of the risk, premium and terms and conditions. In addition, Mr & Mrs Davies have a motor cycle that is part of the business and used for quick deliveries for their catering business. Motorcycles, due to their physical size, are also more vulnerable to

theft and greater vulnerability for passenger death and injury, although it's likely that as the motorcycle is used for business purposes, it may exclude the carrying of passengers. Motorcycles are classified in a similar way to cars but have their own grouping methods. Mr & Mrs Davies also have two vans used for commercial purposes which we assume are both small goods vehicles as their business is a catering business. Small goods vehicles can be rated very similarly to motor cars especially if they are not considered medium or long distance haulage vehicles (which are usually rated by adding the carrying capacity to the basis of vehicle rating). As Mr & Mrs Davies' events tend to take place within a 30 miles radius we would assume that both vans would be viewed as small goods vehicles.

- **Driving limitation** – the trend is towards restricting driving for motor car policies and more policyholders are accepting restriction to insured only or named persons in return for a reduced premium. Mrs Davies' high performance convertible sports car has been restricted to drivers aged 25 years and above. The rest of the vehicles are insured on an open driving basis. This is far more beneficial for the two vans and the motorcycle used for business as although Mr and Mrs Davies have five permanent employees they often use temporary employees, depending on the size of the individual event, so the drivers are likely to change frequently and the business needs the flexibility that open driving cover gives.
 - **Class of Use** – For motor vehicles, these are rated in ascending order, Social Domestic and Pleasure (SDP) (excluding commuting), SDP (Including Commuting), Class A, Class B1 and Class B2. Two cars, and we assume the high performance sports car, are used for Mr & Mrs Davies' personal use and as their business is also at their home address in an outbuilding, they will only need SDP (excluding Commuting) for these vehicles. We are not told whether their two children work at the business and if they do then they will also require this use. However, if they intend to commute to and from their work address they will need SDP (including commuting). Obviously, if both children are using their vehicles in connection with their business, we will need to assess whether Class A, Class B1 or Class B2 will be necessary. The two vans and the motorcycle used for the business will need to be rated accordingly, excluding cover for hire and reward which is unnecessary.
- (b) Five recommendations which would make the insurance risk more attractive to insurers are:
- **Increase the security on the vehicles or keep them in a garage (if spare garages on the premises are available)** – We are not told how many garages Mr & Mrs Davies have at their premises so can only assume they have the one, which houses the high performance convertible sports car. In the absence of there being any other garages at the premises to house the other vehicles to reduce the risk, increasing the security of the other vehicles will lessen the risk for the insurer. We are told that all other vehicles except the sports car are kept in the open on the premises overnight. I would therefore assume they are not left on the road but on their driveway maybe.

As their property would appear to be large and situated in a city, it may well attract thieves. As the broker I would suggest that all vehicles are alarmed and the motorcycle has a steering lock fitted to improve the risk. Consideration could be given to tracking device being fitted in all vehicles, whereby an electronic chip within the vehicle can be activated and monitored where necessary, if any vehicle is ever stolen.

- **Change the high performance convertible sports car to named driver only** - Mrs Davies is the only one who drives the sports car in the summer and so it would make the risk more attractive to insurers to just have Mrs Davies named in the policy to drive this vehicle. Perhaps as Mr & Mrs Davies have such few employees, they could change the open driving on the other vehicles to any drivers over 25 years with the option to declare and add any temporary employees under this age. This does make the cover more inflexible but as they have five permanent employees and only hire temporary staff as and when needed, this could work and make the risk more inviting to insurers.
- **Car laid up section of the policy** – This is a benefit whereby cover can be suspended under the policy if the vehicle is undergoing restoration or repair. Policies tend to stipulate that the vehicle must be kept in a locked garage if this benefit is used. As Mrs Davies only uses her high performance sports car in summer and it is kept in a locked garage when not used, it may be possible to apply this premium reduction option. As the risk is then reduced for the insurer, a credit is then calculated at 75% of the pro-rata premium because the vehicle remains on cover with the insurer but for a much lower risk than when the vehicle is on the road. The suspension of all cover does mean that the third party section of the policy becomes inoperative and so it would be necessary for Mrs Davies to make a SORN to comply with CIE requirements introduced in 2010.
- **Introduce a voluntary excess on the policy** – This will provide a premium discount as Mr and Mrs Davies will agree to bear the first part of any future loss and this will be added to any existing excesses. The risk to the insurer will therefore be reduced as they will be paying less in the event of a claim. It will also have the benefit of helping to increase the No Claims Discount (NCD) on the vehicles which currently hold none, as we are told that the NCD has been lost due to a number of minor own damage claims.
- **Introducing Telematics** – This is a term used to describe exchange of data over a wireless communications network. In recent years this has been used by Insurers as a method of calculating premium for vehicles. ‘Pay as you drive’ is a type of insurance suitable for drivers who rarely travel in rush hour or late at night and can be particularly attractive to young drivers who otherwise face high premiums.

The premium is initially estimated on a declaration of expected mileage and times of travel and then is adjusted. This type of insurance could definitely benefit Mr & Mrs Davies 19-year-old, and maybe also the 25-year-old child, as the risk would

be more attractive for the insurer. The other type of telematics, 'pay how you drive', could also lessen the risk. Information is recorded of driver behaviour, acceleration, deceleration, braking and changes in direction. This could be useful for the two vans and the motorcycle to assist in improving driver behaviour. Employees are known to not look after work vehicles as well as they do their own vehicles.

Question 7 - Learning Outcome 5 (20 marks)

Mr Wilkins is the owner of a prestigious car which suffers damage in an accident for which he makes a claim under his comprehensive motor insurance policy. As a result of the accident the car is undriveable. The insurer arranges for their recommended repairer to collect the car from the scene of the accident and take it to their workshop, where the insurer's motor engineer approves the vehicle repair.

Mr Wilkins has received his car back from the approved repairer, but is unhappy with the quality of the repair work carried out. In particular, he feels that the value of his car has been diminished due to poor paint work. Mr Wilkins submits a complaint to the insurer.

- (a) Identify, with justification, **two** options available to the insurer to address the complaint. (8)
- (b) Explain, with justification, **three** options available to Mr Wilkins should his complaint not be resolved to his satisfaction. (12)

Answer to Question 7 (Learning Outcome 5)

- (a) Mr Wilkins is the owner of a prestigious motor car which suffers damage and he makes a claim under the comprehensive section of his motor policy. There is no mention that Mr Wilkins has an agreed value policy for the prestigious vehicle and we must therefore assume that the policy makes no modification to indemnity. Indemnity is defined as putting the policyholder back in the exact same position that he/she was in prior to the loss: No better or worse off. Mr Wilkins' vehicle has been repaired at a recommended repairer. Recommended repairers are those on a panel created by an insurer. In exchange for being on the panel the recommended repairers will provide the insurer with discounted rates, priority service and, potentially, access to replacement cars whilst the repairs take place. Mr Wilkins' insurer has appointed a motor engineer to inspect the vehicle, who has deemed it repairable. The operative clause of the policy states that the insurer will choose the option to repair, replace or pay up to the market value of the vehicle insured. The insurer has exercised their right to repair the vehicle and is therefore responsible for ensuring any deficiencies in the repair are put right as part of their contractual commitment. In this instance Mr Wilkins has received the vehicle back

from the recommended repairer and is unhappy at the quality of the work carried out. He feels that the value of his vehicle has diminished due to poor paint work.

Once the insurer has chosen to undertake the repairs, this becomes a contract of reinstatement and they must put the vehicle back in the same position it was pre-loss. When Mr Wilkins submits a complaint to his insurer, they would likely try to put the issue right for him.

- The first thing the Insurer would do is arrange for a motor engineer to re-inspect the repaired vehicle and then, if appropriate, arrange for it to be taken back to the recommended repairer and have them try and rectify the issue with the paintwork. This would normally be done with no extra expense to the insurer by the recommended repairer. If the paintwork is put right, then there will be no diminished value to the vehicle and the insurer will not need to address this aspect.
 - If the issue regarding the paintwork is not able to be resolved, the insurer may want to consider paying for the diminution in value of the vehicle. This is a prestigious vehicle and some vehicles are more sceptical than others to losing their value once repaired. The vehicle would be inspected post-repair and a motor engineer would advise the reduction in lost value suffered and the insurer will then make an offer based on the motor engineer's advice.
- (b) If the complaint has not been resolved to Mr Wilkin's satisfaction, the following three options will be open to him:

Escalating the complaint to the Financial Ombudsman Service (FOS)

The FOS is an entirely independent mechanism for resolving disputes. The Ombudsman only deals with disputes from private individuals or micro-enterprises with a turnover of less than 2 million euros and with fewer than 10 employees. As Mr Wilkins is a private individual he is eligible to take his complaint to the FOS. The first step would be for Mr Wilkins to escalate the complaint to the senior management of his insurer and he would have needed to reject their final decision in order for the FOS to then become involved. The insurer is bound by the FOS's decision, but Mr Wilkins does not have to accept their decision. This is a good option for Mr Wilkins as he has not yet gone down the arbitration route.

Alternative Dispute Resolution (ADR)

This is a method that has been designed as an alternative to arbitration which therefore lessens the case load of the courts. ADR can be used to assist all manner of disputes, including complaints to insurers. Normally a mediator is appointed to bring about discussion and to arrive at mutual understanding and acceptance. While usually used for commercial policyholders, this could be a good course of action for Mr Wilkins as the mediator will help both him and his insurer to arrive at a mutually agreeable solution. There are various types of ADR however the best options here probably are mediation and conciliation as they are best used in a motor insurance

context where there is a dispute as to quantum. However, the parties are not bound by the procedure and can resort to arbitration if necessary.

Litigation

Mr Wilkins can decide to take court action against his insurers to provide an indemnity and put him back in the same position he was in prior to the loss. This could well be a small claims court action as it would force the insurer's hand to either settle the county court claim form for damages or enter a defence in order for matters to be heard and a decision made in court. He would be expected to submit supporting evidence and documentation with the County Court Claim Form.

Question 8 - Across more than one Learning Outcome (30 marks)

KJ plc owns a commercial vehicle which is insured with AB plc, a UK-based motor insurer, on a named driver basis.

Gary, an employee of KJ plc, who is not a named driver, is driving the commercial vehicle owned by KJ plc on a public road with the permission of his employer. The vehicle owned by KJ plc is overloaded and crashes into an oncoming vehicle. Both vehicles are damaged beyond economic repair.

The driver of the oncoming vehicle alleges that he has suffered whiplash as a result of the crash. It is subsequently established that he was not wearing a seatbelt at the time of the accident. The insurer of the third party seeks compensation from KJ plc for the vehicle damage and the third party driver also seeks compensation from KJ plc for his personal injury. KJ plc notify AB plc of the accident and submit a claim.

- (a) Explain the position of AB plc under the insurance policy they have issued. (12)
- (b) Explain any recovery rights that AB plc might have against KJ plc. (6)
- (c) Explain, with justification, how AB plc could investigate and handle the third party personal injury claim. (12)

Answer to Question 8 (Across more than one Learning Outcome)

- (a) AB plc insures the commercial vehicle which is owned by KJ plc on a named driver basis. Gary, an employee of KJ plc, has been given permission by KJ plc to drive the vehicle, which had an accident on a public road. The vehicle owned by KJ plc was overloaded however the question does not tell us whether this is overloaded with goods/materials or people. We are not told what kind of business KJ plc is.

Gary is not a named driver under the policy and it is not clear whether KJ plc knew or not that the vehicle was overloaded. In any case this is irrelevant as KJ plc has a vicarious liability on behalf of Gary, due to the relationship of master and servant. KJ plc are therefore legally liable for the actions of Gary. The claimant in this case also has the option of bringing the action against the employee or the employer but invariably chooses the employer who would normally have the insurance in place or the means to meet the claim.

As the vehicle is overloaded, which would contravene a condition under the motor policy and Gary is also not covered, AB plc have the right to decline the claim and refuse to pay for the accidental damage sustained to KJ plc's vehicle. We are told that their vehicle was a total loss and therefore suffered substantial damage meaning that KJ plc will have to bear this loss themselves.

The vehicle Gary was driving crashed into an oncoming third party vehicle. If any liability attaches to Gary, AB plc would not be able to escape their legal liability under the **Road Traffic Act 1988** (RTA). The question confirms that the third party Insurer seeks reimbursement from AB plc for the third party vehicle damage and the third party driver intends making a claim for a whiplash injury. As this incident occurred on a public road, AB plc would have a legal liability under the RTA to deal with the third party claim subject to the minimum legal requirements by law. This is currently set at unlimited liability for third party death and bodily injury and £1m in respect of third party property damage. AB plc are considered to be RTA insurer.

- (b) As previously discussed, KJ plc have a vicarious liability in respect of Gary their employee, who was driving the vehicle when he was an unnamed driver, as the relationship is that of master and servant. The fact that the vehicle was overloaded, even if they were unaware of this fact, is irrelevant. This means that they are still legally liable on Gary's behalf. AB plc would be able to seek reimbursement under the RTA of any money they have to pay out in respect of third party damages, back from KJ plc being the Insured under the policy. The wording in the RTA makes provision for this under section 148, subsections 3 & 4.

However, KJ plc in turn would not be able to recover this money back from Gary. In the UK the RTA details these rights under Subsections 7 & 8 of Section 151, which 'provide the right for the Insurer to seek recovery of its RTA outlay against any person who incurred the liability' (CII study text on Motor insurance, 2014).

This gives AB plc the right to recover from KJ plc who 'caused or permitted the use which gave right to the liability'. There are more likely to be funds available from the plc than from Gary.

- (c) AB plc has several ways of investigating and handling the third party injury claim. They are the RTA insurer as explained above. We are told that both vehicles are a total loss and so the impact was obviously quite substantial and we are not looking at a low velocity impact claim here.

Regarding liability, we are told that Gary crashed into an oncoming third party vehicle. Negligence is defined as the "omission to do something which a reasonable man, guided upon the considerations which ordinarily regulate the conduct of human

affairs, would do, or doing something which a prudent and reasonable man would not do" (**Blyth V Birmingham Waterworks Company (1856)**).

It could be that Gary admits liability and AB plc will therefore reimburse 100% of the third party vehicle damage claim submitted by the third party insurer. However, the

likely situation is both Gary and the third party are likely to blame each other for the accident and without any witness evidence or a police report which indicates who is actually responsible for the incident, the claim may be settled on a split liability basis e.g. 50/50. If the third party is seen to be reckless or negligent then compensation will be reduced accordingly. If a claim is settled on a 50/50 basis, then the claimant's compensation will be reduced by 50% as they will be seen to be 50% negligent for the accident.

We also have a further issue here that the third party is known to not be wearing their seatbelt at the time of the accident. In accordance with **Froom v Butcher (1975)** damages will be reduced by, potentially, 25% if it is proved that the failure to wear the seatbelt would have caused the injuries sustained.

The third party claim for injury is subject to unlimited liability under the RTA. From April 2010, a system was introduced for the handling of RTA personal injury claims with a value of between £1,000 and £25,000. These are referred to as the Ministry of Justice Reforms. The aim was to ensure that claims where liability was admitted were processed quickly and costs were kept to a minimum. There are three stages to the process, the first being that the claim will normally be notified through the Ministry of Justice (MOJ) portal by the claimant solicitors on a Claims Notification Form (CNF). AB plc will then have 15 days from the date of submission to accept liability, admit liability but allege contributory negligence or deny liability altogether. If the Insurer fails to respond within 15 working days, the claim will fall out of the process. In this particular instance they are likely to deny liability with a view to investigating the circumstances of the accident. We also have the added issue of failure by the third party to wear a seatbelt which may have contributed to the injury. Upon rejecting a claim from the MOJ portal the claim will exit the process and follow the normal Personal Injury Civil Procedure Rules and Pre-Action Protocol, where AB plc will have 3 months from the date of acknowledgement of the Letter of Claim (CNF) to investigate and make a decision on liability. If they fail to do so, then the claimant solicitors are entitled to litigate.

When claims exit from the portal, they are likely to incur far more expensive solicitors' costs and therefore the insurer may consider it to be prudent to keep the claim in the portal, allege contributory negligence and make an offer without prejudice to liability. This means that the action taken cannot be construed as an admission of liability and cannot be produced as evidence in legal proceedings. This would be helpful especially if Gary is pursuing his own personal injury claim against the third party insurers and feels that by his own insurers settling the claim on a split liability basis would prejudice his own position.

AB plc may very well take this action as they realise Gary will be found at least partly responsible for the accident and will want to keep the costs to an absolute minimum rather than risk costly litigation or protracted correspondence. If accepted in the

portal the third party claim would go to Stage 2 of the process where the claimant solicitors would proceed to obtain medical evidence. This is then sent to the AB plc with a request for an interim payment or a settlement pack. AB plc will have 15 days to respond and make an offer. If this offer is rejected by the claimant solicitors, then they will both have a further 20 days to negotiate settlement. Once settlement is agreed AB plc will have 10 days to pay the third party claim.

If settlement cannot be agreed, then it will proceed to Stage 3 litigation where costs are then paid by the losing party on a fixed scale.

Normally damages are grouped under two headings; general damages and special damages. General damages are those that cannot be immediately quantified such as compensation for pain, suffering and loss of amenity. Special Damages are a quantifiable financial loss such as loss of earnings, hire of an alternative vehicle, medical expenses, etc.

If liability is disputed and the claim has been allowed to exit the MOJ portal then upon receipt of the medical report from a medical expert which will outline the third party injury, AB plc will have 21 days to review and make a Part 36 offer back to the claimant solicitors. A Part 36 offer is made under part 36 of the civil procedure rules and places the other side at risk for interest and costs if it is rejected unreasonably. The Part 36 offer will be in writing and usually expire after 21 days and the claimant solicitors if rejecting the Part 36 offer made, can make a counter-offer back to AB plc. Should an offer not be agreed then the claimant solicitors are entitled to proceed to litigation.

Question 9 - Across more than one Learning Outcome (30 marks)

Anne is 17 years old and has just passed her driving test. Her mother, Julie, who owns a vehicle, arranges to have it comprehensively insured with MB plc, a UK-based motor insurer. Julie is shown on the schedule of insurance as the main driver, with Anne as a named driver.

Anne drives the vehicle to work on a daily basis. Whilst Anne is driving the vehicle, she causes an accident involving another vehicle. This accident results in damage to both vehicles and personal injury to the driver of the other vehicle. Julie submits a claim to MB plc, seeking indemnity for the damage to her vehicle. The third party driver also submits a claim to Anne for compensation for the personal injury that they sustained.

MB plc's motor engineer's report states that Julie's vehicle is beyond economic repair. MB plc obtain a police report stating that Anne was the cause of the accident and was exceeding the speed limit.

- (a) Explain, with justification, the liability of MB plc for the own vehicle damage claim. (15)
- (b) Explain, with justification, the liability of MB plc for the third party damage and personal injury. (15)

Answer to Question 9 (Across more than one Learning Outcome)

- (a) Julie appears to be guilty of fronting. Fronting occurs when an older more experienced driver falsely insures a vehicle in their own name, suppressing the knowledge that the main driver is a younger, riskier driver. This practice has the result of achieving a lower premium than if the younger riskier driver is declared as the main user of the vehicle. Fronting is actually illegal and if caught out can result in the Insurer voiding the policy for misrepresentation or non-disclosure which is a breach of utmost good faith.

We know that Julie's daughter Anne is the main user of the vehicle as she uses the vehicle on a daily basis to drive to work. In addition, Anne is just 17 years old and as a young driver who has only just passed her test we know that if the policy was rated on her being the main driver it would be expensive to insure.

In addition, any claim would be subject to both a young driver's excess and an inexperienced driver's excess as she was the driver of the vehicle at the time of the accident. It would appear that Julie is guilty of misrepresentation and has not been honest with the insurer, MB plc, when the policy was taken out. As this is a consumer policy the **Consumer Insurance (Disclosure and Representation) Act 2012** will apply. This act abolishes the former duty imposed on consumers to volunteer material facts and consumers are instead required to take reasonable care not to make a misrepresentation. The remedy MB plc can take depends on the nature of the misrepresentation. If it is honest and reasonable the Insurer must pay the claim. If it is careless then the insurer has a compensatory remedy based on what it would have done had the consumer answered the question accurately. If the representation was deliberate or reckless then the insurer is entitled to treat the policy as void and may decline all claims.

In this instance I believe that Julie will be found guilty of either careless or deliberate misrepresentation. It depends what explanation she gives to MB plc. For Instance, she may say as the owner of the vehicle she believed she was the main user and not her daughter. However, it's difficult to see how she could really believe this to be true when her daughter uses the vehicle to travel to and from work on a daily basis.

If MB plc decides to void the policy for deliberate misrepresentation, the premium will be returned and MB plc will not deal with the accidental damage claim for Julie's vehicle.

If MB plc decides not to void the policy on the basis that the misrepresentation has been careless, and charge an additional premium, Julie would be expected to pay the additional premium before the accidental damage claim is dealt with by the insurer. Alternatively, the insurer can also opt to deduct the amount owed in premium from the claim. We are told that the insured vehicle is a total loss and so the MB plc would appoint a motor engineer to inspect the vehicle and then await receipt of the inspection report which would outline the condition, mileage, etc. of the vehicle, together with the pre-accident market value and salvage value.

Total loss claims are divided between actual or constructive. An actual total loss is when the vehicle is destroyed completely beyond repair.

A constructive total loss is where it is uneconomical to repair so the cost to repair exceeds the market value of the vehicle. MB plc would then register the vehicle on MIAFTR2 and make checks to see if there is any hire purchase on the vehicle. MIAFTR2 was created to prevent fraud by keeping a register of all vehicles which were subject to a total loss claim or where the vehicle had been stolen and not recovered. If anyone else has a financial interest in the vehicle, then this amount owing will need to be paid before any remaining money is paid to Julie as the policyholder. The insurer will make an offer which will be the market value of the vehicle, less any excess. We know that Anne is both a young driver and an inexperienced driver, having only recently passed her test, and so these excesses will be added together and deducted from the market value. The insurer will, usually, retain the salvage and sell on after the claim is settled normally via a salvage agent and keep any salvage value applicable. Sometimes the insurer will allow the policyholder to retain the salvage but this will only be agreed if the category of salvage is such that the vehicle will be allowed back on the road once repaired (Category C - where the vehicle is repairable but costs exceed the market value or Category D – all other repairable vehicles) Category A is scrap only and Category B must not go back on the road either and be broken down for spare parts.

We know that Anne is liable for the accident as the Insurer have obtained a Police report which also mentions that Anne was exceeding the speed limit. Although there is no duty to disclose any conviction mid-term (unless maybe she is temporarily banned from driving), however, any conviction will need to be disclosed at the next renewal which will no doubt affect the premium depending on the conviction code. Normally one SP30 (conviction code for speeding) however, will not have any effect.

- (b) If the insurer decides that the misrepresentation has been careless and decides to charge the additional premium appropriate to have Anne as the main user of the vehicle, then once this is paid the cover will be in place as usual in respect of liability for the third party claim and the limits for third party property damage and death or bodily injury will be outlined in the policy schedule. They will pay for both the third party damage and the third party injury claim subject to these limits.

However, if the insurer decides that the misrepresentation made by Julie is careless or reckless, then as previously discussed they are entitled to void the policy. By voiding the policy for misrepresentation or non-disclosure they do not have an RTA liability. However, they would have an Article 75 liability, according to the Memorandum and Articles of Association of the Motor Insurers' Bureau. The Domestic Regulations, Article 75), require insurers to meet certain liabilities which arise from the use of a vehicle where there is evidence of insurance being provided by the insurer in the broadest sense, whilst outside their strict contractual RTA liabilities. The insurer will therefore in this case be required to handle and pay the particular uninsured case on behalf of the Motor Insurers' Bureau. However, Article 75 Insurers have no liability for subrogated claims. Therefore, if the insurer of the third party approaches MB plc for reimbursement of the third party vehicle damage, MB plc are not obliged under Article 75 to reimburse their outlay. However, if the third party comes to MB plc direct to request reimbursement for the damage to the vehicle then MB plc is obliged to pay subject to the minimum limit of £1m for property damage. We are told however, that the third party approaches MB plc direct for compensation for their injuries sustained and MB plc would be obliged to deal with

their claim for both special and general damages, subject to unlimited liability under the Article.

MB plc are entitled to look to Julie for reimbursement of any monies paid out under Article 75.

Question 10 - Across more than one Learning Outcome (20 marks)

Tony has insured his car for the last five years on a comprehensive basis with KA plc, a UK-based motor insurer. Tony was convicted a few months ago of dangerous driving due to the use of a mobile phone whilst driving his car. Tony did not disclose the dangerous driving conviction to KA plc when he renewed his policy.

Tony was recently involved in a collision between his car and another vehicle, where the third party driver was at fault. He submits a claim to KA plc for the damage to his car. During their investigation of the claim, KA plc become aware of Tony's dangerous driving conviction.

- (a) Explain how the conviction affects KA plc's handling of the claim. (12)
- (b) Explain, with justification, **two** significant options that Tony might pursue to recover compensation for damage to his car, if KA plc decline his claim. (8)

Answer to Question 10 (Across more than one Learning Outcome)

- (a) Tony has insured his car for the last five years on a Comprehensive basis with KA plc, A UK-based motor Insurer. A few months ago he was convicted of dangerous driving due to the use of a mobile phone whilst driving and therefore one would expect this conviction to still be fresh in his mind as it is very current and definitely therefore not spent under the **Rehabilitation of Offenders Act 1974**.

At renewal, the duty of disclosure is opened up again and Tony should have informed his insurer of the dangerous driving conviction. The conviction is seen as a moral hazard and a material fact which would probably affect whether the underwriters would have accepted the risk. The matter of whether the information is seen as a material fact is whether it would have influenced the judgement of a prudent Insurer in setting the premium or accepting the risk. The issue here is one of non-disclosure of a material fact by Tony, if he omitted to tell his insurer about it upon renewing his policy, and it would be seen to be misrepresentation if he told his insurer that he had no convictions, when he actually had convictions. Often where there is misrepresentation or non-disclosure, the insurer would seek the insured's comments on why he failed to mention the conviction and their decision would be made based on the response. It is almost certain that this conviction would have made the underwriters consider the policy on different terms if they wished to accept the risk. If KA plc simply go ahead and deal with the claim submitted by Tony, they will be seen to have waived their rights to avoid the policy. How the Insurer will deal with this issue depends on a number of factors.

The **Consumer Insurance (Disclosure and Representation) Act 2012** (CIDRA) makes changes to **Insurance: Conduct of Business Sourcebook 8.1.2** in that it is “unreasonable for insurers to reject a consumer policyholder’s claim (except where there is evidence of fraud) for misrepresentation by a customer and the misrepresentation is not a qualifying misrepresentation”. However, it is important to note that the above does not apply to any policy incepted before CIDRA came into force. We are told that Tony’s policy was incepted five years ago and therefore this act would not apply.

In view of the fact that CIDRA does not apply the insurer can decide whether to void the policy from inception and return the premium, as this is not fraud. If the insurer decides to take this option, the claim can be declined whether the misrepresentation is fraudulent, negligent or innocent. KA Plc can also make a decision to keep the contract in place but offer different terms and/or a higher premium as an alternative to voiding the policy. In which case, Tony will need to pay the additional premium, before the insurer will deal with the claim for own damage. Alternatively, the insurer can scale down the value of the claim. If Tony declines this measure the insurer can revert back to being allowed to void the policy or simply waive that right but evoke cancellation. As there has been an accident after renewal and the third party is at fault, if the insurer voids or cancels the policy while they will incur an Article 75 liability, on this occasion Tony is not responsible for the accident and so they are unlikely to receive any claim.

- (b) Tony has the option of approaching the third party and/or the third party Insurer directly, as we are told that they are liable for the accident. Irrespective of the fact that his own insurer has declined the claim, he is still entitled to pursue the claim against them. However, if the third party is found to be uninsured themselves then as Tony is effectively uninsured as a result of his own insurer declining the claim due to voiding the policy, the Motor Insurers’ Bureau cannot become involved as they do not pay claims where the third party vehicle is uninsured.

The other option that Tony can take is to seek compensation for the damage to his vehicle, is to refer the claim to the Financial Ombudsman Service (FOS). The FOS is an entirely independent mechanism for resolving disputes. The Ombudsman only deals with disputes from private individuals or micro-enterprises with a turnover of less than 2 million euros and with fewer than 10 employees. As Tony is a private individual he is eligible. All steps are taken to try and resolve the dispute. The first step would be for Tony to escalate the complaint to the senior management of his insurer and he would have needed to reject their final decision in order for the FOS to then become involved. The insurer is bound by the FOS’s decision, but Tony does not have to accept their decision.

This is a good option for Tony as CIDRA brought the law more in line with an approach supported by the FOS for some time before, so the FOS may have some sympathy with the fact that Tony’s claim has been declined and instruct the Insurance company to deal with his claim if they believe the misrepresentation to be innocent. If the FOS considers it to be careless, they will instruct the insurer to provide a remedy based on what the insurer would have done had the conviction been disclosed to them at renewal. If the insurer would have imposed a higher premium for the dangerous driving

conviction, then once Tony has paid the additional premium his insurer is then required to deal with his accidental damage claim in the usual way. His own insurer will then make a subrogated claim to the third party insurer to re-claim the claim costs involved for the damage to the vehicle.

Reference List

Poll, M. & Williams, G. (2014) Motor Insurance, Chartered Insurance Institute.

How to plan an answer for a coursework question

The following three plans are based on 10, 20 and 30 mark questions respectively.

Question 2 - Learning Outcome 2 (10 marks)

A comprehensive motor insurance policy was issued to Miss Jones for her car by HJ plc, a motor insurer. The policy includes various settlement options for claims involving loss of or damage to the insured vehicle and its contents.

Miss Jones reports to HJ plc a claim which arose from an electrical fault in the car's engine. The fault caused a fire which significantly damaged the car and its contents.

Identify, with justification, five considerations, including policy wording conditions, that HJ plc may take into account in deciding how to settle the claim. (10)

Question deconstruction

- Review learning outcome 2 in the course material and the relevant information in the study text.
- Highlight the instructions within the question (which are circled in red above).
- What is the context? There has been a loss. You are asked to consider how the claim may be settled or otherwise from the perspective of the insurer.
- The question asks for five considerations which you must identify and justify in terms of the context.

Answer plan

- Identify the first consideration and provide a justification for why it would be important within this context. Do the same for the four other considerations in turn. Note that there are only ten marks available, so one mark for each identification and justification for each of the five considerations.
- Remember that you must relate your selection of the consideration to the context of this question. You must be able to justify why they are important as well as identify them.
- As this is a 10 mark question, your answer should be shorter than the answers to either a 20 or 30 mark question.

Question 10 - Across more than one Learning Outcome (10 marks)

Tony has insured his car for the last five years on a comprehensive basis with KA plc, a UK-based motor insurer. Tony was convicted a few months ago of dangerous driving due to the use of a mobile phone whilst driving his car. Tony did not disclose the dangerous driving conviction to KA plc when he renewed his policy.

Tony was recently involved in a collision between his car and another vehicle, where the third party driver was at fault. He submits a claim to KA plc for the damage to his car. During their investigation of the claim, KA plc become aware of Tony's dangerous driving conviction.

- (a) Explain how the conviction affects KA plc's handling of the claim. (12)
- (b) Explain, with justification, two significant options that Tony might pursue to recover compensation for damage to his car, if KA plc decline his claim. (8)

Question deconstruction

- The learning for this question comes from more than one learning outcome. Identify which parts of the syllabus are being tested and review the relevant study text content accordingly, which will come from more than one chapter.
- Highlight the instructions within the question (which are circled in red above).
- Consider the context. Tony is a motor policyholder and is involved in a motor accident. You must explain the way the claim may be handled from an insurers perspective, but also explain Tony's recovery options.
- The marks in part (a) are greater than in part (b), (12 and 8 respectively), it is likely that your answer to part (a) will be more comprehensive in order to gain all the marks.
- The 8 marks in part (b) are equally weighted and you need to explain and justify two options, spending an equal amount of effort on each.

Answer plan

Part (a): You need to **explain** how the conviction affects the handling of the claim.

Part (b): Requires an explanation of two options Tony could take if his claim was declined. Both options must be selected and justified in relation to the context. There are 8 marks available, so a likely mark allocation would be two marks for each explanation and two marks for each justification.

As this is a 20 mark question, your answer should be longer than the answer to a 10 mark question but shorter than the answer to a 30 mark question.

Question 6 - Learning Outcome 4 (30 marks)

You are an underwriter for a motor insurer. A direct client, Mr and Mrs Davis, have approached you to review their motor insurance arrangements.

Mr and Mrs Davis are the directors and owners of a catering business which has five permanent employees; and it often uses temporary employees depending on the size of an individual event. They specialise in events such as weddings, funerals and parties. These events take place within a 30 mile radius of their home which is in a major city.

The business is based in an outbuilding which is situated alongside their home where they live with their children.

The catering business owns a number of vehicles which include two cars for their personal use, two vans for use in catering, a motorcycle for quick deliveries and two cars for the use of their children who are aged 19 and 25 years respectively. In addition, Mrs Davis owns a high performance convertible sports car which is only used during the summer. Apart from the convertible sports car which is garaged, all vehicles are kept in the open at the premises overnight.

Currently, all the vehicles are comprehensively insured on a motor fleet basis with open driving, except for the convertible sports car which is limited to drivers aged 25 years and above.

One of the permanent employees had two speeding convictions last year, for which they received a total of 6 endorsement points on their driving licence.

An employee, who is regularly employed on a temporary basis, has a diagnosis of epilepsy.

One of the vans has a two-year No Claims Discount (NCD) entitlement and one of the cars has a three-year NCD. All other vehicles have no NCD, due to a number of minor own damage claims.

- (a) Describe, with justification, **five** significant rating factors you would take into account, for the scenario above. (15)
- (b) Identify, with justification, **five** underwriting recommendations which would make the insurance risk more attractive to you. (15)

Question deconstruction

- Review learning outcome 4 in the course material and the relevant information in the study text.
- Highlight the instructions within the question (which are circled in red above).
- Consider the context. You are a motor underwriter and are considering a motor fleet risk with a number of characteristics.
- This is a 30 mark question, split equally between parts a) and b).

Answer plan

The structure for your answer should follow the marking scheme. Both parts a) and b) are very similar. Both have 15 marks available and both ask for an explanation and justification of five factors (part a)) and five recommendations (part b)). With three marks available for each, the marks available would be two for each explanation and one for each justification.

As this is a 30 mark question, your answer should be longer than the answers to 10 and 20 mark questions.

Glossary of key words

Analyse

Find the relevant facts and examine these in depth. Examine the relationship between various facts and make conclusions or recommendations.

Describe

Give an account in words of (someone or something) including all relevant, characteristics, qualities or events.

Discuss

To consider something in detail; examining the different ideas and opinions about something, for example to weigh up alternative views.

Explain

To make something clear and easy to understand with reasoning and/or justification.

Identify

Recognise and name.

Justify

Support an argument or conclusion. Prove or show grounds for a decision.

Recommend with reasons

Provide reasons in favour.

State

Express main points in brief, clear form.