

Examiner's comments

Charity Law and Governance

June 2018

Examiner's general comments

The pass rate for the June 2018 session was 71%. This is a higher pass rate than the previous session and a good pass rate overall. However, as in the previous session, there were few high scoring answers. The marks awarded were fairly evenly spread across the three Sections.

A very high proportion of candidates answered all of the questions in the paper but, overall, the answers indicated a higher level of understanding of governance matters rather than the law relating to charities. The marks in Section C were much higher for the governance question than the other two questions and in a number of the answers there were some key gaps in legal knowledge shown.

Comment on questions and answers

Section A

Section A was answered fairly well overall but there were questions where answers could have been improved. The questions that seemed to cause most difficulty are set out below.

Question 4

A high proportion of candidates did not correctly describe the statutory trustees' duties for the trustees of a CIO, displaying a lack of knowledge of the relevant law on this area. Many candidates instead attempted to answer by providing information on the general common law duties, for all trustees.

Question 9

Question 9 was not well answered and a very high proportion of candidates did not correctly describe the Charity Commission's principal roles in relation to charity fundraising. Answers often focused on the powers that could be used and were often given in a very generalised form.

Section B

Section B was also answered fairly well overall however there were a small number of questions where the answers were consistently incorrect. The questions that seemed to cause most difficulty are set out below.

Question 12

This question was not answered well (regarding the concept of 'poverty' in regard to public benefit). There seemed to be a lack on knowledge of the law on this matter.

Question 14

The answers on this question were also generally incorrect, with a high portion of candidates showing a lack of knowledge about the law on electronic communication for companies.

Question 15

This question was also not well answered (regarding holding registers at companies house). Answers lacked sufficient detail for the 6 marks available.

Section C

Section C answers were generally quite good, but there were few examples of answers gaining high marks. Most candidates attempted to answer all three questions as required, and there did not seem to be many instances of candidates running out of time to fully answer the questions.

Question 17

This was the best answered question in the Section. The highest proportion of candidates passed this question and it also gained the highest marks. It was a question on governance, and the marks awarded for this section show that many candidates felt more comfortable discussing these matters.

Candidates sometimes missed the opportunity to gain higher marks in this question by missing out on some of the issues that it covered. The question was not just about effective meetings, but it also raised points regarding board size, the relationship with the CEO and what the secretary could also do to support the Chair.

Also, in some instances candidates did not score well because they did not focus on answering the question – instead they took the opportunity to list a very wide range of general points in regard to governance. Candidates should note that if they do this; they will lose out, even if they list some relevant points. The answer given must always relate to the question being asked. If some information is listed which could be correct, and which could relate to the question being asked, the examiner cannot assume that the candidate understands its relevance to the answer, if they do not specify this. This means that the examiner cannot award marks for it in the same way. They do not know if the point has been listed accidentally, or purposefully.

Finally, this question asked candidates to reply by email to the Chair. Candidates should be reminded that when a question asks for a particular format for the answer, this should be followed, and that if an answer is to be drafted as a report, or a letter / email, the tone to be used should also be considered.

Question 18

Whilst a majority of the candidates answered this question quite well, no answers scored highly. The answers indicate that there was not a very high level of knowledge on the legal requirements in this area. The question asked candidates to explain what elements of a charity's constitution were optional and what must always be included. Most candidates displayed some knowledge of what must be included, but there was also a lot of confusion in the answers and a high level of inaccuracy. Also, in some instances the structure of a candidate's answer made it difficult to identify what they felt was optional and what was not. There was often a lack of clarity, and sometimes contradictions within an answer. Candidates should also remember to take the time to fully read the question and to structure their answer accordingly.

Question 19

The overall marks for this question were fairly similar to those awarded for question 18. Again, a majority of the candidates answered this question quite well, but no answers scored very highly. This question had a number of different points within it that could be discussed, and candidates did not seem to identify them all. This could also show that candidates did not fully read the question.

Most of the answers that were given were correct, but candidates lost out on available marks by omitting key points. Answers tended to be weakest in regard to the risk issues (including the financial risks) and how the charity could enter into a binding contract. The question asked candidates to both "advise on the issues that they should consider, including how Wells can enter into a binding contract " and the second part of this question was seeking to identify their understanding of the legal rules on what makes a 'contract' and how a charity can legally commit to a contract. In many instances this part of the question was not addressed, or was only dealt with very briefly.

Other comments

Always read the question fully to ensure that you have understood both what it is asking you to do; and the information that it contains. In a number of instances candidates missed out on gaining higher marks as they did not identify all of the relevant points in a question, or did not fully address what was being asked.

Candidates should also remember that the course covers both charity governance and the law that relates to charities. Whilst we do not require very detailed recall of the law in the exam, for example, specific section numbers, some understanding of the legal principles and relevant laws still needs to be shown. Revision should cover both elements of the course.