

Examiner's comments

Charity Law and Governance

November 2018

Examiner's general comments

The pass rate for the November 2018 session was high, with 72% achieving a pass grade. The marks awarded were fairly evenly spread across the three Sections, although candidates did a little bit less well in Section A than would be expected with such a high overall pass rate.

All candidates answered all of the questions in the paper, as required.

Although the overall marks were good, the scripts indicated a higher level of understanding of governance matters and legal principles, rather than the detailed law relating to charities.

Comment on questions and answers

Section A

Section A was answered fairly well overall but there were a few questions where answers could have been improved. The question that seemed to cause most difficulty was Question 8, regarding the legal parameters on charity trading. Many answers to this question did not show a detailed understanding of the matter.

Question 10, on the “benefit” requirements in regard to public benefit, also seemed to cause difficulty for a number of candidates.

In addition, many answers to question 10 were also different to the mark scheme answer, but were still awarded marks if accurate.

Section B

Question 11

Many of the answers to question 11, on the key feature of the Code of Fundraising Practice, were different from the expected answer. However, this was due to differing interpretations of the question and so candidates were not disadvantaged when marks were awarded, as long as the answer was accurate.

Question 12

This question was answered fairly well, however there was also some confusion in regard to how the concept of limited liability applied to members, with many answers only referring to directors.

Question 13

Candidates did not answer this question well overall. A high proportion of candidates used the UK Corporate Governance Code as a model, and many did not take the opportunity to give examples of a Code’s application.

Question 14

There was a great deal of variation in the answers here, with some being very strong, but a number not showing an awareness of group structures, or their purpose. The answers often focussed primarily on trading – which is to be expected.

Question 15

Many of the answers here were too brief, and indicated a lack of detailed knowledge of this area.

Question 16

These answers displayed some knowledge, but also some significant gaps in knowledge of the topic.

Section C

Question 17

The answers to this question were sometimes adequate, but a high number did not answer the question well. The main issue was that answers were not comprehensive enough and often omitted key content.

A high number of candidates were not able to correctly identify and list the legal duties of charity trustees. This was core to the question and should be a key learning point of candidates on this course. Sometimes, even if the answer did identify the legal duties, this was almost as an aside to other information being providing.

Candidates are reminded that they must read the question, and take care to answer it. In some instances candidates took the opportunity to draft a very broad briefing note for new trustees on a range of different issues. But this was not what was asked for. Candidates were asked to provide a briefing note on the general legal duties.

A number of answers also did not identify the fact that this was an unincorporated charity and the impact that this may have.

Most candidates answered the question in an appropriate style. Candidates should always read the question thoroughly and identify the type of answer required (in this case a briefing note).

Question 18

This was the best answered question in the Section. It was a question on governance, and the marks awarded for this section show that many candidates felt more comfortable discussing these matters.

However, in some instances candidates did not score as well as they could have done 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. The question asked candidates to discuss the impact of recent events and candidates did not always take the opportunity to do this. They sometimes wrote very generally about governance and then referred to a recent event almost as an “add on”, and not relating it to good governance.

The question asked candidates to discuss the key elements of good governance. Candidates should be reminded that when they provide a list of what those elements are, they should indicate the source of the list that they choose to use, or provide evidence of why these matters are so important to good governance.

Question 19

Whilst some candidates scored highly here, the majority of candidates did not answer the question well. This could have been because it was the last question on the paper, but the answers did not necessarily always seem rushed. Instead, the answers indicated that there was not a very high level of knowledge on the detailed legal requirements in this area. Most candidates displayed some knowledge of the issues, but there was also a lot of confusion in the answers and a high level of inaccuracy.

Other comments

Candidates should 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, the level of understanding needs to go beyond general legal principles, and there are some areas which have quite extensive legal requirements. Revision should cover all elements of the syllabus.

Candidates should also remember to always focus on answering the questions set. In a number of instances candidates did not fully answer a question as they did not identify all of the relevant points in the question. In other cases, they wrote more broadly around the topic than the question required.