The Governance Institute

Please complete this box:

Candidate number:								as indicated on your admission slip

Desk number:

Subject ref. CLG

Level 4 Certificate in Charity Law and Governance

Charity Law and Governance

June 2018

Wednesday morning, 6 June 2018 **Time allowed:** 3 hours (plus 15 minutes reading time)

Do not open this examination paper until the presiding officer or an invigilator tells you to.

You must not take this paper out of the examination room.

The examination paper contains **19** questions and is divided into **three** sections. You must attempt **all the questions** in this paper.

Section A contains 20 marks, Section B contains 35 marks and Section C contains 45 marks. There are **100 marks** available in total for the paper.

You should allow yourself **approximately** 15 minutes in total to answer the questions in Section A, 60 minutes in total to answer the questions in Section B and 35 minutes for each of the questions in Sections C.

You may continue your answers on a separate sheet of paper if necessary. Separate answer sheets are available from the invigilator.

Note: Unless otherwise specified, you should assume that an Act or an organisation referred to in the questions is a UK Act or organisation.

© ICSA 2018

Section A

*Answer **all** the questions in this section.*
Continue your answers on a separate sheet of paper if necessary.

1. Following the Cooperative and Community Benefit Societies Act 2014, there are **two** types of registered society. Name them.

   i _____

   _____

   ii _____

   _____

(2 marks)

2. Which **one** of the following statements applies to a registered charitable trust?

   *(Tick **one** box only)*

   A. ☐ The trustees have limited liability.

   B. ☐ It is regulated only by the Charity Commission.

   C. ☐ There are members as well as trustees.

   D. ☐ The trust deed must be in writing.

(1 mark)

3. Explain what needs to be included in a notice for a general meeting of a charitable company.

_____

_____

_____

_____

_____

_____

_____

_____

(4 marks)

© ICSA 2018

4. The trustees of charitable incorporated organisations (CIOs) have statutory trustees' duties. Give these **two** duties.

i _____

_____

ii _____

_____

(2 marks)

5. There are different statutory retention periods for the board minutes of a CIO and a company. State these.

i _____

_____

ii _____

_____

(2 marks)

6. Explain what the term 'SAIL' means.

_____

_____

(1 mark)

7. For a registered charity, a disposal of land will require Charity Commission consent unless certain requirements are met.

Is this **true** or **false**?

*(Tick **one** box only)*

☐ True

☐ False

(1 mark)

© ICSA 2018

8. If a charity has income of above £25,000 per annum, is a company and is registered with the Charity Commission, what are the deadlines for submission of the annual report and accounts to Companies House **and** to the Charity Commission?

(2 marks)

9. Describe the Charity Commission's principal roles in relation to charity fundraising **and** which of its powers it might use in that context.

(4 marks)

10. The Companies Act 2006 prohibits which of the following type of members' decisions from being taken by written resolution?

*(Tick **one** box only)*

A. ☐ Any special resolution.

B. ☐ Removal of a member.

C. ☐ Removal of an auditor.

D. ☐ Change of name.

(1 mark)

TOTAL FOR SECTION A = 20 MARKS

© ICSA 2018

Section B

*Answer **all** the questions in this section.*
Continue your answers on a separate sheet of paper if necessary.

11. Explain some of the advantages and disadvantages of conducting a board performance review without using an external consultant.

(6 marks)

12. In the context of charitable purposes, outline **five** of the legal principles relating to 'poverty'.

i

ii

iii

iv

v

(5 marks)

13. The Charity Commission has a number of statutory powers that it can use to implement long-term solutions to any issues identified by an inquiry. Explain how the Commission can exercise some of these powers.

(6 marks)

14. If a charitable company wanted to use the provisions of the Companies Act 2006 to communicate electronically with its members, explain what restrictions it would need to consider.

(6 marks)

15. A charitable company can now hold its registers at Companies House. Explain what it would need to do to in order to arrange this.

(6 marks)

16. Explain the role of the Charity Tribunal **and** what decisions it can make.

(6 marks)

TOTAL FOR SECTION B = 35 MARKS

Section C

*Answer **all** the questions in this section.*
Continue your answers on a separate sheet of paper if necessary.

17. You are the company secretary of a Charitable Incorporated Organisation (CIO) that was set up in 2014. The charity provides research and support in regard to a particular childhood illness and its board members are drawn from parents of beneficiaries, and experts in the field. The CIO has recently appointed a new Chair, who has not previously served on the board, and you have received the following email from her:

    "Dear Secretary,

    It was good to meet you at my induction briefing last week, and it's great to be a part of this CIO. For a small, fairly new, organisation lots has been achieved very quickly. I am sure that having the board that we have, with 21 members drawn from lots of different areas, has really helped. It is an honour to have been appointed as Chair without ever having served on the board before. However, I know that this is due to my expertise in the area of child health and I have to admit to not having chaired a meeting before. As we approach the first meeting, I would really appreciate some thoughts from you on ways of making the meeting effective. I know that there are some really strong personalities on the board and I want them to shine through. I also know that the CEO thinks that past meetings have been overlong, at one-and-a-half hours. I note that we have nine agenda items – can we really cover all the agenda in a shorter time? I think that she feels that there is unnecessary discussion on some items where there is a really clear recommendation.

    I would appreciate any knowledge that you could share to assist me in making this an effective meeting."

    Provide a response to this email from your newly appointed Chair, advising her on best practice for effective meetings in relation to this charity. As well as providing advice, explain anything else that you can do to support her.

    (15 marks)

18. Some matters must be included in a charity's constitution while others are optional but often included. Discuss both of these categories **and** explain the reasons for their inclusion.

(15 marks)

19. The Wells Supporting People Trust ('Wells') is an unincorporated charity and has charitable purposes to advance the health of people who have mental illness and who live in Northumberland, especially by facilitating their medical treatment. In the past, Wells has relied on grant income, mostly from public funding sources. There is a board of four trustees, including the Chair, whose son works as a Facilities Manager at Snowdrop Woods Medical Centre, a local medical centre operated by the local NHS Trust. The charity's constitution requires majority decisions by the board of trustees.

Wells has 30 employees, including 12 management and administration posts, 5 fundraising posts and 13 medical posts, with specialist skills and expertise in the treatment of mental health issues. It also has contracts in place with 10 additional mental health specialist consultants to provide extra capacity when workloads are too high for Wells' permanent staff to deal with. These specialists are paid an annual retainer fee, plus a fixed hourly rate for the work they are asked to carry out in any month.

Wells' income has reduced substantially in recent years and the end of year forecast is that there will be a financial deficit overall. The trustees are anxious to find replacement income urgently, and they particularly want to safeguard all of the employment roles in the charity and also retain all of the consultants.

A major public health contract is now being tendered by the local NHS Trust. Bid replies must be made within the next week and the successful organisation is required to sign a contract before the end of the current month (in ten days' time), to begin work on the first working day of the next calendar month.

The contract requires applicants to provide counselling and support services for people who have recently been released from prison. The services must focus on re-integrating these people into society and are required to be delivered using a 'whole person' approach to their health and well-being, addressing all of their health needs including mental illness. The tender requires delivery of services across Cumbria, Northumberland, Tyne and Wear and County Durham at specified NHS centres, including Snowdrop Woods Medical Centre.

The payments for these services are specified as being restricted to the cost of necessary materials for the delivery of direct person care and the direct costs of the staff providing that care. The tender specifically states that funds cannot be applied to general costs of the successful bidder. It also specifies significant financial penalties that will apply if the contract targets, and the stated deadlines for meeting them, are not met.

Wells' trustees are considering making a bid for this contract. Advise them on the issues that they should consider, including how Wells can enter into a binding contract.

(15 marks)

© ICSA 2018

TOTAL FOR SECTION C = 45 MARKS

TOTAL FOR PAPER = 100 MARKS

The scenarios included here are entirely fictional. Any resemblance of the information in the scenarios to real persons or organisations, actual or perceived, is purely coincidental.

END

Do not write on this page – examiner use only

Section A	
Question	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
Total	

Section B	
Question	
11	
12	
13	
14	
15	
16	
Total	

Section C	
Question	
17	
18	
19	
Total	

Total marks for paper:

Marker (full name):

Reviewer (full name):

Clerical check (full name):

Examiner review: