

Examiner's comments

Charity Law and Governance

June 2017

Examiner's general comments

The quality of answers was generally good for the June 2017 session. Many candidates achieved consistent marks for all three sections of the paper, rather than achieving very high marks in one section and lower marks in other sections. This seems to indicate a fairly broad basis to the type of knowledge and understanding. However, there were some questions which were not answered well, and these are described below. A very high proportion of candidates answered all of the questions in the paper.

Comment on questions and answers

Section A

Most candidates answered this section of the paper well. Questions where answers could have been improved are set out below.

Question 2

Whilst many candidates identified a correct reason for a trustee becoming personally liable, some did not provide enough detail, for example, by providing an example.

Question 4

A high number of candidates did not correctly describe the policies and procedures required in regard to trustee expenses. A number of candidates answered this question in regard to conflicts of interest or payments / benefits to trustees, rather than expenses.

Question 7

Again, a high number of candidates did not correctly answer this question, with very few getting high marks. Also, many answers were incorrect in regard to how the costs / payments to professional fundraisers needed to be recorded in the annual report and accounts.

Section B

Section B was generally answered well. However, there were few high marks. There were some questions that seemed difficult for a high proportion of candidates.

Question 11

This question was generally answered well. The responses were good in regard to the common law duties, and many candidates showed they had a clear understanding of the requirements of the Trustee Act 2000.

Question 12

The answers to this question were more mixed, showing some gaps in candidates' understanding of the specific charitable incorporated organisation (CIO) requirements. Many answers were based on a common sense approach, or an understanding of some of the rules regarding changing constitutions that can apply across all charities. There was less evidence of knowledge of the specific CIO requirements. Many candidates got mixed up with the requirements regarding written resolutions for CIOs, not realising that to change the constitution of a CIO by a resolution in writing needs to be agreed to by all the members.

Question 13

Some candidates answered this well, but a number did not correctly answer the question, with many choosing to write a broad answer on public benefit without addressing the actual question set.

Question 14

This question was generally answered well.

Question 15

This question was also generally answered well. However, a number of candidates wrote very broadly about why trading subsidiaries are established, rather than focussing on the necessary arrangements that should be in place to separate a trading subsidiary from its parent charity.

Question 16

There were mixed answers to this question. Some candidates answered it well, however, many did not focus on the key differences between a contract and a grant. This was a question where many candidates achieved some marks, but few managed to achieve high marks, because of omitting key points, such as the fact that a grant agreement is not necessarily binding.

Section C

Whilst most candidates answered Section C well, few answered all three of the questions well.

Question 17

This was the question in Section C that had the lowest level of performance. One of the issues that arose was that many candidates took “effectiveness” to mean the effectiveness of the board rather than of the charity. Also, a number of candidates correctly defined direction, effectiveness, supervision and accountability, but did not accurately describe the ways in which they could be used as a basis for reviewing governance.

Many candidates picked up on the fact that the definition in the question concerned systems and processes, and so did not really cover behaviour, which is now seen as a significant component of governance. This was a good point to make. However, the question still needed to be answered, with behaviour being discussed alongside the elements of this definition. Answers that discussed governance, without looking at how the definition could be used as a basis for a review, could not gain sufficient marks for a pass.

Question 18

This question was generally answered well, although candidates seemed to have a better understanding of the law regarding registers than the legal requirements on the use of the name, and on what information needs to be provided for a charitable company. Some candidates tried to apply a common sense approach to this answer, rather than applying specific knowledge of the law, and this produced some mixed results.

Where a number of answers could have been improved, was in the provision of advice and the tone of the report. It is important to remember that when a question asks a candidates to write a report, credit is available for the answer being in a report format, and the tone being appropriate to a board report.

Question 19

This was the question that was answered best in Section C. Most candidates defined most of the key points within the question and showed a good level of understanding of the issues it raised. There were a small number of answers that made incorrect points due to misreading of the question. For example, some candidates incorrectly thought that there was only one board meeting each year and some thought that the Council had 1,500 members. It is always a good idea to re-read through the question when you have finished your answer, to check that you have identified the facts correctly.

Other comments

Always check the question to ensure that you have read it accurately and that your answer is focussing on the question itself, and not just its general subject matter. Sometimes it is clear that a candidate has the knowledge but marks cannot be awarded, as the question itself has not been answered.