

Examiner's comments

Charity Law and Governance

November 2017

Examiner's general comments

The pass rate for the November 2017 session was 53%. This is a lower pass rate than in previous sessions, and the overall marks awarded were also lower. The marks awarded were fairly evenly spread across the three Sections, but candidates did less well in Section B. 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. In many of the answers there were some key gaps in legal knowledge.

Comment on questions and answers

Section A

Section A was answered 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 very high proportion of candidates did not correctly describe the legal rules and requirements for altering the constitution of an unincorporated members' association.

Question 5

A high proportion of candidates did not correctly identify that this question was about the conditions applicable to the Charity Commission powers to disqualify, rather than asking for a listing of the powers themselves.

Question 8

A number of candidates answered this question by discussing the content of the Annual Report in general, rather than focussing on the requirements for reporting on public benefit.

Section B

Section B was the least well answered Section overall. There were few questions in this section that were generally answered very well, and there were a small number of questions where the answers were consistently incorrect.

Question 11

This question was generally answered quite well, with the majority of candidates achieving a pass level. However few candidates picked up high marks and, in a number of the answers, there seemed to be some confusion as to the timeline of governance events and reports.

Question 12

This question was well answered overall but few answers achieved high marks. There seemed to be some difficulty in showing how management accounts related to the trustee role.

Question 13

This question was not well answered. The question asked candidates to discuss the legal duties of trustees, but very few answers had any discussion in them, with most candidates instead choosing to list the duties, often in bullet point form.

Question 14

Candidates also appeared to have difficulty with this question. Most were able to gain some marks, but there were few answers that showed a full understanding of the legal nature of trusts.

Question 15

Whilst the majority of candidates answered question 15 well, there was quite a big variation in the answers, and a number of candidates did not demonstrate an adequate understanding of this matter.

Question 16

A very high percentage of candidates did not correctly answer this question. The answers showed a very low level of understanding of the concepts of wrongful trading and fraudulent trading. Very few candidates were aware that these were concepts that applied in regard to companies that had gone into insolvent liquidation.

Section C

Section C answers were overall better than Section B, but there were still few examples of answers gaining high marks. Most candidates answered 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 least well answered question in the Section. Answers did not show enough knowledge of the legal requirements. Many candidates showed some knowledge of the legal requirements in regard to the registers for a company, but much less understanding about the legal requirements for a charitable incorporated organisation. Also, a number of candidates discussed the reporting requirements of charities, and / or the filing requirements rather than focussing on record keeping, which the question was about. Many candidates also did not note that the question concerned records, and not just registers. The reason why a low number of answers achieved a high mark was that most did not compare and contrast the legal requirements fully, as the question asked, and instead just listed the requirements.

Question 18

Whilst few candidates scored highly in this question, a majority of the candidates answered it well. Most answers did not identify all of the issues, but most showed some level of understanding of the legal requirements in regard to trading. There were some answers where the candidate had clearly misread the question, or had not identified key facts that were given. Candidates should remember to take the time to fully read the question. In addition, a high proportion of candidates did not fully pick up on the governance issue about confusion between the roles and responsibilities of the two boards – the charity board and the trading subsidiary board.

Question 19

This was the best answer of the three essay questions, but still very few answers achieved high marks. Answers were fairly good in regard to the governance side of the question, but the legal aspects of this question were less well answered. There was a lack of understanding of the law shown in regard to the removal of board members in a company; and how a decision is to be taken by the company's members. A number of candidates did not address this aspect of the question, and this affected the marks that could be awarded. Those that did address these points still displayed some gaps in their knowledge (for example, whether written resolutions can be used in this way). 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.

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. If it asks you to discuss something, a bullet point answer will not be appropriate. Also, if it asks you to compare and contrast, there should be some comparisons given within your answer.

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.