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Candidate number:										as indicated on your admission slip
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Desk number:

Subject ref. CLG

Level 4 Certificate in Charity Law and Governance

Charity Law and Governance

November 2017

Wednesday morning, 29 November 2017

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.

Section A

Answer **all** the questions in this section.

Continue your answers on a separate sheet of paper if necessary.

1. Name **two** types of legal form which have limited liability for members.

i _____

ii _____

(2 marks)

2. The Charity Governance Code (previously Good Governance) is an example of a commonly used governance code. List **two** others.

i _____

ii _____

(2 marks)

3. Any trustee who is deliberately dishonest can be required to make good the charity's losses.

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

(Tick **one** box only)

True

False

(1 mark)

4. Describe the legal rules and requirements for altering the constitution of a charity which is an unincorporated members' association.

(4 marks)

5. The Charities (Protection and Social Investment) Act 2016 gives the Charity Commission the power to disqualify a person it considers unfit to be a charity trustee, but this is subject to conditions. Explain some of those conditions.

(3 marks)

6. When referring to the notice period for general meetings in company law, 'clear days' means:

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

- A. working days, excluding weekends and bank holidays.
- B. excluding the day the notice was sent and the day of the meeting.
- C. excluding the day of the meeting.
- D. a period of 24 hours.

(1 mark)

7. The Trustee Act 2000 provides a general power for trustees of unincorporated charities to acquire freehold or leasehold land in the UK.

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

(Tick **one** box only)

True

False

(1 mark)

8. Describe the requirements for the trustees of a small charity (beneath the compulsory audit threshold) to report on public benefit in the annual trustees' report.

(2 marks)

9. Briefly outline the scope of the Trustee Act 2000.

(3 marks)

10. Ignoring exempt charities, excepted charities and charitable incorporated organisations (CIOs), state the financial threshold for compulsory registration with the Charity Commission.

(1 mark)

TOTAL FOR SECTION A = 20 MARKS

Section B

Answer **all** the questions in this section.

Continue your answers on a separate sheet of paper if necessary.

11. Explain how the concept of behavioural governance has changed how organisations approach corporate governance.

(6 marks)

12. Explain how management accounts assist the trustees in their stewardship of a charity.

(6 marks)

13. Discuss the general legal duties of trustees.

(6 marks)

14. (a) Explain the legal mechanism of a trust.

(3 marks)

(b) Describe the legal effect a trust has.

(2 marks)

15. Whilst all boards will need to delegate, there should be clarity in what matters a board has delegated. Explain why this clarity is necessary.

(6 marks)

16. Explain the concepts of wrongful trading and fraudulent trading, and when they can apply.

Lined area for writing the answer to question 16.

(6 marks)

TOTAL FOR SECTION B = 35 MARKS

A series of 27 horizontal lines, evenly spaced, filling most of the page, intended for writing.

18. You have been approached by a small charitable incorporated organisation (CIO) which has a trading subsidiary. It is gathering advice on how it can manage its trading activities and is also seeking the views of its tax advisors. The charity has a small board (five trustees) and all of the trustees are also the directors of the trading subsidiary. The charity is a small one (annual turnover £700,000) and provides support to people recovering from drug addiction through the provision of counselling, training, and preparation for employment. Its objects are “to provide support and assistance to people recovering from drug addiction who are in need.” The charity’s income is via grants and contracts for the provision of its services, and income from trading. Currently, all of the charity’s trading is conducted via the trading subsidiary. It undertakes no fundraising, and does not intend to.

The trading subsidiary is a wholly owned company. The charity trustees say that they find its administration rather a burden. It was set up three years ago, on the advice of the previous treasurer. Its only board members are the charity trustees. The trading company has a café which is run by, and employs, people recovering from drug addiction. As well as its café service, there is a shop on the same premises which sells merchandise. This has the brand name and logo of the charity on it, but its income goes through the trading company books. The income from the café side of the business is good. The merchandise is less successful. There was only £15,000 turnover in this last year, but the charity board has voted to spend £50,000 of the charity’s money on new merchandise.

Advise the charity board of any potential legal or governance issues it faces in the current set-up **and** how it might change its approach to better achieve its aims.

(15 marks)

Lined paper template for writing.

A series of 27 horizontal lines for writing.

19. You have just been appointed as Company Secretary of the local arts club. You are undertaking the role as a volunteer in order to gain experience. The club is set up as a charitable company limited by guarantee. It has 10 board members (trustees) and these are all also the members of the company. There are no other members. You have just received the following email from the Chair.

“Hi. Thanks for taking on the Company Secretary administration. As you know, I am very experienced in company law (I run the biggest local accountancy firm) so I can provide guidance to you. Before next week’s board meeting, I need to hand something over to you, so you can do the filings at Companies House and the Charity Commission. We have just about managed to get rid of an awkward trustee – Susie. (She is a bit of a rival of mine actually, working for the firm down the road – so it will be good to see the back of her.) Just to give you a bit of context (we don’t get rid of people all the time!) – you should know that I like to run a tight ship. Of course I know that we can take decisions on a majority vote – but I want absolute unanimity from my board. I need to know that everyone is behind me. The difficulty with Susie was that she kept asking awkward questions, which slowed things down. When I present a proposal to the board, I really expect it to be nodded through. There were three things last year that she actually voted against! She did not even disagree – it was just that she said that she did not have enough information to make the decision. We have brilliant governance procedures here and I do annual performance reviews. I raised these matters with her during her review, and she wrote back with some weak explanation as to why she disagreed with me. She even challenged my chairing style.

Anyway. I sent her response around to the board members and asked if they agreed to hand it over to me to take action. They all agreed – so we can count that as a written resolution to remove her. (When I say “all” – clearly I did not email her. I also left out Jock, as he has just joined as a trustee and member and he needs to get up to speed first.) You can record it as a written resolution of the board or the members – that is up to you.

So please get Susie off the list of board members. I look forward to working with you.”

Draft an appropriate response to the Chair about the governance and legal issues that this raises, suggesting alternative approaches that could be taken.

(15 marks)

A series of 20 horizontal lines for writing or drawing.

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:

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Marker (full name):

Reviewer (full name):

Clerical check (full name):

Examiner review:
