

# THE PROFESSIONAL ETHICS EXAM

## ADVICE FROM RUTH, JACK AND NATALIE

**E**thics is, by its nature, a tough subject. To satisfy the examiners by giving answers which are often subjective is not easy. However, as veterans of last year's difficult ethics paper, we can at least share with you the methods which helped us to pass. There are three things to mention before giving our advice:

- 1 The ethics exam is not like a law degree module. You do not get points for demonstrating flair or originality in your analysis, nor in citing precedent or academic commentary. Quite the contrary: your job is to mention as many of the key words and phrases the examiners will have listed on a sheet of paper in front of them, so that they can give you as many of the corresponding marks as possible.
- 2 Everyone revises differently (there is no magic one size fits all formula, unfortunately), so some of the below are simply suggestions.

### ABOLITION OF MULTIPLE CHOICE QUESTIONS

- 3 In March 2016 the BSB announced that a new style Ethics Exam will be set from 2017 onwards. The change is the abolition of the multiple choice form of questions. Instead the exam will consist of six short answer questions. The same two-hour time limit will be allowed for the whole exam.

### OUR ADVICE

- Learn the key parts of the BSB Code of Conduct by heart and verbatim. The examiners have a prescribed marking scheme that rewards precise citing of the Code's rules and guidance, rather than the gist of the rules (which may not get any marks at all in many cases).
- Something very important which is not made clear by all BPTC providers is that there is a lot of BSB guidance on professional ethics that you might be examined on that lies outside the Code of Conduct, such as how to handle the media and the Farquharson guidelines for prosecuting advocates. This material is listed in the current version of the BSB *BPTC Handbook* (it should come up with a Google search), under the chapter dedicated to 'Professional Ethics'.
- One useful revision strategy might be to condense the Code of Conduct into the rules you'll need to remember for the exam (ensuring to get the precise wording correct). You

might find it helpful to go through with a highlighter the rules you consider potentially important to learn for the exam and any guidance that fills them out when they are drafted in vague terms. You should be careful to distinguish the different levels of hierarchy within the Code:

- Core Duties
- Conduct Rules
- Outcomes
- Guidance

This will be important for multiple choice questions (still set in 2016), where the cunning examiner may set a number of traps distinguishing between 'must' and 'may', for example. Then type out the rules and guidance you've highlighted, which provides you with a set of condensed notes to revise from, as well as getting the content into your head, as you re-read, type and re-format them.

- Another useful revision technique is to devise hypothetical scenarios and then apply the rules to answer what you would do in such scenarios. We utilised this strategy and then shared our scenarios and suggested answers in a couple of group sessions. It is always interesting to see how others would reason through difficult ethical problems: you probably won't all agree on the end result, but you should be able to identify the correct rules through them.
- Ideally you should have worked through as many mock papers as you could find. For some reason, the BSB do not provide past papers, which is unhelpful. There are, however, a number of ways around this. First, your BPTC provider will have set a number of example questions. Secondly, the BSB have provided two mock exams, which are available through your course provider (warning: these are, misleadingly, easier than the real things). Thirdly, you can ask your friends at other BPTC providers to swap mock papers/class questions with you (with suggested answers) and answer them (without your notes) under timed conditions. Last year, City had numerous, very useful, mock exams and a database of multiple choice questions; University of Law had a useful booklet of short answer questions and answers; and BPP had some very useful class questions. It is still not too late to look again at some mock papers.

■ The Bar Council has an 'FAQ' style bank of questions, which is a helpful way to get further into the correct frame of mind in order to balance ethical conundrums and reach the correct, BSB-approved, answer. The link can be found at: <http://www.barcouncil.org.uk/practice-ethics/professional-practice-and-ethics/>

■ **\*Very Important:** Memorise the Core Duties! There are only 10 of them, and you can guarantee that you will need to write these out word for word more than once over the course of the exam (we advise you do so in every short answer question). With the Core Duties at your fingertips, you will be able to perform the key strategy we were advised to deploy for short answer questions during the exam: the 'Core Duties Dump' (see next tip).

■ **Key Exam Technique Tip:** The 'Core Duties Dump' entails starting your answer to a short answer question by writing: 'The potential core duties engaged include: ...' listing all the applicable Core Duties. Once you have done that, you can begin your next paragraph by providing more detail as to why each of the Core Duties you have mentioned are relevant, together with the correct approach for balancing the ethical conundrum (using the more specific rules provided in the body of the Code of Conduct).

■ For short answer questions, your written answers should mention: Core Duties, Conduct Rules, Outcomes and Objectives of the Code of Conduct. You should aim at citing verbatim as many of the applicable Core Duties and key Conduct Rules as possible and then APPLY them. The Rules

are very abstract and often do not contain, in themselves, the precise answer required of you in the exam: you need to reason through and explain your answer (much like a maths exam where you have to show your working) to reason and balance competing views.

■ With the old style multiple choice questions, the power of deduction was the key. Once you had removed the plainly incorrect options, you were left with the real conundrum of deciding which answer the BSB had in mind. Unfortunately, you were likely to encounter some poorly drafted, or even impossible, questions which the BSB later discounted entirely when marking the papers. Students sitting the last multiple choice paper this summer are advised not to linger too long on any specific multiple choice question – put down your best answer, and move on.

■ In the exam, you need to time yourself carefully. We advise students re-sitting the exam in 2016 to answer the multiple choice questions first, as it is easier to stop and move on, compared to short answer questions, where the temptation is to keep writing and writing.

We hope these tips provide some useful insight of what is expected of you in the exam and will help you pass with flying colours.

*Ruth Kennedy, Jack Williams, Natalie Bird*