

Bar Standard Board

Centralised Exam Board

Professional Ethics Pupillage/Work Based Learning Assessment Syllabus 2020-2021

INTRODUCTION

This syllabus has been prepared for the purposes of the Professional Ethics pupillage/WBL assessment for the academic year 2021-22. Successful completion of the assessment aims to:

- distinguish between pupils who are ready to receive their Full Practising Certificate;
- safeguard the public by ensuring that those who are authorised to practise (by having received their Full Practising Certificates) have fulfilled the ethical requirements set out in the Professional Statement;
- ensure a strong, ethical profession.

The Professional Ethics pupillage/WBL assessment will be devised with reference to the source materials as set out in this document. Accordingly, with careful study of the materials and sections highlighted herein, students will be able to acquire a comprehensive understanding of the principles that underpin the Professional Statement, enabling them prepare fully for the Professional Ethics pupillage/WBL assessment.

NAVIGATION

The syllabus is set out in to two parts, A and B. Each part is divided between source materials.

Part A relates to subject matter which **WILL** be examinable and form the basis of assessment questions. When sections of the Handbook are referred to, the material included is all rules and guidance within those sections. Where other documents are referred to, unless otherwise stated, the entirety of that text will be examinable.

Where source material refers to additional references within a particular rule or guidance paragraph, unless otherwise indicated, students will not be required to study material beyond the details contained within the rule or guidance paragraph.

Part B of the Syllabus makes reference to material which **WILL NOT** be examined as part of the assessment; however, students will be required to understand the principles contained therein to meet the outcomes of the Professional Statement.

PART A

The BSB Handbook

Part 1: Introduction

Part 1 A-D

Part 2: The Code of Conduct

A – Application

B – Core Duties

C – The Conduct Rules

C1 – You and the Court

C2 – Behaving Ethically

C3 – You and Your Client*

*Candidates **WILL** be expected to be familiar with the principles that arise in the cases set out in gC86, namely:

English & American Insurance Co Ltd & Others -v- Herbert Smith, ChD 1987; (1987) NLJ 148; and,

Ablitt -v- Mills & Reeve (A Firm) and Another, ChD (Times, 24-Oct-1995).

C4 – You and Your Regulator **

Candidates **WILL NOT be expected to go beyond the principles set out within gC93 in referring to the cases

contained therein.

C5 – You and Your Practice

D – Rules Applying to Particular Groups of Regulated Persons

D1 – Self-employed barristers, chambers and BSB entities

D2 – Barristers undertaking public access and licensed access work

D4 – Unregistered barristers

D6 – Price and service transparency rules for self-employed barristers, chambers and BSB entities

Part 3: Scope of Practice, Authorisation and Licensing Rules

B - Scope of Practice

B1 – No practice without authorisation

B2 – Provision of reserved legal activities and of legal services

B3 – Scope of practice as a self-employed barrister

B5 – Scope of Practice as a manager of a BSB Entity or Employed Barrister

B6 – Scope of practice as a manager of an authorised (non-BSB) body or as an employed barrister (authorised non-BSB body)

B7 – Scope of practice as an employed barrister (non authorised body)

B9 – Legal Advice Centres

B10 – Barristers authorised by other approved regulators

Equality Rules

Supporting Information for Chambers BSB Handbook Equality Rules (BSB Document)

- Sections 1, 2, 8, 9, 12

Supporting Information for BSB Authorised Bodies BSB Handbook Equality Rules (BSB Document)

- Sections 1, 2, 8, 9, 12

Code Guidance

Guidance: Practising Rules and Requirements

Unregistered Barristers Guidance (Oct 2019)

Barristers Supervising Immigration Advisers Guidance (Oct 2019)

Public Access Guidance for Barristers (Oct 2019)

Conducting Litigation Guidance (Oct 2019)

Guidance on the Transparency Rules

- Introduction to the guidance
- Mandatory transparency rules for all self-employed barristers, chambers and BSB entities
- Additional transparency rules for those undertaking Public Access work

Guidance: Administration of a Barrister's practice

First Tier Complaints Handling Guidance (October 2019)

Referral and Marketing Arrangements Guidance (October 2019)

Confidentiality Guidance (October 2019)

Investigating and Collecting Evidence and Taking Witness Statements Guidance (October 2019)

Guidance: Professional Conduct of Barristers

Reporting Serious Misconduct of Others Guidance (October 2019)

Clash of Hearing Dates Guidance (October 2019)

Social Media Guidance (October 2019)

Crown Prosecution Service Publications

The Code for Crown Prosecutors, 8th edition – October 2018 (CPS)

Farquharson Guidelines: Role of Prosecuting Advocates (CPS)

Money Laundering and Terrorist Financing

Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended) – The Amended Regulations - Key Changes Document until updated guidance is issued

Vulnerability

Youth Proceedings Competencies and Guidance (BSB Document)

Identifying Vulnerability in Witnesses (The Advocate's Gateway)

Data Protection

Guide to the General Data Protection Regulations (Information Commissioner's Office)

- Key definitions
- What is personal data?
- Controllers and processors
- Principles Lawfulness, fairness and transparency
- Purpose limitation

- Data minimisation
- Accuracy Storage limitation
- Integrity and confidentiality (security)
- Accountability principle
- Lawful basis for processing
- Consent Contract
- Legal obligation
- Vital interests
- Public task
- Legitimate interests
- Special category data
- Criminal offence data
- Certification
- Data protection fee

PART B

Candidates are expected to have an understanding of the principles contained within the following provisions, in order to properly deal with the issues that arise during the course of practice. However, Candidates will not be examined on these provisions for the purposes of the Professional Ethics Assessment.

PART B
<u>The BSB Handbook</u>
Part 3: Scope of Practice, Authorisation and Licensing Rules
C – Practising Certificate Rules
C1 – Eligibility for practising certificates and litigation extensions C2 – Applications for practising certificates and litigation extensions by barristers and registered European lawyers C3 – Practising certificate fees and litigation extension fees C4 – Issue of practising certificates and litigation extensions C5 – Amendment and revocation of practising certificates and litigation extensions C6 – Applications for review
Part 4: Qualification Rules
C – The CPD rules
Part 6: Definitions
Definitions

Data Protection

Guide to the General Data Protection Regulations (Information Commissioner's Office)

- Parts not referred to in Part A, notably:
 - Individual rights
 - Accountability
 - Security
 - Encryption
 - Passwords
 - Personal data breaches