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4

The letter and spirit of the Code

4.1 The lawyer joke

A layperson, an accountant and a lawyer were all asked: 'What do two and two make?'

The layperson replied: 'Four, of course.'

The accountant replied: 'Four—or five.'

The lawyer replied: 'What do you want it to make?'

Lawyers are the butt of many jokes, many of which flow from a perception that lawyers are capable of acting quite unethically in pursuit of their client's interests. While this perception has, fortunately, never developed in the UK to the extent that it has in the USA, the characteristics of practice in common law jurisdictions expose lawyers to many ethical dilemmas, and responses to these vary. This chapter (and indeed this manual) will provide you with some answers, but in other areas it will simply provide you with a framework within which you will still have to make your own decisions. In these cases it should provide you with tools and ideas which may help you to arrive at conclusions which satisfy the ethical demands of practice.

The issues have been neatly presented by Ross Cranston:

An important policy issue is the extent to which the Code of Conduct ought to be infused by wider ethical notions. There are two aspects to this. One is encapsulated in the question: 'Can a good lawyer be a bad person?'. In other words, are the standards in the Code of Conduct untenable when laid alongside ethical thought or common morality? The second aspect is that if there is a discrepancy between the Code of Conduct and secular ethical thought, what is special about barristers that exempts them from the precepts of the latter? To put it another way, how is it that barristers can decide ethically on a course of action for a client which is

different from that which they would adopt for themselves?

(Cranston, R (ed.), *Legal Ethics and Professional Responsibility*

(Oxford: Clarendon, 1996)

The Bar Standards Board recognises this dilemma. Amongst the things it requires you to achieve on the BPTC are 'knowledge and understanding of the philosophical issues and purposes underpinning ethical behaviour'.[1] More specifically, you are expected to 'understand and appreciate the core professional values which underpin practice at the Bar or England and Wales, particularly the additional moral responsibilities held by the profession (over and above the population in general) due to decision-making roles, functions and authority which are key to practice at the Bar'.

4.2 The Code of Conduct

The Bar Code of Conduct provides you with the rules and standards that should inform all aspects of your practice at the Bar. It looks, at first sight, very much like a statute and this recognition should lead you to approach it with respect, but also to consider carefully how you should use it. It is not a statute, but a Code of Conduct. Bear in mind that it is supported by Guidance, available through the Bar Council and Bar Standards Board websites.

There is a risk that, if the Code is perceived as essentially like any other piece of legislation, you will approach it in the same way. Why should this be a problem? It stems from the underlying principle within UK substantive law that all actions are permitted unless they are forbidden. Thus Acts that regulate behaviour are to be construed in a restrictive

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[1] These and other quotations are from the BPTC Handbook, section 2.2.4, accessible at <http://www.barstandardsboard.org.uk/assets/documents/BPTC%20-%20handbook%20version%2001-08-08.pdf>.

manner and loopholes may properly be exploited.

For example, the Theft Act 1968 s 9 provides:

(1) A person is guilty of burglary if:

(a) he enters any building or part of a building as a trespasser and with intent to steal anything in the building or part of a building in question, to inflict on any person in it any grievous bodily harm or to rape any woman in it, or to do unlawful damage to the building or anything in it; or

(b) having entered any building or part of a building as a trespasser, he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person in it any grievous bodily harm.

Your client has entered a building as a trespasser but with no particular intention, and, once inside decides to do unlawful damage to property within the building. Your advice to him should be to plead not guilty to a charge of burglary. This is because his actions fall within neither paragraph of the subsection even though his actions have produced the same result as behaviour which would lead to guilt (had he formed the intention to cause the damage before, rather than after entering the building). This conclusion may be hard for a layperson to understand but would be natural to any lawyer versed in statutory interpretation.

To adopt the same approach to following the Code may enable you to avoid successful disciplinary proceedings by the Bar Standards Board. In other words, in so far as it acts in an analogous manner to a criminal statute, the Code may be treated in the same way. However, to approach the Code in this way could carry dangers for the reputation of the profession. Your interpretation of the Code should be informed by ethical values and where the Code permits a variety of responses your choice between them should be similarly informed. This is why the Bar Standards Board requires that you understand these underpinning values.

An example of how the Code regulates your professional response arises from para 704:

704 A barrister must not devise facts which will assist in advancing the lay client's case and must not draft any statement of case, witness statement, affidavit, notice of appeal or other document containing:

[. . .]

(c) any allegation of fraud unless he has clear instructions to make such allegation and has before him reasonably credible material which as it stands establishes a prima facie case of fraud;

The concept of 'reasonably credible material' inherently carries a degree of subjectivity. Suppose that you have been instructed by your lay client that the opponent has been perpetrating a fraud. It is not uncommon for hostility between the parties to lead to all sorts of allegations which are discovered later to be impossible of formal proof. That being the case, it would be unwise to incorporate such an allegation into any draft on the client's assertion alone. What, however, if the client (who has behaved in a temperate manner throughout) tells you that the opposing party has admitted to committing fraud, but no other independent evidence is available? What if, in addition, the client is prepared to make a statement of truth in respect of this allegation? Would such a statement be 'reasonably credible material' given that it is in essence no more than the original assertion presented formally in a way which is admissible in court? Should you still insist on some independent evidence?

In practical terms you would doubtless advise your professional client to seek independent evidence to corroborate your lay client's oral evidence before settling a statement of case which contained an allegation of fraud. If it is not forthcoming, should you pursue the allegation? The only guidance the Code offers is that the material must be credible and establish a prima facie case. The assertion of an intemperate client would clearly be inadequate (it is the mischief the rule is designed to avoid). To rely on a statement of truth may be sufficient to avoid a finding of misconduct (although if there were no other evidence

the client should be advised of the dangers of pressing the matter in court: a wasted costs order may loom). However, to refuse to incorporate such an allegation in those circumstances will upset your client, and is likely to upset them more if the allegations are in fact well founded. You must not let your independence be compromised (para 307(a) and (c)), yet you should act on your client's behalf (para 303(a)).

Note that the House of Lords' decision in *Medcalf v Mardell and others* [2003] 1 AC 120 (for details see **7.5.4.2**), while addressing this area, does not resolve this issue. If you check the specific guidance on this matter on the Bar Council website you will find:

The Professional Standards Committee (PSC) takes the view that there is no litmus test for determining whether it is proper to allege fraud. As Lord Bingham made clear at para 22: 'Counsel is bound to exercise an objective professional judgment whether it is in all circumstances proper to lend his name to the allegation'. That decision will depend on the individual facts of each case.

It should be noted that although paragraph 704 refers specifically to fraud, the same principle would apply to any other allegation of serious misconduct.

No doubt you should err on the side of caution and advise that further evidence should be obtained if possible, but it may not be available. Moreover, if, after settling the statement of case, it becomes clear that there is no credible evidence of fraud (for example, the opposing party may have made the admission to provoke a reaction or as an act of bravado) or if other facts come to light showing that the allegation of fraud has no prospect of success, you will no doubt recognise that the fraud allegation should no longer be pursued. It is submitted that the proper approach is not to seek a 'way around' the provisions of the Code, but to consider underlying values, so that your response is likely to assist to maintain the Bar's reputation as a thoroughly ethical profession. Fortunately, problems as awkward as this should not be a daily occurrence, and you should remember that advice will be available from your Head of

Chambers or from the Bar Council.

An understanding of the underpinning values will give you a basis for deciding ethical questions beyond what the Code provides. Remember that behaviour prohibited by the Code is not made acceptable by a contrary underpinning value, but an underpinning value might validate conduct upon which the Code is silent or in circumstances which generate conflict between its provisions. Ultimately, where, having thought through matters in this degree of depth, you remain uncertain as to the proper way of proceeding, you should contact the Bar Council Ethical Queries Helpline available for advice in emergencies.

4.3 Underpinning values

Here are a number of values which may be said to underpin the Code of Practice. It is not intended to be exhaustive.

- Justice.
- Respect for the law.
- Client autonomy.
- Confidentiality.
- Honesty.

How these values apply to the demands of practice at the Bar may best be understood by reading them in the context of the core principles identified by the Bar Standards Board as underpinning the Code and Bar Council guidance. These are:

- the principle of professional independence;
- the principle of integrity;
- the principle of duty to the court;
- the principle of loyalty to the lay client;
- an understanding of the problems and perception of conflict of interest;
- the principle of non-discrimination on grounds of race, colour, ethnic or national origin,

nationality, citizenship, sex, sexual orientation, marital status, disability, age, religion or belief; and

- commitment to maintaining the highest professional standards of work, to the proper and efficient administration of justice, and to the Rule of Law.[2]

4.3.1 Conflict in underpinning values

Conflict between values is inherent in legal practice. Lord Reid makes this clear in his opinion in *Rondel v Worsley* [1969] 1 AC 191, 227:

Every counsel has a duty to his client fearlessly to raise every issue, advance every argument and ask every question, however distasteful, which he thinks will help his client's case. But, as an officer of the court concerned with the administration of justice, he has an overriding duty to the court, to the standards of his profession, and to the public, which may and often does lead to a conflict with his client's wishes or what the client thinks are his personal wishes.

Consider a concrete situation. If your client in a criminal matter has provided you with information which is relevant (but adverse) to your case you will be faced with a conflict between maintaining confidentiality and not misleading the court. A perusal of the Code will throw up relevant provisions.

104 The general purpose of this Code is to provide the requirements for practice as a barrister and the rules and standards of conduct applicable to barristers which are appropriate in the interests of justice and in particular:

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[2] Ibid.

http://www.barstandardsboard.org.uk/standardsandguidance/codeofconduct/section1codeofconduct/partiii_fundmentalprinciples/

(a) in relation to self-employed barristers to provide common and enforceable rules and standards which require them:

(i) to be completely independent in conduct and in professional standing as sole practitioners;

(ii) to act only as consultants instructed by solicitors and other approved persons;

(iii) to acknowledge a public obligation based on the paramount need for access to justice to act for any client in cases within their field of practice;

[. . .]

301 A barrister must have regard to paragraph 104 and must not:

(a) engage in conduct whether in pursuit of his profession or otherwise which is:

(i) dishonest or otherwise discreditable to a barrister;

(ii) prejudicial to the administration of justice; or

(iii) likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute;. . .

302 A barrister has an overriding duty to the Court to act with independence in the interests of justice: he must assist the Court in the administration of justice and must not deceive or knowingly or recklessly mislead the Court.

[. . .]

702 Whether or not the relation of counsel and client continues a barrister must preserve the confidentiality of the lay client's affairs and must not without the prior consent of the lay client or as permitted by law lend or reveal the contents of the papers in any instructions to or communicate to any third person (other than another barrister, a pupil . . . or any other person who needs to know it for the performance of their duties) information which has been entrusted to him in confidence or use such information to the lay client's detriment or to his own or another client's advantage.

[. . .]

708 A barrister when conducting proceedings in Court: . . .

(e) must not adduce evidence obtained otherwise than from or through the client or devise facts which will assist in advancing the lay client's case;

These rules are helpful in identifying what is expected in relation to each of the underlying values. However, they provide little guidance as to how conflicts should be resolved. In fact, the conflict identified occurs so regularly in practice that a proper way of responding is well established. You will not necessarily be required to withdraw unless your client wishes you to present information you now know to be incorrect. Your precise duties will depend on the nature of the information being withheld. This may range from a full confession to dishonesty in obtaining public funding or an indication of past offences of which the prosecution appears to be unaware. You will find detailed guidance as to how to respond ethically to these different situations at **7.2** below.

Note that further guidance on the preparation of witness statements is available on the Bar Standards Board website. This is expressly described as applying to civil matters only, as barristers do not draft witness statements in criminal cases. Thus you should note that striking a balance between different values might produce different results in the criminal and the civil context.

This itself throws up an important value, associated with client autonomy and justice. Our adversarial system of justice requires as close as possible an approach to equality of arms. The assumption is that representation by competent and qualified lawyers achieves that equality. In a civil matter the parties are to some extent equal (although one may be able to spend more money than the other in preparing the case). In a criminal matter, however, it is normal to find individuals (often impecunious and possibly facing loss of liberty) with all the forces and resources of a powerful state arranged against them. This goes some way to

explaining:

- the cab-rank rule, which requires barristers to accept any case which is within their competence and ability to undertake (there are exceptions—see Part VI of the Code); and
- the lesser expectations to disclose adverse factual information in criminal, as opposed to civil matters (given that the task is for the prosecution to prove the case, not for the defendant to prove his innocence).

So your response to a clash of underlying values may need to differ depending on the context.

You may find yourself in a situation where you face such a clash of values or where you are challenged by a client holding different values to your own. Consider the following situations.

EXAMPLE

What if my client is impecunious and facing a wealthy opponent?

For example, you are acting pro bono for an unemployed client who claims to have been unfairly dismissed for fighting at work. Your professional client instructs you to contact the respondent's lawyers in order to seek a settlement. The evidence from a number of witnesses and from personnel records suggests that your client had, indeed, been fighting, had done so on many occasions, and was only dismissed after proper warnings had been given. In conference, however, your client continues to deny the allegation while offering no explanation for the evidence against him. You are confident that should the matter proceed to trial your client will lose. You are, however, aware that many cases can result in a technical finding of unfair dismissal for procedural failings, even if the compensation in such cases is likely to be minimal. Your lay client has indicated that he is willing to accept £3,000 in settlement. You recognise, moreover, that for the employer to defend the claim, should you make many

demands on them for disclosure or further questions, will cost them well over £3,000.

Should you contact the employer, pointing out that the hearing will be a long one and that you will be requiring considerable disclosure of documents and answers to detailed questions about personnel practices in the firm, suggesting that your client will withdraw the case if they pay £3,000 in settlement? To do so would promote the value of client autonomy and (by subverting the normal consequences of inequalities in wealth) promote a particular view of social justice.

Should you, instead, avoid putting that pressure on the employer when negotiating, recognising that this might make it less likely that the employer will settle for £3,000? To do so would promote the values of respect for the law and a particular (but different) perception of justice.

The Code does not prevent either course, provided you are acting on your client's instructions after giving proper advice. This is thus one example where your own values may have an impact on your choice of whether to use the 'we'll make this expensive for you' tactic.

What if my client is seeking to achieve, by instructing me, a goal which I regard as immoral?

For example, your clients, who are a couple seeking to have an exceptionally bright child, wish to carry out genetic checks to screen out any foetuses which appear not to be intelligent. You feel strongly that this is an abuse of the genetic research which has been done. Although the motive appears to be one which is forbidden under the relevant legislation you understand that similar checks (which are permitted) can indirectly provide information which would enable them to screen for intelligence.

Should you simply advise them that their proposed course of action would contravene the law and that they should not therefore attempt to pursue it? To do so may promote

the value of (your particular view of) morality. This itself will be based on a value such as the integrity of the individual (in this case the unconceived child).

Should you, instead, indicate how they might achieve their goal without technically breaking the law? To do so would promote the value of client autonomy.

When considering the propriety of your response you must remember that your duty is to act for your client and you should not make moral judgments about your client's actions. You should also consider what your client needs to know in order to make a properly informed decision. These principles are addressed in the Code and clearly prioritise the value of client autonomy.

What if my client is seeking to achieve, by instructing me, a goal which involves a breach of the law?

For example, you are instructed by solicitors to advise a corporate client which wishes to reduce some of its production costs. The proposed savings will increase the risk of a release of toxic chemicals into a river. Such a release will constitute a breach of regulations designed to protect the environment and expose the client company to the risk of fines. However, you are aware that the local authority with responsibility for enforcing those regulations is extremely short of finance and is unable to make regular checks. A minor release is therefore unlikely to be noticed.

Should your advice be to explain the legal situation and simply point out that the proposed cost reductions place the company at risk of committing an illegal action for which they might suffer a penalty? To do so may promote the value of respect for the law.

Should your advice extend to your assessment of the very small risk of discovery? To do so may promote the value of client autonomy.

Does the principle indicated in the previous example (that you should not make moral

> judgments about your client's actions) apply equally here, when the proposed action involves your client committing a criminal offence? The Code indicates that you must do nothing dishonest or bring the profession into disrepute. Incitement to break the law clearly falls within that concept. You can therefore protect yourself from breach of the Code by giving clear advice not to break the law. However, you may be doing that in the realistic knowledge that your client may well ignore you and break the law. Note that if this has occurred to you it is probably your own sensitivity to ethical issues that alerts you to the risk that this may have the effect of indirectly inciting a breach of the law.

You will see that none of these three examples produces a single, clearly correct answer. Regrettably, this may well arise in practice. I have my personal preferences as to the most appropriate response, but you may well take a different view. Any such difference will flow in part from the personal values that you or I espouse. For this reason we need to be aware of those values and how they impact on our responses when faced with ethical dilemmas (as we undoubtedly will be). At the same time it is important that we remember that we must not apply our personal values unrestrained. As barristers, we are bound by the Code and that recognition may assist when you are faced with a conflict of potentially applicable values. You cannot justify a departure from the clear requirements of the Code by pleading an inconsistent personal value, no matter how strongly you espouse it.

4.4 Role morality

One concept which may assist in resolving conflicts of this sort is that of role morality. A lawyer may be required to do something for a client which she could not morally justify doing for herself. That proposition may initially appear to be wrong, or at least counterintuitive. However, it is explained to a degree by the recognition that the basis of litigation in the UK is adversarialism. The lawyer is the skilled partisan advocate of the client

and is (in theory) opposed by a similarly skilled partisan advocate for the opponent. The neutral decision-maker is neither lawyer but the tribunal.

This concept only works if the lawyer is genuinely partisan and the parties are equitably resourced. A client whose lawyer adopts a neutral role will be severely disadvantaged if opposed by a client whose lawyer adopts a partisan approach. In order to shoulder this burden properly, lawyers may well have to seek to achieve conclusions of which they disapprove, or carry out actions which they would not carry out on their own behalf. To justify this, many have introduced the idea of 'role morality'. This concept prioritises the value of client autonomy and is the source of the cab-rank rule (see Code para 601). Many lawyers regard it as enabling them to do for their clients what they would not do for themselves.

It may have surprising consequences. As Boon and Levin point out:

Paradoxically, whilst lawyers are expected to act cooperatively, altruistically and ethically when dealing *with* their clients, they are expected to be uncooperative, selfish and possibly unethical in pursuing the objectives *of* their clients. This creates considerable moral strain, . . .

(Boon, A and Levin, J, *The Ethics and Conduct of Lawyers in England and Wales* (Oxford: Hart, 2nd ed, 2008) at 192)

That moral strain will alert you to the fact that while the concept of role morality may justify your doing for your client what you would not do for yourself, it does not give you guidance as to how far you can go. Take an example.

EXAMPLE

It may well be that if you clearly owed a debt you would not take advantage of the limitation provisions to evade it. However, would you apply the same moral judgment if it were your client who owed the debt? Suppose, for example, your client is very short of money and had forgotten the debt, which is owed to a large corporation? Suppose, instead, your client is the large corporation and the person owed the debt is

impecunious?

Your view may be identical in those two situations or you may regard their relative wealth as a key issue. That is a matter for you. However, identifying the issue should make it clear that role morality, while potentially justifying actions which you would feel uncomfortable about on your own behalf, does not resolve questions about whether a particular course of action is ethically acceptable. For that, once again, you need to follow the Code and, where necessary, consider your underlying values.

The underpinning principle here is client autonomy. The Code permits you to do whatever your client wants provided that it is not illegal, you are not dishonest, and you give the court the full benefit of your knowledge of the law, whether helpful to your case or not. Equally, you must provide your client with advice that helps him or her to take an informed decision as to whether to pursue a case or not. It would be improper (as with the second example at **4.3.1**) to prioritise your views over those of your client. There is nothing to stop you identifying ethical considerations to your client, but the decision must remain with the client.

The adversarial nature of the UK legal system may be some justification for a barrister behaving differently in professional and personal contexts, but it also carries its own limits to professional behaviour. Because (unlike in an inquisitorial system) the court does not have the resources to explore the truth for itself, it relies on the honesty of advocates and their ability to research the law fully. This is the source of the requirements not to mislead the court and to cite authorities that go against your client's interests. This should identify two insights:

(a) A claim to role morality does not justify all behaviour. A balance between conflicting values must still be maintained. This is clear from the Marre Report (para 6.1):

The client is frequently acting under physical, emotional or financial difficulties and may well wish to take every step he can, whether legal or extra-legal, to gain advantage over the

other party. In this situation the lawyer has a special duty and responsibility to advise his client as to the legal and ethical standards which should be observed and not to participate in any deception or sharp practice.

(Lady Marre, CBE, *A Time for Change: Report of the Committee on the Future of the Legal Profession* (General Council of the Bar and Council of the Law Society, London: 1998))

This is helpful guidance, but leaves much to the individual lawyer.

(b) No advocate will be able to meet the standards expected unless the requisite knowledge, understanding, and skills have been mastered. The knowledge, understanding, and skills that you have acquired in your undergraduate study and which you are now developing on your Bar Professional Training Course are central to your effectively meeting the demands of an adversarial system. Competence itself is an ethical issue.

For further discussions of role morality, see Boon, A and Levin, J, *The Ethics and Conduct of Lawyers in England and Wales* (Oxford: Hart, 2nd ed. 2008) at 15–17 and 191–194, and Nicolson, D and Webb, J, *Professional Ethics: Critical Interrogations* (Oxford: OUP, 1999) at 169–171.

4.5 Ethical behaviour and self-interest

It is often said that ethical behaviour is in the individual lawyer's best interest because 'the Bar is a small profession and your reputation will quickly get around'. Barely hidden behind this assertion is the suggestion that if you acquire a reputation for poor ethical standards opponents will not trust you and you will find it increasingly difficult to meet your clients' needs. This may be true. However, it is important to recognise that ethics and self-interest should not be equated.

Some help may be available from the recognition that taking a long-term view of self-

interest is highly likely to be an ethically safer approach than taking a short-term view. Thus, an approach which ensures that you have a reputation for honesty is likely to enable you to represent many future clients in negotiation. It is also therefore likely to enhance your long-term income. Willingness to deceive an opponent may achieve something your current client values but will inhibit your ability to come to desirable solutions for future clients. Not only would this inhibit long-term income, it would involve a breach of the Code (para 301(a)).

One other aspect of self-interest is worth addressing here. You have an interest in your profession continuing to be perceived as in good ethical standing. If you comply with the provisions of the Code, this will preserve you from the risk of disciplinary proceedings. However, where the Code provides a framework within which different courses of action are permitted you should be alert to maintain the highest possible ethical standards.

This insight helps us to identify those aspects of self-interest which will assist us to maintain high ethical standards, but relying on self-interest is altogether insufficient. It ignores most of the underpinning values which we have identified earlier and leaves the individual lawyer without ethical guidance. Thus it remains necessary to comply with the requirements of the Code and to consider its underpinning values in those situations where conflicts nevertheless arise.

4.6 The lawyer joke again

So which of the three was acting most ethically? I have no problem with the layperson's response and am sufficiently ignorant to accept that there may be justification for the accountant's response. However, to judge the lawyer I need to go back to my core values again. If I prioritise client autonomy, this lawyer may be responding perfectly correctly. There are few situations in reality where one simple answer is the only one available. The lawyer here is seeking the client's instructions as to what the desired outcome is. It may be that that outcome is not legally available, in which case the lawyer should advise the client to

that effect. It may be readily available, in which case the lawyer is in the fortunate position of giving the client good news. It is just as likely, however, that the answer is somewhere between the two. How far should you go to achieve the client's desired result? That is a matter of your professional responsibility. The Code of Conduct is your guide ('a barrister must not . . . compromise his professional standards in order to please his client, the Court, or a third party'—Code para 307(c)), which makes it clear that you should never allow your personal values to override the requirements of the Code. However, within the boundaries provided by the Code, the Guidance available on the Bar Council and Bar Standards Board websites, and always remembering the availability of the Ethical Queries Helpline, the final decision is your responsibility.

Suggested further reading:

Andrew Boon and Jennifer Levin: *The Ethics and Conduct of Lawyers in England and Wales* (2nd ed. Oxford, Hart, 2008). This is the most up-to-date of the books suggested and explores the principles underlying the ethics of solicitors and barristers. It looks critically at the conflicts which may arise and the ways in which the ethical principles apply in different areas of lawyers' work.

Richard O'Dair: *Legal Ethics: Text and Materials* (Cambridge, Cambridge University Press, 2001). This book covers the underlying principles of ethics as well as applying them to a variety of the situations in which lawyers find themselves. Many of the materials it provides are still valid, although some are out of date. It is particularly useful in that it contains problem questions and case studies.

Donald Nicolson and Julian Webb: *Professional Legal Ethics: Critical Interrogations* (Oxford, OUP, 2000). This is a more theoretical book which provides a wide-ranging and critical analysis of the ethical principles of the English legal professions.