

# Ethics in the Qualifying Law Degree



The Law Society

supporting  
solicitors

# Welcome, introduction and background to the Law Society's work on legal ethics

Tony King

Chair

The Law Society's Education &  
Training Committee

# Keynote address

**Sir Mark Potter**

# Presentation of model ethics syllabus for undergraduate law course and research findings

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UNIVERSITY OF  
TRUTH  
LEARNING  
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WESTMINSTER



# A Model Ethics Curriculum

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## ...the Law Society should:

take the lead and encourage the SRA to... make awareness of and commitment to legal values, and the moral context of the law, mandatory in undergraduate law degrees

Develop general, flexible guidance and 'outcomes'

Work with other professional bodies to consider what support might be offered to law schools to assist them to comply with this flexible guidance.

Economides and Rogers *Preparatory Ethics Training for Future Solicitors* (2010)

# Why?

The Training Framework Review promised ethics 'from cradle to the grave'.

Most other common law jurisdictions require professional ethics in first degrees.

To commercially exploit high ethical standards solicitors must be 'ethically literate'.

The context of practice is more complex and difficult to understand.

Solicitors will be the dominant ethical voice in new business structures.



# Why?

'Principles based regulation' leaves more to individual decision-making

The Smedley Report, Hunt Report and SRA consultations emphasise the importance of reviewing education in the emergent regulatory environment.

A legal ethics curriculum will produce more 'ethically literate' and 'ethically sensitive' lawyers, better able to preserve, adapt and change the ethical traditions of the profession.

# International developments

‘... law schools should offer an integrated, three-part curriculum:

- (1) the teaching of legal doctrine and analysis, which provides the basis for professional growth;
- (2) introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients; and
- (3) exploration and assumption of the identity, values and dispositions consonant with the fundamental purposes of the legal profession.

Integrating the three parts of legal education would better prepare students for the varied demands of professional legal work.’

WM Sullivan, A Colby, JW Wegner, L Bond, LS Shulman *Educating Lawyers: Preparation for the Profession of Law*

(Stanford, Calif.: The Carnegie Foundation for the Advancement of Teaching, 2007)

## The liberal law degree

‘For some academics the phrase “liberal education” seems to be no more than a coded refusal to accept either the Law Society or Bar Council's right to have any substantial say in the running of the law school; a rhetorical device that is used in the political process of achieving and maintaining autonomy for the academy’.

A. Bradney *Conversations, Choices and Chances: The Liberal Law School in the Twenty-First Century* (Oxford: Hart Publishing, 2003) at p. 32

- ‘I would argue, with Nussbaum, that the aim of a liberal legal education is to produce students who have the capacity for living what Socrates called 'the examined life', in which nothing is accepted merely because it is handed down by tradition, but everything is questioned, and only beliefs which can be rationally justified are accepted.’
- F Cownie '(Re) Evaluating values: A response to Burrige and Webb' (2008) 42:3, *The Law Teacher* 302 at 303.

## The role of universities

The tragedy of the world is that those who are imaginative have but slight experience, and those who are experienced have feeble imaginations. The task of the university is to weld together imagination and experience. The initial discipline of imagination in its period of youthful vigour requires that there be no responsibility for immediate action. The habit of unbiased thought, whereby the ideal variety of exemplifications is discerned in its derivation from general principles, cannot be acquired when there is the daily task of preserving a concrete organisation. You must be free to think rightly and wrongly, and free to appreciate the variousness of the universe undisturbed by its perils.

These reflections upon the general functions of university can be at once translated in terms to the particular functions of a Business School...

The way in which a university should function in the preparation for an intellectual career, such as modern business or one of the older professions, is by promoting the imaginative consideration of the various principles underlying that career.

- A N Whitehead *The Aims of Education and other essays* (London: Ernest Benn Ltd, 1962) pp.139-140.

## Definition of legal ethics

‘The study of the relationship between morality and Law, the values underpinning the legal system, and the regulation of the legal services market, including the institutions, professional roles and ethics of the judiciary and legal professions.’

# Aims

To stimulate students to reflect on the nature of legal ethics, equip students with the knowledge and understanding to behave ethically and to play an active role in the formation of professional ethics



## Objectives

- further appreciation of the relationship between morality and law
- promote understanding of the role of the legal profession in supporting democracy and protecting justice and the rule of law
- provide opportunities for ethical decision-making
- promote the values of justice, honesty, integrity, critical self-reflection and respect for others
- stimulate reflection on the ethical challenges of practice and lay a foundation for ethical behaviour

## Learning outcomes for legal ethics

At the end of this course students should be able to:

- Explain the relationship between morality and Law,
- Identify values underpinning the legal system,
- Analyse the regulation of the legal services market,
- Debate ethical issues
- Evaluate the institutions, professional roles and ethics of the judiciary and legal professions
- Appraise the ethical responsibilities of lawyers
- Recognize and resolve ethical and other professional dilemmas
- Demonstrate awareness of potential ethical issues arising in legal employment

## Model Ethics Syllabus

- a. Ethics and Law: Law and morality; Civil and human rights; Life, liberty and security of person; equality before the law; discrimination and diversity.
  
- b. System ethics and the administration of justice: democratic values, e.g. equality (including equality before the law) freedom, access to and control of power; natural justice; the rule of law; independence of the judiciary, lawyers' responsibilities for defending the rule of law and upholding the administration of justice.

c. Regulation of legal services: Structure of the legal services market; Regulators and regulated; Statutory objectives and professional principles; Regulation of entities; Professional responsibility in the workplace.

d. Theory of professionalism: Relationship to the state; Market control and reserved activities; Professional ideals.

e. Legal professions: Professional values; Professional bodies; Business organisation.

f. Professional regulation: Representative and regulatory functions of professional bodies; education, training and conduct; investigation and discipline.

g. Professional ethics: Codes of conduct; Duty to the Court and to the administration of justice; Duties to clients; Loyalty; competence; confidentiality; conflicts of interest.

## Conclusions

Proposals for a legal ethics curriculum for the initial stage need to be:

- Appropriate
- Sustainable
- Effective
- Acceptable

# Coffee break

15.15-15.30

# The importance of ethics for the profession

Chris Perrin

Executive Partner & General  
Counsel

Clifford Chance



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solicitors

# Panel discussion and Q&A

Chaired by:  
Tony King

Panel:  
Sir Mark Potter  
Professor Andrew Boon  
Chris Perrin



# Closing remarks

Tony King  
Chair