

Legal Ethics — Master Reference

Every topic on its own page, five-part: SPOT IT → RULE → TEST → CASE → APPLY. Navigate with Word's navigation pane; fill the [bracketed] APPLY sentences in your own words.

How to Use This Reference

The five-part system, and how to run any problem in the exam.

Every topic is on its own page in the same five-part shape. Read the parts in order:

- **SPOT IT** — the trigger: what you see in the facts that puts you in this issue.
- **RULE** — the section or rule, in plain words.
- **TEST** — the numbered standard you apply.
- **CASE** — one or two anchor cases, one line each (full facts live in your Case List).
- **APPLY** — a sentence pattern with [brackets] you fill with the facts.

Running a problem. For each actor, run the three threshold questions on the Issue-Spotter page, underline every act, then — for each act — find its SPOT IT, lift the RULE + CASE, and write the APPLY. Characterise every act as UPC or PM. Open Word's navigation pane to jump between topics.

Examinable Topics

Topic 1 The Solicitor: Client Relationship

Topic 2 Professional Misconduct and Unsatisfactory Professional Conduct

Topic 3 Professional Discipline

Topic 4 Acting for the Client

Topic 5 The Legal Practice

Topic 6 The Regulation of Advocates

Topic 7 Admission and Expulsion of Advocates

Topic 8 An Advocate's Duty to the Court

Topic 9 An Advocate's Duty to the Client

Topic 10 An Advocate's Duty to Others

Issue-Spotter — run every question through this first

Run these three questions on each actor before you pick a topic.

- 1 WHO are they?** applicant → **Admission Rules** · solicitor → **Conduct Rules + UL** · barrister/advocate (incl. solicitor-advocate) → **Bar Rules** · firm/principal → **UL s 35 / s 470**
- 2 WHAT have they done?** **UPC** — **s 296** (falls short)? · **PM** — **s 297** (substantial/consistent, OR not fit & proper — s 297(1)(b))? · on the **s 298** list (contravention, overcharging, conviction, insolvency, notice-breach)? · a **conviction** (show-cause s 51)?
- 3 WHAT should they do?** report/notify it? · be honest & candid (no deceiving the court — Bar r 24; candour even pre-admission — De Castillo)? · refuse for conflict/confidentiality?

Topic 4: Acting for the Client

Trigger: without-prejudice / Calderbank, legal professional privilege, and professional negligence.

Without-prejudice communications

SPOT IT settlement talks · admissions made during negotiation

RULE Evidence Act s 131

TEST

1. protects genuine settlement communications; substance not form; waivable only by all parties

CASE

- **Cutts v Head** (purpose)
- **Field** (admission must be reasonably incidental)
- **Davies v Nyland; Belt v Basildon** (the words neither create nor destroy it)

APPLY Ask whether it was a genuine attempt to settle, then conclude on protection.

Calderbank offers

SPOT IT offer made 'without prejudice save as to costs'

RULE Calderbank; UCPR Pt 47

TEST

1. a genuine offer of compromise + unreasonable rejection → indemnity costs

APPLY Was the offer genuine and the refusal unreasonable?

Legal professional privilege

SPOT IT solicitor–client communication for advice · a demand to produce it

RULE the client's privilege; not absolute

TEST

1. the dominant purpose of legal advice or litigation

CASE

- **Grant v Downs** → **Esso** (dominant, not sole, purpose)
- **Baker v Campbell** (extends beyond court — search & seizure)
- **A-G v Kearney; O'Donovan** (no LPP for illegal/improper purpose)
- **Waterford** (claimant proves it)
- **Sevic v Roarty** (compelled production ≠ waiver)
- **Farrow** (joint/common-interest — all must waive)

APPLY Establish dominant purpose; check for illegality or waiver; conclude [privileged / not].

Professional negligence

SPOT IT solicitor error harms client or a third party

RULE s 211 (must be insured); s 50 Civil Liability Act (standard of care)

TEST

1. the duty is set by the retainer but can extend to third parties

CASE

- **Hill v Van Erp** (beneficiary of a will)
- **Hawkins v Clayton** (duty to locate the executor)

APPLY Identify the duty and its scope, then conclude on breach.

Topic 6: The Regulation of Advocates

Trigger: the theory questions — significance of ethics, nature of the rules, who regulation serves. Q3/Q4 essay material.

Significance of ethics / partisanship

TEST

1. pure partisanship (win at all costs) is rejected — the paramount duty to the administration of justice overrides the duty to the client

CASE

- **Wasserstrom** (argues suspend ordinary morality) vs **Bar r 4** (rejects it)

APPLY Use as the counter-argument frame in an essay.

Fundamental vs conventional rules

TEST

1. fundamental = permanent, non-negotiable (honesty, independence); conventional = etiquette/custom that varies

CASE

- **Clyne** (dishonesty destroys fitness)
- **Ziems** (not every conviction ends a career)

Fit & proper as gatekeeper; purpose of regulation

TEST

1. restrictive entry = quality control + public protection, but also serves the profession's economic interest; pure self-regulation lacks accountability → co-regulatory model (Legal Services Commissioner)

CASE

- **Davis** (fit & proper as gatekeeper)