Appendix D ATC Ethics Expert Data Input Framework

General points

The aim of the research is not to identify if individual interviewees are fit for practice but to get your judgment and insights on the range of ethical capacity of the interviewees as a group and the implications of that for education and training. In such circumstance the need to give individuals the benefit of the doubt is less strong as it does not count against them: we are looking for your best judgment on the available evidence.

It should be borne in mind that interviewees were allowed approximately 15 minutes reading time before being asked to tackle the scenarios rather than being given the problems in advance. This was to ensure that the scenarios were an assessment of their current knowledge and approach to ethics problems rather than an assessment of prepared responses.

Questions 1 and 2

In assessing interviewees' overall handling of the problem, and whether any of the unsatisfactory or poor answers are mitigated by an acknowledged need to obtain further information from handbooks etc. it would be useful to bear in mind that:

- An interviewee indicating that they would refer to handbooks, colleagues, or ethics helplines, is not in itself a sign of weakness. In fact it may be something for which credit should be given, as it indicates recognition of the limits of their knowledge.
- However, whether reliance on such references helps to indicate that a response is strong, satisfactory, unsatisfactory or poor, depends on the circumstances.
  - It may be more acceptable if the issues raised by the scenarios are unusual or complex, and less acceptable if they are commonplace or straightforward.
  - It may be more acceptable where the problem allows more time to assess a situation and to reflect (e.g. it does not occur at court), and less acceptable where a decision needs to be taken immediately (e.g. whilst at court, where an advocate needs to be able to think on their feet).
- It may be more acceptable if infrequent and/or to supplement otherwise satisfactory responses, and less acceptable if an interviewee

frequently falls back on saying they would refer to their handbook etc. as a first resort.

ID Transcript ID: (e.g. Civil 01, Crime 03, Family 15)

Q18 Was the interviewee a Barrister or Solicitor? Please note, if a Barrister then you will need to refer to the coding for Barristers to help you in assessing the interviewees handling of the problem. If a solicitor, you will need to refer to the coding for Solicitors to help you in your assessment.

❍ Barrister (1)
❍ Solicitor (2)

Expert Expert (for internal purposes only):

❍ Sarah Whitehouse (1)
❍ Brie Stevens-Hoare (2)
❍ Zoe Saunders (3)
❍ Martin McKay-Smith (4)
❍ Craig Osborne (5)
❍ Philip Goodall (6)
❍ Christiane Valansot (7)
❍ Paul Gilbert (8)
❍ Karen Shuman (9)
❍ Sean Hutton (10)
❍ Other (11)

Q1 In relation to each scenario in turn, the interviewees' overall handling of the problem was:

	Strong (1)	Satisfactory (2)	I am undecided (3)	Unsatisfactory (4)	Poor (5)
Scenario 1 (1)	❍	❍	❍	❍	❍
Scenario 2 (2)	❍	❍	❍	❍	❍
Scenario 3 (3)	❍	❍	❍	❍	❍
Scenario 4 (4)	❍	❍	❍	❍	❍
Scenario 5 (5)	❍	❍	❍	❍	❍
Scenario 6 (6)	❍	❍	❍	❍	❍

Q2 Are any of the poorer answers above mitigated by an acknowledged need to obtain further information from the handbook, colleagues or an ethics helpline?

❍ N/A/ (There are not unsatisfactory or poor answers) (1)
❍ All the unsatisfactory or poor answers (2)
❍ Some of the unsatisfactory or poor answers (3)
❍ None of the unsatisfactory or poor answers (4)

Q3 The interviewee identified all the relevant ethical challenges posed by the facts in the scenarios:

❍ All Questions (1)
❍ Most Questions (2)
❍ About Half (3)
❍ Less than Half (4)
❍ No Questions (5)

Q4 Overall, the interviewee applied the relevant core duties/principles to the facts correctly:

○ Strongly Agree (1)
○ Agree (2)
○ Undecided (3)
○ Disagree (4)
○ Strongly Disagree (5)

Q5 In your view was this application:

○ Always Implicit (1)
○ Mostly Implicit (2)
○ Always Explicit (3)
○ Mostly Explicit (4)
○ A Combination of Explicit and Implicit (5)

Q6 Overall, the interviewee applied the relevant rules/outcomes/indicative behaviours to the facts correctly

○ Strongly agree (1)
○ Agree (2)
○ Neither Agree nor Disagree (3)
○ Disagree (4)
○ Strongly Disagree (5)

Q7 In your view was this application:

○ Always Implicit (1)
○ Mostly Implicit (2)
○ Always Explicit (3)
○ Mostly Explicit (4)
○ A Combination of Explicit and Implicit (5)

Q8 The interviewee generally demonstrated that they were taking account of a wide range of relevant ethical principles/duties, rules/outcomes/indicative behaviours not just the most obvious ones:

❍ Strongly agree (1)
❍ Agree (2)
❍ Neither Agree nor Disagree (3)
❍ Disagree (4)
❍ Strongly Disagree (5)

Q9 The interviewee demonstrated sufficient deliberation about their course of action, i.e. demonstrating that a particular course of action has been reasoned through

❍ Strongly agree (1)
❍ Agree (2)
❍ Neither Agree nor Disagree (3)
❍ Disagree (4)
❍ Strongly Disagree (5)

Q10 The interviewee generally demonstrated that they thought about alternative approaches to the problems and considered contingencies in the event that initial action was unsuccessful.

❍ Strongly agree (1)
❍ Agree (2)
❍ Neither Agree nor Disagree (3)
❍ Disagree (4)
❍ Strongly Disagree (5)

Q11 The interviewee demonstrated that they could think carefully about how uncertainties or changes in the facts as the case developed might influence the outcome:

❍ Strongly agree (1)
❍ Agree (2)
❍ Neither Agree nor Disagree (3)
❍ Disagree (4)
❍ Strongly Disagree (5)

Q12   Could you summarise in a paragraph or two what you see as the key strengths and/or weaknesses of this interviewee?

Q13 Do you see any clear training needs arising from the transcript?