

**ETHICS MAN** Daniel K Sokol

## The exam scam

Medical royal colleges and faculties have a duty to provide a fair and affordable exam appeal process

To the two certainties of death and taxes should be added, for doctors, professional exams.

My client was a registrar undergoing a second attempt at her specialty examinations. If she failed, the prospects of pursuing her specialty were bleak. She duly paid the examination fee of about £1000.

Unforeseen circumstances arose in the exam that affected her ability to concentrate. She narrowly failed the exam and appealed the decision. She was invited to appeal to the faculty by paying a fee of £2780. As the saying goes, “In England justice is open to all—like the Ritz.” Still, such was her conviction that she exhausted her savings to pursue the appeal.

Over 400 years ago the precursor to the Royal College of Physicians, the London College of Physicians, imprisoned a Dr Bonham for practising medicine in London without a licence. Bonham claimed that this amounted to false imprisonment. In *Dr Bonham’s Case*, Edward Coke observed that the college wore three hats: prosecutor, party in the proceedings, and judge.<sup>1</sup> He concluded that no party may be a judge in his own cause. In my client’s case two members of the



**Edward Coke: No party in a case may be a judge in his own cause**

faculty formed part of the appeal panel.

It is doubtful whether the eye watering fee of £2780 represents the cost of conducting the appeal. The fee no doubt prevents unmeritorious claims, but it also puts off worthy ones.

In Bonham’s case the college was entitled to keep half the fines it imposed on Bonham, and Coke also observed that this arrangement compromised the college’s impartiality. In my client’s case a competing interest also existed: if the appeal was upheld, the fee was returned; if the appeal failed, the fee was pocketed by the faculty.

The faculty is not alone in charging high fees for appeals. The Royal College of Anaesthetists charges £1500 and the Royal College of General Practitioners £800 for appeals against the RCGP membership examination (and the appeal is usually determined “on paper,” so without a hearing). If the ground of appeal is miscalculated marks or a procedural irregularity in the assessment, it is hard to imagine why investigating the matter would cost £800.

In contrast, the Royal College of Ophthalmologists avoids any watering of eyes by charging a more modest £250 for an appeal, the Royal College of Paediatrics and Child Health £200, the Royal College of Psychiatrists £150, and the Royal College of Obstetricians and Gynaecologists £100.

The right way to dissuade appeals is not to charge high fees but to reassure candidates that the exam was conducted fairly, from the drafting of the questions to the conduct of the examination through to marking, collation, and dissemination of results.

Given the high stakes, candidates in professional examinations should have the right to appeal and access the information they need to bring the case. If no legal obligation



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to disclose documents exists for charitable institutions, a moral one certainly does. If the appeal fee is exorbitant, or key documents withheld, the right to appeal is illusory.

Finally, some candidates worry about the potential effect of an appeal on their future career. They fear upsetting senior members of their specialty. To counter this, the membership must be as independent as practicable and constituted in such a way as to alleviate concerns about possible prejudice to a trainee’s career. The membership should be publicised in advance and preferably contain lay people. No specialist medical knowledge is needed to identify an unfair process.

As Lord Chief Justice Hewart wrote in 1924, “It is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done.”<sup>2</sup>

In recent times there has been a focus on organisational ethics and the ethical culture of institutions. In healthcare, after a spate of high profile scandals involving institutional neglect and substandard care, the gaze has been on hospitals, but royal colleges and faculties—which have duties to the public to ensure that doctors are competent—also have ethical duties towards their members. Effective access to a fair, timely, and affordable appeals process is one such duty.

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**Competing interest:** DS runs Alpha Academic Appeals, which assists students and professionals who wish to appeal decisions of universities and professional bodies about the outcome of examinations and misconduct hearings, sometimes for a fee.

Consent from the client has been obtained.

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References are in the version on thebmj.com.

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