

University of Bristol School of Law
LLM Advanced Award in Public Health Law and Policy 2007-8



Tutors:

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Introduction and course outline:

Welcome to this Advanced Award course in Public Health Law and Policy. The course will consist of six intensive one day weekend workshops held at the School of Law. Whilst there is increasing societal awareness about public health issues, most legal courses focus not upon population perspectives, but upon individualised medical law. This unit thus responds to the needs of, amongst others, public health professionals and policy-makers, and those seeking to join these professions, to understand the role of the law in this area. It will accordingly address the key concepts, controversies and proposals for reform of the legal framework, from a perspective which explores the synergies between law and policy. It will be based around the key themes of health, individual freedom and responsibility, state responsibility, legitimacy, social justice, power, risk and trust. Since students on the course are likely to come from a variety of professional backgrounds – legal, healthcare and others – this will ensure a varied and high quality discussion around our areas of interest. Please don't be shy in bringing your expertise, experiences and ideas to the sessions – it makes for a more meaningful and enjoyable learning environment for us all.

Aims and objectives:

Students successfully completing this unit should be able to:

- Appreciate the significance of and the struggle for pursuing public health;
- Understand the legal and policy arena of public health;
- Understand the role of government (national and international) and agencies in ensuring public health;
- Appreciate the power of law to protect, improve and sometimes impinge upon public health;
- Evaluate the tension between individual liberty and state protection;
- Understand contemporary public health debates and the inter-relationship between law and policy.

Learning outcomes:

Students successfully completing this unit should be able to:

- demonstrate understanding of the legal regulation of public health issues;

- evaluate the limits and potential for law to act as a mechanism through which public health goals may be pursued;
- discuss the policy choices facing the decision-making actors in the areas covered in the unit;
- bring together materials from primary and secondary sources dealing with topics presented in the module and present them coherently;
- integrate non-legal factors and developments in the legal discourse;
- comprehend the socio-political environment in which law functions within this policy field;
- interact effectively with other members of the seminar group, offering views, receiving information and modifying responses where appropriate.

Timetable and Topics:

1. Pursuing public health and public health law: (*November 3rd with Oliver Quick*)

- (i) Definition and aims
- (ii) Tracking threads, themes and tensions
- (iii) Foundations of Public Health Law

- Sources of public health law and regulation
- Methods of legal intervention
- Ensuring public health – government duties and powers (local, national, European and international – including key agencies such as the Health Protection Agency and the World Health Organisation).
- We will focus on the controversial role and (failure) of government and law to control and influence public health, and evaluate the legal and policy environment.
- We will also consider future challenges for PH and PHL.

2. Infectious diseases: (*December 1st with Keith Syrett*)

Here we will look at legal attempts to control infectious disease, focusing in on: Sexually transmitted infections (especially HIV/AIDS) pandemic Influenza, SARS, TB, Malaria and MMR amongst others. We will focus on the issues which surround legal interventions, mainly: immunisation, screening, treatment and detention, with reference to human rights. We will consider the state of national and international preparedness plans for coping with epidemics/pandemics and also evaluate current and potential measures to deal with the emergence of new infectious diseases, including the Government consultation on review of parts ii, v and vi of the Public Health (Control of Disease) Act 1984.

3. Non-communicable diseases: (*19th January with Oliver Quick*)

This session will concentrate on lifestyle conditions caused by tobacco, alcohol, drugs and obesity, and focus on the tension between individual freedom and state control. We will consider the 20th Century epidemic of lung cancer, and examine the increasing role which law plays in controlling tobacco use. Is the recent ban on smoking in public places a useful model for state intervention in other spheres? We will also look at food and obesity. Inadequate food used to be (and in some places still is) a major threat to public health. The sad irony of the 21st Century is that excessive or harmful foodstuffs/ingredients are a leading cause of chronic disease. How far should law intervene in regulating the food products we consume?

4. Iatrogenic harm: (*9th February with Oliver Quick*)

Safety in healthcare, from errors to hospital acquired infections, has become a key public health issue, not to mention one of professional and political importance. We will look at the question of responsibility for safer healthcare and focus in on measures to control MRSA, C. Diff and other drug resistant-diseases in hospitals. We will evaluate the work of key agencies and organizations, including the National Patient Safety Agency and the WHO Patient Safety Alliance.

5. Controlling the informational environment: (*8th March with Keith Syrett*)

This is arguably one of the most pressing issues. A wealth of scientific studies combined with a media appetite for health stories (and scares) presents a proliferation of health headlines with the potential to confuse and even harm the public. The issue of the accuracy and presentation of information is also pertinent in terms of nutritional information about food products, both in terms of concealing potentially harmful ingredients and also exaggerating potential benefits without sufficient evidence (organic food). Here we will also consider the dissemination of information about risks to public health in the form of infectious diseases and bioterrorism etc. Regulating the presentation and dissemination of this information is a key task for all concerned with public health law and policy.

6. Paying for public health: (*26th April with Keith Syrett*)

This will focus on the question of who we should treat and with what. It will also look at the issues of funding public health research and the balance between public and individual interests inherent in this. An issue of particular importance is how the NHS resolves the issues of seeking to fund expensive yet effective treatments for various diseases.

n.b. We will aim to meet at 9.30 a.m. for coffee in the Senior Common Room and start as soon as possible thereafter. We will aim to finish by 4.30 p.m. All classes will take place in room 3.30 in the Wills Memorial Bldg.

Method of teaching:

The course will be delivered by a combination of lectures and tutorial style discussion. The exact format may change depending on the topic under discussion, but there will be a combination of individual and group based tasks. The tutorial sheets for each workshop, which will be distributed at the preceding session, will provide more detailed instruction. However, a typical workshop will consist of an introductory lecture followed by a number of starter questions and a discussion of a number of key issues. Sometimes, additional questions or tasks will be presented 'cold' on the day in order to allow detailed discussion to develop. We will aim to make use of the experiences and expertise of the students on the course where appropriate.

One of our key aims for this course is to maximise the potential of the relationship between teaching and research. In particular, we intend to publish a text and materials book on Public Health Law and Policy (no such text currently exists in the UK), and we anticipate that delivery of this course, and in particular our classroom discussions, will greatly assist in the shaping of this text. The practice of testing out materials on classrooms of students ahead of textbook publication is of course an established although increasingly under used model. However, with your permission, we plan to draw on your skills and experiences to help us better understand the areas for fruitful discussion and also to continue to consider the question of the place of law in securing public health. It is hoped that by explicitly involving you in helping to shape the planned textbook that you will become more active partners in the learning process and that this will enhance the overall teaching and learning experience. We hope you agree!

Reading list:

Whilst there is no obvious book which could function as a textbook for a UK course (until ours is published, that is!) the closest alternative is:

Robyn Martin & Linda Johnson (eds.), *Law and the Public Dimension of Health*, Cavendish, 2001

We would not classify this as an essential purchase, although if you feel more comfortable having a book to hand, then this is probably the best buy. We will be suggesting some reading from this book (as well as alternative papers published in journals) but you may find it useful to have this to hand. It was published back in 2001, so we will also be suggesting more recent materials.

The best known general works, are those of Lawrence Gostin, the leading light in the field, but writing from a US perspective:

Lawrence O. Gostin, *Public Health Law: Power, Duty, Restraint*, University of California Press, 2000

Lawrence O. Gostin (ed.), *Public Health Law and Ethics: A Reader*, University of California Press, 2002

Chris Reynolds has written the best texts about public health law in Australia:

Christopher Reynolds, *Public Health Law in Australia*, Federation Press, 1995
Christopher Reynolds, *Public Health Law and Regulation*, Federation Press, 2004

Here are some other books addressing the legal, moral and policy related questions surrounding public health, which you may want to consult as part of your further reading, or more probably, closer to the time of the assessments!

Sudhir Anand, Fabienne Peter and Amartya Sen (eds.), *Public Health, Ethics, and Equity*, Oxford University Press, 2006 [Particularly addresses the ethical dimension and inequality];

R Bayer, B Jennings, L Gostin, B Steinbock (eds), *Public Health Ethics, Theory, Policy, and Practice*, OUP, 2006.

Angus Dawson and Marcel Verweij, *Ethics, prevention and public health* Oxford University Press, 2007; [A selection of issues within public health ethics]

David P. Fidler, *International Law and Public Health: Materials on and Analysis of Global Health Jurisprudence*, Transnational Publishers, 2000 [International law focus];

Richard A. Goodman *et al.*, (eds.), *Law in Public Health Practice*, Oxford University Press, 2003 [U.S. focus];

C Hamlin, *Public Health and Social Justice* Cambridge University Press (2000)

Tamara Hervey and Jean McHale, *Health Law and the European Union* (Cambridge University Press, 2004) [See Chapter 9].

David J. Hunter, *Public Health Policy*, Polity Press, 2003

Madison Powers and Ruth Faden, *Social Justice: The Moral Foundations of Public Health and Health Policy* Oxford University Press, 2006

In terms of periodicals, papers exploring issues in public health law are still most likely to find a home in the main medical law journals:

Medical Law Review

Medical Law International

There are many more equivalent US journals of law and medicine. There is also a wide range of public health journals for practitioners and social scientific researchers, the most notable being:

Journal of Public Health

Critical Public Health

Public Health

The latter presented a special themed edition on public health law and ethics in 2006, and we will be recommending most of the papers from this edition throughout the unit.

Short updates and more politically driven commentaries can be found in the *Health Matters* magazine (<http://www.healthmatters.org.uk/>).

Workshop Preparation:

You are expected to prepare thoroughly prior to the workshops. To a certain extent, both the success and your enjoyment of the workshops will depend upon your level of preparation and participation. For each workshop there will be a reading list and a set of questions for discussion. Often there will be essential reading and further reading. Ideally, you should have read **both** essential and further reading before the workshop, however, it may be that this is not always possible, and therefore a sensible option may be to concentrate on the essential reading and undertake the further reading after the workshop and as part of your research for the written assessments. **Most of the materials that you are asked to read (apart from the textbook!) will be available online, and you are expected to find the relevant legislation, case, journal article, or government report by yourselves.** Training will be provided to help you access and navigate the relevant databases and journals etc.

Previous students on other courses have commented favourably on this system so we hope that it will continue to work well. Of course, you will receive paper copies of the materials for the first workshop, and you will receive guidance from the law librarian on how to access materials through online databases with your University passwords. From time to time, there will be an item of recommended reading that is not accessible online, and we will provide paper copies when this happens. Generally however, the materials will be accessible online and you will be expected to locate and read them. Copies of the outline of the workshop and any handouts provided will be accessible from the Unit page on the University's online learning environment site called blackboard: www.ole.bris.ac.uk, which again, you will be shown how to access.

Mode of Assessment:

The unit will be assessed by three 3,000 word pieces of coursework. The first piece of work will be worth 20% and the other two pieces will be worth 40% each. The weighting is designed so that you can benefit from the feedback you will receive on your first piece of work. You will be advised of the submission dates in due course.

We look forward to meeting you in due course!

Best Wishes
Oliver and Keith
September 2007