Health Justice Workshop

The role of law and legal services in mitigating health inequalities

Discussions at a British Academy and Wellcome
health policy workshop on Tuesday 11 Feb 2020

The British Academy
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Summary

On 11 February 2020 the British Academy and Wellcome convened a workshop at which participants explored the role of the law and legal services in mitigating health inequalities.

The workshop was based around three panels exploring the role of law and legal services in health inequalities. These were each followed by a discussion.

Panel 1	Population level frameworks: the role of welfare and justice legislation in creating and mitigating health inequalities.
Panel 2	Community level implementation and its impact on health inequalities.
Panel 3	Individual and community level remedies: the role of integrating health and legal services in mitigating health inequalities.

Throughout the day, several key themes emerged:

- Non-health legislation, legal frameworks, institutional policies and individual interventions can all have unintended negative consequences for health and health inequalities.
- Non-health interventions have the potential to have positive consequences for health and health inequalities. There are many examples of this working well in different parts of the UK and across the world.
- Integrating health and legal systems leads to better outcomes for individuals, particularly for individuals with complex needs or for individuals who are less likely to be able to access services. If the aim of public services is to help individuals, then integrating health and legal systems is imperative.
- The trend towards integrating health and legal systems and the trend towards a greater focus on prevention are complementary.
- Change is needed at many levels, including national, community, institutional and individual. Change is needed in legislation, in policy, in practice, in training and in research.

This report includes a summary of the discussion at the workshop, and is published alongside a set of background papers, which were submitted ahead of the workshop to stimulate discussion.

Disclaimer

This is a note summarising the discussion and debate at the British Academy and Wellcome Health Justice Workshop on 11 February 2020. It is not intended to represent the views of the British Academy or Wellcome, nor does it represent the views of individual attendees of the event. The ideas and reflections contained within are not necessarily endorsed by the British Academy or Wellcome. This workshop took place before the COVID-19 pandemic, and there may be an opportunity to update and review the findings contained in this summary in the light of the pandemic and its impacts, however this has not been done prior to publication of this summary.

Health Justice Workshop

Discussions at a British Academy and Wellcome workshop on 11 February 2020

Introduction

The workshop was part of a new series of workshops, run in collaboration between Wellcome and the British Academy. These workshops aim to explore the future relationship between health policy concerns and research in the humanities and social sciences. The programme had previously held an interactive workshop on pandemics in January 2020.

Context

Health policy faces major challenges in addressing health inequalities. Public Health England reported this year that inequalities in life expectancy have widened since 2011 and that during the same period the even wider inequalities in healthy life expectancy have not changed. These health inequalities have been compounded by welfare reforms and removal of legal aid, which impact the poorest and most vulnerable in society, including those in contact with the criminal justice system. Citizens experiencing health determinants such as poverty, eviction, or unemployment struggle with the challenges of daily life, including managing their health and making healthy lifestyle choices. It is increasingly accepted that a strategic approach to improving public health and wellbeing involves addressing the upstream causes of downstream health problems and that this needs to be underpinned by transdisciplinary research that engages work in the humanities and social sciences.

Law and legal services are involved in all major determinants of health, but their contribution has been largely overlooked in health inequalities discourse, policy and research. While social welfare legislation in relation to income, housing, education, employment, children and security guarantees minimum protections that should mitigate health inequalities, in practice ineffective and unlawful implementation means that disadvantaged and vulnerable groups do not secure the benefits and services to which they are entitled. The removal of legal aid has only exacerbated the challenges faced by underserved groups as free community legal services, capable of enforcing welfare rights, disappear.

This workshop is timely given the political and policy context. This includes the election of a new government in December 2019 and the appointment of a new Chief Medical Officer, Professor Chris Whitty, in October 2019. It also includes a general move towards a greater interest in cross-departmental connections in Whitehall. Outside of policy, it includes the recent foundation of the UK Strategic Coordinating Body for Health of the Public Research (SCHOPR).

Purpose

This workshop brought together researchers, policymakers and practitioners working in a range of fields. The group considered the intersection of law and health at macro, meso and micro levels. The purposes of the workshop were:

- To discuss the potential of law, legal services and social research to mitigate health inequalities and improve wellbeing, and begin to identify a shared vocabulary for talking about these issues.
- To identify the most pressing policy and research priorities related to health justice.
- To consider what is needed to equip researchers, policymakers, practitioners and service users to work together well in addressing the intersection of law and health.

Opening remarks: The role of law and legal services in mitigating health inequalities

Law is the often forgotten, necessary discipline in health policy and practice. While health policymakers and professionals are aware of the overlaps and links between law and health, and the two are often reported together in the news, we are usually presented with only a fragment of the wide and deep interactions between law and health. This fragment tends to focus on population-level policy issues that have a very clear health angle, such as alcohol pricing or the 'sugar tax', or specific legal issues related to medical ethics and medical negligence.

Law is intricately entwined with many aspects of health policy. For example, at the time of the workshop, an outbreak of a novel coronavirus was taking place in China, where the power of the law was being used to enforce quarantine and other emergency measures. The connection between law and health is also present outside of extraordinary public health emergencies. Non-health laws have direct and indirect positive and negative consequences for the health of the public, and disproportionately affect the health and wellbeing of low income, vulnerable people. These non-health laws include laws about benefits, housing and the environment. While law is not the answer to all questions about health inequalities, it is an essential part of the picture.

There are important similarities between the legal and health systems. Both are highly complicated systems operating at a range of levels, aiming to serve the general population, particular disadvantaged parts of society, and individuals with specific problems. Both workforces are hierarchical and extremely highly educated. Both systems are, to some extent, responsive to research evidence. Both sectors are increasingly interested in prevention rather than response.

For law and health to work together well, high-level changes in policy will not be enough. Changes will also be needed in how we fund research, train staff, and work with public services beyond law and health.

Panel 1

Population level frameworks: the role of welfare and justice legislation in creating and mitigating health inequalities

The first panel considered legislation at the macro population level, including both its intended and unintended consequences. It included discussion of welfare and legal aid, criminal justice and public services. It focused on two key sets of questions:

- How do we take a broader ‘systems approach’ to developing and understanding legal frameworks and legal reform? Should we take this kind of approach?
- When we change the law to achieve one objective, how much do we know about its likely broader societal impact? How much thought do we give to possible negative consequences for health?

There is a growing recognition of the importance of understanding and evaluating the multiplicity of ways in which non-health legislation impacts health and health inequalities. Panellists discussed laws and legal frameworks that have negative unintended consequences for health, wellbeing and health inequalities. Examples include:

- There is growing evidence that austerity policies have negatively impacted health. Social welfare cuts impact those who are out of work, disabled or living in social housing, and can aggravate the health inequalities already faced by certain populations.
- Cuts to legal aid, funding for advice services and channels for challenging welfare decisions have all had social and economic costs as they reduce the options for early intervention in legal problems. These costs are disproportionately felt by vulnerable groups, including those with pre-existing health conditions, disabilities, and mental health problems.

In general, policies that focus on single issues risk missing the bigger picture. For example, regulations that aim to encourage healthy food choices overlook the fact that people may be making a choice between food and heating or food and rent, not between different foods.

There is still much that we do not know about how non-health laws impact health. Panellists spoke to a vital need to invest more in gathering useful evidence: the current gap between the evidence available and the evidence that decision-makers need is wide, particularly in relation to long-term population health impacts. Panellists discussed new kinds of evidence that are crucial to understanding the impacts of legislation and policy. Examples include qualitative evidence on mental health in the prison system, which is largely invisible in official crime statistics, qualitative evidence on the impact of positioning healthcare practitioners as gatekeepers to legal assistance for victims of domestic violence, and approaches that model the impact of non-health legislation, enabling better planning during the policymaking process.

There will be cases in which policies that have negative impacts on health should nevertheless be enacted, because these negative impacts are outweighed by other concerns. However, decisions should be taken carefully, on the basis of robust evidence.

Within academic research, these issues have found expression in the development of the field of legal epidemiology. Legal epidemiology recognises and studies law as a factor in the cause and prevention of health issues.

Panel 2

Community level implementation and its impact on health inequalities

The second panel considered the implementation of laws and legal frameworks at the institutional and community level. At this level, decisions are often fundamentally constrained and require prioritisation. The discussion included examples drawn from housing and homelessness, children and families, education, and violence. The panel focused on several key questions:

- If you can’t do everything, what do you focus on and why?
- Who makes those decisions and how should those decisions be made?
- What evidence do we use and how do we assess and modify priorities?
- Do we use our resources to deal with crises by having plenty of ambulances waiting at the bottom of cliffs to pick people up once they have fallen, or do we invest in building fences at the tops of the cliffs?

At the institutional level, it would be valuable to place a greater emphasis on prevention and early intervention, though it can be challenging to prioritise these areas in a constrained environment. This is the case for both health and legal policy, and there is a growing understanding of the importance of prevention in a wide range of public services.

Relatedly, institutional and community level implementation works better for people when different interventions are joined up. Integrated approaches place the person at the centre of the intervention, and are particularly important when serving people with complex, intersecting needs. Integrated approaches are particularly powerful when combined with an emphasis on prevention. For example:

- In August 2019 the UK lost its measles-free status. This was understood as a health issue, but in the past measles has been most successfully tackled through preventative vaccinations carried out in schools, integrating the health and education systems in order to provide a service.

The increased focus on prevention and integration should be bolstered by economic arguments. While integrated, preventative interventions can be complicated and take a long time, they often have excellent returns on investment. Institutions need stable funding and support in order to be able to implement long-term interventions that focus on prevention.

Aiming to deliver integrated interventions raises important questions for the health and legal systems. These systems are huge and resistant to change, populated by professions with strict hierarchies. A change in the culture will be needed at all levels, including in initial and continuing training.

Panel 3
Individual and community level remedies: the role of integrating health and legal services in mitigating health inequalities

The third panel considered the individual level. This included individuals' access to legal rights and critical services, and how we can ensure access for those least able to help themselves. The panel included discussion of social prescribing and partnerships between public sector health services and voluntary sector community services, often called Health Justice Partnerships or Medical-Legal Partnerships. The discussion was focused on two key questions:

- What do population level frameworks and community level interventions mean for individual service users? How can integrating health and legal systems improve individual experiences and outcomes?
- How can we ensure that population level frameworks and community level interventions are reaching those who need them most?

From the perspective of the individual service user, the institutional reasons for separation between the medical and legal systems are irrelevant. Policymakers should aim to keep the perspective of the individual at the heart of policy conversations. Doing this in practice involves seeking to understand individuals' lived experiences of interacting with different services and systems.

Policymakers in England do not need to reinvent the wheel when it comes to the integration of health and legal systems to improve the services delivered to individuals. During this panel and throughout the day examples of good practice were given. They include:

- Social prescribing link workers in NHS England help to break down silos between health and other public services. They speak directly to service users, so are better able to understand what is important to them. This can result in lived experience directly changing primary care.
- Health Justice Partnership in Australia support collaboration between lawyers and health workers to better identify and respond to legal needs that can undermine people's health.
- Medical-Legal Partnerships in the USA bring legal professionals into a health care context to help patients to resolve social, economic and environmental factors that contribute to health disparities and which have a remedy in civil law.
- Welfare Advice and Health Partnerships in Scotland embed Welfare Rights Advisers in NHS Scotland services, such as General Practice surgeries. Welfare Rights Advisers improve health and wellbeing by providing social welfare legal advice on a range of issues.

Access to justice is a fundamental principle at the heart of our justice system. For people to successfully resolve their legal problems they may need support. This support can range widely, and depends on the individual, their needs, and the legal problem that they face. It can include information, guidance and signposting, formal legal advice, legal representation and Legal Aid.

This event formed part of a series of British Academy/Wellcome workshops emphasising the significance of the humanities and social sciences for health policy and how to develop their full potential contribution. Further information, including details of the other workshops in the series, can be found at **https://www.thebritishacademy.ac.uk/programmes/health-wellbeing/**

Speakers and participants

Chairs

Professor Dame Hazel Genn DBE QC (Hon) FBA	Director UCL Centre for Access to Justice and Strategy for Health Justice Partnership, UCL Faculty of Laws
Professor Dame Anne Johnson DBE FMedSci FFPH FRCP FRCGP	Chair of UK Committee for Strategic Coordination of Health of the Public Research (SCHOPR), UCL Institute of Epidemiology and Health Care
Matthew Smerdon	Chief Executive, The Legal Education Foundation

Panel 1: Population level frameworks

Christine Brown	Head, WHO European Office for Investment for Health and Development
Dr Natalie Byrom	Director of Research, The Legal Education Foundation
The Rt Hon Sir Brian Leveson	Investigatory Powers Commissioner, Former President of the Queen's Bench Division and Head of Criminal Justice

Panel 2: Community level implementation

Kate Davies CBE	Director of Health and Justice, Armed Forces and Sexual Assault Services Commissioning, NHS England and NHS Improvement
Rose Doran	Senior Adviser, Local Government Association
Professor Sir Sam Everington, Barrister, MBBS, MRCGP, OBE	GP, Bromley by Bow GP Partnership, London Chair, Clinical Commissioning Council
Nerys Edmonds	Senior Public Health Practitioner Public Health Wales
Corin Hammersley	Training, Policy and Welfare Rights Services Manager, London Borough of Greenwich

Panel 3: Individual and community level remedies

Dr Tessa Boyd-Caine	CEO, Health Justice Australia
Kate Burton	Public Health Practitioner, Public Health Network Scotland
Ellen Lawton JD	Co-Director, National Center for Medical-Legal Partnership, George Washington University
Fiona Rutherford	Director for Access to Justice, Ministry of Justice
Bev Taylor	Social Prescribing Lead for NHS England/Improvement
Elizabeth Tobin-Tyler JD	Assistant Professor of Family Medicine, Health Service, Policy and Practice, Brown University

Participants

Dr Matthew Appleby	Clinical Research Physician, UCL Hospitals NHS Foundation Trust
Laura Arrowsmith	Senior Policy Officer, Maternity Action
Sarah Beardon	PhD Candidate, UCL Institute of Epidemiology and Health Care
Nicola Berkley	Senior Policy Adviser, British Academy
Anna Bradshaw	Senior Policy Adviser, British Academy
Thomas Bray	Portfolio Developer, Humanities & Social Sciences, Wellcome
Catherine Bromley	Head of Research, Office for Statistics Regulation
Alexy Buck	Chief Social Researcher, Ministry of Justice
Bronwen Butler	Policy Assistant, British Academy
Prof Helen Chatterjee MBE	Professor of Biology, UCL Biosciences; Advisor, APPG Arts, Health and Wellbeing
James Egan	Public Health Programme Manager, Glasgow Centre for Population Health
Professor David Farrington OBE	Emeritus Professor of Psychological Criminology, Cambridge Institute of Criminology
Amanda Finlay CBE	Chair, Law for Life
Suzie Forell	Research Director, Health Justice Australia
Laura Furness	Head of Funding, Fulfilling Lives Programme, The National Lottery Community Fund
Kari Gerstheimer	Chief Executive, Access Your Right to Care
Nicola Gitsham	Head of Personalised Care, Personalised Care Group, NHS England

Lady Edwina Grosvenor	Founder, One Small Thing
Stephanie Hack	Deputy Director, Legal Support and Fees Policy, Access to Justice, Ministry of Justice
Sophie Hawkesworth	Portfolio Manager, Population Health, Wellcome
Dr Colette Hawkins	Academic Consultant in Palliative Medicine, St Oswald’s Hospice
Matthew Jay	PhD Candidate, Legal Epidemiology Group, UCL Great Ormond Street Institute of Child Health
Charise Johnson	Policy Adviser, British Academy
Dr Joe McNamara	Head of Population Health, Medical Research Council
Dr Clare McVicker	Head of Grants, Academy of Medical Sciences
Dr Molly Morgan Jones	Director of Policy, British Academy
Dr Gareth Owen	Reader/Hon Consultant Psychiatrist, Lead, Mental Health, Ethics and Law Research Group, Institute of Psychiatry, Psychology and Neuroscience, King’s College London
Ash Patel	Programme Head for Justice, The Nuffield Foundation
Dr Camilla Pickles	British Academy Post-Doctoral Fellow, Faculty of Law, University of Oxford
Mathew Pike	Director, Neighbourhood Networks, Healthy London Partnership
Professor Genevra Richardson FBA	Emeritus Professor, King’s College London; Vice-President (Public Policy), British Academy
Roddy Samson	Welfare Advice Service Facilitator, Improvement Service, Scotland
Mohan Sekeram	GP and Social Prescribing Clinical Lead for Merton and Wandsworth
Ranjit Senghera	Senior Manager, Equalities and Health Inequalities (Inclusion and Health), NHS England
Guy Skinner	ESRC Doctoral Researcher, Violence Research Centre, Institute of Criminology, University of Cambridge
Jessie Stanbrook	Legal Support Policy, Access to Justice, Ministry of Justice
Paul Sweeting	Development Manager, Impact, Macmillan Cancer Support
Nathan Winch	Senior Policy and Project Officer, Health Team, Greater London Authority
Dr Louise Wood CBE	Director of Science, Research and Evidence, Department of Health and Social Care

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We invest in researchers and projects across the UK and overseas, engage the public with fresh thinking and debates, and bring together scholars, government, business and civil society to influence policy for the benefit of everyone.

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About Wellcome

Wellcome exists to improve health by helping great ideas to thrive. We support researchers, we take on big health challenges, we campaign for better science, and we help everyone get involved with science and health research.

Wellcome believes in the intrinsic value of open ended 'discovery research' that extends and improves knowledge, including knowledge about health in its social, cultural, and political contexts. We believe that the knowledge created by humanities and social science research can play an essential role in improving human health.

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The British Academy
10–11 Carlton House Terrace
London SW1Y 5AH

Registered charity no. 233176

Twitter: @BritishAcademy_
Facebook: TheBritishAcademy

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