

# Diagnosis and the Law – Seminar and Workshop

20 September 2022

Gonville and Caius College, Cambridge

---

## 1 Background

This Dissemination event presents the findings from a THIS (The Healthcare Improvement Studies) Institute interdisciplinary fellowship, held at the University of Cambridge. The fellowship was part of a wider project called “Diagnosing Diagnosis” which seeks to ‘improve how differential diagnosis is made, communicated and recorded in acute care’. The legal arm of the project focussed on understanding the role that the law plays in shaping the process of diagnosis and the potential ways the law could support good practices of diagnosis.

The project consisted of a systematic review of medical and legal literature, international case law analysis, and qualitative interviews with barristers and solicitors. Data from these three strands informed conceptual analysis which integrated scholarship from law, medicine and philosophy.

The published outputs to date are “Montgomery’s legal and practical impact: A systematic review at 6 years” in the *Journal of Evaluation of Clinical Practice* (<https://onlinelibrary.wiley.com/doi/full/10.1111/jep.13620>), and the case law analysis “Differentiating Negligent Standards of Care in Diagnosis”, in the *Medical Law Review* (<https://academic.oup.com/medlaw/article/30/1/33/6505290>). Two further articles, presenting the analysis of the qualitative interviews, are in process: one of these has been submitted and is attached, and the other one will be circulated in draft form.

We are very keen to disseminate and further discuss this work with colleagues from law, medicine and philosophy, and to explore how our findings might be relevant to policy and practice.

## 2 Aims of the day

The aims of the day are as follows:

1. To share the results of our research with those interested in law, philosophy, medicine and policy and with members of the public, in order to reach a wider audience than those that read academic papers
2. To share the learning from undertaking an interdisciplinary fellowship, to enable others to benefit from future opportunities
3. To investigate appetite and pathways for Translation and Impact: are our results meritorious, and, if so:
4. To generate policy recommendations from the completed research – through identifying areas of consensus and continuing debate
5. To generate research recommendations for further avenues of investigation

## 3 Location

### **Gonville and Caius College, Cambridge**

A map showing the location of the Bateman Auditorium, Dining Hall and Gonville Court (where the Senior Parlour is located) is attached, and can be found at:

<https://www.cai.cam.ac.uk/discover/visiting-caius/old-courts-site-map>

## 4 Programme

Noon–1 p.m.	Lunch from noon, with introductions at 12.45	Dining Hall
1–2.30 p.m.	<p>Presentation of findings with group discussion</p> <ul style="list-style-type: none"> <li>• Welcome and introduction – <b>Zoë Fritz</b></li> <li>• Montgomery's Legal and Practical Impact: A systematic review – <b>Isabelle le Gallez</b></li> <li>• Differentiating Negligent Standards of Care in Diagnosis – an examination of the case law associated with: <ul style="list-style-type: none"> <li>○ The <i>formation</i> of (differential) diagnosis – <b>Kathy Liddell</b></li> <li>○ The <i>communication</i> of (differential) diagnosis – <b>Jeff Skopek</b></li> </ul> </li> <li>• Frontiers of clinical negligence – a qualitative examination of whether legal practitioners think that the decision in <i>Montgomery</i> should set the legal standard of care for negligent communication of diagnosis; and whether the test in <i>Bolam/Bolitho</i> should apply in 'pure diagnosis' cases – <b>Annie Mackley</b></li> <li>• The role of case law in driving medical practice to become more ethical: A qualitative analysis of practitioners' views in the UK – <b>Zoë Fritz</b></li> </ul>	Bateman Auditorium
2.30–3 p.m.	Tea, coffee and refreshments	Bateman Room
3–3.45 p.m.	Panel response and discussion with <b>Prof. Sir Jonathan Montgomery, Prof. Jose Miola and Dr xx</b>	Senior Parlour
3.45–4.45 p.m.	Facilitated discussion led by <b>Dr Julian Huppert</b>	Senior Parlour
4.45–5 p.m.	Summing up and Future plans	
5- 6 p.m.	Drinks	Bateman Room
7 p.m.	Dinner	Fellows' Dining Room