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Impact and Wellbeing**

**Promoting wellbeing through social work legal education**

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Teaching  
Excellence  
Framework

University of  
the Year

2019

The Guardian  
University Awards 2019

Modern  
University of  
the Year

2018

THE TIMES  
THE SUNDAY TIMES

University of  
the Year

2017

THE AWARDS  
2017

# Promoting wellbeing through social work legal education

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Peter has responsibility for a range of modules including Legal and Statutory responsibilities and Law and Policy for Social Work.

Peter is a registered social worker and worked for both Nottingham City Council and Nottinghamshire County Council Community Mental Health Teams.

- **Richard Machin, Senior Lecturer in Social Work and Health, Nottingham Trent University.**

Richard specialises in social policy with particular expertise in social security policy and poverty. He teaches across a range of courses at Nottingham Trent University including Social Work, Health and Social Care and Public Health.

Richard has a background managing local authority advice services and combines his current academic role with that of a freelance trainer for [Child Poverty Action Group](#).

# Promoting wellbeing through social work legal education

- Social Work degrees should produce compassionate individuals who are at the same time able to make decisions based on legal provisions. Social workers must possess a detailed knowledge of the legal and policy contexts of social work but also be able to relate legislation to practice situations.
- This presentation explores the challenges of delivering legal education to social work students. It is the responsibility of social workers to safeguard the needs of some of the most vulnerable groups in society, but ethical dilemmas can be presented when legislation is not always aligned to core social work values.



## Promoting wellbeing through social work legal education

Two areas of UK legislation will be discussed to explore the issue of wellbeing in a social work legal context:

- **The Mental Health Act 1983:** Gives significant powers to the Approved Mental Health Professional (AMHP) implementing it. Decisions are made on whether to apply the Act and compulsorily detain someone against their wishes.
- **The Welfare Reform and Work Act 2016:** Introduced a *2-child limit* for UK social security benefits. This raises ethical questions as entitlement to state benefits is based on the size of the family rather than the needs of the family. There are a number of exceptions to this provision, most controversially the so called 'rape clause'.



## Promoting wellbeing through social work legal education

### **The Mental Health Act 1983: the role of the Approved Mental Health Professional (AMHP)**

- Coordinate the MHA assessment
- interview the patient in a suitable manner
- Make application for detention where appropriate
- Convey patient to hospital
- Make provisions for dependents, property, and pets!

‘...undertaking this social control function is “dirty work”’

*AMHP Work: Dirty or Prestigious? Dirty Work Designations and the Approved Mental Health Professional - Morriss, L. (2015) British Journal of Social Work 1–*

*16*

## Promoting wellbeing through social work legal education

### The Mental Health Act 1983:

- How should we 'train' AMHPs?
- What do they need to know and be able to do?



Knowledge

Autonomous practice

Informed decision-making

Equality and diversity

Communication

Collaborative working

Assessment and intervention

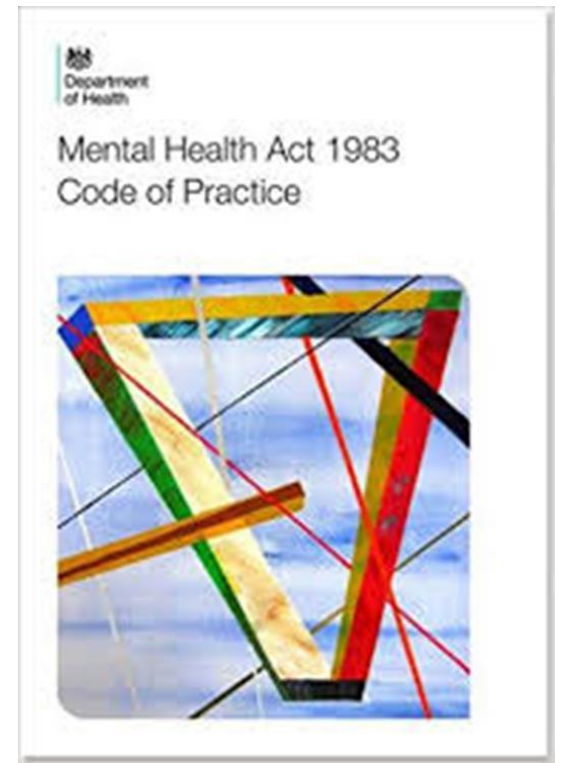
# Promoting wellbeing through social work legal education

## The Mental Health Act 1983: Principles

1. Least restrictive option and maximising independence
2. Empowerment and involvement
3. Respect and dignity
4. Purpose and effectiveness
5. Efficiency and equity

## British Association of Social Workers: Values & ethical principles

- Human rights:
- Social justice:
- Professional integrity:



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## The Welfare Reform and Work Act 2016:

- Section 13 of the Act introduced a two-child limit for the main means-tested benefits for families in the UK Universal Credit and Child Tax Credit, with effect from April 2017
- From this date Universal Credit and Child Tax Credit no longer include amounts for a third or subsequent child born after this date.
- [The Institute for Fiscal Studies](#) estimate that the full impact of this policy will be felt by the mid-2030s with 700,000 families losing an average of £3,000 per year.

***‘The most significant violation of human rights that has yet been written into the fabric of the UK social security’***

C. O’Brien (2018)

***‘The worst social security policy ever’***

J. Bradshaw (2017)



# Ethics & Social Welfare

## The implications of the 2-child limit on anti-oppressive social work practice

‘For practitioners the two-child policy raises a number of ethical dilemmas, not least the challenge of providing support to service users who are subject to a policy which may conflict with established professional values.’

Machin, R. (2017). The Professional and Ethical Dilemmas of the Two-child Limit for Child Tax Credit and Universal Credit. *Ethics and Social Welfare*, 11(4), 404-411.

<https://www.tandfonline.com/doi/full/10.1080/17496535.2017.1386227>

## Social Work Legal Education and the 2-child limit for benefits

The 2-child limit for benefits creates significant tensions in social work education and practice, where legal provisions clash with core social work values.

Key issues include:

- Financial support provided to families is no longer based on the **financial requirements** of the family but a **judgment** on what is considered an appropriate size of family.
- Will there be a disproportionately negative impact on families with disabled children who often have higher levels of support/financial need?
- What are the implications for bereaved parents who may look to the benefits system following the death of a partner and find state support is limited?
- What is the impact of the so-called 'rape clause' which is a feature of this policy?
- Is this policy 'anti-family' as some church leaders have claimed, does it disproportionately affect families from some religious faiths and some ethnic minority backgrounds?

## **Tensions between UK legal provisions and social work values**

- For social workers the best interest of the child is paramount. However, academic analysis has shown that the 2-child limit may conflict with the legal obligations set out in UN Convention on the Rights of the Child (UN CRC).
- This analysis concluded that the 2-child limit is 'patently opposed' to the best interests of the child, which were barely considered during the formation of this policy. When developing this policy it was shown that the best interest of the child were only briefly mentioned in parliamentary debates which were commonly framed with reference to saving money and making families in receipt of benefits make the same choices as those in work.
- This analysis concludes that the 2-child limit contravenes at least three sections of the UN CRC, discriminates against families with more than two children and families from some ethnic and religious minorities:

***'If this rule does not infringe the UN CRC best interests duty, no social security policy ever will'***  
***(O'Brien 2018)***

## What role can social work education play in preparing social workers for these ethical dilemmas ?

- The [Professional Capabilities Framework](#) sets out the professional competences which social workers must adhere to and these include 'Rights and Justice' and 'Values and Ethics' – these principles should underpin social work legal education.
- Social work education should highlight the importance of ethical role modelling with an emphasis on avoiding favouritism and ensuring that the most marginalised service users are given a voice and fair access to services.
- Teaching sessions should discuss the importance of language in terms of how we describe social problems and the service users that we work with.
- An appreciation should be fostered within social work students of how legal provisions are developed within a political environment
- The 2-child policy underscores the imperative to maintain client confidentiality and to be aware of conflicts of interest.
- Students are encouraged to discuss the ways in which service users can find legal processes, such as a social security appeal tribunals, daunting and to think about sensitive ways of guiding vulnerable people through such processes.
- Discussions within sessions are held around appropriate referrals and support services to which service users can be signposted.
- Social work students are encouraged to think critically about exceptions to social security policies such as the 2-child limit and how to identify where a service users circumstances might fit with an exception.
- Role play can be a challenging but valuable way of exploring many of the above issues.



# Questions and comments

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