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## **Legal Decision-Making in Dementia: A conversation analytic study - ESRC DTP Joint Studentship in the Midlands Graduate School**

### **University of Birmingham and Loughborough University**

The Midlands Graduate School is an accredited Economic and Social Research Council (ESRC) Doctoral Training Partnership (DTP), with the first intake of students to begin in October 2017.

One of 14 such partnerships in the UK, the Midlands Graduate School is a collaboration between the University of Warwick, Aston University, University of Birmingham, University of Leicester, Loughborough University and the University of Nottingham.

The Midlands Graduate School is now inviting applications for an ESRC Doctoral Joint Studentship between **Birmingham Law School, University of Birmingham** (where the student will be registered) and the **Department of Social Sciences, Loughborough University**, to commence in October 2017.

### **Legal Decision-Making in Dementia: A Conversation Analytic Study**

Supporting people with cognitive impairments to make their own decisions is a pressing contemporary socio-legal issue, mandated by the UN Convention on the Rights of Persons with Disabilities. This qualitative empirical socio-legal project will explore how legal professionals and family members support people with dementia to make decisions about Wills and Lasting Power of Attorney (LPA). In the case of a dementia diagnosis, functional mental capacity may be in question, particularly if the client has difficulties with processing information or communicating their decisions. The Mental Capacity Act 2005 requires that legal actors and family members assess the capacity of people with dementia to make decisions, and provide support where necessary to help them to do so before relying on 'best interests' substituted decision-making.

This project interrogates interactions where mental capacity is questioned in the context of legal decision-making about wills and LPAs. Previous research has shown that carers and family members are often involved in facilitating these kinds of legal actions, because interpersonal relationships and families are fundamental to those living with increasing cognitive and communicative impairment. It is crucial, therefore, to take a relational approach to understanding legal decision-making in dementia, as this may enable English law to become fully compatible with the supported decision-making requirements of the UN CRPD. Conceptually, the project will draw on relational theory to allow analysis of the multi-dimensionality of everyday decision making.

### **Project research questions:**

1. How do legal actors assess capacity, and how does this impact the legally relevant decisions made in the lives of people with dementia?

2. How do people living with dementia and their informal carers access and interpret legal advice, and what impact does this have on their psychosocial wellbeing and understanding of their human rights?
3. What is the contribution of observational methods, such as CA, to understanding legal decision-making in action?

### **Methodology**

Research to date has generally proceeded without analysis of how legal decision-making takes place, whether supported or not, and the different influences of parties to the decision and discussion. This project will advance knowledge by using qualitative methods including in-depth interviews and Conversation Analysis (CA) of legal interaction to analyse everyday legal decision-making. This project will make an original contribution to: empirical understandings of how legal decisions are made; the theoretical development of the concept of relationality; and legal and policy discussions about the future of supported decision-making in the context of wills and LPAs.

### **Supervision**

The research will be jointly supervised by Professor Rosie Harding (Birmingham) and Professor Elizabeth Peel (Loughborough). The successful student will be registered on the Socio-Legal Studies pathway at the University of Birmingham. The supervision team links expertise in socio-legal studies, and connections with the legal professions through the Centre for Professional Legal Education and Research (CEPLER), at Birmingham Law School, with Loughborough's world-leading Centre for Research in Communication and Culture (CRCC) and Discourse and Rhetoric Group (DARG) to offer expert supervision for an innovative socio-legal study of the process of legal decision-making.

Birmingham Law School have a thriving PGR community with regular reading groups, work-in-progress presentations, and an annual PGR conference. PGR students are also invited to BLS weekly staff seminars. DARG at Loughborough holds weekly data-set sessions, and the successful applicant will gain ongoing CA training and presentation experience via this forum.

### **Eligibility and Application Process**

Our ESRC studentships cover fees and maintenance stipend and extensive support for research training, as well as research activity support grants. Support is available only to successful applicants who fulfil eligibility criteria. To check your eligibility, visit:

[http://www2.warwick.ac.uk/fac/cross\\_fac/mgsdtp/studentships/eligibility/](http://www2.warwick.ac.uk/fac/cross_fac/mgsdtp/studentships/eligibility/)

To be considered for this PhD, please complete the Joint Studentship application form [available online here](#) along with a cover letter, CV and two references, to Helen Harris at [calpg-research@contacts.bham.ac.uk](mailto:calpg-research@contacts.bham.ac.uk).

**Application deadline: 4pm, Tuesday 21 February 2017**

Informal enquiries about the research or Birmingham Law School prior to application can be directed to Professor Rosie Harding, [r.j.harding@bham.ac.uk](mailto:r.j.harding@bham.ac.uk).