

## Pippa Trimble

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**Pippa Trimble is a solicitor and lecturer in law, with a special interest in medical law and ethics. Although medicine and law may appear quite disparate, there is a lot of valuable overlap to learn from. Therefore, I invited Pippa Trimble to talk to us as I thought it would be interesting to explore the interaction between medicine and law from the perspective of a lawyer; this, in turn, could highlight to healthcare students and professionals the importance of being well versed in the law that encapsulates one's clinical practice.**

**Can you tell us about your career background and why you were drawn to medical law?**

I am a qualified solicitor and spent my early career working as a solicitor in commercial dispute resolution, mostly in big London firms. I joined Plymouth University Law School in 2009 and have taught on a range of undergraduate modules including Tort, Dispute Resolution and Work-Based-Learning (the Innocence Project and MedLaw). Since 2015, I have specialised in medical law and ethics, teaching law undergraduates and healthcare undergraduates and postgraduates with a particular focus on how law and ethics are applied in practice. I currently teach on the Professional Generic Skills Course for Registrars<sup>1</sup>, Advancing Professional Practice<sup>2</sup> for the nursing school and have previously also contributed to the Foundation Training Programme for doctors, Core Surgical trainee programme and HMLI.<sup>3</sup>

I have always had an interest in medicine; I come from a medical family and for a while I considered a medical rather than a legal career. I am particularly interested in the interaction between patients and clinicians, how this is regulated and how it can be improved for all participants using both legal and ethical frameworks.

**Why is it important for medical students to learn about medical law and ethics?**

A knowledge and understanding of medical law and ethics enables a medical student to become an effective and safe doctor by understanding the principles underpinning good medical practice,

the relationship between clinician and patient, the patients' and clinicians' rights and obligations and understanding and managing risk. It encourages the student to look more broadly at the clinical relationship and consider issues beyond the purely clinical. An understanding of ethics can also be useful in helping analyse and resolve difficult clinical and professional dilemmas, for example, who gets the ICU bed or ventilator, when should active medical interventions be withdrawn and the patient put on a palliative pathway or when should treatment, such as mandatory enteral feeding, be given.

**Why did you set up the Medlaw programme at Plymouth University? Was there previously a gap in the curriculum? What makes the programme unique?**

Medical Law and Ethics is commonly taught as an academic elective in most undergraduate programmes in law or medicine but this arguably doesn't help the students, legal or medical, learn how to apply it when in practice in their respective professions. MedLaw at Plymouth takes a different, more practice-focused as well as an interdisciplinary approach, with the aim of not only covering the key tenets of medical law and ethics, such as consent, capacity, confidentiality and issues around both the beginning and end of life but also considering the practical application, issues and challenges that arise in clinical scenarios, both from the patient's and clinician's perspective. The interdisciplinary element encourages medical students to focus on the legal and ethical rather than clinical aspects and learn not just the law but also how it is applied and the law students learn about some of the challenges clinicians face trying to put the law into practice in an often busy or pressured situation.

The MedLaw module is a 40-credit, work-based-learning module for final year law students. Unlike healthcare student, law students do not typically acquire legal practice experience during their degree. In MedLaw, law students attend local solicitors' firms and work on real clinical negligence cases as well as attending EBL<sup>4</sup> scenario-based sessions with 3rd year healthcare students from the medical, dental and nursing schools who volunteer to attend the sessions. The law students therefore experience medical law in practice both from the patient's perspective in the law firms and from the clinician's perspective in the EBL sessions. EBL scenario-based learning is a particularly useful interdisciplinary tool as it encourages and facilitates discussion and mutual education between the health and law students. There are nine EBLs which broadly cover the life cycle. The medical students join for three sessions, usually held in February/March each year. The healthcare students benefit from the law student's knowledge and understanding of the law, legal practice and legal professional obligations and structures.

Both the legal practice and interdisciplinary elements are unusual in undergraduate medical law teaching and I believe in combination are unique to MedLaw at Plymouth.<sup>5</sup> There may be further exciting developments bringing in a different practical element next year... watch this space!

**What are the advantages of interdisciplinary learning between healthcare and law students?**

I have always believed there are lots of synergies between the medical and legal professions, such as our professional and ethical codes of

conduct but they often meet at points of conflict, for example in clinical negligence or inquests, which doesn't always foster mutual trust and understanding between the professions! Learning about medical law and ethics together by working through the legal and ethical issues in a clinical scenario provides the opportunity for the law and medical students to learn not only about the law but also about the other profession, how they approach the issues and if and how this differs, and from a clinicians' point of view, de-mystify and reduce anxiety around legal issues and processes.

In the words of the students who participated this year...

'I really enjoyed taking part in the MedLaw sessions, in particular the cross-disciplinary learning aspect of it. I learnt a great deal from the other students and the facilitator and it has given me many useful tools to use as a future doctor.'

'I really enjoyed these sessions, it was something different from my day-to-day life and increased my knowledge on medical law. I was able to consider different aspects of a patient case rather than the just the medical side. This helped me to learn a lot from the case and consolidate my knowledge of ethics.'

### **What do you think are the greatest legal and ethical challenges faced by doctors? If possible, how can these be mitigated?**

Medicine is rarely black and white, nor is the law that regulates it and applying it to, often highly nuanced, situations can be very challenging. Understanding the key legal principles and communicating clearly, effectively and accurately with the patient, their family and clinical colleagues is critical to ensuring not just good clinical care but also that clinicians meet their legal and ethical obligations; for example, the Montgomery case<sup>6</sup> and Best Interest decisions under the Mental Capacity Act<sup>7</sup> both clearly require the clinician to consider not just the optimal clinical outcome but also the patient's wishes, preferences and personal context, which can only be obtained with good communication.

The pace of digitalisation is creating considerable challenges for doctors around equality of access to healthcare, confidentiality and digital records and the ease of these being mis-sent/misplaced. The increasing amount of digital data gathered and held on a patient raises a plethora of issues in all specialities but is particularly challenging in genetics and who it could/should be shared with. The law can often be slow to catch up with rapid technological developments and regulation is therefore most likely to be found in practice guidance from the GMC, Royal Colleges, Defence Unions or NICE.

### **How can doctors and other healthcare professionals try to reduce their chances of encountering medico-legal problems in clinical practice?**

Good communication is the key to avoiding medico-legal problems. If there is good communication, for example about risks and/or benefits of treatment and alternative options, with a patient and their family so that they are involved in decisions about their care, they have agency in their treatment pathway and are much less likely to complain/bring a claim if there is less than optimal treatment or outcome. Good and timely communication with the patient and their family is equally important if things have gone wrong and/or errors have been made; this is a legal requirement under the duty of candour but there also is plenty of evidence that shows what motivates patients to bring complaints/claims in the majority of cases is the desire for an explanation of what went wrong, an apology and, if appropriate, reassurance or evidence that systems and processes have been put in place to ensure it doesn't happen again. If these are provided as soon as it is clear something hasn't gone well, the patient and/or their family are far less likely to bring a complaint/claim.

Keeping up-to-date with legal changes in legislation (Acts of Parliament) and case law (decisions made by the Courts) as well

as in professional guidance (such as the GMC) will also reduce the likelihood of encountering medico-legal problems as it ensures a doctor complies with their current legal and ethical obligations as a clinician and protects their patients' rights as well as their own and those of their clinical team. Many areas of law remain unchanged for decades, sometimes even centuries! But medical law is very much an area of law that is changing and/or considering change regularly to keep pace with medical and scientific advances, for example in human fertilisation and genetics, as well as changes in society's values and attitudes, for example the change from paternalistic medicine to shared decision making.<sup>8</sup> Recent cases provide good examples of the courts re-considering but not changing the law on adolescent capacity and consent and re-affirming the principles of Gillick competence; this was in the context of modern treatments (puberty blockers)<sup>9</sup> and an argument that society's attitude to adolescent autonomy had changed sufficiently to allow a 15 year old Jehovah's Witness to refuse top up blood transfusions<sup>10</sup> (she wasn't!). Medicine is advancing rapidly and the law can struggle to keep up with pace of scientific change. Being aware of current medico-legal debates is important in ensuring compliance with legal rights and obligations. An easy way of keeping up to date is to keep your eye out for articles on medico legal updates in the medical press such as the BMJ or and for a more legal perspective subscribe to specialist law firms or barrister's online newsletters.<sup>11</sup>

### **What advice would you give healthcare professionals and students that want to learn more about medical law?**

Universities provide a range of opportunities to study medical law, from intercalating in law to CPD Certificates and up to an LLM in Medical Law and Ethics as a postgraduate. There are also quite a number of private providers who offer CPD training for healthcare professionals in areas such as consent/capacity, expert witness training or preparation for attending court/coroners court as a witness.

If you think you might be interested and would like to get a feel for some medico-legal issues an easy starter is to listen to some episodes of 'Inside the Ethics Committee' on BBC iplayer <https://www.bbc.co.uk/programmes/b007xbtd/episodes/player> - it's a few years since they have done new ones but the old ones are still very relevant and useful; look down the list and find the topics you are interested in! The Children Act by Ian McEwan (both a book and a film) is fiction but based on a real case.

To get a bit further into the subject, and thinking about some of the more challenging concepts and arguments have a look at 'Great Debates in Medical Law and Ethics' (2nd Ed) by Imogen Goold and Jonathan Herring. For a quick overview Jonathan Herring's 'Law Express on Medical Law' is useful and for a deeper dive, I would recommend Emily Jackson's 'Medical Law; Text, Cases and Materials' (6th Ed).

If you are interested in how the Coroner's Court works and how to give evidence in legal proceedings more generally, I put together some short films from those with lots of experience - have a look at <https://www.plymouth.ac.uk/schools/school-of-society-and-culture/law/a-guide-to-inquests>

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4. Enquiry based learning
5. If you are interested in reading more about why and how the MedLaw module started see my article in in Vol 10, 2018 of the Plymouth Law Review, found at [https://www.plymouthlawreview.org/Issue%2010\\_contents.html](https://www.plymouthlawreview.org/Issue%2010_contents.html)
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