


## **JEAN V. MCHALE**

Birmingham Law School

Professor of Health Care Law



Professor Jean McHale researches and writes in the area of Health Care law. She is the Director of the Centre for Health Law, Science and Policy at Birmingham Law School. Her recent books include *European Health Law: Themes and Implications* with Hervey (Cambridge University Press, 2015) and *Routledge Handbook on Complementary and Alternative Medicine: Perspectives from Social Sciences and Law*, edited with Nicola Gale, (Routledge, 2015). Professor McHale is the Principal Investigator on the ESRC UK Changing Europe Initiative Grant “Health Law outside the EU: Immediate, Intermediate and Long Term Impacts” –co- investigators Professor Tamara Hervey (University of Sheffield) and Dr Mark Flear ( Queens University Belfast). She is also a co-grant holder on the National Institute for Health Research grant “Understanding employee whistleblowing in health care”. She was also the co-grant holder of an AHRC research network grant The Changing Demands of Beauty from January 2015- June 2016.

She is currently writing a book “ The Regulation of Cosmetic Procedures: Legal, Ethical and Practical Challenges” with Dr Melanie Latham Reader in Law, Manchester Metropolitan University which will be published by Routledge in Spring 2019.

- Staff details
- Media information
- Policy information

### **Qualifications**

- LLB (Hons) (Manchester)
- MPhil (Manchester)

### **Biography**

Jean McHale took up a chair at the University of Birmingham in September 2009. She previously taught at the Universities of East Anglia, Nottingham, Manchester and Leicester.

### **Teaching**

- Legal Issues in Health Care (LLB)
- Health Law and the EU (LLM)
- Human Rights and Health Care Law (LLM)

## Postgraduate supervision

Health and Health Care Law, in particular,

- Health Law and the EU
- Health Care Privacy and Confidentiality
- Legal Regulation of Genetics
- Law and Nanomedicine
- Legal Regulation of Use of Human Material
- Legal Regulation of Clinical Research
- Mental Health Law
- Organ Transplantation

## Research

Professor McHale has written several monographs and textbooks in the area of health care law. Her first monograph *Medical Confidentiality and Legal Privilege* was published by Routledge in 1993. The second edition of her textbook *Health Care Law Cases and Materials* with Marie Fox (Sweet and Maxwell) and the third edition of her textbook *Law and Nursing* with John Tingle (Butterworth Heinemann) were both published in 2007. She is also a co-editor and contributor to two major volumes of essays for Oxford University Press, *Principles of Mental Health Law* (1st edition) (with Peter Bartlett, Larry Gostin, Phil Fennell and Ronnie MacKay) 2010 and *Principles of Medical Law* (4th Edition) (with Judy Laing) 2017. She has published papers in wide range of legal and health care professional journals. She has given invited papers at numerous conferences and seminars to legal, health care professional and policy audiences and has been invited to give evidence in relation to the impact of Brexit on health care to the House of Commons Health Select Committee (2017).

Her main research themes currently are health law and the EU and the implications of Brexit. Secondly, legal and ethical challenges regarding regulation of cosmetic procedures. Thirdly health care and human rights particularly in the context of Whistleblowing and in relation to older people.

She was one of the academic directors of the third Birmingham Policy Commission "Healthy Ageing in the C21st." See further her podcast with the University of Birmingham Ideaslab about the policy and political implications of healthy ageing in the UK and the Commission website.

## Research Funding

- ESRC Grant "Health Law Outside the EU: Immediate, Intermediate and Long-Term Impacts" (May 2017- November 2018)( Principal Applicant. Co-I's Professor Tamara Hervey (Sheffield), Dr Mark Flear (QUB).
- National Institute for Health Research "Understanding Employee Whistleblowing in Health Care" ,co-applicant. P.I. Professor Russell Mannion, Health Service Management, University of Birmingham.
- AHRC Research Network Award " The Changing Requirements of Beauty: Concepts, Norms and Regulations". Co-applicant with Professor Heather Widdows 2015-6.
- Wellcome Trust Conference Award 2014 "A Critical Exploration of Global Public Health" Principal applicant with Dr Sheelagh McGuinness, co-applicant.
- AHRC Research Networking Award "The Influence of Faith and Belief on the Formulation, Content and Operation of Health Law in the United Kingdom" with colleagues from Universities of Birmingham, De Montfort, Leicester, Nottingham and Nottingham Trent. 2013-4.

- Wellcome Trust Conference Award 2011 “Regulation and Professionalisation in Complementary and Alternative Medicine: Historical Perspectives and Contemporary Concerns” (Principal applicant with Dr Nicola Gale co-applicant)
- Modern Law Review Seminar Series award “Health Law, Faiths and Beliefs: New Dilemmas: New Perspectives” £2500 (with Dr Kola Abimbola) 2006”
- ESRC, Childhood cancer tissue donations: a gift relationship?" funded by the ESRC (2004-7). (PI Professor Mary Dixon-Woods, University of Leicester. I was a coapplicant and a member of a research team which included C. Seale, B. Young, K. Pritchard-Jones, M. Tobin, D. Heney, and M. Habiba.
- British Academy (2000) Travel award
- ESRC "NHS Contracts, from Legal Concepts to Operational Reality" ESRC (1993-1996) "Contracts and Completion Initiative". Co-applicant with Professor David Hughes, University of Swansea)
- Kings Fund Institute 1992-4 with Professor Robert Dingwall, University of Nottingham, “Organ Donation: A Question of Give and Take”

### Other activities

- Director of the Centre for Health Law, Science and Policy
- Director of Research for Birmingham Law School
- Chair of Law School Research Committee

Professor McHale is a member of the Editorial Board of the *Medical Law Review* and the Editorial Board of *Health Economics Policy and Law*. She is also a member and Consultant Editor of *Nursing Ethics*.

She is also the legal member of Ethics and Governance Committee of the Airwave Health Monitoring Study which is being run jointly by the Home Office and Imperial College London. Previously she served as a member of the Promise of the Human Genome Panel of the DTI Health Task Force (1999-2000). She was a member of UK Biobank Interim Ethics and Governance Advisory Group 2003-4. She was a member of the UK Advisory Panel for Health Care Workers Affected by Blood Borne Viruses (2006-2010). She was commissioned to write a Paper on *Confidentiality and Mental Health* for the Expert Committee chaired by Professor Genevra Richardson into the review of the Mental Health Act 1983, published in 1999.

She has given evidence to the House of Commons Health Select Committee in relation to its inquiries in relation to Brexit and healthcare in February 2017 and in November 2017. She has also given evidence to the House of Lords Home Affairs and Health SubCommittee on the implication of Brexit for patient mobility and health care rights in October 2017.

## **Publications**

### **Selected Recent Publications**

#### **Monographs**

- *European Health Law: Themes and Implications* (with Hervey) Cambridge University Press: 2015. (650 pages).
- *Health Law and the European Union* (2004), Cambridge University Press, with Tamara Hervey.

#### **Edited Collections**

- *Principles of Medical Law* 4th ed (Oxford: OUP) (2017) – co-edited with Dr Judy Laing (Bristol).
- *Routledge Handbook on Complementary and Alternative Medicine: Perspectives from Social Sciences and Law*, edited with Nicola Gale, Routledge, April 2015. (400 pages).
- *Principles of Mental Health Law and Policy* OUP (2010) ( with Gostin, Bartlett, Fennell and McKay).
- *Principles of Medical Law* (3rd ed) OUP (2010) ( with Grubb and Laing)

#### **Textbooks**

- *Health Care Law: Text and Materials* (with Marie Fox) 2nd ed Sweet and Maxwell (2007)
- *Law and Nursing* (with John Tingle) 3rd ed, Butterworths Heinemann (2007)

#### **Articles and Chapters in Books**

- “Innovation, informed consent, health research and the Supreme Court: *Montgomery v Lanarkshire* – a brave new world?” (2017) *Health Economics Policy and Law* online first publication 27<sup>th</sup> April 2017 .
- “EU Law and Policy on Human Materials” with Aurelie Mahalatchimy 8000 words in T.K. Hervey and C.A. Young (eds) *Research Handbook in European Union Health Law and Policy*, Edward Elgar, (2017) pages 222-242.
- “Clinical Research”, “Legal Regulation of Human Material” and “Consent to Treatment.” in J.M. Laing and J.V. McHale (eds) *Principles of Medical Law* 4th ed (Oxford: OUP) (2017) – co-edited with Dr Judy Laing (Bristol).
- ‘From *X v Y* to care.data and beyond: health care confidentiality and privacy in the C21st: a critical turning point?’ (2015) 3 *Journal of Law Medicine and Ethics* 103- 127
- “Legal frameworks, professional regulation and CAM practice in the UK: Is CAM the ‘special one’” in J.V.McHale and N. Gale (eds) *Routledge Handbook on Complementary and Alternative Medicine: Legal and Sociological Perspectives*, Routledge 2015.
- “Children, cosmetic surgery and perfectionism: a case for legal regulation” In P. Ferguson and G. Laurie (eds) *Inspiring a Medico-Legal Revolution: Essays in Honour of Sheelagh McLean* Ashgate (2015)
- “Looking back to Bolitho and on to Bristol: Lessons from the 1990's" in J.Reinarz and R.Wynter (eds) *Complaints Controversies and Grievances in Medicine* (Routledge, 2014), pages 240-258.
- ”Faith, Belief, Fundamental Rights and Delivering Health Care in a Modern NHS: an Unrealistic Aspiration”, (2013) *Health Care Analysis*, available via advance online access.

- "Reforming the Regulation of Health Research in England and Wales: New Challenges: New Pitfalls" (2013) *Journal of Medical Law and Ethics*, 23-43.
- "Reforming the Clinical Trials Directive: streamlining processes or a radical new agenda?" (2013) 20(4) *European Journal of Health Law* 363-381.
- "Compulsion, surveillance, testing and treatment: a truly 'criminal' matter?" in A. Viens, J. Coggon and A. Kessel *Criminal Law, Philosophy and Public Health Practice* CUP (2013), pages 142-171.
- 'Organ Transplantation, the Criminal Law and the Health Tourist: A Case for Extra-Territorial Jurisdiction?' (2013) 22(1) *Cambridge Quarterly of Healthcare Ethics* 64-76.
- "Privacy, Confidentiality and abortion statistics: a question of public interest?" (2012) 38 *Journal of Medical Ethics* 31-34 (with June Jones).
- "Mental Health and the EU: The Next New Regulatory Frontier?" (2011) 19 *Medical Law Review* 606-635.
- "Health Care, The UK and the Draft Patient's Rights Directive: One Small Step for Patient Mobility but a Huge Leap for a Reformed NHS?" in E. Szyszczak, J. Van de Gronden, U. Neergard and M. Krajewski (eds) *Health Care and EU Law* Asser/Springer (2011), pages 241-265.
- "Regulating Patient Safety in the EU: Realistic Aspiration or Unattainable Goal?" In J. Tingle and P. Bark (eds) *Patient Safety Law Policy and Practice* Routledge (2010) pages 150-165.
- "Clinical Research" (pages 725-765) and "The Legal Regulation of Human Material" pages 1011-1050 in J.V. McHale, J. Laing, A. Grubb (eds), *Principles of Medical Law* (3rd ed), Oxford University Press, Oxford (2010).
- "Law, Regulation and Public Health Research: A Case for Fundamental Reform?" (In G. Letsas and C. O' Cinneide (eds) (2010) 63 *Current Legal Problems* 475-510.
- "Fundamental Rights and Health Care", in E. Mossialos, T.K. Herve, G. Permanand and R. Baeten (eds) *Health Systems Governance in Europe* CUP 2010, pages 282-315.
- "The Legal Regulation of Mental Health Services in England and Wales" pages 205-233.; "Scrutiny of Standards in Mental Health Services", pages 223-241; "Privacy and Confidentiality in Mental Health", pages 821-841, and "Mental Health, Mental Capacity and Research" pages 871-891 in L. Gostin, P. Bartlett, P. Fennell, J. McHale and R. McKay (eds) *Principles of Mental Health Law and Policy* OUP (2010).
- "Nanomedicine and the EU: Some Legal Ethical and Regulatory Challenges" (2009) 16(1) *Maastricht Journal of European and Comparative Law* 65-89.
- "Nanotechnology: Small Particles: Big Issues. A New Regulatory Dawn for Healthcare Law and Bioethics?" in M. Freeman (ed) *Current Legal Issues* OUP (2008), pages 376-390.
- "Framing a right to Treatment in English Law: Watts in Retrospective" (2007) 14(3) *Maastricht Journal of European and Comparative Law* pages 263- 287.
- "Consent and childhood cancer tissue banking: the impact of the Human Tissue Act 2004 (2007) 8 *Lancet Oncology* 266-272 (with M. Habiba, M. Dixon-Woods, D. Cavers and D. Heney).
- "The Right to Medical Treatment in EU law" [2007] 15 *Medical Law Review* 99-108.
- "Law Reform, clinical research and adults without mental capacity- much needed clarification or a recipe for uncertainty?" in S. McLean (ed) *First Do No Harm Essays in Honour of Professor J.K. Mason* (2006).
- "Regulating Genetic Databases: Some Legal and Ethical Issues (2004) 11(1) *Medical Law Review* 70-97