

Institution: Aberystwyth University
Unit of Assessment: 20
Title of case study: Human Rights and Older People
<p>1. Summary of the impact</p> <p>This case study involves the research of Professor John Williams on the law and older people and its impact on health and welfare, practitioners, and public policy, law and services within the UK and his contribution to an international debate on the need for a UN convention on the rights of older people. It demonstrates the impact that his published works and conference presentations have on policy makers and practitioners when responding to cases of suspected elder abuse within domestic and residential settings. It also demonstrates his input into the law reform process through his contributions to policy making bodies nationally and internationally.</p>
<p>2. Underpinning research</p> <p>Williams' research examines the impact of law on older people. It includes publications on elder abuse, social care, health care, the criminal justice system and care home design. It focuses on the extent to which older people are marginalised in the human rights discourse. The basic tenet of the research is that law should be more age sensitive and provide equal protection for people of all ages – see (3.a) and (3.c). The link between human rights and social care was discussed in two articles in the <i>British Journal of Social Work</i> - (3.a) and (3.d).</p> <p>A particular area of concern is elder abuse and the nature of the state's duty to prevent abuse and provide justice seeking options for those who experience it. The research is based on a growing concern over the prevalence of elder abuse. For the UK, it estimated that 4% of those aged 66 years and over (approximately 342,000 people) experience some form of abuse. This excludes older people in institutional settings and those lacking capacity. False comparisons are made with child protection; these ignore the fact that adults and children are different – (3.b), (3.c) and (3.e).</p> <p>Williams' research highlights the difficulties older people who experience abuse have in obtaining basic human rights including justice and protection. – (3.h) and (3.j). Practitioners currently rely on guidance (<i>No Secrets</i> in England and <i>In Safe Hands in Wales</i>). Although this is helpful, it lacks the necessary accountability when things go wrong. The lack of statutory duties results in the 'welfareisation' of abuse rather than seeing it as being about accessing justice and protection. The case for a new public law on vulnerable adult protection is advocated, in particular the imposition of a statutory duty to investigate cases of suspected abuse. See (3.b), (3.d), (3.e), (3.f), (3.h), (3.i) and (3.j). In response to his contribution to this debate and involvement with the Welsh Government planning group on social care reform and the National Assembly for Wales, the Social Care and Wellbeing (Wales) Bill 2013 includes public law powers for practitioners responding to cases of suspected abuse.</p> <p>In addition, to the case for a new law, Williams' research highlights the failure to use current law to its full extent to intervene to protect older people at risk, and to ensure that appropriate criminal and other legal remedies are pursued (3.c), (3.f), (3.h) and (3.j).</p> <p>Further publications consider the extent to which older people's rights are neglected, for example older prisoners and the need for care home design to be human rights compliant.</p> <p>His research resonates with the new law making powers of the National Assembly for Wales and its law making capacity. A particular issue relates to law reform capacity in Wales given the acquisition of direct law making powers by the National Assembly. This is discussed in the context of social care reform in the Statute Law Review – (3.i). An ageing population presents global challenges. This has raised the possibility of an international convention on the rights of older people which is discussed by Williams in (3.g).</p>
<p>3. References to the research (indicative maximum of six references)</p> <p>3.a.Williams J, '1998 Human Rights Act: Social Work's New Benchmark' <i>British Journal of Social</i></p>

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Work (2001) 31, 831-844. doi: 10.1093/bjsw/31.6.831

- 3.b. Williams J, 'Public Law Protection of Vulnerable Adults' *Journal of Social Work* (2002) 2(3) 293-316. doi 10.1177/146801730200200303
- 3.c. Williams, J, 'When I'm sixty-four: Lawyers, Law and "Old Age" *Cambrian Law Review* (2003) 34: 103-119.
- 3.d. Williams J, 'Social work, liberty and the Law' *British Journal of Social Work* (2004) 34, 33-48. doi 10.1093/bjsw/bch004
- 3.e. Williams J, 'State responsibility and the abuse of vulnerable older people: Is there a case for a public law to protect vulnerable older people from abuse?' in *Responsibility, Law and Family* (eds Bridgeman J, Keating H and Lind C) Ashgate: 2008, 81-105 (REF2 submitted).
- 3.f. Williams J, 'Elder Abuse' in *Handbook on Crime* (eds Brookman F, Maguire M, Pierpoint H and Bennett T) Willan: 2010, 415-27.
- 3.g. Williams, J, 'An international convention on the rights of older people?' in *Emerging areas of human rights in the 21st century: the role of the Universal Declaration of Human Rights* (eds Odello M. and Cavandoli S) Routledge: 2011, 128-48 (REF2 submitted).
- 3.h. Clarke A, Williams J, Wydall S and Boaler R, *An Evaluation of the Access to Justice Pilot Project for Victims of Elder Abuse*, Welsh Government Social Research, 2012, 1-73 <http://wales.gov.uk/docs/caecd/research/121220accesstojusticeen.pdf>. Funded by a grant of £25,000 from the Welsh Government.
- 3.i. Williams, J, 'A New Law on Adult Social Care: A Challenge for Law Reform in Wales' *Statute Law Review* (2012) 33(2), 304-322. doi 10.1093/slr/hms026
- 3.j. Williams, J, *Protection of older people in Wales: A guide to the law*. Cardiff, Older People's Commissioner for Wales 2011, 1-92 (second edition in press)

4. Details of the impact

An assessment of the impact of his research involves three aspects – impact in relation to current practice and procedures, reform of the law, and international developments. The impact has been in relation to defining the debate; changing attitudes; developing policies practices and procedures; and reforming the law.

The impact of his research is partly based in Wales, but extends beyond including to the other nations of the UK and the international community. Within Wales, there is a strong movement in favour of reform. Professor Williams continues to make a significant impact on the development of policy and the content of legislation which has direct consequences for health and welfare, social care practitioners, and the public policy and the law. This is demonstrated by the following examples of his engagement outside of academia:

- Legislative advisor to the Health and Social Care Committee of the National Assembly for Wales on the Stage One Report of the Social Care and Wellbeing Bill 2013 (SSW(W)B 2013) (5.e);
- He is one of five members of the Welsh Government's Safeguarding Advisory Panel charged with implementing the new safeguarding powers in the SSW(W)B 2013;
- Membership of the Expert Group on Human Rights of Older Persons United Nations, New York 29-31 May 2012;
- Membership of the Older People's Commissioner's Advisory Panel as part of her statutory review of care homes in Wales;
- Membership of the Wales Advisory Committee of the Law Commission for England and Wales (5.j). His article in the Statute Law Review (3.i) was acknowledged by the Chair of the Law Commission as one of the factors leading to the setting up on the Welsh Advisory Group;
- Member of the Welsh Government advisory group on drafting a Declaration of Rights of Older People in Wales. The draft declaration is now out for consultation;
- Active involvement with Age International and Help Age International on the need for an international convention.
- The award in 2012 (with Clarke and Wydall) of a grant from the Welsh Government to evaluate the Access to Justice Pilot Project on protecting victims of elder abuse and the resulting report (3.h) is now being considered by the Government and will contribute to new practitioner

guidance following the passage of the (SSW(W)B 2013 .

As legislative advisor to the National Assembly's Health and Social Care Committee he made a significant contribution to the Committee's report on Stage 1 of the SSW(W)B 2013. His contributions are referred to in the report and in particular his draft statutory principles and definition of well-being are incorporated as part of the specific recommendations (5.e). As a member of the Welsh Government's Safeguarding Advisory Panel he is directly responsible for drafting the policy framework for the statutory regulations and code of guidance around safeguarding and protection. This involves extensive consultation of stakeholders in the public and third sectors (5.f).

His work with the panel of twelve international experts on human rights and older people set up by the United Nations Office of the High Commissioner for Human Rights is recognition of the reach and impact of his research and contribution to the debate on the human rights of older people. Williams was the only academic member of the group. Its deliberations formed the basis of the report to the General Assembly Open Ended Working Group set up to strengthen the protection of human rights of older people. The expert panel considered, inter alia, the international aspects of elder abuse and access to justice. Professor Williams presented papers to the group on each of these subjects. His contributions were included in the final report to the Open Ended Working Group.

In recognition of his expertise, Professor Williams was appointed as a Trustee of Help the Aged and, following its merger with Age Concern, is now a trustee of Age UK and Age Scotland. As a trustee, he actively contributes to the development. As a trustee of Help the Aged, Williams played a key role in the merger between it and Age Concern. He was a member of small joint panel charged with the task of bringing the two organisations together. As well as the complex mechanics of the merger, he provided significant input into the identification of the mission of the new charity, namely to eradicate ageism and to promotion of the rights of older people. Age UK is recognised as being *the* voice of older people (5.b).

In addition to his papers at academic conferences, Professor Williams has spoken at many professional and practitioner conferences on the law and the human rights of older people including presentations to many voluntary organisation and others campaigning against elder abuse (for example, the Royal College of Nursing Cymru, and the Dignified Revolution). Other non-academic presentations include political party fringe events, Speaking up for Age Conferences, the British Psychological Society, Age Cymru, the International Academy of Law and Mental Health, the Older People and Ageing Network, and the International Congress of Psychology and Law. These contributions have raised awareness of older people's rights within different professions and at a political level, as well as the third sector. Following publication of its Working Paper on Social Care Law, Professor Williams participated in a Law Commission consultation conference in Cardiff(5.g). He presented a paper before members of the Commission and consultees, on the case for reforming the law on elder abuse and the possibility of doing this on a Wales only basis. Whereas the Law Commission's Working Paper advocated a combined England and Wales approach, the final Report recognised the possibility of a Wales only approach, particularly since the National Assembly acquired primary law making power.

The impact on practitioners and professionals has been achieved through informing them of the legal framework and shaping policy. As his research with Clarke and Wydall demonstrates, current criminal and civil justice seeking options are underused mainly because practitioners are unaware of what is available. The impact of his research is evidenced by the *Protection of Older People in Wales: A guide to the law* – Professor Williams was invited by the Older People's Commissioner (as part of her legal duty to raise awareness amongst practitioners of the law and older people in Wales), to write this Guide (5.a). It is written in accessible language, available online (5.d) and in hard copy and provides a definitive guide for the social care, health and voluntary sector workforce. It features on the websites of many organisations including the Welsh Local Government Association (5.h) and the NHS Wales website (5.i). It is widely used in social care, health, voluntary sector and by disability and other third sector groups. It provides advice for practitioners on the existing legal framework to protect older people. The key purpose of the Guidance is to ensure that law is used, and that it is use effectively by practitioners to improve the lives of older people experiencing abuse – the welfareist response to abuse is not, on its own, sufficient and may deny older people access to justice. For practitioners, the Guidance provides essential information on

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the range of options available. For those experiencing abuse, it is empowering and assists them to make informed decisions. The International Federation on Ageing has identified the Guide as evidence of good practice for other jurisdictions both in the United Kingdom and beyond. The Minister for Social Services in the Welsh Government has commended it.

A recent initiative by the Welsh Government is to introduce a Declaration of Rights of Older People. The Older People's Commissioner was given the responsibility for drafting this declaration. Professor Williams was one of the co-authors of the declaration (5.a). Although it will not have legal effect, the Government's intention is that the principles should be embedded in the culture of the public sector throughout Wales.

Internationally Williams's impact is evidenced through the recognition by the United Nations of his contribution to the debate on older people's rights and his central involvement in the UN Open Ended Working Group (5.c). He has also advised Age International on constructing its case for an international convention (5.b). Age International is the only UK national charity that works for older people throughout the world. It works in conjunction with Help Age International – the only international charity working to promote the rights of older people. The impact of Williams's involvement has been to advise on the scope of any future convention and its relationship with existing international and regional provision (5.b).

An impact through participation in law reform is apparent. His involvement with the United Nations, the Welsh Government, the National Assembly, the Older People's Commissioner for Wales, and with national and international third sector bodies demonstrates a significant real contribution to the shape of future social care and safeguarding law, particularly for older people.

5. Sources to corroborate the impact

- 5.a. Letter from The Older People's Commissioner for Wales
- 5.b. Letter from Age International
- 5.c. UN Expert Group on Ageing, EXPERT GROUP MEETING Human Rights of Older Persons, list of participants <http://social.un.org/ageing-working-group/documents/egm/participants.pdf>
- 5.d. April 2011 Older People's Commissioner for Wales statement about Williams J, Protection of older people in Wales: A guide to the law http://www.olderpeoplewales.com/en/news/news/11-04-14/Protection_of_older_people_in_Wales_A_guide_to_the_law.aspx
- 5.e. Advising Welsh Assembly Health and Social Care Committee on Stage 1 of the Social Services and Well-being (Wales) Bill Stage One Report <http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs/cr-ld9418-e.pdf?langoption=3&ttl=CR-LD9418%20-%20Health%20and%20Social%20Care%20Committee%3A%20%20Stage%201%20Committee%20Report%2C%20Social%20Services%20and%20Well-being%20%20%28Wales%29%20Bill>
- 5.f. Membership of the Safeguarding and Advisory Panel, Welsh Government <http://wales.gov.uk/newsroom/healthandsocialcare/2013/130619safeguarding/;jsessionid=AA7365C83EB5AC81E0E7ED551531236D?lang=en>
- 5.g. Report from the ***Have your say in making the law better: Adult Social Care Law Reform*** Conference held on Monday, 29th March 2010 at the Marriott Hotel Cardiff http://www.olderpeoplewales.com/Libraries/OPCW_Publications/CONFERENCE_REPORT_-_Have_your_say_in_making_the_law_better_-_Adult_Social_Care_Law_Reform.sflb.ashx
- 5.h. <http://www.wlga.gov.uk/older-people/protection-of-older-people-in-wales-a-guide-to-the-law>
- 5.i. <http://www.search.wales.nhs.uk/search/?q=elder+abuse+a+guide+to+the+law>
- 5.j. Membership of Welsh Advisory Committee, The Law Commission Annual Report 2012-2013 p.14. http://lawcommission.justice.gov.uk/docs/lcar12-13_web.pdf