

ESRC Studentship Description and Selection Criteria

Title	DPhil Socio-Legal Studies: 'Use and governance of data for research'
Reference Code	RD_LS1B
Division	Social Science
Department	Socio-Legal Centre, Faculty of Law
Location	Centre for Health, Law and Emerging Technologies (HeLEX)
Funding	Fully- funded University Fees and Stipend
Principal Supervisor	Professor Jane Kaye
Advertising Code	JOB
Start Date	October 2016
Deadline for applications	Friday 17th June 2016

Introduction

This studentship is one of two studentships (RD_LS1A and RD_LS1B) that are being funded by the Economic and Social Science Research Council (ESRC) as part of the Administrative Data Research Network (ADRN). The Centre for Health, Law and Emerging Technologies (HeLEX) at the University of Oxford led by Professor Jane Kaye, carries out the legal research for the ADRN. The aim of these studentships is to address key legal issues that have emerged out of the activities of the ADRN and the research conducted in HeLEX. The studentships will be located within the HeLEX Centre as part of the ADRN team and will be supervised will be Professor Jane Kaye. They will also be a student in the Doctoral Training Programme in the Centre for Socio-Legal Studies in the Faculty of Law at the University of Oxford and a member of St Cross College.

This studentship provides funding for either 1) a three year doctorate or for 2) a one year research Masters followed by a three year doctorate (1+3). On the 1+3 route, a candidate will start as a student on the MSt in Socio-Legal Research and (subject to passing the necessary Qualifying Test) will then be admitted to DPhil status. However, if a candidate has completed an ESRC-approved research Masters qualification, they can go straight to a doctorate. They will start as a Probationary Research Student, and depending upon the achievement of successful milestones will proceed to a Doctor of Philosophy (DPhil). These studentships are appropriate for undergraduate students who have not yet completed a further degree or applicants that already have a Masters degree because of their flexible funding structure.

To be eligible to apply you must satisfy the residential requirements

<http://www.esrc.ac.uk/skills-and-careers/studentships/prospective-students/am-i-eligible-for-an-esrc-studentship/>. For students who satisfy the UK residential requirements, the studentship covers all University home fees, college fees and provides a yearly stipend starting at £14,057 per year at 2015-16 rates. For EU residents, the award will only cover fees. An ESRC-funded student is also entitled to a number of other opportunities provided by the ESRC such as eligibility to apply for additional funding - RTSG, overseas fieldwork expenses, extensions for difficult language training, ESRC internships, DTC internship support scheme funding.

The University

The University of Oxford is a complex and stimulating organisation, which enjoys an international reputation as a world-class centre of excellence in research and teaching. It employs over 10,000 staff and has a student population of 22,600, including 11,603 undergraduates and 10,499 postgraduates. In the 2015 National Student Survey, 91% of Oxford students said they were satisfied with the quality of their course, compared to a national average of 86%. Over 95% of Oxford leavers are employed or in further study six months after graduating. The University, including the colleges and Oxford University Press, is the largest employer in Oxfordshire, supporting around 17,000 jobs and injecting more than £750 million annually into the regional economy. Oxford is also an innovative and entrepreneurial university with income from external research contracts exceeding £409m p.a., with more than 80 spin-off companies have been created based on University research. For more information please visit <http://www.ox.ac.uk/admissions>

The Centre for Socio-Legal Studies

For over forty years the Centre for Socio-Legal Studies (CSLS) has been at the forefront of research into the nature and role of law in society. The Centre currently has over dozen researchers who combine multi-disciplinary expertise to study law as a historical and culturally specific mode of social organisation that takes different forms within and across different types of society. They are often engaged in comparative and cross-cultural inquiries. Their expertise is complemented by Associate Research Fellows and Academic Visitors, who often engage in joint research with the Centre's staff and contribute to its extensive programme of academic activities. The CSLS is an ESRC Doctoral Training Centre and has a thriving community of postgraduate students. <https://www.law.ox.ac.uk/centres-institutes/centre-socio-legal-studies>

Centre for Health, Law and Emerging Technologies

The Centre for Health, Law and Emerging Technologies at Oxford (HeLEX) is based in the Nuffield Department of Population Health. Since its inception five years ago, HeLEX has come to be one of the leading centres in understanding the ethical, legal and social implications (ELSI) of scientific research. It is directed by Professor Jane Kaye. The aim of the Centre is to carry out evidenced-based research and analysis that can be used to inform the development of new forms of governance, policy and best practice in areas of innovation. We investigate the impact of new technologies, such as the use of next generation sequencing technologies in the clinic and the implications for privacy of big data approaches in research. Our current international research focuses on the governance of research infrastructures such as biobanks, information law, privacy, access to administrative data, data-sharing frameworks, global governance, personalised medicine, and translational research. The activities of HeLEX are organised around three themes: Patient Partnerships, Information Governance, and Personalised Medicine. For further information <http://www.ndph.ox.ac.uk/research/centre-for-health-law-and-emerging-technologies-helex>

Administrative Data Research Network

The Administrative Data Research Network (ADRN) is a UK- wide partnership between universities, government departments and agencies, national statistic authorities, the third sector, funders and researchers. The ADRN provides a bespoke service for researchers so they can carry out social and economic research using administrative data for the benefit of society. The Administrative Data Service (ADS) coordinates the Network, and is the first point of contact for researchers who want access to administrative data. This is a significant funding commitment by the ESRC to support researchers in the UK by the development of a national research infrastructure. For further information <https://adrn.ac.uk/about/what-we-do/>

St Cross College

St Cross College is a graduate college of the University of Oxford. It offers an outstanding academic environment dedicated to the pursuit of excellence within the Collegiate University. St Cross is home to scholars from a wide spectrum of academic disciplines and is atypical of the Oxford tradition in that the College does not have separate common rooms for its Senior and Junior Members or a high table in hall. Instead there are central common rooms to be used by all College Members and open seating in Hall. The College believes that this egalitarianism fosters a productive intellectual environment where Senior and Junior Members can form meaningful relationships to the betterment of their research. The Fellowship of St Cross College has the highest proportion of Professors of any of the Oxford graduate colleges, thus offering our students unequalled access to some of the University's greatest minds. Situated on St Giles, right in the very heart of Oxford City, St Cross College is conveniently located for a large number of departments, libraries and Institutes. <http://www.stx.ox.ac.uk/about-st-cross>

Overview of the Studentship

The purpose of the studentship is to investigate citizen's expectations of the use of data for research and analyse the current legal framework to evaluate how well expectations are

currently considered and incorporated in law. This studentship will contribute to the Administrative Data Services fourth objective, 'A central point of expertise for advice and guidance for ADRCs on issues related to data access,' by analysing the evolving legal framework for data sharing.

Research aim

Innovations in information technology and new research approaches mean that different types of data can be integrated, shared and analysed from a variety of sources across the world. However, these technologies raise questions about how the law can protect and advance the privacy and other expectations of individuals and vulnerable groups in society, while advancing the public good. As the recent care.data project has highlighted, a failure to understand participant's expectations can lead to a failure to secure the 'social license' for successful research in the public good.¹ The existence of a legal basis for the collection and processing of patient's data does not necessarily render it ethical, or guarantee the trust and confidence of the public if it does not ensure that the reasonable expectations of the individual are met.

The law relating to privacy and health data is evolving rapidly, drawing on human rights and an increasing concern for the individual's informational autonomy. Increasingly, the law in this area seeks to respect an individual's 'reasonable expectations' rather than simplistically maintain that an individual maintains control through a one-off consent or that there is no threat to individual interests where information is 'de-identified'. The newly recognised tort of 'misuse of personal information' (*Google v Vidal Hall* [2015]) asks whether the information is something over which a person would have a 'reasonable expectation of privacy' and the reasonable individual approach to information requirements and expectations is now firmly part of law on consent (*Montgomery v Lanarkshire Health Board* [2015]). Reasonable expectations also form part of data protection law where consent is only one of the grounds for lawfully processing personal data. The first principle for data processing² is that it should be carried out lawfully and 'fairly'. Fair processing requires transparency about uses of data—unless an exemption applies—and further processing that an individual would not reasonably expect, based on the purposes for which it was originally obtained, are prohibited.

Method

This research will combine conventional legal research techniques with mixed method empirical research. An empirical research plan will be developed to identify citizen's expectations of the use of data for research and the findings will be compared with the legal formulation of reasonable expectation to inform policy development. Appropriate training will be provided. This research will

¹ Pam Carter, Graeme T Laurie and Mary Dixon-Woods, 'The Social Licence for Research: Why Care.data Ran into Trouble' (2015) 41 *Journal of Medical Ethics* 404; Sigrid Sterckx and others, "'You Hoped We Would Sleep Walk into Accepting the Collection of Our Data': Controversies Surrounding the UK Care.data Scheme and Their Wider Relevance for Biomedical Research' [2015] *Medicine, Health Care and Philosophy* 1; Mark Taylor, 'Information Governance as a Force for Good? Lessons to Be Learnt from Care.data' (2014) 11 *SCRIPTed* <<http://script-ed.org/?p=1377>> accessed 23 April 2015.

² Data Protection Act 1998, Sch1, Part 1, para. 1

require a lawyer to gain training in empirical research methods so we have applied for a 3+1 to ensure that they have sufficient time to learn these skills.

Key questions

1. What are citizens' expectations of the use and governance of their data in research?
 - Participants' understanding and expectations of privacy and anonymisation;
 - The circumstances when participants think that consent needs to be obtained and what information they should be given;
 - Participants' understanding and expectations as regards their relationships with, and the obligations of, various stakeholders including: the researchers who enrol them in studies; those who undertake secondary analysis; commercial users;
 - The governance mechanisms and structures, such as IT portals, and participant-led management structures that participants would like to have in place to protect privacy for themselves and other family members.
2. How does the legal framework governing research include or exclude consideration of individual expectations of privacy and use?
3. How well are the identified citizens' expectations reflected or promoted in the law?

Selection criteria

Essential Criteria

Candidates will be judged on the basis of the following criteria and should try to ensure that their covering letter shows how they meet the following criteria.

- First degree in law with final degree award of 2.1 'or equivalent' (please see NARIC <http://ecctis.co.uk/naric/>);
- Interest in data protection law;
- Ability to work unsupervised and prioritise own workload;
- Ability to establish and maintain good working relationships with a range of people;
- Excellent standard of written and spoken English;
- Excellent interpersonal and communication skills.

How to apply

You will need to apply for both the programme and this studentship via the main University online graduate application form, and pay an application fee of £60. The application form, all supporting materials required for the programme (including references) and payment must be submitted by the appropriate studentship deadline. To access the application form and application guide please visit our website at www.graduate.ox.ac.uk/apply.

On the application form, in the section headed 'Departmental Studentship Applications', you must indicate that you are applying for a studentship and enter the reference code for this studentship **RD_LS1B DPhil Socio-Legal Studies: 'Use and governance of data for**

research’. Please note that you should still use this code even if you are intending to take the 1+3 route, but should state in your covering letter that you intend to undertake the MSt in Socio-Legal Research before proceeding to the DPhil. If you are accepted to the 1+3 route, your application will then be moved over to the MSt.

For your application to be considered you must include the following:

- a completed online application form
- transcript of your highest academic degree
- contact details of 3 referees
- an uploaded CV
- an uploaded covering letter describing why you would like to apply for this studentship and how you meet the essential criteria
- an uploaded sample of your academic writing (maximum of 5,000 words).

Please save all uploaded documents to show your name and the document type.

Deadline:

All applications must be received by **12noon BST on Friday 17th June 2016**.

Interviews will be held by web-conferencing the following week.

If you would like further details that are not contained in this information form please contact Professor Jane Kaye jane.kaye.pa@dph.ox.ac.uk .

Please note that you will be notified of the progress of your application by automatic e-mails from our e-system. Please check your spam/junk mail regularly to ensure that you receive all e-mails.