Principles of Healthcare Law



1.

Laurie GT, Harmon S, Porter G, Mason JK, Mason JK, McCall Smith A. Mason and McCall Smith's Law & medical ethics, Chapter 1. Tenth edition. Oxford: Oxford University Press; 2016.

2.

Jackson E. Medical law: text, cases, and materials, Chapter 1. Fourth edition. Oxford: Oxford University Press; 2016.

3.

Gillon R. Medical ethics: four principles plus attention to scope. BMJ. 1994 Jul 16;309(6948):184–184.

4.

Muirhead W. When four principles are too many: bloodgate, integrity and an action-guiding model of ethical decision making in clinical practice. Journal of Medical Ethics. 2012 Apr;38(4):195–196.

5.

Gillon R. When four principles are too many: a commentary. Journal of Medical Ethics. 2012 Apr;38(4):197–198.

6.

Foster C. Autonomy in the Medico-Legal Courtroom: A Principle fit for Purpose? Medical Law Review. 2013 Dec;22(1):48–63.

7.

Foster C, Miola J. Who's in Charge? The Relationship Between Medical Law, Medical Ethics, and Medical Morality? Medical Law Review. 2015 Dec;23(4):505–530.

8.

Laurie GT, Harmon S, Porter G, Mason JK, Mason JK, McCall Smith A. Mason and McCall Smith's Law & medical ethics, Chapter 5. Tenth edition. Oxford: Oxford University Press; 2016.

9.

Jackson E. Medical law: text, cases, and materials, Chapter 3. Fourth edition. Oxford: Oxford University Press; 2016.

10.

Mulheron R. Trumping Bolam: A Critical Legal Analysis of Bolitho's "Gloss". The Cambridge Law Journal. 2010 Nov;69(03):609-638.

11.

Miola J. Bolam v Friern Hospital Management Committee [1957]: Medical Law's Accordion. Landmark cases in medical law [Internet]. Oxford: Hart Pub; 2015. Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://dx.doi.org/10.5040/9781474201438

12.

Hunter v Hanley.

13.

Bolam v Friern Hospital Management Committee.

14.
Bolitho v City and Hackney Health Authority.
15.
Gregg v Scott.
16.
Williams v Bermuda Hospitals Board.
17.
Brazier M, Miola J. Bye-bye Bolam: a medical litigation revolution? Medical Law Review. 2000 Jan 1;8(1):85–114.
18.
Heywood R. The logic of Bolitho. Professional Negligence [Internet]. 2006;22(4). Available from:
https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI21C07EA0001C11DC8AEF929ED2972873%2FView%2FFullText.html%3FskpAnonymous%3Dtrue
19.
Maclean A. Beyond Bolam and Bolitho. Medical Law International. 2002 Mar;5(3):205-230.
20.
Stewart A. 'Best interests': towards a more patient-friendly law? Edinburgh Law Review
[Internet]. 2007;11(1). Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FIC15A4C304A5C11DD8F5AD5BBDD350CBC%2FView%2FFullText.html%3Fs

kipAnonymous%3Dtrue

21.

Teff H. The standard of care in medical negligence - moving on from Bolam? Oxford Journal of Legal Studies. 1998 Sep 1;18(3):473–484.

22.

Are the Courts Excessively Deferential to the Medical Profession? Medical Law Review. 2001 Mar 1;9(1):1–16.

23.

Amirthalingam K. Causation and the medical duty to refer. Law Quarterly Review [Internet]. 2012; Available from:

http://ezproxy.lib.gla.ac.uk/login?url=http://login.westlaw.co.uk/maf/wluk/ext/app/document?sp=ukuniglasg-1&docguid=ID1FEB4C06F2111E1900BAA4302CC6BEE

24.

Foster C. A material contribution to forensic clarity. The New Law Journal [Internet]. 166(7689). Available from:

http://ezproxy.lib.gla.ac.uk/login?url=http://www.lexisnexis.com/uk/legal/docview/getDocForCuiReq?lni=5J6Y-6671-DYJD-X096&csi=280276&oc=00240&perma=true&elb=t

25.

Hobson C. Williams v the Bermuda Hospitals Board: Pro-Patient, but for Ambiguities Which Remain. Medical Law Review. 2017;25(1):126–137.

26.

Maskrey S, Edia W. Chester v Afshar and Gregg v Scott: mixed messages for lawyers. Journal of Personal Injury Law [Internet]. 2005;3:205–223. Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FICA10DA10E72111DA9D198AF4F85CA028%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

27.
Green S. Contributing to the risk of confusion? Causation in the Court of Appeal. Law Quarterly Review [Internet]. 2009; Available from: http://ezproxy.lib.gla.ac.uk/login?url=http://login.westlaw.co.uk/maf/wluk/ext/app/document?csp=ukuniglasg-1&docguid=I09E8E0D0C02611DD83FAE07C467B4925
28.
Stauch M. 'Material Contribution' as a Response to Causal Uncertainty: Time for a Rethink. The Cambridge Law Journal. 2009 Mar;68(01).
29.
Turton G. A Case For Clarity in Causation? Medical Law Review. 2008 Dec 15;17(1):140-147.
30.
Roe v Ministry of Health.
31.
Hucks v Cole.

Whitehouse v Jordan.

33.

32.

Maynard v W. Midlands Health Authority.

34.

Sidaway v Board of Governors of Bethlem Royal and the Maudsley Hospital.

()	35.
[Defreitas v O'Brien.
()	36.
1	Marriott v West Midlands RHA.
:	37.
	Wisniewski v Central Manchester Health Authority.
-	38.
	Penney v East Kent HA.
'	eniley v East Rene in C
-	39.
ľ	Morris (A Child by his Mother & Litigation Friend) v Blackpool Victoria Hospital NHS Trust.
۷	40.
E	Birch v University College London NHS Trust.
2	41.
E	Burne v A.
2	42.
	Honisz v Lothian Health Board.
1	TOTALS V LOCATOR FLORIDA.
2	43.

Brown v The Scarborough & North East Yorkshire Healthcare NHS Trust.
44.
Carter v Ministry of Justice.
45.
Glancy v The Southern General Hospital NHS Trust.
46.
Hannigan v Lanarkshire Acute Hospitals NHS Trust.
47.
C v North Cumbria University Hospitals NHS Trust.
4.0
48. KR v Lanarkshire Health Board [2016] CSOH 133.
49.
EXP v Barker.
50.
FB v Rana.
51

Barnett v Chelsea and Kensington.

52.
Kay's Tutor v Ayrshire and Arran Health Board.
53.
Hotson v East Berkshire.
54.
Wilsher v Essex AHA.
55.
Chester v Afshar.
56.
Gouldsmith v Mid Staffordshire General Hospitals NHS Trust.
57.
Bailey v Ministry of Defence.
58.
Canning-Kishver v Sandwell & West Birmingham NHS Trust.
59.
Wright (A Child) v Cambridge Medical Group (A Partnership).
60.
John v Central Manchester and Manchester Children's University Hospitals NHS Foundation Trust.

Laurie GT, Harmon S, Porter G, Mason JK, Mason JK, McCall Smith A. Mason and McCall Smith's Law & medical ethics, Chapter 5, 'Criminal Negligence' pp 174-178. Tenth edition. Oxford: Oxford University Press; 2016.

62.

Jackson E. Medical law: text, cases, and materials, Chapter 3, 'The Criminal Law' pp182-187. Fourth edition. Oxford: Oxford University Press; 2016.

63.

Alghrani A, Bennett R, Ost S, editors. Bioethics, medicine, and the criminal law: Volume 1: The criminal law and bioethical conflict: walking the tightrope [Internet]. Cambridge: Cambridge University Press; 2013. Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://doi.org/10.1017/CBO9781139177382

64.

Brazier M, Alghrani A. Fatal medical malpractice and criminal liability. Professional Negligence [Internet]. 2009;25(2). Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI37D98810EC5211DEA990E8403C437E97%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

65.

Quick O. Medicine, Mistakes and Manslaughter: A Criminal Combination? The Cambridge Law Journal. 2010 Mar;69(01).

66.

Quick O. Expert Evidence and Medical Manslaughter: Vagueness in Action. Journal of Law and Society. 2011 Dec;38(4):496–518.

67.

R v Rose (Honey Maria).
68.
R v Rudling (Joanne).
69.
R v Sellu (David).
70.
R v Misra (Amit).
71.
R v Adomako (John Asare).
72.
Criminal Justice and Courts Act 2015, ss 20-21.
Chilinal Justice and Courts Act 2013, 55 20-21.
73.
Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, ss 26-28.
rieditii (Tobacco, Micotilie etc. alia care) (Scotialia) Act 2010, 33 20-20.
74.
Kazarian M, Griffiths D, Brazier M. Criminal responsibility for medical malpractice in France. Professional Negligence [Internet]. 2011;27(4). Available from:
https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2
FDocument%2FI4CA309F027B611E1A6AFBF6CE47F523B%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

Lodge A. Gross Negligence Manslaughter on the Cusp. The Journal of Criminal Law. 2017 Apr;81(2):125–142.

76.

Quick O. Prosecuting 'Gross' Medical Negligence: Manslaughter, Discretion, and the Crown Prosecution Service. Journal of Law and Society. 2006 Sep;33(3):421–450.

77.

McCall-Smith A. Criminal Negligence and the Incompetent Doctor. Medical Law Review. 1993;1(3):336–349.

78

Paton v HM Advocate.

79.

Transco plc v HM Advocate.

80.

Laird K. Filling a Lacuna: The Care Worker and Care Provider Offences in the Criminal Justice and Courts Act 2015. Statute Law Review. 2016 Feb;37(1):1–18.

81.

The new criminal sanctions of wilful neglect or ill-treatment - The MDU [Internet]. Available from:

https://www.themdu.com/guidance-and-advice/latest-updates-and-advice/the-new-criminal-sanctions-of-wilful-neglect-or-ill-treatment

82.

BMA/s Written Submission to the Health and Sport Committee [Internet]. Available from: http://www.parliament.scot/S4_HealthandSportCommittee/Inquiries/HTNC017_-_BMA_Scotl and.pdf

Laurie GT, Harmon S, Porter G, Mason JK, Mason JK, McCall Smith A. Mason and McCall Smith's Law & medical ethics, Chapter 5.01-5.17. Tenth edition. Oxford: Oxford University Press; 2016.

84.

Jackson E. Medical law: text, cases, and materials, pp 169-174. Fourth edition. Oxford: Oxford University Press; 2016.

85.

Douglas T. Medical Injury Compensation: Beyond 'No-Fault'. Medical Law Review. 2008 Dec 15;17(1):30–51.

86.

Farrell AM, Harpwood V. Farrell, A-M. 'No-Fault Compensation for Medical Injury: Principles, Practice and Prospects for Reform' Chapter 10; and V. Harpwood Clinical Negligence and Poor Quality Care: Is Wales 'Putting Things Right'? Chapter 9. In: Ferguson PR, Laurie GT, editors. Inspiring a medico-legal revolution: essays in honour of Sheila McLean [Internet]. Farnham, Surrey: Ashgate; 2015. Available from: http://GLA.eblib.com/patron/FullRecord.aspx?p=2039138

87.

Harris J. The injustice of compensation for victims of medical accidents. BMJ. 1997 Jun 21;314(7097):1821–1821.

88.

Oliphant K. Beyond Misadventure: Compensation for Medical Injuries in New Zealand. Medical Law Review. 2007 Jan 1;15(3):357–391.

89.

Quick O. Patient safety and the problem and potential of law. Professional Negligence

[Internet]. 2012;28(2). Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FIB97DCF91C4CF11E180C19F9AB713BD06%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

90.

Volume 1 - No Fault Compensation Review Group Report and Recommendations [Internet]. Available from:

http://www.gov.scot/Topics/Health/Policy/No-Fault-Compensation/ReviewGroupVol1

91.

'No-Blame' Redress scheme: A Public Consultation on Draft Proposals for a 'No-blame' Redress Scheme in Scotland for Harm Resulting from Clinical Treatment Scottish Government 22 March: 2016, pp 1-16 [Internet]. Available from: http://www.gov.scot/Publications/2016/03/7618

92.

Introducing a Rapid Resolution and Redress Scheme for Severe Avoidable Birth Injury - Department of Health - Citizen Space [Internet]. Available from: https://consultations.dh.gov.uk/rapid-resolution-and-redress/maternity-litigation/

93.

Dauer EA. Strong reciprocity and accountability: behavioural analysis of patients' legal responses to medical injury. International Journal of Law in Context. 2006 Sep;2(03).

94

Hedley S. Making sense of negligence. Legal Studies. 2016 Sep; 36(3):491-512.

95.

No Fault Compensation Review Group, See No-Fault Compensation Schemes for Medical Injury: A Review (Vol II); A study of medical negligence claiming in Scotland 2012 Volume III [Internet]. Available from:

http://www.gov.scot/Topics/Health/Policy/No-Fault-Compensation

Consultation Report - Consultation on recommendations for no-fault compensation in Scotland for injuries resulting from clinical treatment [Internet]. Available from: http://www.gov.scot/Publications/2014/04/6437/downloads#res447863

97.

Responses to the recent consultation on "Recommendations for No-Fault Compensation in Scotland for Injuries Resulting from Clinical Treatment" [Internet]. Available from: http://www.gov.scot/Publications/2013/02/4882/downloads

98.

Rapid resolution and redress scheme for severe birth injury - GOV.UK [Internet]. Available from:

https://www.gov.uk/government/consultations/rapid-resolution-and-redress-scheme-for-severe-birth-injury

99.

Jackson E. Medical law: text, cases, and materials, Chapter 10. Fourth edition. Oxford: Oxford University Press; 2016.

100.

Goldberg R. R. Goldberg Medicinal Product Liability and Regulation Oxford, Hart Publishing 2013 Ch 1 – 'Medicinal Product Liability in Context'; and Ch 8 'The Development Risk Defence and Medicinal Products'. Medicinal product liability and regulation. Oxford: Hart Publishing; 2013.

101.

A and Others v National Blood Authority and Others.

102.

Commission v UK Case C-300/95.

103. Boston Scientific Medizintechnik GmbH v AOK Sachsen-Anhalt - Die Gesundheitskasse (C-503/13). 104. Wilkes v DePuy International Ltd. 105. Secretary of State for Work and Pensions v G. 106. Consumer Protection Act 1987, Part I (esp. Sections 3 & 4). Consumer Protection Act 1987 c. 43. 107. EU Directive - Products Liability 85/374/EEC, esp. Preamble; Articles 6 & 7. 108. Vaccine Damage Payments Act 1979 c.17. 109. Bergkamp L. Is There a Defect in the European Court's Defect Test? Musings about Acceptable Risk. European Journal of Risk Regulation. 2015 Jun; 6(02):309-322.

110.

Van Leeuwen B, Verbruggen P. Resuscitating EU Product Liability Law? Contemplating the Effects of Boston Scientific Medizintechnik GmbH v. AOK Sachsen-Anhalt and Betriebskrankenkasse RWE (Joined Cases C-503/13 and C-504/13). SSRN Electronic Journal.

2015;

111.

Eisler J. One Step Forward and Two Steps Back in Product Liability: The Search for Clarity in the Identification of Defects. The Cambridge Law Journal. 2017 Jul;76(02):233–236.

112.

Harvey M. Wilkes v Depuy International Ltd. Journal of Personal Injury Law [Internet]. 2017;3:C128-C138. Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI39717C108D9D11E7876EC640A7B18BC3%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

113.

Howells G, Mildred M. Infected Blood: Defect and Discoverability A First Exposition of the EC Product Liability Directive. The Modern Law Review. 2002 Jan;65(1):95–106.

114.

Laing J. Consumer Protection Act 1987: Liability for Defective Products. Medical Law Review. 2002 Mar 1;10(1):82–88.

115.

Pugh C, Pilgerstorfer M. The development risk defence - knowledge, discoverability and creative leaps. Journal of Personal Injury Law [Internet]. 2004;4:258–269. Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FICA22B460E72111DA9D198AF4F85CA028%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

116.

Fairgrieve D, Howells G. Rethinking Product Liability: A Missing Element in the European Commission's Third Review of the European Product Liability Directive. Modern Law Review. 2007 Nov;70(6):962–978.

Millward G. A Disability Act? The Vaccine Damage Payments Act 1979 and the British Government's Response to the Pertussis Vaccine Scare. Social History of Medicine. 2016 Aug 4;

118.

Cave E. Voluntary vaccination: the pandemic effect. Legal Studies. 2017 Jun;37(2):279–304.

119.

Laurie GT, Harmon S, Porter G, Mason JK, Mason JK, McCall Smith A. Mason and McCall Smith's Law & medical ethics. Tenth edition. Oxford: Oxford University Press; 2016.

120.

Jackson E. Medical law: text, cases, and materials. Fourth edition. Oxford: Oxford University Press; 2016.

121.

Statutory duty of candour in secondary care - The MDU [Internet]. Available from: https://www.themdu.com/guidance-and-advice/guides/statutory-duty-of-candour/statutory-duty-of-candour

122.

Chatterton v Gerson [1981] QB 432, [1981] 1 All ER 257.

123.

Re T (adult: refusal of medical treatment)) [1992] 4 All ER 649, [1993] 3 WLR 782. All England Law Reports. 1992.

Re AK (adult patient) (medical treatment: consent) (2001) 58 BMLR 151.

125.

Re B (Adult: Refusal of Medical Treatment) [2002] 2 All ER 449, (2002) 65 BMLR 149.

126.

3373High Court of Justice Family Division 1 May 2012Before: Mrs. Justice Theis 1st May 2012Crown copyright. X Primary Care Trust v XB [2012] EWHC 1390. The X Primary Care Trust v XB, (By the Official Solicitor as Litigation Friend), YB.

127.

/2086Court of Appeal (Civil Division)28 July 2005Before: Lord Phillips of Worth Matravers , MR Lord Justice Waller and Lord Justice Wall Thursday 28th July, 2005Crown copyright. R v General Medical Council, ex p. Burke [2005] EWCA Civ 1003 (CA). The Queen on the Application of Oliver Leslie Burke v The General Medical Council.

128.

Sidaway v Board of Governors of Bethlem Royal and the Maudsley Hospital [1985] 2 WLR 480. Weekly Law Reports (ICLR). 1985.

129.

Montgomery v Lanarkshire Health Board [2015] UKSC 11.

130.

Border v Lewisham and Greenwich NHS Trust (formerly South London Healthcare NHS Trust) [2015] EWCA Civ 8 (CA).

131.

Connolly v Croydon Health Services NHS Trust [2015] EWHC 1339 (QB) (QBD). All England

Reporter.

132.

(The Lord Justice-Clerk (Wheatley), Lords Leechman and Thomson)24 January 1975(c) W. Green & Son Limited. Smart v HMA 1975 SLT 65 [*65 Smart v H.M. Advocate].

133.

R v Cox (1992) 12 BMLR 38.

134.

Dec. 1, 2, 3, 7; 1993 March 11(c) Incorporated Council of Law Reporting for England & Wales. R v Brown [1993] 2 All ER 75, [1994] 1 AC 212 (HL). *212 Regina Respondent v Brown (Anthony) Appellant.

135.

7/93, 21826/93, 21974/93Before the European Court of Human Rights19 February 1997(The President, Mr R. Bernhardt; Judges Pettiti, Russo, Spielmann, Freeland, Rocha, Wildhaber, Kūris, Levits)19 February 1997. Laskey v United Kingdom (1997) 24 HERR 39. *39 Laskey, Jaggard and Brown v United Kingdom.

136.

Sir John Donaldson M.R., Fox and Stephen Brown L.JJ. McCowan J.1984 Feb. 22, 23; March 71983 May 3, 4, 5, 6, 9, 10, 11, 12, 16, 17, 18, 19(c) Incorporated Council of Law Reporting for England & Wales. Freeman v Home Office (No.2), [1984] QB 524, [1984] 1 All ER. *524 Freeman v Home Office (No. 2).

137.

Re MB [1997] 8 Med LR 217, [1997] 38 BMLR 175 CA, [1997] 2 FCR 541.

138.

St George's NHS Trust v S [1999] Fam 26.

Before: Mr. Justice Mostyn In PrivateDate: Thursday, 23rd August 2012Crown copyright. Re AA (Compulsorily Detained Patient: Elective Caesarean), Re [2012] EWHC 4378 (COP); [2014] 2 F.L.R. 237 (CP)]. In the Matter of: Re: AA.

140.

/02Before the European Court of Human Rights29 April 2002(The President , Judge Pellonpää ; Judges Bratza , Palm , Makarczyk , Fischbach , Casadevall , Pavlovschi)29 April 2002. Pretty v United Kingdom (Application 2346/02) 29 April 2002 (2002) 35 EHRR 1, (2002) 66 BMLR 147 (ECHR). *1 Pretty v United Kingdom.

141.

R (on the application of Nicklinson and another) v Ministry of Justice; R (on the application of AM) v Director of Public Prosecutions [2014] UKSC 38.

142.

8High Court of Justice Queens Bench Division18 February 2005Before: The Hon Mr Justice Simon Date: 18 February 2005, Hearing dates: 31 January, 1–4 February 2005Crown copyright. Al Hamwi v Johnston, The North West London Hospitals NHS Trust [2005] EWHC 206 (QB). Mrs Rana Al Hamwi v Dr Fiona Johnston, The North West London Hospitals NHS Trust.

143.

Poynter v Hillingdon Health Authority (1997) 37 BMLR 192.

144.

8High Court of Justice Queen's Bench Division19 May 2015Before: Mr Justice Nicol Date: 19/05/2015Crown copyright. ABC v St George's Healthcare NHS Foundation Trust [2015] EWHC 1394 (QB). ABC v St George's Healthcare NHS Trust, South West London and St George's Mental Health NHS Trust, Sussex Partnership NHS Foundation Trust.

145.

ABC v St George's Healthcare NHS Trust & Ors [2017] EWCA Civ 336 (16 May 2017) [Internet]. Available from: http://www.bailii.org/ew/cases/EWCA/Civ/2017/336.html

146.

Feng TK. Failure of medical advice: trespass or negligence. Legal Studies [Internet]. 1987;7(2). Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/legstd7&id=157

147.

Komrad MS. A defence of medical paternalism: maximising patient's autonomy. Journal of Medical Ethics. 1983 Mar 1;9(1):38–44.

148.

Wicks E. The Right to Refuse Medical Treatment under the European Convention on Human Rights. Medical Law Review. 2001 Mar 1;9(1):17–40.

149.

MacLean AR. Consent, sectionalisation and the concept of medical procedure. Journal of Medical Ethics [Internet]. 28(4). Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://go.galegroup.com/ps/i.do?p=AONE&u=glasuni&id=GALE|A90796838&v=2.1&it=r&sid=summon&authCount=1#

150.

Teff H. H.Teff, 'Consent to medical procedures: paternalism, self-determination or therapeutic alliance.' (1985) 101 Law Quarterly Rev 432–453. The Law quarterly review. [London: Stevens and Sons; 1985;101:432–453.

151.

Beauchamp TL, Childress JF. Principles of biomedical ethics. Seventh edition. New York, New York: Oxford University Press; 2013.

BBC News | SCOTLAND | Surgeon defends amputations, 31 January, 2000 [Internet]. Available from: http://news.bbc.co.uk/1/hi/scotland/625680.stm

153.

BMA: The Impact of the Human Rights Act 1998 on Medical Decision Making (2000) [Internet]. Available from: http://www.cirp.org/library/legal/BMA-human-rights/

154.

GMC: Consent: patients and doctors making decisions together (2008) [Internet]. General Medical Council; Available from:

http://www.gmc-uk.org/guidance/ethical guidance/consent guidance index.asp

155.

Department of Health, Reference Guide to Consent for Examination and Treatment, 2nd Edn, 2009, London, Department of Health. [Internet]. Available from: https://www.gov.uk/government/publications/reference-guide-to-consent-for-examination-or-treatment-second-edition

156.

BMA - Consent tool kit [Internet]. Available from: https://www.bma.org.uk/advice/employment/ethics/consent/consent-tool-kit

157.

A Good Practice Guide on Consent for Health Professionals in NHS Scotland (Scottish Executive Health Department, 2006) [Internet]. 2006. Available from: http://www.sehd.scot.nhs.uk/mels/HDL2006_34.pdf

158.

Müller S. Sabine Müller, 'Body Integrity Identity Disorder (BIID)—Is the Amputation of Healthy Limbs Ethically Justified?' The American Journal of Bioethics, Volume 9 (1) 2009. The American Journal of Bioethics. 2009 Jan 5;9(1):36–43.

159. Sidaway v Board of Governors of Bethlem Royal and the Maudsley Hospital [1985] 2 WLR 480. Weekly Law Reports (ICLR). 1985. 160. Pearce and another v United Bristol Healthcare NHS Trust [1998] EWCA Civ 865, [1999] PIQR P53, (1999) 48 BMLR 118. 161. Chester v Afshar [2004] UKHL 41. All England Law Reports. 2004. 162. Birch v University College London NHS Trust [2008] EWHC 2237, 104 BMLR 168. 163. Montgomery v Lanarkshire Health Board [2015] UKSC 11. 164. Moyes v Lothian Health Board [1990] 1 Med LR 463. 1990.

165.

Goorkani v Tayside Health Board [1991] 1 Med LR 33. 1991.

166.

Smith v Tunbridge Wells Health Authority [1994] 5 Med LR 334. 1994.

Newell and Newell v Goldenberg [1995] 6 Med LR 371. Medical Law ReportsNewell and Newell v Goldenberg. 1995.

168.

8High Court of Justice Queens Bench Division18 February 2005Before: The Hon Mr Justice Simon Date: 18 February 2005, Hearing dates: 31 January, 1–4 February 2005Crown copyright. Al Hamwi v Johnston, The North West London Hospitals NHS Trust [2005] EWHC 206 (QB). Mrs Rana Al Hamwi v Dr Fiona Johnston, The North West London Hospitals NHS Trust.

169.

Opinion of Lord Boyd of Duncansby 1 March 2013(c) Parliamentary copyright. Scottish Parliamentary Corporate Body. 1999. Glancy v Southern General Hospital NHS Trust [2013] CSOH 35; 2013 G.W.D. 10-221 (OH).

170.

Wright (a child by her Demelza Wright her litigation friend) v Cambridge Medical Group [2011] EWCA Civ 669.

171.

Crown copyright. Meiklejohn v St George's Healthcare NHS Trust [2014] EWCA Civ 120; [2014] Med. L.R. 122. Richard Meiklejohn v St George's Healthcare NHS Trust, Homerton University Hospital NHS Foundation Trust.

172.

High Court of Justice Queen's Bench Division31 March 2015Before: The Honourable Mr Justice Dingemans Date: 20/04/2015Crown copyright. A v East Kent Hospitals University NHS Foundation Trust [2015] EWHC 1038 (QB); [2015] Med LR 262. Mrs A v East Kent Hospitals University NHS Foundation Trust.

173.

Rogers v Whitaker [1993] 4 Med LR 79. 1993.

Chappel v Hart [1998] HCA 55, [1998] 72 Australian Law Journal Reports 1344, [1999] Lloyd's Law Reports (Medical) 223. Lloyd's law reports. Medical. London: LLP Professional Pub; 1998.

175.

Farrell AM, Brazier M. Not so new directions in the law of consent? Examining Montgomery v Lanarkshire Health Board'. Journal of Medical Ethics. 2016 Feb;42(2):85–88.

176.

Vickery S. Revisiting consent: communication of risks, medical paternalism versus patient autonomy. Coventry Law Journal [Internet]. 2015;20(1):40–45. Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI6CF45120306111E5BC5EF319DA6D29FE%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

177.

Johnston L. Informed consent and the lingering shadow of Chester v Afshar: Part 1. Scots Law Times [Internet]. Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FIF5F2C420148211E589A4A4CE49B8FEF0%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

178.

Johnston L. Informed consent and the lingering shadow of Chester v Afshar: Part 2. Scots Law Times [Internet]. Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI9FA593A01ACB11E58C72BE1A3BED0105%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

179.

Montgomery J, Montgomery E. Montgomery on informed consent: an inexpert decision? Journal of Medical Ethics. 2016 Feb;42(2):89–94.

180.

Hogg MA. Re-establishing Orthodoxy in the Realm of Causation. Edinburgh Law Review [Internet]. 2007;11(1):8–30. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/edinlr11&id=14

181.

Stapleton J. Occam's razor reveals an orthodox basis for Chester v Afshar. Law Quarterly Review [Internet]. (122):426-448. Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI92B0E190FC8011DAA462ECB8AE6EC68E%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

182.

Maclean A. From Sidaway to Pearce and beyond: is the legal regulation of consent any better following a quarter of a century of judicial scrutiny? Medical Law Review. 2012 Mar 1;20(1):108–129.

183.

Miola J. J.Miola 'On the Materiality of Risk: Paper Tigers and Panaceas' (2009) 17 Medical Law Review 76-108. Medical Law Review. 2008 Dec 15;17(1):76-108.

184.

Mason JK, Brodie D. Bolam, Bolam - wherefore are thou Bolam? Edinburgh Law Review [Internet]. 2005;9(2):298–306. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/edinlr9&id=304

185.

Maclean AR. The Doctrine of Informed Consent: Does It Exist and Has It Crossed the

Atlantic? Legal Studies [Internet]. 2004;24(3):386-413. Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/legstd24&id=398

186.

Hobson C. No (,) More Bolam Please: Montgomery v Lanarkshire Health Board. The Modern Law Review. 2016 May;79(3):488–503.

187.

Heywood R. R.I.P. Sidaway: Patient-Orientated Disclosure – A Standard Worth Waiting For? Medical Law Review. 2015 Sep;23(3):455–466.

188.

Reid E. E. Reid, 'Montgomery v Lanarkshire Health Board and the Rights of the Reasonable Patient (2015) Edinburgh Law Review 19(3) 360-366. Edinburgh Law Review. 2015 Sep;19(3):360-366.

189.

Junor G. Junor, G. 'Case Comment: Glancy v Southern General Hospital NHS Trust' SLT 2013, 35, 243-246. Scots Law Times [Internet]. 2013;35:243-246. Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.u k%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDoc ument%2FI6249E4D0429F11E3A5AADD6B3922D809%2FView%2FFullText.html%3FskipAn onymous%3Dtrue

190.

Sutherland L. Causation in consent cases: where are we now following Montgomery in the Supreme Court? Reparation Bulletin [Internet]. 2015;124:3-6. Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI3AAC716009F711E5BF9F8241925ED0A8%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

191.

Heywood R. Heywood, R. 'Subjectivity in risk disclosure: considering the position of the particular patient' (2009) 25(1) Professional Negligence 3-14. Professional Negligence [Internet]. 2009;25(1):3–14. Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI40B98B607B2D11DE93A8DB25A7A7B399%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

192.

Hogg M. M.Hogg 'Duties of care, causation, and the implications of Chester v Afshar.' (2005) 9(1) Edinburgh Law Review 156-167. Edinburgh Law Review [Internet]. 2005;9(1). Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false&handle=hein.journals/edinlr9&collection=journals&id=162

193.

Laurie GT, Harmon S, Dove ES, Mason JK, McCall Smith A. Mason & McCall Smith's law & medical ethics [Internet]. 11th edn. [Oxford]: Oxford University Press; 2019. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://dx.doi.org/10.1093/he/9780198826217.001.001

194.

Jackson E. Medical law: text, cases, and materials [Internet]. 5th edn. [Oxford]: Oxford University Press; 2019. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://dx.doi.org/10.1093/he/9780198825845.001.001

195.

Elliston S, Dawson Books. The best interests of the child in healthcare [Internet]. London: Routledge-Cavendish; 2007. Available from:

http://www.vlebooks.com/vleweb/product/openreader?id=GlasgowUni&isbn=9780203940464

196.

Family Law Reform Act 1969 S8. Family Law Reform Act 1969 c. 46.

Children Act 1989 c. 41 [Internet]. Children Act 1989 c. 41. Available from: https://www.legislation.gov.uk/ukpga/1989/41/data.xht?wrap=true

198.

Age of Legal Capacity (Scotland) Act 1991 [Internet]. Age of Legal Capacity (Scotland) Act 1991 c. 50. Available from: https://www.legislation.gov.uk/ukpga/1991/50/contents

199.

Children (Scotland) Act 1995 [Internet]. Children (Scotland) Act 1995 c. 36. Available from: https://www.legislation.gov.uk/ukpga/1995/36/contents

200.

Children's Hearings (Scotland) Act 2011 s186 Consent of child to medical examination or treatment [Internet]. Children's Hearings (Scotland) Act 2011 asp 1 (Scottish Act). Available from: https://www.legislation.gov.uk/asp/2011/1/section/186

201.

Re T (a minor) (Wardship Medical treatment) [1997] 1 WLR 242, [1997] 1 All ER 906, 35 BMLR 63 (CA). All England Law Reports. 1997.

202.

High Court of Justice Family Division15 August 2003Before: The Honourable Mr. Justice Johnson Date: Friday, 15th August 2003Crown copyright. Re: 'P' (Minor), Bro Morgannwg NHS Trust v 'P' and Others 15 August 2003 [2003] EWHC 2327 (Fam) 2003 WL 23508999. Re: 'P' (Minor), Bro Morgannwg NHS Trust v 'P' and Others.

203.

Re [(child's religious upbringing and circumcision) [2000] 1 FCR 307, 52 BMLR 82.

Re C (A Child) (Immunisation: Parental Rights) (2003) 73 BMLR 152 (CA).

205.

Re A (children) (conjoined twins: surgical separation) [2001] 57 BMLR 1 (CA).

206.

9High Court of Justice Family Division15 March 2006Before: Mr Justice Holman Date: 15th March 2006, Hearing dates: 2nd-9th March 2006Crown copyright. An NHS Trust v MB [2006] EWHC 507 (Fam); [2006] 2 FLR 319; [2006] Fam. Law 445. An NHS Trust v MB (A child represented by the Children and Family Court Advisory & Support Service as guardian ad litem), Mr & Mrs B (parents).

207.

High Court of Justice Family Division18 July 2007Before: Mr Justice Holman Date: 18/07/2007, Hearing dates: 4th, 5th and 9th July 2007Crown copyright. NHS Trust v A (A Child) [2007] EWHC 1696 (Fam); [2008] 1 FLR 70; [2008] 1 FCR 34. The NHS Trust v A (a child) (represented by an officer of the Children and Family Court Advisory & Support Service as child's guardian), Mrs A (child's mother), Mr A (child's father).

208.

Crown copyright. Portsmouth City Council v King 08 September 2014 [2014] EWHC 2964 (Fam). Portsmouth City Council v Naghmeh King, Brett King, Southampton Hospital Trust, Ashya King (by his children's guardian, John Mellor).

209.

Before: Sir James Munby President of the Family Division12 September 2016Crown copyright. Re E (A Child) (Medical Treatment [2016] EWHC 2267 (Fam). In the matter of E (A Child) (Medical Treatment).

210.

Finlayson, Applicant 1989 SCLR 601. Scottish Civil Law Reports.

Re O [1993] FLR 149. Family law reports. 1993.

212.

Re S (children) (specific issue order: religion, circumcision) [2005] 1 FLR 236. Family law reports. 1993.

213.

Before: Mr. Justice Keehan Date: Thursday, 13th February 2014Crown copyright. Birmingham Children's NHS Trust v B 13 February 2014 [2014] EWHC 531 (Fam). Birmingham Children's NHS Trust v B. & C.

214.

South Glamorgan County Council v B and W [1993] 11 BMLR 162.

215.

Re C (a child HIV test) [1999] 3 FCR 289.

216.

Re A [2000] 1 FLR 549.

217.

Lord Neuberger of Abbotsbury PSC, Baroness Hale of Richmond DPSC, Lord Clarke of Stone-cum-Ebony, Lord Carnwath, Lord Hughes JJSC 2013 July 24; Oct 30(c) Incorporated Council of Law Reporting for England & Wales. Aintree University Hospitals NHS Foundation Trust v James [2013] UKSC 67; [2014] AC 591; [2013] 3 WLR 1299; [2014] 1 All E.R. 573. *591 Aintree University Hospitals NHS Foundation Trust v James and others.

Dec 5, 6; 11; 17(c) Incorporated Council of Law Reporting for England & Wales. Simms v Simms and Another [2003] Fam 83 [2002] EWHC 2734. *83 Simms v Simms and Another.

219.

8High Court of Justice Family Division5 September 2013Before: The Honourable Mrs Justice Theis Date: 05/09/2013Crown copyright. F v F (MMR Vaccine) Also known as: F v F (Welfare of Children: Immunisation) 05 September 2013 [2013] EWHC 2683. F v F.

220.

9High Court of Justice Family Division17 December 2013Before: Mr Justice Holman (sitting in public)Date: Tuesday, 17th December 2013Crown copyright. Re TM (Medical Treatment) Family Division 17 December 2013 [2013] EWHC 4103 (Fam). Re TM.

221.

7/00Before the European Court of Human Rights9 March 2004(The President, Judge Pellonpää; Judges Bratza, Casadevall, Maruste, Pavlovschi, Borrego Borrego and Fura-Sandström) March 9, 2004. Glass v United Kingdom (2004) 39 EHRR 15 ECHR. *341 Glass v United Kingdom.

222.

Templeman and Dunn L.JJ. 1981 Aug. 7(c) Incorporated Council of Law Reporting for England & Wales. Re B (a minor) [1981] 1 WLR 1421, [1990] 3 All ER. *1421 in Re B. (A Minor) (Wardship: Medical Treatment).

223.

Re J (a minor) (wardship: medical treatment [1990] 3 All ER 930. All England Law Reports. 1990.

224.

Re J (a minor) [1991] 2 WLR 140, [1990] 3 All ER 930, 6 BMLR 25. All England Law Reports. 1990.

Portsmouth NHS Trust v Wyatt [2005] 1 FLR 21. Family law reports. 2004.

226.

High Court of Justice Family Division3 October 201Before: Mr Justice Moor Date: 3rd October 2014Crown copyright. Kirklees Council v RE [2014] EWHC 3182 (Fam); [2015] 1 FLR 1316; [2015] 2 FCR 438. Kirklees Council v RE, SE (by his Guardian, Steven Anderson), Leeds Teaching Hospital NHS Trust.

227.

High Court of Justice Family Division24 June 2015 Before: The Honourable Mr Justice MacDonald Date: 24/06/2015Crown copyright. Kings College Hospital NHS Foundation Trust v MH [2015] EWHC 1920 (Fam). Kings College Hospital NHS Foundation Trust v MH.

228.

Heywood R. Parents and medical professionals: conflict, cooperation, and best interests. Medical Law Review. 2012 Mar 1;20(1):29–44.

229.

Hagger L. The child as vulnerable patient: protection and empowerment. Farnham, Surrey, England: Ashgate Pub; 2009.

230.

Meyers DW. Wyatt and Winston-Jones: who decides to treat or let die seriously ill babies? Edinburgh Law Review [Internet]. 2005;9(2):307–316. Available from: http://ezproxy.lib.gla.ac.uk/login?url=http://heinonline.org/HOL/Page?public=false&handle=hein.journals/edinlr9&collection=journals&id=313

231.

Brazier M. An Intractable Dispute: When Parents and Professionals Disagree. Medical Law

Review. 2005 Aug 19;13(3):412-418.

232.

Department of Health, Seeking Consent: working with young people, 2001 [Internet]. Available from:

http://webarchive.nationalarchives.gov.uk/20120106063807/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4067204.pdf

233.

British Medical Association, Dawson Books. Consent, rights and choices in health care for children and young people [Internet]. London: BMJ Books; 2001. Available from: http://www.vlebooks.com/vleweb/product/openreader?id=GlasgowUni&isbn=97805853940 22

234.

Larcher V, Craig F, Bhogal K, Wilkinson D, Brierley J. Making decisions to limit treatment in life-limiting and life-threatening conditions in children: a framework for practice: Archives of Disease in Childhood. 2015 May;100(Suppl 2):s1–s23.

235.

Elliston S, Dawson Books. The best interests of the child in healthcare [Internet]. London: Routledge-Cavendish; 2007. Available from:

http://www.vlebooks.com/vleweb/product/openreader?id=GlasgowUni&isbn=9780203940464

236.

Gillick v West Norfolk and Wisbech Area Health Authority and another. All England Law Reports. 1985.

237.

Re E (a minor) (Wardship: Medical Treatment) [1993] 1 FLR 386. 1993.

Re J (a minor) - Refusal of Medical Treatment), New Law Journal, 1123, (1992). New Law Journal. London: Butterworths; 1992;(1123).

239.

Re R (a minor) [1991] 4 All ER 177. All England Law Reports. 1991.

240.

Re W (a minor) - Refusal of Medical Treatment, New Law Journal, 1124, (1992). The New law journal. London: Butterworth; 1992;(1124).

241.

Re M (medical treatment: consent) [1999] 2 FLR 1097. 1999.

242.

Re L (medical treatment: Gillick competency) [1998] 2 FLR 810. Family Law Reports. 1998.

243.

R v Secretary of State for Health and the Family Planning Association, ex p Axon [2006] 1 FCR 175.

244.

585TCourt of Protection and High Court of Justice, Family Division1 May 2014Before: Mr Justice Mostyn Date: 01/05/2014Crown copyright. Nottinghamshire Healthcare NHS Trust v RC, Court of Protection, 01 May 2014 [2014] EWCOP 1317; [2014] Med. L.R. 260. Nottinghamshire Healthcare NHS Trust v RC.

245.

Re JA (A Minor) (Medical Treatment: Child Diagnosed with HIV [2014] EWHC 1135 (Fam);

[2015] 2 F.L.R. 1030; [2015] Med. L.R. 26; [2015] Fam. Law 139. Family Law Reports. 2015.

246.

V v F 1991 SCLR 225. Scottish Civil Law Reports.

247.

Houston, applicant 1996 SCLR 943; (1996) 32 BMLR 93.

248.

Hagger L. Some Implications of the Human Rights Act 1998 for the Medical Treatment of Children. Medical Law International. 2003 Mar;6(1):25–51.

249.

Cave E. E, Cave (April 2013). Young People who Refuse Life Sustaining Treatment: A Briefing Paper on Current Law and the Need for Reform [Internet]. Available from: http://www.law.leeds.ac.uk/assets/files/research/cfig/Young-People-who-Refuse-Life-Sustain ing-Treatment-Briefing-Paper.pdf

250.

Cave E, Stavrinudes Z. E, Cave; Stavrinides, Z (April 2013). Medical Practitioners, Adolescents and Informed Consent Project Final Report. University of Leeds [Internet]. Available from:

http://www.law.leeds.ac.uk/assets/files/research/cfig/Medical-Practitioners-Adolescents-and-Informed-Consent-Final-Report-2013.pdf

251.

Gilmore S, Herring J. 'No' is the Hardest Word: Consent and Children's Autonomy, (2011) 23 (1) C.F.L.Q. 3-25,. Child and family law quarterly [Internet]. 2011;23(1):1-152. Available from:

http://ezproxy.lib.gla.ac.uk/login?url=http://onlineservices.jordanpublishing.co.uk/content/en/FAMILYpa#addHistory=true&filename=Family_CFLQONLINE_CFLQ_2011_01_1.dita.xml&docid=Family_CFLQONLINE_CFLQ_2011_01_1&inner_id=&tid=&query=&scope=&resource=&toc=false&eventType=lcContent.loadDoc

Family CFLQONLINE CFLQ 2011 01 1

252.

Cave E, Wallbank J. Minors' capacity to refuse treatment: a reply to Gilmore and Herring. Medical Law Review. 2012 Sep 1;20(3):423–449.

253.

Alderson, P. Consent to Children's Surgery and Intensive Medical Treatment. Journal of Law and Society [Internet]. 1990;17(1):52-65. Available from: http://ezproxy.lib.gla.ac.uk/login?url=http://heinonline.org/HOL/Page?public=false&handle=hein.journals/jlsocty17&id=60

254.

Garwood-Gowers A, Tingle J, Lewis T. Healthcare law: the impact of the Human Rights Act 1998. London: Cavendish; 2001.

255.

Norrie KMck. K. McK.Norrie, 'The Age of Legal Capacity (Scotland) Act 1991' (1991) 36 Journal of the Law Society of Scotland 434. The journal of the Law Society of Scotland. Edinburgh: Law Society of Scotland; 1991;36.

256.

Edwards L. The right to consent and the right to refuse: more problems with minors and medical consent. The Juridical review. Edinburgh: W. Green & Sons [etc.]; 1993;1993(1):52–73.

257.

Bridge C. C.Bridge, 'Adolescents and mental disorder: who consents to treatment?' (1997) 3 Medical Law International 51-74. Medical law international. [Bicester]: AB Academic; 1997;3:51-74.

Bridge C. Religious Beliefs and Teenage Refusal of Medical Treatment Case. Modern Law Review [Internet]. 1999;62(4):585–594. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/modlr62&collection=journals&id=599

259.

Cave E. Maximisation of Minors' Capacity. Child and Family Law Quarterly [Internet]. 2011;23(4):431–449. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false&handle=hein.journals/chilflq23&collection=journals&id=437

260.

Adolescents and informed consent | Nuffield Foundation [Internet]. Available from: http://www.nuffieldfoundation.org/adolescents-and-informed-consent

261.

Jackson E. Medical law: text, cases, and materials. 3rd ed. Oxford: Oxford University Press; 2013.

262.

Thomson LDG, Cherry J, McManus JJ. Mental health and Scots law in practice [Internet]. Second edition. Edinburgh: W. Green; 2014. Available from: https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FBrowse%2FHome%2FBooks%2FMentalHealth%3FskipAnonymous%3Dtrue

263

BMA. Medical treatment for adults with incapacity: guidance on ethical and medico-legal issues in Scotland [Internet]. 2009. Available from:

https://www.bma.org.uk/advice/employment/ethics/mental-capacity/mental-capacity-scotland-and-ni

264.

Cave E. Determining Capacity to Make Medical Treatment Decisions: Problems

Implementing the Mental Capacity Act 2005. Statute Law Review. 2015 Feb 1;36(1):86–106.

265.

Donnelly M. Best interests, patient participation and the Mental Capacity Act 2005. Medical Law Review. 2008 Dec 15;17(1):1–29.

266.

Donnelly M. Capacity assessment under the Mental Capacity Act 2005: Delivering on the functional approach? Legal Studies [Internet]. 2009 Sep;29(3):464–491. Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/P?h=hein.journals/legstd 29&i=468

267.

Heywood R. Revisiting Advance Decision making Under the Mental Capacity Act 2005: A Tale of Mixed Messages. Medical Law Review. 2015 Mar 1;23(1):81–102.

268.

Samanta J. Lasting Powers of Attorney for Healthcare under the Mental Capacity Act 2005: Enhanced Prospective Self Determination for Future Incapacity or a Simulacrum? Medical Law Review. 2009 Sep 1;17(3):377–409.

269.

Maclean AR. Advance Directives and the Rocky Waters of Anticipatory Decision-making. Medical Law Review. 2008 Jan 24;16(1):1–22.

270.

Maclean AR. Advance directives, future selves and decision-making. Medical Law Review. 2006 Sep 8;14(3):291–320.

Wrigley A. Proxy consent: moral authority misconceived. Journal of Medical Ethics. 2007 Sep 1;33(9):527–531.

272.

F v West Berkshire Health Authority [1990] 2 AC 1. *1 In Re F. (Mental Patient: Sterilisation).

273.

Re T (adult: refusal of medical treatment) [1992] 4 All ER 649. All England Law Reports. 1992

274.

Lord Donaldson of Lymington M.R., Butler-Sloss and Staughton L.JJ. 1992 July 22, 23, 24; 30(c) Incorporated Council of Law Reporting for England & Wales. Re T. (Adult: Refusal of Treatment) [1992] 3 W.L.R. 782. *95 In Re T.

275.

Re C (Adult - Refusal of Medical Treatment) [1994] 1 All ER 819.

276.

Thorpe J.1993 Oct. 8, 11; 14(c) Incorporated Council of Law Reporting for England & Wales. Re C (Adult: Refusal of Medical Treatment) [1994] 1 W.L.R. 290. *290 In re C. (Adult: Refusal of Treatment).

277.

Edwards R, Butterworths (Firm). Butterworths medico-legal reports. London: Butterworths; 1992.

278.

Kings College Hospital NHS Foundation Trust v C & Anor [2015] EWCOP 80 (30 November 2015).

Heart of England NHS Foundation Trust v JB [2014] EWCOP 342 (17 February 2014).

280.

SB (A Patient; Capacity To Consent To Termination), Re [2013] EWCOP 1417 (21 May 2013).

281.

Wye Valley NHS Trust v B (Rev 1) [2015] EWCOP 60 (28 September 2015).

282.

Surrey And Sussex Healthcare NHS Trust v Ms AB [2015] EWCOP 50 (31 July 2015).

283.

A NHS Trust v P& Anor [2013] EWHC 50 COP.

284.

A Local Authority v K [2013] EWCOP 242 (15 February 2013).

285.

The Mental Health Trust & Ors v DD & Anor [2015] EWCOP 4 (04 February 2015).

286.

1473High Court of Justice Court of Protection30 August 2012Before: Mrs. Justice Eleanor King Date: 30/08/2012Crown copyright. The NHS Trust v L & Others [2012] EWHC 2741 (COP). The NHS Trust v 'L' by her litigation Friend the Official Solicitor), The Psychiatric NHS Trust, Mrs 'L', Mr 'L'.

3212Court of Protection15 June 2012Before: The Honourable Mr Justice Peter Jackson Date: 15 June 2012Crown copyright. [A Local Authority v E and others [2012] EWHC 1639. A Local Authority, E (by her Litigation Friend the Official Solicitor) v A Health Authority, E's Parents.

288.

Re AA [2012] EWHC 4378 (COP).

289.

Royal Free NHS Foundation Trust v AB [2014] EWCOP 50.

290.

The X Primary Care Trust v XB & Anor [2012] EWHC 1390 (Fam).

291.

Newcastle Upon Tyne Hospitals Foundation Trust v LM [2014] EWCOP 454.

292.

Mental Capacity Act 2005. Mental Capacity Act 2005 c. 9.

293.

Mental Capacity Act 2005 Code of Practice (2007) [Internet]. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497253/Mental-capacity-act-code-of-practice.pdf

294.

Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations

2006. Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006/1832.

295.

Adults with Incapacity (Scotland) Act 2000. Adults with Incapacity (Scotland) Act 2000 asp 4 (Scotlish Act).

296.

Adults with Incapacity (Specified Medical Treatments) (Scotland) Regulations 2002/275. Adults with Incapacity (Specified Medical Treatments) (Scotland) Regulations 2002/275 (Scotlish SI).

297.

Adults with Incapacity (Specified Medical Treatments) (Scotland) Amendment Regulations 2002/302. Adults with Incapacity (Specified Medical Treatments) (Scotland) Amendment Regulations 2002/302 (Scottish SI).

298.

Adults with Incapacity (Scotland) Act 2000: Code of Practice (Third Edition) [Internet]. Available from: http://www.gov.scot/Publications/2010/10/20153801/0

299.

Stephens v Avery and others. All England Law Reports. 1988.

300.

W v Egdell and others. All England Law Reports. 1990.

301.

Re Z (a minor) (freedom of publication). All England Law Reports. 1995.

302.
Campbell v MGN Limited. Campbell v MGN Limited.
303.
Hunter v Mann. All England Law Reports. 1974.
304.
R (on the application of Axon) v Secretary of State for Health. *539 Regina (Axon) v Secretary of State for Health (Family Planning Association intervening).
305.
R v Department of Health ex parte Source Informatics. R. v Department of Health Ex p Source Informatics Ltd (No.1).
306.
R. v Department of Health Ex p. Source Informatics Ltd (No.1).
307.
Z v Finland (1998).
308.
MS v Sweden (1998).
309.
TV v Finland (21780/93).
210
310.

Palmer v Tees HA (2000).

25	Principles of Healthcare Law Universi	ity of Glasgow
Duncan v Medical Practition	ners Disciplinary Committee	e. New Zealand Law Reports. 1986.
311.		
Coco v A. N. Clark (Enginee	ers) LTD.	
312.		
Stephens v Avery and othe	rs. All England Law Reports	. 1988.
313.		
Attorney General v Guardia 1988.	an Newspapers and others (No 2). All England Law Reports.
314.		
Ackroyd v Mersey Care NH	S Trust.	
315.		
In Re A Local Authority (Inc	uiry: Restraint on Publicatio	on).
316.		
ABC v St George's Healthca	are NHS Trust (2015).	
317.		
ABC v St George's Healthca	are NHS Foundation Trust (2	017).
5		,

45/56

319.
Tarasoff v. Regents of University of California.
320.
C v Dr Cairns. Lloyd's law reports: Medical. London: LLP Professional Pub; 2003;90.
321.
Osman v UK.
322.
Reisner v. Regents of University of California.
323.
Myers v Queensbury 144 Cal App 3d 888; 193 Cal Rptr 733.
324.
Pd v Dr Nicholas Harvey.
325.
Smith v. Jones, 1998 CanLII 4689 (BC CA). 1998.
326.
Mason and McCall Smith's Law & medical ethics. Tenth edition. Oxford: Oxford University
Press; 2016.
327.

Jackson E. Medical law: text, cases, and materials. Fourth edition. Oxford: Oxford University Press; 2016.

328.

Herring J. Medical law and ethics [Internet]. 8th edition. Oxford: Oxford University Press; 2020. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://dx.doi.org/10.1093/he/9780198846956.001.001

329.

Kottow MH. Medical confidentiality: an intransigent and absolute obligation. Journal of Medical Ethics. 1986;12(3):117–122.

330.

Thompson IE. The nature of confidentiality. Journal of Medical Ethics. 1979 Jun 1;5(2):57–64.

331.

Roy Gilbar. Medical confidentiality and communication with the patient's family: legal and practical perspectives [Internet]. 2012. p. 139–256. Available from: http://ezproxy.lib.gla.ac.uk/login?url=http://heinonline.org/HOL/Page?public=false&handle=hein.journals/chilflq24&id=203

332.

Case P. Confidence Matters: The Rise and Fall of Informational Autonomy in Medical Law. Medical Law Review. 2003 Jun 1;11(2):208–236.

333.

Cooper v Turrell.

Loughrey J. Can You Keep a Secret - Children, Human Rights, and the Law of Medical Confidentiality. Child and Family Law Quarterly [Internet]. 2008;(3). Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/chilflq20&id=312

335.

Dute J. Child Abuse, Human Rights and the Role of the Doctor. European Journal of Health Law [Internet]. 2009; Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?public=false& handle=hein.journals/eurjhlb16&id=127

336.

Reversing the retreat from Gillick? R (Axon) v Secretary of State for Health. Child and Family Law Quarterly [Internet]. Available from:

https://plus-lexis-com.ezproxy.lib.gla.ac.uk/api/document/collection/uk/id/5N3S-JHM1-DYK7-S0XN-00000-00?context=1001073&identityprofileid=32QDCK57563

337.

British Medical Association. Confidentiality and Disclosure of Health Information Tool Kit [Internet]. Available from:

https://www.bma.org.uk/-/media/files/pdfs/.../ethics/confidentialitytoolkit_full.pdf?

338.

Confidentiality: good practice in handling patient information (2017) [Internet]. General Medical Council; Available from:

https://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp

339.

Decision tools and other learning materials [Internet]. General Medical Council; 2013. Available from: https://www.gmc-uk.org/guidance/20473.asp

340.

Department of Health. Confidentiality: NHS Code of Practice [Internet]. Available from: https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice

Best practice guidance for doctors and other health professionals on the provision of advice and treatment to young people under 16 on contraception, sexual and reproductive health: Department of Health - Publications [Internet]. Available from: http://webarchive.nationalarchives.gov.uk/20121202102500/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH 4086960

342.

United Kingdom. Medical Negligence: Fact, Breach and Bolitho. Medical Law Review. 1999 Sep 1;7(3):327–356.

343.

Gilbar R, Foster C. It's arrived! Relational Autonomy Comes to Court: ABC v ST George's Healthcare NHS Trust [2017] EWCA 336. Medical Law Review. 2017 Oct 17;

344.

Gilbar R, Foster C. Doctors' Liability to the Patient's Relatives in Genetic Medicine. Medical Law Review. 2015 Oct 3;

345.

Mackay RR. Dangerous Patients: Third Party Safety and Psychiatrists' Duties - Walking the Tarasoff Tightrope. Medicine, Science and the Law [Internet]. 1990; Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?handle=hein.journals/mdsclw30&size=2&collection=journals&id=52

346.

Almason AL. Personal Liability Implications of the Duty to Warn Are Hard Pills to Swallow: From Tarasoff To Hutchinson v. Patel and Beyond. Journal of Contemporary Health Law and Policy [Internet]. 1997; Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://www.heinonline.org/HOL/Page?handle=hein.journals/jchlp13&start_page=471&collection=journals&id=505

Jones C. Tightropes and Tragedies: 25 years of Tarasoff. Medicine, Science and the Law [Internet]. 2003 Jan;43(1):13–22. Available from: https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/P?h=hein.journals/mdsclw43&i=13

348.

Gavaghan C. A Tarasoff for Europe? A European Human Rights perspective on the duty to protect. International Journal of Law and Psychiatry. 2007 May;30(3):255–267.

349.

Gavaghan C. Dangerous Patients and Duties to Warn: a European Human Rights Perspective. European Journal of Health Law. 2007 Jul 1;14(2):113–130.

350.

Information Commissioner's Office [Internet]. ICO; 2017. Available from: https://ico.org.uk/

351.

Data Protection Act 1998.

352.

Health and Social Care Act 2001 c. 15 Arrangement of Act [Internet]. Health and Social Care Act 2001 c. 15. Available from:

https://www.legislation.gov.uk/ukpga/2001/15/contents

353.

Human Rights Act 1998. Human Rights Act 1998 c. 42.

European Convention on Human Rights.

355.

*R v Dica [2004] 3 All E.R. 593. All England Law Reports. 2004.

356.

*R v Dica (2004) 77 B.M.L.R. 243 (CA).

357.

/02181/C1Court of Appeal Criminal Division27 July 2005Before: Lord Justice Judge, Mrs Justice Hallett, Mrs Justice Rafferty Wednesday 27th July, 2005Crown copyright. *R v Dica, [2005] EWCA Crim 2304. Regina v Mohammed Dica.

358.

03166 D4Court of Appeal (Criminal Division)17 March 2005Before: Lord Justice Judge Deputy Chief Justice of England and Wales Mr Justice Grigson and His Honour Judge Radford Thursday 17th March, 2005Crown copyright. *R v Konzani (Feston) [2005] EWCA Crim 706. R v Feston Konzani.

359.

05243 C2Court of Appeal (Criminal Division)8 May 2014Before: Lord Justice Treacy Mr Justice Bean and His Honour Judge Lakin Date: Thursday 8th May 2014Crown copyright. *R v Golding (David) [2014] EWCA Crim 889. Regina v David Golding.

360.

National Aids Trust v National Health Service Commissioning Board (NHS England) (Rev 1) [2016] EWHC 2005 (Admin) (02 August 2016).

361.

*HMA v Kelly Friday, 23rd February 2001 (unreported). Available from: https://news.bbc.co.uk/1/hi/scotland/1186093.stm

*HMA v Giovanni Mola 5th April 2007, (unreported). Available from: https://news.bbc.co.uk/1/hi/scotland/edinburgh_and_east/6528885.stm

363.

*HMA v Giovanni Mola 5th April 2007, (unreported). Available from: https://news.bbc.co.uk/1/hi/scotland/edinburgh and east/6338777.stm

364.

*HMA v Devereaux 25th February 2010, (unreported). Available from: https://news.bbc.co.uk/1/hi/scotland/north_east/8519593.stm

365.

Italian man who intentionally infected more than 30 women with HIV jailed. Available from: http://www.independent.co.uk/news/world/europe/italian-man-hiv-infected-girlfriends-jailed -sentence-valentino-tullato-a8024166.html

366.

Hairdresser accused of giving men HIV told one 'I ripped the condom. Burn. I got you', court hears. Available from:

http://www.independent.co.uk/news/uk/crime/hiv-hairdresser-grindr-victims-trial-burn-i-got-you-a7992871.html

367.

California reduces penalty for knowingly exposing someone to HIV. Available from: http://www.independent.co.uk/california-hiv-infecting-felony-misdemeanor-a7988261.html

368.

People on HIV medication cannot transmit the virus, declares CDC. Available from: http://www.independent.co.uk/news/world/americas/hiv-medication-people-on-it-cannot-tra

nsmit-virus-cdc-treatment-aids-a7990286.html

369.

CPS: Policy for prosecuting cases involving the intentional or reckless sexual transmission of infection [Internet]. Available from:

http://www.cps.gov.uk/publications/prosecution/sti.html

370.

Crown Office and Procurator Fiscal Service. Prosecution policy on the sexual transmission of infection [Internet]. Available from:

http://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Guidelines_and_Policy/Prosecution%20policy%20on%20the%20sexual%20transmission%20of%20infection%20-%20July%2014.pdf

371.

Law Commission. Reform of Offences Against the Person Law Com No 361 2 November 2015 [Internet]. Available from:

https://www.gov.uk/government/publications/reform-of-offences-against-the-person

372.

Weait M. Intimacy and responsibility: the criminalisation of HIV transmission [Internet]. 1st ed. Abingdon: Routledge-Cavendish; 2007. Available from:

https://www.vlebooks.com/vleweb/product/openreader?id=GlasgowUni&isbn=9780203937938

373.

Stanton C. Maternal transmission of HIV infection: a crime against my child? Journal of Medical Ethics. 2015 May;41(5):375–378.

374.

Ryan S. Disclosure and HIV Transmission. The Journal of Criminal Law. 2015 Dec;79(6):395–410.

Cowan S. Offenses of Sex or Violence? Consent, Fraud, and HIV Transmission. New Criminal Law Review. 2014 Jan 1;17(1):135–161.

376.

Weait M. Criminal Law and the Sexual Transmission of HIV: R v Dica. Modern Law Review. 2005 Jan;68(1):121–134.

377.

Matthew Weait. Knowledge, autonomy and consent: R. v Konzani. Criminal Law Review [Internet]. 2005; Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI78F32F40E45411DA92358E85EE602D8A%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

378.

Cherkassky L. Being Informed: The Complexities of Knowledge, Deception and Consent When Transmitting HIV. The Journal of Criminal Law. 2010 Jun;74(3):242–258.

379.

Samantha Ryan. Reckless transmission of HIV: knowledge and culpability. Criminal Law Review [Internet]. Available from:

https://signon.thomsonreuters.com/federation/UKF?entityID=https%3A%2F%2Fidp.gla.ac.uk%2Fshibboleth&returnto=https%3A%2F%2Fuk.practicallaw.thomsonreuters.com%2FDocument%2FI37B9B0A057F211DB919FA1123923A50B%2FView%2FFullText.html%3FskipAnonymous%3Dtrue

380.

Munro V E. On Responsible Relationships and Irresponsible Sex - Criminalising the Reckless Transmission of HIV R v Dica and R v Konzani. Child and Family Law Quarterly [Internet]. 2007:(1). Available from:

https://ezproxy.lib.gla.ac.uk/login?url=https://heinonline.org/HOL/Page?handle=hein.journals/chilflg19&size=2&collection=journals&id=112

The Juridical review. Edinburgh: W. Green & Sons [etc.];

382.

Hughes D. Condom Use, Viral Load and the Type of Sexual Activity as Defences to the Sexual Transmission of HIV. The Journal of Criminal Law. 2013 Apr;77(2):136–150.

383.

Chalmers J. Legal responses to HIV and AIDS [Internet]. Oxford: Hart Publishing Ltd; 2008. Available from:

https://ezproxy.lib.gla.ac.uk/login?url=http://dx.doi.org/10.5040/9781474200615?locatt=label:secondary_bloomsburyCollections

384.

Tadros V. Recklessness, Consent and the Transmission of HIV. Edinburgh Law Review. 2001 Sep;5(3):371–380.

385.

JR Spencer. Retrial for reckless infection. The New Law Journal [Internet]. 154(7129). Available from:

https://plus-lexis-com.ezproxy.lib.gla.ac.uk/api/document/collection/uk/id/4FFX-CDX0-TWW R-G1FF-00000-00?context=1001073&identityprofileid=32QDCK57563

386.

JR Spencer. Liability for reckless infection—part 1. The New Law Journal [Internet]. 154(7119). Available from:

https://plus-lexis-com.ezproxy.lib.gla.ac.uk/api/document/collection/uk/id/4FFX-CDX0-TWW R-G0YB-00000-00?context=1001073&identityprofileid=32QDCK57563

387.

JR Spencer. Liability for reckless infection—part 2. The New Law Journal [Internet]. 154(7121). Available from:

https://plus-lexis-com.ezproxy.lib.gla.ac.uk/api/document/collection/uk/id/4FFX-CF00-TWW

R-G01J-00000-00?context=1001073&identityprofileid=32QDCK57563

388.

Mawhinney GR. To Be III or to Kill: The Criminality of Contagion. The Journal of Criminal Law. 2013 Jun;77(3):202–214.