

Principles of Healthcare Law

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1.

Laurie, G.T., Harmon, S., Porter, G., Mason, J.K., Mason, J.K., McCall Smith, A.: Mason and McCall Smith's Law & medical ethics, Chapter 1. Oxford University Press, Oxford (2016).

2.

Jackson, E.: Medical law: text, cases, and materials, Chapter 1. Oxford University Press, Oxford (2016).

3.

Gillon, R.: Medical ethics: four principles plus attention to scope. BMJ. 309, 184–184 (1994). <https://doi.org/10.1136/bmj.309.6948.184>.

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. 38, 195–196 (2012). <https://doi.org/10.1136/medethics-2011-100136>.

5.

Gillon, R.: When four principles are too many: a commentary. Journal of Medical Ethics. 38, 197–198 (2012). <https://doi.org/10.1136/medethics-2011-100385>.

6.

Foster, C.: Autonomy in the Medico-Legal Courtroom: A Principle fit for Purpose? Medical Law Review. 22, 48–63 (2013). <https://doi.org/10.1093/medlaw/fwt039>.

7.

Foster, C., Miola, J.: Who's in Charge? The Relationship Between Medical Law, Medical Ethics, and Medical Morality? Medical Law Review. 23, 505–530 (2015). <https://doi.org/10.1093/medlaw/fwv004>.

8.

Laurie, G.T., Harmon, S., Porter, G., Mason, J.K., Mason, J.K., McCall Smith, A.: Mason and McCall Smith's Law & medical ethics, Chapter 5. Oxford University Press, Oxford (2016).

9.

Jackson, E.: Medical law: text, cases, and materials, Chapter 3. Oxford University Press, Oxford (2016).

10.

Mulheron, R.: Trumping Bolam: A Critical Legal Analysis of Bolitho's "Gloss". The Cambridge Law Journal. 69, 609–638 (2010). <https://doi.org/10.1017/S0008197310000826>.

11.

Miola, J.: Bolam v Friern Hospital Management Committee [1957]: Medical Law's Accordion. In: Landmark cases in medical law. Hart Pub, Oxford (2015).

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. 8, 85–114 (2000). <https://doi.org/10.1093/medlaw/8.1.85>.

18.

Heywood, R.: The logic of Bolitho. Professional Negligence. 22, (2006).

19.

Maclean, A.: Beyond Bolam and Bolitho. Medical Law International. 5, 205–230 (2002). <https://doi.org/10.1177/096853320200500305>.

20.

Stewart, A.: 'Best interests': towards a more patient-friendly law? Edinburgh Law Review. 11, (2007).

21.

Teff, H.: The standard of care in medical negligence - moving on from Bolam? Oxford Journal of Legal Studies. 18, 473–484 (1998). <https://doi.org/10.1093/ojls/18.3.473>.

22.

Are the Courts Excessively Deferential to the Medical Profession? *Medical Law Review*. 9, 1-16 (2001). <https://doi.org/10.1093/medlaw/9.1.1>.

23.

Amirthalingam, K.: Causation and the medical duty to refer. *Law Quarterly Review*. (2012).

24.

Foster, C.: A material contribution to forensic clarity. *The New Law Journal*. 166,.

25.

Hobson, C.: *Williams v the Bermuda Hospitals Board: Pro-Patient, but for Ambiguities Which Remain*. *Medical Law Review*. 25, 126-137 (2017).
<https://doi.org/10.1093/medlaw/fww041>.

26.

Maskrey, S., Edia, W.: *Chester v Afshar and Gregg v Scott: mixed messages for lawyers*. *Journal of Personal Injury Law*. 3, 205-223 (2005).

27.

Green, S.: Contributing to the risk of confusion? Causation in the Court of Appeal. *Law Quarterly Review*. (2009).

28.

Stauch, M.: 'Material Contribution' as a Response to Causal Uncertainty: Time for a Rethink. *The Cambridge Law Journal*. 68, (2009).
<https://doi.org/10.1017/S0008197309000269>.

29.

Turton, G.: A Case For Clarity in Causation? Medical Law Review. 17, 140–147 (2008).
<https://doi.org/10.1093/medlaw/fwn029>.

30.

Roe v Ministry of Health.

31.

Hucks v Cole.

32.

Whitehouse v Jordan.

33.

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.

Marriott v West Midlands RHA.

37.

Wisniewski v Central Manchester Health Authority.

38.

Penney v East Kent HA.

39.

Morris (A Child by his Mother & Litigation Friend) v Blackpool Victoria Hospital NHS Trust.

40.

Birch v University College London NHS Trust.

41.

Burne v A.

42.

Honisz v Lothian Health Board.

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.

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.

61.

Laurie, G.T., Harmon, S., Porter, G., Mason, J.K., Mason, J.K., McCall Smith, A.: Mason and McCall Smith's Law & medical ethics, Chapter 5, 'Criminal Negligence' pp 174-178. Oxford University Press, Oxford (2016).

62.

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

63.

Alghrani, A., Bennett, R., Ost, S. eds: Bioethics, medicine, and the criminal law: Volume 1: The criminal law and bioethical conflict : walking the tightrope. Cambridge University Press, Cambridge (2013).

64.

Brazier, M., Alghrani, A.: Fatal medical malpractice and criminal liability. Professional Negligence. 25, (2009).

65.

Quick, O.: Medicine, Mistakes and Manslaughter: A Criminal Combination? The Cambridge Law Journal. 69, (2010). <https://doi.org/10.1017/S0008197310000231>.

66.

Quick, O.: Expert Evidence and Medical Manslaughter: Vagueness in Action. Journal of Law and Society. 38, 496–518 (2011). <https://doi.org/10.1111/j.1467-6478.2011.00556.x>.

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.

73.

Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, ss 26-28.

74.

Kazarian, M., Griffiths, D., Brazier, M.: Criminal responsibility for medical malpractice in France. *Professional Negligence*. 27, (2011).

75.

Lodge, A.: Gross Negligence Manslaughter on the Cusp. *The Journal of Criminal Law*. 81, 125-142 (2017). <https://doi.org/10.1177/0022018317694719>.

76.

Quick, O.: Prosecuting 'Gross' Medical Negligence: Manslaughter, Discretion, and the Crown Prosecution Service. *Journal of Law and Society*. 33, 421-450 (2006). <https://doi.org/10.1111/j.1467-6478.2006.00365.x>.

77.

McCall-Smith, A.: Criminal Negligence and the Incompetent Doctor. *Medical Law Review*. 1, 336-349 (1993). <https://doi.org/10.1093/medlaw/1.3.336>.

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. 37, 1–18 (2016).
<https://doi.org/10.1093/slr/hmv020>.

81.

The new criminal sanctions of wilful neglect or ill-treatment - The MDU,
<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,
http://www.parliament.scot/S4_HealthandSportCommittee/Inquiries/HTNC017_-_BMA_Scotland.pdf.

83.

Laurie, G.T., Harmon, S., Porter, G., Mason, J.K., Mason, J.K., McCall Smith, A.: Mason and McCall Smith's Law & medical ethics, Chapter 5.01-5.17. Oxford University Press, Oxford (2016).

84.

Jackson, E.: Medical law: text, cases, and materials, pp 169-174. Oxford University Press, Oxford (2016).

85.

Douglas, T.: Medical Injury Compensation: Beyond 'No-Fault'. Medical Law Review. 17, 30–51 (2008). <https://doi.org/10.1093/medlaw/fwn022>.

86.

Farrell, A.-M., 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, P.R. and Laurie, G.T. (eds.) Inspiring a medico-legal revolution: essays in honour of Sheila McLean. Ashgate, Farnham, Surrey (2015).

87.

Harris, J.: The injustice of compensation for victims of medical accidents. BMJ. 314, 1821-1821 (1997). <https://doi.org/10.1136/bmj.314.7097.1821>.

88.

Oliphant, K.: Beyond Misadventure: Compensation for Medical Injuries in New Zealand. Medical Law Review. 15, 357-391 (2007). <https://doi.org/10.1093/medlaw/fwm016>.

89.

Quick, O.: Patient safety and the problem and potential of law. Professional Negligence. 28, (2012).

90.

Volume 1 - No Fault Compensation Review Group Report and Recommendations, <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, <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, <https://consultations.dh.gov.uk/rapid-resolution-and-redress/maternity-litigation/>.

93.

Dauer, E.A.: Strong reciprocity and accountability: behavioural analysis of patients' legal responses to medical injury. *International Journal of Law in Context*. 2, (2006).
<https://doi.org/10.1017/S1744552306003041>.

94.

Hedley, S.: Making sense of negligence. *Legal Studies*. 36, 491–512 (2016).
<https://doi.org/10.1111/lest.12121>.

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

96.

Consultation Report - Consultation on recommendations for no-fault compensation in Scotland for injuries resulting from clinical treatment,
<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",
<http://www.gov.scot/Publications/2013/02/4882/downloads>.

98.

Rapid resolution and redress scheme for severe birth injury - GOV.UK,
<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. Oxford University Press, Oxford (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'. In: Medicinal product liability and regulation. Hart Publishing, Oxford (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).

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*. 6, 309–322 (2015). <https://doi.org/10.1017/S1867299X00004633>.

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). <https://doi.org/10.2139/ssrn.2639582>.

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*. 76, 233–236 (2017). <https://doi.org/10.1017/S0008197317000472>.

112.

Harvey, M.: *Wilkes v Depuy International Ltd*. *Journal of Personal Injury Law*. 3, C128–C138 (2017).

113.

Howells, G., Mildred, M.: Infected Blood: Defect and Discoverability A First Exposition of the EC Product Liability Directive. *The Modern Law Review*. 65, 95–106 (2002). <https://doi.org/10.1111/1468-2230.00369>.

114.

Laing, J.: Consumer Protection Act 1987: Liability for Defective Products. *Medical Law Review*. 10, 82–88 (2002). <https://doi.org/10.1093/medlaw/10.1.82>.

115.

Pugh, C., Pilgerstorfer, M.: The development risk defence - knowledge, discoverability and creative leaps. *Journal of Personal Injury Law*. 4, 258–269 (2004).

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*. 70, 962–978 (2007). <https://doi.org/10.1111/j.1468-2230.2007.00672.x>.

117.

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). <https://doi.org/10.1093/shm/hkv140>.

118.

Cave, E.: Voluntary vaccination: the pandemic effect. *Legal Studies*. 37, 279–304 (2017). <https://doi.org/10.1111/lest.12144>.

119.

Laurie, G.T., Harmon, S., Porter, G., Mason, J.K., Mason, J.K., McCall Smith, A.: *Mason and McCall Smith's Law & medical ethics*. Oxford University Press, Oxford (2016).

120.

Jackson, E.: *Medical law: text, cases, and materials*. Oxford University Press, Oxford (2016).

121.

Statutory duty of candour in secondary care - The MDU, <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. (1992).

124.

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.

3373 High Court of Justice Family Division 1 May 2012 Before: Mrs. Justice Theis 1st May 2012 Crown copyright: X Primary Care Trust v XB [2012] EWHC 1390.

127.

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

128.

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

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).

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.

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.

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.

139.

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

140.

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

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.

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

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).

145.

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

146.

Feng, T.K.: Failure of medical advice: trespass or negligence. *Legal Studies*. 7, (1987).

147.

Komrad, M.S.: A defence of medical paternalism: maximising patient's autonomy. *Journal of Medical Ethics*. 9, 38–44 (1983). <https://doi.org/10.1136/jme.9.1.38>.

148.

Wicks, E.: The Right to Refuse Medical Treatment under the European Convention on Human Rights. *Medical Law Review*. 9, 17–40 (2001). <https://doi.org/10.1093/medlaw/9.1.17>.

149.

MacLean, A.R.: Consent, sectionalisation and the concept of medical procedure. *Journal of Medical Ethics*. 28,.

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*. 101, 432–453 (1985).

151.

Beauchamp, T.L., Childress, J.F.: *Principles of biomedical ethics*. Oxford University Press,

New York, New York (2013).

152.

BBC News | SCOTLAND | Surgeon defends amputations, 31 January, 2000,
<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),
<http://www.cirp.org/library/legal/BMA-human-rights/>.

154.

GMC: Consent: patients and doctors making decisions together (2008),
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.,
<https://www.gov.uk/government/publications/reference-guide-to-consent-for-examination-or-treatment-second-edition>.

156.

BMA - Consent tool kit,
<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), http://www.sehd.scot.nhs.uk/mels/HDL2006_34.pdf, (2006).

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. 9, 36–43 (2009).
<https://doi.org/10.1080/15265160802588194>.

159.

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

167.

Newell and Newell v Goldenberg [1995] 6 Med LR 371. (1995).

168.

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

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.

172.

High Court of Justice Queen's Bench Division 31 March 2015 Before: The Honourable Mr Justice Dingemans Date: 20/04/2015 Crown copyright: A v East Kent Hospitals University NHS Foundation Trust [2015] EWHC 1038 (QB); [2015] Med LR 262.

173.

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

174.

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

175.

Farrell, A.M., Brazier, M.: Not so new directions in the law of consent? Examining Montgomery v Lanarkshire Health Board'. Journal of Medical Ethics. 42, 85–88 (2016). <https://doi.org/10.1136/medethics-2015-102861>.

176.

Vickery, S.: Revisiting consent: communication of risks, medical paternalism versus patient autonomy. Coventry Law Journal. 20, 40–45 (2015).

177.

Johnston, L.: Informed consent and the lingering shadow of Chester v Afshar: Part 1. Scots Law Times.

178.

Johnston, L.: Informed consent and the lingering shadow of Chester v Afshar: Part 2. Scots Law Times.

179.

Montgomery, J., Montgomery, E.: Montgomery on informed consent: an inexperienced decision? Journal of Medical Ethics. 42, 89–94 (2016). <https://doi.org/10.1136/medethics-2015-102862>.

180.

Hogg, M.A.: Re-establishing Orthodoxy in the Realm of Causation. Edinburgh Law Review. 11, 8–30 (2007).

181.

Stapleton, J.: Occam's razor reveals an orthodox basis for Chester v Afshar. Law Quarterly Review. 426-448.

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. 20, 108-129 (2012). <https://doi.org/10.1093/medlaw/fwr040>.

183.

Miola, J.: J.Miola 'On the Materiality of Risk: Paper Tigers and Panaceas' (2009) 17 Medical Law Review 76-108. Medical Law Review. 17, 76-108 (2008). <https://doi.org/10.1093/medlaw/fwn024>.

184.

Mason, J.K., Brodie, D.: Bolam, Bolam - wherefore are thou Bolam? Edinburgh Law Review. 9, 298-306 (2005).

185.

Maclean, A.R.: The Doctrine of Informed Consent: Does It Exist and Has It Crossed the Atlantic? Legal Studies. 24, 386-413 (2004).

186.

Hobson, C.: No (,) More Bolam Please: Montgomery v Lanarkshire Health Board. The Modern Law Review. 79, 488-503 (2016). <https://doi.org/10.1111/1468-2230.12194>.

187.

Heywood, R.: R.I.P. Sidaway: Patient-Orientated Disclosure – A Standard Worth Waiting For? Medical Law Review. 23, 455-466 (2015). <https://doi.org/10.1093/medlaw/fwv024>.

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. 19, 360-366 (2015). <https://doi.org/10.3366/elr.2015.0295>.

189.

Junor, G.: Junor, G. 'Case Comment: Glancy v Southern General Hospital NHS Trust' SLT 2013, 35, 243-246. Scots Law Times. 35, 243-246 (2013).

190.

Sutherland, L.: Causation in consent cases: where are we now following Montgomery in the Supreme Court? Reparation Bulletin. 124, 3-6 (2015).

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. 25, 3-14 (2009).

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. 9, (2005).

193.

Laurie, G.T., Harmon, S., Dove, E.S., Mason, J.K., McCall Smith, A.: Mason & McCall Smith's law & medical ethics. Oxford University Press, [Oxford] (2019).

194.

Jackson, E.: Medical law: text, cases, and materials. Oxford University Press, [Oxford] (2019).

195.

Elliston, S., Dawson Books: The best interests of the child in healthcare.

Routledge-Cavendish, London (2007).

196.

Family Law Reform Act 1969 s8.

197.

Children Act 1989 c. 41.

198.

Age of Legal Capacity (Scotland) Act 1991.

199.

Children (Scotland) Act 1995.

200.

Children's Hearings (Scotland) Act 2011 s186 Consent of child to medical examination or treatment.

201.

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

202.

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

203.

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

204.

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.

9 High Court of Justice Family Division 15 March 2006 Before : Mr Justice Holman Date: 15th March 2006, Hearing dates: 2nd–9th March 2006 Crown copyright: An NHS Trust v MB [2006] EWHC 507 (Fam); [2006] 2 FLR 319; [2006] Fam. Law 445.

207.

High Court of Justice Family Division 18 July 2007 Before: Mr Justice Holman Date: 18/07/2007, Hearing dates: 4th, 5th and 9th July 2007 Crown copyright: NHS Trust v A (A Child) [2007] EWHC 1696 (Fam); [2008] 1 FLR 70; [2008] 1 FCR 34.

208.

Crown copyright: Portsmouth City Council v King 08 September 2014 [2014] EWHC 2964 (Fam).

209.

Before: Sir James Munby President of the Family Division 12 September 2016 Crown copyright: Re E (A Child) (Medical Treatment) [2016] EWHC 2267 (Fam).

210.

Finlayson, Applicant 1989 SCLR 601.

211.

Re O [1993] FLR 149. (1993).

212.

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

213.

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

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.

218.

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.

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.

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).

221.

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

222.

Templeman and Dunn L.J. 1981 Aug. 7(c) Incorporated Council of Law Reporting for England & Wales: Re B (a minor) [1981] 1 WLR 1421, [1990] 3 All ER.

223.

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

224.

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

225.

Portsmouth NHS Trust v Wyatt [2005] 1 FLR 21. (2004).

226.

High Court of Justice Family Division 3 October 2011 Before: Mr Justice Moor Date: 3rd October 2014 Crown copyright: Kirklees Council v RE [2014] EWHC 3182 (Fam); [2015] 1 FLR 1316; [2015] 2 FCR 438.

227.

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

228.

Heywood, R.: Parents and medical professionals: conflict, cooperation, and best interests. Medical Law Review. 20, 29–44 (2012). <https://doi.org/10.1093/medlaw/fwr037>.

229.

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

230.

Meyers, D.W.: Wyatt and Winston-Jones: who decides to treat or let die seriously ill babies? Edinburgh Law Review. 9, 307–316 (2005).

231.

Brazier, M.: An Intractable Dispute: When Parents and Professionals Disagree. Medical Law Review. 13, 412–418 (2005). <https://doi.org/10.1093/medlaw/fwi029>.

232.

Department of Health, Seeking Consent: working with young people, 2001, 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. BMJ Books, London (2001).

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. 100, s1–s23 (2015).
<https://doi.org/10.1136/archdischild-2014-306666>.

235.

Elliston, S., Dawson Books: The best interests of the child in healthcare. Routledge-Cavendish, London (2007).

236.

Gillick v West Norfolk and Wisbech Area Health Authority and another. (1985).

237.

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

238.

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

239.

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

240.

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

241.

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

242.

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

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. (2015).

246.

V v F 1991 SCLR 225.

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. 6, 25-51 (2003).
<https://doi.org/10.1177/096853320300600103>.

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, <http://www.law.leeds.ac.uk/assets/files/research/cfig/Young-People-who-Refuse-Life-Sustaining-Treatment-Briefing-Paper.pdf>.

250.

Cave, E., Stavrinides, Z.: E, Cave; Stavrinides, Z (April 2013). Medical Practitioners, Adolescents and Informed Consent Project Final Report. University of Leeds, <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. 23, 1-152 (2011).

252.

Cave, E., Wallbank, J.: Minors' capacity to refuse treatment: a reply to Gilmore and Herring. Medical Law Review. 20, 423-449 (2012). <https://doi.org/10.1093/medlaw/fws003>.

253.

Alderson, P.: Consent to Children's Surgery and Intensive Medical Treatment. Journal of Law and Society. 17, 52-65 (1990).

254.

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

255.

Norrie, K.Mck.: 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. 36,

(1991).

256.

Edwards, L.: The right to consent and the right to refuse: more problems with minors and medical consent. *The Juridical review*. 1993, 52–73 (1993).

257.

Bridge, C.: C.Bridge, 'Adolescents and mental disorder: who consents to treatment?' (1997) 3 *Medical Law International* 51-74. *Medical law international*. 3, 51–74 (1997).

258.

Bridge, C.: Religious Beliefs and Teenage Refusal of Medical Treatment Case. *Modern Law Review*. 62, 585–594 (1999).

259.

Cave, E.: Maximisation of Minors' Capacity. *Child and Family Law Quarterly*. 23, 431–449 (2011).

260.

Adolescents and informed consent | Nuffield Foundation,
<http://www.nuffieldfoundation.org/adolescents-and-informed-consent>.

261.

Jackson, E.: *Medical law: text, cases, and materials*. Oxford University Press, Oxford (2013).

262.

Thomson, L.D.G., Cherry, J., McManus, J.J.: *Mental health and Scots law in practice*. W. Green, Edinburgh (2014).

263.

BMA: Medical treatment for adults with incapacity: guidance on ethical and medico-legal issues in Scotland,
<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*. 36, 86–106 (2015).
<https://doi.org/10.1093/slr/hmu034>.

265.

Donnelly, M.: Best interests, patient participation and the Mental Capacity Act 2005. *Medical Law Review*. 17, 1–29 (2008). <https://doi.org/10.1093/medlaw/fwn021>.

266.

Donnelly, M.: Capacity assessment under the Mental Capacity Act 2005: Delivering on the functional approach? *Legal Studies*. 29, 464–491 (2009).

267.

Heywood, R.: Revisiting Advance Decision making Under the Mental Capacity Act 2005: A Tale of Mixed Messages. *Medical Law Review*. 23, 81–102 (2015).
<https://doi.org/10.1093/medlaw/fwu021>.

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*. 17, 377–409 (2009). <https://doi.org/10.1093/medlaw/fwp018>.

269.

Maclean, A.R.: Advance Directives and the Rocky Waters of Anticipatory Decision-making. *Medical Law Review*. 16, 1–22 (2008). <https://doi.org/10.1093/medlaw/fwm019>.

270.

Maclean, A.R.: Advance directives, future selves and decision-making. *Medical Law Review*. 14, 291–320 (2006). <https://doi.org/10.1093/medlaw/fwl009>.

271.

Wrigley, A.: Proxy consent: moral authority misconceived. *Journal of Medical Ethics*. 33, 527–531 (2007). <https://doi.org/10.1136/jme.2006.019711>.

272.

F v West Berkshire Health Authority [1990] 2 AC 1.

273.

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

274.

Lord Donaldson of Lynton 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.

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.

277.

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

(1992).

278.

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

279.

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.

1473 High Court of Justice Court of Protection 30 August 2012 Before: Mrs. Justice Eleanor King Date: 30/08/2012 Crown copyright: The NHS Trust v L & Others [2012] EWHC 2741 (COP).

287.

3212 Court of Protection 15 June 2012 Before: The Honourable Mr Justice Peter Jackson Date: 15 June 2012 Crown copyright: [A Local Authority v E and others [2012] EWHC 1639.

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.

293.

Mental Capacity Act 2005 Code of Practice (2007),
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497253/Me

ntal-capacity-act-code-of-practice.pdf.

294.

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

295.

Adults with Incapacity (Scotland) Act 2000.

296.

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

297.

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

298.

Adults with Incapacity (Scotland) Act 2000: Code of Practice (Third Edition),
<http://www.gov.scot/Publications/2010/10/20153801/0>.

299.

Stephens v Avery and others. (1988).

300.

W v Egdell and others. (1990).

301.

Re Z (a minor) (freedom of publication). (1995).

302.

Campbell v MGN Limited.

303.

Hunter v Mann. (1974).

304.

R (on the application of Axon) v Secretary of State for Health.

305.

R v Department of Health ex parte Source Informatics.

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).

310.

Duncan v Medical Practitioners Disciplinary Committee. (1986).

311.

Coco v A. N. Clark (Engineers) LTD.

312.

Stephens v Avery and others. (1988).

313.

Attorney General v Guardian Newspapers and others (No 2). (1988).

314.

Ackroyd v Mersey Care NHS Trust.

315.

In Re A Local Authority (Inquiry: Restraint on Publication).

316.

ABC v St George's Healthcare NHS Trust (2015).

317.

ABC v St George's Healthcare NHS Foundation Trust (2017).

318.

Palmer v Tees HA (2000).

319.

Tarasoff v. Regents of University of California.

320.

C v Dr Cairns. Lloyd's law reports: Medical. 90, (2003).

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. Oxford University Press, Oxford (2016).

327.

Jackson, E.: Medical law: text, cases, and materials. Oxford University Press, Oxford (2016).

328.

Herring, J.: Medical law and ethics. Oxford University Press, Oxford (2020).

329.

Kottow, M.H.: Medical confidentiality: an intransigent and absolute obligation. Journal of Medical Ethics. 12, 117–122 (1986). <https://doi.org/10.1136/jme.12.3.117>.

330.

Thompson, I.E.: The nature of confidentiality. Journal of Medical Ethics. 5, 57–64 (1979). <https://doi.org/10.1136/jme.5.2.57>.

331.

Roy Gilbar: Medical confidentiality and communication with the patient's family: legal and practical perspectives,
<http://ezproxy.lib.gla.ac.uk/login?url=http://heinonline.org/HOL/Page?public=false&handle=hein.journals/chilflq24&id=203>, (2012).

332.

Case, P.: Confidence Matters: The Rise and Fall of Informational Autonomy in Medical Law. Medical Law Review. 11, 208–236 (2003). <https://doi.org/10.1093/medlaw/11.2.208>.

333.

Cooper v Turrell.

334.

Loughrey, J.: Can You Keep a Secret - Children, Human Rights, and the Law of Medical Confidentiality. Child and Family Law Quarterly. (2008).

335.

Dute, J.: Child Abuse, Human Rights and the Role of the Doctor. *European Journal of Health Law*. (2009).

336.

Reversing the retreat from Gillick? *R (Axon) v Secretary of State for Health*. *Child and Family Law Quarterly*.

337.

British Medical Association: Confidentiality and Disclosure of Health Information Tool Kit, https://www.bma.org.uk/-/media/files/pdfs/.../ethics/confidentialitytoolkit_full.pdf?

338.

Confidentiality: good practice in handling patient information (2017), https://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp.

339.

Decision tools and other learning materials, <https://www.gmc-uk.org/guidance/20473.asp>.

340.

Department of Health: Confidentiality: NHS Code of Practice, <https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice>.

341.

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, 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*. 7, 327–356 (1999). <https://doi.org/10.1093/medlaw/7.3.327>.

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). <https://doi.org/10.1093/medlaw/fwx044>.

344.

Gilbar, R., Foster, C.: Doctors' Liability to the Patient's Relatives in Genetic Medicine. *Medical Law Review*. (2015). <https://doi.org/10.1093/medlaw/fwv037>.

345.

Mackay, R.R.: Dangerous Patients: Third Party Safety and Psychiatrists' Duties - Walking the Tarasoff Tightrope. *Medicine, Science and the Law*. (1990).

346.

Almason, A.L.: 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*. (1997).

347.

Jones, C.: Tightropes and Tragedies: 25 years of Tarasoff. *Medicine, Science and the Law*. 43, 13–22 (2003).

348.

Gavaghan, C.: A Tarasoff for Europe? A European Human Rights perspective on the duty to protect. *International Journal of Law and Psychiatry*. 30, 255–267 (2007). <https://doi.org/10.1016/j.ijlp.2007.01.001>.

349.

Gavaghan, C.: Dangerous Patients and Duties to Warn: a European Human Rights Perspective. *European Journal of Health Law*. 14, 113–130 (2007).
<https://doi.org/10.1163/092902707X205016>.

350.

Information Commissioner's Office, <https://ico.org.uk/>.

351.

Data Protection Act 1998.

352.

Health and Social Care Act 2001 c. 15 Arrangement of Act.

353.

Human Rights Act 1998.

354.

European Convention on Human Rights.

355.

*R v Dica [2004] 3 All E.R. 593. (2004).

356.

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

357.

/02181/C1 Court of Appeal Criminal Division 27 July 2005 Before: Lord Justice Judge, Mrs Justice Hallett, Mrs Justice Rafferty Wednesday 27th July, 2005 Crown copyright: *R v Dica, [2005] EWCA Crim 2304.

358.

03166 D4 Court of Appeal (Criminal Division) 17 March 2005 Before: Lord Justice Judge Deputy Chief Justice of England and Wales Mr Justice Grigson and His Honour Judge Radford Thursday 17th March, 2005 Crown copyright: *R v Konzani (Feston) [2005] EWCA Crim 706.

359.

05243 C2 Court of Appeal (Criminal Division) 8 May 2014 Before: Lord Justice Treacy Mr Justice Bean and His Honour Judge Lakin Date: Thursday 8th May 2014 Crown copyright: *R v Golding (David) [2014] EWCA Crim 889.

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).

362.

*HMA v Giovanni Mola 5th April 2007, (unreported).

363.

*HMA v Giovanni Mola 5th April 2007, (unreported).

364.

*HMA v Devereaux 25th February 2010, (unreported).

365.

Italian man who intentionally infected more than 30 women with HIV jailed.

366.

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

367.

California reduces penalty for knowingly exposing someone to HIV.

368.

People on HIV medication cannot transmit the virus, declares CDC.

369.

CPS : Policy for prosecuting cases involving the intentional or reckless sexual transmission of infection, <http://www.cps.gov.uk/publications/prosecution/sti.html>.

370.

Crown Office and Procurator Fiscal Service: Prosecution policy on the sexual transmission of infection,
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.

372.

Weait, M.: *Intimacy and responsibility: the criminalisation of HIV transmission*. Routledge-Cavendish, Abingdon (2007).

373.

Stanton, C.: Maternal transmission of HIV infection: a crime against my child? *Journal of Medical Ethics*. 41, 375–378 (2015). <https://doi.org/10.1136/medethics-2013-101368>.

374.

Ryan, S.: Disclosure and HIV Transmission. *The Journal of Criminal Law*. 79, 395–410 (2015). <https://doi.org/10.1177/0022018315614444>.

375.

Cowan, S.: Offenses of Sex or Violence? Consent, Fraud, and HIV Transmission. *New Criminal Law Review*. 17, 135–161 (2014). <https://doi.org/10.1525/nclr.2014.17.1.135>.

376.

Weait, M.: Criminal Law and the Sexual Transmission of HIV: *R v Dica*. *Modern Law Review*. 68, 121–134 (2005). <https://doi.org/10.1111/j.1468-2230.2005.00531.x>.

377.

Matthew Weait: Knowledge, autonomy and consent: *R. v Konzani*. *Criminal Law Review*. (2005).

378.

Cherkassky, L.: Being Informed: The Complexities of Knowledge, Deception and Consent When Transmitting HIV. *The Journal of Criminal Law*. 74, 242–258 (2010). <https://doi.org/10.1350/jcla.2010.74.3.636>.

379.

Samantha Ryan: Reckless transmission of HIV: knowledge and culpability. Criminal Law Review.

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. (2007).

381.

The Juridical review.

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. 77, 136–150 (2013). <https://doi.org/10.1350/jcla.2013.77.2.832>.

383.

Chalmers, J.: Legal responses to HIV and AIDS. Hart Publishing Ltd, Oxford (2008).

384.

Tadros, V.: Recklessness, Consent and the Transmission of HIV. Edinburgh Law Review. 5, 371–380 (2001). <https://doi.org/10.3366/elr.2001.5.3.371>.

385.

JR Spencer: Retrial for reckless infection. The New Law Journal. 154,.

386.

JR Spencer: Liability for reckless infection—part 1. The New Law Journal. 154,.

387.

JR Spencer: Liability for reckless infection—part 2. *The New Law Journal*. 154,.

388.

Mawhinney, G.R.: To Be Ill or to Kill: The Criminality of Contagion. *The Journal of Criminal Law*. 77, 202–214 (2013). <https://doi.org/10.1350/jcla.2013.77.3.840>.