

University of Nottingham
School of Law
Mental Health Law and Policy
2011

Reading list for seminars 1 -3

Contains:

Introduction

Overview of seminars

Required reading and preparatory questions for seminars 1-3

Question for coursework assessment

Sample multiple choice question exam paper

University of Nottingham

School of Law

Mental Health Law and Policy 2011

This module uses the field of mental health to address how law interacts with other professional discourses (particularly medicine), and with broader social policy and social theory. The tendency of the law is to create concrete categories such as 'competency' and 'dangerousness' in a field that defies such rigidity. The course will examine the fragility of definition and the difficulties of application of these concepts. Issues of race and gender will be discussed in this context. Throughout the course, matters of representation of persons in the psychiatric system will be discussed, raising a variety of practical and ethical issues in solicitor-client relations.

The course will require the students to become familiar with the legislation, decision structures, and case law regarding mental health. The Mental Health Act, 1983 and Mental Capacity Act 2005, in both cases as amended by the Mental Health Act 2007, will be studied in detail, providing scope for discussion of numerous problems of statutory interpretation.

Seminars

Seminars will be conducted by Peter Bartlett (peter.bartlett@nottingham.ac.uk) and Nell Munro (nell.munro@nottingham.ac.uk).

It is expected that all required reading will be done for each seminar. The seminars will occur in an interactive format, and you should attend the seminars prepared to discuss the readings.

The questions provided at the end of the reading lists are to guide your reading. They may or may not be raised in the discussions in the seminars.

Readings/Textbook

There is a textbook for the module, which you are required to purchase:

P. Bartlett and R. Sandland. Mental Health Law: Policy and Practice. 3rd ed. Oxford: Oxford University Press, 2007.

Do not buy copies of the earlier 2003 edition.

While we obviously hope the text will be of assistance to you, it is not the only reading for the module. You are expected to do **all** required reading for the seminars. In particular, we would draw your attention to the fact that **the third edition of the textbook predates the Mental Health Act 2007**. While the introduction to the third edition hints at some of the developments contained in that statute, it was not clear when that was written what the precise form of the new law would be. **You will therefore need to tackle the new legislation itself**. Note that the 2007 Act amends not merely the Mental Health Act 1983, but also the Mental Capacity Act 2005. A consolidated version of the Mental Health Act 1983 incorporating the 2007 amendments is available on the website of the Care Quality Commission here:

<http://www.cqc.org.uk/guidanceforprofessionals/mentalhealth/workingwithpeoplewhoserightsarerestricted/mentalhealthact1983.cfm>. In addition, you might wish to be aware of the

following sources that do cover the 2007 Act:

Brenda Hale, Mental Health Law (5th ed) London: Sweet and Maxwell, 2010. [If you are looking for this in the library, check under Brenda Hoggett – the name Baroness Hale used for previous editions.]

Lawrence Gostin et al, Principles of Mental Health Law, Oxford: OUP, 2010.

Peter Bartlett, Blackstone's Guide to the Mental Capacity Act 2005, (2nd ed), Oxford: OUP, 2007.

In response to student feedback last year we have provided shorter reading lists this year. We have also chosen to remove many of the references which were given as 'Further reading' in previous years. However, extensive lists of suggested additional reading are available on WebCT and may help you both to extend your understanding of topics which you find difficult and to prepare your coursework essays for assessment.

Students sometimes complain that they find reading material difficult to obtain. If you encounter any problems accessing the material we have set please e-mail either Peter or Nell as early as possible stating exactly what it is you cannot find. We will happily doublecheck that citations are correct or that the library has the relevant material in stock, and where necessary place articles on WebCT if they are otherwise hard to access. However, **DO NOT turn up to seminars unprepared and complain that materials were unavailable if you have not already made the effort to let us know of these problems.**

It is further our view that in your final semester of law school you should be expected to engage in independent research. **For your essays, therefore, you should not merely rely on the sources cited in the seminar sheet and the textbook, but also do your own research in the university libraries.**

Assessment

The module is assessed by coursework and by multiple choice test. The title for the coursework is in appendix I, at the end of this package of these materials. It is due on the standard deadline for coursework, and is subject to the usual provisions regarding coursework contained in the student handbook. The mark for the essay will account for 80 per cent of the mark in the module.

The cover sheet to be used by the marker, along with some tips and comments about the coursework, are contained in appendix II, below.

In addition to providing a hard copy of the paper to Law Reception by the deadline, students must also by the deadline submit an identical copy of their essays through TurnitinUK. Further information about using Turnitin can be found at http://www.nottingham.ac.uk/elan/tutorials/How_do_I_use_turnitin.

Twenty per cent of the final mark in the module will be based on a test, to be sat in the regular examination schedule. We have adopted this form of assessment for two reasons. The first is that it has become clear to us that some students in past years have done the bulk of the required reading in the module, but that because of the relatively specific nature of the essay topic, this work did not show up in their essays. We think that these people deserve credit for the work that they do. The second reason is the inverse of the

first: some students have been failing to read material unless directly related to their essays. We do not object to a reasonable amount of strategic study, and we do expect you to develop real depth in the area you plan to write your essay on. That said, we do not think in good conscience that we should be sending out people with good marks in 'mental health law and policy', if they do not have a reasonable knowledge of the subject as a whole.

The test will involve ten multiple choice questions. To receive full marks, you will have to answer all of them; there will be no choice. The test will be closed-book: no statute books, cases or notes will be allowed. Each question will have four possible answers. Correct answers receive two points; failing to answer or giving an incorrect answer receives neither positive nor negative marks.

A mock multiple choice test will be set in week 8-9 of the course. An announcement will be made in class about when the test is available. This will be completed on WebCT in your own time and you will be able to obtain a mark for your work immediately. You can choose to complete this over the Easter holidays to test how good your revision has been if you wish. The aim of the mock assessment is to give you an opportunity to practice answering multiple choice questions and identify any particular areas of weakness, it is therefore worth testing yourself sooner rather than later in case you identify major problems.

Do not panic. The objective is to ensure that you have a good **basic** understanding of the relevant statutory provisions and required readings. Our objective is not to catch you out – if you have a reasonable knowledge of the law and the readings, we would expect you to do very well. The university rules require us to provide a time limit for the test. We have set this at 1 hour, but we strongly suspect that all of you will be finished WELL within that time. Indeed, most of you may need to be reminded instead that you are not permitted to leave the examination room until half an hour after the examination has commenced. A copy of the test from 2008 is contained as appendix III, below. Please note that the course content changes slightly each year so you will not necessarily be expected to know the answers to all of these questions.

Outline of Seminars

1. Introduction

No readings, of course, since you will get the reading list at this seminar. The following are some books you might wish to read now to get some background on the subject or to refer to later in the course.

General textbooks

Besides Bartlett and Sandland the following books provide excellent overviews of the law:

Jones. Mental Health Act Manual. 12th ed. (London: Sweet and Maxwell, 2009). An annotated edition of the Mental Health Act. Very good for technical law.

P Bartlett, O Lewis and O Thorold. *Mental Disability and the European Convention on Human Rights*. (Leiden: Brill/Martinus Nijhoff, 2006). Exactly what it says: an extended consideration of the jurisprudence of the ECtHR relating to mental illness and developmental disability. Note that it focuses on the ECtHR jurisprudence only: cases before the UK courts under the Human Rights Act are not considered.

P Bartlett. *Blackstone's Guide to the Mental Capacity Act 2005*. (2nd ed. Oxford: OUP, 2008). Contains an introduction to the Mental Capacity Act 2005, and includes discussion of the effects of the Mental Health Act 2007 on the Mental Capacity Act 2005 (most significantly, the legislative response to the *Bournewood* caselaw).

P Fennell. *Mental Health (Jordans New Law)*. (Jordans, 2008). Phil Fennell was the special legal advisor to the Joint Scrutiny Committee of the House of Commons and House of Lords considering the government's attempts in 2006 to reform the Mental Health Act 1983.

Brenda Hale, Mental Health Law (5th ed) London: Sweet and Maxwell, 2010. [If you are looking for this in the library, check under Brenda Hoggett – the name Baroness Hale used for previous editions.]

Lawrence Gostin et al, Principles of Mental Health Law, Oxford: OUP, 2010. Rather a brick of a thing, with considerable detail on specific areas of law. Primarily a 'black letter' book.

The biennial reports of the Mental Health Act Commission used to provide excellent overviews of the use of the Mental Health Act and current practices in in-patient mental health services. The MHAC was abolished under the 2007 MHA reforms, but its functions are now performed by the Care Quality Commission. You can find the last five biennial reports of the MHAC on their website at www.cqc.org.uk.

Readings about the sociology of mental health

D. Pilgrim and A. Rogers. A Sociology of Mental Health and Illness. 3rd ed. (Buckingham: Open University Press, 2005). A good general starting point to get you thinking more broadly than on pure black letter material. But remember -- it's a *starting* point.

Thornicroft, G. (2006) Shunned: discrimination against people with mental illness, Oxford: Oxford University Press. A readable and compelling consideration of attitudes to and discrimination against people with mental disabilities.

McCubbin and Cohen. "Extremely Unbalanced: Interest Divergence and Power Disparities Between Clients and Psychiatry". 19:1 International Journal of Law and Psychiatry (1996)
1. Title says it all. A starting point for thinking about patient advocacy.

L. Gostin [1983] "Contemporary Social Historical Perspectives on Mental Health Reform" 10:1 Journal of Law and Society 47 (a useful discussion to some of the background and issues in the 1983 Act)

N. Eastman and J. Peay (eds) (1999) Law Without Enforcement: Integrating Mental Health and Justice A reader on issues prominent in debates around the reform of the 1983 Act

Works by people who have used mental health services

There is a large body of work written by people who have used mental health services, describing their experiences. These personal writings provide invaluable insights into the operations of the law from the perspectives of those most affected by it. The following references offer a useful starting point for exploring this literature:

Chamberlin, J. *On our own*. (London: Mind 1998) – a classic statement on the importance of patient self-advocacy

Curtis, T., R. Dellar, et al. (eds). *Mad pride: a celebration of mad culture*. (London: Spare Change Books, 2000)

Dunn, Morrison and Roberts (eds). *Mind Readings: Writers' Journeys Through Mental States*. (London: Minerva, 1996).

Hardcastle, M., D. Kennard, et al. (eds). *Experiences of mental health in-patient care*. (Hove: Routledge, 2007)

J. Read and J. Reynolds (eds.). *Speaking Our Minds: An Anthology*. (London: Macmillan, 1996). Another good anthology of accounts of people directly affected by mental illness.

You might also find the following websites helpful:

www.chipmunkapublishing.com – Chipmunka publish autobiographical writings by people with mental health needs.

www.healthtalkonline.org – this website provides audio and video footage of interviews with people who have used mental health services

www.insidestories.org – testimonies from people who were detained in long-stay hospitals in the 1950s, 60s and 70s.

2. Determining craziness: Who is mad and who gets to decide?

This session will be taken by Torsten Shaw from Making Waves. Making Waves is a Nottingham-based organisation which aims to challenge current social understandings of mental distress by offering training, consultancy services delivered by people with personal experience of these issues.

Required Readings

Bartlett and Sandland, chapters 1 and 2.

Part I of Mental Health Act 1983, including amendments introduced by the Mental Health Act 2007.

Chapter 5, Bentall R. Doctoring the Mind (London: Penguin, 2009). This is not currently available in the library, so a copy of the relevant chapter will be placed on WebCT.

Kutchins and Kirk, 'Pathologising Everyday Behaviour', in Kirk S. et al., Making us Crazy (London: Constable, 1999). [available on WebCT]

There is a large body of work written by people who have used mental health services, describing their experiences. These personal writings provide invaluable insights into the operations of the law from the perspectives of those most affected by it. For this seminar it is vital that you spend some time reading this literature and reflecting on what you have learnt from it. The following two readings are required:

Chamberlin, J. (1998). "Confessions of a noncompliant patient." Journal of Psychosocial Nursing **36**(4): 49-52. (This is available on WebCT)

Connor, H. (1999). "Collaboration or chaos: a consumer perspective." Australian and New Zealand Journal of Mental Health Nursing **8**(1): 79-85. (This is available on WebCT)

Further reading

You may wish to refer to some of the books providing accounts of service-users experiences of mental health service provision given in the reading list for seminar 1.

The Diagnostic and Statistical Manual of the American Psychiatric Association is currently undergoing some fairly controversial revisions. You might find the following article interesting: Aldhous P. (2009) "Psychiatry's civil war" New Scientist 11/12/2009, available online at: <http://www.newscientist.com/article/mg20427381.300-psychiatrys-civil-war.html?full=true>.

There is also an extensive literature written by psychiatrists and psychologists which questions the medical orthodoxy concerning mental ill-health and asks about the role power and inequality play in perpetuating the exclusion and disempowerment that some (many?) users of mental health services experience. Critics of psychiatry have variously labelled this area of study as anti-psychiatry, critical psychiatry and post-psychiatry. The following titles are some old (and new) classics in this field.

Bentall R. Madness Explained (London: Penguin, 2003) Bentall is a psychologist and in this book he argues that the medical model of madness as 'all in the mind' is fundamentally flawed. In fact there is less to distinguish mad experiences from sane experiences than we

might think.

Laing, R. D. 'The Schizophrenic Experience' in The Politics of Experience, and the Bird of Paradise. (Harmondsworth: Penguin, 1967). Laing was an enormously controversial figure in the field of anti-psychiatry. This short chapter gives a flavour of why this was, and is worth reflecting upon.

Szasz. Law, Liberty, and Psychiatry: An Inquiry into the Social Uses of Mental Health Practice. (New York: Macmillan, 1963). Introduction and Part I. Szasz's work is an extraordinarily influential in the literature. He is someone the doctors love to hate. Query how carefully he has been read (or understood).

Horwitz A. and Wakefield J. C. The Loss of Sadness (New York: OUP, 2007) This recent book on how psychiatrists fail to distinguish successfully between 'normal' sadness and depression has been widely praised. Interestingly the foreword to the book is written by Robert D. Spitzer, a former chair of the American Psychiatric Association and one of the first authors of the Diagnostic and Statistical Manual (DSM) which is widely used as a classification of mental disorders (including depression). The foreword alone is worth reading.

Questions

1. 'The 2007 amendment of the definition of mental disorder in s.1 MHA 1983 introduces a meaningless tautology into the law. It should be reformed.' Discuss. Can you think of a better alternative definition?
2. Whose views should be taken into account in the framing of the laws relating to enforced admission and enforced treatment? Why? And as a matter of political principle, how can we justify such enforced measures?
3. Should we have a Mental Health Act ?

3. What is Mental Health Law For?

Required reading

Bartlett and Sandland, *Mental Health Law: Policy and Practice* (3rd ed), (Oxford: OUP, 2007), chapter 12.

P Bartlett. 'The Test of Compulsion in Mental Health Law: Capacity, Therapeutic Benefit and Dangerousness as Possible Criteria.' 11 *Medical Law Review* (2003) 326-352.

Lora Paton, "'These Regulations Aren't Just Here to Annoy You:' The Myth of Statutory Safeguards, Patient Rights and Charter Values in Ontario's Mental Health System', (2008) 25 *Windsor Rev. Legal Soc. Issues* 6-28. [available on WebCT]

Bonnie, R. J. and J. Monahan (2005). 'From coercion to contract: reframing the debate on mandated community treatment for people with mental disorders.' *Law and Human Behavior* 29(4): 485-503.

United Nations. Convention on the Rights of Persons with Disabilities. A/61/611. Passed by General Assembly 6 December 2006. Read the preamble and pay particular attention to Articles 12 and 14.

Savage v South Essex Partnership NHS Foundation Trust [2008] UKHL 74.

Additional reading

Some analysis of the scope of the Convention on the Rights of Persons with Disabilities from a user perspective can be found on the website of the World Network of Users and Survivors of Psychiatry: <http://wnusp.rafus.dk/crpd.html>.

An opinion on the scope of Article 12 can be found on the website of the University of Leeds Disability Studies Department: <http://www.leeds.ac.uk/disability-studies/archiveuk/legal%20opinion/legalopinion.htm>.

Questions

1. What in your view should mental health law be for?
2. What do you think the function of mental health law actually is in England at the moment?
3. In your view, what does article 14(1)(b) of the UN CRPD mean?
4. It is said that the Convention on the Rights of Persons with Disabilities will introduce a new era into mental health law. Do you agree? What aspects of English mental health and mental capacity law will need to be amended to comply with the convention?
5. What are the benefits and potential difficulties flowing from *Savage v South Essex*? Are service users better protected through the creation of substantive duties to detain/treat, or sanctions against abuses of power to detain/treat?

Appendix I: Question for Coursework Assessment

Discuss ONE of the aspects of law identified in list A, in terms of ONE of the theoretical perspectives in list B.

LIST A:

Informal admission

Civil confinement

The legal framework of community care

Psychiatric treatment in hospital, including part IV of the Mental Health Act [see note 1 below]

Psychiatric treatment in the community/substitute decision-making

Criminals in psychiatric care

Definition of mental competency, and its application either in one or more civil contexts OTHER THAN non-psychiatric medical treatment. [see note 1 below]

Patient advocacy

The adequacy of legal remedies

LIST B:

social control

Foucault (one or more versions of)

feminism

race, culture and mental health

homophobia

professionalism/Scull et al.

theory of institutions (Goffman et al.)

Szasz and the implications therefrom

Essays should not exceed 12 pages, inclusive of references and exclusive of bibliography. All work must be word processed and paginated according to the instructions contained in the undergraduate handbook. The essay should be in 10 point Verdana type, with 2.5 cm margins at the top, sides, and bottom. The essay is due on the standard deadline for coursework.

The essay topic is designed to require you to consider works outside the strict legal corpus, but you should also remember this is a law module: of particular interest is the relation between legal rules, the actuality of mental health as faced and practiced by patients, doctors and other professionals, and the theoretical perspective you select from list B. Our view is that selection of ONE item from each list is quite enough for you to deal with. That said, occasionally in the past students have been permitted to combine more than one item on the lists, eg., race, gender and admission to hospital. If you wish to do this, you must discuss it with us in advance.

As in all your coursework, proper citation style and bibliography are expected. **Your attention is drawn to the school's statement on plagiarism, contained in the undergraduate handbook.**

[note 1: In the past we have had difficulties with students focusing almost exclusively on the pregnancy cases regarding capacity. While those cases are interesting, they are also a part of the Health Care A syllabus. While you may of course refer to them when appropriate, you should note the question's reference to *psychiatric* treatment. Your essay should therefore focus on psychiatric treatment more broadly.

Appendix II: Marking Cover sheet for Coursework

Mental Health Law and Policy

Candidate No:

Essay Mark:

Marker:

	Excellent	Good	Satisfactory	Poor	Unsatisfactory
Structure and clarity of Argument	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowledge and analysis of black letter law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowledge and analysis of Contextual perspective	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Integration of black letter and Contextual material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Referencing and bibliography	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Further comments :

Notes:

The above is a guideline for factors I will consider in marking your work. There is no fixed weighting in the factors. They are instead intended to provide you with guidance as to where you were particularly successful or not.

Notice that I am looking for knowledge both of the law and of the theoretical perspective, and the combination of that information into a coherent argument. Masses of description to no obvious point is unlikely to impress me. At the same time, an unsupported diatribe is not likely to get a good mark either.

It should be clear to you that the various substantive topics in the module do interrelate, and you are expected to have an appropriate grounding in all areas of the law and policy required for the topic you choose, not just the single chapter of the textbook or the readings of the single seminar which most closely resembles your topic. It is also expected that you will use libraries and appropriate electronic sources in addition to the required readings. It is expected, for example, that empirical claims will be supported by appropriate reference,

just as doctrinal legal claims are. Please further note that I expect you to rely on *appropriate* sources (be they printed or electronic). Some sources are of high academic standards; some are not – and at this stage in your academic career, you should be able to tell the difference.

Students sometimes find the organisation of material into an essay format difficult. Do not be discouraged: this is your final semester of law school, so it is in our view appropriate to set coursework of reasonable difficulty. Some tips might help you to organize your thoughts, though:

- If you were to reduce your argument to one paragraph (say, five sentences?) what would that look like. In each of those sentences, DON'T be content with 'I'm going to talk about X. Then I'm going to talk about Y.' Think about what points you are making, and how they relate to each other. This technique is designed to get you out of the detail of your work, and make you think about where it is going overall, so you can get the detail into perspective.
- Write a 'skeleton argument'. Arrange the points you want to make in order, and under each, make a list of the sources you have to support that point. Once again, this is designed to get you to think about the overall structure of your argument, and to get you to recognize when you have material to support it, and when you don't.
- Can you explain what you are saying to your mother, or a similar relative or friend, so that they understand your point? (I'm assuming your mother is a reasonably bright lady, who is neither a lawyer nor an academic from a field related to your essay.) If not, then do you really understand it yourself?

Also, do me a favour: I am SICK TO DEATH of people not using an appropriate footnoting and bibliography style. I do not intend to be pedantic about which format you adopt (although consistency is expected throughout your work – and yes, I DO mean consistency in the detail, including format of punctuation), but I do expect all the relevant information to be included. And yes, I do deduct marks if it is not done properly. If in doubt as to what would be an acceptable style, refer to Derek French, How to Cite Legal Authorities (London: Blackstone, 1996).

Please word process and paginate your work. **Your attention is drawn to the school statement on plagiarism.**

Appendix III: Multiple Choice Test from 2007-8, for information

Question 1

John is admitted to a psychiatric facility under s 3 on 1st March, and prescribed anti-psychotic medication. He is released on a community treatment order on 1st June. (Assume for purposes of this question that the 2007 amendments to the Mental Health Act 1983 have been implemented.) As of 15 July, what conditions must be met for him to be treated in the community with anti-psychotic medication?

- a. John consents to the treatment.
- b. A certificate from a second-opinion approved doctor (SOAD) has been obtained, attesting to the appropriateness of the treatment.
- c. Both a and b.
- d. Neither a nor b.

Question 2

Identify the source of the following quotation:

'The words are ordinary words of the English language. They have no particular medical significance. They have no particular legal significance. How should the court construe them? The answer in my judgment is [...] that ordinary words of the English language should be construed in the way that ordinary sensible people would construe them. That being, in my judgment, the right test, then I ask myself, what would the ordinary sensible person have said about the patient's condition in this case if he had been informed of his behaviour to the dogs, the cat and his wife? In my judgment such a person would have said: 'Well, the fellow is obviously mentally ill.' [...] It is that application of the sensible person's assessment of the condition, plus the medical indication, which in my judgment brought the case within the classification of mental illness and justified the finding of the county court judge.'

- a. R v Camden and Islington HA Ex p. K [2001] EWCA Civ 24 [2001] 3 W.L.R. 553 [2001] U.K.H.R.R. 1378
- b. R v Canons Park Mental Health Review Tribunal, ex parte A [1994] 2 All ER 659 (CA).
- c. R (JB) v Haddock [2006] EWCA Civ 961.
- d. W v L [1974] QB 711 (CA)

Question 3

Which of the following is required by Winterwerp v. The Netherlands (1979) 2 EHRR

387 for a confinement to be acceptable under art 5(1)(e) of the ECHR:

- i. The patient suffers from a true mental disorder, verified by objective medical expertise.
 - ii. There must be a reasonable likelihood that the disorder is susceptible to medical treatment.
 - iii. The validity of continued confinement is dependant upon the persistence of the disorder.
 - iv. the person confined must have access to a court and the opportunity to be heard either in person or, where necessary, through some form of representation.
- a. i and iv only
 - b. i, ii, and iv only
 - c. i, iii, and iv only
 - d. all of the above.

Question 4

Which of the following criteria are NOT expressly contained in the definition of inability to make decisions in s 3(1) of the Mental Capacity Act 2005:

- i. the ability to understand the information relevant to the decision,
 - ii. the ability to retain that information
 - iii. believing the information
 - iv. the ability to use or weigh that information as part of the process of making the decision
 - v. the ability to communicate his decision.
- a. iv and v.
 - b. iii and v.
 - c. ii and v.
 - d. iii only.

Question 5

Place the following in chronological order:

- i. The number inpatients in psychiatric facilities, which had previously been growing for decades, begins its long-term decline.
- ii. the system of second opinion approved doctors is introduced into English mental health law, providing regulation of treatment for mental disorder after a person has been in a psychiatric facility for more than 3 months.

iii. the House of Lords first holds that when a patient lacks capacity, surgery (in the case before the House, sterilisation primarily for contraceptive purposes) may be performed in the best interests of the patient, and without further need of consent.

- a. i, ii, iii.
- b. i, iii, ii.
- c. ii, i., iii.
- d. iii, ii, i.

Question 6

Identify the source of the following quotation:

'I have before me a vulnerable young woman who has just turned eighteen and has therefore attained her majority. While she was still a child the court had exercised its inherent *parens patriae* and wardship jurisdictions to protect her from the risk of an unsuitable arranged marriage. The question is whether I have jurisdiction to continue that protection now she is an adult.

'The question arises because expert evidence establishes that this young woman, although undoubtedly vulnerable, equally undoubtedly has the capacity to marry. In other words the case raises the question of whether the inherent jurisdiction in relation to adults can be exercised for the protection of vulnerable adults who do not, as such, lack capacity.'

- a. *In the Matter of MM (An Adult); Local Authority X v MM and KM* [2007] EWHC 2003 (Fam)
- b. *Re F (Mental Health Act: Guardianship)* [2000] 1 FLR 192.
- c. *R v Camden and Islington HA Ex p. K* [2001] EWCA Civ 24 [2001] 3 W.L.R. 553 [2001] U.K.H.R.R. 1378.
- d. *A Local Authority v Ma, Na, Sa (by her children's guardian LJ)*, [2005] EWHC 2942 (Fam).

Question 7

Identify the source of the following quotation:

"Medication or other psychiatric treatment which is designed to alleviate or prevent a deterioration of the mental disorder plainly falls within the scope of the expression. But I think that its scope is wide enough to include other things which are done for either of those two purposes under medical supervision... It is also wide enough to include treatment which prevents or alleviates a deterioration of the symptoms of the mental disorder, not the disorder itself

which gives rise to them"

- a. *Reid v Secretary of State for Scotland* [1999] 2 AC 512
- b. *Hutchinson Reid v UK* App 50272/99 (20 Feb 03)
- c. *R v Birch* (1989) 11 Cr App R(S) 202 (CA)
- d. *R v Gloucestershire County Council and another, Ex Parte Barry* [1997] 2 ALL ER 1 (HL)

Question 8

Which of the following orders may be made ONLY in the case of a person suffering from psychopathic disorder?

- i. A hospital order
- ii. A hospital order coupled with a restriction order
- iii. A hospital direction coupled with a limitation direction
- iv. A transfer order

- a. i
- b. ii
- c. ii, iii, iv
- d. iii

Question 9

Consider a civilly detained patient held under an order for admission for treatment, the order being renewed for the second time. For up to how long may the patient be given leave of absence under s 17 of the MHA 1983 by his or her RMO?

- a. one month
- b. three months
- c. six months
- d. twelve months

Question 10

The approximate number of unrestricted hospital orders made each year by the courts in England and Wales is:

- a. 65
- b. 650
- c. 6500
- d. 65000

Appendix 4: TurnitinUK

In addition to the advice and guidance offered by the School, the University is this year introducing student access to TurnitinUK, a software tool used to check assignments for possible plagiarism. The following is guidance circulated by the University:

TurnitinUK works by comparing what a student has written to a wide range of sources and looks for text matches between the student's writing and these sources. Though a match does not necessarily mean that the student has plagiarised, it does mean that the academic marker will examine the identified matches to see whether a plagiarism offence has occurred.

TurnitinUK has now been made available by the University for students to use. This is because the University wants to encourage students to develop their academic writing skills and access to TurnitinUK will, it is hoped, assist students improve their writing by revealing any problems with the citation of source materials, with bibliographies and with the way source material has been paraphrased and used.

TurnitinUK is available to all students via WebCT. Access to TurnitinUK is permanently available on the 'Courses List' through the hyperlink 'Formative Writing Tool for Students – TurnitinUK Access.' By clicking on the hyperlink, students will be able to access the software through which they can upload assignments and find detailed information about how to use the software to improve their writing.

It is strongly recommended that students using the service read the associated information and instructions carefully to enable them to get best use of TurnitinUK. The information available is as follows,

Step by step guide to uploading assignments: Uploading assignments is a straight-forward process made easier by the system's ability to accept many electronic formats.

Understanding and interpreting originality reports: The system produces an originality report which indicates matches between the submitted assignment and sources searched. This section takes gives guidance about understanding reports and deciding what action to take.

Using Turnitin to improve academic writing: TurnitinUK is potentially a powerful tool in helping to improve academic writing. This guide will help students get the most from TurnitinUK access.

Links to further information about academic writing and plagiarism: By following these links students will be able to find ideas to further improve academic writing and check their understanding of plagiarism.

The reports produced by TurnitinUK are not always easy to interpret without a full understanding of how the system works, and it is not always obvious what action to take to improve academic writing unless the guidance is closely followed. It is expected, that by using the guidance, students will use the software independently and that they will interpret originality reports for themselves. The School is unable to offer any advice or guidance in the interpretation of TurnitinUK originality reports.

Schools will continue to use TurnitinUK to check some further aspects of student submissions, matching sources which are not available in the student access version of the

system. Schools will be able to additionally check matches to other student assignments in the class and to student work submitted to the software from a large number of UK universities. These checks are not available to students in order to allow multiple uploads of re-drafted work without returning a match on their previously submitted draft.

A low/zero percentage match with searched sources reported by TurnitinUK is not a guarantee that there isn't any plagiarised work in the assignment. Academic staff will continue to use their expertise and knowledge in their subject areas to identify plagiarism. Students should therefore ensure that they understand what plagiarism is by working through the Academic Integrity web resource at <http://www.nottingham.ac.uk/csc>

TurnitinUK can be a useful tool to help develop your academic writing skills if used correctly but we would also emphasise the need for caution. You must use your own judgement to ensure that your work is appropriate prior to submission.