

LLM Mentally Disordered Offenders

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Module leader: [Dr Leon McRae \(/staff/profiles/law/mcrae-leon.aspx\)](#)

Teaching and assessment (2014): Semester 2, Essay - 6,000 words

Module description:

The penal system is the fulcrum of the criminal justice system (CJS); however, since 2001 it has been penal policy to—wherever possible—“divert” offenders with mental disorder out of the CJS and into specialist psychiatric hospitals for treatment. This is made largely discretionary at the point of sentencing: the choice of the court is to “treat” or “punish” the offender. Treating the offender raises, inter alia, questions of the effectiveness of psychiatric treatment at reducing criminal behaviour. Punishing the mentally disordered offender means subjecting him or her to inadequate medical treatment in the service of public protection. How the state should respond to mentally disordered offenders is a contemporary— and historical—political, medical, philosophical and legal debate.

This module provides students with a detailed understanding of mental health law in the criminal context. It will critically examine the socio-legal justifications for particular state responses to offenders with mental disorder. It will also provide a critical analysis of underlying penal policy, and the impact of European jurisprudence and human rights legislation on contemporary trends in (compulsory) treatment. Where appropriate, students will be referred to comparative approaches in other jurisdictions.

Seminar topics:

- Mental health law 1: the sociology of mental health
- Mental health law 2: policy and practice in the modern age
- Police powers and prosecutorial discretion
- Imprisonment and medical treatment
- Infanticide
- Hospital admission under Pt. III of the Mental Health Act 1983
- Psychopathy: responsabilisation and treatment
- Sex offenders, mental disability and society
- Visit to Reaside medium-secure hospital
- Leaving hospital