

Fatal Offences Against the Person

		Overview	
Murder	Actus Reus	The unlawful killing of a reasonable creature in being	R v Gibbons and Proctor R v Malcherek (1981)
	Mens Rea	Intention to kill (express malice) intention to cause GBH (implied malice) Direct or Oblique Intent is required	R v Vickers (1957) R v Cunningham (1981) (not to be confused with the subjective recklessness case R v Moloney (1985) R v Nedrick (1986) R v Woolin (1998) R v Matthews and Alleyne (2003)
		Transferred Malice – Intention can be transferred from actual victim to intended victim but not from victim to object.	R v Latimer R v Mitchell R v Gango
Voluntary Manslaughter	Diminished Responsibility	S.2 Homicide Act (1957) as amended by the Coroners and Justice Act 2009 Abnormality of Mental Function that substantially impairs D's ability to do one of the following <ul style="list-style-type: none"> • Understand the nature of conduct • Form a rational judgement • Exercise self-control Provides an explanation for the killing. Remember to consider the effect of intoxication and that ADS can be a recognised medical condition. Burden of proof is with the defence to prove DR exists.	R v Byrne (1960) R v Golds (2016) R v Dietschmann (2003) R v Wood (2008)
	Loss of Control	D must have lost control There must be a qualifying trigger A person of the same age and sex as D with D's characteristics would have lost control in similar or the same circumstances as D. Excluded matters <ul style="list-style-type: none"> • Revenge • Sexual Infidelity 	R v Jewell (2014) R v Ahluwalia (1993) R v Dawes (2013) R v Ibrams and Gregory (1981) R v Doughty (1986) R v Zebedee (2012) R v Baillie (1995) R v Rejamaski (2017) R v Amelash (2013) R v Van Dongen (2005)
Involuntary Manslaughter	Unlawful Act Manslaughter	Unlawful Act – must be a criminal act and an omission is not enough. Dangerous Act Causation Mens Rea to carry out the offence. D does not need to realise there is a risk of harm.	R v Lamb R v Larkin R v JM and SM (2012) R v Goodfellow (1986) R v Dawson (1985) R v Watson (1989) R v Bristow, Dunn and Delay (2013) R v Kennedy (2007) DPP v Newbury and Jones (1976)
	Gross Negligence Manslaughter	D must owe V a duty of Care There must be a breach of duty There must be Gross Negligence – so serious the jury considers it to be criminal There must be a risk of death. Mens Res – The risk of death is judged objectively	R v Adamako (1994) R v Wacker (2002) R v Bateman (1925) R v Misra and Srivastava (2004) R v Dias (2002)

Non-Fatal Offences Against the Person

			Key Cases
Assault	AR	Causing V to fear the immediate application of unlawful force	R v Constanza (1997) R v Ireland (1997) R v Lamb (1967) Smith v Chief Constable of Woking Police (1983) Tuberville v Savage (1857) R v Light (1967)
	MR	Intention or subjective recklessness	DPP v Majewski (1976)
	Trial and Sentencing	Summary offence – Max sentence is 6 months in prison or £5,000 fine. Trial is in the Magistrates Court.	
Battery	AR	The unlawful application of force	Collins v Wilcock (1984) Wood (Frazer) v DPP (2008) R v Thomas (1985) Fagan v MPC (1968) DPP v K (1990) DPP v Santa- Bermudez)
	MR	Intention or subjective recklessness	DPP v Majewski (1976)
	Trial and Sentencing	Summary offence – Max sentence is 6 months in prison or £5,000 fine. Trial is in the Magistrates' Court.	
s.47 ABH	AR	Causing the victim some harm	T v DPP (2003) Chan Fook (1994) DPP v Smith (Michael) (2006)
	MR	Intention or subjective recklessness to carry out the act that causes harm	R v Roberts (1971) R v Savage (1991)
	Trial and Sentencing	Triable either way offence – In Crown or Magistrates – Max sentence 5 years custodial	
S.20 GBH	AR	Causing the victim a wound or serious harm	DPP v Smith (1961) R v Bollom (2004) R v Dica (2004) JCC v Eisenhower (1983) R v Burstow (1997) R v Dica (2004)
	MR	Intention or subjective recklessness to cause some harm	R v Parmenter (1991)
	Trial and sentencing	Triable either way offence – In Crown or Magistrates – Max sentence 5 years custodial	
S.18 GBH	AR	Intention or subjective recklessness to cause some harm	Same as s.20
	MR	Intention to cause serious harm or to resist arrest	R v Taylor (2009) R v Morrison (1989)
	Trial and sentencing	Indictable offence – Trial in Crown Court – Max 25 years in prison.	

Theft

Definition	s.1 Theft Act 1967 – The dishonest appropriation of property belonging to another with the intention to permanently deprive.			
Actus Reus •	s.3 Appropriation	S.3(1) Assumption of the rights of the owner or a later assumption of the rights of the owner. This includes taking, consuming, using, selling, offering for sale, lending or hiring of the property		R v Vinall (2011) R v Pitman v Hehl (1977) R v Morris (1983)
		Consent to appropriation	Appropriation can take place regardless of whether or not the V has consented	Lawrence v Commissioner for Metropolitan Police (1972) R v Gomez (1993)
		Consent without deception	Even a valid gift can be an appropriation	R v Hinks (2000)
		When does appropriation take place?	Appropriation needs to take place at a specific point in order for there to be coincidence of actus reus and mens rea	R v Atakpu v Abrahams (1994)
		Later assumption of the rights of the owner	Where D gain's the property innocently and the decides to keep it. E.g. not returning a hired bike, the decision not to return a wallet whose owner could be found easily	
		Money		
	s.4 Property	Real Property	Refers to land and buildings – s.4(2) says that real property can only be stolen in 3 ways <ul style="list-style-type: none"> ▪ A trustee or personal representative takes land in breach of his duties as a trustee or personal representative. ▪ Someone not in the possession of the land severs anything forming part of the land from the land. A tenant takes a fixture or structure from the land let to him	
		Personal Property	E.g. Jewellery, clothes, books, phones – body parts have been held to be property when they have been prepared/preserved for exhibition or educational purposes	R v Kelly and Lindsay (1998)
		Thing in action	E.g. a cheque, ticket for an event or membership card	
		Other intangible property	Refers to things that have no physical presence – an export quota for textiles has been held to be property. Knowledge (e.g. of questions on an exam paper is not)	Oxford v Moss (1979)
		Things which cannot be stolen	Things growing wild (unless used for commercial purposes) Electricity is a separate offence under s.11 Theft Act	
		S.5 Belonging to another		
		Possession or control	Possession/ control does not mean the property has to be taken from the owner. Possession does not even have to be lawful. Someone could be charged with theft of their own property. V does not even need to know they have the property.	R v Turner (No. 2) (1971) R v Woodman (1974) R (on the application of Ricketts) v Basildon Magistrates' Court (2010)
		Proprietary Interest	Where D owns property and has control of it they can still be found guilty of stealing it from someone else who has a proprietary interest in it.	R v Webster (2006)
		Property received under an obligation	E.g. where D is given property and expected to deal with it in a certain way. There can be a theft – e.g. using money given to you by your flatmates to pay bills to buy Christmas presents instead.	R v Hall (1972) R v Klineberg and Marsden (1999) Davidge v Bunnett (1984)
		Property received by mistake	This is when property is handed to D by mistake. This can still be property belong to another for the purpose of the Theft Act	A-G Ref (No 1 of 1983) (1985) R V Gilks (1972)

<ul style="list-style-type: none"> Mens Rea – Theft if a specific intent crime 	S.2 Dishonesty	Behaviour which is not dishonest	<ul style="list-style-type: none"> A genuine belief in a lawful right to deprive the other of the property He or she would have the other's consent if they knew of the appropriation The person to whom the property belongs cannot be discovered by taking reasonable steps 		
		What is an unreasonable belief	The fact that a belief is unreasonable does not prevent D from relying on this section	R v Small (1987) R v Holden (1991) R v Robinson (1977)	
		Willing to pay	Can still be dishonest even if the D is willing to pay more than the item is worth.		
		Ghosh Test	Two part test to establish dishonesty 1) Was what was done dishonest according to the ordinary standards of reasonable people (Objective) 2) Did D realise what s/he was doing was dishonest by those standards. (Subjective) However, Ivey v Genting Casino's Ltd may mean the second part of Ivey is no longer in use. This is civil case so the decision is obiter but it is likely to be followed in future criminal cases.	R v Ghosh (1982) Ivey v Genting Casino's Ltd t/a Crockfords (2017) DPP v Gohill (2007)	
	s.6 Intention to permanently deprive	D willing to pay back	E.g. D takes money to pay a bill and pays the cash back with different notes he is still guilty of theft as the exact notes cannot be returned	R v Velumyl (1989)	
		Borrowing and Lending	Borrowing becomes theft when D has the property so long that all the practical value has been taken out. I.e. keeping a text book borrowed from another student until they have sat the exam and returning it when it is no longer needed	R v Lloyd (1985)	
		Conditional Intent	Issues arise where D examines the property and then decides it is not worth stealing –	R v Easom (1971)	
		Disposal of Property	This is seen as an intention to permanently deprive		

Robbery

Elements of the Offence		Completed Theft Force used in order to steal		
Actus Reus	Completed theft	All elements of a theft must be present	R v Zerei (2012) R v Waters (2015) Corcoran v Anderton (1980)	
	Force or threat of force	Force can be small	R v Dawson and James (1976) R v Clouden (1987) P v DPP (2012)	
		V does not need to fear harm	B and R v DPP (2007)	
		On any person – the force does not need to be directed at the owner of the property – e.g. a bank clerk does not own the money the D is stealing but there is still a robbery if force is present		
	Force immediately before or at the time of the theft	Force must be present immediately before or at the time of theft. Force used to escape is still forced used in order to steal	R v Hale (1979) R v Lockely (1995)	
	Force in order to steal	If the force is used for any other purpose then there are two separate offences of a theft and an offence against the person		
Mens Rea		Must have the mens rea for theft and must have the intention to use force in order to steal.		

Defences

Capacity Defences	Insanity Partial Defence	Apply the M'Naghten rules <ul style="list-style-type: none"> • Defect of reason • Which results from a disease of the mind • Which caused the D to not to know the nature and quality of his or her act or to not know what he was doing was wrong. 	M'Naghten (1843) R v Clarke (1972) R v Kemp (1956) R v Sullivan (1984) R v Hennessy (1989) R v Burgess (1991) R v Quick (1973) R v Coley (2013) R v Oye (2013) R v Windle (1952) R v Johnson (2007)
	Automatism Full Defence	An external cause or condition causes D not to have control over his or her actions.	Hill v Baxter (1958) R v T (1990) AG's ref (No.2 of 1992) (1993) R v Bailey (1983) R v Hardie (1984)
	Intoxication Full Defence	You need to consider whether the intoxication is voluntary or involuntary and whether the offence is one of basic or specific intent Voluntary Intoxication cannot be used as a defence to a basic intent crime.	R v Sheehan and Moore (1975) R v Lipman (1970) AG for NI v Gallagher (1963) DPP v Majewski (1977) R v Kingston (1984) R v O'Grady (1987) R v Hatton (2005) Jaggard v Dickinson (1980)
]	Self-Defence/ Prevention of Crime	Was force necessary (Subjective) Was the force used reasonable (Objective) Plus the statutory defence of a 'citizens'arrest' under s,3(1) Criminal Law Act 1967	R v Gladstone Williams (1987) Beckford v The Queen (1988) R v Seun Oye (2018) R v Bird (1986) R v Rashford (2005) R v Clegg (1995) R v Martin (Anthony) (2002) R v Ray (2017)
	Duress by Threats	Where a threat of death or serious harm is made to D or another identified person. D is given an instruction to carry out a specific crime and it is reasonable for D to act in the way they did. Duress cannot be used as a defence for Murder, Attempted Murder or Treason.	R v Howe (1987) R v Hassan (2005) R v Valderrama-Vega (1985) R v Graham (1982) R v Cole (1994) R v Hassan (formerly Z) (2005)
	Duress by Circumstances	When D finds himself in a situation where committing a crime may be needed to keep himself safe. In this situation there does not need to be a threat to carry out a specific crime.	R v Willer (1986) R v Conway (1988) R v Martin (1989) R v Pommell (1995) R v Cairns (1999) R v Abdul-Hussain (1999)