

Mens rea

Produced by Dr Peter Jepson

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Read & précis requirements ...

- Prior to the delivery of these PowerPoint slides you should read and précis Chapter Three of 'Criminal Law for A2' by Jacqueline Martin and/ or Chapter 2 (p21-40) of 'Criminal Law' by Diana Roe.
- **Your précis notes will be checked.** If one single student has failed to complete their précis work - the lecture will not proceed.
- **You need a copy of these slides in class.**

Behaviour in class ...

- Do NOT chat while the teacher or another student is addressing the class - *take notes while listening*.
- Raise your hand if you have a question.
- If a case is listed in these slides - you need a case note. Produce case notes BEFORE the lesson/lecture.
- Turn off your mobile.

What is mens rea?

The mens rea - in the mental element of an offence.

For example, I may intend to throw this book to X intending him to catch and read it.

What if, I accidentally hit V in the eye and she falls backwards through the window and dies.

- Am I criminally liable for V's death?

Different types of mens rea ...

- (1) Specific/Direct intent
- (2) Oblique intent
- (3) Recklessness
- (4) Negligence
- What is motive and why is it *irrelevant* to mens rea?
- Who must prove mens rea? Why?

Direct/oblique intent

- Can you re-produce and then explain (using a case) Figure 3.1. In ‘Criminal Law for A2’?
- Also read p23-24 of D Roe for further clarification

Foresight of consequences ...

- **In Law Firms** - Use the cases of Moloney [1985], Hancock & Shankland [1986], Nedrick [1985], Woollin [1998] and Matthews & Alleyne [2003] to discuss/explain if “*Foresight of consequences is not the same as intent*”.

Law Firms activity ...

- Undertake the activity given on page 25 of ‘Criminal Law for A2’.
- Produce some notes on Proposals for Reform - see page 28 / or page 32 of D Roe.

Recklessness ...

- This used to be a confused and problematic area - which the case of G and another (2003) has clarified.
- Why is Cunningham [1957] considered to be subjective?
- Why is Caldwell [1981] considered to be objective?
- **Have the judiciary killed off the reasonable man here?**

Transferred malice ...

- If X is late for class and I get annoyed and through a book at her - I am guilty of assault if she apprehends the immediate infliction of violence. Do I have to hit her?
- What happens if, instead of hitting X, I hit V? Am I liable for assault? See the cases of Latimer [1886] and Pembliton [1874].

Coincidence of acts reus and mens rea ...

- Suppose I tell student V - "*I hate you - you are always late and I want to kill you.*"
- Then, 5 years later, I have an accident in my car and kill V who happens to be a passenger in the car I hit. Will my statement "*I hate you ... etc*" be damning evidence? See cases of Thabo Mei v R [1954], Church [1966] and Fagan [1986].

In Law Firms ...

- Undertake the activities on page 38 of 'Criminal Law'.
- Report back to class.

Essay plans ...

- "The meaning of intention in criminal law has been clearly settled by decisions of the courts and there is no longer any need for Parliament to legislate upon the matter."
- Critically consider whether you agree with this statement

Re-capping the issues.

- With a fellow student - produce a list (the first most important, followed by the second etc) of what you consider are the most important areas we have covered in this section.
- **Working alone:** write a brief summary against the list (show cases) - to briefly explain each area.
