

Introduction to the English legal system and Criminal law

UNIVERSITY OF WORCESTER SCHOOL
OF LAW



Welcome to our 'have a go' session!

1

Find out what it is like to study law at university

2

Identify key features of the English legal system

3

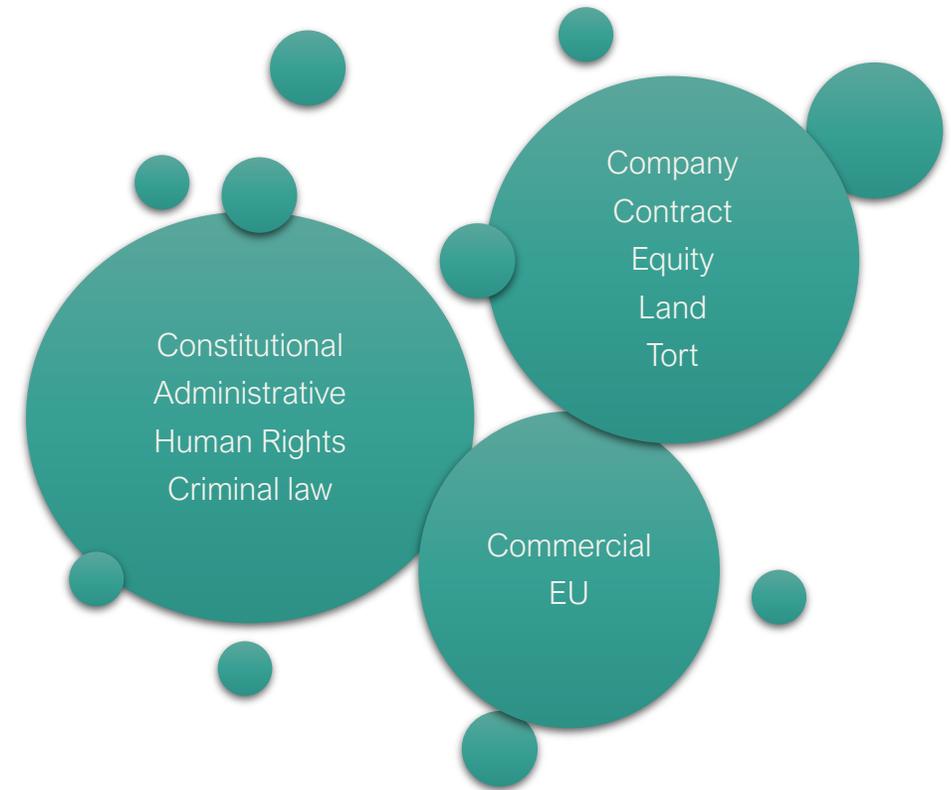
Consider elements of the criminal justice process

4

Examine the law and apply it to a scenario

The English legal system

- **Law** relating to England and Wales
- Different **sources of law**: case law, legislation, human rights law, European Union law?
- Various **classifications** – or categories – of law
- Various kinds of **procedure** e.g. criminal or civil
- Lots of opportunities for different kinds of **legal practice**





Criminal justice procedure

- Suspect and arrest
- Pre-trial and trial
- Sentencing



Applying for bail

What is bail?

After a suspect has been arrested and charged with an offence, he may either be:

- Remanded in custody
- Released on bail

There is a presumption that bail will be granted – **s.4, Bail Act 1976** but there are exceptions to this under **Sch. 1, Bail Act 1976**



Exceptions

CPS may object to bail on the grounds that:

- D may **fail to turn up** to court (surrender)
- D may **commit an offence** whilst on bail
- D may **interfere with witnesses** or obstruct the course of justice
- D should be kept in custody for his **own protection**

Factors to consider

The magistrates will take into account:

- The **nature and seriousness** of the offence (and probable sentence)
- The character and **previous convictions** of D
- D's associations or **community ties**
- D's previous **bail record**
- The strength of the **evidence** against D

Background

R

V

GLANVILLE PHIPSON

INSTRUCTIONS

Mr Phipson is charged with arson, contrary to s.1(2) and s.1(3), Criminal Damage Act 1971. It is alleged that on the afternoon of 6th June, Mr Phipson deliberately set fire to his ex-wife's house at 144 Sidney Street. The fire caused extensive damage to the property at No. 144 and an adjoining property, No. 146. Despite evidence identifying the defendant at the scene of the incident, Mr Phipson was not arrested until 9th June because he could not be found. He was then remanded in police custody on the grounds that there was a risk of the defendant absconding and committing offences whilst on bail. Police officers present at the arrest of Mr Phipson state that he was aggressive on arrest and that he asked if his ex-wife had died in the fire. When he was told that she had not been in the property at the time, he reportedly replied, "I'll get her next time".

Defence counsel is instructed to appear before the Magistrates' Court to apply for bail on behalf of Mr Phipson. Prosecution counsel is instructed to oppose any bail application.

What do you think?

PROOF OF EVIDENCE OF GLANVILLE PHIPSON

I am 28 years old and I live at Flat 6, Wood Park, with my partner, Susan. It is Susan's flat. Susan and I have been in a relationship for 6 months, we moved in together last month, and we are very happy together. At the time of the alleged incident, I was at home with Susan and she will give evidence to support me on that. I am employed as a salesman and often have to travel around the country. When the police came to arrest me, I was on a work trip in Edinburgh. I was not "on the run" or anything like that. The police didn't even ask my employer or Susan about where I was.

I do admit to having previous convictions for theft and assault occasioning ABH. I committed these while I was going through the break up with my ex-wife and I had been drinking very heavily. I pleaded guilty to the theft. Shortly after my release from prison, I sought help from my doctor and was diagnosed as suffering from severe depression. I am not receiving treatment and am in a much better place. I did not commit the arson that occurred at my ex-wife's house. She has had several new partners since our marriage broke down, so maybe it was one of them. Since meeting Susan I have tried to put my problems behind me.

PREVIOUS CONVICTIONS

01.11.17	Woodpark CC	Theft (shoplifting)	£100 fine
11.02.18	Woodpark CC	Assault (Actual Bodily Harm)	6 months' prison

Get ready to vote:

- A) Unconditional bail
- B) Conditional bail
- C) Bail refused



Using the law to determine criminal liability

FATAL OFFENCES – MANSLAUGHTER
TRIAL AND SENTENCING

Applying the law to a scenario

What are the legal issues here?

Glanville is invited to a fancy dress party and he decides to attend it wearing a scary mask from the film 'Scream' and carrying a knife. He walks to the party in his costume. On his way, he walks past a post office. Glanville enters the post office wielding his knife and he says to the post office manager, 'Give me some money or I will kill you'. The post office manager, who has a weak heart, hands Glanville some money and begs him to leave. Glanville runs out of the shop. The post office manager suffers a heart attack and dies.

Discuss Glanville's criminal liability for the death of the post office manager.

What is the relevant law?

What conclusions can I reach?

How does the law apply to these facts?

Overview of offences

Offence	Murder	Voluntary manslaughter	Involuntary manslaughter
<i>Actus reus</i>	Unlawfully causing the death of a human being	Unlawfully causing the death of a human being	Unlawfully causing the death of a human being
<i>Mens rea</i>	Intention to kill or cause GBH	Intention to kill or cause GBH	No intention to kill or cause GBH
Partial defence?	n/a	Yes, e.g., loss of control, diminished responsibility, etc.	n/a

Involuntary manslaughter

Unlawful act manslaughter

Intentional act

Unlawful act

Objectively dangerous

Causes death

Gross negligence manslaughter

Duty of care

Breach of duty

Causes death

Gross negligence

Other forms of involuntary manslaughter

Reckless manslaughter?

Corporate manslaughter

Which offence(s) can you identify?



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Relevant law

- *Mens rea* of murder cannot be established
- Therefore, **involuntary manslaughter** is relevant
- Performs unlawful act, so consider **unlawful act manslaughter** ('UAM')

Elements of UAM (*Larkin* (1944) 29 Cr App R 18):

- an **intentional** act,
- which is **unlawful**,
- objectively **dangerous** and
- which **causes** death.

Applying the law – elements of the offence



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Elements of UAM (*Larkin* (1944) 29 Cr App R 18):

- an **intentional** act,
- which is **unlawful**,
- objectively **dangerous** and
- which **causes** death.

What conclusions can I reach?

1. Intentional act

- Must be a voluntary act
 - Glanville voluntarily entered the post office in costume, wielding a knife and making threats
- Must be a positive act, not an omission: *Lowe* [1976] QB 702
 - Entering the post office is a positive act

2. Unlawful act

- Act must constitute a criminal offence: *Franklin* (1883) 15 Cox CC 163
- Both *actus reus* and *mens rea* elements must be established: *Lamb* [1967] 2 QB 981

Elements of robbery are satisfied (s.8, Theft Act 1968):

- Glanville steals the money (s.1, TA 1968),
- and immediately before and in order to do so
- he puts the manager in fear of being subjected to force by making threats and wielding a knife

3. Dangerous act

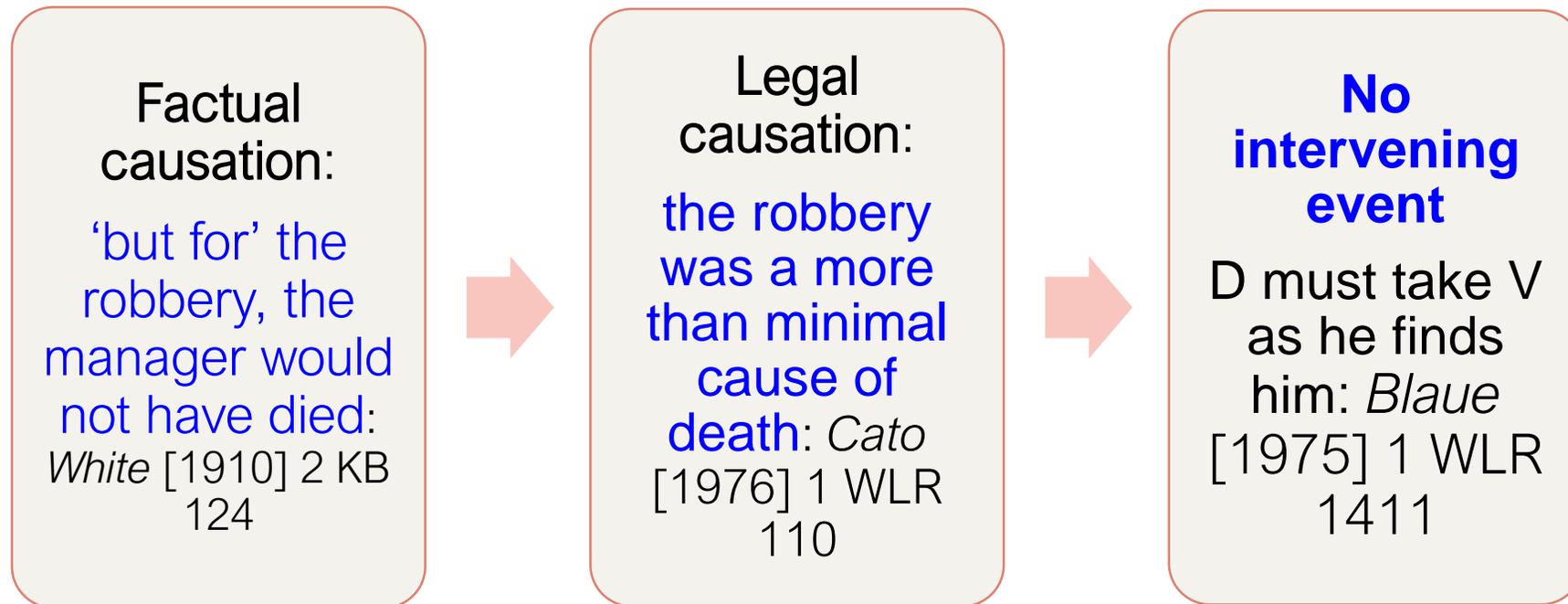
- Would a sober and reasonable person inevitably recognise the risk of some harm to the manager? (*Church* [1966] 1 QB 59)

What knowledge does the reasonable person have?

- Same knowledge as Glanville – was Glanville aware of the manager's heart condition?
 - Ought Glanville to have been? (*Dawson* (1985) 81 Cr App R 150)
-
- If the risk of harm becomes obvious during the offence, the reasonable person is attributed with that knowledge: *Watson* [1989] 1 WLR 684.

4. Causes death

- Apply the rules of causation to assess Glanville's liability here



Conclusion: Glanville is likely to be guilty of unlawful act manslaughter

Session review

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Thank you!

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