

# Fatal Offences

## Murder

**Definition:** the unlawful killing of a human being under the Queen's peace, with malice aforethought express or implied: Sir Edward Coke. Common law offence. Not in statute.

**Actus Reus:** to unlawfully cause a person's death. Certain killings are lawful e.g. in war/self defence.

- 1) D must cause the death factually i.e. 'but for' D's acts would it have happened? In White she would have died anyway.
- 2) D must be the legal cause of death i.e. no breaks in the chain.

**Mens Rea:** intent to kill (express) or cause GBH (implied) Vickers: intended GBH when committing burglary and hit shop owner.

If guilty: mandatory sentence is life imprisonment but can recommend minimum term before rec. for release on licence

**Causation:** 2 tests (only if asked)

- 1) Factual- 'but for' D's acts would C have died? In White she would have died anyway so doesn't pass test
- 2) Legal – were D's actions the operating and substantial cause of death? Or did something break chain?

Jordan: bad medical treatment can break chain where as in Blaue extra sensitivity cannot break chain.

## Voluntary Manslaughter

Charged with murder, have MR and AR but have a defence – lowers to manslaughter.

### Diminished Responsibility

S52 Coroners and Justice Act 2009:

- 1) D suffers an abnormality of mental functioning
- a) From a recognised medical condition
- b) Substantially impairs D's ability to understand their conduct
- c) Provides an explanation for D's act

### Loss of Control

S54 Coroners and Justice Act 2009

- 1) D's actions resulted from LOC
- 2) LOC had qualifying trigger (s55: feared serious violence on themselves or someone else OR due to something said or done OR both.
- 3) A similar person would react the same

Doesn't need to be sudden, Cannot be in revenge.  
Carries a discretionary sentence i.e. judge can choose

## Involuntary Manslaughter

Unlawfully killed but NO MR.

### Constructive/Unlawful Act Manslaughter

1) D carried out unlawful act

Doesn't need to realise may result in death/injury. Needs AR and MR of original act.

2) Unlawful act was dangerous

D doesn't need to realise, just ordinary person.

3) Unlawful act caused death

### Gross Negligence Manslaughter

1) D owed V legal DOC

2) DOC breached

3) Breach caused death

4) So bad jury consider it "gross" negligence

Showed such a disregard for life and safety it created an obvious risk of death.



### R v Byrne

Irresistible impulses of sexual psychopath



### R v Sutcliffe

Yorkshire Ripper – DR – but court said still murder.



### R v Ahluwalia

BWS and depression = DR



### R v Martin

Paranoid personality disorder



### R v Price: depression

R v Reynolds: post natal depression and PMT



### R v Cocker

D suffocated wife. No LOC



### R v Doughty

Crying baby now wouldn't be LOC



### R v Clinton (2012)

LOC rejected due to sexual infidelity



### R v Evans (2012)

LOC rejected as acted in revenge



### R v Ibrams and Gregory

Plotted revenge – wouldn't be LOC now



### R v Camplin

15yr old – abused. LOC would now work



### R v Mitchell

Man pushed another – illegal act



### DPP v Newbury and Jones

Teenage boys didn't realise risk – didn't matter, normal person would.



### R v Pittwood

Owed DOC to shut gate under contract



### R v Adomako

Failed to notice breathing tube disconnected – a gross breach



### R v Wacker

Smuggled immigrants without ventilation = gross.

# Writing Guide for APPLICATION Questions

## Murder

**Define:** the unlawful killing of a human being under the Queen's peace, with malice aforethought, express or implied – Sir Edward Coke

### Actus Reus:

1. What was the act? (punch/stab etc)
2. Was it unlawful (if was if it was not in war)
3. 'but for' D's act – would the person have died? (**White**)
4. Did anything break the chain? (Bad medical treatment? Note: thin skull won't break chain **Blaue**)
5. Both 3 and 4 must be answered 'no' for D to have the Actus Reus of murder.

### Mens Rea: "malice aforethought"

Did D directly intend to **kill** – if so they had an express intent, unlike in **Vickers** who intended GBH

Did D intend GBH (serious harm but not death) – if so they had an implied intent, like in **Vickers** who intended GBH

If they have the AR and MR then they are guilty of murder which carries a mandatory life sentence.

## Voluntary Manslaughter

Where on a murder charge, a partial defence can be pleaded

### Diminished Responsibility

Comes from **Homicide Act 1957 s2** (as amended by **s52 Coroners and Justice Act 2009**)

#### Test:

1. Was D suffering from an abnormality of mental functioning? Byrne "state of mind so different from an ordinary human being". Jury will decide on evidence. Examples: BWS/depression (**Ahlywalia**), post-natal/PMT (**Reynolds**), sexual psychopath (**Byrne**), paranoid personality (**Martin**), severe depression (**Price**)
2. Was it from a recognised medical condition?
3. Did it substantially impair D's ability to know what he was doing? How did it impair him? **Lloyd**; must be more than trivial.
4. Does it explain the killing?

If accepted, then the judge can award a discretionary sentence i.e. he can choose anything from life imprisonment down.

### Loss of Control

Comes from **s54 Coroners and Justice Act 2009**

#### Test:

1. Did D lose control? How do you know?
2. State that the LOC does not now need to be sudden (unlike in **Thornton**)
3. LOC must be from a qualifying trigger (anger trigger or fear for him or another)  
Minor provoking acts not allowed, unlike under old law in **Doughty** – baby crying.  
Revenge killings excluded: **R v Ibrams and Gregory**  
Killings due to sexual infidelity excluded: **R v Clinton**
4. Would the reasonable person of same age and gender, but with ordinary self control do the same?  
**Camplin**: compared him to a 15 yr old.

## Involuntary Manslaughter

Where D has NO INTENT to kill or cause GBH

### Constructive/Unlawful Act Manslaughter

1. Did D carry out an unlawful act?
  - Was it a crime that led to a death?
  - Does he have the AR and MR of the original offence (normally a battery as in **Mitchell**)
  - D doesn't need to realise actions could lead to death

3. Was the unlawful act dangerous?
  - Ordinary person would realise there was a risk of physical injury.
  - Irrelevant if D was not aware (**DPP v Newbury and Jones**)

2. Did the unlawful act cause death?
  - If cannot prove D's action caused death – no liability.

If yes, then the judge can award a discretionary sentence i.e. he can choose anything from life imprisonment down.

### Gross Negligence Manslaughter

1. Did D owe V a legal DOC
  - E.g. parent to child, employer to employee, contract, job (**Pittwood**).

4. Did D breach DOC?
  - Did D fail to take reasonable care?

3. Did breach cause death?
  - If not, not guilty

2. Would jury consider the breach constituted 'gross negligence'?
  - Does it show a 'disregard for life and safety'?
  - Did it create an 'obvious, serious risk of death'?
  - If yes = guilty as in **Adomako** or **Wacker**.