

GCE

LAW: GENERAL ELEMENTS OF LIABILITY

MENS REA 2: RECKLESSNESS SUGGESTED IDEAS FOR TEACHING AND LEARNING



SUGGESTED IDEAS FOR TEACHING AND LEARNING

Teacher /Lecturer:	
---------------------------	--

Course:	A Level Law
Topic:	General elements of liability
Session:	MENS REA 2: RECKLESSNESS

Component:	A Level Components 2 and 3
Ref. to specification:	Criminal Law
Suggested time allocation:	2-4 hours

Aims & Objectives: At the end of these sessions the student will be able to:

- **UNDERSTAND** that the actus reus and mens rea must be present simultaneously for someone to be guilty of a crime.
- **UNDERSTAND** that there are three forms of intention: intention, negligence and recklessness.
- **EXPLAIN** the two different forms of intention: direct and indirect/oblique.
- **ILLUSTRATE** indirect/oblique intention clearly with cases.

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce students to the session with reference to the objectives outlined above.
- Review previous session in the first few slides of the power point presentation and remind students about the need for actus reus and mens rea to be present simultaneously and about the three different forms of mens rea.
- Explain the definition of subjective recklessness with reference to the case of Cunningham, questions and answers throughout.
- Whole group discussion regarding the problems with Cunningham/subjective recklessness, prompting students as appropriate.
- Explain objective/Caldwell recklessness with the use of the power point presentation.
- Set small group task for students to go through cases presented in their textbooks or handout to discover the problems that arose as a result of Caldwell and discuss – refer to Elliott –v- C (A Minor) (1983), W (a minor) –v- Dolbey (1989) and R –v- G and Another (2003) – ensure each person in the group participates in discussion and feedback to monitor progress.
- Explain what has now happened to Caldwell/objective recklessness following R –v- G and Another and what happened when it reached the House of Lords using the power point presentation.
- Explain the current use of the Draft Criminal Code.
- Using the power point presentation explain the concept of transferred malice.
- Set students a task to look at the details of Attorney General’s Reference (No 3 of 1994) (1997) to see how the concept of transferred malice was confirmed by the House of Lords.

- Explain the concept of the coincidence of actus reus and mens rea with reference to Thabo Meli (1954) and Church (1965).
- Explain the concept of a continuing act using the case of Fagan –v- Metropolitan Police Commissioner (1986)
- Set homework of short answer questions to cover the concepts covered in the session.

Student Activities:

- Take notes, ask and answer questions throughout the session
- Participate in group discussions
- Participate in small group work and in feedback to the whole group
- Research into cases with feedback to the whole group

Suggested links / resources:

- IWB/Whiteboard
- Power point presentation
- Any good A Level Criminal Law textbook
- Handouts

Assessment

During the lesson	Students will be continually assessed during the session on their note taking, asking of questions, answering of direct questions and participation in small and whole group work. They will also be assessed on their ability to research on the small task in this session.
Subsequent to lesson	Students will be set a short homework task of short answer questions to demonstrate their understanding of the concepts covered.

TOPIC: RECKLESSNESS

Questions:		Expected answers:
1.	What are the three forms of mens rea?	Students should be able to recall intention, recklessness and negligence.
2.	What is the definition of recklessness?	This question can be asked before or as a revision question after teaching so answer will be determined by this. Students may suggest that recklessness is when someone does something without taking the appropriate amount of care. They may know that it is a lower form of mens rea than intention covered in the last session.
3.	Which case is associated with the origins of subjective recklessness?	Students should be able to refer to Cunningham and be able to find details of the case in their textbooks if they don't know them.
4.	What is the link between the Criminal Damage Act 1971 and recklessness?	Students may be able to explain that this Act covers objective recklessness when it relates to criminal damage.
5.	What cases can be discussed with objective recklessness?	Students may refer to Caldwell specifically and give the details. They may also refer to Stephenson or Lawrence.
6.	What are the problems with objective recklessness?	Students may refer to the fact that this relies on the defendant being able to understand the risk in the same way that the reasonable man would but that not all defendants are able to do this.
7.	What cases highlight the problems with objective recklessness?	Students should be able to discuss the cases of Elliott –v- C (A Minor) and R – v- G & Another.
8.	What reforms have been suggested for recklessness?	Students may be able to link to the Draft Criminal Code and hopefully be able to break down the criteria outlined. They should be able to understand that the law has now reverted to subjective recklessness and that Caldwell recklessness has all but been abolished.
9.	What is the concept of transferred malice?	Students should be able to explain that this is where a person aims an action towards one individual but that action

		actually ends up being committed against someone else then the mens rea will be deemed to be transferred.
10.	What cases can illustrate the concept of transferred malice and what limitations are placed on it?	Students should be able to give details of the Pembliton and Latimer cases. Students should be able to explain that the limitations on transferred malice are that the two offences must be similar.

