# University of London/Assessment Coversheet

Complete this coversheet and read the instructions below carefully.

**Candidate Number: 100834**

**Degree Title: Bachelor of law 2021**

**Module Title**: **Criminal law**

**Module Code: LA1010 May B1**

**Enter the numbers, and sub-sections, of the questions in the order in which you have attempted them:**

**(PART 1)**

**Q1: (A) (B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M)**

**(PART 2)**

**Q3:**

**Q5:**

**Q7:**

**Date: 1 June 2021**

## Instructions to Candidates

1. Complete this coversheet and begin typing your answers on the page below, or, submit the coversheet with your handwritten answers (where handwritten answers are permitted or required as part of your online timed assessment).
2. Clearly state the question number, and any sub-sections, at the beginning of each answer and also note them in the space provided above.
3. For typed answers, use a plain font such as Arial or Calibri and font size 12 point or larger.
4. Where permission has been given in advance, handwritten answers (including diagrams or mathematical formulae) must be done on light coloured paper using blue or black ink.
5. Reference your diagrams in your typed answers. Label diagrams clearly.

**Examiners attach great importance to legibility, accuracy and clarity of expression.**

**Begin your answers on this page**

Note that the words on the assessment coversheet and to the end of this sentence point will be about 240 words.

Section A

**Question No 1:**

**Answers:**

**A)** If I was appointed as the prosecutor in this case, I would impose the Fraud Act 2006 section 2 subsection (a) on Adam, in the case of re-taking the car. Also I would charge Adam with dishonesty, cheating and fraud.

**B)** The reason why I would impose the Fraud Act 2006 section 2 subsection (a) is that Adam firstly lent Eve his car with dishonest intentions without any delay at first time. After that in my view, perhaps Adam followed Eve to her destination where she got out of her car, as soon as Eve left the place, Adam went to the car and retook the car with ill will, and drove away far from the location and parked in a safe spot, and did not let anyone know, he made sure that Eve did not have any clue of where the car might be.

**C)** The main arguments that the defendant party would raise was that the car was Adam’s property and he could took it whenever he wanted. The documents provided proved that the car belonged to Adam. The second argument that the defendant’s party made was that Adam had an urgent piece of work that’s why he took the car without informing Eve. In fact, no offense had been committed by Adam because the car in belonged to Adam and he was the sole owner of his property, therefore, no offense could be made out from the story above.

**D)** If was the prosecutor, I would impose charges against Adam in relation to the recovery of compensation of mental torch agony and recovery of the amount of the car in question.

**E)** The reasoning I would raise in the trial would be that Adam first retook the car without letting Eve know about it. Later when Eve arrived back home, she told Adam that his car was stolen, Adam took advantage of the situation and acted like he knew nothing, this is purely illegal in British Law. Moreover he demanded compensation for the car, which was a complete fraud because he falsely made her think that the car was stolen.

**F)** If I was the prosecutor, I would charge Adam for the Fraud Act 2006, because he made changes the odometer’s readings, and the response that he made against Stephan’s response.

**G)** Adam modified the car’s odometer’s readings and reduced the mileage of the car which is completely illegal, moreover when Stephan asked the question, Adam acted like as if he knew nothing about it which makes it a complete fraud.

**H)** If I was the prosecutor I would charge Adam with Theft Act 1978 section (1) subsection (3) because he left the Tiara at the doorstep.

**I)** If I was in the defence council, the arguments that I would raise in support of not having intention of stealing the Tiera (also known as mensrea). Furthermore, another argument would be that the Tiera was stolen by someone where Adam was in the way.

**J)** Arguments could be raised by the prosecution like Adam stole the Tiera without letting the owner know about it which clearly makes it a theft crime. Furthermore, Adam also knew the closing time of the shop thus he left the Tiera intentionally in the doorstep and framed the owner of the shop.

**K)** If I was the prosecutor, I would charge Adam with Criminal Damage Act 1971 Section 1 for illegally damaging other’s property.

**L)** The reasons for imposing Adam with Criminal Damage Act 1971 Section 1 are that he illegally damaged and destroyed a car that belonged to someone else. This makes him guilty under Criminal Damage Act 1971 Section 1.

**M)** If I was in the defence party, the arguments I would raise is that the other person illegally and carelessly parked his car in the Adam’s driveway which was Adam’s property and possession. Parking in Adam’s driveway made Adam unable to park his own car in his driveway.

Section B

**Question No 3:** Explain and discuss the defences of insanity and diminished responsibility?

**Answer**:

**Insanity:**

Defence of insanity generally is available to all types of crimes. If the defendant is found abnormal or insane, the jury has to issue a special verdict ‘not guilty by reason of insanity’ under s.2 of the Trial of Lunatics Act 1883. It is a deprecated statement but was previously regarded as automatically acceptance to secure accommodation. It was then released by the authority of Home Secretary.

The defence of insanity can only be raised by prosecution and judge in addition to the already existing defence. In fact, in general it is the defence seeking that helps in avoiding a finding of insanity and thus the defendant often changes his plea to guilty for avoiding the finding of insanity.

These are the types of defence of insanity:

The M’Naghten Rules:

The legal notion of insanity is described by a statement of principle which is derived from a famous case back in 1843, when Daniel M’Naghten attempted to murder the prime minister, but later he was found not guilty on the basis that he was suffering from an insane delusion that the prime minister and his constituents were conspiring against him. The public were enraged due to this M’Naghten’s acquittal that the House of Lords requested for establishing rules for governing the defence of insanity. These rules established are the M’Naghten’s rules.

M’Naghten rules states that every man is expected to be sane, and to have sufficient reason to be responsible for his crimes, until the contrary is proved. And in order to establish defence on the ground of insanity, it must be proved that the alleged criminal was dealing with the defect of insanity at the time of committing his crime from the disease of mind.

The two main key elements of M’Naghten’s insanity defence are as following,

The first being that the defendant must be suffering from a mental defect or disease at the time of his crime.

The second being that the defendant did not realize the nature or quality of the criminal act he or she committed, or that the act he did was wrong because of his mental defect.

Disease of the mind:

The notion of the defect of mind has nothing to do with the current knowledge about mental illness, it does not fall under the medical condition, instead it falls under legal matter. Currently, the legal position is that whoever are not considered to have the disease of the mind by any normal measure, are treated by the criminal law.

Whatever the condition of the brain is, it has nothing to do under legal matters, whether the brain is curable or incurable, transitory or permanent. For example hardening of arteries is falls under disease, and it is capable enough to cause a defect. This truly falls under the disease of mind under legal matters.

The ruling test that falls under the disease of mind is the Devlin J in the case of Kemp [1957] 1 QB 399. In this case, the defendant molested and attack his wife with a hammer, which caused a severe bodily harm. Later on, medical evidences showed that D was suffering from arterial-sclerosis, a condition that stops the blood flow to the brain which causes temporary consciousness. The case was rejected being the defence of automatism, and it lied under the rule of insanity.

**Diminished responsibility:**

Diminished responsibility was originated in s.2 of the Homicide Act 1957. As with the provocation, its sole aim was to provide sentencing discretion in the case of murders where serious mitigation exists. It was more important because at that time, murder was considered as a capital offense.

The defence was later reconfigured by s.52 of the Coroners and Justice Act 2009. The main modifications made were to clarify the type of mental abnormality which may result in grounding the defence, and the proper mechanism for substantiating that abnormality. Beyond this, the defence covers much of the same ground and pre 2009, cases are likely to remain of authority where consistent with new provisions.

Section 52 of the Coroners and Justice Act 2009 amends S.2(1) of the Homicide Act 1957 as under:

A person (‘D’) who murders or is involved in part to the murdering of another will not be found guilty to murder, if D was already suffering from abnormality of mental functioning, which either arose from some recognized medical condition, considerably impaired D’s ability, provides D’s explanation in doing or being part of murdering.

Those things are to understand the nature of D’s conduct, to form logical judgement or to practice self-control.

Abnormality of mental functioning arising from a recognized mental condition:

First, this must be proved that the defendant was in fact suffering from abnormal mental functioning. An abnormality of mental functioning is not properly defined, but is always described as a slight deviation in nature of D’s conduct from a reasonably healthy person.

This test obviously a bit unclear but it has been given focus by s.52(1A) which refers to its effect on D’s ability, to understand the nature D’s conduct, to a form a logical judgment, and to practice self-control.

So a person who does murder because their mental functionalities were abnormal, causes them to misunderstand V’s words or actions, or causes them to misinterpret innocent act as aggressive act, or makes them feel insecure where there are no dangers, or overestimate the danger they are facing, these all types falls under the defence, as long as it is caused because of a recognized mental condition.

Recognized Mental Condition:

Recognized mental conditions can be found in authoritative classificatory lists, including the World Health Organization’s International Classification of Diseases and the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders. It is likely that the following conditions, which was the basis for the old law, will move on to be accepted as recognized mental conditions.

These conditions include, arrested or deprecated mental development, depression (Gittens [1984] QB 698), Bipolar (Inglis [2010] EWCA Crim 2637), Paranoid Schizophrenia (Sutcliffe, The Times, 30 April 1981), Brain damage, Psychopathy (Byrne [1960] 2 QB 396), Paranoid personality disorder (Martin (Anthony) [2001] EWCA Crim 2245), Postnatal depression (Reynolds [1988] Crim LR 679). The new law, thus will require testimony of an expert’s witnesses in any case where the condition depended on the defendant is disputed or unclear.

Alcohol and Drugs:

The old law was separated from beer drinking and chronic alcoholism. Thus, intoxication is not a medical condition, and it can’t support the new defence. The court of Appeal deduced that some voluntary acute intoxication, whether from alcohol or any other substance, cannot always fall under diminished responsibility. However, if the mental functioning were not normal then it does not have the only cause for the killing as long as it provides explanation for D’s including in the murder. The Only exception to this rule comes where the defendant is chronic alcoholic.

**Question No: 5**

**Answer:**

Today the Supreme Court has handed over a landmark judgment that corrected a thirty year old defect in the law of criminal joint enterprise. 5 representatives of the Doughty Street Chamber acted in R v Jogee [2016] UKSC 8.

For more than thirty years, the criminal lawyers and judges have been trying hard with the law of joint enterprise. This principle meant that, if two people planned to commit a crime together (Crime A), and during this joint enterprise’s course, any one of them make another offense (Crime B), the second person will be considered guilty of crime B, if he saw that the person might acted as he did. Therefore, under this it was now called the old law, it was enough to observe that someone else might be able to make the same crime as he did, and the persecution did not have to give evidence that that the crime should not be committed.

Furthermore, this meant that a low test was established for a second party than for the principal, who would be guilty of crime B only if he or she had the necessary intent regarding that crime.

This principle lead to the conviction and sentence of a substantial number of people. The number is ambiguous but it is thought that the amount may go up to hundreds. It has a very rude and negative on the young generation especially the black and ethnic minority. This was the subject to strangest academic, political and famous criticism.

In an unclear judgment, the Supreme Court has now held that more foresight of the intention of accomplice is not enough to provide proof about the guilt against a secondary party to an offense. In a slight language, the Court decided that the Privy Council made a mistake in 1984 case [4], and the law has gotten wrong turn ever since. Jogee restores intention to make crime a true determinant to liability of those involved in an offense.

This is a significant decision for those who find themselves caught up in violent incidents, with no control over the outcome, and face criminal prosecution on slender proof of real participation. These people involved are often young and vulnerable. The judgment is a big change in the law of parasitic accessorial liability, which has now been consigned to the history books as an error.

Question No: 7

Ans: To begin with of all the criminal risk of the joker named as Bruce is embraced with Segment 20 of Offenses Against the Individual Act conjointly Actus Reus applies on bruce which states that any individual who illicitly wound or hurt any individual and does not matter if the individual incorporates a weapon or not and he was having total eagerly of hurting or slaughtering Marian.

In this case the joker who takes affront from Marian and Marian may be a individual enduring from wellbeing conditions. Bruce knowing that taking affront from Marian would cause her genuine wellbeing issues. Bruce after taking the affront from Marian too calls Marian that he has stolen her affront to create her freeze assaults trigger which inevitably he succeeded in. After calling Marian and telling her almost the unlawful and unlawful act he has done demonstrates that he was within the total intention of hurting and he gets to be blameworthy beneath Area 20 of Offenses Against the Individual Act conjointly Actus Reus.

Marian endures from freeze assaults and tries to spare her life by driving to the healing center after driving from a few whereas she gets hyperglycaemic and gets confounded due to which collapses and hits a lamppost in result of which the lamppost falls over Ayesha which takes off Marian with a stun and bruised sternum and Ayesha which makes her oblivious and breaks her pelvis.Here Marian who was driving to spare her life accidently hits into a lamppost and harming Ayesha does not ended up blameworthy of any act since basic it was an mishap and here mensrea takes put since she was not having any eagerly to harmed Ayesha physically or rationally in any cases.

Valuable murder can moreover be caused here because it is characterized as a combination of Actus Reus and Mensrea which must coordinate a results happening a chain of occasions. In straightforward terms one wrongdoing is developed by another wrongdoing. For illustration a individual can be blameworthy of murder if a passing comes about within the repercussions of an assaukt, criminal harm , burglary , mental state or indeed robbery. Here Bruce after activating freeze assault on Marian resulted in her car crash which brought about within the real harm of Ayesha and this demonstrates the explaination given over.