

# BTEC Applied Law Summer Independent Learning

## Yr12-13

This pack contains various tasks to help you prepare for the start of year 13 in September.

Please **complete ALL tasks** ready for your first day back at New College and bring them with you to your first BTEC Applied Law lesson.

The Summer Independent Learning in this pack will focus on **Unit 3 – Applying the law:**  
Complete the tables of information and tasks.

### Part 1 - Murder

**Murder** is a common law offence, which means there is no Act of Parliament. Murder was defined by Lord Coke in the 17<sup>th</sup> century as:

*“The unlawful killing of a reasonable creature in being, under the Queen’s peace, with malice aforethought, either express or implied...”*

#### ACTUS REUS OF MURDER

Research the following cases and summarise them in the table below:

<p><b><u>Unlawful Killing</u></b> (i.e. not self-defence or other justified killing)</p>	 <p><b>Re A (2000)</b></p>
<p><b><u>Reasonable Creature in being</u></b> Basically, means human being – this would not include animals for example</p>	 <p><b>Attorney-General’s Reference (No3 of 1994)</b></p>
<p><b><u>Under the Queen’s Peace</u></b> (i.e. not in war-time)</p>	 <p><b>R v Adebolajo (2014)</b></p>

## CAUSATION

Murder is a result crime and so it must be proved that the defendant caused the death of the victim. [Research the following cases and summarise them in the table below:](#)

<p><b><u>Factual Causation</u></b> The result would not have happened 'but for' D's conduct...</p>	 <p><b>R v White (1910)</b></p>
<p><b><u>Legal Causation</u></b> Culpable act/omission must be the operating cause of the result... (i.e. D must be more than minimally responsible)</p>	 <p><b>R v Smith (1959)</b></p>

## NOVUS ACTUS INTERVENIENS (intervening acts)

To break the "chain of causation" an intervening act must be such that it becomes the sole cause of the victim's death making the defendant no longer liable. [Research the following cases and summarise them in the table below:](#)

<p><b><u>Thin Skull Rule (eggshell conditions)</u></b></p> <p> General rule is D must take V as they find them.</p> <p><b>R v Blaue (1975)</b></p>	<p><b><u>Acts of a 3<sup>rd</sup> Party</u></b></p> <p><b><u>Medical Treatment</u></b></p> <p> <b>R v Jordan (1956)</b></p>
<p><b><u>Victims Own Acts</u></b></p> <p><b><u>Escape</u></b></p> <p> <b>R v Roberts (1971)</b></p>	<p><b>R v Cheshire (1991)</b></p> <p><b><u>Terminating Treatment</u></b></p> <p><b>R v Malcherek (1981)</b></p>
<p><b><u>Self-treatment &amp; refusal</u></b></p> <p> <b>R v Holland (1841)</b></p>	<p><b><u>Acts of God or Nature</u></b></p> <p> <b>R v Hart (1986)</b></p>

## MENS REA

The Mens Rea for murder is known as ‘**malice aforethought, express or implied.**’

Express = Intention to Kill

Implied = Intention to cause GBH but V dies



**Direct Intention to kill or cause GBH** – desiring a consequence and trying to bring that about, for example D wants to kill V, so D gets a knife and stabs V and V dies.

**Oblique Intention to kill or cause GBH** – Where D does not necessarily desire outcome but realises such an outcome is inevitable (foresight of consequence) – this is much more difficult to prove. [Research the following cases and summarise the facts in the table below:](#)

Case	Facts	Test
 <b>DPP v Smith (1961)</b>		Would an <b>ordinary reasonable man</b> have foreseen death or serious injury
<b>s.8 Criminal Justice Act 1967</b>		Did the defendant foresee death or serious injury as a <b>natural and probable</b> consequence?
 <b>R v Moloney (1985)</b>		Did the defendant foresee death or serious injury as a <b>natural</b> consequence?
 <b>R v Nedrick (1986)</b>		Jury entitled to <b>infer</b> whether the defendant foresee death or serious injury as a <b>virtual certain</b> consequence.
 <b>R v Woollin (1998)</b>		Jury entitled to <b>find</b> whether the defendant foresee death or serious injury as a <b>virtual certain</b> consequence.
 <b>R v Matthews &amp; Alleyne (2003)</b>		Did the defendant foresee death or serious injury as a <b>virtual certain</b> consequence? - Foresight is no more than evidence from which the jury may draw the inference of intent.

## TASKS

### VOCATIONAL CONTEXT

You are a trainee solicitor working for the Crown Prosecution Service (CPS).

#### Task 1

One of the CPS solicitors has asked you to **review and apply the law to the case below forwarded from the police**. You have received two new cases:

You must explain the:

- Actus Reus of Murder, with reference to case law.
- Causation (factual and legal), with reference to case law.
- Novus Actus Interveniens, with reference to case law
- Mens Rea of Murder, with reference to case law

#### Case 1

*Polly loves chocolates but is allergic to nuts and hates needles, her ex-boyfriend Ted knew this. Out of revenge for their break-up he sent Polly some chocolates and a note begging her to go back out with him. The chocolates contained nuts, but he had swapped the ingredients label to say that they were nut free.*

*Polly read the note and threw it in the bin, 'not a chance she thought' and then after reading the ingredients to make sure they didn't contain nuts, ate one of the chocolates. She had an immediate allergic reaction. Her mum drove her to hospital, but she refused the needle antidote and died 3 days later.*

#### Task 2

#### Evaluation of Murder

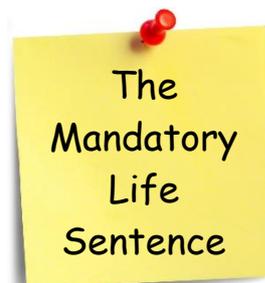
There are four main problems with the law of murder:



No  
Parliamentary  
Definition



The Serious  
Harm Rule



The  
Mandatory  
Life  
Sentence



No Defence  
for Duress

Vocational Context

As part of your training you have been asked to **contribute to an article evaluating the law of homicide that the CPS are going to publish**. Your contribution to this article will be to

write three well developed paragraphs evaluating the law of murder. Using the PEDH structure (Point, Explain, Develop, However).

The following links will help you with your evaluation:

<http://www.bitsoflaw.org/criminal/offences-against-the-person/study-note/a-level/murder-evaluation-reform>

<https://www.lawcom.gov.uk/project/murder/>

[https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2015/03/lc304\\_Murder\\_Manslaughter\\_and\\_Infanticide\\_Report\\_easyread.pdf](https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2015/03/lc304_Murder_Manslaughter_and_Infanticide_Report_easyread.pdf)

<https://lifeofalondonlawstudent.com/a-very-brief-evaluation-murder-and-manslaughter/>

## Part 1 - Voluntary Manslaughter

If the defendant is charged with murder there are **partial** defences available to reduce the charge from murder to manslaughter. The defences are **Diminished Responsibility** and **Loss of Control**.

### Diminished Responsibility

Area	<u>Explanation</u>	<u>Case</u>
What is the Act of Parliament which governs Diminished Responsibility?		
Abnormality of mental functioning ( <b>AMF</b> ) 	<b><u>Test -</u></b>	<b>Byrne (1960)</b> <i>D was a sexual psychopath who killed a young woman. He was unable to control his perverted desires therefore he successfully claimed DR as he had an AMF.</i>
Recognised Medical Condition ( <b>RMC</b> )	Some examples of <b>RMC</b> are:	 <b>Brown (2011)</b>
Substantially Impaired ( <b>SI</b> )	The RMC must <b>substantially impair</b> D's mental responsibility to do one of three things (called gateways). - <b>Understand the nature and conduct of their actions</b>	 <b>Yorkshire Ripper</b> -

	<ul style="list-style-type: none"> <li>- <b>Make a rational judgement</b></li> <li>- <b>Exercise self-control</b></li> </ul>	
Provides an Explanation ( <b>EX</b> )	This means that there needs to be a causal link between the defendant's mental abnormality and the killing.	
If the defendant kills <u>and</u> is intoxicated too	<p><b>Just drunk</b> – Not a defence of DR</p> <p><b>Drunk &amp; an AMF/RMC</b> –</p> <p><b>Alcohol Dependency (ADS)-</b></p>	 <p><b>Dietschmann (2003)</b> D's girlfriend/auntie had died and he suffered from <b>adjustment disorder</b>. (V) broke his watch that she had given him so he kicked (V) to death. He was drunk at the time however if you ignore the alcohol he still had a RMC and would have killed regardless therefore he got the defence.</p>

### Loss of control

Area	Explanation	Case
What is the Act of Parliament which governs Loss of Control?		
Loss of Control		 <p><b>Jewell (2014)</b> <i>D went to his work colleagues house to pick him up and shot and killed him at blank range. Defence failed as there was insufficient evidence to show that he had lost control.</i></p>
Qualifying Trigger ( <b>QT</b> )	<p>There has to be a qualifying trigger for the loss of control. The triggers can be:</p> <ul style="list-style-type: none"> <li>- Fear</li> <li>- Anger (things said and done)</li> </ul> <p>There need to be circumstances of an '<u>extremely grave character</u>'</p>	<p><b>Dawes (2013)</b></p>  <p><b>Zebedee (2011)</b></p>

	(EGC) and They caused D to have a <u>justifiable sense of being seriously wronged</u> . (JSBW)	 <p>D had killed his father as he suffered dementia and was soiling himself all the time. LoC failed as t wasn't EGC and he did not have a JSBW.</p>
Normal Person test ( <b>NPT</b> )	A person of D's sex and age, with a normal degree of tolerance and self-restraint and in the circumstances of D, might have reacted in the same or similar way.	 <p><b>Camplin (1978)</b></p>

## Part 1 - Involuntary Manslaughter

Involuntary manslaughter is when death occurs but the defendant does not have the intention for death or serious injury. There are two types that you must know **Unlawful Act Manslaughter** and **Gross Negligence Manslaughter**.

### Unlawful Act Manslaughter

Area	Explanation	Case
<u>Unlawful Act</u>		 <p><b>Larkin (1942)</b></p>
<u>Dangerous</u>	<u>Test –</u> <ol style="list-style-type: none"> <li>1. Would the SRP see Ds actions as dangerous</li> <li>2. Would the SRP see a risk of some harm</li> </ol> <p><b>Other things relevant to the SRP that you must know...</b></p> <ul style="list-style-type: none"> <li>- The SRP does not make the same <b>mistake</b> as D.</li> <li>- The SRP <b>gains Ds knowledge</b>.</li> <li>- The SRP does not see <b>eggshell conditions</b>.</li> </ul>	 <p><b>Church (1965)</b></p>

<u>Caused Death</u>	It must be established that the D caused the death of the victim. The normal rules of causation apply here (factual and legal.)	
<u>Intention for the Unlawful Act</u>		 <p><b>Newbury and Jones (1977)</b> Ds threw a concrete slab onto a train and it killed the driver. They were G of CM as they had the <b>intention to throw the slab (unlawful act)</b>. It was irrelevant that they had no intention to kill and didn't appreciate it as an option due to their age.</p>

### Gross Negligence Manslaughter

<u>Area</u>	<u>Explanation</u>	<u>Example/Case</u>
<u>Duty of Care</u>		
<u>Breach of Duty</u>	D must also breach their duty so death occurs. They are judged against the ordinary standards of the reasonable competent person of their profession.	
<u>Caused the Death</u>	It must be established that the D caused the death of the victim. The normal rules of causation apply here (factual and legal.)	

<u>Grossly Negligent</u>	<u>Test –</u>	 <b>Adomako (1994)</b>
<u>Risk of Death</u>		

**TASKS**

**Vocational context**

**You are a trainee solicitor working in a criminal law firm. You are completing training within the fatal offences department. Your supervisor would like your assistance with his case load.**

**Case 1** – Advise Millie on using diminished responsibility and/or loss of control as a special defence to murder. Explain and apply each element of the special defences.

Millie and Carl join an online dating agency. They chat, meet after two weeks and marry six weeks later. On their wedding night Carl gets drunk and hits Millie. Carl apologises. Carl is often romantic but gets violent when he has been drinking. On their wedding anniversary Carl and Millie drink a bottle of wine. Carl calls Millie useless and smashes the empty bottle over her head. Eventually Millie goes to the doctor and he puts her on anti-depressants. A month later, Carl punches Millie again and goes to bed. After an hour, Millie hears Carl snoring and she stabs him with a kitchen knife, killing him immediately. Millie dials 999 and when the ambulance arrives she is holding Carl sobbing 'I love you'. Millie has been charged with the murder of Carl.

**Case 2** – Explain and apply your knowledge of involuntary manslaughter.

Mark, aged 35 and Roy, aged 40, collect hunting knives. They are fooling around with two knives when Mark trips and Roy stabs him in the stomach with his knife. Roy dials 999 for an ambulance but it takes 30 minutes to arrive because the driver is on a tea break. Mark has lost a lot of blood. At the hospital Doctor Brown, who has been on duty for 20 hours, examines Mark and says he needs to have a blood transfusion to help save his life. Mark tells Doctor Brown that his religion forbids blood transfusions. Doctor Brown then insists that Mark has an extra-large dose of antibiotics instead and injects

Mark without asking if he has any allergies. Mark dies an hour later of an allergic reaction to the antibiotics.

## Part 2 – Property Offences

**Task 1** - Research the following property offences, for each one you must identify the Act of Parliament and section(s) which govern it. The actus reus and mens rea with case examples to support. This must be evidenced as knowledge mats for each property offence.

- Theft
- Robbery
- Burglary
- Fraud by false representation
- Criminal Damage (basic offence)
- Criminal Damage (aggravated)

**Task 2** – Using your knowledge mats on the property offences, apply your understanding to the below scenario, write a full answer applying the law to the characters.

Earl was a cycling enthusiast who carried out bicycle repairs in his garden shed. Harry, Earl's neighbour, asked Earl if he could repair Harry's bicycle. Earl said, "Yes, if you pay me £50 when you collect the bicycle." Harry agreed to this arrangement. Later, however, Harry changed his mind and decided to take his bicycle back without paying. When Earl told Harry that he had finished repairing his bicycle, Harry entered the unlocked shed. He knew that Earl was away at the time. Harry was about to take his bicycle from the shed when Earl unexpectedly returned and rushed towards him. Harry pushed Earl, causing him to fall and cut his arm badly on a pair of garden shears. As Harry took the bicycle, Earl demanded his £50. Harry told Earl, "No way!"