

Mens rea Revision Sheet

Mens rea concerns the guilty mind – whether you intended the outcome of your act. It then naturally considers intention which can be direct or indirect/ oblique.

Indirect/ Oblique Intention cases: **R v Maloney, R v Hancock and Shankland, R v Nedrick, R v Woolin**

In **R v Woolin 1999**, the House of Lords certified the virtual certainty test i.e.

- (a) That the serious bodily harm was a virtually certain consequence of the D's voluntary act, and
- (b) That the D appreciated that the consequence was virtually certain as a result of his act

Recklessness

Subjective recklessness established as a principle in the case of **Cunningham 1957**, and is commonly known as Cunningham recklessness. This is the level of mens rea, less than intention, where D is aware of the risk of his actions but commits the act anyway.

In **R v G and R 2003**, Lord Bingham state a further definition where 'a person acts recklessly within the Criminal Damage Act 1971 s1 with respect to –

- (i) A circumstances when he is aware of the risk that exists or will exist,
- (ii) A result when he is aware of a risk that it will occur, and

It is, in the circumstances known to him, unreasonable to take the risk.

In **Brady 2006** – it was established that D need only foresee a possible risk, not necessarily an obvious or significant one.

Coincidence of AR and Mens rea

It is required that the actus reus and mens rea of an offence occur at the same time in order for there to be liability.

R v Thabo Meli 1954 – a series of acts can constitute one continuing act and thus there remains the coincidence of actus reus and mens rea.

Fagan v MPC 1969 – accidentally driving on to an officer's foot and then forming the mens rea to not drive off of it was seen as one continuing act.

R v Le Brun 1991 – with no preconceived plan, trying to conceal an assault was treated as the same sequence of events