

Answers to problem solving questions

Outline Answer

Burglary (See 14.1)

D has permission to enter H & W's house and therefore does not trespass in order to look after it. He may, however, commit s9(1)(a) Theft Act 1968 burglary if he enters the house with an intention to steal. This may make his entry a trespass (*Jones & Smith*) from the outset because he will have exceeded his permission to enter. **(14.1.2)**

On the other hand, s9(1)(b) may be more relevant: having entered as a trespasser into the lounge/kitchen/bedroom (i.e.: part of a building) he goes on to steal. Any defence to theft will defeat burglary. Although he has no intention to permanently deprive H & W of their DVD's or half the bottle of brandy (s6 TA 1968 and *Lloyd*) he does permanently deprive them of the brandy which he drinks. He is clearly dishonest, assessed objectively (*Ghosh/Ivey*) and so all AR/MR elements of theft can be proved. **(See 12.1 for theft).**

Blackmail (See 14.2)

Under s21 Theft Act 1968 blackmail consists of an unwarranted demand with menaces with a view to gain or causing loss to another **(14.2.2)**. He makes a demand which could be described as unwarranted unless he believes under s22(1)(a) that it is reasonable and that 'menaces' is a proper way of enforcing it. His subjective belief will determine the issue (*Harvey*) **(14.2.3)**. Does he, for instance, feel exploited by H & W? Are there other issues between them? The demand is clearly made with a view to making a gain.

Criminal Damage (See 14.3.1 – 3)

Under s1(1) all elements of AR/MR appear satisfied. The damage to the pond (s10: property which belongs to another under s10(2)) appears to be without lawful excuse unless D can assert a genuine belief in either consent or that the damage to the pond was immediately necessary for its own protection. The death of the fish would be covered by s10.