Answers to problem solving questions

Outline Answer

Theft
When explaining appropriation, you would need to trace the development of the concept by reference to Lawrence, Morris, Gomez and Hinks. **(See 12.1.2 and note 12.4)**

Her conduct on keeping the money when she discovers the mistake is dishonest according to ordinary standards (Ghosh). but if D asserts a belief that she was not dishonest by reasonable standards at that point (second question) because anyone would have done the same, especially living so far away from the store, and she is believed, then under Ghosh she is not dishonest. However, the recent case of Ivey v Genting Casinos [2017] dispenses with this second limb of the test. The prosecution will therefore no longer need to show that she believed that she was not dishonest because anyone else would have done the same. The fact that she returned the following week and refused to repay the £50 means that, in any event, it is likely she was dishonest according to reasonable standards. **(See 12.1.3)**

Y: handling
Under s3(2) – protection of a bona fide purchaser for value – Y does not commit theft. **(12.1.2)** *However, s3(2) does not protect him/her from being guilty of handling stolen goods.* **(12.3)** *It will depend on whether Y knew/believed the champagne to be stolen and if so, whether she was dishonest according to reasonable standards (Ghosh as changed by Ivey).* **(12.3.3)**

Z: Robbery
*If theft can be defended by a lack of dishonesty under either s2(1)(b) or the Ghosh test, then D will have a defence to robbery. This seems unlikely here given that the test is now essentially an objective one. **(12.2.2).**