

Chapter 4 Summary: Interaction of actus reus and mens rea

As well as understanding actus reus and mens rea elements in their own right, it is equally important to know how such elements interact within an offence. This entails a discussion of different offence structures. It also entails a discussion of where we can identify all the elements of an offence, but those elements fail to coincide.

The structure of offences (Chapter 4.2)

Offences can be structured in various ways, and it is important to understand these differences (and the terminology used) when discussing and applying the law. Structures include:

- Standard: Actus reus elements with corresponding mens rea requirements;
- Strict liability: Actus reus elements that do not require corresponding mens rea;
- Constructive liability: Actus reus elements where the corresponding mens rea relates to a lesser result (eg, murder: actus reus requires death, mens rea can be satisfied by an intention to cause GBH);
- Ulterior mens rea: Mens rea elements without corresponding actus reus.

Interaction of actus reus and mens rea when applying an offence (Chapter 4.3)

The standard application of an offence involves offence elements that take place at the same time and are directed at the same object. This is known as coincidence. Two problems can emerge:

- Elements do not coincide in time: Where the actus reus is found, and D possesses the required mens rea, but not at the same time;
- Elements do not coincide on the same object: Again, the actus reus and mens rea are present, but one is directed at one object and the other is directed at another object (eg, D throws a stone at X, but misses and hits V).

Reform (Chapter 4.4)

The interactions of actus reus and mens rea, outside of the standard case, can be very controversial. It is also an area that has been left almost exclusively to the common law. There are a number of academic proposals for how the law could be improved.

Eye on assessment (Chapter 4.5)

This final section discusses how the various approaches highlighted in the chapter should be applied in the context of a problem question.