

Video transcript
Video Tutorial (a): Problem questions - general advice

Hello. In this video we are going to look at general advice on answering problem type questions, so a kind of spiel of a case you might have to deal with, and at the end asking you to assess or discuss the potential liability. In particular, we are going to look at the idea of how to structure these kind of questions. So first off we are going to start with a couple of do's and don'ts. In terms of don'ts, one of the biggest problems a lot of students have, is that they see the issue with a problem type of question which is quite normal, so, for example, it might be the contentious issue in relation to criminal offences, but then they jump immediately to that issue without leading the reader to that point by looking through the offence liability first.

You have to be careful whenever you are answering a problem question to make sure that you take that structured approach and look through step by step as you go. However, equally within that, you don't want to spend an excessively long period of time discussing something that's relatively straightforward, so also when you are looking at a problem question, make sure that you develop your plan and that you take your reader through your analysis.

If something is easy, it is relatively straightforward, then you can do it quite quickly and in a relatively straightforward way. You still need to make sure it's done, but you don't need to over-elaborate; you don't need to go into an infinite amount of detail, and you save your discussion for those points of law or those points within the facts that are particularly contentious.

Now in terms of thinking about the structure of these kind of questions, the way in which we've analysed it within the book, is to set out essentially a six-point plan, and this is something that is introduced within the very first chapter. It's also something that is used within every chapter of the book when we are looking at the eye of the assessments section. So first of all, with every problem question, of course you need some kind of introduction. Now with the problem question, this should be brief. It should be some kind of indication that you understand the topics within the question, say for example, this is to do with sexual offences, or property offences, or whatever, but then you immediately get into how am I going to analyse this question; am I going to look at it chronologically, am I going to look at it, defendant by defendant? Victim by victim, or whatever it might be, and then you move into analysis.

Now the first step: step one within your analysis is to identify the potential criminal event. So this could be something as simple as when Sally kicks John, or when Mary took the money from the bank, or whatever it might be, but its identifying something in the facts that can be potentially a criminal offence. Now having identified that event, you can now apply the criminal law, so start to consider potential liability.

So your second step: number two, is to identify a potential offence. Now you can be led within this choice. It might be that the question specifically says, advise or assess liability for theft, for example, in which case, of course, that's the offence you look at. More likely and more often, a problem question will simply say assess liability, so then it's your job to find which is the most likely potential offence. Now having analysed that, or having identified the potential offence you're looking at, you then move on to Step number 3, which is to apply that offence in practice.

Step 3 involves, first of all, identifying what the law is, so basically, actus reus; what is it, why it's required within the law statutory first, common law of course looking at cases to interpret what the statute means and then applying that to the facts. So what is the actus reus? Did our defendant do it on the facts in that event you've described or you've identified. Then moving on to the mens rea: essentially what is the mens rea, what is the mens rea required for that offence and then applying that again to the facts. Did our defendant act with that required mens rea at that point in time?

So trying within that analysis section, within step 3, try to remember just four simple questions: Actus reus: what is it? did they do it? Mens rea: what is it? Did they have that state of mind at the time of committing actus reus?

So those four simple questions will lead you through your analysis, and obviously within that you can discuss the statute, you can discuss case law and any other sources you might use. Having analysed both actus reus and mens rea, you now at that point to be able to say whether our defendant has committed that principle event or not and so you can move on to step number four, which is to look at potential defences. Most of the time this is just a brief consideration mentally, but of course, if there's something that's potentially there and potentially applicable to one of the offences then you need to apply and describe and analyse that potential defence. And then at the end of that procedure, you can now categorically conclude whether it's likely our defendant has committed the offence without a defence or not and that's essentially concluding in relation to that particular potential criminal event.

You then, in step 6, loop back up to the top and you look on within your question to see if there's another potential criminal event which you would analyse exactly the same way. Now as I said within each of our chapters, in the eye of the assessment section, we use this same structure and we identify particular issues that are relevant to particular sets of offences. Equally, elsewhere within the electronic resources [on the Online Resource Centre] we provide a list of all model essay plans essentially or problem question essay plans, which again uses this structure and applies it to sets of problem facts which again you can use it to help you.

Thanks a lot.