

Video transcript
Video Tutorial (c): Essay questions - general advice

Hello. In this video I want to talk to you and give you a brief overview and some advice about essay questions; essay questions, as opposed to problem questions. I've got a couple of examples which we'll look at in a moment, but first of all a couple of broad dos and don'ts when it comes to essay questions. The first one is, in terms of don'ts, it's very common for students to think about essay questions in terms of how can I fit in everything I know about a topic to an answer, so because essay questions tend to be slightly more open-ended than problem questions, then students will often revise for essay questions in terms of: I've read these articles on this particular topic, or I've read and understood these cases, and so when it comes to answering a question naturally, the essay answer becomes: how can I find a way of including this information I've learned within my answer to this question. Now that's quite normal, but it's something you need to avoid, and quite simply because in doing so, you don't answer the question; you end up simply discussing the topic writing a textbook like we have. But you don't want to do that of course within your essay question, because the essay is always more specific than that.

Also another thing to avoid, which a number of students do, is the temptation to write a kind of a model plan in relation to various essays. So that you hope the exam comes up or the course work comes up, that you'll be able to recreate the essay using a model plan. Again, all of these techniques take you away from being responsive to exactly what the question's asking you to do, and it's that that is really what impresses upon you within this short video. So when you're looking at essay questions, there are two things that are quite normal that you should be looking to do.

The first one is to identify the topic. So if, for example, you had a course work question that had one of these questions or an essay question in the exam that has one of these questions, it's quite normal to look for the topic first. So you basically skim read the question and you see the words 'intention' and 'recklessness', okay so this essay question is broadly about defining mens rea terms. You might have a look at the second question and think okay we're looking here at the law of rape, so the topic is in terms of sexual offences and particularly the offence of rape, so again you might identify an essay by the topic that's outlined. This is normal, but the point is, it should only be a first step. If you're writing course work questions, it's a first step to identify the area of law so that you can then go away and do your research in relation to that area of law; it helps to identify the relevant articles, the relevant case law etc in order to build your background knowledge. In relation to an exam question, the topic will of course help you. There are certain topics which you will be more comfortable with or the less comfortable with, and so you'll be looking to identify the questions in those areas you are most comfortable with that you want to answer questions on.

Now the thing to remember then is identifying the topic is fine but it's only the first step. The second step and most important one is then to identify the debate and it's the debate within an essay question which is your focus and provides your structure for actually answering that essay question. So let's look at that relation to these two, so the first question is

"The only truly effective and just way to distinguish intention from recklessness is to define intention so as to mean 'aim, purpose or desire. and nothing more', discuss."

Now this structure of essay question is quite common. Basically we have a relatively controversial quote and then we have 'discuss' at the end. Now what that means is not to tell me everything you know about intention and recklessness but rather to engage with that question itself. Imagine yourself sometimes not so much as a law student but as a "normal" person. Someone asks you in the street, "why is there a difference between intention and recklessness; why do you have these two different terms? Why is it that intention isn't defined in the way that we would in a normal sense understand it 'a simply aimed purpose with desire'? That's the debate you need to engage with. That's the controversial part of that statement that your essay needs to deal with, and there are many ways in which you can do that. For example then think okay is it true to say that intention isn't defined simply in terms of aim purpose or desire, well yes it is, direct intention is defined in these terms but the oblique intention as defined within the case of Woollin, is defined as something as - a virtual certainty, which is foreseen by the defendant as a virtual certainty, and then the court may choose or jury may choose to find an intention. So essentially, that's our debate - why do we need an oblique intention? Wouldn't it be simpler simply to separate intention defined as direct intention from recklessness covering everything else.

So we have that debate. Now we need to understand the terms of that debate and again for that we look back to the question. The question said the 'only truly effective and just way to distinguish intention from recklessness' is in this way. So those are our keywords that we can then define our debate around and actually there are multiple ways we can structure this kind of essay. One quite reasonable way is to look at these two things separately; so in terms of what affective, what's user-friendly, what's clear, actually distinguishing in the way that this quote says would be good. Oblique intention is very difficult to apply in practice. There are similarities between oblique intention and recklessness so in terms of effectiveness of the law, in terms of clarity of the law, then this neat separation between recklessness and direct intention is very desirable. There is a lot to be said for it. However, in terms of things being just that's much more debateable because yes there have been academics - and this is what some of your journal reading can come in - there have been a number of academics that have argued that just direct intention should be required. We see that sometimes in relation to inchoate offences and attempts liability in particular. We also see that sometimes in debates about the mens rea of murder that actually if you want the most serious crime it should be a direct intention only not including an oblique intention. But equally on the other side there are those who argue that an oblique intention is just as culpable as direct intention.

The classic plane bomber scenario whereby I insure the plane - my intention is to explode the plane with a bomb so as to claim that insurance but I also know inevitably the passengers on board will die. Yes, it's not my aim purpose or desire to kill the passengers but I know it's going to happen and to many people's minds that's just as culpable as if it was my aim my purpose or my desire and this is all the debate about the justice of this distinction, that's our debate. You find a topic, sure, but your structure in your analysis is about the debate. Equally here in relation to this second question, '*Although the law of rape has modernised in certain respects, it remains in urgent need of reform.*' this is our debate. The first half of the sentence is uncontroversial in the 2003 Act the law of rape has modernized so there's nothing debatable, there is no clash; but the second part of there is clash, this idea of it being in urgent need of reform.

If you saw this and you simply thought about the topic, you would write me an essay about rape, about the law of rape; what is the law of rape? what are the elements of offence? Now you might occasionally touch on reform but I'm not asking you for that I'm not asking you for a textbook analysis of what rape is. I'm asking you specifically about the issue of reform. Now for that, that should be the structure of your debate, the structure of your essay and there are many other issues within the law of rape you could pick out. You could look at intoxication issues in terms of consent of the victim. You could look at the section issues which is particularly relevant at the moment. You can look at the mens rea of rape and how it contrasts the subject of mens rea required in other areas of the law. You could look at the proliferation of different types of sexual offences perhaps and how that impacts a law of rape. You could look at the label of rape and to what extent that impacts the law. So there are lots of choices here about this idea of an urgent need for reform, but those are the ones that you need to pull out. Those are the issues that answer the question. And finally, you can have a bit of a play around with the idea of urgency. If you want to in your conclusion, for example, you could say there are these areas that are necessary for reform but whether that reforms an urgent need – the idea of hasty legislation leading to less useful legislation - this could be something you want to pull out and discuss in terms of the reforms. Remember, it's a debate, it's not simply 'this is a list of the reforms that must come into play'. You can say 'it looks like, for example, the deception issue is a problem - these are ways in which the cases, or these are ways in which academics have sought to resolve that problem' and then you can evaluate how effectively they've done so whether the need for reform is urgent or not.

So the simple message to take from this, is start with topic. That's absolutely fine, that's normal. But after you've identified the topic or question, identify the debate and it's that debate which is the structure of your essay. We do this of course when we discuss reform within every chapter of the textbook and more particularly within the electronic resources [on the Online Resource Centre], we provide model type plans for essay questions in relation to each of the chapters within the text as well. So look at those for again applications of this rule, look at the topics first, that structure your debate around the controversial part of the question.

Thank you.