

Chapter 5 Summary: Murder

Murder is the most serious offence within the criminal law, and the only one that results in a mandatory life sentence. It is not, however, codified within a statute. Rather, murder remains a common law offence.

Origins of the offence (Chapter 5.2)

It is useful to see the offence of murder in its historical context. The offence has developed from the archaic language of Coke, through to a modern clear expression.

Actus reus of murder (Chapter 5.3)

The actus reus of murder requires the prosecution to prove that D caused the death of another human under the Queen's peace. Each part of this definition is important. In particular, we focus on:

- Whether murder can be committed by omission (key case: *Gibbins and Proctor*);
- What constitutes a 'human' victim (key case: *Bland*);
- What it means to cause death.

Mens rea of murder (Chapter 5.4)

The mens rea of murder requires the prosecution to prove that D killed V with the intention to kill or cause serious bodily harm (key case: *Cunningham*). As only an intention will suffice, the definition of intention (discussed in Chapter 3) is vital.

Defences to murder (Chapter 5.5)

There are a number of potential defences to murder. They include:

- All denials of offending – discussed in Chapter 13;
- Complete defences, except duress and duress of circumstances – discussed in Chapter 14;
- A complete defence where a doctor's treatment results in the shortening of a patient's life (key case: *Adams*);
- Partial defences (reducing murder to manslaughter) – discussed in Chapter 6.

Reform (Chapter 5.6)

There are a number of topical debates in relation to murder and law reform. These include:

- The maintenance of the mandatory life sentence;
- Reforming the mens rea of murder (key text: Law Commission 2006 Report on Homicide law reform).

Eye on assessment (Chapter 5.7)

In this final section we discuss the application of murder within a problem question.