# Answer guidance

## Question:

Clare and her boyfriend Dave, a six-foot-tall athlete, had an argument one night. Dave stormed upstairs and locked himself in the bedroom. In a jealous rage, Clare pursued him and banged on the door, shouting at the top of her voice, “You wait until I get my hands on you.” Eventually, the lock gave way and Clare rushed into the room. At the sight of her, Dave jumped out of the window, landed awkwardly and broke his ankle. At that moment, James rode by on his bicycle and offered Dave a lift to the hospital. Dave accepted but James found Dave too heavy a passenger and they fell over twice going round corners. Eventually, James left Dave on a nearby beach whilst he went to find help. Dave waited for several hours but no help arrived. The temperature dropped to below freezing. His condition deteriorated to such a poor state that he was unable to move when the tide came in and he drowned.

Discuss the criminal liability of Clare and James.

## Key issues:

* Is Claire guilty of Dave’s manslaughter by an unlawful and dangerous act?
* Is James guilty of manslaughter by gross negligence?

## Key law

You will find relevant legal rules in:

* Unlawful and dangerous act manslaughter (Chapter 5, section 5.1.4)
  + Unlawful act requirements
  + Dangerousness requirements
  + Chain of causation – Blaue/Roberts when James jumps?
  + The mens rea for unlawful act manslaughter – Newbury and Jones
* Gross negligence manslaughter (Chapter 5, section 5.1.3)
  + Adomako – duty of care in criminal law
  + The issue of ‘gross’ negligence
* Coincidence – Le Brun/Church/Thabo Meli

## Hint(s):

* Deal with each type of manslaughter separately and ensure you satisfy all the requirements.
* The issue of whether James is a break in the chain of causation is a separate issue from the problem of whether he is criminally liable.
* Remember that criminal negligence is different from ordinary rules of negligence. The negligence must be ‘gross’ – so serious that a criminal conviction is justified.
* For an assault to take place, there must be an apprehension of unlawful physical violence. Think about whether this is possible given Dave’s physical characteristics.