# Answer guidance

## Question:

Karl, a soldier, was home for the weekend. He possessed several rifles. In an argument with his father, Leroy, as to who was the better shot with a gun, Karl was the first to load one of the rifles. With the aim of frightening Leroy, Karl pointed the rifle at him. At that moment, however, he sneezed violently and squeezed the trigger involuntarily. Leroy was shot and injured. Karl managed to call for an ambulance, but the ambulance was delayed by a freak storm. Eventually, Leroy arrived at hospital where his injuries were treated. After several days he developed an infection in the wound. He was treated by Doctor Mariam with an antibiotic to which Leroy was allergic. The next day, seeing that he was no better, Doctor Mariam administered more of the same antibiotic to Brian in extremely large doses. That night, weak, delirious and close to death, Leroy jumped out of the window when he saw the doctor approaching. He fell two storeys to the ground and was killed.

Discuss the criminal liability of Karl and Mariam.

## Key issues:

* Karl’s liability for unlawful act manslaughter of Leroy
	+ AR – unlawful act, objectively dangerous, causation
	+ MR – for unlawful act; no need for foresight of danger
* Karl’s liability for gross negligence manslaughter of Leroy
	+ AR – causation
	+ MR – gross negligence (civil negligence + ‘gross’)
* Mariam’s liability for gross negligence manslaughter of Leroy
	+ AR – causation
	+ MR – gross negligence

## Key law

You will find relevant legal rules in:

* Causation: *Smith, Jordan, Cheshire, Dear,* chapter 2
* Unlawful act manslaughter: *Church*, *Lamb*, section 5.1.4
* Gross negligence manslaughter: *Adomako*, section 5.1.3

## Hints:

* Remember to consider all elements of AR and MR for each offence
* Although some of the facts are very similar to those in *Lamb*, you cannot simply copy the reasoning and result from that case. Are alternative approaches to liability or alternative offences possible?
* Again, some of the facts are very similar to *Jordan* but you need to consider the problem carefully. Are there relevant factual differences? Would *Jordan* be followed here in any event?

# Answer guidance

## Essay question:

Has the Corporate Manslaughter and Corporate Homicide Act 2007 assisted the prosecution in securing the conviction of companies who kill?

## Key issues:

* The problems of convicting companies of serious criminal offences
* The statutory framework
* The identification doctrine
* The ‘directing mind and will’ test
* The role of organisational culture and management in the breach of duty of care
* The effectiveness of the Act

## Key law

You will find relevant legal rules in:

* Corporate Homicide and Corporate Manslaughter Act 2007, ss1 (section 5.3.1)
	+ Section 1(1) scope of the offence
	+ Section 1(4) duty of care
	+ Section 2(3) policies of the company
* Tesco v Nattrass [1972] AC 153—the identification doctrine (section 5.3.3)

## Key arguments

* Discussion of the effectiveness of the Act (section 5.3.4)

Arguments that the Act is effective:

* Success in some areas of law e.g. health and safety prosecutions
* Symbolic role – serves to denounce breaches of duty by companies
* Major incidents such as Grenfell may pave the way for prosecutions

Arguments that the Act is still in need of improvement:

* Relatively small number of convictions, most of smaller companies
* Too technical
* No secondary liability under the Act

## Hints:

* Summarise the key law before considering the arguments
* Ensure that you address the arguments on both sides
* Refer to the academic literature (see further reading) as well as the legal authorities
* Make sure that you are answering the question asked (i.e. the Act), not writing a general essay on corporate manslaughter