# Answer guidance

## Question:

Fred met Amrit in the street one day. Amrit owed Fred £300 and when he refused to pay his debt Fred grabbed Amrit by the arm and reached into his pocket. At that moment, Amrit collapsed and died as a result of a drug overdose taken half an hour earlier. Fred continued to search through Amrit’s pockets and found £5000 which he took. Fred was a care-worker at a residential home for the elderly. He had befriended William, a naive, partially sighted resident. Fred persuaded William to make him a gift of a cheque of £10,000 which Fred paid into his own bank account. The residential home overpaid Fred’s salary one month with the result that he received double the usual payment. He said nothing about it. On arrest he stated that he did not think he had done anything wrong because anyone else would have done the same.

Discuss the property offences committed by Fred.

## Key issues:

* Has Fred has committed theft when he keeps the salary and accepts the £5000 gift from William?
* Has Fred committed robbery when he reaches into Amrit’s pocket and takes the £5,000?

## Key law

You will find relevant legal rules in:

* Theft Act 1968 s1 and section 8 in Chapter 10
* Appropriation of inter vivos gifts (10.1.2)
* S5 (10.1.2)
  + ‘Belonging to another’ when ‘another’ is dead: *Sullivan* and *Ballion*
  + S5(4) retaining property by mistake
* Dishonesty – the *Ivey* test (10.1.3)
* S2(1)(c) defence ‘claim of right’ (10.1.3)
* Theft Act 1968 s8 (10.2)

## Hint(s):

* Remember that you need to prove all elements of a property offence.
* Work through all the elements, applying each time. You may find it helpful to make a table similar to the problem question answer for this chapter.
* Robbery – the theft must be accompanied by force.
* Remember that the definition of dishonesty is now governed by Ivey – will the statement he makes on arrest be relevant?
* Try to consider alternative arguments as you go along. What will Fred be arguing here?