# Answer guidance

## Question:

Jim applied for and obtained the post of manager of a rail company, professing to have been a city banker recently made redundant. After six months the company directors awarded Jim a pay increase for his high-quality work. With his new-found wealth, Jim invested in a pension fund without disclosing the fact that he was in fact suffering from a serious heart condition. He then set off for a weekend in a luxury hotel, filling up his car with petrol en route and paying with the company credit card. At his destination, he polished up his appearance by having his hair cut at an exclusive hairdressing salon but slipped out without paying whilst the cashier was dealing with another customer. After two nights, Jim left the hotel telling the manager that he would pay his bill in a week’s time. In fact, he had no intention of paying at all. Jim had also lied about his qualifications for the job since until that point he had been a train guard. However, he later claimed that since he had nevertheless performed his job so well, he had committed no offence. There was also a prohibition on the use of the company credit card for private purposes. Discuss Jim’s criminal liability for any offences he might have committed.

## Key issues:

* Fraud (the job/pay increase and pension applications, the hair and the petrol)
* Theft
* Making off without payment (the hotel/hair)

## Key law

You will find relevant legal rules in:

* Theft (Chapter 10 – in relation to appropriating the money)
* Fraud (Chapter 11)
  + s2 Fraud Act 2006 – fraud by false representation (section 11.1.2)
  + Silence as to representation – *DPP v Ray* (11.1.2)
  + MR of fraud – the *Ivey* test (11.1.5)
  + S3 fraud by failure to disclose (11.1.3)
  + S11 obtaining services dishonestly (11.1.4)
  + S3 Theft Act 1978 (11.2)

## Hint(s):

* There is quite a bit of overlap between these offences but try to be as specific as you can explaining the elements of the appropriate offence.
* Note that there is no theft in relation to the petrol – the most appropriate offence is s3 Theft Act 1978. Consider whether there is an agreement to pay at the hotel.
* The previous common law on deception can be used to demonstrate elements of fraud such as silence amounting to a misrepresentation (e.g. *DPP v Ray*).
* Make sure you deal with all elements of the mens rea of theft as well as the actus reus.