# Answer guidance

## Question:

Dan approached a prostitute, Vera, outside a tube station one night. He offered her £50 if she would give him a massage. Vera refused because she knew of Dan’s reputation for violence. Dan happened to know that Vera was studying law at university and needed the money to support her children. He began to fondle her breasts and said, ‘If you don’t do what I ask, I will tell the Law Society that you have convictions for being a common prostitute’. Vera pushed him off and became worried. At that point, Dan was joined by his friend, Ali, who said that she should do as Dan asked or something nasty might happen to her children next week. Ali then said that she should come to their flat. Vera reluctantly agreed. At the flat, they entered a bedroom and Dan locked the door. Ali threatened her with a knife before tying her to the bed where they both had sexual intercourse with her. D then penetrated her anus with his fingers. No money was paid to Vera. Dan and Ali were later arrested. They gave statements to the police in which they said they believed Vera had consented. Discuss whether Dan and Ali have committed any sexual offences.

## Key issues:

* D fondling V’s breasts: sexual assault?
* D and A having sexual intercourse with V: rape?
* D penetrating V: assault by penetration?

## Key law

You will find relevant legal rules in:

* Ss 1-3 SOA 2003
* Consent: ss 74 and 76 SOA 2003 (section 9.2.2), particularly sub-sections s75(a)-(c)
* *Linekar* re promise of payment
* Belief in consent (section 9.2.3)

## Hint(s):

* Ensure that you deal with each issue in turn: separate out the different points relevant to whether there was consent.
* Remember that if a presumption does not apply, the general test under s74 also needs to be considered.
* Remember that reasonable belief in consent is judged objectively.