

## Answers to practical exercises

### Chapter 12: Problem skills

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1. The Post Office has introduced a new system of calculating the cost of postage based upon weight and size. A small letter is one which weighs less than 50g and is no thicker than 5mm. This costs 35p postage. A letter that weighs more than 50g or is thicker than 5mm is a large letter and costs 72p postage. You wish to post a package that weighs 40g and is 10mm thick. How much will this cost?

Issue: What is the cost of postage of your letter?

Rule: A letter which is more than 5mm thick costs 72p postage.

Application: Your letter is only 40g in weight but is 10 mm thick.

Conclusion: The postage cost of your letter will be 72p.

Notice that the conclusion answers the question raised as the issue. The rule is not stated in full; only the relevant aspect of the rule is stated. This can be a useful strategy when answering problem questions as a lengthy recitation of a statutory provision takes up words that can be used more profitably elsewhere and can weaken the focus of your answer. Notice that the application stage refers to specific facts.

2. Your grandmother offers you a cash incentive to encourage you to study for your exams. She agrees to pay you £10 for every exam that you pass and £50 extra if you pass all five exams. You only pass four exams. How much money can you expect to receive?

#### Answer

Issue: How much money will your grandmother pay for passing your exams?

Rule: Each pass will receive £10 with a £50 bonus for passing all five.

Application: You have passed four exams so will receive £10 for each of these and you will not receive the bonus.

Conclusion: Your grandmother will pay you £40 for passing four exams.

It is important that you realize that the issue is a question of fact and that the rule is an abstract statement of the law. There is no scope to combine the two until you reach the application and conclusion stages.

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Using the 'who has done what to whom' approach, it is possible to identify the following issues from this question:

Who	Has done what	To whom
Stuart	Went into the supermarket intending to steal some whisky but left without approaching the alcohol aisle	The supermarket
Stuart	Used his credit card to buy a sweater even though he knew he was over his limit	The department store
Stuart	Punched	Neil
Neil	Sets fire to his own sweater and leaves it burning on Stuart's doorstep	Himself/Stuart

### Comment

In criminal law, it is less important to identify the victim because the prosecution will be initiated by the State. This technique can still be useful though because it clarifies what has happened even though you are not trying to identify a potential claimant as you would be if dealing with civil law.

Once you have a list of potential basis for liability, these can act as issues that provide the framework for your answer. It is true that they will need to be broken down into sub-issues to make them more manageable but the identification of the issues is the starting point for doing this. It also enables you to analyze each of the issues to clarify your initial thoughts about the potential liability and to identify questions that you need to answer in order to be able to deal effectively with the issue. For example:

1. Stuart goes into the supermarket intending to steal a bottle of whisky but leaves without doing so. Does this intention give rise to any liability? He intended to steal but stopped short of doing so thus this could be attempted theft. He did not even approach the whisky so is this enough to give rise to liability for attempt? As he went into the shop with the intention to steal, there could be liability for burglary. Does it matter that he changed his mind?
2. Stuart used his credit card to purchase a sweater even though he was over his credit limit. Is this some kind of deception/fraud/property offence? Can he be liable for using his own credit card?

3. Stuart has punched Neil causing a cut that needs stitches. This would give rise to liability for one of the non-fatal offences against the person but which one? A cut does not sound very serious and Stuart only hit Neil once but the cut is bad enough to need hospital treatment and stitches.

4. Neil sets fire to the sweater and leaves it on Stuart's doorstep. Is this arson? Does it matter that the sweater belongs to Neil so he has destroyed his own property? Even if he is not liable for burning his own sweater, will he be liable for leaving it burning on Neil's doorstep given that the fire could have spread to the house?

#### Comment

Hopefully, you can see that you do not need to know the answer in order to extrapolate issues from a set of facts. You should be able to carve out separate events from the mass of detail that gives you at least a starting point for organizing your answer.

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Use the 'so what' technique to eliminate the unnecessary material from these sample answers based upon examples used earlier in the chapter.

1. Wendy has submitted her essay at 9.15am the day after the deadline for submission. The rules state that there is a 10 mark penalty for submission up to one day after the deadline. **An essay which is more than one day late will receive a 25 mark penalty if it is within one week of the deadline but after that it will receive zero.** It is likely that Wendy will receive a 10 mark penalty unless she can establish that she had good cause for late submission.

#### Comment

The highlighted sentence is unnecessary. As Wendy's essay is one day late, the correct rule has already been stated in the preceding sentence and there is no need to include the rules that are applicable to essays submitted more than one week late. The inclusion of an unnecessary rule is a waste of words as it has no role to play in the essay so will not attract any credit from the marker. It is a common mistake when quoting from statute to include the entirety of a statutory provision when only one element of it is relevant to the facts of the question. Make sure that your answer is focused by including only the piece of law necessary to deal with the issue.

2. Stuart has punched Neil in the face causing a cut which required stitches so he may be liable under section 20 of the Offences against the Person Act 1861. The *actus reus* requires a wound or the infliction of grievous bodily harm. Grievous bodily harm is defined as 'really serious harm' and, according to the CPS Charging Standards includes serious injuries such as broken limbs. **Moreover, it has been held by the House of Lords that psychological injury can amount to grievous bodily harm if it is sufficiently serious and is established as a matter of expert evidence. It does not include mere emotions such as distress or fear but requires an established psychiatric injury.** A wound is defined as a break in the continuity of the skin and will be satisfied as a cut that requires stitches must have broken Neil's skin.

#### Comment

The highlighted section regarding psychiatric injury is unnecessary. Neil has sustained a cut to his cheek. There is nothing in the facts to suggest that he has suffered any psychological impact from the attack so this passage has absolutely nothing to contribute to the answer. It is, in essence, a waste of 50 words that could have been used elsewhere; always an important consideration in a piece of coursework with a limited word count. It is arguable that the preceding sentence that explains grievous bodily harm is irrelevant as Neil's injury does not fall within the definition but is readily established to be a cut. However, this sentence could be argued to have a role to play in the answer as it is at least dealing with one of the manifestations of physical injury that comprise the *actus*

reus so it is not unreasonable to include it in order to eliminate it as a basis upon which to establish the actus reus. It is one of those sentences that is not irrelevant but it not essential either so it is one that could be considered for elimination if there is a need to cut words out of the finished answer in order to comply with the word limit.

### Further Example

#### Instructions

Eliminate irrelevant detail from the sample answer.

#### Question

Jerome is a musician who played in local pubs in Cheltenham. Although he did not make a great deal of money from his music, he amassed a great fortune as a result of judicious investment in shares. He made a will in 2005 which included the following disposition:

On trust to Sebastian in the hope that he will distribute a generous part of my immense fortune to any of my loyal fans who have enjoyed my music. The residue of my estate is left to my sister, Amelia.

Jerome died in an accident six weeks ago. Fern, the landlord of the Dog and Duck where Jerome used to play on a regular basis, is seeking a payment from the estate as is Pearl, who claims to be Jerome's biggest fan. Advise Sebastian as to the validity of the disposition.

#### Lengthy Answer

Jerome has left money in his will. According to section 9 of the Wills Act 1837, a will is only valid if it is made in writing and signed by the testator in the presence of two or more witnesses. Jerome has made a will so it is presumed that this was done in writing but there is no indication of whether or not this was done properly and in the presence of the required number of witnesses. If these formalities were not present, the will is not valid and cannot give rise to a trust. If the will is not valid, Jerome's property will be distributed in accordance with the rules on intestacy so it will be as if he had not made a will at all. This is rather unfair as he clearly meant to make a will and to ensure that his fans benefited from it whereas the rules of intestacy dictate that the property will pass to his nearest relatives. This might not even be his sister Angela as Jerome may have closer relatives, such as a parent or an estranged wife who might even be living with a lover and who he would definitely not have wanted to benefit.

If the will is valid, the validity of the testamentary disposition that is the subject of the question can be considered. In order for a testamentary disposition to be valid, it must satisfy the three certainties required for a valid trust: certainty of intention, certainty of subject and certainty of object. If these certainties are not present, there is no binding trust. This is because it must be absolutely clear that the testator wanted to establish a trust and for specific property to be held on trust for a specific person or specific people. Certainty of intention requires that the testator demonstrated a clear intention to create a trust relationship rather than to confer an outright gift. The imposition of a trust is an

onerous responsibility so the courts will be reluctant to impose a trust unless it is clear that this is what was intended. In *Wright v. Atkyns*, it was held that the words used must be imperative; this means that it must be clear that the person to whom the property passes is holding it on behalf of others. It was held in *Re Kayford* that there was no need to use the word 'trust' in order to establish certainty of intention provided that the wording of the disposition was such that it was clear that there was an intention to create a trust. In this case, Jerome has stated that the property is on trust to Sebastian which is good evidence that the property was to be held by Sebastian for the benefit of someone else rather than being an outright gift to Sebastian. However, the situation is complicated by words that follow that may be taken to be precatory words that express a hope or desire that property will be used in a particular way rather than imposing a mandatory obligation to deal with the property in a particular way. Here, Jerome expresses a hope that Sebastian distributes money to his fans. In *Lambe v. Eames*, the trust failed for lack of certainty of intention as a husband left money to his wife for her to use as she thought best. This is quite complicated as the word 'trust' is used in conjunction with precatory words. In *Re Adams and Kensington Vestry*, it was held that a disposition that was expressed using the words 'in the fullest confidence that she will do what is right' did not create a trust but the court in that case said that it was important to read the disposition as a whole to ascertain the intention of the testator. Here, Jerome has used the word trust and he specifies the beneficiaries as well as what is to happen to the money that is left over (the residue to his sister) which suggests that this is intended to be a trust rather than an outright gift to Sebastian.

### Comment

The matter of determining relevance is not always straightforward. Sometimes it is not just a question of 'is this point relevant?' but 'how relevant is this point?'. This will be a particularly pertinent question when answering a problem question as part of coursework where there is likely to be a limit on the amount of words that can be used and it will be necessary to evaluate the relative contribution made to the answer by various points when deciding which points to leave in and which to take out.

The first paragraph of the sample answer above demonstrates this point very effectively. Although the question is, in general, about the validity of the dispositions made in Jerome's will, the specific focus of the question is on the three certainties needed for the formation of a valid trust. As such, if a strict approach to determining relevance was taken in order to comply with a tight word limit, the entirety of the paragraph could be omitted from the answer. This is because it deals with the validity of the will and the way in which the property will be distributed if the will is not valid. It would be perfectly permissible to omit any discussion of this point and answer the question on the assumption that the will is valid. This would ensure that the answer kept a firm focus on the key issue. This would save just over 200 words that could be used to discuss a more relevant point.

However, an argument could be made that the validity of the disposition is irrelevant if the will itself is not valid which means that some of the material in the first paragraph could be included in the answer. Take a look at it again and consider how much of it you would want to include? There is a point where the answer moves too far away from the given facts and engages in speculation about the distribution of Jerome's property and his relationships with potential family members. It is not clear from the question whether or not Jerome has ever been married so pondering the nature of his relationship with his wife

and whether or not she has a new partner has little bearing on the question so that section could be eliminated. You might then like to consider whether it is necessary to mention intestacy at all, particularly as the substance of this question concerns the three certainties so it is clear that the writer of the question intended the will to be valid. Certainly, it would be possible to provide a clear and complete answer without any mention of intestacy so there seems to be little justification for including it. As such, if some mention was wanted of the requirements of a valid will, these need only be very brief to establish a starting point for the answer prior to dealing with the key issues. The paragraph that follows is a suggestion of the material that could be taken from the first paragraph although it is important to remember that there is a strong argument that nothing at all from the first paragraph needs to be included in an answer to this particular question:

According to section 9 of the Wills Act 1837, a will must be made in writing and signed in the presence of two or more witnesses. Jerome has made a will and it is presumed, in the absence of evidence to the contrary, that these formalities were complied with and that the will is valid.

### Refined Answer

In order for a testamentary disposition such as this to be valid, it must satisfy the three certainties required for a valid trust: certainty of intention, certainty of subject and certainty of object. Certainty of intention requires that there is evidence that the testator intended to create a trust rather than an outright gift. This is important in this case because if there is no trust the property in question – a generous part of Jerome's large fortune – will pass to Sebastian as an outright gift. The wording of the disposition does include the word 'trust' which is good evidence of a trust relationship, in which the trustee holds the legal title of property for the benefit of the beneficiaries. The imposition of a trust is an onerous responsibility so the courts will be reluctant to impose a trust unless it is clear that this is what was intended. In addition to the use of the word 'trust', the disposition makes use of precatory words; that is, words that express a hope or desire that property will be dealt with in a particular way rather than indicating a mandatory requirement that is consistent with the trust relationship.

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#### Instructions

It is a good idea to practice with some simple examples to gain confidence in identifying the relevant facts. Have a look back at the donkey sanctuary scenario and pick out the facts that satisfy the following requirements.

#### Question

1. If the definition of 'premises' includes land and buildings, what facts suggest that the injuries sustained by Tess, Diana and Wendy occurred on premises?

#### Answer

Land and buildings:

- Tess is in the stable yard when she is bitten by a donkey. Stables are buildings and the yard is land.
- Diana is injured by the exhibition of machinery. It is not clear whether the exhibition is in a building or out of doors but it will be one or the other so is either land or a building.
- Wendy is in the cafeteria when she is injured which is a building.

#### Question

2. To fall within the provisions of the Occupiers' Liability Act 1957, the person who is harmed must be a lawful visitor to the premises, *i.e.* someone with express or implied permission from the occupier to be on the premises or someone whose presence is known to the occupier. What facts suggest that Tess, Diana and Wendy fall within the meaning of visitors?

#### Answer

Visitors:

- It is likely that Tess and Diana have express permission to be on the premises. The centre is clearly open to visitors as there are signs offering advice to visitors, an exhibition and a cafeteria. These factors suggest that the premises are open to visitors.
- Wendy is an employee so will have permission to be on the premises. She could not carry out her work in the cafeteria unless she was permitted to enter the premises.

#### Question

3. An occupier will not be liable for a visitor's injury if he has given sufficient warning to enable the visitor to be reasonably safe. Are there any facts that suggest that any of those who have been injured have been given a warning and, if so, was it sufficient to enable them to be reasonably safe?

Answer

Warnings:

- Tess has been bitten by a donkey after feeding him an apple. There are signs that prohibit the feeding of donkeys. These specify that this is because a person feeding the donkeys may get bitten. This is a specific warning so should be sufficient to allow a visitor to be reasonably safe.
- Diana has been injured climbing on machinery in an exhibition. It was roped off but this was to protect the machinery from the visitors rather than to protect the visitors from sustaining injury on the machinery. There is nothing to suggest that there was a warning sign that drew attention to the sharp blades of the machinery.
- Wendy has been injured when the urn exploded due to faulty wiring. Presumably, there was no warning given that this might occur. Even if Wendy is issued the safety guidelines as part of her job involves dealing with boiling water, this would not include advice that the urn might explode so there is no warning here.

Question

4. An occupier may have to take additional measures to protect children from harm, especially if there are allurements on the premises but the law strives to seek a balance between the duty of an occupier and the responsibility of parents for the safety of their children. In this scenario, what might act as an allurement to a child, what measures has Gerald taken to protect against this and what factors might suggest some element of parental responsibility?

Answer

The machinery is likely to be an allurement if it looks interesting to a seven year old and provides something to climb on and explore. Gerald has roped the machinery off but this was not to protect visitors from the dangers of climbing on the machinery so it looks as if he has taken no precautions in this respect at all. However, it is not unreasonable to expect parents to keep children under control particularly around things that carry potential danger like farm machinery particularly as it is fenced off.

Further Example

Have a look at the following problem question that can also be found on page 278 of *Legal Skills* and identify the facts that satisfy the legal requirements of the offences that have been committed.

Stuart is short of money and hopes to borrow £500 from his brother, Neil. In order to get into Neil's good books, Stuart decides to take him a bottle of whisky that he plans to steal from the local supermarket. Once inside the supermarket, Stuart loses his nerve and

leaves without going near the alcohol aisle. Instead, he goes into a department store and uses his credit card to buy Neil an expensive sweater knowing that he is over his credit limit. Neil is thrilled with the sweater but refuses to lend Stuart any money. Stuart punches Neil in the face causing a cut which requires stitches. Neil sets fire to the sweater and leaves it burning on Stuart's doorstep the next day. Discuss the criminal liability of the parties.

Question

1. Section 9(1)(a) burglary requires that the defendant has entered a building or part of a building as a trespasser with the intention to steal, cause serious harm or commit criminal damage. Find the facts that satisfy the following elements in relation to the supermarket.

Answer

Building	The supermarket is a building
Entry	Stuart has gone into the supermarket as he is walking down the aisles.
Trespass	Stuart is a trespasser as the implied permission to enter granted by the supermarket to honest customers does not extend to those who enter with dishonest intentions.
Intention to steal	Stuart goes in with the aim of taking a bottle of whisky thus satisfying the ulterior intent.

Question

2. Section 20 of the Offences against the Person Act 1861 provides that a person is guilty of an offence if they intentionally or recklessly cause a wound or inflict grievous bodily harm. A wound is defined a break in the continuity of the skin. Find the facts that satisfy the following elements of the offence in relation to Stuart's attack on Neil.

Answer

Wound	Neil has a cut which requires stitches.
Intention to cause the wound	Stuart punches Neil in the face deliberately.

Question

3. The *actus reus* of criminal damage is satisfied if the defendant has destroyed or damaged property belonging to another. Find the following elements in relation to the sweater.

Answer

Damage or destruction	Neil has set fire to the sweater rendering it unfit to wear.
Property	The sweater is personal property.
Belonging to another	The sweater belongs to Neil so it is not property belonging to another.

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Page: 292 Evaluation/Marking Exercise

Evaluating the work of others can be a really powerful way of improving your own work. The question which follows should be answered in 1000 words. Two answers are provided below. Read through them both and consider which you consider to be stronger. Make a note of the strengths and weaknesses of each answer and consider what sort of mark you think that the answer would receive. Can you see any areas of weakness that are sometimes evident in your own work? Think about how you would alter each of the answers to make them more effective.

#### Question

Jim goes into a Post Office with an imitation firearm under his coat and passes a bag to the cashier with a note that says 'fill the bag with money or I'll kill you'. Terrified, the cashier fills the bag and passes it across the counter to Jim. Rob, an elderly man behind him in the queue, realizes what is happening and seizes Jim by the arm and attempts to make a citizen's arrest. Jim knocks him to the ground and runs out of the shop. Rob suffers a heart attack and is driven to hospital by Tom, the manager of the Post Office, who thinks that this will be quicker than calling an ambulance. The car runs out of petrol five miles from the hospital. Rob dies in the car. At the inquest, it is revealed that prompt treatment with the appropriate drug would have saved his life. It was stated that an ambulance could have been at the Post Office within ten minutes of an emergency call being received. Discuss the liability of Jim and Tom for homicide offences.

#### Answer 1

Jim has used an imitation firearm to compel the cashier to hand over money in the Post Office. This is likely to give rise to liability for robbery under section 8 of the Theft Act 1968. The *actus reus* of robbery occurs when force or the threat of force is used immediately before and in order to commit an act of theft. By saying that he would kill the cashier and possessing an imitation firearm, Jim is making a threat to use force on the cashier. This threat is made before the act of theft and in order to commit theft. Theft is defined by section 1(1) of the Theft Act as a dishonest appropriation of property belonging to another with the intention to permanently deprive. The *actus reus* of theft is the appropriation of property belonging to another which is satisfied here by Jim taking possession of the money belonging to the Post Office. The *mens rea* of theft is intention to permanently deprive and dishonesty. Presumably, Jim intends to keep the money and using a gun to take the money would be regarded as dishonest by ordinary people and Jim must realize that or he would not have run away so the *Ghosh* test of dishonesty is satisfied and the elements of theft are complete. As such, it is established that the threat of force was used in order to commit theft so the *actus reus* of robbery is complete. The *mens rea* of robbery is an intention to steal and an intention to use force. These are both established so Jim is liable for robbery.

Jim has knocked Rob to the ground so may be liable for battery. The *actus reus* of battery is satisfied if there is any non-consensual physical contact and this is satisfied as Jim has made contact with Rob in order to push him aside. The *mens rea* of battery is intention or recklessness as to the non-consensual physical contact and this will be satisfied as Jim pushed Rob deliberately.

Rob has died as a result of suffering a heart attack. As the heart attack occurred immediately after he was pushed it is necessary to consider whether Jim may be liable for murder. Murder is a common law offence. The *actus reus* is the unlawful killing of a person in being within the Queen's peace. A person in being is someone who has been born and is capable of independent existence. It was held in the *Attorney-General's Reference No 3 of 1994* [1998] AC 245 that an unborn child is not a person in being. Rob is not an unborn baby so he is a person in being. Jim's death occurred within the Queen's peace as it was not an act of war. There is no longer any requirement that the death occurs within one year and a day of the act which caused death as this was abolished by the Law Reform (Year and a Day Rule) Act 1996. The final requirement to be established is that Jim's actions were the cause of Rob's death.

There are two elements of causation that need to be satisfied. Firstly, it must be established that Jim was the factual cause of Rob's death. If Rob would not have died 'but for' Jim's actions, then Jim is the factual cause of Rob's death. Although Rob could have had a heart attack at any time, it was Jim's actions that triggered the heart attack so factual causation is established. Legal causation must also be established. This requires that Jim has made a more than minimal contribution to Rob's death. It was held in *Pagett* (1983) 76 Cr App R 279 that the defendant's act need not be the sole or even the main cause of death provided it is a cause. Even though it seems that Jim's contribution to Rob's death was relatively small, it was still the first act in the chain of events that led to death and it was a culpable act whereas Tom was trying to save Rob's life. It seems reasonable to conclude that Jim's act was a cause of Rob's death even if it was not the main cause. If Tom's actions in driving Rob around and delaying his treatment amount to an intervening act, the chain of causation will be broken and the *actus reus* of murder will not be established. The acts of third parties such as Tom can break the chain of causation if they are an unexpected and unforeseeable intervention that makes a significant contribution to death. It is not unforeseeable that a bystander will intervene to assist a person who is suffering from a heart attack and Tom's logic was sound in seeking to get Rob to hospital as quickly as possible so it is the sort of decision that could be foreseen. It was unfortunate that the car ran out of petrol but any sort of delay was possible either with the car or with the arrival of an ambulance so it does not seem that this will break the chain of causation thus the *actus reus* of murder is established.

The *mens rea* of murder is malice aforethought which has been interpreted to mean intention to kill or cause grievous bodily harm: *Cunningham* [1982] AC 566. Jim did not aim to cause Rob's death so he does not have direct intention to kill but it may be that he has oblique intention if he rendered death or serious injury a virtual certainty: *Woollin* [1999] 1 AC 82. It is not virtually certain that a person who is pushed aside will suffer a heart attack and die so it seems that the *mens rea* of murder is not established.

Jim may be liable for constructive manslaughter as he committed an unlawful act (battery) which was dangerous and which caused Rob's death. Jim committed battery on an

elderly man which is dangerous and cause Rob's death so Jim is liable for constructive manslaughter.

997 words

### Answer 2

Rob suffered a heart attack and died after being pushed to the ground by Jim during a robbery thus Jim may be liable for the common law offence of murder. The *actus reus* of murder is unlawful killing and requires that the defendant's act was both the factual and legal cause of the victim's death. Factual causation is established by application of the 'but for' test. An example of this is seen in *White* [1910] 2 KB 124 where the defendant put poison in his mother's tea but she died of natural causes before the poison could take effect. As she would have died anyway, he was not the factual cause of her death and could not be liable for murder. If it is asked whether Rob would have died 'but for' Jim's actions in pushing him to the ground, the answer is 'no' so factual causation is established.

Legal causation requires that the defendant's act is a substantial and operating cause of the victim's death. This requirement does not mean that the defendant's action must be the most immediate cause of death or be the more overwhelming cause of death as it was held in *Pagett* (1983) 76 Cr App R 279 that the defendant's act need not be the sole or even the main cause of death provided that it is a cause of death. In *Pagett*, the defendant used his pregnant girlfriend as a shield to protect himself from armed police. The police fired at the defendant and struck the girlfriend who died from her injuries. The defendant was held to be the cause of death even though it was not his bullet that struck the victim because he was a cause of death as he had set the whole chain of events in motion. Following this line of reasoning, it can be concluded that Jim is the legal cause of death. However, it is also necessary to eliminate any intervening acts that break the chain of causation. An intervening act is a new and overwhelming cause of death that occurs after the defendant's act and relieves the defendant of responsibility for the death that has occurred. For example, in *Jordan* (1956) 40 Cr App R 152, the defendant stabbed the victim who was treated in hospital as a result of the injury. The wound healed and the victim was well on the road to recovery but the hospital mistakenly gave the victim a drug that caused an allergic reaction and the victim died. It was held that the 'palpably wrong' medical treatment broke the chain of causation because the original wound had healed and was no longer life threatening. Rob has died not as a result of flawed medical treatment but as a result of not receiving any medical treatment at all. This arose as Tom, acting out of good motives, tried to take Rob to hospital but was delayed when his car ran out of petrol. As it has been stated that prompt medical treatment would have saved Rob's life and the ambulance could have been at the Post Office in ten minutes, it is clear that Tom's actions did contribute towards Rob's death but that does not necessary mean that they are an intervening act that breaks the chain of causation. Jim's initial act was a culpable one and the courts have been reluctant to allow culpable actors to avoid liability as a consequence of subsequent foreseeable intervention by a third party. It is likely that the chain of causation remains unbroken.

The *mens rea* of murder is an intention to kill or cause grievous bodily harm. Jim did not have a direct intention to kill Rob as it was not his purpose or aim to bring about Rob's death. If he foresaw that Rob's death was a virtually certain consequence of his actions,