

UNLAWFUL ACT MANSLAUGHTER

An (1) intentional (2) unlawful (3) dangerous (4) act which (5) caused death

MENS REA

There must be an intentional or reckless act. So, there is an element of mens rea.

CHURCH - Davies J: 'In relation to manslaughter, a degree of mens rea has become recognised as essential' (Davies J). No mens rea in **LAMB**.

UNLAWFUL

The defendant must commit a crime. **LAMB** - no assault; **FRANKLIN** - civil trespass.

DANGEROUS - CHURCH

CHURCH - Davies J: 'The unlawful act must be such as all sober and reasonable people would inevitably recognise must subject the other person to, at least, the risk of some harm resulting therefrom, albeit not serious harm'. Test **objective**. **NEWBURY** Confirmed **CHURCH**. Lord Salmon: 'In judging whether the act was dangerous, the test is not did the accused recognise that it was dangerous but would all sober and reasonable people recognise its danger.' **NICA** - suggested subjective test rejected. **LARKIN** and razor. **FARNON AND ELLIS** - youth and low IQ.

NOTE The way of looking at the objective approach is for **the jury** to put themselves in the position of **bystanders** with the **same knowledge** as that **of the offender**. Harm not foreseen in **DAWSON** - heart attack during a robbery; and **CAREY** - 15 year-old, heart attack after running away from bullies. **BUT** D would be guilty if he was aware of the V's particular condition: **WATSON** - heart attack during a burglary (causation not in place).

Must be physical harm The harm likely to result from the dangerous act must be physical harm. Emotional disturbance - anger, fear and so on - will not suffice, even though physical harm (and death) does in fact result from the foreseeable emotional disturbance.

Only 'some' harm required Does not have to be serious/lethal. **LEWIS** - chased V into a road.

No requirement that specific harm should be foreseen - **JM AND SM**

Unlawful act need not be directed at the victim **GOODFELLOW** - arson to be rehoused.

Unlawful acts which are not inherently dangerous Risk of some harm required on the part of the accused to show mens rea. **BRISTOW** - burglary with only a single track exit.

ACT

Omission, even deliberate, not this **type** of manslaughter: **LOWE** (i.e. could be gross negligence manslaughter). **BUT** an omission + intention to kill or cause serious bodily harm = murder: **GIBBINS AND PROCTOR** - girl starved to death.

CAUSED DEATH - CAUSATION

- (1) **CHESHIRE** - Beldam LJ said that D's act 'need not be the sole cause, or even the main cause, of the victim's death, it being enough that his act contributed **significantly** to that result'.
(2) Once the issue is put to them, the jury decides on the facts of each case whether the act of another person has broken the chain of causation.

The classic cases have concerned (1) the negligence of another person - **CHESHIRE**; and (2) persons involved in the supply of controlled drugs. **CATO** D injects V with morphine with his consent, a s.23 OAPA 1861 offence - causation in place; **DALBY** D supplies and V self-injects - supply an offence but the victim injecting himself broke the chain of causation; **DIAS** D gives syringe of heroin to V who self-injects - no offence of aiding and abetting as self-injecting heroin is not a criminal offence; **KENNEDY** (most important case). Facts similar to **DALBY**. Unlawful act alleged was section 23 OAPA. However, the administration was not direct: the victim had self-injected. **NOTE** that the House of Lords was at pains to point out the importance of free will which will break the chain of causation.