

2c. Content of H418/01 – The legal system and criminal law

Section A: The legal system

This section focuses on the civil and criminal courts, the legal professions and access to justice. Learners will develop knowledge and understanding of the processes and people involved in the law and the changing nature of the legal system.

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Content	Guidance
Civil courts and other forms of dispute resolution	
<ul style="list-style-type: none"> <input type="checkbox"/> County Court and High Court: jurisdictions, pre-trial procedures, the three tracks <input type="checkbox"/> Appeals and appellate courts <input type="checkbox"/> Employment tribunals and Alternative Dispute Resolution <input type="checkbox"/> Advantages and disadvantages of using the civil courts and Alternative Dispute Resolution to resolve disputes 	<ul style="list-style-type: none"> ✓ the jurisdictions of the County Court and the three divisions of the High Court ✓ grounds/reasons to appeal ✓ first appeal from the three tracks, further appeal to the Court of Appeal (Civil Division), High Court Appeals, appeal from the Court of Appeal (Civil Division) ✓ how employment tribunals work ✓ negotiation, mediation, conciliation and arbitration
Criminal courts and lay people	
<ul style="list-style-type: none"> <input type="checkbox"/> Criminal process: jurisdiction of the Magistrates' Court and the Crown Court, including classification of offences and pre-trial procedures <input type="checkbox"/> Appeals and appellate courts <input type="checkbox"/> Sentencing and court powers: aims, factors and types of sentences for adults <input type="checkbox"/> Lay magistrates and juries: qualifications, selection, appointment and their role in criminal cases <input type="checkbox"/> The advantages and disadvantages of using juries in criminal cases 	<ul style="list-style-type: none"> ✓ summary offences, triable either-way offences, indictable offences and their pre-trial procedures ✓ grounds/reasons to appeal ✓ appeals to the Crown Court, Case stated appeal to the Queen's Bench Divisional Court, appeals to the Court of Appeal (Criminal Division) and appeals to the UKSC ✓ the aims of sentencing set out in s142 Criminal Justice Act 2003 ✓ custodial and non-custodial sentences for adults

Content	Guidance
Legal personnel	
<div style="position: absolute; left: -100px; top: 50px; font-size: 24px; font-weight: bold;">2</div> <div style="position: absolute; left: -100px; top: 100px; font-size: 24px; font-weight: bold;">3</div> <ul style="list-style-type: none"> <input type="checkbox"/> Barristers, solicitors and legal executives: role and the regulation of legal professions <input type="checkbox"/> The judiciary: types and role in civil and criminal courts <input type="checkbox"/> The separation of powers and the independence of the judiciary <input type="checkbox"/> Evaluation of the judiciary, including the advantages of judicial independence 	<ul style="list-style-type: none"> ✓ how the legal professions are regulated ✓ the different levels of judges and their respective roles ✓ how judicial independence is achieved: security of tenure, immunity from suit, independence from the other two arms of the state and independence from the case
Access to justice	
<div style="position: absolute; left: -100px; top: 50px; font-size: 24px; font-weight: bold;">4</div> <ul style="list-style-type: none"> <input type="checkbox"/> Government funding for civil and criminal cases <input type="checkbox"/> Private funding, conditional fees, other advice agencies <input type="checkbox"/> Evaluation of access to justice 	<ul style="list-style-type: none"> ✓ the Legal Aid Agency: availability and restrictions on government funding for civil and criminal cases ✓ other advice agencies could include Citizens Advice, Law Centres, Pro Bono Unites, Free Representation Units, Trade Unions, Insurance companies and Charities

Section B: Criminal law

This section focuses on the rules and general elements of criminal law and provides an introduction to criminal liability through the study of offences against the person and offences against property. Learners will develop their knowledge and understanding of criminal law and the skills to apply their legal knowledge to scenario-based situations and gain a critical awareness of the present state of criminal law.

Content	Guidance
Rules and theory	
<input type="checkbox"/> An outline of the rules of criminal law <input type="checkbox"/> An overview of the theories of criminal law <p style="text-align: center;">S</p>	<input checked="" type="checkbox"/> definition of crime <input checked="" type="checkbox"/> sources of criminal law <input checked="" type="checkbox"/> the elements of criminal liability <input checked="" type="checkbox"/> those involved in a criminal case – prosecution and defence <input checked="" type="checkbox"/> the burden of proof, the standard of proof and reverse onus <input checked="" type="checkbox"/> the aims and purpose of criminal law <input checked="" type="checkbox"/> the principles of criminal law
General elements of criminal liability	
<input type="checkbox"/> <i>Actus reus</i> : conduct and consequence crimes; voluntary acts and omissions; involuntariness; causation <input type="checkbox"/> <i>Mens rea</i> : fault; intention and subjective recklessness; negligence and strict liability; transferred malice; coincidence of <i>actus reus</i> and <i>mens rea</i> <p style="text-align: center;">6</p>	<input checked="" type="checkbox"/> conduct and consequence crimes; voluntary acts and state of affairs; categories of omissions; factual and legal causation, ways the chain of causation can be broken <input checked="" type="checkbox"/> direct and oblique intention, subjective recklessness, negligence and gross negligence, strict liability including the methods used to establish whether an offence is a strict liability offence, transferred malice, coincidence of <i>actus reus</i> and <i>mens rea</i>
Fatal offences against the person	
<input type="checkbox"/> Murder: <i>actus reus</i> and <i>mens rea</i> <input type="checkbox"/> Voluntary manslaughter: defences of loss of control and diminished responsibility under Coroners and Justice Act 2009 <input type="checkbox"/> Involuntary manslaughter: unlawful act manslaughter and gross negligence manslaughter <p style="text-align: center;">7</p>	<input checked="" type="checkbox"/> definition of murder; the <i>actus reus</i> and <i>mens rea</i> requirements of the offence <input checked="" type="checkbox"/> the partial defence of loss of control (s54 Coroners and Justice Act 2009) <input checked="" type="checkbox"/> the partial defence of diminished responsibility (s2(1) Homicide Act 1957 as amended by s52 Coroners and Justice Act 2009) <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of unlawful act manslaughter <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of gross negligence manslaughter

Content	Guidance
Non-fatal offences against the person	
<input type="checkbox"/> Common assault: assault and battery under s39 Criminal Justice Act 1988 <input type="checkbox"/> Assault occasioning actual bodily harm, wounding and grievous bodily harm under s47, s20, s18 Offences Against the Person Act 1861	<input checked="" type="checkbox"/> definition of assault <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of assault <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of battery <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> under s47 Offences Against the Person Act 1861 <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> under s20 Offences Against the Person Act 1861 <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> under s18 Offences Against the Person Act 1861
Offences against property	
<input type="checkbox"/> Theft under s1 Theft Act 1968 <input type="checkbox"/> Robbery under s8 Theft Act 1968 <input type="checkbox"/> Burglary under s9(1)(a) and s9(1)(b) Theft Act 1968	<input checked="" type="checkbox"/> definition of theft, robbery and burglary <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of theft <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of robbery <input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of burglary
Mental capacity defences	
<input type="checkbox"/> Insanity, automatism, intoxication	<input checked="" type="checkbox"/> definition of insanity, automatism and intoxication <input checked="" type="checkbox"/> starting point for the defence; M'Naghten rules; consequences of an insanity verdict; non-insane automatism <input checked="" type="checkbox"/> voluntary and involuntary intoxication
General defences	
<input type="checkbox"/> Self-defence, duress by threats, duress of circumstances and necessity <input type="checkbox"/> Consent	<input checked="" type="checkbox"/> the defence of self-defence and how it can be applied; reasonable and necessary force <input checked="" type="checkbox"/> definition of and rules for duress by threats defences <input checked="" type="checkbox"/> definitions and rules for duress of circumstances and necessity defences <input checked="" type="checkbox"/> definition of consent and the main rules / elements of the defence
Preliminary offences	
<input type="checkbox"/> Attempts: the <i>actus reus</i> and <i>mens rea</i> ; impossibility	<input checked="" type="checkbox"/> <i>actus reus</i> and <i>mens rea</i> of attempt <input checked="" type="checkbox"/> factual and legal impossibility

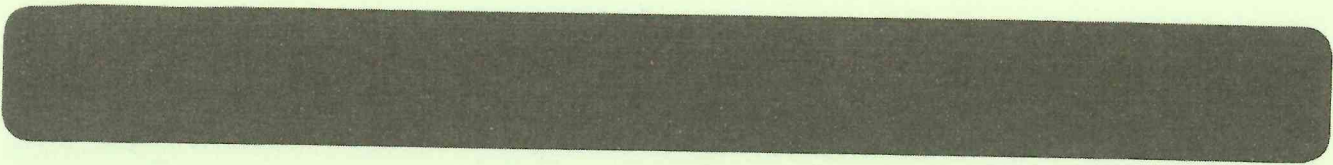
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Content	Guidance
Evaluation	
<input type="checkbox"/> Critical evaluation of: <ul style="list-style-type: none">• non-fatal offences against the person• defences: intoxication, self-defence and consent• ideas for reform	Common frameworks include whether an area of non-fatal offences or defence is: <ul style="list-style-type: none">✓ fit for purpose✓ up-to-date✓ just or unjust✓ effective or ineffective✓ balances principle and policy✓ fair or unfair✓ based on sound moral principles

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Control

Guidance

Evaluation

<p>Common framework - allows what is an area of non-fatal offences or offences fit for purpose ✓ up to date ✓ just or proportionate ✓ effective and protective ✓ balances the role and policy ✓ fair or equitable ✓ based on sound moral principles ✓</p>	<p>1. Criminal evaluation of non-fatal offences against the person ✓ offences, including self-defence ✓ and ✓ ideas for reform ✓</p>
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