

Criminal Law

Monday 12 May 2025

12.00pm to 1.30pm

Candidates are required to answer ONE out of two questions.

Candidates should note that, in examination answers, they are expected to cite relevant authority.

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Question 1

Martin is married to Leona, who is, unbeknownst to Martin, having an affair with her colleague Sheldon. One morning Leona is at work and decides to tell Martin the truth. She telephones Martin, who is at home, and informs him that she is having a sexual relationship with Sheldon and that she plans to leave him to be with Sheldon.

Martin is very upset and angry at this news. He sits at home for a couple of hours pondering what to do and eventually decides to go to the office to confront Leona and Sheldon. As he leaves the house, he grabs a screwdriver from his garden shed. Once in his garden he remembers that his car is in the garage as it is being repaired. However, he notices a bicycle leaning against the front porch of his neighbour Connor's house. Martin shouts "Can I take your bicycle" to Connor, who happens to be outside in his garden. Connor refuses, replying that he needs to use the bicycle later that day. Martin jumps on the bicycle anyway and, as he cycles away, he shouts over his shoulder, "Don't worry Connor - I'll bring it back at some point!"

Martin cycles to the office building where Leona and Sheldon work, and he takes the elevator up to the office floor on which they work. When he exits the elevator, he is enraged to see the two of them standing in conversation, and marches over. He stabs Leona twice in the neck with the screwdriver, and he then stabs Sheldon in the back of the head with it as he tries to run away. They both fall to the floor, and Martin runs away. Leona and Sheldon are discovered by colleagues and taken to hospital. Sheldon is critically injured and the consultant on duty advises that he requires an immediate blood transfusion to save his life. He refuses this treatment because accepting a blood transfusion is contrary to his religious beliefs. Unfortunately, Sheldon dies shortly afterwards. Leona receives treatment for her neck wound and the consultant on duty advises that he is optimistic that she will make a full recovery. During the night Leona, in a distressed and confused state, rips her bandages off her neck wound, leaving the wound exposed. The wound becomes seriously infected, and the hospital staff, despite doing all that they can, are unable to get the infection under control. Leona unfortunately dies the following day.

Advise on Martin's liability under Scots criminal law. Give full reasons for your answer, citing authority as appropriate.

Question 2

On Friday evening Lando decides to attend a house party. While at the party, he is given a bottle of beer which, unbeknownst to him, has been spiked with LSD, a hallucinogenic drug. Soon after drinking the beer Lando starts to believe that he is being chased by giant flesh-eating beetles. He starts to run around, shouting that there are giant beetles everywhere. He then picks up a hockey stick that he sees in the corner and starts to fight off the beetles. Unfortunately, these flesh-eating beetles are in fact Louise and Jim, two other guests at the party. Another guest soon removes the hockey stick from Lando's grasp, but Louise and Jim are both very bruised, and subsequently treated at the hospital for possible concussion.

On Saturday evening Lando decides to drive to a different party across town. Mark, a local gangster, is at the party. Lando drinks several beers and stays out of Mark's way. Later that evening Lando goes outside into the car park next to the block of flats to smoke a cigarette. The car park is deserted. Suddenly Mark and two of his friends appear and they start to punch and kick Lando. He falls to the ground. Mark and his friends walk off and disappear around the corner. Lando crawls to his car where he gets in and he drives away. He thinks he will be safe from his attackers if he drives to his friend's house. He is pulled over by the police as he is driving erratically, and breathalysed. He is well over the legal limit to drive after consuming alcohol.

Lando attends yet another house party the following weekend. He is alone in the kitchen when Boris, his arch-rival, enters the room. Lando mutters a rude insult under his breath. Boris hears, exclaiming "What did you call me!" He walks up to Lando and shoves his shoulder. Lando tells Boris to calm down, which enrages Boris further. Boris tries to punch Lando. Lando wonders if he should try to jump out of the window as the flat is only on the first floor, but he doesn't know what is underneath the window and he also wants to 'stand his ground' as he dislikes Boris. As Boris continues to swing punches at Lando, Boris shouts "I'm going to teach you a lesson". Lando sees Boris reaching into his pocket and can see that there is an object in his trouser pocket. Lando is convinced that it is a knife. In a panic Lando grabs a kitchen knife that is sitting on the counter next to him and stabs Boris in the stomach. Boris falls to the ground. Upon hearing Boris scream in pain, other party guests come into the room and see what has happened. They call the police and an ambulance. When the police look in Boris' pocket, they do not find a knife – they find an asthma inhaler. Boris is taken to accident and emergency, where he is treated and survives.

Lando has been charged with assault in relation to the 'flesh-eating beetles' incident; driving a motor vehicle with an alcohol concentration above the prescribed limit following the Saturday evening party; and with attempted murder in relation to the incident with Boris. Which, if any, DEFENCES in Scots criminal law may be available to Lando and why? Give full reasons for your answer, citing authority as appropriate.

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