

Chapter 12 Summary: Parties to crime

Chapter 12 explores the complex area of the criminal liability of accomplices. D is complicit in the offence of P where she intentionally assists, encourages or causes P to commit the offence, intending that P will do so, and P does in fact commit the offence (key case: *Jogee*). This is codified within section 8 of the Accessories and Abettors Act 1861, although the statute provides very little detail.

Distinguishing principals from accomplices (Chapter 12.2)

It is vital to be able to identify complicity, and distinguish it from:

- Standard principal liability: where D completes the actus reus and mens rea elements of an offence;
- Joint-principal liability: where D and another both complete the actus reus and mens rea elements of an offence;
- Principal liability via the doctrine of innocent agency: where D uses another as a tool to commit the offence, and that other acts innocently (eg, D posts a letter bomb to V, and the letter is delivered by an innocent postman).

These distinctions are essential in order to identify the relevant set of rules to apply to a particular scenario.

Complicity by aiding, abetting, counselling or procuring (Chapter 12.3)

D becomes an accomplice to an offence where D intentionally assists, encourages or causes P to commit the offence, intending that P will do so, and P does in fact commit the offence. Important factual variations include:

- P commits the principal offence as anticipated by D;
- P commits a less serious offence;
- P commits a more serious offence;
- P commits the offence anticipated but in changed circumstances.

Complicity by joint enterprise? (Chapter 12.4)

Joint enterprise is a term that has been used in reference to cases of coordinated criminal behaviour, for example, gang violence. It is now clear that joint enterprise does not exist as a separate form of complicity (key case: *Jogee*).

Defences (Chapter 12.6)

As well as the general defences discussed in chapters 13 and 14, specific defences to complicity include:

- Withdrawal: D withdraws her assistance or encouragement before the principal offence is completed;
- The victim rule: in certain cases, D cannot be complicit in a crime against herself.

Reform (Chapter 12.7)

There are a number of debates about the future reform of complicity.

Eye on assessment (Chapter 12.8)

This section provides a scheme on how to apply complicity within a problem question.