

ABH revision by Ik Taara

ABH answer:

Under section 47 of the Offences against the Person Act 1861 (OAPA 1861). ABH is defined as an “assault occasioning actual bodily harm” (ABH). ABH is an either way offence and is tried either in the magistrate’s court or the crown court. It is punishable for up to 5 years. Some examples of injury which amount to actual bodily harm are bruising, scratches, swelling, minor fractures, losing senses such as dizziness, fainting (or losing any of the five senses) etc. Next, psychiatric damage such as depression, anxiety, phobias etc can also be seen under ABH but medical evidence will be required, for example that you are seeking counselling. Also, the courts also defined ABH as “anything that interferes with the health and comfort of the victim” (R v Miller). There are three parts to the actus reus, which all must be present in order to establish liability for ABH. The 3 parts are; Common assault (assault OR battery), occasioning (causation) and Actual bodily harm type injuries. Firstly, there must be a common assault present (Note - SEE PREVIOUS VIDEO AND GUIDE ON ASSAULT AND BATTERY FOR THIS PART- available for free on Ik Taara Revision). Secondly, for causation to be satisfied the defendant must be the factual and legal cause of ABH (R v Pageett). To confirm this we use the but for test - but for the fact if the defendant did not act to harm the victim, the victim would not have suffered harm. Next, the defendant must be more than minimum or the only cause of the victim suffering ABH (R v Kimsey). Next, there must be an actual bodily harm injury (R v Chan-Fook) such as bruising, scratches, swelling... Furthermore, for mens rea, S.47 doesn’t mention a specific mens rea for ABH therefore the courts have held that the mens rea for the common assault will be sufficient for the mens rea of S.47 ABH (R v Roberts).



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Paper 1, section B
• Topic 2 = Battery



ABH Revision structure

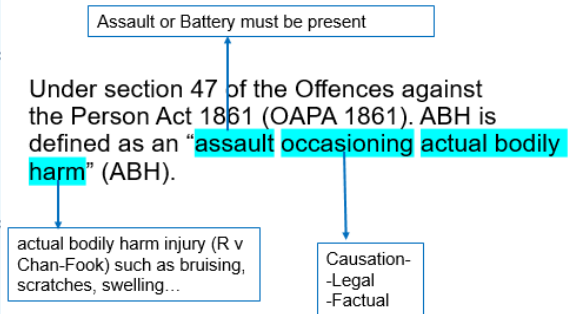
- **Step 1** - Understand the key words and structure
- **Step 2** - Memorise the keywords
- **Step 3** - Understand the cases
- **Step 4** - Practise past exam questions.
- **Step 5** - Get feedback on your practised answers by getting them marked by your teacher.
- **Step 6** - Understand the feedback and improve and boost your grades.



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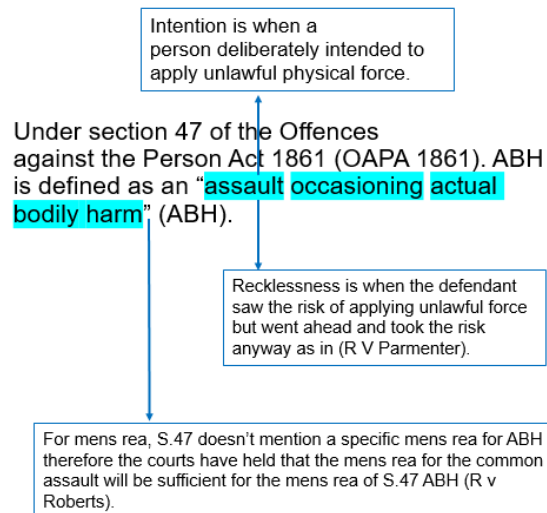


ACTUS REUS



Note- Check out the last slide for cases.

MENS REA



Memorising the key words



Keywords	Definition
ABH	<ul style="list-style-type: none"> ABH is defined as an "assault occasioning actual bodily harm" (ABH) anything that interferes with the health and comfort of the victim
Assault	UNDER S39 OF CRIMINAL JUSTICE ACT 1988, ASSAULT IS DEFINED AS "INTENTIONALLY OR RECKLESSLY CAUSING THE VICTIM TO APPREHEND THE INFLICTION OF IMMEDIATE UNLAWFUL FORCE"
Battery	Battery is committed where "defendant intentionally or recklessly applies unlawful physical force to another person"

Understanding the Cases



Case	Explanation
R v Miller	The defendant had created a dangerous situation and owed a duty to call the fire brigade upon becoming aware of the fire. He was therefore liable for his omission to do so.
R v Pagett	The firing at the police officers caused them to fire back. In firing back the police officers were acting in self-defence. His using the girl as a shield caused her death.
R v Kimsey	Kimsey (K) and Osbourne (O) were driving at high speeds in extremely close convoy. Whilst doing so, there was an accident in which O's car clipped a verge and span out of control, collided with the side of K's car and went into the path of oncoming traffic. K admitted engaging in a chase with O but not to trying to overtake just before the accident.
R v Chan-Fook	To amount to actual bodily harm, the injury need not be permanent but should not be so trivial as to be wholly insignificant. Feelings of fear and panic are emotions rather than an injury and without medical evidence to support recognised psychiatric condition a conviction for ABH could not stand.
R v Roberts	There is no need to establish an intention or recklessness as to the level of force under s.47. It is sufficient to establish that the defendant had intention or was reckless as to the assault or battery.



Any defences to ABH?

- If any part of actus reus or mens rea is missing then there will be no ABH committed.
- If the force is self defence then there is no ABH committed.



ABH Revision Summary

- **Step 1** - Understand the key words and structure = YOU can understand the keywords by going over the keywords table
- **Step 2** - Memorise the keywords = Easiest way to memorise is using flash cards
- **Step 3** - Understand the cases = Check the cases table
- **Step 4** - Create a structure and get used to it!
- **Step 5** - Practise past exam questions.
- **Step 6** - Get feedback on your practised answers by getting them marked by your teacher.
- **Step 7** - Understand the feedback and improve and boost your grades!!!



ABH Answer

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