

Mens Rea

Subjective Recklessness

All NFO's except S18 OAPA

Subjective means the Magistrates or jury must consider what the D appreciated was a risk, taking into account any relevant personal characteristics.

Test: D must foresee a risk of harm and then choose to take that risk

Example personal characteristics: If a D is young Magistrates/juries tend to presume the D does not foresee the same risks as an adult

Intention

Direct Intention

All NFO's

Test: Defined in the case of Mohan
Direct intent means it is your main aim or desire to bring about the consequence

Indirect Intention

D has one purpose in mind but in achieving that purpose also causes other consequences

Only used for S18 OAPA offences

Test: Defined in the case of Woollin:
1. death or gbh was **virtually certain** to result from the accused's acts; and
2. the accused actually foresaw this.