



On successful completion of this module, learners will be able to:

1. **Describe** the points to prove relating to a Criminal Attempts offence.
2. **Identify** when a Criminal Attempts offence has taken place.

Criminal Attempts

Criminal Attempts Act 1981 Section 1

If, with **intent** to commit an **offence to which this section applies**

a person does an act which is **more than merely preparatory** to the commission of the offence

they are guilty of **attempting** to **commit the offence**



The police have to provide evidence that the act was **immediately**, and **not remotely**, connected with the commission of the crime as well as more than merely preparatory.

Intent is looked at in more detail in the following slide;

Offence to which this section applies includes **indictable** or **triable either way** offences, it **does not** apply to **summary** offences.

This means you cannot 'attempt to commit' a summary offence (e.g. depositing litter or taking a vehicle without the owner's consent)

<https://www.youtube.com/watch?v=srCUp3Vg6NE>



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Criminal Intent



For a person to be guilty of an attempt to commit an offence, they must have more than an intention to do it. They must demonstrate their guilty intent by carrying out acts, and these must be more than just preparing to commit the full offence.

Specific intent is required to commit a criminal attempt. Intent is known in law as *mens rea* which means a *guilty mind*.

Intention can be proved by

- An admission by the suspect during interview as to their state of mind when committing the offence.
- By inference from the circumstances of the offence; evidence from witnesses, the suspect's actions, property found on them or in their control eg a motor vehicle for transporting property.

To prove intent, an officer needs to take all this into account, the important thing is that he has to prove the defendant's state of mind at the time.

When looking at these facts, a jury must look at the circumstances and decide whether the defendant would have intended or foreseen the results which occurred, which is a subjective test.

Explanation:

A person is detained having been seen selling drugs to people inside. The police arrive and they search the individual finding large quantities of tablets marked "ecstasy". The person is arrested and interviewed at the police station. During the interview the person admits that they bought the drugs from a dealer and that they



were selling ecstasy tablets to people in the club.

When the forensic test is done the tablets are found to contain no drugs but are made of sugar.

It is impossible for the person to be charged with supplying controlled drugs because the tablets were not controlled drugs.

The Criminal Attempts Act 1981 allows the person to be charged with the offence of attempting to supply a controlled drug: The person **believed** the sugar tablets to be ecstasy tablets, so they believed they were committing an offence, but because the tablets were sugar, they were not committing an offence, but because of their **intention** to commit the offence they are guilty of attempting to supply a controlled drug.

The same concept could be applied to a person who

- tries to kill someone using a starting pistol, or to
- a person who handles stolen goods which are not in fact stolen

Example of Intent

JACOBS buys a computer from someone at a local pub. JACOBS believes the computer was property taken from a recent burglary so he believed he was handling stolen goods. In fact the computer was acquired legally.

No offence of handling but it is an **attempt**



More than Merely Preparatory

A person's actions must be shown to have gone beyond mere preparation towards the commission of the substantive offence

This is what the court considers - whether this is the final step before the full offence is committed.



The question as to whether an act is **more than merely preparatory** to the commission of an offence is ultimately one for the jury to decide. However 2 tests have been set out over the years and have been accepted by the Appeal Courts:

1) The test set out in **R v Eagleton 1855 (Dears 515)** states:

Whether there was any further act on the defendant's part remaining to be done before the completion of the crime.

2) In **Davey v Lee 1967**

The offence of attempt is complete if:

- the defendant does an act which is a step towards the commission of the specific crime,
- which is immediately and not just remotely connected with the commission of it, and
- the doing of which cannot reasonably be regarded as having any other purpose than the commission of the specific crime.

A point to remember is that an 'attempt' is not the same as the 'intent to commit an offence'. If an act is merely preparatory (e.g. obtaining an insurance claim form to make a false claim), then it is not an attempt. There would have to be some other act such as actually filling the form out and posting it. Simple intent is not enough.

Examples:

A typical example is R v Geddes, G had hidden materials on school premises which

could be used for kidnapping a child. There was no evidence he had started to carry out his intended deed. The Appeal Court determined that his actions were preparatory to the offence and not an attempt.

Compare this case with *R v Tosti & White* in which examining a padlock with a view to breaking into a building was considered to be an early step in committing that crime and more than a preparatory act.

Attempting the Impossible

A person may be guilty of
'attempting to commit'
an offence even though the facts
are such that the commission
of the offence is **impossible**



It does not matter, for the offence of criminal attempt, whether the attempted offence would actually have been impossible to carry out.

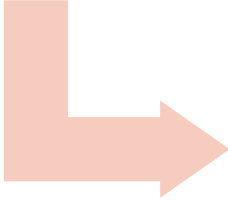
Section 1(2) of the Criminal Attempts Act 1981, makes it is possible for someone to attempt the impossible.

An example of this would be:

A woman tries to steal property from an open bag: she gently puts her hand into another person's open bag whilst standing next to them on a bus. The woman intends to steal a purse, wallet or mobile phone but when she feels around inside the bag she realises the bag is empty. Even though the full offence of theft is impossible, she has still attempted to commit the offence of theft.

Ready!

Talking/thinking
about committing
an offence of
burglary



No attempt to
commit an
offence



Steady!

Drive to a property
to be burgled and
get out of the car
with a bag of tools



**No attempt to
commit an
offence**

**HOWEVER -
Consider what
other offences
may have been
committed
here?**



Go!

Go to a rear window and start to jemmy the window open

This is **more than merely preparatory**

This is an **attempt** to commit an indictable offence





Class to get into pairs.

Pairs to attempt the multiple choice questions that appear on the next few slides.

Pairs to shares their answer and views with the rest of the class

Trainer to assist with the consolidation of learning by explaining the answers

Scenario 1

COLLETTE is walking through a car park trying car doors to see if any of them are unlocked, his intention is to find an insecure vehicle and steal any items of value he finds inside.

He finds an insecure vehicle and opens the door of the vehicle.

Q. Has COLLETTE committed an offence of attempt theft at this point?



Yes - When the car door has been opened

Scenario 2

JENKINS has missed his last bus home and is looking for a car to take him home. He finds a Ford Fiesta parked and insecure close by and he gets into the driver's seat.

At this time a police officer finds him.

Q. Has JENKINS committed the offence of attempt taking a vehicle without the owner's consent?

(TWOC is a summary offence)



No - TWOC is a summary offence therefore there is no criminal attempt.

Scenario 3

SPELL has purchased 20 tablets which he believes are ecstasy tablets (controlled drug). He intends to sell these tablets at a local bar. In fact SPELL is in possession of 20 harmless vitamin tablets.

Q. Has Spell committed the offence of attempt possession with intent to supply a controlled drug (indictable offence)?



Yes - Even though SPELL cannot commit the full offence as these were not ecstasy tablets it was his INTENT to sell these as ecstasy tablets (controlled drugs)

Scenario 4

JONES has tampered with his electricity meter in an effort to reduce the cost of his electricity bill. Unaware to him his wife has arranged a special payment plan which means they pay a fixed rate no matter how much electricity they use.

**Q. Has JONES committed an offence of attempt abstracting electricity?
(triable either way)**



Yes – JONES' intent was to commit the full offence but even though he couldn't he does commit the offence of attempt to commit abstract electricity.

