Answers to problem solving questions

Outline Answer

Theft
* When explaining appropriation, you would need to trace the development of the concept by reference to Lawrence, Morris, Gomez and Hinks. (See 12.1.2)

** Her conduct on keeping the money when she discovers the mistake is dishonest according to ordinary standards (first Ghosh question) but if D asserts a belief that she was not dishonest by reasonable standards at that point (second question) because anyone would have done the same, especially living so far away from the store, and she is believed, then she is not dishonest. On the other hand, she did return next week and refused to repay the £50 then. It is unlikely she would succeed in establishing a genuine belief that she was not dishonest according to reasonable standards. (See 12.1.3)

Y: handling
Under s3(2) – protection of a bona fide purchaser for value – Y does not commit theft. (12.1.2e) But s3(2) does not protect him/her from being guilty of handling stolen goods. (12.3) It will depend on whether Y knew/believed the champagne to be stolen and if so, whether s/he had a defence to dishonesty under the Ghosh test. (12.3.3) There is insufficient information here to decide.

Z: Robbery
*If theft can be defended by a lack of dishonesty under either s2(1) or the Ghosh test, then D will have a defence to robbery. (12.2.2).