

The Elements of an Offence

Law

The conduct element and the mental element.

Actus reus

- The conduct, circumstances and result
- Must be voluntary
- Can be an omission where a duty exists
- Includes any required consequence
- Proved by evidence of what happened

Mens rea

- Intention, recklessness or knowledge
- Varies by offence
- Assessed at the time of the act
- Motive is not the same as intention
- Inferred from conduct and circumstances

THE DIFFERENCE THAT MATTERS

Both elements must generally coincide in time. That coincidence requirement generates much of the case law.

Educational reference. Strict liability offences require no mens rea for at least one element. Not legal advice.