

DIMINISHED RESPONSIBILITY IN ENGLAND AND WALES: HISTORICAL AND CURRENT PERSPECTIVES

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Introduction: Diminished Responsibility has formed an important aspect of the law of homicide in England and Wales since 1957. It acts as a partial defence to murder and if successful, reduces the charge to manslaughter. Despite operating for over fifty years in England and Wales, it was subjected to regular criticism leading to the enactment of a revised plea.

Aims and objectives: This paper examines diminished responsibility, the elements of the revised plea and its legal/ clinical impact.

Summary: The core components of the old plea involved abnormality of mind substantially impairing mental responsibility. However, the obscure wording, the lack of psychiatrically recognized concepts and expert-jury role confusion led to a number of proposed reforms to the plea. The revised plea which came into force in 2010 consists of four limbs- abnormality of mental functioning, recognized medical condition, substantial impairment of mental ability and an explanation/causation requirement.

Conclusions: Although the new plea has intended to accommodate medical advances and modernize and clarify the law, its scope has been largely narrowed. Academics have criticized the explanation/causation requirement for being too complex to prove and so restrictive that satisfying an insanity plea might be easier. Concern has been expressed that more contested cases and murder convictions would result from this restriction in the plea's scope. Cases such as mercy-killing and battered spouses which previously could be dealt with 'sympathetically', might now be excluded. Interestingly, role confusion continues to be present with medical experts treading onto the jury's territory, opining on legal issues.