

# Uk law on voluntary manslaughter

[Experience](#), [Laughter](#)



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Diminished responsibility.  
This is one of the three special defences which exist for the defence of murder. It is contained in the Homicide Act of 1957 and is modified by the Coroners and Justice Act 2009. When the defence of diminished responsibility is pleaded successfully it can reduce a murder conviction to manslaughter.  
To use diminished responsibility the defendant must be able to demonstrate one of the following:

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1. An abnormality of mental functioning caused by a recognised medical condition. The question of whether the defendant is suffering from the abnormality of a mental functioning is decided by the jury after hearing medical evidence. The jury don't have to follow the medical evidence. Some examples of what counts as an abnormality of the mind include Jealousy, Battered woman syndrome, pre-menstrual tension, Epilepsy and chronic depression. An example of this is R v Byrne. The appellant murdered a young girl staying in a hostel, and mutilated the body. He did so as he was suffering from irresistible impulses which he was unable to control. Abnormality of mind was wide enough to cover the mind's activities including the ability to exercise will power. He was allowed the defence to reduce the charge to manslaughter. \n \t
2. The abnormality must provide an explanation for defendant's act or omission in being party to the killings. This follows from the old law which required the abnormality to be caused by an arrested or retarded development of the mind or induced by injury or disease. Alcohol and drugs are not considered unless the abnormality is

alcoholism or drug addiction. Something like binge drinking doesn't allow the defendant to use diminished responsibility. Case law for this could come from R v Wood. The appellant was an alcoholic who had been sleeping rough. He was friends with a group called the breakfast club and had been drinking heavily with them for the past two days before the attack. He was invited to spend the night at the deceased's house. During the night, he woke up and found the deceased trying to perform oral sex on him, he attacked him with a meat cleaver and hammer killing him. The judge said that a man's act is involuntary if, and only if, it is it very difficult to do otherwise. The appellant appealed this and the conviction for murder was quashed. \n \t

3. Which substantially impaired his/her mental ability. The defendant must show that the abnormality of the mind must have substantially impaired their mental ability to either understand the nature of their conduct, form a rational judgement or to exercise self-control. This is something for the jury to decide after hearing the medical evidence. A case example for this diminished responsibility is R v Campbell. The appellant killed a female hitch hiker he had picked up when she refused his sexual advances. She wanted to go from Oxford from London. He pulled up at a remote spot and made a pass at her. She hit him in the eye and he punched her in the throat. She began gurgling and blood came from her mouth. Realising the force he must have hit her he panicked and strangled her. He killed her by hitting her with a hockey stick. The appellant had frontal lobe damage and epilepsy. He appealed for diminished responsibility with medical opinion that the

effect of his epilepsy and lobe damage affected his judgement, control of emotions and impulses and forward planning. His conviction for murder was ended and he went to retrial. \n

\n Provocation. \n Provocation is part of the special defences for murder, like diminished responsibility. The requirements for the defence of provocation are:\n

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1. There must be evidence of provocation. This requires there to be evidence that the person charged was provoked by things done or said. There is no requirement that the provocative act was deliberate or aimed at the victim. Even something like the constant crying of a child can be used as evidence. Without the evidence the judge cannot put the issue of provocation to the jury. The jury can consider actions that happen over a period. The defendant is allowed the defence if they induced the provocation. A case example for this is R v Johnson. The appellant was at a night club. A woman called him a 'white nigger'. The appellant was white but had taken to adopting a west Indian accent. He took exception to the comment and made threats to her. A male friend of the woman intervened and poured a drink over the appellant. A fight happened and the appellant stabbed the man and he died. He argued that he was acting in self-defence. The judge directed the jury on self-defence, which they rejected, but did not direct them on provocation. He was convicted for murder which he appealed, and it was swapped for manslaughter because of the provocation. \n \t

2. Loss of control. This requires the accused to be provoked into losing their self-control. The definition of provocation came from R v Duffy, and is some act, or series of acts which would cause in any reasonable person and causes in the accused, and sudden and temporary loss of self-control, rendering the accused so subject to passion as to make him or her for the moment not a master of his or her mind. If there is any evidence of planning this will demonstrate no sudden and temporary loss of control. The loss of control need not be complete to negate murderous intent. Case law relevant to this is R v Richens. At the age of 17 the appellant killed a man who had raped his girlfriend. The deceased had taunted him about the rape saying that his girlfriend wanted to have sex and that she had enjoyed it. At which point the appellant stabbed him. The defendant raised the defence of provocation at the trial and the judge directed the jury on loss of control, saying that it doesn't apply to losing that kind of control, and that it is a complete loss of control, to the extent that you don't know what you're doing. He appealed against the jury's conviction of murder. \n \t

3. The provocation must be such as to make a reasonable man do as the defendant did. This is a question for the jury who must balance the gravity of the provocative act against the actions expected of a reasonable man. This is problematic when courts try to interpret and apply the section and it gets appealed regularly. Originally it was objective and no account could be taken of characteristics of the defendant in assessing this. However, it was accepted that particular

characteristics could be taken into account, and this lead to some uncertainty. The characteristics must be sufficiently permanent. Some case law for this part of provocation in R v Ahluwalia. The appellant poured petrol and caustic soda on her sleeping husband and then set him on fire. He died six days later from the injuries. The couple had an arranged marriage and the husband had been violent and abusive throughout the marriage, he was also having an affair. On the night of the killing he had threatened to hit her with an iron and told her he would beat her the next day if she didn't give him money. At the trial, she admitted to killing him, but used the defence of provocation. She was however, convicted of murder. She appealed this decision and raised diminished responsibility. \n

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Diminished Case -

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condition.

The jury  
would  
decide if  
he is  
suffering  
for this by  
looking at  
medical  
evidence.

Explanation Mary's  
PTSD  
would  
have be  
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on of why  
she acted

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way she  
did, and  
killed  
Peter.  
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Peter with  
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bayonet.

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ability

Mary  
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also have  
to show  
that her  
PTSD  
affected  
her own  
mental  
ability –  
to form a  
rational  
judgement  
or to  
exercise  
her self-  
control.

The Jury  
would  
then use  
medical  
evidence  
to decide  
if this is  
the case.

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Case -  
Provocati  
on Mary and  
Peter

Evidence She would  
need to  
have  
evidence of  
Peter  
insulting  
her and  
telling her  
that he  
hated her  
to be able  
to use it as

part of her  
defence.  
She would  
be able to  
argue that  
he  
provoked  
her into  
stabbing  
him.

Loss of Control This could  
also form  
part of  
Marys  
defence.  
This is  
because  
she had  
been  
soldier, and  
was  
suffering  
from post-  
traumatic  
stress

disorder.

She could

say that it

affected

her

judgement

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emotions,

and that is

why she

acted in

the way

that she

did.

Reasonab The jury

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defence to decide if

a

reasonable

person

would act

in the same

way as

Mary did in  
that  
situation.

This is  
difficult to  
use  
because it  
is very  
objective,  
and based  
on the  
juries'  
opinion.

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Case -  
Provocati  
on Sarah and  
Michael.

Evidence Sarah  
would have  
been  
provoked  
by Michael  
smirking  
because

about  
sexually  
abusing  
young  
boys. This  
could also  
be affected  
because  
she is a  
mother.  
She would  
need to  
have  
evidence of  
him doing  
this.  
Michaels  
actions  
would still  
be  
considered  
provocatio  
n, even  
though  
Sarah had

initiated it  
by  
confronting  
him about  
the sexual  
abuse.

Loss of Control Sarah could  
say that  
the fact  
that he  
smirked at  
the  
accusation  
of sexual  
abuse  
provoked  
her, and  
this caused  
her to lose  
her self-  
control.  
That would  
explain  
why she  
acted in

the way  
she did.

The jury  
would need  
to decide if  
a  
reasonable  
person  
would act  
in the same

Reasonab way as  
le man Sarah. This  
defence is difficult  
to use  
because it  
is very  
objective,  
and based  
on the  
juries'  
opinion.

\nDiminished Responsibility wouldn't apply to the case of Sarah and her  
Neighbour as there is no evidence that she had an abnormality of the mind.



The fact that she was drunk would not be able to be used as evidence, because this defence requires it to be a history of alcoholism.