



News from the Law Commission

4 August 2004

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Partial Defences to Murder With particular reference to cases of domestic violence

**The Law Commission publishes recommendations on
provocation and diminished responsibility as partial defences
to murder**

The Law Commission publishes its final Report on Partial Defences to Murder on its web site on Friday 6 August 2004. The recommendations in this Report reflect substantially the provisional proposals that we set out in April 2004, while taking into account further responses from consultees.

Terms of reference

In June 2003 the Home Secretary requested that the Law Commission consider and report on the following matters:

- (1) the law and practice of the partial defences to murder (that is, the means by which a defendant can plead manslaughter) provided for by sections 2 (diminished responsibility) and 3 (provocation) of the Homicide Act 1957. In considering this, we were asked to have particular regard to the impact of partial defences, where the defendant has been a victim of domestic abuse.
- (2) In the event that either or both of them are in need of reform:
 - (a) whether there should continue to be partial defences to murder in the circumstances provided for by them;
 - (b) if so, whether they should remain separate partial defences or should be subsumed within a single partial defence;
 - (c) if the former, how they may each be reformed;
 - (d) if the latter, how such a single defence may be formulated.
- (3) Whether there should be a partial defence to murder in circumstances in which the defendant, though entitled to use force in self-defence, killed in

circumstances in which the defence of self-defence is not available because the force used was excessive.

(4) If so, whether such a partial defence should be separately provided for and in what terms, or should be subsumed within a single partial defence such as is referred to in 2(b) and (d) above.

Brief history of project and timing

At the beginning of the project we were asked to publish our final Report by July/August 2004. Despite this tight schedule, the Report has been delivered within the timeframe.

In October 2003 we published a consultation paper, setting out a series of options for consideration and comment. We received a large number of high quality responses, all of which were analysed and considered. Members of our Criminal Law Team also attended meetings throughout England and Wales with academics, judges and interested organisations.

On 30 April 2004 we agreed and published our provisional conclusions together with supporting reasoning on our website.

NOTES FOR EDITORS

1. The provisional conclusions can be accessed from:
<http://www.lawcom.gov.uk/231.htm#cp173-prov>
2. The Report will also be accessible from the Law Commission website via the link to the Publications page.
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