



Law
Commission
Reforming the law

Changes to the special reasons why someone is not guilty of a crime - things to talk about

July 2013



This is an EasyRead version of:
Criminal Liability: Insanity and Automatism
Discussion Paper – July 2013

Some of the words we use in this paper

There are some other long words that we explain when we use them.



Crime

When someone breaks a law.



Guilty

When a court decides a person did a crime we say they are 'guilty'.



Jury

A group of 12 people who listen to what everyone says in court then decide if the person is guilty or not guilty.



Trial

When everyone comes to court to say what they know about the crime and the court decides if the person is guilty or not.

What is in this paper



1. About this paper

1



2. What this paper is about

2



3. What is wrong with these 2 reasons?

7



4. Our ideas for changing the law

9



5. How to find out more

15



**Law
Commission**
Reforming the law

The **Law Commission** wrote this paper.



We say if laws need changing to make them fairer.



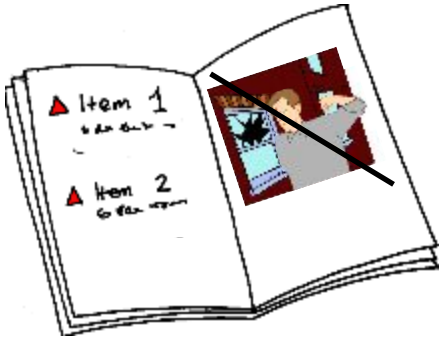
This is a short version of a very long **discussion paper**.

Discussion papers bring together ideas and information to get people talking about something.



We are not asking what you think about our ideas but we hope you will talk about them.

What this paper is about



This paper is about 2 special reasons why a person might not be **guilty** of a crime.

What happens at a trial?

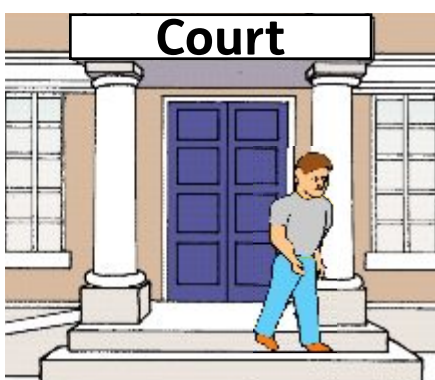
The jury has to decide if the person did the crime or not.



If the jury decides the person did the crime, they say they are 'guilty'.



Then the judge decides how to punish the person and try to stop them doing any other crimes.



If the jury do not think the person did the crime, they say they are 'not guilty'.
Then the person is free to go.

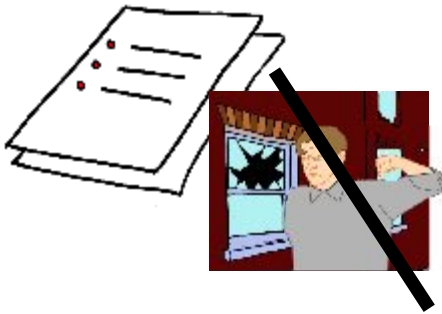
The jury thinks about 3 things:



1. What did the person do at the time the crime happened?



2. What was the person thinking at the time the crime happened?



3. Are there any **defences** or special reasons why the person is not guilty of a crime?

These special reasons might be because the person:



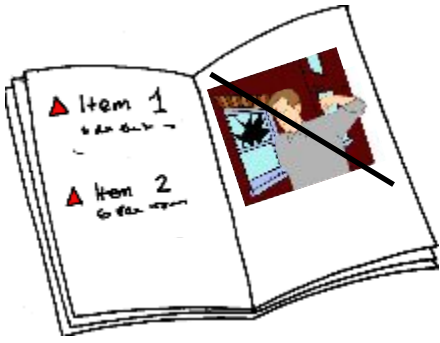
- Did something by accident



- Did something to stop someone hurting them

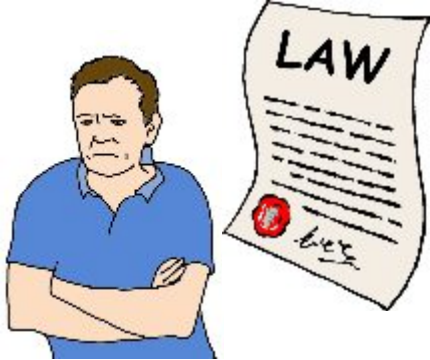


- Was very ill when they did something.

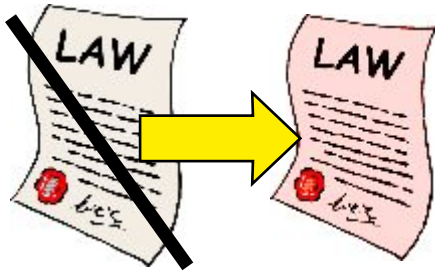


This paper is about 2 special reasons called:

the insanity defence and the defence of automatism.



These are long words and we know people think 'insanity' is insulting. But they are the words the law uses so we must use them in this paper.



We are thinking about how to change the law about these 2 special reasons why a person is not guilty of a crime.

The insanity defence

The law says a person is not guilty if there is something wrong with their mind that means:



- They did not know what they were doing at the time the crime happened or



- They did not know it was a crime.



This is called **not guilty by reason of insanity**.

If the jury decides this, the judge can:

- Send the person to a special hospital if they are ill and need help to get better.



If the person did something very serious the judge can say they can only leave hospital if it is safe for everyone



- Say the person needs support in the community for 2 years if they do not need to go to hospital



- Say there is no need for any special order.

The defence of automatism



If the person has no control at all over their body at the time the crime happens, the jury will say they are not guilty and are free to go.

This is called the **defence of automatism**.



If the person made themselves lose control of their body, the jury will say they are guilty.

For example, John sniffs glue which makes him behave strangely and he does not know what he is doing.



If he hits his friend it is John's fault that he lost control and he will be guilty.

3

What is wrong with these 2 reasons?



The law is a muddle and we want to make it fairer.



The main things that are wrong are:

- If someone has an illness that makes them confused a jury can say they are not guilty because of insanity, even if is nothing wrong with the person's mind
- The law says sleep walking is a type of insanity. Sometimes people do something very bad in their sleep but are set free.



We think the judge should tell them to get help to stop them sleep walking and doing it again



- Because people do not like the word 'insanity' they will not tell the court if their mental illness was bad when they did the crime



- If someone is very ill and knows it is against the law to kill, they might still do it if their illness makes them think it is right. They cannot say it was because of insanity so might be sent to prison



- Doctors sometimes help the jury decide if someone was ill when they did a crime. Doctors do not use the word 'insane' in hospitals but have to use it to explain things in court



- The law says the person has to make the jury see that they were 'insane' when they did the crime. We do not think this is fair



- Some people who are very ill or have a serious learning disability when they do a crime are sent to prison.

4

Our ideas for changing the law



If the person did the crime because of their physical or mental illness or learning disability we would not use the word 'insanity'.



We want the jury or magistrates to decide they are **not guilty by reason of a recognised medical condition**.



The jury could only say this if the person's illness or learning disability was so serious that they could not stop themselves doing the crime.



This means they:

- Could not think properly about what they were doing



- Did not understand that they should not do it



- Could not control themselves.



Most of the time people with an illness or learning disability know what they are doing. They cannot just tell the jury they are not guilty because of their illness or learning disability.



For example, Daisy has a learning disability but knows about stealing and understands it is wrong to steal.

If she steals something from a shop, she cannot tell the jury it was because of a 'recognised medical condition'.



This new idea would help someone who did a crime because of a medicine their doctor told them to take. The jury would decide they were ‘not guilty because of a recognised medical condition’.



A person could not be ‘not guilty because of a recognised medical condition’ if they did a crime because:

- They were very drunk and not because they were ill or had a learning disability



- They have something wrong with their personality.



If someone does a crime because of something their body does when something else happens, the jury would say they are not guilty.

For example, if someone swerves and drives into another car when a stone hits their windscreen.

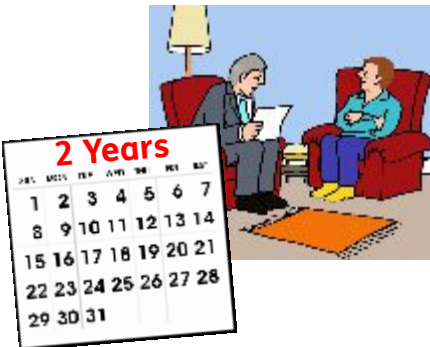


What would happen if courts use this new idea?

If the jury said someone was 'not guilty because of a recognised medical condition' we think the judge should be able to do one of these things:



- Send the person to hospital



- Say the person needs support in the community for 2 years



- Say there is no need for any special order.



We think the judge should also be able to do this for people who are under 18 years old.



Deciding without a trial

Court trials are very expensive and can make the person feel stressed.



If the judge is sure the person did a crime because of their medical condition we think it might sometimes be better to decide what happens without a trial.



Judges could only do this if:

- Everyone agrees that the right verdict is not guilty by reason of recognised medical condition



- The person has a lawyer with them in court



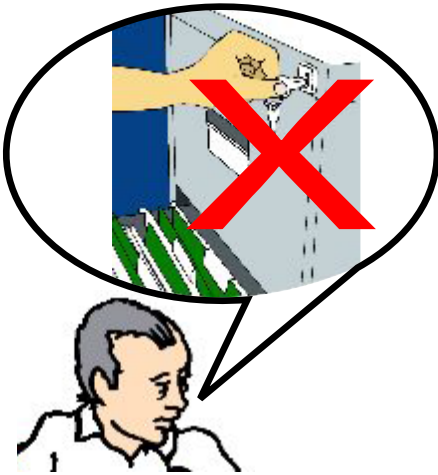
- The judge writes down why he or she decided this.





There is more information on our website:

<http://bit.ly/1cTiQj9>



We are not asking you to send us anything. If you do write or email us, we might use this information or give it to anyone the law says we have to show it to.

Please tell us first if you do not want us to share your personal information.

If you want to contact us you can:



Email:

insanity@lawcommission.gsi.gov.uk

Write to:



Criminal Law Team
Law Commission
4th Floor. Steel House
11 Tothill Street
London. SW1H 9LJ



Credits

This paper has been designed and produced by the EasyRead service at Inspired Services Publishing Ltd. Ref ISL067/13. July 2013.



Artwork is from the Valuing People Clipart collection and cannot be used anywhere else without written permission from Inspired Services Publishing Ltd.

To contact Inspired Services:



www.inspiredservices.org.uk