



# CORNWALL STREET

BARRISTERS

## Briefing Note

### **R v Golds(Appellant) [2016] UKSC 61: a case note**

The unanimous judgment was given by Lord Hughes on 30 November 2016. The appeal regarded the partial defence of diminished responsibility; namely what amounted to a “**substantial impairment**”.

#### **Summary of the law on diminished responsibility**

Diminished Responsibility is contained in s.2 Homicide Act 1957, which has now been amended by s.52 of the Coroners and Justice Act 2009, which sets out the partial defence. If the Defendant was suffering from an abnormality of mental functioning and there is also a requirement that the defendant's ability to either:

- a) Understand the nature of their act or**
- b) Form a rational judgment or**
- c) Exercise self-control**

was ***substantially impaired***.

#### **Facts of the current appeal**

Mark Golds was guilty of murdering of his partner with a knife after a day of sustained arguing (para 2). He had inflicted 22 knife wounds together with blunt impact internal injuries.

The two issues for the court were:

- 1) What is meant by “**substantially impaired**” in s.2(1)(b) Homicide Act 1957, as amended by s.52 Coroners and Justice Act 2009
- 2) How the judge should direct the jury on the meaning of “**substantially impaired**” namely whether it is “something more than merely trivial”



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### The current judgment

(i) In relation to the first issue, the ordinary use of the word was the correct one. Namely, substantial means: “(1) “present rather than illusory or fanciful, thus having some substance” or (2) “important or weighty”, as in “a substantial meal” or “a substantial salary”” (para 27).

The authorities on the definition of “substantial” and the old case law prior to s52 of the Coroners and Justice Act 2009 were held to still apply (para 30).

(ii) Lord Hughes stated that the jury should not be directed by using synonyms for ‘substantial impairment’. Despite the “spectrum” analysis referred to in *R v Lloyd*, “it is preferable for the judge not to introduce it” (para 41).

The judge should explain to the jury that “it is not the law that any impairment beyond the trivial will suffice” (para 43) and **should not** attempt to define the meaning of “substantially”. The judge should direct that it must be **more than merely trivial** to be substantial (para 43).

On the facts of the case, the jury were right to conclude Mr Golds was not suffering from a substantial impairment (para 55).

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