

The Law Commission (2005) has described the law governing homicide in England and Wales as a 'rickety structure set upon shaky foundations' and thus one can decipher from this that the current offence of murder is inconsistent and in dire need of reform. The current offence of murder can be traced back to 1613 in which Lorde Coke described the definition as the "unlawful killing of a reasonable creature in being under the King and Queen's peace with malice aforethought." ([publications.parliament.uk, 1997](https://publications.parliament.uk/1997)) Since 1613 there has been little effort to expand the meaning of this definition and this is largely considered out of date and not on par with modern society. Therefore, within this essay I aim to explain the inherent problem with this definition and why it is in dire need of reform.

One of the main criticisms of the current homicide law is its lack of clarity. The law is characterised by complex legal terms and intricate distinctions between different categories of homicide. This lack of clarity can lead to confusion among jury's, judges, and legal practitioners, and potentially resulting in inconsistent verdicts and unjust outcomes. Reform is needed to simplify and streamline accessible and comprehensible to all parties involved.

The declaration that some rules governing homicide in England and Wales have remained unchanged since the 17th century highlights an inherent problem. Since the 17th century, society has evolved significantly since back then, and the law should reflect contemporary values and circumstances. For instance, the rules of self-defence and provocation, which can be complex and subjective, require clarification and modernization to ensure fair and just outcomes.

The current law governing homicide seems to often fail to differentiate adequately between different levels of culpability. The absence between murder and manslaughter can lead to inconsistent sentencing and perceptions of unfairness. A reform that provides clear guidelines and criteria for distinguishing between various degrees of culpability is crucial when ensuring justice. Today it stands that if an adult is convicted of a murder the court must give a sentence of life imprisonment. ([www.sentencing.academy.uk, 2022](http://www.sentencing.academy.uk)) The judge has to impose and follow guidance on the minimum amount of time the offender must be in prison before being considered for any release. Depending on the circumstances of the offence the minimum sentencing for an adult is between 15-30 years of imprisonment, and for someone under the age of 18 the starting point is around 12 years. (www.sentencing.council.uk) However there are mitigating factors and defences to be taken into consideration with many offences, and this can result in a decrease in the offenders sentencing. Examples of mitigating factors to a sentence are:

- . Mental illness/ disability
- . Greater degree of provocation
- . Youth/ age
- . Offender played a minor role in the offence
- . Genuine remorse
- . Ready cooperation with authorities. ([www.sentencing.council.uk, 2023](http://www.sentencing.council.uk))

Reference list

[House of Lords - Attorney General's Reference No. 3 of 1994 \(parliament.uk\)](#)

[\(Public Knowledge of Sentencing Practice and Trends \(sentencing academy.org.uk\)](#)

[\(Murder sentencing leaflet \(sentencing council.org.uk\)](#)

[\(www.sentencingcouncil.org.uk/explanatory-material/magistrates-court/item/aggravating-and-mitigating-factors/\)](#)