



WS7 Loss of control – Guide

1. The Daily Mail headline means that under the new law sexual infidelity is no longer a valid reason for losing control, but that abused wives may escape a murder charge because there no longer needs to be a 'sudden loss of control'.
2. There is a problem with the use of the word 'charge' in the headline. I would explain that the law does not affect what will or should be charged, the law is used as a defence to a murder charge and reduces the *conviction* to manslaughter.
3. The headline implies that the law only applies to men ('killer husbands lose ...defence'), it actually applies to everyone equally. (*Though has been used more often by men in the past.*)
4. The first point is exemplified by the case of Les Humes who killed his 'cheating wife'. The second point mentioned in the article is exemplified by the case of Thornton.
5. They are referring to s 52 of the Coroner's and Justice Act 2009.
6. The writer says that Sara Thornton would probably not have faced a murder charge had she been tried under the new law because of the removal of the 'sudden and temporary' rule (*note that as said above in Q2 she would face a murder charge anyway; it is the conviction that changes not the charge*).
7. Under the new law there must still be a loss of control even if it isn't 'sudden and temporary', so I could argue that she is still likely to fail with this defence to a murder charge because there was little evidence that she lost control at all. She went into the kitchen to calm down first.
8. This is a matter of opinion. The article shows that many judges and the Labour Party did not want this to remain in the law, partly due to the fact that the old law of provocation was brought in specifically to deal with this issue. It provided (usually men) a defence to killing a spouse who was unfaithful, where they lost control (as with Les Humes). As for abused wives, it may seem fairer that they don't have to prove a 'sudden and temporary' loss of control. Women are often weaker so they will rarely act immediately (as with Thornton and Ahluwalia) because they will come off worse. However, there must be a loss of control and the longer any 'cooling off' period the more likely it is the jury will decide there was no such loss.
9. Lord Lloyd is astonished because he believes that the jury should not be told by the judge (who must obey Parliament, which made the law) whether or not D lost control and whether any infidelity was enough to cause the loss of control. These are matters of fact not law, and



such matters are best left to the jury. Under the new law the judge will have to tell the jury that a partner's infidelity cannot be used as a trigger for the loss of control, it will not be a matter for the jury to decide.

N.B. Newspaper coverage of cases is worth reading because it gives the facts and explains things more clearly than a law report. However, be careful, especially when using papers where there is a clear political agenda. This article is reasonably accurate, but the small mistakes I asked you about could mean readers misunderstand the law. Any questions, just ask me.