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## Top QC says Law on mental health needs to be clarified

A top QC will tell a conference at Northumbria Law School that law reform in the UK needs to address the issues surrounding criminal defences based on mental disorder.

Speaking on Mental Health Day (10 October), Professor Gerry Maher QC will express his desire to see more clarification in this area of the law and presents a paper at an upcoming seminar, hosted at Northumbria University, which will explore the relationship between automatism and insanity.

He said: “In its 2013 Discussion Paper, the Law Commission suggested that the relationship between the defences of insanity and automatism should be rationalised and reformed into what would in effect be one defence.

“Yet, in an earlier survey of Scots law, the Scottish Law Commission considered that the defences are, and should continue to be, entirely separate. “I think it’s important to consider various models of the relationship between the automatism and insanity. I believe that the contrast between the approaches of ‘one defence’ and ‘separate defences’ is too extreme and fails to capture the extent of similarities and dissimilarities which the defences involve.

“For me, clarifying criminal defences based on mental disorder is part of the unfinished business of law reform in the UK.”

Gerry, who is a Professor of Criminal Law at the University of Edinburgh, will be speaking at the event on 12 November which is expected to draw delegates from across the law profession, including lawyers, judges, barristers and academics.

This seminar is a follow-up to a conference that the Law School held in 2013 which discussed how defences of insanity and automatism was working in England and Wales.

Conclusions reached from this event were submitted to the Law Commission with delegates agreeing that the defences are in desperate need of reform. There is also a stigma issue with practitioners finding it difficult to approach the subject with clients as many clients would prefer to serve a set prison time rather than risk being admitted to hospital indefinitely.

Nicola Wake, senior law lecturer at Northumbria University and convenor for the Criminal Justice Section of the Society of Legal Scholars, said: “Our last event provoked interesting discussion amongst delegates and everyone seemed to agree it’s essential that any reforms to the insanity defence are informed by current work that is on-going in relation to unfitness to plead.

“Our next event will follow on from this and we are delighted to have one of the leading authorities on the subject, Professor Gerry Maher QC, as our guest speaker.

“The Law Commission issued a Discussion Paper on Insanity, Automatism and Intoxication last year and is currently reviewing the law on unfitness to plead – the law is clearly in need of reform and this event provides an important platform for debate and discussion.”

The event will be held in the Centre for Evidence and Criminal Justice Studies at the School of Law at Northumbria University.

For further information or to book a place, please contact Natalie Wortley ([n.wortley@northumbria.ac.uk](mailto:n.wortley@northumbria.ac.uk)) or Adam Jackson ([adam.jackson@northumbria.ac.uk](mailto:adam.jackson@northumbria.ac.uk)), Deputy Directors for the Centre for Evidence and Criminal Justice Studies.

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