The Government anticipated that there would be interpretational flexibility with the inclusion of the phrase “a recognised medical condition” (e.g., physical, psychiatric, and psychological conditions) within the current defence. With this flexibility, the term could be broadly interpreted to extend to existing and emerging “conditions such as learning disabilities and autistic spectrum disorders which can be particularly relevant in the context of juveniles.” The Government’s vision for the defence having interpretational flexibility with the inclusion of the phrase “a recognised medical condition” has not been realised in legal practice. The DSM has accredited developmental immaturity as having a role in the development of neurodevelopmental disorders, a category of disorders characterised “by the onset of personal, social, academic, and job-related functioning impairments in the "developmental period."” The scientific evidence reveals that a child with developmental delays will lack legally relevant capacities like the abnormal developing child.

Although, a child or young person who suffers a high degree of developmental immaturity than the norm for a person of their age might lack legally relevant capacities. The problem is that their degree of incapacity is not significant enough to warrant a diagnosis of “a recognised medical condition.” This means they cannot successfully plead the defence of diminished responsibility because they cannot prove that they suffer an “abnormality of mental functioning” arising from “a recognised medical condition.” This is because developmental immaturity is not accepted as a medical disorder, illness, or condition and thus falls outside the scope of “a recognised medical condition.” The Law Commission subsequently raised and considered whether a new complete defence of “not criminally responsible by reason of developmental immaturity” for children who kill under 18 years of age should be introduced in English criminal law in 2013. However, the Law Commission’s proposal has not been introduced in criminal law.