

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 10th JULY 2012**

**Question**

Given that trial by jury ensures that both the plaintiff and defendant's case is heard by an entirely random cross-section of the community, will H.M. Attorney General outline why individuals initiating civil actions in Jersey are denied access to trial by jury as enjoyed by their counterparts in the UK; further still, what are the obstacles, if any, to the current position being reformed to ensure parity with the UK?

**Answer**

The question is incorrect in that it asserts that persons in the United Kingdom are entitled to trial by Jury in all civil actions. Today , almost all English civil cases feature a Judge and not a Jury. The only exceptions relate to an allegation of fraud, malicious prosecution, false imprisonment and libel/slander proceedings. This right is not absolute and a Judge can order otherwise if the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury.

On 10th May 2012, the UK government presented the Defamation Bill to Parliament. Section 11, as presently drafted, removes the presumption of a jury trial in libel cases.

Of course, Jersey has its own constitution and history. Jurats determine all civil matters including libel actions. Many other jurisdictions in Europe feature similar systems whereby judges and not juries decide civil cases. The European Court of Human Rights has ruled that a Court comprising of a Judge and Jurats provides a fair and impartial tribunal which is compliant with Article 6(1) of the European Convention of Human Rights and Fundamental Freedoms.

Save in relation to specific cases highlighted above, there is no material difference between the United Kingdom and Jersey and the question of ensuring parity does not therefore arise.