

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 2ND MAY 2017**

Question

Will H.M. Attorney General explain what the phrase ‘equality of arms’ means in a Human Rights context and will he further explain, with examples, whether Jersey’s court and justice system provides adequate protection to Islanders in that regard?

Answer

As recently defined by the European Court of Human Rights, the principle of “equality of arms” requires a “fair balance” between the parties: each party must be afforded a reasonable opportunity to present his case under conditions that do not place him at a substantial disadvantage vis-à-vis his opponent or opponents.

Jersey has a legal aid system more extensive than that which exists in England and Wales, enabling Islanders of modest means to access legal representation at no or reduced costs in certain circumstances. There is no requirement under the Convention that in civil cases every party should have a lawyer, or the same number of lawyers, or the lawyers of the equivalent years of experience as the opposing party. In respect of criminal cases, the entitlement to representation is met by the current legal aid system.

Where legal aid is not available, it is the duty of the Court to ensure that sufficient latitude is given to unrepresented litigants so that they have a reasonable opportunity to put their case. In such circumstances the Court may raise points that litigants in person have not appreciated to assist them. The Court may in appropriate cases at public cost appoint a lawyer to act as *amicus curiae* (“friend of the court”) to assist where an unrepresented litigant would be at a significant disadvantage.

Further, all Advocates and Solicitors have professional duties to volunteer points of law adverse to their own clients.