

Human Rights Commission
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Cheryll Richards, QC
Acting Attorney General
Fourth Floor Government Administration Building
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30 July, 2010

Dear Miss. Richards,

Proposed Amendments to the Criminal Procedure Code (2006 Revision)

Further to my letter of 12th July addressed to the Honourable Attorney General, I wish to bring to your attention comments of the Lord Chief Justice, Lord Judge in giving an Appeal Court judgment in London last week. These were successful appeals by the accused against pre-trial decisions of Crown Court Judges allowing a Prosecution application for trial by Judge alone.

Delivering his ruling, Lord Judge said: "We must emphasise as unequivocally as we can that, notwithstanding the statutory arrangements introduced in the 2003 Act (Criminal Justice Act) which permit the court to order the trial of a serious criminal offence without a jury, this remains and must remain the decision of last resort."

He said a trial without a jury could only be ordered if a court was "sure" the danger of jury tampering was certain - and that, despite any reasonable steps that might be taken to prevent it, the likelihood of such tampering was "so substantial" the interests of justice required a trial to be conducted without a jury.

Except in "extreme cases" - where necessary protective measures constituted an unreasonable intrusion into the lives of jurors - "the confident expectation must be that the jury will perform its duties with its customary determination to do justice," he said.

Under the English Criminal Justice Act 2003 a trial by Judge alone can only be ordered for serious offences where the Prosecution shows a "clear and present danger of jury tampering". The proposed amendment to Cayman Islands Criminal Procedure Code (2006 Revision) does not require the Prosecution to show there is a real and present danger of jury tampering because it makes such trials without a jury mandatory in the case of all firearms offences. The warning words of the Lord Chief Justice are therefore even more applicable and appropriate to the amendments proposed by the Cayman Islands Government to the Criminal Procedure Code of the Cayman Islands.

Yours sincerely,



PP Richard Coles
Chairman, Human Rights Commission

cc: Honourable Deputy Governor