

## Guernsey's new Prevention of Discrimination (Guernsey) Ordinance: Are you ready to meet the requirements

Insights - 11/11/2022

The States of Deliberation (the **States**) approved the new Prevention of Discrimination (Guernsey) Ordinance, 2022 on 28 September. Employers will have a year to make any necessary preparations, with confirmation that the Ordinance will come into force on 1 October 2023 (subject to approval from the States).

Under the new legislation, employers will have increased statutory obligations and a wider range of characteristics will be protected against discrimination so businesses will need to check their employment contracts and staff policies to ensure that they are aligned with the new requirements.

The Ordinance incorporates changes into the existing anti-discrimination regime and extends the scope of the law from the employment field to cover those who provide goods and services, schools and education providers, clubs and associations and accommodation providers. The Ordinance also introduces a positive duty on employers and service providers to make reasonable adjustments for a disabled person.

The new protected grounds are:

- Disability;
- Carer Status;
- Race;
- Sex orientation; and
- Religion or belief.

The key principles underpinning the legislation are fairness, equality, justice, dignity and

proportionality.

A number of amendments were debated by the States and the outcome of some of the more significant changes to the Ordinance are set out below to give employers time to digest them, and ensure they are fully prepared for any changes that they might need to make.

## **Amendments adopted**

### **Amendment 2 (religion or belief)**

The protected ground of "religious belief" has been expanded to "religion or belief". A philosophical belief (or lack of a belief) which is not based on religion is now potentially protected from discrimination under this protected ground.

### **Amendments 3 and 17 (amendments, code of practice and guidance)**

While amendments and codes of practice made under the Ordinance will have to be approved by the States (by Regulation) before coming into effect, the Committee for Employment & Social Security will be allowed to issue non-statutory guidance to explain people's rights and duties under the Ordinance, including information about what is required in an accessibility action plan.

### **Amendment 14 (contract of employment definition)**

A narrow definition of '*contract of employment*' was proposed to explicitly exclude a contract for services. The definition was amended to clarify that it means only '*a contract of service or apprenticeship, whether express or implied and whether written or oral*'.

### **Amendment 12 (professional skills and qualifications)**

Clarification has been added so that '*for the avoidance of doubt*' a professional body does not discriminate against a person by imposing requirements to possess relevant skills, experience, professional integrity or require the passing of examinations.

### **Amendment 7 (immigration and population management)**

Decisions taken in respect of immigration applications, clearance and leave to enter or remain in Guernsey will not be required to be "necessary for the public good" to fall within the exception. The requirement that actions taken for the purpose of Population Management must be "a proportionate means of achieving a legitimate aim" to fall within the exception has also been removed.

### **Amendment 9 (freedom of expression)**

An exception relating to freedom of expression has been included to clarify that an expression of



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