COLLAS CRILL

Five ways that Guernsey's new discrimination ordinance could impact you

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Guernsey's new discrimination legislation looks set to impact many different areas of our lives. Here, we summarise some of the main ways in which you may find yourself benefiting from additional rights, or subject to additional obligations.

1. Work

It will be unlawful for employers to discriminate, for example when deciding who to recruit, promote or dismiss and when determining terms of employment. The new legislation protects not only employees, but also anyone else who is required to work for another; for example, casual workers, agency workers, secondees, those carrying out work experience and some self-employed individuals.

In preparation for the new law coming into force, employers should audit their pay and remuneration structures to ensure that they are not tainted by discriminatory factors, and should be thinking about whether they need to amend their existing policies and procedures and/or implement any new policies.

It is important to note that is not just employers who will have to comply with the new law. Others, such as employment agencies, trade unions, professional organisations, partnerships and those responsible for the appointment of office holders, will also be under a duty not to discriminate. These bodies should also review their current policies and procedures.

2. Goods and services

Goods and service providers must not discriminate against members of the public by, for example, refusing to provide a person with goods or services or doing so on different terms. All providers of goods and services will be covered, including tradespeople and those involved in the banking, finance, entertainment, recreation, hospitality and transport industries.

Of particular relevance to goods and service providers will be the duty to make reasonable adjustments for people with disabilities. For goods and service providers this will be an anticipatory duty, and so they should not wait until someone with a disability experiences a particular issue before considering and implementing adjustments. Goods and service providers will have five years to make any necessary adaptations to their premises, but other reasonable adjustments, for example in relation to the accessibility of customer information, will probably need to be introduced from next year.

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3. Education

Education providers must not discriminate against students, for example in relation to admissions, in the delivery of education or in the development of syllabuses. Education providers will include the States of Guernsey Education Services, educational institutions themselves and any organisation which develops training courses used by education providers. Note that this area of the law is not expected to come into force until a later date, as yet undetermined.

In the meantime, education providers should start considering whether any of their admission criteria or other policies and procedures could be deemed discriminatory and, if so, whether there are any defences or exceptions open to them under the draft legislation.

4. Property

Those who sell, rent or lease commercial property, residential property or land to others must not discriminate in the decisions they make about who the property is provided to and/or the terms upon which it is provided, and must also not discriminate against existing tenants.

Rental terms should be reviewed to check whether they could disadvantage protected groups and, if so, whether changes are necessary. For example, if a landlord has a 'no pets' policy, they might need to make an exception for a visually impaired tenant who requires an assistance dog. Any clauses prohibiting the tenant from making physical changes to the property may also need to be modified, as disabled tenants will have the right to make certain changes to the property at their own expense.

5. Clubs and associations

Clubs and associations with 25 or more members must not discriminate in relation to admissions, or in relation to the treatment of members. This applies whether or not the club or association is run for profit, and would include organisations for people who share particular interests, sports clubs, children's clubs and political associations, amongst others.

Clubs and associations should review their membership rules and other policies and procedures to ensure that they are not discriminating against protected groups, either directly or indirectly.

Key points to note when considering the scope of the new legislation:

- The first phase of the legislation, which is due to come into force next year, will cover discrimination on grounds of race, disability, carer status, sexual orientation and religious belief.
- Sex discrimination has been prohibited in the employment context since 2006 but there are plans to introduce broader legislation in relation to sex discrimination, as well as age discrimination, at a later date.
- It is important to remember that discrimination can occur even when people are treated equally, if the treatment has a particularly detrimental impact on a protected group. Conversely, treating two people

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differently on protected grounds will not necessarily constitute discrimination, as the law contains various exceptions.

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