

UPDATE

# Accessibility and Reasonable Adjustments

Update prepared by Laura Bougourd (Guernsey)

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This legal update looks at the potential implications of Guernsey's proposed new discrimination legislation for commercial property owners and occupiers.

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## What is happening?

The States of Guernsey have approved proposals for new discrimination legislation, which will include prevention of discrimination on the grounds of:

- disability,
- carer status,
- race,
- sexual orientation, and
- religious belief.

This is to be Phase 1 of the new legislation, with Phase 2 covering age-based discrimination and modernisation of the existing sex discrimination law.

## When?

- 2020, July – the States of Guernsey debated and approved the new discrimination legislation;
- 2021 – training and information will be provided;\*
- 2022 – Phase 1 of the new legislation to be enacted;
- 2024 – Phase 2 to be implemented;
- 2027 – the ability to bring discrimination complaints relating to physical features of buildings will come into effect.

\*In February 2021 a Discrimination Legislation Stakeholder Group formed to provide a mechanism for feedback to be given to the Committee for Employment and Social Security – their first meeting focused on identifying training and information requirements.

## How does this relate to commercial property?

Although the new legislation is yet to be drafted, it has been made clear by the proposals that it is intended to make it unlawful to discriminate against people at work, when accessing goods or services as a consumer, when using public services or when buying or leasing property.

There will be a duty placed on employers and service providers to make reasonable adjustments to enable disabled people to have the same opportunities as others and to prevent a disabled person suffering a substantial disadvantage without such an adjustment. Denying someone a reasonable adjustment would be unlawful discrimination unless making that adjustment would place a disproportionate burden on the employer or service provider.

Commercial landlords should not unreasonably refuse requests made by their tenants to make adjustments which will make their properties more accessible.

There will be a five year delay between the new legislation being implemented and people being able to register complaints which relate to the physical features of a building. However, accessibility and, in particular, physical accessibility should be a priority consideration of all proactive landlords, employers and service providers in relation to their premises, especially if renovations are likely to be carried out in the interim.

### What now?

Landlords, employers and service providers would be advised to be proactive and start considering potential issues around accessibility and associated reasonable adjustments before the new legislation comes into effect.

It is not anticipated that the whole island will comply with best practice standards by 2027, however making changes in advance will reduce the chances of a complaint being made against them in future and minimise the risk of having to undertake further works at additional expense.

*Disclaimer – this article is based on the proposals approved by the States of Guernsey and so reflects what is likely to be the position under the new discrimination legislation. The content of this article will remain subject to change when draft legislation is available for review.*

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