

UPDATE

# The Prevention of Discrimination (Guernsey) Ordinance, 2022

Update prepared by Rachel Guthrie and Toby Mann (Guernsey)

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The Prevention of Discrimination (Guernsey) Ordinance, 2022 came into force on 1 October 2023. This update provides a brief overview of its provisions.

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**Commencement date:** 1 October 2023

**Protected Grounds:** Disability; Race; Carer Status; Sexual Orientation; Religion or Belief

**Applies to:**

- Any person or business (advertisements / causing a prohibited act)
- Employers (applicants / current employees); Employment agencies
- Vocational training providers
- Partnerships
- Personal / Public office holders
- Professional bodies
- Professional / Trade organisations
- Goods and services / Clubs and associations / Accommodation
- Education (commencing at a later date)

## Types of discrimination in brief

**Direct discrimination** – less favourable treatment *because of* a protected ground.

**Indirect discrimination** – a *provision, criterion or practice* that puts persons with a protected ground at a particular disadvantage when compared to persons without that protected ground.

**Discrimination by association** - discrimination against a person *by virtue of their association* with a person who has a protected ground.

**Discrimination arising from disability** – unfavourable treatment *because of something arising in consequence of* a person's disability.

**Victimisation** – detrimental treatment because a person has (among other things) made a complaint under the Ordinance.

**Harassment** – unwanted conduct which has the purpose or effect of *violating a person's dignity or creating an intimidating, hostile, degrading or humiliating environment* for that person.

### **Duty to make reasonable adjustments**

Where a provision, criterion or practice or a physical feature (including the lack of an auxiliary aid) puts a disabled person at a *substantial disadvantage* in comparison with persons who are not disabled, an employer *must take reasonable steps* to avoid that disadvantage unless to do so would be a disproportionate burden.

### **Equal pay and equal treatment**

Where a person with a protected ground is employed to do *work that is equal* to that of a comparator (*who is a real person*) without that protected ground, *an equal pay clause is implied* into their contract.

Where a person with a protected ground is employed to do *work that is not materially different* to that of a comparator (*who need not be a real person*) without that protected ground, *an equal treatment clause is implied* into their contract.

### **Time limit for bringing claims**

Three months from the day the last act complained of occurred (but the Tribunal has discretion to extend).

### **Awards (work related)**

Up to 6 months' pay (or up to 9 months' where combined with Unfair Dismissal or a second ground of discrimination); and

Up to £10,000 for injury to feelings (calculated by reference to severity of effect according to lower/middle/top band).

Victimisation is a standalone claim with awards of up to 6 months' pay and up to £10,000 for injury to feelings as above.

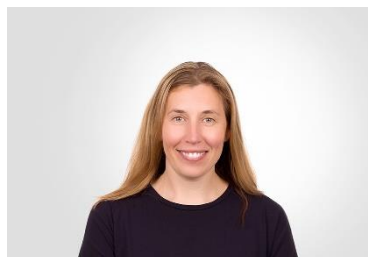
The award following a successful equal pay claim is the difference in pay up to a maximum 6 years' arrears.

## **Contacts**

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