

Discrimination Legislation Resource



6. States Obligations and timings

Progressive Realisation

Progressive realisation is in regard to the States of Guernsey's obligation to ensure that the rights of anyone affected by disability are protected fully. It gives the States, some flexibility in the timing of achieving the objectives of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) but it does not absolve the government of the responsibility to protect those rights.

Progressive realisation only applies to economic, social and cultural rights (civil and political rights are immediate). The duty to make the public sector more accessible may therefore be realised progressively, taking reasonable account of available government resources. The States are expected to be proactive in ensuring that the rights set out in the UNCRPD are respected.

Civil and political rights are not subject to progressive realisation, in other words, the States must protect and promote these rights immediately on the UNCRPD being extended to Guernsey.

What are “Accessibility Action Plans”?

The duty to prepare accessibility action plans for publicly accessible buildings only applies to the public sector. Along with changes to physical features, there is a five year lead-in period for the States to draw up these plans.

The required process of developing Accessibility Action Plans within the public sector will allow the States to plan and reasonably budget for the changes that are required.

Claims involving failure to make changes to physical features of buildings cannot be made until five years after the legislation is enacted and, even then, the defence of progressive realisation will be available to the States so long as relevant and reasonable plans exist to correct the particular issue.

Is there a separate anticipatory accessibility duty?

Whilst there is no separate anticipatory accessibility duty proposed there are some contexts when service providers, including the States, need to think about the needs of disabled people in general in advance of an individual requesting an adjustment.

These are:

- providers of goods and services and
- education providers

For the States the Accessible Action Plans should include all of these.

This means the States cannot wait until a disabled person wants to use its services, but must think in advance about

what disabled people with a range of impairments might reasonably need.

As this is an integral part of the reasonable adjustment duty, adjustments that would be a disproportionate burden on the States would not have to be made.

Immediate realisation

Raising awareness and changing attitudes

Article 8 – Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:
 - a. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
 - b. To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
 - c. To promote awareness of the capabilities and contributions of persons with disabilities.
 - i. To promote positive perceptions and greater social awareness towards persons with disabilities;
 - ii. To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;
 - d. Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;

- e. Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
- f. Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

2. Measures to this end include:

- a. Initiating and maintaining effective public awareness campaigns designed:
 - i. To nurture receptiveness to the rights of persons with disabilities;”

with

“There are a number of actions that the States will need to undertake immediately, either through the new legislation or due to the adoption of the UNCRPD.

The States should immediately:

- adopt the new legislation and remove any discriminatory legislation. (Article 4 - General Obligations)
- raise awareness and change attitudes (Article 8 - Awareness Raising)
- provide reasonable adjustments (except those for physical features which are not required until at least 2027)” of persons with disabilities.

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For more information on Discrimination Legislation and FAQ's

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