

Discrimination Legislation Resource



1. The basis of the Discrimination Legislation

Where did the proposals for the discrimination legislation come from?

The Guernsey Disability Alliance campaigned for a disability and inclusion strategy, of which one of the main work streams was disability legislation. The Policy Council's (the forerunner to the Committee for Policy and Resources) report went to the States in 2013 where it was unanimously agreed.

Following the changes to government the Committee for Employment and Social Security (ESS) took over the management of the Disability and Inclusion Strategy including appointing consultants to undertake some work on the legislation.

Why use consultants?

The scope of the discrimination legislation project was so large and technically complex that in order to accelerate progress towards finalising proposals for the new legislation ESS decided to appoint experts to assist in the evidenced based selection of an appropriate model to base our discrimination legislation on which could then be tailored to the Guernsey context.

In February 2018, following a competitive procurement process, the Committee appointed Dr Lucy-Ann Buckley and Dr Shivaun Quinlivan from the National University of Ireland Galway's internationally acclaimed Centre for Disability Law and Policy.

What discrimination legislation was evaluated?

In 2018 a comparative analysis of the equality/disability discrimination legislation in six English speaking jurisdictions was undertaken. These jurisdictions were:

- United Kingdom
- Republic of Ireland
- Canada
- Australia
- New Zealand
- Hong Kong (Hong Kong was dismissed at an early stage).

The Discrimination (Jersey) Law, 2013 ("the Jersey Law") was not reviewed against the assessment criteria because persons with disabilities and carers were not protected under the Jersey Law at the time that the review was carried out.

"Disability" was added to the Jersey Law as a protected characteristic with effect from 1 September 2018. The Jersey Law was reviewed by Drs Buckley and Quinlivan

against the same evaluation criteria in November 2019. There were concerns about compliance with some important international standards (Burden of proof, definition of disability, etc).

How similar is the new legislation to Jersey's?

The definition of disability is now similar to the Jersey legislation (see information sheet on on the definition of disability).

Guernsey's legislation, when fully enacted, will incorporate or replace the 74 provisions of the existing Sex Discrimination Ordinance and is likely to be similar in size to Jersey's legislation.

Why not copy the UK legislation?

The UK Equality Act runs to about 100,000 words and incorporates 116 pre-existing pieces of legislation. It has more than 200 provisions and 28 additional schedules, each with scores of further provisions.

The UK Act is, without doubt, one of the most complex pieces of discrimination legislation in the world and would not be proportionate for Guernsey. (Also see information sheet on proportionality).

See Information Sheet 3 Definition of Disability

Last Updated: 16 September 2022

The draft Prevention of Discrimination Ordinance (Guernsey) 2022 can be found on the States of Guernsey website:
www.gov.gg/article/190813/The-Prevention-of-Discrimination-Guernsey-Ordinance-2022

For more information on Discrimination Legislation and FAQ's

visit www.disabilityalliance.org.gg

call us on 07781 467316 or email info@disabilityalliance.org.gg