



Dear Deputy Blin,

I write to ask you to reconsider your proposed amendment (number 8) to the Prevention of Discrimination Ordinance. Please be aware that I intend to send a copy of this email to all Deputies later today.

I comment both as someone with business experience (my own small business grew to employ 2,000 people), and as the Founder of the Guernsey Disability Alliance, and as a former Chair of the Guernsey branch of the M.S. Society. I am also a person with disabilities (I have Multiple Sclerosis) and have been involved with the project to develop the discrimination legislation for almost 15 years.

The amendment will be disastrous for both persons with disabilities and for carers: it is discriminatory in effect and seeks to fix issues that do not exist.

It is difficult to understand why you are proposing these changes. There is no evidence from other jurisdictions that small employers are disproportionately burdened by similar discrimination legislation. The UK, Jersey, and the Isle of Man operate successfully without such exemptions.

As drafted, the legislation will ensure islanders with disabilities, and carers, will have a fairer chance of gaining and remaining in employment. Surely this should be doubly welcomed, given Guernsey's challenging, changing demographics. Amendment 8 would scupper any chance of equality of opportunity for carers and for islanders with disabilities and will fail to maximise the potential of Guernsey's resources.

The same principles of reasonable adjustment, and other in-built safeguards included in the Ordinance, have been successfully used for decades by scores of jurisdictions around the world. These will protect all Guernsey employers and service providers, large or small, from disproportionate burden including unreasonable cost.

Most reasonable adjustments for persons with disabilities are procedural and do not involve capital expenditure. Those that do involve an expenditure, on average, cost a couple of hundred pounds. If any employer or service provider cannot reasonably afford to make an adjustment, then they may legitimately decline to make that adjustment. This defence is set out in section 32 and 33 of the Ordinance.

The exclusion in relation to reasonable adjustment would not comply with the UN Convention on the Rights of Persons with Disabilities and I believe it risks harming Guernsey's international reputation.

The UK Equality Act does not, nor has it ever, exempted any employer or service provider from duties under the Act according to size of employer. The 1995 Disability

Discrimination Act (DDA) did originally only apply to employers with 20 or more employees, but this policy was scrapped in 2004 because it was realised that it was unnecessary and discriminatory, and would never achieve equality of opportunity. The DDA was replaced by the Equality Act in 2010.

The amendment's effect of exempting all employers with 5 or fewer employees from the duties that would otherwise flow from the ground of carer status is a green light for a substantial proportion of Guernsey's employers and service providers to discriminate against Guernsey's thousands of carers (4 to 6 thousand islanders - estimates vary). If a person is denied work simply because they are a carer, it is not just the carer who is disadvantaged, there may also be a knock-on effect on the person they care for and other dependents.

It is not as if the duties owed to carers will be onerous: in short, these duties mean that an employer or service provider must not directly discriminate, or indirectly discriminate without good reason, or harass a person, on the grounds of carer status. There is no specific duty to make adjustments to help an employee to both work and carry out carer duties – the Ordinance simply allows an employer to make such adjustments, if they so wish, without fear of complaints of positive discrimination.

The Amendment runs roughshod over the promises made by successive States to protect islanders from discrimination on the grounds of carer status and disability, and makes a mockery of the extensive consultation process that informed the Ordinance's development.

Nobody is saying there won't be any effect on small employers, but it will not be overburdensome. There will be a need to understand the basics and to review existing policies and procedures, but free training (including online training) and an abundance of free advice will be available. Plus, all employers and service providers will have a year to get ready!

It is disappointing that such a substantial amendment, one that fundamentally alters the proposals agreed unanimously in July 2020, should be laid at this late stage. It is equally disappointing that you have chosen not to consult with the GDA (as requested) or any other organisation representing carers and/or persons with disabilities who are, after all, the islanders who stand to be disadvantaged by the amendment.

You should be aware that the amendment has already caused considerable distress to many. In the light of the facts and arguments I have offered, I respectfully ask you to reconsider the need, wisdom, and fairness of the amendment.

Yours sincerely

Rob Platts MBE

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