



Chapter 9: Preparing for the Ordinance

- [Equal opportunities policy](#)
- [Training](#)
- [Monitoring](#)
- [Reviewing policies and procedures](#)
- [Common reasonable adjustments to think about](#)
- [Table of Implementation Dates for the Legislation](#)
- [Accessibility](#)

There is no single exhaustive or definitive check list that every single employer must complete before the Ordinance comes into force, although there are a number of points that are going to be common to all employers, regardless of size or complexity.

Probably the single most important thing an employer can do in preparing for the legislation is to raise awareness within the workforce around equality issues – particularly in the context of their business as the issues and actions a large financial services company might have to consider, will inevitably be quite different from a small building company. This will lead businesses to reflect on how they operate and what barriers are put in place that affect employees or candidates who have a particular Protected Ground. They must ask themselves is that barrier actually needed or could things be done in a different way.

It is hoped that by businesses asking themselves these questions, not only will it make them ready for the implementation of the Ordinance, but it will also cause them to question how they operate, and also find new and better ways of working.

One of the key areas of preparation for an organisation is to think about their current workforce, and identify those employees who might have a disability, and then consult with them in relation to what reasonable adjustments they might need. In most instances, employers will probably find that in many instances they are already making the reasonable adjustments that are required. This might be by providing a specific chair for someone with a bad back, larger screens for those that are visually impaired, or supporting employees who have had a period of time off work with depression through a phased return to work. However, it might lead employers to identify other ways in which they can support those staff.

The duty to make reasonable adjustments to physical features does not come into force until at least 1 October 2028, however, there is nothing to prevent employers from implementing those adjustments in advance of that date. Where the adjustment relates to the provision of an auxiliary aid, an employer will be under a duty to consider that adjustment when the Ordinance comes into force from 1 October 2023.

9.1 Equal opportunities policy

An equal opportunities policy is a document which an employer can use to set out its commitment to tackle discrimination and promote equality and diversity in areas such as recruitment, training, management and pay. The Ordinance does not require that you have an equal opportunities policy, or if you do have one, what that policy should contain, but it is highly recommended.

An equal opportunities policy should apply to every aspect of the employment relationship right from the recruitment process, to how you reward staff through pay and benefits, to how you manage disciplinarys and grievances, and ultimately to the end of their contract.

A policy might include:

- Statements outlining an employer's commitment to equality;
- Identification of the types of discrimination and the Protected Grounds covered by the policy i.e. disability, race, carer status, sexual orientation, and religion or belief;
- Other other areas of equality that are not currently Protected Grounds under the Prevention of Discrimination Ordinance, such as sex, age, gender reassignment, and pregnancy and maternity;

- Statements outlining the type of work environment and culture you are aiming to create, including what is not acceptable behaviour in the workplace;
- Information about how the policy will be put into action, including how employees can raise concerns through grievances and how breaches of the policy will be dealt with through disciplinary action; and
- Who is responsible for the policy and how you will monitor and review it.

To make sure an equal opportunities policy has real meaning an employer should:

- Demonstrate a commitment to equal opportunities from the top of the organisation;
- Promote the policy both to existing staff and candidates;
- Provide training to staff on what the policy says and what it means to them;
- Show a willingness to challenge poor behaviour and where necessary, discipline anyone not complying with the policy; and
- Regularly review the effectiveness of the policy.

Equal opportunities policies though are not one size fits all. For example, a larger organisation based in multiple locations with different businesses will likely need something more complex and could wish to include details of equal opportunities monitoring. A smaller business that only employs four or five staff may have a more simplified document.

An example equal opportunities policy is included in [Appendix I](#) for use by a small employer.

9.2 Training

Equality Training is a key part of any good equal opportunities policy, because if your staff understand what the Ordinance means for them as individuals, as managers, or as an employer then they are more likely to comply with their obligations.

Whilst there is no legal requirement on employers to provide equality training it can be an important part of an employer being able to demonstrate that, in the

event a claim is brought, they are taking steps to prevent discrimination, harassment and victimisation and that they are taking these issues seriously. Also, it is more likely to create an inclusive atmosphere where everyone in the organisation can succeed.

When should training take place?

As part of preparing for the introduction of the Ordinance, it is recommended that employers should consider arranging training for their staff around these issues. In order to assist in this process, there will be free training available. For further details please [follow this link](#).

In addition, once the Ordinance is in force then employers might choose to provide training.

- During the induction process for new starters; and
- Periodically asking staff to either attend update courses or by completing online training.

What should the training cover?

There is no exhaustive list of what equality training should cover, and it should be relevant to the organisation. However, in most instances training should include:

- An explanation of the Protected Grounds and what behaviour is and is not acceptable;
- The risk of ignoring or seeming to approve inappropriate behaviour;
- The impact that generalisations, stereotypes, unconscious bias, and inappropriate language can have on people's chances of obtaining work, promotion, recognition and respect;
- What is the duty of reasonable adjustments is and how it works; and
- The organisations equality policy and how it operates in practice, including any monitoring you undertake.

The [Consortium training](#) will help with the first four bullet points but it is important for organisations to also consider how their internal policies and procedures will operate, including grievance policies, complaints handling, what to do when requests for reasonable adjustments are received.

9.3 Diversity monitoring

As part of their equal opportunities policy, some employers monitor and report on matters such as recruitment, promotion, training, pay, grievances and disciplinary action by reference to the Protected Grounds of their employees. There is no legal requirement on employers to undertake diversity monitoring, nevertheless, doing so can help them to assess whether, for example, they are:

- Recruiting employees who are disadvantaged or under-represented;
- Promoting people fairly whatever their Protected Grounds;
- Checking that pay is comparable for employees in similar or equivalent jobs; and
- Making progress towards the aims set out in their equal opportunities policy.

Why you may consider monitoring

Monitoring of equality-related issues by an employer (and taking action where the information suggests there may be a cause for concern) can also be used as evidence if someone brings a tribunal case against them - although simply collecting the data without analysing it, is not enough. It may also help you identify areas where taking positive action may be appropriate, for example by highlighting parts of your workforce where people with certain Protected Grounds are disproportionately underrepresented.

Diversity monitoring can cover matters such as:

- How many people with a particular Protected Ground apply for each job, are shortlisted and are recruited or promoted;
- How many people in the workforce have a particular Protected Ground and the levels within the organisation at which they are employed at;
- The satisfaction levels of all staff including those with a particular Protected Ground; and
- Whether disciplinary action is disproportionately taken against workers with a particular Protected Ground.

How should monitoring take place?

Employers also need to consider how they wish to collect the information, and whether this should be done on an anonymised basis. As part of this process, they also need to communicate the process to reassure people who provide information that it will not be used to discriminate against them and how it will be used.

Example

As part of its recruitment process, an employer requires candidates to complete an application form, which comes with a diversity monitoring form. The application form makes it clear that there is no obligation to complete the diversity monitoring form and that in any event it will be separated from their application forms by someone who is not involved in the decision about who to shortlist and interview.

N.B. where this is not possible because it is a very small organisation, the form might state that you do not look at monitoring forms until after you have decided whether to interview someone or not.

It should be noted in general that employers are not permitted to ask job applicant questions relating to their Protected Grounds as part of the recruitment process. One of the exceptions to this rule applies to diversity monitoring.

Whenever employers are processing the personal, or special category personal data of their employees, including as part of any diversity monitoring, they must always be aware of their obligations under the Data Protection (Bailiwick of Guernsey) Law, 2017.

9.4 Reviewing policies and procedures

An important aspect of preparing for the introduction of the Ordinance will be a review of the organisation's policies and procedures to consider what (if any) changes might be required. What will be expected of each employer will differ according to their size and resources, so a large organisation with a dedicated HR team that already has extensive policies and procedures to review, may need to do more than a small employer who might only employ a handful of staff.

Every employer should spend time thinking about the lifecycle of an employee with different Protected Grounds to understand whether their policies might have a greater impact on those individuals than others. This does not mean that the policy or procedure is necessarily discriminatory, but in the case of indirect discrimination, it would need to be objectively justified, and if the Protected Ground is disability, then the duty of reasonable adjustments should be considered.

For most employers that review would normally include:

- Recruitment process;
- Inductions;
- Appraisals;
- Pay, benefits and promotion;
- Work social events;
- Management of sickness absence;
- Conduct and capability procedures; and
- Redundancy.

In addition, there are also going to be things that going to be unique to that employer that will need to be considered, such as dress codes, working arrangements, and arrangements around holidays.

It is not expected that an employer needs to consider every possible eventuality and come up with a new policy to address an issue that in reality may never happen. However, if an employer has considered its policies and procedures beforehand, hopefully changes can be made before the Ordinance comes into force, and the employer will also be in a better place to explain the justification behind a particular policy if asked to justify it.

Ultimately, employers are not required to be legal experts, and particularly in the case of smaller employers there is no expectation that they need to engage third parties to undertake a review of their policies and procedures. Indeed, the best person to consider whether or not a particular policy is justified is the employer as they will understand their business better than anyone else.

Indirect discrimination

Indirect discrimination can occur where an employer has a policy or procedure in place (referred to in the Ordinance as being a provision, criterion or practice)

which places people with a particular Protected Ground at a disadvantage and cannot be objectively justified. For further details on the concept of indirect discrimination please see [Chapter 1.2](#).

When reviewing policies and procedures, the first aspect is to identify if there is any disadvantage to individuals with a Protected Ground. The disadvantage could arise in different ways and some examples are set out below.

Example

Recruitment – Written application forms place people who are visually impaired at a disadvantage as they may have difficulty in reading it

Work social events – An employer hosting end of month drinks each month at which only alcoholic drinks are served, may place people who are Muslim at a disadvantage as they are unable to drink alcohol

Pay, benefits and promotion – Offering benefits such as private medical insurance only to those staff married to someone of the opposite sex, , and not to those who are married to someone of the same sex, would place people with a particular sexual orientation at a disadvantage

Once a disadvantage is identified then it is necessary for the employer to be able to objectively justify the policy. This is a two-stage process with the employer first identifying a legitimate aim, and secondly consider whether the policy is a proportionate means of achieving that legitimate aim. A policy won't generally be considered to be proportionate if the employer could have used less discriminatory means to achieve the same objective. Using the same examples above, the potential justification is considered below for the policies.

Example

Recruitment – The need to obtain information regarding potential candidates would be considered to be a legitimate aim. However, because the use of written forms place anyone who is visually impaired at a disadvantage, this is unlikely to be considered proportionate, unless the application form is made available in different formats such as using an increased font size or a format that can be read out using reading software.

Work social events – Promoting team culture and spirit would be a legitimate aim, but an employer could make non-alcoholic drinks available so that the Muslim staff could participate.

Pay, benefits and promotion – It would be difficult to demonstrate that not offering a benefit to same sex couples constituted a legitimate aim especially as insurance policies generally are available to same sex couples, therefore such a policy would not be objectively justified.

Reasonable adjustments

Where an employee has a disability, an employer also needs to consider potential reasonable adjustments. For further details on the concept of reasonable adjustments please see [Chapter 3](#).

As part of the duty to make reasonable adjustments, employers have a specific duty to consult. It is recommended that before the Ordinance comes into force employers should arrange to meet with any employees who have a disability to consider what reasonable adjustments should be made. There is no particular form or duration of consultation required, but it is recommended that minutes should be kept and any agreed outcomes recorded.

When the Ordinance initially comes into force the duty of reasonable adjustments will not apply to physical features until 1 October 2028. It will also not be possible

to bring a claim of indirect discrimination due to a physical feature until this date.

Example

A full-time employee has chronic fatigue syndrome (CFS), and as a result struggles to be productive in the afternoons and is making a number of errors due to their condition and tiredness.

The full-time working hours place employees with CFS at a disadvantage, compared with employees who do not have the disability. Adjustments the employer may wish to consider include:

- Alteration to working hours
- Flexible working, such as working from home, part-time working, or job sharing
- Changing tasks or the pace of work to avoid exacerbating the condition
- Allowing for reasonable time off for appointments and treatment
- Changing layout of workspace, such as providing a quiet working station
- More frequent and longer breaks

9.5 Common reasonable adjustments to think about

There is no exhaustive list of reasonable adjustments that employers need to consider but a number of illustrative examples are set out below.

Example: Reallocating duties to another worker

An employee works as a maintenance manager and their role occasionally requires them to go on to the open roof of a building, but this is difficult for the employee as they have severe vertigo. It could be a reasonable adjustment to transfer minor or ancillary duties such as going on to the roof to another member of the maintenance team.

Example: Transfers to existing vacancies

Due to a new disability an employee is unable to continue their existing role even with adjustments. It would, however, be a reasonable adjustment to consider transferring that employee to an existing vacancy provided the employee already has the skills to perform that role or could do so with some retraining or other adjustments.

Example: Phased return to work

An employee has had an extended period of absence due to work-related stress and depression. Allowing the employee to have a phased return to work over a number of weeks, where they gradually build up their hours and duties is likely to be a reasonable adjustment.

Example: Additional breaks

An employer allows a disabled person to work to have additional breaks to overcome fatigue arising from their disability.

Example: Relocating work station

An employee due to their disability needs easy access to the toilets due to their disability. An employer therefore moves their workstation, so that they have the desk nearest to the toilet facilities.

Example: Training for other staff

An employee who is deaf joins a team, but their colleagues initially struggle to communicate with them. An employer provides training for the entire team on conducting meetings in a way that enables a deaf staff member to participate effectively.

Example: Auxiliary aids

An employer provides an adapted keyboard for an employee with arthritis.

An employer provides a large screen for an employee with a visual impairment.

An employer provides an adapted telephone for an employee with a hearing impairment.

An employer provides an ergonomically designed chair and standing desk for an employee with a chronic back condition.

Example: Recruitment tests

An employer requires staff to undertake a written test as part of their recruitment process. This places a candidate with restricted manual dexterity at disadvantage as they would have difficulty completing the exercise in time, so the employer gives that person an oral test instead.

Example: Leave

An employee with cancer needs to undergo treatment and have an extended period of rehabilitation. Their employer allows a period of leave and permits them to return to their job at the end of this period.

Example: Modifying disciplinary or grievance procedures

An employee with a learning disability is allowed to take a friend (who does not work with them) to support them at a grievance meeting. Normally the employer only allows staff to be accompanied by colleagues.

Example: Redundancy selection criteria

An employee with a heart condition has increased levels of absence. The employee is one of a number of staff placed at risk of redundancy. When assessing the level of absences as a criterion for selecting people for redundancy, the employer discounts these periods of disability-related absence.

Example: Adjustments for wheelchair users

An employer has a member of staff who is a wheelchair user. Common adjustments would include agreeing to meet in an accessible room, arranging for employee's workstation to be on ground floor, widening a doorway, providing a ramp or moving furniture, relocating light switches, door handles, or shelves if the person has difficulty in reaching. The installation of a lift is unlikely to be considered a reasonable adjustment for a small employer.

*The duty to make reasonable adjustments to physical features will not come into force until 1 October 2028 at the earliest.

9.6 Implementation dates for the legislation

If you are on a mobile device or would like to print the table below, please download the PDF version here:

[Implementation dates for the legislation.pdf](#)

Provision of Ordinance	Employer	Service providers	Schools and education providers	Clubs and associations	Accommodation providers
General prohibitions on discrimination	1 Oct 2023	1 Oct 2023	Not before 1 Sept 2025*	1 Oct 2023	1 Oct 2023
General duties of reasonable adjustments: Excluding physical features	1 Oct 2023	1 Oct 2023	Not before 1 Sept 2025*	1 Oct 2023	1 Oct 2023
General duty of reasonable adjustments to physical features	Not before 1 Oct 2028	Not before 1 Oct 2028	Not before 1 Oct 2028	Not before 1 Oct 2028	Not before 1 Oct 2028
Pro active duty to make reasonable adjustments: Excluding physical features	N/A	Not before 1 Oct 2028	Not before 1 Sept 2025*	N/A	N/A

Pro active duty to make reasonable adjustments to physical features	N/A	N/A	N/A	N/A	N/A
Duty to carry out minor improvements	N/A	N/A	N/A	N/A	Not in force from 1 Oct 2023, determined by the Regulatory Commission
Duty to allow reasonable adjustments to physical features- residential landlords	N/A	N/A	N/A	N/A	Not before 1 Oct 2028
Duty to allow reasonable adjustments to physical features- commercial landlords	N/A	N/A	N/A	N/A	Not before 1 Oct 2028
Public sector duty to prepare accessibility action plans	N/A	Public sector only - 1 Oct 2028	Public sector only - 1 Oct 2028	N/A	Not before 1 Oct 2028

*Where a school or education provider is acting as an employer or general service provider, rather than an education provider, duties will come into force from 1 Oct 2023, in line with the dates in the first two columns.

If an act of discrimination occurs before the relevant implementation date, an individual will not be able to bring a claim under the new Ordinance. Claims

cannot be brought after the implementation date for acts or omissions that occurred prior to the implementation date.

Those duties which are due to come into force after 1 October 2023 will require a commencement regulation to be made by the Committee for Employment & Social Security and shall not have effect unless and until approved by a resolution of the States.

It should also be noted that the intention is that different Protected Grounds will be introduced over the next few years, including age, and that the existing Sex Discrimination Ordinance will be replaced, with sex, pregnancy, marital status and gender reassignment being added as Protected Grounds under the Ordinance.

9.7 Accessibility

Accessibility Audit

An Accessibility Audit (also known as Disabled Access Audit) is an assessment of a building, an environment or a service against best-practice standards to benchmark its accessibility for disabled people.

Please go to the checklist in Appendix II for an example of an Accessibility Audit for an office/ building. This will help you assess getting to your premises, ease of navigating around the building, the environment and the facilities available. The responses to the questions will then help you to develop an accessibility action plan.

You may also wish to undertake an accessibility audit in relation to your online and digital systems and products.

We have not supplied an example for online and digital systems as we recommend that you review these regularly as they may change in relation to digital developments. Please look at the following recommended links to assist you in creating your own audit for these resources.

Recommended Links

Accessible documents

Information for Businesses - [Information for Businesses: States of Guernsey](#)

Publishing accessible documents - [Publishing accessible documents GOV.UK](#)

Overview of the Accessible Information Standard- [Overview of the accessible information standard NHS England](#)

Make it easy- Making information easy for people with a learning disability [Making Information easy for people with a learning disability.](#)

Accessible websites and digital accessibility

Information for Businesses - [Information for Businesses : States of Guernsey](#)

Guidance and tools for digital accessibility - [Guidance and tools for digital accessibility: GOV.UK](#)

Accessible Information Standard [Accessible information standard NHS England](#)

Supporting disabled colleagues

Employment Guide - [Employment guide : Guernsey Employment Trust \(get.org.gg\)](#)

Accessible services

Making your service accessible: an introduction - Service Manual - [Making your service accessible: GOV.UK](#)