



Chapter 4: Service providers

In this chapter we will cover the following topics:

- [What is meant by goods, services or facilities?](#)
- [Discrimination in the provision of goods, services or facilities](#)
- [What happens if the service provider is also subject to the Ordinance in a different capacity?](#)
- [Understanding the needs of service providers](#)
- [Reasonable adjustments in goods, services or facilities](#)
- [Common reasonable adjustments for service providers to think about](#)
- [Discriminatory acts or requests by service users](#)
- [Overcoming bias in the provision of goods, services, or facilities](#)

See also [Chapter 9](#) for advice on preparing for the legislation and the [implementation tables](#) which sets out the timeline for when sections of the Ordinance are expected to come into force.

The Ordinance provides that anyone who offers, goods, services or facilities to the public is considered a “service provider” and therefore must not discriminate against service users. For example, shops will be included as they sell “goods”, financial services businesses or healthcare providers will be included as they provide “services” and a car hire company or a sporting venue, will also be included as they provide “facilities”. In each instance the business must not discriminate in the selling of its goods, services or facilities as the case may be. The Ordinance is not limited to businesses and would extend to charities and not for profit organisations who provide goods, services or facilities to the public.

The purpose of this section is to try to provide some practical guidance to those service providers who have responsibilities under the Ordinance. However,

compliance should not be viewed as purely a “tick box” exercise, particularly for businesses, because by making the provision of your goods, services or facilities accessible to all, it will expand the consumer base of the business, and is likely to make the business more successful.

This section should be read in conjunction with the exceptions, both the general exceptions and those exceptions that are specific to the provision of goods, services or facilities see [Chapter 8](#).

4.1 What is meant by goods, services or facilities?

A service provider means a person who provides goods, services or facilities to the public or a section of the public (for payment or not) Facilities includes access to premises or vehicles which is granted to the public or a section of the public (for payment or not).

See section 28 (5) of the Ordinance

The definition of service provider is very broad as it covers any organisation who provides goods, service or facilities to the public, or a section of the public – even if they do not advertise to the public and applies whether or not they are paid for doing so.

There is no specific definition for goods or services within the Ordinance, and these would be interpreted based on their normal meaning, but the term “facilities” includes providing access to premises or vehicles, whether for payment or not. This could include car hire companies, as well as any organisation that hire out sporting venues.

So, the Ordinance will cover almost every business that deals with the public in some way as service providers, from shops who sell goods and businesses that provide services or facilities. It will also include many charities who provide services to members of the public, even though they do not charge.

4.2 Discrimination when providing goods, services or facilities

The Ordinance makes it unlawful for a service provider to discriminate when providing goods, services or facilities.

A service provider must not discriminate against any person:

- **by refusing to provide goods, services or facilities to the person;**
- **as to the terms on which it provides goods, services or facilities to the person;**
- **in the manner in which it provides the person with goods services, or facilities; or**
- **by terminating the provision of goods, services or facilities to the person, including by requiring the person to leave premises.**

See section 28(1) of the Ordinance

This covers all of the different forms of discrimination set out in [Chapter 1](#) of the guidance, including direct discrimination, indirect discrimination, discrimination by association and discrimination arising from disability. In addition, a service provider must not, in relation to the provision of any of its services, either victimise or harass a person and is subject to the duty of reasonable adjustments.

Example: Refusal to provide

A coffee shop refuses to serve a disabled person in a wheelchair, because they believe there isn't enough room in the shop for them to sit down and suggests a nearby larger shop would be better for them. This is a refusal of service and therefore could be discrimination, even if the coffee shop had the best interests of the person in mind.

Example: The terms of the provision

A hotel owner insists that a single sex couple have separate rooms, rather than a double room. The requirement to have separate rooms could amount to direct discrimination because of sexual orientation in respect of the terms of the provision. The refusal to allow them to stay in a double room, would also constitute a refusal of service as well.

Example: The manner of the provision

A bank has a policy of speaking only to the named account holder and not to a third party. This could amount to indirect discrimination for a deaf person who uses a registered interpreter to call the bank.

Example: Termination of the provision

A gardener gets into an argument with one of their customers over their religious views, and as a consequence of their differing religious views the gardener terminates their services. This could amount to direct discrimination.

Whilst service providers are under a duty to not to discriminate when providing goods, services, or facilities, the Ordinance makes it clear that they are not required to take a step which would fundamentally alter:

- the nature of the service; or
- the nature of the service provider's trade or profession.

Example: Fundamental nature of the service

A customer asks a butcher if they are able to supply Kosher meat for an upcoming wedding, where a large proportion of the attendees are Jewish. The butcher apologises and explains they do not have the necessary skills or experience to supply Kosher meat.

Whilst this could amount to indirect discrimination on the grounds of religion or belief, this would be likely to be an example of taking a step which would fundamentally alter the nature of the service offered. Therefore a complaint of discrimination would not be likely to be successful.

Exceptions

It should be noted that there are a number of general exceptions within the Ordinance, as well as specific exceptions relating to service providers where it is not necessarily unlawful to discriminate against a person on a Protected Ground. The specific exceptions for service providers are as follows:

- Financial services businesses involving an assessment of risk (e.g. insurance and pension providers) can take into account disability and race where relevant and reasonable to do so, i.e. where the assessment is undertaken by reference to information which is both relevant to the actuarial (or other) assessment of risk and is from a source on which it is reasonable to rely;
- A pension scheme or occupational benefit scheme may provide ill health benefits to one or more disabled people and not to others, or different benefits according to the severity of the disability;
- A religious mutual association does not contravene the Ordinance, on the ground of religion or belief, only by restricting the provision of its services to persons of the particular religion or religious denomination to which the association is affiliated;
- Broadcasters and publishers can exercise editorial discretion over their content (not advertising) to be able to publish a range of views and

permit free speech;

- In relation to an information society service, the Ordinance is not contravened by providing caching, hosting or acting as a mere conduit;
- In relation to dramatic performances and entertainment, it is not discriminatory on grounds of disability or race to do anything reasonably required for the purposes of authenticity, aesthetics, tradition or custom; and
- Where a service provider provides specialist goods or services for the purposes of a religion or belief, they may restrict provision of those goods and services to persons of that religion or belief.

Please note that certain types of service providers like accommodation providers, clubs and associations and education providers will also have additional specific exemptions.

For further information on the exceptions please refer to [Chapter 8](#).

4.3 Service providers acting in other capacities

Whilst an organisation may fall under the definition of a service provider, it is important to remember that there are separate sections under the Ordinance which deal with schools and education providers, clubs and associations and accommodation providers which may also apply when the organisation is acting in a different capacity. In addition, service providers will often also have employees, and so the relevant sections within the Ordinance will apply to that employment relationship.

Accordingly, in each instance it is important to consider in what capacity an organisation is acting, and therefore which part of the Ordinance will apply. Not only are there different rules for each category of provider, but the implementation of certain provisions of the Ordinance are delayed.

Example

A school when providing education in relation to students is covered by the provisions relating to education when acting in this capacity (from no earlier than 1 September 2025).

A school which hires out its facilities at the weekend to members of the public is covered by the provisions relating to service providers when acting in this capacity (from 1 October 2023).

A school which has staff accommodation which it provides to them as part of their job is covered by the provisions relating to accommodation providers when acting in this capacity. (From 1 October 2023 although certain specific reasonable adjustment duties for landlords would not apply until 1 October 2028 - [see Chapter 7- accommodation for further guidance](#)).

A school (or the States of Guernsey) which employs staff is covered by the provisions relating to employment when acting in this capacity (from 1 October 2023).

(The duty to make reasonable adjustments to physical features will not come into force before 1 October 2028 for any provider).

For further information on provisions relating to:

- Schools and education providers see [Chapter 5](#)
- Clubs and associations see [Chapter 6](#)
- Accommodation providers see [Chapter 7](#)

For information in relation to employment, please refer to the separate [Employment Guide](#).

Please also see the more detailed table of [implementation dates](#).

4.4 Understanding the needs of service users

Service providers are subject to a proactive duty to make reasonable adjustments in respect of disabled persons generally. In addition, public sector service providers are required to implement accessibility action. This duty cannot come into force until 1 October 2028, although providers may wish to have their plans in place earlier than this. For further information on this duty please refer to [Appendix III](#).

Neither of these provisions are intended to require service providers to anticipate the needs of every individual who may use their service. What they are required to think about, and take reasonable steps to overcome, are barriers that may impede people with different kinds of disability. This is relevant for the proactive duty to make reasonable adjustments. For example, people with mental health conditions or people with a visual impairment will face very different types of barriers.

Understanding the needs of disabled service users

Disability is diverse and individuals will have different requirements.

Example

Visually impaired people who use guide dogs will be prevented from using services with a 'no dogs' policy, whereas visually impaired people who use white canes will not be affected by this policy.

In the context of the proactive duty to make reasonable adjustments there is no duty to consult.

This does not mean that service providers can or should wait for an issue to arise, rather the duty requires a service provider to seek to actively engage with the issues and start by addressing the obvious ones. Whilst there is no single exhaustive list of issues that a service provider must consider, the following may be a useful starting point:

- planning in advance for the requirements of any known service users who are disabled and reviewing the reasonable adjustments in place;
- conducting access audits on premises;
- asking disabled customers for their views on reasonable adjustments;
- consulting local disability groups;
- considering how best to draw people's attention to existing reasonable adjustments;
- ensure any auxiliary aids are properly maintained and having a plan in place in case one doesn't work;
- training employees to appreciate how to respond to requests for reasonable adjustments; and
- ensuring that employees are trained to interact with people with disabilities and that they are aware of the duty to make reasonable adjustments and understand how to communicate with disabled customers so that reasonable adjustments can be identified and made.

The duty to make reasonable adjustments will apply as soon as a service provider has become aware of the requirements of a particular disabled person who uses or seeks to use its services.

Whilst there is no obligation on the disabled person to necessarily point out the difficulty, or come up with the solution, the law imposes on service providers a duty to consult. In practical terms this may often be as simple as having a conversation with the service user.

Example

A disabled person with a bad back attends an all-day conference. At lunchtime the person explains that the hard chairs are causing their back condition to flare-up.

Despite the lack of notice, those organising the conference were able to find a more suitable chair and make this available to the person.

In addition, in the case of a public sector service providers from 1 October 2028 onwards they may also become subject to a duty to implement an accessibility access plan.

Understanding the needs of people with other Protected Grounds

Whilst the duty to make reasonable adjustments only applies to people with a disability, service providers may wish to consider how they address the needs of individuals with other Protected Grounds, and in particular seek to address issues around indirect discrimination, where service users might experience barriers. There is no specific duty to consult other than in the context of the duty to make reasonable adjustments for a disabled person, although inevitably the best way to understand the needs of people with other Protected Grounds, is to communicate with them to gain their views. This can be done in person in the course of providing the service, but equally it can be undertaken through other means such as by sending online surveys or providing other means for service users to provide feedback.

Once barriers have been identified, then next step is to take action to address them. For service providers, this may include improving awareness of and access to services, adjusting the services to meet the particular needs of a protected group, or training the staff to recognise such needs.

What is positive action?

On occasion the service provider may wish to go further through what is known as positive action.

The Ordinance recognises that certain groups who share a Protected Ground may be disadvantaged, or may be affected by the consequences of past or present discrimination. The Ordinance therefore contains provisions which enable service providers to take action with the aim of ensuring equality, or a greater degree of equality on any of the Protected Grounds in order to address these matters. This is known as 'positive action'.

Please refer to [Chapter 8 - Exceptions](#) which provides more detail about positive action.

4.5 Reasonable adjustments when providing goods, services and facilities

Service providers are under a duty to make reasonable adjustments when providing goods, services or facilities where a disabled person is placed at a substantial disadvantage (or disabled people generally are placed at a disadvantage) due to:

- a provision, criterion or practice;
- a physical feature (not before 1 October 2028); and
- the lack of an auxiliary aid.

For further information on the duty of reasonable adjustments please refer to [Chapter 3](#) of the guidance.

In order to comply with this duty, it will be helpful for service providers to identify the different kinds of barriers that their service users might experience. Whilst the proactive duty to make reasonable adjustments in respect of physical features (which applies to all service providers) and the duty to prepare an accessibility action plan (which only applies to public sector service providers) does not come into force until 1 October 2028 see [Appendix III](#), it would be useful to go through this process in advance of that date.

Provision, criterion or practice

It is important for service providers to understand how they could place a person with a disability at a substantial disadvantage. This might be the way in which goods, services or facilities are delivered or the terms and conditions by which they are provided. This will amount to a provision, criterion or practice. Where a substantial disadvantage is identified, the person providing the service should consider the situation and consult with the disabled person as to what steps would avoid that disadvantage. This should then be implemented if it does not cause a disproportionate burden to do so. See [Chapter 3.2 What is considered reasonable?](#)

What is reasonable will obviously vary from case to case. Service providers need to consider the following when considering reasonableness and reasonable adjustments.

- how information is provided;
- when services are provided; and
- in what form services are provided.

Example

A hotel has a policy that all bookings must be made in writing using a paper form. This policy places some disabled people at a disadvantage, for example those with visual impairments. The hotel amends the policy to permit disabled people and others who cannot complete the form to make their booking over the telephone. This is likely to be a reasonable adjustment.

Physical feature

Physical features are widely defined, but in the context of commercial premises, would include:

- a feature arising from the design or construction of a building;
- a feature of an approach to, exit from or access to a building; or
- a fixture or fitting in or on premises.

The duty to adjust features such as steps, fitted desks, lighting and the layout will not come into force until at least 1 October 2028.

Example

A small shop has narrow aisles. The physical features will place some disabled people at a disadvantage, for example those with mobility impairments. The manager of the shop (the service provider) will need to consider what adjustments it would be reasonable for it to make to the layout of the shop to improve accessibility.

Auxiliary aid

An auxiliary aid is a piece of equipment or a service that is used by a person with a disability which compensates for or removes any disadvantage or inequality connected with the disability, but does not include any item of personal equipment which the person would reasonably be expected to own. Where a

service provider is under a duty to provide an auxiliary aid under the Ordinance, then this duty will be in force from 1 October 2023.

Example

An events company which organises team building events for businesses arranges an archery course. One of the attendees of the course has a restricted growth syndrome, so is unable to use the full-size bows. The company provides events for all ages, and so supplies a smaller bow to the attendee as an adjustment so they are able to participate.

Fundamental nature of the service

Whilst service providers are under a duty to make reasonable adjustments in relation to the provision of their goods, services, or facilities, they are not required to take a step which would fundamentally alter:

- the nature of the service; or
- the nature of the service provider's trade or profession.

Example

A company promotes a star gazing event. By its very nature these events must take place at night, which may place people with certain impairments, such as a visual impairment or sensory condition, at a disadvantage. However, the company would not be under a duty to change the time of the event to during the day as it would change the fundamental nature of the service.

4.6 Common reasonable adjustments for service providers to think about

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

Example: Provision of information in braille

A bank account holder with a visual impairment is regularly sent printed bank statements, despite the fact that on previous occasions they have indicated their need for braille and braille statements have been provided in the past. The customer is initially told that the software which generates the bank statements does not enable a record to be kept of customers' needs for alternative formats. However, the bank identifies an alternative means through which it can issue monthly bank statements in braille, on the basis this amounts to a reasonable adjustment.

Example: Assistance dogs

A large department store amends its 'no dogs' policy to allow entry to assistance dogs. It helps dog users with a tour of the store to acquaint them with routes. This is likely to be a reasonable step for it to have to take from October 2023.

The store then undergoes a renovation with a series of building works over several months and so has to regularly change its internal layout. Given the changes the initial tour is no longer an effective adjustment, and so the service provider decides to help dog users with appropriate additional assistance from staff while the building work is being undertaken. This is likely to be a reasonable step for the service provider to have to take in the circumstances.

Example: Text to speech

A library has a number of computers for the public to use. When the computers were originally installed, the library considered installing text-to-speech software for people with a visual impairment, but decided not to do so, because cost and its effectiveness. After a period of time the library proposes to replace some of the computers and reconsiders the inclusion of the option of text-to-speech software. Given the passage of time the software is now more efficient and the cost has significantly reduced. The library decides to install the software on a number of the replacement computers and to give priority access to those computers to persons with a visual impairment. This is likely to be a reasonable adjustment for the library to take at this time.

Example: Allow patient to be accompanied by a friend or relative

A patient who has a hearing impairment with a loss of 40% hearing in both ears could find attending a medical appointment to be a daunting experience as they may have difficulty understanding what they are being told. A reasonable adjustment could be to allow a friend to attend the medical appointment to ensure that they could understand everything that the doctor said. Such an adjustment would not cost any money.

Similar adjustments could be made for a person who stammers who may find the assistance or presence of a friend helpful (or indeed necessary) to communicate.

Example: Voice Activation Software on Telephone Systems

A person with a stammer or speech impediment may find voice - activated phone systems difficult to use. They may take too long to answer a question and be disconnected. A reasonable adjustment would be to either have a touchphone option system or the option to speak with a real person.

Example: Disabled seat on bus

A transport company should ensure that it has a policy and priority seating/space for persons with a mobility impairment. It would not be enough to have a policy which simply asks the driver/conductor to ask a non-disabled person to move from their seats in favour of a disabled person, as this would not actually require them to move. A pro-active reasonable adjustment would be to have specific areas for persons with a mobility impairment and for those people to have priority in those spaces.

Example: Long Queues

People waiting to check in at an airport are served by staff at a check-in desk after queuing in line. A disabled customer with severe arthritis visits the airport, but they experience pain if they have to stand for more than a few minutes. Accordingly, the airport's queuing policy would place the disabled customer at a substantial disadvantage.

In order to address this disadvantage, the airport has a policy to provide special assistance to any passengers who have a disability, which in this example would allow the person to take a seat and then be served in the same way as if they had queued.

Example: Difference between small and large service providers

A small business which offers guided tours of Guernsey cliff paths decides to communicate with its customers who have a hearing impairment, by providing them with a written script of what is said during the tour. They are also given the opportunity to raise any questions by exchanging written notes. This is likely to be a reasonable step for this service provider to have to take.

However, if they were a publicly owned museum, then this might be considered inadequate given their greater resources. Instead, they may consider installing an induction loop system.

Example: Engaging with customers who have difficulty in providing written instructions

An estate agent normally obtains its instructions either by meeting in person in their offices or exchanging emails. A customer with multiple disabilities may be unable to effectively communicate in writing or to attend their offices, so the estate agent arranges to meet the customer at their home and with their consent, to record that conversation in order to obtain instructions. This is likely to be a reasonable adjustment.

Example: Installation of ramps

The head office for a building company has two steps at the main entrance, which means that those who are wheelchair users or people with mobility impairments cannot enter. The building company decides to install a permanent ramp at the side of the two steps to enable disabled customers to attend meetings. This is likely to be a reasonable step to have to take.

Example: Accessibility of websites

A local shop establishes a website which allows users to buy their groceries online and have them delivered to their home. After consulting with the Royal National Institute of Blind People (RNIB) and local charity groups who provide guidance, in order to ensure the website is accessible to people who are visually impaired, the shop ensures that its website is set up so that the contents of its website can be used with a screen reader and any images that are used have a text alternative. This is likely to be a reasonable adjustment.

4.7 Discriminatory acts or requests by service users and situations with competing Protected Grounds

Occasionally, a service provider may find themselves in a position where they are in receipt of discriminatory actions or requests by service users or third parties to undertake what would be a discriminatory act. Whilst the Ordinance does not expressly deal with such matters, this can sometimes be as a result of different and competing Protected Grounds between the service provider (and sometimes their employees) on the one hand and the service user on the other. This conflict, for example, may arise from the religion or belief of one of those parties, against either the race, religion or belief, or sexual orientation of the other party. Such cases involve careful consideration of the facts and are best illustrated with an example.

Example

A gay rights activist placed an order for a cake decorated with the slogan “support gay marriage”. The owners of the bakery are devout Christians and refused the order on the basis they found it offensive to their religious beliefs.

This would not amount to direct discrimination or discrimination by association by the bakery on the basis of the customer’s sexual orientation, as the refusal was on the grounds that they disagreed with the message they were being asked to put on it. However, if rather than having a message on the cake, the bakery was simply asked to make a wedding cake for a gay couple, and refused to do so, then this would amount to direct discrimination on the grounds of sexual orientation. As this is direct discrimination it cannot be justified, regardless of the religious beliefs of the owners of the bakery.

Alternatively, a service user may themselves commit discriminatory acts towards either other service users, or the employees of the service provider.

There is nothing within the Ordinance which makes the service provider liable either to the other service users, or its employees in respect of the discriminatory actions of other service users, unless the refusal of the service provider to act is itself discriminatory. The exception to this would be if the service provider were under a duty to make reasonable adjustments, for example in relation to harassment received by a service user in relation to their disability.

Example

A shop assistant has bad acne and eczema. They work correctly under strict hygiene procedures whilst handling food in this environment.

They are upset though as some customers and other assistants call them names.

The shop has a duty to have policies in place to stop this kind of behaviour.

4.8 Overcoming bias when providing goods, services, or facilities

One of the biggest challenges for all service providers is dealing with unconscious bias (which is also known as implicit bias). Unconscious biases are social stereotypes about certain groups of people that individuals form outside their own conscious awareness based on their own background, culture, context and personal experiences.

It is important to recognise that we all have unconscious biases. We each have an in-built tendency to organise our social worlds by categorising people into groups. These biases are very often automatically triggered by our brain making quick judgments and assessments.

Direct discrimination is unlawful, no matter what the service provider's motive or intention, and regardless of whether the less favourable treatment of the service user is conscious or unconscious. Service providers may have prejudices that they do not even admit to themselves or they may act out of good intentions or simply be unaware that they are treating the service user differently because of a Protected Ground.

Example

An events company organises trips to attend music festivals in the UK and refuses to accept a booking from a customer with a hearing impairment, because they do not believe they would enjoy the event without being able to hear the music. Although the company may be well-intentioned in rejecting the booking, this is likely to amount to direct discrimination on the ground of disability.

Example

A bank offers its Indian customers the chance to win a ticket to a cricket match when they come in to discuss their finances. They do not extend the same opportunity to customers of other nationalities. This is likely to amount to direct discrimination on the grounds of race.

Overcoming these biases can sometimes be difficult. The starting point for service providers is to ensure all staff have received training around how unconscious bias can arise, challenging those assumptions in themselves and others, and understanding what steps can be taken to avoid those biases. For service providers who are required to implement an accessibility action plan, overcoming unconscious bias will be important when preparing the plan ahead of the duty to have the plan in place from 1 October 2028.