



Chapter 6: Clubs and associations

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See also [Chapter 9](#) for advice on preparing for the legislation and the timeline for when sections of the Ordinance are expected to come into force. You can see the implementation table [here](#).

This section of the guidance focuses on the provisions within the Ordinance requiring that certain clubs and associations, of a minimum size and with rules regarding selection, must not discriminate in relation to membership or against their members.

It should however be noted that even if clubs and associations fall below the minimum size (as outlined below), and don't have responsibilities under the Ordinance in that capacity, they might also operate as an employer or as a service provider to the public, and so they may still have obligations under the Ordinance regardless of whether they are covered in relation to their members.

6.1 Which clubs and associations are covered by the Ordinance?

The Ordinance makes it unlawful for clubs and associations of a certain size to discriminate in relation to membership and against any of its members.

A club or association means any association of persons, whether or not incorporated or whether or not carried on for profit, other than a professional or trade organisation, which has:

(a) at least 25 members; and

(b) rules regarding admission to membership, and where membership involves a process of selection.

A club or association victimises or harasses a person for the purposes of this Ordinance if one or more employees of, or persons otherwise involved in the management of, the club or association victimise or harass the person in the course of that employment or management, or otherwise victimise or harass the person when acting or purporting to act on behalf of the club or association.

See section 30(6) of the Ordinance

The Ordinance applies to all clubs and associations, regardless of whether they are incorporated, and whether their activities are carried out for profit. There are only two specific conditions for the club or association to be covered by the Ordinance in relation to its members.

- The club must have at least 25 members; and
- The requirement for a club or association to have rules regulating admission to membership.

This does not mean every club or association must have a formal set of written rules on membership; it will be sufficient if the rules for admission of new members are known to those members involved in the selection. An organisation that merely requires the public to pay a fee to join it, without any form of selection, such as a gym or sports facility is acting as a service provider, not a club or association. For further information on service providers please refer to [Chapter 4](#).

Example

A golf club with over 200 members applies a rule that any potential member must play against two members of the committee who will certify whether their game is of a sufficient standard before a decision is made on their membership application. This club is likely to come within the provisions on clubs and associations

It is important to remember that even if a club or association is not covered by the Ordinance in respect of its members, it might still be covered if it is acting as a service provider, for example in renting facilities to members of the public. For further information on this please refer to [Chapter 4- service providers.](#)

The Ordinance contains additional provisions in relation to harassment and victimisation. A club or association is only deemed to be potentially liable where the harassment or victimisation is committed by one or more employees, or persons involved in the management of the club or association. This is when the action of harassment or victimisation is in the course of their employment or management, or when they are acting on behalf of the club or association. Accordingly, where the harassment or victimisation is by one ordinary member against another, and the member carrying out the act is not employed by or involved in the management of the club or association, then the club or association will not be liable.

6.2 Discrimination by clubs and associations

The Ordinance makes it unlawful for clubs and associations of a certain size to discriminate in relation to membership and to discriminate against any of its members.

A club or association must not discriminate against a person:

- **in the arrangements it makes for deciding to whom to offer membership;**
- **as to the terms on which it offers a person membership; or**
- **by not offering a person membership.**

See section 30(1) of the Ordinance

**A club or association must not discriminate against a member of the club or association:
in the terms of membership that are afforded to a member;**

- **by refusing or failing to accept a member's application for a particular class or type of membership;**
- **by denying a member access, or limiting a member's access, to any benefit, facility or service provided by the club or association;**
- **by depriving a member of membership; or**
- **by subjecting a member to any other detriment.**

See section 30(2) 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 club or association must not, in relation to any of its members or persons who have applied for membership, either victimise or harass them. A club or association is also subject to the duty to provide reasonable adjustments.

There is no exhaustive definition of what is meant by arrangements but it would include:

- Membership policies;
- Drawing up of selection criteria;
- Application of selection criteria;
- Information about the club or association, including marketing material;
- Open events;
- Application forms;
- Decision-making processes;
- Interviews; and
- Selection tests.

Example: Arrangements for selection

A person seeking to become a member of a private members club, who had previously made an allegation of discrimination at work against a member of the committee of the club. They need two members to nominate them in order to be selected for membership. The association usually ensures that applicants are put in touch with two members but on this occasion fails to do so because of the previous allegation, and the belief that the individual is a troublemaker. This would amount to victimisation in the arrangements for selecting new members.

The terms of membership should not discriminate against a person because of a Protected Ground.

Example: Terms on which membership is offered to a person

A disabled person applies to become a member of a club. There are currently no other disabled members, and so the committee decide to increase the membership fee of the disabled person to cover some of the costs of redeveloping the disabled toilets which need attention. This is likely to amount to direct discrimination on the grounds of disability as to the terms for admission.

Once a person becomes a member, then clubs and associations must not discriminate against them on a Protected Ground. This includes in the provision of any benefit, facility or service provided by the club or association, and would cover a wide range of things such as invitation or admission to meetings or events, use of equipment or facilities, discount schemes, bar or restaurant services, receipt of journals or newsletters.

A club or association also should not discriminate due to a Protected Ground against a member either by depriving them of membership, or subjecting them to other any other action which amounts to a detriment. A detriment would include anything which a member would consider alters their position for the worse, such as denial of an opportunity or choice or a temporary ban from attending club

events. Discriminating against a member or prospective member in this way is unlawful, even if the club or association believe they are acting in the best interests of the member.

Example: Subjecting a member to a detriment

A members' club has invited a controversial speaker to attend an event about ISIS and the war on terror. The club has a number of members who it is believed would likely be offended by the content of the talk due to their religious beliefs, and so doesn't inform them of the event. Even though the club believed it was acting in the best interests of the members, this would still amount to discrimination on the grounds of religion or belief.

Whilst clubs and association providers are under a duty to not to discriminate in relation to their members, the Ordinance makes it clear that they are not required to take a step which would fundamentally alter the nature of the club or association.

Example: Fundamental nature of the club or association

A wine tasting club holds regular events once a month to sample the latest wines. Whilst a person could not be excluded from membership simply because they held religious views that prohibited them from consuming or being around alcohol, the club itself would not have to stop its core activity of wine tasting, as this would change its fundamental nature.

Exceptions

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

- A club or association does not contravene the Ordinance by restricting membership to persons who share a Protected Ground (except skin colour in relation to race), so a Latvian or Portuguese Association is permitted under the exception, but not a white person's club; and
- In relation to disability and nationality, there is a specific exception for sport whereby not selecting someone, where there has been a selection based on skill or ability or where the person is unable to perform the actions required by the sport after a reasonable adjustment has been made, is not discrimination. It is also not discrimination to follow rules of a sport regarding who may represent a country, place or area.

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

6.3 Clubs and associations acting in other capacities

Whilst an organisation may fall under the definition of a club or association for the purposes of its membership, it is important to remember that there are separate sections under the Ordinance which deal with service providers, schools and education providers and accommodation providers, and those sections can apply to clubs and associations regardless of their size. In addition, some clubs and associations may also have employees, and so will have responsibilities in that capacity.

It is important, in each instance, to consider, in what capacity an organisation is acting and so which part of the Ordinance will apply, because not only are there different rules for each category, the implementation of certain provisions of the Ordinance are delayed. Where an organisation has responsibilities as a club or association and is acting in that capacity in relation to its members, the provisions within the Ordinance relating to service provision will not also apply, as set out in the example below.

Example

A snooker club with a membership of 50 people only allows its members to play on its tables during the week, but allows members of the public, regardless or not whether they are members to play at weekends.

During the week in relation to granting access to play snooker, the snooker club is covered by the provisions relating to clubs and associations.

At weekends, in relation to granting access to play snooker, the snooker club is covered by the provisions relating to service providers.

When the snooker club also employs bar staff, it is covered by the provisions relating to employment.

If the snooker club only had 20 members, whilst it would still fall within the provisions relating to service providers and employment, the Ordinance would not apply in relation to membership of clubs and associations.

For further information on provisions relating to:

- Service providers see [Chapter 4](#)
- Schools and education providers see [Chapter 5](#)
- Accommodation providers see [Chapter 7](#)

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

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

6.4 Understanding the needs of members

Clubs and associations are subject to the general duty to make reasonable adjustments in respect of disabled people. The proactive duty to make reasonable adjustments for disabled people generally does not apply to membership, although it would apply where the club or association is acting as a service

provider and is providing services to the general public. The duty to implement accessibility action plans does not apply.

Even though there is no proactive duty to make reasonable adjustments, clubs and associations may find it helpful to consider what barriers are in place that may impede potential members from joining, as ultimately if these can be removed, it is likely to benefit the club or association.

The duty to make reasonable adjustments for clubs and associations comes into effect from 1 October 2023, with the exception of changes to physical features, which will not come into force before 1 October 2028.

Understanding the needs of disabled members

Once a person applies or indicates an intention to apply for membership, where the organisation is either aware (or ought to be aware) that the person has a disability, the duty is on the club or association to ensure it that it consults with them about reasonable adjustments. This duty then continues once the person becomes a member.

It is acknowledged that many clubs and associations are run by volunteers, and so what will be expected in this context in relation to a member will be very different than what a school might do around consulting with a student.

However, as a minimum the club must discuss with the person (whether face to face or via email) about any potential reasonable adjustments.

Disabled people may have different requirements and trying to consider them as a single group can often be unhelpful, which is why consultation is important.

Example

A hearing-impaired member who uses a hearing dog will be prevented from accessing services such as a member's bar, if the club has a 'no dogs' policy, whereas a hearing-impaired member who does not have an assistance dog will not be affected by this policy.

Whilst there is no proactive duty to make reasonable adjustments on clubs and associations, and there is no single exhaustive list of issues that they must

consider, the following may be a useful starting point around considering reasonable adjustments:

- planning in advance for the requirements of any known members who have a long-term impairment and reviewing the reasonable adjustments in place;
- conducting access audits on premises thereby considering various impairments;
- asking disabled members for their views on how to improve accessibility;
- consulting local disability groups;
- considering how best to draw member's attention to existing reasonable adjustments;
- ensuring any auxiliary aids are properly maintained and having a plan in place in case they do not work; and
- ensuring that staff and members of the management committee are aware of the duty to make reasonable adjustments and understand how to communicate with disabled members so that reasonable adjustments can be identified and made.

The duty to make reasonable adjustments will apply as soon as a club or association has become aware of the requirements of a particular disabled member or prospective member. This means that it might be reasonable for the club or association to take a particular step to meet these requirements. Whilst there is no obligation on the disabled member to necessarily point out the difficulty, or come up with the solution, the Ordinance imposes a duty to consult on clubs and associations. In practical terms this will usually be engaged when an issue is identified by the club or association and may often be as simple as having a conversation with the member.

6.5 Reasonable adjustments by clubs and associations

Once the Ordinance comes into force on 1 October 2023 clubs and associations will be under a duty to make reasonable adjustments, in respect of their members and applicants for membership, when they are placed at a substantial 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 generally, please refer to [Chapter 3](#) of the Guidance].

In order to comply with this duty, it will be helpful for clubs and associations to identify the different kinds of barriers that members, or prospective members, might experience. Whilst clubs and associations are not subject to the proactive duty to make reasonable adjustments or the duty to prepare accessibility actions plans, they may find it useful to prepare an accessibility action plan.

Provision, criterion or practice

It is important for clubs and associations to understand how they could place a member, or prospective member, who has a Protected Ground, at a disadvantage. This might be because how applications for membership need to be made, or the way in which membership, benefits facilities or services are accessed, will often amount to a provision, criterion or practice. Where a disadvantage is identified, then the club or association will need to consider and consult with the disabled member about how to avoid that disadvantage, and then implement reasonable steps. What is reasonable will obviously vary from case to case.

Example

A private members club has a dress code for its dining room that men must wear a shirt, tie and jacket when eating in the evening. That dress code will amount to a provision, criterion or practice. If a disabled member had a physical disability that meant they were unable to wear a tie, they would be placed at a substantial disadvantage, and so it would likely be a reasonable adjustment to adjust the dress code to permit them to eat without wearing a tie

Physical feature

Physical features are widely defined, but in the context of clubs or associations, 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.

Physical features may include, for example, steps, fitted desks, lighting, and the lay out of the premises.

The duty to make adjustments to physical features will not come into force until at least 1 October 2028. However, if the relevant adjustment could also be construed as an adjustment to a provision, criterion or practice, or as the provision of an auxiliary aid (see the next section) then the adjustment may need to be made from 1 October 2023.

Example

An amateur dramatic society with over 50 members two of whom are wheelchair users. It normally holds its annual general meeting in a room on the first floor of a pub, where there is no lift. The society recognises that the wheelchair users would be unlikely to attend the meeting due to its location and therefore could not fully participate as members. The pub has a ground-floor room of similar size. While the society prefers the privacy of the upstairs room, it changes its meeting venue to the downstairs room. This is likely to be a reasonable step for the society to make.

Auxiliary aid

An auxiliary aid is a piece of equipment or a service that is used by a member with a disability and provides assistance which, compensates for, or removes any disadvantage or inequality connected with the disability. It does not include any item of personal equipment which the person would reasonably be expected to own. In assessing the reasonableness of an adjustment which requires the provision of an auxiliary aid, especially where it involves a cost, consideration will always be given to the resources of the club or association. Often these are not

for profit organisations run by volunteers. However, the fact that there may be a cost associated with a particular adjustment does not necessarily make it an unreasonable adjustment, especially if that cost is minimal. A club or association must consider all of the normal factors, to decide whether or not the adjustment is reasonable and appropriate.

Example

A debating club organises a monthly event. A hearing loop is purchased to allow a member with a hearing impairment to participate. The person would be expected to have their own hearing aid if they wished to use one, as this is an item of personal equipment which they would reasonably be expected to own.

Fundamental nature of the club or association

Whilst clubs and associations are under a duty to make reasonable adjustments in relation to members and applicants for membership, the Ordinance makes it clear that they are not required to take a step which would fundamentally alter the nature of the club or association.

Example: Fundamental nature of the club or association

A wine tasting club holds regular events once a month to sample the latest wines. An existing member contracts a condition which mean they are unable to consume alcohol. The member asks if they could still attend the events and asks could the club expand its activity to include the tasting of fruit juices. Whilst the club is happy to allow the member to attend the events on a purely social basis, there is no requirement to expand the tasting activities, as this would change its fundamental nature

6.6 Common reasonable adjustments for clubs and associations to think about

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

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

A member of a club wants to stand for election at a forthcoming annual general meeting. The club member has a hearing impairment and so will be at a substantial disadvantage at the meeting. The member asks the club if a friend who is a British Sign Language translator could attend the meeting to assist, even though they are not a member of the club.

The club's policy is that non-members are not permitted to attend the annual general meeting, however, in this instance the club permits the attendance of the BSL translator as a reasonable adjustment.

Example: Car parking

A golf club has designated parking spots only for the club captain and the club professional coach. All other parking is undesignated. A member with a mobility impairment approaches the club to ask if they could designate some of the parking bays for disabled members, as at busier times the member is placed at a substantial disadvantage as they struggle to get across the car park, as parts of it are uneven.

The club agrees to designate two spaces for disabled parking near the club house as a reasonable adjustment.

Example: Difference between small and large clubs and associations

A small local club with limited resources is contacted by a potential applicant who although blind, reads braille. In order to join the club, all potential applicants must complete a written membership application form which places the potential applicant at a substantial disadvantage. As this is a small club, it would not necessarily be a reasonable adjustment to require it to reproduce the membership form in braille. However, the club secretary agrees to meet with the applicant and goes through the form with them verbally, and fills in the details on their behalf. This is likely to be a reasonable step for this club to have to take.

However, if the club or association was large and well-funded organisation, (e.g. it was the Guernsey branch of an international association), then this might be considered inadequate given their greater resources. Instead, they may be required to make membership forms available in braille.

Example: The importance of the duty to consult

A large well-funded club with its own premises admits a member who is deaf and decides, without consulting the member, to install an induction loop in the club bar – but the member does not use a hearing aid and so is unable to benefit from the induction loop. The member reads lips and so a reasonable adjustment would have been to tell all other members of the committee and staff working at the bar, to ensure that they face the member when speaking to them. Because of the failure to consult with the member they are unaware of the adjustment that is required and this leads to a failure to make a reasonable adjustment.

Example: Adjustments for members with medical conditions

A member of a junior sports team has a heart condition. Their parents speak to the club secretary and express their concern that the coaches need to be trained to provide the necessary medical support if the child has a cardiac arrest during a game.

Following a risk assessment and after seeking advice, the club decides to purchase a defibrillator (having obtained partial funding from a charity) and provide training to all coaches on the device. The club also puts in place an individual healthcare plan for the child, which includes instructions on how the defibrillator is to be administered and details of their medication. This could be a reasonable adjustment for the club to make. Whilst the club did incur some cost in purchasing the defibrillator, it was able to obtain a substantial contribution towards the cost from a charity.

Example: Difficulties with physical access

A club only has step access at the front of the club. The step free access is at the back of the building, which is not usually accessed by the public. A wheelchair user is given permission to use that entrance to access the club as a reasonable adjustment to a policy, criterion or practice.

Example: Provision of a handrail

The access to the building where a club is held only has step access. The club provides a handrail by the steps to assist access for anyone with a physical impairment. This will be a reasonable adjustment after 1 October 2028.

6.7 Discriminatory acts or requests by members and competing Protected Grounds

Occasionally, a club or association may receive a request from a member or third party which appears to be discriminatory, or a member or a third party may appear to act in a discriminatory way. Whilst the Ordinance does not expressly deal with such matters, there may sometimes be competing Protected Grounds between the club or association (and sometimes their staff or members or the management committee) on the one hand and the member on the other.

In most instances the conflict arises 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 the relevant exceptions and are best illustrated with an example.

Example

A bible reading club which is only open to practising Christians who attend church, refuses an application from a person on the basis they are homosexual, despite them meeting the criteria for membership. Whilst there is a specific exception for clubs to restrict membership to persons who share a Protected Ground, such as Christianity, (i.e. they could reject an application on the basis someone is not a practising Christian), it would be direct discrimination on the grounds of sexual orientation to exclude an applicant for membership on the basis of a different Protected Ground.

Alternatively, a member may commit discriminatory acts towards either other members, or the employees of the club or association. There is nothing within the

Ordinance which makes the club or association liable either to the other members, or its staff in respect of the discriminatory actions performed by another member, unless the refusal of the club or association to act is itself discriminatory, or the discriminatory act is by an employee or a member of the management of the club or association, acting or purporting to act in that capacity. One further exception to this would be if the club or association were under a duty to make reasonable adjustments.

Example: harassment received by a member in relation to their disability

A member of a club is harassed by another second member, who is volunteering at the club, because they are always late (as they struggle to navigate the car park in the dark and climb the steps due to a disability). The club or association should consider whether it is able to make reasonable adjustments to make it easier for the member to access the club house. They should also address the action of the second member and make them aware that harassment will not be tolerated.

6.8 Overcoming bias in clubs and associations

One of the biggest challenges for all clubs and associations 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. These are 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 triggered by our brain making quick judgments and assessments.

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

Example

A sporting club reaches a cup final which will be played in front of a large crowd which contains a small but vocal racist group of supporters. One of the players is from an ethnic minority, and rather than expose them to potential racist abuse, the coach decides to drop them from the game. Although the coach may think that they have good intentions, denying the player a chance to be part of the match is likely to be direct discrimination on the grounds of race.

Overcoming these biases can sometimes be difficult, but the starting point for clubs and associations is to ensure that wherever possible all members of the management have received training about unconscious bias.

This should include

- how it can arise;
- the importance of challenging those assumptions in ourselves and others; and
- what steps that can be taken in, relation to members, to avoid those biases.

Where those clubs or associations are affiliated to a national body, training might be available. Where the club or association does not have this kind of link, then it should explore other training that may be available either online or locally. For further information on preparing for the legislation please refer to the [Consortium training website](#).