

## Briefing Note #2

### Guernsey's Proposed Discrimination Legislation Phasing of protected grounds

The current discrimination legislation workstream is a direct result of the lobbying from the Guernsey Disability Alliance, which started over a decade ago.

In 2018, the States agreed to change its approach from developing disability discrimination legislation, to developing multi ground discrimination legislation. The GDA supported this move because the Convention on the Rights of Persons with Disabilities requires that discrimination legislation must be capable of considering multiple and intersectional<sup>1</sup> grounds of discrimination.

Currently it is proposed to introduce protected grounds in 3 phases with each phase being implemented two years apart:

Phase 1 (2022): Disability, Carers of persons with disabilities and race

Phase 2 (2024): Age, religious belief

Phase 3 (2026): Sexual orientation, sex, gender reassignment and marital status

Experience in Guernsey and elsewhere highlights the difficulties and dangers of developing legislation in a piecemeal fashion. Some jurisdictions (e.g. Canada) work on the basis of a unitary approach where, as far as rationally possible, all provisions apply to all grounds. The GDA have campaigned for a unitary approach from the start, however, it has been unable to gain support for this principle.

Whilst it would be more equitable and it would provide more comprehensive protection from discrimination for all, if all grounds could be included straight away, the consultation process identified a clear preference, particularly from the business community, for a phased approach.

The GDA understands these commercial concerns and accepts the compromise of a phased approach, but all parties should be aware that rights are interrelated and indivisible. Until all grounds are protected, it will not be possible to consider multiple and interrelated grounds of discrimination as required by the Convention on the Rights of Persons with Disabilities.

Until all proposed grounds are protected, none will be fully protected and, even then, disadvantage associated with other grounds, such as family and economic status will remain until Guernsey is able, hopefully in the future, to take an even more comprehensive, purposive and substantive approach.

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<sup>1</sup> For example, A black woman with disabilities may experience discrimination that neither a black man with disabilities nor a white woman with disabilities might experience.

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