



6. States obligations and timings

UN Convention on the Rights of Persons with Disabilities (UNCRPD)

The States of Guernsey has committed to realising the Convention on the Rights of Persons with Disabilities (CRPD). A few of the rights contained within the convention (the civil and political rights), such as the right to protection from discrimination, require immediate government action to promote and protect those rights.

Many of the other rights, such as the social, economic, and cultural rights may be progressively realised, taking reasonable account of available resources. For example, ensuring access to the physical environment, transportation, information and communication, and services open to the public, may be realised progressively.

This progressive realisation gives the States some flexibility in the timing of achieving the objectives of CRPD but the States will be expected to demonstrate reasonable progress over time.

What are “Accessibility Action Plans”?

The duty to prepare accessibility action plans for publicly accessible buildings only applies to the public sector. Along with changes to physical features, there is a five year lead-in period for the States to draw up these plans. This will require the States to draw up these plans by 1st October 2028.

The required process of developing Accessibility Action Plans within the public sector will allow the States to plan and reasonably budget for the changes that are required.

Claims involving failure to make changes to physical features of buildings cannot be made until 1st October 2023, even then, the defence of progressive realisation will be available to the States so long as relevant and reasonable plans exist to correct the particular issue.

Is there a separate anticipatory accessibility duty?

Whilst there is no separate anticipatory accessibility duty proposed there are some contexts when service providers, including the States, need to think about the needs of persons with disabilities in general in advance of an individual requesting an adjustment. These are:

- providers of goods and services and
- education providers

For the States the Accessible Action Plans should include all of these.

This means the States cannot wait until a disabled person wants to use its services, but must think in advance about what persons with disabilities with a range of impairments might reasonably need.

As this is an integral part of the reasonable adjustment duty, adjustments that would be a disproportionate burden on the States would not have to be made.

Immediate realisation

There are a number of actions that the States will need to do straight away to comply with the UN CRPD. The States should immediately:

- adopt the new legislation and remove any discriminatory legislation. (Article 4 - General Obligations)
- raise awareness and change attitudes (Article 8 - Awareness Raising)
- provide reasonable adjustments (except those for physical features which are not required until 1st October 2028).

The draft Prevention of Discrimination Ordinance (Guernsey) 2022 can be found on the States of Guernsey website

www.gov.gg/article/190813/The-Prevention-of-Discrimination-Guernsey-Ordinance-2022

See Information Sheet 4 on Accessibility

Last Updated: 13 September 2022

The draft Prevention of Discrimination Ordinance (Guernsey) 2022 can be found on the States of Guernsey website:

www.gov.gg/article/190813/The-Prevention-of-Discrimination-Guernsey-Ordinance-2022

For more information on Discrimination Legislation and FAQ's

visit www.disabilityalliance.org.gg

call us on 07781 467316 or email info@disabilityalliance.org.gg