

STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

15th July, 2020

Proposition No. P. 2020/41

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY
PROPOSALS FOR A NEW DISCRIMINATION ORDINANCE
AMENDMENT

Proposed by: Deputy C N K Parkinson

Seconded by: Deputy R H Tooley

1. To insert the following Propositions:

- “1A. To agree that prevention of discrimination on the ground of **sexual orientation** (meaning, in accordance with the Committee *for* Employment & Social Security’s Technical Proposals of July 2019, “a person’s sexual orientation towards persons of the same sex, or persons of a different sex, or persons of the same sex and persons of a different sex”) shall be included within the Ordinance prepared in accordance with Proposition 1.
- 1B. To agree that prevention of discrimination on the ground of **religious belief** (meaning, in accordance with the Committee *for* Employment & Social Security’s Technical Proposals of July 2019, “a person’s religious belief, which includes their religious background or outlook, and also includes not having a religious belief”) shall be included within the Ordinance prepared in accordance with Proposition 1.
- 1C. to agree that if 1A and/or 1B are approved:
- to direct the Committee *for* Employment & Social Security to report back to the States as soon as possible in the next States term with a policy letter on the proposed exceptions for the grounds of sexual orientation and religious belief and that this should take place in parallel to the legislative drafting of the new Ordinance.

2. To replace Proposition 3 with the following:

- “3. To direct the Committee for Employment & Social Security to bring detailed policy proposals to expand the grounds covered in the Ordinance referred to in Proposition 1, 1A and 1B to the States for consideration, in accordance with the following timeline:

Completion of Phase 1

- **2021 – Training Stage:** Provision of training and information, etc, in respect of Phase 1 as approved by the States.
- **2022 – Implementation Stage:** Enactment of legislation in respect of Phase 1.

Delivery of Phase 2

- **2023 – Phase 2 policy letter:** Protection on the ground of age. Modernisation of the existing Sex Discrimination Ordinance. Equal pay for work of equal value. Consideration of multiple and intersectional discrimination. Protection on the grounds of religious belief and/or sexual orientation, if not incorporated in Phase 1 by virtue of Propositions 1A or 1B.
- **2024 – Training and implementation:** Ordinance including Phase 2 grounds brought to the States for approval and implemented (with six-month lead-in period as in Phase 1). Training on new grounds of protection rolled out.

Specific Lead-In Periods

- **2026 – Discrimination in Education:** In accordance with Table 8.6.1 of the policy letter, provisions relating to discrimination in education come into effect no later than 2026.
- **2027 – Accessibility and Equal Pay:** In accordance with Table 8.6.1 of the policy letter, the final provisions of the Ordinance (relating to public sector accessibility action plans; complaints in respect of changes to physical features; and implementation of equal pay for work of equal value) come into effect.

Evaluation

- **2029 – Post-Implementation Review:** To take place no more than two years after all provisions of the Ordinance are in force. May take place sooner if required.

3A. To direct the Policy & Resources Committee to ensure that the Committee *for* Employment & Social Security is provided with sufficient resource, through its annual budgets and/or through the provision of shared States’ resources, to deliver the remaining policy and drafting work within the timeframe set out in Proposition 3.”

RULE 4.3 INFORMATION

The Committee *for* Employment & Social Security may require additional policy and administrative resources to deliver all the remaining grounds of protection within two years, rather than four years as envisaged in the policy letter. Proposition 3A provides for this to be reflected in the Committee’s annual budgets and/or through access to States’ shared resources as appropriate.

This policy letter sets out the implementation costs for Phase 1 only. In the same way, the 2023 policy letter should set out any implementation costs for Phase 2.

EXPLANATORY NOTE

This amendment would allow Guernsey's non-discrimination legislation to be delivered in two phases rather than three. This would mean that all grounds of protection could be in force by the end of 2024 (rather than 2026).

Expanding Phase 1

Propositions 1A and 1B offer the States the opportunity to move sexual orientation and religious belief into Phase 1. This means they would be drafted into the Ordinance as grounds of protection at the same time as disability, carer status and race.

The response to ESS's consultation in summer 2019 suggests that both these grounds would be relatively straightforward to incorporate into Phase 1, as there was not a lot of conflicting feedback on how these grounds should be defined:

<https://www.gov.gg/CHttpHandler.ashx?id=123084&p=0>

This amendment recommends moving ahead with the definitions that were used in ESS's consultation, as they have already had considerable thought and feedback.

Consolidating Phases 2 and 3

Proposition 3 says that the rest of Phase 2 and Phase 3 should be combined into a single Phase and delivered by the end of 2024. If propositions 1A and 1B are approved, the new Phase 2 will include protection on the ground of age and modernisation of the Sex Discrimination Ordinance. If either Proposition 1A or 1B, or both, are not approved, then those grounds will also be included in this Phase 2.

Proposition 3A directs P&R to ensure that ESS has adequate resources to deliver Phase 2 by the end of 2024 at the latest.