

## Age will matter – in time. Guernsey’s next step in anti-discrimination law – DELAYED!

Service area / [Employment, Pensions and Incentives](#)

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Guernsey is gearing up to take a significant step forward in strengthening its anti-discrimination framework following a public consultation, and in a policy letter entitled [“Prevention of Discrimination Ordinance: proposals for the Ground of Age and Other Matters”](#) published on 21 March 2025, the Committee for Employment and Social Security (“ESS”) has submitted 10 proposals for amendments to the Prevention of Discrimination (Guernsey) Ordinance, 2022 (the “Ordinance”).

The Ordinance came into effect on 1 October 2023 and was always intended to be developed over a three phased process.

Phase one introduced five ‘Protected Grounds’ (race, disability, carer status, sexual orientation and religion or belief) and prohibited discrimination, harassment and victimisation on the basis of those Protected Grounds in the context of employment, goods and services, accommodation, education and club memberships. Phase two, anticipated to come into force in 2025/26, was forecasted to expand the Protected Grounds by including those provided for in the existing Sex Discrimination Ordinance and introducing age. Phase three is forecasted to introduce the right to equal pay for work of equal value in respect of sex, and implement the obligation to make reasonable adjustments to physical premises.

Assuming the ESS proposals are approved, the earliest the proposals for phase two can be expected to take effect is in Q3 of 2027.

The following is a summary of the substantive amendments proposed with phase two, with the complete policy document available [here](#).

### If approved, what can be expected?

#### Age as a Protected Ground

Age will be introduced as a Protected Ground.

Whilst the definition of ‘age’ has yet to be finalised, looking to the definition under the UK Equality Act, we expect age to be defined as any person of a particular age or belonging to a particular age group – i.e. the under 20s, the over 50s or even Gen Z or millennials.

The Ordinance will be expanded to prohibit discrimination, harassment and victimisation on the basis of age in the context of employment, goods and services, accommodation education and club memberships.

#### The defence of objective justification

Direct discrimination on any of the five Protected Grounds cannot be defended on the basis of an objective justification. However, the proposals recognise that if an employer or service provider can demonstrate that the less favourable treatment (i.e. the discriminatory act) is a proportionate means of achieving a legitimate aim, there will be no act of unlawful age discrimination.

In its proposals, the ESS have recognised that there are instances where there would be good reason for differential treatment of different age groups. As it would be impossible to capture every imaginable instance, it is therefore necessary to allow the ‘defence’ of objective justification. This seeks to strike a balance between the rights of individuals to protection from age discrimination against the inherent flexibility needed when making business or operational decisions. It also mirrors the positions in both the UK and Jersey, where objective

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justification is a permissible defence against direct age discrimination.

## Who will be able to assert age discrimination?

Generally speaking, anyone aged over 16 will be able to assert a claim of age discrimination in relation to employment, goods and services, accommodation and education. The proposed exceptions are focused on young persons and will limit the age at which a person may seek to assert that they have been discriminated against.

The following age thresholds will apply and restrict individuals from asserting claims of age discrimination:

- In employment – complaints from persons below school leaving age (currently 16).
- In goods and services and with certain exceptions, clubs and associations – complaints from persons under the age of 16.
- In accommodation – complaints from persons under the age of 18. Interestingly, however, the ESS are supporting a proposal to allow parents to bring a claim of age discrimination by association, where they are denied access to accommodation because they intend to live with a child. This is permissible in Jersey already, and we expect will be welcomed by families seeking housing amidst the current housing crisis and competitive list of applicants.
- In education – age discrimination will not be prohibited in schools, nurseries or preschools where it is appropriate to have targeted age specific processes but will apply to further/higher education and require the complainant to be at least 16 years old.

## Exceptions

A number of proposed exceptions will be added to the existing exceptions under the Ordinance, where differential treatment based on age will not be treated as discrimination for the purposes of the Ordinance.

### Employment and pay

- Minimum wage variations to allow for different base pay structures for 16 and 17-year-olds and different pay rates for apprentices aged 16 and 17.
- Seniority based benefits and pay scale variations, which is similar to the positions in both Jersey and the UK with the exception that the UK has a limitation of five years of service.
- Varied redundancy pay structures based on length of service (indirectly linked to a person's age), however, selection for redundancy cannot be based on age.
- Age based practices in occupational or group personal pension schemes. This is similar to the position in Jersey but slightly different to that of the UK, where only certain age-based practices in the provision of pension schemes are exempt.
- Childcare benefits provided by employers – where it will be permissible to offer this benefit to employees but only in respect of children of a particular age.

### Financial, public services and education

- Age based practices in risk assessments for the provision of insurance and pension schemes (e.g. a health insurance provider may be able to justify charging higher premiums to customers over a certain age due to higher medical costs based on actuarial assessments).
- Age targeted public health initiatives (e.g. States' initiative to offer free flu vaccines to persons over a certain age).
- Age based practices in processes and provision of education in nurseries, schools and preschools but not in further or higher education providers with certain exceptions.

### Housing, clubs and goods and services

- Sheltered housing and age-restricted living arrangements will remain permissible (e.g. public housing reserving certain units for older people as the units may be designed with accessibility features not needed by younger people).
- Age based practices for membership with clubs (e.g. a football league limited to certain ages, designed to foster and support age-appropriate competition and development and ensure fair and safe play).
- Preferential charging/age related concessions for children and older people in the provision of education and memberships with clubs and associations but not in the fields of employment or accommodation.

## Education

Provisions relating to the educational sector under the Ordinance are scheduled for implementation in January 2026, which will mean with the exception of age, discrimination on existing Protected Grounds will be prohibited. Education providers will be permitted to have regard to age in their admissions and restructuring processes.

## What do employers need to be doing in readiness for it all?

In readiness for the age discrimination provisions in employment, we recommend that employers:

- Review their hiring, promotion and redundancy policies;
- Conduct assessments of age-related benefits and pay structures to identify potential risks or where there is differential treatment, ensure that they can be objectively justified;
- Update training and workplace policies to raise awareness and ensure that managerial staff are equipped to handle complaints and ensure compliance; and
- Assess career progression practices at all stages to ensure that there is clear justification for any age-based policies in this context.

Continued

Overall, the proposals are intended to achieve a balance between anti-discrimination protections on the one hand and practical allowances for age related differences in business and life as we know it on the other. The recommended approach aligns closely with the UK and Jersey positions in many respects, while focusing on the specific needs of Guernsey, with its small workforce, aging population, need for flexibility in hiring and succession planning in workforce structures.

If you would like to know more on this briefing please contact our Guernsey employment, pensions and incentives team at [careyolsen.com](https://www.careyolsen.com).



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