

2 March 2022

Dear Deputy Roffey

A joint letter from Guernsey Institute of Directors, Guernsey Chamber of Commerce, Chartered Institute of Personnel and Development and Guernsey International Business Association

Thank you for making the draft anti-discrimination (**AD**) legislation available to our groups for consideration. We are aware of calls from various quarters to reconsider the principle underlying this AD legislation and the purpose of this letter is to set out our groups' position on that issue. This is not, therefore, a letter which comments on the detail of the AD ordinance; these will be addressed separately.

The original proposals issued in 2019 caused serious concerns to the business community due to the far-reaching and untested nature of some of the proposals. At that time, the business groups advocated that, instead of such an approach, the adoption of the model used in Jersey should be considered. However, important changes were made to the proposals which were eventually put before the States in July 2020 and these enabled our groups to confirm our support for the policy letter. Our statement at that time can be read [here](#).

At the time when we gave our support to the AD proposals, we reminded the States that Covid and Brexit had caused unprecedented challenges for the Guernsey business community. We asked the States to bear those challenges, and particularly the costs arising from them, in mind. We also noted that an impact analysis of the AD regime was important to help businesses prepare and ensure successful implementation. Of particular concern to our groups was the need for a phased implementation and a timeline for implementation which ensured an adequately resourced occupational health infrastructure.

Having considered the AD ordinance and the calls for a review of the principles which underpin it, our groups remain of the view that the AD ordinance represents a reasonable compromise for Guernsey. We observe that no law is perfect and every law takes time to settle in. The process of compliance with a new AD legislative regime would be largely the same whichever regime is introduced, and due to the changes that were made in July 2020, we do not see that the Jersey model, for example, would result in markedly different substantive outcomes.

We are also concerned that, were Guernsey to be seen as reversing from the policy decision reached in July 2020, this could be damaging to the message that it sends about Guernsey PLC's willingness to meet important standards which are in place in most of the places with which we do business and have been for some time. Having invested significant and valuable States time on designing the AD regime, our groups would ask the States to now focus on addressing the island's other present and serious issues with population, housing and tax to best ensure that the island remains open for business and able to support all members of our island community.

That is not to say that we do not have some concerns with the current proposal. Some of the concerns that we flagged in July 2020 remain. Critically, having at that stage hoped that Covid would be over soon, it is only in this past month that Guernsey has been able to lift restrictions. Those ongoing restrictions have had an impact on all Guernsey businesses, and in some sectors (such as hospitality and tourism) a very deep and damaging impact. Across the board, the cost of doing business has risen significantly and Guernsey businesses now face a recruitment and housing crisis which is making it much harder and more costly to staff businesses than it was in 2020.

There is another concern that we expressed in 2020 which remains - and indeed has worsened – being the extent to which the existing occupational health infrastructure is adequately resourced to cope with the demands that will be placed on it by the new AD regime. Businesses are struggling already to get occupational health support. The need for that support is one of the most significant practical issues arising from the new regime and if the regime is launched without it in place, it risks being doomed to fail. That is not an outcome we want to see.

Accordingly, and with these factors in mind, we invite the States to set the foundations for the successful implementation of the AD. This would be achieved by allowing businesses to experience a period of normal trading, and for the occupational health infrastructure to be expanded. Both of these aspects need to be addressed for the Island to benefit from properly implemented legislation. We therefore invite the States to consider delaying the implementation date for a short period while this is achieved. We emphasise 'short period' - we are not asking the States to defer the regime proposals indefinitely and would suggest a short pause of around 12 to 18 months.

We would also ask the States to reconsider the phasing that was approved in 2020. We had expressly called for the States to follow the Jersey model and introduce the protected characteristics year by year. That approach had allowed Jersey businesses and citizens the chance time to 'get to grips' with one protection before the next one was introduced. That request was not accepted and as a compromise we gave our support to a three-phased approach. During the debate, an amendment was brought reducing those phases to two in number. We remain of the view that more phases would achieve a better outcome, reducing the burden on business and facilitating a smoother transition. We urge the States to give this serious consideration. On a related note, and again learning from some past issues when new regimes have been introduced recently (such as population management), we would strongly support, as part of the roll-out plan, a detailed review of the first phase of implementation in order to improve the prospect of successfully introducing subsequent phases. We firmly believe that learning from post implementation problems will help the roll out of future phases.

We would be grateful if you would arrange for this letter to be provided to Deputies. Should it assist we are happy to meet once you have had a chance to consider this letter.

ENDS

Media enquiries

For further information or comment, please contact Nichole Culverwell, Black Vanilla on 01481 729 229, nichole@black-vanilla.gg