

Discrimination law, changes to Jersey's Control of Housing and Work Law and gender pay gap reporting

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This interview first appeared in Connect magazine's Working Lunch feature.

“Why are we doing this and what are we going to do about it?”

These are key questions underpinning the working practice of Advocate Helen Ruelle, Director of Local Legal Services at Ogier. A specialist in employment law, she has been at the forefront of some of the biggest changes to employment legislation in Jersey, including discrimination law and parental leave. Her practice also includes compliance, immigration, data protection, mergers and acquisitions and relocation to the Island of high net worth clients and companies.

Described by Legal 500 as a “leading individual” for employment law advice and in client feedback as a “powerhouse”, Helen’s style is open and approachable in conversation. She describes herself as a “people person” first and foremost and this is reflected in the active part she has played in community life since coming to Jersey 21 years ago. During her ten years on the Jersey Employment Forum – including nine years as chair – she oversaw major developments in the protections afforded by the employment law in consultation with relevant stakeholders, including employers and employees across local industries and their representatives. Currently she is chair of the Jersey Employment Trust (JET) which helps those with disabilities and long-term health conditions into employment.

“The great thing about employment law is that you have interaction with clients all the time, so you build up a close and trusted relationship over quite tricky, sensitive confidential matters,” she reflected. “People are looking for someone they can trust who is non-judgmental and able to help and support them. It can be a different style from other areas of law and it’s not for everybody.”

Employment rights in Jersey have progressed somewhat since she first came to do general

corporate and commercial work. "Employment law then was minimal and because of my previous work in the UK I was probably one of the only people here with employment law experience. As the law started to develop my practice became bigger over time."

Probably the next change to impact her practice will be the amendments to the Control of Housing and Work Law, approved by the States in March, replacing registration cards with a "permissions" system more akin to that in Guernsey, Helen observes. "What we think is going to happen is that the two regimes will run simultaneously, because people will have rights under the current law which would change under the new system."

For example, automatic graduation from one residential status to another may no longer be possible, she understands. In addition, employers will not be able to "recycle" permissions as they sometimes can now. "That is one of the challenges, because people who are looking to recruit employees will have questions about 'what happens at the end of my permission'? The law will provide for ten-year and long-term permissions, but it is not yet clear to us what the criteria for those will be and who will be eligible for consideration. Whether there will be further amendments to the law, we just don't know. The new Council of Ministers may have new priorities."

One piece of legislation which is now in place after many years of consultation is the discrimination law. Does she believe this is now taking effect?

"I think so," Helen observed, "although dealing with discrimination is not just about the law. The law needs to be there to underpin change but is never going to solve the issues. It is about education, awareness and changing attitudes. What we would really look to achieve is an end to discrimination and that is something I feel strongly about."

As chair of JET she sees first-hand how employers and employees are responding to co-workers with disabilities. "Every two years we hold awards and as trustees that is one of our favourite things because we hear from the employers and coordinators working with them about what they are doing to support people, how they actively enjoy dealing with JET and how it is such a positive for their organisation. Once you have the tools and the knowledge, the adjustments can be small. And actually spending time getting to understand people you work with pays huge dividends because you will get the best out of them."

That said, one of the concerns to emerge over the past few years is mental health, Helen observes. "We were seeing an increase in referrals long before Covid, but I think we will see further increases as a result of Covid. I think a lot of studies show that this has been a challenging time for both men and women, but women still do tend to take on a larger part of the childcare and home schooling."

In fact the gender pay gap is something that Ogier has sought to highlight, becoming the first law firm in the offshore world to publish their results. "At Ogier there was a gap because there

are more men in senior positions. So that information can help firms to understand what we can do to see more women reach senior posts, and others too. It's not just about gender, but also race, disability, sexual orientation, gender identity, social class and other protected characteristics. We also need to look at what we call the 'stay gap'. Do women stay in the job longer, or men? What are the issues? What is important for me is that we should be doing this because of the huge benefits to the organisation and the individuals within it. This is not just a tick box exercise."

The advocate does believe, though, that things are starting to move forward, referring to the parental leave provisions now in place in Jersey and the increase in flexible working arrangements post-Covid. "Sometimes you have to look for the positives. People have been able to spend more time with their families and employers have seen that is possible, although I know that for some people working from home was a nightmare - looking after young children and trying to do your job with everything in one space.

"That is why I find employment law so fascinating, because you do become embroiled in all kinds of political and social issues such as the Control of Housing and Work Law that are really informing policy. You can't do our kind of work and not have an interest in these things and have views about them. I think most organisations are now embracing flexibility and more flexible childcare arrangements and it is working."

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