



Single Equality Scheme

Introduction

This Single Equality Scheme provides a format for addressing the statutory duties of the Equality Act 2010. This supersedes and brings together all previous statutory duties in relation to race, gender and disability and also addresses the duty to promote community cohesion, thus meeting the school's statutory duties in these areas.

The scheme also highlights how our school has worked with and listened to the staff, pupils, parents and carers to inform development of action plans and the need and commitment required to ensure the scheme is a success. This is underpinned by a commitment to promoting positive relationships and understanding between all groups within our school community.

This document sets out how pupils with the following protected characteristics (previously known as equality strands) will be protected in our school from harassment and discrimination:-

- disability
- gender
- race
- religion and belief
- sexual orientation
- gender reassignment
- maternity and pregnancy.

This scheme extends to cover all aspects of vulnerability, including those associated with socio-economic factors (e.g. pupils from low income families). As well as delivering high quality services to our pupils, the school is also committed to being a good employer and as such this scheme outlines how we meet our varied duties in terms of recruitment and employment practices. We are also committed to be fully inclusive of all community users, including parents and carers. As such, this scheme therefore also sets out how we will work to overcome any discrimination related to the other protected characteristics:-

- Age
- Being married or in a civil partnership

This Scheme sets out:

- information about our school and the local area;
- our plans to meet our general and specific duties;
- how we will promote community cohesion within the school;
- how we have involved people in the development of this scheme;
- what consultation has taken place;
- what our plans are to gather and use information;
- how we intend to ensure our policies are fair;
- how we will report on our progress;
- who is responsible for making our scheme a reality; and,
- an action plan addressing our equality priorities

This scheme is reviewed every three years and is reported on annually.

OUR VISION AND VALUES

Statement of Intent

At Earlsdon Primary School we believe that every child has the right to equality of outcome and to achieve their full potential. In order to achieve equality, we embrace the principles of fairness, social justice, inclusion, global citizenship and community cohesion. We welcome our responsibilities under the Equality Act 2010. Our Equality policy follows local authority recommendations, guided by the 7 Principles.

At Earlsdon we believe that positive actions are fundamental in ensuring all stakeholders in our school have equal chance to achieve, participate and fulfil their roles in school and the wider community. Equality for all helps us to develop a sense of identity, social justice and to be successful as individuals, as a school and as a community.

We understand equality to mean treating everyone fairly and with dignity and by valuing their individual characteristics such as their age, disability, gender identity, race, sex, religion, belief, sexual orientation and socio-economic circumstances or any other visible or non-visible difference.

We further understand that people have different needs, situations and goals and some people may experience additional barriers and challenges. Therefore, achieving equality of outcome requires the removal of discriminatory barriers, and the recognition that the allocation and distribution of resources cannot always be distributed equally if we are to live up to our commitment to everyone being able to achieve their full potential whilst at Earlsdon Primary School.

SCHOOL CONTEXT

Figures from the May 2023 school census reveal that:

- 18.5% of children were eligible for Free School Meals (FSM).
- 21% of children had English as an additional language (EAL).
- 18% of children had special educational needs (SEN).

Terminology note: This report provides figures relating to both Free School Meal eligible children and Disadvantaged Children.

- Free School Meal (FSM) eligible children are those children who were recorded as being in receipt of free school meals on the day of the January census of the relevant school year (in this case, January 2023).
- This report also refers to 'Disadvantaged' children. Children are classed as Disadvantaged if they have been in receipt of FSM at any point in the preceding six years, or if they are in the care of the local authority, or if they have been adopted from the care of the local authority.

INTRODUCTION

Under [The Equality Act 2010](#) and [The Equality Act 2010 \(Specific Duties\)](#) Regulations 2017 schools are no longer required to publish an equality scheme or action plan. The statutory requirements are for governing bodies of all maintained schools and academies to:

- draw up and publish equality objectives every four years (see below – pg 15)
- annually publish information demonstrating how they are meeting the aims of the general public sector equality duty (see below – pg 9 - 12)
- draw up an accessibility plan and review this every three years (see accessibility plan policy – separate document).

It is still good practice however, for schools to make a statement about the principles used to review the impact on equalities of its policies and procedures, to identify how it fulfils its specific duties to publish information and how specific objectives will be determined and measured.

OUR GUIDING PRINCIPLES

In fulfilling the legal obligations outlined in this policy, we at Earlsdon Primary School are guided by seven principles. These are used to review the impact of equalities in our policies and procedures.

Principle 1: All members of the school and wider community are of equal value

We see all members of the school and wider community of equal value:

- whether or not they are disabled
- whatever their ethnicity, culture, religious affiliation, national origin or socio- economic circumstances
- whichever their gender and sexual orientation
- whatever their age.

Principle 2: We recognise and respect diversity

Treating people equally does not necessarily involve treating them all the same. Our policies, procedures and activities must not discriminate, but are differentiated, as appropriate, to take account of differences of life-experience, outlook and background, and in the kinds of barrier and disadvantage which people may face, in relation to:

- disability, so that reasonable adjustments are made
- ethnicity, so that different cultural backgrounds/experiences of prejudice are recognised
- gender and sexual orientation so that the different needs and experiences of girls and boys, women and men are recognised.
- age.

Principle 3: We foster positive attitudes and relationships, and a shared sense of cohesion and belonging

We intend that our policies, procedures and activities should promote:

- positive attitudes towards disabled people, good relations between disabled and non-disabled people, and an absence of harassment of disabled people
- positive interaction, good relations and dialogue between groups and communities different from each other in terms of ethnicity, culture, religious affiliation, national origin or socio-economic circumstances, and an absence of prejudice-related bullying and incidents
- mutual respect and good relations between boys and girls, women and men, and an absence of sexual harassment
- promote positive intergenerational attitudes and relationships.

Principle 4: We will ensure that the recruitment, retention and ongoing development of staff is undertaken in a fair and equitable manner to support our school's vision and values

Policies and procedures should benefit all employees and potential employees, for example in recruitment and promotion, and in continuing professional development:

- whether or not they are disabled
- whatever their ethnicity, culture, religious affiliation, national origin or socio-economic circumstance
- whichever their gender and sexual orientation
- whatever their age.

Principle 5: We aim to reduce and remove inequalities and barriers that already exist

In addition to avoiding or minimising possible negative impacts, we take opportunities to maximise positive impacts by reducing and removing inequalities and barriers that may already exist between:

- disabled and non-disabled people
- people of different ethnic, cultural and religious and socio-economic backgrounds
- girls and boys, women and men
- lesbian, gay, bisexual and transgender
- age (where appropriate).

Principle 6: We consult widely

People affected by a policy or activity should be consulted and involved in the design of new policies, and in the review of existing ones. We involve:

- disabled people as well as non-disabled people from a range of ethnic, cultural and religious and socio-economic backgrounds
- both women and men, and girls and boys
- lesbian, gay, bisexual and transgender
- age.

Principle 7: We feel that the community as a whole should benefit

We intend that our policies and activities should benefit society as a whole, both locally and nationally, by fostering greater social cohesion, and greater participation in public life of:

- disabled people as well as non-disabled
- people of a wide range of ethnic, cultural and religious and socio-economic backgrounds
- both women and men, girls and boys
- lesbian, gay, bisexual and transgender
- people of different ages and between generations.

Principles in themselves are not enough

In the light of the principles stated above, we have identified practical priorities and plans of specific action, in order to promote equality in:

- age
- disability
- gender reassignment
- marriage and civil partnership
- religion, belief or lack of religion/belief
- race including colour, nationality, ethnic or national origin
- pregnancy and maternity
- sex
- sexual orientation

THE CURRICULUM

We will actively seek opportunities to review the curriculum and curriculum subject or areas in order to ensure that teaching and learning reflect the seven principles outlined above.

We will ensure staff are offered the opportunity to engage in appropriate training and development to support the achievement of the seven principles.

ETHOS AND ORGANISATION

We ensure that the principles listed above apply also to the full range of our policies and practices, including those that are concerned with:

- learners' progress, attainment and assessment
- learners' and staff personal development, welfare and well-being
- teaching styles and strategies
- admissions and attendance
- staff and governor recruitment, retention and professional development
- care, guidance and support
- behaviour, discipline and suspensions
- working in partnership with parents, carers and guardians
- working with the wider community
- participation of groups in wider school activities
- preparing all members of the learning community for living and positively contributing to a diverse society.

ADDRESSING PREJUDICE AND PREJUDICE-RELATED BULLYING

The school is opposed to all forms of prejudice which stand in the way of fulfilling legal duties for all aspects of equality:

- prejudices around disability and special educational needs
- prejudices around racism and xenophobia, including those that are directed towards religious groups and communities, for example anti-Semitism and Islamophobia, and those that are directed against Travellers, refugees and people seeking asylum
- prejudices reflecting sexism and homophobia.

We take seriously our obligation to report regularly to the local authority about the numbers, types and seriousness of prejudice-related incidents at our school and how they were dealt with in line with existing and future legal requirements.

ROLES AND RESPONSIBILITIES

The governing body is responsible for ensuring that the school complies with current legislation, and that this policy and its related procedures and strategies are implemented.

The Head Teacher is responsible for implementing the policy; for ensuring that all staff, governors and visitors are aware of their responsibilities and are given appropriate training and support; and for taking appropriate action in any cases of unlawful discrimination. They have day-to-day responsibility for co-ordinating implementation of the policy.

All staff are expected to:

- promote an inclusive and collaborative ethos in their classroom
- challenge and deal with any prejudice-related incidents that may occur
- identify and challenge bias and stereotyping in the curriculum
 - support pupils in their class for whom English is an additional language
 - keep up-to-date with equalities legislation relevant to their work.
 - ensure pupils have the opportunity to have their voices heard with regards to equality issues

RELIGIOUS OBSERVANCE

We respect the religious beliefs and practice of all staff, pupils and parents, and comply with reasonable requests relating to religious observance and practice.

STAFF DEVELOPMENT AND TRAINING

We ensure that all staff, including support and administrative staff and governors, receive appropriate training and opportunities for professional development, both as individuals and as groups or teams.

BREACHES OF THE POLICY

Breaches of this scheme will be dealt with in the same ways that breaches of other school policies are dealt with, as determined by the head teacher and governing body.

MONITORING AND EVALUATION

We review practice relating to the implementation of this policy, and make adjustments as appropriate.

We analyse data relating to achievement, broken down as appropriate according to disabilities and special educational needs, ethnicity, culture, language, socio-economic circumstances, gender and age.

Involvement Processes

Policies are vital to identify and consolidate thinking regarding appropriate provision for pupils; however, they are often viewed as an end, when they should be seen as a process - always evolving in response to changes and evidence from impact assessments. When developing this Equality Scheme, the school is clear that this is a process which must be informed by the involvement of all participants such as pupils, parents, school staff, governors and external agencies. This will ensure that the school gleans insights into the barriers faced by people from different social identity backgrounds and learns the best ways to overcome such barriers. This Scheme will be informed, therefore, by:

- the views and aspirations of pupils themselves from different social identity backgrounds;
- the views and aspirations of parents/carers of pupils from different social identity backgrounds;
- the views and aspirations of staff from different social identity backgrounds;
- the views and aspirations of members of the community and other agencies, including voluntary organisations, representing different social identity backgrounds;
- the priorities in the Coventry Children and Young People's Plan.

Mechanisms for involvement

At this school the following mechanisms will ensure the views of **pupils** inform the Equality Scheme and action plan:

- School council;
- Individual interviews with pupils involved in incidents of a discriminatory nature;
- Individual interviews with pupils experiencing reasonable adjustments;
- Pupil involvement in IPM reviews and structured conversations

At this school the following mechanisms will ensure the views of **staff** inform the Equality Scheme and action plan:

- Regular staff meetings with specific agenda items
- Meetings with union representatives
- Individual discussions with staff as part of performance management

At this school the following mechanisms will ensure the views of **parents/carers and the community** inform the Equality Scheme and action plan:

- Text to be inserted into communication with parents: "your support for your child's education is crucial to their progress. Please tell us if there is any adjustments we need to make to help you support your child, for example: letters in large font; letters in different languages; wheelchair access; explaining things over the phone."
- Feedback through the Governing Body meetings
- Feedback through parent group meetings
- Feedback through the PTA meetings & coffee mornings
- Feedback from adults using the school beyond the school day.

The school's action plan will focus on developing the involvement of pupils, staff and parents from different social identity backgrounds over the three years of this Scheme. We will consider varying the times, methods and the venues for this involvement to ensure the best possible attendance and ensure views can be heard. This way the school will learn what works and the involvement of pupils, staff and parents will improve and deepen over time.

LEGAL DUTIES

1. We welcome our duties under the Race Relations 1976 as amended by the Race Relations Amendment Act 2000; the Disability Discrimination Acts 1995 and 2005; and the Sex Discrimination Act 1975 as amended by the Equality Act 2006 and the Equalities Act 2010.
2. We welcome our duty under the Education & Inspections Act 2006 to promote community cohesion.
3. We recognise that these four sets of duties are essential for achieving the five outcomes of the Every Child Matters framework, and that they reflect international human rights standards as expressed in the UN Convention on the Rights of the Child, the UN Convention on the Rights of People with Disabilities, and the Human Rights Act 1998.
4. Summaries of our legal obligations under the three main equality strands of disability, ethnicity and gender are outlined below. After each of the three equality strand we have also outlined the outstanding key issues for our school to address as priorities for the forthcoming three years, which will be included in our Equality Action Plan as well highlighting the successful impact we have already had in our school.

SUMMARY OF LEGISLATIVE REQUIREMENTS

The legal frameworks: The Equality Act has put a new single **Equality duty** on public bodies. The duty requires public bodies to think about the needs of everyone who uses their services or works for them, regardless of race or ethnicity, or any other protected characteristic such as disability or religion. The act protects people from discrimination on the basis of “protected characteristics” (which previously used to be called grounds). The relevant characteristics for services and public functions are:

Disability

The protected characteristic of disability applies to a person who has a physical or mental impairment that has a substantial and long term adverse effect on their ability to carry out normal day to day activities. To qualify for protection from discrimination a disabled person no longer has to show that their impairment affects a particular “capacity” such as mobility or speech, hearing or eyesight. Direct discrimination has been extended to cover disability.

Gender re-assignment

The protected characteristic of gender re-assignment will apply to a person who is proposing to undergo, is undergoing or has undergone a process to change their sex. To qualify for protection from discrimination a transsexual person no longer has to show that they are under medical supervision as it is considered a personal process rather than a medical process which involves a person expressing their gender in a way that differs from or is inconsistent with the physical sex they were born with.

Pregnancy and maternity

Pregnancy and maternity is not a protected characteristic for the purposes of the schools provisions but it is covered by other requirements which means that schools are prohibited from restricting access to education on the grounds pregnancy and maternity status.

Race

Race includes ethnic or national origins, colour or nationality. People can belong to one or more of these groups at the same time and the one which is relevant to a particular situation depends on the circumstances.

Religion or belief

The protected characteristic of religion or belief includes any religion or belief and any religious or philosophical belief. It also includes any lack of such religion or belief. A religion need not be mainstream or well known to gain protection as a religion, although it must be identifiable and have a clear structure and belief system. Faith schools and educational institutions with a religious ethos may in some limited circumstances favour pupils or students because of their religion.

Sex

A person’s sex refers to the fact that they are male or female. You must not treat a woman or a girl worse than you would treat a man or boy. You must not treat a man or boy worse than you would treat a woman or a girl in the same circumstances.

Sexual orientation

Everyone is protected from being treated to a detriment because of sexual orientation whether they are straight, gay, lesbian, or bisexual. Sexual orientation discrimination also covers discrimination connected with expressions or manifestations of a person's sexual orientation. That may include someone's appearance, the places they visit or the people they associate with.

Age

Under the schools provisions of the Act age is excluded from the list of protected characteristics.

An integrated public sector equality duty encourages public bodies to address the needs of groups experiencing disadvantage or discrimination on a number of grounds. The School in carrying out its duties agrees to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves, in particular, the need to:

- (d) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (e) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (f) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) tackle prejudice, and
- (b) promote understanding.

The School will also comply with its Specific Duties under the Public Sector Equality Duty. These are:-

- to annually publish information to demonstrate its compliance with the duty imposed by section 149(1) of the Act.
- to prepare and publish one or more objectives it thinks it should achieve in order to satisfy paragraphs (a) to (c) of subsection (1) of section 149 of the Act. (sections 4.2 a-c above)

The specific duty covering an authority's role as an employer is to monitor the effect of its policies and practices on persons, and in particular the effect on the recruitment, development and retention of employees.

What is discrimination?

The Equality Act 2010 consolidates existing law into a single legal framework and while many of the concepts of discrimination remain the same as in previous equality legislation there are some areas that were not previously covered. This appendix describes the various types of discrimination and how they apply to the schools provisions.

Direct discrimination

Direct discrimination occurs when you treat a pupil less favourably than you treat (or would treat) another pupil because of a protected characteristic. So a very basic example would be refusing to admit a child to a school as a pupil because of their race, for example because they are Roma.

It is not possible to justify direct discrimination, so it will always be unlawful. There are however exceptions to the schools provisions that allow, for example, single-sex schools to only admit pupils of one sex without this being unlawful direct discrimination.

In order for someone to show that they have been directly discriminated against, they must compare what has happened to them to the treatment a person without their protected characteristic is receiving or would receive. So a gay pupil cannot claim that excluding them for fighting is direct discrimination on grounds of sexual orientation unless they can show that a heterosexual or bisexual pupil would not be excluded for fighting. A pupil does not need to find an actual person to compare their treatment with but can rely on a hypothetical person if they can show there is evidence that such a person would be treated differently.

There is no need for someone claiming direct discrimination because of racial segregation or pregnancy or maternity to find a person to compare themselves to:

- Racial segregation is deliberately separating people by race or colour or ethnic or national origin and will always be unlawful direct discrimination.
- To claim pregnancy or maternity discrimination a female pupil must show that she has been treated unfavourably because of her pregnancy or maternity and does not have to compare her treatment to the treatment of someone who was not pregnant or a new mother.

It is not direct discrimination against a male pupil to offer a female pupil special treatment in connection with her pregnancy or childbirth.

It is not direct discrimination against a non-disabled pupil to treat a disabled pupil more favourably.

For example:

- *A female pupil is actively discouraged from undertaking a course in engineering by a teacher who tells her this is an unsuitable area of study for a female. This would be direct discrimination on the grounds of sex.*
- *A pupil with Asperger's Syndrome can sometimes act in a disruptive manner in class. The school does not take disciplinary action, but uses agreed strategies to manage his behaviour. A non-disabled pupil who is also disruptive in class is punished for his behaviour. This difference in treatment would not be direct discrimination against the non-disabled pupil.*

Discrimination based on association

Direct discrimination also occurs when you treat a pupil less favourably because of their association with another person who has a protected characteristic (other than pregnancy and maternity).

This might occur when you treat a pupil less favourably because their sibling, parent, carer or friend has a protected characteristic.

Discrimination based on perception

Direct discrimination also occurs when you treat a pupil less favourably because you mistakenly think that they have a protected characteristic.

Discrimination because of pregnancy and maternity

It is discrimination to treat a woman (including a female pupil of any age) less favourably because she is or has been pregnant, has given birth in the last 26 weeks or is breastfeeding a baby who is 26 weeks or younger.

It is direct sex discrimination to treat a woman (including a female pupil of any age) less favourably because she is breastfeeding a child who is more than 26 weeks old.

Indirect discrimination

Indirect discrimination occurs when you apply a provision, criterion or practice in the same way for all pupils or a particular pupil group, such as A-level physics students, but this has the effect of putting pupils sharing a protected characteristic within the general student group at a particular disadvantage. It doesn't matter that you did not intend to disadvantage the pupils with a particular protected characteristic in this way. What does matter is whether your action does or would disadvantage such pupils compared with pupils who do not share that characteristic.

'Disadvantage' is not defined in the Act but a rule of thumb is that a reasonable person would consider that disadvantage has occurred. It can take many different forms, such as denial of an opportunity or choice, deterrence, rejection or exclusion.

'Provision', 'criterion' or 'practice' are not defined in the Act but can be interpreted widely and include:

- arrangements (for example, for deciding who to admit)
- the way that education, or access to any benefit, service or facility is offered or provided
- one-off decisions
- proposals or directions to do something in a particular way.

They may be written out formally or they may just have developed as the school worked out the best way of achieving what it wanted to do.

Indirect discrimination will occur if the following four conditions are met:

1. You apply (or would apply) the provision, criterion or practice equally to all relevant pupils, including a particular pupil with a protected characteristic, and
2. The provision, criterion or practice puts or would put pupils sharing a protected characteristic at a particular disadvantage compared to relevant pupils who do not share that characteristic, and
3. The provision, criteria, practice or rule puts or would put the particular pupil at that disadvantage, and
4. You cannot show that the provision, criteria of practice is justified as a 'proportionate means of achieving a legitimate aim'.

For example:

- *A school requires male pupils to wear a cap as part of the school uniform. Although this requirement is applied equally to all pupils, it has the effect of excluding Sikh boys whose religion requires them to wear a turban. This would be indirect discrimination based on religion and belief as it is unlikely that the school would be able to justify this action.*

What is a 'proportionate means of achieving a legitimate aim'?

To be legitimate the aim of the provision, criterion or practice must be legal and non-discriminatory and represent a real objective consideration. In the context of school education, examples of legitimate aims might include:

- Maintaining academic and other standards.
- Ensuring the health and safety and welfare of pupils.

Even if the aim is legitimate the means of achieving it must be proportionate. Proportionate means 'appropriate and necessary', but 'necessary' does not mean that the provision, criterion or practice is the only possible way of achieving the legitimate aim.

Although the financial cost of using a less discriminatory approach cannot, by itself, provide a justification, cost can be taken into account as part of the school's justification, if there are other good reasons for adopting the chosen practice.

The more serious the disadvantage caused by the discriminatory provision, criterion or practice, the more convincing the justification must be.

In a case involving disability, if you have not complied with your duty to make relevant reasonable adjustments it will be difficult for you to show that the treatment was proportionate.

Discrimination arising from disability

Discrimination arising from disability occurs when you treat a disabled pupil unfavourably because of something connected with their disability and cannot justify such treatment.

Discrimination arising from disability is different from direct discrimination. Direct discrimination occurs because of the protected characteristic of disability. For discrimination arising from disability, the motive for the treatment does not matter; the question is whether the disabled pupil has been treated unfavourably because of something connected with their disability.

Discrimination arising from disability is also different from indirect discrimination. There is no need to show that other people have been affected alongside the individual disabled pupil or for the disabled pupil to compare themselves with anyone else.

Discrimination arising from disability will occur if the following three conditions are met:

- you treat a disabled pupil unfavourably, that is putting them at a disadvantage, even if this was not your intention, and
- this treatment is because of something connected with the disabled pupil's disability (which could be the result, effect or outcome of that disability) such as an inability to walk unaided or disability-related behaviour, and
- you cannot justify the treatment by showing that it is 'a proportionate means of achieving a legitimate aim'. This is explained above.

For example:

- *A pupil with cerebral palsy who is a wheelchair user is told she will be unable to attend a school trip to a local theatre putting on a production of a play she is currently studying in English, because the building is not wheelchair accessible. The pupil and her parents are aware that the play is also on at a theatre in a neighbouring city which is accessible but the school does not investigate this option. This is likely to be discrimination arising from a disability.*

Knowledge of disability

If you can show that you

- did not know that the disabled pupil had the disability in question, and
- could not reasonably have been expected to know that the disabled pupil had the disability

then the unfavourable treatment would not amount to unlawful discrimination arising from disability.

If your agent (someone who undertakes tasks on your behalf) or employee knows of a pupil's disability, you will not usually be able to claim that you do not know of the disability.

For example:

- *A pupil tells the school secretary that she has diabetes and that she needs to carry biscuits to eat when her blood sugar levels fall. A teacher has no information about her disability and refuses to allow pupils to bring food into the classroom. The pupil has a hypoglycaemic attack. In this case, the school is unlikely to be able to argue that it did not know about her condition.*

Relevance of reasonable adjustments

By acting quickly to identify and put in place reasonable adjustments for disabled pupils, you can often avoid discrimination arising from disability, although there may be cases where an adjustment is unrelated to the unfavourable treatment in question.

If you fail to make an appropriate reasonable adjustment, it is likely to be very difficult for you to argue that unfavourable treatment is justified.

Reasonable adjustments

You should be familiar with the reasonable adjustments duty as this was first introduced under the Disability Discrimination Act 1995. The reasonable adjustments duty under the Equality Act operates slightly differently and has been extended to cover the provision by a school of auxiliary aids and services; however this element of the duty will not come into force until a later date yet to be confirmed. The object of the duty is the same: to avoid as far as possible by reasonable means, the disadvantage which a disabled pupil experiences because of their disability.

This duty sits alongside your duties and those of local authorities under Part 4 of the Education Act 1996. In some cases the support a disabled pupil may receive under the special educational needs framework may mean that they do not suffer a substantial disadvantage (see below) and so there is no need for additional reasonable adjustments to be made for them. In other cases disabled pupils may require reasonable adjustments in addition to the special educational provision they are receiving. There are also disabled pupils who do not have special educational needs but still require reasonable adjustments to be made for them. The level of support a pupil is receiving under Part 4 of the Education Act 1996 is one of the factors to be taken into account when you consider what it would be reasonable for you to have to do.

What is the reasonable adjustments duty?

You are required to take reasonable steps to avoid substantial disadvantage where a provision, criterion or practice puts disabled pupils at a substantial disadvantage

You owe this duty to existing pupils, applicants and, in limited circumstances, to disabled former pupils in relation to the following areas:

- deciding who is offered admission as a pupil
- the provision of education
- access to any benefit, service or facility.

The duty does not require you to make reasonable adjustments to avoid the disadvantage caused by physical features as this is covered by the planning duties.

You cannot justify a failure to make a reasonable adjustment; where the duty arises, the issue will be whether or not to make the adjustment is 'reasonable' and this is an objective question for the tribunals to ultimately determine.

The duty is an anticipatory and continuing one that you owe to disabled pupils generally, regardless of whether you know that a particular pupil is disabled or whether you currently have any disabled pupils. You should not wait until an individual disabled pupil approaches you before you consider how to meet the duty. Instead you should plan

ahead for the reasonable adjustments you may need to make, regardless of whether you currently have any disabled pupils. By anticipating the need for an adjustment you will be best placed to help disabled pupils who come to your school. You are not expected to anticipate the needs of every prospective pupil but you are required to think about and take reasonable and proportionate steps to overcome barriers that may impede pupils with different kinds of disabilities. For example, while it may be appropriate for you to provide large print for a pupil with a visual impairment, you would not be expected to have Braille devices standing ready.

What is a substantial disadvantage?

A disadvantage that is more than minor or trivial is called a 'substantial disadvantage'. The level of disadvantage created by a lack of reasonable adjustments is measured in comparison with what the position would be if the disabled pupil in question did not have a disability.

You will need to take into account a number of factors when considering whether or not the disadvantage is substantial such as:

- the time and effort that might need to be expended by a disabled child
- the inconvenience, indignity or discomfort a disabled child might suffer
- the loss of opportunity, or the diminished progress a disabled child might make in comparison with his or her peers who are not disabled.

For example:

- *A deaf pupil is advised by the work experience coordinator that it would be better for her to remain at school rather than go on work experience as it might be 'too difficult' for her to manage. The school does not take any steps to help her find a placement and she misses the opportunity taken by the rest of her classmates. This would be a substantial disadvantage.*

The duty to change a provision, criterion or practice

These terms are not defined but in general they relate to how the education and other benefits, facilities and services are provided and cover all of your arrangements, policies, procedures and activities.

Where a provision, criterion or practice places disabled pupils at a substantial disadvantage in accessing education and any benefit, facility or service, you must take such steps as it is reasonable to take in all the circumstances to ensure the provision, criterion or practice no longer has such an effect. This might mean waiving a criterion or abandoning a practice altogether but often will involve just an extension of the flexibility and individual approach that most schools already show to their pupils.

For example:

- *A school has been allocated three places for students to represent the school at a national youth conference on the environment. The school decides to hold a debate on the topic to select the three pupils who will attend the conference. This places a pupil with a nervous system disorder at a significant disadvantage as he has trouble communicating verbally. The school modifies the criteria to enable that pupil to submit his views and ideas on the issue in writing. This is likely to be a reasonable adjustment to the school's practice.*

When is it reasonable for a school to have to make adjustments?

A useful starting point when determining what a reasonable adjustment might be is to consider how to ensure that disabled pupils can be involved in every aspect of school life. Often effective and practical adjustments involve little or no cost or disruption.

For example:

- *A teacher always addresses the class facing forward to ensure that a pupil with hearing difficulties is able to lip-read. This is an example of a simple reasonable adjustment.*
- *A primary school introduces a playground buddy system and a friendship bench which creates a supportive and friendly place for disabled pupils during breaks. This is an example of an effective but easy reasonable adjustment.*

Where disabled pupils are placed at a substantial disadvantage by a provision, criterion or practice or the absence of an auxiliary aid, you must consider whether any reasonable adjustment can be made to overcome that disadvantage.

You should not expect disabled pupils to suggest adjustments but if they do you should consider whether those adjustments would help to overcome the disadvantage and whether the suggestions are reasonable. It is good practice for schools to work with pupils and their parents in determining what reasonable adjustments can be made.

2.2 Harassment

There are three types of harassment which are unlawful under the Equality Act:

- Harassment related to a relevant protected characteristic.
- Sexual harassment.
- Less favourable treatment of a pupil because they submit to or reject sexual harassment or harassment related to sex.

The relevant protected characteristics for the schools provisions are:

- Disability.
- Race.
- Sex.

Pregnancy and maternity are not protected directly under the harassment provisions; however, unwanted behaviour (as described below) will amount to harassment related to sex.

Harassment related to a protected characteristic

Harassment occurs when you engage in unwanted behaviour which is related to a relevant protected characteristic and which has the purpose or effect of:

- violating a pupil's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the pupil.

The word 'unwanted' means 'unwelcome' or 'uninvited'. It is not necessary for the pupil to say that they object to the behaviour for it to be unwanted.

In this context 'related to' has a broad meaning and includes situations where the pupil who is on the receiving end of the unwanted behaviour does not have the protected characteristic himself or herself, provided there is a connection between the behaviour and a protected characteristic.

This would also include situations where the pupil is associated with someone who has a protected characteristic, or is wrongly perceived as having a particular protected characteristic.

For example:

- *A pupil from an Irish Traveller background overhears a teacher making racial slurs about gypsy and traveller people stating their site should be shut down and they were 'trouble'. This would constitute harassment related to a protected characteristic (race).*

The definition of harassment as described above does not apply to the protected characteristics of gender reassignment, sexual orientation or religion or belief in relation to schools. However, where unwanted conduct related to any of these protected characteristics results in a pupil suffering disadvantage that would constitute direct discrimination.

For example:

- *During a PSHE (personal, social, health and economic education) lesson, a teacher describes homosexuality as 'unnatural' and 'depraved' and states he will only be covering heterosexual relationships in the lesson. A bisexual pupil in the class is upset and offended by these comments. This may be unlawful direct discrimination on the grounds of sexual orientation.*

Sexual harassment

Sexual harassment occurs when you engage in unwanted behaviour which is of a sexual nature and which has the purpose or effect of:

- violating a pupil's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the pupil.

'Of a sexual nature' can cover verbal, non-verbal or physical conduct including unwelcome sexual advances, inappropriate touching, forms of sexual assault, sexual jokes, displaying pornographic photographs or drawings, or sending emails with material of a sexual nature.

For example:

- *A sixth form female pupil is asked intimate questions about her personal life and subjected to sexual innuendos by her teacher. This would be sexual harassment.*

Less favourable treatment of a pupil because they submit to or reject sexual harassment or harassment related to sex

It is unlawful to treat a pupil less favourably because they either submit to, or reject, sexual harassment or harassment related to their sex.

2.3 Victimisation

Victimisation is defined in the Act as:

Treating someone badly because they have done a 'protected act' (or because the school believes that a person has done or is going to do a protected act).

There are additional victimisation provisions for schools which extend the protection to pupils who are victimised because their parent or sibling has carried out a protected act.

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Act).
- Helping someone else to make a claim by giving evidence or information.

- Making an allegation that the school or someone else has breached the Act.
- Doing anything else in connection with the Act.

If you do treat a pupil less favourably because they have taken such action then this will be unlawful victimisation. There must be a link between what the pupil (or parent or sibling) did and your treatment of them.

The less favourable treatment does not need to be linked to a protected characteristic.

For example:

- *A teacher shouts at a pupil because he thinks she intends to support another pupil's sexual harassment claim. This would amount to victimisation.*

Who is not protected?

A pupil who in bad faith gives false information or evidence (that is, that they knew was false) or makes an allegation that was false and given in bad faith would not be protected against victimisation. The original complaint/claim would not be affected providing it was not made in bad faith.

For example:

- *A pupil at an independent school with a grudge against his teacher knowingly gives false evidence in another pupil's discrimination claim against the school. He is subsequently excluded from the school for supporting the claim. This treatment could not amount to victimisation because his evidence was untrue and given in bad faith.*

Victimisation for actions of parents or siblings

You must not treat a pupil less favourably because of something their parent(s) or sibling has done in relation to the making of a complaint of discrimination.

A parent of a pupil complains to the school that her daughter is suffering sex discrimination by not being allowed to participate in a metalwork class. If the daughter is treated less favourably as result of the complaint this would be unlawful victimisation.

This applies to a child in relation to whom the parent(s) were making a complaint in relation to and also to any other children who are pupils at the school. This also applies if a parent supports a teacher's complaint against the school under Part 5 of the Act.

If the information or evidence was false and given in bad faith (that is, the parent/sibling knew it was false) or the allegation was false and given in bad faith then this protection for the pupil will still apply, provided that the pupil did not act in bad faith.

For example:

- *A pupil makes a complaint against his school claiming that he has suffered discrimination by a member of staff because of his sexual orientation. The pupil's younger brother, at the same school, is protected against any less favourable treatment by the school because of this complaint, even if it is later found out that the older brother was not acting in good faith.*

There must be a link between what the parent(s) or their child has done and you treating the child/sibling badly.

The child who is being treated badly does not need to have any of the protected characteristics.

The fact that a complaint/claim is not upheld does not mean that it was made in bad faith.

2.4 Obligations to former pupils

Even after a person has left your school you must not discriminate against them or harass or victimise them. This only applies if the discrimination or harassment arises out of and is closely connected to their previous relationship with you and would have been unlawful if they were still a pupil. For example, if an ex-pupil asks for a reference from the school it would be unlawful for the reference to be unflattering because of a protected characteristic of the ex-pupil, or because they at one time brought or supported a discrimination complaint against the school.

This obligation to former pupils would include the duty to make reasonable adjustments for disabled former pupils if they continue to be at a substantial disadvantage in comparison to former pupils without a disability. This obligation only applies if the substantial disadvantage arises out of and is closely connected with them having been a pupil.

For example:

- *A school sends an annual newsletter to former pupils and one former pupil who has a visual impairment requests that it is sent to him by email rather than in hard copy. The school does not provide him with an electronic copy. This is likely to be an unlawful failure to make a reasonable adjustment.*

If someone believes that they are being discriminated against after they have stopped studying with you, they can take the same steps to have things put right as if they were still a pupil. These steps are explained in Section 6.

2.5 When are you responsible for what other people do?

Liability for employees and agents

As an employer you are legally responsible for acts of discrimination, harassment and victimisation carried out by your employees in the course of employment or by people who take action for you (agents).

It does not matter whether you knew about or approved of those acts.

However, if you can show that you took all reasonable steps to prevent your employees or agents from acting unlawfully, you will not be held legally responsible.

It is important that you take steps to make sure your employees and agents understand that they must not discriminate against pupils, or harass them or victimise them, and that they understand your duties in relation to making reasonable adjustments for disabled pupils.

Personal liability of your employees and agents

An employee (of a school) is personally responsible for their own acts of discrimination, harassment or victimisation carried out during their employment, whether or not the employer is also liable. However, an employee is not personally liable in relation to disability discrimination in schools.

For example, a teaching assistant racially discriminated against a pupil. The school is able to show that it took all reasonable steps to prevent the harassment and therefore was not liable. The pupil can still make a claim of discrimination against the teaching assistant.

However, if this was a case of discrimination on the grounds of disability, the pupil would not be able to make a claim against the teaching assistant because the personal liability provisions do not cover disability discrimination in schools.

If the relationship is one of a person paying for someone else to take action for them and someone taking action for them (their 'agent') rather than employer and employee, the agent is personally responsible in the same circumstances.

Employees or agents will still be responsible for their acts of discrimination, harassment or victimisation even if they did not know their actions were against the law.

But there is an exception to this. An employee or agent will not be responsible if their employer or principal has told them that there is nothing wrong with what they are doing and he or she reasonably believes this to be true.

It is a criminal offence, punishable by a fine of up to £5,000, for an employer or principal to make a false statement in order to try to get an employee or agent to carry out an unlawful act.

Instructing and causing discrimination

As a school you must not instruct, cause or induce someone to discriminate against, harass or victimise another person, or to attempt to do so.

Both the person who receives the instruction and the intended victim will have a claim against whoever gave the instructions. This applies whether or not the instruction is carried out, provided the recipient or intended victim suffers loss or harm as a result.

It only applies where the person giving the instruction is in a legal relationship with the person receiving the instruction such as employer and employee or agent and principal.

Employment Tribunals will deal with complaints from an employee or agent who has received the instructions and the victim can make a claim in the same way as they would for any other claim under the act. So if you instruct a member of staff to discriminate against a pupil on grounds of their sex then the member of staff can make a claim to an Employment Tribunal and the pupil can make a claim to a county or sheriff court.

The Equality and Human Rights Commission can also take action for unlawful instructions to discriminate.

Aiding contraventions

It is unlawful for you to help someone else carry out an act which you know is unlawful under the Equality Act.

However, if the person giving assistance has been told by the person he or she assists that the act is lawful and he or she reasonably believes this to be true, he or she will not be legally responsible.

It is a criminal offence, punishable by a fine of (currently) up to £5,000, to make a false statement in order to get another person's help to carry out an unlawful act under the Equality Act.

Action Planning

This scheme is supported by an action plan, the progress of which is monitored and evaluated by the Governing Body.

The action plan that identifies the equality objectives for the school arising from this scheme has:

- clear allocation of responsibility;
- clear allocation of resources, human and financial;
- clear timescales;
- expected outcomes and performance criteria;
- specified dates for review;

The effectiveness of this Scheme will be evaluated and reflected through:

- School self-evaluation
- Discussions with the Coventry Monitoring Officer.