

Equality Policy for Schools

Part 2

Our Legal Duties

Legislation relating to equality and discrimination is laid out in the Equality Act 2010.

This legislation covers employment (work), the provision of services and public functions, and education.

Employers (schools) are liable for discriminatory acts of their employees if they did not take reasonable steps to prevent such acts. Employees can be liable for acts (where an employer took reasonable steps to prevent such acts).

The ‘Protected Characteristics’ within equality law are:

- **Age** - A person of a particular age (e.g. 32 year old) or a range of ages (e.g. 18 - 30 year olds). Age discrimination does not apply to the provision of education, but it does apply to work.
- **Disability** - A person has a disability if s/he has, or has had, a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. It includes discrimination arising from something connected with their disability such as use of aids or medical conditions. HIV, multiple sclerosis and cancer are all considered as disabilities, regardless of their effect.
- **Gender reassignment** - A person (usually with ‘gender dysphoria’) who is proposing to undergo, is undergoing or has undergone gender reassignment (the process of changing physiological or other attributes of sex, therefore changing from male to female, or female to male). ‘Trans’ is an umbrella term to describe people with this ‘Gender Identity’. ‘Intersex’ or ‘Third Sex’ is not covered by the Act but the school will treat Intersex children with the same degree of equality as children with gender dysphoria. Children as young as five may begin to show signs of [gender dysphoria](#) and therefore it is relevant in any school environment. ([The Intercom Trust](#) in Devon supports schools in supporting children undergoing gender reassignment).
- **Marriage and civil partnership** – Marriage and civil partnership discrimination does not apply to the provision of education, but it does apply to work.
- **Pregnancy and maternity** - Maternity refers to the period of 26 weeks after the birth (including still births), which reflects the period of a woman's Ordinary Maternity Leave entitlement in the employment context. In employment, it also covers (where eligible) the period up to the end of her Additional Maternity Leave.
- **Race** - A person’s colour, nationality, ethnic or national origin. It includes Travellers and Gypsies as well as White British people.
- **Religion and belief** - Religious and philosophical beliefs including lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition. Religion and belief discrimination does not prevent a school from carrying out collective worship or other curriculum-based activities, but pupils may withdraw from acts of collective worship.
- **Sex** - A man or a woman.
- **Sexual orientation** - A person's sexual orientation towards the same sex (lesbian or gay), the opposite sex (heterosexual) or to both sexes (bisexual). Although children may not identify as gay or lesbian when very young, promotion of sexual orientation equality is as relevant in a primary school environment as it is in a secondary school. For example, a child may have an older sibling or parent who is gay. Children may experience friends ‘questioning’ or ‘coming out’ when they are in secondary school or college. Schools with a particular religious ethos cannot discriminate against lesbian, gay or bisexual pupils.

It is also unlawful to discriminate because of the sex, race, disability, religion or belief, sexual orientation or gender reassignment of another person with whom the pupil is associated. So, for example, a school must not discriminate by refusing to admit a pupil because his parents are gay men or lesbians. It would be race discrimination to treat a white pupil less favourably because she has a black boyfriend.

‘Prohibited Conduct’ (acts that are unlawful):

- **Direct discrimination** - Less favourable treatment because of a protected characteristic.
- **Indirect discrimination** - A provision, criteria or practice that puts a person at a particular disadvantage and is not a proportionate means of achieving a legitimate aim.
- **Harassment** - Conduct which has the purpose or effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It includes harassment by a third party (e.g. customer or contractor) in the employment context.
- **Victimisation** - Subjecting a person to a detriment because of their involvement with proceedings (a complaint) brought in connection with this Act.
- **Discrimination arising from disability** - Treating someone unfavourably because of something connected with their disability (such as periods of absence from work or medical conditions) **and failure to make reasonable adjustments.**
- **Gender re-assignment discrimination** - Not allowing reasonable absence from work for the purpose of gender-reassignment in line with normal provision such as sick leave).
- **Pregnancy/maternity related discrimination** - Unfavourable treatment because of pregnancy or maternity. It includes unfavourable treatment of a woman or girl because she is breastfeeding.
- **Discrimination by association or perception** - For example, discriminating against someone because they “look gay”, or because they have a gay brother; discriminating against someone because they care for a disabled relative.

Schools are allowed to treat disabled pupils more favourably than non-disabled pupils, and in some cases are required to do so, by making reasonable adjustments to put them on a more level footing with pupils without disabilities.

Public Sector Duties (applies to schools):

A school must, in the exercise of its functions, give due regard to the need to (in relation to protected characteristics above):

1. Eliminate discrimination, harassment, victimisation and any other prohibited conduct.
2. Advance equality of opportunity (remove or minimise disadvantage; meet people’s needs; take account of disabilities; encourage participation in public life).
3. Foster good relations between people (tackle prejudice and promote understanding).

In practice, ‘due regard’ means giving relevant and proportionate consideration to the duty, so decision makers in schools must have due regard when making a decision, developing a policy or taking an action as to whether it may have implications for people because of their protected characteristics.

Reasonable Adjustments and Accessibility Plans (Schedule 10)

Schools are required to:

- Take reasonable steps to avoid disadvantage caused by a provision, criteria or practice or a physical feature that puts a disabled person at a substantial disadvantage compared to a non-disabled person. This involves removing or avoiding a physical feature, for example steps and lifts.
- Take reasonable steps to provide auxiliary aids/services.
- Provide information in an accessible format.
- Develop and implement (by allocating appropriate resources) Accessibility Plans which will
 - Increase disabled pupils’ access to the school curriculum

- Improve the physical environment
- Improve provision of information.

The duty is an anticipatory and continuing one that schools owe to disabled pupils generally, regardless of whether the school knows that a particular pupil is disabled or whether the school currently has disabled pupils. The school will need to plan ahead for the reasonable adjustments that it may need to make, working with the **relevant admissions authority** as appropriate.

For more information download guidance from the DfE:

<http://www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0064570/the-equality-act-2010>

and *Equality Human Rights website:*

<http://www.equalityhumanrights.com> which includes the guidance for education providers (schools) or Devon County Council at <http://www.devon.gov.uk/equalitylegislation.htm>

The Education and Inspections Act 2006 introduced a duty on all maintained schools in England to promote community cohesion.

Aspects of educational legislation have also promoted equal opportunities, for example the Education Act includes a duty for local authorities to educate children with special educational needs in mainstream schools wherever possible.

Responsibilities

Governing Body

- Ensure that the school complies with equality-related legislation.
- Ensure that the policy and its procedures are implemented by the Headteacher.
- Ensure all other school policies promote equality.
- Give due regard to the Public Sector Equality Duty when making decisions.

Headteacher

- Implement the policy and its related procedures.
- Make all staff aware of their responsibilities and provide training as appropriate to enable them to effectively deliver this policy.
- Take appropriate action in any case of actual or potential discrimination.
- Ensure that all staff understand their duties regarding recruitment and providing reasonable adjustments to staff. It is unlawful for an employer to enquire about the health of an applicant for a job until a job offer has been made, unless the questions are specifically related to an intrinsic function of the work - for example ensuring that applicants for a PE teaching post have the physical capability to carry out the duties. Schools should no longer require job applicants to complete a generic health questionnaire. Neither should a school seek out past sickness records until they have made a job offer.
- Ensure that all staff and pupils are aware of the process for reporting and following up bullying and prejudice-related incidents.

All staff

- Enact this policy, its commitments and procedures, and their responsibilities associated with this policy.
- Deal with bullying and discriminatory incidents, and know how to identify and challenge prejudice and stereotyping.
- Promote equality and good relations and not discriminate on any grounds.
- Attend such training and information opportunities as necessary to enact this policy and keep up to date with equality legislation.
- To be models of equal opportunities through their words and actions.

Specific Staff

SEN Co-ordinator: D Rowcliffe

Designated Safeguarding Lead Kings Nympton: C Godly

Designated Safeguarding Lead Winkleigh: S Manning

Pupils

- Refrain from engaging in discriminatory behaviour or any other behaviour that contravenes this policy.

Visitors (e.g. parent helpers, contractors)

- To be aware of, and comply with, the school's equality policy.
- To refrain from engaging in discriminatory behaviour (for example, racist language) on school premises.

Appendix

Definitions

Equality	This is more clearly defined as equality of opportunity and outcome, rather than equality of treatment. This means treating people fairly and according to their needs as some people may need to be treated differently in order to achieve an equal outcome.
Inclusive	Making sure everyone can participate, whatever their background or circumstances.
Diversity	Recognising that we are all different. Diversity is an outcome of equality and inclusion.
Cohesion	People from different backgrounds getting on well together (good community relations). There is a shared vision and sense of purpose or belonging. Diversity is valued. Relationships are strong, supportive and sustainable. Cohesion is an outcome of equality and inclusion.
Community	From the school's perspective, the term "community" has a number of meanings: <ul style="list-style-type: none">• The school community – the students we serve, their families and the school's staff.• The community within which the school is located – in its geographical community, and the people who live and/or work in that area.• The community of Britain – all schools by definition are part of it.• The global community – formed by European and international links.
Gender Dysphoria	Gender dysphoria is a recognised condition in which a person feels that there is a mismatch between their biological sex and their gender identity. Biological sex is assigned at birth, depending on the appearance of the infant. Gender identity is the gender that a person "identifies" with, or feels themselves to be.