

HOLLYFAST PRIMARY SCHOOL



Single Equality Scheme Policy 2024 - 2028

Hollyfast Primary School

Single Equality Scheme

Introduction

Hollyfast Primary School has adopted the Single Equality Scheme produced for schools by Coventry Local Authority and has provided 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. This scheme is reviewed every three years, considered annually and shared with the Governing Body and parents.

The scheme 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 scheme is reviewed every three years and is reported on annually to the Governing Body and available for the general public.

This document sets out how pupils with the following protected characteristics will be protected in our school from harassment and discrimination:-

- Disability
- Gender
- Race.
- Religion and belief
- Sexual orientation
- Gender reassignment
- Maternity and pregnancy
- Age
- Being married or in a civil partnership

This scheme extends to cover all aspects of vulnerability, including those associated with socio-economic factors (e.g. pupils from low income families).

The school is committed to:

- Delivering a high quality service to our pupils
- To be a good employer
- To meet the varied duties in terms of recruitment and employment practices
- We are committed to be fully inclusive of all community users, including parents and carers

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

Aims of the single equality scheme

- To articulate the school's commitment to equality which permeates all school policies and practices
- To ensure that everyone who belongs to, or comes into contact with, our school community is valued and respected
- To promote equality of opportunity and eliminate unlawful discrimination, harassment or victimisation
- To comply with statutory duties under equalities legislation in one document

Purpose of the Equality Scheme

This equality scheme is the school's response to the specific and general duties in the current equality legislation, which has been brought together under the Equality Act 2010. It is an attempt to capture how the school is systematically establishing and implementing good practice in equality and diversity across all areas of school life. This includes a response to all aspects of social identity and diversity.

This Equality Scheme sets out how the school will:

- Eliminate discrimination
- Eliminate harassment or victimisation related to any aspect of social identity or diversity
- Promote equality of opportunity
- Promote positive attitudes to all aspects of social identity and diversity
- Encourage participation by disabled people and people representing different aspects of social identity in public life
- Take steps to take account of difference even where that involves treating some people more favourably than others
- Take proportionate action to address the disadvantage faced by particular groups of pupils
- Promote community cohesion locally, nationally and internationally within the school

Planning to eliminate discrimination and promote equality of opportunity

This scheme is underpinned by the core belief that all children and young people belong to their local community and share the same rights to membership of that community and a quality education. An action plan accompanies this Equality Scheme which identifies what we will be doing over the coming year to make our school more accessible to the whole community, irrespective of background or need (*see appendix 1*).

We will collect data related to the protected characteristics and analyse this data to determine our focus for our equality objectives. This data will be assessed across our core provisions as a school. This will include the following functions:

- Admissions
- Attendance
- Attainment
- Exclusions

- Prejudice related incidents

Addressing Prejudice Related Incidents

This school is opposed to all forms of prejudice and we recognise that children and young people who experience any form of prejudice related discrimination may fair well in the education system. We provide both our pupils and staff awareness of the impact of prejudice in order to prevent any incidents. If incidents still occur we address them immediately and report them to the Local Authority using their guidance material. The Local Authority may provide some support.

The scheme encompasses our **anticipatory duties to plan ahead for the reasonable adjustments** (reasonable and proportionate steps to overcome barriers that may impede some pupils) we need to make to be best placed to help disabled pupils who come to our school.

This action plan replaces the school's Disability Accessibility Plan for the school (previously required under the planning duties in the Disability Discrimination Act) as it sets out how the school will increase access to education for disabled pupils, alongside other protected groups, in the three areas required:

- Increasing the extent to which disabled pupils can participate in the school curriculum
- Improving the environment of the school to increase the extent to which disabled pupils can take advantage of education and associated services
- Improving the delivery to disabled pupils of information which is provided in writing for pupils who are not disabled

Monitor, review and reporting

The action plan is renewed annually and progress towards the equality objectives within it is reported on regularly to governors. Equality objectives have been identified through consultation with key stakeholders. It is available in different formats and in different languages on request to the school office.

Every three years, we will review our objectives in relation to any changes in our school profile. Our objectives will sit in our overall School Development Plan and therefore will be reviewed as part of this process.

This Scheme will be reported on annually. Progress against the action plan will be evaluated and the impact of the action and activities assessed.

Publication

This action plan is understood and implemented by all staff and is available. We will ensure that the whole school community is aware of the Single Equality Scheme and our published equality information and equality objectives by publishing them on the school website, school prospectus and is available in its entirety on request. **The full report is available from the School Office, staff notice board and within the Safeguarding File as part of the Safeguarding Audit Toolkit.**

Breaches

Breaches to this statement will be dealt with in the same way that breaches of other school policies are dealt with, as determined by the Head Teacher and Governing Body.

What kind of a school are we?

School Vision and Values

The school's vision and values statement reflects the school's ambitions for all its pupils and have been developed with the whole community. It refers to the key requirements set out in the National Curriculum Inclusion Statement for developing an inclusive curriculum: setting suitable learning challenges; responding to pupils' diverse learning needs; overcoming potential barriers to learning and assessment for individuals and groups of pupils.

School Context

Hollyfast Primary School is a popular, larger than average school with 665 pupils currently on roll, drawn from a socially and economically diverse area on the North West side of the city in a greenbelt location. Built in the 1950's the school undertook refurbishment and extension works in 2010 due to the Increasing Pupil Numbers Programme. It is a popular school and most year groups are full. Within classes and across years, children are grouped to best meet their learning needs.

We aim to foster and develop attitudes based upon respect and consideration for others. We try to ensure that our children are given positive images of everyone in the school community and the city in which we live. We take opportunities to widen our children's experiences through visits and visitors into school and we encourage children to be proud of their own individual contribution to our community.

Our community share in providing an inclusive environment for all its stakeholders. The School provides an 'open door policy' thus inviting opportunities for discussions and actions to occur that promote inclusive practice.

Continuous Professional Development is seen as a key part of continual school improvement and all staff under-take a variety of professional development opportunities, balanced between whole school impact and individual development.

All contributions that support teaching and learning are valued and we aim to ensure all staff and pupils feel safe and included. Staff will challenge stereotypes and foster pupils' critical awareness and concepts of fairness enabling them to detect bias and confront inequalities.

We are committed to providing the right education for all children in school. Some children have particular needs that require them to receive support that is different from the majority of children in school. These may include learning needs such as special needs, gifted and talented children, and physical needs, behavioural or emotional needs.

Consideration is given to widening the opportunities given to children to ensure that established timetables and routines support pupil's needs and behaviours i.e. playtimes and lunchtime's organisation is adapted throughout the year. Careful selection and planning of additional activities such as visitor assemblies, visits and trips are organised to meet the learning needs of all individuals.

Examples of reasonable adjustments the school makes as a matter of course

Our commitment to equality and diversity is demonstrated by our work to:

- Promote equality, by assessing the impact of our policies on different groups
- Proactive in ensuring that harassment and bullying is addressed by ensuring that as individuals and members of a community we have the skills to respond and deal with and make the correct choices when dealing with social interaction.
- Challenge and eradicate discrimination and harassment, for example, by acting quickly to deal with all bullying
- Promote community cohesion, for example, through involvement with school linking and other activities
- Encourage greater participation in public life, through involvement with schools councils, HPSA and Governing bodies
- Ensure our curriculum reflects the society we want to encourage, that respects diversity and reinforces positive community values
- Take care to ensure all pupils can access an appropriately designed curriculum
- Promote human rights and equality through the Citizenship Curriculum
- Ensure all children can access, and participate in, out of school activity
- Develop and report our equality work as part of our business planning, school improvement, and school self-evaluation processes
- Develop and supporting our workforce, providing a working environment free from harassment
- Work together with pupils, parents, staff, stakeholders and the wider community to develop and make real our equality aims and objectives
- Review and audit all our Equality and Cohesion activities

We also ensure that:

- Assessment and tracking systems in school are closely linked to individual attainment and achievement. Pupils are encouraged to take increasing responsibility for their performance and this is shared with parents/carers. This is translated into challenge targets at an individual and whole school level. Monitoring and analysis of groups' performance occurs regularly with appropriate intervention plans. We recognise that children may be part of these groups at different stages in their development, so we monitor and support all learners within school. The data we have collected will be utilised to develop the scheme and action plan. Any gaps in data that we have discovered will also be addressed through the action plan.

School provision

Outcomes for pupils

Outcomes for pupils are analysed against social identity issues, ie gender, ethnicity, disability, faith background, and aspects of vulnerability identified by the school. This is compared with the outcomes made for all pupils. This is recorded in the School Self evaluation Form (SEF).

This process determines the impact of our provision on improving outcomes for identified pupils. In line with statutory requirements all new policies as well as existing policies and functions are evaluated for the impact they have, in consultation with identified pupils and parents/carers.

Roles and Responsibilities in Implementing the Single Equality Scheme

The Head Teacher will:

- Ensure that staff, Governors, pupils and their parents and carers are informed about the Single Equality Scheme
- Ensure that the scheme is implemented effectively
- Manage any day to day issues arising from the policy whether for pupils or for the school as an employer
- Ensure staff have access to training which helps to implement the scheme
- Liaise with external agencies regarding the policy so that the school's actions are in line with the best advice available
- Monitor the scheme and report to the Governing Body at least annually, on the effectiveness of the policy
- Ensure that the SLT are kept up to date with any development affecting the policy/action plan arising from the scheme
- Provide appropriate support and monitoring for all pupils and specific and targeted pupils to whom the scheme has direct relevance, with assistance from relevant agencies

The Governing Body will:

- Ensure that the school complies with all relevant equalities legislation
- Recommend all governors receive up to date training in all the equalities duties
- Link Governor
- Establish that the action plans arising from the scheme are part of the School Development Plan
- Support the Headteacher in implementing any actions necessary
- Inform and consult with parents about the scheme
- Evaluate and review the action every three years

The Senior Leadership Team will:

- Have general responsibility for supporting other staff in implementing this scheme
- Provide a lead in the dissemination of information relating to the scheme
- Identify good quality resources and CPD opportunities to support the scheme
- With the Head Teacher, provide advice/support in dealing with any incidents/issues
- Assist in implementing reviews of this scheme as detailed in the School Development Plan

People with specific responsibilities the Head Teacher and Inclusion Co-ordinators will

- Be responsible for maintaining and sharing with all the staff those vulnerable pupils and how their needs will be met
- Be the person/s responsible for ensuring the specific needs of staff members are addressed
- Be the person/s responsible for gathering and analysing the information on outcomes of vulnerable pupils and staff

Parents/Carers will:

- Have access to the scheme
- Be encouraged to support the scheme

- Have the opportunity to attend any relevant meetings/awareness raising sessions related to the scheme
- Have the right to be informed of any incident related to this scheme which could directly affect their child

School Staff will:

- Accept that this is a whole school issue and support the Single Equality Scheme
- Be aware of the Single Equality Scheme and how it relates to them
- Make known any queries or training requirements
- Know how to deal with incidents of concern, and how to identify and challenge bias and stereotyping
- Know procedures for reporting incidents of racism, harassment or other forms of discrimination
- Know procedures for dealing with and reporting prejudice related incidents
- Ensure that those with protected characteristics are not discriminated against and are given equality of opportunity
- Keep themselves up to date with relevant legislation and attend training and information events organised by the school or LA
- Ensure that pupils from all groups are included in all activities and have full access to the curriculum
- Promote equality and diversity through teaching and through relations with pupils, staff, parents, and the wider community
- Be responsible for monitoring the response to reported incidents of a discriminatory nature and be able to recognise and effectively deal with bias and stereotyping

Pupils will:

- Be made aware of any relevant part of the scheme, appropriate to age and ability
- Be expected to act in accordance with any relevant part of the scheme
- Experience a curriculum and environment which is respectful of diversity and difference and prepares them well for life in a diverse society
- Understand the importance of reporting prejudiced based bullying/ incidents
- Ensure the peer support programme within the school promotes understanding and supports pupils who are experiencing discrimination

Visitors and contractors are responsible for complying with the school's Single Equality Scheme – non-compliance will be dealt with by the Head Teacher.

Involvement Processes

This Scheme will be informed 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 for pupils, staff, parents/carers and the community:

- School Council involvement and discussion
- PSHE discussion with whole class
- Individual interviews with pupils involved in incidents of a discriminatory nature
- Individual interviews with pupils experiencing reasonable adjustments
- Yearly open meetings representing a particular theme shared with the community and cluster of schools
- Regular meetings with union representatives
- Regular staff meetings with specific agenda items
- Individual discussions with staff as a part of performance management
- Feedback through the Governing Body meetings
- Termly open meetings with parents and local groups representing a particular theme

The school's focuses on developing the involvement of pupils, staff and parents from different social identity backgrounds at different times and using different methods 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.

Action Planning

This scheme is supported by this policy and reported to Governors who monitor and evaluate school policy.

The scheme identifies the equality objectives arising for the school by ensuring:

- 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 in:

- The School Self-evaluation Form
- Discussions with the Education Improvement Advisor/School Improvement Partner
- The school will work closely with the Local Authority where our responsibilities have shared elements. Issues that may require particular attention are:
 - Employment, where the respective responsibilities of school and local authority will vary according to; the status of the school, the delegation of responsibilities locally and the extent to which schools buy back services from the authority
 - Procurement, which is regulated by the local authority - Local authority regulations will be amended to reflect the requirements of the DDA

Reporting

The scheme is displayed on the staff room noticeboard. Reports are submitted to the LA if required. The school can report to the Governing Body through the Quality and Standards committee and the Full Governing body meetings. The Single Equality Scheme Policy will be monitored to ensure that

we are measuring improvements and addressing any issues of slow progress, and adjusting targets where new information becomes available and in line with Local Authority Guidance and advice.

Equality Legislation

This equality scheme responds to the current equalities legislation.

- The Equality Act 2010 is the overarching legislation for all equality duties.

The act serves two main purposes:

- a) To harmonise discrimination law;
- b) To strengthen the law to support progress on equality.

The act supersedes or strengthens the following acts and regulations:

- The Equal Pay Act 1970
- The Sex Discrimination Act 1975
- The Race Relations Act 1976
- The Disability Discrimination Act 1995
- The Employment Equality (Religion & Belief and Sexual Orientation) Regulations 2003
- The Employment Equality (Age) Regulations 2006
- The Equality Act 2006 Part 2
- The Equality Act (Sexual Orientation) Regulations 2007

Overview of previous equalities legislation which has been harmonised and strengthened by Equality Act 2010:

- Race Relations Act (RRA) 1976/2000
Statutory positive duty to promote racial equality, promote good race relations and eliminate unlawful racial discrimination;
- Sex Discrimination Act (SDA) 1975 (and Regulations 1999), Gender Equality Duty 2007
Statutory positive duty to promote gender equality and eliminate unlawful gender discrimination;
- Employment Equality (religion or belief) (sexual orientation) Regulations 2003 extended to education, Equality Act (Part 2) 2007
The Act sets out that it is unlawful for schools to discriminate against a person:
 - a) In the terms on which it offers to admit him/her as a pupil
 - b) By refusing to accept an application to admit him/her as a pupil, or
 - c) Where he/she is a pupil of the establishment
 - i) In the way in which it affords him/her access to any benefit, facility or service
 - ii) By refusing him/her access to a benefit, facility or service
 - iii) By excluding him/her from the establishment
 - iv) By subjecting him/her to any other detriment
- Disability Discrimination Act (DDA) 1995/2005
Statutory positive duty to promote equality of opportunity for disabled people: pupils, staff, parents, carers and other people who use the school or may wish to, and eliminate unlawful

discrimination;

- Education and Inspections Act 2006, duty to promote community cohesion.
By 'community cohesion' the school is endorsing and adopting the definition provided by Alan Johnson, 2006, as:
"working towards a society in which there is a common vision and sense of belonging by all communities; a society in which the diversity of people's backgrounds and circumstances is appreciated and valued; a society in which similar life opportunities are available to all; and a society in which strong and positive relationships exist and continue to be developed in the workplace, in schools and in the wider community."

Appendix B

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 Victimization

Victimization 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 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.

For further information visit:-

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>