
Equality Policy



Date : Autumn 1 2017- 2018
Review Date: Spring 2 2018-2019

Chair of Governors Initials

Introduction

All schools within the Opossum Federation are inclusive; focusing on the well-being and progress of every child and where all members of our community are of equal worth.

We believe that the Equality Act provides a framework to support our commitment to valuing diversity, tackling discrimination, promoting equality and fostering good relationships between people. It also ensures that we continue to tackle issues of disadvantage and underachievement of different groups.

We recognise that these duties 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.

Our approach to equality is based on the following 7 key principles

1. All learners are of equal value. Whether or not they are disabled, whatever their ethnicity, culture, national origin or national status, whatever their gender and gender identity, whatever their religious or non-religious affiliation or faith background and whatever their sexual orientation.

2. We recognize, respect and value difference and believe that diversity is a strength. We take account of differences and strive to remove barriers and disadvantages which people may face, in relation to disability, ethnicity, gender, religion, belief or faith (or lack of belief) and sexual orientation. We believe that diversity is a strength, which should be respected and celebrated by all those who learn, teach and visit here.

3. We foster positive attitudes and relationships. We actively promote positive attitudes and mutual respect between groups and communities different from each other.

4. We foster a shared sense of cohesion and belonging. We want all members of our school community to feel a sense of belonging within the school and wider community and to feel that they are respected and able to participate fully in school life.

5. We observe good equalities practice for our staff. We ensure that policies and procedures benefit all employees and potential employees in all aspects of their work, including in recruitment and promotion, and in continuing professional development

6. We have the highest expectations of all our children. We expect that all pupils can make good progress and achieve to their highest potential

7. We work to raise standards for all pupils, but especially for the most vulnerable. We believe that improving the quality of education for the most vulnerable groups of pupils raises standards across the whole school and improves life chances for all.

Purpose of the policy

The Equality Act 2010 was introduced to ensure protection from discrimination, harassment and victimisation on the grounds of specific characteristics (referred to as protected characteristics).

This means that schools cannot discriminate against pupils or treat them less favourably because of their sex (gender), race, disability, religion or belief or lack of belief, gender reassignment, sexual orientation or pregnancy or maternity.

Age and marriage and civil partnership are also “protected characteristics” but are not part of the school provisions related to pupils.

The Act requires all public organisations, including schools to comply with the Public Sector Equality Duty and two specific duties

The **Public Sector Equality Duty** or “general duty” requires all public organisations, including schools to

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups

Two “specific duties”

This requires all public organisations, including schools to

- Publish information to show compliance with the Equality Duty
- Publish Equality objectives at least every 4 years which are specific and measurable

This policy describes how the school is meeting these statutory duties and is in line with national guidance. It includes information about how the school is complying with the Public Sector Equality Duty and also provides guidance to staff and outside visitors about our approach to promoting equality.

Appendix 1 – Equality legislation

Appendix 2 - Discrimination legislation

Appendix 3 - checklist of key equality considerations

Appendix 4 - Equality Action Plan

Development of the policy

This policy was developed by the Governors’ Curriculum Committee in consultation with pupils, staff, governors and parents and carers. It is part of our commitment to promoting equalities and providing an inclusive school. When developing the policy we took account of the DfE guidance on the Equality Act 2010 and also the Ofsted inspection framework 2012, which places a strong focus on improving the learning and progress of different groups and on closing gaps in standards.

We note that OFSTED has a statutory duty to report on the outcomes and provision for pupils who are disabled and those who have special educational needs.

What we are doing to eliminate discrimination, harassment and victimisation

- We take account of equality issues in relation to admissions and exclusions; the way we provide education for our pupils and the way we provide access for pupils to facilities and services.
- We are aware of the Reasonable Adjustment duty for disabled pupils – designed to enhance access and participation to the level of non-disabled pupils and stop disabled children being placed at a disadvantage compared to their non-disabled peers.
- The Executive Headteacher ensures that all appointment panels give due regard to this policy so that no one is discriminated against when it comes to employment, promotion or training opportunities.

- We ensure that those who are affected by a policy or activity are consulted and involved in the design of new policies, and in the review of existing ones.
- We take seriously the need to consider the equality implications when we develop, adapt and review any policy or procedure and whenever we make significant decisions about the day to day life of the school.
- We make a record of specific equality considerations and this is available for review if required.
- We actively promote equality and diversity through the curriculum and by creating an environment which champions respect for all.
- Our admissions arrangements are fair and transparent, and we do not discriminate against pupils by treating them less favourably on the grounds of their sex, race, disability, religion or belief or lack of belief, sexual orientation, gender reassignment, pregnancy or maternity.

Behaviour, Exclusions and Attendance

The Opossum Behaviour Policies take full account of the new duties under the Equality Act. We make reasonable, appropriate and flexible adjustment for pupils with a disability and for those with a special educational need relating to BSED. We closely monitor data on exclusions and absence from school for evidence of over-representation of different groups and take action promptly to address concerns.

Addressing Prejudice and Prejudice Based Bullying

The schools challenge all forms of prejudice and prejudice based bullying, which stand in the way of fulfilling our commitment to inclusion and equality:

Prejudices relating to disability and special educational needs

Prejudices relating to race, religion or belief or lack of belief

Prejudices relating to gender and sexual orientation, including transgender

We treat all bullying incidents equally seriously.

We keep a record of prejudice-related incidents at our school and how we dealt with them. We review this data termly and take action to reduce incidents

What we are doing to advance equality of opportunity between different groups

- We know the needs of our school population very well and collect and analyse data in order to inform our planning and identify targets to achieve improvements.
- Working in partnership with parents and carers, we identify children who have a disability.
- We collect data and monitor progress and outcomes of different groups of pupils and use this data to support school improvement.
- We take action to close any gaps, by providing intervention and support for those making slow progress in acquiring age-appropriate literacy and number skills.
- We collect and analyse data relating to:
 - the school population by gender and ethnicity;
 - the % of pupils identified as having a special educational need and/or disability;
 - classes and year groups – in terms of ethnicity, gender, free school meals/pupil premium eligibility and proficiency in English;

- We analyse standards reached by different groups at the end of each key stage with regards to:

Gender

Ethnicity

Free school meal/Pupil Premium status

SEND

Academically Able or Talented

Children who are subject to Child Protection Plans or who are Looked After

Learners of English as an Additional language

Attendance and exclusions.

- We are aware that the legislation relates mainly to current pupils but requires a preparedness for those who may join the school in the future –for example, if a Visually Impaired, Hearing impaired or Gypsy Roma Traveller pupil joins our school.
- We avoid language that runs the risk of placing a ceiling on any pupils’ achievement or that seeks to define their potential as learners, such as ‘bright’ or ‘less able’.
- We use a range of teaching strategies to ensure we meet the needs of all pupils.
- We provide support to pupils at risk of underachieving through intervention and partnership with parents/ cares.
- We are alert and proactive about the potentially damaging impact of negative language in matters such as race, gender, disability and sexuality.
- In addition to avoiding or minimising possible negative impacts of our policies, we take opportunities to maximise positive impact by reducing and removing inequalities and barriers that may already exist between, for example: - disabled and non-disabled people - people of different ethnic, cultural and religious backgrounds - girls and boys.
- We ensure equality of access for all pupils to a broad and balanced curriculum, removing barriers to participation where necessary.
- We implement an Accessibility Plan designed to: increase the extent to which pupils with disability can participate in the curriculum; improve the physical environment and; improve the availability of accessible information to disabled pupils.

Positive Action

We take positive and proportionate action to address the disadvantage faced by particular groups of pupils with particular protected characteristics, for example by providing targeted support. The actions are designed to meet the school’s Equality Objectives.

What we are doing to foster good relations

- We prepare our pupils for life in a diverse society and ensure that there are activities across the curriculum that promotes the spiritual, moral, social and cultural development of our pupils.
- We teach our pupils about fundamental British Values and develop their sense of rights and responsibilities as positive citizens.
- We teach about difference and diversity and the impact of stereotyping, prejudice and discrimination through PSHE and citizenship and across the curriculum and in assemblies.
- We use materials and resources that reflect the diversity of the school, population and local community in terms of race, gender, sexual identity and disability, avoiding stereotyping.
- We promote a whole school ethos and values that challenge prejudice based discriminatory language, attitudes and behaviour.

- We provide opportunities for pupils to appreciate their own culture and celebrate the diversity of other cultures.
- We include the contribution of different cultures to world history and that promote positive images of people.
- We provide opportunities for pupils to listen to a range of opinions and empathise with different experiences.
- We promote positive messages about equality and diversity through displays, assemblies, visitors, whole school events e.g. Black History Month, Eid celebrations, Diversity Week.

Other ways we address equality issues

- We keep minutes of meetings and record any discussions relating to equality issues.
- We have a rolling programme for reviewing all of our school policies in relation to equalities and their impact on the progress, safety and well being of our pupils.
- The implications for equalities of new policies and practices are considered before they are introduced.

In order to ensure that the work we are doing on equalities meets the needs of the whole school community we:

- review relevant feedback from the annual parent questionnaire, parents' evening, focus group meetings
- analyse responses from staff surveys, staff meetings and training events
- review feedback and responses from the children and groups of children, from the school council, PSHE lessons, whole school surveys on children's attitudes to self and school
- analyse issues raised in Annual Reviews or reviews of progress on Individual Education Plans/Personalised Provision Maps, mentoring and support
- ensure that we secure responses and feedback at Governing Body meetings and from the governing body's working groups.

Publishing Equality Objectives (see Equality Action Plan/ School Development Plan)

The objectives which we identify represent our school's priorities and are the outcome of a careful review of and analysis of data and other evidence. They also take into account national and local priorities and issues. We evaluate our success in meeting the Public Service Equality Duties by the extent to which we achieve improved outcomes for the different groups. We produce Equality data Analysis which inform our discussions about the Equality Objectives. Our current Equality Objectives are outlined in the associated plans which may be accessed via the school website.

Dawlish Primary School

To ensure that all members of the community, including staff feel safe from harassment in the school

All pupils to make at least 2 levels progress across KS 1-2 in English and mathematics (or at least expected progress under new system)

Close achievement gaps between Disadvantaged/non Disadvantaged pupils at all key stages

Promote and enhance community cohesion with a sense of shared belonging in the school and its neighbourhood

Newport

Develop positive attitudes to dogs amongst the community to promote acceptance of guide dogs

Close achievement gaps between Disadvantaged/non Disadvantaged pupils at EYFS and KS1

Reduce Persistent Absence levels, particularly in EYFS

Develop healthy lifestyles and positive nutritional choices

Promote and enhance community cohesion with a sense of shared belonging in the school and its neighbourhood.

Thorpe Hall Primary School

Ensure all staff are aware of and plan for students with SEND.

All pupils to make at least expected progress across KS 1-2 in English and mathematics

Close achievement gaps between Disadvantaged/non Disadvantaged pupils at all key stages

Promote and enhance community cohesion with a sense of shared belonging in the school and its neighbourhood.

Monitoring and reviewing objectives

We review and update our equality objectives every two years and report annually to the governing body on progress towards achieving them. We involve and consult staff, pupils, governors and parents and carers. We publish an evaluation of the success in meeting these objectives for parents and carers, on the school website.

Roles and Responsibilities

We expect all members of the school community and visitors to support our commitment to promoting equalities and meeting the requirements of the Equality Act. We will provide training, guidance and information to enable them to do this.

Governing body: The governing body is responsible for ensuring that the school complies with legislation, and that this policy and its related procedures and action plans are implemented. Every governing body committee keeps aspects of the school's commitment to the Equality Duty under review, for example, in terms of standards, curriculum, admissions, exclusions, personnel issues and the school environment. Governors annually review the Equality Objectives and evaluate the success of the school's Equalities Work taking account of quantitative evidence (e.g. data) and qualitative evidence (e.g. surveys)

Executive Headteacher and Leadership team

The Executive Headteacher is responsible for implementing the policy; for ensuring that all staff are aware of their responsibilities and are given appropriate training and support; and for taking appropriate action in any cases of unlawful discrimination.

A senior member of staff has day-to-day responsibility for co-coordinating implementation of the policy and for monitoring outcomes. S/he will have informed knowledge of the Equality Act.

Teaching and Support Staff

All teaching and support staff will:

- promote an inclusive and collaborative ethos in their classroom
- challenge prejudice and discrimination
- deal fairly and professionally with any prejudice-related incidents that may occur
- plan and deliver curricula and lessons that reflect the school's principles, for example, in providing materials that give positive images in terms of race, gender and disability
- maintain the highest expectations of success for all pupils
- support different groups of pupils in their class through differentiated planning and teaching, especially those who may (sometimes temporarily) find aspects of academic learning difficult
- keep up-to-date with equalities legislation relevant to their work.

The schools will provide training and guidance on Equalities for all staff new to the school as part of the induction procedure. We will refresh expectations and duties of the Equality Act to the whole staff annually.

Visitors

All visitors to the school, including parents and carers are expected to support our commitment to equalities and comply with the duties set out in this policy. We will provide guidance and information in school newsletters to enable them to do this.

Equal Opportunities for staff

This section deals with aspects of equal opportunities relating to staff.

- We are committed to the implementation of equal opportunities principles and the monitoring and active promotion of equality in all aspects of staffing and employment.
- The school adopts the local authority’s policy and procedures including those relating to equal opportunities.
- Members of the senior leadership team hold current Safer Recruitment certificates.
- All staff appointments and promotions are made on the basis of merit and ability and in compliance with the law.
- We are also concerned to ensure wherever possible that the staffing of the school reflects the diversity of our community.
- As an employer we strive to ensure that we eliminate discrimination and harassment in our employment practice and actively promote equality across all groups within our workforce.
- We respect the religious beliefs and practice of all staff, pupils and parents, and comply with reasonable requests relating to religious observance and practice.
- We ensure that all staff, including support and administrative staff, receive appropriate training and opportunities for professional development, both as individuals and as groups or teams.
- As a school we take due regard to the various equality duties when procuring goods and services from external suppliers. The school employs its own staff for cleaning and maintenance services following guidelines set down by the Waltham Forest Council. As a school we ensure that contract conditions require contractors to comply with the Sex Discrimination Act and to secure similar compliance by any sub contractors.

Monitoring and Reviewing the policy

We review the information about equalities in the policy annually and make adjustments as appropriate. Our review involves pupils, staff, governors and parents and carers.

Disseminating the policy

This Equality Policy along with the Equality Objectives and data is available

- on the school website
- as paper copies in the school office
- as part of induction for new staff
- as a summary in the school brochure

We ensure that the whole school community knows about the policy, objectives and data through the school newsletter, assemblies, staff meetings and other communications.

We publish on the school’s website copies of relevant policies and guidance, including those on behaviour, anti-bullying and special educational needs.

Key contacts

Staff responsible for equalities: Lisa McIntyre

Consultation with Staff and community	16-20 March 2015
Consultation with Curriculum committee	20 March 2015
Full GB	31 March 2015
Adoption by FGB to include Thorpe Hall	9 October 2017

Appendix 1

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:

1. To harmonise discrimination law
2. 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 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 2

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, colour, ethnic or national origin and will always be unlawful direct discrimination.

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

For example:

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 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 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, 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'.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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/>

Check list for school staff and governors

Appendix 3

1. The school collects information on race, disability and gender with regards to both pupils and staff, e.g. pupil achievement, attendance, exclusions and staff training
2. This information is used to inform the policies, plans and strategies, lessons, additional support, training and activities the school provides
3. The Equality Policy and Plan and Objectives have been shaped by the views, input and involvement of staff, parents, governors, pupils and other stakeholders
4. The school publishes information to demonstrate purposeful action on the general duties
5. The school analyses pupil achievement in terms of progress and standards for different groups and takes action when there trends or patterns indicate a need
6. The school sets Equality Objectives to improve outcomes for vulnerable pupils and monitors progress on reaching these objectives
7. A senior member of staff has responsibility for coordinating the implementation of the policy and monitoring outcomes
8. The school ensures that all staff understand and implement the key requirements of the Equality Policy
9. The school ensures that visitors to the school understand and follow the key requirements of the Equality Policy
10. The curriculum includes opportunities for all pupils to understand and celebrate diversity and difference
11. All groups of pupils are encouraged to participate in school life and make a positive contribution, e.g. through sharing assemblies and the school council
12. The school monitors bullying and harassment of pupils in terms of difference and diversity (i.e. different groups) and takes action if there is a cause for concern
13. Visual displays and multi-media resources reflect the diversity of the school community
14. Minority ethnic, disabled and both male and female role models and those of vulnerable groups are promoted positively in lessons, displays, discussions and assemblies
15. The school takes part in annual events such as Black History Month, Diversity Week etc to raise awareness of issues around race, disability and gender
16. The school environment is increasingly accessible to pupils, staff and visitors to the school due to the ongoing maintenance and improvements
17. Open evenings and other events which parents, carers and the community attend are held in an accessible part of the school and issues such as language barriers are considered through provision of interpreters
18. The accessibility needs of parents, pupils and staff are considered in the publishing and sending out of information, through links to Google translate on the website.
19. The Governing Body is increasingly representative of the community it serves. Procedures for the election of parent governors are open to candidates and voters who are disabled.