



# The Equality Act 2010 and The Collett School, St Luke's School and Forest House Education Centre

**Implemented: Sept 2012**

**Reviewed: August 2017**

**Review Date: September 2020**

The Equality Act 2010 has been drawn up to tackle inequality and prevent discrimination against people on the basis of 'protected characteristics'. It brings together several existing laws and aims to make understanding the law simpler. It also introduces a new single public sector equality duty, which requires public bodies to actively advance equality.

The duties set out in Chapter 1 of Part 6 of the Equality Act apply to all schools. These provisions protect pupils at the school and in the case of admissions, those applying or wishing to apply for admission. Former pupils are also protected from discrimination or harassment.

## 'Protected characteristics'

The Equality Act lists a number of characteristics which must not be used as a reason to treat some people worse than others. These are:

- age;
- disability;
- race;
- sex;
- pregnancy, maternity and breastfeeding;
- gender reassignment;
- religion or belief;
- sexual orientation.

A person can experience direct discrimination because of a protected characteristic, even if the person does not have the characteristic himself/herself:

- Discrimination because of **perception** takes place where someone is treated worse than others because they have been perceived to have a characteristic.
- Discrimination because of **association** takes place when a person is treated worse than another person because they associate with a person with a protected characteristic.

## Exceptions

There are some limited exceptions to the general requirement not to treat anyone worse than someone else because of a protected characteristic.

Exceptions that apply to all protected characteristics:

- Positive action – encouraging people with a protected characteristic from groups with different needs or a past record of disadvantage or low participation to access education e.g. if a school council is made up mainly of girls, despite there being a fairly even balance of boys and girls in the school, the school can encourage boys to stand as class reps (but the pupils still vote to decide who is elected).
- Statutory provisions – this only applies where there is no other choice but to discriminate or break another law (but does not apply to race discrimination).
- National security.
- Charities – there are specific exceptions permitting charities in some circumstances to restrict benefits to persons who share a particular protected characteristic).

There are also some exceptions that relate to particular protected characteristics:

- Disability – it is not discrimination against a non-disabled person to treat a disabled person more favourably or make reasonable adjustments for the disabled person.
- Age – not relevant to schools.

## Duties for schools

As a school, we must not:

- discriminate against a pupil or prospective pupil because of their disability, race, sex, gender reassignment, religion or belief, or sexual orientation;
- harass or victimise a pupil or prospective pupil.

We must not discriminate against a person in relation to the following activities:

- admission to your school;
- the provision of education to pupils;
- access to any benefit, facility or service;
- exclusion from school;
- by subjecting a pupil to any other detriment.

### 1. Reasonable adjustments for disabled people

Schools have a continuing duty to 'make reasonable adjustments'. This may involve treating disabled pupils 'more favourably' than non-disabled pupils. The duty contains three requirements:

- changing your provisions, criteria or practices;
- making changes to overcome barriers created by the physical features of the premises;
- providing auxiliary aids and services – **this is a new duty**

All schools have to make adjustments in relation to:

- the arrangements we make for deciding who you offer admission to;
- the way we provide education;
- the way we give access to a benefit, facility or service.

### 2. Admissions

A school must not:

- discriminate in the arrangements that it makes for deciding who is offered a place;
- place any terms on a person's admission which are discriminatory;
- refuse a place for discriminatory reasons;
- harass a person who has applied for a place at your school;
- victimise a person in relation to admission to school.

Exceptions:

- admission to single sex schools;
- faith schools – this does not allow discrimination on any of the other prohibited grounds such as sex, race or sexual orientation;
- selective schools which are using permitted forms of selection on the basis of academic ability or aptitude are not discriminating by applying these forms of selection to disabled children who apply.

### 3. Providing education and access to any benefit, service or facility

A school must not:

- discriminate in the way it provides education for a pupil;
- discriminate in the way it gives a pupil access to any benefit, facility or service;
- refuse to provide education for a pupil for discriminatory reasons;
- refuse to give a pupil access to a benefit, facility or service;
- harass a pupil;
- victimise a pupil.

This covers 'all activities covering the life of the school', for example:

- preparation for school;
- teaching and learning;
- classroom organisation;
- timetabling;
- grouping of pupils;
- homework;
- access to school facilities;
- activities to supplement the curriculum;
- school sports;
- school policies;
- breaks and lunchtimes;
- assessment and exam arrangements;
- school discipline and exclusions;
- school clubs and activities;
- school trips;
- school uniform;
- bullying;
- careers education, information, advice and guidance;
- work experience opportunities.

This means that everything a school does needs to be non-discriminatory and this may require regular reviews of practices, policies and procedures to ensure they do not discriminate against pupils with a protected characteristic.

Equality and diversity is now a 'limiting judgement' in Ofsted inspections. This means that if equality measures are not being implemented effectively, this will restrict the overall inspection grade.

Exceptions:

- curriculum – these requirements do not apply to anything done in connection with the content of the curriculum, however the way in which the curriculum is taught is covered by the Act, so you must ensure that issues are taught in a way that does not subject pupils to discrimination;

- acts of worship and other religious observance organised by the school are not covered by the provisions prohibiting religious discrimination;
- faith schools – this does not allow discrimination on any of the other prohibited grounds such as sex, race or sexual orientation.

#### **4. Exclusions**

Schools must not discriminate against pupils when making exclusion decisions. Reasons for exclusion must not be the protected characteristic. Any exclusions based on behaviour, should be consistently applied to those with or without a protected characteristic.

The procedures used for deciding what punishment a pupil will receive and for investigating incidents must not discriminate against pupils with a particular protected characteristic.

### **The single public sector equality duty**

The single public sector equality duty came into force in April 2011. This requires public bodies to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity;
- foster good relations.

This duty means that schools have to take action to deliver better outcomes for pupils from different racial groups, for disabled people and on the basis of gender. This provides a framework for schools to tackle persistent and long standing areas of disadvantage, such as under-achievement of boys from certain ethnic groups, gender stereotyping in subject choice and bullying of disabled young people.

### **Single equality schemes**

Schools must have in place either:

- a three year race equality policy and action plan; accessibility plan; disability equality scheme and action plan; gender equality scheme and action plan; equal opportunities policy that covers sexual orientation, age and religion and belief; and a strategy for promoting community cohesion; **or**
- a three year single equality scheme and action plan that incorporates all the above policies, schemes and plans.

Each of our schools has an action plan that incorporates the required policies, schemes and plans with regard to equality and accessibility.