



Lanchester Community Free School

Equality Act Policy

The legal requirements

The main reason for adopting an equal opportunities policy is to identify, prevent and redress unfair discrimination against disadvantaged groups. The equal opportunities policy will assist the governing body to address legal, managerial and social issues from the basis of a statement of commitment to equality supported by a more detailed policy and procedures for implementation.

The legal responsibilities of governors with respect to promoting equal opportunities are set out in further detail in Section 12 of the DfES Publication A Guide to the Law for School Governors. Governors are strongly advised to familiarise themselves with this guide.

The Equality Act 2010

The general thrust of The Equality Act 2010 is to make many activities illegal unless they fall within one or more of the statutory exceptions. Unlawful discrimination or 'prohibited conduct' under The Equality Act extends to discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation. There is, however, very often a distinction to be made between what a provider of education does as an employer of staff and what that same provider does in relation to its pupils and students.

The Law of Education concentrates on pupils in an educational environment rather than detailed information on discrimination in staff and employment. This needs to be covered under policies as they relate to employment; some reference is made to this in the latter part of these guidelines.

Discrimination

Discrimination under The Equality Act 2010 can be direct or indirect and the Act also prohibits harassment and victimisation. But the ways in which discrimination, harassment and victimisation might become illegal depend quite often on the type of protected characteristic involved and on the exceptions elsewhere in the Act. The key sections are relevant to schools, as defined under the Education Act 1996, not to early years' settings which are not maintained nursery schools. It should also be noted that victimising a pupil by reason of protected characteristics amongst their parents or siblings is also generally unlawful.



The governing body of a school must not discriminate against:

- a child applying to be admitted to the school;
- existing pupils;
- job applicants;
- existing members of staff;
- on the grounds of their protected characteristic (e.g. sex, race, colour, nationality, ethnic or national origins, disability, religion or belief, sexual orientation or marital status).

The Equality Act 2010 combines the various strands:

Sex discrimination

Under The Equality Act 2010, direct sex discrimination is where A treats B less favourably than A treats others, or would treat others, if the reason for the less-favourable treatment is B's sex or because B is breast-feeding. Women are, however, entitled to special treatment in connection with pregnancy, maternity or breast-feeding.

Sex discrimination is generally unlawful in schools. It covers recruitment policies, dismissals and redundancies, fringe benefits and other non-contractual matters and requires that women and men should be treated equally. The Sex Discrimination Act 1986 removes differential compulsory retirement ages for women and men.

Gender reassignment discrimination

The Equality 2010 Act reminds us that gender reassignment is a process and not an event. Discrimination in connection with the provision of education on grounds of past, present or proposed gender reassignment is generally unlawful.

Sexual orientation discrimination

Discrimination in connection with the provision of education on grounds of sexual orientation is generally unlawful under the provisions of The Equality Act 2010.

Race discrimination

Race as defined in The Equality Act 2010 includes colour, nationality and ethnic or national origins. Race is essentially a group characteristic, but one racial group can be part of a larger racial group. Discrimination in connection with provision of education on grounds of race is generally unlawful under the Act.

Note: Race Relations Act 1976

The Act makes it illegal to discriminate in recruitment, promotion, training and transfer, terms and conditions of employment or dismissal on grounds of colour,



race, nationality or ethnic or national origins. Discrimination may be direct or indirect (see below). Where persons of a particular racial group are under-represented, either generally or in a section of the workforce, the Act enables employers to advertise vacancies in such a way as to encourage applications from persons of that racial group.

Race equality

The amendments to the Act give schools a statutory general duty to promote race equality and eliminate unlawful racial discrimination. All schools are required to have a written race equality policy in place.

Religion or belief discrimination

Education is rife with discrimination on grounds of religion or belief and most of that discrimination is perfectly lawful. In The Equality Act 2010, religion means any religion and reference to religion includes a reference to a lack of religion. Similarly, belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief

The trigger sections in The Equality Act 2010 for unlawful discrimination on grounds of religion or belief in schools are admissions and victimisation of pupils and for conduct of parents.

The most important exceptions to The Equality Act 2010 are:

- if the school has a religious character or a registered religious ethos;
- acts of worship and religious observances at all schools are exempted from the general prohibition of discrimination on grounds of religion or belief if the worship or observance is organised by, or for, the school, whether or not part of the curriculum.

Note: there are many important exceptions from legislation prohibiting discrimination on the grounds of religion or belief in relation to the employment of school head teachers and teaching staff.

Age discrimination

Age discrimination would be a difficult area for schools, which have long-arranged classes and phases by chronological age more than by ability or achievement. However, age discrimination in schools and in local authority provision of schools is not restricted by The Equality Act 2010.

Marriage and civil partnership discrimination

Discrimination relating to marriage or civil partnership is not restricted in the provision of education in schools by The Equality Act 2010. Note: further consideration should be given to this area as it relates to employment law.



Disability discrimination

There is a general requirement in The Equality Act 2010 to make reasonable adjustments for those with disabilities and a more specific requirement to do so in the field of education. Special educational needs are also relevant to this area of discrimination.

Accessibility for disabled pupils

The Equality Act 2010 requires local authorities in England and Wales to improve their schools and to improve the ways in which disabled pupils can access their school's pupil information and their school's curriculum. There must be a written accessibility strategy after due consultation and that strategy must be implemented within a reasonable time. Inspectors at independent schools will ask to see the accessibility plans and there is a further enforcement regime under which complaints may be made and directions given.

Enforcement of The Equality Act 2010 relating to disability in schools is possible through:

- school admission appeals;
- school exclusion appeals;
- application to the First-tier Tribunal (in England) or the SEN Tribunal for Wales.

Complaints about discrimination in maintained schools and academies may be made to the Secretary of State, seeking action by use of powers concerning unreasonable exercise of functions. A school governing body must publish information in their annual report about arrangements for disabled pupils.

Employment Equality Regulations

It is unlawful to discriminate on the grounds of sexual orientation as it relates to employment or vocational training of individuals. Sexual orientation is defined as sexual orientation towards persons of the same sex and/or towards persons of the opposite sex.

The Employment Equality (Religion or Belief) Regulations 2003 make it unlawful to discriminate on the grounds of religion or similar belief in employment and vocational training. Religion or belief is defined as meaning any religion; religious belief or similar philosophical belief.

The legislation gives protection against direct and indirect discrimination, harassment and victimisation and applies throughout the employment relationship, including recruitment and dismissal.



Direct and indirect discrimination

Direct discrimination is always unlawful (with the exception of genuine occupational requirements – see below). Direct discrimination occurs when a person is treated less favourably than others in the same circumstances because of their sex, sexual orientation, religion or belief, or on racial grounds. Indirect discrimination can occur when a condition or requirement is applied equally but is such that the proportion of members of one sex, racial group etc who can meet it is considerably smaller than the proportion of members of the other sex or other racial groups. Indirect discrimination is unlawful unless the person imposing the condition can show that it is justified, irrespective of the sex or race of the person to whom it is applied.

Agreed by Full Governors	
Next update due	