



Equalities Policy

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About this Policy

This policy is taken from the non-statutory advice from the Department for Education. This policy supports Elm Wood Primary School to understand how the Equality Act affects us and how to fulfil our duties under the Act. It has been updated to include information on same-sex marriage.

On 1 October 2010, the Equality Act 2010 replaced all existing equality legislation such as the Race Relations Act, Disability Discrimination Act and Sex Discrimination Act. It has consolidated this legislation and also provides some changes that schools need to be aware of.

Chapter 1 - Key Points and Relevant Updates

The Equality Act 2010 provides a single, consolidated source of discrimination law. It simplifies the law and it extends protection from discrimination in some areas, the effect of the current law is the same as it has been in the past – meaning that Elm Wood Primary School cannot and will not unlawfully discriminate against pupils because of their sex, race, disability, religion or belief or sexual orientation.

The exceptions to the discrimination provisions for schools are all replicated in the current act – such as the content of the curriculum, collective worship

Positive Action

Positive Action provisions allow schools to target measures that are designed to alleviate disadvantages experienced by, or to meet the particular needs of, pupils with particular protected characteristics. Such measures will need to be a proportionate way of achieving the relevant aim. Previously a school providing – for example - special catch- up classes for Roma children or a project to engage specifically with alienated Asian boys might have been discriminating unlawfully by excluding children who didn't belong to these groups.

Victimisation

It is now unlawful to victimise a child for anything done in relation to the Act by their parent or sibling.

Auxiliary Aids

The Act extends the reasonable adjustment duty to require schools to provide auxiliary aids and services to disabled pupils. Following consultation on implementation and approach, the duty came into force on 1 September 2012.

Equality Duties

The three previous general and specific equality duties on schools (race, disability and gender) to eliminate discrimination and advance equality of opportunity have been combined into a less bureaucratic and more outcome-focused duties covering an expanded number of protected characteristics. The general duty, public sector equality duty, is explained in chapter 5 of this advice. As is the lighter touch specific duty.

The Act makes it unlawful for Elm Wood Primary School and its Governing Body to discriminate against, harass or victimise a pupil or potential pupil:

This policy deals with the way in which Elm Wood Primary School treats its pupils and prospective pupils: the relationship between one pupil and another is not within its scope. It does not therefore

bear directly on such issues as racist or homophobic bullying by pupils. However, Elm Wood Primary School treats all bullying as serious and not to be tolerated under any circumstances.

Elm Wood Primary School's liability not to discriminate, harass or victimise does not end when a pupil has left the school, but will apply to subsequent actions connected to the previous relationship between school and pupil, such as the provision of references on former pupils or access to "old pupils" communications and activities.

Protected Characteristics

It is unlawful for Elm Wood Primary School to discriminate against a pupil or prospective pupil by treating them less favourably because of their:

- Age
- Disability
- Gender
- Gender Identity
- Marriage and Civil Partnership
- Pregnancy
- Race
- Religion
- Sexual Orientation

Association

Elm Wood Primary School will not discriminate because of the sex, race, disability, religion or belief, sexual orientation or gender identity of another person with whom the pupil is associated.

Perception

Elm Wood Primary School will not discriminate because of a characteristic which they think a person has, even if we are mistaken. So a teacher who consistently picks on a pupil for being gay will be discriminating because of sexual orientation whether or not the pupil is in fact gay.

The term "protected characteristics" is used as a convenient way to refer to the personal characteristics to which the law applies.

Unlawful Behaviour

The Act defines four kinds of unlawful behaviour – direct discrimination; indirect discrimination; harassment and victimisation.

Direct discrimination occurs when one person treats another less favourably, because of a protected characteristic, than they treat – or would treat – other people. This describes the most clear-cut and obvious examples of discrimination – for example if a school were to refuse to let a pupil be a prefect because she is a lesbian.

Indirect discrimination occurs when a "provision, criterion or practice" is applied generally but has the effect of putting people with a particular characteristic at a disadvantage when compared to people without that characteristic. An example might be holding a parents' meeting on a Friday evening, which could make it difficult for observant Jewish parents to attend. It is a defence against a claim of indirect discrimination if it can be shown to be "a proportionate means of achieving a legitimate aim". This means both that the reason for the rule or practice is legitimate, and that it could not reasonably be achieved in a different way which did not discriminate.

Harassment has a specific legal definition in the Act - it is “unwanted conduct, related to a relevant protected characteristic, which has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person”. This covers unpleasant and bullying behaviour, but potentially extends also to actions which, whether intentionally or unintentionally, cause offence to a person because of a protected characteristic.

Victimisation occurs when a person is treated less favourably than they otherwise would have been because of something they have done (“a protected act”) in connection with the Act. A protected act might involve, for example, making an allegation of discrimination or bringing a case under the Act, or supporting another person’s complaint by giving evidence or information, but it includes anything that is done under or in connection with the Act. Even if what a person did or said was incorrect or misconceived, for example based on a misunderstanding of the situation or of what the law provides, they are protected against retaliation unless they were acting in bad faith. The reason for this is to ensure that people are not afraid to raise genuine concerns about discrimination because of fear of retaliation.

As well as it being unlawful to victimise a person who does a protected act, a child must not be victimised because of something done by their parent or a sibling in relation to the Act. This means that a child must not be made to suffer in any way because, for example, her mother has made a complaint of sex discrimination against the school, or her brother has claimed that a teacher is bullying him because he is gay, whether or not the mother or brother was acting in good faith.

If a pupil has himself or herself done a protected act – such as making a complaint of discrimination against a teacher – then the child’s own good faith will be relevant. For example, if the parent’s complaint is based on information from her son and the son was deliberately lying, it is not victimisation for the school to punish him in the same way as it might do any other dishonest pupil. Unless it can be clear that the mother was also acting in bad faith (for example that she knew her son was lying) it would still be unlawful to victimise her for pursuing the complaint.

Special Provisions for Disability

The law on disability discrimination is different from the rest of the Act in a number of ways. In particular, it works in only one direction – that is to say, it protects disabled people but not people who are not disabled. This means that schools are allowed to treat disabled pupils more favourably than non-disabled pupils, and in some cases are required to do so, by making reasonable adjustments to put them on a more level footing with pupils without disabilities. The definition of what constitutes discrimination is more complex. Provision for disabled pupils is closely connected with the regime for children with special educational needs. Chapter 4 deals in detail with disability issues.

Definition of Parents

Any reference to a parent in the Act and in this guidance is a wide reference (as in education law generally) not only to a pupil’s birth parents but to adoptive, step and foster parents, or other persons who have parental responsibility for, or who have care of, a pupil.

Chapter 2 - General Exceptions

Curriculum

The content of the school curriculum has never been caught by discrimination law, and this Act now states explicitly that it is excluded. However the way in which a school provides education – the delivery of the curriculum – is explicitly included.

Excluding the content of the curriculum ensures that schools are free to include a full range of issues, ideas and materials in their syllabus, and to expose pupils to thoughts and ideas of all kinds, however challenging or controversial, without fear of legal challenge based on a protected characteristic. But schools will need to ensure that the way in which issues are taught does not subject individual pupils to discrimination.

Some examples can best explain the distinction between content and delivery of the curriculum as the Act applies:

- A boy complains that it is sex discrimination for him to be required to do a module on feminist thought.
- A girl complains that putting *The Taming of the Shrew* on the syllabus is discriminatory; or a Jewish pupil objects to having to study *The Merchant of Venice*.
- A fundamentalist Christian objects to the teaching of evolution in science lessons unbalanced by the teaching of “intelligent design”.
- A school does a project to mark Gay Pride Week. A heterosexual pupil claims that he finds this embarrassing and that it discriminates against him on grounds of his sexual orientation; a Christian or a Muslim pupil objects to it on religious grounds.
- A Muslim pupil objects to the works of Salman Rushdie being included on a reading list.

All of the above are examples of complaints against the content of the curriculum, and none of them would give rise to a valid complaint under the Act.

However, valid complaints that the curriculum is being delivered in a discriminatory way might well arise in situations such as the following:

- A teacher uses the fact that ‘*The Taming of the Shrew*’ is a set book to make derogatory generalisations about the inferiority of women, in a way which makes the girls in the class feel belittled. Or, in teaching ‘*The Merchant of Venice*’, he encourages the class to laugh at a Jewish pupil.
- In class discussions, black pupils are never called on and the teacher makes it clear that she is not interested in their views.
- Girls are not allowed to do design technology or boys are discouraged from doing food technology. This is not intrinsic to the curriculum itself but to the way in which education is made available to pupils.
- The girls’ cricket team are not allowed equal access to the cricket nets, or the boys’ hockey team is given far better resources than the girls’ team. This would be less favourable delivery of education rather than to do with the sports curriculum per se.

Chapter 3 – Special Issues for Some Protected Characteristics

Gender Identity

Gender Identity is defined in the Equality Act as applying to anyone who is undergoing, has undergone or is proposing to undergo a process (or part of a process) of reassigning their sex by changing physiological or other attributes. This definition means that in order to be protected under the Act, a pupil will not necessarily have to be undertaking a medical procedure to change their sex but must be taking steps to live in the opposite gender, or proposing to do so.

At Elm Wood Primary School we recognize that this is unlikely to happen with children in primary school.

It is relatively rare for pupils – particularly very young pupils – to want to undergo gender Identity, but when a pupil does so a number of issues will arise which will need to be sensitively handled. There is evidence that the number of such cases is increasing and schools should aim to address any issues early on and in a proactive way. Further guidance is available from the GRES website

Race

The definition of race includes colour, nationality and ethnic or national origins.

Elm Wood Primary School ensures that pupils of all races are not singled out for different and less favourable treatment from that given to other pupils. We check that there are no practices which could result in unfair, less favourable treatment of such pupils. Elm Wood Primary School would not segregate pupils by race or ethnicity under any circumstances.

Religion or Belief

The Equality Act defines “religion” as being any religion, and “belief” as any religious or philosophical belief. A lack of religion or a lack of belief are also protected characteristics. These definitions are fairly broad and the concepts of religion and belief therefore must be construed in accordance with Article 9 of the European Convention on Human Rights and with existing case law. This means that to benefit from protection under the Act, a religion or belief must have a clear structure and belief system, and should have a certain level of cogency, seriousness and cohesion, and not be incompatible with human dignity.

“Religion” will include for example all the major faith groups and “belief” will include non-religious worldviews such as humanism. Religion will also include denominations or sects within a religion, such as Catholicism or Protestantism within Christianity. It is not however intended to include political beliefs such as Communism or support for any particular political party.

The definition of discrimination on grounds of religion or belief does not address discrimination on any other ground (such as race, sex or sexual orientation). The Act does not allow a teacher to discriminate against a pupil because of his own personal religious views about homosexuality or the role of women for example.

Sex / Gender

Elm Wood Primary School ensures that pupils of one sex are not singled out for different and less favourable treatment from that given to other pupils. We check that there are no practices which could result in unfair, less favourable treatment of boys or girls. Elm Wood Primary School does not teach single sex classes, except on some occasions for lessons regarding puberty and human reproduction.

Pupils undergoing gender Identity should be allowed to attend the single sex class that accords with

the gender role in which they identify.

Sexual Orientation and Marriage and Civil Partnership

Elm Wood Primary School does not single out gay, lesbian or bi-sexual pupils, or the children of gay, lesbian or bi-sexual parents. We check that there are no practices which could result in unfair, less favourable treatment of such pupils. Questions about same sex marriage and civil partnership may arise during PHSCE lessons for example but Elm Wood Primary School understands that neither it nor any individual teacher, is under a duty to support, promote or endorse marriage of same sex couples. Our teaching is based on facts and should enable pupils to develop an understanding of how the law applies to different relationships. Teachers must have regard to statutory guidance on sex and relationship education, and to meet duties under equality and human rights law.

Sexual Orientation and Religion or Belief

Many people's views on sexual orientation/sexual activity are themselves grounded in religious belief. Some schools with a religious character have concerns that they may be prevented from teaching in line with their religious ethos.

Where individual teachers are concerned, having a view about something does not amount to discrimination. So it should not be unlawful for a teacher in any school to express personal views on sexual orientation provided that it is done in an appropriate manner and context (for example when responding to questions from pupils, or in an RE or Personal, Social, Health and Economic education (PSHE) lesson). However, it should be remembered that school teachers are in a very influential position and their actions and responsibilities are bound by much wider duties than this legislation. A teacher's ability to express his or her views should not extend to allowing them to discriminate against others.

Chapter 4 – Disability

The overriding principle of equality legislation is generally one of equal treatment - i.e. that you must treat a black person no less well than a white person, or a man as favourably as a woman. However, the provisions relating to disability discrimination are different in that you may, and often must, treat a disabled person more favourably than a person who is not disabled and may have to make changes to your practices to ensure, as far as is reasonably possible, that a disabled person can benefit from what you offer to the same extent that a person without that disability can. So in a school setting the general principle is that you have to treat male and female, black and white, gay and straight pupils equally - but you may be required to treat disabled pupils differently. Discrimination is also defined rather differently in relation to disability

Definition of Disability

The Act defines disability as when a person has a 'physical or mental impairment which has a substantial and long term adverse effect on that person's ability to carry out normal day to day activities.' Some specified medical conditions, HIV, multiple sclerosis and cancer are all considered as disabilities, regardless of their effect. Long term is defined as lasting, or likely to last, for at least 12 months.

Unlawful Behaviour with Regard to Disabled Pupils

Direct Discrimination

Elm Wood Primary School will not treat a disabled pupil less favourably simply because that pupil is disabled.

A change for schools in this Act is that there can no longer be justification for direct discrimination in any circumstances. Under the DDA schools could justify some direct discrimination – if was a proportionate means of meeting a legitimate aim. What the change means is that if a school discriminates against a person purely because of his or her disability (even if they are trying to achieve a legitimate aim) then it would be unlawful discrimination as there can be no justification for their actions.

Indirect Discrimination

Elm Wood Primary School will not do something which applies to all pupils but which is more likely to have an adverse effect on disabled pupils only.

Harassment

Elm Wood Primary School will not harass a pupil because of his disability – for example, a teacher shouting at the pupil because the disability means that he is constantly struggling with class-work or unable to concentrate.

Reasonable Adjustments and When They Have to be Made

The duty to make reasonable adjustments applies only to disabled people. For Elm Wood Primary School the duty is summarised as follows:

Where something Elm Wood Primary School does places a disabled pupil at a disadvantage compared to other pupils, then we will take reasonable steps to try and avoid that disadvantage.

Elm Wood Primary School will provide an auxiliary aid or service for a disabled pupil when it would be reasonable to do so and if such an aid would alleviate any substantial disadvantage that the pupil faces in comparison to non-disabled pupils.

Failure to make a reasonable adjustment cannot now be justified, whereas under the previous disability discrimination legislation it could be.

In addition to having a duty to consider reasonable adjustments for particular individual disabled pupils, Elm Wood Primary School also considers potential adjustments which may be needed for disabled pupils generally as it is likely that any site will have a disabled pupil at some point. However, we are not obliged to anticipate and make adjustments for every imaginable disability and will only consider general reasonable

Elm Wood Primary School will try to ensure that disabled pupils can play as full a part as possible in school life and the reasonable adjustments duty will help support that. However, there will be times when adjustments cannot be made because to do so would have a detrimental effect on other pupils and would therefore not be reasonable

Duties Around Accessibility for Disabled Pupils

Elm Wood Primary School carries out accessibility planning for disabled

pupils. These plans aims to:

- increase the extent to which disabled pupils can participate in the curriculum;
- improve the physical environment of Elm Wood Primary School to enable disabled pupils to take better advantage of education, benefits, facilities and services provided
- improve the availability of accessible information to disabled pupils.

Chapter 5 - The Public Sector Equality Duty

Elm Wood Primary School understands that it must give due regard to The Equality Act 2010. In carrying out their functions, public bodies are required to have due regard to the need to:

Eliminate discrimination and other conduct that is prohibited by the Act,

Advance equality of opportunity between people who share a protected characteristic and people who do not share it,

Foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.

For Elm Wood Primary School this means:

When making a decision or taking an action and must assess whether it may have particular implications for people with particular

We will consider equality implications before and at the time that we develop policy and take decisions, not as an afterthought. We will keep these decisions under review on a continuing basis.

Elm Wood Primary School will keep a note of an equality consideration that it makes when developing policy and/or practice, these will be available to whomever wishes to see them. The emphasis is on transparency - making information available so that our local communities can see how we are advancing equality in line with the PSED, and what objectives we are using to make this happen.

Our Specific Duties

Elm Wood Primary School will:

- Publish information to demonstrate how we are complying with the Public Sector Equality Duty (yearly)
- Prepare and publish equality objectives. (every 4 years)

As Elm Wood Primary School has fewer than 150 employees, it is only data about pupils that needs to be published. We publish data at least every year in the following ways:

- RAISE online data regarding achievement of all pupils in year 2, year 6, yr 1 phonics – yearly (by ethnicity, EAL, gender and SEND)
- Children in Reception achieving a good level of development – every year (by ethnicity, gender and SEND)
- Policies put online – e.g. behaviour, anti bullying to show we are aware of our duty
- Publishing the minutes of Governing Body meetings
- Elm Wood Primary School's ethos and vision regarding all pupils is on the website
- Our curriculum outline – to demonstrate that we promote tolerance and friendship, and share an understanding of a range of religions or cultures.

Other data that Elm Wood Primary School collects but does not routinely publish

- Exclusions data – every term – by ethnicity and gender
- Attendance data – every term, (by ethnicity, and gender)
- Community cohesion policy – yearly which lists what % of our school population come from each ethnic group and each religious group
- Green form analysis by year group and gender

- Pupil progress meetings – progress is analysed in all year groups by gender, ethnicity, SEND
- The school improvement plan contains targets (objectives) relating to the achievement of all pupils within Elm Wood Primary School
- Records of staff training to show which of our staff members are receiving what kind of training.
- Statistics about racist incidence at Elm Wood Primary School – this is sent to the Local Authority for collection also
- Participation in after school activities
- Provision maps for those pupils who need additional support both within class and out of class
- Assembly planning
- International schools work

The duty does not expect us to publish data we would not routinely collect and does not expect us to produce specific equality schemes.

Our equality objectives come through our whole school development plan. These are reviewed formally and republished every 3 years.