

Equality, Inclusion and Community Cohesion

Summary of equality legislation for schools

This document is part of a toolkit to support schools to implement the requirements of equality legislation. The toolkit also contains:

- An overview of the toolkit. It would be helpful to read this first as it explains how the toolkit came about and the purpose of the different parts of the toolkit
- A briefing for senior staff and governors
- A framework for a Single Equality Scheme (SES)
- Answers to a set of FAQs - Frequently Asked Questions
- A flowchart to develop a SES
- A Governors' audit tool

This document summarises the requirements of race, disability and gender equality legislation, and the duty to promote community cohesion. It also identifies duties within age, sexual orientation and religion and belief legislation.

Every aspect of school life is covered by the above equality duties, including for example:

For **learners**:

- admissions and attendance
- teaching and learning, timetabling, homework, trips, visits, sports, breaks and lunchtimes, exams, clubs and extracurricular activities, and curriculum development, planning and delivery
- behaviour, discipline and sanctions, exclusions (permanent and fixed term)
- welfare and well-being
- progress and attainment

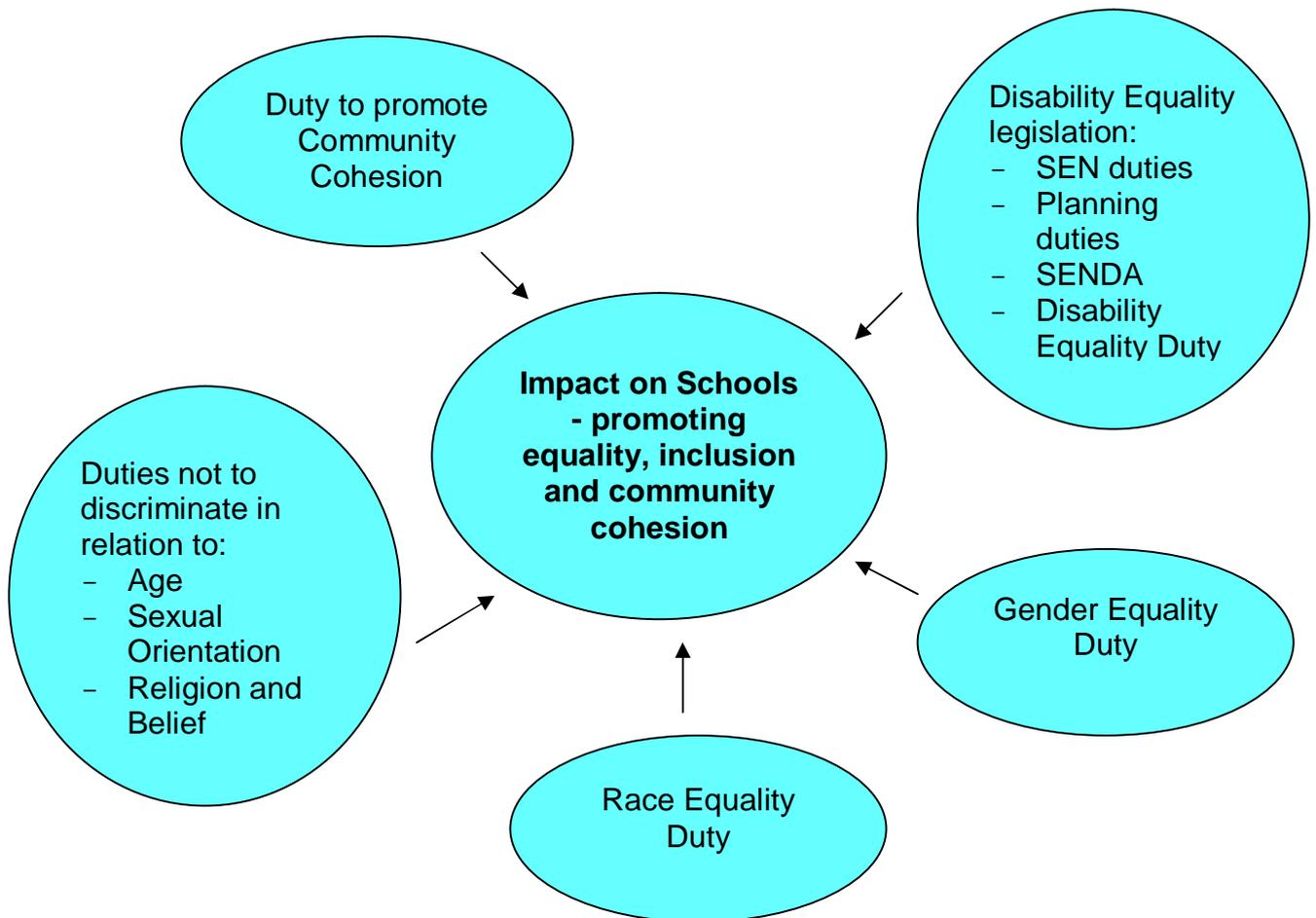
And for **staff**

- recruitment, selection, conditions of employment
- career progress, appraisal, CPD activities
- disciplinary, grievance, dismissal

The duties also apply to those using the services of the school, for example parents, and the wider community

The governing body carries the ultimate responsibility for implementing equality legislation

The equality duties on schools



The duty to promote race equality

The Race Relations Act 1976 has been amended by the Race Relations (Amendment) Act 2000 (the RRAA). This Act was introduced as a result of the MacPherson Report, which followed the Stephen Lawrence inquiry. This report highlighted the issue of institutional discrimination.

As a response, the government introduced a duty to promote race equality for listed public bodies, including Local Authorities and schools. The duty is designed to assist institutions to tackle discrimination, promote equality of opportunity and promote good race relations. Its aim is to make promotion of race equality central to the way that public bodies work, and to all areas of their work, including policy making, service delivery, (including teaching and learning), regulation and enforcement and employment practice.

The Race Equality Duty has a general duty with three inter-related parts. It means that schools, in carrying out their functions, must give due regard to the need to:

1. eliminate unlawful racial discrimination
2. promote equality of opportunity
3. promote good relations between people of different racial groups.

Although these different elements often interlink, they need to be given 'due regard' in their own right.

To support progress in delivering the general duty, there are a series of 'specific duties' for schools, to:

- assess the impact of policies, including the Race Equality Policy, on students and staff of different racial groups;
- monitor policies for adverse impact on race equality, by gathering and using information on the admission and progress of students and the recruitment and career progress of staff (including training for staff);
- include in the written Race Equality Policy a statement indicating the arrangements for publishing the policy, and the results of assessment and monitoring;
- publish annually the results of monitoring data, and actions taken towards achievement of overall objectives and priorities
- fully review the race equality policy every three years.

The duty to promote community cohesion

The Commission for Integration and Cohesion, set up by the Government in the wake of the London 2005 terrorist attacks, identified an integrated and cohesive community as one in which:

- everyone knows their rights and responsibilities
- people of different backgrounds have similar opportunities
- there is trust in local institutions such as the local council, the police and the courts, to act fairly
- everyone recognises the contribution of both new arrivals and those already settled, and are not threatened by change
- there are positive relationships between people from different backgrounds, at work, at school and at college.

From September 2007, schools have a duty to promote community cohesion. DCSF guidance states that

‘By community cohesion, we mean working towards a society in which

- there is a common vision and sense of belonging by all communities
- the diversity of people’s backgrounds and circumstances is appreciated and valued
- similar life opportunities are available to all
- strong positive relationships exist and to continue to be developed in the workplace, in schools and in the wider community

Community cohesion does not just apply to differences in faith or ethnicity, but includes any difference, for example in gender, disability or sexual orientation. However, the main focus of the duty is to promote good community relations across different cultures, ethnic, religious and non religious and socio-economic groups.

Unlike the promotional duties for race, disability and gender equality, there are no statutory requirements to produce a policy or scheme or action plan. Schools must decide the best approach to implement the duty effectively, for example through a policy, action plan or working party. However, embedding the school’s response in a Single Equality Scheme and Action Plan will make it easier for schools to monitor their progress and performance in meeting the requirements of this duty

Further information can be found in DCSF guidance; ‘Guidance on the duty to promote community cohesion’ which may be downloaded from http://www.teachernet.gov.uk/wholeschool/Communitycohesion/Community_Cohesion_Guidance/

Disability equality legislation

There are several pieces of disability equality legislation that schools must respond to, including

- SEN duties
- duties under the SEN and Disability Act 2001 (SENDA)
- the Planning Duties of DDA 1995 Part 4
- Disability Equality Duty (DDA 2005)

Each of these are now considered in turn

SEN duties provide auxiliary aids and services for schools to make adjustments for individual disabled learners to support inclusion.

SENDA protects current and prospective disabled learners from discrimination. Schools are required to make reasonable adjustments so that disabled learners do not experience less favourable treatment or substantial disadvantage. The reasonable adjustment duties for schools under SENDA do not include the provision of auxiliary aids and services as these are provided by the SEN framework (see above), and over time through the planning duties (see below).

The planning duties of DDA Part 4 aims to ensure schools increase over time their accessibility to disabled people. Three year Accessibility Plans should have been in place by April 2003, and updated for 2006-2009. Accessibility Plans should demonstrate how the school will

- increase access to disabled pupils in the school curriculum, for example changes to teaching and learning, classroom organisation, deployment of learning support, staff training, curriculum delivery
- improve access to the physical environment, for example improved signage, floorings and room layouts
- improve accessibility of written material, for example ensuring handouts, timetables and information on school events are available in alternative formats such as large print or easy read

These three sets of duties work together to ensure disabled learners access and enjoy education in its broadest sense with the same degree of dignity and choice as their non-disabled peers.

The Disability Equality Duty has a general duty with six inter-related parts. It means that schools, in carrying out their functions, must give due regard to the need to:

1. promote equality of opportunity between disabled people and other people
2. eliminate unlawful discrimination
3. eliminate disability- related harassment
4. promote positive attitudes towards disabled people
5. encourage participation by disabled people in public life

6. take steps to take account of disabled peoples' disabilities, even where that involves treating disabled people more favourably than other people.

Although these different elements often interlink, they need to be given 'due regard' in their own right.

The general duty reinforces the reasonable adjustment duties of the Disability Discrimination Act (DDA). In particular, it complements, and in some cases overlaps with, the anticipatory duty to make adjustments. An anticipatory approach requires adjustments to be made in advance of individual disabled people attempting to use a service or access education or employment.

To support progress in delivering the general duty, there are a series of 'specific duties' for schools, to:

- produce and publish a Disability Equality Scheme and equality action plan;
- involve disabled people in the development of the DES and equality action plan;
- explain the method of assessing the impact of policies and practice upon disabled people;
- monitor the impact of policy and practice on disabled people by gathering and using information on:
 - staff recruitment, development and retention
 - the educational opportunities available to, and the achievements of disabled pupils. (This should be interpreted broadly)
- explain how the results of steps taken to achieve the Action Plan will be published on an annual basis;
- fully review the Disability Equality Scheme every three years.

Definition of a disabled person

Under the DDA a person has a disability if s/he has a 'physical or mental impairment which has a substantial or long-term, adverse effect on her / his ability to carry out day-to-day activities'. 'Substantial' does not mean significant – it simply means more than 'minor' or 'trivial'. 'Day to day' activities often include activities that pupils are asked to carry out in the classroom. 'Long term' generally means more than one year.

This is a broad definition that is likely to cover people with

- physical or sensory impairments
- learning difficulties, including specific learning difficulties such as dyslexia
- mental health difficulties
- medical conditions such as epilepsy, diabetes, HIV, cancer, multiple sclerosis

Between 7 – 8% of learners will be covered by the definition of a disabled person, rising to 10% of 16-24 year olds and 15 - 20% for people of working age. One in three people between 50 and 65 will be covered by the definition.

While there is an overlap between the definition of disabled pupils and pupils with special educational needs, not all disabled pupils will have SEN, and not all pupils with SEN will be disabled. For example, a learner with diabetes may not have SEN but have rights under DDA. A learner with emotional and behavioural difficulties because of difficult personal and social circumstances may have SEN but not be covered under DDA.

It is important to note that many impairments are 'unseen', and also that over 50% of people who are covered by the DDA definition of a disabled person are unlikely to consider themselves as disabled.

Involvement of disabled people

At the heart of the Disability Equality Duty is the need to involve disabled people. The Code of Practice for the duty makes clear that consultation by itself is not sufficient to meet this legal requirement. Consultation may allow choice between limited, often predetermined options, or canvas opinion, but participants have few or no opportunities to propose alternatives, or to take part in putting plans into action. Participants have a voice, but no power to ensure their voice has influence.

Providers must move beyond consultation to achieve active and genuine involvement with disabled people. This empowers and enables participants to create a vision of their own future and to become actively involved in making it happen. Participants establish a partnership to share decision-making, are given genuine opportunities and are actively engaged in exploring options, and shaping action and outcomes.

Approaches to disability equality

The Disability Rights Commission highlighted the social model of disability as being essential to the successful implementation of the DDA duties. The social model identifies that;

'The disadvantage and social exclusion experienced by many disabled people is not the inevitable result of their impairments or medical conditions, but rather stems from attitudinal and environmental barriers.'

This premise provides the basis for the school's commitment to implement the Disability Equality Duty by examining its policies, procedures and practices and making every effort to remove attitudinal, cultural, social and physical barriers. The Disability Equality Duty shifts the focus away from the individual, placing responsibility firmly on the shoulders of the institution to dismantle barriers before these have an impact on the individual

Further information can be found in DCSF guidance 'Implementing the Disability Discrimination Act in schools and early years settings' which may be downloaded from

<http://www.teachernet.gov.uk/wholeschool/disability/disabilityandthedda/>

The duty to promote gender equality

The Sex Discrimination Act (1975) has been amended by the Equality Act 2006 to place a duty on all public authorities to promote gender equality.

The Gender Equality Duty has a general duty with two inter-related parts. It means that schools, in carrying out their functions, must give due regard to the need to:

1. eliminate unlawful discrimination and harassment and
2. promote equality of opportunity between men and women.

The duty has been introduced in recognition of the need for a radical new approach to gender equality – one which places more responsibility with public bodies to think strategically about gender equality, rather than leaving it to individuals to challenge poor practice. As with race and disability equality, the gender equality duty applies in respect of all the school's functions including policy-making, teaching and learning, and employment. It also applies to people who use the services of the school who are not staff and learners, such as people who participate in family learning evening courses provided by the school

To support progress in delivering the general duty, there are a series of 'specific duties' for schools, to:

- prepare and publish a Gender Equality Scheme, showing how the school will meet the general and specific duties and setting out gender equality objectives.
- in formulating overall objectives, to consider the need to include objectives to address the causes of any gender pay gap in support of the Equal Pay Act (1970).
- gather and use information on how policies and practices affect gender equality in the workforce and in the delivery of services, including teaching and learning
- consult stakeholders (i.e. employees, students and others, including trade unions) and take account of relevant information in order to determine gender equality objectives.
- assess the impact of current and proposed policies and practices on gender equality.
- explain how the results of steps taken to achieve the Action Plan will be published on an annual basis;
- fully review the Gender Equality Scheme every three years.

Transsexual / Transgender Staff and Students

As part of the Gender Equality Duty, public authorities are also required to have due regard to the need to eliminate unlawful discrimination and harassment in employment and vocational training for people who intend to undergo, are undergoing or have undergone gender reassignment.

Transsexual people are people who identify their gender to be different from the gender assigned to them at birth. Sometimes known as gender dysphoria, this is a recognised medical condition. It is accompanied by a sense of discomfort with one's physical body and a wish to go through a process known as gender reassignment or transition. The term transsexual is usually used to describe a person who intends to undergo, is undergoing or has undergone gender reassignment

Other Equality Legislation

In addition to the duties to promote race, disability and gender equality, and the duty to promote community cohesion, schools are also covered by duties not to discriminate on the grounds of sexual orientation, age or religion and belief. These laws do not have positive duties to *promote* equality associated with them, but schools must ensure that through their policies and practices, they are not discriminating on any of these grounds. The regulations, for example, make it unlawful to

- discriminate directly or indirectly because of a person's actual or perceived sexual orientation, religion or belief, or because they associate with someone of a particular sexual orientation or religion or belief, including friends and parents / carers / responsible adults
- subject someone to harassment because of a person's actual or perceived sexual orientation, religion or belief, or because they associate with someone of a particular sexual orientation or religion or belief, including friends and parents / carers / responsible adults
- victimise someone because they have or intend to make an allegation of discrimination or harassment, or they have or intend to give evidence in relation to an allegation of discrimination or harassment

In relation to religion and belief regulations, there are certain and limited exceptions such as admissions, curriculum, collective worship and faith schools. For example, faith schools may give preference to young people who follow that particular faith. No school is allowed to deny someone education on the grounds of their race, sexual orientation, religion or belief or because they have a disability. However, schools are allowed to reject prospective students based on their age. Once they are above the national school leaving age, students are expected to go to college or other learning providers. Single sex schools are allowed to select pupils on the grounds of their gender.

Further information on the requirements of equality legislation for schools can be found at

<http://www.teachernet.gov.uk>

<http://www.governornet.co.uk>

www.equalityhumanrights.com