
Hartlip Endowed Church of England Primary School (Aided)

Disability Equality Scheme

The role of governors in relation to disability equality legislation

School governors and school governing bodies, as the legal body responsible for schools, have a duty to ensure that their schools adhere to the duties under the Disability Discrimination Act (DDA) 2005. This page outlines the responsibilities of both the school governing body and the school itself in relation to the DDA and related legislation.

Governing body duties

Part 5A of the DDA 1995 requires school governing bodies to:

- promote equality of opportunity for disabled people: pupils, staff, parents, carers and other people who use the schools or may wish to;
- prepare and publish a disability equality scheme to show how they will meet these duties.

This scheme and the accompanying action plans set out how the governing body will promote equality of opportunity for disabled people.

Part 4 of the DDA 1995 requires school governing bodies to plan to increase access to education for disabled pupils in three ways:

- increasing the extent to which disabled pupils can participate in the school curriculum;
- improving the environment of the school to increase the extent to which disabled pupils can take advantage of education and associated services;
- improving the delivery to disabled pupils of information that is provided in writing for pupils who are not disabled.

Schools' duties under disability discrimination legislation

The reasonable adjustments duty and accessibility plans

Under Part 4 of the 1995 Act schools and LAs must not treat disabled students less favourably without justification and must make reasonable adjustments to ensure that disabled students are not disadvantaged compared to their peers.

Schools and local authorities must also plan strategically to increase access to school buildings and the curriculum over time. The Special Educational Needs and Disability Act 2001 requires schools to produce an accessibility plan, detailing how they will do this.

For further information on Part 4 see the *Disability Discrimination Act and special educational needs (SEN) duties* document linked in the Attachments section.

The disability equality duty

The disability equality duty is a general duty, requiring all schools to have due regard to the need to:

- promote equality of opportunity between disabled people and other people
- eliminate discrimination that is unlawful under the DDA 1995 (as subsequently amended)
- eliminate harassment of disabled people that is related to their disability
- promote positive attitudes towards disabled people
- encourage participation by disabled people in public life
- take steps to meet disabled people's needs, even if this requires more favourable treatment.

The disability equality duty includes an important duty to have regard to the need to eliminate harassment of disabled people that is related to their disability. Schools therefore need to tackle the bullying of children with SEN and disabilities as part of complying with this part of the general duty.

In addition to the general duty, schools also have a specific duty, requiring them to demonstrate how they are meeting the general duty. Effectively, the general duty informs schools of what they have to do; the specific duty sets out how schools have to do it and what they need to record as evidence of what they have done.

The main requirements of the specific duty are to:

- prepare and publish a disability equality scheme
- involve disabled people in the development of the scheme
- implement the scheme
- report on progress annually and amend where necessary.

It is important to note the key difference between accessibility plans and disability equality scheme – they are not the same thing. Schools should have separate plans for how they are going to (a) increase access to the school and to the curriculum over time and (b) demonstrate how they are meeting their disability equality duty. Further information is available in the DDA and SEN duties document linked in the Attachments section.

Guidance

DCSF guidance in this area includes:

- *Bullying Involving Children with Special Educational Needs and Disabilities: Safe to Learn- Embedding anti-bullying work in schools*
- *Implementing the Disability Discrimination Act in schools and early years settings*

Both publications are available from the DCSF's Online Publications for Schools website.

- *Disability Discrimination Act and SEN duties*
- *Guidance on the Disability Equality Duty for Schools in England and Wales* November 2006 : available from the archive of the Disability Rights Commission (now the Equality and Human Rights commission)

For more information about implementing the DDA go to the 'Disability' section of Teachernet.

Attachments:

[Disability Discrimination Act and SEN duties](#)

Web links:

DCSF Online Publications- Bullying Involving Children with Special E... :
<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DCSF-00372-2008>

DCSF Online Publications- Implementing the Disability Discrimination... :
<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0160+2006>

Guidance on the Disability Equality Duty for Schools in England and ... :
http://83.137.212.42/sitearchive/DRC/library/publications/disability_equality_duty/schools_and_the_ded_engl_wales.html

TeacherNet extract- Implementing the Disability Discrimination Act i... :
<http://www.teachernet.gov.uk/wholeschool/disability/disabilityandthedda/ddapart0/>

Summary of schools' statutory responsibilities under disability discrimination and Special Educational Needs legislation

Under Part 4 of the Disability Discrimination Act 1995 (as amended by the Special Educational Needs and Disability Act 2001) schools and LAs must **not treat disabled students less favourably** without justification, and must make **reasonable adjustments** to ensure they are not disadvantaged compared to their peers. Instead they must **plan strategically** to increase access to schools and the curriculum over time (schools must produce an accessibility plan setting out how they will do this – LAs produce an accessibility strategy)

Schools' accessibility plans must show how they will improve access for disabled pupils by:

- increasing access to the curriculum;
- making improvements to the physical environment of the school to increase access;
- making written information accessible to pupils in a range of different ways.

For schools, the reasonable adjustments duty in Part 4 of the DDA does not include:

- the provision of auxiliary aids and services: this provision is made through SEN statutory duties (see below);
- physical alterations to buildings: these are made through the planning duties.

The **Disability Equality Duty** (Part 5A of the Disability Discrimination Act 1995, inserted by the Disability Discrimination Act 2005) places on **all public authorities (including schools)** a general duty, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity between disabled people and other people;
- eliminate discrimination that is unlawful under the Disability Discrimination Act 1995 (as subsequently amended);
- eliminate harassment of disabled people that is related to their disability;
- promote positive attitudes towards disabled people;
- encourage participation by disabled people in public life;
- take steps to meet disabled people's needs, even if this requires more favourable treatment.

In addition to the general duty, regulations made under the Part 5A of the DDA set out a **specific duty** on certain public authorities, including all publicly-funded schools, requiring them to demonstrate how they are meeting the general duty. In effect the general duty sets out what schools have to do; the specific duty sets out how schools have to do it and what they need to record as evidence of what they have done.

The main requirements of the specific duty are to:

- prepare and publish a disability equality scheme (a scheme);
- involve disabled people in the development of a scheme;
- implement the scheme;
- report on it.

The purpose of the scheme is to demonstrate how the school is going to meet the disability equality duty. Schools are required to undertake the development of their scheme in a particular way and to include particular elements. They must:

- involve disabled people (pupils, staff, parents) in the preparation of the scheme;
- set out in their scheme how disabled people have been involved in its preparation, and their arrangements for gathering information on the effect of the school's policies on:
 - the recruitment, development and retention of disabled employees;
 - the educational opportunities available to and the achievements of disabled pupils;
 - the school's methods for assessing the impact of its current or proposed policies and practices on disability equality;
 - the steps the school is going to take to meet the general duty (the school's action plan);
 - the arrangements for using information to support the review of the action plan and to inform subsequent schemes;
- implement the actions in their scheme within three years;
- report on their scheme annually;
- review and revise their scheme every three years.

The school is not required to do anything under its scheme that is unreasonable or impracticable.

Schemes must have been published by 4 December 2006, except for schemes for primary schools, special schools and PRUs, which must have been published by 3 December 2007. It is the local authority that has responsibility for the scheme for a PRU.

Further information about schools' disability discrimination responsibilities are contained in a guidance pack entitled *Implementing the Disability Discrimination Act (DDA) in schools and early years settings – a training resource for schools and local authorities*. This guidance outlines schools' and local authorities' responsibilities in relation to the DDA and also provides support and advice to schools in the development and implementation of these duties. Copies of this guidance can be ordered from Prolog by e-mailing dcsf@prolog.uk.com or by phoning 0845 60 222 60. However, only one pack can be allocated to each school.

Where a child has special educational needs a school has statutory duties under the Education Act 1996, which include the following from sections 313, 317 and 317A:

- doing its best to ensure that the necessary provision is made for any pupil who has special educational needs
- ensuring that where the head teacher or a nominated governor has been informed by a local authority that a pupil has SEN, those needs are made known to all who are likely to teach him/ her
- ensuring teachers are aware of the importance of identifying and providing for pupils who have SEN
- ensuring a pupil with SEN joins in the activities of the school together with other pupils, so far as is reasonably practical and compatible with the child receiving the special educational provision their learning needs call for, the efficient education of the pupils with whom they are educated and the efficient use of resources
- report to parents on the implementation of the school's policy for pupils with SEN
- have regard to the SEN Code of Practice when carrying out its duties toward all pupils with SEN
- ensure that parents are notified of a decision by the school that SEN provision is being made for their child

The SEN Code of Practice explains there is a continuum of special educational needs and that, where necessary, increasingly specialist expertise should be brought to bear on a child's difficulties. The Code describes this as a graduated approach to addressing children's special educational needs. The Code suggests that where a child's difficulties are not ameliorated through usual approaches to teaching and learning, staff should decide on additional or different interventions at *School Action*.

If little or no progress continues to be made, school staff should consider seeking external support through *School Action Plus*. At this stage, external support services (both those provided by the local authority and by other organisations) should be helping to develop interventions aimed at addressing a child's continuing barriers to achievement. However, the Code is clear that the involvement of such agencies need not be limited to such pupils – outside specialists can play an important part in the very early identification of SEN and in advising schools on effective provision designed to prevent the development of more significant needs.

Where a child with SEN continues to make little progress in response to support provided through *School Action Plus*, the school should consider asking the local authority to undertake a statutory assessment of the child's SEN, as in Chapter 7 of the Code of Practice. As indicated at para 7.21 of the Code, a parent can request such an assessment at any time, which may result in a statement of SEN being issued for the child. Paragraph 7.29 of the Code explains that if a local authority does not agree to undertaking a statutory assessment, the parents have a right of appeal to an SEN and Disability Tribunal. Similarly, paragraph 8.15 of the Code explains that parents also have a right of appeal if a decision is made not to provide a statement, following a statutory assessment.

Disability Discrimination Act 1995 (DDA) Part 2: Schools' duties in relation to employment

Part 2 of the DDA says that it is unlawful for employers to discriminate against disabled employees and disabled people who apply for a job. It is discrimination if an employer:

- Treats a disabled employee or applicant less favourably than another on the grounds of the disabled person's disability (**direct discrimination**). This cannot be justified.
- Fails to take reasonable steps to avoid placing a disabled employee or applicant at a substantial disadvantage (**reasonable adjustments**). There is no justification for failing to make a reasonable adjustment.
- Treats a disabled employee or applicant less favourably than another for a reason related to their disability and without justification (**disability-related discrimination**).

The duties apply to:

- Recruitment, selection and interview procedures
- Terms and conditions of employment
- Induction, promotion opportunities, transfers, training, professional development and other benefits
- Termination of employment

The duties apply to disabled employees and disabled people who apply for a job:

- Teaching and non-teaching
- Full-time and part-time
- Permanent and temporary/casual staff
- Contract staff: cleaners/supply teachers

The reasonable adjustments duty in Part 2 of the DDA includes:

- Making changes to an employee's duties, working hours or place of work
- The provision of auxiliary aids and services
- Physical alterations to buildings.

If a disabled person feels that they have been discriminated against they should first seek to resolve the dispute within the workplace, wherever possible. A claim of discrimination is made by application to an employment tribunal.

The *DRC Code of Practice: Employment and Occupation* provides detailed information including examples to illustrate the provisions of Part 2, measures that employers would sensibly take to prevent discrimination in the workplace and how employers can plan to avoid discrimination in the future.