

# CROSSACRES PRIMARY ACADEMY



## DISABILITY EQUALITY POLICY

**2016**

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**Date: January 2016**

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### **1. The Equality Act 2010**

#### **1.1 Schools: Who and What the Act Applies to**

In England and Wales the Act applies to all maintained and independent schools, including Academies, and maintained and non-maintained special schools. In Scotland it applies to schools managed by education authorities, independent schools and schools receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.

The Act makes it unlawful for the responsible body of a school to discriminate against, harass or victimise a pupil or potential pupil:

- In relation to admissions,
- In the way it provides education for pupils,
- In the way it provides pupils access to any benefit, facility or service, or
- By excluding a pupil or subjecting them to any other detriment.

The “responsible body” is the governing body or the local authority for maintained schools in England and Wales, the education authority in the case of maintained schools in Scotland, and the proprietor in the case of independent schools, Academies or non-maintained special schools. In practice, any persons acting on behalf of the responsible body – including employees of the school – are liable for their own discriminatory actions, and the responsible body is also liable unless it can show that it has taken all reasonable steps to stop the individual from doing the discriminatory action or from doing anything of that kind.

The Act deals with the way in which schools treat their 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, if a school treats bullying which relates to a protected ground less seriously than other forms of bullying – for example dismissing complaints of homophobic bullying or failing to protect a transgender pupil against bullying by classmates – then it may be guilty of unlawful discrimination.

The 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.

## **1.2 Protected Characteristics**

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

- Age
- Sex
- Race
- Disability
- Religion or belief
- Sexual orientation
- Gender reassignment
- Pregnancy or maternity
- Family status eg LAC or young carers

## **1.3 Association**

It is unlawful to discriminate because of the sex, race, disability, religion or belief, sexual orientation or gender reassignment of another person with whom the pupil is associated. So, for example, a school must not discriminate by refusing to admit a pupil because his parents are gay men or lesbians. It would be race discrimination to treat a white pupil less favourably because she has a black boyfriend.

## **1.4 Perception**

It is also unlawful to discriminate because of a characteristic which you think a person has, even if you 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 Act extends protection against discrimination on grounds of pregnancy or maternity to pupils, so it will be unlawful – as well as against education policy – for a school to treat a pupil unfavourably because protection for transgender pupils against gender reassignment discrimination is also included in this Act.

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

## **1.5 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.

## **1.6 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.

## **2. 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

### **2.1 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.

The Act sets out details of matters that may be relevant when determining whether a person meets the definition of disability. Long term is defined as lasting, or likely to last, for at least 12 months.

### **2.2 Direct discrimination**

A school must not treat a disabled pupil less favourably simply because that pupil is disabled – for example by having an admission bar on disabled applicants.

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 it 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.

### **2.3 Indirect discrimination**

A school must not do something which applies to all pupils but which is more likely to have an adverse effect on disabled pupils only – for example having a rule that all pupils must demonstrate physical fitness levels before being admitted to the school – unless they can show that it is done for a legitimate reason, and is a proportionate way of achieving that legitimate aim.

### **2.4 Discrimination arising from disability**

A school must not discriminate against a disabled pupil because of something that is a consequence of their disability – for example by not allowing a disabled pupil on crutches outside at break time because it would take too long for her to get out and back. Like indirect discrimination, discrimination arising from disability can potentially be justified. 26

### **2.5 Harassment**

A school must 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.

## **3. Auxiliary aids and services**

The duty to provide auxiliary aids as part of the reasonable adjustment duty is a change for all schools from September 2012 and also extends to maintaining local authorities.

Many disabled children will have a SEN and may need auxiliary aids which are necessary as part of their SEN provision; in some circumstances as part of a formal SEN statement. These aids may be provided in the school under the SEN route, in which case there will be no need for the school to provide those aids

Schools will have to consider whether to provide auxiliary aids as a reasonable adjustment for disabled children. This will particularly be the case where a disabled child does not have an SEN statement or where the statement does not provide the auxiliary aid or service.

There should be no assumption, however, that if an auxiliary aid is not provided under the SEN regime then it must be provided as a reasonable adjustment. Similarly, whilst schools and LAs are under the same reasonable adjustment duty, there should be no assumption that where it is unreasonable for a school to provide an auxiliary aid or service, for example on cost grounds, it would then be reasonable for the local authority to provide it. All decisions would depend on the facts of each individual case. The nature of the aid or service, and perhaps also the existence of local arrangements between schools and local authorities, will help to determine what would be reasonable for the school or the LA to provide.

For example, where there is a centrally organised visual or hearing impairment service it may be reasonable for the local authority to provide more expensive aids or support through that service.

The term “auxiliary aids” found in the Equality Act 2010 covers both auxiliary aids and services, but there is no legal definition for what constitutes auxiliary aids and services. Considering the everyday meaning of the words, is, however, helpful. Legal cases have referred to the Oxford English Dictionary definition of auxiliary as “helpful, assistant, affording aid, rendering assistance, giving support or succour” and that auxiliary aids and services “are things or persons which help.” Examples of what may be considered an auxiliary aid could be; hearing loops; adaptive keyboards and special software. However the key test is reasonableness and what may be reasonable for one school to provide may not be reasonable for another given the circumstances of each case.

Some disabled children will have a need for auxiliary aids which are not directly related to their educational needs or their participation in school life, for example, things which are generally necessary for all aspects of their life, such as hearing aids. It is likely to be held that it would be unreasonable for a school to be expected to provide these auxiliary aids.

#### **4. School Ethos, Vision & Values**

Crossacres Primary Academy uses the “social model” of disability:

We recognise that disability is not caused by the individuals, but by the physical, environmental and attitudinal barriers which exist in the education system and in society as a whole. Therefore Crossacres Primary Academy uses the social model of disability throughout our work. We understand that the definition of disability under the Act is different from the eligibility criteria for special educational needs provision. This means that disabled pupils may or may not have special educational needs.

Crossacres Primary Academy is committed to ensuring:

- That disability equality is integrated into all aspects of School life
- Equal treatment of all its employees, pupils and any others involved in the school community, with any form of disability
- That disabled people are not treated less favourably in any procedures, practices and service delivery.
- The promotion of equality of opportunity which involves respect for all people, valuing their individuality and personal circumstances
- That we foster a positive learning environment
- That no disabled people with any form of impairment are harassed.

#### **5. Reasonable adjustments and when they have to be made**

The duty to make reasonable adjustments applies only to disabled people. For schools the duty is summarised as follows:

- Where something a school does places a disabled pupil at a disadvantage compared to other pupils then the school must take reasonable steps to try and avoid that disadvantage.
- Schools will be expected to 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.

Schools are not subject to the requirement of reasonable adjustment duty concerned with making alterations to physical features because this is already considered as part of their planning duties.

### **5.1 Making reasonable adjustments**

The EHRC has published guidance on the auxiliary aids duty which includes advice on when it would be reasonable for schools to have to make adjustments and what factors a school should take into account in its assessment of whether or not it would be reasonable to make any particular adjustment. The guidance is available at <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>.

A minor change for schools is that a failure to make a reasonable adjustment cannot now be justified, whereas under the previous disability discrimination legislation it could be. However this change should not have any practical effect due to the application of the reasonableness test – i.e. if an adjustment is reasonable then it should be made and there can be no justification for why it is not made. Schools will not be expected to make adjustments that are not reasonable.

In addition to having a duty to consider reasonable adjustments for particular individual disabled pupils, schools will also have to consider potential adjustments which may be needed for disabled pupils generally as it is likely that any school will have a disabled pupil at some point. However, schools are not obliged to anticipate and make adjustments for every imaginable disability and need only consider general reasonable adjustments - e.g. being prepared to produce large font papers for pupils with a visual impairment even though there are no such pupils currently admitted to the school.

The Act does not set out what would be a reasonable adjustment or a list of factors to consider in determining what is reasonable. It will be for schools to consider the reasonableness of adjustments based on the circumstances of each case. However, factors a school may consider when assessing the reasonableness of an adjustment may include the financial or other resources required for the adjustment, its effectiveness, its effect on other pupils, health and safety requirements, and whether aids have been made available through the Special Educational Needs route.

Often, though, effective and practicable adjustments for disabled pupils will involve little or no cost or disruption and are therefore very likely to be reasonable for a school to have to make.

Schools generally 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 – for example, if a school put on a geology field trip which

necessarily involved climbing and walking over rough ground and after fully considering alternatives to accommodate a disabled pupil in a wheelchair who could not take part it determined that there was no viable alternative or way of enabling the disabled pupil to participate or be involved, it would not have to cancel the trip as originally planned. This is unlikely to constitute direct discrimination or failure to make a reasonable adjustment

The reasonable adjustments duties on schools are intended to complement the accessibility planning duties (covered in 4.28 - 31) and the existing SEN statement provisions which are part of education legislation, under which local authorities have to provide auxiliary aids to pupils with a statement of special educational need.

Crossacres Primary Academy has implemented numerous reasonable adjustments to ensure that all learners' needs are met:

Area	Practice
Learning Needs	<ul style="list-style-type: none"> <li>• Target books and one page profiles in place</li> <li>• Multi-sensory teaching</li> <li>• Differentiation</li> <li>• Taskbags</li> <li>• Reading rulers/ coloured overlays for dyslexic pupils</li> <li>• Use of ICT to provide alternative ways of recording ideas</li> <li>• One-to-one support for those with significant learning needs</li> <li>• Pupils' learning levels are tracked to ensure that they make progress</li> <li>• SENCo meets with Class Teachers at least twice a year to discuss children with additional needs.</li> <li>• One to one dyslexia support</li> <li>• EP assessment</li> </ul>
Pastoral Needs	<ul style="list-style-type: none"> <li>• Positive behaviour management strategies</li> <li>• Team Teach for children who need restraining</li> <li>• Art Therapy support</li> <li>• Support during playtimes/ lunchtimes if required</li> <li>• Welcome Room</li> <li>• One-to-one support</li> <li>• EP Assessment</li> <li>• Pastoral Pen Portraits for children with significant social, emotional or behavioural difficulties</li> <li>• IBP in place</li> <li>• Pupils' learning levels are tracked to ensure that they make progress</li> <li>• SENCo meets with Class Teachers at least twice a year to discuss children with additional needs.</li> </ul>



<p>Speech, Language and Communication Needs</p>	<ul style="list-style-type: none"> <li>• Speech and language surgeries are held in order to provide staff with support and guidance</li> <li>• Delivery of speech and language interventions</li> <li>• Children are prioritised for language assessments</li> <li>• Children with speech difficulties are seen outside of school at the Speech Clinic</li> <li>• Access The Grange for support and advice regarding children with social communication difficulties</li> <li>• Use of visuals to support children with social communication difficulties</li> <li>• Simplified language used by staff to communicate with those pupils with language difficulties</li> <li>• Pupils' learning levels are tracked to ensure that they make progress</li> <li>• SENCo meets with Class Teachers at least twice a year to discuss children with additional needs.</li> <li>• Additional adult support is considered on a case by case basis</li> <li>• Referral to SCAIT team for assessment</li> <li>• SLi intervention</li> <li>• EP Assessment</li> </ul>
<p>Physical Needs</p>	<ul style="list-style-type: none"> <li>• Risk assessment for children with physical needs</li> <li>• Access Lancasterian Special School for support and advice</li> <li>• Order resources to support those with physical needs</li> <li>• Pupils' learning levels are tracked to ensure that they make progress</li> <li>• SENCo meets with Class Teachers at least twice a year to discuss children with additional needs.</li> <li>• Additional adult support is considered on a case by case basis</li> <li>• Physiotherapy</li> <li>• Occupational therapy input</li> <li>• Motor skills intervention</li> <li>• EP Assessment</li> </ul>
<p>Medical Needs</p>	<ul style="list-style-type: none"> <li>• Medical needs register</li> <li>• Medical Pen Portraits</li> <li>• Asthma boxes</li> <li>• Asthma letters</li> <li>• Risk assessments for children with medical needs</li> <li>• Order resources to support those with medical needs</li> <li>• Liaison with medical professionals</li> <li>• Additional adult support is considered on a case by case basis</li> <li>• SENCo meets School Nurse on weekly basis</li> <li>• EP Assessment if child's needs are severe</li> </ul>

<p>Disability Awareness</p>	<ul style="list-style-type: none"> <li>• Curriculum resources include positive images of disability</li> <li>• Whole School Assemblies</li> <li>• Invite disabled visitors into school</li> <li>• Staff training on specific disabilities that are present in school</li> <li>• LO training on pupils with additional needs within school</li> <li>• SEN TA training to ensure that the children with the most significant need are receiving appropriate support</li> <li>• Collaboration with special needs Schools</li> </ul>
<p>Transition/ Admissions</p>	<ul style="list-style-type: none"> <li>• Transition plans are created to ensure that pupils with additional needs are supported during periods of change</li> <li>• When a child is leaving to attend another school, the SENCo will arrange a transition meeting, create a transition plan and arrange transition visits</li> <li>• Year 6 pupils with additional needs will be supported in their transition high school</li> <li>• If a child with additional needs joins Crossacres Primary Academy, the SENCo will arrange a meeting with the previous school in order to share information and to ascertain whether the child can access mainstream schooling</li> </ul>
<p>Parents</p>	<ul style="list-style-type: none"> <li>• Safeguarding team support vulnerable families</li> <li>• Offer a range of parents courses and meeting</li> <li>• SEN Parents group and coffee mornings</li> <li>• SEN Review week – an opportunity for Class Teachers to discuss progress of SEN pupils and share new IEP targets</li> <li>• Training events on disability for parents</li> <li>• Support for disabled parents through workshops</li> <li>• Signposting parents to Parent Partnership</li> <li>• Referrals to appropriate external agencies</li> </ul>

<p>Out of Hours Learning</p>	<ul style="list-style-type: none"> <li>• SEN pupils can access any club</li> <li>• Wide range of clubs provided to ensure appropriate activities are available for all needs</li> <li>• Parent voice week</li> </ul>
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## 6. Accessibility

Schools and LAs need to carry out accessibility planning for disabled pupils. These are the same duties as previously existed under the DDA and have been replicated in the Equality Act 2010.

- Schools must implement accessibility plans which are aimed at:
- Increasing the extent to which disabled pupils can participate in the curriculum;
- Improving the physical environment of schools to enable disabled pupils to take better advantage of education, benefits, facilities and services provided; and
- Improving the availability of accessible information to disabled pupils.

Schools will also need to have regard to the need to provide adequate resources for implementing plans and must regularly review them. An accessibility plan may be a freestanding document but may also be published as part of another document such as the school development plan.

OFSTED inspections may include a school's accessibility plan as part of their review.

### 6.1 Local authorities' duties around accessibility for disabled pupils

LAs must, for the schools for which they are responsible, prepare accessibility strategies based on the same principle as the access plans for schools.

## 7. Reviewing/Monitoring

- The SENCo will review and monitor the Equality Policy each year.
- This process will inform priorities for the following year.
- The scheme will be fully revised every four years

- Information on performance, opportunities, admissions and exclusions, social relationships and attendance is collected and analysed for all pupils.
- There is particular emphasis on certain groups of pupils including children on the Free School Meals register, Looked After Children, ethnic minority pupils, Gifted and Talented pupils and children with SEN including disability.
- The focus of the information collection and analysis is related to pupil personal academic targets and the resources needed to ensure they meet them.
- There are 3 progress meetings each year with SLT discussing with individual teachers the progress of children they are responsible for.
- SENCo presents data on SEN progress at least twice a year to SLT
- Monitoring is through the Strategic Management and Curriculum Committee of the Governing Body and by outcome report to the Finance and Staffing Committee in terms of additional resource need or staffing deployment.
- The Governing Body receives half termly feedback from the Finance, Premises and Health and Safety Committee who receives regular updates and is able to challenge and give advice.
- SENCo meets staff at least twice a year to discuss the needs of pupils with SEN or disabilities

## **8. Employing, Promoting and Training Disabled Staff**

(See Manchester Guidelines)