



*'With thankfulness, courage and love
we strive to improve heart and mind'*

At Chilton Foliat Primary School we honour our educational heritage, supported by a strong Christian ethos. We strive to provide a diverse education that inspires children to develop a thirst for knowledge. This is delivered in a safe, supportive and nurturing environment promoting self-discipline, motivation and excellence in learning

- . We encourage strong partnerships and positive relationships amongst pupils, parents, carers and the wider community.

Guide to Equality & Diversity Policy

Please note that there may be Toolkits, Forms and other documents relating to this Policy which can be found on the LA HR website.

Please contact the Clerk of Governors for access of the LA HR department.

Schools / Academies Guide to the Equality and Diversity Policy and Procedure

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1. This guide provides the school / academy with additional information about the Equality Act which relate to particular aspects of the school's/ academy's Equality and Diversity Policy and Procedure.
2. All employees are responsible for avoiding unlawful discrimination and the Headteacher / principal and governing body are responsible for taking appropriate action where they become aware that this has taken place.

The Equality Act 2010

3. This major piece of legislation came in to force on 1 October 2010 and harmonised and consolidated the previous equality legislation. Previous legislation such as the Sex Discrimination Act 1975, the Race Relations Act 1976, Disability Discrimination Act 1995 and the Equal Pay Act 1970 among others have been repealed.
4. Although the core provisions of the Equality Act 2010 came in to force in October 2010, provisions in relation to positive action in recruitment and promotion covered in this guide came in to force on 5 April 2011. These are voluntary provisions. The provisions on dual discrimination or the proposed requirement that employers publish data in relation to gender-related pay differences in the Equality Act will not be implemented for the time being.
5. Further information is available on equality and diversity at the school / academy in:
 - Disability support in the workplace support policy and procedure.
6. The Equality and Human Rights Commission has produced a number of codes of practice to accompany the Equality Act. Specifically for schools / academies they have produced the "*technical guidance – Education and Schools*". All the codes have been produced to give clear guidance and ensure that the Act is consistently applied. They do not have the force of law but evidence of whether they have been followed can be relied upon in employment tribunal and is likely to have an impact on the tribunal's decision. The Equality and Human Rights Commission have also produced guidance on these duties for schools / academies called "*Public sector equality duty guidance for schools*".

Protected characteristics

7. The Act protects people from being treated less favourably because they have a protected characteristic. The protected characteristics in employment are:

Age - Where this is referred to, it refers to a person of a particular age (e.g. 32 year olds) or belonging to a group defined by a range of ages (e.g. 18 - 30 year olds or 'middle-aged'). People of all ages (and falling within all age-

ranges) are protected. However, different treatment because of age is not in itself unlawful if the treatment can be justified i.e. if you can demonstrate that, for example, offering particular training to people within a specified age-range is a proportionate means of meeting a legitimate aim.

It may also, for example be proportionate and legitimate to address a disproportionate under-representation of younger employees in the workforce necessitating recruitment of younger people to provide for long-term continuity and to minimise the risk of a significant loss of essential skills and experience if too many retire over a short period of time. Age is the only protected characteristic where direct age discrimination may be allowable where it can be objectively justified. Schools / Academies are advised to seek HR or legal advice before taking any action or decision that might amount to direct age discrimination.

For further information see the ACAS guidance on age discrimination within the equality section (www.acas.org.uk)

Disability – A person has a disability if s/he 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. There continues to be a duty on schools to make reasonable adjustments for disabled employees to help them overcome a disadvantage resulting from such an impairment.

Please refer to the disability support policy and procedure and supporting guides.

Gender reassignment - The process of transitioning from one gender to another. The Act provides protection for a transsexual person who proposes to, starts or has completed a process to change his or her gender and the previous requirement to have commenced the medical procedure is no longer applicable.

For further information see ACAS guidance on gender identity within the equality section (www.acas.org.uk)

Marriage and civil partnership - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. Discrimination on the grounds of marriage or civil partnership is unlawful.

For further information see ACAS guidance on civil partnerships within the equality section (www.acas.org.uk)

Pregnancy and maternity - Pregnancy is the condition of being pregnant. Maternity refers to any statutory maternity leave entitlement after the birth.

Race - This refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

For further information see ACAS guidance on race discrimination within the equality section (www.acas.org.uk)

Religion and belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should have a clear structure and belief system which affects life choices or the way someone lives for it to be included in the definition. A political belief, for example would not be protected but case-law has shown that someone with a strong conviction for conservation practicing an eco-friendly lifestyle amounted to a philosophical belief capable of being protected under discrimination law.

Sex – both men and women are protected under the Act.

For further information see ACAS guidance on sex discrimination within the equality section (www.acas.org.uk)

Sexual orientation – Heterosexual, homosexual (gay/lesbian) and bisexual people are protected under the Act.

For further information see ACAS guidance on sex orientation within the equality section (www.acas.org.uk)

Key points in relation to the types of discrimination

Direct discrimination

8. You must not treat a person differently and in a way which is less favourable just because that person has a protected characteristic. Direct discrimination cannot be justified (save only in relation to age and only then if it can be shown that treating someone less favourably because of their age is a proportionate means of achieving a legitimate end). Please take HR or legal advice before taking any action or decision that might amount to direct age discrimination.

For example:

- A manager does not interview a job applicant because of the applicant's ethnic background.
- An employer says in a job advert 'this job is unsuitable for disabled people'.

Indirect discrimination

9. You must not follow a practice or policy or procedure that results in a less favourable outcome for people with a protected characteristic unless you can show that what you have done, or intend to do, is objectively justified.

For example: A manager only allows employees who work full-time to apply for promotion. This has a worse impact on women, who are more likely to work part-time. Unless the manager can objectively justify the requirement to work full-time, this is very likely to be indirect discrimination because of sex.

Discrimination arising from disability

10. A school / academy must not treat a disabled person unfavourably for a reason connected to their disability where they cannot show that what they are doing is objectively justified. For example, a requirement may be objectively justified if it can be shown that a particular role requires a particular ability and reasonable adjustments have been explored. This only applies if you know or could reasonably have been expected to know that the person is a disabled person

For example: A manager insists that all employees have to be in the office by 9am or face disciplinary action. An employee has a mobility impairment that makes travelling in the rush hour difficult. Unless the manager can objectively justify the requirement to be in at that time, this may be discrimination arising from disability, because the disabled person would be treated unfavourably (being disciplined) for something connected to their disability (the inability to travel in the rush hour). This may also be a failure to make reasonable adjustments.

11. In addition, schools / academies should make sure that disabled people have the same access as non disabled people in relation to everything that is involved in obtaining and doing a job. This may involve schools making reasonable adjustments where appropriate.

For example: A manager usually gives employees a written copy of their draft annual appraisal and gives them a morning to read the draft and to send any comments back to them. The manager arranges for an employee with severe dyslexia to meet them instead and talk through the draft and provide comments. This is likely to be a reasonable adjustment for the manager to make.

Association

12. You must not treat a person less favourably than someone else because they are associated with a person who has a protected characteristic.

For example: A manager selects a person for redundancy not because they meet the selection criteria, but simply because they have a disabled child and the manager believes they may need more time off to care for their child than other colleagues.

Perception

13. A school / academy must not unlawfully discriminate against someone in any way because you think that they have a protected characteristic. It applies even if the person does not actually possess that characteristic.

For example: A manager incorrectly thinks one of their workers is gay. They tell them they must change their clothes in a dusty stock room rather than in the communal changing area. This is likely to be discrimination because of sexual orientation based on the manager's perception, even though the worker is not gay (if the worker is gay, it would almost certainly be direct discrimination).

Victimisation

14. A school / academy must not treat a person badly or victimise them because they have complained about discrimination or helped someone else complain or have done anything to uphold their own or someone else's equality law rights.

Harassment

15. A school / academy must not undermine, humiliate or create an intimidating or hostile environment for someone because of their protected characteristic.

For example: A transsexual woman is subjected to offensive 'banter' at work, relating to her gender reassignment. This creates a hostile and offensive atmosphere for her, and would amount to harassment.

16. Schools / Academies are also responsible for taking action to protect employees from harassment from third parties. The school / academy should intervene and report this type of behaviour, ensure the matter is investigated and take action where required.
17. There may be lawful objective justification for indirect discrimination against employees who share a certain protected characteristic where a school / academy can demonstrate a proportionate means of achieving a legitimate aim. But arguing that it's more expensive not to discriminate is unlikely to be considered a valid justification. It must be a proportionate measure too, meaning that the discriminatory impact should be significantly outweighed by the importance and benefits of the aim. There should also be no reasonable, less discriminatory alternative.
18. There's no objective justification defence for cases of direct discrimination - except on the basis of age.
19. A school / academy would need to provide real evidence to support any claim of objective justification. Assertion alone is unlikely to be sufficient and each case must be considered on its individual merits. Schools / academies should seek further advice from their Education HR case adviser.

Exceptions

20. Sometimes there are situations where equality law applies differently. The few exceptions which are allowable include:
- direct age discrimination which can be objectively justified (this is likely only in rare cases)
 - health and safety considerations in relation to pregnancy and maternity (to comply with health and safety laws)
 - the use of voluntary positive action (see guide to recruitment – Equality Act 2010 update)
 - treating disabled people better than non-disabled people (e.g. making reasonable adjustments or provisions under the double tick symbol award)

21. Except in the case of accepted practice under the double tick symbol award, (where a school / academy has been awarded this) schools / academies are advised to seek advice from their Education HR case adviser before seeking to use an exception.

Common pre-conceptions to avoid

22. It is essential that schools / academies guard against discrimination on the basis of possible pre-conceptions or stereo-types linked to individuals from groups with protected characteristics.

For example, assuming certain groups of people:

- have a lack of commitment to work.
 - have outside interests that would interfere with work.
 - possess poor physical/mental ability.
 - produce an anticipated unfavourable reaction among other staff and members of the public.
 - are unsuitable for the job because of a feeling that certain types of work are only suitable for a man/woman, married/single etc.
 - possess limited career intentions.
 - are unwilling to undertake training.
 - have limitations imposed by traditional female or racial interests and experiences.
23. For further information about the types of discrimination and the protected groups it applies to please refer to the ACAS guide – The Equality Act – what is new for employers.
- Reasonable adjustments**
24. The duty to make reasonable adjustments aims to make sure that a disabled person has the same access to everything that is involved in obtaining and doing a job as a non-disabled person, as far as is reasonable.
25. When the duty arises, schools / academies are under a positive and proactive duty to take steps to remove or reduce or prevent the obstacles a disabled worker or job applicant faces.
26. A school / academy may also be responsible or have joint responsibility with another agency/employer for making reasonable adjustments for other people who are performing work at their school/ academy. This includes agency staff, contractors, sub contractors and seconded staff.
27. Further information on reasonable adjustments is set out in the disability support in the workplace policy and procedure. Advice can also be sought from your Education HR case Adviser.

Employment exceptions for schools with a religious character

28. There are some specific exceptions to the religion or belief provisions of the Equality Act for employment by schools designated as having a religious character.

29. For the purposes of legislation, these schools fall into two broad categories – Voluntary Aided (VA) is one category and Voluntary Controlled (VC) and Foundation schools together form the other. VA schools have more autonomy than VC/foundation schools, especially in terms of employment. Academies with a religious character generally operate under conditions which mirror those in VA schools.
30. All of the situations described here are provided for by existing legislation which has not been changed by the Equality Act.
31. Refer to “*The Equality Act 2010 – Departmental advice for school leaders, school staff and governing bodies in maintained schools and academies*”. This document can be found at www.gov.uk/government/publications and search for the document using reference DFE-00296-2013.

Public Sector Equality Duty

32. Under the Equality Act 2010, Schedule 19 schools / academies have further legal obligations under the new Equality duty. There are general duties which came in to force on 5 April 2011 and specific duties which are designed to help schools / academies meet the general duties.
33. The general duty requires public bodies (which includes schools/ academies) to have due regard, in terms of exercising their functions to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
34. For schools / academies who adopt the model HR policies and procedures that Wiltshire Council provide these have been Equality Impact Assessed (EIA) to identify opportunities to promote equality and mitigate any negative or adverse impacts on particular groups. This demonstrates due regard in respect of these HR policies and procedures. Where a school / academy implements a non Wiltshire council HR policy or procedure they will be responsible for demonstrating due regard.
35. The general equality duty therefore requires schools / academies to consider how they could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the provision of education and for these to be kept under review. The general duty is not prescriptive about the approach a school should take in relation to this.
36. The specific duties apply to schools / academies and require them to publish sufficient information to demonstrate that they have complied with the general equality duty across their functions for service users and employees, where the school / academy employs more than 150 employees. The school / academy will also need to demonstrate the effect policies and practices have

on people who share a protected characteristic and the extent to which these policies and practices further the aims of the general equality duty.

37. For further guidance on the type of workforce monitoring information to publish please refer to the document "*Guide for schools / academies on employee related workforce monitoring documentation to publish in accordance with the Equality Act 2010*".
38. Further information on the Public Sector Equality Duty is available on the Equality and Human Rights Commission website (www.equalityhumanrights.com)