

St Francis of Assisi Church of England Primary School

Equality and Disability Policy

**(This details how the school complies with the
public sector equality duty and is updated
annually)**

Policy Introduction

The policy sets out St Francis of Assisi Church of England Primary School's approach to promoting equality, as defined within the **Equality Act 2010**. This Act replaced all existing equality legislation such as the Race Relations Act, Disability Discrimination Act and Sex Discrimination Act. It consolidated this legislation and also provided some changes for schools. It covers sex, race, disability, religion or belief, sexual orientation, pupils who are pregnant or have recently given birth, undergoing or who have undergone gender reassignment and the school statutory duty to produce a Single Equality Scheme from April 2011.

'Equality Act 2010 and Schools' Guidance Key Points.

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. As far as schools are concerned, for the most part, the effect of the current law is the same as it has been in the past – meaning that schools cannot unlawfully discriminate against pupils because of their sex, race, disability, religion or belief or sexual orientation. In **May 2014**, The Department for Education produced a non-statutory, advisory document for school leaders, school staff, governing bodies and local authorities. It was produced to help schools to understand how the Equality Act affects them and how to fulfil their duties under the Act. It was updated to include information on same-sex marriage. Our Policy includes this guidance relevant to schools. 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
- by excluding a pupil or subjecting them to any other detriment.

The “responsible body” is the proprietor for academies in England and Wales. 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.

Protected Characteristics

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

- sex
- race
- disability
- religion or belief
- sexual orientation
- gender reassignment
- pregnancy or maternity

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.

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 she is pregnant or a new mother. 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. A person’s age is also a protected characteristic in relation to employment and the Act extends this (except for children) to the provision of goods and services, but age as a protected characteristic does not apply to pupils in schools. Schools therefore remain free to admit and organise children in age groups and to treat pupils in ways appropriate to their age and stage of development without risk of legal challenge, even in the case of pupils over the age of 18.

Unlawful behaviour

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

1. 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.
2. 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.
3. 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. Where schools are concerned, the offence of harassment as defined in this way in the Act applies only to harassment because of disability, race, sex or pregnancy and maternity, and not to religion or belief, sexual orientation or gender reassignment. It is very important to recognise that this does not mean that schools are free to bully or harass pupils on these other grounds - to do so would still be unlawful as well as unacceptable. Any case against the school would be on grounds of direct discrimination rather than harassment. Thus, if a teacher belittles a pupil and holds her up to ridicule in class because of a disability she has, this could lead to a court case alleging unlawful harassment. The same unacceptable

treatment directed at a lesbian pupil, or based on a pupil's religion, could lead to a case claiming direct discrimination. The practical consequences for the school, and the penalties, would be no different.

4. 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.

The School Context

St Francis of Assisi Church of England Primary School is situated in a large private housing estate with a growing percentage of ethnic families living in the locality. This adds to the richness and diversity of our culture. The population is growing rapidly with many new houses still being built. The school has 397 children on roll plus up to 39 fte Nursery places with 14% on the SEN register. St Francis of Assisi Church of England is a Primary School for children from 3-11 years of age in single age classes.

The vast majority of children speak English as their main language, although some pupils have one parent who speaks English as a second language. 16% of pupils within school have English as a second language. As the school serves a community that is predominantly white and British, we are committed to enriching the curriculum and experiences offered to all children in order to recognise and celebrate the linguistic, religious and cultural diversity of British society. We are equally committed to ensuring equality of opportunity for all children irrespective of their race, disability or gender.

Equality Information

Throughout all aspects of the curriculum, St Francis of Assisi Church of England Primary promotes tolerance and friendship and we share an understanding of a range of religions and cultures through the York Diocesan RE syllabus. Our Collective Worship themes follow a range of topics linking to SMSC, Christian Values and British Values. Our Behaviour and Anti-bullying Policies, assemblies dealing with relevant situations and involvement with the local communities, enable pupils to address equality issues. We welcome engagement with all staff members, parents and, of course, pupils if issues were to arise. At St Francis of Assisi Church of England Primary School, we recognise that the public sector equality duty has three aims and they are to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct under the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who have a shared characteristic and those who do not.

The Leadership Team and Governors at St Francis of Assisi Church of England Primary School will annually review how well we achieve these aims with regard to the protected groups under the Equality Act (race, disability, gender, gender re-assignment, age, pregnancy and maternity, marital status, religion and belief and sexual orientation).

Equality Objectives

We aim to provide the best education for all at St Francis of Assisi Church of England Primary School. The ethos of our school clearly reflects our commitment to fully including, respecting and supporting all members of our school community whatever their cultural background, belief, gender, race or disability.

Acts of worship

There is a general exception, which applies to all schools, to the religion or belief provisions which allows all schools to have acts of worship or other forms of collective religious observance. This means the daily act of collective worship, which for maintained schools is mandatory and should be of a broadly Christian nature, is not covered by the religion or belief provisions. The exception means that schools will not be acting unlawfully if they do not provide an equivalent act of worship for other faiths. Schools are also free to celebrate religious festivals and could not be claimed to be discriminating against children of other faiths if, for example, they put on a nativity play at Christmas or hold a celebration to mark other religious festivals such as Diwali or Eid.

Uniforms

The Equality Act does not deal specifically with school uniform or other aspects of appearance such as hair colour and style, and the wearing of jewellery and make-up, but the general requirement not to discriminate in the treatment of pupils applies here as in relation to other aspects of school policy. It is for the governing body of a school to decide whether there should be a school uniform and other rules relating to appearance, and if so what they should be. This flows from the duties placed upon the governing body by statute to manage the school. St Francis of Assisi Church of England have a school uniform which pupils are encouraged to wear.

Gender reassignment

Protection from discrimination because of gender reassignment in schools is new for pupils in the Equality Act, although school staff are already protected. It is unlawful for schools to treat pupils less favourably because of their gender reassignment. Gender reassignment 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. The protection against discrimination because of gender reassignment now matches the protection because of sexual orientation in schools. That is protection from direct and indirect discrimination and victimisation, which includes discrimination based on perception and on association.

We will ensure that all gender variant pupils, or the children of transgender parents, are not singled out for different and less favourable treatment from that given to other pupils. It is relatively rare for pupils – particularly very young pupils – to want to undergo gender reassignment, but when a pupil does so a number of issues will arise and these will be sensitively handled.

Segregating pupils by race or ethnicity

Segregation of pupils by race is always direct discrimination. It would thus be unlawful for a school to put children into sets, or into different sports in PE classes, according to their ethnicity. This stipulation in the Act is to make it clear that claims that segregated treatment is “separate but equal” cannot be sustained where race is concerned. It does not mean that schools cannot take positive action to deal with particular disadvantages affecting children of one racial or ethnic group, where this can be shown to be a proportionate way of dealing with such issues.

Race Equality Duty Schools previously had a statutory duty which required them to take proactive steps to tackle racial discrimination, and promote equality of opportunity and good race relations. Under the Equality Act, this has been replaced by the general equality duty and the specific duties – covered in chapter 5 of the guidance.

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. Lack of religion or belief is also included in the definition of “religion or belief”. This means it will be unlawful to discriminate against someone on the grounds that they do not adhere, or sufficiently adhere, to a particular religion or belief (even one shared by the discriminator), or indeed any religion or belief at all – such as, for example, an atheist. Discrimination because of religion or belief means treating a person less favourably than another person is or would be treated, because of their religion or belief, or the religion or belief they are perceived to have, their lack of religion or belief, or the religion or belief, or lack of it, of someone else with whom they are associated. The Equality Act makes it clear that unlawful religious discrimination can include discrimination against another person of the same religion or belief as the discriminator. This is to ensure that any potential discrimination between, e.g. Orthodox and Reform Jews, or Shia and Sunni Muslims, would also be unlawful. So if a Muslim pupil is not chosen for a part in a school play because it is thought to be inappropriate for a girl of that faith that will be discrimination even if the decision was taken by a Muslim teacher. Nor could a Muslim teacher choose one Muslim pupil over another for a part in the play because he

thinks the chosen pupil is a more observant member of his faith and should be rewarded. 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

St Francis of Assisi Church of England Primary School will ensure that pupils of one sex are not singled out for different and less favourable treatment from that given to other pupils. We will check that there are no practices which could result in unfair, less favourable treatment of boys or girls. For example, it would be unlawful for a school to require girls to learn needlework while giving boys the choice between needlework and woodwork classes.

Sexual orientation and marriage and civil partnership

St Francis of Assisi Church of England Primary School will ensure that all gay, lesbian or bi-sexual pupils, or the children of gay, lesbian or bi-sexual parents, are not singled out for different and less favourable treatment from that given to other pupils. We will check that there are no practices which could result in unfair, less favourable treatment of such pupils. For example, it would be unlawful for a school to refuse to let a gay pupil become a prefect because of his sexual orientation. Teaching about marriage must be done in a sensitive, reasonable, respectful and balanced way. Teachers are subject to professional requirements, the school curriculum, school policies, and anti-discrimination duties towards colleagues and pupils. No school, or individual teacher, is under a duty to support, promote or endorse marriage of same sex couples. Teaching should be 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.

Disability

The disability provisions in this Act are different from those for other protected characteristics in a number of ways. 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.

Provisions relating to disability

The disability provisions in the Equality Act mainly replicate those in the former Disability Discrimination Act (DDA). There are some minor differences as follows:

- Unlike the DDA the Equality Act does not list the types of day to day activities which a disabled person must demonstrate that they cannot carry out, thus making the definition of disability less restrictive for disabled people to meet.
- Failure to make a reasonable adjustment can no longer be defended as justified. The fact that it must be reasonable provides the necessary test.
- Direct discrimination against a disabled person can no longer be defended as justified – bringing it into line with the definition of direct discrimination generally.

- From September 2012 schools and local authorities have a duty to supply auxiliary aids and services as reasonable adjustments where these are not being supplied through Special Educational Needs (SEN) statements or from other sources. In practice this will already be being done in many cases.

Roles and Responsibilities

School governors are responsible for:

- making sure the school complies with current equality legislation
- making sure this policy and its procedures are followed

The Headteacher is responsible for:

- making sure the policy is readily available and that the governors, staff, pupils and their parents/carers know about it
- making sure its procedures are followed
- producing regular information for staff and governors about the policy and how it is working and providing training for them on the policy, if necessary
- making sure all staff know their responsibilities and receive training and support in carrying these out
- taking appropriate action in cases of harassment and discrimination

All school staff are responsible for:

- modelling good practice, dealing with discriminatory incidents and being able to recognise and tackle bias and stereotyping
- promoting equality and avoiding discrimination against anyone
- keeping up to date with the law on discrimination and taking training and learning opportunities

Pupils are responsible for:

- keeping equality and diversity issues on the School Council agenda, through a shared input with staff on developing policies relating to this area. This may include: – the anti-bullying policy and specifically racist and homophobic bullying – developing school/class rules which challenge discriminatory behaviour

Parents/Carers are responsible for:

- Encouraging equality and diversity with their own children, to share input with staff on developing policies relating to this area.

Visitors and contractors are responsible for:

- Knowing and following our equality policy

Responsibility for overseeing equality practices in the school lies with the Headteacher, Chair of Governors, Resources Committee.

Responsibilities include:

- Coordinating and monitoring work on equality issues
- Dealing with and monitoring reports of harassment (including racist and homophobic incidents)
- Monitoring the progress and attainment of potentially vulnerable groups of pupils (e.g. children and young people in care, children from minority ethnic/language or Traveller communities, disabled pupils etc.)
- Monitoring exclusions
- Monitoring, Reviewing and Assessing Impact

The school's Equality Policy must be supported by a Single Equality Scheme.

This is linked to the school development plan and includes targets determined by the Governing Body for promoting equality. The policy will be regularly monitored and reviewed by staff and the achievement committee to ensure that it is effective in eliminating discrimination, promoting access and participation, equality and good relations between different groups, and that it does not disadvantage particular sections of the community. Any pattern of inequality found as a result of impact assessment should be used to inform future planning and decision-making. The Head teacher will provide monitoring reports for review by the Governing Body. These should refer to the school population, key initiatives and progress against targets and future plans.

Related documents:

- Accessibility Action Plan
- SEND Policy
- Behaviour and Anti-Bullying Policy
- Child Protection Including Safeguarding Policy