



The Equality Act: What we need to know

The Equality Act 2010 replaced nine major pieces of legislation and should make it easier for school leaders and governors to understand their legal responsibilities and tackle inequalities in education.

Sir Michael Wilshaw wrote:

“In the most effective schools, the headteacher and governors establish a clear vision, rooted in an unwavering commitment to ensure the success of every pupil. Equality of opportunity is at the heart of this vision, with an insistence that all pupils will do well.”

Avoiding discrimination and promoting equality supports the agenda of improving the attainment and progress of all pupils, regardless of their circumstances and backgrounds. The Ofsted inspection framework makes clear that tackling inequalities and disadvantages should be reflected in every aspect of school life and will be considered as part of all inspection judgements.

What is the Equality Act 2010?

The law should make it easier for school leaders and governors to understand their legal responsibilities and tackle inequalities in education. In England and Wales, the Act applies to all maintained and independent schools, as well as academies and free schools.

Everything a school does must be fair, non-discriminatory and not put individuals or groups of people at a disadvantage. In particular, a school must not discriminate, harass or victimise a pupil or potential pupil in relation to:

- **Admissions.**
- **The way it provides education for pupils.**
- **How it provides pupils access to any benefit, facility or service.**
- **Excluding a pupil or subjecting them to any other detriment.**

What actions and behaviours are unlawful?

The Act defines a number of types of unlawful behaviour, including:

- **Direct discrimination.**
- **Indirect discrimination.**
- **Failing to make reasonable adjustments for disabled pupils or staff.**
- **Discrimination arising from disability.**
- **Harassment related to a protected characteristic.**
- **Victimisation of someone because they have made, or helped with, a complaint about discrimination.**



Protected characteristics

The Act uses the term “protected characteristics” to refer to aspects of a person’s identity. Treating a person less favourably because they have one or more of these characteristics would be unlawful. The protected characteristics are:

- **Age.**
- **Disability.**
- **Gender reassignment.**
- **Marriage and civil partnership.**
- **Pregnancy and maternity.**
- **Race.**
- **Religion or belief.**
- **Sex.**
- **Sexual orientation.**

The protected characteristics of age and marriage and civil partnership apply to schools as employers, but not in relation to their provision for pupils.

Public Sector Equality Duty

Since April 2011, schools have also been bound by a part of the Equality Act 2010 called the Public Sector Equality Duty (also known as the PSED, or simply the “Equality Duty”).

The Equality Duty replaces the previous three sets of duties on schools to promote disability, gender and race equality through having equality policies and action plans for these groups. Some schools chose to meet these previous duties by combining the three policies into a “single” equality policy.

There is now no requirement for schools to have equality policies, schemes and/or action plans. This has been made clear in the updated list of statutory policies for schools from the Department for Education (DfE).

The new Equality Duty has **two** parts: the “**general**” duty and “**specific**” duties.

The general duty is the overarching legal requirement for schools and means they must consider how their policies, practices and day-to-day activities impact on pupils and staff. Schools are required to have “due regard” to the need to:

- **Eliminate unlawful discrimination, harassment and victimisation.**
- **Advance equality of opportunity.**
- **Foster good relations.**

The two specific duties for schools aim to assist them to meet the general duty. Schools should have complied with these two duties from **April 6, 2012**. They are:

- **To publish information to show how they are complying with the Equality Duty. This must be updated at least annually.**
- **To prepare and publish one or more specific and measurable equality objectives at least every four years.**



What is meant by ‘due regard’?

Having due regard means that schools must consciously think about the three aims of the Equality Duty as part of decision-making, developing and reviewing policies and how they deliver services.

According to advice for school leaders and governors from the DfE: “The duty to have ‘due regard’ to equality considerations means that whenever significant decisions are being made or policies developed, thought must be given to the equality implications.”

Publishing equality information

As a minimum, schools should publish information on:

- **The diversity of the school population.**
- **How they are performing in relation to the three aims of the Equality Duty.**
- **The diversity of their workforce, although this only applies to schools with more than 150 employees.**

Measurable objectives

Schools can set equality objectives to tackle any issues of discrimination, inequality and disadvantage.

Objectives might be linked to challenges the school is already responding to in the school improvement plan, or can address issues and concerns identified through consultation with pupils, staff and parents.

Some of the challenges that equality objectives can address include:

- **Narrowing gaps in attainment between groups of pupils, for example girls and boys.**
- **Improving school attendance of pupils from particular groups.**
- **Increasing the participation of particular groups in school activities.**
- **Reducing prejudice-related bullying and the use of derogatory language.**
- **Improving knowledge, skills and attitudes to enable pupils to appreciate and value difference and diversity – for example increasing understanding between pupils from different faith communities.**
- **Improving the participation and engagement of different groups of parents and communities.**

Specific and measurable explained

It is a statutory requirement that equality objectives are “**specific and measurable**”. This is to make sure that objectives are not vague or flimsy statements but reflect achievable and measurable improvements that the school wishes to make.

Objectives should be clearly focused and demonstrate measurable outcomes. Including a time framework, that indicates when an objective will have been in part or wholly achieved, will also enable success to be measurable.

Equality objectives should be clearly relevant to the groups with protected characteristics named in the Equality Act, but may refer also to groups disadvantaged by social and economic factors.

Here are three examples of objective statements that aim to address equality priorities, but would not meet the requirement to be “specific and measurable”.



- To train staff on how to respond effectively to prejudice-related bullying.
- To narrow the gap in attendance rates between migrant European children and other children in the school.

Here are the same objective statements that have modified to make them “specific and measurable”.

- **By July 2019, 90 per cent of the staff will feel confident in responding effectively to prejudice-related bullying, as shown by the annual staff survey.**
- **The attendance rates of migrant European pupils will improve year-on-year to meet a target of 90 per cent attendance by the end of 2020.**

How many equality objectives?

There is no requirement for schools to publish a set number of equality objectives. The approach should be proportionate, with larger schools likely to have more objectives than smaller ones. However, given the wide range of equality issues in schools, it is likely that many schools will wish to publish more than one objective.

It is up to schools themselves to decide on the format they will adopt for publishing equality information and objectives. For most schools, setting up an equalities page on their website will be the best approach.

Schools may also find it useful to publish some information on the following alongside each objective:

- **Why objectives have been chosen, including any relevant consultation and engagement.**
- **A short description of what is going to be done to achieve each objective.**

The role of school governing bodies

Governing bodies are the “responsible body” for ensuring that the school meets the requirements of equality legislation. Essentially this means they should:

- **Ensure the school takes all reasonable steps to ensure that its employees do not carry out unlawful discriminatory actions or behaviour.**
- **Support and guide the school to have “due regard” for equality in all its functions.**
- **Ensure the school complies with the Equality Duty and meets the two “specific duties” for schools.**