

Equality and the law

The new Equality Act 2010 harmonises and streamlines legislation that has come before it. The Act refers to protected characteristics:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The Equality Act 2010 introduced a single Public Sector Equality Duty (PSED) on public bodies including maintained schools and Academies. This combined Equality Duty came into effect in April 2011. It has three main elements. In carrying out their functions, public bodies are required to have due regard to the need 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
- Having due regard means consciously thinking about the three aims of the Equality Duty as outlined above i.e:
- Decision makers in schools must be aware of the duty to have “due regard” when making a decision or taking an action which may have implications for people with particular protected characteristics.
- Schools should consider equality before and at the time that they develop Statement and take decisions, not as an afterthought, and they need to keep it under review on a continuing basis.
- The equality duty has to be integrated into the carrying out of the school’s functions, and the duty has to be carried out seriously, rigorously and with an open mind – it is not just a question of ticking boxes.
- Having due regard to the need to advance equality of opportunity involves considering the need to:
 - Remove or minimise disadvantages suffered by people due to their protected characteristics;
 - Meet the needs of people with protected characteristics; and
 - Encourage people with protected characteristics to participate in public life or in other activities where their participation is low.
- Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

There are a number of statutory duties that must be met by every school in line with legislation from the Race Relations (Amendment) Act (2000), Disability Equality Duty (2005) and Gender Equality Duty (2006)App 1. The Education and Inspections Act 2006 inserted a new section 21(5) to the Education Act 2002, introducing a duty on the governing bodies of state schools to promote community cohesion. Community cohesion encompasses promoting good relations between pupils from different races, faiths / beliefs and socio-economic backgrounds. The duty came into force on 1 September 2007. The actions listed at the end of this Equality Statement outlines the actions Sir John Lillie Primary School will take to meet the general duties detailed below.

Further information on the Government Acts to which this Statement refers including definitions of types of discrimination

The Equality Act 2010

The general thrust of The Equality Act 2010 is to make many activities illegal unless they fall within one or more of the statutory exceptions. Unlawful discrimination or 'prohibited conduct' under The Equality Act extends to discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation. There is, however, very often a distinction to be made between what a provider of education does as an employer of staff and what that same provider does in relation to its pupils and students. The Law of Education concentrates on pupils and students in an educational environment rather than detailed information on discrimination in staff and employment. This needs to be covered under policies as they relate to employment (refer to our Recruitment and Selection Statement and Dignity at Work Statement)

Sex discrimination

Under The Equality Act 2010, direct sex discrimination is where A treats B less favourably than A treats others, or would treat others, if the reason for the less-favourable treatment is B's sex or because B is breast-feeding. Women are, however, entitled to special treatment in connection with pregnancy, maternity or breast-feeding. Sex discrimination is generally unlawful in schools. It covers recruitment policies, dismissals and redundancies, fringe benefits and other non-contractual matters and requires that women and men should be treated equally. The Sex Discrimination Act 1986 removes differential compulsory retirement ages for women and men.

Gender reassignment discrimination

The Equality 2010 Act reminds us that gender reassignment is a process and not an event. Discrimination in connection with the provision of education on grounds of past, present or proposed gender reassignment is generally unlawful.

Sexual orientation discrimination

Discrimination in connection with the provision of education on grounds of sexual orientation is generally unlawful under the provisions of The Equality Act 2010.

The Gender Equality Duty 2006

The Gender Equality Duty 2006 places a general and specific duty on schools to eliminate unlawful discrimination and harassment on the grounds of gender and to promote equality of opportunity between female and male pupils and between women and men and transgender people.

Under our general duty we will actively seek to:

- Eliminate unlawful discrimination and harassment on grounds of sex and gender reassignment;
- Promote equality between men and women.
- Under our specific duty we will:
- Prepare and publish an Equality Statement which covers the requirements for a Gender Equality Scheme
- identifying our gender equality goals and actions to meet them;
- Review and revise this Scheme every three years.

Race discrimination

Race as defined in The Equality Act 2010 includes colour, nationality and ethnic or national origins. Race is essentially a group characteristic, but one racial group can be part of a larger racial group. Discrimination in connection with provision of education on grounds of race is generally unlawful under the Act.

Race Relations Act 1976 extended in the Race Relations Amendment Act 2000

The Act makes it illegal to discriminate in recruitment, promotion, training and transfer, terms and conditions of employment or dismissal on grounds of colour, race, nationality or ethnic or national origins. Discrimination may be direct or indirect. Where persons of a particular racial group are under-represented, either generally or in a section of the workforce, the Act enables employers to advertise vacancies in such a way as to encourage applications from persons of that racial group.

Religion or belief discrimination

Education is rife with discrimination on grounds of religion or belief and most of that discrimination is perfectly lawful. In The Equality Act 2010, religion means any religion and reference to religion includes a reference to a lack of religion. Similarly, belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

Disability discrimination Act 1995 supported by the Disability Equality Duty 2005

Under The Disability Discrimination Act 1995 (DDA), employers, including local authorities and governing bodies, must not discriminate against disabled people applying for jobs, or against existing disabled staff. For these purposes, a person has a disability if they have a physical or mental impairment which had a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

The definition is wide. It is unlawful discrimination for an employer to treat a person less favourably than others for a reason relating to disability unless the treatment can be justified by the employer.

The 1995 Act imposes a duty on employers to make reasonable adjustments if the premises or employment arrangements substantially disadvantage a disabled person compared with a non-disabled person. Examples might be installation of a ramp for an employee who uses a wheelchair, having staff notices in large print etc. Whether or not a particular adjustment is reasonable depends on a number of factors such as cost, practicability and effectiveness. Failure to discharge this duty will constitute discrimination unless the employer can justify their action.