Upper Beeding Primary School

Public Sector Equality Duty Policy

(Equality Act 2010)

1 Introduction

On 1 October 2010, the Equality Act 2010 replaced all existing equality legislation such as the Race Relations Act, Disability Discrimination Act and Sex Discrimination Act. The Equality Act 2010 now provides a single, consolidated source of discrimination law. It simplifies the law and it extends protection from discrimination in some areas.

For Upper Beeding Primary School, for the most part, the effect of the current law is the same as it has been in the past – meaning that the school cannot unlawfully discriminate against pupils because of their sex, race, disability, religion or belief or sexual orientation.

The exceptions to the discrimination provisions for schools are contained in the current act – such as the content of the curriculum, collective worship and admissions to single sex schools and schools of a religious character.

This policy details the school's commitment in relation to its obligations under the Equality Act of 2010.This policy draws from guidance issued by the Department for Education in their publication called:
The Equality Act 2010 and schools, Departmental advice for school leaders, school staff, governing bodies and local authorities issued May 2014

1.1 Upper Beeding Primary School (UBPS)

Our school is committed to equality both as an employer and a service provider:

- We try to ensure that everyone is treated fairly and with respect
- We want to make sure that our school is a safe, secure and stimulating place for everyone.
- We recognise that people have different needs, and we understand that treating people equally does not always involve treating them all exactly the same.
- We recognise that for some pupils extra support is needed to help them to achieve and be successful.
- We try to make sure that people from different groups are consulted and involved in our decisions, for example through talking to pupils and parents/carers, staff and through school council.
- We aim to make sure that no-one experiences harassment, less favourable treatment or discrimination because of their age; any disability they may have; their ethnicity , national origin; their gender; their gender identity or reassignment; their marital or civil partnership status; being pregnant or having recently had a baby; their religion or beliefs; their sexual identity and orientation.

We welcome our general duty under the Equality Act 2010 to eliminate discrimination, to advance equality of opportunity and to foster good relations, and our specific duties to publish information every year about our school population; to explain how we have due regard for equality; and to publish equality objectives which show how we plan to tackle particular inequalities, and reduce or remove them.

We welcome the emphasis in the OFSTED framework on the importance of narrowing gaps in achievement which affect, amongst others:

- Pupils from certain cultural and ethnic backgrounds
- Pupils who belong to low income households and pupils known to be eligible for free school meals
- Pupils who are disabled
- Pupils who have special educational needs
- Boys in certain subjects and girls in certain other subjects
- Pupils who have English as an additional language
- Pupils who are in Local Authority Care

The Equality Act 2010 requires us to publish information that demonstrates that we have due regard for the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it.

At UBPS we are strongly committed to ensuring that members of the school community do not become victims of unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010.We have a series of policies and procedures in place to support us with this. These include:

- Behaviour policy
- Behaviour in the workplace staff
- Antibullying policy
- Child Protection / Safeguarding policy
- Recruitment and Selection policy
- Equal opportunity policy
- Equality & Diversity in Employment
- DSEN Special Educational Needs
- WSCC 'Model' HR policies as required

Many of these policies are available on the school website. All policies are available from the school office.

The termly Headteacher reports to the full governing body include reports as to the number of bullying or racist incidents that have been reported. There is also an update on the number of exclusions that may have occurred and the number of children registered as having additional learning needs. All staff are given copies of relevant policies as part of their induction. Policies are reviewed regularly as recommended by the Department for Education.

Advance equality of opportunity between people who share a protected characteristic and people who do not share it.

At our school, careful analysis of performance/attainment data is used to identify different groups within our school community. We are able to make comparisons and identify any group that may be achieving less well than other groups. We build in strategies to address such issues and these are included in the school development plan. The plan is reviewed annually and action plans developed accordingly.

At our school, we monitor the impact of any strategies and interventions that we put in place to ensure that they are meeting the needs of our pupils. The school has an accessibility plan and this too is reviewed annually. A copy of this plan is available on the school website.

Foster good relations between people who share a protected characteristic and people who do not share it.

Our school has a vibrant and multicultural community. For us, fostering good relations is the strength and the atmosphere and ethos that is apparent on a day to day basis is remarked upon by visitors to our school. To maintain this, we use certain strategies to support us:

- Everyone in the school community is treated with respect and kindness. This is extended to our parents, the local community and any visitors.
- We offer a broad and balanced curriculum which reflects our own community and has a more global perspective too.
- SEAL
- Strong citizenship and PSHE curriculum
- School and class assemblies
- Celebratory events for all the major festivals
- Strong links with the local community
- Strong links with other local schools and our neighbouring nurseries
- Very strong commitment to Community Cohesion.
- Continuing commitment to the Every Child Matters agenda.

2 Overview of the Act

2.1 Equality Act 2010

The Equality Act 2010 replaced nine major Acts of Parliament and almost a hundred sets of regulations which had been introduced over several decades. It provides a single, consolidated source of discrimination law, covering all the types of discrimination that are unlawful. It simplifies the law by getting rid of anomalies and inconsistencies that had developed over time, and it extends protection against discrimination in certain areas.

It introduced the public sector equality duty which has replaced the three separate duties on race, disability and gender.

In England and Wales the Act applies to all maintained and independent schools, including Academies, and maintained and non-maintained special 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, 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. 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 sets out 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 UBPS treated 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.

2.2 Protected characteristics

It is unlawful for UBPS 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.

2.3 Perception

It is 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 extended protection against discrimination on grounds of pregnancy or maternity to pupils, so it will be unlawful – as well as against education policy – for UBPS 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.

A person's age is also a protected characteristic in relation to employment and the Act extended this (except for children) to the provision of goods and services, but age as a protected characteristic does not apply to pupils in schools. UBPS therefore remains 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.

Also see West Sussex County Council Admissions Policy for schools

2.4 Unlawful behaviour

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

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 clearcut and obvious examples of discrimination – for example if UBPS were to refuse to let a pupil be a prefect because of her race.

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. For example 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.

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.

At UBPS and for schools generally, 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. UBPS recognises that this does not mean the school is free to bully or harass pupils on these other grounds to do so would still be unlawful as well as unacceptable.

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.

UBPS recognises that 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.

2.5 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 nondisabled 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

2.6 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.

3 General exceptions

3.1 Curriculum

The content of UBPS curriculum has never been covered by discrimination law, and this Act now states explicitly that it is excluded. However the way in which the UBPS provides education – the delivery of the curriculum – is explicitly included.

Excluding the content of the curriculum ensures that UBPS is free to include a full range of issues, ideas and materials in our syllabus, and to expose pupils to thoughts and ideas of all kinds, however challenging or controversial, without fear of legal challenge based on a protected characteristic. But UBPS will ensure that the way in which issues are taught does not subject individual pupils to discrimination.

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 such as UBPS is mandatory, should be of a broadly Christian nature; is not covered by the religion or belief provisions. The exception means that UBPS will not be acting unlawfully if we do not provide an equivalent act of worship for other faiths.

UBPS is free to celebrate religious festivals and could not be claimed to be discriminating against children of other faiths if, for example, we put on a nativity play at Christmas or hold a celebration to mark other religious festivals such as Diwali or Eid.

3.2 Uniforms - see school prospectus or website for uniform requirements

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 makeup, 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.

UBPS will be sensitive to the needs of different cultures, races and religions and act reasonably in accommodating these needs, without compromising important school policies, such as school safety or discipline. It is well established that it would be race discrimination to refuse to let a Sikh child wear a turban because of a school policy requiring that caps be worn, but legal judgments have not supported the absolute right of people of faith to wear garments or jewellery to indicate that faith.

3.3 Bullying - see school anti-bullying policy for additional information

UBPS recognises that the issue of bullying motivated by prejudice is a particularly sensitive issue. Although the relationship between one pupil and another is not within the scope of the Act UBPS will ensure that all forms of prejudice, motivated bullying are taken seriously and dealt with equally and firmly.

4 Special issues for some protected characteristics

4.1 Gender reassignment

It is unlawful for UBPS to treat pupils or school staff less favourably because of their gender reassignment and that the school will recognise gender reassignment when considering their obligations under the Equality Duty.

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 is from direct and indirect discrimination and victimisation, which includes discrimination based on perception and on association. UBPS 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.

4.2 Race

The definition of race includes colour, nationality and ethnic or national origins.

UBPS will ensure that pupils of all races are not singled out for different and less favourable treatment from that given to other pupils.

4.3 Segregating pupils by race or ethnicity

Segregation of pupils by race is always direct discrimination. It would thus be unlawful for the 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 school 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.

4.4 Race Equality Duty

This Act places upon UBPS a general equality duty.

4.5 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 are 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.

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, 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.

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.

4.6 Sex/gender

UBPS will ensure that pupils of one sex are not singled out for different and less favourable treatment from that given to other pupils.

4.7 Gender Equality Duty

This Act places upon UBPS a general equality duty.

4.8 Single sex classes

Whilst there is no express exemption in the same way that there is for same sex schools, it is not necessarily unlawful to have some single sex classes in a mixed school, provided that this does not give children in such classes an unfair advantage or disadvantage when compared to children of the other sex in other classes.

For example, it would be lawful to teach sex education to single sex classes, as long as the classes were provided to both boys and girls, but unlawful to provide remedial classes just for boys who needed help with reading without doing the same for girls in a similar position. A positive action initiative specifically to help boys in such a position would not necessarily be unlawful but the school would need to be able to show that this was a proportionate way of dealing with a specific disadvantage experienced by boys and connected to their gender.

4.9 Single sex sport

Although the Equality Act forbids discrimination in access to benefits, facilities and services; the Act does contain an exception which permits single sex sports. It applies to participation in any sport or game, or other activity of a competitive nature, where the physical strength, stamina or physique of the average woman (or girl) would put her at a disadvantage in competition with the average man (or boy). But while this exception might permit a mixed school to have a boys only football team, the school would still have to allow girls equal opportunities to participate in comparable sporting activities.

4.10 Pregnancy and maternity

Protection for pupils from discrimination because of pregnancy and maternity in schools is covered in the Equality Act. This means it is unlawful for UBPS to treat a pupil less favourably because she becomes pregnant or has recently had a baby, or because she is breastfeeding. UBPS will take into account pregnancy and maternity when considering their obligations under the Equality Duty.

Local authorities have a duty under Section 19 of the Education Act 1996 to arrange suitable fulltime education for any pupils of compulsory school age who would not otherwise receive such an education. This could include pupils of compulsory school age who become pregnant or who are parents. In particular, where pupils are unable to attend their previous school, the local authority would need to consider whether this duty is applied. 'Suitable education' should meet the individual needs of the pupil and must take account of their age, ability, aptitude and individual needs including any special educational needs they may have.

4.11 Sexual orientation and marriage and civil partnership

UBPS will ensure that all gay, lesbian or bisexual pupils, or the children of gay, lesbian or bisexual parents, are not singled out for different and less favourable treatment from that given to other pupils.

Only maintained secondary schools have a legal requirement to teach about the 'nature of marriage' when they are delivering sex education.

4.12 Sexual orientation and religion or belief

UBPS recognises that there is a relationship between protection because of sexual orientation and protection of religious freedom. Many people's views on sexual orientation/sexual activity are themselves grounded in religious belief.

Schools have a responsibility for the welfare of the children in their care and to adhere to curriculum guidance. The Equality Act does not undermine this position as long as the school upholds its responsibilities in these areas.

UBPS's religious teaching is of a broadly Christian nature. The school will not convey this teaching in a way that involves haranguing, harassing or berating a particular pupil or group of pupils, this would be unacceptable in any circumstances and is likely to constitute unlawful discrimination.

UBPS recognises that individual teachers may have personal views. Having a view about something does not amount to discrimination. So it should not be unlawful for a teacher in the school to express personal views on sexual orientation provided that it is done in an appropriate manner and context (for example when responding to questions from pupils, or in an RE or Personal, Social, Health and Economic education (PSHE) lesson). However, it should be remembered that school teachers are in a very influential position and their actions and responsibilities are bound by much wider duties than this legislation. A teacher's ability to express his or her views will not extend to allowing them to discriminate against others.

5 Disability

The disability provisions in the Equality Act 2010 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. 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.

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:

- 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.
- Direct discrimination against a disabled person can no longer be defended as justified.
- From September 2012 schools and local authorities had 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.

5.1 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.

5.2 Unlawful behaviour with regard to disabled pupils

The Equality Act clearly sets out definitions of direct discrimination, indirect discrimination, victimisation and harassment. UBPS recognises that there a few rather different and more complex provisions that apply in the case of disability.

Direct discrimination
UBPS will not treat a disabled pupil less favourably simply because that pupil is disabled – for example by having an admission bar on disabled applicants.

Indirect discrimination
UBPS will 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.

Discrimination arising from disability
UBPS will 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.

Harassment
UBPS will not harass a pupil because of his/her disability – for example, a teacher shouting at the pupil because the disability means that he is constantly struggling with classwork or unable to concentrate.

5.3 Disability Equality Duty

This Act places upon UBPS a general disability equality duty.

5.4 Reasonable adjustments and when they have to be made

UBPS is under a duty to make reasonable adjustments only to disabled people. This is summarised as follows:

- Where something the 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.
- UBPS will 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.
- UBPS is not subject to the requirement of reasonable adjustment duty concerned with make alterations to physical features because this is already considered as part of our planning duties.

5.5 Auxiliary aids and services

Under this Act the duty to provide auxiliary aids is part of the reasonable adjustment duty.
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 as part of their reasonable adjustment duty.
UBPS will consider whether to provide auxiliary aids as a reasonable adjustment for disabled children. This will include the situation where a disabled child does not have an SEN statement or where the statement does not provide the auxiliary aid or service.

Assumption should not be made that if an auxiliary aid is not provided under the SEN regime then it must be provided as a reasonable adjustment. 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, the existence of local arrangements between the school and local authority will help to determine what would be reasonable for the school or the LA to provide.

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. 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 the school to be expected to provide these auxiliary aids.

5.6 Making reasonable adjustments

The Equality Human Rights Commission guidance on the auxiliary aids duty 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/legalandpolicy/equalityact/equalityactcodesofpractice

UBPS recognises that a failure to make a reasonable adjustment cannot be justified. However, schools are not expected to make adjustments that are not reasonable.

In addition to having a duty to consider reasonable adjustments for particular individual disabled pupils, UBPS will consider potential adjustments which may be needed for disabled pupils generally as it is likely that the school will have a disabled pupil at some point. However, the school is not obliged to anticipate and make adjustments for every imaginable disability and need only consider general reasonable adjustments. A strategic and wider view of the school's approach to planning for disabled pupils will also link closely with its planning duties.

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 the school to consider the reasonableness of adjustments based on the circumstances of each case. However, factors the 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.

We recognise that cost will inevitably play a major part in our decision making in determining what is reasonable. (It is more likely to be reasonable for a school with substantial financial resources to have to make an adjustment with a significant cost, than for a school with fewer resources). Often, though, effective and practicable adjustments for disabled pupils can involve little or no cost or disruption and are therefore very likely to be reasonable for UBPS to make.

UBPS will try to ensure that disabled pupils can play as full a part as possible in school life and our 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 the school were to 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, we would not have to cancel the trip as originally planned.

This is unlikely to constitute direct discrimination or failure to make a reasonable adjustment.

We recognise that the reasonable adjustments duty is intended to complement our accessibility planning duties 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.

5.7 Schools' duties around accessibility for disabled pupils

UBPS, together with the Local authority, need to carry out accessibility planning for disabled pupils.

UBPS will develop and 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;
- improving the availability of accessible information to disabled pupils.

UBPS will have regard to the need to provide adequate resources for implementing plans and will regularly review them.

Our accessibility plan is a freestanding document and links to the school development plan, premises development plan, as well as to our general equality duty.

6 The Public Sector Equality Duty

The Equality Act 2010 introduced a single Public Sector Equality Duty (PSED) (sometimes also referred to as the 'general duty') that applies to public bodies, including maintained schools, and extends to certain protected characteristics race, disability, sex, age, religion or belief, sexual orientation, pregnancy and maternity and gender reassignment. 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 discrimination and other conduct that is prohibited by the Act,
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it,
- Foster good relations across all characteristics between people who share a protected characteristic and people who do not share it.

For UBPS, age will be a relevant characteristic in considering our duties in our role as an employer but not in relation to pupils.

The PSED requires UBPS to give due regard to the three elements outlined above. What having "due regard" means in practice has been defined in case law and means giving relevant and proportionate consideration to the duty. For UBPS this means:

❏ Decision makers in the school must be aware of the duty to have "due regard" when making a decision or taking an action and must assess whether it may have particular implications for people with particular protected characteristics.
❏ The school should consider equality implications before and at the time that they develop policy and take decisions, not as an afterthought, and need to keep them under review on a continuing basis.
❏ The PSED has to be integrated into the carrying out of the school's functions, and the work necessary to comply with the duty has to be carried out seriously, rigorously and with an open mind.
❏ The School cannot delegate responsibility for carrying out this duty to anyone else.

6.1 Having "due regard"

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. The significance of those implications – and the amount of thought that needs to be devoted to them will vary depending on the nature of the decision. It is good practice for schools to keep a note of any equality consideration, although this does not necessarily need to take the form of a formal equality analysis.

It is good practice for schools to keep a written record to show that they have actively considered their equality duties and asked themselves relevant questions. There is no legal requirement to produce a formal equality impact assessment document.

If a school does not record its consideration of the general equality duty when making a decision or carrying out a particular function, this does not automatically mean that the duty to have 'due regard' has not been met. However, if challenged, it will be easier for a school to demonstrate that the duty has been met if a record has been made at the time. The duty only needs to be implemented in a light touch way, proportionate to the issue being considered.

6.2 Specific Duties

The Government has also introduced specific duties, which are intended to help public authorities to meet their obligations under the PSED.

6.3 What compliance with the specific duties will mean for UBPS

Schools have freedom to meet the specific duties in ways appropriate to their own set of circumstances. The purpose of the specific duties is to help schools fulfil their obligations under the general duty. They are designed to be flexible, light touch and proportionate rather than being bureaucratic or a "tickbox" exercise.

The emphasis is on transparency making information available so that the school's local community can see how the school is advancing equality in line with the PSED, and what objectives it is using to make this happen.

The specific duties require schools:

(a) to publish information to demonstrate how they are complying with the Public Sector Equality Duty and
(b) to prepare and publish equality objectives.

Schools have to update the published information at least annually and to publish objectives at least once every four years.

Obligations under the PSED can be satisfied in a way that is proportionate to the decision making that is taking place. The duty is not prescriptive as to how it is satisfied so how UBPS complies with the duty in relation to a decision it is making can look different to organisations of different sizes and with different levels of resources. Therefore, in terms of publishing information and setting equality objectives, the requirements of the duty will not be the same for UBPS as they might be for a large secondary school.

Schools must publish information relating to persons who share a relevant protected characteristic who are affected by their policies and practices. However, data about employees will not need to be published where a public authority has fewer than 150 employees. This means that for UBPS only pupil related data will be published.

The government is clear that the duties should not be overly burdensome on schools. UBPS is not be required to collect any statistical data which they do not already collect routinely. A large amount of data is already collected by schools RAISE online, which presents performance data for individual schools broken down by a number of relevant characteristics (sex, race, and also SEN which can be seen as a rough proxy for disability) and which includes comparative analysis with national statistics and with comparable schools, will be a particularly useful source.

It is also important to note that the published information does not necessarily have to be statistical data. Many other kinds of information can be used to show how UBPS is promoting equality, such as publishing its policies online, or publishing minutes of Governors' meetings.

6.4 Publishing information

What kind of information may be relevant to showing how each of the three parts of the duty is being addressed.

<u>Eliminating discrimination and other conduct that is prohibited by the Act</u>

Evidence that the school is aware of the requirements of the Act and determined to comply with the non-discrimination provisions.

This might include:

- copies of any of a range of policies (for example, the behaviour policy or antibullying policy, or the recruitment or pay policies) where the importance of avoiding discrimination and other prohibited conduct is expressly noted.
- if there has been a meeting of staff or of Governors where they are reminded of their responsibilities under the Act, a note of that meeting could also be useful evidence that due regard is being had to this part of the duty.
- evidence of staff training on the Equality Act would also be appropriate, as would a note of how the school monitors equality issues.

<u>Advancing equality of opportunity between people who share a protected characteristic and people who do not share it</u>

Advancing equality of opportunity involves, in particular:

● removing or minimising disadvantages suffered by people which are connected to a particular characteristic they have (for example disabled pupils, or gay pupils who are being subjected to homophobic bullying);

● taking steps to meet the particular needs of people who have a particular characteristic (for example enabling Muslim pupils to pray at prescribed times) and

● encouraging people who have a particular characteristic to participate fully in any activities (for example encouraging both boys and girls, and pupils from different ethnic backgrounds, to be involved in the full range of school societies).

Attainment data which shows how pupils with different characteristics (eg boys or girls) are performing will be relevant here, in particular in helping to identify whether there are areas of inequality which may need to be addressed. RAISE online contains much detailed analysis by relevant characteristics.

To show that due regard is being had to the importance of advancing equality of opportunity, the school will include information about the steps they have taken in response to their analysis of the available data – for example, work being done to support disabled children, or special steps taken to help boys improve their performance in writing or girls to catch up in science, or to boost the English language skills of bilingual children from certain minority ethnic groups.

For some protected characteristics – religion, and particularly sexual orientation, for example statistical data about pupils is less likely to be available, and it may well not be considered appropriate to try to obtain it.

<u>Fostering good relations across characteristics between people who share a protected characteristic and people who do not share it</u>

The school will demonstrate that we are fostering good relations between people and groups of all kinds as promoting good relations is inherent in many things that we do as a matter of course.

It may be shown through – for example aspects of the curriculum which promote tolerance and friendship, or which share understanding of a range of religions or cultures, the behaviour and antibullying policies, assemblies dealing with relevant issues, involvement with the local communities, twinning arrangements with

other schools which enable pupils to meet and exchange experiences with children from different backgrounds, or initiatives to deal with tensions between different groups of pupils within the school itself.

Engagement

When deciding what to do to tackle equality issues, the school may wish to consult and engage both with people affected by their decisions parents, pupils, staff, members of the local community – and with people who have special knowledge which can inform the school's approach, such as disability equality groups and other relevant special interest organisations.

How to publish information

It is for UBPS to decide in what format we publish equality information, as long as it is accessible to those members of the school community and the public who want to see it.

Equality objectives

Schools are no longer required to have an equality action plan.

If a plan is compiled, schools are free to choose the equality objectives that best suit their individual circumstances and contribute to the welfare of their pupils and the school community. Any objectives are not intended to be burdensome or a 'tick box' exercise, but they do need to be specific, measurable and achievable. They should be used as a tool to help improve the school experience of a range of different pupils.

If a plan is compiled, publication of information in future years should include evidence of the steps being taken and progress made towards meeting the equality objectives that the school has already set itself.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315587/Equality_Act_Advice_Final.pdf