

Cockton Hill Infants' School Disability and Equality Policy



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Introduction

The Special Educational Needs and Disability Act (SENDA 2001) amended the SEN framework set out in the Education Act 1996 (Part 4) and extended the Disability Discrimination Act 1995 (Part 4 of the DDA) to cover the provision of education.

This act placed 3 duties on schools:

- The disability discrimination duties provided protection from discrimination (part 4 of the DDA)
- The planning duties provided for improvements to increase access (Part 4 of the DDA – The School’s Accessibility Plan)
- The SEN Framework provided auxiliary aids and services (Education Act 1996)

These duties also apply to extended school provision, particularly where the provision is made at the school.

Under the Disability Discrimination Duties it is unlawful for schools to:

- Treat a disabled pupil or prospective pupil less favourably than another for a reason related to their disability and without justification.
- Fail, without justification, to take reasonable steps to avoid placing disabled pupils at a substantial disadvantage. [This duty is often known as the “reasonable adjustments” duty.]

The Disability Discrimination Act (DDA) 2005

This Act (DDA 2005) placed a duty on all public bodies, including schools and Local Authorities, to **promote disability equality**. This is known as the **Disability Equality Duty** and requires public bodies to pay due regard to the need to:

- Eliminate discrimination that is unlawful under DDA;
- Eliminate harassment related to disability;
- Promote equality of opportunity between disabled people and other people;
- Promote positive attitudes towards disabled people;
- Encourage participation by disabled people in public life;
- Take steps to meet disabled people’s needs, even where that involves treating disabled people more favourably than other people.

The Disability Equality Duty is not necessarily about changes to buildings or even making adjustments for individuals. Rather it is about embedding equality for disabled people into the culture of schools through attitudes and practical behaviours.

Responsibility to ensure that the duty is met lies with the school’s **Governing Body**. All staff, pupils, parents/carers and members of the wider school community will need to play their part in meeting the requirements.

Definitions of Disability

Reference to disabled people includes disabled pupils, staff, parents/carers, Governors and other members of the wider community that might use the school premises or visit for different reasons. The definition currently in use in the legislation states that:

“A person has a disability if he/she has a physical or mental **impairment*** which has a **substantial**¹ and **long term**² adverse effect on their ability to carry out **normal day to day activities**³”.

The term **impairment*** covers a wide spectrum including:

- Cancer
- Diabetes
- Epilepsy
- HIV
- Multiple sclerosis

- Hearing or sight impairments
- Mobility difficulties
- People with mental health conditions
- People with learning difficulties

Substantial¹ means more than minor or trivial.

Long Term² means has lasted or is likely to last 12 months or more.

Normal day to day activities³ cover:

- **Mobility** – getting to and from school or going on school visits;
- **Manual Dexterity** – holding a pen, throwing a ball, playing an instrument;
- **Physical Coordination** – washing, dressing, taking part in PE;
- **Continence** – going to the toilet;
- **Ability to lift, move or carry everyday objects** – to carry a bag;
- **Speech** – communicating with others or understanding what they are saying;
- **Hearing** – hearing what people are saying in person or on a DVD/video;
- **Eye Sight** – being able to see clearly (with glasses or contact lenses);
- **Memory or ability to concentrate, learn or understand** – concentrating on and understanding information;
- **Perception of risk or physical danger** – touching hot objects, crossing roads safely.

For pupils there will be considerable overlap between special educational needs (SEN) and disability, but they are not one in the same thing; some disabled pupils will have SEN but not all, while some pupils will have SEN but will not be disabled.

It is important to remember that the majority of disabilities are not visible or immediately obvious. For example, learning difficulties such as autism, people with cancer or mental health impairment are all included. This definition covers a much larger group of people than is commonly thought and is likely to represent around 7% of children and 24% of adults.

People do not need to have declared their disability to be covered by the legislation.

Purpose and Direction of the Disability and Equality Scheme

Vision and Values

Inclusion at our school is about providing equality and excellence for all in order to promote the highest possible standards of achievement. It also ensures that:

- We recognise and celebrate differences that exist amongst us,
- We treat all people fairly; and
- We strive to eliminate discrimination wherever it exists.
- We provide all children with access to their full curriculum entitlement, ensuring they have opportunities to access a broad and balanced curriculum, relevant to their individual needs.

This is a whole school policy – equality applies to all members of the school community:

- Pupils;
- Parents
- Staff;
- Governors; and
- Community members.

The school's aims, objectives and philosophy are fully inclusive to ensure that we meet the needs of all, taking account of gender, ethnicity, culture, religion, language, disability, ability, age and social circumstances.

“We regard ourselves as a loving, caring and sharing school. We strive to provide all children with their full educational entitlement in a safe and caring environment.”

We include and engage all pupils in a range of activities that will prepare them for full participation in a diverse society. As a school we actively:

- Promote equality of opportunity and access;
- Promote racial equality and good race relations;
- Oppose all forms of prejudice and discrimination;
- Ensure pupils with a disability have access to the school buildings and to the curriculum; and
- Ensure that we offer alternative forms of information as appropriate to the reader.

For the Disability and Equality Scheme we will actively:

- Eliminate discrimination and harassment related to disability,
- Promote equality of opportunity between disabled and other people,
- Promote positive attitudes towards disabled people; and
- Take account of disabled people's disabilities even when that involves treating Disabled people more favourably than other people.

The Disability and Equality Scheme will run in conjunction with the School's Accessibility Plan.

Actions:

Involving Disabled Pupils, Staff And Parents

Our school is committed to promoting positive participation in the life of the school. We believe that disabled children and adults are uniquely placed to support the school in identifying and removing barriers they face and in taking proactive steps to promote disability equality across the school.

The school will develop an Action Plan which will be regularly review in order to evaluate the effectiveness of the Disability and Equality Scheme in delivering equality across the school.

The Disability and Equality Scheme and actions that it engenders will be discussed within the programme of staff meetings and by the School Council. We will also ensure that parents/carers are kept informed and have opportunities to offer suggestions and comments. Where appropriate members of the wider community will similarly be involved.

Gathering and Using Information

The school currently holds information on the disability of children and adults in school. We will consider and where appropriate improve our mechanisms for gathering and utilising information on disability in the school community. This will be part of the process of reviewing the effect of our policies and practises for disabled adults and children.

Examples of possible information held:

Year Group	Description of Disability	Context and Activity	Barriers	Examples of reasonable adjustments
Reception	Possible epilepsy	All day to day activities	Loss of motor control / fits	Staff to be vigilant and provide general overview. Liaison with family.
1	Wheelchair user	Transitions between activities, playtime, lunch time, PE, educational visits	Mobility Severe reaction	All staff aware and able to support child's movements. Liaison with family.

The information the school develops on disability within its population will be used to show progress against the Disability and Equality Scheme, to inform revisions to the existing Action Plan and to assist the school in identifying the best ways to ensure inclusion.

Impact Assessments

The school will regularly review the impact of current and proposed policies and practises on disability equality to:

- Ensure they meet the requirements of the duty;
- Ensure that they do not result in unlawful discrimination;
- Identify possible sources of indirect discrimination which can result from applying the same policies and practices to everyone but which disadvantages people from a particular group, because they cannot fully comply with the procedures or are differentially effected because of their characteristics and needs;
- Identify action points which will contribute to the duty to promote equality across the school.

Review

The Disability and Equality Scheme will be reviewed and revised bi-annually by:

- Revisiting the information that was used to identify the priorities for the scheme;
- Re-examining the information to see if actions that the school has taken have affected opportunities and outcomes for disabled pupils, staff and parents/carers.
- Involving disabled pupils, staff and parents/carers in the review;
- Updating the scheme based on information that the school has gathered.

The main priorities for our school and how they are to be implemented are identified in Annex 1 – The Disability Equality Scheme Action Plan:

Disability Equality Scheme Action Plan

DISABILITY EQUALITY

1. Introduction

The Disability Discrimination Act 1995 (DDA) states that it is unlawful for an employer to discriminate against a disabled person:

- in the terms of employment.
- in the opportunities in promotion, transfer, training or receiving any other benefit.
- by refusing to afford any such opportunity.
- by subjecting them to dismissal or any other detriment.

Although other discrimination legislation prevents positive discrimination, the DDA does not prevent employers from treating their disabled staff more favourably because of having a disability.

2. Definitions within the Act

A person with disabilities is defined as: "a person who has, or who has had in the past, a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities". People who have had a disability in the past which met this definition are also protected by the Act.

Physical Impairment

The Act states, however, that sight impairments correctable by glasses or contact lenses are not included but in general if a condition can be controlled by taking drugs, or using special aids, the individual will qualify. Severe disfigurements are included, except those deliberately acquired, e.g. tattoos or body piercing (for non-medical purposes). Hay fever sufferers are excluded, unless the hay fever aggravates the effect of another condition. Addiction or dependency is not classed as a disability unless it has resulted from medical treatment.

Mental impairment

The impairment must result from, or consist of, a clinically well recognised illness. This could include manic depression, schizophrenia and depression. Disorders of personality, sexuality or behaviour (e.g. kleptomania) are excluded.

Progressive conditions

Individuals who have progressive conditions such as HIV, cancer, multiple sclerosis and can show that in the future, if not at present, their ability to carry out day-to-day activities will be impaired, will fall within the disability definition. A person with a progressive condition who has not shown any symptoms which affect day-to-day activities will not be included.

Substantial effect

The effect must not be "minor" or "trivial".

Long-term effects

An impairment has long-term effects if:

- it has lasted for 12 months;
- it can reasonably be expected to last for at least 12 months;
- it can reasonably be expected to last for life.

If an impairment may recur, rather than have a continuous effect, it will also qualify. An impairment that would have an effect, if measures were not taken to treat or correct it (e.g. diabetes) will also qualify.

Normal day-to-day activities

An impairment is taken to affect normal day-to-day activities only if it affects one of the following:

- mobility

- manual dexterity
- physical co-ordination
- continence
- ability to lift, carry or otherwise move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand
- perception of the risk of physical danger.

People often think of disability as covering situations such as using a wheelchair, being blind or visually impaired, or deaf. However they are sometimes surprised to discover that disability can cover much wider ranging conditions such as facial disfigurement, dyslexia, learning difficulties, HIV, aids, heart disease, epilepsy, diabetes, depression and mental illness.

Further guidance on the meaning of Disability is to be found in the Government Publication 'Guidance on matters to be taken into account in determining questions relating to the definition of disability'. Tribunals are under a statutory duty to take this guidance into account in reaching their decisions.

Note : Individuals who are registered as disabled on 12 January 1995 and on 2 December 1996 are deemed to have a disability for the purpose of the legislation for three years from 2 December 1996. The Act abolishes the requirement for people with disabilities to register and the quota provisions for employers. In future, employment tribunals will adjudicate on whether or not an individual qualifies for protection under the Act.

3. Obligations on the School

The Act makes it unlawful to discriminate against a person with a disability in relation to:

- recruitment
- terms and conditions of employment
- opportunities for training
- promotion and transfer
- benefits
- dismissal
- any other detriment

Discrimination will occur if, for a reason relating to the person's disability, the school treats that person less favourably than he would treat others to whom that reason does not, or would not apply and that employer cannot show that the treatment in question is justified. The school will also be treated as discriminating against a person with a disability if they fails to comply with the duty to make reasonable adjustments and that failure is not justified:

4. Less Favourable Treatment

The school is defined as discriminating if he or she treats a person less favourably for a reason that relates to his/her disability. People with disabilities who suffer less favourable treatment as a result of the application of employment policies or procedures may be able to claim that this adverse treatment relates to their disability, and thereby make a claim for discrimination.

The burden of proof initially rests with the employee, to show that the less favourable treatment relates to the disability. Once proven, the school must show justification. The reason must be material to the circumstances of the particular case and substantial.

5. Retention of Employees with a Disability

The Act now places a legal requirement on the employer to take all reasonable steps in achieving its aim of retaining employment for those staff who become disabled whilst at work, or for those employees who have a disability which worsens.

6. Duty to Make Reasonable Adjustments

The Act requires that where any arrangements made by an employer, or any physical features of the premises, place a person with a disability at a substantial disadvantage, it is the duty of the employer to take such steps as are reasonable in all the circumstances to prevent that effect.

Examples of Adjustments which Governing Bodies and LEA's might reasonably have to make are:

- **altering premises**, e.g. widening a doorway, providing a ramp, stair-climbing chairs or non-slip flooring, moving classroom or corridor furniture, altering lighting, or providing parking spaces for disabled drivers;
- **allocating some duties to another employee**, e.g. asking a non-disabled teacher to assemble a slide projector and screen for a teacher with a disability, providing ancillary support in the classroom, arranging supervision duty rosters to take account of mobility, e.g. library supervision may be more appropriate than playground supervision for a teacher with a disability;
- **transferring the person to fill an existing vacancy**, e.g. if a teacher becomes disabled and there is no reasonable adjustment which can enable him/her to continue in his/her post he/she might be considered for another suitable teaching post. In the case of LEA maintained schools, the LEA may be able to recommend the teacher for a suitable vacancy at another school;
- **altering working hours**, e.g. allowing an employee who becomes disabled to work part-time or to job share or making adjustments to the timetable;
- **changing the person's place of work**, e.g. ensuring that a teacher with mobility difficulties which prevents him/her from using the stairs can hold all of his/her lessons in classrooms on the ground floor;
- **allowing absences during working hours for rehabilitation, assessment or treatment**, e.g. allowing an employee who becomes disabled time off during work to receive physiotherapy or other treatment;
- **supplying additional training**, e.g. training in the use of particular pieces of equipment unique to the person with a disability or re-training a teacher in a new subject area in order for him/her to continue teaching;
- **acquiring or making changes to equipment**, e.g. providing an induction loop in the school hall and other assembly areas, providing magnifying facilities, a pager that vibrates, a visible fire alarm system, or an adapted telephone; or
- **providing a reader or signer**, e.g. reading information to a visually impaired person at particular times during the working day.

DFEE Circular 3/97 sets out examples of adjustments which Governing Bodies or LEAs might reasonably have to make. Schools should check with their Link Officer in the School and Governor Support Service in the Education Department as to whether or not they are responsible for the costs of such adjustments.

4. Failure to Comply

Failure to comply with this duty is an act of unlawful discrimination in itself, unless it can be justified. Human Resources has a standard job application form which it is recommended is used by schools. In addition, the Department can offer the facility to distribute and receive recruitment information in various formats such as braille, tape etc. This service can be accessed through the Policy and Recruitment Team on (Tel No. (0191) 3834203) of Human Resources.

The duty arises where, in the case of an applicant or a potential applicant for a job, the employer knows or could reasonably be expected to know that a person with a disability is, or may be, an applicant for a job. Similarly in other cases, the duty only arises where the employer knows or could reasonably be expected to know that the employee has a disability.

This list may be changed by further regulations.

The duty to make reasonable adjustments is not directly enforceable but Section 5(2) of the Act provides that an employer will be treated as having discriminated against a person with a disability if the employer fails to make reasonable adjustments unless the employer can show that the failure is justified.

This will mean that a blanket failure to comply will not normally be justified. Furthermore, the reason for the failure must be substantial, i.e. not minor or trivial. There is power to issue further regulations spelling out the circumstances

in which a failure to comply with the duty to make reasonable adjustment will be justified but the regulations enacted so far do not deal with this issue.

5. **Further Help and Information**

- The Disability Rights Commission (DRC) provides a direct route for any inquires in employment or service provision.
- The Employment Service Disability Employment Advisors are based in Jobcentres.
- The Advisory, Conciliation and Arbitration Service (ACAS) are another useful contract, providing free independent advice.

EQUAL OPPORTUNITIES

Objective	Action	Responsibility	Timescale	Resources	Success Criteria	Review, Monitoring and Evaluation
To ensure disabled children have full access to the curriculum, after school clubs and visits	Follow recommendations in accessibility plan. Provide appropriate transport if necessary	SMT	Ongoing	Identified as and when need arises	Full access available when / where required	Ongoing
To ensure all curriculum areas are accessible	Follow recommendations in accessibility plan	SMT	Ongoing	Identified as and when need arises	All curriculum areas accessible	Ongoing
To provide information in different formats if needed	To be done on request	HT/School Clerk	Ongoing	Copier / paper. LA Governors unit if required	Information provided in different formats on request.	Ongoing
To continue to implement the accessibility plan.	Follow recommendations in accessibility plan	SMT	Ongoing	Identified as we work through the process	Aspects of accessibility plan completed.	Ongoing

ELIMINATING DISCRIMINATION

Objective	Action	Responsibility	Timescale	Resources	Success Criteria	Review, Monitoring and Evaluation
To make “reasonable adjustments” for pupils, staff and parents with disabilities	As appropriate to the disability	HT	Ongoing as need arises	As required	Reasonable adjustments made when necessary	Ongoing
To provide pupils, staff and Governors with sufficient understanding of disability issues to ensure they do not discriminate.	To provide staff with training if necessary. To make information available to all concerned. To ensure curriculum time provides opportunities to discuss and reflect.	HT LA Governor Support Unit	Ongoing	Identified as need arises	Pupils, staff and Governors have sufficient understanding of disability issues so no discrimination	Ongoing
To ensure admissions dealt with appropriately	Follow DCC admission policy	HT / LA Admissions Team	Ongoing	Nil	Admissions policy ensures disabled children included	Ongoing

ELIMINATING HARRASSMENT

Objective	Action	Responsibility	Timescale	Resources	Success Criteria	Review, Monitoring and Evaluation
To monitor any disability related bullying	Record all reports of bullying and identify any that may be disability related.	HT	Ongoing	Nil	Any disability related bullying is monitored and action taken where appropriate.	Ongoing
To prevent any disability related bullying.	Ensure all adults / pupils have understanding of disabilities and the extra provision they may require.	SMT and all school staff	Ongoing	Identified if need arises	No disability related bullying	Ongoing
For disabled pupils, staff, parents to be able to report on related harassment by involving them in combating bullying.	All to be aware of the procedure of reporting harassment e.g. school brochure, SEAL	HT	Ongoing	Nil	Disabled pupils, staff, parents are able to report on related harassment and these reports are noted.	Ongoing

**PROMOTING POSITIVE ATTITUDE
Disability and Equality Schemes**

Objective	Action	Responsibility	Timescale	Resources	Success Criteria	Review, Monitoring and Evaluation
To provide good role models	Disabled pupils, staff have equal opportunities to responsibilities. Staff to model respectful attitudes.	All schools staff	Ongoing	Nil	Good role models in school.	Ongoing
To promote positive images of people with disabilities within school.	Supplement the following: - Books - Posters - Photographs	HT and staff	Ongoing	Books, posters, photographs	Positive images of people with disabilities are promoted.	Ongoing
Ensure the curriculum is used to promote understanding of disability	Use of SEAL, PSHCE, published resources	HT / all staff	Ongoing	Published materials	Curriculum covers the understanding of disability	Ongoing

ENCOURAGE PARTICIPATION IN PUBLIC LIFE

Objective	Action	Responsibility	Timescale	Resources	Success Criteria	Review, Monitoring and Evaluation
To ensure disabled pupils / staff have the opportunity to take positions of responsibility in school.	To ensure all pupils / staff are treated equally.	HT	Where / when appropriate	N/A	Pupils and staff have had opportunities to take positions of responsibility within school where appropriate.	Ongoing
To ensure Governing Body meetings are accessible.	Follow recommendations of accessibility plan.	HT	Ongoing	As and when identified	All Governors can attend meetings	Ongoing

TAKING STEPS TO MEET DISABLED NEEDS EVEN IF THIS REQUIRES MORE FAVOURABLE TREATMENT

Objective	Action	Responsibility	Timescale	Resources	Success Criteria	Review, Monitoring and Evaluation
To put in place special arrangements for disabled pupils if needed e.g. breaks/ lunchtimes.	Review as and when necessary.	SMT	As and when required	Identified when need arises	Disabled pupils needs are catered for when necessary	When need arises using appropriate timescales.
To provide additional coaching or training for disabled pupils, staff or parents.	Review as and when necessary.	SMT	As and when required.	Identified when need arises	Additional coaching / training provided where necessary	As and when appropriate.
To ensure job applicants are treated fairly.	Follow procedures set out by the LA.	HT / Governors	When required	Nil	All job applicants treated fairly.	When need arises.