



Understanding the Equality Act 2010: Disability and Discrimination in Education

A comprehensive guide for parents, carers, and young people with SEND

What Is the Equality Act 2010?

The Equality Act 2010 brings together over 100 previous laws about discrimination into one clear piece of legislation. Its purpose is to ensure everyone is treated fairly and that discrimination on certain grounds – called “protected characteristics” – is unlawful.

There are nine protected characteristics:

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership
5. Pregnancy and maternity
6. Race
7. Religion or belief
8. Sex
9. Sexual orientation

This guide focuses on disability, but it's worth remembering that a child or young person may experience more than one form of discrimination (for example, due to both disability and race).

What Counts as a Disability?

Under the Equality Act, a person is considered to have a disability if:

“They have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.”

(Equality Act 2010, Section 6)

Key points to understand:

- Physical or mental impairment includes sensory impairments, long-term medical conditions, neurodevelopmental and mental health conditions (e.g. autism, ADHD, anxiety, dyslexia, diabetes, epilepsy).
- Substantial means the effect is more than minor or trivial – it makes tasks harder or takes more time or effort than for others.
- Long-term means lasting (or likely to last) 12 months or more.
- Normal day-to-day activities include learning, concentrating, communicating, socialising, reading, writing, and participating in school life.

You do not need a formal diagnosis to be protected – what matters is how the condition affects daily life.

However, evidence (such as reports or letters from professionals) can help demonstrate that your child meets the definition.

(Note: The Equality Act applies to England, Scotland, and Wales. Northern Ireland has different legislation – the Disability Discrimination Act 1995.)

The Equality Act and Education Providers

The Equality Act covers schools (maintained, academies, independent), colleges, local authorities, early years settings, and exam boards.

All these bodies have legal duties to support disabled pupils and to prevent discrimination.

Public Sector Equality Duty (PSED)

Public bodies – including schools and local authorities – must:

1. Eliminate unlawful discrimination, harassment, and victimisation.
2. Advance equality of opportunity between disabled and non-disabled pupils.
3. Foster positive relationships and mutual understanding.

This means that schools should consider equality in every decision – from admissions and curriculum design to policies, trips, and behaviour systems. They must also publish information showing how they meet the PSED and set measurable equality objectives.





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Understanding Discrimination

Discrimination happens when a disabled pupil is treated less favourably or put at a disadvantage because of their disability. The Equality Act recognises several specific types:

1. Direct Discrimination

When a pupil is treated worse because they are disabled.

Example: A school refuses admission to a pupil because they have Down's syndrome.
This type of discrimination can never be justified.

2. Indirect Discrimination

When a rule or policy applies to everyone but puts disabled pupils at a disadvantage.

Example: A rule that all pupils must complete handwritten homework disadvantages pupils with dysgraphia.

Indirect discrimination can only be lawful if the rule is a proportionate means of achieving a legitimate aim – for example, if no reasonable alternative exists.

3. Discrimination Arising from Disability

When a pupil is treated unfairly because of something linked to their disability.

Example: A child with Tourette's is punished for involuntary vocal tics.

The school must show that it had considered the impact of the disability and made reasonable adjustments. This form of discrimination may be justified only if the treatment is a proportionate and legitimate response.

4. Failure to Make Reasonable Adjustments

This is one of the most common forms of discrimination.

Education providers must take positive steps to ensure disabled pupils are not placed at a substantial disadvantage compared with others.

Examples of reasonable adjustments:

- Providing handouts in large print or accessible digital format
- Allowing additional processing time or rest breaks
- Providing a quiet space for breaks
- Using visual supports or simplified instructions
- Offering modified PE activities or alternative assessments
- Training staff in understanding specific conditions
- Adapting school trips or extracurricular activities

These duties are anticipatory – schools should plan ahead to meet potential needs, not wait for a problem to arise.

However, schools are not required to make structural alterations immediately (e.g. building lifts or ramps).

Such work falls under their Accessibility Planning Duties, which require schools to have a 3-year plan to improve access over time.

5. Harassment and Victimisation

Harassment includes unwanted behaviour that humiliates or offends a disabled person, such as mocking or name-calling.

Victimisation occurs when a pupil or parent is treated unfairly because they have made a complaint or supported another person who has.

Example: A parent who raised a discrimination complaint finds that the school stops communicating openly or excludes them from meetings – this could amount to victimisation.

... What "Reasonable" Means in Practice

What is "reasonable" depends on factors such as:

- The pupil's needs and the resources available
- The effectiveness of the adjustment in reducing disadvantage
- The practicality of making the change
- The financial and administrative impact on the setting
- The size and nature of the education provider

For example, providing a laptop for a dyslexic pupil is likely reasonable; rebuilding a building immediately may not be.

The duty is ongoing – what is reasonable can change over time as circumstances evolve.



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Accessibility Plans

Every school and local authority must have a written Accessibility Plan, setting out how they will:

1. Improve access to the curriculum;
2. Improve the physical environment; and
3. Improve the availability of accessible information.

These plans must be reviewed regularly (usually every 3 years) and made available to parents upon request.

If You Think Discrimination Has Occurred

If you believe your child has been discriminated against, there are clear steps to follow:

1. Keep Detailed Records

- Dates, times, and descriptions of incidents.
- Copies of emails, letters, and meeting notes.
- Statements or evidence from staff, pupils, or professionals.

2. Raise Concerns Informally

Speak to your child's teacher, SENCO, or headteacher.
Explain your concerns calmly, referring to the Equality Act if relevant.
Request a meeting and keep a written record of what is agreed.

3. Make a Formal Complaint

If the issue isn't resolved, use the school's formal complaints policy.
If the setting is an academy, you can escalate to the academy trust board.
For maintained schools, you can contact the governing body or local authority.

4. Seek Advice and Support

Independent services can guide you:

- IPSEA (Independent Provider of Special Education Advice)
- Disability Rights UK
- Equality Advisory Support Service (EASS)
- Independent SEND advocates (like myself)

5. Take Legal Action (if necessary)

- For schools – you can make a disability discrimination claim to the First-tier Tribunal (Special Educational Needs and Disability).
 - Must be submitted within 6 months of the alleged discrimination (or the last in a series of incidents).
 - The Tribunal can order the school to make changes, apologise, review policies, or provide staff training.
 - The Tribunal does not award large financial compensation but focuses on remedying the situation.
- For colleges or local authorities – discrimination claims usually go to the County Court, not the Tribunal. Legal advice is recommended.

(Always seek advice before starting legal proceedings – advocacy and advice services can guide you through your options.)

Your Child's Rights in Summary

Your child has the right to:

- Be treated fairly and with dignity.
- Access education and extracurricular activities equally.
- Receive reasonable adjustments that meet their needs.
- Have their voice heard and taken seriously.
- Challenge unfair treatment and seek redress through proper channels.



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