

Wingham Primary School

Single Equality Scheme

Appendices

Contents of our SES Appendices

- App 1. Definitions and guidance (p 1-7)**
- App 2. Table of legislation – Duties for schools (p 8-9)**
- App 3. Links to other provisions, criteria & practices (p 10-11)**
- App 4. SES Part B: Overview of outcomes (p12)**
- App 5. SES Part C: Impact Assessment (p 13-17)**
- App 6. SES Part D: Action Plans (p 18)**

App 1. Definitions and guidance

The Equality Act (2010) harmonises existing legislation and creates a new list of people who share a protected characteristic under the law. The Act includes secondary legislation setting out the Public Sector Equality Duty that consists of a General and a Specific Duty. Both the Act and the Public Sector Equality Duty apply to all aspects of employment, goods and services, partnerships and procurement. This includes schools and education.

There is no longer a requirement for an Equality Scheme, though the Duty sets out requirements for publication of information, as well as setting of Equality objectives. The Duty requires information published to include the effects of policies and practices on people who are protected by the act. The Equality and Human Rights Commission recommend that this should take the form of Equality Impact Assessments (EIAs) in organisations that have embedded them as standard practice but there is no statutory requirement to use them at present.

The following definitions and legal duties describe the school's understanding of legislation prior to and including the Equality Act 2010 in relation to the protected characteristics:

App 1.1 Definitions relating to the Equality Act 2010

The following definitions are some of the more common terms relevant to schools or the particular provisions of the Act:

Discrimination:

Unlawful discrimination is defined in the Act as:

- Direct discrimination (including discrimination based on perception or association).
- Indirect discrimination.
- Discrimination arising from disability.
- Failure to make reasonable adjustments (for disabled people).

Direct discrimination occurs when you treat a pupil less favourably than you treat (or would treat) another pupil because of a protected characteristic. So a very basic example would be refusing to admit a child to a school as a pupil because of their race, for example because they are Roma. It is not possible to justify direct discrimination, so it will always be unlawful. There are however exceptions to the schools provisions that allow, for example, single-sex schools to only admit pupils of one sex without this being unlawful direct discrimination.

In order for someone to show that they have been directly discriminated against, they must compare what has happened to them to the treatment a person without their protected characteristic is receiving or would receive. So a gay pupil cannot claim that excluding them for fighting is direct discrimination on grounds of sexual orientation unless they can show that a heterosexual or bisexual pupil would not be excluded for fighting. A pupil does not need to find an actual person to compare their treatment with but can rely on a hypothetical person if they can show there is evidence that such a person would be treated differently.

There is no need for someone claiming direct discrimination because of racial segregation or pregnancy or maternity to find a person to compare themselves to:

- Racial segregation is deliberately separating people by race or colour or ethnic or national origin and will always be unlawful direct discrimination.
- To claim pregnancy or maternity discrimination a female pupil must show that she has been treated unfavourably because of her pregnancy or maternity and does not have to compare her treatment to the treatment of someone who was not pregnant or a new mother.

It is not direct discrimination against a male pupil to offer a female pupil special treatment in connection with her pregnancy or childbirth. It is not direct discrimination against a non-disabled pupil to treat a disabled pupil more favourably.

Indirect discrimination occurs when you apply a provision, criterion or practice (PCP) in the same way for all pupils or a particular pupil group, but this has the effect of putting pupils sharing a protected characteristic within the general student group at a particular disadvantage. It doesn't matter that you did not intend to disadvantage the pupils with a particular protected characteristic in this way. What does matter is whether your action does or would disadvantage such pupils compared with pupils who do not share that characteristic.

'Disadvantage' is not defined in the Act but a rule of thumb is that a reasonable person would consider that disadvantage has occurred. It can take many different forms, such as denial of an opportunity or choice, deterrence, rejection or exclusion. Indirect discrimination will occur if the following four conditions are met:

1. You apply (or would apply) the provision, criterion or practice equally to all relevant pupils, including a particular pupil with a protected characteristic, and
2. The provision, criterion or practice puts or would put pupils sharing a protected characteristic at a particular disadvantage compared to relevant pupils who do not share that characteristic, and
3. The provision, criteria, practice or rule puts or would put the particular pupil at that disadvantage, and
4. You cannot show that the provision, criteria of practice is justified as a 'proportionate means of achieving a legitimate aim'.

Positive Action:

Pupils with protected characteristics may be disadvantaged for social or economic reasons or for reasons to do with past or present discrimination. The Act contains provisions which enable schools to take action to tackle the particular disadvantage, different needs or disproportionately low participation of a particular pupil group, provided certain conditions are met.

These are known as the positive action provisions and allow (but do not require) schools to take proportionate action to address the disadvantage faced by particular groups of pupils. Such action could include targeted provision, resources or putting in place additional or bespoke provision to benefit a particular disadvantaged pupil group.

Positive action is intended to be a measure that will allow schools to provide additional benefits to some pupils to address disadvantage and is not the same as positive discrimination. Positive discrimination would be providing preferential treatment for a particular disadvantaged pupil group that exceeded the positive action conditions. It is never unlawful to treat disabled pupils (or applicants) more favourably than non-disabled pupils (or applicants). That is, a school is permitted to positively discriminate in favour of disabled pupils (applicants).

‘Proportionate means of achieving a legitimate aim’:

To be legitimate the aim of the provision, criterion or practice must be legal and non-discriminatory and represent a real objective consideration. In the context of school education, examples of legitimate aims might include:

- Maintaining academic and other standards.
- Ensuring the health and safety and welfare of pupils.

Even if the aim is legitimate the means of achieving it must be proportionate. Proportionate means ‘appropriate and necessary’, but ‘necessary’ does not mean that the provision, criterion or practice is the only possible way of achieving the legitimate aim. Although the financial cost of using a less discriminatory approach cannot, by itself, provide a justification, cost can be taken into account as part of the school’s justification, if there are other good reasons for adopting the chosen practice. The more serious the disadvantage caused by the discriminatory provision, criterion or practice, the more convincing the justification must be. In a case involving disability, if you have not complied with your duty to make relevant reasonable adjustments it will be difficult for you to show that the treatment was proportionate.

Protected Characteristics:

The Act protects people from discrimination and harassment based on the following 'protected characteristics':

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

Age and being married or in a civil partnership are NOT protected characteristics for the schools provisions.

The categories of people covered by the schools provisions are:

- Prospective pupils (in relation to admissions arrangements).
- Pupils at the school (including those absent or temporarily excluded).
- Former pupils (if there is a continuing relationship based on them having been a pupil at the school).

Provision, criterion or practice (PCP):

These are not defined in the Act but can be interpreted widely and include:

- arrangements (for example, for deciding who to admit or in preparing for a school trip)
- the way that education, or access to any benefit, service or facility is offered or provided
- one-off decisions
- proposals or directions to do something in a particular way.

They may be written out formally or they may just have developed as the school worked out the best way of achieving what it wanted to do.

Public sector equality duties:

These give public bodies, including maintained schools, Academies and Pupil Referral Units, legal responsibilities to demonstrate that they are taking action on equality in policymaking, the delivery of services and public sector employment. The duties require public bodies to take steps not just to eliminate unlawful discrimination and harassment, but also to actively promote equality.

The purpose of the equality duties is not to be process driven and bureaucratic but rather to offer an outcome-based method of ensuring that schools are best meeting the needs of all their pupils. The duties provide a framework to help schools tackle persistent and long-standing issues of disadvantage, such as underachievement of boys from certain ethnic groups, gender stereotyping in subject choice and bullying of disabled young people. They also provide a strategic and systematic means of tackling major entrenched disadvantage across the sector.

Reasonable adjustment duty:

Schools are required to take reasonable steps to avoid substantial disadvantage where a provision, criterion or practice puts disabled pupils at a substantial disadvantage. This duty is owed to existing pupils, applicants and, in limited circumstances, to disabled former pupils in relation to the following areas:

- deciding who is offered admission as a pupil
- the provision of education
- access to any benefit, service or facility.

Schools cannot justify a failure to make a reasonable adjustment; where the duty arises, the issue will be whether or not an adjustment is 'reasonable' and this is an objective question for the tribunals to ultimately determine.

The duty is an anticipatory and continuing one that schools owe to disabled pupils generally, regardless of whether it is known that a particular pupil is disabled or whether there are currently any disabled pupils. By anticipating the need for an adjustment schools are best placed to help disabled pupils who come to the school. Schools are not expected to anticipate the needs of every prospective pupil but they are required to think about and take reasonable and proportionate steps to overcome barriers that may impede pupils with different kinds of disabilities. For example, while it may be appropriate to provide large print for a pupil with a visual impairment, it might not be reasonable to be expected to have Braille devices standing ready.

Socio-economic duty:

Socio-economic status was also recognised in the legislation, though a specific duty on Socio-economic status has not been enacted by the present Government. This means that the statutory protection given to people on low incomes or in rural isolation experiencing disadvantage or unfair treatment will not be the same as the other protected characteristics.

App 1.2 Guidance for School Leaders

DfE: Equality Act 2010: Advice for School Leaders, School Staff, Governing Bodies and Local Authorities

<http://www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0064570/the-equality-act-2010>

Equality and Human Rights Commission: Code of Practice

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-consultations/>

Local Authority: Refer to the updated information available on kenttrustweb

http://www.kenttrustweb.org.uk/ask8/ask8_inclusion_publications.cfm

App 2.1 Table of legislation prior to Equality Act 2010

Prior to the Equality Act 2010 'protected characteristics' were commonly called 'strands'.

Equality Strand	Legislation	General Duty	Specific duties	
ALL	Human Rights Act (1998), Article 14: Rights ... <i>'without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'</i>		N/A	
Disability	Disability Discrimination Act 1995, as amended Special Educational Needs and Disability Act 2001 Disability Discrimination Act 2005	Eliminate discrimination Promote equality of opportunity Eliminate harassment Promote positive attitudes Encourage participation More favourable treatment	Disability Equality Scheme <ul style="list-style-type: none"> • Monitor implementation • Assess impact • 3 year review • Report annually SEN policy & Accessibility Plan <ul style="list-style-type: none"> • Report annually 	
Gender (sex) and Gender Reassignment	Equal Pay Act 1970 Sex Discrimination Act 1975, as amended Equality Act 2006 Sex Discrimination (Gender Reassignment) Regs 1999 Gender Recognition Act 2004	Eliminate discrimination Promote equality of opportunity	Gender equality scheme <ul style="list-style-type: none"> • Monitor implementation • Assess impact • 3 year review 	
Race	Race Relations Act 1976, as amended Race Relations (Amendment) Act 2000	Eliminate discrimination Promote equality of opportunity Promote good relations	Race equality policy <ul style="list-style-type: none"> • Monitor implementation • Assess impact • 3 year review Record incidents & report to LA	
Religion or belief	Employment Equality (Religion or Belief) Regulations 2003, as amended Equality Act 2006	Employ - ment & provision of goods & services including Education	Eliminate discrimination on the basis of: <ul style="list-style-type: none"> • less favourable treatment • disadvantage • any other detriment – including harassment 	None
Sexual orientation	Employment Equality (Sexual Orientation) Regulations 2003, as amended Equality Act 2006, Sect 81			

App 2.2 Table of legislation: Equality Act 2010

Protected Characteristics:	What is new?	Requirements	Application to schools
Age Disability Gender - reassignment Marriage and civil Partnership Pregnancy and Maternity Race Religion or belief Sex Sexual orientation	A single public sector equality duty applying to all protected characteristics: Specific changes offering greater protection from harassment and victimisation. Positive action Direct discrimination extended to disability Indirect discrimination extended to disability and gender reassignment New protection from discrimination by association or perception	Eliminate discrimination, harassment and victimisation Advance equality of opportunity, Foster good relations Victims now only need to show that they have been treated badly, rather than less favourably. No requirement to take positive action. No restriction on treating disabled people more favourably. Extension of protection from discrimination based on association or perception to all protected characteristics	Provision for Education (Part 6, Chapter 1) Application of all characteristics as employer and provider of services. Age and Marriage and civil partnership excluded in relation to pupils.

The General Duty – in the exercise of all functions schools must have ‘due regard’ to:

Eliminating unlawful discrimination, harassment and victimisation.	This means: Ensuring all of the policies, services and decisions do not have any bias that will disadvantage people who share a protected characteristic. Having good policies in place to support people who share a protected characteristic to raise concerns of discrimination and harassment, and be protected by the organisation and treated fairly if they raise a concern.
Advancing equality of opportunity between those who share a protected characteristic and those who do not.	This means: Proactively identifying if there are barriers that prevent people who share a protected characteristic from getting the full benefits of employment, good or services. Taking steps to remove barriers, and prioritising equality of opportunity where there are competing demands – where possible minimising the impact of changes.
Fostering good relations between those who share a protected characteristic and those who do not.	This means: Breaking down barriers that separate individuals into competing groups, addressing issues such as hate crime, domestic violence and violent extremism, ensuring that accurate information is given to all sections of the community so that myths and misinformation do not divide people.

The Specific Duties – in the exercise of the General Duty schools must:

Publish information to demonstrate compliance with the general duty	Take note: Information will clarify how compliance in policies and practices has affected people who share relevant protected characteristics Deadline: By 6 th April 2012 and then annually
Prepare and publish one or more objectives	<i>Take note: Objectives must be specific and measurable</i> Deadline: By 6 th April 2012 and then at intervals of not greater than 4 years

App 3. Links to other provisions, criteria & practices

School Accessibility Plan: The school has an Accessibility Plan that details how access arrangements and reasonable adjustments will be made to meet the needs of all pupils.

Anti-Bullying: The DCSF definition of bullying (contained in the 2007 Safe to Learn guidance) has been accepted by the LA and this school: *“behaviour by an individual or group, usually repeated over time, that intentionally hurts an individual or group either physically or emotionally”*

Kent policies, guidance and other important information relating to bullying:

<http://www.kenttrustweb.org.uk/Children/bullying.cfm>

The Kent model anti bullying policy for schools can be found at:

http://www.kenttrustweb.org.uk/UserFiles/CW/File/Childrens_Services/Healthy_Schools/PSHE/model_antibullying_policy_1008.doc

The link to the specific guidance on producing a separate school race equality policy and action plan

http://www.clusterweb.org.uk/UserFiles/CW/File/Policy/Equalities/Race/Policies/Race_Equality_in_Schools_0308.doc

The link to the specific guidance relating to managing racist incidents is:

http://www.kenttrustweb.org.uk/UserFiles/CW/File/Policy/Equalities/Race/Policies/Managing_Racial_Incidents_Policy_0308.doc

The link to specific guidance relating to homophobic bullying is:

http://www.kenttrustweb.org.uk/UserFiles/CW/File/Policy/Equalities/Sexuality/Good_Practice_for_all_schools_on_tackling_homophobic_bullying.doc

Community cohesion: The school has a duty to promote and enhance community cohesion (Education and Inspections Act 2006). There are 3 areas where schools are expected to contribute to community cohesion. These are 1) Teaching, learning and the curriculum, 2) Equity and excellence and 3) Engagement and extended services.

http://www.kenttrustweb.org.uk/ask/ask8/ask8_whole_school_com_cohesion.cfm

Job descriptions: Job descriptions have been reviewed against equality legislations. They are reviewed annually with all members of staff as part of the appraisal process and discussions held regarding any amendments needed to enable all members of staff undertake their role effectively.

Health and Safety: When undertaking risk assessments for any school activity, enrichment activity or for an individual pupil we will relate these to the principles of our Single Equality Scheme to ensure that we consider the reasonable adjustments that can be expected in order to facilitate inclusive participation.

Safeguarding Policy: The Governors and staff take seriously their responsibility to promote the welfare and safeguard all the children and young people entrusted to their care.

SEN/Inclusion Policy: There is a direct link between our Single Equality Scheme and our Inclusion Policy. The aims of our Inclusion Policy are:

- to identify all children who need special consideration to support their physical, social, emotional or intellectual development
- ensure these children are given appropriate support to allow them full access to the curriculum and extended school activities in a positive framework
- ensure that these children are fully integrated into all activities of the school
- involve parents in developing a partnership of support, enabling them to have full confidence in the strategy adopted by the school.

Uniform Guidance: We encourage all parents to discuss any adjustments that may need to be made to our school uniform expectations in order for their child's needs to be accommodated.

PSHE / Well-Being: This SES is a means of ensuring the promotion of well-being for all in the school community.

App 4 SES Part B: Overview of Outcomes

1. The monitoring and analysis of outcomes for Vulnerable Groups supports the governors and staff in:
 - evaluating the outcomes of groups of children and young people who are nationally and/or school identified as vulnerable to underachievement and discrimination;
 - identifying, through this analysis, areas for improvement in provision for those vulnerable groups;
 - establishing a baseline of information from which to assess the impact, over time, of action taken to improve outcomes and provision for vulnerable groups;
 - collating evaluative data summaries to inform self evaluation in relation to vulnerable groups.

In considering the outcomes for all pupils in the school, the SLT considers the outcomes for minority ethnic groups as a whole and for each ethnic group. National and LA monitoring of data indicates that some minority ethnic groups (e.g. Gypsy Roma, Bangladeshi) are achieving well below expectations for all children and this may be masked where there are small numbers of children or if the school sees minority ethnic children as one group. Even if there is one child in the ethnic group it is important to give consideration to that child's attainment and consider this in relation to the performance of the ethnic group as a whole locally and nationally, as well as all pupils in the school.

App 5.1 SES Part C: Impact Assessment – Introduction

Why do equality impact assessment (EIA)?

- Allows us to give thought to the effect or potential effect of what we do on all members of our school community, including children, young people, parents/carers, our staff and others;
- Enables us to fulfil the requirements of anti-discrimination and equalities legislation and to promote equality of opportunity for all as we establish a school that is just and fair, where all can flourish;
- Helps us understand why there are different outcomes for various groups or individuals and to plan for change;

Principles:

- No new policy or policy amendment is applied without having been impact assessed;
- Proportionality and Relevance – identifying and prioritising key PCPs;
- Ensuring effective participation through the work of the working party;
- Based on evidence – summary/professional judgement/team based at screening stage with more comprehensive evidence drawn into full impact assessment process;
- Managing the process in a systematic and planned way but allowing flexibility to be responsive;
- Using impact assessment to inform change and development in PCPs;
- Screening based on identifying existing or potential positive or adverse impacts = the two basic questions;
- Our golden rule for engagement and manageability: **SCREEN EARLY, REVIEW LATER**

The process:

- We analyse information drawn together in the Overview of Outcomes to identify the PCPs relevant to the pattern of outcomes;
- All PCPs noted above are impact assessment screened enabling us to identify priorities for full impact assessment and action;
- We use an EIA planning and review schedule of screening and full impact assessment taking into account further identified criteria in addition to the Overview of Outcomes;
- Throughout the year the schedule is used to screen identified PCPs and to do full impact assessments where indicated;
- The results of our impact assessments are recorded very briefly on the schedule and more fully in our reporting on, and publication of EIAs. This also acts as evidence for our school self evaluation.

App 5.2 SES Part C: Impact Assessment Template

Equality Impact Assessment (EIA)

Part 1: EIA Screening

Provision, Criterion or Practice:		DATE:	
EIA CARRIED OUT BY:		EIA APPROVED BY:	

Groups that may be affected:

Are there concerns that the policy could have a different impact on any of the following groups? (please tick the relevant boxes)	Existing or potential adverse impact	Existing or potential for a positive impact
Age (young people, the elderly; issues surrounding protection and welfare, recruitment, training, pay, promotion)		
Disability (physical and mental disability, learning difficulties; issues surrounding access to buildings, curriculum and communication)		
Gender reassignment (transsexual)		
Marriage and civil partnership		
Pregnancy and maternity		
Racial groups (consider: language, culture, ethnicity including gypsy/traveller groups and asylum seekers)		
Religion or belief (practices of worship, religious or cultural observance, including non-belief)		
Sex (male, female)		
Sexual orientation (gay, lesbian, bisexual; actual or perceived)		

Any adverse impacts are explored in the Full Impact Assessment below.

Part 2: Full EIA

Identify the aims of the policy/service/function and how it is implemented.

Please enter:

Assessment of impact (with regard to protected characteristics: disability, gender, race, religion or belief, sexual orientation, age, marriage and civil partnership, pregnancy and maternity)

Please enter:

Consideration of alternative measures or adjustments.

Please enter:

Consultation

Please enter:

Data to support the Assessment

Please enter:

Monitor for adverse impact in the future and publication of results of such monitoring

Please enter:

Publication of results of the impact assessment

Please enter:

Part 3: EIA Action Plan

Actions recommended as a result of this impact assessment.

Issue/Objective	Action required	Lead person	Timescale	Resource implications	Comments

App 6 SES Part D: Action Plans – Introduction

Action planning principles:

- Action planning is done in accordance with the School's values, priorities and aims as identified in **Part A:1** of our SES.
- Accurate knowledge of the school enables us to plan in a way that is **relevant and proportionate**;
- **Participation** of an appropriately selected working group is reflected in wider representation built into action plans;
- Through the impact assessment process, consideration is given to the **anticipation** of equality issues not presently evidenced but for which there is a potential;
- Action plans are seen as the starting point for action but not followed slavishly where monitoring and further impact assessments reveal alternative opportunities or needs;
- Managing the process in a planned yet responsive way;
- Action plans are checked against the objectives and the impact assessment that informed their selection;
- SMARTER target thinking means plans are ***Specific, Measurable, Achievable, Relevant, Timed, Evaluated and Reviewed***;
- The golden rule for action planning is to **be SMARTER and get started**.

The process:

- Action planning is done in response to identified priorities arising from the analysis of all the information, including the Overview of Outcomes and the impact assessments we have undertaken.
- We plan for action over 1 and 3 years so that it is possible to implement change and development in a responsive yet systematic way.
- Action plans are reviewed annually and in the third year we undertake a review of the impact of our actions over three years.