

# YSGOL CAERGEILIOG FOUNDATION SCHOOL



## EQUALITY AND HUMAN RIGHTS - GUIDANCE

### Introduction

On 6 April 2012 schools were required to publish information showing how they comply with the new equality duty and setting equality objectives. They will need to update the published information at least annually and publish objectives at least once every four years.

Previously public bodies were bound by three sets of duties to promote disability, race and gender equality. In April 2011 these were replaced by a single public sector equality duty (known as the PSED or the equality duty).

This new duty extends to all the aspects of a person's identity – known as 'protected characteristics' – that are protected under the Equality Act 2010. These are race, disability, sex, age, religion or belief, sexual orientation, pregnancy and maternity and gender reassignment.

The equality duty has two main parts: the 'general' equality duty and 'specific duties'.

The general equality duty sets out the equality matters that schools need to consider when making decisions that affect pupils or staff with different protected characteristics. This duty has three elements. In carrying out their functions public bodies are required to have 'due regard' when making decisions and developing policies, to the need to:

- Eliminate discrimination, harassment, victimization and other conduct that is 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 across all protected characteristics—between people who share

a protected characteristic and people who do not share it.

Having 'due regard' to the need to advance equality of opportunity is defined further in the Equality Act 2010 as having due regard to the need to:

- 1. Remove or minimize disadvantages**
- 2. Take steps to meet different needs**
- 3. Encourage participation when it is disproportionately low.**

There are two specific duties that they are required to carry out. These are:

- To publish information to demonstrate how they are complying with the equality duty.
- To prepare and publish one or more specific and measurable equality objectives.

For a school, having 'due regard' means:

- When making a decision or taking an action a school must assess whether it may have implications for people with particular protected characteristics.
- It should consider equality implications before and at the time that it develops policy and takes decisions; not as an afterthought, and it needs to keep them under review.
- The equality duty has to be integrated into the carrying out of a school's functions. The analysis necessary to comply with the duty should be carried out rigorously and with an open mind – it is not a question of just ticking boxes.
- Schools need to do this themselves and cannot delegate responsibility for carrying out the duty to anyone else.
- The equality duty supports good education and improves pupil outcomes. It helps a school to identify priorities such as underperformance, poor progression, and bullying. It does this by requiring it to collate evidence, take a look at the issues and consider taking action to improve the experience of different groups of pupils. It then helps it to focus on what can be done to tackle these issues and to improve outcomes by developing measurable equality objectives.
- This guide should be read in conjunction with chapter five of the Department for Education Guidance on the Equality Act 2010. This covers the equality duty as it applies to schools. There is also more generic guidance on the equality duty on the Equality and Human Rights Commission's website:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

### **Issues that the equality duty will help to address:**

- **Attainment** The equality duty will help to focus attention on performance gaps between groups of pupils, for example girls and boys, black, white and Asian pupils, and disabled and non-disabled students.

**Example** When deciding on what action to take under the equality duty, an inner city academy analyses its data on attainment and identifies a number of issues amongst different groups of pupils. Of particular concern is data showing that at Key Stage 4 Bangladeshi pupils are underachieving compared to other pupils when previous attainment is taken into account. Further investigation of data on post-school destinations reveals that this is impacting negatively on the numbers of Bangladeshi pupils progressing to higher education. As the academy has relatively high numbers of Bangladeshi students this is identified as a priority issue.

The school decides to set an objective under the equality duty to tackle the underachievement of Bangladeshi pupils. In order to achieve this they plan to undertake a range of activities including study skills support, mentoring, additional classes and higher education visits. These activities are lawful positive action measures that contribute to meeting the duty to have due regard to advancing equality of opportunity. The school includes monitoring of changes in achievement levels and destinations of Bangladeshi pupils as part of the school improvement plan and is able to report positive impact of its targeted activities.

This example shows that decision-makers will have to balance competing priorities and that schools have discretion to set their own priorities.

The example also illustrates the importance of having good evidence in the early stages of decision-making. This supports the decision to focus on this group of pupils and provides evidence to show that it is a reasonable approach.

### ***Participation in school activities***

The equality duty provides a framework for identifying pupil needs, and weighing them against other education priorities when making any relevant decisions including those decisions on participation in school activities.

### **Example**

A primary school plans a trip to a local history museum. Before confirming it checks the accessibility of the venue. One of the pupils is deaf and the museum does not have a

hearing loop. The school decides to change the trip and attend a museum in a neighbouring town that has a hearing loop. Although the travel time to and from school is longer, the school decides that this is a reasonable adjustment to make given the substantial disadvantage faced by the disabled pupil if she is unable to participate fully in the trip.

This approach demonstrates that the school is trying to eliminate potential discrimination in the way it operates and that it balances the interests of its pupils to ensure the best possible educational outcomes. It is also meeting the second aim of the equality duty by addressing the particular needs of deaf pupils.

### ***Ensuring pupils engage effectively in learning***

The general equality duty reminds us that equality is not necessarily about treating people the same way, but about developing different strategies to meet the different needs of pupils. This will be familiar to schools through the AN framework or through providing additional support to groups of pupils who need it.

Schools should consider how each decision and policy may affect pupils with different protected characteristics. This can help identify priorities.

### **Example**

A primary school is considering its resource and stationery order for the new school term and it consults with teachers. The special educational needs coordinator identifies that visually impaired and dyslexic pupils will require accessible handouts. As a result, it orders additional supplies of different coloured paper to meet the needs of these pupils.

### ***Bullying***

The equality duty reminds schools that they have to think about the interests of all of their pupils.

One of the key aims of the equality duty is to foster good relations. To help ensure this happens it is useful to ask:

- Does the policy/decision help the school to tackle prejudice?
- Does the policy/decision promote understanding between different groups of pupils and parents?

**Example** A primary school becomes aware that there may be an issue with homophobic bullying when a boy in reception is bullied for having same-sex parents. As a result, the head teacher asks all teachers to report incidents of homophobic bullying and name-calling. Information gathered shows that

homophobic name-calling is focused in years 4, 5 and 6. The head teacher asks pastoral staff to research curriculum resources and classroom strategies to tackle this issue. In the meantime, the parents of the children involved are reminded what the school expects in terms of dignity and respect and behaviour from pupils; clear boundaries are set for pupils who are found to bully other pupils; and support is given to those affected by bullying. Once pastoral staff have reported back to the head teacher, new measures are introduced to tackle bullying throughout the school with a focus on the areas of greatest need – in years 4, 5 and 6. As a result, the number of incidents of homophobic bullying decreases.

This example shows the importance of having sufficient information when making decisions. It also demonstrates the importance of engaging with staff where possible when making decisions so that they pass on any relevant information. Schools can also tackle bullying through proactive measures such as participating in LGBT or Black History month.

### ***Improve careers and progression***

Analysing evidence of where pupils go after they leave school will help schools to maximize the potential of all their pupils. The following case study shows that the disaggregation of data can feed into school policy and good practice.

#### **Example**

A secondary grammar school looks at the destinations of their boys and girls and finds ‘occupational segregation’ – job stereotyping – with few girls going into science/ technical careers or trades.

It also notes that many boys and girls from Asian backgrounds are not choosing engineering subjects, and that differences between their choices and other racial groups is striking.

As a result the school changes its exam options policy, merging it with its careers policy. It also establishes taster sessions in year 9 for all pupils, and arranges a series of outside speakers who have made non-traditional career choices as role models to share their experiences. Early indications show that there is a greater willingness for girls and Asian pupils to consider non- stereotypical options, with greater numbers choosing science and technical subjects.

The equality duty encourages schools to consider how to increase the participation of pupils with different protected characteristics when it is disproportionately low in particular areas of school life. This extends beyond the curriculum to areas of the school’s activities such as option choices and work experience opportunities.

Primary schools can also tackle ‘occupational segregation’ by encouraging children to think more broadly about the sorts of roles boys and girls can take in employment, for

example by arranging for pupils to talk to men and women who work in non- stereotypical jobs. The Commission has developed a Key Stage 2 curriculum resource, 'Equal Choices, Equal Chances' to tackle stereotyping around employment, available free at: <http://www.equalityhumanrights.com/advice-and-guidance/a-free-primary-careers-education-resource/>

### **Exclusion**

The general equality duty explains what issues need to be borne in mind before making significant decisions. Turning these into questions or prompts can help schools when they are considering policies or making decisions. The first question a school might ask could be: Is the policy/decision likely to result in discrimination?

### **Example**

As part of its equality duty, a school reviews its data on exclusions and finds that a disproportionate number of pupils who have been either temporarily or permanently excluded are Black Caribbean boys. The school also looks at data held at the local and national level which supports its own evidence. The school recognises that its exclusion policy needs to be re-written to set out clear exclusion thresholds that are applied consistently for all pupils. It then runs some focus groups with teachers, pupils and parents from Black Caribbean backgrounds to identify other measures that can be taken to reduce the high numbers of exclusions amongst this group of pupils. Following the consultation, the school implements a range of actions including parent/pupil workshops, visits from Black role models, learning mentors and classes on emotional literacy, assertiveness, socialisation and behaviour management skills. Over time, the number of exclusions of Black Caribbean boys declines significantly.

### **Example**

A local authority offers vocational but not academic courses to excluded pupils through its pupil referral unit (PRU). Aware from national statistics that a high proportion of black boys are excluded from school, it recognises the potential for indirect discrimination if academic courses are not offered at the PRUs.

As a result, its PRU starts offering academic options to all pupils referred there. The local authority includes this change of policy as part of the information it publishes to demonstrate compliance with the equality duty.

Additional information and guidance on exclusions can be found in the Schools Exclusions Inquiry report from the Office of the Children's Commissioner: 'They Never Give Up on You', available at:

[http://www.childrenscommissioner.gov.uk/content/publications/content\\_561](http://www.childrenscommissioner.gov.uk/content/publications/content_561)

**[How the equality duty can help improve teaching and learning in schools](#)**

### ***Policy making***

The equality duty can help policy making in schools become more relevant to all groups of pupils and help the school decide on its priorities.

The duty applies to all your policies and procedures. It also applies to what may not be written down, i.e. practices.

Applying the equality duty can help to identify issues and shape policies around the needs of different groups of learners whose interests are protected by it. When reviewing a policy the school needs to consider emerging equality issues.

### **Example**

A secondary school decides to revise its literacy policy. Detailed analysis of its English results at Key Stage 3 reveals that there is a significant gap opening up between boys and girls in year 8. When reviewing its literacy policy, the head teacher asks those who are developing the policy to consider this gap.

As a result the school proposes to invite male authors to come and describe their work, plus developing lessons in English that seek to break down stereotypes and misconceptions about boys, for example, that they are not interested in arts or academic success. The school also stresses that the needs of girls who are falling behind in English will not be overlooked.

When the policy has been written, it is discussed with the school governing body at committee before being approved at a full governors meeting. The head teacher agrees to include the measures in the school development plan and report back to the school governing body. The governor/committee with responsibility for inclusion is given the task of overseeing the implementation of the new policy.

### ***Making effective use of data and information***

Collating and analysing information and data on all aspects of school life can lead to policies and practices that are more attuned to the needs of different groups of pupils.

The duty to have 'due regard' to equality considerations is a continuing one, so monitoring the success of any initiative is important to ensure that it is an effective use of resources.

Whilst statistical data can be an important source of information in monitoring, a great deal of useful information can also be obtained from individual tracking of attainment, lesson observation and talking to pupils and parents.

### **Example**

A primary school recognises from its RAISE online performance data that achievement levels for SEN learners (a rough proxy for disability) are below national figures and significantly below those in comparative schools. In response to the equality duty, the school seeks to improve the learning experience for disabled pupils to help close attainment gaps.

It recognises that it needs to identify ways in which learning needs can be more fully met and begins by undertaking a mapping exercise of disabled pupils' learning journeys to understand how key contact points could be improved. Members of the senior leadership team, inclusion staff and teaching staff consult with the disabled pupils and their parents to develop a more in-depth understanding of pupils' wants and aspirations. Staff then combine this information with individual academic data to design a series of initiatives targeted at pupils with a learning difficulty or disability. These

include more inclusive teaching practices, the up-skilling of some existing staff, additional support staff and providing specialist equipment.

To monitor the success of the initiative, the school collects feedback from parents and pupils and tracks individual progress. This reveals increased participation in lessons, a greater degree of socialisation and improved academic achievement among pupils with disabilities.

### ***Supporting effective partnerships***

The equality duty supports effective partnerships by encouraging initiatives among local authorities, schools, parents, carers, and members of local communities. This includes discussions on what actions are needed to improve education for groups of pupils and to foster good relations across all protected characteristics.

### **Example**

An inner city academy with a diverse pupil population recognises the importance of working in partnership with pupils, parents, community leaders and other local schools to address religious tensions amongst young people, fuelled in the wider community. Drawing on discussions with all these groups, it introduces a range of actions to promote tolerance and respect for different beliefs including: assemblies dealing with good relations, twinning arrangements with other schools which enable pupils to meet and exchange experiences with children from different backgrounds, strengthened behaviour and anti-bullying policies to deal with tensions between different groups of pupils, and a strengthened focus on aspects of the curriculum which promote tolerance and friendship and which share understanding of a range of religions or cultures.

The Commission's Key Stage 3 curriculum resource, 'Equal Rights, Equal Respect' is available free at: <http://www.equalityhumanrights.com/advice-and-guidance/equal-rights-equal-respect/>. By collecting and analysing relevant information, schools can

identify priorities for the partnerships within which they work, so they can pool resources and develop cost-effective solutions.

### **Example**

A secondary school uses a mixture of individual attainment data and observation in lessons to help them understand learning and pastoral issues affecting ethnic minority pupils. This evidence helps staff to identify the challenges which prevent some ethnic minority pupils from participating in extracurricular activities and interacting with pupils outside of their own ethnic group.

The school's evidence base, combined with experiences shared at head teacher meetings with other local schools leads to the decision to pool resources across a number of schools to introduce new language support provision for Roma migrant pupils.

As a consequence, attendance rates and attainment for this group of pupils increases markedly, along with their integration in the school community both in and outside of lessons.

### ***An opportunity to reconsider how schools treat their pupils***

One of the aims of the equality duty is 'advancing equality of opportunity'. With that aim in mind, when schools consider adopting a new policy or making a decision, they may find it useful to pose three questions, or prompts:

- Does this policy/decision remove or minimize disadvantages suffered by pupils with particular protected characteristics?
- Do we need to adopt different approaches for different groups of pupils?
- Is there any way we can encourage these groups of pupils to become more involved with the school or open up opportunities for them that they wouldn't otherwise enjoy?

In practice this means that schools should always try to use information about pupils with different protected characteristics to mitigate adverse effects or bring about positive ones.