SELBY HIGH SCHOOL

SPECIALIST SCHOOL FOR THE ARTS AND SCIENCE

2026-30 Single Equality Plan

Ratified by the Board of Governors

Date September, 2026

Signed

Chairperson Andy Reed

Review Date September, 2027 (Annual Update)
September, 2030 (Full Review)

Learning today, leading tomorrow

Aspiration for all

A caring school at the heart of the community

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SINGLE EQUALITY PLAN – SEPTEMBER, 2026 to SEPTEMBER, 2030

Introduction- the school's commitment to upholding the protected characteristics

This Single Equality Scheme addresses the statutory duties of the Equality Act 2010. This supersedes and brings together all previous statutory duties in relation to race, gender and disability and also addresses the duty to promote community cohesion, thus meeting the school's statutory duties in these areas.

This document emphasises the school commitment ensuring that students and staff, with the following characteristics, will be protected in our school from harassment and discrimination:

- disability
- gender
- race
- religion and belief
- sexual orientation
- gender reassignment
- pregnancy and maternity

As well as delivering high quality services to our students, the school is also committed to being a good employer and as such this scheme also emphasises our varied duties in terms of recruitment and employment practices. We are also committed to be fully inclusive of all community users, including parents, carers and guardians. As such, this scheme also sets out how we will work to overcome any discrimination related to the other protected characteristics:-

- Age
- Marital status or in a civil partnership

The impact of this scheme is reported on annually.

Signed Nick Hinchliffe Principal	Date September, 2026
Signed Andy Reed Chair of Governors	Date September, 2026

All of our policies take account of the single equality scheme, but particularly relevant documents are:

- The Accessibility Plan (2016-2019)
- The Inclusion Strategy
- The Pupil Premium Strategy
- The SEND Policy
- The Wellbeing Policy

Aims of the single equality scheme

It is our duty to:

- Eliminate unlawful discrimination, harassment and victimisation.
- Advance equality of opportunity.
- Foster good relations.

It is also our aim to:

- To uphold the protected characteristics.
- To articulate the school's commitment to equality which permeates all school policies and practices.
- To ensure that everyone who belongs to, or comes into contact with, our school community is valued and respected.
- To promote equality of opportunity and eliminate unlawful discrimination, harassment or victimisation.
- To put in place reasonable adjustments where appropriate to ensure that students can thrive.
- To comply with statutory duties under equalities legislation in one document.

Purpose of the Equality Scheme

This equality scheme is the school's response to the specific and general duties in the current equality legislation, which has been brought together under the Equality Act 2010. It is an attempt to capture how the school is systematically establishing and implementing good practice in equality and diversity across all areas of school life.

This Equality Scheme emphasises the school's commitment:

- eliminate discrimination and set out how we cover the protected characteristics (see appendix 2);
- eliminate harassment or victimisation, and promote positive attitudes, related to any aspect of social identity or diversity;
- promote equality of opportunity, including through our Accessibility Plan;
- encourage participation by all our community in public life;
- take proportionate action to address the disadvantage faced by particular groups of students.

Eliminating discrimination and promoting equality of opportunity

This scheme is underpinned by the core belief that all children and young people belong to their local community and share the same rights to membership of that community and a quality education. We set equality objectives with associated actions which are outlined in this plan and on our website. Our objectives identify what we will be focusing on over the next four years to make our school more accessible to the whole community, irrespective of background or need.

This Single Equality Plan should be read alongside the school's Accessibility Plan which sets out how the school will increase access to education for disabled students, alongside other protected groups, in the three areas required:

- increasing the extent to which disabled students can participate in the school curriculum;
- improving the physical environment of the school to enable disabled students to take better advantage of education, benefits, facilities and services provided
- improving the availability of accessible information to disabled students.

Progress towards the equality objectives is reported on regularly to governors, and this information is published at least annually. Our equality objectives are fully reviewed at least once every four years.

The equality objectives are understood and implemented by all staff and are available on the school website. They are available in different formats and in different languages on request to the school office.

Equality Objectives 2026-30

- To tackle negative and harmful representations of girls and women- especially on social media; challenge misogynistic attitudes wherever they appear; and promote a culture where all members of the community are valued equally.
- To continue to educate our students around the protected characteristics, promoting at all times our vision of Embracing Diversity and ensuring that all incidents of bullying and discrimination are dealt with in line with the anti-bullying policy.
- To improve the attendance of vulnerable groups, including where mental health is an identified need, and ensure data is used to carefully identify groups where attendance is poor, and put in place measures to support students in these groups.
- To focus on improving outcomes for students coming from the areas judged to be the most deprived through the Income Deprivation Affecting Children Index (IDACI).

Indicators of progress towards meeting objectives

- Student voice activities indicate that students reflecting the diverse population of the school feel safe and supported in school. Students are fully aware of the protected characteristics and can talk about how these are promoted in school.
- Growing Up in North Yorkshire survey results, and outcomes from annual student survey, show improvements over time in questions related to equality and bullying.
- Evidence of decrease over time in recorded incidents of sexualised behaviour and prejudiced incidents.
- Clear recorded evidence that any prejudiced incidents have been dealt with appropriately.
- Documented evidence (e.g. assemblies, Diversity Days, curriculum maps) that the curriculum celebrates diversity, representing the local and national community.
- Displays around school are 'balanced' in respect of portraying the diverse nature and needs of the society we live in.
- Performance data clearly shows an improvement in the performance of underperforming groups, particularly pupil premium students and those coming from the most deprived areas.
- Attendance of vulnerable groups and identified groups of girls improves over time.

What kind of a school are we?

School Vision and Values

The school's vision of embracing diversity, unlocking potential and inspiring learning is built on a framework of celebrating equality and diversity, and all of our decisions are taken around these three key ideas. We aim for excellence for all.

The school's vision and values statement reflects the school's ambitions for all its students and has been developed with the whole community. It refers to the key requirements set out in the National Curriculum Inclusion Statement for developing an inclusive curriculum: setting suitable learning challenges; responding to students' diverse learning needs; overcoming potential barriers to learning and assessment for individuals and groups of students.

The school statement also embraces the North Yorkshire *Inclusion statement which emphasises that individuals and groups of learners who may be vulnerable to exclusion*, marginalisation and underachievement are identified and receive targeted provision to ensure their presence, participation and achievement.

Social, Emotional and Mental Health

The school recognises the importance of identifying and supporting SEMH needs, and promoting mental and physical wellbeing. We recognise that equality can only truly be achieved when the mental health and wellbeing of staff and students is fully supported.

School Context

Factors of the geographical location of the school, Sept, 2026 compared with Sept 2022:-

	2022		2026	
Demographics	**Enrolment**	**% of Total**	**Enrolment**	**% of Total**
Female	605	52.8%	600	50.5%
Male	536	46.8%	588	49.5%
EAL	141	12.3%	136	11.5%
White British	944	82.3%	984	82.8%
SEN Support	129	11.3%	158	13.3%
EHCP	21	1.9%	62	5.22%
Ever 6 FSM	263	22.9%	352	29.6%
Ever 6 Service Child	4	0.3%	5	0.5%
FSM	239	20.9%	352	29.6%
Looked After (In Care)	2	0.2%	17	1.5%
Social Worker	32	2.79%	43	3.6%

Contextual Factors to consider including changes since the last strategy:

Indicators suggest a greater level of deprivation across the school community. Students receiving FSM has risen to nearly 30%, and other indicators such as looked after students and those living in the most deprived areas, have increased.

There has been a significant increase in the percentage of students with an EHCP- nearly three times as many as in 2022. With our Targeted Mainstream Provision opening in 2026, this will increase even further. This number of EHCP brings in significant High Needs resources, but has a significant impact on staff time, and the need to ensure consistent, SEND-friendly approaches to teaching and learning.

The number of students with English as an Additional Language increased over the period of the last Equalities Scheme, but has dropped off in the last few years, with lower numbers in the younger year groups. The year 11 group that left the school in 2026 had 20% EAL.

Equality-based training

- Meeting the medical needs of students through the appropriate education and training of staff.
- Training focused on Thrive.
- Regular de-escalation training/refresher.
- Regular highlighting of the problems of using pejorative language, together with training regarding diversity/equality.

- Regular ALL staff (SEND updates) including medical, faith and belief, language needs supplementing the September input, either via staff briefings or through Google Team Drives, re. student needs and training opportunities.
- SLT and Governor training on fair and safer recruitment practices; training on the SEND Code of Practice.
- Ongoing Inclusion Development Programme dealing with areas such as Dyslexia, speech Language and communication needs and Autism.

Roles and Responsibilities in Implementing the Single Equality Scheme

The Principal will:

- ensure that staff and parents are informed about the Single Equality Scheme;
- ensure that the scheme is implemented effectively;
- manage any day-to-day issues arising from the policy whether for students or for the school as an employer;
- ensure staff have access to training which helps to implement the scheme;
- liaise with external agencies regarding the policy so that the school's actions are in line with the best advice available;
- monitor the scheme and report to the governing body at least annually, on the effectiveness of the policy;
- ensure that the SLT is kept up to date with any development affecting the policy/action plan arising from the scheme;
- provide appropriate support and monitoring for all students and specific and targeted students to whom the scheme has direct relevance, with assistance from relevant agencies.

The Governing Body will:

- ensure that the school complies with all relevant equalities legislation;
- recommend all governors receive up to date training in all the equalities and SEND duties;
- designate a governor with specific responsibility for the Single Equality Scheme;
- establish that the action plans arising from the scheme are part of the School Development Plan;
- support the Principal in implementing any actions necessary;
- inform and consult with parents/carers/guardians about the scheme;
- publish information at least annually.
- publish equality objectives every four years

The Senior Leadership Team will:

- have general responsibility for supporting other staff in implementing this scheme;
- provide a lead in the dissemination of information relating to the scheme;
- identify good quality resources and CPD opportunities to support the scheme;
- with the Principal, provide advice/support in dealing with any incidents/issues;
- assist in implementing reviews of this scheme as detailed in the School Development Plan.

Parents/Carers/Guardians will:

- have access to the scheme;
- be encouraged to support the scheme;
- have the opportunity to attend contribute to the development of the scheme;
- have the right to a personalised approach to meeting additional needs and a right to have their views taken into account;
- have the right to be informed of any incident related to this scheme which could directly affect their child.

School Staff will:

- provide information, on an annual basis, in order to ensure that diversity issues are both analysed and addressed;
- accept that this is a whole school issue and support the Single Equality Scheme;
- be aware of the Single Equality Scheme and how it relates to them;
- make known any queries or training requirements;
- know how to deal with incidents of concern, including bullying and how to identify and challenge bias and stereotyping;
- know procedures for reporting incidents of racism, harassment or other forms of discrimination;
- not discriminate on racial, disability or other grounds;
- keep themselves up to date with relevant legislation and attend training and information events organised by the school or LA;
- ensure that students from all groups are included in all activities and have full access to the curriculum;
- promote equality and diversity through teaching and through relations with students, staff, parents, and the wider community.

Students will:

- be encouraged to express their views and contribute where possible to the formulation of policies;
- be made aware of any relevant part of the scheme, appropriate to age and ability;
- be expected to act in accordance with any relevant part of the scheme;
- experience a curriculum and environment which is respectful of diversity and difference and prepares them well for life in a diverse society;
- understand the Respect Pledge and the No Bystanders approach;
- understand the importance of reporting discriminatory bullying and racially motivated incidents;
- ensure the peer support programme within the school promotes understanding and supports students who are experiencing discrimination.

Visitors and contractors are responsible for complying with the school's Equality Scheme – non-compliance will be dealt with by the Principal.

Equal opportunities for staff

As part of our commitment to the implementation of equal opportunities principles and the monitoring and active promotion of equality in all aspects of staffing and employment, the school will ensure that:

- all staff appointments and promotions are made because of merit and ability and in compliance with the law.
- staffing and governance of the school reflects the diversity of our community wherever possible.
- as an employer we strive to ensure that we eliminate discrimination and harassment in our employment practice and actively promote equality across all groups within our workforce including the duty to make reasonable adjustments.
- we respect the religious beliefs and practice of all staff, pupils and parents, and comply with reasonable requests relating to religious observance and practice.
- we ensure that all staff, including support and administrative staff, receive appropriate training and opportunities for professional development, both as individuals and as groups or teams.

Mechanisms for involvement

At this school the following mechanisms will ensure the views of **students** inform the Equality Scheme and action plan:

- *Student questionnaires and student voice activities;*
- *Student council;*
- *Focus groups and individual student interviews representing different social identity backgrounds, I.e., gender forum, disability forum;*
- *Individual interviews with students involved in incidents of a discriminatory nature or bullying related to discrimination;*
- *Individual interviews with students experiencing reasonable adjustments;*
- *Growing Up in North Yorkshire Student Survey.*

At this school the following mechanisms will ensure the views of **staff** inform the Equality Scheme and action plan:

- *Exit interviews with staff;*
- *Staff surveys;*
- *Regular meetings with union representatives;*
- *Regular staff meetings with specific agenda items;*
- *Individual discussions with staff as a part of performance management.*

At this school the following mechanisms will ensure the views of **parents/carers/guardians and the community** inform the Equality Scheme and action plan:

- *Text to be inserted into communication with parents/carers/guardians: "your support for your child's education is crucial to their progress. Please tell us if there are any adjustments we need to make to help you support your child, for example: letters in large font; letters in different languages; wheelchair access; explaining things over the phone; a discussion with a school colleague of the same gender."*
- *Feedback through the Governing Body meetings;*
- *Feedback from adults using the school beyond the school day;*
- *Parents'/Carers'/Guardians' Questionnaire (annual).*

The school's action plan will focus on developing the involvement of students, staff and parents/carers/guardians from different social identity backgrounds. We will consider varying the times, methods and the venues for this involvement to ensure the best possible attendance and ensure views can be heard. This way the school will learn what works and the involvement of students, staff and parents/carers/guardians will improve and deepen over time.

Publication

This Equality Scheme will be published and available to anyone requesting a copy. Copies will be available on the school's website. The school reviews its published information at least annually and publishes the equality objectives at least every four years (2026-2030 in respect of this document).

Reporting

This Scheme will be reported on annually. Progress against the equality objectives will be evaluated and the impact of the action and activities assessed. Copies will be available on the school's website.


اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھئے۔
如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。
যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।
Aby otrzymać te informacje w innym języku lub formacie, np. w alfabecie brajla,
w wersji dużym drukiem lub audio, prosimy się z nami skontaktować.

Appendix 1- Perimenopause and Menopause

Our commitment

The school recognises that perimenopause and menopause can have a significant impact on the physical, emotional and mental wellbeing of employees and that symptoms can vary considerably from person to person. We are committed to creating an inclusive, supportive and respectful workplace where employees experiencing perimenopause or menopause feel able to seek support without embarrassment, stigma or fear of discrimination.

Our aims are to:

- Raise awareness and understanding of perimenopause and menopause across the school community, helping to reduce stigma, embarrassment and misconceptions.
- Ensure that employees experiencing symptoms are treated with dignity, respect and sensitivity.
- Provide a safe and confidential environment in which employees can discuss any support they may need.
- Ensure that CALs and ESLT have appropriate knowledge and confidence to have sensitive conversations about perimenopause and menopause.
- Consider reasonable and practical workplace adjustments where symptoms are affecting an employee's ability to work effectively.
- Consider the impact of the working environment, including temperature, ventilation, access to drinking water, toilet facilities, opportunities for appropriate breaks and access to a suitable private or quiet space.
- Ensure that menopause-related concerns are considered appropriately within health and safety and individual risk assessments.
- Take a supportive and understanding approach to attendance, performance and capability where these may be affected by menopause symptoms.
- Ensure that menopause-related absence is considered sensitively and does not result in unfair treatment or discrimination.
- Recognise that menopause can affect people differently and that support should be based on individual needs rather than assumptions.
- Ensure that information shared by employees about their health and personal circumstances is treated sensitively and confidentially.
- Signpost employees to appropriate sources of advice and support, including occupational health, their GP, employee assistance services and relevant wellbeing resources.

Equality and discrimination

The school recognises that menopause is not itself a protected characteristic under the Equality Act 2010. However, unfair treatment connected to menopause symptoms may

amount to discrimination where it relates to protected characteristics such as sex, age, disability or gender reassignment. In some circumstances, menopause symptoms may also meet the legal definition of a disability, meaning that reasonable adjustments may be required.

The school will therefore ensure that employees experiencing perimenopause or menopause are not disadvantaged, harassed or treated less favourably because of their symptoms or their need for appropriate support.

Implementation

The school will:

1. Ensure that relevant policies, including Equality, Health and Safety, Wellbeing, Flexible Working, Attendance and Absence Management policies, reflect the needs of employees experiencing perimenopause and menopause.
2. Provide appropriate information and training for senior leaders, line managers and staff.
3. Identify a suitable member of staff or wellbeing/menopause champion who can signpost employees to appropriate support.
4. Encourage confidential conversations between employees and their line manager or an appropriate alternative member of staff.
5. Consider individual workplace adjustments where appropriate, reviewing these regularly as an employee's needs may change.
6. Monitor the effectiveness of this provision through staff feedback and review it as part of the school's equality and wellbeing processes.

The school will continue to promote a culture in which talking about perimenopause and menopause is normalised and where every employee feels valued, supported and able to contribute fully to school life.

Appendix 2 – What is Discrimination

What is discrimination?

The Equality Act 2010 consolidates existing law into a single legal framework and while many of the concepts of discrimination remain the same as in previous equality legislation there are some areas that were not previously covered. This appendix describes the various types of discrimination and how they apply to the schools provisions.

Direct discrimination

Direct discrimination occurs when you treat a student less favourably than you treat (or would treat) another student because of a protected characteristic. So a very basic example would be refusing to admit a child to a school as a student 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 students 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 student cannot claim that excluding them for fighting is direct discrimination on grounds of sexual orientation unless they can show that a heterosexual or bisexual student would not be excluded for fighting. A student 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 student 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 student to offer a female student special treatment in connection with her pregnancy or childbirth.

It is not direct discrimination against a non-disabled student to treat a disabled student more favourably.

For example:

> A female student is actively discouraged from undertaking a course in engineering by a teacher who tells her this is an unsuitable area of study for a female. This would be direct discrimination on the grounds of sex.
>
> A student with Asperger's Syndrome can sometimes act in a disruptive manner in class. The school does not take disciplinary action, but uses agreed strategies to manage his behaviour. A non-disabled student who is also disruptive in class is punished for his behaviour. This difference in treatment would not be direct discrimination against the non-disabled student.

Discrimination based on association

Direct discrimination also occurs when you treat a student less favourably because of their association with another person who has a protected characteristic (other than pregnancy and maternity).

This might occur when you treat a student less favourably because their sibling, parent, carer or friend has a protected characteristic.

Discrimination based on perception

Direct discrimination also occurs when you treat a student less favourably because you mistakenly think that they have a protected characteristic.

Discrimination because of pregnancy and maternity

It is discrimination to treat a woman (including a female student of any age) less favourably because she is or has been pregnant, has given birth in the last 26 weeks or is breastfeeding a baby who is 26 weeks or younger.

It is direct sex discrimination to treat a woman (including a female student of any age) less favourably because she is breastfeeding a child who is more than 26 weeks old.

Indirect discrimination

Indirect discrimination occurs when you apply a provision, criterion or practice in the same way for all students or a particular student group, such as A-level physics students, but this has the effect of putting students 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 students with a particular protected characteristic in this way. What does matter is whether your action does or would disadvantage such students compared

with students 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.

'Provision', 'criterion' or 'practice' are not defined in the Act but can be interpreted widely and include:

- arrangements (for example, for deciding who to admit)
- 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.

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 students, including a particular student with a protected characteristic, and
2. The provision, criterion or practice puts or would put students sharing a protected characteristic at a particular disadvantage compared to relevant students who do not share that characteristic, and
3. The provision, criteria, practice or rule puts or would put the particular student 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'.

For example:

> A school requires male students to wear a cap as part of the school uniform. Although this requirement is applied equally to all students, it has the effect of excluding Sikh boys whose religion requires them to wear a turban. This would be indirect discrimination based on religion and belief as it is unlikely that the school would be able to justify this action.

What is a '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 students.

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.

Discrimination arising from disability

Discrimination arising from disability occurs when you treat a disabled student unfavourably because of something connected with their disability and cannot justify such treatment.

Discrimination arising from disability is different from direct discrimination. Direct discrimination occurs because of the protected characteristic of disability. For discrimination arising from disability, the motive for the treatment does not matter; the question is whether the disabled student has been treated unfavourably because of something connected with their disability.

Discrimination arising from disability is also different from indirect discrimination. There is no need to show that other people have been affected alongside the individual disabled student or for the disabled student to compare themselves with anyone else.

Discrimination arising from disability will occur if the following three conditions are met:

- you treat a disabled student unfavourably, that is putting them at a disadvantage, even if this was not your intention, and
- this treatment is because of something connected with the disabled student's disability (which could be the result, effect or outcome of that disability) such as an inability to walk unaided or disability-related behaviour, and
- you cannot justify the treatment by showing that it is 'a proportionate means of achieving a legitimate aim'. This is explained above.

For example:

A student with cerebral palsy who is a wheelchair user is told she will be unable to attend a school trip to a local theatre putting on a production of a play she is currently studying in English, because the building is not wheelchair accessible. The student and her parents are aware that the play is also on at a theatre in a neighbouring city which is accessible but the school does not investigate this option. This is likely to be discrimination arising from a disability.

Knowledge of disability

If you can show that you

- did not know that the disabled student had the disability in question, and
- could not reasonably have been expected to know that the disabled student had the disability

then the unfavourable treatment would not amount to unlawful discrimination arising from disability.

If your agent (someone who undertakes tasks on your behalf) or employee knows of a student's disability, you will not usually be able to claim that you do not know of the disability.

For example:

A student tells the school secretary that she has diabetes and that she needs to carry biscuits to eat when her blood sugar levels fall. A teacher has no information about her disability and refuses to allow students to bring food into the classroom. The student has a hypoglycaemic attack. In this case, the school is unlikely to be able to argue that it did not know about her condition.

Relevance of reasonable adjustments

By acting quickly to identify and put in place reasonable adjustments for disabled students, you can often avoid discrimination arising from disability, although there may be cases where an adjustment is unrelated to the unfavourable treatment in question.

If you fail to make an appropriate reasonable adjustment, it is likely to be very difficult for you to argue that unfavourable treatment is justified.

Reasonable adjustments

This duty sits alongside your duties and those of local authorities under Part 4 of the Education Act 1996. In

some cases the support a disabled student may receive under the special educational needs framework may mean that they do not suffer a substantial disadvantage (see below) and so there is no need for additional reasonable adjustments to be made for them. In other cases disabled students may require reasonable adjustments in addition to the special educational provision they are receiving. There are also disabled students who do not have special educational needs but still require reasonable adjustments to be made for them. The level of support a student is receiving under Part 4 of the Education Act 1996 is one of the factors to be taken into account when you consider what it would be reasonable for you to have to do.

What is the reasonable adjustments duty?

You are required to take reasonable steps to avoid substantial disadvantage where a provision, criterion or practice puts disabled students at a substantial disadvantage

You owe this duty to existing students, applicants and, in limited circumstances, to disabled former students in relation to the following areas:

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

The duty does not require you to make reasonable adjustments to avoid the disadvantage caused by physical features as this is covered by the planning duties.

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

The duty is an anticipatory and continuing one that you owe to disabled students generally, regardless of whether you know that a particular student is disabled or whether you currently have any disabled students. You should not wait until an individual disabled student approaches you before you consider how to meet the duty. Instead you should plan ahead for the reasonable adjustments you may need to make, regardless of whether you currently have any disabled students. By anticipating the need for an adjustment you will be best placed to help disabled students who come to your school. You are not expected to anticipate the needs of every prospective student but you are required to think about and take reasonable and proportionate steps to overcome barriers that may impede students with different kinds of disabilities. For example, while it may be appropriate for you to provide large print for a student with a visual impairment, you would not be expected to have Braille devices standing ready.

What is a substantial disadvantage?

A disadvantage that is more than minor or trivial is called a 'substantial disadvantage'. The level of disadvantage created by a lack of reasonable adjustments is measured in comparison with what the position would be if the disabled student in question did not have a disability.

You will need to take into account a number of factors when considering whether or not the disadvantage is substantial such as:

- the time and effort that might need to be expended by a disabled child
- the inconvenience, indignity or discomfort a disabled child might suffer
- the loss of opportunity, or the diminished progress a disabled child might make in comparison with his or her peers who are not disabled.

For example:

A deaf student is advised by the work experience coordinator that it would be better for her to remain at school rather than go on work experience as it might be 'too difficult' for her to manage. The school does not take any steps to help her find a placement and she misses the opportunity taken by the rest of her classmates. This would be a substantial disadvantage.

The duty to change a provision, criterion or practice

These terms are not defined but in general they relate to how the education and other benefits, facilities and services are provided and cover all of your arrangements, policies, procedures and activities.

Where a provision, criterion or practice places disabled students at a substantial disadvantage in accessing education and any benefit, facility or service, you must take such steps as it is reasonable to take in all the circumstances to ensure the provision, criterion or practice no longer has such an effect. This might mean waiving a criterion or abandoning a practice altogether but often will involve just an extension of the flexibility and individual approach that most schools already show to their students.

For example:

A school has been allocated three places for students to represent the school at a national youth conference on the environment. The school decides to hold a debate on the topic to select the three students who will attend the conference. This places a student with a nervous system disorder at a significant disadvantage as he has trouble communicating verbally. The school modifies the criteria to enable that student to submit his views and ideas on the issue in writing. This is likely to be a reasonable adjustment to the school's practice.

When is it reasonable for a school to have to make adjustments?

A useful starting point when determining what a reasonable adjustment might be is to consider how to ensure that disabled students can be involved in every aspect of school life. Often effective and practical adjustments involve little or no cost or disruption.

For example:

A teacher always addresses the class facing forward to ensure that a student with hearing difficulties is able to lip-read. This is an example of a simple reasonable adjustment.

A primary school introduces a playground buddy system and a friendship bench which creates a supportive and friendly place for disabled students during breaks. This is an example of an effective but easy reasonable adjustment.

Where disabled students are placed at a substantial disadvantage by a provision, criterion or practice or the absence of an auxiliary aid, you must consider whether any reasonable adjustment can be made to overcome that disadvantage.

You should not expect disabled students to suggest adjustments but if they do you should consider whether those adjustments would help to overcome the disadvantage and whether the suggestions are reasonable. It is good practice for schools to work with students and their parents in determining what reasonable adjustments can be made.

Harassment

There are three types of harassment which are unlawful under the Equality Act:

- Harassment related to a relevant protected characteristic.
- Sexual harassment.
- Less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to sex.

The relevant protected characteristics for the schools provisions are:

- Disability.
- Race.
- Sex.

Pregnancy and maternity are not protected directly under the harassment provisions, however, unwanted behaviour (as described below) will amount to harassment related to sex.

Harassment related to a protected characteristic

Harassment occurs when you engage in unwanted behaviour which is related to a relevant protected characteristic and which has the purpose or effect of:

- violating a student's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the student.

The word 'unwanted' means 'unwelcome' or 'uninvited'. It is not necessary for the student to say that they object to the behaviour for it to be unwanted.

In this context 'related to' has a broad meaning and includes situations where the student who is on the receiving end of the unwanted behaviour does not have the protected characteristic himself or herself, provided there is a connection between the behaviour and a protected characteristic. This would also include situations where the student is associated with someone who has a protected characteristic, or is wrongly perceived as having a particular protected characteristic.

For example:

> A student from an Irish Traveller background overhears a teacher making racial slurs about gypsy and traveller people stating their site should be shut down and they were 'trouble'. This would constitute harassment related to a protected characteristic (race).

The definition of harassment as described above does not apply to the protected characteristics of gender reassignment, sexual orientation or religion or belief in relation to schools. However, where unwanted conduct related to any of these protected characteristics results in a student suffering disadvantage that would constitute direct discrimination.

For example:

> During a PSHEE & C (personal, social, health, economic education & citizenship) lesson, a teacher describes homosexuality as 'unnatural' and 'depraved' and states he will only be covering heterosexual relationships in the lesson. A bisexual student in the class is upset and offended by these comments. This may be unlawful direct discrimination on the grounds of sexual orientation.

Sexual harassment

Sexual harassment occurs when you engage in unwanted behaviour which is of a sexual nature and which has the purpose or effect of:

- violating a student's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the student.

'Of a sexual nature' can cover verbal, non-verbal or physical conduct including unwelcome sexual advances, inappropriate touching, forms of sexual assault, sexual jokes, displaying pornographic photographs or drawings, or sending emails with material of a sexual nature.

For example:

> A sixth form female student is asked intimate questions about her personal life and subjected to sexual innuendos by her teacher. This would be sexual harassment.

Less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to sex

It is unlawful to treat a student less favourably because they either submit to, or reject, sexual harassment or harassment related to their sex.

Victimisation

Victimisation is defined in the Act as:

Treating someone badly because they have done a 'protected act' (or because the school believes that a person has done or is going to do a protected act).

There are additional victimisation provisions for schools which extend the protection to students who are victimised because their parent or sibling has carried out a protected act.

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Act).
- Helping someone else to make a claim by giving evidence or information.
- Making an allegation that the school or someone else has breached the Act.
- Doing anything else in connection with the Act.

If you do treat a student less favourably because they have taken such action then this will be unlawful victimisation. There must be a link between what the student (or parent or sibling) did and your treatment of them.

The less favourable treatment does not need to be linked to a protected characteristic.

For example:

A teacher shouts at a student because he thinks she intends to support another student's sexual harassment claim. This would amount to victimisation.

Who is not protected?

A student who in bad faith gives false information or evidence (that is, that they knew was false) or makes an allegation that was false and given in bad faith would not be protected against victimisation. The original complaint/claim would not be affected providing it was not made in bad faith.

For example:

A student at an independent school with a grudge against his teacher knowingly gives false evidence in another student's discrimination claim against the school. He is subsequently excluded from the school for supporting the claim. This treatment could not amount to victimisation because his evidence was untrue and given in bad faith.

Victimisation for actions of parents or siblings

You must not treat a student less favourably because of something their parent(s) or sibling has done in relation to the making of a complaint of discrimination.

A parent of a student complains to the school that her daughter is suffering sex discrimination by not being allowed to participate in a metalwork class. If the daughter is treated less favourably as result of the complaint this would be unlawful victimisation.

This applies to a child in relation to whom the parent(s) were making a complaint in relation to and also to any other children who are students at the school. This also applies if a parent supports a teacher's complaint against the school under Part 5 of the Act.

If the information or evidence was false and given in bad faith (that is, the parent/sibling knew it was false) or the allegation was false and given in bad faith then this protection for the student will still apply, provided that the student did not act in bad faith.

For example:

A student makes a complaint against his school claiming that he has suffered discrimination by a member of staff because of his sexual orientation. The student's younger brother, at the same school, is protected against any less favourable treatment by the school because of this complaint, even if it is later found out that the older brother was not acting in good faith.

There must be a link between what the parent(s) or their child has done and you treating the child/sibling badly.

The child who is being treated badly does not need to have any of the protected characteristics.

The fact that a complaint/claim is not upheld does not mean that it was made in bad faith.

Obligations to former students

Even after a person has left your school you must not discriminate against them or harass or victimise them. This only applies if the discrimination or harassment arises out of and is closely connected to their previous relationship with you and would have been unlawful if they were still a student. For example, if an ex-student asks for a reference from the school it would be unlawful for the reference to be unflattering because of a protected characteristic of the ex-student, or because they at one time brought or supported a discrimination complaint against the school.

This obligation to former students would include the duty to make reasonable adjustments for disabled former students if they continue to be at a substantial disadvantage in comparison to former students without a disability. This obligation only applies if the substantial disadvantage arises out of and is closely connected with them having been a student.

For example:

A school sends an annual newsletter to former students and one former student who has a visual impairment requests that it is sent to him by email rather than in hard copy. The school does not provide him with an electronic copy. This is likely to be an unlawful failure to make a reasonable adjustment.

If someone believes that they are being discriminated against after they have stopped studying with you, they can take the same steps to have things put right as if they were still a student. These steps are explained in Section 6.

When are you responsible for what other people do?

Liability for employees and agents

As an employer you are legally responsible for acts of discrimination, harassment and victimisation carried out by your employees in the course of employment or by people who take action for you (agents).

It does not matter whether you knew about or approved of those acts.

However, if you can show that you took all reasonable steps to prevent your employees or agents from acting unlawfully, you will not be held legally responsible.

It is important that you take steps to make sure your employees and agents understand that they must not discriminate against students, or harass them or victimise them, and that they understand your duties in relation to making reasonable adjustments for disabled students.

Personal liability of your employees and agents

An employee (of a school) is personally responsible for their own acts of discrimination, harassment or victimisation carried out during their employment, whether or not the employer is also liable. However, an employee is not personally liable in relation to disability discrimination in schools.

For example, a teaching assistant racially discriminated against a student. The school is able to show that it took all reasonable steps to prevent the harassment and therefore was not liable. The student can still make a claim of discrimination against the teaching assistant.

However, if this was a case of discrimination on the grounds of disability, the student would not be able to make a claim against the teaching assistant because the personal liability provisions do not cover disability discrimination in schools.

If the relationship is one of a person paying for someone else to take action for them and someone taking action for them (their 'agent') rather than employer and employee, the agent is personally responsible in the same circumstances.

Employees or agents will still be responsible for their acts of discrimination, harassment or victimisation even if they did not know their actions were against the law.

But there is an exception to this. An employee or agent will not be responsible if their employer or principal has told them that there is nothing wrong with what they are doing and he or she reasonably believes this to be true.

It is a criminal offence, punishable by a fine of up to £5,000, for an employer or principal to make a false statement in order to try to get an employee or agent to carry out an unlawful act.

Instructing and causing discrimination

As a school you must not instruct, cause or induce someone to discriminate against, harass or victimise another person, or to attempt to do so.

Both the person who receives the instruction and the intended victim will have a claim against whoever gave the instructions. This applies whether or not the instruction is carried out, provided the recipient or intended victim suffers loss or harm as a result.

It only applies where the person giving the instruction is in a legal relationship with the person receiving the instruction such as employer and employee or agent and principal.

Employment Tribunals will deal with complaints from an employee or agent who has received the instructions and the victim can make a claim in the same way as they would for any other claim under the act. So if you instruct a member of staff to discriminate against a student on grounds of their sex then the member of staff can make a claim to an Employment Tribunal and the student can make a claim to a county or sheriff court.

The Equality and Human Rights Commission can also take action for unlawful instructions to discriminate.

Aiding contraventions

It is unlawful for you to help someone else carry out an act which you know is unlawful under the Equality Act.

However, if the person giving assistance has been told by the person he or she assists that the act is lawful and he or she reasonably believes this to be true, he or she will not be legally responsible.

It is a criminal offence, punishable by a fine of (currently) up to £5,000, to make a false statement in order to get another person's help to carry out an unlawful act under the Equality Act.

For further information visit:-

http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidanc