

## 9. Equal Opportunities and School Governors

**This chapter outlines how equality legislation applies to schools, both in their role as employers and in the way they provide education to the pupils in their care.**

### Background

1. The law prohibits discrimination based on sex (including gender reassignment), race, disability, religion or belief, sexual orientation and age by schools in their role as employers, and also requires them not to discriminate in the provision of education on all these grounds except age and gender reassignment. This chapter explains some differences in the way that different types of discrimination are dealt with, and provides links to further guidance.

2. This is a guide to the law and not a comprehensive guide to good practice for governors. Governing bodies should ensure that schools comply with all aspects of discrimination law, but the best way to do this is to ensure that principles of fairness and equality are applied in everything that the school does. Links to specific guidance on aspects of good practice are included where appropriate, and sources of more detailed guidance on the law are also flagged up.

3. Several equality enactments have been made in recent years. These include the prohibition of discrimination on grounds of age in relation to employment (October 2006) and the prohibition of discrimination on grounds of religion or belief and sexual orientation in relation to pupils in schools (April 2007). Specific duties on schools to promote equality in relation to disability have also come into force for secondary schools (December 2006) and for primary schools (December 2007). Also in force are similar specific duties in relation to gender (April 2007). Detailed guidance has already been made available for schools.

### General Prohibitions

4. The governing body of a school must not discriminate against:

- job applicants;
- existing members of staff;
- a child seeking admission to the school; and
- existing pupils.

5. It must not discriminate either directly or indirectly on the grounds of:

- race;
- disability;
- sex;

- sexual orientation;
- religion or belief; or
- age (in relation to employment).

### **Definitions of Discrimination**

6. Under the law, there are different categories of discrimination, with differences in the legal framework surrounding them.

7. “Direct discrimination” is unlawful for all protected grounds except, in some circumstances, age and disability in schools (where it can be justified). Direct discrimination happens when a person is treated less favourably than others in comparable circumstances because of a special characteristic such as sex, race or a disability. Direct age discrimination is unlawful only if it cannot be objectively justified. Direct disability discrimination against actual and prospective pupils can be justified where the reason for it is material to the circumstances of the particular case and substantial.

8. “Indirect discrimination” occurs when a provision, criterion or practice is applied equally to all but has a different impact on members of one or more protected groups, of which the complainant is one, and is placed at a disadvantage as a result. Indirect discrimination is unlawful unless it can be justified for reasons unrelated to the characteristic in question. An example might be a physical strength test, which could discriminate against women in relation to a job that involves teaching, but might be justified in relation to a non-teaching job that involves substantial heavy lifting.

9. “Victimisation” is the practice of treating a person less favourably because they have taken action in respect of discrimination, for example by bringing a complaint or giving evidence for a colleague. Victimisation is also unlawful.

10. “Harassment” is any unwanted conduct which violates a person’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them, on grounds of one of the relevant characteristics such as sex or race. Harassment is also unlawful in some of the situations covered by discrimination law.

### **Discrimination Against Job Applicants or Existing Members of Staff**

11. The governing body must not discriminate against an applicant for a post, or against an existing member of staff, on grounds of sex, race, sexual orientation, religion or belief, being married, being in a civil partnership, disability, gender reassignment or age. However, unlike other discrimination strands, direct age discrimination will not be unlawful if it can be shown to be objectively justified. In relation to disability but no other strand, there is an obligation to make reasonable adjustments in order to remove the substantial disadvantage created by the disability.

12. Governors need to ensure that there is no unlawful discrimination in relation to matters such as:

- recruitment procedures and selection standards;
- conditions of employment;
- opportunities for promotion;
- transfer;
- training or other benefits;
- discipline and grievance procedures; and
- dismissals.

### **Genuine Occupational Requirements**

13. There are specific legal provisions which recognise that there may be some narrow circumstances where employers will be allowed a defence to a claim of less favourable treatment on a particular “discrimination” ground. These are based on a particular quality (such as being of a specific sex or age) being a genuine occupational requirement (GOR) for a particular job (see individual discrimination strands for details). The burden of establishing a GOR defence rests with the employer. In the main it will only apply in respect of treatment linked to recruitment and refusing someone a post or training, and, in some circumstances, to dismissal from a post.

14. Schools should bear in mind that a GOR must be what it says: genuine. A preference, however strongly held, for someone of a particular sex, sexual orientation, race or age to take up a job is not of itself a GOR for someone of that particular sex, sexual orientation, race or age to fill the post, and in those circumstances it will not be sufficient to raise GOR as a defence to a claim of discrimination.

### **Discrimination against a Child Seeking Admission or an Existing Pupil**

#### **Areas in which there are Specific Duties to Promote Equality**

15. There are currently three areas where the law goes beyond the general prohibition on discrimination and imposes both general and specific duties on public authorities which include schools to promote equality. These areas are race, disability and sex. The duties and other key provisions are described in the relevant paragraphs below.

#### **Race Discrimination**

16. Under the Race Relations Act 1976, the governing body must not discriminate against a child on grounds of race in:

- admission to the school;

- providing teaching or allocating him or her to particular types of classes;
- applying standards of behaviour, dress and appearance;
- giving pupils careers guidance and work experience; and
- conferring access to other benefits, facilities or services.

17. The Race Relations (Amendment) Act 2000 (RRAA), which amended the Race Relations Act 1976, requires schools and LAs and other public bodies to:

- eliminate unlawful racial discrimination;
- promote equality of opportunity; and
- promote good relations between persons of different racial groups.

18. The statutory duty requires educational establishments to take proactive steps to tackle racial discrimination, and promote equality of opportunity and good race relations. The specific duties that all educational establishments will be expected to comply with are as follows:

- to have a written policy on race equality;
- to assess and monitor the impact of their policies on different racial groups of pupils, staff and parents, with the emphasis on the attainment of different racial groups of pupils;
- to make information available about their policies to promote race equality;
- to take steps to publish annually the results of monitoring; and
- to take account of the RRAA general duties for public bodies.

19. The governing body has a legal responsibility to ensure that a school meets its statutory duty, in particular that it draws up a race equality policy that reflects the needs of the ethnic population of its pupils. The governing body is also required to ensure that a school's equality policy remains up-to-date and its principles are upheld in the school and shared with parents and carers.

20. An effective school policy should be part of the school's development plan and deal with the main areas that are relevant to promoting the general duty. Thus, a good race equality policy might deal with:

- pupils' attainment and progress;
- curriculum teaching and learning;
- pupil behaviour;
- discipline and exclusions;
- racial harassment and bullying; and
- the school values.

21. A school's race equality policy can be combined with another policy, such as an equal opportunities or diversity policy, but in order to comply with the law, the race equality policy should be clearly identifiable and easily available. For example, a governing body might decide to make a school's race equality policy a separate section, or series of sections, within an overall equality policy.

22. Estyn inspects and reports on whether or not schools are meeting the RRAA general duty and the specific duties. Estyn will also look at incidents of bullying, racist bullying, exclusions and absentees. Governors should note that following the publication of the Macpherson Report of the Stephen Lawrence Inquiry, they are also required to record all racist incidents that take place in the school, and report them to their LA at least annually. Each LA is required to determine its own procedures for recording, reporting and following up racist incidents. Estyn's Self-Evaluation Form plays a crucial role in the new inspection procedures, and schools may wish to use the form to demonstrate examples of effective race equality policies.

23. The Commission for Racial Equality (CRE), now part of the Equality and Human Rights Commission (EHRC), has produced a statutory Code of Practice and four non-statutory guides, including *The Duty to Promote Race Equality: A Guide for Schools*, to help authorities in England and Wales meet their duties under the Race Relations (Amendment) Act 2000. Each publication is described in the guidance section below (and can be found on the [EHRC website](#)).

### **Disability Discrimination**

24. Disability discrimination works in slightly different ways from other strands of discrimination legislation, for example it is not unlawful to discriminate in favour of disabled people, and employers are required to make "reasonable adjustments" to deal with particular problems facing disabled applicants and staff.

25. For schools, the Disability Discrimination Act 1995 (DDA), as amended by the Disability Discrimination Act 2005, introduces a general duty to have regard to the need to promote equality of opportunity for disabled persons and eliminate discrimination, and a specific duty to publish a Disability Equality Scheme.

26. The general duty requires schools, when carrying out their functions, to:

- promote equality of opportunity between disabled people and other people;
- eliminate discrimination that is unlawful under the DDA;
- eliminate harassment of disabled people that is related to their disability;
- promote positive attitudes towards disabled people;

- encourage participation by disabled people in public life; and
- take steps to meet disabled people's needs, even if this requires more favourable treatment.

27. The specific duties require schools to put in place a Disability Equality Scheme. Detailed guidance on this is available in *Promoting Disability Equality in Schools*, but, in summary, schools will need to:

- outline the purpose and direction of the scheme and the school's main priorities;
- demonstrate the involvement of disabled pupils, staff and parents;
- set out arrangements for gathering information;
- set out the implementation and publishing plans; and
- set out arrangements for assessing the impact of school policies, evaluating, reporting on and reviewing the scheme.

28. The DDA sets out the following:

- under Part 1, a person has a disability if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities (section 1). The definition of disability is wide and can cover people with hidden impairments for example, conditions where the effects are significantly reduced by medication or other treatments, such as diabetes;
- a person who has had a disability is protected from discrimination even if they no longer have such a disability (section 2);
- under Part 2, employers (which include LAs and governing bodies) must not discriminate against disabled people applying for jobs or against existing disabled staff;
- direct discrimination cannot be justified. Direct discrimination means treating someone less favourably than other persons on the ground of his or her disability. In general, this means that the disabled person would not have received that treatment "but for" his or her disability;
- it is unlawful for an employer to treat a person less favourably than others for a reason related to his or her disability (for example, if an existing member of staff has diabetes and receives less favourable treatment than other staff members because the employer considers that he spends too much time away from his desk testing blood glucose) unless the less favourable treatment can be justified for a substantial (i.e. one likely to be more than trivial or minor) and material reason; and

- it imposes a duty on employers to make “reasonable adjustments” if the premises or employment arrangements substantially disadvantage a disabled person compared to a non-disabled person. Examples of adjustments might include:
  - the installation of a ramp for an employee who uses a wheelchair;
  - meetings held in a ground-floor room rather than on the first floor; or
  - staff notices in large print, Braille or on audiotape for someone with a visual impairment;
- whether or not a particular adjustment is “reasonable” depends on a number of factors, such as cost, practicability and effectiveness. Failure to discharge this duty will also constitute unlawful discrimination, and there is no justification available for failure to make a reasonable adjustment;
- Part 3 makes it unlawful for any service provider (includes LAs and schools) to discriminate against a disabled person:
  - by refusing to provide (or deliberately not providing) to him or her any service it provides to members of the public;
  - by failing to comply with the duty to make reasonable adjustments;
  - in the standard of service it provides or the manner in which it provides it; or
  - in the terms on which it provides the service;
- the same prohibition and duties to make reasonable adjustment apply with respect to providers of goods and facilities. Non-educational services provided by schools to the public are governed by these duties;
- Part 4 makes it unlawful for a school to discriminate against a disabled pupil:
  - in the arrangements it makes for determining admission to the school as a pupil;
  - in the terms on which it offers to admit the child to the school as a pupil;
  - by refusing or deliberately omitting to accept an application for his admission to the school as a pupil;
  - in the education or associated services provided for, or offered to pupils at the school. [Paragraph 4.23 of the Disability Rights Commissions Code of Practice for schools provides examples of such services – it includes the curriculum, activities to supplement the curriculum classroom organisation; homework, access to school facilities and school trips]; or
  - by excluding a disabled pupil from the school whether permanently or temporarily;

- a school discriminates against a pupil (or a prospective pupil) if, for a reason relating to the pupil's disability, it treats him or her less favourably than it treats, or would treat, others to whom that reason does not or would not apply, and it cannot show that the treatment was justified;
- a school is required to make reasonable adjustments to ensure that disabled pupils (or prospective pupils) are not placed at a substantial disadvantage in comparison with pupils (or prospective pupils) who are not disabled. This not only includes making reasonable adjustments for individual pupils, but also applies to whole-school policies, such as school trips. The reasonable adjustments duty under Part 4 does not however extend to the provision of auxiliary aids and services, as these should be provided through the special educational needs (SEN) framework, and over time through the planning duties (see below) by the installation of loop systems, ramps, handrails, specialist furniture, and so on;
- the reasonable adjustment duty is an anticipatory duty so schools should not wait until a disabled pupil has arrived or been disadvantaged before making reasonable adjustments. Policies, practices and procedures should be reviewed to ensure that they do not discriminate against disabled pupils;
- schools and LAs have duties (known as the planning duties) under the DDA to plan to increase over time the accessibility of schools to disabled pupils. Plans and strategies on a rolling three-year basis need to be in place. The nature and content of schools' plans will depend on:
  - their disabled pupil population;
  - any prospective pupils who are disabled;
  - the size of the school;
  - the resources available to them; and
  - the strategic steer given by the LA.

Planning will include increasing access for disabled pupils to the school curriculum, improving access to the physical environment of the school and improving the delivery of written information to disabled pupils.

- In Wales, the WAG provides guidance for LAs and schools on how they should implement the planning duties. ESTYN inspects LA accessibility strategies and school accessibility plans. The Welsh Ministers have powers to direct schools and LAs if they consider that either a school or a LA has not complied with the planning duties, or has acted unreasonably in carrying out the duties. Schools might find it helpful to extend their local complaints procedure to cover their accessibility plans. Schools should make best use of available expertise: disabled pupils, their parents, specialist teachers, local voluntary organisations and others can all help to identify practices and arrangements that act as a barrier to

including disabled pupils; LAs also provide helpful advice and information. With their links to the community, governors are well placed to enlist the support of people who might be able to help the school draw up and implement its plan;

- guidance is provided in Planning to Increase Access to Schools for Disabled Pupils NAFW Circular 15/2004.

29. The EHRC can provide information and advice to both schools and parents relating to claims of alleged discrimination. It also provides an independent conciliation service for disputes arising from schools' duties.

### **Sex Discrimination**

30. Part 3 of the Equality Act 2006 amended the Sex Discrimination Act 1975 (SDA) to introduce a duty to promote gender equality. Schools must demonstrate that they are promoting equality for women and men and that they are eliminating sexual discrimination and harassment. The duty also extends to having a gender equality scheme in place.

31. The duties require each school to:

- prepare and publish a gender equality scheme, showing how it intends to fulfil its general and specific duties and setting out its gender equality objectives;
- consider the need to include objectives to address the causes of any gender pay gap in formulating its overall objectives;
- gather and use information on how the school's policies and practices affect gender equality in the workforce and in the delivery of services;
- consult stakeholders and take account of relevant information in order to determine its gender equality objectives;
- assess the impact of its current and proposed policies and practices on gender equality;
- implement the actions set out in its scheme within three years; and
- report against the scheme every year and review the scheme at least every three years.

32. A gender equality scheme needs to show how the school will meet its obligations under both the general and specific duties. It needs to include the school's gender equality objectives, including any pay objectives, and show the actions that it has taken, or intends to take, to:

- gather and use information that is relevant to promoting gender equality and eliminating discrimination;
- consult stakeholders in the preparation of its scheme (including setting the objectives);

- assess the impact or likely impact of existing and proposed policies and practices on gender equality; and
- implement the actions set out in the scheme.

33. Guidance for schools on how to develop a gender equality scheme and what should be included has been developed by the Equal Opportunities Commission (EOC), now part of the EHRC, and is available on the [EHRC website](#).

34. Under the SDA, the governing body must not discriminate on grounds of sex:

- against a child seeking admission to the school (however, it does permit single-sex schools to remain single sex);
- when providing teaching or allocating pupils to particular types of classes (for example, insisting that girls at a mixed school study a second modern language while boys take business studies);
- when applying standards of behaviour, dress and appearance (although different but comparable rules for boys and girls as regards dress or appearance are not necessarily unlawful);
- by excluding pupils or subjecting them to other types of detriment (for example, detention);
- in giving pupils careers guidance and work experience; or
- in giving pupils access to other benefits, facilities or services.

35. LAs and school governing bodies have a general duty to ensure that facilities for education provided by them, and any ancillary benefits or services, are provided without sex discrimination.

36. Whilst there is no express exemption in the same way that there is for same-sex schools, it may not be unlawful to have some single-sex classes in a mixed school, provided that this does not give children in such classes an unfair advantage or disadvantage when compared to children of the other sex in other classes. So, for example, it would be lawful to teach sex education to single-sex classes, as long as the classes were provided to both boys and girls, but unlawful to provide remedial classes just for boys who needed help with reading without doing the same for girls in a similar position.

37. Although the SDA forbids discrimination in access to benefits, facilities and services (for example, school gyms in mixed-sex schools); Section 44 of the Act contains an exception which permits single-sex sports. It applies to participation in any sport or game, or other activity of a competitive nature, where the physical strength, stamina or physique of the average woman (or girl) would put her at a disadvantage in competition with the average man (or boy). But while this exception might permit a mixed school to have a

boys-only football team, the school would still have to allow girls equal opportunities to participate in comparable sporting activities.

38. Sport and leisure facilities can also be confined to one sex (under Section 35 of the SDA) if the facilities or services are provided for, or are likely to be used by, two or more persons at the same time and the facilities or services are such that users of one sex are likely to suffer serious embarrassment at the presence of the opposite sex or a user is likely to be in a state of undress and might reasonably object to the presence of a user of the opposite sex.

39. This exception does not apply to the provision of education. This means that in the context of schools, the exception applies only in relation to the use of facilities or services outside of school hours and otherwise than in connection with the provision of education. For example, the opening of a school swimming pool or other sports facilities to members of the public during school holidays. The exception does not override the general requirement not to discriminate so whilst separate access for men and women might be justified where there is only one set of changing rooms, allowing access only to one sex would discriminate against the other sex.

40. The SDA outlaws discrimination in employment on the grounds of sex. However, discrimination against a man or woman is permitted in cases where a person's sex is a genuine occupational qualification for the job (as strictly defined by Section 7 of the Act). For example, this would apply where a job had to be held by a man and not a woman (or vice versa) in order to preserve decency or privacy, such as employing a male PE teacher on the grounds that his job would involve visiting the boys' changing rooms whilst they are in use.

41. Employment discrimination against transgendered people is unlawful under the SDA (as amended by the Sex Discrimination (Gender Reassignment) Regulations 1999). It is unlawful to treat a person less favourably on the basis that they have declared an intention to undergo, are undergoing or have undergone, gender reassignment – which is defined as a process carried out under medical supervision for the purpose of reassigning a person's sex (but which does not need to involve medical or surgical treatment). Guidance for employers on dealing with gender reassignment is available at the Government Equalities Office website.

42. Under the SDA it is unlawful to discriminate in relation to employment on the basis that a person is married or in a civil partnership.

## **Areas in which there are no Duties to Promote Equality**

There are currently two areas in which there are no duties to promote equality.

## Religion or Belief and Sexual Orientation

43. Discrimination on the grounds of religion or belief and of sexual orientation is now unlawful both in employment and in the delivery of education, although the law does not impose a duty on public authorities to promote equality actively in these areas.

44. Governing bodies should be aware of the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003 covering discrimination on grounds of sexual orientation and religion or belief, which apply to schools as employers. These Regulations apply to all aspects of employment including:

- recruitment;
- terms and conditions;
- promotions;
- transfers;
- dismissals;
- training; and
- all employment practices such as dress codes and disciplinary procedures.

They make it unlawful to discriminate directly or indirectly against or harass anyone because of his or her actual or perceived sexual orientation, religion or belief, or because he or she is friends with, or associates with, someone of a particular sexual orientation, religion or belief.

45. The Regulations set out strictly defined exceptions for cases where being of a particular religion or belief or a particular sexual orientation is a genuine and determining occupational requirement for a job.

46. Sections 58–60 of the School Standards and Framework Act 1998 make specific provision for schools with a religious character in respect of the employment of some teachers of the same faith as the character of the school. These provisions are expressly preserved under the Employment Equality (Religion or Belief) Regulations 2003.

47. It is unlikely that the exception for sexual orientation would permit discrimination in relation to employment by a school. Note that none of these provisions protects schools who discriminate against, harass or victimise staff because of their actual or perceived sexual orientation, and who then seek to rely on a claim that it is a requirement of their religion that they do so.

48. Part 2 of the Equality Act 2006 and the Equality Act (Sexual Orientation) Regulations 2007 both came into effect on 30 April 2007. These provisions mean that it is unlawful to discriminate against a pupil or

prospective pupil on the grounds of his or her religion or belief, or sexual orientation (or that of a person he or she is associated with, such as a parent or guardian). They make it unlawful for maintained schools, independent schools and special schools to discriminate against a person in the following ways:

- in the terms on which they offer to admit him or her as a pupil;
- by refusing to accept an application to admit him or her as a pupil;
- where he or she is a pupil of the establishment:
  - in the way in which it affords him or her access to any benefit, facility or service;
  - by refusing him or her access to a benefit, facility or service;
  - by excluding him or her from the establishment; or
  - by subjecting him or her to any other detriment.

49. The religion and belief provisions include some limited exceptions in relation to religious discrimination by faith schools, and to religious education and organised worship in all schools. There are no exceptions for schools in relation to discrimination on grounds of sexual orientation. Full guidance on the religion and belief and sexual orientation provisions is available in the [Religion section](#) of the TeacherNet Equality area.

### **Age Discrimination**

50. The [Employment Equality \(Age\) Regulations 2006](#) make age discrimination by employers unlawful. Age discrimination differs slightly from other grounds in that direct as well as indirect age discrimination is not unlawful if it can be “objectively justified” – that is, shown to be a proportionate means of achieving a legitimate aim. This is a strict test and not necessarily easy to demonstrate if legally challenged.

51. As with other discrimination legislation, the Regulations allow an employer, when recruiting for a post, to treat job applications differently on grounds of age if an age-related characteristic is a GOR for that post. An employer can also rely on this exception in matters of promotion, transfer and training and when dismissing a person from a post where a GOR applies. However, schools should be very cautious in assuming that they can demonstrate that age is a GOR in relation to any post. ACAS provides guidance on the [Age discrimination section](#) of its website. (N.B. Age discrimination law does not apply to the treatment of pupils in schools.)

### **Enforcement**

52. In relation to complaints in the employment context, the LA or the governing body (whichever is treated as the employer for the purposes of the Acts – see paragraphs 57–59, below) may be legally responsible for discriminatory acts against employees or applicants for jobs, including acts carried out by the head teacher or other members of staff. Employment related cases are dealt with by Employment Tribunals.

53. Complaints involving issues of discrimination in goods, facilities and services will generally be taken up first with the head teacher. They may then be referred to the governing body and/or the LA. If the school or LA cannot sort out the problem, the complainant could make a claim to County Court.

54. Any complaints about discrimination (other than disability) against pupils must be brought to the attention of the Welsh Ministers.

55. Claims of disability discrimination are heard by:

- the Special Educational Needs Tribunal for Wales in relation to admissions to and permanent exclusions from independent schools and fixed term exclusions from all types of schools;
- admission appeal panels and independent appeal panels in relation to admissions to and permanent exclusions from maintained schools;
- an Employment Tribunal in relation to employment matters; and
- the County Court in relation to the provision of goods, facilities and services.

56. The Equality and Human Rights Commission (EHRC) has powers to enforce the specific duties by issuing a compliance notice to order the school to meet the specific duties within a certain timescale.

57. Much of UK legislation, as regards equal opportunity in the employment and vocational training field, reflects European Union (EU) Law. In addition to UK legislation, in certain circumstances, employees in the public sector may rely directly on EU law. Normally, however, EU rights such as a right to equal pay, equal treatment and non-discrimination on certain grounds are enforced in the UK through national legislation which has been shaped to reflect EU law.

### **Who is the Employer?**

58. Where the school is a community school or a community special school, the LA is the employer of all staff.

59. However, even if the LA is technically the employer of the school staff, the governing body of a school with a delegated budget has powers over the appointment, suspension, discipline and dismissal of staff. Accordingly, where complaints are made about any discrimination concerning the exercise of those powers, it will normally be the governing body that is treated as the employer.

60. It follows that the governing body of a school with a delegated budget will generally be the respondent in Employment Tribunal discrimination cases brought by members of staff (or job applicants). However, any award of compensation or costs made by a tribunal would have to be paid by the LA where they are the actual employer of the school staff. See the Education (Modification of Enactments Relating to Employment) (Wales) Order 2006.

## The Law

The Equal Pay Act 1970

The Sex Discrimination Act 1975

The Race Relations Act 1976

The Race Relations (Amendment) Act 2000

The Disability Discrimination Act 1995

The Disability Discrimination Act 1995 (Pensions) Regulations 2003:  
SI 2003/2770

The Disability Discrimination Act 1995 (Amendment) Regulations 2003:  
SI 2003/1673

The Disability Discrimination Act 2005

Disability Discrimination (Prescribed Periods for Accessibility Strategies and Plans for Schools) (Wales) Regulations 2003

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005: SI 2005/2966

The Disability Discrimination (Amendment) (Further and Higher Education) Regulations 2006: SI 2006/1721

The Special Educational Needs and Disability Act 2001

The Disability Rights Commission Act 1999

The Education Act 1996: Part 4

The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006

The Human Rights Act 1998

The Employment Equality (Religion or Belief) Regulations 2003: SI 2003/1660

The Employment Equality (Sexual Orientation) Regulations 2003:  
SI 2003/1661

The Employment Equality (Sex Discrimination) Regulations 2005:  
SI 2005/2467

The Employment Equality (Age) Regulations 2006: SI 2006/1031

The Equality Act 2006

The Equality Act (Sexual Orientation) Regulations 2007

The Civil Partnership Act 2004

The Gender Recognition Act 2004

## Guidance

Three equality commissions – the Equality Rights Commission, the Commission for Racial Equality and the Disability Rights Commission – merged in October 2007 to become the EHRC, which has responsibilities in relation to the entire body of discrimination law.

The Codes of Practice issued by the former commissions that are referred to in this chapter are all statutory Codes of Practice. While the Codes do not in themselves impose legal obligations, they will be admissible as evidence in any proceedings brought under the relevant Acts. If any provision of a Code appears to the Court or Tribunal to be relevant to any question arising in the proceedings, it must be taken into account in determining that question. The Codes are not an authoritative statement of the law, but following the guidance in a Code may help to avoid adverse judgement in any proceedings.

Other guidance available is not statutory but has been provided (some specifically for schools) to aid understanding of the relevant legislation. Contact information and helplines for the EHRC are as follows (see Disability Discrimination, below, for the EHRC's dedicated disability helpline) (videophone calls are available for those who require them).

EHRC Helpline Wales  
Freepost RRLR-UEYB UYZL  
1st Floor  
3 Callaghan Square  
Cardiff, CF10 5BT  
Tel: 0845 604 8810  
Textphone: 0845 604 8820  
Fax: 0845 603 8830  
[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

The Advisory, Conciliation and Arbitration Service (ACAS) ([www.acas.org.uk](http://www.acas.org.uk)) is one of the organisations that offers advice to employers on complying with anti-discrimination legislation. As it points out, where effective systems are in place to ensure that an organisation's staff are treated fairly and with consideration, it is likely to encounter few problems in complying with anti-discrimination legislation. The same applies to the treatment of all members of the school community.

### **Disability Discrimination**

Code of Practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability (ISBN: 0 11 270954 0, The Stationery Office, £9.95)

Code of Practice for Schools explaining their new duties under Part 4 of the Disability Discrimination Act 1995 (Disability Rights Commission, 2002)

A range of free DDA material, information and guidance is available from the EHRC disability helpline as above.

Both the Code of Practice and the DDA material mentioned above can be found at the Disability section of the EHRC website.

Planning to Increase Access to Schools for Disabled Pupils NafW  
Circular 15/2004

Promoting Disability Equality in Schools - Guidance for head teachers and teachers in Wales (Available from WAG Website)

### **Sex Discrimination**

*A Guide to the Equal Pay Act 1970: PL 743*

*A Guide to the Sex Discrimination Act 1975: PL 955*

The above guides are available free of charge from:

DCSF Publications Centre  
PO Box 5050  
Annesley  
Nottingham NG15 0DZ  
Tel: 0845 602 2260

The EOC, now part of the EHRC, was the statutory body responsible for implementing the sex discrimination laws. The EOC also produced the following guides, now available from the EHRC:

Code of Practice on Equal Pay (available free of charge)  
Code of Practice (ISBN: 0 11 701279 3)  
The gender equality duty: Guidance for public authorities in England and Wales (2007)

### **Sexual Orientation**

Sexual Orientation and the Workplace: A Guide for Employers and Employees, available from:

ACAS  
Brandon House  
180 Borough High Street  
London SE1 1LW  
Tel: 08702 429090  
Website: [www.acas.org.uk](http://www.acas.org.uk)

### **Religion or Belief**

Religion or Belief and the Workplace: A Guide for Employers and Employees is available from ACAS at the address given above.

### **Race Discrimination and Equality**

Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment (ISBN: 0 907920 29 2, CRE). The Code of Practice and other related material can be found on the EHRC's website.

The CRE, now part of the EHRC, produced a statutory Code of Practice and four non-statutory guides to help authorities in England and Wales meet their duties under the Race Relations (Amendment) Act 2000. They are available from the EHRC website.

Code of Practice on Reporting and Recording Racist Incidents. This was published in April 2000 by the Racist Incidents Standing Committee. It provides guidelines for local agencies to establish effective procedures and comprehensive systems for the reporting and recording of racist incidents,

and suggests action to help the victims of racism and to deal with perpetrators appropriately. It also encourages information-sharing between agencies.

Bullying around Racism, Religion and Culture (March 2006). Developed in partnership with anti-racist organisations, schools, LAs, professional associations, community and voluntary sector groups and young people themselves, the guidelines offer suggestions for lessons, staff training and anti-bullying strategies to help schools identify and prevent racist bullying and deal with it robustly, should it occur.

The Stephen Lawrence Inquiry Report: Action Plan (November 1999)

Race Equality in Education: Good Practice in Schools and Local Education Authorities (Ofsted, November 2005). This survey report illustrates good practice in work on race equality and education in schools and LAs in England.

## **Age**

ACAS provides guidance on age discrimination.