

Equality and rights information for school staff receiving autism training

- A child is disabled under the **Equality Act 2010** if they have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on their ability to do normal daily activities. If they have a disability they are protected from discrimination in admission to school, educational services and exclusions. This can include school trips, break-times and after-school clubs.
- Learners who have social, emotional and behaviour needs may meet the definition of disability. A child does not need a medical diagnosis to be regarded as disabled. Similarly, not all children diagnosed with autism may fall under this definition and a diagnosis itself does not automatically protect a child under the Act. However, most children with autism would be regarded as having a disability under this definition.
- If a child experiences less favourable treatment compared with another child because they are disabled it is called *direct discrimination*.
- If a policy or procedure that treats all children the same and as a result actually put a child with a disability at a disadvantage compared with others who do not have a disability, and it cannot be justified, it is called *indirect discrimination*.

Example: A school has a policy that if a pupil breaks the school rules on three occasions, he or she will automatically be given a detention. Some disabled pupils, such as those with an autistic spectrum disorder, are much more likely to break the school rules than other pupils. Rigid application of a behaviour policy is likely to amount to indirect disability discrimination because, where a reasonable adjustment has not been made; a school will find it very difficult to justify the treatment as a proportionate means of achieving a legitimate aim. Instead, the need for reasonable adjustments should be acknowledged within a behaviour policy.

- A disabled child should also not be *harassed* or *victimised* because of their disability.
- If a child is *perceived* as being disabled and treated less favourably as a result, or if someone *associated* with a disabled child e.g. a sibling was treated less favourably because their disabled brother or sister this is also prohibited.
- When a child is treated unfavourably because of something connected to their disability and there is no good reason for doing this, this is called *discrimination arising from a disability*.

Example: A school refuses to allow a pupil with autism and attention deficit hyperactivity disorder (ADHD) to go on a class visit to the theatre because that pupil has attention difficulties and may disrupt the performance. The pupil's attention difficulties are as a consequence of his disability. This would be considered discrimination arising from a disability.

- The school has a duty to make *reasonable adjustments* to remove barriers for a disabled child. This duty includes provision of auxiliary aids and services such as using visual timetables, adjusting classroom layout, or receiving some extra staff assistance. The school should not charge a pupil for reasonable adjustments.
<https://www.equalityhumanrights.com/en/publication-download/reasonable-adjustments-disabled-pupils-scotland>

- Your school should ensure they are aware of their responsibilities under The Act. It is also useful to find out about local organisations that may be able to provide advice and support on equality issues.
- Impact Assessments should be undertaken to ensure compliance with The Act and schools should have an Anti-bullying policy.
- When addressing bullying it is important to look at the impact the behaviour is having on an individual rather than simply the behaviour itself.

Example: A child with autism finds it difficult to independently change quickly and effectively when the class has to get ready for gym. A class-mate jokes that he is a 'slow coach' resulting in the child having an outburst of tears and needing consoled. The class teacher tells him he is being over-sensitive to the name calling which intended no harm. This response is not likely to cease the name calling or provide comfort for the child with autism.

The child's reaction is likely linked to their disability, however it is not integral to the impact of the name calling in this scenario. Ideally the school would provide general education, perhaps in assembly about 'difference' alongside other preventative work on anti-bullying across the school. Working with individuals concerned to find a solution might help with this particular case to prevent further name calling. The teacher might also arrange for the child with autism to start changing a few minutes earlier for future gym times.

- Respectme is Scotland's National Anti-Bullying Service: www.respectme.org.uk/
- Your school may have a named member of staff whose role is to assist with any queries concerning equalities, rights or anti-bullying policies and practices.
- **The Human Rights Act** and the UN Convention on the Rights of the Child provide rights to children and young people. This includes the right to an education.
<https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights>

Example: A child with autism experiences an unexpected change in her timetable. She becomes distraught and starts to tip the desks in the classroom over and throw jotters around. As a consequence her parents are contacted and she is sent home to cool down and to provide some distance between the child and the environment that created such tension. It is also felt that this is in the best interests of the rest of the class for health and safety reasons. Without a written record for the reason for this absence, this would be regarded as unlawful. This action requires to be formally recorded as an exclusion. However it is also infringing on the girl's right to an education. It would be better for the school to look at other alternatives such as providing a quiet room or space in the school and support from another member of staff. The school should also explore with the child and parents how this situation might be prevented when any future unexpected changes in the timetable come up.

- Scotland's Commissioner for Children and Young People can provide more information on Children's rights: <http://www.sccyp.org.uk/>
- The Education (Additional Support for Learning) Act 2004 also provides rights in education to parents and carers of children with additional support needs and to children and young people themselves. For example, as a parent or carer you have the right to:
 - ask your education authority to find out if your child has additional support needs
 - information and advice about your child's additional support needs

- have a supporter or advocate with you at any meeting with the school or education authority.
- Your Council may have other policies or guidance on such related legislation.
- Enquire is the Scottish advice service for additional support for learning: <http://enquire.org.uk/>
- Under the **Education (Accessibility Strategies and Pupils' Educational Records) Scotland Act 2002**, the Council has an accessibility strategy which plans over a 3 year period to improve access to schools with regard to the physical environment, communications and the curriculum.
<https://www.gov.scot/publications/planning-improvements-disabled-pupils-access-education-guidance-education-authorities-independent/>

| DO | DON'T |
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| Take all allegations seriously and take notes | Require a child or young person to put things in writing at the outset |
| Involve children/parents/staff in finding solutions together | Believe there is no bullying or discrimination in your school |
| Use resources that reflect our diverse society – including two mums or two dads | Forget to get back to the child who complained and check how things are periodically. It isn't always easily resolved. |
| If needed, enlist the help of the police, Respectme and voluntary sector organisations | Be afraid to ask for help |