ST. TERESA’S CATHOLIC PRIMARY SCHOOL, LEXDEN, COLCHESTER

Equality Plan 2019-2022 Policy

MISSION STATEMENT

We love God and each other and follow the example of St Teresa.
We enjoy learning together and doing our best in a happy, healthy and welcoming community.
We learn to be responsible and caring citizens.

“Let us do little things well today”.

St Teresa

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The achievement of pupils will be monitored by race, gender and disability and we will use this data to support pupils, raise standards and ensure inclusive teaching. We will tackle discrimination by the positive promotion of equality, challenging bullying and stereotypes and creating an environment which champions respect for all. At St Teresa’s Catholic Primary School, we believe that diversity is a strength, which should be respected and celebrated by all those who learn, teach and visit here.

1. Mainstreaming equality into policy and practice

As well as the specific actions set out beneath this plan, the school operates equality of opportunity in its day to day practice in the following ways.

Teaching and learning

We aim to provide all our pupils with the opportunity to succeed, and to reach the highest level of personal achievement. To do this, we will:

- Use contextual data to improve the ways in which we provide support to individuals and groups of pupils;
- Monitor achievement data by ethnicity, gender and disability and action any gaps;
- Take account of the achievement of all pupils when planning for future learning and setting challenging targets;
- Ensure equality of access for all pupils and prepare them for life in a diverse society;
• Use materials that reflect the diversity of the school, population and local community in terms of race, gender and disability, without stereotyping;
• Promote attitudes and values that will challenge racist and other discriminatory behaviour or prejudice;
• Provide opportunities for pupils to appreciate their own culture and celebrate the diversity of other cultures;
• Seek to involve all parents in supporting their child’s education;
• Encouraging classroom and staffroom discussion of equality issues which reflect on social stereotypes, expectations and the impact on learning;
• Including teaching and classroom-based approaches appropriate for the whole school population, which are inclusive and reflective of our pupils.

Admissions and exclusions

Our admissions arrangements are fair and transparent, and do not discriminate on race, gender, disability or socio-economic factors.

Exclusions will always be based on the school’s Behaviour Policy. We will closely monitor exclusions to avoid any potential adverse impact and ensure any discrepancies are identified and dealt with.

2. Equal Opportunities for Staff

This section deals with aspects of equal opportunities relating to staff at St Teresa’s Catholic Primary School.

We are committed to the implementation of equal opportunities principles and the monitoring and active promotion of equality in all aspects of staffing and employment.

All staff appointments and promotions are made on the basis of merit and ability and in compliance with the law. However we are concerned to ensure wherever possible that the staffing of the school reflects the diversity of our community.

Employer duties

As an employer we need to ensure that we eliminate discrimination and harassment in our employment practice and actively promote equality across all groups within our workforce.

Equality aspects such as gender, race, disability, sexual orientation, gender re-assignment and faith or religion are considered when appointing staff and particularly when allocating Teaching and Learning Responsibilities (TLR) or re-evaluating staff structures, to ensure decisions are free of discrimination.

Actions to ensure this commitment is met include:
• Monitoring recruitment and retention including bullying and harassment of staff;
• Continued professional development opportunities for all staff;
• Senior Leadership Team support to ensure equality of opportunity for all.
3. Equality and the law

There are a number of statutory duties that must be met by every school in line with legislation from the Race Relations (Amendment) Act (2000), Disability Equality Duty (2005) and Equality Act (2006).

The action plan at the end of this Equality Plan outlines the actions St Teresa's Catholic Primary School will take to meet the general duties detailed below.

3a. Race Equality

This section of the plan reflects the general and specific duties of schools as detailed in The Race Relations Act 1976 and as amended by The Race Relations (Amendment) Act 2000.

The General Race Equality Duty requires us to have due regard to the need to:

- Eliminate racial discrimination;
- Promote equality of opportunity;
- Promote good relations between people of different racial groups.

Under our specific duty we will:

- Prepare an Equality Plan which includes our written policy for race equality;
- Assess the impact of our policies, including this Plan, on pupils, staff and parents by ethnicity including, in particular, the achievement levels of these pupils;
- Monitor the impact our plans and policies have on such pupils, staff and parents towards raising the achievement of minority ethnic groups.

3b. Disability

This section should be read in conjunction with the school’s Special Educational Needs Policy and Accessibility Strategy.

Definition of disability

The Disability Discrimination Act 2005 (DDA) defines a disabled person as someone who has ‘a physical or mental impairment which has a substantial or long-term adverse effect on his or her ability to carry out normal day-to-day activities’.

The DDA 2005 has also extended the definition of disability as follows:

- People with HIV, multiple sclerosis and cancer (although not all cancers) are deemed disabled before they experience the long-term and substantial adverse effect on their activities;
- Section 18 has been amended so that individuals with a mental illness no longer have to demonstrate that it is “clinically well-recognised”, although the person must still demonstrate a long-term and substantial adverse impact on his/her ability to carry out normal day-to-day activities.

Legal duties

The Disability Discrimination Act (DDA) 2005 placed a general duty on schools, requiring them to have due regard for the following when carrying out and delivering services:
• Promoting equality of opportunity between disabled people and other people;
• Eliminating discrimination and harassment of disabled people that is related to their disability;
• Promoting positive attitudes towards disabled people;
• Encouraging participation in public life by disabled people;
• Taking steps to meet disabled people’s needs, even if this requires more favourable treatment.

Under our specific duty we will:
• Prepare and publish an Equality Plan which covers the requirements for a Disability Equality Scheme identifying our disability equality goals and actions to meet them;
• Review and revise this Scheme every three years.

3c. Gender Equality

The Gender Equality Duty 2006 places a general and specific duty on schools to eliminate unlawful discrimination and harassment on the grounds of gender and to promote equality of opportunity between female and male pupils and between women and men and transgender people.

Under our general duty we will actively seek to:
• Eliminate unlawful discrimination and harassment on grounds of sex and gender reassignment;
• Promote equality between men and women.

Under our specific duty we will:
• Prepare and publish an Equality Plan which covers the requirements for a Gender Equality Scheme identifying our gender equality goals and actions to meet them;
• Review and revise this Scheme every three years.

3d. Sexual Orientation

The Equality Act 2006 made provision for regulations to be introduced to extend protection against discrimination on grounds of religion or belief to sexual orientation.

The Equality Act (Sexual Orientation) Regulations 2007 came into force on 30 April 2007, and they make discrimination unlawful in the area of goods, facilities and services on grounds of sexual orientation. For schools this means admissions, benefits and services for pupils and treatment of pupils.

3e. Community Cohesion

The Education and Inspections Act 2006 inserted a new section 21(5) to the Education Act 2002, introducing a duty on the governing bodies of state schools to promote community cohesion. Community cohesion encompasses promoting good relations between pupils from different races, faiths / beliefs and socio-economic backgrounds. The duty came into force on 1 September 2007.

4. Roles and Responsibilities

The role of governors

• The governing body has set out its commitment to equal opportunities in this plan and it will continue to do all it can to ensure that the school is fully inclusive to pupils, and responsive to their needs based on race, gender and disability.
• The governing body seeks to ensure that people are not discriminated against when applying for jobs at our school on grounds of race, gender or disability.
• The governors take all reasonable steps to ensure that the school environment gives access to people with disabilities, and also strive to make school communications as inclusive as possible for parents, carers and pupils.
• The governors welcome all applications to join the school, whatever a child’s socio-economic background, race, gender or disability.
• The governing body ensures that no child is discriminated against whilst in our school on account of their race, sex or disability.

The role of the headteacher (or senior leader responsible for Equalities)

• It is the headteacher’s role to implement the school’s Equality Plan and s/he is supported by the governing body in doing so.
• It is the headteacher’s role to ensure that all staff are aware of the Equality Plan, and that teachers apply these guidelines fairly in all situations.
• The headteacher ensures that all appointments panels give due regard to this plan, so that no-one is discriminated against when it comes to employment or training opportunities.
• The headteacher promotes the principle of equal opportunity when developing the curriculum, and promotes respect for other people and equal opportunities to participate in all aspects of school life.
• The headteacher treats all incidents of unfair treatment and any incidents of bullying or discrimination, including racist incidents, with due seriousness.

The role of all staff: teaching and non-teaching

• All staff will ensure that all pupils are treated fairly, equally and with respect, and will maintain awareness of the school’s Equality Plan.
• All staff will strive to provide material that gives positive images based on race, gender and disability, and challenges stereotypical images.
• All staff will challenge any incidents of prejudice, racism or homophobia, and record any serious incidents, drawing them to the attention of the headteacher.
• Teachers support the work of ancillary or support staff and encourage them to intervene in a positive way against any discriminatory incidents.

5. Tackling discrimination

Harassment on account of race, gender, disability or sexual orientation is unacceptable and is not tolerated within the school environment.

All staff are expected to deal with any discriminatory incidents that may occur. They are expected to know how to identify and challenge prejudice and stereotyping; and to support the full range of diverse needs according to a pupil’s individual circumstances.

Racist and homophobic incidents and other incidents of harassment or bullying are dealt with by the member of staff present, escalating to a class teacher / headteacher where necessary. All incidents are reported to the headteacher and racist incidents are reported to the governing body and local authority on a termly basis.
What is a discriminatory incident?

Harassment on grounds of race, gender, disability, sexual orientation or other factors such as socio-economic status, can take many forms including verbal or physical abuse, name calling, exclusion from groups and games, unwanted looks or comments, jokes and graffiti.

A racist incident is defined by the Stephen Lawrence Inquiry Report (1999) as:

‘any incident which is perceived to be racist by the victim or any other person’.

Types of discriminatory incident

Types of discriminatory incidents that can occur are:

- Physical assault against a person or group because of their colour, ethnicity, nationality, disability, sexual orientation or gender;
- Use of derogatory names, insults and jokes;
- Racist, sexist, homophobic or discriminatory graffiti;
- Provocative behaviour such as wearing racist, sexist, homophobic or discriminatory badges or insignia;
- Bringing discriminatory material into school;
- Verbal abuse and threats;
- Incitement of others to discriminate or bully due to victim’s race, disability, gender or sexual orientation;
- Discriminatory comments in the course of discussion;
- Attempts to recruit others to discriminatory organisations and groups;
- Ridicule of an individual for difference e.g. food, music, religion, dress etc;
- Refusal to co-operate with other people on grounds of race, gender, disability or sexual orientation.

Responding to and reporting incidents

It should be clear to pupils and staff how they report incidents. All staff, teaching and non-teaching, should view dealing with incidents as vital to the well-being of the whole school.
The procedure for responding and reporting is outlined below:

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Incident

Member of staff to investigate further (if incident reported) or challenge behaviour immediately

Response to victim and family

Response to perpetrator and family

Action taken to address issue with year group / school if necessary e.g. through circle time / assembly

Incident form to be completed and filed. Incidents to be reported to Governing body and local authority on a termly basis.
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6. Review of progress and impact

The Plan has been agreed by our Governing Body. We have a rolling programme for reviewing our school policies and their impact. In line with legislative requirements, we will review progress against our Equality Plan annually and review the entire plan and accompanying action plan on a three year cycle.

We make regular assessments of pupils’ learning and use this information to track pupil progress. As part of this process, we regularly monitor achievement by ethnicity, gender and disability, to ensure that all groups of pupils are making the best possible progress, and take appropriate action to address any gaps.

7. Publishing the plan

In order to meet the statutory requirements to publish a Disability Equality Scheme and Gender Equality Scheme, we will:

- Publish our plan on the school website;
- Raise awareness of the plan through the school newsletter, assemblies, staff meetings and other communications;
- Make sure hard copies are available.
### ACTION PLAN

<table>
<thead>
<tr>
<th>Equality Strand</th>
<th>Action</th>
<th>How will the impact of the action be monitored?</th>
<th>Who is responsible for implementing?</th>
<th>What are the timeframes?</th>
<th>Early success indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>Monitor and analyse pupil achievement by race, gender and disability and act on any trends or patterns in the data that require additional support for pupils.</td>
<td>Achievement data analysed by race, gender and disability</td>
<td>Headteacher / Governing body</td>
<td>Annually following publication of ASP</td>
<td>Analysis of teacher assessments / annual data demonstrates the gap is narrowing for equality groups</td>
</tr>
<tr>
<td>All</td>
<td>Ensure that the curriculum promotes role models and heroes that young people positively identify with, which reflects the school’s diversity in terms of race, gender and disability.</td>
<td>Increase in pupils’ participation, confidence and achievement levels</td>
<td>All Staff Curriculum Leader Lydia Spratt</td>
<td>Ongoing</td>
<td>Notable increase in participation and confidence of targeted groups</td>
</tr>
<tr>
<td>All</td>
<td>Recognise and represent the talents of disabled pupils in Gifted and Talented programmes, and ensure representation on the programmes fully reflects the school population in terms of race and gender.</td>
<td>Gifted and Talented register monitored by race, gender and disability</td>
<td>Member of staff leading on G&amp;T</td>
<td>Ongoing</td>
<td>Analysis of the Gifted and Talented register indicates it reflects the school’s diversity</td>
</tr>
<tr>
<td>All</td>
<td>Ensure that displays in classrooms and corridors promote diversity in terms of race, gender and ethnicity.</td>
<td>Increase in pupil participation, confidence and positive identity – monitor through PSHE</td>
<td>Headteacher</td>
<td>Ongoing</td>
<td>More diversity reflected in school displays across all year groups</td>
</tr>
</tbody>
</table>

### 8. ACTION PLAN

<p>| All             | Ensure all pupils are given the opportunity to make a positive contribution to the life of the school e.g. through involvement in the School Council (Your Voice) by election or co-option, class assemblies, fund raising etc. | School council representation monitored by race, gender, disability | Member of staff leading on school council | Ongoing | Diversity in school council membership |
| Race Equality Duty | Identify, respond and report racist incidents as outlined in the Plan. Report the figures to the | The Headteacher / Governing body will use | Headteacher / Governing | Reporting: December, | Teaching staff are aware of and |</p>
<table>
<thead>
<tr>
<th>Governing body / Local Authority on a termly basis.</th>
<th>the data to assess the impact of the school’s response to incidents i.e. have whole school / year group approaches led to a decrease in incidents, can repeat perpetrators be identified, are pupils and parents satisfied with the response?</th>
<th>body</th>
<th>April, July</th>
<th>respond to racist incidents Consistent nil reporting is challenged by the Governing Body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender Equality Duty</td>
<td>Introduce initiative to encourage girls to take up sport outside the curriculum requirements, including offering rugby and cheerleading, to make participation rates more reflective of the school population.</td>
<td>Increased participation of girls in sports clubs and out of school sport activities</td>
<td>Member of staff leading on sports / PE</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Disability Equality Duty</td>
<td>Promote Governor vacancies with leaflets in accessible formats, by involving disabled young people / parents in design and specifically welcoming applications from disabled candidates.</td>
<td>Monitoring of applications by disability to see if material was effective</td>
<td>Lead Governor on Special Educational Needs &amp; Disabilities</td>
<td>As needed</td>
</tr>
<tr>
<td>Community cohesion</td>
<td>Celebrate cultural events throughout the year to increase pupil awareness and understanding of different communities e.g. Black History, Diwali, Eid, Christmas.</td>
<td>PSHE assessments R.E and other faiths</td>
<td>Member of staff leading on PSHE &amp; R.E</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>
Appendix A

1. Legal Definitions

1.1 Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (perceptive discrimination see 1.1.1) or because they associate with someone who has a protected characteristic (associative discrimination see 1.1.2).

No-one will be directly or indirectly discriminated against on the grounds of their:

- Age
- Disability or health
- Gender re-assignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (which includes ethnic origin; colour or nationality);*
- Religion or belief
- Sex
- Sexual orientation

* other than as allowed for by legislation in schools/academies with a religious character, whereby certain regard and preferences may be given in certain circumstances in respect of appointment, remuneration, promotion and termination.

1.1.1 Associative discrimination

Associative discrimination is discrimination against a person because they have an association with someone with a ‘particular protected characteristic’. Associative discrimination applies to race, religion, belief and sexual orientation age, disability, gender reassignment and sex.

1.1.2 Perceptive discrimination

Perceptive discrimination is discrimination against a person because the discriminator thinks the person possesses that characteristic, even if in fact, they do not. Perceptive discrimination applies to age, race, religion, belief, sexual orientation, disability, gender reassignment and sex.

1.1.3 Proportionate means of meeting a legitimate aim

Indirect discrimination can be justified if you can show that you acted reasonably in managing your school i.e. that it is ‘a proportionate means of achieving a legitimate aim’.
A legitimate aim might be any lawful decision you make in running your school, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate really means being fair and reasonable, including showing that you have looked at ‘less discriminatory’ alternatives to any decision you make. Example - the long term aim of reducing inequality between men’s and women’s pay is always to be regarded as a legitimate aim for the purposes of justifying pay practices that indirectly discriminate against women. Therefore, short term pay protection schemes introduced with the aim of removing long-term inequalities in pay may be capable of being objectively justified, provided that their use is a proportionate way of achieving that aim.

1.2 Indirect discrimination

Indirect discrimination can occur when a condition, rule, policy or even a practice in the school/academy is applied to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if the school/academy can show it acted reasonably, for example that it is a ‘proportionate means of achieving a legitimate aim’. (See 1.1.3)

Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability discrimination and gender reassignment.

1.3 The Protected Characteristics

While the school/academy is committed to not discriminating on any grounds, there are “certain protected characteristics” in law. The following defines the protected characteristics under the Equality Act.

1.3.1 Age

The Act protects people of all ages from unlawful discrimination,

Direct discrimination - treating someone less favourably because of their actual or perceived age, or because of the age of someone with whom they associate. E.g. advertising for job applicants less than 25 years only. This treatment can only be justified if it is a proportionate means of achieving a legitimate aim.

Indirect discrimination – can occur where there is a policy, practice or procedure which applies to all employees, but particularly disadvantages people of a particular age. For example, a requirement for job applicants to have worked in a particular industry for 10 years may disadvantage younger people. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

The Act continues to allow employers to have a default retirement age of 65 until April 2011.
1.3.2 Disability

Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities, which would include things like using a telephone, reading a book or using public transport. Long term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person’s life. Substantial means more than minor or trivial. In most circumstances, a person will have the protected characteristic of disability if they have had a disability in the past, even if they no longer have the disability.

Employers must make reasonable adjustments in the recruitment and employment of disabled people. This can include, for example, adjustments to recruitment and selection procedures, to terms and conditions of employment, to working arrangements and physical changes to the premises or equipment. In assessing the reasonableness of the adjustment, the employer will consider:

- proportionality and impact of the adjustment on the role
- the costs/financial support available
- medical opinion from the employee’s doctor and the occupational health advisor.
- impact on the operational requirements of the school.

Direct discrimination – treating someone less favourably than other employees due to an actual or perceived disability, or because they associate with a disabled person.

Indirect discrimination – An example would be where an individual has a tendency to make spelling mistakes arising from dyslexia. This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Note: In accordance with the new Act, employers may not request information concerning an individual’s sickness and attendance record prior to the selection stage. Once the preferred candidate has been selected, then sickness and attendance records can be obtained from the referee and applicant, as part of the pre-employment checks prior to a firm offer. The interview panel may not ask general questions about the individual’s sickness and attendance record but may ask relevant questions to establish whether the applicant will be able to carry out a function that is intrinsic (e.g. majority of the work involves manual handling) to the work concerned once reasonable adjustments are in place.
1.3.3 Gender reassignment

The Act defines gender reassignment as a protected characteristic. This applies to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. Gender reassignment is a personal process, that is moving away from one’s birth sex to the preferred gender, rather than a medical process.

Protection is provided where, as part of the process of reassigning their sex, someone is driven by their gender identity to cross-dress, but not where someone chooses to cross-dress for some other reason.

In order to be protected under the Act, there is no requirement for a transsexual person to inform their employer of their gender reassignment status. However, if an employee is proposing to undergo gender reassignment or is still in the process of transitioning, they may want to discuss their needs with their employer so the employer can support them during the process.

Where an individual has been diagnosed as having ‘gender dysphoria’ or ‘gender identity disorder’ and the condition has a substantial and long term adverse impact they may also be protected under the disability discrimination provisions of the Act.

Direct discrimination – treating someone less favourably than other employees because of their gender reassignment, whether actual or perceived, or because they associate with someone who intends to undergo, is undergoing or has undergone gender reassignment.

Indirect discrimination – An example would be where an employer starts an induction session for new staff with an ice-breaker designed to introduce everyone in the room to the others. Each employee is required to provide a picture of themselves as a toddler. One employee is a transsexual woman who does not wish her colleagues to know that she was brought up as a boy. When she does not bring in her photo, the employer criticises her in front of the group for not joining in. It would be no defence that it did not occur to the employer that this employee may feel disadvantaged by the requirement to disclose such information. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

1.3.4 Marriage and civil partnership

The Act protects employees from discrimination on the grounds of being married or in a civil partnership.

Marriage will cover any formal union of a man and woman which is legally recognised in the UK as a marriage. A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004, including those registered outside the UK.
Only people who are married or in a civil partnership are protected against discrimination on this ground. The status of being unmarried or single is not protected. People who only intend to marry or form a civil partnership, or who have divorced or had their civil partnership dissolved, are not protected on this ground.

Direct Discrimination - treating someone less favourably than other employees on the grounds of them being married or in a civil partnership, actual or perceived, or because they are associated with a person who is married or in a civil partnership.

Indirect Discrimination – An example of this could be where an applicant for a job is treated less favourably because it is considered that they will not be as committed to the job as a single person because they have marital or partnership commitments.

1.3.5 Pregnancy and maternity

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Direct discrimination – treating someone less favourably because of their actual pregnancy or perceived pregnancy, or because of the pregnancy of someone with whom they associate.

Indirect discrimination - An example could be where an employee has been off work because of pregnancy complications since early in her pregnancy. Her employer has dismissed her in accordance with the sickness absence management policy. This policy is applied regardless of sex. The dismissal is unfavourable treatment because of her pregnancy and would be unlawful even if a man would be dismissed for a similar period of sickness absence, because the employer took into account the employer’s pregnancy related sickness absence in deciding to dismiss. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

1.3.6 Race

For the purposes of the Act, ‘race’ includes colour, nationality and ethnic or national origin. A person has the protected characteristic of race if they belong to a particular racial group. A racial group can be made up of two or more different racial groups (for example Black Britons).

Direct discrimination – treating someone less favourably because of their actual or perceived race, or because of the race of someone with whom they associate.

Indirect discrimination – can occur where there is a policy, practice or procedure which applies to all employees, but particularly disadvantages people of a particular race. An example could be a requirement for all job applicants to have GCSE Maths and English: people educated in countries which don’t have GCSE’s would be discriminated against if equivalent qualifications
Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

### 1.3.7 Religion or belief

In the Equality Act, religion includes any form of religion which has a clear structure and belief system. It also includes a lack of religion, in other words employees or jobseekers are protected if they do not follow a certain religion or have no religion at all. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Belief means any religious or philosophical belief or a lack of such belief. To be protected, a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered a protected religion or religious belief. Examples of philosophical beliefs include Humanism and Atheism. Political beliefs are not protected.

A belief which is not a religious belief may be a philosophical belief. A belief need not include faith or worship of a God but must affect how a person lives their life or perceives the world.

For a philosophical belief to be protected under the Act:

- It must be genuinely held
- It must be a belief and not an opinion or viewpoint based on the present state of information available;
- It must be a belief as to a weighty and substantial aspect of human life and behaviour;
- It must contain a certain level of cogency, seriousness, cohesion and importance;
- It must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.

Direct discrimination – treating someone less favourably because of their actual or perceived religion and belief, or because of the religion or belief of someone with whom they associate. (See Appendix B)

Indirect discrimination – An example would be where a school announces that from next month staff cannot wear their hair in dreadlocks, even if the locks are tied back. This is an example of a policy that has not yet been implemented but which still amounts to a provision, criterion or practice. The decision to introduce the policy could be indirectly discriminatory because of religion or belief, as it puts the employer’s Rastafarian employees at a particular disadvantage. The employer must show that the provision, criterion or practice can be objectively justified.
Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

1.3.8 Sex

A person’s sex refers to the fact that they are male and female.

Direct discrimination – treating someone less favourably because of their actual or perceived sex, or because of the sex of someone with whom they associate.

Indirect discrimination – can occur where there is a policy, practice or procedure that applies to all employees, but particularly disadvantages employees of a particular sex. For example, a requirement that job applicants must be six feet tall could be met by significantly fewer women than men. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

1.3.9 Sexual orientation

Sexual orientation is a protected characteristic. It means a person’s sexual orientation towards:

- persons of the same sex (ie the person is a gay man or a lesbian);
- persons of the opposite sex (ie the person is heterosexual); or
- persons of either sex (ie the person is bisexual)

Sexual orientation relates to how people feel as well as their actions. Sexual orientation discrimination includes discrimination because someone is of a particular sexual orientation and it also covers discrimination connected with manifestations of that sexual orientation. These may include someone’s appearance, the places they visit or the people they associate with.

Direct discrimination – treating someone less favourably because of their actual or perceived sexual orientation, or because of the sexual orientation of someone with whom they associate.

Indirect discrimination – an example would occur if an employer only placed a job advert in newspapers aimed at gays and/or lesbians as heterosexuals tend not to read such publications. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

1.3.10 Equal pay

The Equality Act retains the Equal Pay Act 1970 that was previously in place which provides that men and women should receive equal pay for equal work. This means that in most circumstances a challenge to pay inequality and other contractual terms and conditions still has to be made by comparison with a real person of the opposite sex in the same employment.
However, the Equality Act allows a claim of direct pay discrimination to be made, even if no real person comparator can be found. This means that a claimant who can show evidence that they would have received better remuneration from the school if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work with the school. This would be a claim under sex discrimination.

1.3.11 Pay secrecy

The school will not prevent or restrict its employees from having discussions to establish if they believe pay differences exist that are related to a protected characteristic. The school may, in particular circumstances, require its employees to keep pay rates confidential from outside the workplace e.g. a competitor organisation.

2. Occupational requirements

The school/academy may where appropriate, exercise the powers available to appoint a person from a particular group, where there is a genuine occupational requirement.

Faith/Catholic Aided schools only

The school may also exercise the power conferred by the School Staffing Regulations 2009 and Standards and Framework Act 1998, and any subsequent amended/replacement legislation, in relation to staffing matters, connected with the religious character of the school. See 1.1.

3. Positive action

Positive action describes measures targeted at a particular group that are intended to redress past discrimination or to offset the disadvantages arising from existing attitudes, behaviours and structures. The school may use lawful measures which can include:

- Targeting job training at people of particular racial groups, or either gender, who have been under-represented in certain occupations or grades during the previous 12 months, or encouraging them to apply for such work.

- Providing facilities to meet any specific educational, training, or welfare needs identified for a specific racial group

- Measures to provide training and special encouragement for returnees to the labour market after a period of time discharging domestic or family responsibilities.

- Special encouragement such as targeted advertising and recruitment literature, reserving places for one gender training courses or providing taster courses in non-traditional areas.

Positive discrimination generally means choosing someone solely on the grounds of their gender or racial group and not on their abilities. The school will not use positive discrimination as this is illegal under UK anti-discrimination law.
4. Harassment, bullying and victimisation

The school/academy regards all forms of harassment and bullying as unacceptable and perpetrators are liable to action under the grievance and disciplinary procedures. Similarly, victimisation of employees who complain of discrimination or harassment or who come forward in their support will result in disciplinary action against the perpetrator.

Harassment can be defined as “improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person’s job security, create an intimidating, unwelcoming and stressful workplace, or cause personal offence or injury.”\(^1\) ACAS

Harassment can often be identified by a series of what seem to be ‘trivial’ incidents. Furthermore it is the impression of the harassed person, not the intentions or motivations of the harasser, which are important.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees can now complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception (see 1.1.1) and association (see 1.1.2).

Bullying may be characterised as “Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”. (ACAS).

Victimisation is where an employee suffers less favourable treatment than others in the same circumstances, because they have brought proceedings or given evidence or information relating to such proceedings, or has alleged that discrimination occurred under relevant legislation.

An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint. There is no longer a need to compare treatment of a complainant with that of a person who has not made or supported a complaint under the Act.

5. Complaints

Existing employees of the school/academy who feel they have been unfairly discriminated against, harassed, bullied or victimised should raise it in the first instance with their line manager or other manager where their own line manager is the subject of the complaint. Employees should refer to the grievance procedure for further information.

Members of the public who may be concerned that their application for employment has not been dealt with in accordance with this policy should raise their concerns via the school/academy complaints procedure.

\(^1\) ACAS – Advisory Conciliation and Arbitration Service
Visitors or other members of the school/academy community who experience or witness discrimination, bullying, harassment or victimisation should report the matter to the head teacher/principal.

All concerns raised with the School/academy will be handled in a positive and sensitive manner and in accordance with the appropriate policy/procedure.
Appendix B
Supporting organisations and documentation

i. The European Human Rights Guidance on the Equality Act 2010


ii. Disability Services in Essex
An easy-to-use guide containing information about groups and organisations that support disabled people (including information on financial advice, support groups and other disabled services) can be found at

http://www.essex.gov.uk/Health-Social-Care/Care-for-Adults/Easy-Guide-Services/Pages/Disability-Services.aspx

There is also an information advice line available from Disability Essex manned by disabled volunteers and operates from Monday to Friday each week. The helpline is available on 0844 412 1770.

iii. Employers forum on disability
Essex County Council is a member of this forum. The forum provides legal updates and briefing sheets on disability issues such as guides on adjustments for people with visual and hearing impairments, with progressive or fluctuating conditions, with mental health problems, with dyslexia and, a practical guide to Health and Safety and the Equality Act. Information or details of publications are available from the forum helpline on 0207 403 3020.

iv. Equality and diversity in employment policy
This policy covers statement of intent, objectives, definitions, legal context, responsibilities and complaints procedures.

v. Fixed-term employees - guidance
This is advice about the Fixed-term Employees Regulations 2002 which prevents unlawful discrimination against staff on the basis of their fixed-term status.

vi. Grievance procedure
This is a procedure for dealing with complaints of unfair treatment including allegations by members of staff of harassment or bullying.

vii. Part-time working – legislative framework and best practice guidance
This is a guide about the Part-time Employees Regulations 2002 which provides advice and guidance for school/academy about flexible working and fair and equal treatment of part-time staff.
viii. Pre-employment checks procedure – Information can be found on Essex School’s Infolink

ix. Recruitment policy
This policy sets out safer recruitment and selection procedures with guidance on legal requirements and best practice.

Approved by Governors: June 2016
Reviewed: Spring 2019
To be reviewed: Spring 2022

Appendix B - Ív.

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ST. TERESA’S CATHOLIC PRIMARY SCHOOL, LEXDEN, COLCHESTER

Equality and Diversity in Employment Policy

MISSION STATEMENT

We love God and each other and follow the example of St Teresa.
We enjoy learning together and doing our best in a happy, healthy and welcoming community.
We learn to be responsible and caring citizens.
“Let us do little things well today”.

St Teresa
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1. **Objective**

The purpose of this policy is to set out the school’s commitment to equal opportunities in employment and to avoiding unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and dismissal, performance and selection for redundancy.

This includes upholding its obligations under the Equality Act 2010 ("the Act") not to discriminate directly or indirectly in any of its activities against employees or applicants for employment on the grounds of the protected characteristics.

- Age
- Disability
- Gender re-assignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (which includes ethnic origin, colour, nationality and ethnic or national origins)
- Religion or belief
- Sex
- Sexual orientation

It further includes fulfilling its Public Sector Equality Duty, in carrying out its functions, to have due regard to the need to:

- Eliminate discrimination and other conduct that is prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it.
- Foster good relations across all characteristics, between people who share a protected characteristic and people who do not share it.

Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Definitions of terminology are at Appendix A. Further information about protected characteristics can be found at Appendix C.

This Policy complements the general equalities policies and procedures within the school which set out the school's commitments and obligations to the wider school community.

**Schools with a religious character**

As a school with religious character, certain exceptions can be applied in respect of appointments, remuneration, promotion and dismissal related to the religious tenets of the school. These are set out in Appendix E.
2. **Policy Statement**

The Governing Board is committed to:

- Promoting equality of opportunity and community cohesion where the diversity of different backgrounds and circumstances is appreciated and positively valued.
- Promoting the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance for those with different faiths and beliefs.

We expect all staff, volunteers and other workers to share this commitment. It is recognised that this can only be achieved through sound procedures, good inter-agency co-operation and the recruitment and retention of competent, motivated employees who are suited to, and fulfilled in the roles they undertake.

The Governing Board recognises the value of, and seeks to achieve a diverse workforce which includes people from different backgrounds, with different skills and abilities. We are committed to ensuring that recruitment and selection is conducted in a manner that is systematic, efficient, and effective and which promotes equality of opportunity. Selection will be on the basis of merit and ability, assessed against the qualifications, skills and competencies required to do the job. We will uphold obligations under law and national collective agreements to not discriminate against applicants for employment on the grounds of age, sex, sexual orientation, marital status, disability, race, colour, nationality, ethnic origin, religion or belief.

An equality statement will be provided to all applicants for jobs. The school may, where appropriate, apply positive action to encourage applications from particular groups where they are underrepresented in the workplace. In exceptional legitimate circumstances the school may apply a genuine occupational qualification to particular role (see Appendix A).

The school:

- Will take positive steps to create a culture through its governing board, managers and other employees, workers and volunteers, in which everyone can feel confident of being treated with fairness, dignity and respect.
- Aims to create a work environment in which all individuals are able to give their best; where all decisions are based on merit and which is free of harassment, victimisation and bullying.
- Will provide appropriate training and support to employees to secure understanding of, and compliance with, its aim and expectations.
- Will ensure that equality issues are considered and regularly reviewed, including assessing implications for people with particular protected characteristics as an integral part of our policy development and decision making processes.

Behaviour or actions by members of staff against the spirit and/or the letter of the law or this policy, including but not limited to acts of discrimination, bullying or victimisation against employees or others in the school community will be considered disciplinary matters and will be dealt with under the school’s Discipline and Dismissal Procedure and may, in some cases, lead to dismissal.
3. **Policy in practice**

The school has in place a range of employment related policies, procedures and practices which support and complement this Equality and Diversity in Employment Policy. These will be operated in a way which is consistent with the objectives of this Policy and Equality and Workload Impact Assessments on policies and procedures support this objective.

For the purposes of this Policy and the Act, the definition of ‘employee’ is extended to include:

- employees (those with a contract of employment);
- workers and agency workers (those with a contract to do work or provide services);
- self-employed people (where they have to personally perform the work).

The principles of this Policy also apply to Volunteers.

4. **Responsibilities**

It is recognised that everyone in the school community influences how equality and diversity is achieved and everyone has a responsibility to uphold the law and principles of equality of opportunity. In addition to these general responsibilities, there are other specific responsibilities.

4.1 **The Governing Board has responsibility for:**

- Determining, monitoring, reviewing and supporting the implementation of the Equality and Diversity in Employment Policy in consultation with relevant stakeholders.
- Ensuring employment and recruitment policies and practice are non-discriminatory in word and operation.
- Analysing and monitoring policy and practice and initiating appropriate action.
- Ensuring complaints are investigated and dealt with effectively.
- Ensuring appropriate training takes place for governors and employees.

4.2 **The headteacher and other managers have responsibility for:**

- Ensuring that the Equality and Diversity in Employment Policy is implemented.
- Ensuring recruitment, employment and management policies and practices are undertaking in accordance with the Policy.
- Ensuring the Policy is brought to the attention of all employees and that they all receive appropriate training.
- Treating all employees with dignity and respect and recognising and valuing individual skills and contributions.
- Creating an environment in which employees are able to identify and share good practice, celebrate success and encourage positive attitudes towards diversity.
- Dealing appropriately with breaches of this policy.
- Ensuring a member of the senior management team is the nominated lead on equality and diversity issues.

4.3 **All employees, volunteers and workers have a responsibility to:**

- Act within equalities legislation and to comply with school Policy.
- Treat everyone with dignity and respect and recognising and valuing individual skills and contributions.
- Take part in training and comply with measures introduced to ensure equal opportunities and non-discrimination.
• Report to their line manager, or other appropriate person, any breaches of this policy enacted against him/her or another person by another employee, pupil or another person connected with the business of the school.

Individuals can be held personally liable as well as, or instead of, the school for any act of unlawful discrimination. Individuals who commit serious acts of harassment may be guilty of a criminal offence. Where an act of harassment is alleged, the school will thoroughly investigate the alleged circumstances and provide additional training/support to individuals as considered appropriate.

5. Monitoring and reporting
The school will periodically monitor the application of its policies and procedures and their impact on staff and applicants to assess their effectiveness and revise them as necessary. The school is committed to engaging with relevant stakeholders in the review of policy and practice.

In particular, the school will monitor matters such as recruitment, promotion, training, pay, grievances, disciplinary action, leave of absence, flexible working, management of sickness absence and redundancy by reference to the protected characteristics of their employees. The school will consider and implement any appropriate action to address any issues that may be identified as a result of the monitoring process.

Information provided by job applicants and employees for monitoring purposes will be used only for these purposes. The school will publish such equality data as is required in accordance with the Equality Act and the Public Sector Equality Duty.

All data will be collected, held and processed in accordance with the Data Protection Act 1998 (as amended) and the General Data Protection Regulations (May 2018). Any publication of data will preserve anonymity.

6. Complaints
The school will make every effort to protect employees from discrimination and all concerns raised with the school will be handled in a positive and sensitive manner and in accordance with the appropriate policy/procedure.

Employees
Existing employees who feel they have been unfairly discriminated against, harassed, bullied or victimised should raise it in the first instance with their line manager or other manager where their own line manager is the subject of the complaint.

Employees should refer to the grievance procedure for further information. Employees will not be penalised for raising a grievance, even if the grievance is not upheld, unless their complaint is found to be both untrue and made in bad faith.

Applicants
Individuals who may be concerned that their application for employment has not been dealt with in accordance with this Policy should raise their concerns via the school complaints procedure.

Others
Visitors or other members of the school community who experience or witness discrimination, bullying, harassment or victimisation should report the matter to the headteacher in the first instance or via the school complaints procedure.

Appendix A
Definitions

1. Direct discrimination
1.1 Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic.

Direct discrimination could involve a decision not to employ someone, to dismiss them, withhold promotion or training, offer poorer terms and conditions or deny contractual benefits because of a protected characteristic.

Example: Not employing a woman because she is pregnant.

1.2 Discrimination by Perception
Discrimination by Perception is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic. Discrimination by perception does not apply, in law to marriage and civil partnership or pregnancy and maternity.

Example: A heterosexual employee is taunted about his sexuality by colleagues who perceive him to be gay.

1.3 Discrimination by Association
Discrimination by Association is discrimination against a person because they have an association with someone with a particular protected characteristic. Discrimination by Association applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex.

Example: Not offering a job to the parent of a disabled child because the employer thinks they will need more time off due to the child’s disability and there is no evidence to support this.

2. Indirect discrimination
Indirect discrimination is where a provision, criteria, policy or practice in the school is applied to everyone but particularly disadvantages people who share a protected characteristic compared with people who do not. Indirect discrimination can be justified if the school can show it acted reasonably, for example that it is a ‘proportionate means of achieving a legitimate aim’ (see 2.1).

Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability discrimination and gender reassignment. Pregnancy and maternity are covered by indirect sex discrimination.

Example: Having a policy not to employ anyone with facial hair in a kitchen for health and safety reasons. This policy may indirectly discriminate against certain religious groups.

2.1 Proportionate means of meeting a legitimate aim
There are limited circumstances where an employer may act in a way which is discriminatory, but where it can objectively justify discrimination as ‘a proportionate means of achieving a legitimate aim’.

In attempting to demonstrate a proportionate means of achieving a legitimate aim, an employer must show that:

- there is a legitimate aim such as a good business reason, but employers should note that cost alone is unlikely to be considered sufficient; and
- the actions are proportionate, appropriate and necessary.

The process of determining whether discrimination is justified involves weighing up the employer’s need against the discriminatory effect on the employee/group of employees with the protected characteristic.

A legitimate aim might be any lawful decision made in order to run the school effectively, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate really means being fair and reasonable, including showing that the school has looked at less discriminatory alternatives to any decision it has made.

Example: The long term aim of reducing inequality between the pay of men and women is always to be regarded as a legitimate aim. Short term pay protection schemes introduced with the aim of removing long-term inequalities in pay may therefore be capable of being objectively justified.
3. **Positive Action**

Positive action describes measures targeted at a particular group that are intended to redress past discrimination or to offset the disadvantages arising from existing attitudes, behaviours and structures. The school may use lawful measures which can include:

- Encouraging applications from people of particular racial groups or gender, who have been under-represented in certain occupations or grades during the previous 12 months.
- Providing facilities to meet any specific educational, training, or welfare needs identified for a specific racial group.
- Measures to provide training and special encouragement for returnees to the school after a period of time discharging domestic or family responsibilities.

Positive action is different from positive discrimination which is illegal. Positive discrimination generally means choosing (or not choosing) someone solely on the grounds of a protected characteristic (e.g., gender or racial group) and not on their abilities.

4. **Genuine Occupational Requirements**

Employers can exercise the powers available under the Equalities Act to appoint a person from a particular group, where there is a genuine occupational requirement.

An example of a genuine occupational requirement would be appointing a female to work in a shelter for female victims of domestic violence.

5. **Harassment**

Harassment can be defined as “improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person’s job security, create an intimidating, unwelcoming and stressful workplace, or cause personal offence or injury.” (ACAS)

Harassment can often be identified by a series of what seem to be trivial incidents. It is the impression of the harassed person, not the intentions or motivations of the harasser, which are important.

Harassment applies to all protected characteristics (see below) except for pregnancy and maternity and marriage and civil partnership. Employees can complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception (see 1.2 above) and association (see 1.3 above).

6. **Victimisation**

Victimisation is where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she is suspected of, or has:

- made, or supported, a complaint of discrimination;
- raised a grievance;
- brought proceedings under the Act; or
- done any other thing for the purposes of, or in connection with, the Act.

An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.
Appendix B

Equality and pay

Equal pay

The Act provides that men and women should receive equal pay for equal work. This means that in most circumstances a challenge to pay inequality and other contractual terms and conditions still has to be made by comparison with a real person of the opposite sex in the same employment. However, the Act allows a claim of direct pay discrimination to be made, even if no actual comparator can be found. This means that a claimant who can show evidence that they would have received better remuneration from the school if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work with the school. This would be a claim under sex discrimination.

Pay secrecy

The school will not prevent or restrict its employees from having discussions to establish if they believe pay differences exist that are related to a protected characteristic. The school may, in particular, require its employees to keep pay rates confidential outside the workplace e.g. a competitor organisation.

Gender pay gap reporting

The Government is introducing mandatory gender pay gap reporting for public sector employers with 250+ employees in April 2018.

The first publication of data is April 2018 but snapshot data must be collected on 5 April 2017. The data required is:

- mean and median hourly rates by gender;
- mean and median bonus payments (unclear what will constitute bonus pay) by gender;
- the proportions of each gender in each salary quartile.
Appendix C

The Protected Characteristics

Age

The Act protects people of all ages from unlawful discrimination.

Direct discrimination. Treating someone less favourably because of their actual or perceived age, or because of the age of someone with whom they associate. For example, advertising for job applicants under 25 years old only. This treatment can only be justified if it is a proportionate means of achieving a legitimate aim.

Indirect discrimination. This can occur where there is a provision, criteria or practice which applies to all employees, but particularly disadvantages people of a particular age. For example, a requirement for job applicants for a teaching post to have 5 years teaching experience may disadvantage younger people. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim, e.g. if the school can demonstrate this level of experience is necessary to achieve the desired knowledge and skills.

Disability

Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These include things like using a telephone, reading a book or using public transport. Long term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person’s life. Substantial means more than minor or trivial. In most circumstances, a person will have the protected characteristic of disability if they have had a disability in the past, even if they no longer have the disability. Individuals who are HIV positive, have cancer or MS are automatically protected.

Employers must make reasonable adjustments in the recruitment and employment of disabled people. This can include, for example, adjustments to recruitment and selection procedures, to terms and conditions of employment, to working arrangements and physical changes to the premises or equipment. In assessing the reasonableness of the adjustment, the employer should consider:

- proportionality and impact of the adjustment on the role;
- the costs/financial support available;
- medical opinion from the employee’s doctor and the occupational health advisor; and
- impact on the operational requirements of the school.

Direct discrimination. For example, not offering a job because someone is a wheelchair user.

Indirect discrimination. This is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a particular disability such that it would be to the detriment of people who share that particular disability compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

Discrimination arising from disability - occurs where an individual has been treated unfavourably because of something arising in consequence of a disability. There is no need for a comparator, and the reason for the unfavourable treatment is irrelevant. For example, not considering a teacher for promotion as they have been diagnosed with depression without considering whether the condition would actually impact on their ability to do the job and if it would, whether reasonable adjustments could be made to negate that impact.

This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know that the person has a disability.

There is an obligation on employers to make reasonable adjustments where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have the protected
characteristic or disability. The duty to make reasonable adjustments aims to make sure that a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person.

All the relevant individual circumstances must be considered when deciding what adjustments to make and the individual must be involved in discussions to ensure they are as effective as possible.

**Sharing health and absence information**

In accordance with the Act, employers may not request information concerning an individual’s sickness and attendance record prior to the selection stage. Once the preferred candidate has been selected, then sickness and attendance records can be obtained from the referee and applicant, as part of the pre-employment checks prior to a firm offer. The applicant must give their explicit consent for this information to be released. The interview panel may not ask general questions about the individual’s sickness and attendance record but may ask relevant questions to establish whether the applicant will be able to carry out a function that is intrinsic (e.g. majority of the work involves manual handling) to the work concerned once reasonable adjustments are in place.

**Gender reassignment**

Gender reassignment is a protected characteristic under the Act. This applies to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their gender by changing physiological or other attributes of sex. Gender reassignment is a personal process, that is moving away from one’s birth sex to the preferred gender, rather than a medical process. The law does not require a person to undergo a medical procedure to be recognised under the protected characteristic of gender reassignment.

Protection is provided where, as part of the process of reassigning their gender, an individual lives in a gender identity, which is different to the gender they were assigned at birth, for at least two years. Throughout this period they are protected by the Act.

In order to be protected under the Act, there is no requirement for an employee to inform their employer of their gender reassignment status or their gender at birth. However, if an employee is proposing to undergo gender reassignment or is still in the process of transitioning, they may want to discuss their needs with their employer so the employer can support them during the process. Once a transgender person has received gender reassignment surgery and is fully living in the gender they identify with there is no requirement to inform an employer of their gender at birth.

**Direct discrimination.** This is treating someone less favourably than other employees because of their gender reassignment, whether actual or perceived, or because they associate with someone who intends to undergo, is undergoing or has undergone gender reassignment.

**Indirect discrimination.** An example would be where an employer starts an induction session for new staff with an ice-breaker designed to introduce everyone in the room to the others. Each employee is required to provide a picture of themselves as a toddler. One employee is a trans woman who does not wish her colleagues to know that she was brought up as a boy. When she does not bring in her photo, the employer criticises her in front of the group for not joining in. It would be no defence that it did not occur to the employer that this employee may feel disadvantaged by the requirement to disclose such information. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

**Marriage and civil partnership**

The Act protects employees from discrimination on the grounds of being married or in a civil partnership.

Marriage covers any formal union of a man and woman which is legally recognised in the UK as a marriage. It also covers same sex couples who opt for a marriage. A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004, including those registered outside the UK. This is only open to same sex couples.

Only people who are married or in a civil partnership are protected against discrimination on this ground. The status of being unmarried or single is not protected. People who only intend to marry or form a civil partnership, or who have divorced or had their civil partnership dissolved, are not protected on this ground.

**Direct Discrimination.** This is where someone is treated less favourably than other employees on the grounds of them being married or in a civil partnership, actual or perceived, or because they are associated with a person who is married or in a civil
partnership. An example of this could be where an applicant for a job is treated less favourably because it is considered that they will not be as committed to the job as a single person because they have marital or partnership commitments.

**Indirect Discrimination.** This occurs if an employer has a policy or way of working that puts people who are married or in a civil partnership at a disadvantage.

**Pregnancy and maternity**

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any maternity leave to which she is entitled. During this protected period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Direct discrimination covers the unfavourable treatment of a woman, during the "protected period" in relation to her pregnancy or any illness suffered by her as a result of that pregnancy. Unfavourable treatment during the protected period because a woman is on compulsory maternity leave or she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave, is also covered. An example could be where an employee has been off work because of pregnancy complications since early in her pregnancy. Her employer has dismissed her in accordance with the sickness absence management policy. This policy is applied regardless of sex. The dismissal is unfavourable treatment because of her pregnancy and would be unlawful even if a man would be dismissed for a similar period of sickness absence, because the employer took into account the employer's pregnancy related sickness absence in deciding to dismiss.

Discrimination on the grounds of pregnancy/maternity can only be justified if it is a proportionate means of achieving a legitimate aim. For example it would be legitimate to dismiss a pregnant employee who had been found to have committed an act of gross misconduct as the reason for the dismissal was unconnected to the pregnancy.

**Race**

For the purposes of the Act, ‘race’ includes colour, nationality or ethnic or national origin. A person has the protected characteristic of race if they belong to a particular racial group. A racial group can be made up of two or more different racial groups (for example Black Britons).

**Direct discrimination.** Treating someone less favourably because of their actual race. The less favourable treatment can also relate to the person’s perceived race, even where the perception is wrong, or to the person’s association with someone who has, or is perceived to have, the protected characteristic.

**Indirect discrimination.** This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular race. An example could be a requirement for all job applicants to have GCSE Maths and English. People educated in countries which don’t have GCSE’s would be discriminated against if equivalent qualifications were not accepted. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

**Religion or belief**

In the Act, religion includes any form of religion which has a clear structure and belief system. It also includes a lack of religion - in other words employees or jobseekers are protected if they do not follow a certain religion or have no religion at all. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Belief means any religious or philosophical belief and also covers non-belief. To be protected, a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered a protected religion or religious belief. Political beliefs are not protected.

A belief need not include faith or worship of a God but must affect how a person lives their life or perceives the world. A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include Humanism and Atheism. For a philosophical belief to be protected under the Act:

- it must be genuinely held;
- it must be a belief and not an opinion or viewpoint based on the present state of information available;
• it must be a belief as to a weighty and substantial aspect of human life and behaviour;
• it must contain a certain level of cogency, seriousness, cohesion and importance;
• it must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.

**Direct discrimination.** This is where, because of the protected characteristic of religion or belief, a person treats another person less favourably than that person treats or would treat other persons. The less favourable treatment can relate to the person’s actual or perceived religion or belief, even where the perception is wrong, or to the person’s association with someone who has, or is perceived to have, the protected characteristic.

**Indirect discrimination.** This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular religion or belief and which the employer cannot show to be a proportionate means of achieving a legitimate aim.

An example would be where an employer announces that staff cannot wear their hair in dreadlocks, even if the locks are tied back. A policy amounts to a provision, criterion or practice. The decision to introduce the policy could be indirectly discriminatory because of religion or belief, as it puts Rastafarian employees at a particular disadvantage. The employer must show that the provision, criterion or practice can be objectively justified and is a proportionate means of achieving a legitimate aim.

**Sex**

A person’s sex refers to the fact that they are male and female.

**Direct discrimination.** Treating someone less favourably because of their actual or perceived sex, or because of the sex of someone with whom they associate.

**Indirect discrimination.** This can occur where there is a provision, criterion or practice that applies to all employees, but particularly disadvantages employees of a particular sex. For example, a requirement that job applicants must be six feet tall could be met by significantly fewer women than men.

**Sexual orientation**

Sexual orientation is a protected characteristic. It means a person’s sexual orientation towards:

• persons of the same sex (i.e. the person is a gay man or a lesbian);
• persons of the opposite sex (i.e. the person is straight/heterosexual); or
• persons of either sex (i.e. the person is bisexual)

Sexual orientation relates to how people feel as well as to their actions. Sexual orientation discrimination includes discrimination because someone is of a particular sexual orientation and it also covers discrimination connected with manifestations of that sexual orientation. These may include someone’s appearance, the places they visit or the people they associate with. It also includes a perception that someone has a particular sexual orientation based on their appearance, regardless of whether they do or do not.

**Direct discrimination.** Treating someone less favourably because of their actual or perceived sexual orientation, or because of the sexual orientation of someone with whom they associate.

**Indirect discrimination.** This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular sexual orientation and which the employer cannot show to be a proportionate means of achieving a legitimate aim. An example would be a particular family friendly policy that does not apply to same sex couples.
Appendix D
Supporting organisations and documentation

**Equality and Human Rights Commission**
The Equality and Human Rights Commission is the independent advocate for equality and human rights in Britain. It aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. It provides guidance for employers and education providers.

[https://www.equalityhumanrights.com/en/advice-and-guidance](https://www.equalityhumanrights.com/en/advice-and-guidance) A detailed list of further sources of advice and information is available at Section 5 of the following guidance:


**Department for Education Non-statutory Advice**
Non-statutory Guidance is available from the Department for Education relating to the Equality Act in the following publication:

The Equality Act 2010 and schools. Departmental advice for school leaders, school staff, governing bodies and local authorities


**Other organisations offering support and information:**
ACAS provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems, include detailed guidance on Equality and Diversity at Work.


**Age** - [http://www.ageuk.org.uk/](http://www.ageuk.org.uk/)
**Gender (sex)** - [http://www.fawcettsociety.org.uk/](http://www.fawcettsociety.org.uk/)
**Sexual orientation and gender identity** - [http://www.stonewall.org.uk](http://www.stonewall.org.uk)

**Disability**
For more information on disability you may be interested in looking at the following websites:

- Essex Coalition for Disabled People  [www.ecdp.org.uk](http://www.ecdp.org.uk)
- ECL Sensory Team  [www.eclsensoryservice.org](http://www.eclsensoryservice.org)
- Essex Sight  [www.essexsight.org.uk](http://www.essexsight.org.uk)
- Support4sight  [www.support4sight.org.uk](http://www.support4sight.org.uk)
- Deafblind UK  [www.deafblind.org.uk](http://www.deafblind.org.uk)
- Hearing Help Essex  [www.hearinghelpessex.org.uk](http://www.hearinghelpessex.org.uk)
- Disability Rights UK  [www.disabilityrightsuk.uk](http://www.disabilityrightsuk.uk)
- Scope  [www.scope.org.uk](http://www.scope.org.uk)
- MIND  [www.mind.org.uk](http://www.mind.org.uk)
Appendix E

Employment exceptions for schools with a religious character

Voluntary Aided Schools with a religious character

Teaching Staff
The governing board may give preference with regard to the appointment, remuneration and promotion of teachers at the school, to persons:

- whose religious opinions are in accordance with the tenets of the school; or
- who attend religious worship in accordance with those tenets; or
- who give, or are willing to give, religious education at the school in accordance with those tenets.

The governing board may have regard, in connection with the termination of the employment of a teacher, to any conduct by which is incompatible with the precepts of, or with the upholding of the tenets of the school.

Support staff
Voluntary aided schools may discriminate on religious grounds where being of a particular religion or religious denomination is a genuine occupational requirement (GOR) (It must not be assumed that a ‘blanket’ approach to GOR can be applied to all support staff. The governing board must be able to demonstrate that it is reasonable and proportionate for an employee to be of a particular religion or belief for the job in question.

The governing board cannot apply religious criteria in connection with the employment of a member of the school’s support staff who was in employment at the school on 1 September 2008, for as long as they continue to be employed at the school.

When considering whether a GOR might apply, governing bodies should consider the following issues:

- Do the duties for which the GOR is claimed represent a substantial part of the post and would the objectives of the job be achieved without the application of the faith requirement?
- Does the school have sufficient employees who could carry out the duties without undue inconvenience?

A GOR cannot be used to maintain a balance or quota of employees of a particular religion or belief.

The governing board should periodically consider whether the requirement continues to apply, particularly when recruiting, as jobs may change over time.

Religious criteria may not be applied to any other posts in a VA school unless there is a genuine occupational requirement (Employment Equality (Religion or Belief) Regulations 2003). This would need to be justified but might, for example, apply to a member of staff required to give pastoral care to pupils.

Foundation and voluntary controlled schools with a religious character

Headteachers
When appointing a headteacher who is not to be reserved teacher, the governing board of a school with a religious character may have regard to that person’s ability and fitness to preserve and develop the religious character of the school. The headteacher may also be a reserved teacher.
Reserved teachers

Where the number of teachers at foundation and voluntary controlled schools with a religious character is more than two, the teachers shall include persons who are selected for their fitness and competence to teach religious education in accordance with the school’s trust deed or with the tenets of the school and are specifically appointed to do so. These are known as ‘reserved teachers’. The number of reserved teachers must not exceed one fifth of the total number of teachers including the head teacher. The headteacher can be selected on these grounds but must count towards the one fifth quota (s 58 of the School Standards and Framework Act 1998).

Other teachers and support staff

Non-teaching staff and teachers other than those appointed as reserved teachers must not be treated unfavourably in any way because of their religious opinions or attendance at religious worship, they cannot be required to deliver RE and cannot be subjected to a detriment for not giving RE or attending worship.

Academies with a Religious Character

Academies, free schools and independent schools with a religious character generally operate under conditions which mirror those in VA schools. Specific terms will be set out in the Funding Agreement/Articles.

Reference documents

School Staffing Regulations 2009 (as amended)
The Equalities Act 2010 and Schools – Departmental advice May 2014

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