



REASONABLE ADJUSTMENTS POLICY FOR DISABLED STUDENTS

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REASONABLE ADJUSTMENTS POLICY FOR DISABLED STUDENTS

1.0 Introduction

- 1.1 The school is committed to treating its students fairly. According to the Equality Act 2010, we must take reasonable steps to ensure that disabled students are not put at a substantial disadvantage by comparison with students who are not disabled.
- 1.2 The declared aim of the school is to meet the unique needs of every student. This policy does not seek to cater for every situation but is intended as a general statement of our policy which sets out the principles underlying our approach to making adjustments for disabled students and the factors the school will take into account when considering requests for adjustments. Reference should be made to two other school policy documents which relate to reasonable adjustments: firstly, the school's Equality and Diversity policy; secondly, the Special Educational Needs policy. These contain specific examples of where adjustments can be made / have been made.
- 1.3 Schools and education authorities have had a duty to provide reasonable adjustments for disabled students since 2002: originally, under the Disability Discrimination Act 1995 (the DDA 1995); and, from October 2010, under the Equality Act 2010.

2.0 When does the duty arise?

- 2.1 We have a duty to make reasonable adjustments for students who are disabled under the Equality Act 2010 when they are put at a substantial disadvantage compared with student who do not have disabilities. The act defines a person as disabled if (s)he suffers from a physical or mental impairment that has substantial and long term adverse effect on his or her ability to carry out normal day-to-day activities. Substantial means an effect of value, real worth and importance. Long term means disabilities will have lasted or be likely to last for 12 months or more. (Special consideration is given to any student suffering from a temporary disability caused, for example, by an accident.)

3.0 What is the scope of the duty?

- 3.1 The school seeks to ensure that disabled students are not put at a substantial disadvantage by making reasonable adjustments:
1. To our policies, criteria and practices (ie the way we do things); and
 2. By providing auxiliary aids and services (ie additional support or assistance to access learning, trips or other College activities).

4.0 What is not covered?

4.1 We are not required to remove or alter physical features to comply with the duty to make reasonable adjustments for disabled students. Similarly, we do not need to provide auxiliary aids for personal purposes unconnected with the education and services provided by the school.

5.0 How is an adjustment requested?

5.1 The school will aim to always consider whether there is any adjustment it could make to overcome a substantial disadvantage suffered by a disabled student. However, the school will not always think of all possible adjustments.

5.2 If a child is disabled and Parents / Carers believe that (s)he is being put at a substantial disadvantage compared with students without disabilities and there is an adjustment that we could make which would overcome this, they should write to the Special Educational Needs Co-ordinator (SENCO) in the first instance.

6.0 What is the reasonable adjustments duty?

6.1 The duty is 'to take such steps as it is reasonable to have to take to avoid the substantial disadvantage to a disabled person caused by a provision, criterion or practice applied by or on behalf of a school, or by the absence of an auxiliary aid or service'.

6.2 In the Equality Act 2010 as a whole, there are three elements to the reasonable adjustments duty that relate to:

- Provisions, criteria and practices
- Auxiliary aids and services
- Physical features

7.0 What does the duty apply to?

7.1 The reasonable adjustments duty applies to disabled students, as defined in the Equality Act 2010.

7.2 The Act says that a student has a disability if he or she has a physical or mental impairment that has a long-term and substantial adverse effect on his or her ability to carry out normal day-to-day activities. Physical or mental impairment includes sensory impairments such as those affecting sight or hearing.

7.2 Some disabled students will also have special educational needs (SEN) and may be receiving support via school-based SEN provision or have a statement of SEN or an Education, Health and Care plan (EHC plan). The fact that a disabled student has SEN, an SEN statement or EHC plan does not take away a school's duty to make reasonable adjustments for that student.

8.0 The school's response

8.1 In some cases, the school will be able to agree to and implement the requested adjustment as soon as possible. In other cases, for example where the adjustment would be logistically difficult or more financially costly, we may need to consider in more detail how best to overcome the substantial disadvantage that the student is suffering and what measures it is reasonable for the school to take. In these cases, the school may seek input from teachers, other experts (such as doctors and/or educational psychologists), the Parent / Carer and the child in question.

9.0 How will the school decide whether an adjustment is reasonable?

9.1 When considering whether it would be reasonable to make the adjustment, the school will consider the following factors:

- whether it would overcome the substantial disadvantage the disabled child is suffering;
- the practicability of the adjustment;
- the effect of the disability on the student;
- the cost of the proposed adjustment;
- whether it will be provided under a Statement of Special Educational Needs or EHC Plan from the Local Authority;
- the school's resources;
- health and safety requirements;
- the need to maintain academic, musical, sporting and other standards;
- the interests of other students (and potential students).

10.0 Outcome

10.1 Once the school has determined whether the relevant adjustment is reasonable, we will make contact with the Parent / Carer, setting out the decision and the reasons.

11.0 What can Parents / Carers do if they are not happy with the school's decision?

11.1 If the Parent / Carer is not happy with the school's decision about the reasonableness of the adjustment, they should lodge a complaint using the school's Complaints Procedure.

12.0 Review

12.1 The Governing Body (or responsible committee) will review this policy in line with the procedure for policy review.

12.2 Date for Review

If no other reason for review (see policy review procedure) this policy will be reviewed in Autumn 2019.

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Appendix A

Information for staff in support of Reasonable Adjustments Policy for Disabled Students

Taken from Equality and Human Rights Commission www.equalityhumanrights.com published 2015

The reasonable adjustments duty is triggered only where there is a need to avoid 'substantial disadvantage'. 'Substantial' is defined as being anything more than minor or trivial. Whether a disabled student is at a substantial disadvantage or not will depend on the individual situation.

The student must be at a substantial disadvantage in comparison with non-disabled students.

Example — A visually impaired student who can see material only in 16pt font or larger will be at a substantial disadvantage compared to non-disabled students if materials are provided in smaller print with no equipment to magnify.

In other cases, it will not be so obvious, but it will be no less of a substantial disadvantage.

Example — A student diagnosed with chronic fatigue syndrome finds it harder to concentrate in lessons in the afternoon as a result of an increase in their tiredness.

What is meant by 'reasonable steps'

The duty to make reasonable adjustments requires schools to take what are referred to in the Act as 'reasonable steps' to make adjustments.

The Act does not say what is 'reasonable'. This allows flexibility for different sets of circumstances so that, for example, what is reasonable in one set of circumstances may not be reasonable in another.

The crux of the reasonable adjustments duty is whether it is something that is **reasonable** for the school to have to do. It is not possible for a school to justify a failure to make a reasonable adjustment; the question is only whether or not the adjustment is reasonable.

The extent to which special educational provision will be provided to the disabled student under Part 3 of the Children and Families Act 2014.

There is a significant overlap between those Students who are disabled and those who have SEN.

Many disabled Students may receive support in school through the SEN framework. In some cases, the substantial disadvantage that they experience may be overcome by support received under the SEN framework.

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In other cases, a disabled student may need reasonable adjustments to be made in addition to the special educational provision that he or she is receiving.

Example — An infant school disabled student with attention deficit hyperactivity disorder (ADHD) receives some individual teaching assistant support through the SEN framework. He is diagnosed with severe asthma and needs assistance with his nebuliser. Although this is not a special educational need, his asthma is likely to be a disability for the purpose of the Act and so a failure to provide a reasonable adjustment will place him at a substantial disadvantage. The school trains his teaching assistant and she provides him with the assistance that he needs. This would be a reasonable adjustment for the school to make.

Some disabled Students are not classified as having SEN, but if they are disabled and are suffering a substantial disadvantage, they may still need reasonable adjustments to be made.

Example — A disabled student at an infant school has diabetes, and requires daily support with reading blood sugar levels and insulin injections. He is not classified as having SEN and therefore receives no support through the SEN framework. He is, however, disabled and therefore, if the lack of daily support places him at a substantial disadvantage, the school would be under a duty to make the adjustment of providing the support, if it would be reasonable to do so.

The resources of the school and the availability of financial or other assistance

It is more likely to be reasonable for a school with substantial financial resources to make an adjustment with a significant cost than for a school with fewer resources. The resources available to the school as a whole in practice – such as its staffing levels – should be taken into account, as well as other calls on those resources. The reasonableness of an adjustment will depend not only on the resources available in practice for the adjustment, but also on all other relevant factors (such as effectiveness and practicability). It may also be relevant to consider what other similar schools spend on adjustments.

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Example — A disabled student with cerebral palsy uses a manual wheelchair occasionally, but not every day. The wheelchair that he normally uses is being repaired and so he is having difficulties moving around the school. The school has a wheelchair that it allows him to use in school until his is repaired. This is a reasonable adjustment for the school to make because the school already has this resource available to it. However, if the school did not have a wheelchair, it would not be expected to purchase one for the student as a reasonable adjustment.

If a disabled student has a particular piece of special or adapted equipment that he or she is prepared to use while at school, it may be reasonable for the school to allow the use of the equipment.

The financial and other costs of making the adjustment

If an adjustment costs little or nothing to implement, it is likely to be reasonable to do so unless some other factor (such as practicability or effectiveness) makes it unreasonable. The costs to be taken into account include those of staff and other resources. The significance of the cost of a step may depend in part on what the school might otherwise spend in the circumstances and also on what other schools, in similar situations, might spend.

In assessing the likely costs of making an adjustment, the availability of external funding should be taken into account. The latter is most likely to be significant when funding is available through the SEN framework.

The effectiveness of the step in avoiding the disadvantage

Schools need to think carefully about what adjustments can be made to avoid the disadvantage experienced by the individual disabled student. Even Students with the same disability might need different adjustments to overcome the disadvantage. It is important not to make assumptions about a disabled student's needs, or generalisations.

The practicability of the adjustment

It is more likely to be reasonable for a school to have to make an adjustment that is easy than one that is difficult, although in some circumstances it may be reasonable to have to make an adjustment, even if it is difficult.

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Examples —

- A visually impaired child requires printed handouts to be prepared in 16 pt font or larger. This can easily be accommodated by ensuring that fonts are reset to this size prior to any documentation being printed.
- A student who is a wheelchair user is unable to access classes on the first floor. A reasonable adjustment would be for the school to rearrange the timetabling and location of classes so that all of her classes are on the ground floor. Although this may be difficult, it does not mean it is not a reasonable adjustment for the school to make. If specialist facilities such as science labs are available only on the first floor, then it may not be possible to move classes that require the use of the specialist equipment to a different classroom; in this case, the school will need to consider what other adjustments it could make to enable the disabled student to access learning opportunities equivalent to those of her peers.

The effect of the disability on the individual

The effect of a disability on a particular student will affect the adjustments that it is reasonable for a school to make.

Example —

- A disabled student with dyslexia finds it very difficult to read text typed on white paper. The school provides handouts on yellow paper for her. This would be a reasonable adjustment for this student.
- Another disabled student with dyslexia finds it difficult to read text on **any** colour of paper without a plastic overlay sheet. The school provides the student with a plastic overlay sheet to use in all lessons. This would be a reasonable adjustment for this student.

Health and safety requirements

The Act does not override health and safety legislation. If making a particular adjustment would increase the risks to the health and safety of any person (including the disabled student in question), then this is a relevant factor in deciding whether it is reasonable to make that adjustment.

However, as with the approach to any question of health and safety, and risk assessment, schools are not required to eliminate all risk. Suitable and sufficient risk assessments should be used to help the school to determine where risks are likely to arise and what action can be taken to minimise those risks. Risk assessments should be specific to the individual student and the activities in question. Proportionate risk management relevant to the disability should be an ongoing process throughout a disabled student's time at the school.

There might be instances in which, although an adjustment could be made, it would not be reasonable to do so because it would endanger the health and safety either of the disabled student or of other people. There might be other instances in which schools could make anticipatory reasonable adjustments in line with health and safety legislation, ensuring compliance with, and not infringing, that legislation.

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Health and safety issues must not be used inappropriately to avoid making a reasonable adjustment. Schools should avoid making uninformed assumptions about health and safety risks.

Examples —

- A disabled student with epilepsy applies to be admitted to his local primary school. His parents speak to the head teacher and express their concern that someone at the school needs to be trained to provide the necessary medical support if the student has a seizure in school. The head teacher carries out a risk assessment, and seeks advice from the local authority and from another school in the area with a student with epilepsy. She identifies that the risks decrease the more members of staff are trained and able to assist in the case of a seizure. The head teacher decides to provide training to all staff, teaching and non-teaching, as part of an Inset day; then, after the training has been undertaken, she asks staff to volunteer to agree to support the student and to administer the necessary medication. The head teacher also puts in place an individual healthcare plan for the student, which includes instructions on how the medication is to be administered, and the need for a second adult to witness the dosage and administration of the medication. Although no individual member of staff is required to undertake the training, by offering it to all staff it is possible to maximise the number of people who can assist, to raise staff awareness generally and to minimise the health risk for the student. This could be a reasonable adjustment for the school to make.

The need to maintain academic, musical, sporting and other standards

The reasonable adjustments duty does not prevent a school from choosing its best footballers, singers or mathematicians where a consideration of standards is relevant, for example in an inter-school competition. However, it should not be assumed that a consideration of standards will mean that a disabled student will be barred from an activity.

The interests of other students and prospective students

Ordinarily, the interests of other students regarding the reasonable adjustments required by a disabled student will be irrelevant. However, there are limited circumstances in which the provision of a particular reasonable adjustment for a disabled student will disadvantage other students. This is relevant only where the adjustment results in significant disadvantage for other students. In such a case, it may not be reasonable to expect the school to make the adjustment.

Example — A disabled student has a skin condition that is aggravated by cold and his parents ask that his classroom is kept at a very hot temperature. However, this would mean that the other students in the class would be uncomfortably hot. The school may not be expected to keep the classroom at the requested temperature, but it could take other steps, such as raising the classroom temperature to a level that is still comfortable for other students, placing the student in the hottest part of the room, such as by a radiator, and relaxing the school uniform policy to allow him to wear warmer and more comfortable clothing.

There will, however, be other instances in which there is a duty to make an adjustment despite some inconvenience to others. In deciding what adjustments are reasonable, it is

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important to weigh the level of inconvenience to others against the substantial disadvantage faced by the disabled student.

Examples —

- A primary school plans a school trip to a local history museum in its town to undertake some activities. One of the students in the class is deaf and, because the museum does not have a hearing loop installed, she will be unable to participate in the trip. The school decides to change the trip and attend a museum in a neighbouring town, which has a hearing loop. Although this will cause some inconvenience to the other students because the travel time to and from school is longer, the school decides that this is a reasonable adjustment to make given the substantial disadvantage faced by the disabled student if she is unable to attend the trip.
- A secondary school takes its year 7 students on a week-long outdoor activity course every year. The school always goes to the same place, which offers a wide range of exciting activities in which the students can participate. This year, one of the year 7 disabled students has to have kidney dialysis on a daily basis, so needs to be able to return home every day. In deciding on what adjustment to make for the disabled student, the school considers cancelling the trip and seeking an alternative, such as day trips closer to the school. The school weighs up whether denying students the opportunity to attend the week-long trip is reasonable and decides to stick with the planned trip to the outdoor activities centre so that students do not miss out on this valuable residential experience, and are not required to travel to and from activities each day. But, to minimise the disadvantage faced by the disabled student, the school arrange for transport from his home to attend the centre for day visits on three days of the week, so that the student has the benefit of being able to participate in the activities with his peers. If the school had not made this adjustment, he would not have been able to participate at all. This is likely to be a reasonable step for the school to have to take. It is unlikely to be reasonable for the school to have to alter its decision to undertake the week-long activities course.

Charging for providing reasonable adjustments

It is unlawful for a school to charge a student for making a reasonable adjustment in any circumstances, whatever the financial cost to the school and however the school is funded. The cost of an adjustment is one of the factors to be taken into account when considering whether or not the adjustment is reasonable.

Example — An independent school provides a dyslexic disabled student with overlay sheets to assist him in reading text, along with weekly sessions with a specialist teacher. The school adds the cost of these adjustments to the student's school fees. This would be discrimination.

School Trips

School trips, including field trips and residential trips are often an important part of school life for pupils. You should seek to ensure that any trips that you arrange do not discriminate against any of your pupils. However, in some limited cases it may be impossible to make a school trip accessible for all pupils and the learning needs of other pupils should be part of the

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decision making process. Cancelling the trip because a disabled pupil can't attend where it puts other pupils at a disadvantage may not be the best or only decision.

For example: A school plans a trip to a natural history museum. A pupil with Down's syndrome is excluded from the trip as the school believes she will not be able to participate in the activities provided by the museum for school groups. This is likely to be unlawful direct disability discrimination.

Forward planning will assist you in arranging trips which all pupils are able to participate in. Offering a range of different trips and activities may also help to ensure no pupils are excluded from taking part.

Arranging residential trips that coincide with religious festivals or holidays might prevent pupils from certain religions being able to attend and result in indirect discrimination.

The risk assessments that you carry out in relation to school trips should include a consideration of the reasonable adjustment needs of disabled pupils and it is good practice to seek ways of including rather than excluding such pupils on trips.

For example: As part of their risk assessment for a school trip to an outdoor activity centre, school staff visit the centre and speak with staff to decide what reasonable adjustments are needed for disabled pupils to fully participate on the trip. Some pupils have mobility issues so hoists are provided for these pupils for rock-climbing activities. Support staff attend the trip to assist pupils with higher level needs and all staff receive medical training. This is an example of making reasonable adjustments for disabled pupils and demonstrates a good practice approach to inclusion.

Work Experience/Placements

Pupils should be given the same opportunities for work experience and placements and assumptions shouldn't be made about what would suit pupils with particular protected characteristics; for example, assuming that only boys would be interested in placements involving bricklaying or car maintenance or that only girls would be interested in hairdressing.

Although you are unlikely to be held to be responsible for any discrimination which occurs while a pupil is on work experience, putting in place effective communication with work experience providers and supporting pupils while they are on placement will help to reduce the chances of discrimination during work experience.

Assessments and exams

As well as public exams such as SATs or GCSEs, which are set by external bodies, you will be assessing pupils regularly using a variety of methods. Reviewing your assessment methods will help you to ensure that you do not discriminate when assessing pupils. Assuming a uniformity in pupils' cultural, linguistic, religious or lifestyle experiences could result in you indirectly discriminating against pupils from particular racial groups.

You may need to make reasonable adjustments during assessment for disabled pupils such as extra time or rest breaks, or to the assessment method such as allowing a disabled pupil to submit their work in an accessible format.

Behaviour and discipline

Reviewing behaviour and discipline policies regularly will help you to ensure that they do not inadvertently discriminate. Thinking about the reasons behind a pupil's behaviour may help

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you to identify instances of bullying or disability-related behaviour. Section 5 deals with exclusions from school.

Protected Characteristics

The protected characteristics for the school's provisions are:

- Disability.
- Gender reassignment.
- Pregnancy and maternity.
- Race.
- Religion or belief.
- Sex.
- Sexual orientation.
- Age and marriage and civil partnership are NOT protected characteristics for the school's provisions.

Disability

A person is a disabled person (someone who has the protected characteristic of disability) if they have a physical and/or mental impairment which has what the law calls 'a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'.

There is no need for a person to have a medically diagnosed cause for their impairment; what matters is the effect of the impairment not the cause.

In relation to physical impairment:

Conditions that affect the body such as arthritis, hearing or sight impairment (unless this is correctable by glasses or contact lenses), diabetes, asthma, epilepsy, conditions such as HIV infection, cancer and multiple sclerosis, as well as loss of limbs or the use of limbs are covered.

HIV infection, cancer and multiple sclerosis are covered from the point of diagnosis.

Severe disfigurement (such as scarring) is covered even if it has no physical impact on the person with the disfigurement, provided the long-term requirement is met (see below).

People who are registered as blind or partially sighted, or who are certified as being blind or partially sighted by a consultant ophthalmologist, are automatically treated as disabled under the Act.

Mental impairment includes conditions such as dyslexia and autism as well as learning disabilities such as Down's syndrome and mental health conditions such as depression and schizophrenia.

The other tests to apply to decide if someone has the protected characteristic of disability are:

The length the effect of the condition has lasted or will continue: it must be long term. 'Long term' means that an impairment is likely to last for the rest of the person's life, or has lasted at least 12 months or where the total period for which it lasts is likely to be at least 12 months. If the person no longer has the condition but it is likely to recur or if the person no longer has the condition, they will be considered to be a disabled person.

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Whether the effect of the impairment is to make it more difficult and/or time-consuming for a person to carry out an activity compared to someone who does not have the impairment, and this causes more than minor or trivial inconvenience.

If the activities that are made more difficult are 'normal day-to-day activities' at work or at home.

Whether the condition has this impact without taking into account the effect of any medication the person is taking or any aids or assistance or adaptations they have, like a wheelchair, walking stick, assistance dog or special software on their computer. The exception to this is the wearing of glasses or contact lenses where it is the effect while the person is wearing the glasses or contact lenses, which is taken into account.

For example: Someone who has ADHD might be considered to have a disability even if their medication controls their condition so well that they rarely experience any symptoms, if without the medication the ADHD would have long-term adverse effects.

Progressive conditions and those with fluctuating or recurring effects are included, such as depression, provided they meet the test of having a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

Gender reassignment

Gender reassignment is a personal process (rather than a medical process) which involves a person expressing their gender in a way that differs from or is inconsistent with the physical sex they were born with.

This personal process may include undergoing medical procedures or, as is more likely for school pupils, it may simply include choosing to dress in a different way as part of the personal process of change.

A person will be protected because of gender reassignment where they:

make their intention known to someone – it does not matter who this is, whether it is someone at school or at home or someone like a doctor:

once they have proposed to undergo gender reassignment they are protected, even if they take no further steps or they decide to stop later on they do not have to have reached an irrevocable decision that they will undergo gender reassignment, but as soon as there is a manifestation of this intention they are protected start or continue to dress, behave or live (full-time or part-time) according to the gender they identify with as a person undergo treatment related to gender reassignment, such as surgery or hormone therapy, or have received gender recognition under the Gender Recognition Act 2004.

It does not matter which of these applies to a person for them to be protected because of the characteristic of gender reassignment.

This guidance uses the term 'transsexual person' to refer to someone who has the protected characteristic of gender reassignment.

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Pregnancy and maternity

The Act lists pregnancy and maternity as a protected characteristic. Pregnancy and maternity discrimination is covered in [Section 2](#).

Race

Race means a person's:

- colour, and/or
- nationality (including citizenship), and/or
- ethnic or national origin

and a racial group is composed of people who have or share a colour, nationality or ethnic or national origins.

A person has the protected characteristic of race if they belong to a particular racial group, such as 'British people'.

Racial groups can comprise two or more racial groups such as 'British Asians'.

Religion or belief

The protected characteristic of religion or belief includes any religion and any religious or philosophical belief. It also includes a lack of any such religion or belief.

A religion need not be mainstream or well known to gain protection as a religion. It must, though, be identifiable and have a clear structure and belief system.

Denominations or sects within religions may be considered a religion. Cults and new religious movements may also be considered religions or beliefs.

Belief means any religious or philosophical belief and includes a lack of belief.

'Religious belief' goes beyond beliefs about and adherence to a religion or its central articles of faith and may vary from person to person within the same religion.

A belief which is not a religious belief may be a philosophical belief, such as humanism or atheism.

A belief need not include faith or worship of a god or gods, but must affect how a person lives their life or perceives the world.

For a belief to be protected by the Equality Act:

- It must be genuinely held.
- It must be a belief and not an opinion or viewpoint based on information available at the moment.
- It must be a belief as to a weighty and substantial aspect of human life and behaviour.
- It must attain a certain level of cogency, seriousness, cohesion and importance.
- It must be worthy of respect in a democratic society.

It must be compatible with human dignity and not conflict with the fundamental rights of others.

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Sex

A person's sex refers to the fact that they are male or female. In relation to a group of people, it refers to either men or women or to either boys or girls.

Sexual orientation

Sexual orientation means the attraction a person feels towards one sex or another (or both), which determines who they form intimate relationships with or are attracted to.

Some people are only attracted to those of the same sex (lesbian women and gay men).

Some people are attracted to people of both sexes (bisexual people).

Some people are only attracted to the opposite sex (heterosexual people).

Everyone is protected from being treated worse because of sexual orientation, whether they are bisexual, gay, lesbian or heterosexual. Sexual orientation discrimination also covers discrimination connected with manifestations of that sexual orientation.

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Appendix B

Taken from Guidance on matters to be taken into account in determining questions relating to the definition of disability.

An illustrative and non-exhaustive list of factors which, if they are experienced by a person, it would be reasonable to regard as having a substantial adverse effect on normal day-to-day activities.

Whether a person satisfies the definition of a disabled person for the purposes of the Act will depend upon the full circumstances of the case. That is, whether the substantial adverse effect of the impairment on normal day to-day activities is long term.

In the following examples, the effect described should be thought of as if it were the only effect of the impairment.

- Difficulty in getting dressed, for example, because of physical restrictions, a lack of understanding of the concept, or low motivation;
- Difficulty carrying out activities associated with toileting, or caused by frequent minor incontinence;
- Difficulty preparing a meal, for example, because of restricted ability to do things like open cans or packages, or because of an inability to understand and follow a simple recipe;
- Difficulty eating; for example, because of an inability to co-ordinate the use of a knife and fork, a need for assistance, or the effect of an eating disorder;
- Difficulty going out of doors unaccompanied, for example, because the person has a phobia, a physical restriction, or a learning disability;
- Difficulty waiting or queuing, for example, because of a lack of understanding of the concept, or because of pain or fatigue when standing for prolonged periods;
- Difficulty using transport; for example, because of physical restrictions, pain or fatigue, a frequent need for a lavatory or as a result of a mental impairment or learning disability;
- Difficulty in going up or down steps, stairs or gradients; for example, because movements are painful, fatiguing or restricted in some way;
- A total inability to walk, or an ability to walk only a short distance without difficulty; for example, because of physical restrictions, pain or fatigue;
- Difficulty entering or staying in environments that the person perceives as strange or frightening;
- Behaviour which challenges people around the person, making it difficult for the person to be accepted in public places;
- Persistent difficulty crossing a road safely, for example, because of physical restrictions or a failure to understand and manage the risk;
- Persistent general low motivation or loss of interest in everyday activities;
- Difficulty accessing and moving around buildings; for example, because of inability to open doors, grip handrails on steps or gradients, or an inability to follow directions;

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- Difficulty operating a computer, for example, because of physical restrictions in using a keyboard, a visual impairment or a learning disability;
- Difficulty picking up and carrying objects of moderate weight, such as a bag of shopping or a small piece of luggage, with one hand;
- Inability to converse, or give instructions orally, in the person's native spoken language;
- Difficulty understanding or following simple verbal instructions;
- Difficulty hearing and understanding another person speaking clearly over the voice telephone (where the telephone is not affected by bad reception);
- Persistent and significant difficulty in reading or understanding written material where this is in the person's native written language, for example because of a mental impairment, or learning disability, or a visual impairment (except where that is corrected by glasses or contact lenses);
- Intermittent loss of consciousness;
- Frequent confused behaviour, intrusive thoughts, feelings of being controlled, or delusions;
- Persistently wanting to avoid people or significant difficulty taking part in normal social interaction or forming social relationships, for example because of a mental health condition or disorder;
- Persistent difficulty in recognising, or remembering the names of, familiar people such as family or friends;
- Persistent distractibility or difficulty concentrating;
- Compulsive activities or behaviour, or difficulty in adapting after a reasonable period to minor changes in a routine.

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Appendix C

Taken from Equality and Human Rights Commission www.equalityhumanrights.com
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Frequently asked questions (FAQs)

Auxiliary aids

Q: What has changed since September 2012?

A: Schools and local authorities now have additional obligations towards disabled students to provide what are called 'auxiliary aids and services' to overcome disadvantages that these students experience in schools.

Q: Is that not something with which the SEN framework deals?

A: Many disabled children will have statements of SEN or EHC plans and auxiliary aids that are necessary as part of their SEN provision will be provided through the statement or EHC plan. In these cases, the schools will be under no obligation to duplicate that support. The great majority of children with SEN do not have statements or EHC plans, however, and that will include disabled children who require auxiliary aids or services to prevent them being at a substantial disadvantage. Many schools will already be doing this and so it will add little or nothing to their existing regime. But it is important that all staff know about these new obligations.

Q: What if we do not have the money or resources to do this?

A: The Act obliges schools to make only 'reasonable' adjustments. Cost and resources are factors that are taken into account in determining what is 'reasonable'. It is important to document carefully any decisions taken on reasonable adjustments, so that they can be justified to parents and/or a tribunal.

Q: What sort of things might we have to do?

A: Schools may have to provide a disabled student with:

- A piece of equipment
- Assistance from a sign language interpreter, lip-speaker or deaf-blind communicator
- Extra staff assistance
- An electronic or manual notetaking service
- Induction loop or infrared broadcast system
- Videophones
- Audio-visual fire alarms
- Readers for people with visual impairments
- Assistance with guiding
- An adapted keyboard
- Specialised computer software

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- Q:** If a school provides a disabled student with a piece of equipment, whose responsibility is it to ensure that the equipment is looked after and is repaired when necessary?
- A:** The reasonable adjustments duty includes making sure that the reasonable adjustment provided actually works, so the school would be responsible for the maintenance and repair of the piece of equipment. However, schools may want to work with other schools in their local area or with the local authority to share resources both in terms of equipment, and the maintenance and repair of equipment.
- Q:** Are individual schools expected to meet the cost of auxiliary aids and services if they already pay into a central local authority budget to meet such costs?
- A:** Centrally organised and funded aids and services are often the most effective and efficient way of meeting the needs of disabled children. In some situations, individual schools pay an amount into a local authority 'pot' set up to meet the cost of access needs and are able to draw on that pot for such needs; or a local authority may provide auxiliary aids and services out of funds that it would otherwise pass on to schools for such aids and services. It is unlikely, in these circumstances, to be reasonable for an individual school to pay any more in providing additional aids and services.
- Q:** A student needs a hearing aid when at school, but also when not at school. Should the school be providing the hearing aid for the child to use all of the time?
- A:** The school's duty is to avoid the substantial disadvantage experienced by the disabled student while he or she is accessing the education and other benefits, facilities and services that the school provides to students. A school is not required to provide anything that the student requires outside of education - but there may be circumstances in which the school allows the student to use a piece of equipment provided by it in other circumstances. For example, where a school has provided a student with an MP3 player in order to record lesson notes, it may then allow the student to use that MP3 player when attending a holiday club.
- Q:** Can a school charge disabled students or their parents for the additional cost of providing auxiliary aids?
- A:** No. The Act prohibits schools from passing on the cost of reasonable adjustments to the disabled student or his or her parents.

Q: It can be difficult to include disabled students on residential school trips. Would it be better to cancel such trips to ensure that disabled students are not discriminated against?

A: The Act does not require a school to cancel school trips or any other activities arranged for students, but it does require a school to look at ways in which to ensure that disabled students are given the same opportunities to participate as other students. This might include considering alternative trips to those previously arranged by the school, providing additional assistance to enable the disabled student to attend or allowing the disabled student to attend for only some of the trip. By working with disabled students and their parents, who will have experience of taking their children on trips and outings, and learning from the experiences of other schools, schools are likely to be able to come up with solutions that mean that everyone is able to benefit from the trip or activity.

Other issues

Q: If a school does not know that a student is disabled, is it still required to make reasonable adjustments?

A: In the majority of cases, schools will be aware of a child's disability for a number of reasons, such as the arrangements for the assessment of and the provision of special educational needs through the SEN framework. In many cases, parents will volunteer information about their child's disability. It may not be immediately obvious that a child is disabled. Underachievement and unexplained behaviour may, in some cases, indicate an underlying disability that has not yet been identified.

The duty to make reasonable adjustments is an anticipatory duty. This means that it requires consideration of, and action in relation to, barriers that impede people with one or more kinds of disability prior to an individual disabled student seeking to access the school. Schools should therefore not wait until a disabled person approaches them before they give consideration to their duty to make reasonable adjustments, and should anticipate the requirements of disabled students and the adjustments that may have to be made for them.

Q: If a student asks a school to keep his or her disability confidential, does this mean that a school does not have to make any adjustments?

A: Disabled students and their parents have a right to request that a student's disability be treated as confidential. In this case, what is reasonable for the school to do must be consistent with the request for confidentiality. The school still has a duty to make reasonable adjustments, but might make different adjustments from those that it would have made if there had not been a confidentiality request.

Q: Does the duty apply to independent schools?

A: The duty applies to all schools in England irrespective of how they are funded or managed.

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Case studies

Example — A child with a recent diagnosis of dyslexia and Asperger's syndrome attends an independent school, and has been refused a statutory assessment by his local authority. His parents believe that he needs some one-to-one support and specialist teaching, because he is falling behind his peers.

Q: Is he at a substantial disadvantage?

A: Because he is falling behind with his schoolwork, this may be an indication that the student is at a substantial disadvantage. If the school doubts that he is at a substantial disadvantage, then it could carry out or arrange an assessment to obtain more information about any disadvantage that he is experiencing (and about the steps that could be taken to avoid any substantial disadvantage).

Q: Could the disadvantage be avoided?

A: If the assessment shows that the student is at a substantial disadvantage compared to non-disabled students, some one-to-one support and specialist teaching could help the school to avoid the disadvantage. If it suggests that he is not at a substantial disadvantage, then the school is not required to make any reasonable adjustments.

Q: Is it reasonable for the school to take these steps?

A: This will depend on the resources available to the school and the other factors listed above. If the school feels that this is support that should be provided by the local authority through an EHC plan, then the school could advise the parents of this and of how to request a statutory assessment. The school can also request that the local authority carries out a statutory assessment.

Example — A disabled student requires assistance with personal care needs, such as toileting, washing and dressing. This assistance is provided during the school day by a learning support assistant provided through his EHC plan. The school arranges a residential school trip for his year group. The student wishes to attend, but is not able to do so unless his personal care needs are met.

Q: Is he at a substantial disadvantage?

A: Yes: he is unable to attend the trip with his peers. This means that he is missing out on an additional valuable learning experience available to non-disabled students in his class.

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Q: Could the disadvantage be avoided?

A: The following options could avoid the disadvantage and enable the student to attend:

- asking his learning support assistant to go on the trip and provide support beyond the normal school day;
- liaising with social services to see if any support can be provided by them; and
- discussing with the student and his parent's ways in which they think the support could be provided, such as a family member going on the trip to provide the overnight support.

Q: Is it reasonable for the school to take these steps?

A: These steps are all potentially reasonable depending on the circumstances. If it is not possible for the school to find a reasonable means of enabling the student to attend, then it should consider whether there is an alternative equivalent trip that could be organised for that year group in which the disabled student would be able to participate.

Example — A student with physical difficulties starts at a primary school partway through the school year, having recently moved to the UK from abroad. His parents request that the local authority carry out a statutory assessment, because they think that he will need an EHC plan. It is likely that any additional support that he needs will be provided through an EHC plan, but in the meantime, until the statutory assessment process is completed and an EHC plan issued, the student is struggling to access education, because he is unable to move around the school without assistance and needs help with writing, and with lifting and moving books and other learning materials.

Q: Is he at a substantial disadvantage?

A: Yes. He is unable to access education in the same way as his peers.

Q: Could the disadvantage be avoided by the provision of an auxiliary aid or service?

A: Yes – by means of individual and specialist support.

Q: Is it reasonable for the school to take this step?

A: Although support would ultimately be provided through his EHC plan, it is likely to be reasonable for the school to put in place at least some support to enable the student to access education in the meantime.

Example — A child with Asperger’s syndrome attends a school and is provided with transport in the form of a school bus that stops near to her home and then goes to the school. She wants to attend an afterschool activity and, although there is a bus that she could catch home, she would need to change buses and is not familiar with the route.

Q: Is she at a substantial disadvantage?

A: Yes. She cannot attend the afterschool activity.

Q: Could the disadvantage be avoided by the provision of an auxiliary aid or service?

A: Yes – by providing individual transport. Alternatively, the school could support the student to develop her independent travelling skills, which might include someone escorting her on the bus the first few times or practising the route with her.

Q: Is it reasonable for the school to take this step?

A: There are specific arrangements in place for transporting disabled learners to and from school, but this is not part of the Equality Act 2010. The reasonable adjustments duty on after-school activity providers, where they are operating independently from the school, does not include transport to and from the premises. The law regarding provision of transport for education purposes falls on the local authority to provide transport to and from school during the compulsory part of the school day, which ensures that disabled children are able to attend school.

There may be some flexibility where the after school provision is provided for, or commissioned by, the school, hence is a benefit, facility or service provided by the school, and this could include the support described above. Also, in circumstances where transport is being provided for non-disabled learners for after-school activities, such transport must be fully accessible for disabled learners as well. The transport provider may well charge for this transport, but is not allowed to charge more for disabled learners.