

Werrington Primary School

Discrimination

Policy Statement For SEN and Disability Discrimination

Updated December, 2005

Policy Statement

1. The Act
2. Links with SEN
3. Two Core Duties

Every member of the Werrington Primary School Community is entitled to the same opportunities regardless of colour, race, gender or disability. No one is excluded from belonging to the School because they are seen to be different.

Accessibility

The School will be constantly monitored for accessibility for all and when necessary, modifications made. This will be done through liaison with the LEA and Access Plans.

Staff Development

Members of staff will have the responsibility of developing their understanding of disabilities that may be evident in school and will involve agencies related to the disability eg Scope, Downs Society.

Exclusion

No child will be excluded from school because of a disability. All children will be treated with equal fairness.

Responsibilities

The Senco will monitor all the learning needs for children with disability and ensure regular reviews are held.

The Governing Body will be kept informed through the Governor for Special Needs and Senco, of any issues related to children with disabilities.

The Early Years Staff will meet with parents and other agencies before a child with a disability arrives in at the School.

1. Special Educational Needs and Disability Act 2001

The Special Educational Needs and Disability Act (SENDA) 2001 amends the Disability Discrimination Act 1995 and introduces new legal duties for schools relating to all pupils or prospective pupils with disabilities.

The legislation combined with the SEN Framework and new planning duties for schools and Local Education Authorities (LEAs) aims to improve educational choice and opportunity for disabled children and children with special educational needs and their parents.

From September 2002 it will be unlawful for bodies responsible for the provision of school education to discriminate against disabled pupils and prospective pupils in the provision of education and associated services in schools, and in admissions and exclusions.

In English maintained schools the governing body is ultimately responsible for the duty not to discriminate.

Who has rights under the Disability Discrimination Act (DDA)?

People who are defined as having rights under the DDA have a wide range of potential needs and requirements. For example, they include children with mobility impairments, sensory impairments, learning disabilities, mental health conditions, epilepsy, Aids, asthma and progressive conditions such as multiple sclerosis.

How is this different from 'Special Educational Needs'?

The Education Act 1996 says 'a child has special educational needs if he or she has a learning difficulty which calls for special educational provision'. This definition includes disabled children needing any special educational provision. However, not all children who are defined as having a disability under the DDA will have special educational needs, but may well be defined as having a disability under the DDA.

How does the Act define 'discrimination'?

The DDA makes it unlawful to:

- treat disabled pupils less favourably for a reason relating to disability
- fail to take 'reasonable steps' to ensure that disabled pupils or prospective pupils are not placed at a substantial disadvantage compared to their non-disabled peers.

2. Synopsis of SEN and Disability Act 2001

This act makes amendments to the Disability and Discrimination Act 1995 (DDA)

Below are the most relevant sections that schools must be aware of:

Section 11: This adds section 28A to the DDA

Discrimination against disabled pupils and prospective pupils

1. It is unlawful for the responsible body to discriminate against a disabled person
 - a. in the arrangements it makes for determining admissions
 - b. in the terms on which it offers to admit such a pupil
 - c. by refusing or deliberately omitting to accept an application for admission.
2. It is unlawful for the responsible body to discriminate in the education or associated services provided for such pupils.
3. It is unlawful for the responsible body to discriminate by excluding whether permanently or temporarily.

Section 12: This adds section 28B to the DDA

Meaning of Discrimination

1. A responsible body discriminates if

- a. for a reason related to the disability, the pupil is treated less favourably
- b. such a treatment cannot be justified.
- 2. A responsible body discriminates if
 - a. it fails to comply with Section 28C (make reasonable adjustments)
 - b. such a failure cannot be justified.
- 3. In failing to make reasonable adjustments a responsible body does not discriminate if it shows
 - a. it did not know/could not have reasonably been expected to know of the disability
 - b. failure to act was attributable to the lack of knowledge.
- 4. Taking a particular action does not amount to less favourable treatment if at the time the responsible body did not know/could not have known about the disability.
- 5. Less favourable treatment or failure to comply with Section 28C is justified only if the reason for it is both material to the circumstances of the particular case and substantial.

Section 13: This adds section 28C to the DDA
 Disabled pupils not be substantially disadvantaged

- 1. The responsible body must take steps as is reasonable to ensure that
 - a. in determining admission arrangements disabled pupils are not placed at a substantial disadvantage
 - b. in the education and associated services that it provides, disabled pupils are not placed at a substantial disadvantage.

- 2. This does not require the responsible body to
 - a. remove or alter a physical feature (this is through the Access Plan)
 - b. provide auxiliary aids or services (this is through SEN legislation).
- 3. When considering what reasonable steps to take it must have regard to the DDA Code of Practice.
- 4. The responsible body must consider whether any action to be taken in complying with its duty to take reasonable steps is compatible with its compliance with a request for confidentiality.
- 5. Confidentiality Request means a request that the nature or existence of a disability is treated as confidential and has been
 - a. made by the pupil's parent
 - b. made by the pupil and the responsible body reasonably believes that the pupil understands the nature of the request and its consequences.

Section 14: This adds section 28D to the ADA
 Accessibility strategies and plans

- 1. The LEA must prepare
 - a. an accessibility strategy
 - b. further strategies as may be prescribed.
- 2. The accessibility strategy is for
 - a. increasing the extent to which disabled pupils can participate in the curriculum
 - b. improving the physical environment so that disabled pupils can take advantage of the education and associated services provided by the school
 - c. improving the delivery of information to disabled pupils that would normally be provided in writing to other pupils.
- 3. The accessibility strategy must be in writing.
- 4. The accessibility strategy must be kept under review.
- 5. The accessibility strategy must be implemented.

6. The responsible body must prepare
 - a. an accessibility plan
 - b. further plans as may be prescribed.
7. The accessibility plan is for
 - a. increasing the extent to which disabled pupils can participate in the curriculum
 - b. improving the physical environment so that disabled pupils can take advantage of the education and associated services provided by the school
 - c. improving the delivery of information to disabled pupils that would normally be provided in writing to other pupils.
8. The accessibility plan must be in writing.
9. The accessibility plan must be kept under review.
10. The accessibility plan must be implemented.

3. THE CORE DUTIES FOR ALL SCHOOLS

TWO CORE DUTIES

IT WILL BE UNLAWFUL FOR A RESPONSIBLE BODY TO:

1. TREAT A DISABLED CHILD LESS FAVOURABLY THAN OTHERS FOR A REASON RELATING DIRECTLY TO THEIR DISABILITY.
2. FAIL TO MAKE REASONABLE ADJUSTMENTS TO ENSURE THAT A DISABLED CHILD IS NOT PLACED AT SUBSTANTIAL DISADVANTAGE IN COMPARISON WITH THEIR NON-DISABLED PEERS WITHOUT JUSTIFICATION.

- This does not include auxiliary aids and services – through SEN legislation.
- This does not include physical features – this is through Accessibility Strategy and Planning.

Disability

The rights of people with disabilities are protected by the Disability Discrimination Act 1995 (DDA). As many as one person in four might have a disability as defined by the DDA. The Act includes sections covering employment, the letting of premises and the provision of goods and services. It is this last area that is most likely to have an impact on the ways that we deliver our services to the public.

Since it came into force the DDA has required that in delivering a service to the public we do not discriminate against people with disabilities. This means that members of the public with disabilities must not receive a lesser service. Since October 1999 this has included an obligation to make reasonable adjustment to ensure that this is so eg considering other ways of presenting information traditionally given in writing, adjusting the immediate environment, chairs, lighting

etc.

The DDA defines disability as:

‘A physical or mental impairment which has a substantial and long term adverse effect on a person’s ability to carry out normal day-to-day activities’.

Examples of ‘physical and mental impairment’ might include:

- Restriction of mobility
- Deafness or hearing difficulties
- Blindness or being partially sighted
- Speech or language difficulties
- Facial disfigurement
- Learning difficulties
- Mental health problems

The Act also includes examples of ‘day-to-day activities’:

- Mobility – moving from place to place.
- Manual dexterity.
- Physical co-ordination.
- Continence.
- Ability to lift and carry or move ordinary objects.
- Speech, hearing or eyesight.
- Memory or ability to concentrate, learn or understand.
- Ability to recognise physical danger.

However, the disability might not always be obvious. Many people who have a disability may not be identified as such. They may never consider the possibility of having a disability, because of a tendency for society to define people by other factors such as age. Hearing and sight can be seen as a natural and unremarkable part of the ageing process and not be thought of as a disability. Society’s attitude towards this concept might also affect whether an individual is prepared to disclose this fact.

Consider

- Speak directly to the individual – not through a third party – even when communicating eg with a signing interpreter.
- Only ask questions about a person’s disability if it is relevant.
- Don’t make assumptions about what people with disabilities can or cannot do.
- Don’t make assumptions about what people with disabilities do or do not need – ask if they need help then ask them what help they need eg ‘Can I help at all?’ ‘What would you like me to do?’
- Avoid behaviour that could be seen as patronising or impatient eg finishing sentences for someone with a speech impairment, leaning on a person’s wheelchair, moving someone’s walking stick without asking.
- Avoid using discriminatory or insensitive language. Don’t use words like; Cripple, Retarded, Defective or Handicapped, Affliction or Incapable. Don’t use phrases like; blind as a bat, Deaf and dumb, Victim, Mentally deficient, Confined to, Wheelchair bound, Suffering from, Crippled by.
- Do keep is simple and clear eg ‘A person with learning difficulties’ ‘Uses a wheelchair’.

- Be specific eg 'Rachel has epilepsy' 'Richard has MS'.

People who are Deaf or Hard of Hearing

8.7 million people in the UK have varying degrees of hearing loss; that's 1 in 7 of the population. For many years hearing people referred to deaf people as 'deaf and dumb'. This term is regarded by many as offensive. Firstly, the vast majority of deaf people have a voice, but for some it is not trained. Secondly, deafness has not affect on intelligence.

Deafness is not visible. Many deaf people do not wear or would even benefit from wearing a hearing aid. However, if you see someone wearing a hearing aid, DO NOT assume they can hear you. Some profoundly deaf people wear a hearing aid to assist in monitoring their own voice.

Not all deaf people use sign language and not all deaf people are expert lip readers. Lip-reading is largely intelligent guesswork and made difficult because only about 30 – 40% of what people say is visible on the lips.

Consider

- Make sure you attract attention first to get eye contact – this may be by waving or gently tapping the person's shoulder/arm.
- Be patient.
- Cut down on background noise where possible.
- Speak clearly, maintaining normal rhythm.
- Remember that the optimum distance for lip reading is two meters.
- Don't exaggerate words as this distorts your lip pattern.
- Don't chew gum or eat sweets as this, again, will distort lip pattern.
- Don't shout – you will look angry.
- Don't turn away or cover your mouth whilst talking.
- Don't simply repeat the same sentence over and over again. If you are not being understood – REPHRASE, or find another way to make your point ie writing a drawing could be an alternative option.
- Beards and moustaches can mask lip pattern. If this applies to you – be patient.
- Consider lighting. If you stand with your back to a window your face may be in shadow – move around. In the dark (such as the roadside at night) it may be too dark to read your lips. Consider shining a torch on your face when talking.
- Gestures can aid communication.
- DON'T GIVE UP – As a last resort, consider using a pen and paper.

People who are Blind or Partially Sighted

Some blind people can see nothing at all, most have some useful sight, however limited.

Consider

- When offering assistance, ask what they would like you to do. If you are required to guide them, walk slightly in front, allowing the individual to hold you arm. Tell them about steps and other obstacles as they occur.
- When welcoming individuals into an unfamiliar room, give a brief description of the layout relative to their position. Point out potential hazards, such as steps, hot radiators or waste paper bins.
- If you are required to assist individuals in sitting down, then ensure that you support the chair if

it has wheels and place the person's hand onto the back section.

- If the person uses a guide dog then you should never pat, stroke or feed the dog when it is wearing a harness.
- When meeting, always introduce yourself and any other person present, asking them to say something. This will enable the individual to match the voice to a name.
- Use the individual's name before asking questions. Without visual clues it can be difficult for individuals to realise that a specific question or comment is actually directed at them.
- Let individuals know if you intend moving away, to avoid the potential embarrassment of the individual talking to an empty space.

People with Mobility difficulties

Wheelchair users are confined by the environment in which we live, not by the wheelchair.

Consider

- Do not lean on a person's wheelchair, it is part of the body space of the person who uses it and it may move.
- When talking to a person in a wheelchair, get down to the same level to avoid a stiff neck for the person in the chair.
- Come round to their side of the reception desks or high counters.
- Offer to help with heavy doors or with carrying bags or other belongings.
- If a pre-arranged visit, then consider and discuss the options for entering the building beforehand.
- If the individual will be required to write, then offer a clipboard or other firm surface to press on.

People with Speech and Language difficulties

Many different disabilities can cause speech and language difficulties.

Consider

- Be patient.
- Concentrate on listening to what is being said rather than how it is being said.
- Don't correct or speak for the other person and don't be tempted to finish their sentences.
- If you do not understand completely, don't pretend. Repeat what you do understand and let the person's reaction guide you.
- Avoid barriers like glass partitions.
- Try to use a private area if you can, where there is less distraction and noise.
- Try to ask questions that only require short answers or a nod or shake of the head.

People who may have a Mental illness

People with a mental illness can experience emotional distress and confusion, which may make everyday activities seem very difficult. People who are mentally ill may have a distorted view of the world, but it may be caused by their feelings of distress and is often temporary. On occasions this can be interpreted as behaviour that is either threatening, aggressive or violent, when in fact it is a manifestation of these symptoms.

Consider

- Be patient.
- Always be prepared to explain more than once.
- Give the individual plenty of time, if there are decisions to be made.

People with Learning Difficulties

Having learning difficulties is not the same as having a mental illness. People with learning difficulties may seem to have a very individual view of the world, but it is usually consistent and stable.

Consider

- Be patient.
- Relax and make eye contact.
- Give the individual plenty of time if there are decisions to be made.
- Start by thinking that you will be understood.
- Always be prepared to explain more than once.
- Ask the individual what helps them to remember or learn.
- Remember to smile to re-assure.
- Even if accompanied by a friend or relative, ensure that you talk directly to the individual and not the companion.

People with Facial Disfigurement

Going out in public can be a tremendous challenge for people who look different. Facial disfigurement does not mean that the individual is less able than anyone else.

Consider

- If you feel uncomfortable, try not to let the person see that you are. Concentrate on what they are saying and respond naturally.
- The purpose of this policy is to inform and provide guidance on the organisation of Educational visits at Werrington Primary School. It outlines the responsibilities of all members of staff, as well as providing information and guidance.