

WHAT YOU NEED TO KNOW ABOUT...



THE EQUALITY ACT & REASONABLE ADJUSTMENTS

Under **The Equality Act 2010**, a **disabled person** is:
(someone who) has a **physical and/or mental impairment** that has...a **substantial and long-term adverse effect** on (their) ability to carry out **normal day-to-day activities**

WHAT DOES THIS MEAN?

SUBSTANTIAL AND ADVERSE EFFECT

More than the **typical differences** in **ability** that exist between people.

The **impact of the effect** is to be treated as if **no medication or therapy** was in place.

LONG TERM

Lasting, or likely to last for, **over 12 months**.
This can be a **cumulative** total.

NORMAL DAY-TO-DAY ACTIVITIES

Things people do on a **regular basis** including **study and education** related activities.



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Failure to make **reasonable adjustments** for disabled people is **unlawful**.

A **diagnosis is not needed** to be classed as **disabled** under the **Equality Act**.

A person **does not have to consider themselves disabled** to be **protected**.

This is **especially relevant** when considering **children & young people**.

Reasonable Adjustments can be **individualised**. **Blanket adjustments** won't work for **everyone**.

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SCHOOLS MUST:

be aware of their **duties** under the **Equality Act**.

allow **flexibility for certain pupils** or it may result in **discrimination**.

make sure **policies** are **not discriminatory**.

give **justifiable explanations** if they feel an **adjustment is not reasonable**.

anticipate adjustments disabled pupils may need.

It is **not possible** for a **school** to **justify a failure** to make **REASONABLE** adjustments.

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Policies treating **disabled** pupils **less favourably** must be for a **good reason** & show that there is **no better way** of achieving the **outcome**.

This is called **objective justification**.
Schools must show their **actions** are

“a proportionate means of meeting a legitimate aim”

WHAT DOES THIS MEAN?

A PROPORTIONATE MEANS

Must show the treatment was **“appropriate & necessary”**

& no less discriminatory ways exist to achieve the aim.

LEGITIMATE AIM

A real (necessary) aim.

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If a **disabled** pupil is at a **substantial disadvantage** compared with pupils who are not disabled, **schools** have a **duty** to take reasonable steps to **remove that disadvantage** by making **reasonable adjustments**.

Schools should make **adjustments** to:

provisions, criteria & practices

& provide **auxiliary (extra) support & equipment**

Adjustments should **remove or reduce disadvantages** faced by disabled pupils

Whether an **adjustment** is **reasonable** is **objective**.

It depends on the **circumstances** including:

- how **effective** the **change** will be
- how **practical** it is to **make the change**
- a **school's size, resources, & the cost**



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Technical Guidance for Schools in England

Schools must ensure that all policies and procedures do not discriminate against pupils. Policies that indirectly discriminate against pupils with a particular protected characteristic can be justified only if they are a proportionate means of achieving a legitimate aim.

5.104 A person is **disabled...***(if they have)*, a **physical and/or mental impairment that has...** ‘a **substantial and long-term adverse effect on...** *(their)* ability to carry out **normal day-to-day activities**’.

s6 5.105 There is **no need** for a person to have a **medically diagnosed** cause for his or her impairment; **what matters is the effect** of the impairment, not the cause

5.108 The condition must have this **impact without taking into account the effect of any medication** that the person is taking, **or any aids or assistance or adaptations...***(used)*

3.6 Schools must ensure that all **policies and procedures do not discriminate against pupils**. Policies that indirectly discriminate against pupils with a particular protected characteristic can be justified only if they are a **proportionate means of achieving a legitimate aim**

5.32 If a school can show that the provision, criterion or practice is justifiable – that is, that it is ‘**a proportionate means of achieving a legitimate aim**’ – then it will not amount to unlawful indirect discrimination.

6.21 The crux...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

