



National
Guidance

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Inclusion

The introduction of the Equality Act 2010, which replaced previous anti-discrimination Acts and regulations, made only a few changes to the substance of existing law and it can be assumed that decisions made by the Courts in cases decided under previous law remain relevant.

The Equality Act states that the responsible body of a school or, for other provision, the service provider, must not discriminate against, harass or victimise a pupil or young person because of one of the protected characteristics (disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation) in the way that it provides (or not) a benefit, facility or service. There is a duty to make reasonable adjustments.

Activities should be available and accessible to all, irrespective of special educational or medical needs or protected characteristics. When a visit or activity is being planned, all reasonably practicable measures must be taken to include all young people. Every *reasonable* effort should be made to find a venue and activities that are both suitable and accessible and that enable the whole group to participate fully and be actively involved.

The principles of inclusion should be promoted and addressed in policy and practice, ensuring:

- an entitlement to participate.
- accessibility through adaptation or modification, including the provision of auxiliary aids and services.
- integration through participation with peers.

Care should be taken not to cause indirect discrimination. For example, arranging a residential visit during a religious festival or holiday might prevent pupils of certain religions being able to attend.

In making decisions, an educational establishment may have to balance the need to provide the best possible educational outcomes for all pupils with the need to meet the particular needs of individuals. Sometimes it may not be possible to make reasonable adjustments to include a young person in a specific visit or activity, nor to provide the whole group with a suitable alternative, perhaps because of a severe disability. It is not necessary to deprive the rest of the group of worthwhile opportunities, if it is genuinely impossible to find a suitable way of including everyone. However, if a young person is excluded from a visit or activity, even for good reasons, the impact of this – such as on attitudes and relationships across a school – must be considered, and consideration given to the provision of a suitable alternative. The burden of proof is on the establishment, to show that what happened was for a reason other than unfair discrimination.

Any adjustments that are made in order to include a disabled young person should not impinge unduly on the planned purpose of the activity. As an example, it may not be appropriate for a parent to accompany a child on a residential visit where the planned learning outcomes of the visit include "developing independence" and "developing relationships".

A decision to exclude a young person should not be taken lightly, and only after consultation with those who have responsibility for the young person, including (as appropriate) the head teacher/manager, visit leader, class teacher, parents, any support staff, any third party provider, and possibly their GP.

Exclusion on the grounds of behaviour

It may be reasonable to exclude a young person where their behaviour presents a significant, unmanageable and unacceptable risk to the health, safety and welfare of either themselves, or other members of the group, or the leaders. The Equality Act protects people from discrimination and harassment based on the 'protected characteristics'. Where a young person has a behaviour difficulty that is not associated with a protected characteristic then it is unlikely that the Equality Act applies.

When a young person is excluded on these grounds, you should consider providing alternative ways of achieving the same learning outcomes.

Where there is some doubt about including or excluding a young person on the grounds of their behaviour, the following points should be considered:

- identifying the issue at the earliest stage of planning.
- involving all interested parties.
- establishing a behaviour management plan with agreed action points that may enable inclusion on the visit.
- establishing behaviour targets and timescales to be met to allow inclusion, or trigger a decision to exclude.
- providing an additional adult, such as a parent or support worker, with a specific brief to manage behaviour issues.
- ensuring that what is expected of staff is reasonable and within their competence.
- recording this process.

