

Annex 2

Duties towards children with disabilities

DDA Part 5A: The Disability Equality Duty

The DDA 2005 brought in a duty on all public authorities to promote disability equality.

The disability equality duty includes two main elements:

- a general duty and
- a specific duty.

Both apply to all publicly-funded schools.

Responsibility for the duty lies with:

- the governing body of a primary or secondary school;
- the trust of a city technology college, city college for technology of the arts, or an academy;
- the governing body of a community special school or a foundation special school;
- the local authority with respect to PRUs that it runs.

The disability equality duty builds on schools' duties under Parts 2, 3 and 4 of the DDA.

The General Duty

The duty requires schools, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity between disabled people and other people;
- eliminate discrimination that is unlawful under the Disability Discrimination Act;
- eliminate harassment of disabled people that is related to their disability;
- promote positive attitudes towards disabled people;
- encourage participation by disabled people in public life;
- take steps to meet disabled people's needs, even if this requires more favourable treatment.

The duty applies across schools' duties:

- to disabled pupils;
- to disabled staff;
- to disabled parents and carers and other users of the school.

The general duty applies to all schools from 4 December 2006.

The Specific Duty

In addition to the general duty, regulations made under the Part 5A of the DDA⁶ set out a specific duty on certain public authorities, including all publicly-funded schools, requiring them to demonstrate how they are meeting the general duty. In effect the general duty sets out what schools have to do; the specific duty sets out how schools have to do it and what they need to record as evidence of what they have done.

The main requirements of the specific duty are to:

- prepare and publish a disability equality scheme (a scheme);
- involve disabled people in the development of a scheme;
- implement the scheme;
- report on it.

The purpose of the scheme is to demonstrate how the school is going to meet the disability equality duty. Schools are required to undertake the development of their scheme in a particular way and to include particular elements. They must:

- involve disabled people (pupils, staff, parents) in the preparation of the scheme;
- set out in their scheme:
 - how disabled people have been involved in its preparation;
 - their arrangements for gathering information on the effect of the school's policies on:
 - the recruitment, development and retention of disabled employees; the educational opportunities available to and the achievements of disabled pupils;
 - the school's methods for assessing the impact of its current or proposed policies and practices on disability equality;
 - the steps the school is going to take to meet the general duty (the school's action plan);
 - the arrangements for using information to support the review of the action plan and to inform subsequent schemes;
- implement the actions in their scheme within three years;
- report on their scheme annually;
- review and revise their scheme every three years.

The school is not required to do anything under its scheme that is unreasonable or impracticable.

Schemes must be published by 4 December 2006, except for schemes for primary schools, special schools and PRUs. These schemes must be published by 3 December 2007. It is the local authority that has responsibility

for the scheme for a PRU.

The DRC can take action against schools that have not met their duties.

The DRC publishes a Code of Practice, *The Duty to Promote Disability Equality: Statutory Code of Practice*⁷ and guidance for schools, *Guidance on the Disability Equality Duty for Schools in England and Wales*.⁸