

OUSEDALE SCHOOL

EQUAL OPPORTUNITIES POLICY - STUDENTS

1.0 OVERVIEW

- 1.1 The Equality Act 2010 replaced nine major Acts of Parliament and almost a hundred sets of regulations which had been introduced over several decades. It provides a single, consolidated source of discrimination law, covering all the types of discrimination that are unlawful. It simplifies the law by getting rid of anomalies and inconsistencies that had developed over time, and it extends protection against discrimination in certain areas.

The Act defines four kinds of unlawful behaviour – direct discrimination; indirect discrimination; harassment and victimisation.

Direct discrimination occurs when one person treats another less favourably, because of a protected characteristic, than they treat – or would treat – other people. This describes the most clear-cut and obvious examples of discrimination – for example if a school were to refuse to let a student be a prefect because she is a lesbian.

Indirect discrimination occurs when a “provision, criterion or practice” is applied generally but has the effect of putting people with a particular characteristic at a disadvantage when compared to people without that characteristic. An example might be holding a parents’ meeting on a Friday evening, which could make it difficult for observant Jewish parents to attend.

Harassment is “unwanted conduct, related to a relevant protected characteristic, which has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person”. This covers unpleasant and bullying behaviour, but potentially extends also to actions which, whether intentionally or unintentionally, cause offence to a person because of a protected characteristic.

Victimisation occurs when a person is treated less favourably than they otherwise would have been because of something they have done (“a protected act”) in connection with the Act. A protected act might involve, for example, making an allegation of discrimination or bringing a case under the Act, or supporting another person’s complaint by giving evidence or information, but it includes anything that is done under or in connection with the Act. Even if what a person did or said was incorrect or misconceived, for example based on a misunderstanding of the situation or of what the law provides, they are protected against retaliation unless they were acting in bad faith. The reason for this is to ensure that people are not afraid to raise genuine concerns about discrimination because of fear of retaliation.

2.0 OUSEDALE SCHOOL: WHO AND WHAT THE ACT APPLIES TO

2.1 The Governing body of Ousedale School will not discriminate against, harass or victimise a student or potential student

- in relation to admissions,
- in the way it provides education for students,
- in the way it provides students access to any benefit, facility or service, or
- by excluding a student or subjecting them to any other detriment.

2.2 Ousedale School will not discriminate against a student or prospective student by treating them less favourably because of a 'Protected Characteristic', namely:

- sex
- race
- disability
- religion or belief
- sexual orientation
- gender reassignment

2.3 Ousedale School will not discriminate because of the sex, race, disability, religion or belief, sexual orientation or gender reassignment of another person with whom the student is associated e.g. by refusing to admit a student because his parents are gay men or lesbians.

3.0 GENERAL EXCEPTIONS

3.1 Curriculum

The content of the school curriculum is not caught by discrimination law, and this Act now states explicitly that it is excluded. However, Ousedale School will ensure that the way in which the school provides education – the delivery of the curriculum – complies with the Act. For example it is not discriminatory to ask a boy to study a module on feminist thought; it is discriminatory if girls are not allowed to do design technology or boys are discouraged from doing food technology.

3.2 Acts of Worship

Ousedale School will be mindful of the duty to observe a daily act of collective worship, which for maintained schools is mandatory and should be of a broadly Christian nature. Ousedale School will not be acting unlawfully if they do not provide an equivalent act of worship for other faiths.

Ousedale School is free to celebrate religious festivals and could not be claimed to be discriminating against children of other faiths if, for example, a nativity play is put on at Christmas or other religious festivals are marked such as Diwali or Eid.

3.3 Uniforms

Ousedale School will have regard under law, and in the context of the school and the welfare of all its students, to ensure that the uniform does not discriminate because of race, religion or belief, gender, disability, gender reassignment or sexual orientation. Ousedale School will be sensitive to the needs of different groups and will act reasonably in accommodating these needs.

4.0 PROTECTED CHARACTERISTICS

4.1 Gender reassignment

Ousedale School will factor in gender reassignment when considering its obligations under the new Equality Duty.

4.2 Race

Ousedale School will ensure that students of all races are not singled out for different and less favourable treatment from that given to other students and will check that there are no practices which could result in unfair, less favourable treatment of such students.

4.3 Religion or Belief

The Equality Act defines “religion” as being any religion, and “belief” as any religious or philosophical belief. A lack of religion or a lack of belief are also protected characteristics.

Ousedale School will not discriminate because of religion or belief meaning treating a person less favourably than another person is or would be treated, because of their religion or belief, or the religion or belief they are perceived to have, their lack of religion or belief, or the religion or belief, or lack of it, of someone else with whom they are associated.

4.4 Sex/Gender

Ousedale School will ensure that there are no practices which could result in unfair, less favourable treatment of boys or girls. For example, it would be unlawful for a School to require girls to learn needlework while giving boys the choice between needlework and woodwork classes.

4.5 Single sex classes – Single sex sport

Although the Equality Act forbids discrimination in access to benefits, facilities and services, Ousedale School acknowledges the exception which permits single-sex sports applying to participation in any sport or game, or other activity of a competitive nature, where the physical strength, stamina or physique of the average woman (or girl) would put her at a disadvantage in competition with the average man (or boy). The School will ensure that boys and girls have equal opportunities to participate in comparable sporting activities.

4.6 Pregnancy and maternity

Ousedale School will not treat a student less favourably because she becomes pregnant or has recently had a baby. This includes ensuring that the LA, under the Education Act 1996, provide suitable education for all students for whom they are responsible including students of compulsory School age who become parents.

4.7 Sexual orientation

Ousedale School will ensure that all gay, lesbian or bi-sexual students, or the children of gay, lesbian or bi-sexual parents, are not singled out for different and less favourable treatment from that given to other students, and that there are no practices which could result in unfair, less favourable treatment of such students.

4.8 **The relationship between Sexual Orientation and Religion**

Ousedale School believes that where individual teachers are concerned, having a view about something does not amount to discrimination. It is not unlawful for a teacher in any school to express personal views on sexual orientation provided that it is done in an appropriate manner and context (for example when responding to questions from students, or in an RE or Personal, Social, Health and Economic education (PSHE) lesson). However, it should be remembered that school teachers are in a very influential position and their actions and responsibilities are bound by much wider duties than this legislation. A teacher's ability to express his or her views should not extend to allowing them to discriminate against others.

5.0 **DISABILITY**

5.1 Ousedale School will make reasonable adjustments to ensure those suffering from a disability are not discriminated against.

5.1.1 The Equality Act defines disability as when a person has a 'physical or mental impairment which has a substantial and long term (at least 12 months) adverse effect on that person's ability to carry out normal day to day activities.' Some specified medical conditions, HIV, multiple sclerosis and cancer are all considered as disabilities, regardless of their effect.

5.1.2 With regard to **Direct Discrimination** Ousedale School will not treat a disabled student less favourably simply because that student is disabled – for example by having an admission bar on disabled applicants.

5.1.3 With regard to **Indirect Discrimination** Ousedale School will not do something which applies to all students but which is more likely to have an adverse effect on disabled students only – for example having a rule that all students must demonstrate physical fitness levels before being admitted to the School – unless they can show that it is done for a legitimate reason, and is a proportionate way of achieving that legitimate aim.

5.1.4 With regard to **Discrimination arising from disability** Ousedale School will not discriminate against a disabled student because of something that is a consequence of their disability – for example by not allowing a disabled student on crutches outside at break time because it would take too long for her to get out and back.

5.1.5 With regard to **Harassment** Ousedale School will not harass a student because of a disability – for example, a teacher shouting at the student because the disability means that he is constantly struggling with class-work or unable to concentrate.

5.2 **Reasonable adjustments and when they have to be made**

5.2.1 The duty to make reasonable adjustments applies only to disabled people. For Ousedale School the duty is summarised as follows:

- Where something the School does places a disabled student at a disadvantage compared to other students then the school must take reasonable steps to try and avoid that disadvantage.
- Ousedale School will be expected to provide an auxiliary aid or service for a disabled student when it would be reasonable to do so and if such an aid would alleviate any substantial disadvantage that the student faces in comparison to non-disabled students.

5.2.2 Ousedale School will try to ensure that disabled students can play as full a part as possible in school life and the reasonable adjustments duty will help support that. However, there will be times when adjustments cannot be made because to do so would have a detrimental effect on other students and would therefore not be reasonable – for example, if the school put on a geology field trip which necessarily involved climbing and walking over rough ground and after fully considering alternatives to accommodate a disabled student in a wheelchair who could not take part it determined that there was no viable alternative or way of enabling the disabled student to participate or be involved, it would not have to cancel the trip as originally planned.

5.3 **Schools' duties around accessibility for disabled students**

5.3.1 Ousedale School will carry out accessibility planning for disabled students. These are the same duties as previously existed under the DDA and have been replicated in the Equality Act 2010.

5.3.2 Ousedale School will implement accessibility plans which are aimed at:

- increasing the extent to which disabled students can participate in the curriculum;
- improving the physical environment of schools to enable disabled students to take better advantage of education, benefits, facilities and services provided; and
- improving the availability of accessible information to disabled students.

5.3.3 Ousedale School will also have regard to the need to provide adequate resources for implementing plans and will regularly review them.

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