

Schools and the Disability Equality Duty in England and Wales

Guidance for Governors,
Headteachers, teaching and support
staff working in schools in England and
Wales.

Foreword

We all want to live in communities where we can participate fully and equally. We all want our children to do well at school, to take part in all areas of school life and reach their potential. We know that for many disabled children at school, and disabled people in employment, this hasn't yet happened and there remains considerable work to be done.

The Disability Equality Duty (DED) for the public sector is a new legal duty that requires all maintained primary and secondary schools to take proactive steps to ensure their disabled pupils, staff and governors, parents/carers and other people using the school are treated equally.

The new duty is not necessarily about changes to buildings or making adjustments for individuals, it's about weaving equality for disabled children and adults into the culture of schools in practical and demonstrated ways. Disability equality will need to be at the forefront of policy development, and schools who are not already doing so, will need to start making institutional changes across the board, as well as continuing to take action to meet the needs of individuals.

The DED is not about ticking the right boxes quickly. It is about a whole organisational approach to disability equality, achieved over a period of time. Schools offer a place and a reason for interaction and engagement between different children, employment opportunities for adults, and increasingly, services for the whole community. Schools are uniquely placed to help challenge and overcome discrimination in society. Please, seize this opportunity.

Bert Massie
DRC Chairman

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Introduction

This guidance is for Governors, Headteachers, teaching and support staff working in schools. It provides information on the Disability Equality Duty (DED) for the public sector and shows schools in England and Wales how they can take forward this important new duty.

Prime responsibility for making sure the duty is met lies with school governing bodies. However, in practice the Headteacher and senior staff with support from staff, pupils, parents and carers, and members of the wider school community will all need to play a role to ensure the duty is met. Where possible all staff should be encouraged to read this guidance and be given the opportunity to develop appropriate skills to meet their responsibilities towards disabled people. In addition, it will be helpful to share this guidance with those disabled people (children, parents, carers etc) who are helping the school develop its Disability Equality Scheme (DES).

The guidance uses the term 'schools' throughout, this refers to primary and secondary schools in England and Wales maintained by a local authority. It also includes pupil referral units, city technology colleges, city colleges for technology of the arts and city academies. For a full list of schools covered please see [Appendix A – Schools in England and Wales covered by the DED](#). The term local authority covers local education authorities in Wales and the education functions of local authorities in England.

Reference to 'disabled people' includes disabled children, young people and adults, as pupils, employees, governors, parents and carers and other members of the wider community that might use school premises for leisure or other activities. The definition of disability covers a broad spectrum of impairments including:

- cancer
- diabetes
- epilepsy
- HIV

- multiple sclerosis
- hearing or sight impairments
- mobility difficulties
- people with mental health conditions or learning difficulties/disabilities.

More information on the definition of disability is available at the Disability Rights Commission's (DRC) website www.drc-gb.org.

Schools make up the biggest proportion of public bodies covered by the new duty and have a key role to play in promoting equality of opportunity for disabled people, not only in their core function of educating pupils, but also in the employment opportunities they offer, and, increasingly, the diverse range of services they provide to the wider community.

Whilst an increasing number of schools are making impressive improvements for disabled children, figures for the education sector as a whole show that this remains a significant challenge:

- 21 per cent of disabled people aged 16-24 have no qualifications whatsoever, compared to 9 per cent of non-disabled people of the same age - a 12 per cent gap.¹
- Disabled 16 year olds are twice as likely to be out of work, education or training as their non-disabled peers (15 per cent compared to 7 per cent).²

Schools will not be able to increase the attainment of all pupils, or secure a truly representative and valued workforce unless they provide their pupils with the opportunity to reach their full potential, encourage and support disabled people to seek employment with them, and make sure all the services and facilities they offer

¹ DRC (2005) 'Disability Briefing: June 2005',

www.drc.org.uk/publicationsandreports/research.asp

² DfES (2004) 'Youth Cohort Study: The Activities and Experiences of 16 Year Olds: England and Wales',

www.dfes.gov.uk/rsgateway/DB/SFR/s000560/index.shtml

welcome disabled people. This guidance will help you work towards this, and support you in the effective implementation of the DED.

Other Public Bodies that have an education function such as the Department for Education and Skills and Ofsted in England, and the National Assembly for Wales and Estyn in Wales might ask schools to provide them with information in order to meet their own statutory duties under the DED. In addition, the Secretary of State for Education and Skills and the National Assembly for Wales will have to publish a report every three years, giving an overview of the progress made by schools and other public bodies in their remit area. The first set of these reports is due in December 2008.

Who has responsibilities under the duty?

The duty to promote disability equality applies to all schools listed in [Appendix A – Schools in England and Wales covered by the DED](#). Additionally, in order to meet their responsibilities under the DED, schools will need to ensure the organisations they work with or procure services from who are not public bodies also promote equality of opportunity for disabled people where applicable. This part of the duty is covered in more detail in the [‘Procurement’ section](#) of this guidance.

The DED is a proactive duty for schools. The duty does not give additional rights to disabled people, nor does it replace the existing legislation. Instead it places new responsibilities on schools to actively promote equality of opportunity for all disabled people. Schools who are already meeting the duties they have under Part 2 (as employers), Part 3 (as service providers) and Part 4 (as education providers) of the Disability Discrimination Act (DDA) should not find it difficult to make the step towards a more holistic and proactive approach to promoting disability equality.

A similar duty was introduced for race equality in 2002, and the gender duty will be in force from April 2007. These positive duties apply across the public sector and are a recognition that proactive methods of removing group disadvantages and institutional discrimination are more effective than merely reacting to individual problems when they arise.³ The approach of the DED reflects the social model of disability, which sees society and its structures as disabling individuals rather than the ‘problem’ lying with the disabled person and their impairment.

Schools will also work with a number of other public bodies who also have responsibilities under the DED. All public bodies will need to work together to promote disability equality for disabled children, young people and adults.

³ Colm O’Cinneide (2004) ‘Taking Equal Opportunities Seriously: Taking Equal Opportunities Seriously’, Equality and Diversity Forum, www.edf.org.uk/publications.php

A school and a local health provider work together to ensure that medical treatment provided for pupils in school does not disrupt education. The school and the health provider both have duties under the legislation, by working together they ensure that the service they provide promotes disability equality for disabled children. Both the school and the health provider are fulfilling their duty to promote disability equality in this instance.

What does the duty to promote disability equality mean?

The duty is quite straightforward and 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 1995
- eliminate disability related harassment
- 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.

These elements together are referred to as the **general duty**. Schools also have **specific duties**, which provide them with a clear framework to work by. Central to the specific duties is the requirement to produce a DES. The ['Producing a Disability Equality Scheme' section](#) and the ['What needs to be in your Disability Equality Scheme' section](#) of this guidance both deal with this part of the duty.

The main aim of the general duty is to promote disability equality. Schools will need to look at everything they do, on a day-to-day basis, and think about how equality of opportunity for disabled people can be better promoted. To do this successfully schools will need to embed disability in all management practices and policy development.

The other elements of the general duty support the promotion of disability equality and need to be given 'due regard' in their own right. 'Due regard' means that schools should give due weight to the need to promote disability equality in proportion to its relevance.

One element of proportionality should mean that schools with greater resources are more able, and should make more effort, to promote disability equality. Another dimension of proportionality is that schools should prioritise those areas that are likely to bring about the greatest outcomes for disabled children, young people and adults.

The examples below illustrate the meaning of due regard in relation to the different elements of the general duty.

Promoting equal opportunities

A secondary school audits its school visit providers and from the audit draws up a list of venues that are accessible to disabled pupils, staff, and parents and carers who might want to take part in school trips in the future. As part of the audit the school looks at the activities on offer. Most activities, including skiing, mountaineering and abseiling can be adjusted for disabled pupils. The school looks for venues with a good reputation for including disabled people in their activities and asks venues to confirm in writing their willingness to make reasonable adjustments where needed.

This example shows one way in which schools can promote disability equality for all disabled people who want to take part in school trips. Under the general duty to promote disability equality, schools will need to make sure that they consider the needs of disabled people in everything they do – with the aim being that disabled people have the same opportunities and choices as non-disabled people, and are fully included. Under Part 4 of the DDA schools have a duty to make sure that disabled pupils can take part in all aspects of school life but disability equality can be promoted in many other ways. These may include giving all disabled staff the same opportunities and encouragement to attend training courses and develop their careers, and making sure that disabled parents and carers have the same opportunity to meet with their children’s teachers and to attend school events.

Eliminating unlawful discrimination

A small primary school takes a systematic approach to making reasonable adjustments for parents and carers. The information they already have on disabled parents and carers and the adjustments they require is collated into a spreadsheet. The school then makes sure that all parents and carers have the opportunity to declare a disability or health condition at any time. All correspondence is available in alternative formats, and parents and carers are asked to contact a designated member of staff if they require particular reasonable adjustments to be made for them. By taking these steps the school is making sure that disabled parents and carers are able to support and take part in all aspects of their child's education in the same way that non disabled parents and carers can do.

This example illustrates how schools can take proactive anticipatory steps to ensure that they do not discriminate against disabled parents and carers in their access to the services the school provides (Part 3 of the DDA). Schools must also ensure that unlawful discrimination is eliminated in employment (Part 2 of the DDA) and education (Part 4 of the DDA). For more information on the main provisions of the Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005, please see Appendix D in the DED Code of Practice.⁴

Eliminating harassment

A school works towards eliminating harassment of disabled pupils by making sure that all pupils are aware that bullying, name-calling or teasing relating to a disability or health condition is not acceptable. The school does this by holding a series of assemblies on bullying alongside lesson materials that promote positive attitudes and images of disabled children, young people and adults.

⁴ Disability Rights Commission (2005) 'Statutory Code of Practice, the Duty to Promote Disability Equality: Statutory Code of Practice England and Wales', www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/codes_of_practice.aspx

This example illustrates one way in which schools can deter disability related harassment or bullying of pupils. Surveys of children and young people suggest that bullying in schools is more prevalent than adults sometimes think.⁵ Schools will not be able to meet their 'Every Child Matters' outcome to 'stay safe',⁶ or one of the seven core aims of the Welsh Assembly Government to ensure that all children 'enjoy the best possible health, are free from abuse, victimisation and exploitation',⁷ unless they recognise that disability related bullying is happening and take steps to deal with it.

It is important to remember that disabled employees, parents and carers and other people using school facilities may also experience disability related harassment and bullying. Schools may want to give training to staff to recognise when harassment and bullying are taking place and the different forms it can take. If incidents of harassment and bullying do occur staff will know the appropriate response in a given situation.

Positive attitudes

A school promotes positive attitudes to disability in its citizenship and Personal Social and Health Education/Personal Social Education lessons. During one lesson pupils discuss the barriers that disabled people might face in participating in the democratic process. The teacher and teaching assistant ensure that the disabled pupils in the class are given the opportunity to give their views and have any necessary support or advocacy support to participate in the debate. The teaching staff show that they value the contribution of disabled pupils, and other pupils are given the opportunity to hear and understand the views of their disabled peers.

⁵ Office for Standards in Education (2003) 'Bullying: Effective action in secondary schools', www.ofsted.gov.uk

⁶ Department for Education and Skills (2004) 'Every Child Matters: Change for children in schools', www.dfes.gov.uk

⁷ The Welsh Assembly Government has Seven Core Aims in relation to its work with children. See www.wales.gov.uk/index.htm

This example illustrates how positive attitudes towards pupils can be incorporated into lessons. Promoting positive attitudes are a very helpful way in which schools can encourage the development of an ethos that will support and promote disability equality.

The following examples show how positive attitudes can be built into the whole school ethos:

- including positive and diverse images of disabled children and adults in school publications
- having a poster campaign in the school celebrating diversity and equality for all groups
- having disabled staff and governors as visible role models
- holding an annual disability awareness day.

Participation in public life

To encourage participation of disabled people in public life, a school takes active steps to encourage disabled people to apply to be a governor of the school. None of the current governors believe that they are disabled. In order to decide what to do, the governors look at the definition of disability and try to understand who it covers. As a result one governor realises that they have a long-term health condition that meets the definition. Nonetheless, it is agreed that it would be helpful to have a second disabled governor and they approach a local disability group for possible volunteers. In preparation, the school makes sure that all its communication and papers can be provided in accessible formats, meetings can be held in an accessible venue and accessible transport options are available.

This example gives one interpretation of participation in public life. For schools, having disabled representation on its governing body can make the whole school more disability aware. Schools can also encourage participation in other ways including having disabled staff in lead roles, ensuring that the school council includes disabled pupils, and having disabled pupils in visible positions of responsibility as prefects or as members of youth forums. Again, meeting this element of the general duty will also

help you meet the other elements of the general duty.

More favourable treatment

A primary school notices that lunch and break times can be difficult for some of its disabled pupils, including pupils with Autistic Spectrum Disorders and Attention Deficit Disorders. To support and help the pupils who find it difficult to stand in a queue for reasons related to their disability, the school has put in place a priority card system. These pupils are given a green card which allows them to go to the front of the queue and get their food first. This more favourable treatment means that the disabled pupils using the card system feel more relaxed and more able to enjoy their lunch, just as their non-disabled peers are.

This example shows one way in which disabled pupils can be treated more favourably under the DED. Many schools will already be treating disabled pupils more favourably in this way as this part of the general duty reflects the duty to provide reasonable adjustments for disabled pupils under Part 4 of the DDA.

Other examples of more favourable treatment to achieve an equal outcome might include:

- giving disabled staff more time to mark pupils' coursework if their disability means that it takes them more time to do this
- offering telephone or email appointments or home visits to disabled parents and carers that might find it difficult to get to the school
- adapting uniform requirements for certain disabled pupils.

Again these examples of more favourable treatment are ones that you might already be making for disabled staff, parents and carers and pupils under the reasonable adjustments duty contained in Parts 2, 3 and 4 of the DDA.

For more information on this issue please see the 'DED Frequently Asked Questions' on www.drc.org.uk/library/ask_drc/disability_equality_duty.aspx.

Producing a Disability Equality Scheme

To help you meet the general duty all schools will need to produce a Disability Equality Scheme. A DES will give you a clear framework to help you plan, deliver and evaluate the steps you need to take.

The DES and the requirements within the Scheme are collectively known as **specific duties**. Under the specific duties schools must involve disabled people in the development of their DES, and publish it in a way which is accessible for all.

All schools will need to produce a DES by the following dates:

Secondary Schools	England	4 December 2006
All Primary and Secondary Schools	Wales	1 April 2007
Primary Schools	England	3 December 2007
Primary and Secondary Special Schools	England	3 December 2007
Pupil Referral Units (a Scheme must be completed by the local authority in respect of its PRU's)	England and Wales	3 December 2007

Disability Equality Schemes and Accessibility Plans

Schools are already required to plan to improve the accessibility of their schools for their disabled pupils under the planning duties contained in Part 4 of the DDA. A DES will build on the work you have done so far on this. However, there are a number of significant differences between the planning duties and the specific duties that schools will need to take into account. For example, the specific duties cover disabled employees and other disabled users of school premises and services (such as parents and carers) as well as pupils. There is also a statutory requirement to involve disabled people in the production of a DES.

As with their access plans schools may find that using existing mechanisms they have developed for collecting information and consulting with parents and pupils are useful in developing their DES. The main elements and actions contained within the DES can also be reflected within other school documents, such as an equal opportunities policy, school improvement plan, or prospectus.

Schools may wish to publish a single document that contains both their access plan and DES, or a separate plan and Scheme according to what will work best for them on an individual basis. However the school chooses to present this information, the DES and the main elements of the DED need to be distinct, easily identifiable and in one place.

The following examples illustrate different approaches that schools may wish to take:

A large secondary school promotes disability equality through the DED and the planning duties. It publishes one document covering all their work and calls it their 'Disability Equality Scheme and Accessibility Plan'. This covers, amongst other issues:

- their arrangements for gathering information on the recruitment and retention of disabled employees
- impact assessments around participation of disabled parents and carers
- an Action Plan which highlights steps to be taken on participation in the curriculum, improving the physical environment, and the delivery of information.

Disabled people are involved in all aspects of the development of this document.

A primary school already has a well established and successful Accessibility Plan. They decide to produce a separate DES and make sure that the actions in their Accessibility Plan fit in with the actions and arrangements in their DES. They involve disabled people in the production of their DES and cross refer between the two.

For more information on Accessibility Plans please see
'Implementing the Disability Discrimination Act in schools and early
years settings' on the Teachernet website www.teachernet.gov.uk.

What needs to be in your Disability Equality Scheme?

A Scheme must include:

- a statement of how disabled people - disabled children, young people and adults have been involved in developing the Scheme (See the [‘Producing a DES’ section](#))
- Your arrangements for gathering information on the effect of your policies and practices on, in particular:
 - the recruitment, development and retention of disabled employees (See the [‘Recruitment, development and retention of disabled employees’ section](#))
 - the educational opportunities available to and achievements of disabled pupils. (See the [‘Educational opportunities and achievements of disabled pupils’ section](#))
- Details of how you are going to use the information gathered, in particular, in reviewing the effectiveness of your Action Plan and preparing subsequent Schemes. (See the [‘Using information’ section](#))
- Your methods for assessing the impact of your policies and practices on disability equality and where improvements can be made. (See the [‘Impact assessment’ section](#))
- A plan of action - a list of action points that detail the steps that you are going to take to meet the general duty. (See the [‘Planning for action’ section](#))

Involving disabled people

Schools must involve disabled people in the production of their DES, and a statement of how disabled people have been involved should be written into the Scheme.

By involving disabled pupils, employees, parents and carers and the wider community schools will get advice that will be invaluable when producing their Schemes. Disabled children and adults will know and understand the barriers they face and what can be done to promote disability equality. Involvement should not be confused with consultation. Involvement is a more active concept than consultation, and requires schools to engage with disabled children and adults from the beginning and use their views throughout the process of developing a Scheme, designing a policy or reorganising a practice.

To begin with schools might not have robust data or specific information gathering mechanisms in place to identify who its disabled pupils, employees, governors, parents and carers are. If so schools will probably need to take an initial 'broad brush' approach to identify the disabled people it needs to involve. [The 'Gathering information' section](#) details how you might go about gathering information on your disabled pupils, employees and governors, and parents and carers.

All schools are different and schools can, to some extent, choose who to involve depending on a number of different factors including:

- size and location
- current representation of disabled people
- relationships with nearby schools
- links to the wider community.

Schools must involve those who appear to have an interest in the way it carries out its functions, and this could cover a wide range of groups.

Bearing in mind these factors, schools might want to include some or all of the following groups in the production of its Scheme:

- disabled pupils at the school (this could include pupils who have now left, and young children who are not yet at school eg from feeder primary schools)
- disabled employees working at the school (this could include ex-employees or disabled employees working for the local authority)
- disabled governors (these can be disabled governors from other schools)
- disabled parents and non-disabled parents of disabled children
- disabled members of the wider community such as local disability groups and disabled individuals using extended services.

It is unlikely that smaller schools will involve all of these groups, and some might want to work in clusters with other schools to meet their involvement requirement. The following example shows how a smaller school might meet its involvement requirement.

A small primary school has a few disabled pupils but no disabled staff. A few of the schools pupils have disabled grandparents. The school is discussing what it needs to do to develop its DES and knows that it must involve disabled people. The school is concerned that they will not have a truly representative involvement process because the numbers and diversity of disabled people directly connected to the school are so small. The school decides to solve this problem by linking up with other primary schools in its area to work on the involvement aspect of their Schemes together. Disabled pupils, staff, governors, parents and carers and grandparents from the schools meet together to talk about issues specific to each school, and the disability equality issues applicable to them all. An account of the discussions and follow up actions for each school is drawn up to form part of their own Scheme.

Smaller primary schools are likely to need to take a very different approach to more resourced, bigger secondary schools. For example, smaller primary schools might organise:

- meetings for staff, parents, and pupils in conjunction with other local schools
- social events for disabled children and or disabled parents in conjunction with other local schools - to hear the views of these groups in a more informal setting
- one off, targeted, or regular focus groups for staff, parents and carers and pupils.

Larger primary schools and secondary schools might organise:

- on line forums for pupils
- specific lessons looking at disability equality in the school, perhaps linked to citizenship lessons
- an event utilising disabled members networks of teaching unions
- on line forums for staff, publicised through staff newsletters.

All schools should try, as far as possible, to involve a diverse group of disabled people, but it is unlikely that a single school will hear the voice of all impairment groups. For this reason schools should try to involve disabled people who see disability equality as a wider issue and can bring an understanding of the barriers in society for groups of disabled people, rather than just the affects of their own impairment to them.

Many schools will already have groups in place that involve disabled people. For example, disabled members of school councils and parent teacher associations can be encouraged to get involved in the production of Schemes. Some schools will also have close links to the local community and disability organisations who can get involved in the development of their Schemes.

Getting involvement exactly right first time can be a tricky matter and some disabled people and groups may be hard to reach. If this proves to be the case schools should highlight in their Schemes the steps they plan to take during the life time of their Scheme, to build on the involvement of disabled people over time.

A large secondary school involves a number of groups, in different ways, in the production of its Scheme. Disabled pupils are involved through an online forum, disabled staff meet together on a monthly basis, and disabled parents are involved through written and other accessible means of communication. The school is also part of a cluster of schools who meet quarterly with local organisations of disabled people. The school has found that a range of involvement methods provides it with a depth and breadth of perspectives which result in a more effective DES.

Gathering information

Schools must also set out, in their DES, their arrangements for gathering information on the effect of their policies and practices on disabled people.

Schools need, at a minimum, to gather information on:

- the effect of their policies and practices on the recruitment, development and retention of disabled employee
- the effect of their policies and practices on the educational opportunities available to, and achievements of, disabled pupils.

Schools' initial approach to information gathering is likely to be quite 'broad brush'. Disabled employees and pupils will need to be identified first. For new employees and pupils this can be done by:

- ensuring that recruitment and selection procedures for staff collect information on disability
- liaising with local authorities or governing bodies to ensure that all school admission enquiries and other communication collects information on the disability of pupils.

Schools will also need to think about how they can gather information on disability for employees and pupils who are already in the school. This should be done at various stages as many impairments or health conditions will develop over a period of time. This can be done by:

- giving staff the opportunity to raise personal issues throughout the school year
- making sure pupils feel comfortable in the school, so that they raise any issues or difficulties they might have which may be as a result of an impairment or health condition.

Schools are not specifically required, under the specific duties, to gather information on other disabled people using their services, such as disabled parents and carers of children at the school, or disabled members of the community attending a school fete or event. However, schools are likely to find it difficult to ensure that equality of opportunity is promoted for parents and carers and other people using the school's services without some means of tracking experiences. For this reason, and subject to resources, schools should gather information on other users of the school.

Schools should, if feasible, ask about any disability or health condition parents and carers might have in the first communication it has with them, for parents and carers this is likely to be at the point of admission for their child. For parents and carers of children already at the school information on disability can be collected in a standard satisfaction survey or in standard communication about parent's evening.

People may not feel comfortable disclosing a disability or health condition unless they know why the information is being requested, and what impact the information gathering is likely to have for them. There will also be some groups who do not know their impairment or health condition would meet the definition of disability. To reach these groups schools should include some brief information on the definition of disability ([see Appendix B – Definition of disability](#)) in the identified methods of communications and then explain why the information is being requested.

Recruitment, development and retention of disabled employees

Schools will need to collect information on the number of disabled people they recruit and employ and, more crucially, in what roles to see whether current policies and practices are having an effect on this area. For most schools the local authority is the direct employer of staff, and schools will need to work closely with their local authority to get this information. Many schools will already have close links with their local authority on employment issues, for others these will need to be developed to enable both the school, and the local authority to meet the employment aspects of the DES.

Often this information will be easily available for schools and local authorities by disaggregating current data collection. The main issue with gathering information is that it should be put to good use. In employment terms that will often mean analysing it and then using it to identify areas for improvement. Information on the take up and success rates of disabled employees on training courses, performance assessments, promotion, and patterns of employees leaving would also be helpful.

A secondary school gathers information on its disabled workforce and realises very few disabled employees are in 'lead' roles. When the organisation looks into this they find that some disabled staff worry that the school's sickness policy doesn't differentiate between sick leave and disability leave. Some staff are worried that if they need to take time off for a reason related to their disability this would be held against them. The school, is keen to alleviate these concerns and encourage more disabled employees into lead roles. It therefore decides to prioritise a full impact assessment of its sickness policy, and, as an action, puts in place a mentor scheme for disabled employees. The school and local authority also work together to make all staff aware of the Access to Work Scheme, whereby a grant is paid to the employer to meet any costs that arise from making reasonable adjustments.

Once information gathering mechanisms around employment are effective, and the data found is put to good use, schools are more likely to be regarded as disability friendly employers, which are more representative of the local community.

A diverse school workforce can bring many organisational benefits including:

- an enhanced choice in recruitment for schools and local authorities- by widening the net for good recruits
- retaining valuable skills - keeping on experienced employees who become disabled during their working life and avoiding the costs of recruiting and training new people
- developing in-house expertise about what disabled staff and/or pupils may require
- providing role models for children and young people
- bringing different life experiences and new skills to the school
- helping foster good relations with all employees by showing that everyone is valued and treated fairly.

Who are your disabled pupils?

Identifying disabled pupils and gathering information on them will require a significant change for schools. Until now schools have not been required to gather information on disabled pupils. Schools collect data on pupils with Special Educational Needs (SEN) as part of the Annual Schools Census (ASC) but this data will not necessarily include all disabled pupils in school. Those with medical conditions like diabetes, or mental health conditions (where these do not present clear learning difficulties) are most likely to be excluded.

Although some pupils have both special educational needs and a disability, there will also be some pupils who will either have special educational needs or a disability. Schools will find it helpful to refer back to the definition of disability, and that for special educational needs when deciding who its disabled pupils are (see [Appendix B – Definition of disability](#)).

The collection and sharing of data is likely to become easier for schools in England as children's services develop their information sharing protocols and IT systems in line with the Every Child

Matters agenda. Similarly, for schools in Wales, the Data Exchange Wales Initiative (DEWi) will see the sharing of information between schools, local education authorities and the Welsh Assembly. However, until these systems are developed, schools will need to think about additional ways of gathering data where there are gaps.

Educational opportunities and achievements of disabled pupils

Schools already collect data on the achievements of pupils, primarily through test and exam results. This generic information gathering should be disaggregated for disabled pupils (once identified) to reveal if current policies and practices are affecting disabled pupils opportunities and achievements.

Having information on the exam results of disabled pupils will be helpful, information gathered will also help give a fuller picture if 'opportunities' and 'achievements' of disabled pupils are interpreted more broadly to include:

- whether disabled pupils are in positions of responsibility
- satisfaction and enjoyment levels across a range of school activities
- aspirations and ambitions for the future
- successful transition to secondary, further education, training or employment
- access to school trips
- involvement in after school clubs and activities
- access to work experience placements
- take up of careers advice.

With a combination of statistics and experiences schools will find it easier to identify how policies and practices are impacting on disabled pupils opportunities and achievements. If information

gathered does point to a negative impact relevant policies and practices should be fully impact assessed to identify what action might be required to improve the situation. School improvement partners being introduced in England, will include in their discussions with schools the impact of disability on the attainment and outcomes for all pupils including disabled pupils and how the school is tackling this. For more information on impact assessments please see the [‘Impact assessment’ section](#) of this guidance.

A large secondary school gathers information on the numbers of disabled pupils who attend school trips. The information gathered suggests that a high number of disabled pupils were not being included on school trips for reasons of health and safety and those included often had their activities curtailed for the same reason. The school decides to review (or ‘impact assess’) their health and safety policy to see what adjustments they could make so that all disabled pupils are able to go on school trips in the future. It was agreed that once the changes had been implemented, and any necessary training provided, a date would be set to review the situation again to judge the effectiveness of the changes.

As information gathering mechanisms become more sophisticated schools will find it easier to identify the barriers disabled people might face that are not always immediately recognised or thought about. Such barriers might include movement around the school and carrying of heavy objects like a full bag of books by both disabled employees and pupils. Investigating particular barriers will help to identify appropriate actions to improve outcomes for disabled employees and pupils.

Gathering information will be an ongoing process. It is unlikely that schools will have sufficient existing information gathering mechanisms in place to measure the experiences of disabled employees and pupils straight away. Therefore, details of what you intend to do to improve and build on information gathering mechanisms, should be included in the Action Plan (see the [‘Planning for action’ section](#) of this guidance). It is important to remember though that having a limited amount of information is not an excuse for inaction. Schools should still be working towards promoting equality of opportunity whilst improving information gathering mechanisms.

Using information

When putting in place mechanisms to gather information schools should be clear how the information is going to be used. If you are not going to use the information gathered then you should not be collecting it. Information obtained must be analysed and used as the basis for preparing disability Action Plans and reviewing the effectiveness of actions taken. Information gathered will show you, and those with an interest in your Scheme, the progress in relation to disability equality, that has been made.

A secondary school collects information on the number of disabled pupils who take part in P.E. lessons. The information shows that disabled pupils are less likely to take part in these lessons, and qualitative evidence shows that some pupils were told that it would not be safe for them to be involved, and no specialist equipment is available. The school's draft Action Plan does not currently have any actions relating to disabled pupils' participation in P.E. lessons, disabled pupils, who have been involved in the development of the scheme, feel that this should be a priority, and that training should be provided for relevant staff within the first year of the scheme. This is put as an action point within the DES.

For schools with smaller numbers of pupils it will generally be most helpful to review trends over a period of time.

Impact assessment

Schools need to include in their Schemes details of how the impact (or likely impact) of policies and practices on disabled children and adults will be assessed. Impact assessments are an important part of the process in helping schools to take the right action and will ensure that school activities do not inadvertently disadvantage disabled pupils, employees, pupils, parents and carers or any other disabled people using the school's facilities. They will also help schools to identify further opportunities to promote equality of opportunity.

The process of impact assessments need to be thorough and effective and wherever appropriate existing school mechanisms and practices may be used to ensure the efficient use of school resources. It is important to focus less on the process, and more

on the objective - which is to secure improved outcomes for disabled people. Hence, there is not a specific method of impact assessment set out in the legislation, allowing schools to think about which approach works best for them, given the nature, size and type of organisation they are.

Schools will need to think about all of their existing policies and practices as well as new policies and practices that come in when the duty is in force. Some schools may have reviewed, or be in the process of reviewing and revising their policies for disabled employees, disabled pupils and other disabled users of school premises in relation to the reasonable adjustments duty contained in Parts 2, 3 and 4 of the DDA. For most schools though, there will be a significant backlog of policies to review/impact assess, and it will not be possible to do all of these at once. It will therefore be easiest for schools to do a map of all their policies and practices when developing their DES and to identify outstanding action required so that all of their policies and practice work together to promote equality of opportunity for disabled people.

Information gathering and disabled people's involvement in the Scheme, will help schools identify the policies and practices that are having an adverse impact, and need revision. Schools will also be able to draw on this information gathering and involvement to prioritise the policies and practices that should be looked at first. A timetable for action should be incorporated into school Action Plans. (See the ['Planning for action' section](#))

A school prioritises the impact assessment of its policy on managing medicines in school. After an initial screening this policy shows a high relevance and, potentially, an adverse impact for disabled children. Changes to the policy should mean that disabled children are able to access any prescribed medicine when they need it, that this is done in a safe and comfortable environment, and, where possible, pupils are not missing any classes.

The DRC has produced information and guidance on impact assessments which is available at www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/impact_assessments.aspx.

Planning for action

A DES should clearly set out the steps schools will be taking, in the next three years, to meet the general duty. This should be in the form of an Action Plan containing a list of action points. The Action Plan should be aimed at making practical improvements for disabled pupils and adults connected with schools.

An effective Action Plan will clearly set out actions planned, when they will be completed, and the members of staff responsible. It should also clearly state the outcomes you are hoping to achieve and how progress will be evaluated.

Schools' first Action Plans will be different from subsequent Action Plans. An initial Action Plan is likely to include information on improving information gathering mechanisms, the mapping of policies and practices and how the involvement of disabled pupils and disabled adults can be facilitated. Once these mechanisms are established, future Action Plans will not need to focus on these areas to such an extent. Instead, they will focus more on wider actions and outcomes to promote equality of opportunity for disabled people including the development of mechanisms to measure progress.

Schools will need to complete all action points included in an Action Plan within the lifetime of the DES (unless it is unreasonably or impracticable to do so). The DRC recommends setting specific goals for improving educational attainment and employment of disabled people. Given that some disabled children also have special educational needs there may always be some gaps in attainment between disabled and non-disabled children. Experience shows, however, that where schools implement the sort of positive policies described in this guidance (for example addressing bullying) gaps in educational attainment can be significantly reduced. Where appropriate (depending on the size of the school and where the responsibility for employment rests) targets for employment, such as increasing the numbers of disabled staff employed at the school, should also be adopted.

The principle of proportionality applies to actions taken under a DES. For example, while a large secondary school could usefully set a target for increasing its proportion of disabled staff, this would be inappropriate for a small primary school with a handful of staff.

You will need to take all the steps that are put in your Action Plan unless it is unreasonable or impractical for you to do so. Schools will be more likely to successfully carry out the actions set out in their Action Plan if they are cross referenced with other mechanisms in place to improve all aspects of school life over time. This will also help to ensure that disability equality is mainstreamed into schools core business. If schools fail to complete any action points they will need to identify the reasons for this and to demonstrate that it was unreasonably or impracticable for them to do this. Setting out the reasons will also help to inform the successful development of future Schemes and to ensure they are successfully completed in the next Scheme.

In developing its DES, a school sets out the actions it wants to take at the outset. The school already has some information gathering mechanisms in place but these need to be disaggregated to collect more information on disability. A timetable for doing this is set out in the Action Plan. The Action Plan also highlights the steps to be taken to fulfil the different elements of the general duty. They include:

- targets for improving the participation of disabled people in public life (by having more disabled children represented on the school council and in positions of responsibility)
- promoting positive attitudes through a disability poster campaign in conjunction with the local authority and other schools in the area.

Annual Reporting

Schools must report annually on the progress being made to promote equality of opportunity for disabled people. Annual reporting will bring together details of:

- information gathered during the year
- how that information was used
- action points completed during the year and those that are ongoing.

Disabled people must be involved in the process.

The Annual Report will help schools show their commitment to promoting equality of opportunity and the progress being made. The annual report can be incorporated into other documents published by schools annually, including school prospectus and on school websites.

Reviewing and revising your Disability Equality Scheme

Schools will need to produce a new DES at least every three years. Schools producing a single document will need to align their DES with the planning cycle required for their Access Plan, which is also set by legislation, and will need to ensure that any revision encompasses the statutory requirements of both.

The information used to put together the Annual Report will also help when revising the DES and planning the next three years' activity. The process will involve an analysis of the information gathered throughout the period of the existing Scheme, checking that all the action points in the Action Plan have been completed, and their impact evaluated. This will enable schools to prioritise the areas they want to focus on in their next DES and to build on their experiences of their first scheme. Disabled people must be involved in the revision process, as they were in drawing up the original Scheme.

Procurement

Many functions and services within schools are now contracted out to private, charitable or voluntary sector organisations. These include

- school meals
- site maintenance, cleaning and security
- Human Resources
- training
- music drama and sport activities
- before/after & holiday school clubs
- counselling.

In so far as they have control over these, schools will need to ensure that when contracting out services they build disability equality into their contracts and that the contractor fulfils its disability equality contractual requirements. Many schools will work closely with local authorities on procurement, and will be subject to specific regulations and processes to follow. Where this is the case schools and local authorities will need to work together to ensure that disability equality is given due regard.

For extended services in England and community services provided in Wales this might also include making sure that any reasonable adjustments that disabled children or young people require are met by the contractor, and this is built into the contract specification and contract conditions. If disability requirements are not built into the specification and/or contract, and the contracting organisation does not ensure equality of opportunity, schools could be deemed to be failing to meet their responsibilities to promote equality of opportunity for disabled people.

A large primary school runs a range of extended services to wrap around the main school day. Some of these services are provided by private companies and some run by school staff. The school ensures that those activities provided by private companies are contributing to its duty to promote disability equality by adding certain disability equality requirements into the contract. This includes a specific requirement for the contractor to meet any reasonable adjustments, and for the contractor to gather information on the numbers of disabled children using the service, and their satisfaction/experiences of that service. The contractor will be required to provide this information annually, to feed into the school's Annual Report.

If your school is involved in commissioning, procuring or purchasing goods you may find it helpful to look at the DRC's website www.dotheduty.org.

Role of Audit and Inspection bodies

Estyn and Ofsted are covered by the duty to promote disability equality and will need to promote disability equality in all aspects of their work particularly in their inspection function.

Estyn and Ofsted will need to ensure that they are building the duty to promote disability equality into their inspection regimes, and that their inspections measure the progress of schools in meeting the duty. This should mean that the inspection procedure itself is accessible for all involved, and inspectors are trained in disability equality.

For all schools, self-evaluation is central to the process of inspection. Self-evaluation forms will include a clear outline of the successes and improvements of schools, as well as the actions that the school intends to take to make further improvements. Schools will be able to share information between their DES, their Action Plan, and their self-evaluation form to highlight the improvements they have made in meeting the DED. This will assist inspectors in identifying the progress that schools have made. Schools should be ready to provide their DES, including the Action Plan, on request.

In preparation for an inspection a school puts together its self-evaluation form sharing information from its Action Plan and Annual Report. The improvements achieved and actions to take are summarised in the self-evaluation form alongside more general improvements and actions that the school has identified. For the inspection itself, the inspector ensures that the process is accessible for all disabled staff.

Enforcement

Ultimately, legal action can be taken against schools if they fail to comply with the DED. The DRC, its successor, the Commission for Equality and Human Rights (CEHR), or any individual, who believes that a school is failing to meet its general duty can ask a court to judicially review the actions (or inactions) of an authority. The DRC and the CEHR can also take action against schools who have not met their specific duties by issuing a compliance notice which is enforced in the courts.

For more information on enforcement please see Chapter 6 of the [DED Code of Practice](#).

Summary - getting more information and help

The Disability Right Commission has produced a huge range of guidance about the new duty. Everything from a basic overview to help get you started through to detailed guidance on issues like involving disabled people or evidence gathering.⁸ All of this and more is available on our website at www.dotheduty.org.

Your local authority will also have to produce their own DES and may be able to pass on their learning or offer you advice or information. Other local schools will be producing their own Schemes, as well as other partners such as local colleges of further education.

⁸ See: DRC (2005) 'Doing the duty: An overview of the Disability Equality Duty for the public sector',
www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/doing_the_duty.aspx;
DRC (2006) 'The Disability Equality Duty and involvement: Guidance for public authorities on how to effectively involve disabled people',
www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/involving_disabled_people.aspx;
DRC (2006) 'Guidance on gathering and analysing evidence to inform action',
www.drc.org.uk/employers_and_service_provider/disability_equality_duty/getting_started/evidence_gathering.aspx

The information below gives you a few suggested first steps to start you on your journey to disability equality:

Deliver training to staff and governors on the new duty.

Organise a disability equality steering group, including disabled staff and governors.

Talk to parents and pupils to find out how they want to be involved in the production of your scheme.

Have a look at your current information gathering mechanisms to see where improvements can be made.

Ensure that every bit of information you gather is used.

Decide which policies and practices have the biggest impact on disability equality and which need to be assessed first.

Use the information you have gathered from your involvement of disabled people to write your Action Plan

Tell everyone the progress you have made in your Annual Report.

Your DES is an ongoing process, review and revise every three years.

Appendix A – Schools in England and Wales covered by the DED

The following schools in England and Wales are covered by the duty to promote disability equality and will all have to produce Disability Equality Schemes. For full details on when Schemes need to be in place please see the [‘Producing a Disability Equality Scheme’ section](#).

- City Academies (England)
- City technology colleges (England)
- Community mainstream schools (England)
- Community primary or secondary schools (Wales)
- Community special schools (England)
- Foundation mainstream schools (England and Wales)
- Foundation special schools (England and Wales)
- Grammar schools (England)
- Maintained boarding schools (England)
- Maintained special schools (Wales)
- Pupil referral units (England and Wales)
- Specialist mainstream schools (England)
- Specialist SEN special schools (England)
- Voluntary aided mainstream schools (England and Wales)
- Voluntary controlled mainstream schools (England and Wales)

Appendix B – Definition of disability

Definition of Disability⁹

A disabled person (child or adult) is someone who has a **physical or mental impairment**, which has a **substantial** and **long-term** adverse effect on his or her ability to carry out **normal day-to-day activities**.

- A **physical or mental impairment** includes sensory impairments; impairments relating to mental functioning, including learning disabilities; and long term health conditions such as diabetes, epilepsy, HIV infection, cancer or multiple sclerosis.
- **Substantial** means more than minor or trivial.
- **Long-term** means an impairment that has lasted at least 12 months, or is likely to last 12 months or for the rest of the person's life.
- **Normal day-to-day activities** cover the following categories: mobility; manual dexterity; physical coordination; continence; ability to lift carry or otherwise move everyday objects; speech, hearing or eyesight; memory or ability to concentrate, learn or understand; perception of the risk of physical danger.

Someone with an impairment may be receiving medical or other treatment which alleviates or removes the effects of that impairment (but not the impairment itself). In such cases the treatment should be disregarded and the impairment is taken to have the effect it would have had without the treatment.

Some people are automatically deemed to have a disability covered by the Act – those with HIV, cancer, MS, and severe disfigurements. There are special provisions for people with progressive or recurring conditions.

⁹ This is a summary of the definition of disability. For more detail please see: DWP (2006) 'Disability Discrimination Act: Guidance on matters to be taken into account in determining questions relating to the definition of disability', London: TSO.

Definition of Special Educational Need¹⁰

Children have special educational needs if they have a **learning difficulty** which calls for **special educational provision** to be made for them.

- Children have a **learning difficulty** if they have a significantly greater difficulty in learning than the majority of children of the same age; or have a disability which prevents or hinders them from making use of educational facilities; or are under compulsory school age and fall within the above or would do so if special educational provision was not made for them.
- **Special educational provision** means educational provision which is additional to, or otherwise different from, the educational provision made generally for children of their age in schools maintained by the Local Education Authority.

¹⁰ For further details on the definition see: DfES (2001) 'Special Educational Needs: Code of Practice', www.publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0581+2001

Disclaimer

The information in this guidance is based on the law but its main purpose is to help authorities to comply with and make the most of the Disability Equality Duty. The Statutory Code of Practice on the Disability Equality Duty provides further detail of the legislation.