

Equality Act 2010: Guidance for Early Years and Childcare Settings

Detailed information on the Equality Act 2010 is available on the government's [equality web page](#).

We recommend that you download the relevant summary guidance for your sector, available on the following web page [Equality Act 2010 - how it might affect you](#):

- Equality Act 2010: What Do I Need To Know? A Summary Guide for Voluntary And Community Sector Providers
- Equality Act 2010: What Do I Need To Know? A Summary Guide for Public Sector Organisations.
- Equality Act 2010: What Do I Need To Know? A Summary Guide for Businesses Who Sell Goods and Services.

The Equality Act 2010 replaced various anti-discrimination laws (for example the Disability Discrimination Act (DDA) and the Race Relations Amendment Act) with a single Act. It simplified the legislation, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthened the law in important ways to help tackle discrimination and inequality. It came into force in October 2010.

Public sector equality duties

The Act introduced new public sector equality duties for organisations such as county and district councils and the NHS. Organisations that perform 'public functions' (such as a private, voluntary or independent (PVI) setting offering the free entitlement) are also covered by these duties to:

- Eliminate unlawful discrimination, harassment or victimisation
- Advance equality of opportunity between people who share a protected characteristic, and those who do not
- Foster good relations between people who share a protected characteristic, and those who do not.

Protected characteristics

The Equality Act covers the following 'protected characteristics':

- Race / ethnicity
- Gender
- Gender reassignment / gender identity
- Disability
- Religion and belief
- Pregnancy / maternity
- Sexual orientation

(**Age** and **marriage/civil partnerships** are also protected under 'employment' within the Act).

How people are protected from discrimination

The law prohibits 'direct discrimination', for example if a nursery refused to offer a child a place because the child has a disability; and 'indirect discrimination' by offering protection where policies or practices within an organisation may particularly disadvantage people who share a particular protected characteristic.

The law also offers additional protection against 'victimisation' which occurs where a provider treats someone badly because they have supported or made a complaint about discrimination (a person is not protected from victimisation if they have maliciously made or supported an untrue complaint), and 'harassment', which means unwanted behaviour relating to a protected characteristic which has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Positive action

Some people with protected characteristics are disadvantaged or under-represented in some areas of life, or have particular needs linked to their characteristic. They may need extra help or encouragement if they are to have the same chances as everyone else. The 'positive action' provisions enable service providers to take proportionate steps to help people overcome their disadvantages or to meet their needs. There is no **requirement** to take positive action, but it should be considered.

Disability under the Equality Act

The Equality Act made some other important changes, for example around protection for disabled people. The definition of disability in the Equality Act is:

'...a physical or mental impairment, which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities'

What has changed is that the disabled person no longer has to prove that their impairment affects a particular 'capacity', for example speech, movement or eyesight.

How do these requirements affect the work of the early years and childcare settings?

Policies relating to access

The Equality Act offers protection from 'discrimination arising from disability' – this means if someone is treated unfavourably because of something connected with their disability. The following example is given in the 'Disability Quick Start Guide' (details below):

"Sarah seeks admission to a crèche for her son who has a disability which means that he does not have full bowel control. The crèche says that they cannot admit her son because he is not toilet trained and the children at the crèche are required to be. The refusal to admit Sarah's son is not because of his disability itself; but he is experiencing detrimental treatment as a consequence of his incontinence, which is something arising from his disability. Sarah could challenge this exclusion on her son's behalf by making a claim in the county court. The exclusion would be unlawful discrimination arising from disability unless the crèche could demonstrate to the court that it did not know that the boy was disabled, or could demonstrate that its action was justified."

For more information on disability under the Equality Act, download the 'Disability Quick Start Guide' available from the following Government web page [Equality Act 2010 - how it might affect you](#)

Examples of how you may promote equality of opportunity and positive relations between different groups:

- **Planning a Single Equality Scheme** - in order to meet the requirements of the Equality Act, settings will need to carry out an Equality Impact Assessment and develop a Single Equality Scheme, to show how you are working to promote equality of opportunity. To lead on this area of work, we recommend that every setting has a named person for equality. The 'Role of the ENCO' training covers the main tasks that this person might undertake, including carrying out an Equality Impact Assessment and developing an action plan around equality (the 'Single Equality Scheme').

Carrying out these actions will help meet the requirements of the Equality Act, as well as demonstrate to Ofsted how the setting are promoting equality of opportunity and inclusion.

- **Marketing information** showing a range of families/children – include children of different abilities/disabilities, ethnicity, age, gender. If portraying families, include pictures of different family set ups, for example single parent, extended family, or same-sex parents. Further guidance is available on pages 28-37 of '[I Know I Matter To You](#)' (Essex County Council – available on the Early Years and Childcare Practitioner website).
- **Role play materials** that are accessible to boys and girls, and reflect a range of roles. Also open ended resources, for example fabric from different countries for dressing up or den-making.
- **Positive images** in books, wall displays and other resources – carry out an audit of your resources to ensure that all different groups (different ages, backgrounds, abilities, religions etc) are reflected in the resources that you use daily in your setting.
- Support for the **home learning environment** – partnership with parents is a key commitment in the early years foundation stage (EYFS). Ensure that the information or support you provide to families is inclusive and accessible, for example by using clear, simple words, images that reflect what you are saying, accurate signposting to other free or low-cost local services such as your family hub or library, and making information available in alternative formats.