



Accessibility Strategy 2017 - 19

Setting out how Bristol City Council expects schools to improve access for disabled pupils to school curriculums, facilities and information as required by Schedule 10 of the Equality Act 2010.

BRISTOL'S ACCESSIBILITY STRATEGY

What the requirements are for an Accessibility Strategy and how we're delivering it in Bristol.

BRISTOL'S EXPECTATIONS

What Bristol City Council expects from schools and educational settings.

BRISTOL CITY COUNCIL'S ACTION PLAN

How the Accessibility Strategy will be delivered in Bristol.

ACCESSIBILITY PLAN FRAMEWORK

Outlining the different duties for schools and educational settings for an accessibility plan.

ACCESS PATHWAY

What schools and educational settings should do to support disabled pupils

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TEMPLATE ACCESSIBILITY PLAN

Download a template Accessibility Plan for schools and educational settings to use

EQUALITY ACT 2010

[Link to the Equality Act 2010](#)

Click on the boxes above to explore this document.

BRISTOL'S ACCESSIBILITY STRATEGY

What's in this section?



LEGISLATION

1.1 The Equality Act 2010 requires every Local Authority in England and Wales to prepare an accessibility strategy that meets the following requirements:

“(2) An accessibility strategy is a strategy for, over a prescribed period—

- (a) increasing the extent to which disabled pupils can participate in the schools' curriculums;
- (b) improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools;
- (c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.”

Equality Act 2010, Schedule 10, Accessibility for disabled pupils

1.2 The definition of disability as set out in the Equality Act 2010 is below.

“A person (P) has a disability if—

(a) P has a physical or mental impairment, and

(b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.”

Equality Act 2010, Part 2, Chapter 1, Section 6 (1)

(Further information on the definition of disability can be found in [Equality Act 2010, Schedule 1 Part 1, Determination of Disability](#). More information on applying the definition of disability can be found in what is a disability factsheet.)

1.3 The definition of disability within the Equality Act 2010 indicates that being disabled and having a special educational need is not the same. A person can have a special educational need and not be disabled under the Equality Act 2010 definition of disability and vice versa.

1.4 The duty for Local Authorities to prepare an accessibility strategy also interacts with other legislative requirements. In regards to special educational needs and disability these are:

- [Children and Families Act 2014](#)
- [Special Educational Needs & Disability Code of Practice 2015](#)
- [Equality Act 2010 Public Sector Equality Duty](#)

BRISTOL'S ACCESSIBILITY STRATEGY

1.5 The Equality Act also requires schools to prepare access plans that meet the following requirements:

“(2) An accessibility plan is a plan for, over a prescribed period—

(a) increasing the extent to which disabled pupils can participate in the school’s curriculum,

(b) improving the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the school, and

(c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.”

Equality Act 2010, Schedule 10, Accessibility for disabled pupils

The definitions of disability in 1.2 applies to the preparation of accessibility plans.

1.6 The duty to prepare an accessibility plan applies to all schools (defined in section 4 of the Education Act 1996). This includes:

- maintained schools (including special schools)
- academies and free schools
- maintained nurseries
- Pupil Referral Units
- independent schools

- non-maintained special schools

1.7 The duty for schools to prepare an accessibility plan also interacts with the same legislative requirements as Local Authorities (see above). In addition schools have the requirements to:

- Prepare [SEN Information Reports \(Schedule 1, Children and Families Act 2014\)](#)
- [Supporting children with medical conditions at school \(2015\)](#)
- Requirement to provide [Auxiliary Aids \(under the Equalities Act 2014, Reasonable Adjustments\)](#).

1.8 Access is commonly understood as ‘a means of entry, a way in’. However, the experience of Disabled people and other marginalized groups is that access means much more than this. “Access” is the right of all people, both disabled and non-disabled, to use all facilities and services provided by Bristol City Council and its schools and other settings. Developing good access means removing barriers which prevent the full and equal participation of disabled people in society and is fundamental to social inclusion. This includes children and adults with physical and sensory impairments, learning disabilities and some emotional, social or behavioural issues.

1.9 “Inclusion”, however, is a process whereby institutions such as schools, change their policies, procedures, practices and cultures, and the attitudes of everyone within them, so that everyone is welcome, diversity is celebrated and any barriers to learning are reduced. Inclusive schools will be constantly reviewing everything they do to in the light of good inclusive practice.

BRISTOL'S ACCESSIBILITY STRATEGY

The fundamental principle of the inclusive school is that all children should learn together, wherever possible, regardless of any difficulties or differences they may have. Inclusive schools must recognize and respond to the diverse needs of their students, accommodating both different styles and rates of learning and ensuring quality education to all through appropriate curricula, organizational arrangements, teaching strategies, resource use and partnerships with their communities. There should be a continuum of support and services to match the continuum of special needs encountered in every school.

UNESCO (1994), The Salamanca Statement & Framework for Action on Special Needs Education

1.10 The duty to make adjustments for disabled people has three requirements. (Within the text below A refers to the person on whom the duty is imposed.)

“(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to

take to provide the auxiliary aid.”

Equality Act 2010, Part 2, Chapter 2, Adjustments for disabled persons, Section 20, Duty to make adjustments

Schools are required to comply with the first and third requirement. The second requirement should be addressed as part of a school's Accessibility Plan.

1.11 The Local Authority and Schools should apply principles of reasonable adjustments to all areas of their provision (e.g. Schools should consider reasonable adjustments for disabled pupils to access breakfast and after school clubs. More information on making adjustments can be found in the disability discrimination factsheet.

BRISTOL CONTEXT

2.1 In Bristol the SEND Strategic Vision outlines how SEND services will work together to support children and young people with special educational needs and/or a disability to achieve better outcomes. This is overseen by the SEND Challenge Group, a sub group of the Children and Families Partnership.

All children and young people's services work to achieve the vision outlined in the [Children, Young People and Families Strategy](#).

BRISTOL'S ACCESSIBILITY STRATEGY

2.2 This accessibility strategy links to the Children, Young People and Families Strategy and is part of the strategic documents used by services in Bristol to support the realisation of the SEND Vision.

2.3 In order to maintain the link between the accessibility strategy and other SEND strategic documents this strategy will be reviewed with the SEND Improvement and Development Plan. The actions that need to be taken by the Local Authority as part of the accessibility strategy will form part of the SEND Improvement Development Plan. This will ensure the actions become embedded as 'business as usual' rather than as a separate, standalone document.

2.4 We want this strategy to support local authority staff, services, schools, parent carers and young people in Bristol. To achieve this we have created resources designed to support stakeholders in achieving the priorities in this strategy. These resources are known as the 'Accessibility Strategy Toolkit'.

CONSULTATION & REVIEW

3.1 This strategy will be reviewed in March 2019, alongside the SEND Vision and the SEND Improvement and Development Plan. The review will be managed by the SEND Challenge Group.

3.2 The writing and reviewing of this strategy will be done with parents, carers and schools. In writing this strategy we had not yet realised our ambition to write and review strategies with young people. By 2019 we aim to have embedded the practice of reviewing strategies and services with young people, in a way appropriate to them.

BRISTOL'S EXPECTATIONS

4.1 Below is detail around the expectations Bristol City Council has around how schools and settings should be meeting their Equality Act 2010 schedule 10 requirements.

4.2 Increasing the extent to which disabled pupils can participate in the schools' curriculums

All pupils should have access to a stimulating, high quality curriculum. Curriculums should be personalised to enable pupils to access classroom learning and achieve their academic potential. Class teachers, supported by SENCOs, must ensure all students make good progress, regardless of their disability or special educational needs. School policies around learning (including outdoor learning & and school trip policies) should outline how schools ensure the inclusion of disabled pupils. Schools should use processes such as graduated SEN Support, Education, Health and Care plans, and High Needs Block funding (Top Up) to ensure pupils can participate in the school's curriculum.

4.3 Improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools.

All pupils should have access to a suitable local provision. When schools and settings are undergoing renovations or extensions or are new builds they must consider how they can make their setting accessible to disabled pupils. In all cases schools and settings must consider the benefits of making reasonable adjustments against the cost of the adaptation. Schools and settings are expected to meet individual's needs for auxiliary aids from their budget to the amount set by legislation. Schools must also consider how disabled pupils will access out of school provision such as afterschool clubs and holiday clubs.

4.4 Improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.

Schools and settings should ensure that pupils are able to access information that is in a format suitable to their need. They should have the same access to independent information as their peers and should not be solely reliant on school staff to access information. Technology should be utilised where appropriate to support this.

BRISTOL CITY COUNCIL'S ACTION PLAN

This section outlines the action plan for Bristol City Council to meet its Equality Act 2010 Schedule 10 requirements.

Each of the priorities listed below is part of the SEND Improvement & Development Plan 2017-19. The monitoring and delivery of these actions will be done through the SEND Challenge Group. In addition to these actions we will be working with settings and schools to achieve Strategic Action 18.

Strategic Action 18: Clarify statutory responsibilities under the Children and Families Act; Mental Capacity Act; Equalities Duty or all partners (including requirement to seek consent regularly).

Requirement	Priorities
Increasing the extent to which disabled pupils can participate in the schools' curriculums.	<p>Strategic Action 8: Improve outcomes for pupils at SEN Support</p> <p>Strategic Action 10: Work with all Education settings to further develop a personalised curriculum offer for SEND pupils.</p>
Improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools.	<p>Strategic Action 12: Develop and implement a Capital Strategy to transform SEND places and spaces for 0-25.</p>
Improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.	<p>Strategic Action 7: Raise awareness and improve quality of the local offer (Findability) at 'Help to Help Yourself' (Tier 1) as the first stop for information for parents, carers, young people, professionals and the voluntary sector</p> <p>Strategic Action 15: Develop digital options for SEN Support, Statutory Panels and EHCPs.</p> <p>Strategic Action 13: Implement participation strategy for parents carers and CYP, including Partnership Boards (Learning City & Children and Families).</p>

Information on the [SEND Improvement and Development Plan 2017 – 19](#) can be found on Findability.

BRISTOL CITY COUNCIL'S ACTION PLAN

Below is the timeframe for delivering the action plan.

Action	Delivered by
Accessibility Strategy is agreed by SEND Challenge Group.	Head of Specialist Education and Access Service (July 17)
Accessibility Strategy and toolkit is published on Findability.	SEND Operation & Planning Manager (August 17)
Briefing for schools is made available on meeting Equality Act duties.	Inclusion Service (September 17)
Accessibility Strategy is reviewed with SEND Improvement & Development Plan 2017-19	SEND Challenge Group (Quarterly)

ACCESSIBILITY PLAN FRAMEWORK

The framework below outlines the different duties for schools from the Equality Act 2010, Schedule 10 and what the Local Authority expect to be in place.
The text in green is specifically for Early Years settings.

What's in this section?



Equality Act 2010		Best Practice	Signposting
Statutory Requirement		These are the outcomes we expect schools to be meeting or working towards meeting.	These are services and provisions available to all schools and settings.
Support to schools in meeting their statutory duties (including Equality Act 2010, Schedule 10)	Policies and Records	<ol style="list-style-type: none"> 1. Schools review their accessibility plans on a 3 year schedule, alongside their SEN Information Report, SEN Policy, Supporting pupils at school with medical conditions Policy. 2. These documents are made available from the school website. 3. There is a lead in the school responsible for leading a review of the school's Accessibility Plan and they look to consult/review with: disabled pupils, their parents/carers, school staff, bodies responsible for the school (Governing Body, Trustees, etc). 4. The school understands the definition of disability (as outlined in the Equality Act 2010) and has an up to date record of disabled pupils, their relevant impairment, and any auxiliary aids or services they may need. 5. All school policies address how reasonable adjustments around provision, criterion or practice within that policy will be made for disabled pupils (e.g. School Trip Policy, Learning Policy, Behaviour Policy, etc) 	<p>Model Accessibility Plans</p> <p>Early Years Area SENCO Cluster Meetings / Early Years Portage and Inclusion Team, Specialist Leaders in Education: Inclusion</p> <p>What is disability factsheet</p> <p>Disability Discrimination factsheet</p> <p>Equality and Human Rights Commission, What equality law means for you as an education provider: schools</p> <p>Equality and Human Rights Commission, Technical Guide for Schools in England</p> <p>Equality and Human Rights Commission, Reasonable adjustments for disabled pupils</p> <p>Equality and Human Rights Commission, Disability Discrimination</p> <p>Bristol City Council's Combined Statutory Guidance</p>

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Equality Act 2010 Statutory Requirement		Best Practice These are the outcomes we expect schools to be meeting or working towards meeting.	Signposting These are services and provisions available to all schools and settings.
Support to schools in meeting their statutory duties (including Equality Act 2010, Schedule 10)	Consultation	1. Disabled pupils, and their parents/carers, are consulted on changes that may impact the extent to which a disabled pupils is able to: Participate in the school's curriculum, access the physical environment, services or facilities of the setting, on the suitable ways to provide information to meet a disabled pupils information access needs.	<p>Early Years Portage and Inclusion Team</p> <p>Inclusion Service & Trading with Schools Services</p> <p>Education Asset Management Team: educationampteam@bristol.gov.uk</p> <p>Equality and Human Rights Commission, Reasonable adjustments for disabled pupils</p>

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Equality Act 2010 Statutory Requirement		Best Practice These are the outcomes we expect schools to be meeting or working towards meeting.	Signposting These are services and provisions available to all schools and settings.
Increasing the extent to which disabled pupils can participate in the schools' curriculums	Learning and planning	1. The school has an understanding of the progress, academic achievement of disabled pupils and has an anticipatory approach to meeting the needs of disabled pupils and those with special educational needs. 2. The delivery of the teaching and the curriculum does not discriminate against disabled pupils. This includes school trips and any curriculum enhancing events/ activities. 3. Whole school training and individual staff training reflects the support needs of disabled pupils.	Inclusion Audit & I-review visits Early Years Portage and Inclusion Team, Specialist Leaders in Education: Inclusion Inclusion Service & Trading with Schools Services Equality and Human Rights Commission & Liverpool John Moores University, Unlocking Opportunities – Enabling disabled learners to achieve Bristol Autism Team Sensory Support Service

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Equality Act 2010 Statutory Requirement		Best Practice These are the outcomes we expect schools to be meeting or working towards meeting.	Signposting These are services and provisions available to all schools and settings.
Increasing the extent to which disabled pupils can participate in the schools' curriculums	Learning environment	1. Schools provide auxiliary aids required to support disabled pupils in accessing the curriculum. This includes reviewing whole school and class subject resources are evaluated for their suitability to meet the needs of disabled pupils within the setting (e.g. ICT equipment, text books, play equipment). This also includes ensuring annual service/maintenance checks are made on auxiliary aids if necessary. 2. Schools support all pupils to have positive attitudes towards disability and actively promote disability awareness within their settings.	Occupational Therapy High Needs Block funding (Top Up) Early Years SEN Panel funding Access and Inclusion in Relation to School Premises Public Sector Duty

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Equality Act 2010 Statutory Requirement		Best Practice These are the outcomes we expect schools to be meeting or working towards meeting.	Signposting These are services and provisions available to all schools and settings.
Improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools.	Anticipating adjustments	1. Schools to look how building changes/proposals will impact specific disabled group and take appropriate advice. School policies regarding physical environments reflect an anticipatory approach to meeting the needs of disabled pupils and those with special educational needs.	<p>Advice from professionals who support individual pupils</p> <p>Education Asset Management Team: educationampteam@bristol.gov.uk</p> <p>Funding to make reasonable adjustments (BCC maintained settings only, through Access Funding)</p> <p><i>For those in receipt of DLA an early years setting can apply for the Disability Access Fund. Advice on using the fund can be given by the Early Years Inclusion Service.</i></p>

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Equality Act 2010 Statutory Requirement		Best Practice These are the outcomes we expect schools to be meeting or working towards meeting.	Signposting These are services and provisions available to all schools and settings.
Improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools.	Environmental	1. Educational buildings are compliant with: Part M of the Building Regulations, BS8300:2009 (Design of buildings and their approaches to meet the needs of disabled people), Building Bulletin 102: Designing for disabled children and children with special educational needs. 2. BCC owned and maintained Schools must also comply with the BCC Environmental Access Standard. 3. All disabled pupils and those with special education needs must have a Personal Emergency Evacuation Plan (PEEP) written and agreed with parent/carer. Staff are aware of the plans and appropriately trained.	Education Asset Management Team: educationampteam@bristol.gov.uk Part M of the Building Regulations BS8300:2009 Design of buildings and their approaches to meet the needs of disabled people. Building Bulletin 102: Designing for disabled children and children with special educational needs. BCC Environmental Access Standard Fire Regulations PEEP Template

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The framework below outlines the different duties for schools from the Equality Act 2010, Schedule 10 and what the Local Authority expect to be in place.
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Equality Act 2010 Statutory Requirement		Best Practice These are the outcomes we expect schools to be meeting or working towards meeting.	Signposting These are services and provisions available to all schools and settings.
Improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.	Access to school information	1. Information made available to non-disabled pupils should be made available in an accessible format for disabled peers. This includes access to suitable communication system (e.g. visual aids, makaton, etc) when being involved in decision making and matters important to them. 2. Careers advice for disabled pupils includes information on reasonable adjustments at work and support available in work. 3. Newsletters and school information is produced in a format that enables access to disabled learners in the setting. School websites meet accessibility standards and are easy to navigate. Pupil portals are made accessible for disabled pupils.	Communication Trust Careers Advice Guidance on making accessible information

ACCESS PATHWAY

The diagram below illustrates what schools and educational settings should do when a disabled pupil is admitted to their setting.

Disabled pupil gains a place in your school through standard admissions process.

Disabled pupil gains a place in your school through EHCP.

Pupil is returning to your school with a mental or physical impairment.

Access to the curriculum

Quality first teaching, (Standard Inclusive Practice in Early Years) differentiation and graduated response to needs.

Advice is sought from relevant service (e.g. Occupational Therapy, Sensory Support Service).

School completes a SEN Support Plan for pupil.

Auxiliary aids are bought to support a disabled pupil.

Top Up application is made is additional funding is needed to meet the needs of a pupil with physical or sensory impairment needs.

Physical Access

School contacts Education Asset Management Planning (this service is free to LA maintained schools). Email: educationampteam@bristol.gov.uk

Advice is sought from relevant service (e.g. Occupational Therapy, Sensory Support Service).

BCC will fund reasonable adjustments to the environment to meet the needs of the pupil in maintained Schools only. Academies have to approach the Education Funding Agency and Voluntary Aided Schools can apply for funding through LCVAP.

Access to Information

School ensures information and resources in classroom are adapted to the needs of the pupil.

School works with pupil to identify information access needs and notes this to be able to anticipate their information access needs.

WHAT IS DISABILITY?

This factsheet explains what disability is under the Equality Act 2010.

The definition of disability in the Equality Act 2010 is:

“A person (P) has a disability if—

(a) P has a physical or mental impairment, and

(b) the impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities.”

Equality Act 2010, Part 2, Chapter 1, Section 6 (1)

This definition is further broken down in [Equality Act 2010, Schedule 1 Part 1, Determination of Disability](#). Below are some key ideas you should be aware of.

A Physical or mental impairment can mean a wide variety of conditions including:

sensory impairments, such as those affecting sight or hearing;

impairments with fluctuating or recurring effects such as rheumatoid arthritis, myalgic encephalitis (ME), chronic fatigue syndrome (CFS), fibromyalgia, depression and epilepsy;

progressive, such as motor neurone disease, muscular dystrophy, and forms of dementia;

auto-immune conditions such as systemic lupus erythematosus (SLE);

organ specific, including respiratory conditions, such as asthma, and cardiovascular diseases, including thrombosis, stroke and heart disease;

developmental, such as autistic spectrum disorders (ASD), dyslexia and dyspraxia;

learning disabilities;

mental health conditions with symptoms such as anxiety, low mood, panic attacks, phobias, or unshared perceptions; eating disorders; bipolar affective disorders; obsessive compulsive disorders; personality disorders; post-traumatic stress disorder, and some self-harming behaviour;

mental illnesses, such as depression and schizophrenia;

produced by injury to the body, including to the brain.

Long term impairment is defined as having lasted at least 12 months, likely to last for at least 12 months or is likely to last for the rest of a person’s life. ([Equality Act 2010, Schedule 1 Part 1, Determination of Disability](#))

Substantial is defined as “more than minor or trivial” (Equality Act 2010, Part 16, Interpretations, Section 212). Furthermore, substantial is defined as “An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if - (a) measures are being taken to treat or correct it, and (b) but for that, it would be likely to have that effect. “Measures” includes, in particular, medical treatment and the use of a prosthesis or other aid.” (Equality Act 2010, Schedule 1 Part 1, Determination of Disability)

Normal day to day activities are defined as activities that are carried out by most people on a regular or daily basis (In a school this might be sitting at a table, coming into a classroom or interacting with other children). It does not include activities that are normal for only a particular person or a small group of people (e.g. learning to play the violin or playing tennis). ([Office for Disability Issues, HM Government, Equality Act 2010 Guidance](#))

WHAT IS DISABILITY?

EXAMPLES

A pupil has broken their leg. Though the pupil now has a physical impairment that is substantial and affecting their ability to carry out normal day to day activities it is not long term (i.e. it is unlikely to last beyond 12 months).

A pupil is short sighted (mild) and wears glasses. Though the pupil has a physical impairment that is long term (i.e. likely to last for the rest of the pupil's life) and without measures to correct it (i.e. having glasses) it would have an effect on their day to day activities the impairment is not substantial (i.e. it is minor).

A pupil has suffered from severe anxiety for 2 years. The pupil has a mental impairment that is long term (longer than 12 months) with a substantial effect on the ability to carry out normal day to day activities. This pupil would meet the definition of disability as defined in the Equality Act 2010.

A pupil has cerebral palsy with no special educational needs. The pupil has a physical impairment that is long term (i.e. likely to last for the rest of the pupil's life). If the pupil's cerebral palsy had a substantial effect on their ability to carry out normal day to day activities this pupil would meet the definition of disability as defined in the Equality Act 2010.

A pupil has cancer. Under "certain medical conditions" of the Equality Act 2010 a pupil with cancer would automatically meet the definition of disability. This also applies to individuals with HIV and Multiple Sclerosis (MS). This is because it is accepted that these conditions are likely to have long term, substantial effects on a person's ability to carry out normal day to day activities.

SPECIAL EDUCATIONAL NEEDS vs DISABILITY

Not every disabled pupil will have special educational needs and not every pupil with special educational needs will meet the definition of disability. The definition of disability is explained above. Special educational needs are defined as:

xii. A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her.

xiv. A child of compulsory school age or a young person has a learning difficulty or disability if he or she:

- has a significantly greater difficulty in learning than the majority of others of the same age, or
- has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions

xv. For children aged two or more, special educational provision is educational or training provision that is additional to or different from that made generally for other children or young people of the same age by mainstream schools, maintained nursery schools, mainstream post-16 institutions or by relevant early years providers. For a child under two years of age, special educational provision means educational provision of any kind.

SEND Code of Practice 2014, Special Educational Needs

Lots of pupils will come under both definitions but there will be pupils will meet the definition of disability but not the definition of special educational needs. To be able to ascertain whether a

WHAT IS DISABILITY?

pupil meets the definition of disability or special educational needs the tests need to be applied separately.

EXAMPLES

A pupil has a prosthetic leg. The pupil meets the definition of disability as they have a physical impairment that is long term, substantial and has an impact on their ability to carry out day to day activities. However if their physical impairment does not cause them to have a learning difficulty (i.e. they do not have significantly greater difficulty in learning compared to the majority of their peers and they are not prevented or hindered from making use of facilities) the pupil does not have special educational needs.

A pupil has dyslexia. If the pupils learning difficulty means they have a significant greater difficulty in learning than the majority of their peers or their learning difficulty prevents or hinders them from making use of facilities generally provided and educational provision is made available that is additional to and different from what is generally available then the pupil has special educational needs. However if the pupil's learning difficulty does not have a substantial effect on their ability to carry out day to day activities, even though it might be long term (e.g. for the rest of their life) mental impairment it does not meet the definition for disability.

A pupil has HIV. The pupil will automatically meet the definition of disability but they may not have a learning difficulty which calls for special educational provision to be made for them and therefore they do not have special educational needs.

MAKING RECORDS OF DISABLED PUPILS

When recording whether a pupil has special educational needs you should not assume they are disabled. Also you should consider when making records of disabled pupils when there might be pupils who may have no special educational needs but do meet the definition of disabled.

WHAT IS DISABILITY DISCRIMINATION?

This factsheet explains what disability discrimination is under the Equality Act 2010.

Disability is a protected characteristic and as such is afforded protection under the Equality Act 2010. There are 6 main ways in which a person can be discriminated against: direct discrimination; indirect discrimination; failure to make reasonable adjustments; discrimination arising from disability; harassment; victimisation.

You can find out more about disability discrimination from the [Equality and Human Rights Commission](#).

In addition to not discriminating in the ways described above Part 6, Chapter 1 of the Equality Act sets out ways in which schools must not discriminate against disabled pupils.

(1) The responsible body of a school to which this section applies must not discriminate against a person - (a) in the arrangements it makes for deciding who is offered admission as a pupil; (b) as to the terms on which it offers to admit the person as a pupil; (c) by not admitting the person as a pupil.

(2) The responsible body of such a school must not discriminate against a pupil - (a) in the way it provides education for the pupil; (b) in the way it affords the pupil access to a benefit, facility or service; (c) by not providing education for the pupil; (d) by not affording the pupil access to a benefit, facility or service; (e) by excluding the pupil from the school; (f) by subjecting the pupil to any other detriment.

(3) The responsible body of such a school must not harass - (a) a pupil; (b) a person who has applied for admission as a pupil.

(4) The responsible body of such a school must not victimise a person - (a) in the arrangements

it makes for deciding who is offered admission as a pupil; (b) as to the terms on which it offers to admit the person as a pupil; (c) by not admitting the person as a pupil.

(5) The responsible body of such a school must not victimise a pupil - (a) in the way it provides education for the pupil; (b) in the way it affords the pupil access to a benefit, facility or service; (c) by not providing education for the pupil; (d) by not affording the pupil access to a benefit, facility or service; (e) by excluding the pupil from the school; (f) by subjecting the pupil to any other detriment.

(6) A duty to make reasonable adjustments applies to the responsible body of such a school.

Equality Act, Part 6, Chapter 1, Schools

If a parent, carer or young person feels they have a case for disability discrimination against a school based on any of the ways of discriminating as described above they are entitled to appeal to SEND Tribunal. They do not need to have an Education, Health and Care plan to do this as a disabled pupil may not have one unless they also have special educational needs that meet the threshold for an Education, Health and Care plan. Pupils can bring cases of disability discrimination against a school based on admissions, provision of education and access to any benefit, facility or service or exclusion. If a disability discrimination case is successful the SEND Tribunal can order the school in question to put in place any reasonable steps towards rectifying the effects of the discrimination.

You can find out more about [Disability Discrimination claims from IPSEA](#).

WHAT IS DISABILITY DISCRIMINATION?

MAKING REASONABLE ADJUSTMENTS

In the duty to make reasonable adjustment there are three requirements that relate to: provisions, criteria and practices; physical features: auxiliary aids and services.

The first and third requirements apply to schools whereas the second requirement (physical features) does not apply to schools (instead the requirement is for schools is to make an access plan which includes physical environment). When making any reasonable adjustment a disabled person should not be required to pay for the adjustment to be made.

"A (the responsible body for a school) must comply with the first and third requirements."

Equality Act 2010, Schedule 13, Education: Reasonable Adjustments

You can find out more about making reasonable adjustments in schools from the Equality and Human Rights Commission.



The writing of this strategy was overseen by the Access Strategy Working Group (a working group from the Inclusion Reference Group). It is owned and reviewed by the SEND Challenge Group (a sub group of the Children and Families Partnership Board).

If you have any questions regarding this strategy or any feedback you would like to give please contact nakita.singh@bristol.gov.uk.

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