

How can the Equality Act be used to benefit deaf children and young people?

Catriona Hauser
Manager,
Education Appeals Advisers



Objectives for the session

- Focus on how the Act can benefit deaf CYP to access education provision
- How can the Act assist in the planning and implementation of education provision?
- How can the Act assist in individual cases?

Who does the Act apply to?

- Those who have a ‘protected characteristic’ which includes those who meet the legal definition of disability
- Almost all children with a sensory impairment will be considered to be disabled for the purposes of the Act.
- Importantly it includes children who have hearing loss who do not have SEN as well as those who are getting support through the SEN system.

Who has the duty?

- Applies to both LA and all education providers
- Beyond formal education to include:
 - extracurricular and leisure activities,
 - sports activities and school trips
 - school facilities such as libraries and IT facilities.
 - Policies and procedures
 - Admissions and exclusions

Planning and implementation of education provision



What's
the
plan?

Three key strands

- Accessibility planning
- Positive action
- Public Sector Equality Duty

Accessibility planning

LA/schools must **write, implement and review** accessibility plans which are aimed at:

- increasing the extent to which disabled pupils can participate in the schools' curriculums;
- 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;
- improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled

Positive action

- This is not a duty BUT.....
- It permits schools to take proportionate steps to help particular groups of pupils to overcome disadvantages that are linked to their protected characteristic
- School may take positive action to
 - overcome disadvantage
 - to meet different needs
 - to increase participation

Public Sector Equality Duty

LA/publically funded schools must have due regard to the need to:

- Eliminate discrimination and other conduct that is prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not

What does the PSED mean in practice?

- Consider the impact on equality when making significant decisions/developing policies
- Publish information to demonstrate how they are complying with the Public Sector Equality Duty
- Prepare and publish equality objectives

How does the Act assist individuals?

- Protects against the different forms of discrimination
- Requirement to make reasonable adjustments including provision of auxiliary aids and equipment

Reasonable adjustments

- ***‘to take such steps as it is reasonable to have to take to avoid the substantial disadvantage’*** to a disabled person caused by policy, criteria or practice (PCP) or by an absence of auxiliary aid or service
- It is an anticipatory duty
- Substantial has v low threshold – more than minor or trivial compared to non disabled pupils

When will it be reasonable?

- Extent to which support would be provided under Part of Education Act 1996/Children and Families Act 2014
- Resources and availability of financial or other assistance
- Financial and other costs of making adjustment
- Extent to which the step would be effective in overcoming the substantial disadvantage experienced by a disabled pupil
- Practicability of the adjustment
- Effect of the disability on the individual
- Health and safety requirements
- Need to maintain academic, musical, sporting or other standards
- Interests of other pupils and prospective pupils.

Limitations of the Act

- What is reasonable depends on circumstance
- Families often reticent about pursuing discrimination claim
- Limited case law to give us guidance
- Resources and knowledge available e.g. school may have finances to purchase a radio aid but unable to provide ongoing maintenance and assistance
- If aid provided by the school what happens at transition points?
- Issue on using aids outside of school - duty is only for accessing education and other services provided by school/LA
- Positive duty is not a requirement on schools

Case studies

