

## **Script for Video: Equal Opportunities for pupils with a disability**

### **Title slide**

This video explains the law applying to educational settings which makes sure that pupils with disabilities can access equal opportunities to learn, enjoy and achieve.

### **Slide 2**

This recording will go through:

The definition of disability under the Equality Act 2010 and explain which settings the law applies to, and this will be from slide three;

We will look at the three types of discrimination according to the Equality Act, from slide six;

The Reasonable Adjustments Duty, from slide twelve;

And what to do if you have concerns about equal opportunities for your child, from slide nineteen.

We have created timestamps in the description underneath this video on YouTube so if you want to watch only part of this video again, you can click a particular section and the video will open at that point.


### **Slide 3**

The Equality Act of 2010 brought together different laws that cover discrimination into one. Disability is one of the nine characteristics protected by the law, so that disabled people get the same opportunities as non-disabled people and do not experience discrimination.

According to the Act, a person is disabled if they have:

‘a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities.’

Equality Act section 6 (1)(a) and (b)



The definition is designed to be as broad as possible and there is a wide variety of conditions and impairments that will be covered.

There is no need for a child or young person to have a medically diagnosed cause for their condition; what matters is the effect their condition has on them.

We have a separate video called 'what is a disability according to the Equality Act?' which looks at this definition in detail.

## **Slide 4**

The Equality Act applies to all:

- nurseries and schools (including academies, and Free Schools)
- It applies to post 16 institutions, universities and employers
- and it applies to service providers like local authorities and private education settings.

## **Slide 5**

All aspects of studying are covered including:

- admissions;
- and the provision of education (for example classwork, timetabling, school and field trips, homework and after-school clubs and societies – in effect the whole of school life).

The Act also covers:

- access to any benefit, facility or service;
- and also exclusions.


This does not mean that a disabled pupil can never be excluded. The Act ensures that education providers cannot exclude a student or terminate their studies because of their disability.

## **Slide 6**

Under the Equality Act nurseries, schools and post 16 institutions:

Must not directly discriminate against disabled children or young people.

(SEND Code of Practice 2015 Introduction xix)



Direct discrimination is treating a disabled pupil **less favourably** because they are disabled.

## Slide 7

Let's look at an example:

A pupil with a hearing impairment is not permitted to go on a trip to see a Shakespeare play although she would like to. Staff decide that she will get more from watching a subtitled filmed version of the play in school instead.

In this example, it is because of the child's disability that the school decides she will not go on the trip. This is likely to be direct discrimination even if the school consider that they are acting in the child's best interests.

Under the Equality Act there is no justification for direct discrimination.

## Slide 8

According to the Act nurseries, schools and post 16 institutions also:

Must not directly discriminate against disabled children or young people.

(SEND Code of Practice 2015 Introduction xix)

Indirect discrimination is applying a **provision, criterion or practice** that puts a disabled pupil at a disadvantage compared with someone else who is not disabled.

## Slide 9

Let's consider another example

A secondary academy requires all pupils to wear the school uniform from a specified provider. A pupil has severe eczema which is made worse by the particular fabric used in the uniform trousers.

An educational setting could discriminate by applying a blanket policy, that means a policy that is applied in the same way for everyone, if the policy puts a disabled pupil at a particular disadvantage.

A setting does not have to change their overall policy for non-disabled students, but the Equality Act would expect them to make reasonable adjustments to the policy for a disabled pupil.



## Slide 10

Nurseries, schools and post 16 settings 'must not discriminate for a reason arising in consequence of a child or young person's disability.'

(SEND Code of Practice 2015 Introduction xix)

This means they must not treat a disabled pupil unfavourably because of something connected to their disability, such as needing time off for medical appointments.

This applies if the education provider knows of the child's disability or ought reasonably to have known.

Settings are expected to take reasonable steps to find out if a pupil is disabled. This might include careful observations of progress and behaviour and talking to parents or carers and to the child or young person themselves.

## Slide 11

Let's look at a couple of examples.

A private nursery refuses to give a place to a little boy because he is not toilet trained. His parents have told the nursery that he isn't toilet trained because he has Hirschsprung's Disease, but they still refuse to give him a place.

The toileting issue arises from the child's disability and the nursery was aware of the disability, so this is likely to be 'discrimination arising from disability'.

In another example, a post 16 disabled student has a number of absences due to anxiety and depression. The college takes action to terminate his studies as he has taken off more days than allowed in a term. The college should be recording disability-related absences separately. The action to exclude is due to absence related to the student's disability so this is likely to be 'discrimination arising from disability'.

## Slide 12

Where something a setting does might put a disabled child at a substantial disadvantage compared with other children who are not disabled, the setting must take reasonable steps to avoid that disadvantage. This is usually referred to as the 'Reasonable Adjustments Duty'.

This is a continuing duty. This means that it is not a one-off, or once and forever duty; adjustments need to be kept under review and over time, adjustments may need to be changed.



Failure to make reasonable adjustments is another type of discrimination.

### **Slide 13**

The reasonable adjustments duty is 'anticipatory'. This means it requires settings to think ahead to anticipate where disadvantage may arise and put adjustments in place to prevent this happening.

It is good practice for educational settings to involve parents and pupils in planning reasonable adjustments.

Sometimes settings may need to call on specialist advice, but most reasonable adjustments consist of changes to policies and practices, which often cost little or nothing and can be relatively easy to implement.

### **Slide 14**

Let's look at some examples of common reasonable adjustments.

On a residential trip a pupil with sensory needs can take meals in a separate room with a small group of friends rather than in a very large busy cafeteria.

A secondary school organises for a subject usually taught upstairs to be taught on the ground floor, to enable access for a pupil in a wheelchair.

A student with medical needs is able to take an exam at home or have a delayed start to the exam.

And a pupil with chronic fatigue is given a 'buddy' to carry schoolbooks and the school policy adjusted so that she will not be penalised for arriving late.


### **Slide 15**

The Equality and Human Rights Commission has produced detailed guidance for schools about reasonable adjustments. [Reasonable Adjustments for Disabled Pupils – guidance for schools in England](#)

You can download this for free if you'd like to. It includes lots of examples which you may find helpful.

### **Slide 16**

The reasonable adjustments duty applies to the provision of auxiliary aids and services.



An example of an auxiliary aid could be a recording device or a step enabling a pupil with restricted growth syndrome to reach a science lab desk. An example of a service might be for a school to train a teaching assistant to provide specific medical support for a pupil.

The duty also applies to procedures, criteria and practices.

This covers all arrangements and policies and activities, including a school's behavioural or sanctions policy, their uniform policy, procedures for exclusions and for school outings and residential trips.

(SEND Code Introduction xix and xx)

For nurseries which are not part of schools and post 16 providers, the reasonable adjustments duty includes alterations to physical features. This might involve removing a physical feature or altering it, or finding a reasonable way of avoiding it, like using a different entrance, or providing a ramp or changing round the use of rooms inside a building.

Schools have a different duty to publish an accessibility plan on their website.

## **Slide 16**

The Accessibility Plan must set out how the school plans to increase disabled pupils' access to:

the curriculum; the environment; and to any their information shared in school.

This is a tool for you and your child to use. So, for example, if your child is disabled and is about to start a new school, we would recommend that you look at the new school's Accessibility Plan to help build your overall understanding and to support your discussions at a transition meeting.

(SEND Code Introduction xx)


## **Slide 17**

Where a child or young person has a disability and a special educational need or SEN, the SEND Code states that:

'reasonable adjustments and access arrangements should be considered as part of SEN planning and review.'

(SEND Code of Practice intro paragraph xxii)

If you're not sure about how this works, we have a video ([Suffolk SENDIASS videos](#))



explaining the process of SEN support and how you and your child are involved and more information on our [Suffolk SENDIASS website](#).

Each term we also offer free information sessions for parents and carers in Suffolk explaining SEN support.

## **Slide 18**

If you have concerns about equal opportunities for your child, we recommend that you first approach the educational setting, to explain these. It is possible that staff have not got the full picture of how your child's disability impacts on their ability to learn and take part in school life.

If you are still unhappy, you could follow the setting's complaint procedures through writing to the Head or principal and to the responsible governing body or committee.

In your complaint, it's important to explain what type of disability discrimination you believe has taken place, and what action you think the school should take to remedy it. Our SENDIAS service could help you with wording this and support you with working with school to resolve the issues.

## **Slide 19**

If things are not resolved, you could choose to escalate the complaint to the Department for Education and Ofsted, or you could decide to bring a claim to the SEND Tribunal.


Bear in mind however, that discrimination claims are backwards looking. They focus on a past event of discrimination rather than looking forward to what support is needed.

While the SEND Tribunal can order reasonable adjustments to be made, if your main aim is to get better support for your child, you may like to contact our impartial SENDIAS service to explore options and support you in working with school.

However, if you do decide to make a claim to the SEND Tribunal, our service can support you with this too.

## **Slide 20**

Do look at our [SENDIASS website](#) to find further relevant information and answers to frequently asked questions and explore our Suffolk SENDIASS [YouTube channel](#)



to find more videos. For example, explaining the definition of disability in detail and the process of educational support for pupils with medical conditions or with special educational needs (or SEN).

## **Slide 21**

This video was made by Suffolk SENDIASS, but every county has an impartial and confidential SEND Information, Advice and Support Service.