

## **Governor SEND Webinar Two Recording Script**

### **Title Slide**

This is a recording of the second of two linked webinars outlining governor responsibilities regarding pupils with special educational needs and disabilities and those with medical needs. This first webinar explored the process of support for pupils with special educational needs. This webinar will focus on inclusion, whole school and whole class approaches, support for pupils with medical needs and equal opportunities for disabled pupils.

We have a script available for each recording for governors with hearing difficulties.

### **Slide 2**

This is just a reminder that on our Suffolk SENDIASS training webpages we have a series of resources linked to our governor recordings which you may find helpful.

### **Slide 3**


Effective boards hold their executive leaders to account for improving pupil and staff performance by asking the right questions so again, this is a reminder that our resources include a check and challenge sheet based on governor's SEND statutory duties.

And a link to this [Knowing your school guidance series - National Governance Association \(nga.org.uk\)](https://www.nga.org.uk/guidance/known-your-school-guidance-series-national-governance-association) which look at a range of questions governing bodies could ask.

### **Slide 4**

At the end of this webinar recording we hope that you will:

- ▶ Have a clearer understanding of inclusion and the statutory considerations regarding pupil exclusion;
- ▶ Appreciate the statutory duties from the Equality act for supporting disabled pupils, including the reasonable adjustments duty;

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- ▶ Appreciate the statutory duties for supporting pupils with medical conditions. I will be reminding you of these at the end of the webinar.

As in webinar one, your statutory duties are highlighted in orange and they can also be found altogether in our linked resource suite.

## Slide 5

In webinar one we highlighted that all governors must have regard to the [SEND Code of Practice 2015](#) and we will be referring to this again today.

## Slide 6

You must also have regard to these two further sets of statutory guidance:

The most recent guidance [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units of May 2023](#)

And also the statutory guidance [Supporting pupils at school with medical conditions \(publishing.service.gov.uk\)](#).

As for webinar one, I will be giving exact references to these in some of the slides today and links to all guidance referred to will be in your resource suite.

## Slide 7

We'll also be including links to the [Behaviour in Schools guidance](#) and these two guides produced by the [Equality and Human Rights Commission](#) to help schools appreciate their equality duties. They each include lots of very helpful examples.

## Slide 8

And just a reminder of the key underpinning principles from the Children and Families Act which form the foundation of the SEND Code and to which we will be referring in this webinar too.

The duty to have regard to:

- The views, wishes and feelings of the child, young person and their parents
- The importance of them participating as fully as possible in decision-making
- Providing clear information and support to enable them to participate
- And supporting children and young people to achieve the best possible outcomes.

## Slide 9

So let's begin with exploring governor statutory duties relating to inclusion.

The fundamental principle of inclusion is deeply embedded in law. All children and young people with SEN are entitled to an inclusive education in a mainstream school or college, if that is what their parents want.

## Slide 10

In webinar one, we referred to these waves of intervention and we looked at targeted and specialist intervention for pupils with special educational needs. We're going to start today's input by considering the first tier of universal, inclusive approaches and quality first teaching.

## Slide 11

Which brings us to the first governor statutory duty of today's webinar which is sometimes referred to as the Inclusion Duty.

All schools **must**: 'Ensure that children with SEN engage with the activities of the school together with children who do not have SEN as far as possible.'

## Slide 12

An inclusive education is not a privilege - it is a right.

So your school's universal offer needs to include a repertoire of approaches for all pupils which will also benefit pupils with SEND.

Inclusion is not a 'bolt-on' but a golden thread which should be evident throughout whole school and whole class approaches.

## Slide 13

The SEND Code is clear that high quality teaching differentiated for all pupils, is the first step in responding to pupils with SEN. Additional intervention and support cannot compensate for a lack of good quality teaching.'

And in the [EEF guidance report](#) we referred to in webinar one, their first recommendation for high quality teaching is to 'create a positive and supportive environment for all pupils, without exception.'

## Slide 14

An inclusive school environment which benefits pupils with SEND is beneficial for all pupils.

The EEF's same guidance emphasises:

'Creating an inclusive environment is the most important thing a school can do. An inclusive culture is a prerequisite for an effective school: it brings happiness, a feeling of safety and being part of the community, and, of course, it impacts positively on learning, both in the classroom and beyond.

An inclusive environment does not come by accident, it is achieved through design.'

In other words it is part of the school vision and strategy and reflected in teaching practice and also in staff training.

## Slide 15

The Ofsted education inspection framework states that:

'those responsible for governance... ensure that the provider has a clear vision and strategy and the resources are managed well.

They hold leaders to account for the quality of education and training.'

The governance handbook states that governors need to be 'ambitious for all children and young people.'

So what is this going to look like? What would you expect to see happening in a school where inclusion is fundamentally embedded and not a bolt on?

We're going to spend just a few minutes looking at examples of whole school approaches which will benefit all pupils, including those with SEND. The more inclusive these whole school and whole class approaches are, the fewer targeted interventions will be needed and the less a pupil with SEND will stand out or feel different or excluded.

## Slide 16

This slide shows you just some examples of whole school inclusive approaches to benefit the wellbeing of all pupils, including those with social emotional and mental health needs and other SEND.

These could include educating pupils on the importance of well-being and strategies to maintain it;

Providing information on support for young people and self-help resources,



Embedding the THRIVE approach,

Promoting the use of buddies or student mentors, playground leaders and wellbeing ambassadors

regularly collecting the pupil voice

And also teaching all pupils breathing exercises, meditation and mindfulness, or maybe massage, yoga or tai chi.

## **Slide 17**

This slide offers some examples of whole class approaches which benefit all pupils along with those with SEND.

There's been quite a bit of research to show that uncluttered classrooms without overly busy and hanging displays help all pupils to concentrate, not just those with for example, sensory processing needs or ADHD.

Consistent class routines including putting resources back in the same place and having them clearly labelled, benefit everyone, including those on the autistic spectrum and those with organisational difficulties like dyspraxia and dyslexia. Clear visuals like visual timetables, visual sequencing and checklists like those you can see on screen, support the learning of all pupils, many of whom will be visual learners.

In webinar one we shared that according to the latest SEN stats, at SEN support the most common type of need is speech, language and communication needs. The Suffolk specialist education service for pupils with these needs emphasise the importance of clear visuals which support not just the timetable, but also instructions and expectations and it's important that they are not lost in overwhelming class displays.


Classrooms could include a worry box and a sensory box.

Like pupils with specific learning difficulties, pupils with communication needs also benefit from being given time to process questions, think about and express their answers. But this is good for all pupils so they don't feel rushed and to have time to reflect.

Inclusive approaches include making reading aloud voluntary and all teachers being ready to provide alternative ways to record.

## **Slide 18**

Just a few points to consider starting with reminding you of the wording of the inclusion duty and its reference to school activities.



This doesn't just mean classroom activities. This duty extends to before and after school clubs and break and lunch times. Bear in mind that many children with SEND find unstructured times particularly difficult to manage.

The inclusion duty extends to school trips which we're going to talk about a bit later in this webinar.

You will want to be checking how reality reflects your school's SEN policy and SEN information report? You'll remember from webinar one that your SEN information report must include information about how children and young people with SEN are enabled to engage in activities with pupils who do not have SEN. Does the report demonstrate examples of your inclusive approaches?

And it's good to check the CPD calendar for staff - do SEND and inclusion topics feature? Are they clearly being given a high priority?

## **Slide 19**

The Psychology and Therapeutic services in Suffolk offer training and resources around [keys to inclusion](#) and we include a link to this in your linked resources.

## **Slide 20**

Leaders of schools are expected to establish and maintain a culture of high expectations for all pupils.


But studies have found that pupils with SEND can be in a mainstream school but still not be included in high quality teaching.

Teaching a pupil or small group outside the class can work well if it is to provide a short high quality structured intervention.

Our service has worked with families in Suffolk where children with SEND have been taught outside of the classroom for long periods, by a Teaching Assistant or TA, sometimes for whole days at a time .

TAs should supplement not replace the teacher.

The EEF guide I mentioned earlier in the webinar refers to the largest operational research project conducted on UK pupils with SEND which found that in primary schools, pupils with EHC plans experienced a high degree of separation from the classroom, teacher, and their peers, spending over a quarter of their time away from the mainstream class, often working in groups with other pupils considered as low-attaining. This situation equates to a form of streaming. The EEF guide asserts that research has also suggested that this can have long term negative effects on attitudes and engagement with education.



The [DfE Supporting SEND report](#) I referred to in webinar one highlights concerns over the amount of time some pupils are being taught by a TA out of the classroom and how they could be experiencing:

- social exclusion
- over-reliance on a single adult
- and missing entire chunks of the curriculum which implies not just regular learning loss but a different ambition to that being shown for other pupils.

It also raises the issue of support staff training, specifically in the subject and curriculum knowledge required to teach pupils who have struggled to learn the intended curriculum at the same rate as their peers.

Any intervention programme needs to compensate for time spent away from the class. So, it will be important for you to consider: how can your school maximise access to high quality teaching for all pupils, especially those with SEND?

## Slide 21

A word about part time timetables as we often receive questions from governors about this.

All pupils of compulsory school age have a right to a full-time education so there is nothing in law to support a part time timetable.

However, the statutory attendance guidance states that

‘in very exceptional circumstances, where it is in the pupil’s best interests, there may be a need for a **temporary** part time timetable to meet their individual needs.


So such a timetable -

- would need to be of short duration;
- There would need to be a clear purpose and benefit agreed by all, including the family;
- And a plan for gradually re-integrating the child or YP back into full time learning

## Slide 22

In addition the exclusions guidance is clear. A part time timetable should not be used to manage a pupil’s behaviour and must only be in place for the shortest time necessary.

There should be a clear time limit by which point the pupil attends full-time



and there should be formal arrangements in place for regularly reviewing it with the pupil and parents.

### **Slide 23**

The exclusions guidance states that any exclusion of a pupil, even for a short period of time, must be formally recorded and must be for behavioural reasons.

'An informal or unofficial exclusion, such as sending a pupil home to cool off, is unlawful', regardless of whether they occur with the agreement of parents and carers.

It is also unlawful to exclude a pupil simply because they have SEN or a disability that the school feels it is unable to meet, or for a reason such as academic attainment or ability or the failure of a pupil or their parents to attend a reintegration meeting.

### **Slide 24**

There are only 3 reasons under the law that a school can ask a parent to take their child home:

- Firstly, so that the child can put on their school uniform if the child is not dressed in the uniform when they arrive at school but then they need to come straight back;
- If the child has a communicable disease;
- Or if an exclusion is **officially** recorded and this **must** be for behavioural reasons.

Note that excluding a child over the lunch period must be formally recorded as a half-day exclusion and like all exclusions it must be for behavioural reasons.

### **Slide 25**


We're going to focus further on exclusions now.

The guidance released in 2022 already included new recommendations and responsibilities for governing boards. There have been a few updates again this year.

In this recording we will highlight only the key points based on the questions governors typically have in this area.

However, we have created a series of additional webpage resources dedicated to exclusions in your governor resources suite.





We've organised them so that it breaks down the guidance into separate elements which we hope will make it easier for you to identify information most relevant to you.

[Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units of May 2023](#)

## **Slide 26**

'Head teachers and governing bodies **must** comply with their statutory duties in relation to pupils with SEN when administering the exclusion process.'

You may remember your best endeavours duty from Webinar one.

The exclusions guidance makes clear that 'this will include any support in relation to behaviour management that a pupil may need because of their SEN.'

## **Slide 27**

This slide shows some examples of possible adjustments for a child who can be fidgety due to their ADHD. Without support to manage the need to move, this could be disruptive for other pupils and put the child at risk of breaching the behaviour policy through no fault of their own.

Settings could explore ways to allow the child to move without disturbing others in the class.

This could include providing a fidget tool or a 'Move n Sit' wedge air cushion.

They could consider putting resistance bands on the child's chair so that they can push against the band discretely.


And they can provide regular movement breaks. A common example of this is asking the pupil to take a pen or book to another teacher in another part of the school.

## **Slide 28**

This slide shows examples of strategies which schools could offer to support a child or young person to better understand and manage their feelings so that they are less vulnerable to exclusion.

Common strategies include:

[Nurture groups](#) or programmes like [Lego Therapy](#) which help children to build their social skills. Many schools have trained teaching assistants to be [emotional literacy](#)



[support assistants \(ELSA\)](#). This is an intervention originally developed by an Educational Psychologist to help support the emotional needs of pupils.

Many schools use time out cards and enable pupils to have access to a safe space to calm down.

Visuals are often used in learning settings to help pupils to understand and express their emotions and comic strip drawing can be a very effective way of supporting them to understand their own feelings and other peoples' feelings in social situations.

## **Slide 29**

Schools must comply with their equality duties when deciding whether to exclude a pupil. Many children with SEN also meet the threshold for disability (and we'll be looking at this threshold shortly). There is a significant overlap.

Also, schools must make sure that their policies and practices do not discriminate against pupils by unfairly **increasing** their risk of exclusion.

For example, if reasonable adjustments have not been made for a pupil with a disability that can manifest itself in breaches of school rules if needs are not met, a decision to exclude may be discriminatory.'

We're going to explore the reasonable adjustments duty later in this webinar. This duty applies to a school's behavioural and sanctions policy as to any other policy.

## **Slide 30**

So a setting must not apply a blanket policy in the same way to all pupils, if this policy might put disabled pupils at a disadvantage.

Let's look at an example to explain this. A school has a policy that if a pupil receives three detentions in a term, they will automatically be given a one day fixed period exclusion or suspension.

A pupil who, for example, struggles to interact appropriately due to their Autism, may be more vulnerable to detention and therefore to exclusion.

The setting would be expected to apply reasonable adjustments to their behaviour policy to avoid disability discrimination.

So what adjustments could they make?

## Slide 31

For a child or young person with communication and interaction difficulties, [comic strip drawing or social stories](#) or programmes like [Lego Therapy](#) can be very helpful in supporting a pupil to understand their feelings and the feelings of others in social situations and help them to learn more appropriate interactions.

## Slide 32

So when a Headteacher recommends a permanent exclusion or a fixed term exclusion (suspension) of more than 5 days, what will your considerations look like in practice?

Firstly, is there a record that the child has a special educational need or disability?

The most recent DfE statistics on fixed term and permanent exclusions shows that the most common reason for both permanent exclusions and suspensions is persistent disruptive behaviour.

How might the child or young person's SEN or disability needs impact on their understanding of, and ability to follow, behavioural expectations?

What support is outlined in their SEN support plan to address their needs and how has this been reviewed? What evidence is there that the support is having the expected positive impact? Could more effective strategies have been considered, for helping them for example, learn to self-regulate, manage changes to routine, (common trigger for distress for pupils with SEND)

[Statistics: exclusions - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## Slide 33


What evidence is there of the school intervening and supporting the excluded pupil to prevent serious or persistent breaches of the school's behavioural policy?

How were the specific needs and circumstances of the pupil taken into account before the decision to exclude?

It is helpful to always bear in mind what is any sanction trying to achieve?

That is, changed behaviour.

For many children with SEN or a disability their difficulties may mean that they are less able to adhere to a behaviour policy. For example, impulsivity and hyperactivity associated with ADHD may mean that a child with this condition is less able to keep still, focus in class and refrain from regularly calling out.



They may also be less able to fulfil a sanction if the sanction involved them for example sitting still at the back of a class and getting on with their work.

It may be more appropriate to explore restorative justice and support to help the child find different ways to manage behaviour and feelings, including the possible use of a fidget tool.

Remember the ‘best endeavours duty’: that a school must do ‘everything it can’ to address the special educational needs of a child. As we highlighted earlier, the exclusions guidance makes clear that this includes any support in relation to behaviour management that they need because of their SEN. Exclusions should always be a last resort.

### **Slide 34**

As the Behaviour Guidance states:

‘Schools should consider whether a pupil’s SEN or disability has contributed to the misbehaviour and if so, whether it is appropriate and lawful to sanction the pupil.’

To do this schools should consider whether the pupil understood the rule or instruction and whether the pupil was unable to act differently at the time as a result of their SEN or disability.

### **Slide 35**

The [behaviour guidance](#) recommends that


‘Schools should anticipate likely triggers of misbehaviour and put in place support to prevent these.’ These could include:

- Short, planned movement breaks for a pupil whose SEND means that they find it difficult to sit still
- Adjusting uniform requirements for a pupil with sensory regulation issues or who has severe eczema
- Or training for staff in understanding conditions such as autism.

### **Slide 36**

Remember that behaviour is a form of communication and disruptive behaviour can be an indication of unmet needs.

The statutory Exclusions Guidance expects early intervention to address underlying causes of disruptive behaviour. The guidance states that where a child or young person is at risk of exclusion,



'The school should, in partnership with others (including where relevant, the local authority), consider what additional support or alternative placement may be required.

This should involve assessing the suitability of provision for a pupil with SEN or a disability.'

So additional support might come from the local authority Specialist Education Services which we referred to in webinar one, or the new Education Access Team. This may provide a point to consider an EHC needs assessment or review the pupil's current package of support.

For a child who already has an EHC plan, this would mean contact with the Family Services team at an early stage to consider an early review of the plan, to assess whether the support is effective or whether changes are needed.

### **Slide 37**

For any Child in Care or a Child in Need, the statutory guidance recognises that education is an important protective factor, providing a safe space for children to access support, be visible to professionals and realise their potential. When children are not in school, they miss the protection and opportunities and continuity it can provide and become more vulnerable to harm.

So where a social worker is involved, they need to be informed when a child is at risk of exclusion and for a Child in Care, the Virtual School Head. All children in care will have a Personal Education Plan (or PEP) which should be reviewed each term and any concerns about a pupil's behaviour recorded and how the pupil is being supported to lessen the likelihood of exclusion.

### **Slide 38**

If a child or young person would benefit from further behavioural support, settings may seek the help of specialist staff from an Alternative Provider (sometimes referred to as AP)

Or they may explore a placement at an Alternative Provision School, available from reception to year 11.

This could be on a part-time or full-time basis with the mainstream setting staying responsible. The aim would be to help remove any barriers to learning and support the child or young person back into the mainstream environment.

## Slide 39

Other preventative measures for pupils at risk of exclusion include considering:

- An off-site direction (this is a temporary measure that maintained schools and academies can use to improve behaviour – This must never be used as a sanction or punishment. And it should also only be used where in-school targeted interventions or targeted support from an alternative provision have not been successful.
- Or a managed move could be considered (this is a voluntary agreement used to begin a process which could lead to the transfer of a pupil to another school permanently, under controlled and supported circumstances.

## Slide 40

Your governor suite of resources includes links to webpages which look at these in detail. For the off-site direction in particular, we break down the governing body duties and explain what they involve.

[Managed Moves - Considerations for Governors - Suffolk SENDIASS](#)

[Off-Site Education – Responsibilities for Governors - Suffolk SENDIASS](#)

## Slide 41

The statutory guidance also focusses on the importance of gaining the pupil's views in any considerations of exclusions.

It states that:


'Headteachers should 'take the pupil's views into account.. before deciding to exclude'

And 'The pupil should be given support to express their view, including through advocates such as parents or, if the pupil has one, a social worker.'

## Slide 42

If a child is excluded, governors should ensure the pupil and parents are made aware of their right to attend and participate in governing board meetings and the pupil should be enabled to make a representation on their own behalf if they wish to do so.

The guidance states that governors 'should identify the steps they will take to enable and encourage the pupil to attend the meeting and take part (for example, providing



accessible information or allowing them to bring a friend), or identify how the pupil can share their view by other means.’

And ‘governors must consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting.’

### **Slide 43**

The [Autism Education Trust](#) and the [National Governance Association](#) have produced helpful guides which go into a lot more detail with examples around exclusions for pupils with SEND than we are able to do in this webinar. Our resources suite includes links to both of these guides.

When it comes to permanent exclusions, we’ve put together a governor checklist in your post webinar suite of resources of what to consider in terms of the facts, the process, interventions, and considerations for re-instatement which we hope will help you.

### **Slide 44**

There are longstanding national trends to show that particular groups of children are more likely to be excluded from school, both for a suspension or permanent exclusion.

The new exclusions guidance outlines a clear duty for governing bodies to evaluate data on suspensions and exclusions.

This includes carefully considering the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions considering what extra support might be needed to help reduce the vulnerability of groups to exclusion, to ensure the sanction is only used when necessary, as a last resort.


Your resources suite includes a webpage about examining exclusion stats data in your school.

### **Slide 45**

Let’s just reflect on some headline national data which reveals clear links between SEN and rates of exclusion.

The permanent exclusion rate for pupils receiving SEN support is five times higher than pupils without SEN.

The permanent exclusion rate of pupils identified with a social, emotional or mental health need is 15 times higher than pupils without SEN.



Pupils with an autistic spectrum disorder are twice as likely to be excluded than pupils without SEN.

And we highlighted in webinar one, that SEN is much more prevalent in boys than girls, and boys have almost three times the number of permanent exclusions than girls.

See: [Statistics: special educational needs \(SEN\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/statistics/special-educational-needs-sen)

## **Slide 46**

So, consider in your school -

How does the number of excluded pupils with SEND compare with that of all excluded pupils?

Is there an identifiable main area of need of pupils with SEND who are excluded eg communication and interaction needs or, social, emotional and mental health needs?

And how does this inform future provision and whole school approaches?

## **Slide 47**

We have already started to talk about Equality and before we go any further we need to be clear about the definition for disability according to the Equality Act 2010. The Equality Act of 2010 brought together different laws that cover discrimination into one. Disability is one of the 9 characteristics protected by the law, to ensure that disabled people get the same opportunities as non-disabled people and do not experience discrimination.

## **Slide 48**

According to the Equality 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’

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

## **Slide 49**

- Long term is defined as a year or more, but this is not necessarily 12 months in a row



- 'substantial' is defined as not minor or trivial
- 'Day-to-day activities' can mean any activities we do routinely like doing up fastenings, following instructions, reading or making and maintaining friends.

## **Slide 50**

Education-related activities are included in the meaning of 'day to day' activities.

Factors that might have a substantial adverse effect include:

- persistent and significant difficulties in reading and understanding information
- persistent distractibility or difficulty concentrating;
- difficulties understanding or following simple verbal instructions;
- difficulties writing at the same speed as others for example due a physical impairment

## **Slide 51**

So just to be clear, a child does not need a medical diagnosis or medical evidence to be disabled under the law.

The disability definition may include conditions like ADHD, Autism, mental health conditions and anxiety, learning and mobility difficulties and long-term health conditions like diabetes.

This would be decided on an individual basis according to the definition.

In the latest DWP survey I referred to earlier, for disabled children, the most common impairments are social and behavioural, at 45% of the disabled children population.

## **Slide 52**

The Equality Act applies to all education settings and all aspects of studying and school life are covered including:

- admissions
- the provision of education (eg classwork, timetabling, school and field trips, homework, after-school clubs and societies)
- it includes access to any benefit, facility or service
- and, as we mentioned earlier, exclusions

## Slide 53

We're going to look at the three types of discrimination now.

I'm going to talk through an example for each and there is more detail about this in our SENDIASS video 'Equal opportunities for disabled pupils' which you can find on our website and also our SENDIASS YouTube channel. There are also lots more examples in the Equality and Human Rights guides which I referred to earlier, the links for which are in your post session resources.

Schools **must not directly discriminate** against disabled children or young people.

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

To give you an example of direct discrimination:

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

In this example, it is because of the pupil's disability that the school decides she will not go on the trip. This is likely to be direct discrimination.

Under the Equality Act there is no justification for it.

## Slide 54

Schools **Must not indirectly discriminate** against disabled children or young people.

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.

Let's consider another example.

A school requires all pupils to wear the school uniform from a specified provider. A pupil has severe eczema which is exacerbated 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 to all pupils, 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 55

Schools ‘**must not discriminate for a reason arising in consequence of a child or young person’s disability.**’

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.

To give you an example, let's imagine 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 56

Now staying with equality law for disabled pupils, 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.**


## Slide 57

The **reasonable adjustments duty** is anticipatory in other words

it requires settings to think ahead and anticipate where disadvantage may arise for pupils with different disabilities, including before you might have a pupil in your school, using for example, a wheelchair.

It requires you to either put adjustments in place or be ready to put these adjustments in place, to prevent substantial disadvantage, so that disabled pupils can participate fully in the life of the school, from when they join it.

It is good practice for educational settings to involve parents and pupils in planning reasonable adjustments. Parents and pupils are often best placed to help settings in



thinking about what disadvantage might arise and what reasonable adjustments may work best.

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

It 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. Over time, adjustments may need to be changed; new and different adjustments may need to be made to make sure disabled children are not at a *substantial disadvantage* compared with other children who are not disabled.

**Failure to make reasonable adjustments** is another type of discrimination.

## Slide 58

So just to be clear -

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 TA to provide specific medical support for a pupil.

- The duty also applies to procedures, criteria and practices.

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


## Slide 59

Let's consider a few 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 the 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. For a delayed start the pupil takes the exam in a separate room during the



time when other students are in their exam. There is therefore no crossover between the pupils and no possibility for information to be shared but it can allow a pupil to take an exam whose medical condition means they are unable to get to school or to concentrate early in the morning.

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

There is no justification for failing to make a reasonable adjustment.

## **Slide 60**

The Equality Act does not say what is 'reasonable'. What is reasonable in one set of circumstances may not be reasonable in another.

The following factors are likely to be considered when considering whether adjustments are reasonable:

- The effectiveness and practicality of making the adjustment
- The financial resources of the education provider
- The cost of making the adjustment
- Health and safety
- The relevant interests of other students – for example, will the adjustment put others at a disadvantage?


## **Slide 61**

Equality considerations leads us to the next statutory duty now - all schools must publish an accessibility plan on their website which must outline steps to prevent disabled children from being treated less favourably than others even if they do not currently have pupils with these disabilities.

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

- the curriculum
- the physical environment
- information

Remember the key principles of the Children and Families Act and the need for helping pupils and parents to participate and to have clear information to help them to do so?



This accessibility plan therefore needs to be easy to find on the website and written in clear, straightforward language so that this can be an effective tool for families to refer to and use.

How do you know that this plan is easily accessible to families and that they understand it? Are there are examples in the plan which demonstrate clearly to parents the kind of adjustments the school might make?

Just saying 'we will make adjustments for..' won't give a pupil or a parent confidence that the school appreciate the impact of disabilities on a child's ability to access the learning and environment.

## Slide 62

This cartoon is a reminder that some pupils with SEN and disabilities and also those with temporary injuries, may qualify for help in SATS and examinations. This is known as '**access arrangements**'.

Access arrangements are adjustments for pupils based on evidence of need and the support they would normally receive in the class.

The exception is temporary injuries or illnesses which might occur just before an exam.

A pupil does not need to have a diagnostic assessment (like a formal dyslexia assessment or medical diagnosis) in order to receive them.

Not all arrangements need to be formally requested via the Joint Council for Qualifications but many do and they might need some formal assessment.

The needs of the child therefore need to be considered well in advance of an assessment.

There is separate guidance for SATS and exams.


## Slide 63

Now let's look at our next statutory duties which relate to pupils with **medical needs**:

schools must '**Make arrangements to support pupils with medical conditions.**'

And they must have regard to the statutory guidance 'supporting pupils at schools with medical conditions.'

This statutory guidance makes clear that 'Governing bodies should ensure that pupils with medical conditions are supported to enable the **fullest participation possible** in all aspects of school life'.



Pupils may or may not have special educational needs but may have an individual healthcare plan. This is different from an Education, Health and Care Plan. Our linked resources include a link to the [medical conditions and school partnerships website](#) which has some helpful individual healthcare plan templates for specific conditions.

## **Slide 64**

With parental agreement, pupils can carry and administer their own medication. If not appropriate, relevant staff should help to manage and administer them.

There may be confusion here as administering medicine is not part of a teacher's professional duties. This is however an overall school responsibility

The [Guidance for Supporting Pupils with Medical Conditions in School](#) considers it unacceptable to 'require parents to attend school to administer medication or provide medical support to their child, including with toileting issues. No parent should have to give up working because the school is failing to support their child's medical needs.'

## **Slide 65**

The guidance is clear that staff may need training so that they can feel confident undertaking this responsibility. Training is available in Suffolk through:

- The school nursing service which offers '3 in 1' training.
- through the community children's nursing team,
- specialist nurses (for example specialist nurses in epilepsy and ADHD), therapists and the Dietetic services.


Remember to keep an eye on the weekly Headlines newsletter which regularly gives details of training including around managing anaphylaxis, epilepsy and asthma and also other training like for example mental health first aid training courses offered by the Raedwald Trust. There is also some remote training around mental health awareness and support offered by Connect Ed.

Governing bodies should ensure that the school's medical policy is clear about procedures to be followed for managing medicines.

## **Slide 66**

The statutory guidance is also clear that it is unacceptable practice to:

'prevent children from participating, or create unnecessary barriers to, children participating in any aspect of school life, including school trips, e.g. by requiring parents to accompany the child.'



Teachers should be aware of how a child's medical condition will impact on their ability to participate in activities.

The ideal way to achieve this is to carry out a risk assessment prior to the activity or trip, in consultation with the pupil, parent and any other relevant healthcare professionals.

As stated earlier, the law is very clear when it comes to inclusion.

### **Slide 67**

If a child with medical condition may meet the threshold for disability then a school needs to make reasonable adjustments to ensure that the child has an equal opportunity to enjoy and achieve.

If the school is unable to make reasonable adjustments to ensure that all children can be properly supported to take part, then it is not an appropriate activity or trip to make.

### **Slide 68**

Let's look at a couple of examples.

A school plans a visit to their local museum. It is an old building with uneven flooring and frequent small steps between rooms. This is hazardous for a child with cerebral palsy.

The school decides to visit the museum in the neighbouring town which has good disability access. The inconvenience to others of the longer trip is a reasonable adjustment to allow all pupils to safely take part and enjoy the visit.

### **Slide 69**

This example considers a high school which each year takes its year 7 pupils to a residential centre with lots of activities. This year a pupil in year 7 needs daily kidney dialysis at home.

As a reasonable adjustment the school arranges for transport from the pupil's home to attend the centre for day visits on three of the 5 days of the week, so that the pupil can join in activities with the other children.



## Slide 70

To fully enjoy a trip, children with SEND need to understand what the trip involves to help them prepare.

A reconnaissance visit will be helpful. Photos could be taken or a video made of the site to help lower anxiety.

Pupils who have attended the trip before could be filmed explaining what they did and what they enjoyed to encourage new pupils.

## Slide 71

Visual cards and social stories can support many children and young people to prepare for a school trip and can be regularly referred to in the lead up to the visit, to help them prepare for what to expect and what will happen and when.

## Slide 72

Right we're reaching the end of our webinar recording.

Just a reminder of additional light reading that may help you in your role:

The [DfE Governance Handbook - October 2020](#) is the most recent.

The [NGA's Welcome to Governance Induction Guide](#)

Your school development plan

Your school's most recent annual report to parents

Also, remember we have a lot of information and videos on our website and YouTube channel which you might find helpful.

## Slide 73

Just to re-cap, in this second webinar we explored the following statutory duties:

- The inclusion duty
- The duty to take account of equality and SEN duties when considering exclusion
- The duty to not discriminate against pupils in three ways
- The duty to make reasonable adjustments
- Duty to make arrangements for pupils with medical conditions & follow the statutory guidance for pupils with medical needs



## Slide 74

This webinar was created by [Suffolk SENDIASS](#) but every county must have an impartial and confidential SEND information, advice and support service.