

ST. PETER'S R. C. PRIMARY SCHOOL
CATHOLIC EDUCATION SERVICE EQUALITY ACT
PROVISIONS RELATING TO SCHOOLS WITH A RELIGIOUS CHARACTER

The Act includes specific provisions relating to education. In general the provisions for schools remain largely unchanged. The legal protections for schools with a religious character i.e. admissions, curriculum, acts of worship, and giving preference in relation to employment of staff have been carried over from existing legislation.

1. Overview

This Act prohibits discrimination, harassment and victimisation in relation to education in schools but specifically excludes the protected characteristics of age and marriage and civil partnership. The Act replicates the position in legislation but extending to pupils in schools protection in relation to the protected characteristics of gender reassignment and pregnancy and maternity.

Schools remain free to admit and organise children in age groups and to treat them in ways appropriate to their age and stage of development.

The Act makes it unlawful for the responsible body of a school to discriminate against, harass or victimise a pupil or potential pupil:

- In relation to the terms on which it offers admission;
- By not admitting
- In the way it treats a pupil once admitted

The “responsible body” is the governing body or the local authority for maintained schools and the proprietor in the case of independent schools or non-maintained schools.

It also imposes a duty to make reasonable adjustments for disabled pupils and prospective disabled pupils. The Act contains a new duty for employers to provide an auxiliary aid if without that aid the disabled person would be at substantial disadvantage. The duty is extended to auxiliary ‘services’. The removal of schools’ exemption from the requirement to supply auxiliary aids and services for disabled pupils has not yet been commenced. The DfE has advised the Catholic Education Service that there will be a consultation relating to the provision of auxiliary aids and services and the provisions will not be commenced until that has been completed.

It is also unlawful to discriminate because of the race, sex, disability, religion or belief, sexual orientation or gender reassignment of another person with whom the pupil is associated.

2. Schools: Exceptions

Single Sex Schools

Single sex schools are still able to refuse to admit pupils of the opposite sex. Schools are not prevented from admitting a small number of pupils from the opposite sex on an exceptional basis or in relation to particular courses or classes only. Other forms of sex discrimination against opposite-sex pupils would still be unlawful e.g. not allowing equal access to school facilities.

Religion or Belief

The Act provides an exception from the prohibition on religion or belief discrimination in relation to schools. For all schools the areas covered by that exception are the curriculum, collective worship, school transport and the establishment, alteration and closure of schools. For schools with a religious character the exception applies to anything done in connection with admissions or in relation to the responsible body of such school i.e. for Catholic schools the school's governing body.

Schools with a religious character

The Act allows schools with a religious character to discriminate because of religion or belief in action in relation to admissions and in access to any benefit or service.

- **Admissions**

Schools may continue to give priority to members of their own religion where the school is over subscribed in accordance with the provisions of the School Admissions Code.

- **Benefits facilities and services**

Catholic schools will still be able to mark or celebrate events specific to their religion and ethos. Parents, guardians or carers will not be able to claim that their children have been discriminated against simply because an equivalent celebration of events of significance to their particular religion is not arranged. Schools will also still be able to organise trips to a local church and will not have to organise visits to accommodate children of other faiths in the school.

- **Curriculum**

The new content of the school curriculum has never been covered by discrimination law but the new Act now specifically states that it is excluded. The Act does however explicitly include the delivery of the curriculum, i.e. the way education is provided.

Schools will need to ensure that the way in which issues are taught does not subject individual pupils to discrimination.

The Catholic Education Service has commented on draft DfE guidance which has not yet been issued. The draft guidance highlights a relationship between protection because of sexual orientation and protection of religious freedoms. It states that many people's views on sexual orientation/sexual activity are themselves grounded in religious belief. It refers to concerns of schools with a religious character that they may be prevented from teaching in line with their religious ethos. It also refers to teachers having expressed concerns that they may be subject to legal action if they do not voice positive views on things such as same sex relationships, whether or not their view is based on their faith. The guidance also refers to concerns that such schools may teach and act in ways unacceptable to lesbian, gay and bi-sexual pupils and parents when same sex relationships are discussed because there are no express provisions to prevent this.

The draft guidance makes clear that like all schools, schools with a religious character have a responsibility for the welfare of children in their care and to adhere to curriculum guidance. The draft guidance goes on to say that provided their beliefs are explained in an appropriate way in an educational context that takes into account existing guidance on the delivery of Sex and Relationship Education (SRE) and Religious Education then schools should not be acting unlawfully. Further that it would not be

unlawful for a teacher in any school to express personal views on sexual orientation provided that it is done in an appropriate manner and context.

- **Acts of Worship**

The Act contains a general exception of the religion or belief provisions which allows all schools to have acts of worship or other forms of collective religious observance. The daily act of collective worship is not covered by the religion or belief provisions, which means that schools will not be acting unlawfully if they do not provide an equivalent act of worship for other faiths.

For maintained schools a daily act of collective worship remains a mandatory requirement. It continues to be the case that in many maintained schools collective worship is to be 'wholly or mainly of a broadly Christian character' except where a determination otherwise has been successfully obtained.

A school must of course comply with any request by a parent for a pupil to be wholly or partly excused from attending RE. Parents have the right to withdraw their children from collective worship and sixth form pupils have the right to withdraw themselves.

The character and content of collective worship in a voluntary aided school continues to be determined by the governing body and a VA school with a religious character will be in accordance with the school's trust deed or in accordance with the beliefs of the religion or denomination specified for the school. For Catholic schools this will be in accordance with the teachings of the Catholic Church.

Schools are also free to celebrate religious festivals and would not be discriminating against children of other faiths e.g. putting on a nativity play.

School Uniform

The Act does not deal specifically with school uniform or appearance but the general requirement not to discriminate would apply. Governing bodies must also have regard to their obligations under the **Human Rights Act 1998**.

It is for the governing body to decide matters relating to uniform and appearance but the DfE guidance on school uniform policy advises that account should be taken of pupils drawn from the particular social, religious or racial groups and those with a disability or special educational needs, and for accommodation to be made without compromising important school policies including safety and discipline.

Employment

All of the protected characteristics are covered by the employment provisions of the Act.

The Act provides that for schools with a religious character it will not be unlawful discrimination to do things permitted by the School Standards and Framework Act 1998. The existing exemptions as they relate to schools with a religious character are therefore retained.

This means for Catholic schools that, in common with other voluntary aided schools with a religious character, they may give preference in connection with the appointment, remuneration or promotion of teachers at the school, to those whose religious beliefs or religious practice is in accordance with the tenets of

their denomination, i.e. the Roman Catholic faith ¹. Likewise they may give similar preference to those who give or who are willing to give religious education at the school in accordance with the tenets of the Catholic Church ².

Conduct of a teacher which is incompatible with the precepts of the Church, or which fails to uphold its tenets, may be taken into consideration in determining whether the teacher's employment should be terminated ³. In addition, the governing body of a voluntary aided school, (like other schools with a religious character) has the power to dismiss an RE teacher, without the consent of the local authority, on the grounds that s/he fails to give religious education efficiently and suitably ⁴.

Preference can therefore be given to practicing Catholics in appointments to teaching posts. This was extended to allow preference to be given to practising Catholics in non-teaching posts where there is genuine Occupational Requirement ⁵. The Equality Act provides that where the employer has an ethos based on religion or belief they do not contravene the Act by applying a requirement to be of a particular religion or belief if, having regard to the nature of the work, it is an occupational requirement which is a proportionate means of achieving a legitimate aim ⁶.

The importance of the role of the teaching staff is acknowledged by the Bishops collectively. The Bishop's Conference of England and Wales has set out its requirement to its schools as follows:-

"The preservation and development of the quality and distinctive nature of Catholic schools depends on the faith, practice and commitment of the teachers in the schools, working with their governing bodies" ⁷.

The Bishop's Memorandum <http://www.cesew/org.uk/standard.asp?id=267> refers to the employment of Catholic teachers as a high priority, whilst at the same time recognising the contribution of teachers of other Christian Churches, other faiths and other teachers.

The Memorandum also requires that for the most senior roles, i.e. the posts of Headteacher, Deputy Headteacher and Head or Co-ordinator of Religious Education, the post must be filled by a baptised and practising Catholic. For other leadership posts that directly affect the Catholic mission of the school, they should wherever possible be staffed by skilled practitioners who are committed Catholics.

¹ Section 60 School Standards and Framework Act 1998

² Section 60 School Standards and Framework Act 1998

³ Section 60 School Standards and Framework Act 1998

⁴ Section 60 School Standards and Framework Act 1998

⁵ Section 58 School Standards and Framework Act 1998

⁶ Schedule 9 (3) Equality Act 2010

⁷ Memorandum on Appointment of Teachers to Catholic Schools

ST PETER'S RC PRIMARY SCHOOL
EQUALITY ACT POLICY

Date reviewed and adopted: 12.03.20

Date of next review: Spring Term 2023