

Equality and diversity

A guide for governing boards

October 2020



The expert organisation for school
governors, trustees, clerks and
other governance professionals

Contents

<u>Introduction</u>	<u>3</u>
<u>1. Duties and responsibilities</u>	<u>4</u>
1.1 An overview of the governing board's duties	4
1.2 Complying with the Public Sector Equality Duty (PSED)	5
1.3 Publishing equality information	5
1.4 Making reasonable adjustments	6
1.5 The board's duty as the employer	6
<u>2. Culture and impact</u>	<u>7</u>
2.1 Building a culture that champions equality and inclusion	7
2.2 Monitoring and assessing the impact of equality strategies	8
Further reading	8

National Governance Association

The National Governance Association (NGA) is the membership organisation for governors, trustees and clerks of state schools in England.

We are an independent, not-for-profit charity that aims to improve the educational standards and wellbeing of young people by increasing the effectiveness of governing boards and promoting high standards. We are expert leaders in school and trust governance, providing information, advice and guidance, professional development and e-learning.

We represent the views of governors, trustees and clerks at a national level and work closely with, and lobby, UK government and educational bodies.

Introduction

A commitment to equality and inclusion should be a visible element of school/trust culture, rooted in embracing and appreciating the diverse society we live in. Creating a culture that promotes equality, inclusion and embraces diversity requires deliberate and consistent effort at all levels, starting with the board.

This guidance outlines governing board legal duties, what this means in practice, and the importance of a culture that embeds equality and inclusion. This guidance is suitable for all school types and governance structures. However, schools vary in composition and context - this needs to be taken into account when planning, implementing and monitoring equality strategies.

This guidance comprises two parts:

- 1. Duties and responsibilities
- 2. Culture and impact

Definitions of terms used in this guidance

Culture – the way things get done in the school/trust

Vision – what pupils will leave the school knowing, being and having done

Values – a principle that guides our thinking and behavior

Equality – “ensuring that every individual has an equal opportunity, and no one should be put at a disadvantage because of their protected characteristics or other characteristics” (The Equality and Human Rights Commission)

Diversity – the acknowledgement of the positive value that differences between people and groups of people provides

Inclusion – to embrace all regardless of their characteristics and provide equal access and opportunity

Act – the Equality Act 2010

Equality and diversity e-learning

An [e-learning module](#) accompanies this guidance and is available from [NGA's Learning Link](#). The module provides an opportunity to learn more about the governing board's legal responsibilities, with real-world examples.

1. Duties and responsibilities

1.1 An overview of the governing board's duties

The Equality Act 2010 applies to all schools and trusts and as the responsible body, governing boards have a duty to comply with the Act. In maintained schools, responsibility lies with the governing board, whereas the board of trustees is the responsible body in academy trusts.

The Act protects pupils and staff against discrimination, harassment, and/or victimisation based on the nine protected characteristics, which are:

- disability
- gender reassignment
- pregnancy and maternity
- race
- religion and belief
- sex
- sexual orientation
- age (in relation to employment and provision of goods / services)
- marriage and civil partnership (in relation to employment)

In summary, the Act requires schools/trusts to:

- prevent unlawful behaviour which includes direct discrimination, indirect discrimination, harassment and victimisation
- make reasonable adjustments for individuals with disabilities
- publish equality information demonstrating compliance with the Act
- be aware of, and take into account, the public sector equality duty (PSED) when making decisions and taking action

Chapter one of the [Equality Act advice for schools guidance](#) defines discrimination as it applies to schools.

1.2 Complying with the Public Sector Equality Duty (PSED)

The [PSED](#) means that governing boards must have ‘due regard’ to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act
- advance equality of opportunity between people who share a characteristic and those who don't
- foster good relations between people who share a characteristic and those who don't

Having ‘due regard’ means that boards need to assess whether there are likely to be any equality implications for individuals with protected characteristics because of their decisions or actions. The DfE provides an example of decision making which is likely to have equality implications: deciding where to have a school trip “may raise a range of considerations: are the facilities for boys and girls equivalent; are they accessible to disabled pupils...”

Governing boards are not responsible for operational decision-making (such as planning school trips). However, they are responsible for ensuring that effective and inclusive policies are in place. It is these policies which shape the school’s practices and decision-making. Whilst governing boards delegate many operational tasks, responsibility for the PSED cannot be delegated.

Although a legislative requirement, compliance with PSED should not be considered or approached as a tick box exercise. Assessment of equality implications does not have to be confined to protected characteristics and can include other elements such as class or nationality in order to promote and ensure inclusivity. Governing boards should ask school leaders how they are ensuring that requirements dictated by the Act and other equality considerations are integral to operational decision-making.

1.3 Publishing equality information

Schools/trusts must publish information demonstrating compliance with the PSED annually and publish equality objectives every four years. Chapter five of the [Equality Act: advice for schools guidance](#) provides useful suggestions about how schools can publish this information.

Equality objectives

Developing equality objectives should be a collaborative exercise between the governing board and school leader. Objectives should:

- contribute to the welfare of pupils and the school community
- not be burdensome but do need to be specific and measurable
- be used as a tool to help improve pupils’ experience of school

Examples of equality objectives (provided in the DfE's guidance):

- to anticipate the needs of incoming pupils from a new group, such as traveller children
- to raise attainment in English for boys

School leaders and governing boards are free to decide the focus of their equality objectives and how many they will set.

1.4 Making reasonable adjustments

Governing boards have a duty to ensure that every pupil can participate fully in education and make use of services and facilities. In order to avoid pupils being disadvantaged because of a disability, reasonable adjustments should be planned and implemented in advance.

In practice, this may mean reviewing and/or changing certain practices within school to ensure accessibility, particularly in the case of an incoming pupil. Early planning helps ensure that any additional facilities, resources and services are available at the right time and budgeted for appropriately. The duty to make reasonable adjustments also extends to employees of the school/trust. For more information on making reasonable adjustments, refer to chapter four of the [Equality Act: advice for schools guidance](#).

1.5 The board's duty as the employer

Governing boards (trust boards in the case of academies and free schools) are accountable for ensuring that legislative requirements concerning employees are met.

The governing board are unlikely to be involved in the recruitment, promotion and retention of staff below the senior leadership team (SLT) and do not engage with HR procedures in the same way as the SLT. However, governing boards do need to ensure that these procedures are being carried out in a way that is fair and inclusive.

The following questions may help governing boards monitor and review HR procedures:

- Does the school have a workforce that represents the diversity of the local community?
- Do the school advertise vacancies in a way that reaches a diverse audience?
- Do all staff feel they are treated fairly? How do we know that this is the case?

The governing board should consider what data and evidence is needed to assure themselves that staff are treated in a way that is true to the school's vision and culture, such as:

- staff pay - the Equality and Human Rights Commission have provided [useful advice](#) on checking your organisation has equal pay
- employment data including retention rates to establish, through patterns and trends, whether employment practices are inclusive
- staff exit interviews

The Equality and Human Rights Commission provide additional [guidance for employers](#).

2. Culture and impact

2.1 Building a culture that champions equality and inclusion

Governors and trustees have important roles as strategic leaders within schools and trusts. As such, they are in a position to influence and support school leaders to create a culture which celebrates diversity and champions equality and inclusion. Real and lasting change comes from consistent and effective policies and practices. It is a school's/trust's culture, ethos and values which provide the foundations upon which policy and practice are built.

The impact of a positive culture

A positive and inclusive culture enables schools / trusts to make progress on their strategic and equality objectives. This is because:

- It will help attract and retain the diverse range of people needed to implement the strategy - people are more likely to be attracted to working for and with the school/trust if they can feel and relate to the culture on a daily basis. This is made evident in how staff are encouraged and supported to succeed, how appreciated and trusted they feel, how they see others being treated and whether equality of opportunity is evident.
- It helps to build engagement with stakeholders (parents, pupils, staff and the wider community) – collaboration and engagement flourishes in a culture based on a clear mission (purpose), where people know that their views, suggestions, ideas are actively sought and listened to. This in turn helps to build a diverse range of narratives to inform decision-making.

[NGA's Being strategic guidance](#) further explores the themes of culture, vision and values in the context of strategy development and implementation.

Curriculum as an embodiment of culture

The curriculum is a powerful embodiment of a school's/ trust's culture. The governing board plays a key role in ensuring that the curriculum is broad, balanced and reflects the school/trust vision. When working with school leaders to embed a culture of equality and inclusion through the curriculum, governing boards should explore:

- how knowledge and understanding of equality and diversity is built into the curriculum
- the CPD available to teachers to ensure the required skills and knowledge are in place to support effective delivery of the curriculum
- how assemblies, classroom discussions, pastoral activities and visits promote equality and diversity

2.2 Monitoring and assessing the impact of equality strategies

There are a range of evidence and outcomes that boards can refer to when assessing the impact of their school or trust's equality strategy and objectives. This will likely be information that the governing board reviews regularly, such as pupil progress and attainment – boards should seek to identify trends or patterns in the data that could indicate that pupils with specific characteristics aren't achieving expected outcomes. This is an important element of the governing board's responsibility to ensure that every pupil leaves their school well prepared for the next stage of their education and for adult life.

When monitoring the impact of equality and inclusion strategies, governing boards will need to ask questions of school leaders and themselves. Examples of questions include:

- Do boys and girls achieve comparable educational outcomes?
- How is bullying dealt with in school? Are the causes of bullying understood and are appropriate strategies in place to eradicate bullying?
- Does our data on behaviour sanctions indicate any unconscious bias towards pupils with particular characteristics?
- Do pupils with disabilities access all areas of the curriculum? Are appropriate resources in place to support this?
- Does the school's work to meet equality objectives have a meaningful impact on pupils' experience of school life?

Beyond legislative requirements, governing boards should actively work on ensuring that they embody the values they wish to see within their school/trust. This includes thinking about whether the membership composition of the board reflects the school, the community it serves and wider society. [NGA's 'Everyone on board'](#) campaign emphasises the importance of a diverse board and the impact this has on effectiveness.

Governors and trustees can provide positive influence by setting the right example and are more likely to succeed when values that embrace equality, diversity and inclusion are at the heart of every decision.

Further reading

- ACAS guidance on [unconscious bias](#)
 - Department for Education's [Equality Act advice for school's guidance](#)
 - Section 6.3 of the [Governance Handbook](#)
 - Equality and Human Rights Commission [technical guidance for schools](#)
 - Equality and Human Rights Commission [exclusions guidance](#)
 - Equality and Human Rights Commission [prejudiced based bullying in schools guidance](#)
 - Equality and Human Rights Commission [public sector equality duty guidance for schools](#)
-

Thank you for reading this guide. If you have any feedback you'd like to share, please email kcfeedback@nga.org.uk.

More from NGA

Knowledge Centre: best practice guidance

NGA members get exclusive online access to best practice school governance guidance from NGA's Knowledge Centre. Go to [NGA's Knowledge Centre](#) and log in to browse and download guidance, templates, model policies, information summaries and more.

GOLDline: bespoke advice

NGA's [GOLDline advice service](#) provides independent and timely advice to governing boards with GOLD membership. Our advisers guide members through topics including governance roles and responsibilities, admissions, exclusions, complaints, and board constitution.

Find out more about [NGA GOLD membership](#) and sign up.

Don't miss out on membership benefits

If you're an NGA member, check your account details are correct by logging in at nga.org.uk and visiting the account management page. Every member of your governing board needs an up-to-date account to access benefits including our Governing Matters magazine and weekly e-newsletter. If you don't have an account or you're not sure, talk to your clerk or chair or [contact us](#).

Learning Link: e-learning anytime



NGA Learning Link provides cost-effective, comprehensive training for governors, trustees, chairs, and clerks. Learning Link subscribers can access more than 50 engaging modules 24/7.

NGA governing boards can purchase Learning Link at discounted prices. Learn more about [subscribing to Learning Link](#).
