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Reasonable Adjustments in Schools

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Reasonable Adjustments in Schools

Education providers are increasingly aware of their obligations when teaching a disabled pupil. This short article touches on the duty to make reasonable adjustments.

A school must not discriminate against current disabled pupils:

1. in the way it provides education for the pupil;
2. in the way it affords the pupil access to a benefit, facility or service;
3. by not providing education for the pupil;
4. by not affording the pupil access to a benefit, facility or service;
5. by excluding the pupil from the school; or
6. by subjecting the pupil to any other detriment.

By 'discriminate', the Equality Act 2010 means direct discrimination, indirect discrimination and discrimination arising from disability. It also means a failure to make reasonable adjustments.

A school must make adjustments where (a) a policy places a disabled pupil at a substantial disadvantage when compared with non-disabled persons, or (b) the pupil is disadvantaged by the lack of an auxiliary aid or service. Any policy may be affected. A written policy on discipline, for example, may need to be adjusted, but also unwritten requirements may be affected, such as a rule that pupils remain seated during lessons.

Note that the duty only applies if the pupil is disadvantaged when compared with non-disabled pupils, and only if that disadvantage is more than minor or trivial.

EHRC Guidance (*What equality law means for you as an education provider: schools*) provides that a useful starting point when considering the duty, whether it arises and how to fulfil it would be to determine how to ensure that disabled pupils can be involved in every aspect of school life.

Whether an adjustment is reasonable takes into account various factors. The Guidance notes the following:

- The extent to which special educational provision will be provided;
- The resources of the school;
- The financial and other costs;
- The extent to which taking any particular step would be effective;
- The practicability;
- The effect of the disability on the individual

- Health and safety;
- The need to maintain standards
- The interests of other pupils and prospective pupils.

If a school is not minded to make an adjustment, that decision is likely going to need to be justified by reference to one or more of the above factors.

Specifically, in relation to exclusions, there is a duty to make adjustments (where reasonable) to procedures, including:

1. disregarding behaviour which is a direct consequence of their disability;
2. making reasonable adjustments to manage such behaviour;
3. considering alternative, more appropriate punishments; and
4. ensuring that a disabled pupil is able to present their case fully where their disability might hinder this.

Where adjustments are, or could be, required, there is also the risk of a school discriminating against a pupil for a reason arising in consequence of his or her disability. For example, if a disability means that a pupil struggles in the morning, and is persistently late, disciplining him or her (rather than adjust the disciplinary policy) is to treat them unfavourably because of something (lateness) arising in consequence of their disability. This may be justified, but a school must show that its response was proportionate to the discriminatory effect on the pupil. Justification will be difficult in cases where reasonable adjustments were available and not made.

In any case involving a disability, schools should be alive to the duties imposed on them, and to beware that failing to meet them could result in one or more forms of discrimination being perpetrated, often unwittingly.

The best practical advice is to investigate the disability, its effects, and how to reduce any disadvantage resulting. The severity of that disadvantage and its effect will dictate the lengths to which the school must (reasonably) go to remove it.

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