

The Equality Act 2010 in Settings:

The Equality Act replaces the DDA. It is slightly different for schools compared to Early Years Settings.

There remain the main duties: These cover the refusal to provide a service, offering a lower standard of service or offering a service on worse terms to a disabled child. Discrimination however can be DIRECT, aimed at the person who is affected and also INDIRECT, aimed at a person who is associated with the person affected. People who may come to your provision, who are at your provision and in some case people who have left your provision are covered. Discrimination can also happen when it is PERCEIVED to be discriminatory.

For the purposes of this we are just looking at people affected by disability. Disability is one of the Protected Characteristics, which means it is covered by the Equality Act.

Some children may have rights under the Equalities Act but not have SEN. Some children may have SEN but do not have needs under the Equalities Act. Some children will be covered by both.

The ‘less favourable’ treatment duty, the ‘reasonable adjustments’ and the Anticipatory duty remain.

The setting is required to ensure people with disability are not treated less favourably and they make reasonable adjustments to ensure a disabled child is not put at a substantial disadvantage and to take the necessary steps before and ‘substantial disadvantage’ arises. The expectation is that you will make every reasonable step to ensure that you know about a disability and that the information is shared with staff appropriately. If one member of staff treats a child less favourably because they did not know of a need while another member of staff does then that is unlawful.

The school has the right to use ‘proportionate means of achieving a legitimate aim’.

Maintaining Health and Safety for all the premises by having a behaviour policy and management plan would be a legitimate aim. For example excluding a child with Autism because they cannot comply with a school policy which does not make adaptations for people with autism is not proportionate and is therefore less favourable.

The provision of auxiliary aids and services will eventually become covered by the Equalities Act in schools, but not yet.

<http://www.equalityhumanrights.com/advice-and-guidance/information-for-service-providers/> is the link for Early Years Providers.

For further information:

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