

Inspecting equalities

Briefing for section 5 inspection

This briefing is intended to help inspectors within the inspection to judge the impact of schools' work in **advancing equality of opportunity, fostering good relations and tackling discrimination**. It aims to help inspectors understand schools' responsibilities in relation to their public sector equality duty (PSED), which is that they should have 'due regard' for equalities. It should be read in conjunction with *The evaluation schedule for the inspection of maintained schools and academies*.

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Introduction

1. Ofsted is bound by the public sector equality duty, its strategic plan and values to advance equality through its inspection of schools. Equality is integral to the inspection framework and the promotion of equality of opportunity for all pupils underpins the school inspection framework. School inspection acts in the interests of children, young people and their parents and carers. It encourages high-quality provision that meets diverse needs and promotes not just equality of opportunity but improving outcomes for all pupils regardless of background.

Statutory requirements

Background

2. The Equality Act 2010 has replaced and unified all existing equality legislation such as the Race Relations Act, Disability Discrimination Act and Sex Discrimination Act. It aims to ensure that people have equality of opportunity in accessing and experiencing public services. The Act provides a single, consolidated source of discrimination law, covering all the types of discrimination that are unlawful and it extends the protection from discrimination in certain areas.
3. As far as schools are concerned, for the most part, the effect of the new law is the same as it has been in the past – meaning that schools cannot unlawfully discriminate against pupils because of their disability, gender, race, religion or belief, sex and sexual orientation.
4. Protection is now extended to pupils who are pregnant or undergoing gender reassignment. This means that it is now unlawful to discriminate against a transgender pupil or a pupil who is pregnant or has recently had a baby.
5. Schools may still have a single equality scheme or separate schemes. It is not Ofsted's role to dictate the decision a school may take or have taken in regard to this.

The Duties

6. There are two kinds of duty that schools must meet: the general which is the Public Sector Equality Duty (PSED) and the specific. There are two specific duties; these are that schools should:
 - publish information which shows compliance with the PSED and
 - publish at least one equality objective.
7. The specific duties are meant to help schools and public bodies fulfil their obligations under the general duty. They are designed to be flexible, light-touch and proportionate (see annex 1 for further details) rather than being bureaucratic or engender a 'tick-box' exercise.

8. The emphasis is on transparency - making information available so that the school's local community can see how the school is advancing equality in line with the PSED, and what objectives it is using to make this happen.
9. By 6 April 2012 the specific duties require schools to have published information showing compliance with the public sector equality duty, plus also at least one equality objective. They will then need to update the published information at least annually and to publish objectives at least once every four years. Examples of possible objectives might be relating to closing gap in attainment in English for different 'groups' of pupils that the school has identified as underachieving, or improving the attendance rates of pupils from a background where these may be low. These should be specific and measurable.

Equality and discrimination in schools

10. Schools must not discriminate against pupils through their admissions policies or in their day-to-day operations, such as in the allocation of pupils to particular classes. There are a few exceptions regarding the following:
 - admissions to schools which are single sex or of a religious character
 - school curriculum and collective worship are not covered by legislation affecting discrimination on grounds of religion or beliefs
 - schools may treat disabled pupils more favourably than others if it prevents them being at a disadvantage
 - age discrimination legislation does not apply to the treatment of pupils or provision of education.
11. Schools and local authorities must carry out accessibility planning for disabled pupils. These are the same duties that previously existed under the Disability Discrimination Act and have been replicated in the Equality Act. Schools must implement accessibility plans which are aimed at:
 - increasing the extent to which disabled pupils can participate in the curriculum;
 - improving the physical environment of schools to enable disabled pupils to take better advantage of education, benefits, facilities and services provided; and
 - improving the availability of accessible information to disabled pupils, parents and carers.
12. Schools will also need to have regard to the need to provide adequate resources for implementing plans and must regularly review them. An accessibility plan may be a freestanding document but may also be published as part of another document such as the school development plan.

13. Inspectors discuss with each school how it is meeting statutory requirements and evaluate and report on the impact of the school's actions. This might include a school's accessibility plan as part of the evidence.

Equalities and inspection

Overview

14. The public sector equality duty requires schools to have **due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations** for pupils, staff and others using school facilities.
15. Meeting these three requirements contributes greatly to achieving outstanding progress and attainment because achievement of these aims means that pupils work – whether it is in class or in the school – in an ethos and atmosphere of dignity and fairness, where they are free to develop themselves, knowing that differences are respected and they are encouraged to become independent learners and take responsibility for their actions and become good citizens.¹ The inspection framework as a whole and in the four main judgements therefore looks at how a school meets diverse needs and advances equality through its focus on how schools:
 - secure and maintain excellent teaching, learning and assessment for all pupils;
 - 'narrow the gaps' in achievement between different groups and national standards;
 - ensure pupils are free from bullying in all its manifestations including all types of prejudice-based bullying;
 - deal with unacceptable behaviour and disruptions to learning;
 - build cohesive school communities where all pupils can thrive.
16. An evaluation of how effectively the school actively advances equality of opportunity tackles discrimination and fosters good relations will contribute to the key judgements.
17. A key aspect in relation to equality to be inspected and reported on is how well the school is promoting the pupils' spiritual, moral, social and cultural development. Schools should have strategies for promoting and monitoring participation by learners in all the opportunities that the school provides and strategies for tackling any discriminatory or oppressive behaviour. Inspectors should consider how well schools know about which groups of pupils are benefiting from extra support or opportunities or not.

¹ This is an explanation of human rights in practice for pupils.

18. If inspection evidence raises concerns about the school's promotion of equality of opportunity and tackling discrimination, for example where a pupil is bullied or a particular group of pupils is being bullied or is persistently underachieving, then inspectors may need to examine the school's policies to determine whether these are sufficiently robust, and if so, whether they have been adhered to..
19. Senior staff and governors should know about the relative attainment and progress of different groups of pupils, monitor their performance and other data relevant to improving outcomes. For example, the school should be aware of gender imbalances in 'upper ability' groups, and which groups of learners, for example by ethnicity, are participating in after-school sport. This is information the school needs to help tackle underachievement and any concerns related to the behaviour and safety of different groups of pupils; it may help to show what action is being taken to tackle any discrepancies, for example, in the promotion of spiritual, moral, social and cultural development of different pupils.
20. The school should also be taking active steps to promote its relationships with all parents/carers and pupils and also those in communities or from groups that it finds hard to reach.
21. It is expected that schools track and analyse progression information, for example, the proportions of pupils who continue education, training or enter employment and identify whether there are any barriers for particular groups of pupils.² This will enable schools to evaluate the curriculum and the subject choices of pupils.

Evaluating impact: further guidance

22. The specific areas below illustrate aspects mentioned above that inspectors may want to follow up at inspection to provide evidence of how a school advances equality, demonstrating due regard to its duty. Inspectors will look at the impact of actions based on analysis and use of data, not whether data are collected. The points are not exhaustive and they are not a checklist, they are indicators to guide inspectors' evaluation.

Achievement of pupils at the school

It is expected that schools have data about the school population and differences of outcome. For example,

- The school has and analyses up-to-date data on the composition of its pupils broken down by year group, ethnicity and gender, and by proficiency in English.³ This will include detail about significant differences in attainment

² See Ofsted report: *Girls' career aspirations* reference no: 090239, April 2011

³ See Ofsted report: *Excellence in English* reference no: 100229, May 2011

between girls and boys, and between pupils of different ethnic backgrounds. The evaluation schedule (page 5) has an illustrative list showing different groups of pupils whose performance schools should monitor.

- The school uses entry and transition information to shape provision to meet the diverse needs of pupils.
- The school has data on its pupils broken down by types of impairment and special educational need⁴.
- The school has data on inequalities of outcome and participation connected with ethnicity, gender and disability, and with proficiency in literacy and numeracy.⁵
- The school uses data on inequalities of outcome and participation when setting itself objectives for achievable and measurable improvements.
- The school has clear procedures for supporting the educational achievement of pregnant pupils and young parents.

Teaching

For example,

- Focused attention is paid to the needs of specific groups of pupils, for example those who are learning English as an additional language or disabled pupils and those who have special educational needs and there is extra or special provision for certain groups, as appropriate to the school and its circumstances.
- There is coverage in the curriculum of equalities issues, particularly with regard to tackling prejudice and promoting community cohesion and understanding diversity.
- There are activities across the curriculum that promotes pupils' spiritual, moral, social and cultural development.
- Seating and grouping arrangements help to foster good relations and respect between different groups of pupils.
- Teaching and curriculum materials in all subjects have positive images of disabled people; of gay and lesbian people; of both women and men in non-

⁴ While inspectors will not look at comparisons by specific disability nationally, it is important for schools to know if any groups of disabled pupils within their school achieve better or worse than other groups.

⁵ See reports: *Removing barriers to literacy*, Reference no: 090237. January 2011 and *Tackling the challenge of poor numeracy skills - why some teaching and learning adds up while other provision falls short*, Reference: NR- 2011-15, April 2011.

stereotypical gender roles; and of people from a wide range of ethnic, religious and cultural backgrounds.

Behaviour and safety

For example,

- There are clear procedures for dealing with prejudice-related bullying and incidents, and appropriate staff training that equips staff to identify and deal with this effectively. The different evidence from inspection confirms effectiveness of a school's approach.
- Questionnaires and focused discussion groups show that all pupils feel safe from all kinds of bullying, harassment and oppressive behaviour.
- Pupils and staff are respectful of each other and this includes behaviour that does not disrupt the learning of others.
- Pupils are confident that staff will address all issues of discrimination and prejudice including the use of derogatory language.

Leadership and management

For example,

- School evidence can demonstrate positive action of how the school is advancing equality and tackling discrimination; for example, in a statement of overarching policy, references in the school improvement plan or its self-evaluation documents, the prospectus, routine bulletins and newsletters, and occasional letters to parents and carers.
- Staff and pupils can point to clear leadership and management responsibility for equality.
- The governing body demonstrates its impact on the school's promotion and advancement of equality of opportunity and outcomes.
- Minutes of governors' meetings, staff meetings and senior leadership team meetings, and the minutes of the School Council demonstrate the school's responsibilities under the Equality Act.
- Before introducing important new policies or measures, the school carefully assesses their potential impact on equalities, its current and prospective pupils and parents, positive or negative, and keeps a record of the analysis and judgements which it makes. The data are available for public scrutiny.
- The school's programme for continuing professional development (CPD) is inclusive of all staff and includes equalities matters, both directly and incidentally. Inspectors can identify clear evidence of impact at inspection.⁶

⁶ For examples of effective practices see *Ofsted report: Equalities in action*, reference no: 080272, March 2010.

- There is good equal opportunities practice in the recruitment and promotion of staff, both teaching, support and administrative.
- Evidence from parents and carers and other stakeholders will show the effectiveness of the school's procedures for consulting and involving parents and carers, and for engaging with local groups and organisations; these will have regard for the concerns and requirements of the Equality Act.⁷
- Evidence from pupils will show how the school makes improvements for all pupils based on how pupils individually and collectively think and feel about the school.
- Evidence from parental questionnaires reveal no prejudice or discrimination of a group or individual.

Writing the report: Good practice

- Details of different groups of pupils in the 'information about the school' section provide important background for reporting on equalities. Reference to these groups should be made in the body of the report. In particular, any underperforming groups should be identified, the reasons explored, and particular reference made in the report. Explicit reference should be made about the quality of provision and outcomes for pupils of different groups where these differ from the rest of the school and all pupils nationally. If no performance data is available due to the type of school or size of the cohort then specific reference should be made to the evidence sources and its impact on the judgement being made. Each section of the report should include detailed examples to demonstrate how effectively the school is advancing equality of opportunity, fostering good relations and tackling discrimination.
- Care must be taken by inspectors when reporting on equality for individuals and/or very small groups to safeguard their identity. This applies to the 'information about the school' and the reporting of outcomes. As stated in the report writing guidance care must also be taken to *avoid commentary which may be construed as negative and/or may offend parents and carers. For instance, quote the percentage of pupils in a particular group without stating 'A minority of ...'*
- The section in Ofsted's style guide on *Inclusive language*, paragraphs 57 to 68, and the glossary provide further guidance.

⁷ See Ofsted report *Parents, carers and schools*, Reference no: 070018. Ofsted July 2007.

Annex 1 – The Brown Principles

There are six principles, called the Brown Principles, established by case law that underpin what due regard means: awareness, timeliness, rigour, non-delegation, continuous, and record-keeping:

- **awareness** – all staff should know and understand what the law requires
- **timeliness** – the implications for equalities of new policies and practices should be considered before they are introduced
- **rigour** – there should be rigorous and open-minded analysis of statistical evidence, and careful attention to the views of staff, and the views of pupils and their parents and/or carers
- **non-delegation** – compliance with the PSED cannot be delegated
- **continuous** – due regard for equalities should be happening all the time
- **record-keeping** – it is good practice to keep documentary records, for example in the minutes of staff meetings and governor meetings.

Annex 2 – Examples of national projects and award schemes

Examples of national projects and award schemes in which schools can participate:

- The Accord Coalition Inclusivity Award;
- Black History Month;
- Bullying Intervention Group;
- Disability History Month;
- EQualities Award;
- Gypsy, Roma and Traveller History Month;
- LGBT History Month; Refugee Week;
- Rights Respecting Schools Award;
- Stephen Lawrence Education Standard;
- Stonewall School Champions.

Annex 3 – Survey reports for further reference

Ofsted's survey reports have detailed information about how equality and diversity have been successfully put into practice and examples of good practice. The list below is not exhaustive but gives an example of the range of reports available for further reference.

- Alternative provision, reference no: 100233. June 2011
- Excellence in English, reference no: 100229. May 2011
- Girls' career aspirations, reference no: 090239. April 2011
- Tackling the challenge of poor numeracy skills - why some teaching and learning adds up while other provision falls short, reference: NR- 2011-15. April 2011.
- Removing barriers to literacy, reference no: 090237. January 2011
- The special educational needs and disability review. A statement is not enough, reference no: 090221 2010. September 2010
- Equalities in action, reference no: 080272 March 2010
- Reducing the numbers of young people not in education, employment or training: what works and why, reference no 090236 2010
- Characteristics of outstanding secondary schools in challenging circumstances: Ofsted 2009
- Twelve outstanding special schools. Excelling through inclusion: Ofsted 2009
- White boys from low-income backgrounds: good practice in schools, reference no 070220. July 2008
- Twelve outstanding secondary schools – excelling against the odds, reference 080240, Ofsted, 2009
- Twenty outstanding primary schools – excelling against the odds, reference 090170, Ofsted, 2009.
- Learning outside the classroom How far should you go? Reference no: 070219. October 2008
- Parents, carers and school, reference no: 070018. Ofsted July 2007.
- Inclusion: does it matter where pupils are taught? Provision and outcomes in different settings for pupils with learning difficulties and disabilities. Reference no: 2535 July 2006

Annex 4 -Reporting on equality characteristics and groups

Context

The reviewing of reports by the equalities and human rights team, the quality assurance and complaints team teams has highlighted two issues relating to the reporting of 'groups' and characteristics, including the protected characteristics as defined in the Equality Act, 2010.

Issue

The two issues are:

- How to protect the identity of an individual or individuals where numbers are low.
- How to report on the groups and/or characteristics in a sensitive and clear way that identifies issues facing the individuals and avoids possible reinforcement of stereotyping that it is intended to highlight for action.

These issues are still pertinent since inspectors will continue to inspect and report on the achievement of different groups of pupils – the evaluation schedule for schools, January 2012 has an illustrative list on page 5 – and learners in the revised inspection frameworks.⁸

Guidance

Inspection guidance, training and updates should continue to emphasise that care must be taken by inspectors when reporting on equality for individuals and/or very small groups to safeguard their identity. This applies to the description or background information of a provider and the reporting of outcomes. The writing guidance on reporting has advice on how to report on proportions.

For example omitting numbers if they are small such as '*the home caters very well for the [three] disabled children it looks after*', as long as the meaning is not lost and it does not give a misleading impression.

The section in Ofsted's style guide on *Inclusive language*, paragraphs 57 to 68, and the glossary provide clear guidance on this.

Language can play an important role in promoting (or undermining) social equalities. Using inclusive language avoids inadvertent bias. There continues to be debate among interested groups about the most appropriate vocabulary, and we recognise that some people will prefer terms other than those approved by Ofsted and

⁸ As an aspect of achievement, *Inspectors are required to evaluate: how well gaps are narrowing between the performance of different groups of pupils in the school and compared to all pupils nationally*

recommended in this guide. The terminology used here reflects the language used in relevant legislation and associated codes of practice. This guide was prepared following consultation involving Age Concern England, the Equality and Human Rights Commission (EHRC), Mencap, Participation Works, the Royal National Institute of Blind People (RNIB), the Royal National Institute for Deaf People (RNID) and Stonewall. It also reflects Ofsted's equality schemes, which were subject to extensive consultation. Please see the Glossary at the end of the guide for information on specific terms not mentioned in the following paragraphs.

Treat people as individuals; no race, class, gender, sexual orientation, age group or religion should be stereotyped or arbitrarily given a leading or subordinate role.

If writing about adults, refer to 'men' and 'women'. Use 'male' and 'female' only where the age range referred to includes adults, young people and children.

Ofsted prefers to use the terms 'disabled person' and 'disabled people' rather than 'person with a disability' and 'people with disabilities'. The social model of disability explains that impairment does not have to lead to disability. Disability occurs when people are excluded, because of their impairment, from something that other people in society take for granted, such as the opportunity to attend an event or take part in an activity, to be kept informed or make use of a service, to live independently or earn a living, or just to make choices for themselves.

Ofsted's current position is that the term 'minority ethnic' is preferable to 'black and minority ethnic' as a collective term for ethnic groups that are minorities in Britain.

When referring to black people or groups, it is appropriate to use 'Black', with an initial capital, as this form has become a signifier of social, cultural and political identity.

'Black' and 'White' should both have initial capitals when they form part of a specific census category, such as 'Black Caribbean' or 'Any other White background'. These categories may appear in questionnaires and survey results.

Gypsy and Traveller should have initial capitals.

When referring to a person's sexual orientation, it is appropriate to describe someone as heterosexual, lesbian, gay or bisexual. The term 'homosexual' is not used. Stonewall recommends that the word 'lesbian' should be used as a noun (for example, 'she is a lesbian'), and that the words 'gay' and 'bisexual' should only be used as adjectives. When referring to a group or community of people who are not heterosexual, it is appropriate to use the collective term 'lesbian, gay and bisexual people'. This is often abbreviated to LGB people, but Ofsted style prefers to avoid abbreviations where possible.

'Transgender' is an inclusive term used to reflect the diversity of gender identity and expression. Because of a related history of inequality, it has sometimes been added to 'lesbian, gay and bisexual' (see above) to produce 'lesbian, gay, bisexual and transgendered people'. However, this is best avoided, as gender and sexual orientation are different categories. In equalities monitoring questionnaires, they should appear in separate sections.

Refer to 'older people', not 'old people' or 'the elderly'.

From age 14, refer to 'young people', not 'children'.

Referring to 'vulnerable young people' or 'hard-to-reach groups' may give the impression that these are innate characteristics. At the first mention, it is better to

refer instead to 'young people whose circumstances have made them vulnerable' or 'groups whose circumstances have made them hard to reach'.

To avoid giving offence and possible idea of stereotyping, use of 'The' in relation to people or groups of people requires forethought and care about the meaning conveyed, even though this may be a nuance. For example '*the Poles represent a large section of the community*' might be more sensitively expressed as '*The town/area has a large Polish community*'.

Protected Characteristics

The following are the protected characteristics under the Equality Act 2010:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;⁹
- religion or belief;
- sex;
- sexual orientation.

The protected characteristics of 'age' and 'marriage and civil partnerships' do not apply to schools.

⁹ Though the act refers to 'race', alternative expressions that refer more accurately to ethnic origin or heritage or background are more appropriate, taking care to also distinguish between ethnicity and culture where this is the case.