Rivacre Valley Primary School
Equal Opportunities Guidelines and Policy Statement

Part One: Guidelines

The legal requirements
The main reason for adopting an equal opportunities policy is to identify, prevent and redress unfair discrimination against disadvantaged groups. The equal opportunities policy will assist the governing body to address legal, managerial and social issues from the basis of a statement of commitment to equality supported by a more detailed policy and procedures for implementation.
The legal responsibilities of governors with respect to promoting equal opportunities are set out in further detail in Section 12 of the DfES Publication A Guide to the Law for School Governors. Governors are strongly advised to familiarise themselves with this guide.

The Equality Act 2010
The general thrust of The Equality Act 2010 is to make many activities illegal unless they fall within one or more of the statutory exceptions. Unlawful discrimination or 'prohibited conduct' under The Equality Act extends to discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation. There is, however, very often a distinction to be made between what a provider of education does as an employer of staff and what that same provider does in relation to its pupils and students. The Law of Education concentrates on pupils and students in an educational environment rather than detailed information on discrimination in staff and employment. This needs to be covered under policies as they relate to employment; some reference is made to this in the latter part of these guidelines.

Discrimination
Discrimination under The Equality Act 2010 can be direct or indirect and the Act also prohibits harassment and victimisation. But the ways in which discrimination, harassment and victimisation might become illegal depend quite often on the type of protected characteristic involved and on the exceptions elsewhere in the Act. The key sections are relevant to schools, as defined under the Education Act 1996, not to early years' settings which are not maintained nursery schools. It should also be noted that victimising a pupil by reason of protected characteristics amongst their parents or siblings is also generally unlawful.

The governing body of a school must not discriminate against:

- a child applying to be admitted to the school;
- existing pupils;
- job applicants;
- existing members of staff;

on the grounds of their protected characteristic (e.g. sex, race, colour, nationality, ethnic or national origins, disability, religion or belief, sexual orientation or marital status).

The Equality Act 2010 combines the various strands:

Sex discrimination
Under The Equality Act 2010, direct sex discrimination is where A treats B less favourably than A treats others, or would treat others, if the reason for the less-favourable treatment is B's sex or because B is breast-feeding. Women are, however, entitled to special treatment in connection with pregnancy, maternity or breast-feeding. Sex discrimination is generally unlawful in schools. It covers recruitment policies, dismissals and redundancies, fringe benefits and other non-contractual matters and requires that women and men should be treated equally. The Sex Discrimination Act 1986 removes differential compulsory retirement ages for women and men.

Gender reassignment discrimination
The Equality 2010 Act reminds us that gender reassignment is a process and not an event. Discrimination in connection with the provision of education on grounds of past, present or proposed gender reassignment is generally unlawful.

Sexual orientation discrimination
Discrimination in connection with the provision of education on grounds of sexual orientation is generally unlawful under the provisions of The Equality Act 2010.

Race discrimination
Race as defined in The Equality Act 2010 includes colour, nationality and ethnic or national origins. Race is essentially a group characteristic, but one racial group can be part of a larger racial group. Discrimination in connection with provision of education on grounds of race is generally unlawful under the Act.
Note: Race Relations Act 1976 The Act makes it illegal to discriminate in recruitment, promotion, training and transfer, terms and conditions of employment or dismissal on grounds of colour, race, nationality or ethnic or national origins. Discrimination may be direct or indirect (see below). Where persons of a particular racial group are under-represented, either generally or in a section of the workforce, the Act enables employers to advertise vacancies in such a way as to encourage applications from persons of that racial group.

Race equality The amendments to the Act give schools a statutory general duty to promote race equality and eliminate unlawful racial discrimination. All schools are required to have a written race equality policy in place.

Religion or belief discrimination Education is rife with discrimination on grounds of religion or belief and most of that discrimination is perfectly lawful. In The Equality Act 2010, religion means any religion and reference to religion includes a reference to a lack of religion. Similarly, belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief. The trigger sections in The Equality Act 2010 for unlawful discrimination on grounds of religion or belief in schools are admissions and victimisation of pupils and for conduct of parents.

The most important exceptions to The Equality Act 2010 are:

- if the school has a religious character or a registered religious ethos;

- acts of worship and religious observances at all schools are exempted from the general prohibition of discrimination on grounds of religion or belief if the worship or observance is organised by, or for, the school, whether or not part of the curriculum.

Note: there are many important exceptions from legislation prohibiting discrimination on the grounds of religion or belief in relation to the employment of school head teachers and teaching staff.

Age discrimination

Age discrimination would be a difficult area for local authorities and for all kinds of schools, which have long-arranged classes and phases by chronological age more than by ability or achievement. However, age discrimination in schools and in local authority provision of schools is not restricted by The Equality Act 2010.

Marriage and civil partnership discrimination

Discrimination relating to marriage or civil partnership is not restricted in the provision of education in schools by The Equality Act 2010. Note: further consideration should be given to this area as it relates to employment law.

Disability discrimination

There is a general requirement in The Equality Act 2010 to make reasonable adjustments for those with disabilities and a more specific requirement to do so in the field of education. Special educational needs are also relevant to this area of discrimination.

Accessibility for disabled pupils

The Equality Act 2010 requires local authorities in England and Wales to improve their schools and to improve the ways in which disabled pupils can access their school's pupil information and their school's curriculum. There must be a written accessibility strategy after due consultation and that strategy must be implemented within a reasonable time. Inspectors at independent schools will ask to see the accessibility plans and there is a further enforcement regime under which complaints may be made and directions given. Enforcement of The Equality Act 2010 relating to disability in schools is possible through:

- school admission appeals;
- school exclusion appeals;
- application to the First-tier Tribunal (in England) or the SEN Tribunal for Wales.

Complaints about discrimination in maintained schools and academies may be made to the Secretary of State, seeking action by use of powers concerning unreasonable exercise of functions. A school governing body must publish information in their annual report about arrangements for disabled pupils.

Employment Equality Regulations

It unlawful to discriminate on the grounds of sexual orientation as it relates to employment or vocational training of individuals. Sexual orientation is defined as sexual orientation towards persons of the same sex and/or towards persons of the opposite sex.

The Employment Equality (Religion or Belief) Regulations 2003 make it unlawful to discriminate on the grounds of religion or similar belief in employment and vocational training. Religion or belief is defined as meaning any religion; religious belief or similar philosophical belief. The legislation gives protection

against direct and indirect discrimination, harassment and victimisation and applies throughout the employment relationship, including recruitment and dismissal.

Direct and indirect discrimination
Direct discrimination is always unlawful (with the exception of genuine occupational requirements – see below). Direct discrimination occurs when a person is treated less favourably than others in the same circumstances because of their sex, sexual orientation, religion or belief, or on racial grounds. Indirect discrimination can occur when a condition or requirement is applied equally but is such that the proportion of members of one sex, racial group etc who can meet it is considerably smaller than the proportion of members of the other sex or other racial groups. Indirect discrimination is unlawful unless the person imposing the condition can show that it is justified, irrespective of the sex or race of the person to whom it is applied.

Genuine occupational requirement
Discrimination is permitted in cases where a person's sex, race, religion or sexual orientation is a genuine occupational requirement for the job. Examples from the sex discrimination legislation are where a job had to be held by a man and not a woman or vice versa to preserve decency or privacy, such as where the job involved visiting changing rooms while they are in use. Further exemptions relate to single sex sport. In race discrimination law, provision of childcare or similar service promoting a particular racial group's welfare may be more effectively provided by someone of that race. It may then be permissible to specify that race as a genuine occupational requirement.

Equal pay
The Equal Pay Act 1970 requires that women are paid the same as men if they are employed to do the same work or work that is of equal value. Governing bodies should ensure that this requirement is complied with when making decisions about pay. The Equal Opportunities Commission has issued a code of practice on equal pay in order to provide practical guidance on how to ensure pay is determined without sex discrimination.

Part-time workers
The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 give the right to part-time workers not to be discriminated against in comparison with comparable full-time workers, unless the employer has objective justification. Where appropriate the principle of 'pro rata' treatment should apply. An example of less favourable treatment would be the automatic selection of part-timers first in a redundancy selection exercise. The school would almost certainly find it impossible to justify this. These regulations apply both to women and men part-time workers. Additionally, as the large majority of part-time workers are women, detrimental treatment of part-timers is also likely to be indirect sex discrimination.

Complaints In relation to complaints in the employment context, the local authority or the governing body (whichever is treated as the employer for the purposes of the Acts) may be legally responsible for the discriminatory acts against employees or applicants for jobs – including an employment tribunal. Discrimination complaints involving issues such as the admission of, or equal opportunities for, pupils can be considered by the Secretary of State or by a county court.

Disability discrimination

Under The Disability Discrimination Act 1995 (DDA), employers, including local authorities and governing bodies, must not discriminate against disabled people applying for jobs, or against existing disabled staff. For these purposes, a person has a disability if they have a physical or mental impairment which had a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The definition is wide. It is unlawful discrimination for an employer to treat a person less favourably than others for a reason relating to disability unless the treatment can be justified by the employer. The 1995 Act imposes a duty on employers to make reasonable adjustments if the premises or employment arrangements substantially disadvantage a disabled person compared with a non-disabled person. Examples might be installation of a ramp for an employee who uses a wheelchair, having staff notices in large print etc. Whether or not a particular adjustment is reasonable depends on a number of factors such as cost, practicability and effectiveness. Failure to discharge this duty will constitute discrimination unless the employer can justify their action. Complaints about disability discrimination can be heard by an employment tribunal (if related to an employment matter) or a county court (if they concern supply of goods, facilities or services).

The Rehabilitation of Offenders Act 1974

This Act provides that if a convicted person completes a specified period without being convicted of further offences then the conviction can be held to be 'spent'. Accordingly these sentences do not have to be revealed and should not be used as a means of excluding people from employment or promotion. The important feature of this legislation is that certain occupations are not within the scope of this Act, for example, a job which involved substantial access to children under 18 years of age. In the cases of these 'exempt employments', all convictions whether spent or not can be taken into account. The Disclosure Barring Service handles disclosures of this data prior to appointment being made.

Discrimination, victimisation and harassment

See Appendix A for further information and definitions of discrimination, victimisation and harassment.

Complaints relating to these matters must be dealt with promptly and investigated using the appropriate procedure, e.g. disciplinary procedure, anti-harassment policy and procedure. Who is the employer and who is responsible? Where the school is a community school the local education authority is the employer of all staff. However, while the governing body of a school have a delegated budget, they have powers over the appointment, suspension, discipline and dismissal of staff, even if the local authority are technically the employer of the school staff. Accordingly, where complaints are made about sex, race or disability discrimination concerning the exercise of these powers, it will normally be the governing body who are treated as the employer.

It follows that the governing body of a school with a delegated budget will generally be the respondent in employment tribunal discrimination cases brought by members of staff (or job applicants), although any award of compensation or costs made by a tribunal would usually have to be paid by the local authority where they are the actual employer of the school staff and where appropriate advice had been taken, e.g. from human resources advisors. Governors should be aware that compensation payments in sex and race

discrimination cases are potentially unlimited and also that tribunals have the power to require individuals, as well as employers, to pay compensation.

Part Two: An Equal Opportunities Statement of Commitment

The governing body and school is;

- Committed to a policy of equality and aims to ensure that no employee, job applicant, pupil or other member of the school community is treated less favourably on grounds of sex, race, colour, ethnic or national origin, marital status, age, sexual orientation, disability or religious belief.
- Any behaviour, comments or attitudes that undermine or threaten an individual's self esteem on these grounds will not be tolerated.
- We aim to provide equal access to high quality educational opportunities and to ensure that everyone feels that they are a valued member of the school community.
- We seek to provide a safe and happy environment where all can flourish and where cultural diversity is celebrated. We aim to empower our pupils to make informed choices so that they are better prepared for the opportunities, responsibilities and experiences of life within their community.
- Equality of opportunity cannot be realised without the involvement and commitment of all members of the school community and a common understanding of the pivotal role of equal opportunities in the context of the school's ethos and values, in particular, the recognition that the role of all staff is crucial in the delivery of the objectives of the policy.
- All members of the school community are responsible for promoting the school's equal opportunities policy and are obliged to respect and act in accordance with the policy.

Aims and objectives

The governing body and school, through its adopted Equal Opportunities Policy, aims to:

- carry out its legal duty in complying with the relevant legislation (including The Sex Discrimination Act, Race Relations Act, Disability Discrimination Act and Employment Equality Regulations);
- reinforce the school's position as a provider of high quality education and as a good employer providing development opportunities;
- ensure that equality remains high on the school's strategic agenda;
- establish good people management practice and to set out a proactive agenda in which discrimination is recognised as an organisational issue which needs an organisational response;
- achieve a staffing composition that reflects the composition of the wider community;
- ensure all staff work together with a shared sense of purpose to meet the needs of every pupil;
- ensure that pupils and staff contribute towards a happy and caring environment by showing respect for, and appreciation of, one another as individuals;
- ensure that complaints or evidence of failure to comply with the school's equal opportunities policy will be dealt with promptly and fully investigated according to the relevant procedure (e.g. complaints relating to staff may be investigated either under the disciplinary, grievance or anti-harassment procedure as appropriate). All forms of discrimination by any person within the school's responsibility will be treated seriously as such behaviour is unacceptable.

Policy and planning
Equal opportunities implications, including race equality, will be considered and recorded whenever school policies are developed or reviewed. All policies will be regularly reviewed to provide a comprehensive and consistent process of monitoring and evaluation.

Employment matters

Appointments
In all staff appointments the best candidate will be appointed based on strict professional criteria.

Family-friendly policies
The governing body/school is a family-friendly employer and will do its best to respond to the changing needs of all staff by publicising existing schemes designed to support employees in combining work and other responsibilities (parental leave arrangements, job share opportunities, flexitime where appropriate, carers' leave provision)

HIV/AIDS
The governing body/school recognises that people with HIV/AIDS suffer not only from the purely medical effects of the infection but may also experience prejudice and misunderstanding leading to unfair discrimination and victimisation. The governors/school therefore will ensure that people with HIV/AIDS do not experience unfair treatment in relation to employment, as pupils or as other members of the school community. The school and governing body will follow the detailed guidelines regarding staff recruitment and pupil admissions set out in Appendix B.

Transsexual employees and gender reassignment
The Sex Discrimination Act now expressly covers discrimination on grounds of gender reassignment. *[Governors/school should consult their local authority's gender reassignment code of practice. This provides clear guidelines in respect of recruitment and selection and arrangements for existing staff in cases of gender reassignment.]*

Training and development
The success of the Equal Opportunities Policy is closely linked to the provision of relevant training. Governors will be encouraged to take up all relevant opportunities provided by the Local Authority's Governors Training Programme. The school will endeavour to:

- enhance and develop the skills, knowledge and abilities of existing employees to realise their full potential, irrespective of background or employment status;
- provide equal access to training and development opportunities for all staff, including part time, on the basis of their assessed training needs;
- promote greater awareness of equal opportunities and the contribution which staff, governors, parents/guardians and pupils can make;
- equip employees with the skills to provide personal and organisational solutions, discriminatory practices and behaviour and to promote anti-discriminatory behaviour generally.

Professional development involves a continuous process of learning involving self-development, encouragement and motivation. The school places great importance on the relationship between team leaders and their teams and will ensure that employees are encouraged and supported to take responsibility for their own learning and development in the context of the school's performance management system.

Pupils and the curriculum

The school follows local authority and/or governing body pupil admission policies that do not permit sex, race, colour or disability to be used as criteria for admission. The schools aim is to provide for all pupils according to their needs, irrespective of gender, ability or ethnic origin. The Education Reform Act 1988 stated that 'the school curriculum should reflect the culturally diverse society to which pupils belong and of which they will become adult members.' Pupils should have access to a broad and balanced curriculum which avoids stereotypes and provides good role models for all pupils. Equality of opportunity should inform the whole of the curriculum and be reviewed regularly. Equal opportunities issues will be taken account of in planning the curriculum. This should be reflected in curriculum planning documentation.

Internal managerial issues

These guidelines are primarily designed to address employment aspects of governance and management. However, in consulting on the policy and developing it further head teachers and members of the senior management group will wish to take a range of other internal issues into account. Many of the issues listed will already be the subject of detailed agreed policies. It will be helpful to ensure that all existing polices are 'audited' from an equal opportunities perspective.

Part Three: Monitoring, review and evaluation

- Governors have a duty to ensure that policies are regularly monitored and reviewed. Monitoring is an essential aspect of this policy, as it should provide important information by which the school can measure its performance against its aims and objectives. Statistical information can also enable the governors and head teacher to detect where potential or actual imbalances exist and to take steps to correct them.
- Monitoring with respect to employment will be undertaken in the following areas on at least an annual basis by sex, race, disability, grade and subject area:
    - composition of the school staff;
    - recruitment trends;
    - take up of training opportunities;
    - promotion patterns; 🎬 use of complaints procedure;
    - use of grievance, disciplinary, harassment etc;
    - use of sanctions;
    - take-up of family-friendly policies, e.g. flexible working arrangements.
- Exit interviews can also provide further helpful information and feedback.
- Governors should ensure that the Equal Opportunities Policy is reviewed on an annual basis.

Appendix A:

Discrimination, victimisation and harassment

Discrimination on grounds of race, sex, disability, religion or belief, or sexual orientation is illegal. However, for the school community, discrimination is also unacceptable on any of the other grounds referred to in this policy statement. Failure to comply with the policy will be fully and promptly investigated using the appropriate procedures.

There are four ways in which discrimination may occur:

1. **Direct discrimination:** This means treating someone less favourably than others would be treated in the same or similar circumstances on the grounds of race, sex etc
2. **Indirect discrimination:** This means applying a requirement or condition which cannot be justified to all groups but which has a disproportionately adverse effect on one group because the proportion of that group which can comply is smaller than the proportion of the group(s) which can comply with it.
3. **Victimisation:** This occurs when a person is treated less favourably than other persons would be treated because that person has done a 'protected act' under the Equal Pay Act, Sex Discrimination Act, Race Relations Act or Employment Equality Regulations, for example, by bringing forward proceedings or giving evidence or information.
4**. Harassment:** Harassment can take many forms, from the most obvious abusive remarks to extremely subtle use of power. As with unfair or unlawful discrimination, harassment can be intentional or unintentional. However, the key issue is not simply the intention of the offender but the impact of the behaviour on the person receiving it. Harassment may involve any of the following:

- physical contact or violence;
- offensive humiliating and intimidating remarks or actions; 🎬 exclusion from participation in job-related or classroom-related discussions, training or social or other events;
- unfair work allocation; 🎬 unjust or excessive or humiliating criticism of performance;
- offensive signs or notices;
- graffiti; 🎬 repeated demands or requests for sexual favours.

These are merely examples and not an exhaustive list. Whatever the form, the school will provide support for any member of the school community, pupil or staff member who feels threatened or isolated because of such actions.

Appendix B: HIV/AIDS guidelines

The governors and school will:

- ensure that job applicants who are deemed to be medically fit to perform the job for which they have applied, are not denied an offer of work solely because they are HIV positive. In arriving at the decision, the school's normal recruitment criteria will be observed including the normal medical procedures;
- ensure, where possible, that resources are available to support employees or pupils with AIDS or other major health problems associated with HIV infection. The school's normal rules and procedures regarding ill health will apply in such cases. Equally the school will make appropriate arrangements for the provision of counselling (i.e. by referral to external agencies);

- give positive consideration to applications for unpaid leave for those with responsibility for caring for people with AIDS-related conditions in accordance with carers' leave arrangements;
- treat any breaches of confidentiality as a serious matter to be dealt with in accordance with the normal disciplinary (or other appropriate) procedure;
- provide appropriate training in relation to AIDS in order to combat fears and prejudice and to enable the school community as a whole to function without risk to health.