

Equalities Policy

Introduction

The aim of this policy is to outline the legal requirements of the Equality Act 2010 and how Heritage School complies with those requirements. This policy refers to the Equality Act 2010 and relies upon the following guidance: *The Equality Act 2010 and Schools* (2014).

Protected Characteristics

The Equality Act 2010 establishes the following nine Protected Characteristics on the basis of which it is illegal to discriminate: Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex (Gender), and Sexual Orientation.

Prohibited Conduct

The Equality Act 2010 forbids the following:

1. Direct Discrimination: treating one person less favourably than one otherwise would because of a Protected Characteristic (e.g. refusing to appoint a student as a prefect because she is not a Christian).
2. Indirect Discrimination: this occurs when a general practice affecting all students has a disadvantageous consequence for a group of students with a particular Protected Characteristic (e.g. holding a parent-teaching consultation at a time in the week that would preclude Jewish parents from attending).
3. Harassment: bullying behaviour which intentionally or unintentionally causes offence (defined as violating the dignity of another, or creating an intimidating, hostile, degrading, humiliating or offensive environment) in relation to a Protected Characteristic. Note: in the treatment of pupils this criteria does not apply with respect to Religion, Gender Reassignment and Sexual Orientation, although a case with respect to these Protected Characteristics could be brought on the grounds of Direct Discrimination.
4. Victimisation: being treated less favourably due to an action undertaken in association with the Equality Act. For example, a person might be treated less favourably because he was willing to make an allegation of discrimination or give evidence in support of an allegation of discrimination.

Our Commitments

As an expression of its Christian ethos, Heritage School is committed to equality of opportunity for all members of this community: pupils, parents, staff, etc. The school is committed to treating all members of this community equally without regard to Protected Characteristics and to the active promotion of tolerance (See our Active Promotion of Fundamental British Values Policy). Furthermore, the school is committed to understanding and breaking down barriers which have led to discrimination against or between groups in society and to valuing the contribution that all pupils and families make to our school community.

Heritage School treats all applicants for places equally and does not discriminate on the basis of a Protected Characteristic. In particular, Heritage does not make adherence to the Christian faith a criteria in admissions decisions.

Heritage is committed to delivering a balanced curriculum that exposes pupils to many cultures and to ideas of all kinds, however challenging or controversial, i.e. to robust and free thinking. At the same time, there is some preference given to engaging with the Christian faith in the curriculum and assemblies.

Heritage School seeks to hire the best qualified personnel and to provide equal opportunity for the advancement of its employees. Heritage School does not discriminate against any employee on the basis of a Protected Characteristic, with the sole exception of appointments to positions where adherence to the Christian faith is a Genuine Occupational Requirement, as explained in more detail below. Heritage welcomes applications from disabled candidates, provided the school can make reasonable adjustments (see our Disability Policy).

Our Behaviour Policy stresses the importance of maintaining respectful relationships between pupils. The school will respond firmly to discrimination between pupils in relation to relevant Protected Characteristics.

At Heritage school we are fully committed to providing equal opportunities for all pupils, regardless of gender. Boys and girls have equal choice in terms of academic options and extra-curricular activities and we are careful not to endorse any form of gender stereotype.

All classes and clubs are co-educational, with the exception of the following:

1. Some P.E. lessons and sports teams are segregated. However we always ensure that boys and girls have equal opportunities to participate in comparable sporting activities. This is lawful under the Equality Act 2010.
2. Very occasionally we run a single-sex PSHE class, for example for sex and relationships education or lessons about bodily changes during puberty. This is justified on the grounds of 'positive action', as explained under the Equality Act, section 158.

Religious Exceptions

In Statutory Instrument 2008 No. 2340, Education, England, made on 29th August 2008, the Secretary of State for Children, Schools and Families exercised powers conferred by section 69(3) of the Schools Standards and Framework Act 1998(a), as applied to independent schools by section 124B(b) of that Act and designated Heritage School as a School Having a Religious (Christian) Character.

This Designation Order, as well as protections identified in the Equalities Act 2010, grants Heritage School certain religious exceptions with respect to: admissions, the curriculum, acts of worship, and recruitment. The legal basis of these exceptions and relevant guidance are identified below, followed by commentary.

Admissions

Section 85(1) of the Equality Act 2010 states:

Pupils: admission and treatment, etc.

(1) The responsible body of a school to which this section applies must not discriminate against a person—

- (a) in the arrangements it makes for deciding who is offered admission as a pupil;
- (b) as to the terms on which it offers to admit the person as a pupil;
- (c) by not admitting the person as a pupil.

Schools with a Designation Order may give priority in admissions to members of their own religion. The Admissions Code provides that this may only be done when such a school is oversubscribed – schools subject to the Code are not permitted to refuse admission to pupils not of their faith if they have unfilled places.

Heritage School does not currently make adherence to the Christian faith an admissions criteria. Students of all faiths or of no faith are equally welcome. This exception is currently irrelevant in practice.

The Curriculum

Section 89(2) of the Equality Act 2010 states:

(2) Nothing in this Chapter applies to anything done in connection with the content of the curriculum.

Schedule 11 paragraph 5(a) of the Equality Act 2010 states:

Section 85(1) and (2)(a) to (d), so far as relating to religion or belief, does not apply in relation to—
(a) a school designated under section 69(3) of the School Standards and Framework Act 1998 (foundation or voluntary school with religious character);

Section 85(1) and 2(a) to (d) of the Equality Act 2010 states:

Pupils: admission and treatment, etc.

(1) The responsible body of a school to which this section applies must not discriminate against a person—

- (a) in the arrangements it makes for deciding who is offered admission as a pupil;
- (b) as to the terms on which it offers to admit the person as a pupil;
- (c) by not admitting the person as a pupil.

(2) The responsible body of such a school must not discriminate against a pupil—

- (a) in the way it provides education for the pupil;
- (b) in the way it affords the pupil access to a benefit, facility or service;
- (c) by not providing education for the pupil;
- (d) by not affording the pupil access to a benefit, facility or service;

Paragraph 89(2) makes explicit that the content of the school curriculum is excluded from the scope of the Equality Act 2010. This protection ensures that all schools are free to include a full range of issues, ideas and materials in their syllabus, and to expose pupils to ideas of all kinds, however challenging or controversial, without fear of legal challenge based on a Protected Characteristic. It remains true, however, that schools will need to ensure that the way in which issues are taught does not subject individual pupils to discrimination.

Our Designation Order confers additional protections in the way we provide education, or in relation to opportunities we may not provide. For example, if we organise a visit for pupils to religious sites of particular interest, such as a cathedral, we are not discriminating unlawfully by not arranging trips to sites of significance to the faiths of other pupils. Or, a child of a different faith could not claim, for example, that they were being treated less favourably because objects symbolic of the Christian faith, such as the Bible or a cross, were given a special status in the school (see *The Equality Act 2010 and Schools*, p.13).

The Curriculum: Sexual Orientation and Same-Sex Marriage

When teaching about marriage and sexuality, we do so in a sensitive, reasonable, respectful and balanced way, and we are committed to stating the facts accurately about marriage, including of same

sex couples, under the law of England and Wales. Explicit teaching about marriage and sexuality does not take place until students are of Senior School age. As a school with a Designation Order, a presentation of historic Christian perspectives on marriage and sexuality is included and conducted in keeping with the principles articulated in the Department for Education guidance *The Equalities Act 2010 and Schools* (May 2014) as noted below.

The following statements are from *The Equality Act 2010 and Schools* (May 2014) (pp.22-23):

No school, or individual teacher, is under a duty to support, promote or endorse marriage of same sex couples. Teaching should be based on facts and should enable pupils to develop an understanding of how the law applies to different relationships.

Many people's views on sexual orientation/sexual activity are themselves grounded in religious belief. Some schools with a religious character have concerns that they may be prevented from teaching in line with their religious ethos. Teachers have expressed concerns that they may be subject to legal action if they do not voice positive views on same sex relationships, whether or not this view accords with their faith. There are also concerns that schools with a religious character may teach and act in ways unacceptable to lesbian, gay and bisexual pupils and parents when same sex relationships are discussed because there are no express provisions to prevent this occurring.

Schools with a religious character, like all schools, have a responsibility for the welfare of the children in their care and to adhere to curriculum guidance. It is not the intention of the Equality Act to undermine their position as long as they continue to uphold their responsibilities in these areas. If their beliefs are explained in an appropriate way in an educational context... then schools should not be acting unlawfully. However, if a school conveyed its belief in a way that involved haranguing, harassing or berating a particular pupil or group of pupils then this would be unacceptable in any circumstances and is likely to constitute unlawful discrimination.

Where individual teachers are concerned, having a view about something does not amount to discrimination. So it should not be unlawful for a teacher in any school to express personal views on sexual orientation provided that it is done in an appropriate manner and context (for example when responding to questions from pupils, or in an RE or Personal, Social, Health and Economic education (PSHE) lesson). However, it should be remembered that school teachers are in a very influential position and their actions and responsibilities are bound by much wider duties than this legislation.

Acts of Worship

Schedule 11 paragraph 6 of the Equality Act 2010 states:

Section 85(2)(a) to (d), so far as relating to religion or belief, does not apply in relation to anything done in connection with acts of worship or other religious observance organised by or on behalf of a school (whether or not forming part of the curriculum).

This general exception, which applies to all schools, to the religion or belief provisions allows all schools to have acts of worship or other forms of collective religious observance. The exception means that schools will not be acting unlawfully if they do not provide an equivalent act of worship for other faiths. Schools are also free to celebrate religious festivals and could not be claimed to be discriminating against children of other faiths if, for example, they put on a nativity play at Christmas.

At Heritage School, our assemblies are of a broadly Christian nature. They include presentations about Christian beliefs and values, always in a manner that respects diversity of beliefs both at Heritage School and in society more widely and the need for students to form their own reasoned opinions. Assemblies include singing hymns and saying collective prayers.

Recruitment

Schedule 9 paragraph 3 of the Equality Act 2010 states:

A person (A) with an ethos based on religion or belief does not contravene a provision mentioned in paragraph 1(2) by applying in relation to work a requirement to be of a particular religion or belief if A shows that, having regard to that ethos and to the nature or context of the work—

- (a) it is an occupational requirement,
- (b) the application of the requirement is a proportionate means of achieving a legitimate aim, and
- (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).

Our Designation Order gives us the legal right upon which to apply religious criteria when recruiting or dismissing any member of our teaching staff, if it can be reasonably maintained that adherence to the Christian faith is necessary for a person in that role for the maintenance of the Christian ethos of Heritage School.

The following statements clarify our rights in this area. They are taken from *The Equality Act 2010 and Schools* (May 2014) (p.44):

In recruitment, remuneration and promotion Voluntary-aided schools may give preference to persons:

- whose religious opinions are in accordance with the tenets of the religion of the school;
- who attend religious worship in accordance with those tenets; or
- who give, or are willing to give, religious education in accordance with those tenets.

In considering dismissals, the governing body may have regard to any conduct that is incompatible with the precepts, or with the upholding of the tenets, of the religion of the school.

Non-teaching staff: Religious criteria may not be applied to any other posts in a VA school unless there is a genuine occupational requirement. This would need to be justified but might, for example, apply to a member of staff required to give pastoral care to pupils.

All teaching and teaching assistant roles at Heritage School (i.e. all classroom practitioners) are advertised as requiring adherence to the Christian faith as an occupational requirement. As our Christian Ethos Policy states, trustees reserve the right to make exceptions to this position for Senior School teachers where they judge it necessary and where they judge that the overall balance of the school's ethos can be maintained. All employees at Heritage School must declare their willingness to be fully supportive of and act in accordance with our Christian ethos.

Conclusion

Heritage School is committed to the principles of equality and tolerance as an expression of its Christian ethos. We recognise, however, that at specific points the manifestation of our religious commitments impacts upon others who may not share them. This policy has outlined the boundaries within which those religious commitments are manifested in keeping with the Equalities Act 2010.

Authorised by	Jason Fletcher
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