



Chapter 5: Education providers

In this chapter we will cover:

- [What is meant by an Education Provider or Responsible Body?](#)
- [Discrimination in the provision of education](#)
- [What happens if the education provider is also subject to the Ordinance in a different capacity \(i.e., as an employer or landlord\)?](#)
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- [Common reasonable adjustments for education providers to think about](#)
- [Discriminatory acts or requests by students](#)
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See also [Chapter 9](#) for advice on preparing for the legislation insert link and the [implementation table](#) which sets out the timeline for when sections of the Ordinance are expected to come into force.

The Ordinance requires that the responsible body of a school or education provider must not discriminate against students or prospective students in relation to their education.

Where schools and education providers are operating in an educational capacity and dealing with students or prospective students, it is important to note that the Ordinance is not due to apply to these relationships before 1 September 2025. Where there is a duty to make a reasonable adjustment that relates to a physical feature, that duty will not come into force before 1 October 2028. However, the purpose of this section is to try to assist schools and education providers to prepare for the Ordinance coming in to force. For further information on the dates

of implementation of the Ordinance please see the table [here](#).

It should however be noted that often schools and education providers will also operate in different capacities, such as an employer or as a service provider to the public, and so they will still have obligations under the Ordinance as soon as it comes into force on 1 October 2023. Those obligations are detailed in [Chapter 4- Service providers](#) and the [Employment guide](#).

This section is intended to try to provide some practical guidance to schools and education providers who have responsibilities under the education provisions of the Ordinance. This section should also be read in conjunction with the exceptions relating to [Schools and Education Providers](#).

5.1 What is meant by an Education Provider or Responsible Body of a School

The Ordinance can apply in an education context to either an education provider or the responsible body of a school.

An education provider means:

(i) an educational institution in Guernsey; or

(ii) an organisation which develops or accredits curricula or training courses for use by a school or educational institution in Guernsey.

A school has the meaning given in section 1 of the Education (Guernsey) Law, 1970

An educational institution means an institution in Guernsey at which education is provided for five or more students of any age, not being a school, and for the avoidance of doubt includes registered pre-schools and day nurseries.

A responsible body means the governing body, committee of management or the proprietor of the school or education provider, as the case may be.

See section 29(6) of the Ordinance

The term 'education provider' is widely defined and covers any educational institution in Guernsey or any organisation which develops or accredits curricula or training courses for use by a school or educational institution in Guernsey, Herm or Jethou. For these purposes, an educational institution would include any institution at which education is provided for five or more students of any age and would include registered pre-schools and day nurseries, but would also apply to education provided to adults.

The definition of school follows the existing statutory definition of a school which is an institution for providing primary or secondary education or both primary and secondary education:

- a school maintained by the States;
- an independent school; or
- a school in respect of which grants are made by the States to the proprietor of the school;

This definition will cover all existing primary and secondary schools in Guernsey and includes both States providers and private providers, as well as any new school that is developed through reform of the current educational model.

The term 'responsible body' in relation to any school will depend upon the type of school. For those States' Schools operated by the Committee for Education Sport & Culture of the States of Guernsey, the responsible body would be that Committee. For those schools not maintained by the States of Guernsey, the responsible body would be the body which operates the school in question, for example this may be a company or a board of governors depending upon the constitution of the school (and similarly for a pre-school or nursery).

5.2 Discrimination when providing Education

The Ordinance will make it unlawful for the responsible body of a school or education provider to discriminate in relation to its admission process as well as when providing education to its students. Regulations are required for this section to come into force. Under the Ordinance these regulations cannot bring the education provisions into force before 1 September 2025.

The responsible body of a school or education provider must not discriminate against any person:

- **in the arrangements it makes for deciding who is offered admission as a student;**
- **as to the terms on which it offers to admit a person as a student; or**
- **by not admitting a person as a student.**

See section 29(1) of the Ordinance

The responsible body of a school or education provider must not discriminate against any student:

- **in the way it provides education to a student;**
- **by denying a student access, or limiting a student's access, to any benefit, facility or service;**
- **by permanently excluding a student; or**
- **by subjecting a student to any other detriment.**

See section 29(2) of the Ordinance

This covers all of the different forms of discrimination set out in [Chapter 1: Discrimination and other prohibited conduct](#) of the guidance, including:

- direct discrimination;
- indirect discrimination;
- discrimination arising from disability; and
- discrimination by association.

In addition, a school or education provider must not, in relation to the provision of education, either victimise or harass a person and is subject to the duty of reasonable adjustments.

There is no exhaustive definition of what is meant by arrangements in section 29 (1) of the Ordinance but it would include:

- Admissions policies

- Drawing up of admissions criteria
- Application of admissions criteria
- Information about the school, including marketing material
- Open events and schools visits
- Application forms
- Decision-making processes
- Interviews
- Admission tests

All examples will not become effective before Sept 2025 at the earliest.

Example: Arrangements for admission

A selective school requires all prospective students to undertake a written admission test. There is a specific exemption which allows schools to select students by reference to general or special ability or aptitude, with a view to admitting only students of high ability or aptitude. However, the duty to make reasonable adjustments still applies to an admission test, where students might meet the admission requirements but are put at a disadvantage because of the arrangements for admission, such as a student who might be visually impaired. The failure to make a reasonable adjustment, for example to provide that student with the test in a larger font size, would amount to discrimination.

The terms of admission should not discriminate against a student because of a Protected Ground.

Example: Terms on which admission is offered to a person as a student

Under Guernsey law, children should receive full-time education. A disabled student is allowed to attend school only on a part-time basis because the school does not have the resources to provide the student with the support they require on a full-time basis. This would be discrimination arising from disability, unless it can be objectively justified.

The school, however, might be able to justify certain actions if it can be shown that it is a proportionate means of achieving a legitimate aim. However, it should be considered whether there might be a more proportionate means of achieving efficient education for both the student and their peers, such as different provision for a small group of students for part of the time, rather than not allowing them to attend school.

Example: Terms on which admission is offered to a person as a student

A disabled student is assessed and it is agreed that they need to have additional learning support to overcome a substantial disadvantage to participate in the school day. If the school does not provide it, then this could be failure to provide a reasonable adjustment unless the adjustment would be a disproportionate burden for the school to provide. However, the school decides to make the provision and duly charges extra for that learning support as a condition of entry. This could also amount to discrimination arising from a disability as it is unlawful to pass on the costs of reasonable adjustments. Passing on the cost would only be possible if providing the learning support was not a reasonable adjustment (because paying for the adjustment would place a disproportionate burden on the school). What is a disproportionate burden will vary depending on the size and resources of the school and the impact on other students. If the school refused a place to a disabled student because of the additional learning support they would require, then this would also need to be objectively justified, or it could amount to discrimination arising from disability.

A school's obligation to its students is wide ranging and isn't just limited to what takes place in the confines of the classroom and covers everything that a school provides for students including extracurricular and leisure activities, afterschool and homework clubs, sports activities and school trips, as well as school facilities such as libraries and Information Technology (IT) facilities.

Example: The way in which education is provided

During a history lesson on the second world war, a teacher mocks the German accent. Whilst the teacher does not know it, one of the students is half-German and is greatly upset by these remarks. This would amount to harassment on the grounds of race.

A school should not discriminate against a student due to a protected ground by permanently excluding them, but the Ordinance also covers other actions short of permanent exclusion which might amount to a detriment.

The term 'detriment' is not defined within the Ordinance but will be interpreted very broadly. It is generally taken to mean some disadvantage and can include denial of an opportunity or choice, or anything that a reasonable student would consider altered their position for the worse, so could include steps such as detentions, or excluding students from a school trip or excursion.

Example: Subjecting a student to any detriment

A school has a policy that if a student breaks the school rules on three occasions, they will automatically be given a detention. A student who has attention deficit hyperactivity disorder (ADHD) is much more likely to break the school rules than other students. The issuing of a detention to that student will amount to a detriment. Accordingly, if the school applies the policy on rigid basis to students with ADHD this is likely to amount to indirect disability discrimination and/or failure to make a reasonable adjustment has not been made. A school may find it difficult to justify the treatment as a proportionate means of achieving a legitimate aim.

Whilst schools and education providers are under a duty to not discriminate when providing education, they are not required to take a step which would fundamentally alter the nature of the educational service provided.

Example: Fundamental nature of the education

An education provider offering a catering qualification would not need to restrict its teaching to vegan food to accommodate a potential student who was an ethical vegan.

Example: Disproportionate burden

A child had an accident and now has to attend school in a specialist wheelchair and needs access to a hoist, changing places toilet facilities and regular physiotherapy throughout the school week. Whilst a school would be required to make adjustments that were reasonable, particularly around wheelchair use, this may not necessarily extend to installing equivalent facilities for disabled students to those provided at specialist schools, as this would be likely to be a disproportionate burden.

Exceptions

It should be noted that there are a number of general exceptions within the Ordinance, as well as specific exceptions relating to schools and education providers where it is not necessarily unlawful to discriminate against a person on a Protected Ground. The specific exceptions for schools and education providers are as follows:

- Schools can make arrangements for selective admission based on a student's general or special ability or aptitude without this being discrimination;
- Schools with a religious ethos may base their admission criteria on students being of a particular faith;
- A school with a religious ethos may teach a curriculum which focuses primarily on the religion of the school, without this being discrimination, provided the school also teaches that other religious beliefs exist and are worthy of respect; and
- A school may provide additional educational services to students with additional assessed needs, without this being discriminatory against other students.

For further information on the exceptions please refer to [Chapter 8](#).

5.3 Education providers acting in other capacities

Whilst an organisation may fall under the definition of a school or an education provider, it is important to remember that there are separate sections under the Ordinance which deal with service providers, clubs and associations and accommodation providers and there are times when a school could be acting in a capacity other than as an education provider. For example, if a school puts on a play and sells tickets to the public, then it would be acting as a service provider. It would also act as a service provider if hiring out facilities, such as a meeting room or swimming pool, or holding a school fete or fayre. In addition, schools and education providers will often also have employees, and so the relevant sections relating to employers within the Ordinance will also apply.

It is important to consider, in what capacity an organisation is acting to understand which part of the Ordinance will apply. There are different requirements for each category and the implementation of certain provisions of the Ordinance will come into force on different dates.

Schools and education providers should, however, be aware that the provisions relating to employment and service providers in the Ordinance will apply from 1 October 2023 when they are providing a service to the public or in relation to their employees.

Example

When a school provides education in relation to student it is subject to duties as an education provider (from no earlier than 1 September 2025).

When a school hires out its facilities at the weekend to members of the public it is it is subject to duties as a service provider (from 1 October 2023).

When a school offers staff accommodation which it provides to them as part of their job it is subject to duties as an accommodation provider (from 1 October 2023 although certain specific reasonable adjustment duties for landlords would not apply until 1 October 2028 – see accommodation section for further guidance).

When a school (or the States of Guernsey) employs staff it is it is subject to duties as an employer when acting in this capacity (from 1 October 2023).

(The duty to make reasonable adjustments to physical features will not come into force before 1 October 2028 for any provider.)

For further information on provisions relating to:

- Service providers see [Chapter 4](#)
- Clubs and associations see [Chapter 6](#)
- Accommodation providers see [Chapter 7](#)

Please also see the table of [implementation dates](#).

For information in relation to employment, please refer to the separate [Employment Guide](#).

5.4 Reasonable adjustments when providing education

Schools and education providers will be under a duty to make reasonable adjustments, when providing education, where a disabled person is placed at a substantial disadvantage.

The duty to make reasonable adjustments for a disabled person is set out below and a person on whom the duty is imposed is referred to as "A"

- **where a provision, criterion or practice of A puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage;**
- **where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, for A to take such steps as it is reasonable to have to take to avoid the disadvantage;**
- **where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.**

Before A takes such steps as it is reasonable to have to take to avoid the disadvantage as set out above, A must consult the disabled person to ask their view as to what steps would avoid the disadvantage, and may also consult such other persons as A considers appropriate.

See section 32(2) and (3) of the Ordinance

The general duty on schools and education providers to make reasonable adjustments for students will not come into force before 1 September 2025 (or not before 1 October 2028 where the adjustment is to a physical feature of premises). The duty to make reasonable adjustments for employees and members of the general public (where the school or education provider is acting as a service provider) comes in to force on 1 October 2023 (again, unless the adjustment relates to a physical feature of premises, in which case it will not come into force before 1 October 2028).

Service providers, schools and education providers are also under the proactive duty to make reasonable adjustments for disabled persons described in subsections 33 (2) and 33 (3).

See section 33 of the Ordinance

The Committee may by regulation impose a duty on public sector service providers and public sector school or education providers to prepare and implement an accessibility action plan. This will involve the creation of a reasonable and adequate plan, proportionate to the size and financial and other circumstances of the service provider, school or education provider, in which the service provider, school or education provider sets out how they will improve access for disabled people to their service.

See section 37 of the Ordinance

In addition to the general duty to make reasonable adjustments, schools and education providers will also be subject to a proactive duty to make reasonable adjustments (again for students this comes into force from 1 September 2025 at the earliest).

Public sector schools and education providers will also be required to prepare an accessibility action plan, although this obligation will not come into force before 1 October 2028. This will be expected to cover physical accessibility, accessible communication and, in the case of education providers, access to the curriculum. See [Appendix III](#).

For further information on the duty of reasonable adjustments generally please refer to [Chapter 3](#).

Provision, criterion or practice

It is important for schools and education providers to understand how they could place a student with a Protected Ground at a disadvantage. This is because the way in which education is delivered or accessed will generally amount to a provision, criterion or practice. Where a disadvantage is identified, then the school or education provider will need to consider and consult with the disabled student (or their parent or carer) as to what steps would avoid that disadvantage, and then implement such steps as it is reasonable to do. What is reasonable will obviously differ from case to case.

Example

A school has a uniform policy that students must wear a shirt and a blazer and are not permitted to wear a jumper under their blazer. That uniform policy will amount to a provision, criterion or practice. If a disabled student with a circulatory condition, who was particularly susceptible to the cold, was placed at a substantial disadvantage by not being able to wear a jumper under their blazer, then it would likely be a reasonable adjustment to amend the policy to permit this.

Physical feature

Physical features are widely defined, but in the context of schools and other education institutions, would include:

- a feature arising from the design or construction of a building;
- a feature of an approach to, exit from or access to a building; or
- a fixture or fitting in or on premises.

Examples of physical features would be steps, fitted desks, lighting, and the lay out of the school.

The duty to make adjustments to physical features will not come into force until 1 October 2028 at the earliest. However, if the relevant adjustment could also be construed as an adjustment to a policy, criterion or practice, or as the provision of an auxiliary aid, (see the next section), then the adjustment may need to be made earlier, potentially from 1 September 2025 onwards.

Whilst the proactive duty to make reasonable adjustments in respect of physical features (which applies to all schools and education providers) and the duty to prepare an accessibility action plan (which only applies to public sector schools and education providers) does not come into force until 1 October 2028 at the earliest ([see table of commencement dates](#)), some schools and education providers may find it useful to go through this process in advance.

Example

A public sector education provider has a narrow entrance due to shelving installed either side of the main door. The shelving will amount to a physical feature which will place some disabled people at a disadvantage, for example those with mobility impairments. The education provider will need to consider what adjustments it would be reasonable for it to make to the physical feature to improve accessibility, such as whether those shelves could be relocated elsewhere.

Auxiliary aid

An auxiliary aid is a piece of equipment or a service that is used by a person with a disability to compensate for, or remove, any disadvantage or inequality connected with the disability. This does not include any item of personal equipment which the person would reasonably be expected to own. Examples of common auxiliary equipment in an education setting would include coloured overlays, pen grips, adapted PE equipment, adapted keyboards and computer software. However, auxiliary aids also includes auxiliary services, an example of which might include the provision of a support assistant.

Example

Providing a student who is a wheelchair user with someone to assist them when navigating around school would be an auxiliary service. Providing a suitable and secure step so that a student with a short stature due to a genetic condition can reach the desks in the science lab would be an example of providing an auxiliary aid.

Fundamental nature of the service

Whilst schools and education providers are under a duty to make reasonable adjustments in relation to the provision of education, the Ordinance makes it clear that they are not required to take a step which would fundamentally alter

the nature of the education service provided.

Example

An education provider promotes a star gazing event. By its very nature these events must take place at night, which will place some students with a particular disability at a disadvantage. However, the provider would not have a duty to change the time of the event to during the day as it would change the fundamental nature of the event (the service).

5.5 Understanding the needs of students

Schools and education providers will be subject to the general duty to make reasonable adjustments, as well as a proactive duty to make reasonable adjustments in respect of disabled persons generally and to anticipate such needs in advance of being asked, from no earlier than 1 September 2025. However, reasonable adjustments relating to changes to physical features which will not come in before 1 October 2028. In addition, public sector schools and education providers will be required to implement accessibility action plans although this obligation will not come into force before 1 October 2028. For further information on implementation dates, please see [the table](#).

These provisions are not intended to require schools or education providers to anticipate the needs of every student who may attend the school. They are required to think about, and take reasonable steps to overcome, the barriers that may impede students with different kinds of disability and to make reasonable adjustments.

If a student or their parent/carer indicates that the student may require a reasonable adjustment (on application or once admitted), and it is determined that the student has a disability and that the student would be placed at a substantial disadvantage, then a school or education provider must consult with that student (or the parents/ carer as appropriate) and put in place a reasonable adjustment as long as it is not a disproportionate burden for them to do so.

Understanding the needs of disabled students

Some disabled students will already have identified special educational needs (SEN) and may be receiving support via school-based SEN provision or have a determination or other plan in place. This does not take away a school's duty to make reasonable adjustments for that student, rather this will simply be the framework through which the school seeks to comply with its duties. It is important to remember that even if a student does not have identified needs they may still meet the definition of disability and need reasonable adjustments to be made for them to ensure that they are not placed at a substantial disadvantage, and so the onus will be on the school to ensure this takes place.

As for other employers and general service providers, reasonable adjustments may involve changing a policy, criterion or practice, providing an auxiliary aid or, from 1 October 2028, removing or altering a physical feature (or finding another way of providing the service).

Disabled people are individuals who have different requirements, so the same adjustment will not mitigate a disadvantage for everyone even if two people have the same impairment. The example below describes a policy that would only discriminate against visually impaired persons with guide dogs.

Example

A visually impaired adult student who wants to use a guide dog to attend evening classes at a college of further education would be prevented from accessing services if the college has a 'no dogs' policy, whereas a visually impaired student who uses white canes would not be affected by this policy.

There is no requirement to consult in the context of the proactive duty to make reasonable adjustments. Schools or education providers should not wait for an issue to arise but should seek to actively engage with issues, and should start by addressing the obvious ones. Whilst there is no single exhaustive list of issues that a school or education provider must consider, the following may be a useful starting point:

- planning in advance for the requirements of any known disabled students and reviewing the reasonable adjustments in place;

- having a process to review the adjustments in place to ensure they remain appropriate;
- conducting access audits on premises thereby considering a range of different impairments;
- asking disabled students or parents for their views on reasonable adjustments; consulting local disability groups;
- considering how best to let a student know about existing reasonable adjustments;
- ensuring any auxiliary aids are properly maintained and having a plan in place in case they do not work;
- considering how communications can be as inclusive and accessible as possible;
- ensuring that staff are aware of the duty to make reasonable adjustments and understand how to communicate with disabled individuals so that reasonable adjustments can be identified and made (as noted above);
- training staff to understand how to respond to requests for reasonable adjustments; and
- encouraging staff to develop additional skills for disabled students (for example, communicating with a student with a hearing impairment).

From 1 September 2025, the duty to make specific reasonable adjustments (excluding to physical features) will apply as soon as a school or education provider has become aware that a particular student or prospective student might have a disability. The school or education provider should consider how they can meet these requirements. Whilst there is no obligation on the disabled student to necessarily disclose their disability, or to come up with the solution, the school or education provider has a duty to consult with the individual once they know or suspect that the student has a disability. In practical terms this will usually be engaged when an issue is identified by the school or education provider, and often will be as simple as having a conversation with the student or their parent/carer.

Example

A disabled student at a primary school finds it difficult to remain seated in a normal chair for long periods as it causes them significant back pain, although the student has not informed their teacher of the issue. The parents of the child raise the issue with the school at a parents evening. It is agreed that the school will provide the student with a specially adapted rise and fall desk and special chair in their classroom as a reasonable adjustment to provide greater support for their back during lessons and so the student can alter their stance during the lesson to provide an alternative option to sitting all of the time.

Understanding the needs of people with other Protected Grounds

Whilst the duty to make reasonable adjustments only applies to people with a disability, schools and education providers may wish to consider how they address the needs of individuals with other Protected Grounds. They could consider issues around indirect discrimination, where students might experience barriers. There is no specific duty to consult other than in the context of the duty to make reasonable adjustments for a disabled person, although inevitably, the best way to understand the needs of different people, is to communicate with them to gain their views. This can be done in person in the course of providing their education, but equally it can be undertaken in other ways, such as by sending online surveys, or providing other means to enable students to feedback.

Once barriers have been identified, then the next step is to take measures to address them. For schools and education providers, this may include improving awareness of and access to educational opportunities, adjusting the way in which education is delivered to meet the particular needs of a protected group, or training the staff to recognise such needs.

What is positive action?

Positive action has a strict legal definition within the Ordinance and the exception will apply differently depending upon the context. In general terms, it covers any steps which are taken with the aim of promoting greater equality of opportunity on any of the protected grounds.

Students may be disadvantaged for reasons connected to a Protected Ground or for reasons to do with past or present discrimination. The Ordinance allows education providers to take action to tackle a particular disadvantage, different needs or disproportionately low participation of a particular student group, provided that certain conditions are met.

This is known as positive action and allows (but does not require) education providers to take proportionate action to remedy the disadvantage faced by particular groups of students. Such action could include specific provision or resources directed towards a particular disadvantaged student group.

Positive action is not the same as positive discrimination which involves preferential treatment for a particular disadvantaged student group but which does not meet the positive action conditions, for instance by imposing quotas. Positive discrimination is discrimination and is therefore not generally lawful. However, it is never unlawful to treat disabled students (or applicants) more favourably than non-disabled students (or applicants) if this action is taken to address a disadvantage to which the disabled person would otherwise be put.

Whilst there is no obligation on organisations to take positive action, where steps are taken, they can be lawful, providing that the action is taken with the aim of achieving greater equality. If an education provider wanted to take positive action in this way with respect to admissions, any advertisement for admissions should clearly state the school is seeking applications from everyone but wishes to encourage applications from people with a particular Protected Ground on the basis that they are underrepresented or face disadvantage.

Please also refer to [Chapter 8](#) on exceptions.

Unlike in the UK, it is not necessary to demonstrate positive action is a proportionate means of achieving a legitimate aim, but rather positive action must have the aim of achieving one of the following:

- the prevention, compensation for or removal of any disadvantage or inequality connected with a protected ground;
- the promotion of equality of opportunity on any of the protected grounds, including in relation to recruitment and promotion; or
- the catering for the particular needs of persons, or a category of persons, who, because of a protected ground, may require facilities, arrangements, services or assistance not required by persons who do

not have those particular needs.

Positive action can include:

- providing additional or bespoke services;
- providing separate facilities;
- giving accelerated access to services; or
- targeting resources or induction or training opportunities to benefit a particular disadvantaged group.

Where action does not meet one of the criteria set out above, then it would amount to positive discrimination, which is unlawful.

By taking appropriate and proportionate positive action, schools and education providers are likely to improve their education and services for students, and to overcome barriers for particular groups.

Example

A school analyses its student data and identifies that boys from certain ethnic groups are disproportionately more likely to leave school at the age of 16 and not continue in education or training. The school is aware of gradual disengagement from education by these students from the age of 14. The school decides to run activities for these groups to try to raise aspirations and prevent this disengagement. These activities include targeted careers education, giving the students the opportunity to visit local employers and training providers, and being assigned a mentor from the same background studying at university. This would be positive action and is allowed under the Ordinance.

5.6 Common reasonable adjustments for schools and education providers to think about

There is no exhaustive list of reasonable adjustments that schools and education providers need to consider but a number of illustrative examples are set out

below.

Example: Adjustments to parental consent forms

A school has a policy that all parental consent forms must be made in writing using a paper form. This policy places some disabled people at a disadvantage, for example those with visual impairments. The school amends the policy to permit people who cannot complete the form to come into the school office to give their consent in person with a witness present. This is likely to be a reasonable adjustment.

Example: Adjustments in relation to written work

A disabled student with severe manual dexterity difficulties finds it difficult to write large amounts of text by hand and so this takes them considerably longer than other students. Where assignments that are set which require large amounts of text to be handwritten, they would be at a substantial disadvantage. The student however is able to touch type, and so as a reasonable adjustment they are permitted to use a laptop to submit their assignments instead.

Example: Adjustments in relation to a visually impaired student

A visually impaired student who needs a larger font so that they can see documents, will be at a substantial disadvantage compared to other students if materials are provided in the usual font size. Accordingly, as a reasonable adjustment and following the discussion with the student the school arranges for all worksheets to be reproduced in the larger font size.

Example: Adjustments in relation to a student with chronic fatigue syndrome

A student with chronic fatigue syndrome finds it harder to concentrate in lessons in the afternoon as a result of an increase in their tiredness. Following a meeting with the student, parents and the SEN co-ordinator and input from any other relevant professional, it is agreed as a reasonable adjustment that a specially adapted timetable will be implemented which builds in breaks for the student in the afternoon.

Despite the amendments, the student continues to have difficulties in the afternoon and is too exhausted to complete the school day. The school then makes further adjustments, arranging for the student to have a 'buddy' to carry their books, and for the teacher to record those lessons that are missed and amending the school policy so as not to issue sanctions for late arrival to lessons. These adjustments enable the student to attend more lessons and to be less disadvantaged when lessons are missed.

Example: The importance of the duty to consult

A school admits a disabled student who is deaf and decides, without consulting the student, to install an induction loop in all teaching rooms – but the student does not use a hearing aid and so is unable to benefit from the induction loop. The student reads lips and so a reasonable adjustment would instead rather have been to tell all staff to ensure that they face the student when speaking to them. Because of the failure to consult with the student, they were unaware of the adjustment that was required. From 1 September 2025 this would lead to a failure to make an appropriate reasonable adjustment.

Example: Adjustments for a student with an impairment that affects reading

A student with a disability is struggling to read text typed on white paper. The school therefore initially agrees to provide handouts on yellow paper. It is then identified that student finds it difficult to read text on any colour of paper without a plastic overlay sheet. Therefore, the school provides the student with a plastic overlay sheet to use in all lessons. This would be a reasonable adjustment for this student.

Example: Adjustments for a student with epilepsy

An application is submitted to the reception class of a local primary school for a student with epilepsy to attend. The parents speak to the head teacher and ask for someone at the school to be trained to provide the necessary medical support if the student has a seizure in school.

Following a risk assessment and after seeking advice, the school decides to provide training to all staff and afterwards asks for staff volunteers to agree to support the student and to administer the necessary medication. The school also puts in place an individual healthcare plan for the student, which includes instructions on how the medication is to be administered. This could be a reasonable adjustment for the school to make.

Example: Adjustments for a student with an impairment that affects their speed of processing

A student who has an impairment that impacts their speed of processing would be at a disadvantage in completing timed tasks compared to another student who does not have the impairment as they need longer to read and process written questions. A reasonable adjustment may be for them to be granted extra time for these tasks. (In respect of formal public exams such as GCESs, this would need to be considered against formal exam access arrangement criteria.)

Example: Adjustments for a student with a medical condition, adjustment to policy

A school has a lunch policy that students must take lunch at one sitting and are not permitted to eat outside of the canteen area. That eating policy will amount to a provision, criterion or practice. If a student with a long-term medical condition, who must take medication with food at a particular time is not allowed to do this, they will be placed at a substantial disadvantage by not being able to take their medication on time. It would likely be a reasonable adjustment to amend the policy to permit them to eat outside these hours or elsewhere on site.

Example: Adjustments for a student with attention deficit hyperactivity disorder, auxiliary support

A school has a zero-tolerance policy to distractions in class. A student has attention deficit hyperactivity disorder (ADHD). This is a neurodevelopmental condition that has a learning and behavioural impact and often individuals show signs of inattention, distractibility, hyperactivity and impulsivity. The student sometimes displays behaviour that may be considered disruptive.

A reasonable adjustment could be for them to have a learning support assistant in the classroom for some lessons.

Example: Adjustments for a student with different needs

It could be a reasonable adjustment for a student who has an impairment that affects reading to have their work printed on yellow paper as it has been shown that a light but not white background is beneficial to some people. It may also be reasonable to change the background colour of any computer and visual aids like whiteboards.

Another student in the class is colour blind and is visually impaired. They could not work with green or red backgrounds and may need access to larger font. Any solution or solutions would have to work for both competing disabilities.

Example: Car parking

A college has a policy of only allowing students to park in allocated student car parks. A student has a mobility impairment which means that they need to be able to park close to where their lessons are.

This isn't always possible as the allocated car parks are situated on one side only of the campus. Allowing the student with the mobility impairment to park in designated disabled parking spaces in all parts of the campus is likely to be a reasonable adjustment to their current parking policy and will ensure that the student can attend their classes.

Example: Separation anxiety disorder

A child in year 1 has a separation anxiety disorder. It is very difficult for the parent to drop the child off at normal school times. A reasonable adjustment could be to allow the parent to deliver the child to school 15 minutes late each day for an agreed amount of time to avoid the other parents and children arriving and/or to have a learning support assistant meet the child, so that the separation can take place in a quieter environment to relieve stress in the school drop off.

Example: Adjustments to physical features

A day nursery is housed in an old building which has narrow corridors. The physical features will place some disabled people at a disadvantage, for example those with mobility impairments. The nursery will need to consider what adjustments it would be reasonable for it to make to the layout of the building to improve accessibility.

If layout changes are too costly for the nursery's financial circumstances, it may be acceptable to show that the considered improvements would be a disproportionate burden. In this case the nursery should consider whether different reasonable adjustments can be made. For example, it might be possible to find a wheelchair that is thinner than the standard for use within the building for children or parents to use whilst they are there.

The general duty to carry out reasonable adjustments to physical features will not come into force before 1 October 2028.

Example: Adjustments for wheelchair users

A student who is a wheelchair user is unable to access classes on the first floor of the school due to lengthy maintenance works on the lift. A reasonable adjustment would be for the school to temporarily rearrange the timetabling and location of classes so that all of their classes are in accessible areas. Although this may be difficult, it does not mean that the school should not make this adjustment on a temporary basis.

If specialist facilities such as science laboratories are available only on the first floor, then it may not be possible to move classes that require the use of the specialist equipment to a different classroom; in this case, the school will need to consider what other adjustments it could make to enable the disabled student to access learning opportunities of greater equivalence to those of their peers, including potentially attending the classes through video conferencing facilities.

The general duty to carry out reasonable adjustments to physical features will not come in force before 1 October 2028. The duty to make reasonable adjustments to a policy, criterion or practice or to provide an auxiliary aid is expected to come in from 1 September 2025 for education providers. If this problem could be resolved by changing a policy or providing an auxiliary aid, then the reasonable adjustment duty to implement such reasonable adjustments could come into effect from 1 September 2025.

5.7 Discriminatory acts by students, discriminatory requests by students and competing Protected Grounds

Occasionally, a school or education provider may find themselves in a position that they are in receipt of discriminatory actions or requests by students or third parties. Whilst the Ordinance does not expressly deal with such matters the school or education provider (or their staff) may also find themselves in the position of considering conflicting requests based on competing Protected Grounds.

The conflict may, for example, arise from the religion or belief of one party, against either the race, religion or belief, or sexual orientation of the other party. Parties may include the education provider (and sometimes their employees), the student themselves or third parties. Such cases involve careful consideration of the facts.

Alternatively, a student may themselves commit discriminatory acts towards either other students, or the employees of the school or education provider.

There is nothing within the Ordinance which makes the school or education provider liable for the action of the student to the other students, or to its staff, unless the refusal of the education provider to act is itself discriminatory. One exception to this is if the school or education provider were under a duty to make reasonable adjustments. [See Chapter 3.](#)

An example of the school discriminating through their refusal to act might be if they address complaints about racial language but do not address homophobic comments.

Example

A student arrives late to the swimming pool in a swimming lesson and a classmate verbally chastises them in front of others. The student is visibly embarrassed and upset by this. They are late because they have mobility issues and cannot get ready in the same amount of time as the other children who do not have a disability. The school should consider whether it is able to make reasonable adjustments to make it easier for the student to get changed and ready for the lesson. They should also address the action of the classmate as they are harassing the student.

Example

The Personal Assistant (PA) to the head teacher at a school has a mobility impairment.

Students are overheard referring to them as “the cripple”. This makes the PA feel hurt intimidated and harassed. The school needs to make it clear that such harassment is not acceptable, to try to prevent this kind of behaviour, otherwise the PA could bring a claim against the school.

5.8 Overcoming bias when providing education

One of the biggest challenges for all schools and education providers is dealing with unconscious bias (which is also known as implicit bias). Unconscious biases are social stereotypes about certain groups of people that individuals form outside their own conscious awareness based on their own background, culture, context and personal experiences.

It is important to recognise that we all have unconscious biases. We each have an in-built tendency to organise our social worlds by categorising people into groups. These biases are very often automatically triggered by our brain making quick judgments and assessments.

Direct discrimination is unlawful, no matter what the motive or intention, and regardless of whether the less favourable treatment of the student is conscious or unconscious. Schools or education providers may have prejudices that they do not even admit to themselves or may act out of good intentions – or simply be unaware that they are treating the student differently because of a Protected Ground.

Example

A teacher decides to deny a student with a facial disfigurement a place in the school play, because they believe that other students who will watch the performance will make fun of the student and cause them distress. Although the teacher may think that they have good intentions, denying the student a chance to be part of the school play is likely to be direct disability discrimination.

Example

A school organises a trip to watch a football match. The school believes that this might upset a student who used to be a member of the school football team until an accident which left them needing to use a wheelchair and so doesn't inform them of the trip. The student only finds out about the game afterwards and is upset because they would have liked to have gone with their friends. Although the school may consider its intentions to be good, preventing the student from attending the match is likely to be direct disability discrimination.

Overcoming these biases can sometimes be difficult. The starting point for schools or education providers is to ensure all staff have received training around how unconscious bias can arise, challenging those assumptions in themselves and others, and understanding what steps can be taken to avoid those biases. For those schools or education providers who are required to implement an accessibility action plan, overcoming unconscious bias will be important when preparing the plan.