

LLANISHEN HIGH SCHOOL

EQUALITY IMPACT ASSESSMENT
OF
UNIFORM POLICY

Introduction

Organisations sometimes place arbitrary criteria on anyone wanting to be a 'member' that some groups will be less likely to be able to fulfil. When these arbitrary criteria make it more difficult for some groups to become members, or when complying with those criteria impacts negatively on some groups and neutrally or positively on others then institutional discrimination might occur.

Sometimes these criteria are written within formal policy, sometimes they are less formal and no official policy exists but written 'rules' are laid out in other ways. Sometimes there are no written or formal policies relating to a particular criteria, yet an organisation still adopts those rules as 'the way things are' or 'the way we do things'. All of these can be classed as 'policy' for the purposes of Equality Impact Assessment.

Most schools adopt a 'common sense' approach to most criteria within the school and offer a flexible approach to policy when required and appropriate. However the formal policy that exists does not always fully reflect this. Sometimes a policy simply needs to develop. Other times there are errors within a policy that do not reflect modern practice or developments within a particular aspect of society and this can be compounded if staff have also not updated their practice or views over time. Sometimes case law exists as situations are taken to court around the country and a school's policy has not been updated to reflect a new legal position on a policy. If this is the case this can sometimes result in a policy or procedure serving some groups of people less well than others. In some cases, the policy actually disadvantages some groups. In the worst case scenario the policy can be illegal and discriminatory.

At our school we are keen to ensure not only that all of our people are treated equally and fairly. For this reason we have chosen to Equality Impact Assess our Uniform Policy.

Aim and Purpose of Uniform Policy

The main purpose of the policy is to nurture a sense of community for all our pupils and membership of the school, alongside helping to establish and maintain discipline which ultimately impacts on attainment and standards. .

Is Equality Explicit/Clearly Referenced?

The policy does reference the school's Equality Policy, as well as the inclusion of headscarves required by some pupils for religious reasons. However, it does not explicitly state all protected characteristics who could be impacted by the policy, or what measures have been included to ensure there is no negative differential impact to these groups.

Where is there *Unlikely* to be a Negative Differential Impact?

There is unlikely to be a negative differential impact in terms of

- Race
- Sexual Orientation
- Age
- Pregnancy and Maternity
- Marriage/Civil partnership status

Where is there potential for a Negative Differential Impact ?

There is potential for a negative differential impact on the grounds of

- Gender Reassignment
- Gender

Gender

There is no case law around school uniform and gender. There have been cases that almost made it to court but in each case the school backed down and allowed the female pupil to wear trousers hence good practice was established and schools now generally allow girls to wear trousers as standard.

The Equality Laws do not specifically mention school uniform and instead uniform is covered by the general requirements that policies do not discriminate against particular groups. Ultimately if a school can demonstrate that wearing a skirt does not have a detrimental effect on girls (and there is equal cost between the uniforms of both sexes) then it is allowed. However it can be argued that girls may feel vulnerable in skirts and that particularly as girls move throughout school ages can experience high levels of anxiety about body confidence etc if forced to wear skirts. In this case it would more likely to fall into the category of discrimination.

Ultimately there is the principle of equality in that forcing someone to wear a skirt just because she happens to be female is widely considered negative gender stereotyping. Therefore general practice is to allow girls to wear trousers – or in PE shorts or jogging trousers or similar.

There is generally however a disparity when it comes to allowing boys flexibility in their clothing. If it can be proved that requiring boys to wear trousers results in a detriment to them then it would be considered discrimination. An example of this would be during hot weather when boys are prohibited from wearing shorts even though girls are allowed to wear skirts. Another example might be in 6th forms without a uniform when girls might wear skirts or strappy tops but boys are not allowed to wear shorts or similarly flimsy vest tops etc.

Our current uniform does allow boys to wear shorts in warm weather, as well as girls having the opportunity to wear cooler clothing in Summer. Although cost considerations are mentioned in the policy rationale, it is unclear from the policy whether uniform items

are equally priced for boys and girls and so there may still be potential for a negative differential impact in this respect.

The Government Guidance *“The Equality Act 2010 and schools Departmental advice for school leaders, school staff, governing bodies and local authorities”* states that as well as being subject to the Equality Act that

“schools must have regard to their obligations under the Human Rights Act 1998 (it is here rather than in relation to equality law that most case law has been determined to date)”

The Right for children to be involved in decisions that affect them is one of the Articles of the United Nations Convention on the Rights of the Child. Our uniform policy was designed with the consultation and involvement of pupils, as well as parents.

Gender Reassignment

There are no official statistics on how many Transgender people there are, but there is anecdotal evidence of increasing numbers of Transgender pupils (or pupils who choose to present in clothing/attire etc of the opposite gender) in Cardiff schools, more often in Primary schools.

A four year joint study by PACE and Brunel, South Bank and Worcester Universities found that 48% of Transgender people under 26 years old have attempted suicide (compared with 6% of the general population).

The Equality Act states that any person who is Transgendered (ie identifies as a gender other than their physical birth gender) is deemed to be Transgendered in the eyes of the law regardless of their actual physical gender and regardless of whether they intend to to have gender reassignment surgery. So this means that you can be physically male and still be considered as 'female' (or more technically as Transgendered) regardless of whether you undertake surgery or not.

If you identify as Transgendered, you are Transgendered it is that simple. If you are a boy who 'presents' as a girl you are transgendered for instance.

The Act goes on to say that if someone identifies as Transgendered we cannot discriminate against them and indeed as a school we would not wish to. We recognise that forcing one of our pupils to comply as a gender that they don't identify with would be classed as 'harassment' under the Act ie requiring a Transgendered girl to wear a boy's uniform is unlawful harassment and transgender discrimination.

Currently our uniform policy very clearly specifies that certain uniform items are for one sex/gender and another type of uniform. While this can be an issue in some regards for Gender, there is this additional aspect which creates the potential for a negative differential impact for Transgendered pupils.

Religion or Belief

The prohibiting of most jewellery as per our policy is allowed within case law and a number of cases have gone to court establishing that wearing jewellery is not required within any particular Religion therefore our policy on jewellery does not have a differential negative

impact. Sikhs are required to wear a bangle and other items but legally this is not jewellery and so does not impact on our policy as it stands. Similarly, the law has established that there are no other items of clothing required by a particular Religion therefore the items of clothing listed in our uniform policy do not present an issue in terms of Religion or Belief.

Our dress code does offer trousers/tracksuit bottoms for girls in their standard and P.E. uniform but it could go further in acknowledging that some girls in some Religions will be unable to wear certain items of clothing considered immodest particularly during PE and that they will have the option of wearing appropriate clothing, irrespective of the physical activity (eg full body leotards, long sleeve tops etc).

Recommendations

1) Consider removing the reference to 'boys' or 'girls' clothing from the Policy and allow pupils or parents to identify for themselves which items of clothing are suitable for them from within the list of acceptable clothing.

2) In lieu of above, consider introducing an 'exemptions' paragraph or clause to the policy outlining where allowances can be made for some groups (e.g transgender pupils, Sikh pupils, Muslim girls in PE etc).

3) Review the costs of items labelled 'boys' and 'girls' clothing to identify any cost differentials.

4) The staff dress policy is referenced in the document, however no further detail on this is provided. Consider reviewing the Uniform Policy in terms of a Dress Code policy that covers staff and pupils. Even though staff would not be expected to wear a uniform in the same way as pupils and this is not intended to create parity between Pupils and Staff clothing it is an opportunity for the school to establish suitable clothing policy for staff to offset any potential equality issues in that regard also.

Changes Made to Policy

For school to complete.