



Department
for Education

Educational Excellence Everywhere

Assessment of Impact

March 2016

Contents

Educational Excellence Everywhere	3
The public sector equality duty	4
Consideration of the protected characteristics identified in the Equality Act 2010	5
Age	5
Disability	5
Gender reassignment	7
Pregnancy and maternity	7
Race (including ethnicity)	8
Religion or belief	9
Sex	9
Sexual orientation and transgender	10
Next steps	11

Educational Excellence Everywhere

1. Transforming education is one of the cornerstones of this government's commitment to social justice and economic growth. Since 2010, our far-reaching education reforms, underpinned by the hard work of teachers and leaders, have tackled the failures of the past and made a remarkable difference to education in this country. Record numbers of children are now being taught in good or outstanding schools: 1.4 million more pupils than in 2010. More than 8 in 10 schools in England are now rated good or outstanding – the highest number since Ofsted began inspections in 1992.

2. However, the excellence found in some parts of our schools system has not yet spread to every child in every part of the country. There still remain too many pockets of educational underperformance which is deeply unfair to young people who don't then have the chance to benefit from the best possible education.

3. The 2016 education white paper sets out our vision to achieve educational excellence everywhere, by providing a world class education to all children, regardless of their location, prior attainment, needs and background. This goal is made up of two distinct parts:

- **Excellence:** first, we will continue to set unapologetically high expectations for all children. This country's best schools and highest performing areas already show us how relentlessly ambitious we can and should be for children from all backgrounds, and we believe that when the bar is raised, everyone benefits
- **Everywhere:** second, we will focus on intensively tackling areas of the country that have lagged behind for too long. Wherever they live, whatever their background, prior attainment or needs, every child deserves a high quality education. We will do more to support communities where underperformance has become entrenched and ensure they can learn from the areas, leaders and schools that have made such impressive progress over the last five years

4. This document is an assessment, pursuant to the public sector equality duty, of the potential impact of the proposals set out in the Educational Excellence Everywhere white paper.

The public sector equality duty

5. The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race (including ethnicity)
- religion or belief
- sex
- sexual orientation

6. Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - i. tackle prejudice
 - ii. promote understanding

Consideration of the protected characteristics identified in the Equality Act 2010

7. Our initial assessment of the Educational Excellence Everywhere white paper is that many of the policy proposals will impact positively on pupils, teachers and school leaders with protected characteristics.

8. Our proposals for full academisation and stronger strategic governance will enable all schools to benefit from greater autonomy, within the context of a more robust accountability framework. These reforms, together with our teaching and leadership proposals, will support our aim for educational excellence everywhere and will ultimately lead to better school provision, which will advance equality of opportunity for all.

9. Where there are risks that there may be some negative impact from these proposals for people with protected characteristics, we have set out below how we plan to mitigate these.

Age

10. The public sector equality duty, so far as it concerns age, does not apply to the exercise of a function relating to the provision of education to pupils in schools¹.

11. We are however, aware of the need to advance equality of opportunity for teachers and leaders of all ages. Just under 50% of headteachers are 50 and over². Through our proposals in the white paper, we will be clarifying the career paths through the system to a range of leadership positions, which should enable people to move through more quickly and at a younger age. We will continue to review the impact of this as the policy is implemented.

Disability

12. Through the Children and Families Act 2014³, we have ensured that academies and free schools have the same duties as maintained schools to promote and safeguard the education of children and young people with special educational needs and disabilities (SEND).

¹ Schedule 18 of the [Equalities Act 2010](#)

² Table 4 from School Workforce in England, 2014, <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2014>

³ <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

13. There is a presumption within our education system that children will be educated in mainstream provision. But there are children for whom that is not the most suitable option. The additional capital funding for specialist provision, as set out in the white paper, is intended to improve access to specialist educational provision for those children who need it – a high proportion of these children have a disability.

14. There is a possibility that special and alternative provision (AP) maintained schools converting to academy status may find it harder to find suitable sponsors (where necessary) given the specialist nature of their provision. We are considering ways to address this, including through the free school programme (where there may be a particular growth market for special and AP schools).

15. Our proposals to reform primary assessment will help ensure every child leaves primary school with the essential building blocks to succeed at secondary. Part of these proposals are re-sits in Year 7 for those pupils who have not achieved the expected standards at the end of Key Stage 2. This group may contain a disproportionate number of pupils with SEND.

16. We believe that the advantages of ensuring schools continue to give these pupils the support they need to achieve expected standards outweigh any disadvantages associated with resitting the tests. Schools will also have the discretion to exempt pupils with the most severe special needs and disabilities from the re-sits.

17. In relation to statutory assessment arrangements for pupils working below the standards of the national curriculum tests, a review has been carried out and will publish its recommendations shortly. The group of pupils for which these arrangements will be used will contain a disproportionate number of pupils with special educational needs and disabilities. The review group has carried out a targeted engagement programme before reaching their recommendations and the consultation will ask for further views before a decision is taken on implementation.

18. We believe that the introduction of a formula for allocating high needs funding to local authorities, and our proposals aimed at improving clarity about provision at a local level, will be a major step forward in our programme of SEND reforms. Our initial conclusion is therefore that, by better matching the resources available with an objective and up-to-date estimate of relative need across the country, the high needs funding reform proposals outlined in this consultation package will have a positive effect on the protected characteristic of disability.

19. All websites mentioned in the white paper, including the new vacancy website, the parents' portal and new performance tables will be or have been developed to meet full Government Digital Services accessibility requirements⁴.

Gender reassignment

20. We believe that there is no direct link between the proposals set out in the white paper and the protected characteristics of gender reassignment. We will continue to monitor the implementation of our policies.

Pregnancy and maternity

21. As a government committed to supporting families and family life, we are strongly in favour of flexible working, giving individuals and parents the choice to manage their careers around their caring and family commitments. We believe our proposals for more opportunities for teachers and leaders to work flexibly will have a positive impact on pregnant women and mothers.

22. The percentage of teachers working part-time has stayed steady in recent years (at around 22%) but it is still substantially lower than in the general population – under 10% of male teachers work part-time, compared to 13% of men in the workforce nationally; around 25% of female teachers work part-time, compared to 42% of women in the workforce nationally⁵.

23. From June 2014, teachers (like all employees with more than 6 months service) have had the right to request flexible working arrangements (including working part-time) and employers have a statutory duty to consider that request and can only reject where there is sound business reasons for doing so. It is possible that the June 2014 changes to flexible working requests will have led to an increase in part-time working for teachers but we will not be able to confirm that from the national data sources for some time.

24. We are still building our evidence base on part-time and flexible working opportunities for teachers, and we will continue to review the equalities implications as the policy area develops.

⁴ <https://www.gov.uk/service-manual/user-centred-design/accessibility>

⁵ Table 3a from School Workforce in England, 2014, <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2014>; UK Labour Market: February 2016, <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/february2016/pdf>

25. We do not expect that any of the proposals set out in the white paper will disproportionately impact upon young people that become pregnant or parents while still in statutory education.

Race (including ethnicity)

26. We recognise that there is more to do to diversify the leadership workforce. 93.7% of headteachers are white British. 6.3% are from other minority groups, and only 3.2% of these are Black and Minority Ethnic (BME)⁶. As set out in the Educational Excellence Everywhere white paper, we will be funding specific programmes aimed at having a positive impact on under-represented groups sharing protected characteristics. For example, the Excellence in Leadership Fund will include an objective to increase equality and diversity in leadership. We will also be funding activity designed to raise aspiration and the chances of promotion among under-represented groups with leadership potential, including candidates from a minority ethnic background.

27. White British pupils are more likely to have statements of Special Educational Needs (SEN) / Education, Health and Care (EHC) plans than those who are minority ethnic – overall, 3.2% of white British pupils have statements of SEN/ EHC plans compared to 2.8% of minority ethnic pupils⁷. Therefore, our measures proposed for SEND will disproportionately benefit white British pupils, as well as some other groups (such as gypsy/roma, travellers of Irish heritage and black pupils) who have a high prevalence of SEN.

28. As set out in the white paper, we aim to encourage schools to stretch their most academically able pupils, including those with protected characteristics, complementing parallel policy to support the stretch of all pupils (including Progress 8). Currently, the large majority of pupils in the top one, five and ten per cent nationally at key stages 2, 4 and 5 are of white ethnicity and so, the activity of this policy is likely to benefit disproportionately more children who are ethnically white, as well as disproportionately fewer children with special educational needs.

29. We will ensure that how pupils are targeted in any programmes we fund is carefully considered and that the impact of any activity on the most academically able pupils, including those with protected characteristics, is robustly evaluated.

⁶ Table 5 from School Workforce in England, 2014, <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2014> uses published data

⁷ Table 6d, Special educational needs in England: January 2015, <https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2015>

Religion or belief

30. Our approach to Church and other faith schools is underpinned by our continuing commitment to preserving their religious character and ethos and facilitating a strong relationship between the RSC and relevant religious bodies, such as church dioceses.

31. to the existing legislation and model documentation that is applied to church and other faith schools becoming academies provides the relevant protections for their character and ethos. The Education and Adoption Act also introduces a new requirement that the relevant foundation must be consulted on the choice of sponsor for schools who receive an inadequate Ofsted rating.

32. Ultimately we expect our proposals to have a neutral impact on people with this protected characteristic, including people of any religion and none.

Sex

33. As set out above in paragraph 26, we recognise that there is more to do to increase diversity in the leadership workforce. Currently just under seven in ten headteachers are female, and only four in ten secondary headteachers are female⁸. As set out in the Educational Excellence Everywhere white paper and above, we will be funding specific programmes aimed at having a positive impact on under-represented groups sharing protected characteristics. For example, the Excellence in Leadership Fund will include an objective to increase equality and diversity in leadership. We will also be funding activity designed to raise aspiration and the chances of promotion among under-represented groups with leadership potential, including women.

34. Our proposals for new funding for specialist provision and additional support for teachers in relation to SEND will disproportionately benefit boys, because they are more likely than girls to have an identified special educational need. Across all age groups and school types in January 2015, 16% of boys receive SEN support compared to 9.2% for girls. This is down from last year when 19.2% of boys and 11.4% of girls had SEN without statements. 4.1% of boys have statements of SEN/EHC plans compared to 1.6% for girls⁹.

35. In the white paper, we set out proposals for reform to alternative provision (AP), which aim to create fairness and opportunities for those pupils who receive their education in AP settings. Children and young people receiving AP are more likely to be

⁸ Table 4 from School Workforce in England, 2014, <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2014>

⁹ For more information see <https://www.gov.uk/government/publications/sen-analysis-and-summary-of-data-sources>

male (boys are around three times more likely to receive a permanent or fixed period exclusion than girls), to be from specific ethnic groups and to have SEN. We consider that there would be a positive impact in respect of groups of pupils with protected characteristics and those who receive their education in AP. The reform is expected to result in a world class system of AP where pupils will achieve better outcomes than currently.

Sexual orientation and transgender

36. We want to deliver greater and better provision of character education in schools, to support the development of character traits associated with: improved attainment at school; improved employability skills; making a valuable contribution to British society as a good citizen. Embedding character education within the school system will create opportunities for all pupils to develop the skills they need to succeed in education and in adult life. Character education will help foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

37. Our assessment is that this policy would support the Equality Act objectives by providing all pupils with the opportunity to succeed in education and adult life. Character education will also help reduce the risk of harassment/bullying of pupils with protected characteristics, including those who have identified themselves as lesbian, gay, bisexual and transgender (LGBT).

38. Furthermore, we intend one of the focuses of the new Excellence in Leadership fund to be equality and diversity. This will allow bidders to put forward proposals to support and develop leaders with protected characteristics, such as those who have identified themselves as LGBT.

Next steps

39. This document sets out our assessment of the impact of our proposals in the white paper. This assessment is a living document and further policy work will be undertaken to ensure that any risk of negative impact is mitigated and potential positive impact is maximised. We will also undertake and publish further equality analysis on legislative provisions for any forthcoming legislation.

40. We will continue to actively identify and consider opportunities to promote equality issues in consultation with key stakeholders with a view to improving equality for all.



Department
for Education

© Crown copyright 2016

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: DFE-00086-2016



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk