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STATUTORY INSTRUMENTS

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**2005 No. 1117**

**The Special Educational Needs and  
Disability (Northern Ireland) Order 2005**

**PART III**

**DISABILITY DISCRIMINATION IN EDUCATION**

**CHAPTER I**

**SCHOOLS**

*Duties of responsible bodies*

**Disabled pupils not to be substantially disadvantaged**

**16.—(1)** The responsible body for a school shall take such steps as it is reasonable for it to have to take to ensure that—

- (a) in relation to the arrangements it makes for determining the admission of pupils to the school, disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled; and
  - (b) in relation to education and associated services provided for, or offered to, pupils at the school by it, disabled pupils are not placed at a substantial disadvantage in comparison with pupils who are not disabled.
- (2) That does not require the responsible body to—
- (a) remove or alter a physical feature (for example, one arising from the design or construction of the school premises or the location of resources); or
  - (b) provide auxiliary aids or services.
- (3) [<sup>F1</sup>The Department may by regulations] make provision, for the purposes of this Article—
- (a) as to circumstances in which it is reasonable for a responsible body to have to take steps of a prescribed description;
  - (b) as to steps which it is always reasonable for a responsible body to have to take;
  - (c) as to circumstances in which it is not reasonable for a responsible body to have to take steps of a prescribed description;
  - (d) as to steps which it is never reasonable for a responsible body to have to take.

(4) In considering whether it is reasonable for it to have to take a particular step in order to comply with its duty under paragraph (1), a responsible body shall have regard to any relevant provisions of a code of practice issued under section 54A of the 1995 Act.

(5) Paragraph (6) applies if, in relation to a person, a confidentiality request has been made of which a responsible body is aware.

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**Changes to legislation:** *The Special Educational Needs and Disability (Northern Ireland) Order 2005, Section 16 is up to date with all changes known to be in force on or before 31 August 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(6) In determining whether it is reasonable for the responsible body to have to take a particular step in relation to that person in order to comply with its duty under paragraph (1), regard shall be had to the extent to which taking the step in question is consistent with compliance with that request.

(7) “Confidentiality request” means a request which asks for the nature, or asks for the existence, of a disabled person's disability to be treated as confidential and which satisfies either of the following conditions—

- (a) it is made by that person's parent; or
- (b) it is made by that person himself and the responsible body reasonably believes that he has sufficient understanding of the nature of the request and of its effect.

(8) This Article imposes duties only for the purpose of determining whether a responsible body has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

**F1** Words in art. 16(3) substituted (2.6.2021) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2021 \(S.R. 2021/114\)](#), art. 1(2), **Sch. para. 3(2)** (with art. 2(2)(a)(b))

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 22(1)(i)-(ii) substituted for words by [2016 c. 8 \(N.I.\) s. 12\(1\)](#)