

Disability Discrimination Act 1995

Patients with disabilities are currently severely disadvantaged in the labour market. The Disability Discrimination Act offers them new protection. For the purposes of the Act, disability is defined as a substantial and long-term (more than 12 month) adverse effect on the ability to carry out normal day to day activities.

The Act is loosely worded, so that its impact will be determined by case law and established by good practice once it has been operational for a few years. The principle measures deal with discrimination at work and at recruitment.

The patient at work

The Act will affect recruitment, dismissal, consideration for promotion and training and any other benefits which employees enjoy at work. Employers must make reasonable adjustments to the workplace so that a disabled person can work. Changes can be to physical features of premises as well as to terms and conditions of work. Examples specifically mentioned in the Act include transfers of workers to other work, changes of working hours, time off for treatment or rehabilitation, additional training, changes to equipment, or special supervision. What is reasonable will depend on the employer's resources and the likely benefits of the adjustment.

Occupational health professionals will have to advise employers of the need to adapt work to individuals with disabilities without breaching confidentiality. Employers are not responsible for adapting a workplace if they do not know that a person has a disability.

Hidden workers of Sheffield is a 50-page report on home-working commissioned by Sheffield Health and written by Naomi Brent and Liz Carney at SOHP. It includes the results of a

Patients without jobs

Employers must not discriminate against job applicants on the basis of their disabilities. The Act ends the system under which employers had to employ a quota of registered disabled persons, but the same reasonable adaptations mentioned above must be made to enable otherwise suitable job applicants to be recruited. The recruitment procedure itself must also be of a non-discriminatory kind.

The DDA does not prevent employers from carrying out pre-employment screening. However, a disability uncovered through such screening will have significant consequences for the employer in terms of non-discrimination.

Enforcement

Patients who feel discriminated against can take their case to a tribunal which will have the right to levy fines on employers. The law applies only to firms with more than 20 employees. The employer will also be liable for discrimination by their employees unless it can be shown that all reasonable steps were taken to prevent discrimination. It will be unlawful to victimise anybody for bringing or supporting any proceedings under the Act. National Disability Councils will be set up with an advisory rather than enforcement function.

PACT (the Placement, Assessment and Counselling Team) which is part of the government Employment Service will continue to be available to advise patients on their employment, and employers on suitable adaptations at work. Their advice and financial assistance are available irrespective of the size of an employer.

Questionnaire distributed to health visitors to assess the prevalence of home-working in Sheffield. Copies of the report are available from SOHAS office.

This bulletin is produced by Sheffield Occupational Health Project. We aim to provide advice tailored to the needs of clinical workers primary care in the Sheffield area. In addition we will feature in each issue the work of a local specialist or group with a particular area of interest in occupational health.

For more information on any item contact SOHAS at the address below

An occasional publication, free to workers in primary care in the Sheffield area

Occupational Health update