

CNWL Equalities and Diversity Factsheet 2

The Disability Discrimination Act 2005

The Disability Discrimination Act 2005 places a **general duty** on all public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity between disabled persons and other persons
- eliminate discrimination that is unlawful under this Act
- eliminate harassment of disabled persons that is related to their disabilities
- promote positive attitudes towards disabled persons
- encourage participation by disabled persons in public life; and
- take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons.

The Disability Discrimination Act 2005 provides a framework for public authorities to carry out their functions more effectively and to tackle discrimination and its causes in a pro-active way. This 'pro-active' emphasis is key, ensuring that the Trust mainstreams disability equality into all its functions. The duty thus reinforces the pre-existing duties under the Disability Discrimination Act 1995. Equality may mean treating people with a disability 'more favourably'. The Disability Discrimination Act 2005 states that the duty requires public authorities to have due regard to the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons. This underlines the fact that equality of opportunity cannot be achieved simply by treating disabled and non-disabled people alike.

The **specific duty** regulations require public authorities to

- publish a Disability Equality Scheme demonstrating how it intends to fulfil its general and specific duties
- involve disabled people in the development of the Scheme

The Scheme should include a statement of the way in which disabled people have been involved in the development of the Scheme; the authority's methods for impact assessment; steps which the authority will take towards fulfilling its general duty (the "action plan"); the authority's arrangements for gathering information in relation to employment; the authority's arrangements for putting the information gathered to use, in particular in reviewing the effectiveness of its action plan and in preparing subsequent Disability Equality Schemes.

The Disability Discrimination Act 2005 extends coverage of the Disability Discrimination Act 1995 (DDA 1995) in the following ways:

- It removes the previous requirement that a mental illness must be 'clinically well recognised' before it can count as an impairment for the purposes of the DDA 1995. People with a mental illness will still need to show that their impairment has a long term and substantial adverse effect on their ability to carry out normal day-to-day activities. By removing the 'clinically well-recognised' requirement, the Government has also brought DDA 1995 coverage for people with mental illnesses into line with coverage for all other mental and physical impairments.
- People with HIV, cancer and multiple sclerosis (MS) will be deemed to be covered by the DDA 1995 effectively from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day activities.

CNWL Mental Health NHS Trust will publish its Disability Equality Scheme 2006/9 in December 2006, and it will be available on Trustnet, or from the Equalities and Diversity Department: 020 7612 1655