

PUBLIC LEGAL EDUCATION: A PROPOSAL FOR DEVELOPMENT

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***Advice Services Alliance
Citizenship Foundation
Legal Action Group***

June 2005

CONTENTS

Public Legal Education: A proposal for development	2
Towards A National Strategy for Public Legal Education: Summary of Responses to Discussion Paper	4
Annex: List of Respondents	19
Appendix 1: Discussion Paper	20
Appendix 2: Request for Responses	26

PUBLIC LEGAL EDUCATION A PROPOSAL FOR DEVELOPMENT

Advice Services Alliance, the Citizenship Foundation and Legal Action Group have produced the attached summary of responses to our joint discussion paper, *Towards a national strategy for public legal education*.

The responses reveal widespread agreement about the value of public legal education (PLE) – covering both civil and criminal law. A large majority of respondents agree that there is urgent need to develop a coherent national strategy for PLE, and expressed support for this strategy to be co-ordinated by a single body.

The exact nature and structure of the responsible organisation threw up some different views. Suggestions ranged from a government department or other statutory body, through to existing NGOs or creating a new independent agency. Significantly, perhaps, over half of the responses expressed a view that the co-ordinating body should be located outside government.

Substantial agreement on the following points was clear:

- Core funding for PLE is the responsibility of the government.
- PLE itself must be available from independent sources and must be seen to be independently produced.
- PLE should be part of an integrated approach to legal services – but must not be viewed as a substitute for properly funded legal advice and representation.
- PLE should incorporate development of appropriate skills as well as knowledge and understanding.
- Development of PLE should build on existing national and local initiatives, and should be as inclusive as possible.

Our three organisations share a commitment to continuing to promote PLE, and we want to ensure that the momentum created by our discussion paper is not

lost. We believe that the consultation paper and the responses make out a strong case for a more coherent structure to develop this area of work but that more work is needed to provide a route map for the way forward.

We therefore propose the following:

- **An independent steering group** should be established, for a fixed period of time, to consider, investigate and recommend how a national strategy for public legal education should be taken forward.
- A majority of the group's members should be independent, but membership should also include representatives from all relevant government departments.
- Government funding should be provided to meet the cost of servicing the group, with the secretariat based in a non-governmental organisation.
- The group should be chaired by a senior figure from a non-governmental background.

There was a call from some respondents for more clarity as to exactly what is meant by 'public legal education'. We therefore offer the following working definition of public legal education, which draws on the responses and in particular on the structure of the definition of consumer education devised by the National Consumer Council.

'Public legal education combines the supply of appropriate information with the process of developing the attitudes, knowledge, understanding and skills necessary to make informed personal decisions in circumstances which are affected by our individual and collective legal rights and responsibilities.'

**Advice Services Alliance
Citizenship Foundation
Legal Action Group**

June 2005

TOWARDS A NATIONAL STRATEGY FOR PUBLIC LEGAL EDUCATION

Summary of responses to discussion paper

Background

The Citizenship Foundation, Legal Action Group and the Advice Services Alliance share the belief that an integrated approach to legal services should include co-ordinated provision of public legal education (PLE). To test the extent of agreement with this view – and more generally to raise awareness of the need for public legal education – the three organisations collaborated on the production of a discussion paper making out the case for a national strategy, led by a single body.

Work began on this project in early 2004 and we published a discussion paper ‘Towards a National Strategy for Public Legal Education’ in September 2004. The paper was circulated widely to governmental bodies, legal professional organisations, the not-for-profit advice sector, relevant academic bodies and consumer organisations. It was also posted on the websites of the three organisations, and publicised in the legal press. Anyone interested in public legal education was invited to respond to the questions posed by the discussion paper as well as contributing any other comments on this issue. Responses were requested by 17 December 2004.

Current policy context

In the months following the publication of the discussion paper, there have been a number of government and other policy initiatives that have some relevance to public legal education.

First, Sir David Clementi’s report on the regulatory review of legal services was published on 15 December 2004. Although – of course – this was not framed as a response to the discussion paper, it is noteworthy that the review proposes that one key objective for the proposed new Legal Services Regulator should be ‘the promotion of public understanding of citizens’ rights’. The review also comments that (unlike hitherto) the regulatory system should be concerned with the citizen’s (or consumer’s) needs for ‘education, advice and redress...as well as the provision of information’.

Also in December 2004, the DCA published its five-year strategy: ‘Delivering Justice, Rights and Democracy.’ The strategy identifies five business priority areas, including the aim of bringing about ‘more effective and proportionate dispute

resolution'. It goes on to identify four key actions to be undertaken in each of the priority areas, including developing an education, information and advice (EI&A) strategy that will enable people to understand their rights and responsibilities. The DCA suggests that this would lead to people being 'better equipped to manage their problems earlier and more effectively, leading to the prevention of problems and to problems being resolved before they reach court'.

There is clearly some overlap between ideas put forward in our discussion paper and the vision set out in the DCA strategy. In its response to the discussion paper, the DCA stated its intention to work with a wide cross-section of partners in various sectors to develop 'an integrated approach to public legal education', using a collaborative approach that encompasses rights and responsibilities. Its initial focus would be on young persons under the age of 16, working both within the formal education sector and through communities. The DCA's response went on to say:

'...the DCA acknowledge much of the content of your consultation paper. We also support an approach that is built on partnership across all sectors including the legal profession and judiciary. This should help to ensure that the EI&A Strategy is holistic and comprehensive, both in approach and implementation.'

The Civil Justice Council has also recently been considering the role of public legal education. Last year, it set up a Public Legal Education Working Group as a sub-group of its Access to Justice Committee; the task of this working group is 'to engage the legal industry in promoting and educating the public about the civil justice system in England and Wales.' The Council has conducted a review of as many recent initiatives as possible and brought together the leading exponents in this field. It is strongly supporting the establishment of a pilot scheme, which would combine a locally-based project with a co-ordination role, to establish methods by which good practice materials could be made widely accessible.

Finally, in November 2004, the Office of Fair Trading published 'Consumer education: a strategy and framework'. The aim of the strategy is to 'give consumers the skills and knowledge to function confidently, effectively and responsibly when buying goods and services'. It will achieve this by identifying areas where consumers lack skills or knowledge, and devising ways of meeting the identified gaps. We were particularly pleased to receive a response from the Office of Fair Trading. This response gave details of their strategy, which may offer some useful comparisons for any national strategy for public legal education that emerges as a result of the present initiative.

This is not necessarily a comprehensive account of the current policy context; there may be other national or local policy initiatives in this field of which we are not aware.

Responses received

We were pleased by the number and quality of the responses that were prompted by the consultation exercise. It was also encouraging that a large number of respondents expressly welcomed the publication of the discussion paper – which was variously described as ‘a valuable initiative’ and raising ‘timely and important issues’, as well as putting forward ideas that deserved ‘wholehearted support.’

In total, 22 responses were received. Of these, 19 responses could be described as substantive; these break down into the following broad categories:

Legal professional/representative bodies:	6
National/regional not-for-profit organisations:	4
Government bodies:	3
Consumer organisations:	3
Local legal/advice agencies:	2
Academic institution	1

In addition, a brief response was received from the Legal Services Commission. The Commission welcomed the publication of the discussion paper, noting that public legal education would be an important part of their forthcoming strategy for the Community Legal Service (CLS). In this context, they would be awaiting the results of the consultation exercise with some interest.

A brief response was also received from a Law Commissioner, which was generally supportive and noted the need to co-ordinate the various initiatives in this field.

(A list of respondents appears as an annex to this paper.)

Summary of responses

The following themes emerged strongly from the responses to the discussion document.

- A significant majority of respondents supported the promotion of a national strategy for public legal education through the creation of a mainly government funded, but independent, initiative. However, there was a wide variation in views as to what type of organisation should lead this work, and whether the role should be taken on by an existing body or a new agency.

- The importance of acknowledging and building on existing national and local initiatives was also a clear theme, as was the need to ensure that both the range of the participants and the target audience be as inclusive as possible. There was also an emphasis on the need to make contact with marginal groups and others who are hard to reach.
- Many respondents agreed with the discussion paper's view that PLE should be seen as part of an integrated approach to legal services. However, many also endorsed (and none countered) the discussion paper's stance that PLE must not be a substitute for access to properly funded legal advice and representation when this is needed.
- A number of respondents explicitly or implicitly approached the issue from the position that individuals were consumers first; PLE needed to be relevant in that context. However, a number of others clearly started from the point of view that PLE was an entitlement of citizenship, or at least advantageous for individuals as citizens in their own right.
- Although raised explicitly only by a minority of respondents, there appears to be a need for more certain definition of PLE. It was also suggested that some advance research, perhaps funded by the government, into existing PLE provision and the likely impact of extending this work could be helpful in addressing certain doubts.

Q1: Is there a need for a national strategy for public legal education?

A large majority of responses gave unqualified or nearly unqualified support to this proposal. Many agreed that PLE had been largely neglected in this country. As was observed by one respondent:

‘Publicly funded legal services have over the past 50 years focused on individual case-work and have largely ignored the education of the public in legal rights and responsibilities. This situation has left significant sections of society uninformed on the very basic rules of entitlement and, in consequence, disempowered.’ (The College of Law)

All of the concerns and reasons that the discussion paper had identified as underpinning the need for a national strategy were endorsed by one or more of the respondents. The National Consumer Council agreed that ‘There is clear evidence of a knowledge and skills gap’, and referred to its own research exposing low levels of consumer skills.

Four responses expressed varying degrees of caution. One suggested that the focus of PLE should be restricted to education in school and support for teachers, and another expressed concern that PLE would not fit well with other publicly funded initiatives with higher priority. Two respondents said more evidence was required as to the need for, and impact of, PLE before significant resources were committed. Another concern expressed was that local PLE initiatives might be frustrated during the lengthy time needed to develop a consensus around a national strategy.

The following, not necessarily consistent, points were made by one or more respondents on the general question of a national strategy:

PLE as part of citizenship

Some respondents expressed the view that public legal education was part of a wider social responsibility to educate citizens; indeed, PLE itself should be seen a human right and as a fundamental part of active citizenship.

‘Crucial to the creation of a rights culture is public legal education, particularly around human rights. In addition, access to public legal education should be seen as a human right.’ (Enfield Law Centre Streetlegal Project)

It was noted that the government recognises the significance of PLE far more readily in relation to development work overseas than it does here in the UK. Enfield Law Centre Streetlegal Project quoted the following from a document published by the Department for International Development:

‘Access to information is a critical driver of social and political change.... improving the content of what is communicated, and including poor people in communication processes, are important factors in strengthening service delivery and the accountability of governments, as well as empowering poor people to make better decisions about their livelihoods and participate in public debate and dialogue.’

Defining public legal education

There is need for greater clarity as to what is meant by PLE and what any national strategy is designed to achieve; for example, would it be designed to help users exercise appropriate personal choices or to facilitate problem solving – or both? In this context, the definition of consumer education offered by the National Consumer Council may have some relevance.

‘We define consumer education as the attitudes, knowledge, understanding and skills necessary to become an effective consumer. Consumer skills allow people to manage their money, to know where to go for advice, to separate facts from advertising hype, to manage relationships with providers once a decision has been made, and to understand the consequences of their behaviour in relation to wider social, environmental and political concerns.’

Linking with other policy initiatives

A national strategy for public legal education would also need to fit in with other current national initiatives; for example, the DCA's Education, Information and Advice Strategy, the Office of Fair Trading consumer education strategy; the work of the Financial Services Authority on financial literacy and the Department for Trade and Industry strategy on over-indebtedness. There was recognition that this offered scope for learning from best practice and for developing a consistent vision. However, doubt was expressed by one respondent as to whether a national strategy for PLE would be able to attract wide enough support.

‘We would be doubtful that ‘legal education’ without more would be sufficiently distinct to attract the support and engagement of others in issue specific sectors or those who are also being pushed to do more on other aspects of education, such as financial skills etc (eg teachers)..... There is a real risk of throwing scarce public funds at too many benign but strategically limited initiatives.’ (Citizens Advice)

The scope of public legal education

Both criminal and civil law issues need to be addressed within a national strategy. A view was expressed that the increasing politicisation of the debate on criminal justice policies had led to misunderstandings about the criminal law.

‘The law, and in particular those aspects of it dealing with crime, have in recent years become the battleground of the politicians. Sound-bites are heard but, in general, the public perception may be that very little happens other than the replacement of the original sound-bite with another.’ (Judicial Studies Board)

‘There are strong arguments for ensuring that a greater knowledge of the law in both [criminal and civil law] accompanies school leavers, who are expected to comply with a battery of legislation, some of which they may never have had the opportunity to think about. If they had, there would be an increase in public awareness of the bases of the law, justice, sentencing, and the rehabilitation of offenders.’ (Crown Prosecution Service)

It must be made clear that PLE incorporates not just knowledge and understanding, but appropriate skills as well. There is need to recognise that skills training is the key to education. It is this that enables information to be effective in empowering people; providing information by itself is not enough. The National Consumer Council emphasised this point in relation to consumer education.

‘.....the benefits of consumer knowledge are dissipated if people lack the skills to put their knowledge to good use. This distinction is often lost in public discourse – we note that the quotations from Justice Burton and Lord

Falconer which start the discussion paper are confined to spreading knowledge and do not mention the need for skills.’

Although the law is complex, there are some basic and fundamental legal principles, rights and obligations that can easily be understood and communicated.

‘Although it is undoubtedly true that the law can be complex and difficult for the lay person to grasp, there are many basic principles, rights and obligations that can be easily understood and should be regularly communicated to the public.’ (Free Representation Unit)

‘..... the important thing is that people know that they have rights and can get assistance in enforcing them. People do not need to know laws in a technical, formal or ‘black letter’ sense [.....] BUT they do need to know that they have some laws to protect them and that there are a range of places where they can find out the details.’ (Citizens Advice)

The functions of public legal education

It was also suggested that PLE has a role in addressing stereotypes in the law, including those relating to the judiciary. The Judicial Studies Board suggested:

‘The new body may also wish to co-operate with the Department for Constitutional Affairs.....to deal with issues concerning stereotyping and correcting some of the misconceptions that presently abound about the composition of the judiciary and its makeup.’

Equally, PLE could usefully help address the myth of a ‘compensation culture’. The Free Representation Unit argued this point strongly:

‘[A national strategy for PLE]... must in no way give further grist to the mill of those who consider that there is a growing ‘compensation culture’ in this country. Part of the strategy’s aim should be education to reduce litigation.’

Some concerns were raised in relation to the underlying role of PLE, as set out in the second section of the discussion paper. One respondent questioned whether these functions strayed too far into advice giving and whether some of them were ‘outcomes’ rather than functions. The idea that PLE should be available as a back-up resource for people whose case is being handled by a lawyer or adviser was also questioned by more than one respondent, on the grounds that this might undermine front-line advice.

‘While, in some cases, this may assist a client who has questions about the competence of the lawyer or the appropriateness of the advice, there is also considerable scope for ‘second-guessing’ and confusing the client. It is always open to clients to seek second opinions and alternative advice but we would

strongly counsel against introducing arrangements which might have the effect of confusing a client.’ (The Bar Council)

By way of contrast, a view was expressed elsewhere that PLE may have a role in filling the information gap about specific problems and helping to engage the client in the case as a ‘partner’ with his or her adviser.

The need for local delivery

The view was expressed that any national strategy must be delivered locally according to local needs. It is important that local initiatives are not discouraged.

‘We would argue against any national strategy for public legal education that seeks to dictate, through funding or national prioritisation, local initiatives. If a national strategy harmonised resources for PLE under one set of priorities, it is in danger of stifling innovative approaches.’ (Advice UK)

‘We strongly believe that, whatever the outcome of this consultation, individual organisations should remain free to provide the public with information on their own initiative.’ (The Law Society)

Concerns about self-help

However, a minority of respondents expressed the need for caution in relation to PLE. They argued that it would be undesirable for a person with limited understanding of the law to pursue a self-help approach to a legal problem.

‘We would stress, however, that the law is complex and that ‘a little knowledge’ can be very dangerous indeed. Any educational initiative needs to stress that the advice of experts, whether from legal professionals or advice agencies, needs to be sought at an early stage.’ (The Bar Council)

‘Whilst recognising the benefits of increased public knowledge of legal issues, we must be careful that we don’t give people the false confidence that they can be their own lawyers.’ (Office of Fair Trading)

Q2: Should responsibility for developing and implementing a national strategy be co-ordinated by a single organisation or body?

Fifteen respondents were clearly in favour of a single co-ordinating body, some very strongly so. A number expressed the clear view that any such body must be supported by an inclusive forum – or similar – consisting of representatives from interested parties, particularly those with hands on experience.

‘It would seem sensible that any such body should incorporate a ‘forum’ in some form so that organisations working in specialist areas can share best practice and inform the work of the organisation as a whole.’ (Action against Medical Accidents)

‘There is a risk that national meetings may comprise of the same individuals who may or may not be informed by the experiences or perspectives of those they are representing, with the hands on experience. The closer any strategy is to the people actually carrying out legal education (and to those needing legal education), the more likely it is to lead to better practice.’ (Advice UK)

Two respondents also felt that it was important not to stifle local initiatives, particularly if this involved diverting scarce resources into co-ordination and away from delivery. A national coordinating body should be informed of local needs and to promote sharing of resources but not to be a fund giver or prescribe local priorities. On the other hand, two respondents agreed that co-ordination was key but were not unduly concerned with how this was done.

In addition to the arguments in favour of a single coordinating body that were suggested in the discussion paper, some additional arguments were offered by respondents.

- Uniformity of implementation is important. A national strategy would help ensure that local delivery of PLE avoids a postcode lottery of service standards.
- A national strategy would facilitate the complex preparation that will be needed in defining terms, methods and funding streams.

One respondent, the College of Law, while expressing support for improving levels of legal literacy, identified a number of tensions and difficulties associated with such an objective. First, there was the question of the practicalities of delivery – who would provide and pay for public legal education? Quality assurance was also an issue – who would monitor standards, and what should these standards be? Increased levels of legal literacy might also increase levels of demand for advice – how will expectations be managed? Finally, the College questioned who will pick up this increased client demand.

Q3: If so, who should the responsible body be?

It was this question that attracted the widest variation in responses. As one respondent observed, the issue is quite problematic.

‘A difficult question, dependent on a number of factors. Government departments may be able to offer more resources and clout than semi/independent ones. However, non-governmental organisations may offer

a wider degree of independence, impartiality and innovation.’ (CHAS Housing Aid, Kirklees)

Twelve respondents made the point (some strongly so) that the responsible body must be independent of Government, regardless of the provenance its funding. One factor underpinning this view was the importance of ensuring that legal information comes from independent sources.

‘.....we would prefer, if there is to be a responsible body, that it is independent of government: there is always a risk that information will be edited in its presentation to suit the interests of the body that commissions that information.’ (Advice UK)

In a number of responses, it was suggested that the co-ordinating body could be a consortium or partnership of existing non-governmental bodies on which Government departments could be represented. The Citizenship Team at the Department for Education and Skills, which was strongly critical of the model of a purely inter-governmental body, expressed support for the idea of the strategy being led by an umbrella group formed of existing non-governmental bodies. It thought this group could perhaps be headed by the organisations that published the PLE discussion paper:

‘They have the expertise and it would be foolish to create something highly bureaucraticThe suggestion would be that there might be a steering group for this particular task which had representatives of the interested government departments on it.’

Of those proposing independent bodies:

- One proposed the new Commission on Equality and Human Rights;
- One proposed the new Legal Services Regulator recommended by the Clementi review – an idea that chimes with Clementi’s own view.
- One suggested the Advice Services Alliance, in view of its existing co-ordinating work;
- One – the Judicial Studies Board – confirmed that, as in its own case, a body could be independent at the same time as being sponsored by a government department (in this instance, the DCA).
- Five were explicitly or implicitly in favour using an existing organisation or a consortium of existing bodies, rather than creating a new body; but
- Five favoured setting up a new independent body (one respondent stressed it should definitely not be an existing not for profit organisation/NGO).

However, there was also some support for the idea of the co-ordinating organisation being a government body. It was argued by one respondent that the government should be accountable for the decisions that it makes about priorities for this work and

about the nature of information and education it decides to provide. Non-governmental organisations should act in an advisory capacity, and be free to criticise government decisions.

Three respondents proposed the DCA as the most appropriate government body, especially in the light of its current initiatives; and one suggested the DfES, because of its responsibility for school, adult and community education. Two respondents proposed the LSC – although one somewhat reluctantly and only on the basis that it could demonstrate sufficient independence. On the other hand, another response expressed the strong view that this latter choice would be unwise.

‘... by placing the co-ordination for the strategy with the Legal Services Commission there may be little hope of cross departmental funding for this issue, as it may be seen as purely a legal issue.’ (Shelter)

Q4: Do you agree with the suggested functions of the responsible organisation?

Respondents who supported the idea of a single organisation leading a national strategy appeared to be in broad agreement with the functions that were suggested in the discussion paper. In summary, these were: promoting the development of PLE; creating a resources bank for use by those delivering PLE on the ground; developing imaginative methods of delivery; and evaluating the impact of the national strategy, including through a research programme to identify areas of high need and the comparative effectiveness of different approaches.

On the other hand, it was suggested that these functions need not always be carried out by the co-ordinating organisation itself.

‘The proposed functions seem sensible. However we would envisage that some of the functions would be outsourced to specialist organisations and that funding would be available for particular NGOs to take forward particular initiatives.’ (The Law Society)

A view was expressed by more than one respondent that an important, and early function of the co-ordinating body would be to carry out a mapping exercise to establish the nature and extent of provision.

‘Our initial thoughts are that the organisation would first need to carry out a mapping of the legal information and education that is currently provided, in terms of the legal subject area, level of content, scope and format. This would then need to be related to the needs of citizens.’ (Child Poverty Action Group)

A number of other comments were made in relation to the functions of the proposed co-ordinating body. These included:

- There is a need for better signposting generally as to what sources of help are available – both legal and social.
- There was agreement with the proposal in the discussion paper that the co-ordinating body should cover education about responsibilities as explicitly as rights.
- The functions of the co-ordinating body should include ‘training the trainers’ and providing a conduit through which networks can be created and maintained.
- There is a need to avoid teaching substantive law but to focus instead on when to recognise that help is needed and where to find it.

Q5: From what source or sources should the development of public legal education be funded?

Ten respondents offered the view that the government should be the direct source of all or a majority of the funding. One respondent argued that government departments should take responsibility for the costs of PLE associated with changes in legislation that fell within their remit. Of those in favour of government funding, most stated – indeed, emphasised – that that funding should be cross-departmental in order to give wide ownership.

‘There should be some mainstream funds available generally. It would seem good if this came from a number of relevant departments, but co-ordinated and structured centrally, whilst commissioned locally.’ (CHAS Housing Aid, Kirklees)

The Institute of Advisers recommended that the development of PLE ‘should be funded by the Office of the Deputy Prime Minister with no strings attached’, on the basis that the main emphasis of PLE work should be the socially excluded. This focus had also been identified by the Law Society in its own discussion paper about the future of publicly funded legal services.

‘...we did also suggest that funds targeted directly at eradicating social exclusion should be made available to innovative programmes aimed at helping people climb out of exclusion through recognising their legal rights and enforcing them.’

In four responses, there was a proposal that the government should be responsible for at least the core funding of the project, with other funding coming from sources such as the Lottery, the Higher Education Council (through law schools), commercial sponsorship and charitable trusts. Five respondents referred to the possibility of existing professional organisations and others in the public and private sectors

contributing resources, especially with specific project funding or to support specific deliverables. For example:

‘Contributions could also be sought from private legal firms and other organisations...Certainly the CPS in local initiatives such as participation in schools work, court open days and police local fora, to name some examples, already works towards this goal. Expansion of this work, where resources allow, benefits the community and CPS staff involved and forms a valuable indirect source of help.’ (Crown Prosecution Service)

A number of other suggestions was made. In support of its view that the LSC should be the body responsible for public legal education, one respondent suggested that the commission should also be responsible for funding this work. Another respondent proposed that LSC contracts (especially for not for profit providers) should include a percentage of funding for PLE.

One respondent proposed that an ‘industry levy’ be considered as an alternative to government funding. Another idea put forward was that the possibility of European or United Nations funding should be explored.

On the other hand, the Office of Fair Trading thought that ‘educating consumers is the important thing; who pays for the work involved is a secondary issue.’ On this basis, the OFT argued that funding should be accepted from anyone who is willing and able to contribute to work that that advances the strategy.

A more cautious approach was advocated by Shelter, who argued that research was needed in order to establish the value of PLE, before the case could be made for new resources.

‘There is a case to make about the value for money of PLE, but it is vital that this value for money argument is not seen as a way of reducing expenditure on civil legal aid funding. It would be a good use of resources if the co-ordinating body could receive research funding from a government department in order to make this case. If the case is proven, the cross government funding may be found – on the basis of value for money.’

Q6: Do you have any other comments to make on this document?

Relationship between public legal education and advice

A large majority of respondents echoed the point in the discussion paper – and none disagreed with it – that PLE must not be seen as a way of reducing the government’s commitment to properly funded provision of legal advice and representation when this

is needed. Some respondents felt that there was a risk this might happen. One typical comment came from Child Poverty Action Group.

‘... an increase in legal information could well lead to a greater demand for advice and/or representation. This likely result is something that would need to be factored into the strategy to ensure that the legal and advice sectors are adequately resourced. We would be concerned if the provision of, say, self-help packs were seen as an alternative to advice and representation.’

It was also felt to be important to manage people’s expectations: PLE will not lead to people easily solving their own problems and should not be presented as reducing the need for advice. In this respect, PLE has clear limitations as a means of providing solutions for specific problems. Other respondents commented on the importance of integrating education and advice so the two complement each other and do not compete; effective local and national signposting must be available so that people are directed to sources of advice when necessary. One respondent went so far as to suggest that the main aim of PLE was to get better results for people, by ensuring they get effective redress for their problems.

Methods of delivery

Respondents also made a range of comments about different methods of delivering PLE. There was a view that curriculum-based law related education in schools, delivered as part of citizenship education, should be strengthened – although some concern was expressed about the danger of leaving such education to teachers who do not have the relevant expertise. PLE should also extend to recent school leavers – for example, in higher education and further education colleges – and should increasingly target the general public. ‘Citizenship days’ could be used to introduce school leavers or even the wider community to short courses about the law, delivered by legal practitioners.

One respondent went on to suggest that law related education should allow students to sit formal examinations in legal rights if they wish – going beyond exams in ‘law’ that presently exist.

‘APIL suggests that there may be an opportunity for a GCSE and/or an A level in legal rights to be offered to pupils, in addition to the inclusion of basic legal rights in citizenship courses. There is a growing need, and wish, for academic topics being taught in schools to have a practical application and relevance outside the classroom.’ (Association of Personal Injury Lawyers)

A number of other suggestions were made about methods of delivering PLE.

- Use could be made of peer education, using those who have had experience of something legal to pass this on to those who have not.

- Greater use could be made of the internet as a medium for PLE. The Free Representation Unit argued that:

‘... a well-written, comprehensive, accessible, well-linked, regularly updated and well-publicised internet site would be a particularly valuable project to be undertaken as part of any national strategy. There is no other way of reaching people so quickly.’
- There was scope to develop television as a medium for PLE. For example, the BBC consumer programmes should be used to promote relevant PLE, and there were new opportunities to use this medium by taking advantage of the development of more digital channels. As one respondent commented:

‘... There may be scope for a dedicated programme about legal rights, and [...] such a suggestion would fit with the BBC Chairman’s recent pledge that the BBC will be ‘placing the public interest before all else’ when commissioning future schedules.’ (Association of Personal Injury Lawyers)
- It was important not to ignore the private sector, especially small businesses, as participants in PLE. There was scope for them to both benefit from it and help to provide it. PLE has a role in promoting support for the rule of law – as well as ensuring that business is accountable to its users.
- There a specific need effectively to engage the legal professions as participants, to harness their skills and avoid the risk of PLE polarising the public and the professionals.

**Advice Services Alliance
 Citizenship Foundation
 Legal Action Group**

March 2005

ANNEX: List of respondents

Advice UK, London Region
Association of Personal Injury Lawyers
Action against Medical Accidents
The Bar Council
CHAS Housing Aid, Kirklees
Citizens Advice
College of Law
Crown Prosecution Service
Child Poverty Action Group
Department for Constitutional Affairs
Enfield Law Centre, Streetlegal Project
Free Representation Unit
Institute of Advisers
Judicial Studies Board
The Law Society
Legal Services Commission
National Consumer Council
Department for Education and Skills, Citizenship Team
Office of Fair Trading
Professor Martin Partington, Law Commissioner
Shelter

TOWARDS A NATIONAL STRATEGY FOR PUBLIC LEGAL EDUCATION

A discussion paper

'It is a fundamental requisite of the rule of law that the law should be made known. The individual must be able to know of his legal rights and obligations.'

Mr Justice Burton: R (Salih and Rahmani) v Secretary of State for the Home Department [2003] EWHC 2273 (Admin)

'The need to raise awareness of individual rights and the processes that can be used to give effect to them is clearly a vital challenge for the future.'

Lord Falconer of Thoroton QC, Secretary of State for Constitutional Affairs (in his foreword to *Causes of Action*¹)

WHY PUBLIC LEGAL EDUCATION?

1. The law affects people of all ages – whether as employees, consumers and borrowers, tax payers, motorists, parents or children, tenants, asylum seekers or simply as citizens. In an increasingly complex and diverse society, the law provides rules based on certain shared values. But few would disagree that the law is itself hugely complex – and is changing all the time. As a result, many people are either unaware of, or struggle to understand, their legal rights and obligations. This is not made any easier by myths and misunderstandings about the law and its processes. These often run deep and are not effectively countered by those who are – or should be – better informed. The media have a particular responsibility to present legal issues accurately; this is especially important in television and radio drama programmes.
2. We believe that public legal education is a right. There is urgent need actively to promote public awareness and knowledge of legal issues, to help overcome the difficulties that most people experience dealing with the law in their daily lives. Research carried out by the Legal Services Research Centre² suggests that at least a million civil law problems go unsolved every year. The survey showed that nothing is done to resolve around one in five civil law problems. In a third of these

¹ *Causes of Action: civil law and social justice* - Pleasence et al, The Stationary Office, 2004 (the final report of the first Legal Services Research Centre survey of justiciable problems)

² Ibid

cases, the reason for people's inaction is that they do not understand their legal rights or know how to go about getting help.

3. There are many reasons why citizens need to know about their rights and responsibilities. Education about the civil law is important to give people the knowledge and skills that they need to manage their affairs, to allow them to avoid legal disputes in their transactions with others – or to deal with disputes appropriately if they cannot be avoided. Equipping people with information about the criminal and civil law gives them the opportunity of better complying with their obligations as citizens – rather than transgressing the law out of ignorance. Put simply, prevention is better than cure.
4. If people cannot avoid legal disputes, they are considerably helped by having a basic understanding of their problem and some knowledge of how courts and tribunals work – and the alternatives to using them. Helping individuals to be more efficient users of the justice system is clearly in the wider public interest.
5. There is also a strong argument that, if community members have an understanding of legal rights and responsibilities, this contributes to active citizenship and social cohesion – and helps strengthen civil society. Civil renewal and community capacity depend to some extent on having strong community organisations; these organisations, in turn, need to understand their position as employers, as charities and in their legal dealings with third parties.
6. In addition, involvement in public legal education projects can bring benefits to legal professionals. Lawyers and advice workers who participate in such programmes have the opportunity to help demystify a complex field of knowledge and to acquire the skill of presenting legal information in an accessible manner. Lawyers' involvement in public legal education could also increase understanding of their role by the general public.

AN INTEGRATED APPROACH TO LEGAL SERVICES?

7. We strongly believe that the proper provision of legal services means more than making advice and representation available to people after they have already experienced a legal problem. Legal education is a key component of a holistic approach to legal services – a view that is endorsed in other jurisdictions such as Canada and New Zealand. Seen as part of this integrated approach, legal education and information can have the following functions:
 - Providing pre-emptive or defensive legal knowledge, including knowledge acquired 'just in case' – as part of life-long learning or general life skills
 - Making information and educational material available to a person at the point when he/she experiences a specific legal problem

- Supporting a person who wants to take a self-help approach to resolving a legal problem
 - Providing guidance and signposting to individuals wanting to locate an appropriate legal service
 - Being available as a back-up resource for people whose case is being handled by a lawyer or adviser
 - Introducing information about alternative dispute resolution outside the pressures of an active dispute
 - Helping people and communities become effective agents for change where laws no longer contribute to an effective society
 - Helping people to become more confident, informed and effective citizens
 - Underpinning a culture of human rights, based on a shared understanding of human rights values
8. However, providing education or information about the law must **not** be seen as an alternative to making adequate resources available for legal advice and representation, or as a device for making savings in legal aid expenditure. The reality is that many people lack the skills or self-confidence to handle legal disputes without the support of a lawyer or adviser. It should also be recognised that a more aware and informed public may make more demands on legal advice services – although it is possible that other aspects of demand might be decreased. Research will be needed to gain a better understanding of the impact of public legal education and how it is most effective.
9. But improved knowledge of the law and rights can equip individuals to manage their own problems more effectively. Research³ suggests that 30% of those experiencing civil legal problems will attempt to resolve these by themselves. This is especially the case in areas like consumer complaints or problems with landlords and debt.
10. There is a clear need to provide appropriate information and support to those people who are disposed towards taking a self-help approach to legal problems, especially where legal aid is not available. This support can give them the confidence to assess when to deal with problems themselves, and at the same time highlight when they should seek professional advice. Assisted self-help, where individuals manage their own problems with some professional guidance, can be a cost-effective way of dealing with less serious matters.

HOW SHOULD PUBLIC LEGAL EDUCATION BE PROVIDED?

11. Legal education and information can be provided in a variety of ways that may involve passive or active engagement - through face to face contact, via the

³ See footnote 1

internet, by telephone or via leaflets and other written material. Diverse methods of delivery are needed to reflect the fact that people receive and understand information in a number of ways, something that may be determined by their level of education or even by their cultural or community background. Interactive approaches, properly resourced, can be particularly effective.

12. Up to now, there has been no systematic provision of public legal education in this country. However, the following approaches have been used successfully and are all worthy of further development as part of a coherent programme:

- Leaflets focusing on discrete legal topics
- More detailed self-help packs, including tools such as standard letters
- User-friendly books about common legal problems, aimed at the lay reader
- Legal issue/problem pages and regular columns in newspapers and magazines
- Telephone help lines providing information about aspects of the law
- Material delivered through the internet, pitched at different levels of complexity and delivered in a range of styles
- Legal issue mentoring through the internet, guiding people through relevant laws
- Community legal education projects, such as those carried out such in law centres to complement their advice services
- Activities based on role play exercises, such as mock trial competitions
- Legal education and information on the legal system as part of citizenship education in schools
- ‘Streetlaw’ projects that use law students and qualified lawyers to deliver legal education to members of the public
- Proactive use of television, video and radio programmes with a strong informative and accurate legal content

WHOSE RESPONSIBILITY?

13. We believe that responsibility for public legal education should lie more widely than with the Legal Services Commission alone. According to the Access to Justice Act 1999, the LSC’s responsibility for maintaining the Community Legal Service extends to providing ‘general information about the law and legal system and the availability of legal services’. However, there is no parallel requirement in relation to the Criminal Defence Service; neither does the Act go so far as to require the LSC to take an extensive or proactive role in educating the public about the law. A further problem is that the budget for the LSC is simply not large enough to cover any expansion of its role; the civil legal aid budget, in particular, is under enormous pressure.

14. The LSC could legitimately encourage and facilitate the development and delivery of legal information and education; to a certain extent, its CLS Direct service – launched in July 2004 – helps act as a gateway to some educational resources.

However, we would argue that public legal education should be seen as a priority across government and that a single agency should take responsibility for developing it. One option might be for this role to be taken on by an appropriately funded, independent non-departmental advisory body sponsored by a number of government departments – in particular, the Department for Constitutional Affairs, the Home Office and the Department for Education and Skills. Alternatively, an existing organisation or body could assume this role.

15. Independent advice services have a tradition of providing legal education and information as a part of a holistic approach to the delivery of legal services. However, the delivery of this work is patchy and uneven, and many agencies are finding it difficult to sustain because of the nature of LSC contract funding. We would welcome a commitment from advice services to developing a co-ordinated approach to public legal education – although we recognise that this work cannot be undertaken on the ground without appropriate funding.
16. The private sector – through commercial production of books, magazines, websites and other resource material – has also developed a role in providing legal education to the public. While we accept that these commercial products and services can make some contribution to public awareness, we believe that resources for public legal education should be widely available free of charge and supported by government funding.

WHAT NEXT?

17. If public legal education is to be taken seriously, there needs to be a step change in the way it is promoted and resourced. The current, piecemeal approach will not succeed in delivering significantly higher levels of public awareness of the law and legal processes. A national strategy for public legal education is urgently needed and we suggest this should include the following elements:
 - The importance of public legal education and the need for a national strategy should be expressly acknowledged across government, and particularly by key departments and public bodies including the Department for Constitutional Affairs; the Legal Services Commission; the Department for Education and Skills; the Department for Trade and Industry; and the Home Office.
 - The national strategy would also need to attract the support of the judiciary and legal professional bodies – including pro bono groups – as well as legal educational bodies and voluntary organisations that are already active in this field. Support from curriculum bodies for schools and lifelong learning would also be of great importance for the strategy's success.
 - A single body/organisation should take responsibility for championing public legal education and promoting its development at a national level. It should be

provided with sufficient funding and adequate infrastructure to take forward the creation of a national strategy and facilitate its implementation.

- The role of the national body/organisation might encompass the following functions:
 - Promoting the development of public legal education through a variety of approaches
 - Creating a resources bank for use by those delivering public legal education projects, including through developing or commissioning core educational materials
 - Developing imaginative methods of delivery that might include interactive web-based material, on-line and face to face mentoring, role play materials and video programmes
 - Evaluating the impact of the national strategy, including through a research programme to identify areas of high need and the comparative effectiveness of different approaches

18. We are seeking views on the ideas in this discussion paper, and would be grateful for responses to the questions on the following page, and to receive any other additional comments.

**Advice Services Alliance
Citizenship Foundation
Legal Action Group**

September 2004

The Advice Services Alliance (ASA) is the umbrella organisation for independent advice services in the UK. Its full members include Advice UK, Age Concern England, Citizens Advice, DIAL UK (the disability information and advice line), Law Centres Federation, Shelter and Youth Access. ASA promote good quality legal education to the public through its website advicenow.org.uk

Citizenship Foundation is an independent charity which aims to empower individuals to engage in the wider community through education about the law, democracy and society. Founded in 1989, it focuses particularly on developing young people's citizenship skills, knowledge and understanding. Its work, across the UK and internationally, includes resources, training, active learning, community projects and research.

The Legal Action Group (LAG) is an independent national charity committed to improving access to justice, particularly for the vulnerable and socially excluded. Through its publications and training, LAG works with lawyers and advisers to improve standards and knowledge of social welfare and criminal law. It also comments and campaigns extensively on social welfare and criminal law issues, on administration of justice and on the delivery of publicly funded legal services.

PLEASE LET US HAVE YOUR VIEWS!

This discussion paper is intended as a first step in working towards a national strategy for public legal education. It is not designed as a definitive statement. The Advice Services Alliance, Citizenship Foundation and Legal Action Group would be very pleased to receive comments on the ideas in this document from a wide range of organisations and individuals with an interest in this issue.

In particular, we would like views on the following questions:

- 1. Is there need for a national strategy for public legal education?**
- 2. Should responsibility for developing and implementing such a national strategy be co-ordinated by a single organisation or body?**
- 3. If so, should the responsible body be:**
 - a) A government department? If so, do you have views on which one?**
 - b) An existing organisation or non-departmental public body? If so, do you have views on which one?**
 - c) A new organisation? If so, what form should it take (for example, non-departmental public body; non-governmental organisation)?**
- 4. Do you agree with the suggested functions of the responsible organisation listed above (page 6)?**
- 5. From what source or sources should the development of public legal education be funded?**
- 6. Do you have any other comments to make on this document?**

We would be grateful to have your views by Friday 17 December 2004. Please address responses to:

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