

## Public legal education and information policy: Legal Services and Legal Capability

New research by Law for Life analyses the findings of the 2010 and 2012 UK Civil and Social Justice Panel Survey (CSJPS) alongside some of the underlying policy contexts for public legal education and information developments.

Research based on **'Legal Needs, Legal Capability and the Role of Public Legal Education'** by Lisa Wintersteiger. This report was produced in parallel with Professor Pascoe Pleasence, Dr. Nigel Balmer, and Dr. Catrina Denvir **'How People Understand and Interact with Law'**. (2015)

### Research Summary

- Most people handle their legal problems alone. Only 10% of people use a lawyer or advice agencies.
- Most people do not identify legal problems accurately.
- Internet use for legal problems is on the rise but not everyone benefits.
- Legal capability is a key indicator of the effective use of legal services.

### What is legal Capability?

#### Legal Capability

Legal capability is more than just knowledge about the law, it is the skills and confidence needed to cope with day to day legal situations, alongside awareness of the legal mechanisms to seek redress and reform.

For more information on the evaluative framework of legal capability (Collard et al, 2011), see: <http://www.lawforlife.org.uk/evaluation/evaluationframework/>

## Context

In spite of widespread acknowledgement of the importance and effectiveness of PLE, it has been largely overlooked in recent legislation. In the context of cuts to legal aid and the dramatic increase in litigants in person, public legal education is more important than ever.

### The deregulation of legal services

Changes to the justice landscape in the context of regulatory reform have emphasised consumerism in the broad deregulation of the market under the aegis of the Legal Services Board.<sup>1</sup> The objective of increasing choice and competition as a mechanism for improving access to justice is underpinned with a requirement to increase public understanding of citizens' legal rights and duties.<sup>2</sup> Previous provisions established under the Access to Justice Act 1999 (s.4) similarly gave the Legal Services Commission (LSC) responsibility for maintaining the Community Legal Service which then extended to providing general information about the law and legal system and the availability of legal services.

However, neither the Access to Justice Act 1999, nor the Legal Services Act 2007 requires regulators to play a particularly extensive or proactive role in public legal education and information. The Legal Services Board views the objectives under the 2007 Act as a whole and therefore wider legal information provision falls outside the scrutiny of the Act. This raises concerns regarding the quality of public legal information and education available to the public given the existing informational disparity between consumers and providers.

### Litigants in person on the rise

Alongside rapid changes in the legal services market, current estimates are set to see litigation without representation increase by 40% in family proceedings.<sup>3</sup> In small claims and tribunals, the numbers are even higher. One study found that 85% of individual defendants in County Court cases and 52% of High Court defendants were unrepresented at some stage during their case.<sup>4</sup> The rise in litigants in person coincides with major changes to scope and availability of legal services, reductions in court assistance and increases in fees payable by claimants when starting court and tribunal proceedings.<sup>5</sup> On-going cuts to local authority budgets also impact heavily on the ability of advice agencies to meet rising need, with advice agencies reporting closures and staff reductions.<sup>6</sup>

The demographics of litigants in person point to specific vulnerabilities. Many are younger and lower income litigants, and a significant minority have a mental illness and/or are drug and alcohol dependent and/or are young parents – all factors associated with being particularly vulnerable.<sup>7</sup> Evidence suggests that since the cuts to legal aid, many more court users who cannot afford to pay a lawyer will struggle with procedural and substantive knowledge when going to court.

The rapid increase in litigants in person must be considered alongside a longstanding recognition that the formality of proceedings, even in small claim and tribunal settings, make these services inaccessible to many of their users.

Public legal education and information has received increased attention as part of policy initiatives and proposed reform activities. However, there has yet to be a coherent response to the growing body of evidence that preventative and early intervention activities require substantial and sustained investment to achieve economies of scale.<sup>8</sup>

## The importance of public legal education

In the UK, a broad coalition of agencies under the auspices of the Public Legal Education and Support Task Force (PLEAS) made a concerted effort to grapple with the fragmented nature of Public Legal Education (PLE). The subsequent report underlined the role of PLE in meeting people's need for legal knowledge and skills in day to day life and enabling them to access the institutional frameworks required to secure formal legal redress.

The Task Force definition of PLE emphasises legal capability as the goal of public legal education and highlights the social benefits public legal education can offer:

"[PLE] has a key role in helping citizens to understand the law and use it more effectively in their daily lives, bringing many different individual and social benefits. PLE is the missing element in the creation of a legally enabled citizen."

## The Findings from the CSJPS 2010 and 2012

### Awareness of legal services

Very few problems reach the door of legal or advice services:

- Only 6% of people use a lawyer.
- A further 4% of people use the advice sector.
- 15% of people would turn to friends or family for legal assistance.
- 43% of respondents chose to resolve things alone.

Awareness of legal services is influenced by a number of factors, which coincide with indicators of vulnerability:

- age (with young people and older people least likely to know about legal services),
- English language skills (with non-English speaking migrants least likely to know about legal services),
- education levels, and
- the existence of mental health issues.

People have a limited awareness of the available sources of legal help with many respondents unable to identify half of these sources. People were able to identify some services more easily than others:

- For example, 91% knew something about Citizens Advice, but only 22% were aware of Civil Legal Advice.
- The most common sources of advice that people knew something about were local councils, solicitors and Citizens Advice.

Knowledge of legal services is partial. Many people are unable to correctly identify the scope of legal services:

- 60% of people failed to realise that solicitors can deal with housing problems.
- 50% of people thought that solicitors did not help with employment issues.
- Very worryingly, 46% of people thought that solicitors could not help with domestic violence.

### Ability to spot a legal problem

The inability to spot the legal dimension to a problem served as a barrier (especially amongst disadvantaged groups) to managing the problem effectively, to accessing legal services and to preventing the problem from escalating:

- Almost half of people experiencing a legal problem described their problem as 'bad luck' and 40% described their problems as bureaucratic, moral or social.
- People were more likely to recognise family, employment and housing issues as a legal problem (11% of people surveyed).
- Consumer and debt problems were dominant legal problems, yet were most likely to be described as bad luck.
- Benefit problems were typically construed as bureaucratic (55%) and employment issues (26%) were commonly being described as 'moral'.

Spotting that a problem has a legal dimension to it, reduces the likelihood of people handling the problem alone and is likely to more than double the chances of someone seeking help with their problem.

### Online Legal Information and Advice

Findings suggest that there is a correlation between internet use and the ability to recognise the legal dimension of a problem, with more than twice as many internet users spotting that they had a legal problem compared to those who did not use the internet. A number of factors impact on whether someone will use the internet successfully to resolve legal problems. These include the severity and nature of the legal problem, access to the internet and personal characteristics.

- Internet access has a significant impact on whether someone can use the internet to resolve a legal problem. For those who have Broadband internet access at home the numbers increase from 24% to 33%.
- Graduates are twice as likely to seek help as people educated to GCSE level.
- Older people are less likely to go online for legal assistance, with only 13% of those over 75 using the internet.

Findings also reveal that a lack of capability hinders the successful use of online sources. For instance:

- Many people do not realise that the law is bound by jurisdiction. This means that they may find themselves searching for legal advice on foreign websites.
- A lack of understanding about the legal dimension to a problem also impacts on people's ability to identify the right key word to enable them to seek information effectively. This means they may not find the correct legal information when using a search engine. In addition they may not be able to respond to or understand what they do find.

### What is CSJPS?

The English and Welsh Civil and Social Justice Panel Survey (CSJPS) was a large scale survey of the general population's experience of 97 types of legal problem (concerning consumer issues, employment, neighbours, owned housing, rented housing, money, debt, welfare benefits, education, clinical negligence, relationship breakdown, domestic violence and care proceedings) and the strategies they took to resolve them. It involved a total of 5,113 face-to-face interviews with respondents aged 16 and over in their own homes. Some interviews were carried out in 2010, others in 2012.

### Recommendations

- The quality and design of legal education and information is currently extremely patchy, with inadequate awareness of good practices. The need for a quality stamp or mode of accrediting and assessing good quality legal information and education design is long overdue.
- Legal services for vulnerable or otherwise disadvantaged groups are unlikely to meet needs in isolation, and require multiple fields of expertise that are not part of the mainstream of the legal profession. This expertise is likely to require joined up health, social and legal support to be effective.
- The lack of awareness of legal service is compounded by low levels of legal capability that inhibit effective searching for and access to legal tools. This requires a coordinated effort on and offline, to help users find what they need, when they need it.

**Law for Life: The foundation for Public Legal Education** works to ensure that everyone has the knowledge, confidence and practical skills they need to secure access to justice.

We do this through community-based education and training, research and policy, and through the Advicenow website which provides easy-to-use information on rights and the law for the public. We also support other organisations around the world to help their users make sense of the law through our research, consultancy, and training.

[www.lawforlife.org.uk](http://www.lawforlife.org.uk) | [www.advicenow.org.uk](http://www.advicenow.org.uk)

## References

1. Clementi, D. (2004) *Review of the Regulatory Framework for Legal Services in England and Wales Final Report*.
2. Legal Services Act 2007, s1.
3. Bevan, C., (2013), "Self-Represented Litigants: The overlooked and unintended consequences of legal aid reform", *Journal of Social Welfare and Family Law*; 35:1, 43-54.
4. Moorhead, R., Sefton, Department of Constitutional Affairs. (2005). *Litigants in Person: Unrepresented Litigants in First Instance Proceedings*. London: DCA.
5. Justice, *Delivering Justice in an Age of Austerity (2015)* <http://2bquk8cdew6192tsu41lay8t.wpengine.netdna-cdn.com/wp-content/uploads/2015/04/JUSTICE-working-party-report-Delivering-Justice-in-an-Age-of-Austerity.pdf> [accessed May 3 2015]
6. Wintersteiger, L. (2015), "Legal Exclusion in a post 'LASPO' era", *Journal of Social Policy*, 44(01), 68-72 [http://www.social-policy.org.uk/wordpress/wp-content/uploads/2015/04/IDOW-Complete-text-4-online\\_secured-compressed.pdf](http://www.social-policy.org.uk/wordpress/wp-content/uploads/2015/04/IDOW-Complete-text-4-online_secured-compressed.pdf) ; Byrom, N. (2013) *The State of the Sector: The Impact of Cuts to Civil Legal Aid on Practitioners and Their Clients*. [http://www2.warwick.ac.uk/fac/soc/law/research/centres/chrp/projects/legalaidcuts/153064\\_statesector\\_report-final.pdf](http://www2.warwick.ac.uk/fac/soc/law/research/centres/chrp/projects/legalaidcuts/153064_statesector_report-final.pdf) [accessed 18 May 2015].
7. Hunter, R.C, Trinder, E. J., Hitchings, E., Miles, J., Moorhead, R., Smith, L., Sefton, M., Hinchly, V., Bader, K., and Pearce, J. (2014) *Litigants in Person and Private Family Law Cases*. Ministry of Justice [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/380479/litigants-in-person-in-private-family-law-cases.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380479/litigants-in-person-in-private-family-law-cases.pdf) [accessed March 12th 2015]
8. Public Legal Education and Support Task Force (2007) *Developing Capable Citizens: The role of Public Legal Education Task Force Report* [www.pleas.org.uk/uploads/PLEAS%20Task%20Force%20Report.pdf](http://www.pleas.org.uk/uploads/PLEAS%20Task%20Force%20Report.pdf) [accessed February 2015]. ; Barendrecht, M., (2011), "Legal aid, accessible courts or legal information? Three access to justice strategies compared", *Global Jurist* Volume 11, Issue 1.
9. Public Legal Education and Support Task Force (2007) *Developing Capable Citizens: The role of Public Legal Education Task Force Report* [www.pleas.org.uk/uploads/PLEAS%20Task%20Force%20Report.pdf](http://www.pleas.org.uk/uploads/PLEAS%20Task%20Force%20Report.pdf) [accessed February 2015].