

TOWARDS A NATIONAL STRATEGY FOR PUBLIC LEGAL EDUCATION

A discussion paper

**advice
services
alliance**



LAG

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

September 2004

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'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 encountered 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:

Nony Ardill
Policy Director
Legal Action Group
242 Pentonville Road
London N1 9UN

Direct line: 020 7833 7435
Fax: 020 7837 6094
e-mail: NArdill@lag.org.uk