Knowledge, Capability and the Experience of Rights Problems

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Legal Services Commission
and
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PLEAS Task Force
- Set up in January 2006 to develop proposals for how to promote and improve PLE
- Chaired by Dame Professor Hazel Genn
- Supported by DCA (now MoJ)

“Public legal education provides people with awareness, knowledge and understanding of rights and legal issues, together with the confidence and skills they need to deal with disputes and gain access to justice.”

Needed to assess difficulties people have when faced with legal issues and extent of lack of knowledge - “Education Implications from the English and Welsh CSJS” Buck, A., Pleasence, P., and Balmer, N.J. (2007)
New questions were also added to the CSJS to attempt to inform Public Legal Education policy

1. Asked about knowledge of rights
2. Asked about knowledge of processes
3. Asked what they wish they had known
4. Asked if they felt they could have acted sooner

Simple questions to measure lack of understanding

New report commissioned by PLENET using 2006-2009 Survey (CSJS) findings
Aims of the report

Identify specific target groups who lack legal capability and problems where public legal education might be targeted

Gaining a clearer insight into the relationship between knowledge, skills and confidence

Develop a better understanding of how skills may impact on the ability to pursue desired outcomes

Use ‘real-life’ case studies in order to bring to life issues

Make recommendations on any further research that will improve understanding of the needs for PLE and any delivery mechanisms.

The English & Welsh Civil & Social Justice Survey (CSJS)

- Nationally representative household survey of people’s experience and response to civil justice problems.
- 10,537 face-to-face interviews of 25 minutes duration
- Most comprehensive of a line of surveys dating back, coincidentally, to the time of the Great Depression.
- Includes 106 ‘everyday’ civil justice problem types, in 18 categories (no crime).
CSJS Problems

- Not abstract legal problems
- Problems of everyday life, such as those concerning:

  - Discrimination
  - Consumer
  - Employment
  - Neighbours
  - Owned Housing
  - Rented Housing
  - Homelessness
  - Money/Debt
  - Welfare Benefits
  - Divorce
  - Relationship Breakdown
  - Domestic Violence
  - Children
  - Personal Injury
  - Clinical Negligence
  - Mental Health
  - Immigration
  - Unfair Police Treatment
<table>
<thead>
<tr>
<th>Problem Type</th>
<th>Example</th>
<th>%</th>
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<tbody>
<tr>
<td>Consumer</td>
<td>Faulty goods/services (e.g. building work)</td>
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<td>Neighbours</td>
<td>Anti-social behaviour</td>
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<td>Money/debt</td>
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<td>Road accidents, workplace accidents</td>
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<td>Welfare benefits</td>
<td>Entitlement to/quantification of benefits</td>
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<td>Divorce</td>
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<tr>
<td>Discrimination</td>
<td>Disability discrimination, race discrimination</td>
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<td>Housing (owning)</td>
<td>Boundaries/rights of way, mortgage arrears</td>
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<td>Relationship breakdown</td>
<td>Residence/care of children, division of assets</td>
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<td>Clinical negligence</td>
<td>Negligent medical or dental treatment</td>
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<tr>
<td>Children</td>
<td>School exclusion, choice of school</td>
<td>1.4</td>
<td>152</td>
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<tr>
<td>Housing (homelessness)</td>
<td>Experience/threat of homelessness</td>
<td>1.3</td>
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<tr>
<td>Unfair police treatment</td>
<td>Assault, unreasonable detention by police</td>
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<tr>
<td>Domestic violence</td>
<td>Violence against respondent/children</td>
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<td>Immigration</td>
<td>Obtaining authority to remain in the UK</td>
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<tr>
<td>Mental Health</td>
<td>Conditions of/care after hospital discharge</td>
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Survey Questions

Screen Section
(all problems)
- Incidence of problems
- Impact of problems
- Problem resolution strategies
- Types of advisers
- Manners of conclusion
- Demographics

Main Section
(one problem)
- Awareness of advisers, ordering of advisers and forms of advice
- Obstacles to advice
- Use of courts, tribunals and ADR
- Objectives and Outcomes
- Attitudes to the justice system
Overview

1. **Strategy** – what people do when faced with problems
   - who adopts particular strategies?
   - does it matter what you do?

2. **Inaction and forms of inaction**
   - who did nothing but wanted to act?
   - does it matter?

3. **Knowledge of rights**
   - who lacked knowledge?
   - what do people wish they had known?
   - case studies
   - what were the implications of lack of knowledge?

4. **The relationship between knowledge, strategy and outcome**
   - is knowledge more important for particular strategies?
   - who fares best?
   - who fares worst?

5. **What next?**
Some problems may benefit more from interventions
Strategy when faced with problems

BME respondents had lower rates of obtaining advice

Disadvantaged groups (e.g. lone parents, in receipt of welfare benefits, no academic qualifications, mental health issues) had a higher percentage obtaining advice and a lower percentage handling alone – capacity issues

More affluent/educated had a higher percentage handling alone

Youngest and oldest age groups had lowest percentage obtaining advice and highest doing nothing or handling alone

Some groups could benefit more
BME respondents had lower rates of obtaining advice.

Disadvantaged groups (e.g. lone parents, in receipt of welfare benefits, no academic qualifications, mental health issues) had a higher percentage obtaining advice and a lower percentage handling alone – capacity issues.

More affluent/educated had a higher percentage handling alone.

Youngest and oldest age groups had lowest percentage obtaining advice and highest doing nothing or handling alone.
Trying and failing = less meeting objectives
Handling alone similar to obtaining advice (but people differ)
Strategy and regrets over actions

- Did nothing: 19.6%
- Handled alone: 36.6%
- Obtained advice: 25.9%
- Tried & Failed: 29.2%
- Tried, failed & handled alone: 30.8%

Those who handled alone frequently regretted lack of advice.
### Adverse consequences by strategy

<table>
<thead>
<tr>
<th>Adverse consequences</th>
<th>Broad strategy</th>
<th></th>
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<td>123</td>
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<td>47</td>
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<tr>
<td>Violence</td>
<td>12</td>
<td>2.3</td>
<td>24</td>
<td>1.2</td>
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<td>Damage to prop</td>
<td>12</td>
<td>2.2</td>
<td>43</td>
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<td>546</td>
<td>19.2</td>
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*If you have a problem I recommend you do nothing!*
Of course not everyone acts (or fails to act) for the same reason.

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<th>Handled alone</th>
<th>Obtained advice</th>
<th>Tried &amp; failed</th>
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<td></td>
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1. Strategy linked to problem type
   *evidently some problems where acting is less common*

2. Strategy linked to demographics
   *handling alone/obtaining advice related to capability*
   *some do nothing/try and fail more too (e.g. younger respondents)*

3. People and problems who may benefit more from interventions?

4. Trying and failing results in failing to meet your objectives far more often (whether you go on to handle alone or not)

5. Doing nothing does not seem like to bad a strategy?
   *particularly with regard to stress-related ill health*
Plenet Legal Empowerment Conference 2010

Doing nothing

Of course, not everybody does nothing for the same reason
Why people did nothing

- Did not think it would make any difference: 20.8%
- Thought it would resolve itself: 13.7%
- No dispute/thought the other person was right: 11.3%
- Problem was over and done with: 11.1%
- Did not know what to do/who to go to: 8.2%
- Thought it would be too stressful to sort out: 7.8%
- No need (including 3rd party intervention): 7.5%
- Did not think it was very important: 7.3%
- Was uncertain of my rights: 6.0%
- Was scared to do anything: 5.8%
- Would damage relationship with other side: 5.0%
- Other: 4.4%
- Thought it would take too much time: 4.3%
- Too early: 1.8%
- Thought it would cost too much: 1.6%
Why people did nothing – reasons of concern

- Did not think it would make any difference: 20.8%
- Thought it would resolve itself: 13.7%
- No dispute/thought the other person was right: 11.3%
- Problem was over and done with: 11.1%
- Did not know what to do/who to go to: 8.2%
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Reasons can vary for vulnerable groups
Why people did nothing

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- Would damage relationship with other side: 5.0%
- Other: 4.4%
- Thought it would take too much time: 4.3%
- Too early: 1.8%
- Thought it would cost too much: 1.6%

Mental health problems
Why people did nothing

- Did not think it would make any difference: 20.8%
- Thought it would resolve itself: 13.7%
- No dispute/thought the other person was right: 11.3%
- Problem was over and done with: 11.1%
- Did not know what to do/who to go to: 8.2%
- Thought it would be too stressful to sort out: 23.3%
- No need (including 3rd party intervention): 7.5%
- Did not think it was very important: 0.0%
- Was uncertain of my rights: 6.0%
- Was scared to do anything: 16.7%
- Would damage relationship with other side: 5.0%
- Other: 4.4%
- Thought it would take too much time: 4.3%
- Too early: 1.8%
- Thought it would cost too much: 1.6%
Wanting to act but being unable to do so

- Thought it would cost too much: 1.6%
- Too early: 1.8%
- Thought it would take too much time: 4.3%
- Other: 4.4%
- Would damage relationship with other side: 5.0%
- Was scared to do anything: 5.8%
- Was uncertain of my rights: 6.0%
- No need (including 3rd party intervention): 7.3%
- Thought it would be too stressful to sort out: 7.5%
- No dispute/thought the other person was right: 11.1%
- Problem was over and done with: 11.3%
- Did not know what to do/who to go to: 8.2%
- Thought it would resolve itself: 13.7%
- Did not think it would make any difference: 20.8%

Female, low income, unemployed, lone parent more likely to be in the red

Roughly a 50/50 split

Is this interesting?
Regret centred on wishing advice/information had been obtained.
Doing nothing (for different reasons)

1. Overall, doing nothing doesn’t look a bad idea

2. Depends whether or not you wanted to act

3. Some (disadvantaged) groups more likely to ‘want to act’ when they did nothing
   e.g. Low income, unemployed, lone parents

4. If you do nothing but wanted to act, you get worse outcomes
   e.g. more stress-related ill health, far greater levels of regret

5. Around half of those who did nothing could have benefited from some knowledge
New questions added to the CSJS to attempt to inform Public Legal Education policy

1. Asked about knowledge of rights
2. Asked about knowledge of processes
3. Asked what they wish they had known
4. Asked if they felt they could have acted sooner

Simple questions to measure lack of understanding

What respondents wish they had known
– open answers
Respondents were asked
“At the time of the (problem descriptor), did you know what your legal rights were relating to this problem?”

1,357 of 2,095 respondents (64.8%) suggested that they did not know their rights

Respondents were asked
“At the time of the (problem descriptor) did you know what formal processes (such as court proceedings and tribunals) are sometimes used to deal with these sorts of problems?”

1,483 of 2,128 respondents (69.7%) suggested that they had no knowledge of processes

Extensive lack of knowledge
Variation by problem type
Demographic differences in knowledge of rights

Higher percentages lacking knowledge for –

- Those with mental health problems (72%)
- Those with a long-term illness or disability (69%)
- Lone parent (69%)
- Renting (over 70%)
- No academic qualifications (70%)
- < £10,000 (69%)
- Off work because of illness (74%)
- In education (72%)

Contrasts with education and affluence
What respondents wish they had known

36% of main survey respondents gave an answer

- My rights/formal processes – 13% of responses
- That I should get advice – 5% of responses

Oversimplifies some in depth responses
'I wish it had just been one source…no agency was able to help me in one go',
'[I wish I had known] the most effective person to contact to get things done’ and ‘[I wish I had known] who I should speak to rather than being pushed from pillar to post’
‘First time buyers need more help. They send you all this paperwork but no-one tells you what it means in layman’s language.’

Some wished for factual understanding of the law

‘First time buyers need more help. They send you all this paperwork but no-one tells you what it means in layman’s language.’
Many highlighted issues around knowledge of rights

‘(I) should have found out about my legal position before ending the contract’

‘It would have been helpful to have known our legal rights-it would have been good if at the time he was diagnosed we have been given an information pack on what to expect and what we needed to do.’

Some wished they had known how simple the law was

‘having understood the procedure I would not [have used/use] a solicitor. I would have just used the mediation. I would not [have used/use] a solicitor because it was so simple.'
Many highlighted early action and handling alone

‘s should have attempted more earlier’

‘If I had known about Money Claim On-Line- a government site, and how little the cost... to take out action. It would have changed my plans earlier, so I would have started Court action earlier so that the Debt Collectors did not continue to threaten. This is a cheaper way to take action without using a solicitor and the high charges solicitors use.’

Many go to the heart of public legal education
Bernadette, a 37 year old University educated, white British female, is the sole carer of Norm her 75 year old father. In November 2006 Bernadette suffered a heart attack, forcing her- on an income of less than £10,000 per annum, and not in receipt of means tested benefits- to pay for her father to be cared for in a home, while she recovered. Bernadette was informed that were she not under the local Health Authority, funding would have been available to support the cost of her father’s care. As it is not, she feels discriminated against and disadvantaged. In seeking advice on the matter, she spoke with a social worker and a doctor, from whom she obtained some, but not all advice needed. Bernadette also used the Internet to seek answers but was unable to identify the appropriate advice source.

She expressed frustration in being unsure of how to go about obtaining the right advice, saying that ‘[I wish I had known] the most effective person to contact to get things done.’ As a result of these difficulties which have spanned two years, Bernadette now experiences stress related ill-health, and has been diagnosed by her GP as suffering from a mental illness.
Alexander is a 40 year-old white British male who lives in his own home. He is university educated and widowed with no children. Alexander was an applicant in a claim against an online sales website for charges they stated he owed and which he disputed.

Having an understanding of his rights, but a lack of familiarity with the processes involved in instigating a proceeding, he sought legal advice from a solicitor. However, he opted to deal with the matter himself, after the solicitor told him not to take the online sales website to court. He went on to seek advice from Trading Standards and his local Community Advice Bureau where he obtained some, but not all of the information he needed.

His successful resolution of the problem led him to state that, ‘If I had known about "Money Claim On-Line" a government site and how little the cost to take out action, it would have changed my plans earlier, so I would have started Court action earlier so that the Debt Collectors did not continue to threaten me. This is a cheaper way to take action without using a solicitor and the high charges solicitors use.’
Janet is a 36 year-old, white, British woman, in receipt of a household income in excess of £60,000 and with a mortgage on a detached home. She cohabits with her husband and her two children, Chester, a 10 year-old boy with Autism and a 4 year-old girl called Bonnie. Chester has difficulties with his schooling on account of his Autism, which requires Janet to discuss these issues with his school, including having to frequently persuade the school to provide more resources in order to assist him.

She has been active in seeking advice and has had success gaining information from the Internet, the National Autistic Association and another advice agency, with less success obtaining information and assistance from her local council.

The fact that she has had to approach a number of agencies, combined with the mixed outcomes of these efforts, prompts her to state that ‘It would have been helpful to have known our legal rights-it would have been good if at the time he was diagnosed we had been given an information pack on what to expect and what we needed to do.’
Implications of lack of knowledge

Lack knowledge = less obtained advice, more failures

Statistically significant, but is it practically significant?

Lack knowledge = less obtained advice, more failures

Statistically significant, but is it practically significant?
Implications of lack of knowledge

Lack knowledge = far less meeting objectives
Convinced of need for PLE?
What if knowledge is simply a proxy for strategy?
Implications of lack of knowledge –– meeting objectives

What if we also split by strategy (knowledge of rights only)?
Knowledge makes a big difference where when handling alone
Knowledge makes little difference where advice is obtained
If you don’t know your rights, you had better get advice
Implications of lack of knowledge

Similar approach for whether or not they regretted their actions

Big impact of knowledge of rights except where advice obtained
Implications of lack of knowledge

Same thing for stress-related ill health as a consequence
Important to have knowledge if you do not obtain advice
Implications of lack of knowledge

Who fares worst? - Not obtaining advice, lacking knowledge and suffering the consequences

Female respondents
Those in high density accommodation (i.e. terraces or flats)
Those without use of motorised transport
Single respondents and lone parents, particularly when contrasted with married couples without children
Ill/disabled and those with mental health problems
Public renting
No academic qualifications
In receipt of means tested welfare benefits
Low income.

In general, disadvantaged groups were far more likely than others to not obtain advice, lack knowledge, and suffer adverse consequences.
Implications of lack of knowledge

Who handles alone with knowledge of their rights?
As we saw handling alone with knowledge results in better outcomes

Male respondents
Those in detached housing, particularly compared to those in flats
Married couples with children, particularly when compared to cohabitants with children
Those who owned their homes or had mortgages
Those not in receipt of means tested benefits
Those without mental health problems

Far more meeting objectives (in full, 65% vs. 30%)
Less stress-related ill health
Clear benefit of handling alone with knowledge of your rights
1. Extensive lack of knowledge of rights
   Related to demographics and problem type (high for clin.neg., low for divorce, high for lone parents, low for affluent/educated)

2. Regrets over lacking legal knowledge common among what respondents wish they had known
e.g. Many examples went to the heart of PLE

3. Lack of knowledge related to strategy
e.g. More failed attempts at obtaining advice

4. If you have knowledge handle alone, if you do not you had better get advice!
   Lack of knowledge related to far worse outcomes where no advice was obtained

5. Whether your fared well or poorly strongly related to disadvantage, education and affluence
**What next?**

The English & Welsh Civil & Justice Panel Survey

Respondents presented with a range of detailed scenarios and asked about persons rights and how they should act
- *Covers issues around rented housing, employment, consumer problems and relationships*
- *Far more specific information on knowledge of rights and capability*

Detailed information added on why people acted as they did and why they did not act in other ways
- *Again, should give far more detail on knowledge & capability*

Internet surveys on problem severity and characterisation

Information on the extent to which problems are characterised as legal (and what impact this has)
What would you conclude from this?

What else would you want to know?

We have a problem of lack of understanding of the law/ rights. How do you address this?

What might interventions look like?

Who would you target?
Knowledge, Capability and the Experience of Rights Problems – Report to PLENET

LSRC and PLENET

Will be available from www.lsrc.org.uk and www.plenet.org.uk