Legal Capability: A conceptual framework for public legal education

Presentation to the London meeting of the Grundtvig Learning Partnership Project on 20th April 2012.

What's the problem?
There are significant gaps in the ability of people to deal effectively with common law-related problems, things like problems at work, with housing, with family issues, discrimination etc.

There is also a lack of a coordinated approach to ensure that individuals and communities have the capability to achieve fundamental rights.

Aims for the session
To introduce the conceptual framework of legal capability and to look about how this applies to the needs of people across Europe and to the work of your organisations.

We have the opportunity to share our combined experience and expertise – and to think about developing projects that can test and a common evaluation framework.

Law for Life
Law for Life was launched in July 2011 as an independent charity. Previously we operated as Public Legal Information Network a project hosted by Advice Services Alliance, the coordinating body for UK Advice services. We worked jointly with ASA staff, who are with us today, who run the Advicenow website providing information to the public on rights and the law.

As Plenet we ran the Plenet website – now the Law for Life website (www.lawforlife.org.uk) undertook research and ran pilot projects.

As an example of the work we did we will look at a short video clip of work we did with a theatre group Theatre ADAD, which works in schools and other settings.

It shows how theatre can be used to engage young people in thinking about how to deal with common law-related problems – in this case rent arrears and eviction.

See: http://vimeo.com/19566186

Why conceptualise Legal Capability?
If we can be clear about what we want to achieve in our audience – what can they do as a result of our work – it will help us think about the design of our education projects.

This conceptual framework then provides the basis of evaluation – to measure what we were able to achieve.
This also provides the basis on which we can make the case for law-related education - to show that public legal education works.

Legal Capability
What do we mean by legal capability?

What people need to know and be able to do in order to deal with the law-related issues they are likely to encounter in the course of their lives.

If we had a legally capable person standing in front of us now, what would they know? What would they be able to do?

What skills would they have? And what other attributes like confidence and perseverance, determination etc.

We’re going to spend the rest of the session answering that question.

Key principles
Legal capability isn’t just about knowledge of the law. It is also about knowing how to go about dealing with an issue, where to go, and what to do, and crucially how to do it.

It’s not just about solving problems when they’ve reached crisis point. It is more positive than that – about being prepared and ready, able to plan and anticipate - and able to take opportunities.

It also introduces the idea of prevention.

‘It’s better to have a fence at the top of the cliff than an ambulance at the bottom.’

This saying apparently originated in a poem in 1895 - http://www.wealthandwant.com/docs/Malins_ambulance.html.

The Early Action Task Force has recently produced a report including a very effective graphic based on the image of a cliff.

It shows the enabling and preventive service of education and prompt intervention at the top of the cliff and the acute services and containment at the bottom. Much of what legal and advice services do is about responding, providing acute services at the bottom of the cliff.

Public legal education is very much part of the enabling work at the top of the cliff.
The third key principle is that of empowerment – ensuring that people are equipped to deal the law-related problems that we know they will face at some point in their lives.

This focus on the lives of people reflects the thinking of Amartya Sen, the Nobel Prize winning economist and political philosopher. He argues that people’s capability is a better measure of the level of justice in a society than the degree to which it has perfectly just institutions. His focus is on justice in the broadest sense but it is reassuring our focus on legal capability reflects a wider and influential body of thought.

**A conceptual framework**

Legal capability includes a lot of different elements, and we’ve worked with the Personal Finance Research Project at the University of Bristol to develop to provide a structure – as part of a Public Legal Education Evaluation Framework. We knew the PFRC as a result of their groundbreaking work on financial capability.

This work produced four domains, or areas of Legal Capability.

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<th>Legal Capability Domains</th>
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<td>• Recognising and framing the legal dimensions of issues and situations</td>
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Each domain consists of various elements which are set out in a matrix. It isn’t possible to deal with all these elements in a presentation – so I will only discuss key elements of each domain.

**Recognising and framing the legal dimensions of issues and situations**

Our own work on *Measuring young people’s legal capability* showed that the young people surveyed had little or no knowledge of most basic rights and entitlements; in particular they seemed unaware of any system of civil law to which they had recourse.

Recognising that an issues or situation has a legal dimension and that the law can be used to achieve a resolution is an essential first step to deal with an issue.

**Finding out about law-related issues**

Faced with a problem it is common for people to ask the friends, family, colleagues even the people they are in dispute with for information about the issue. An important element of legal capability is to know where to find out more, and how to judge whether the source is trustworthy.

‘Finding out’ also includes knowing where to get help and expert advice. This includes being able to recognise when a problem is too complicated or difficult to deal with alone – and knowing where to find expert advice.

Legal capability isn’t about turning people into mini-lawyers able to deal with problems alone. The law is technical and complicated and the results of failure can be severe, so knowing when to get help is a key element of capability.

**Dealing with law-related issues**

The capabilities needed to deal with law-related issues are perhaps the most familiar, particularly to those in advice and legal services. This domain has more elements than the others and includes the skills needed to deal with an issue – the ability to communicate effectively and manage relationships, and the practical skills of being able to keep track of names, phone numbers, and correspondence.
Engaging and influencing
The final domain goes beyond individual experience of issues to the capability to join with others in the community to challenge and improve the law through the democratic process.

This include holding commercial and public services to account, highlighting systemic problems in the way services are delivered, and addressing weaknesses and unfairness in the way the law operates.

It means being aware of the relevant processes, structures and organisations that can be use to influence and effect change, and being able to participate in the decision-making process. This requires the significant confidence together with communication and interpersonal skills.

Scenarios
Following the presentation, the group then went on to look at three scenarios, using the matrix of capabilities to pick out the key capabilities needed to deal with each situation.

Moving in
Eleanor and her partner Marie are moving into a flat together for the first time.

Supermarket
Alesha and her neighbours have heard that a major supermarket chain is planning to move into their town. They are concerned that this will change the nature of their neighbourhood, increase traffic and drive small traders out of business.

Private data
Michael is out of work and has been approached by a credit provider try to sell him a private loan. They inform him that his personal details have been passed on by the local government unemployment offices. Michael is furious that his private data has been used in this way.

Law for Life
www.lawforlife.org.uk

24 April 2012