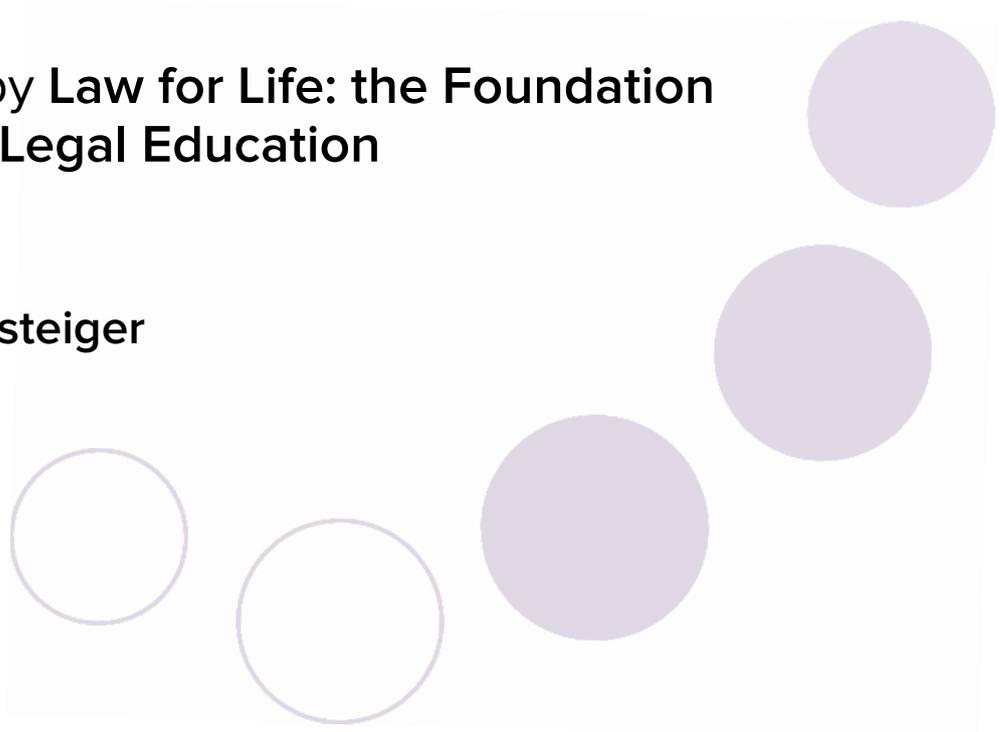


Legal Needs, Legal Capability and the Role of Public Legal Education

A Report by **Law for Life: the Foundation
for Public Legal Education**

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Law for Life: the Foundation for Public Legal Education is an education and information charity that aims to increase access to justice by providing everyone with an awareness of their legal rights together with the confidence and skills to assert them.

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Executive summary

Introduction

The following report analyses the findings of the 2010 and 2012 UK Civil and Social Justice Panel Survey¹ alongside some of the underlying policy contexts for public legal education and information (PLEI) developments. The findings reveal on-going significant gaps in legal knowledge and capability amongst the UK population, creating substantial barriers to access to justice and undermining the rule of law.

The unevenly distributed profiles of legal capability in the population correlate with other aspects of personal capability, and compound underlying disadvantage. The research confirms that the way in which people come to understand the law and legal processes is framed by pre-existing beliefs and attitudes and by their social and familial settings. Confidence or lack of it impacts on their ability to act effectively and navigate day-to-day legal encounters.

Perhaps most pressingly, the findings confirm the need to recognise the lack of reach of traditional legal services into the lives of people who experience common and sometimes complex legal issues, their reticence to seek legal advice and the concomitant need to reshape justice policies to be more responsive and proactive in providing multidimensional forms of assistance in a timely and targeted way.

To this extent justice policy lags far behind advances in financial, health and consumer education that have promoted positive teaching methodologies that are more dynamic and engaging, involving innovative on and offline environments with integrated, concrete, practical help to allow individuals to see the real-life value of education and information.

Key findings

The emergence of legal problems

- Half of the UK population will experience a civil justice problem every 36 months, falling to just under 1/3 of the population every 18 months.
- The most common legal issues emerge from day-to-day social and economic interactions: consumer, employment, neighbour and money management issues account for more than half of all problems reported.

1 The Civil and Social Justice Panel Survey (CSJPS) is a nationally representative survey of people's experience of, and response to, problems with a legal dimension and involved face-to-face interviews with 5,113 respondents aged 16 and over in their own homes across two waves, the first in 2010, the second in 2012.

- Some people are more likely to experience legal problems. Vulnerability to legal problems increases as a consequence of low income, age (being young or older), reduced educational qualifications, and ill-health. In addition, manual and routine workers as well as migrants are particularly prone to legal problems.
- Over half of the people who experience legal problems describe negative impacts including stress-related ill-health, loss of income or confidence, physical ill-health and family breakdown. The collective impact on the wellbeing of individuals and the economy is staggering.

Understanding legal rights

- There is a substantial knowledge deficit in the UK. Most people lack effective knowledge of legal rights, and many people misinterpret or misunderstand their rights.
- When tested with fact-based scenarios, on average 59% of people are able to demonstrate some understanding of their rights, however there is significant variation across legal areas.
- Only 25% of people claim to know their legal position completely when they experienced a legal problem, rising to 45% of people who claim mostly to know their rights.
- Knowledge of rights in regard to family problems is worryingly low, with only 38% of people knowing some of their rights in the case of domestic violence, and 37% in the case of divorce or separation. Knowledge of employment rights and welfare entitlements both fall below 40%. Some areas of law are particularly prone to misinformation, such as consumer law.
- Overall, younger and older people, lower skilled workers, and migrants appear to have less knowledge than other groups.

Legal capability and legal services

- Most people handle their legal problems alone. Only 6% of people use a lawyer for their legal problems, a further 4% use advice agencies. Awareness of legal services is low.
- Only 11% of people identify legal problems accurately. Characterizing a problem as legal more than doubles the likelihood of an individual seeking legal help, and substantially increases the likelihood of getting some kind of help rather than handling the issue alone.
- Internet use is on the rise, around 25% of people use the Internet to solve legal problems, however not everyone is able to use online provision well.
- Legal capability was a key indicator for the effective use of legal services. People with low levels of legal capability are more likely not to act, and less likely to sort things out alone. They are less able to successfully solve legal problems, and are twice as likely to experience stress-related ill-health, damage to family relationships and loss of income.

Beliefs and attitudes about the law

- Beliefs about law are bound to people's social and cultural contexts. Their sense of fairness and wider norms inform how they interpret the legal dimensions of their lives.
- Legal problems are more complicated than people believe. Around 50% of people feel confident that they can achieve a fair resolution to a prospective issue until they encounter a legal problem.
- Levels of confidence decline significantly when a real legal problem occurs, with an even greater decline as more legal problems are experienced.
- Problems relating to money, welfare benefits, domestic violence, care proceedings and clinical negligence are the issues that have a particularly negative impact on levels of confidence and a sense of disempowerment
- Older people over 60, new migrants and people in poor physical and mental health all had less faith in their ability to resolve issues positively, and within households this lack of faith tended to be felt more generally.
- The characteristics of people with low levels of legal capability are the same as those who are at greater risk of experiencing legal problems, a fact that compounds their risk of becoming socially excluded.

Recommendations

1. Integrating PLEI² into wider services and improving coordination of stakeholders

The evidence suggests the urgent need for justice reforms to focus on the capability of individuals and communities in solving everyday legal issues. Future reform agendas should:

- Recognise the importance of PLEI in triage, appropriate referrals to legal services and to wider health and social assistance programmes;
- Recognise the underlying role of social and community programmes that provide the settings for PLEI interventions;
- Recognise the importance of wider stakeholders in improving the quality and interconnectedness of information and education for the public, including legal services regulators, traders and public service providers;
- Recognise improved levels of legal capability are a criterion for accessing legal services effectively; and
- Recognise that PLEI is a vital tool in early intervention, preventing problems from escalating later on.

2 Public legal education and information is referred to as PLE and PLEI interchangeably throughout the report to recognise the broad scope of practices involved.

2. Selecting the most appropriate approaches in PLEI

Legal capability is a life skill. There is a significant range of capability amongst citizens, with the most vulnerable being the least capable. There is therefore a need to focus on methods for improving legal capability through multidimensional, tailored, intervention designs aimed at key groups and legal issues. Recommendations for improvements in the quality and effectiveness of interventions include:

- Encouraging learning from wider sectors and integrating lessons learned from financial, consumer and health education fields, amongst others.
- Promoting teaching methods and practices for use in PLEI that are much more dynamic; empowering and engaging, with a question-driven (not answer-driven), deliberative curriculum;
- Encouraging innovative learning environments with integrated, concrete, practical tools to help individuals see the real-life value of legal information and education;
- Embedding PLEI in lifelong learning and vocational training; and
- Recognising legal capability as a key life skill that has benefits on both a personal and national level, proving a rationale for national governments to fund PLEI to achieve more effective participation in social and economic life.

3. Defining the objectives and strategies of PLEI, and evaluating outcomes

Justice sector outcomes measurement focused on timely, fair and lasting resolution to legal problems need to incorporate elements of legal capability as fundamental to access to justice and the rule of law. A future research agenda needs to:

- Assess how people are better enabled through multidimensional channels to understand their legal position and know what they can do, and how to do it;
- Assess how different types of PLEI interventions result in improved levels of capability and the wider impact of improved capability on socio-economic outcomes;
- Establish a clearer baseline for legal capability amongst vulnerable groups in order to measure long-term impact of PLEI programming on access to justice;
- Investigate further the interrelationship between knowledge, skills and confidence and the impetus for behaviour change; and
- Investigate further the pedagogical aspects of PLEI.

1

What is public legal education and information and how is it used?

- 1.1 Public legal education and information is perhaps the oldest and most widely used form of legal assistance delivered around the world, yet paradoxically has only more recently become a clearly defined field of practice and one of the most promising areas of justice innovations (Barendrecht et al, 2011, 2012; PLEAS Task Force, 2007; Gander, 1999). The nature and scope of PLE varies significantly across jurisdictions. Broad terminology associated with PLE includes concepts such as justice education, legal literacy, legal empowerment, and community legal education. The scope of activities involved in public legal education is invariably wide, encompassing a diversity of legal issues in contemporary life, and ranging from basic information to enhanced education.
- 1.2 Though the beneficiaries of PLE could potentially include any member of the wider public, a notable target for PLE activities are groups that experience specific barriers in gaining access to justice such as older people, minority groups, young people, and welfare recipients (Buck et al, 2008; Clarke and Forell, 2007). Increasingly, community based strategies target non-legal workers, including community leaders, youth workers, health workers and social care providers as a means of reaching socially and economically disadvantaged people with legal problems (Coumarelos et al, 2012; Wilczynski et al, 2014; Mackie, 2013).
- 1.3 Activities range from face-to-face education workshops to TV and radio, information materials, websites, text messaging and phone apps. Public legal education has a number of aims that include:
 - Spreading awareness of legal procedures and approaches to problems;
 - Helping individuals and groups to understand and exercise their legal rights and obligations;
 - Fostering self-help activities;
 - Counteracting relations of dependency between lawyers and clients;
 - Demystifying law; and
 - Supporting the autonomy of groups to pursue other forms of social action.
- 1.4 The aims of PLEI can be organised around supporting self-help, raising awareness, and law reform combined with community organising, though many activities invariably over-lap. Much of what is intended has a preventive focus, and seeks to avoid unnecessary legal disputes or escalating conflicts (Buckley, 2013; Gander, 1999; Garth, 1980, 138–9). Legal awareness-raising may be focused on a particular change in the law to warn people of new obligations, or it may be aimed at dealing with common misconceptions and legal myths, such as the existence of common law marriage (Reece, 2014). Awareness-raising can also target particular groups who have been identified as being excluded from effective legal protection (Goodwin and Maru, 2014).

- 1.5 The ultimate aim of achieving more capable and empowered citizens in everyday legal interactions is apparent across most PLEI programmes. Beyond the more recent focus on PLEI as a means of supporting self-sufficiency amongst those people who are unable to access legal advice (CJC, 2011; Lawler and Giddings, 2013), PLE literature emphasises that information and education about the law is intrinsic to the work of democratic engagement and citizens' participation: "the ultimate goal of PLE is to assist the public to understand that the justice system is a public institution – that they are not just the beneficiaries of the system but the stewards of it" (Gander, 2003, 4). PLE therefore also aims to help people understand particular laws and legal systems with a view to engagement with political processes (McCann, 1998; Goodwin and Maru, 2014).
- 1.6 Many PLE providers offer both information and education services,³ but draw distinctions between the purposes of each. Legal information is generally associated with more or less extensive details about particular legal situations and rules. Education, on the other hand, provides the mechanism for applying and implementing the information in a contextualised way. Education affords a critical dimension in which action can be fostered rather than the passive receipt of information as well as addressing the particular life-circumstances that people are in. Individuals are therefore empowered in their relationship to legal service providers and more able to solve problems at an early stage if legal information is easily accessible and available as early as possible when a particular need arises.
- 1.7 This feature is emphasised in much of the international PLE literature, but has also been recognised in the related fields of health prevention, consumer and financial education. Effective health education, it is suggested, "emphasises the active involvement of students in constructing their own knowledge and action competence, in contrast to the passive view of the learner in information-based programmes" (Jensen, 2000, 146). Equally, consumer education has been designated as a legal right of European consumers to be fulfilled jointly by the European Community and the Member States (Nordic Council, 2009). New directions for achieving scale in consumer education would need to ensure that it is "based on the needs of the consumers and the special characteristics of their own consumption. The content of consumer education needs to more closely correspond with the demands of daily life." (Ibid, 2009, 27). Innovations in these related fields point to the interface between information, education and wider forms of popular and social media both within and beyond formal education settings.

3 The Canadian Department of Justice defined Public Legal Education and Information (PLEI) as "an activity that seeks in a systematic way to provide people with the opportunity to obtain information about the law and the justice system in a form that is timely and appropriate to their needs, but does not include advocacy or representation on behalf of individuals, nor the provision of legal advice" (Department of Justice, Access to Justice Agreement 2007–2009).

2

Public legal education and information in context

The international context

- 2.1 Public legal education has experienced a period of rapid growth in the last decades, and exists to some extent in many if not all jurisdictions. PLE, particularly as it appeared in the middle of the twentieth century in North America, was a strategy invoked in civil rights movements and poverty alleviation programmes (Gander, 1999; Garth, 1980). More recently, PLE has re-emerged in anti-poverty and rule of law initiatives (World Bank, 2004; UNDP, 2008; Golub, 2007), transitional justice and human rights education (Hrlović, 2013; Ramirez et al, 2007), and wider clinical legal programming (Grimes, 2008). Funding nevertheless remains patchy and somewhat irregular even in jurisdictions where it is more established such as Canada and Australia (PLEAS Task Force, 2007).
- 2.2 International development literature frequently refers to ‘legal literacy’, the phrase having expanded from its original association with the capacity of lawyers to conduct their business to encompass “that degree of competence in legal discourse required for meaningful and active life in our increasingly legalistic and litigious culture” (White, 1983, 144). The phrase is increasingly applied to large-scale judicial and legal reforms programmes as a method for improving the capacity of vulnerable groups to seek legal protection despite barriers caused by language, general literacy and geographical remoteness (World Bank, 2004; Goodwin and Maru, 2014; Law for Life, 2013). For example, studies in gender equality document a variety of practices as means of reaching women and embedding a culture of women’s rights by educating policy makers, police, prison guards and the judiciary (Kamau, et al, 1997, 15, 25–27).
- 2.3 Another branch of development-oriented practices falls under the rubric of ‘legal empowerment’. Legal empowerment describes a range of alternatives to ‘top down’ rule of law initiatives in both civil and criminal jurisdictions. Legal empowerment comprises the use of legal services such as legal aid clinics and paralegals, often in combination with related development activities, to “increase disadvantaged populations’ control over their lives” (Golub, 2003, 3). Practices aim to treat disadvantaged groups and their lawyers as partners instead of being mere service providers; vulnerable groups are encouraged to directly influence decision makers; and the emphasis is on non-judicial strategies that are integrated into wider development practices (Banik, 2009, 128).
- 2.4 The growth in public legal education alternatives around the world as a mechanism for meeting the legal needs of disadvantaged communities and securing access to justice offers an increasingly rich evidence base from which to draw innovations at a time of state retrenchment. Large-scale PLE programmes have recently been initiated in China (Van Rooj, 2012), Africa (World Bank, 2004) and reporting suggests broad engagement in PLE activities in 35 other jurisdictions (Grimes, 2008; Goodwin et al, 2014).

UK context

- 2.5 In the UK, a concerted effort to grapple with the fragmented nature of PLE was undertaken by a broad coalition of agencies under the auspices of the Public Legal Education and Support Task Force (PLEAS), convened in 2006. The subsequent report⁴ underlined the role of PLE in meeting the combined needs that people have in the form of legal knowledge and skills in day-to-day interactions, alongside the ability to access the institutional frameworks required to secure formal legal redress.
- 2.6 The Task Force reported that “[p]ublic legal education provides people with the 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. Equally important it helps people to recognise when they need support, what sort of advice they need and where to get it” (PLEAS Task Force, 2007, 13). The UK definition places an emphasis on legal capability as the goal of public legal education interventions and highlights the social benefits these interventions can offer, “[PLE] has a key role in helping citizens to understand the law and to use it more effectively in their daily lives, bringing many different individual and social benefits. PLE is the missing element in the creation of the legally-enabled citizen” (PLEAS Task Force, 2007, 15).⁵
- 2.7 Legal capability is a phrase that has been conceptually mapped taking inspiration from the capabilities approach appearing in a number of disciplines, notably development, human rights, health, and discrimination (Nussbaum, 2011; Sen, 2009; Wolff and De Shalit, 2013). The conceptual model of legal capability encompasses subjective capabilities: the skills, knowledge and confidence that are needed to cope with day-to-day legal situations, alongside the awareness of legal and political mechanisms for effective reform. (PLEAS, 2007, 15). Following conceptual work in the UK a framework of legal capability has been designed to encompass the following four interrelated ‘domains’ (Collard et al, 2011):
- Recognising and framing the legal dimensions of issues and situations;
 - Finding out more about the legal dimensions of issues and situations;
 - Dealing with law – related issues and situations; and
 - Engaging and influencing.
- 2.8 A number of individual and social factors will impact on legal capability. In terms of the design and evaluation of PLE interventions, these factors have a significant impact on any attempt to measure levels of legal capability (Collard et al, 2011; Parle, 2009; Pleasence, 2014; Brousalis, 2015). Socio-demographic factors include: age, gender, ethnicity, household composition, housing tenure, level of education, household income, employment status, and health status. Other factors such as attitudes and motivations may also help to explain someone’s level of legal capability. For example, an individual’s self-efficacy may play a

4 *Developing Capable Citizens: The role of Public Legal Education* Task Force report (2007) www.pleas.org.uk/uploads/PLEAS%20Task%20Force%20Report.pdf [accessed February 2015].

5 For a wider discussion on legal capability, see Pleasence et al. *Reshaping Legal Assistance Services: Building on the Evidence Base*. Law and Justice Foundation (2014, 121–149).

considerable role in how that individual approaches goals, tasks and challenges (Luszczynska and Schwarzer, 2005). Other psychological constructs, such as action-orientation,⁶ may also prove to be significant in explaining someone's legal capability.

- 2.9 PLE in the UK commonly involves multidisciplinary and largely informal educational practices. Activities span from TV and radio, information leaflets, community and school based teaching, awareness raising campaigns, to grass-roots organising on specific issues that include a legal component such as discrimination, housing rights, youth empowerment, and vulnerable worker initiatives (Mackie, 2010, 2013; Parle, 2013; Pollert, 2008). A notable shift in the UK to digital and technology-focused solutions in PLE is underway (Smith and Paterson, 2014; Justice, 2015), recognising innovation in a number of jurisdictions of integrated web-based solutions to legal informational needs and online dispute resolution opportunities (Bickel et al, 2015; Smith and Paterson, 2014; Barendrecht, 2011; Gander, 2002).

Regulation of legal services

- 2.10 Changes to the justice landscape in the context of regulatory reform have emphasized consumerism in the broad deregulation of the market for legal services under the aegis of the Legal Services Board (Clementi, 2004; Flood, 2008, 2011). The objective of increasing choice and competition as a mechanism for improving access to justice is underpinned with a requirement of increasing public understanding of citizens' legal rights and duties (Legal Services Act 2007, s1). 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.
- 2.11 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. Under the present provisions, the Legal Services Board views the objectives under the Act as a whole, and that of securing access to justice as including both information about rights to individual consumers, as well as routine transactional services and advice, including court based representation (LSB, 2010, 5–6). Only those providers offering reserved legal activities fall under the regulator's specific ambit,⁷ this means that wider legal information provision falls ambiguously outside in large part, and education appears to fall out altogether.
- 2.12 This raises concerns regarding the quality of public legal information and education available to consumers given the existing informational disparity. Consumers have been largely deemed unable to judge quality directly.

6 The likelihood of the performance of an action is influenced by their action-orientation (Kuhl et al, 2012).

7 Reserved activities include the exercise of a right of audience; the conduct of litigation; reserved instrument activities; probate activities; notarial activities; the administration of oaths. The Legal Services Board reports there is virtually no publicly available information on the unreserved sector but it is estimated to be at least as large as the reserved sector employing upward of 130,000 people (2012, 81).

According to the Legal Services Board: “the legal world is felt to be above most consumers’ heads; [and] consumers are relatively inactive in terms of comparing different firms’ offers” (LSB, 2012). Deregulation has led to a growth in Alternative Business Structures (ABS), particularly in the areas traditionally used by low-income groups such as social welfare, debt and consumer matters (SRA, 2014). The effect on access to justice overall is not yet clear, although wider quality concerns and gaps in legal information have been reported (Advicenow, 2007, 2014).

Legal aid and litigants in person

- 2.13 Despite rapid changes in the legal services market, current estimates are set to see litigation without representation increase by 40% in family proceedings (Bevan, 2013). In the area of small claims and tribunals, the numbers are traditionally 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 (Moorhead and Sefton, 2005; Williams, 2011). 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, fails to meet the needs of many of their users (Justice, 2015; Cappelletti, 1979).
- 2.14 Studies into the demographic of litigants in person also point to specific vulnerabilities: many are younger and lower income litigants, and a significant minority exhibit vulnerability factors such as mental illness, drug and alcohol dependencies and young parents (Hunter et al, 2014; Bevan, 2013, 44). Evidence suggests many more court users for whom legal costs are prohibitive will struggle with procedural and substantive knowledge when accessing formal procedural contexts (Advicenow, 2014).
- 2.15 The rise in litigants in person coincides with major changes to the scope and availability of funding for legal services, reductions in court assistance and wider increases in fees payable by claimants when starting court and tribunal proceedings (Justice, 2015, 1). On-going cuts to local authority budgets also heavily impact on the ability of advice agencies to meet the rising tide of need, with advice agencies reporting closures and staff reduction (Wintersteiger, 2015; Byrom, 2013).
- 2.16 Legal education and information proposals have appeared in a variety of policy initiatives and proposed reform activities in the UK – from professional regulation to provision for litigants in person (Roy, 2013; Civil Justice Council, 2011), to reform propositions in employment regulation and welfare reform initiatives (Low Commission, 2014 and 2015; Justice, 2015). Despite this increased attention on public legal education solutions, there has yet to be a coherent response to the growing body of evidence that preventative and early intervention options require substantial and sustained investment to achieve economies of scale (PLEAS Task Force, 2007; Barendrecht, 2011).

Legal complexity and the rule of law

- 2.17 In an increasingly complicated legal world, with ever more areas of social life implicated by law, and increased penalties for failing to pay heed to the legal rules that regulate the most mundane of activities, the need for better understanding of the law is paramount. For individuals who rely on the state for

the provision of basic income and shelter the sense of being trapped by law and its agents can be significantly magnified (Sarat, 1990; Cowan, 2004). Different forms or modes of juridification of social spheres⁸ pose the problem of the extent to which people feel able to make sense of the world around them, and feel a part of the legal framing that legal rules and obligations afford (Blichner and Molander, 2008).

- 2.18 In the UK 14 million people are considered to be at risk of poverty or social exclusion (ONS, 2013);⁹ welfare benefit reform has accelerated considerably with the extension of conditionality and workfare schemes and increased sanctions and reductions of income during dispute periods (Daguerre and Etherington, 2014, 21–41; Finn and Casebourne, 2012). Similarly, employment reform under the Coalition Government saw major changes to employment rights protection and access to Employment Tribunals (Hepple, 2015). These reform agendas carry with them significant implications for the framework of knowledge of rights and responsibilities and threaten to further exacerbate the impact of low levels of legal capability for some of the most vulnerable people in society.
- 2.19 The rule of law demands that individuals must be able to ascertain what the law is if they are to abide by it as well as seek equal protection from it (Bingham, 2011, 37–47; Tamahana, 2004; Santoro et al, 2007). Attempts to codify and simplify the law on the books have met with limited success. Complex primary and secondary legislation, and increased international and trans-national Treaty obligations create multi-layered hierarchies of regulation. Commenting in 2008, the Law Commission concluded attempts to simplify the law since the 1970’s had failed. “The complexity of the common law in 2007 is no less than it was in 1965. Further, the increased pace of legislation, layers of legislation on a topic being placed one on another with bewildering speed, and the influence of European legislation, continue to make codification ever more difficult”(2008, 8).
- 2.20 Public legal education and information practices sit at the juncture between assisting people with the everyday resolution of legal problems and helping citizens to navigate and participate in contemporary social and political life (Gander, 1999; Wintersteiger, 2013; Garth, 1980). PLE practices provide tools to serve the need for contemporary societies to both understand and critically assess the laws they are bound by. Improved knowledge of new laws, targeted to those that need to know about them, in formats that are accessible to them is a vital aspect of stemming the tide of legal exclusion.

8 Juridification refers to various aspects of the increase in volume and intensification of legal regulation. See Teubner. G, *Juridification of Social Spheres: A comparative analysis in the areas of labor, corporate, antitrust and social welfare law* (1987).

9 Office of National Statistics, *Poverty and Social Exclusion in the UK, 2005–2011, 2013* www.ons.gov.uk/ons/rel/household-income/poverty-and-social-exclusion-in-the-uk-and-eu/2005-2011/rpt--poverty-and-social-exclusion.html [accessed February 2015].

3

The findings of the Civil and Social Justice Panel Survey 2010 and 2012: Public legal education perspectives

- 3.1 This report provides fresh evidence of the links between legal capability and access to justice. A lack of basic awareness and knowledge of laws and legal processes results in the denial of the most fundamental protections promised by the rule of law, and entrenches existing social and economic disadvantage. Without sustained investment in PLE, the levels of legal exclusion evidenced in successive legal needs studies will continue to grow.¹⁰ This increasing and unremarked exclusion is coupled with accelerated legislative activity producing ever more complex primary and secondary rules that people should be aware of, whilst the loss of access to formal routes of affordable legal help serve to compound the problem for many people (Law Commission, 2008; Justice Committee, 2015; Wintersteiger, 2015).
- 3.2 The research findings presented here are drawn from the most recent English and Welsh Civil and Social Justice Panel Survey (CSJPS) conducted in two waves in 2010 and 2012. This large scale survey offers a representative sample of the general population's experience of legal problems, and reveals new extensive findings about awareness of legal rights and legal services amongst the public, the way in which knowledge is acquired over time, as well as emphasising the way in which subjective legal empowerment levels impact on the experience and resolution of legal problems.

a. The emergence of legal problems: prevalence, propensity, and consequences

Overview

- Half of the UK population will experience a civil justice problem every 36 months, falling to just under 1/3 of the population every 18 months.
- The most common legal issues emerge from day-to-day social and economic interactions: consume, employment, neighbour and money management issues account for more than half of all problems reported.
- Over half of the people who experience legal problems describe negative impacts. The most common impacts were stress-related ill-health, loss of income and/or confidence; followed by fear, physical ill-health and family

¹⁰ Legal exclusion is multifaceted and can include the denial of due process or access to the courts, (Kritzer, 2012), specific policing and security tools including rendition (Basaran, 2010) as well as denial of access to advice or substantive rights. In the context of legal capability, the close association with political and legal exclusion is also noted, giving legal exclusion a much wider meaning and socio-political effect.

breakdown. The collective impact on the wellbeing of individuals and the economy is staggering.

- Vulnerability to legal problems increases as a consequence of low income, age (being young or older), reduced educational qualifications, and ill-health. In addition, manual and routine workers and migrants are prone to legal problems.

- 3.3 On average, more than a third of people in the UK experience at least one legal problem every 18 months. This figure increases to 43% of people surveyed over a period of 36 months. With a UK population of around 64 million, civil justice problems – large and small – are extremely common and drive an array of impacts on the social and economic health of the nation (PLEAS Task Force, 2007; Pleasence et al, 2007).
- 3.4 The likelihood of experiencing problems is linked to the type of legal issue: unsurprisingly certain areas of life are much more likely to give rise to problems than others. The most common legal issues emerge from day-to-day social and economic interactions. 18% of people had consumer problems, followed by neighbours (13%), employment (13%), money (10%) and debt (9%). Problem frequency to some extent masks the far greater number of legal interactions that are encountered day-to-day from which problems might emerge or ‘erupt’ (Hadfield, 2015; Genn,1999). The findings point to the extensive need for the knowledge and skills to navigate everyday legal issues and therefore to avoid unnecessary legal problems from occurring.
- 3.5 For most people, one of the myriad legal interactions that are encountered will eventually go awry, and will become problematic in some way. This might simply be a minor consumer matter, or a much more serious calamity such as the loss of a job or personal injury. For some people the propensity toward problems occurring is much greater. The findings confirm increased vulnerability as a consequence of low income, age, reduced qualifications and ill-health. Mental ill-health is a major factor driving the propensity to problems. These personal and social determinants interrelate with levels of legal capability and have a significant bearing on the ways in which legal problems will be experienced.
- 3.6 Over half of the people who experience legal problems describe the negative impacts that these issues had on their lives, and that these were likely to have additive effects, with one problem contributing to further problems. All legal areas had some potentially negative impact, though some more than others. The most common impacts were stress-related ill-health, loss of income, and confidence; followed by fear, physical ill-health and family breakdown. The collective impact on the wellbeing of individuals and the economy is staggering. Previous research has pointed to the scale of costs to individuals and the public purse of unresolved legal issues over a period of 3–5 years estimated at 13 billion pounds (Pleasence, 2006).

b. Understanding legal rights: actual and professed knowledge of the law

Overview

- There is a substantial knowledge deficit in the UK. Most people lack effective knowledge of legal rights, and many people misinterpret or misunderstand their rights.
- Only 25% of people claim to know their legal position completely when they experienced a legal problem, rising to 45% of people who claim mostly to know their rights.
- When tested with fact-based scenarios, on average 59% of people were able to demonstrate some understanding of their rights, however there was significant variation across legal areas.
- Knowledge of rights in regard to family problems is worryingly low, with only 38% of people claiming to know some of their rights in the case of domestic violence, and 37% in the case of divorce or separation. Employment rights and knowledge of welfare entitlements both fall below 40%. Some areas of law are particularly prone to misinformation, such as consumer law.
- Overall, younger and older people, lower skilled workers, and migrants appear to have less knowledge than other groups.

- 3.7 Most people struggle to comprehend their legal rights, and the obligations that they have as citizens. The overall picture for the extent of legal knowledge in the general population is bleak. In the present limited study of three areas of law in hypothetical testing an average of 59% of respondents had some knowledge of rights. While this suggests some very basic awareness of legal rights, it should be emphasised that statistically speaking, the correct answers the respondents gave were only slightly higher than would have been the result of pure chance.¹¹
- 3.8 Hypothetical scenarios shine a light on the extent to which knowledge is unevenly distributed amongst different areas of law and according to the social and economic background of those surveyed. Housing and employment matters showed a somewhat heightened level of knowledge in respect of the study (71% and 66% respectively), however this is variable amongst different groups. Overall, older people, lower skilled workers, and migrants appeared to have less knowledge than other groups when tested. This echoes prior research that found that the most vulnerable workers who were most at risk of experiencing poor employment practices were also among the least knowledgeable about their rights (Casebourne, et al, 2006).
- 3.9 Specific areas of law are particularly problematic in terms of knowledge gaps, and whether or not those gaps are even perceived by the individual. This means

¹¹ Pleasence et al, 2015, 74.

the picture of the real extent of knowledge in the population is complicated further by the way in which people misjudge what they think they know. Profound ignorance is described in the realm of consumer law, with only 34% achieving correct answers when asked about common consumer scenarios – even less than would have been scored through simply guessing right or wrong answers. Yet this is the area of law in which people profess the highest levels of knowledge. Conversely, where people scored relatively well in housing and employment scenarios, when asked what they knew at the time of a real life problem, they claimed to know very little (only 18% of people that experienced employment problems and 19% of people with housing problems claimed to fully understand their position).

- 3.10 Only 25% of people claim to know their legal position completely at the outset of a legal problem, rising to 45% who mostly claim to know their position. This is in line with prior research in which 35% of people claimed to know their rights at the time they experienced a problem (Balmer et al, 2010). However, those who do profess knowledge are not necessarily able to articulate what their rights are when prompted (Denvir et al, 2013). This ability is vital in the context of negotiating or bargaining when a real legal situation is at stake and failure to express the legal position clearly and confidently can undermine the strength of a disputant's position.
- 3.11 The drivers of legal knowledge are not necessarily about the situation an individual is in, or whether they have had a problem before, but are linked to personal characteristics including age (with younger people claiming less knowledge), the extent to which English was spoken at home (leading to less knowledge), and qualifications (both lower professional status and education are linked to decreased knowledge). Knowledge of the advice sector was also a factor linked to knowledge of rights, as was the subjective legal empowerment that people experienced, with half of those who had little confidence in getting a fair outcome also claiming no knowledge of their rights. The findings show that the least privileged in terms of status and experience – manual workers, migrants and young people – are also the least knowledgeable about their legal rights.
- 3.12 People claimed to know more about some areas of law than others. Rights on mortgage possession and arrears are professed to be relatively well understood (60% of people) compared to only around 40% of people claiming to understand their rights in relation to debt, housing disrepair, rent arrears or eviction. Knowledge of rights in regard to family problems are worryingly low, with only 38% of people knowing some of their rights in the case of domestic violence, and 37% in the case of divorce or separation. Another area of specific concern relates to employment rights and knowledge of welfare entitlements, both under 40%. Notably many of the areas of law that have fallen out of scope of legal aid entitlements and wider reductions in the supply of legal advice are also at the lower end of the knowledge spectrum.
- 3.13 The analysis of the first and second waves of the Civil and Social Justice Panel Survey reveals how people gain knowledge about legal issues once they encounter them. Once again, the ability to acquire knowledge was stratified according to personal characteristics and the legal capability expressed in the first wave of surveys. Those who knew little or nothing about their legal rights progressed very little, only 41% increased their knowledge somewhat. Young

people, lower skilled workers, and older people (over 60's) were all less likely to increase their knowledge. Those who lacked confidence in a fair outcome, or who were not able to recognise their problem as legal did not increasing their knowledge substantially over time.

Discussion

- 3.14 The findings highlight that there is often a real difference between what people claim to know and what they do actually know, and that this lack of knowledge seems to be difficult to improve – even when a problem occurs. The research approach of testing real as opposed to presumed knowledge is invaluable from a public legal education perspective. People have a very skewed view of what they do, in fact, know about law, and this can change how they seek legal information and understand their legal rights.
- 3.15 The study confirms that what people think they know about law has complex features, cognitively and culturally. Very often, people will indicate levels of confidence about something they don't yet realise they know very little about. This cognitive bias may be linked to a number of explanations, but can result in mistaken assumptions about legal processes, remedies and outcomes. At the most basic level this can lead to misunderstanding about who enforces certain legal rights. An evaluation of a public legal education course found that when asked whether they knew the difference between civil and criminal law 56% of respondents said 'yes'. But observations of the discussions of the topic during the sessions highlighted that the great majority of participants did not understand the difference between civil and criminal law (Mackie, 2013, 26).
- 3.16 The findings also emphasise the limitations of the reliability of self-reported knowledge. When relying on the recall of events, which may be construed as more or less important to the individual concerned, and with more or less underlying knowledge of the legal dimensions of a problem, there are significant challenges for the communication and understanding of such events (Pleasence, 2011, 25). These same difficulties impact on the design of legal needs assessments in the preparation for PLE interventions. The assessments may be most fruitfully developed in tandem with a range of stakeholders in order to get a clearer picture of levels of legal capability, along with testing in the form of simple quizzes or questionnaires that assess the gap between professed and actual knowledge (Mackie, 2013, 13).
- 3.17 Finally there is clear indication of the importance of the wider role of regulators in directing the activities and standards of legal information. Retailers, the findings suggest, have a major role to play in the knowledge of consumer rights, and their accuracy. Equally the burden may fall on employment, housing and work and pensions regulation to make proactive interventions in the information disparity that exists between tenants and landlords, employers and employees, and creditors and debtors.

c. Legal services and legal capability

Overview

- Most people handle their legal problems alone. Only 6% of people use a lawyer for their legal problems, a further 4% use advice agencies. Awareness of legal services is low.
- Only 11% of people identify legal problems accurately. Characterizing a problem as legal more than doubles the likelihood of an individual seeking legal help, and substantially increases the likelihood of getting some kind of help rather than handling the issue alone.
- Internet use is on the rise, around 25% of people use the Internet to solve legal problems, however not everyone is able to use online provision well.
- Legal capability was a key indicator for the effective use of legal services. People with low levels of legal capability are more likely not to act, and less likely to sort things out alone, and less effective at using the Internet. They are less able to successfully solve legal problems, and are twice as likely to experience stress related ill-health, damage to family relationships and loss of income.

Awareness of services

- 3.18 Very few legal problems ever reach the door of legal or advice services. According to the CSJPS 2010 and 2012, only 6% of people overall use a lawyer,¹² and a further 4% use the advice sector. More commonly, people will turn to friends or family (15%) or sort things out alone (43%). Problem handling shows a consistent tendency for people to manage their legal problems independently, in some cases by choice, and others because they may not realise that help may be available. Understanding how people sort out their legal issues and choose sources of help is crucial for the design of PLE initiatives.
- 3.19 In a wide ranging review of access to justice in low, middle and high income jurisdictions, the overwhelming focus of justice sector reforms have continued to be on courts and legal processes, yet most people achieve resolution to their problem by themselves. The conclusions reached are the same the world over, “resolution through agreement by the parties is the normal way to solve disputes, adjudication is the exception” (Barendrecht, 2011, 44). The focus of interventions then begins at the level of the individual that is compelled to plan, negotiate, bargain and reconcile their rights in a given legal matter, that likely as not will never reach adjudication elsewhere.

12 By way of contrast, the lowest level of lawyer use has been at 4% in the cases of the 2006 Japanese and 2011 Moldovan legal needs surveys, 11% in the Netherlands, and the highest as 29% in the 1998 Scottish survey. Interestingly, UK surveys since 1997 show a fairly constant prevalence of legal problems, with a decline in lawyer use from 27% in 1997, to 6% in 2012 (Pleasence et al, 2013).

- 3.20 The CSJPS 2010 and 2012 survey findings point to the consistent failure of legal services to reach the majority of people that experience legal problems. Awareness of legal services is limited, with around half of survey respondents only being able to identify half of the available sources of help. Some services were much more prominent: 91% of people know something about Citizen Advice, yet only 22% are aware of Civil Legal Advice.¹³ Local councils, solicitors and CAB's were the most common sources of advice about which something was known. However knowledge of services is partial, with many people wrongly indicating the scope of the service. For example, 60% of people failed to realise that solicitors can deal with housing problems, 50% thought they didn't help with employment, and very worryingly, 46% thought they couldn't help with domestic violence.
- 3.21 Factors that had a bearing on the awareness of legal services were previous contact with one or more of the advice services, age (with youngest and oldest being least likely to know about services), non-English speaking migrants (particularly new migrants), education levels (particularly trade apprentices or those without qualifications), and the existence of a mental health issue. Notably, young people bore several characteristics associated with lack of awareness, often having less academic qualifications and lacking experience of having used services before.
- 3.22 Of the overall small numbers of people who do seek advice for their problems, the most commonly used sources of advice were for issues with neighbours (20%), family (11%) and employment (18%). People have very different hopes for what they will get from their advisers; very often the desire to have their rights explained drove people to seek help, suggesting a more complex need than simply gaining information about legal rights. Others want help to sort the problem out or talk issues over; this fundamentally points to the need for services that give people the opportunity to explore and talk about what is happening to them. From a PLE perspective these needs lend themselves well to the community education functions, workshops and pre-court interventions that have been shown to have some success (Wilczynski et al, 2014).
- 3.23 CSJPS data shows that the measure of severity of issues was a driver of seeking formal assistance, and those issues that last a long time tend to push people toward seeking help. Legal capability was a key indicator of how a person would respond, with the less capable being more likely not to act. The explanations that people give for their choices offer important openings for PLE interventions. Those people that couldn't afford legal advice or who didn't know what to do or where to go are primary targets for PLE interventions. Evidence shows that poor problem handling techniques are likely to become entrenched strategies. Interventions for people at an earlier stage, through schools-based curricula or lifelong learning opportunities can affect benefits for future modes of coping with legal problems, and improving knowledge of alternative sources of help.

13 This echoes the findings of the review of the Civil Legal Advice Mandatory Gateway suggesting frustration and confusion about the role of CLA. See Ministry of Justice, Ministry of Justice Analytical, *Civil Legal Advice Mandatory Gateway Findings from interviews with service providers Series*, Patel. A, Mottram. A, Samra. M, Ryan-Mills. A and Moreton. K, 2014. www.gov.uk/government/uploads/system/uploads/attachment_data/file/384310/cla-provider-research.pdf.

Problem identification: can people recognise their problem as legal?

- 3.24 The ability to identify or recognise the legal dimensions of a situation has been construed as a major barrier to effectively managing a problem, to accessing appropriate services and to preventing a problem from escalating. The failure to recognise that a legally enforceable right exists at all is a fundamental barrier that is especially serious for disadvantaged groups, it is apparent that it is one that nevertheless confronts the majority of the population in many types of conflict that could be considered to involve legal rights. Certain problems, such as private property and crime have consistently been associated with higher levels of recognition and therefore lawyer use; equally, divorce, wills, and conveyancing see higher levels of both recognition and use of lawyers (LSB, 2012, 4).¹⁴
- 3.25 What lies behind the way in which legal issues are recognised and characterised is illuminated to some extent in the findings, strongly linking the type of legal problem to the way it is understood and characterised. Family, employment and housing problems were more likely to be recognised as having legal dimensions, and the legal market itself is linked to this capacity though in complex ways. Where there is a greater supply of legal services, there tends to be higher level of recognition of a problem as legal. For example welfare benefit problems, employment problems and negligent accidents occur at a similar rate. Yet only 1% of welfare benefit problems are taken to a lawyer, compared to 9% of employment problems, and 25% of negligent accidents.¹⁵ Looking at the availability of a lawyer, there are 5 times as many solicitors dealing with employment than welfare benefits issues, and 15 times as many taking negligent accident cases. The mismatch between supply, demand and prevalence of legal problems clearly also implicates the wider function of the public's ability to recognise legal issues as and when they occur.
- 3.26 Recognising that a problem is legal more than doubles the likelihood of an individual seeking legal help, and substantially increases the likelihood of getting some kind of help rather than handling the issue alone. Interestingly, the inability to recognise a problem as a legal one is not correlated with general advice seeking. Those who are less able to recognise or characterise their problems as legal are not necessarily inhibited by virtue of that difficulty from attending and securing the benefit of advice, moreover a specialist referral to a legal practitioner can be facilitated by the advice agency. A lack of legal capability is therefore largely ameliorated due to the wide net that advice services can provide (Balmer et al, 2010; Buck et al, 2008). Therefore loss of funding to the advice sector is likely to impact heavily on the already low levels of legal knowledge in the population in particular ways. Moreover, should a more specialist legal practitioner be required, the referral is supported.
- 3.27 Almost half of people experiencing a legal problem describe their problem as a product of bad luck; over 40% describe their problems as bureaucratic, or as a

14 Legal Services Board, *Understanding Consumer Needs from Legal Information Sources Final Report*, 2012. <https://research.legalservicesboard.org.uk/wp-content/media/2012-Legal-information-sources.pdf>.

15 Profitability and costs also play a part in the supply and demand for legal service. However further research is required to unravel the relationship between characterisation, supply, demand and problem type; particularly in relation to additional factors that may lie beneath all four.

social or moral problem. Only 11% recognise their issue as legal. This overall picture of very low recognition rates for legal matters is spread unevenly amongst particular legal issues. Worryingly, consumer and debt problems were highly prevalent legal problems overall, yet were very likely to be described as bad luck. Benefit problems were typically construed as administrative or bureaucratic issues, and employment problems were the most commonly described as moral.

- 3.28 Unexpectedly, the ability to be able to frame and identify a legal problem is not closely linked to personal characteristics nor is the severity of the problem. However the existence of a dispute is a factor that lies behind the ability to recognise a problem as legal. This conflict orientation implicates the design of information and education interventions and suggests the need to enhance interventions that emphasise awareness of legal rights and processes at the early stages of problems emerging, and before conflicts arise.

Online legal information and advice: a digital revolution?

- 3.29 The UK has been described as one of the most digital nations in the world (Power, 2014, 3). 80% of the population has access to broadband, and the average UK household now has access to 3 internet enabled devices. Over 60% of adults own smart phones, and 30% use tablets. Not everyone is 'plugged in', with physical access still particularly low amongst welfare recipients and older people.¹⁶ Nevertheless, the digital divide is shrinking. Recent research has consequentially focused on the second digital divide: the ability to effectively use the Internet, despite the physical ability to access the World-Wide-Web.
- 3.30 There has been a growth in the use of technology to promote and deliver legal services. Companies have been actively promoting their technology as a way for firms to sell and deliver legal services, with new providers such as Co-operative Legal Services providing online fixed fee DIY divorces. The Internet is being used to establish collective brands and networks, such as Lawyer Online. Websites with legal information and advice are now proliferating. Consumer authorities, consumer associations, trade unions, legal expenses insurers and law firms are among the providers. This proliferation itself can create enormous problems for the consumer to choose what they need from online legal help effectively.
- 3.31 The CSJPS 2010 and 2012 provide important insights into the use of the Internet to solve legal problems in the UK. Just under a quarter of people use the Internet to solve their legal problems, an increase of 20% over the last decade. A general lack of legal capability however hinders the successful use of online sources, for example an inability to frame the legal dimensions of problems means that people don't realise that law is bound by jurisdiction, and find themselves searching foreign sites (83% in a recent study by Denvir et al, 2014). In the search for information online, the requisite understanding of the legal dimensions of an issue also impinges on the complexity of finding the right key word to accurately

16 Surveys indicate that the majority of those without internet access: are older (over 55), live in social housing, score much higher on indices of deprivation, are more likely to be unemployed, are more likely to be disabled or have long-term health issues, and are more likely to be from social class groups C2, D and E. See Yates et al, "Digital-by-default: reinforcing exclusion through technology", *Journal of Social Policy* (2015).

seek information. The average person has very little access to the legal language that still pervades many sources of information about the law. Not only may they be unable to find it using general search terms via Google, they may not understand or be able to respond to what they do find.

- 3.32 The type of Internet access a person has has a significant bearing on whether they will use the Internet, for those who have access at home the numbers increase substantially to 33% (from just under 25%). This may be linked to the cost and usability of legal sites for mobile Internet users. Personal characteristics are also a factor in Internet use, for example graduates are almost twice as likely seek online help than those with GCSE level qualifications, and older people are much less likely to go online for legal assistance, dropping to 13% for over 75's.
- 3.33 The nature of legal problems was a driver of online assistance. Owned housing and divorce issues were relatively popular searches, however rented housing, debt and benefit were less popular, with employment and consumer at the lower end of the spectrum. Notably these were amongst the most prevalent legal problems that people encounter, and in the case of consumer issues, an extremely common problem for which levels of knowledge about legal positions are startlingly low. The most severe problems tended to push people to use the Internet, increasing levels of use by 10% between the highest and lowest severity of problems.
- 3.34 The motivations that people have for using the Internet for legal issues are diverse; they include gaining knowledge about legal rights, and solving problems, as well as seeking advice. Only 8% of people use the Internet to find contact details for advisers and even less (4%) for online resolution. These differing goals met with varied levels of success amongst Internet users, the most successful attempts were those seeking specific details, such as contact information. Partially successful, though in the highest category, was the goal of finding out more about legal rights. The partial success of this online strategy may link to a number of factors, though the findings were inconclusive; perhaps people begin to find some initial information about their legal position and then pursue other sources of comprehensive advice, or their access to online information is limited to some extent by time or cost.

Discussion

- 3.35 Improving awareness of the existence and role of different sources of advice and assistance is an increasingly important aspect of PLEI interventions. The findings confirm that the broad lack of awareness of advice sources compounds the problem of lack of recognition of legal dimensions of issues, since basic advice would serve to help someone identify and diagnose a legal problem. Improved awareness of the role and scope of advice services involves strategies for dissemination of targeted information and education for particular groups based on age, education, and language. The content requires careful explanation of what each services has to offer, when and where to reach them, with triage and referral options through intermediaries such as health, social and community workers.
- 3.36 The high percentage of people who sought to delegate a good deal of their issue to someone else provides a new challenge for PLE practices. 34% of people surveyed wanted their adviser "to make decisions and act to help them in the way [advisers] thought best" (Pleasence et al, 2015, 129). The implication of

building the capacity of individuals through skills and confidence is a key tool to supporting those who feel unable to handle their problem alone; equally, supporting the increased legal capacity of intermediaries who can take on some of the practical aspects of the delegation are indicated. The findings suggest that in the case of social and health care professionals improved legal capability might be an essential aspect of improving wider health and wellbeing outcomes. Moreover the complex social needs that lie behind awareness of and willingness to use services suggests that the fragmentation between services urgently needs to be overcome.

- 3.37 Promoting increased awareness of legal rights amongst wider stakeholders and improvements in the quality and quantity of independent legal information are intrinsic to the success or otherwise of improved legal capability in the public realm. The strength of retail marketing and influence of traders' policies on consumer legal knowledge illuminates serious information disparities. Research also consistently reveals a fundamental lack of knowledge of basic legal concepts, such as contract and statute that underpin legal interactions in everyday life. This knowledge provides individuals with the conceptual tools to frame legal dimensions, and the ability to spot agreements that have legal effects. This spans areas often not recognised as legal such as social security, money matters, and consumer contracts. The findings confirm the need to improve knowledge of generic legal concepts as a means of improving recognition strategies. These might include improved awareness of the difference between civil and criminal branches of law, and basic sources of law.
- 3.38 The CSJPS data concludes that there was a strong correlation between Internet-based legal assistance and the ability to recognise the legal dimensions of problems, with more than twice as many Internet users spotting they had a legal problem (as opposed to a bureaucratic, social problem and so forth). It is unclear how this awareness comes about and whether this is a consequence of what was found online, for example whether content helped someone to reframe their issue as legal. Interestingly, those who knew very little about their rights at the outset had the greatest increase in knowledge and were more likely to seek advice. Those who already sought advice also gained increased knowledge from the Internet. The findings strongly suggest the continuing importance of combined on and offline assistance for legal problems, and for gaining the longer term dividends of increasing the overall legal capability of individuals through exposure to online legal learning.
- 3.39 The findings have important consequences for current reform proposals in the context of Online Dispute Resolution in the UK justice sector. Moves toward online (ODR) notably in the Netherlands¹⁷ and British Columbia¹⁸ show promising

17 *Rechtwijzer* developed by the Dutch Legal Aid Board forms one of three primary points of contact in the Dutch system, alongside help desks and private practice legal advice. Around 38% of the Dutch population is entitled to legal aid, and 31% hold legal insurance. www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf.

18 The Civil Resolution Tribunal Act brought ODR into British Columbian law in 2012 for low value small claims and specific strata property disputes. See: Thompson. D The Growth of Online Dispute Resolution and Its Use in British Columbia (2014) www.cle.bc.ca/PracticePoints/LIT/14-GrowthODR.pdf.

potential for low-cost transaction and high-volume provision. Early indications for the role of online ‘decision trees’, interactive calculations and layered diagnostic tools to help Internet users to find the information that meets their needs, has been noted in recent literature (Smith and Patterson, 2014; Justice, 2015; Civil Justice Council, 2015). The evidence raised in the present study indicates the positive value of online tools as part of an overall drive toward improved legal capability in the population.

- 3.40 However the evidence that ODR can readily be lifted from existing e-commerce to broader justice models is scant. Only limited use of ODR in the justice fields in the context of insurance and consumer disputes exists. Heavily modelled on e-commerce solutions such as E-Bay, online resolution is predicated on the use of ODR for low value disputes with a strong bias toward helping buyers gain redress, and the situatedness of disputes within web-based provision. In the case of more complex, emotionally charged or power imbalanced disputes the jury is still out (Bickel, 2014). Similarly, caution must be used with the transplantation of models across jurisdictions. The unique features of civil and common law jurisdictional settings, the existence of established and long-term PLEI funding (in the case of British Columbia),¹⁹ and the scope and eligibility for legal aid all need to be weighed.
- 3.41 Research into *Rechtwijzer* 1.0 by the University of Twente in 2015²⁰ assessing its effectiveness as an interactive Internet platform (2.0 has yet to be used publicly) noted information advantages for early resolution in family and consumer matters. However, only limited self-efficacy is indicated,²¹ suggesting confidence gains were short-lived and a desire for third party legal review of agreements was expressed by most. Furthermore, levels of satisfaction in the outcome appeared not to increase between website users and others, neither did stress levels appear to improve beyond non-users. Nevertheless, the overwhelmingly positive feedback by users themselves highlights the need to embed online assistance within wider legal aid provision. *Rechtwijzer* 1.0 and 2.0 appear to contribute to a promising joined-up approach to improving online help, first line legal aid help-desk services and the continual aim of simplification of law in primary fields in which self-help is being encouraged (LAA, 32, 2015).²²
- 3.42 Looking across to advances in health education internationally, there are benefits to online provision of health information but once again caution should be exercised. The Internet has become a major factor in accessing health information and advice, but quality and access is still a problem. Around 80% of Australians get health information online, and half of those use it to self-

19 A large scale review of PLE review provision by Carol Mckeown on behalf of the Legal Services Society BC in 2007 can be found here: www.lss.bc.ca/assets/communityWorkers/pleReview_en.pdf.

20 The longitudinal study is ongoing and currently reflects pre and post use (first stage) survey data.

21 The measures used to test the success of the approach included the level of knowledge attained about conflict processes, the self-efficacy of individuals, the interdependence of the parties, see Bickel (2015, 7–8).

22 Legal Aid Board, *Legal Aid in the Netherlands: A Broad Outline*, 2015. www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf. [accessed June 12th 2015].

diagnose, sometimes with harmful consequences. Around 72% of Americans believed most of the health information found online and 70% used it to care for themselves or their families; Canadian studies have found that only 44% of 1,300 websites reviewed provided accurate information about medical risk (Ally et al, 9, 2012; Martin, 2012).

- 3.43 A good deal of work has been done on information standards. Legal information is most useful if it successfully meets the needs of its intended audience by being understandable and tailored to the problem at hand. Evidence points to the relative inefficacy of generic as opposed to carefully tailored interventions (Lustria, et al, 2013). Information needs to get its message across effectively, grab attention and lead to appropriate action. It is effective if it can be efficiently disseminated and is available when needed; and often works most effectively as a part of wider services and campaigns (Advicenow, 2011). Ideally, it is sufficient to cope with the problem, it offers limited options, and it is easy to put into practice (Barendrecht et al, 2012). Many people also need assurance from a help desk, community or support group when they work with online information. Criteria for fair solutions, such as schedules for compensation, child support guidelines and standards for sanctions, are very helpful tools (Ibid., 2012).
- 3.44 Significantly, when people gain knowledge about their rights, their sense of being more empowered is reflected in how confident they feel about how things will turn out; this is a particularly important finding for education and information practices since contact with advisers alone appeared not to have increased individuals' empowerment in the same way. For advisers, this discovery raises questions about the culture of legal advice giving, and the way in which interactions between lawyers, advisers and their clients counteract relations of dependency, and enhance knowledge and skills transfer. For PLE practitioners, the lessons from research confirm the combined focus on knowledge, skills and confidence is essential in building capability.
- 3.45 Some key themes emerge from the literature concerning legal capability and advice services.
- 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.

d. Beliefs and attitudes about the law

Overview

- Beliefs about law are bound to people's social and cultural contexts; their sense of fairness and wider norms inform how they interpret the legal dimensions of their lives.
- Legal problems are more complicated than people believe. Around 50% of people feel confident that they can achieve a fair resolution to a prospective issue until they encounter a legal problem.
- Levels of confidence decline significantly when a real problem occurs, with an even greater decline as more problems are experienced.
- Problems related to money, welfare benefits, domestic violence, care proceedings and clinical negligence are the issues that have a particularly negative impact on levels of confidence and produce a sense of disempowerment.
- Older people over 60, new migrants and people in poor physical and mental health all had less faith in their ability to resolve issues positively, and within households this lack of faith tended to be felt more generally.
- The characteristics of people with low levels of legal capability are the same as those who are at greater risk of experiencing legal problems a fact that compounds their risk of becoming socially excluded.

- 3.46 The 2012 CSJPS offers new insights into the ways in which people's beliefs and attitudes about the law guide their behaviour. Beliefs about law are bound to people's social and cultural contexts. Contrary to the idea that law is a closed system of knowledge, legal discourse in its many facets is a mechanism through which people see the world and interpret it (Trubek, 1984; Fitzpatrick and Darian Smith, 1999). Legal knowledge includes, but is hardly limited to rules; it contains the full array of linguistic, discursive, and conceptual conventions that facilitate human thought and action. Rather than being radically individualised, attitudes about law grow out of societies broader structures and relationships (Sarat, 1990; Engel, 1998). Unsurprisingly, influences such as news media and popular culture shape how these beliefs and expectations are formed (Galanter, 1992; Trubek, 1984, 592).
- 3.47 PLEI literature emphasises that attitudinal constructs have a bearing on how people understand and respond to legal problems. Evidence from the present study confirms the need to pay closer attention to the commonalities in thinking that grow out of the broader structures and relationships in which people are embedded (Engel, 1998, 112; Collard et al, 2011). People tend to believe the law concurs with their own sense of fairness, they commonly assume that rights accrue over time, and that the legal remedies they can expect conform to broader social norms. The dissonance between what people believe and what the law says implicates the way in which legal information and education is designed and delivered; it is apparent that some legal myths can be hard

to dislodge and simply brushing aside misconceptions is likely to lead to ineffective interventions.

- 3.48 Knowledge and attitudes are linked to cognitive, behavioural and socio-political dispositions. Amongst marginalised groups this links to feelings of powerlessness, alienation, and pessimism about whether the law will work in their interests, and feeds more widely held negative perceptions of the justice system (McDonald and People, 2014; Genn, 1999; Hertogh, 2004). Equally, people may have unrealistic expectations as a consequence of over-confident assumptions about their legal position. Targeting strategies may therefore need to contend with group or collective identities, and the way in which some groups experience law as a source of oppression (Sarat, 1990, 344).
- 3.49 People's expectation of how legal rules are formed and applied often relates to their own perceptions of fairness and wider cultural and societal norms. Dislodging them can be difficult, and as Reece comments, may not in fact always be desirable (2014, 124). For example in the context of Living Together Agreements, or prenuptial contracts designed as preventive tools for avoiding disputes on separation and divorce, there is some evidence that for married couples, a prenuptial contract can send out negative emotional signals and may damage the rapport between couples (Rountree, 2000, 12). From a psychological point of view optimism is undoubtedly a significant cognitive bias as are the influences of transient emotional states, and the tendency to focus on the here and now (Loewenstein and Prelec, 1992; Andrade and Ariely, 2009).
- 3.50 An optimistic, or unrealistic outlook insofar as it mitigates risk avoidance, could be likewise be detrimental factor that places people at a disadvantage in view of legal arrangements (Weinstein and Klein, 1995), rather than offer potential benefits by reinforcing positive illusions (Taylor and Brown, 1988, 205). From a PLEI perspective, teaching practices that focus on the need to empower and build confidence amongst more vulnerable groups need to contend with all of these propensities.

Confidence: the impact of subjective legal empowerment.

- 3.51 The contributory effect of beliefs in one's own capabilities in the face of prospective situations influence how people think, motivate themselves, and act (Bandura, 1997). In a legal context, without a reasonable sense of subjective empowerment, an individual is unlikely to be able to implement knowledge or take action when faced with a legal problem. Bringing together research from psychological studies into self-efficacy, and the legal empowerment field, the term subjective legal empowerment (SLE) has more recently been used to establish a measurement of individuals and groups belief in their ability to mobilise their existing capabilities and resources in seeking legal solutions (Gramatikov and Porter, 2010).
- 3.52 SLE has been described as "a psychological state, which can be observed in an individual, group or social level" (Gramatikov and Porter, 2010). The subjective element introduces a new measure to consider the barriers to accessing justice in the context of the CSJPS, and is a significant development in bringing legal needs studies closer to broader legal capability indicators. Elsewhere, confidence measures are already part of standard evaluation indicators for PLE programming (Collard et al, 2011; Mackie, 2013).

- 3.53 The CSJPS 2010 and 2012 included indicators to determine the levels of self-belief and confidence that individuals feel in achieving a fair resolution to a prospective legal problem. Included in the survey were 6 questions related to employment problems, family, neighbour, business, land disputes and becoming a victim of crime. A majority of people feel confident that they can achieve a fair resolution to a problem; in most matters around half of respondents had relatively high levels of confidence.²³ An exception to the overall picture was in the field of business disputes, with which people are generally less familiar, and in the context of falling victim to crime, both lowered expectations of fair outcomes.
- 3.54 However, levels of confidence changed significantly once people actually experienced a legal problem. Those people who had in fact encountered a legal problem saw their scores decline significantly, with an even greater decline as more legal problems were experienced. The findings confirm that people are generally optimistic about their ability to deal with a problem, and once faced with the reality, lose confidence. This was amplified in the case of problems relating to money, welfare benefits, domestic violence, care proceedings and clinical negligence. These are the issues that have a particular negative impact on levels of confidence and a sense of disempowerment.
- 3.55 Overall some groups were prone to being less confident in the face of legal issues than others. Older people over 60, new migrants and people in poor physical and mental health all had less faith in their ability to resolve issues positively, and within households this lack of faith tended to be felt more generally, so that clusters of family members felt they would not be likely to get a fair result.
- 3.56 The way in which problems are experienced also has an effect on subjective legal empowerment; if there was a disagreement or a failure to act to resolve a legal problem levels decreased. Similarly, a lack of rights, and poor outcomes in previous experiences of legal problems caused SLE levels to decrease. Generally, when people have had a bad experience in the face of legal problems they lose faith in their ability to get a fair outcome in the future. This echoes evidence in self-efficacy studies that experience reinforces either an optimistic or pessimistic outlook (Bandura, 1997), for the most vulnerable this can lead to a state of profound helplessness or even paralysis when serious legal problems arise (McDonald et al, 2014).

Interactions between knowledge, confidence, and experience: legal capability

- 3.57 The interactions between confidence measured as subjective legal empowerment, and knowledge of rights – the building blocks of legal capability – has a profound impact on the ability of individuals to deal with a range of legal problems. The findings from the CSJPS provide a much more nuanced picture of the distribution of capability in the population, and the sorts of legal problems that are most likely to be problematic. Analysis separated groups into higher and lower categories; less legally capable people tend to have problems that reflect

23 Average SLE scores gave a mean of 3.5 (with 74% of people achieving a score of between 3 and 4 out of a possible 5).

their social and economic situation. Those with higher levels of capability more commonly encountered consumer problems, whereas less capable groups experienced problems with personal finance, benefits, divorce and rented housing issues. They were also three times more likely to experience a discrimination issue.

- 3.58 Legal capability is also linked to the way in which a problem might be handled, with low capability groups tending to inaction, or alternatively, feeling unable to sort things out alone and seeking advice. More legally capable groups were more likely to handle their issues alone, and with greater success. Their problems were less protracted, and tended to be resolved amicably amongst parties. Perhaps this is not surprising, when an individual is fairly knowledgeable about their legal position and confident they can reflect their expectations and bargain well a problem is likely to be resolved without need for 3rd party resolutions.
- 3.59 Finally, low levels of legal capability are closely linked to conflicts; this may in part explain the much more prevalent detrimental effects of legal issues on health and wellbeing. People with low levels of legal capability were twice as likely to suffer ill-health or experience damage to a family relationship after having a legal problem. The loss of income, negative impacts on education, addiction and the prevalence of violence were also much more likely.
- 3.60 The personal and social characteristics of people with low levels of legal capability were highly revealing. Younger (16–24) and older (75 and over) fell into lower capability brackets, as did greater numbers of people from black and minority ethnic backgrounds (BME). 12% of people from BME backgrounds were in the lower group, compared to only 5% in the higher capability group. A lack of professional or academic qualifications was also linked to low capability: over 30% of people with low capability had no qualifications, and twice as many workers in routine or manual labour had low capability scores. Health profiles were equally stark: twice as many people surveyed had long term health conditions, and 10% more had mental health problems. The findings underline the strong link between existing vulnerabilities and risk of social exclusion and low levels of legal capability.

Discussion

- 3.61 From an educational perspective, embedded beliefs, assumptions, and understanding of how the law works need to be a primary focus for the development of both suitable curricula and delivery methods when addressing public perceptions. Evaluations of ‘myth busting’ legal information suggest that knowledge levels can be improved; however, influencing people to act to protect their interest may be more difficult. This, as the findings suggest, will need to consider the impact of perception of relative power between parties, and trust in services.
- 3.62 Attention to who provides PLEI interventions and the motivations for those interventions merits closer consideration. Research suggests that levels of empowerment amongst individual consumers of legal services is low, and has remained so since the introduction of the 2007 Act (LSB, Impacts of the LSA, 2012). This finding echoes wider literature that suggests individuals tend to trust providers who they know, and ensuing doubts about Government-provided

information, particularly when the dispute involves an official body (Advicenow, 2014; Ally et al, 2012, 21). Changes in the regulation of legal services have been given impetus by increased complaints and the broader decline in public trust and confidence in lawyers (Legal Services Consumer Panel, 2011, 2014; Flood, 2008, 2011, 510), with some surveys suggesting that over half of British people indicate “they would not trust lawyers to tell the truth” (Legal Services Consumer Panel, 2011, 18). The issues of trust, independence and quality are prominent in the effective design and delivery of PLEI.

- 3.63 The shift from problem focus to social wellbeing in early intervention programmes is notable in the realm of health prevention, and PLE has much to learn from these fields (Brousalis et al, 2015). This builds on the recognition that interventions targeted at specific disease prevention have not been as effective when broader social and economic factors are not taken into account (Bandura, 1997). Effective health literacy is better understood as offering both personal and social benefits, and has shifted toward a construction of individual and collective wellbeing. In this respect empowerment has become an explicit focus of intervention design, as Nutbeam argues: “Health literacy means more than being able to read pamphlets and successfully make appointments. By improving people’s access to health information and their capacity to use it effectively, health literacy is critical to empowerment” (1998, 349). In turn this has implications for educational and promotional efforts to improve people’s knowledge, understanding and capacity to act.
- 3.64 The need to move from problem and dispute orientation toward the positive promotion of education and information about the law is underlined by the findings in the present survey. Legal capability is a life skill that contributes to the well-being of individuals and the community. Moving home, signing a consumer contract, getting married or finding a job are the features of life that represent possibilities, and are largely construed with optimism and hope rather than representing risks that need to be averted (Reece, 121, 2014; Armor and Taylor, 1998). This insight into behaviour has already been adopted in health prevention fields; consumers of health information have been reconceptualised as “healthy learners”; and health literacy has been considered as a potentially empowering and participatory element of everyday life (de Leeuw, 2012). Similarly, financial literacy is recognised as a key life skill that has benefits on both a personal and national level, including, among others, being able to make informed decisions, manage money, being able to avoid or manage debt, being more likely to plan and save for retirement, and demanding higher quality services (Goldsmith and Piscopo, 2014, 83).
- 3.65 The evidence from associated fields suggests new approaches are called for when addressing the need for information and education about the law. The incentives for becoming more legally capable may need to be tailored toward promoting possibilities: leading effective negotiations and bargaining well; making plans in personal and professional contexts; and understanding more or less what is lawfully expected from others, particularly the more powerful actors. Where group interests or systemic issues arise, the collective ability to hold decision-makers and institutions to account and render them responsive to clients’ and customers’ needs are powerful incentives.
- 3.66 Targeting has also been a clear and effective strategy for PLEI. A number of interventions aim to work at the level of communities and via intermediaries, in

order to break down barriers of mistrust and build skills, target specific needs, and assess the timeliness of the interventions. As Giddings and Lawler describe “informing people about rights and possibilities through general public awareness campaigns is probably not enough. Legal information is much more effective if it arrives or at least is accessible just in time, i.e. when it is needed to act upon” (2009). In addition, critical pedagogical tools are needed to offer a means of opening dialogues on how the law is perceived, to create a basis for learning and action, and to be able to dislodge erroneous belief (Reece, 2014; Masson and Waldron, 1993, 79).

- 3.67 What the present findings point to is the possibility of personal tailoring and targeting the groups who are most exposed to legal problems, and the problems they find most difficult to deal with. The problem resolution strategies that people employ provide an insight into the people who have more difficulty sorting out the issues that they encounter. Policy interventions based on legal capability levels in similar studies suggest the need to segment the population according to population groups and legal topics. Those recommendations are borne out by the findings evidenced here, and need to be considered in tandem with the most profitable interventions for certain types of groups and legal problems (Balmer et al, 2010, 8; Wilczynski et al, 2014).
- 3.68 The findings of the CSJPS 2012 show a clear correlation between age and predictable life events that might give rise to emerging problems. This calls for a combined provision of life-long learning opportunities for adult learners, and just in time learning as and when legal issues arise. For example, young people are prone to experiencing difficulties with transitions to independent living, becoming exposed to a plethora of new legal frameworks including welfare benefits, employment rights and housing rules (Furlong et al, 2003; Macdonald, 1998). An important just-in-time focus for young people at sites through which they transit at this stage in their lives or potential ‘teachable moments’ is indicated (Lawson and Flocke, 2009; Lundberg and Mulaj, 2014). These might include first stage contact with the department of work and pensions, school leaver preparations, apprenticeships and broader housing services. The intersection for families with children may be equally profitable at points of contact with health and maternity services. Moreover, increased access to mobile technologies additionally offers promising routes to assistance with such specific situational learning needs (Min et al, 2013, 12).
- 3.69 Wide-ranging large-scale studies in financial capability similarly emphasise the multidimensional intervention routes aimed at improvements in financial literacy, financial capability and wider behavioural change. Following initially disappointing results in earlier financial education evaluations in the UK (Atkinson, 2008) more recent findings show that improvements from financial education can be identified both in terms of knowledge and awareness, as well as changing behaviour. The lessons drawn from the financial capability field emphasise the need for education to be targeted and relevant, to address individuals at “teachable moments”, to appeal to emotions, and to extend exposure to information over longer periods (Lundberg and Mulaj, 2014, 27).

4

Conclusions and recommendations

The new findings of the Civil and Social Justice Panel Survey show the importance of a renewed focus for PLE interventions directed toward legal capability outcomes.

The research shows:

- People with a low level of capability are more likely to experience a legal problem, and to fail to handle it effectively alone. They are less proficient at being able to find appropriate advice and access legal services on or offline.
- Legal capability comprises of a range of personal subjective elements including awareness of and framing of legal issues, personal empowerment and confidence, which in turn is shaped by the wider structural effects of power relations within society, and specific legal knowledge-relating rights and obligations.
- Traditional legal and advice services fail to reach the vast majority of people who have legal problems, justice policies have failed to grapple with the underlying drivers of legal needs.

Recommendations

4.1 Integrating PLEI into wider services and improving coordination of stakeholders

The evidence suggests the urgent need for justice reforms to focus on the capability of individuals and communities in solving everyday legal issues. Future reform agendas should:

- Recognise the importance of PLEI in triage, appropriate referrals to legal services and to wider health and social assistance programmes;
- Recognise the underlying role of social and community programmes that provide the settings for PLEI interventions;
- Recognise the importance of wider stakeholders in improving the quality and interconnectedness of information and education for the public, including legal services regulators, traders and public service providers;
- Recognise improved levels of legal capability are a criterion for accessing legal services effectively; and
- Recognise that PLEI is a vital tool in early intervention, preventing problems from escalating later on.

4.2 Selecting the most appropriate approaches in PLEI

Legal capability is a life skill. There is a significant range of capability amongst citizens, with the most vulnerable being the least capable. There is therefore a need to focus on methods for improving legal capability through multidimensional, tailored, intervention designs aimed at key groups and legal issues. Recommendations for improvements in the quality and effectiveness of interventions include:

- Encouraging learning from wider sectors and integrating lessons learned from financial, consumer and health education fields, amongst others;
- Promoting teaching methods and practices for use in PLEI that are much more dynamic; empowering and engaging, with a question-driven (not answer-driven), deliberative curriculum;
- Encouraging innovative learning environments with integrated, concrete, practical tools to help individuals see the real-life value of legal information and education;
- Embedding PLEI in lifelong learning and vocational training; and
- Recognising legal capability as a key life skill that has benefits on both a personal and national level, proving a rationale for national governments to fund PLEI to achieve more effective participation in social and economic life.

4.3 Defining the objectives and strategies of PLEI, and evaluating outcomes

Justice sector outcomes measurement focused on timely, fair and lasting resolution to legal problems need to incorporate elements of legal capability as fundamental to access to justice and the rule of law. A future research agenda needs to:

- Assess how people are better enabled through multidimensional channels to understand their legal position and know what they can do, and how to do it;
- Assess how different types of PLEI interventions result in improved levels of capability and the wider impact of improved capability on socio-economic outcomes;
- Establish a clearer baseline for legal capability amongst vulnerable groups in order to measure long-term impact of PLEI programming on access to justice;
- Investigate further the interrelationship between knowledge, skills and confidence and the impetus for behaviour change; and
- Investigate further the pedagogical aspects of PLEI.

Methodology

This research report was produced in parallel with Professor Pascoe Pleasence, Dr. Nigel Balmer, and Dr. Catrina Denvir 'How People Understand and Interact with the Law' (2015). The report considers the analysis of the English and Welsh Civil and Social Justice Panel Survey data alongside a wider literature review of associated public legal education and information programme research, policy contexts and impact studies.

About the English and Welsh Civil and Social Justice Panel Survey (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)²⁴ and strategies used to resolve them. The survey was a substantial development of the *English and Welsh Civil and Social Justice Survey (CSJS)*, which was first conducted in 2001 (Pleasence et al 2004), then again in 2004 (Pleasence 2006), and on a continuous basis between 2006 and 2009 (Pleasence et al 2010). The CSJS was itself a substantial development of the *Paths to Justice* survey (Genn 1999).

In addition to questions concerning problem experience and use of legal services, the CSJPS incorporated an extensive set of new questions designed to investigate public awareness of legal rights and legal services more broadly, along with questions aimed at elucidating individual attitudes and confidence in relation to legal problem resolution.

Two waves of the CSJPS were conducted prior to the survey's replacement by the *Justiciable Problems Resolution Survey*. Wave 1 interviews were conducted between June and October 2010. Wave 2 interviews were conducted eighteen months later, concluding in May 2012.

The first wave of the survey included 3,806 adults (aged 16+), drawn from a random selection of 2,316 residential household addresses across 194 postcode sectors of England and Wales. The household response rate was 61%, and the cumulative eligible adult response rate was 54%.

24 Problems were identified by asking a variant of the following question in relation to each of the 13 categories of legal problem included in the surveys: "[have you/has your partner] had any (other) problems or disputes of the type shown on this card since [18 months]?"

The second wave included 3,911 adults, 2,604 of whom had also been interviewed at wave 1. Of the remainder, 148 were resident in a household surveyed at wave 1, but not interviewed until wave 2, 96 were new residents in a household surveyed at wave 1, and 1,063 were new respondents from new households. For the longitudinal sample, the household response rate was 75% and the cumulative eligible adult response rate 70%.²⁵ For the cross-sectional sample the household response rate was 53% and cumulative eligible adult response rate was 43%.

Wave 1 interviews took an average of 37 minutes,²⁶ and wave 2 interviews an average of 35 minutes.

Across both waves of the survey, the sample was broadly representative of the adult residential household population of England and Wales, which comprises around 98% of the total population.

CSJPS respondents were 45% male, 86% white, 52% married, 12% aged between 16 and 24 and 25% aged 65 or older. 25% had a long-term limited illness or disability. This compares to 2011 census estimates of 49% of the (16+) population being male, 88% being white, 47% being married, 15% being aged between 16 and 24 and 20% aged 65 or older, and 21% having a long-term limited illness or disability.

25 The individual level response rate was a very high 93%.

26 An initial longer form of the questionnaire (asking about more questions in detail) averaged 42 minutes (n=762), with the final questionnaire averaging 35 minutes (n=3,044).

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