

# Public legal education

**Comments by the National Consumer Council on the Advice Services Alliance, Citizenship Foundation and Legal Action Group discussion paper on a national strategy for public legal education**

by Steve Brooker

#### **About the National Consumer Council**

**The National Consumer Council (NCC) is the independent consumer policy expert, championing the consumer interest to bring about change for the benefit of all consumers.**

**We do this by working with those who can make change happen - governments, regulators, businesses and people and organisations who speak for the needs of consumers.**

**We conduct rigorous research and policy analysis and work in an open and collaborative way. We publish our findings, and where needed, campaign for change. We provide independent advice to government.**

**In all our work we aim to help people come together to advance the consumer cause. The issues of poverty and disadvantage are at the heart of the NCC's work, as often the most vulnerable people find it hardest to be heard.**

**We have linked organisations in Scotland and Wales, and a close relationship with colleagues in Northern Ireland. And we work with consumer organisations in Europe and worldwide to win a fair deal for consumers. We are a non-departmental body, limited by guarantee, and funded mostly by the Department of Trade and Industry.**

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# Summary

Public legal education has an important role to play in ensuring that consumers are able to enforce their rights, discharge their responsibilities and use legal services to their advantage.

The arguments in support of public legal education are persuasive, although it is important to acknowledge its limitations; in particular public legal education must not be seen as an alternative to making adequate resources available for legal advice and representation, or as a device for making savings in legal aid expenditure.

The National Consumer Council endorses the need for a national strategy for public legal education, which we see as a component of a wider consumer education strategy being led by the Office of Fair Trading. Anticipating the Clementi Review, a new regulator should champion a national public legal education strategy in the legal services sector. It is important that the strategy is adequately resourced on a sustainable basis.

We agree with the proposed functions of the lead body. In addition, there should be priorities to benchmark current levels of knowledge and skills, and to build an understanding of the needs of disadvantaged consumers and develop appropriate tools for targeting these groups.

# Our comments

The National Consumer Council (NCC) welcomes the opportunity to comment on the discussion paper prepared by the Advice Services Alliance, Citizenship Foundation and Legal Action Group on a national strategy for public legal education.

Consumers require a range of attributes in order to act effectively in the market place for the whole range of goods and services. In addition, at some point in their lives, all consumers will need to use legal processes and engage with legal services providers. Very often this need will occur in difficult or stressful circumstances – when buying and selling property, in times of relationship breakdown, with regard to medical issues, or when dealing with bereavement. It is important that consumers have the knowledge, skills and confidence to deal with all these situations effectively.

The consumer interest is just one of a range of interests that policy makers need to consider with respect to public legal education. We acknowledge that other interests, for example reflecting people's roles as family members or citizens, may offer a different perspective.

## **Definitions**

The discussion paper would benefit from a clear and concise definition of public legal education. A shared understanding of what is meant by public legal education will help to mobilise stakeholders and present a consistent message to policy makers.

The NCC sees public legal education as a component of *consumer education*. We have played a lead role in consumer education for many years, including developing practical materials for teaching consumer education through the national curriculum, influencing consumer education at the UK policy level, and contributing to other organisations' consumer education programmes.

We define consumer education as the attitudes, knowledge, understanding and skills necessary to become an effective consumer. Consumer skills allow people to manage their money, to know where to go for advice, to separate fact from advertising hype, to manage relationships with providers once a decision has been made, and to understand the consequences of their behaviour in relation to wider social, environmental and political concerns.

This definition emphasises a skills-based approach to consumer education, which goes beyond consumer knowledge. This is because the benefits of consumer knowledge are dissipated if people lack the skills to put their knowledge to good use. This

distinction is often lost in public discourse – we note that the quotations from Justice Burton and Lord Falconer which start the discussion paper are confined to spreading knowledge and do not mention the need for skills.

## **The need for public legal education**

Public legal education seen as part of a wider consumer education agenda has an important role to play in ensuring that consumers are able to enforce their rights, discharge their responsibilities and use legal services to their advantage.

We agree with the arguments put forward in support of public legal education. There is clear evidence of a knowledge and skills gap. The Legal Services Research Centre's finding that people often do nothing to resolve problems because they do not understand their rights or do not know how to obtain help is compelling. Research by the NCC has also revealed that the UK suffers from low levels of consumer skills (1). We also recognise the wider public interest benefits that can result from a more efficient use of the justice system, and also how legal education can help to strengthen civil society by fostering active citizenship and social cohesion.

It is possible to identify additional benefits. Public legal education can help to uphold the rule of law, which is undermined if consumers are unable to enforce their rights. Compliance with the law by business is also promoted if consumers demonstrate that they are able to enforce their rights effectively. Further, policy makers recognise the role that consumer education can play in enhancing the competitiveness of the UK economy. Knowledgeable and skilled consumers, so the theory goes, demand value for money, high quality, reliable goods and services, which drives business competitiveness, spurs innovation and challenges enterprises to strengthen their competitive advantage (2).

The limitations of public legal education should be acknowledged, however. First, public legal education has limited value as a means of consumer protection – it should not be used as an excuse to unreasonably push responsibility onto consumers for managing their own affairs or to reduce regulation without other clear justification. Second, we strongly agree with your view that public legal education must not be seen as an alternative to making adequate resources available for legal advice and representation, or as a device for making savings in legal aid expenditure. Third, information, education and advice is just one of a complementary set of conditions that needs to be in place if consumers are to become empowered. The other conditions include: a choice of high quality products and services offered by a range of providers; redress mechanisms when things go wrong; a clear legal framework; effective enforcement arrangements; and strong organisations to represent the consumer interest.

## **Developing a national strategy for public legal education**

We agree that there is a need for a national strategy for public legal education, although this should be seen as part of a wider national consumer education strategy.

The NCC recently carried out a consultation exercise on consumer education, which concluded that the existing approach lacked focus, was too fragmented, and was not efficient or coordinated (3). We recommended that the Office of Fair Trading (OFT) lead a national strategy for consumer education, so we are delighted that this is now happening (4).

Public legal education initiatives should be seen in the context of other sectoral initiatives relating to financial literacy, media literacy and food literacy, and developments in other fields such as health literacy. There is a need to learn from best practice and to agree a consistent vision, while allowing the freedom for each initiative to flourish and meet the individual needs of its target group.

Whilst the OFT will provide a coordinating role for consumer education as a whole, a champion for public legal education within this framework is still needed. The Clementi Review sets out a range of possible objectives for a new regulator for legal services, which includes promoting public understanding of citizens' legal rights. Although we would like to see this objective more broadly defined to embrace skills, we agree that responsibility for public legal education should rest with the regulator. The regulator is independent, can readily identify where knowledge and skills deficits occur, can connect stakeholders, and is well placed to organise funding. Giving the regulator responsibility for public legal education would be consistent with practice in other sectors, where for example, the Financial Services Authority and Ofcom have developed strategies to take this forward.

A public legal education strategy will only succeed if it is adequately resourced on a sustainable basis. A choice needs to be made about where this funding is primarily sourced, for example from the government or by an industry levy. We do not have a strong view on which it should be. We agree that public legal education should be widely available free of charge, although in the end the taxpayer or consumer will ultimately foot the bill.

## **Functions**

We support the list of functions suggested, which we would like to see carried out by a new regulator as part of a wider consumer education strategy coordinated by the OFT. We would add two more priorities:

- Measure current levels of knowledge and skills in order to identify priorities for action and to provide a benchmark against which to evaluate progress.
- Build an understanding of the needs of disadvantaged consumers who are in greatest need of consumer skills. Then develop appropriate tools for targeting these groups.

# References

**1** Martin Coppack, *It all adds up. A consensus on a national strategy for consumer education*, National Consumer Council, 2004.

**2** See for example: Department of Trade and Industry, *Extending Competitive Markets: Empowered Consumers, Successful Business, Consultation*, 2004.

**3** See reference 1.

**4** Office of Fair Trading, *Consumer education: a strategy and framework*, 2004.