

Meeting: Legal Services Board

Date: 16 July 2019

Item: Paper (19) 35

Title: Public Legal Education: Scoping paper

Introduced by: Caroline Wallace
David Fowlis
Craig Wakeford

Status: Official

Purpose of the paper/ Issue

- 1 This paper is an initial scoping paper for the new public legal education (PLE) five-year policy objective.

Recommendation(s)

- 2 The Board is invited to discuss possible approaches and provide a strategic steer on scope and initial work streams. Any contacts or insights from Board members' networks and other roles would also be very helpful.

Timing

- 3 There are no formal decisions or deadlines at this stage of the project.

Background

- 4 Following consultation on its 2019/20 business plan, the LSB adopted as one of its three five-year policy objectives that the LSB should be '**perceived as being at the forefront of enhancing public legal education**'. The PLE workstream is positioned in our business plan as a key marker of our success under the LSB's strategic objective of *Making it easier for all consumers to access the services they need and get redress*.
- 5 The LSB has not previously done much work on PLE, reflecting other priorities and the perceived lack of direct connection between the LSB's formal statutory role and PLE. There is now a more expansive understanding of how the LSB might contribute to PLE. During the consultation on the LSB's 2019/20 business plan, we explained why we regarded PLE as a priority for the LSB:
 - The LSB has a regulatory objective in section 1 of the Legal Services Act of 'increasing public understanding of the citizen's legal rights and duties'. Knowledge about the legal system and legal rights and responsibilities makes members of the public more able to participate as active citizens in society and to recognise the fundamental value of the rule of law.

- Higher levels of legal capability in the whole population, and particularly in vulnerable groups disproportionately represented in the legal system, should ultimately lead to less ‘unintentional’ unmet legal need¹, an issue highlighted by our individual legal needs research.
 - While we recognised that there were many other organisations active in the promotion and provision of PLE, we considered that we could work in partnership with other bodies to make the most of the LSB’s unique position as oversight regulator (including our convening power, our research expertise and our existing work with the frontline regulators on transparency of consumer information) to further enhance the effectiveness of PLE.
- 6 Following the publication of our 2019 business plan we have joined the Solicitor General’s Public Legal Education Committee (the Committee). Our Chair met the previous Solicitor General to discuss the work of the Committee, including whether the LSB could make a particular contribution to just in time PLE initiatives (see below) alongside the Committee’s existing focus on just in case initiatives. The Committee’s 10 year vision for PLE is at Annex C. [REDACTED]
- [REDACTED]
- [REDACTED] There are clear links between our potential work in PLE and the committee’s “seven goals for PLE” (see Annex C) and we highlight these links in our scoping paper.

Proposal

- 7 A proposed framework for our initial work on PLE is attached, including:
- Context – what is the problem we are trying to solve?
 - Communications and positioning
 - Working definitions of key terms
 - The LSB’s PLE strengths – what can the LSB offer?
 - Key scoping questions
 - Links to other LSB work
 - Two proposed initial lines of inquiry: research and stakeholder engagement
 - Timing
- 8 In particular we are proposing some initial lines of enquiry:
- **Stakeholder engagement:** what are others doing, where do they think the LSB could add value, are they interested in partnering in some way? This will include early engagement with the Consumer Panel and MoJ.
 - **Initial research work:** analysis and communication of PLE elements of the latest individual needs survey. As part of this work we will explore measures of PLE impact including for example whether targets for improved legal

¹ Unintentional unmet legal need arises when individuals or organisations do not recognise their problem as being legal in nature and therefore do not seek legal advice.

capability and reduced unintentional unmet need could be developed (see scoping paper for discussion of current levels of legal capability).

- Exploring use of our **regulatory levers**. For example: Should we undertake a thematic review or similar of the regulators’ approach to PLE and how they take this into account when developing regulatory proposals?

Conclusion/Next steps

9 Subject to feedback from the Board, within the next six months we will have:

- a) completed our mapping of PLE stakeholders and our initial engagement with them, identifying where and how we can best be involved
- b) published a summary, and reflected on the policy implications, of the PLE data in the Legal Needs Survey and in previous LSB research, and developed a proposal for further research
- c) returned to the Board for an update and further steer which will include our proposed work plan that builds on our mapping work and research outcomes.

Annexes

- Annex A: Summary of Responses to LSB Business Plan Consultation – Public Legal Education
- Annex B: Selected results from LSB/TLS Individual Legal Needs Survey 2019
- Annex C: Solicitor General’s Committee on PLE: *A Ten Year vision for Public Legal Education*

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Reputational:	Plans for this project were published in the 2019/20 business plan consultation. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Resource:	[REDACTED] [REDACTED] [REDACTED] [REDACTED]

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Para 6, second-to-last sentence beginning 'Although...'	Section 36 – The text has been drafted for the purpose of informing and advising the Board and enabling free and frank discussion.	N/A
Risks and mitigations box, all text after first sentence.	Section 36 – The text has been drafted for the purpose of informing and advising the Board and enabling free and frank discussion.	N/A
Scoping paper, section 1 (Context)	Section 22 – information intended for future publication	
Annex B – all	Section 22 – information intended for future publication	

Public Legal Education (PLE) Scoping paper

Our vision is *'legal services everyone can access and trust'*.

As part of this vision, our 2019/20 Business Plan sets out our PLE 5-year objective:

"The LSB is perceived as being at the forefront of enhancing public legal education"

This paper sets out our early thinking on how to begin our work towards this objective. It covers:

1. Context – what is the problem we are trying to solve?
2. Communications and positioning
3. Working definitions of key terms
4. The LSB's PLE strengths – what can the LSB offer?
5. Key scoping questions
6. Two proposed initial lines of inquiry: research and stakeholder engagement
7. Timing

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. Communications and positioning

Our PLE work is linked to core messages from **our communications strategy**, including that we put consumers and the public interest at the heart of what we do, that we support diversity and inclusion and that we are evidence based.

In our communications strategy, we said that our messaging in relation to PLE could include that:

- Higher levels of knowledge, esp in vulnerable/diverse groups, will empower citizens to engage with and value the legal system.
- PLE can help prevent issues spiralling
- Information/advice is needed in the right time, format and place to be effective

We should be able to expect support from other regulators and rep bodies, and we are presenting our Legal Needs research to the Solicitor General's PLE committee later this year.

We have a remit for this work through **the regulatory objectives**, which include:

- Increasing public understanding of the citizen's legal rights and duties
- Improving access to justice
- Protecting and promoting the interests of consumers

We don't want to duplicate efforts of other organisations, we want to partner with others where possible. For example we are active members of the Solicitor General's PLE Committee (alongside Citizens Advice, Law for Life, Law Works, CILEx, Young Citizens etc). See Annex C for the PLE Committee's 'Ten Year Vision for PLE'

We want:

1. Increased consumer capacity to identify when they have a legal need and to know where to go and how to resolve it.
2. A legal sector that has PLE embedded within it

3. What is PLE?

Our proposed working definition of PLE (with acknowledgements to the Solicitor General's PLE Committee) is

"Public legal education (PLE) covers a wide range of activities aimed at empowering participants, and increasing their confidence and capability to deal with their law-related problems"

This definition encompasses concepts such as 'legal literacy' and 'legal capability'.

There are two main forms of PLE:

Just in case PLE: increasing general understanding, skills and confidence of legal issues, so that when people face problems in the future they are better equipped to know what to do

Eg: legal literacy school lessons.

Just in time PLE: information and advice provided in response to a specific problem that someone has, at the time the problem arises

Eg: Personal Support Unit – a charity that provides free assistance to people facing legal proceedings without representation).

In 2014, we conducted research into the most effective methods of supporting consumers to identify and respond to legal problems. Just in time interventions were found to have a greater potential to help legal services consumers than just in case interventions.

Although just in case interventions can increase knowledge, the conclusion of the LSB research was that there was little evidence to suggest that such interventions change future decision making.

4. LSB's PLE strengths: what can we offer?

Our 'unique selling points' include:

- Our formal and informal regulatory levers (such as thematic reviews, statutory guidance, statements of policy), including our ability to prompt the frontline regulators (and ultimately practitioners) to take action
- Leadership and oversight:
- Convening power and setting the agenda
- Our network of contacts
- Lending our weight to existing and new initiatives
- Research – existing and new

5. Project scope considerations

We want to avoid narrowing our focus at too early a stage based on perceptions or opinions rather than evidence.

There is some evidence that just in time initiatives (advice to those with a specific problem) will have a greater impact than just in case (general information for future use)

Legal advice and information is often delivered alongside broader consumer/life skills advice: we should be comfortable with this fuzzy boundary, as long as there is a component that is legal in nature

Links to other LSB work:

- CMA/LSB/frontline regulator work on transparency of consumer information and the Legal Choices website
- Technology project – innovative ways of delivering and enhancing PLE

Proposed out of scope areas:

Education and training of lawyers.

While we may look at regulatory obligations on lawyers as part of this project in relation to providing information to consumers, the PLE project focuses on legal information and knowledge for the public rather than the profession's standards of education and training.

Pro bono. Although we recognise the role of pro bono as a channel for delivering PLE, the policy considerations around pro bono provision (such as claimed regulatory restrictions) are proposed to be out of scope.

6. Proposed initial lines of enquiry

- 1. Stakeholder engagement:** what are others doing, where do they think the LSB could add value, are they interested in partnering in some way? This will include initial engagement with Consumer Panel, relevant MoJ teams working (for example) on the government's Legal Support Action Plan and ongoing participation in Solicitor General's PLE Committee with the new Solicitor General (Lucy Frazer).
- 2. Initial research work (linking to Solicitor General PLE Goal 1):** analysis and communication of PLE elements of the latest individual needs survey (due Sept 2019 – trailed above). Also PLE insights

from LSB's back catalogue of research. Deploy these insights in stakeholder engagement work. As part of this work we will explore measures of PLE impact including for example whether targets for improved legal capability and reduced unintentional unmet need could be developed

- 3.** We will also explore use of our regulatory levers (linking to Solicitor General PLE Goals 2, 3 and 4). For example: Should we start with a thematic review or similar of the regulators' approach to PLE and how they take this into account when developing regulatory proposals?

Other ideas

In light of research findings we could focus on particular groups of vulnerable consumers, more prone to low legal confidence and not taking action due to a lack of knowledge or capability for example young people and people on low income.

We could explore what can be learnt from other sectors (eg health, financial services - including clustering of legal problems with other problems) and other jurisdictions

We could undertake a survey of external PLE research findings and extract and communicate key results and identify gaps.

We could identify and develop ways of measuring the impact of PLE initiatives.

We could develop mechanisms to help assure the quality of PLE (in terms of timeliness and accuracy)

7. Next steps

Within the next six months we will have:

1. Completed our mapping of PLE stakeholders and our initial engagement with them, identifying where and how we can best be involved
2. Published a summary, and reflected on the policy implications, of the PLE data in the Legal Needs Survey and in previous LSB research, and developed a proposal for further research
3. Returned to the Board for an update and further steer which will include our proposed work plan that builds on our mapping work and research outcomes.

Summary of Responses to LSB 2019/20 Business Plan Consultation – Public Legal Education

Respondent	Summary of comments on public legal education
Bar Council	<ul style="list-style-type: none"> • Supportive • Must understand gaps and deficiencies first or risk duplication and thereby wasting funds • Not clear on: “there may be a role for the LSB in encouraging the frontline regulators to simplify their public facing processes”
CILEx	<ul style="list-style-type: none"> • Feel the LSB can make a valuable contribution. • Good outcome will be one that enables PLE to thrive without placing additional burdens on practitioners. • Refer LSB to the work of the Solicitor General’s Public Legal Education Panel and the vision of public legal education launched in October
CILEx Regulation	<ul style="list-style-type: none"> • Supportive
CIPA	<ul style="list-style-type: none"> • Supportive
ICAEW	<ul style="list-style-type: none"> • Should be expanded to ensure that the LSB is at the forefront of professional legal education in addition to public legal education
LawWorks	<ul style="list-style-type: none"> • Supportive – see “Ten Year Vision for Public Legal Education” produced by the Solicitor General’s PLE working group – includes seven goals for PLE stakeholders. • LSB in a position to remove negative connotations around PLE (compensation culture)
LSCP	<ul style="list-style-type: none"> • Difficult for the Panel to see how the LSB would add value. • Transparency work has been subsumed into this – unfortunate because LSB should focus on information deficit already identified. Impact and outputs are ambiguous and overly ambitious
Legal Ombudsman	<ul style="list-style-type: none"> • Would like to see more overt reference to access to redress in plans for PLE • Helpful for the LSB to have a clear understanding of who is working in PLE and where the gaps are. Need to protect the most vulnerable
Nottingham Law School	<ul style="list-style-type: none"> • Supportive – must be suitable for different groups, e.g. litigants in person, those with disability, digitally excluded etc. • Should also cover the difference between legal professions
SRA	<ul style="list-style-type: none"> • Supportive
TLS	<ul style="list-style-type: none"> • Welcome – focus on ensuring that the most vulnerable in society are catered for. Should be aware of over-reliance on technology to advance PLE as could further disadvantage and marginalise these groups.

	<ul style="list-style-type: none">• Concern must make certain that improvements in understanding is not used to justify reductions in government spending on legal services and legal aid (LSB can help prevent this happening)
--	---