

Administrative Justice Council response to the Ministry of Justice consultation on Open Justice

Introduction

1. The [Administrative Justice Council](#) (AJC) is the only body with oversight of the whole of the administrative justice system in the UK, advising government, including the devolved governments, and the judiciary on the development of that system.
2. This response to the Ministry of Justice's (MoJ) consultation on Open Justice focuses on the questions included in the consultation on Public Legal Education (PLE). Individual members of the AJC may respond separately to the MoJ's consultation, including on the questions relating to PLE, to set out their own organisations, or individual, views on the issues raised. This response reflects the views of the AJC public education working group.
3. The AJC's public education working group was convened to promote better awareness of young people's rights and the routes to access / enforce them, and how best to do so across the UK, with a specific focus on administrative justice.

Background

4. In 2007, the independent Public Legal Education and Support (PLEAS) Task Force developed the following definition:

“PLE provides people with awareness, knowledge and understanding of rights and legal issues, together with the confidence and skills they need to deal with disputes and gain access to justice [and] ... recognise when they may need support ... and how to go about getting it.”¹

5. PLE is also a valuable tool for helping citizens to identify failings and wrong decisions and take action over these matters. In the Task force's report, they set out the aims of PLE:
 - a) to raise participants' awareness of their rights, the legal system and the wider justice system;
 - b) to enable people to identify the legal dimensions of everyday situations; and
 - c) to provide people with the skills and knowledge to resolve issues and identify when they need legal help²

¹ [pleas_rept_32pp-22.6.07-2 \(advicenow.org.uk\)](#) p9 paragraph 12

² *ibid*

6. According to the PLEAS Taskforce in its 2007 report, good PLE starts by establishing:
 - what knowledge users need;
 - what skills users need to take different actions;
 - what courses of action are available and feasible; and
 - what personal, emotional and support issues might arise for user.
7. The report advises that a good PLE initiative should be clear and detailed about precisely what it is aiming to achieve and tailor its goals to the circumstances, capacities and needs of specific users. It specifies that PLE goals vary from the very general (awareness-raising) to highly specific (equipping users to carry out specific actions to solve a particular problem).
8. The taskforce was established by the Department for Constitutional Affairs in 2006 and ran for 1 year with the aim of defining PLE and making the case across government, among policy makers and across legal, advice and voluntary sectors. Its subsequent report recommended “a coherent and realistic development strategy for the improvement and spread of PLE”.³
9. A more recent example of PLE research is in 2019 when the Commission on Justice in Wales (the Thomas Commission) found that ‘[t]here is a perception that law is irrelevant for the majority of the population.’⁴ This echoed the concerns of the Bach Commission which highlighted that the ‘levels of public legal capability are dangerously low.’⁵ Furthermore, the Thomas Commission found that there was ‘a lack of public awareness of what support is available to people about their rights.’ In particular, it highlighted the need to assist those who would be least likely to know where to find look for information and advice. They emphasised that this should be underpinned by PLE. The Commission highlighted the need to focus on provision for children and young people and highlighted the potential to work through University initiatives, such as Street Law, school liaison roles by justice bodies, such as the police, and utilising the new Welsh curriculum to incorporate teaching on law and justice.⁶ The Welsh Government have built on this to commit to ‘work with partners to identify and explore other areas where we can help people understand the law and secure the support they need, when they need it’.⁷
10. Further work in PLE includes [Young Citizens](#), who have a legal programme for children in both primary and secondary school which has been funded by the Law Society and the [Equality and Human Rights Commission \(EHRC\)](#) who provides education for primary and secondary school children on human rights.

³ Ibid p4

⁴ Commission on Justice in Wales, *Justice in Wales for the People of Wales* (October 2019) [10.5].

⁵ The Bach Commission, *The Rights to Justice* (September 2017) 5.

⁶ Commission on Justice in Wales [10.5]-[10.52]

⁷ Welsh Government, *Delivering Justice for Wales* (2022) 10.7

The AJC's View on PLE

11. Firstly, the AJC's working group considers the focus on public legal education to be too narrow and not inclusive of other parts of the justice system including other non-legal redress mechanisms such as ombudsman schemes and regulators. For this reason, we named our working group 'public education' to encompass all remedies within the administrative justice system. It is our strong belief that education should empower people to identify when they have a problem that has legal consequences, how they avoid the problem escalating, where to seek help and, when needed, exercise their legal rights and / or seek compensation or another remedy.
12. The AJC's view is that more work needs to be done both to ascertain the level of the public's understanding of our justice system as well as how best to address the gaps that exist within each part of the system. The Ministry of Justice should take a similar approach to the Welsh Government, and work with partners to get a better understanding of PLE and how it could be improved across the UK. A taskforce should be reintroduced, building on previous research and working collaboratively with partners to have a fresh look at the importance of public legal education across the whole justice system.
13. Based on the experience of its members, the AJC's view is that there are significant gaps that exist in the public's knowledge of their rights, the legal system and how to engage with it when this may be needed. This is evidenced through:
 - Our judicial members' experience of engaging with some of the litigants that appear before them in the Tribunal system, where there is often a lack of understanding of their rights and the correct processes to follow even after the support offered to them by HMCTS;
 - Our advice sector members' experience of engaging with the victims of injustice that struggle to understand what their rights are when things have gone wrong and how they can engage with different components of the justice system to put things right;
 - Our academic members' empirical research on the experience of those engaging with the justice system; and
 - The evidence seen regularly in the media and by our Ombuds and regulatory members about the victims of injustice that don't come forward until a scandal, tragedy or major failing occurs in a related area that finally prompts them to tell their story (and by implication the many more likely cases where people still don't come forward).

12. It therefore welcomes the implication inherent within the Government's posing of these questions that it is also aware that there are issues that need to be addressed. We look forward to seeing the Government's plans following the evidence provided by stakeholders.

Potential solutions

13. There is no single answer to address the questions the Government has raised. In practice, a multi-faceted approach would be needed as part of any programme to increase the benefits that can be derived from a renewed approach to open justice and the quality of PLE. Measuring improvements in the public's understanding of the Justice System will also need investment if it is to be properly tracked over time, with proper benchmarks established for different elements of the system.
14. As a first step, the approach recommended by the PLEAS Taskforce could be a helpful starting point. The AJC would also recommend that the Government use its convening power to work with the AJC, as well as its counterparts in Civil, Family and Criminal justice sectors, given their role in bringing together system experts to help diagnose the problems and prioritise the work that may be needed.
15. The programme of work could from the outset engage with other relevant parts of Government that will have a role to play if any action in this area is to be fully successful. This would include departments like the Cabinet Office, that have responsibility for areas of policy such as Ombuds, as well as the Department for Education, so bottom-up changes to the school curriculum can be considered as part of any work from the outset.
16. We would also recommend establishing at the outset a partnership approach with key external media and communication experts that can help inform thinking and support the development of delivery options. This could include the BBC as well as other large social media companies to ensure that accurate and digestible content was available for those looking for it on different platforms.
17. Such an approach would mean that the project could explore how to build on existing tools (such as a refresh of BBC Bitesize content for schools alongside an updated curriculum), to new step-by-step tools and hubs on other websites/channels that educate and inform people how they can exercise their rights and access the justice system. The tools developed could also then be utilised by those across the wider justice landscape including advice providers, HMCTS, tribunals, Ombuds community and regulators to support those looking for help with what the best route for them into the system will be.
18. In addition, the UK Government and Welsh Government should co-operate on providing accessible and relevant legal provisions for citizens across the

England and Wales jurisdiction. This includes ensuring that provisions accurately reflect and incorporate any differences in law and procedure between England and Wales where relevant.

19. The AJC and its members would be happy to support work in this space and encourages the development of a project as outlined exploring the options available.
20. If you would like to discuss any of our work and future plans further, please contact Heidi Bancroft, Secretary to the Administrative Justice Council at hbancroft@justice.org.uk.