



Empowering the Voluntary Sector

A Big Lottery-funded initiative between PLP and the National Association for Voluntary and Community Action launched in April 2006 to provide **free** advice and training on public law principles to all voluntary sector organisations in England which receive funding from public bodies. The initiative has three main strands: training, newsletters and advice, and will complement the work of, and work closely with, the Compact Advocacy Team at the National Council for Voluntary Organisations.

The training programme aims to provide the voluntary sector with the knowledge and skills to help it negotiate effectively with public bodies, delivered via local Councils for Voluntary Service and other infrastructure organisations. The quarterly newsletters contain general information on public law remedies (available to download from www.publiclawproject.org.uk and updates on cases, while the advice line provides detailed legal advice, with the facility for taking on particular cases to pursue through complaints procedures, the Ombudsman scheme or court proceedings.

How can public law empower the voluntary sector?

There are many bodies in England and Wales whose decisions affect the lives of individual people in a whole variety of ways. These public bodies include government ministers, departments and agencies, local authorities, the police, prisons, schools, statutory tribunals, and regulatory and supervisory bodies. Their decisions have a particularly significant impact on the quality of life of those facing poverty and disadvantage. The decision may determine whether a subsistence welfare benefit is granted, whether health care is provided or whether housing is allocated.

It is sometimes thought that where public bodies are given a discretion in a particular field, they may exercise it in whatever manner they think best. Similarly, it is often thought that a public body may do anything unless the law expressly prohibits it from doing so. Both propositions are false. Whatever a public body does, it must be able to point to some legal provision, which permits it to act in such a way. Thus if the action, (or inaction), is based on an erroneous interpretation of the law or breaches the Human Rights Act 1998 (HRA), or the decision-making process is unfair or biased, then those who are detrimentally affected by the decision or process have the right to challenge it using one of the remedies available.

Public law remedies are the mechanisms of accountability by which citizens can challenge the fairness and/or legality of the decisions of those bodies. They include not only litigation remedies such as judicial review, but also non-court based remedies such as complaints procedures and ombudsmen schemes, and increasingly, mediation.

Thus, unfair (or straightforwardly bad) decisions affecting voluntary organisations can be susceptible to challenge on public law grounds. Such challenges might arise as a result of any one of a number of factors. These may include simple maladministration, inadequate consultation, unfair decision making processes, irrational decisions or as a result of non-compliance with the statutory Codes of Practice issued by the Commission for Racial Equality.

Those who are detrimentally affected by the decision or process have the right to challenge it using one of the remedies available. Not only may a successful challenge to an adverse decision mean that the community gains or maintains access to a vital service or benefit, but the very experience of acting on injustice is an empowering one that combats the very roots of social exclusion. However, despite being the very people who have the most to lose from an unlawful or unfair decision, those facing disadvantage are those who face the greatest obstacles to accessing a remedy.

Elements of the project

1. Newsletters

The project lawyer and training/information officer jointly produce and distribute general information in a newsletter distributed by PLP and NAVCA quarterly throughout the life of the project. The newsletters also contain information as to any achievements that have come about as a result of the project, together with any lessons that need to be learned.

2. Training

The national training programme, providing 26 training days a year to representatives of local groups, aims to provide the voluntary sector with the knowledge and skills to help them negotiate effectively when dealing with public bodies. The training covers public law principles, tactical advice, the form, content and role of Compact agreements, the CRE Codes of Practice, the range of remedies available and how they can be accessed, and the role of lobbying and the media. The approach taken will be an intensely practical one, with time also set aside for workshop sessions on local problems/approaches.

For further information about the training programme, please contact Terry Perkins, the project's training officer, at NAVCA. Tel: (0114) 278 6636 x 163 or email: terry@navca.org.uk

3. Advice

A lawyer specialising in public law staffs the advice line for 12 hours per week (four three-hour sessions) which provides back-up for training course participants and others wishing to access the service. This provides individually tailored oral and/or written legal advice to the organisations requiring it. In addition, the lawyer is able to take instructions directly from the

organisation or service users and correspond with the public body on their behalf. If necessary, they can also bring cases to court on the organisation's behalf, represent the organisation in any mediation, and make complaints to the Ombudsman where appropriate.

The lawyer is also available to advise and assist the organisations after the dispute has been resolved, in seeking to establish or re-establish local mechanisms to prevent such disputes from reoccurring.

Legal advice for voluntary sector organisations is available from the Public Law Project on (020) 7697 2198 at the following times:

Mondays	2pm to 5pm
Tuesdays	10am to 1pm
Wednesdays	2pm to 5pm
Thursdays	10am to 1pm

Advice is also available via email: evs@publiclawproject.org.uk

Longer-term aims and objectives

In the longer term, we would hope that as a result of this project, public bodies will make fairer, better-quality decisions in a more open way, involving and consulting those affected by them. The quality of decisions affecting the provision of services to the most disadvantaged groups in society, and policies focusing on them, will be improved.

Community organisations will stay open and keep providing services that otherwise would have been closed, or forced to reduce their work following unfair decisions to cut their funding. Such organisations and their users will have been empowered to be better able to influence decision-making processes, whether in relation to policies in general or funding in particular.