

Measuring What Matters

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Summary

National Legal Aid (NLA) supports:

1. A commitment to developing an Australian Budget Wellbeing Framework;
2. Inclusion of access to justice measurements in any Australian Budget Wellbeing Framework;
3. Incorporating in an Australian Budget Wellbeing Framework analysis of public understanding of law including how people see, understand and engage with the law. This could be done using national social surveys to collect data across Wellbeing Framework measures, and particularly for any access to justice measure. It could also include expanding the Victoria Law Foundation Public Understanding of Law Survey.
4. Engagement with key legal assistance stakeholders, including NLA, in the consultation and development of an Australian Budget Wellbeing Framework and measures.

About National Legal Aid

National Legal Aid (NLA) represents the Chief Executive Officers of the eight Australian State and Territory Legal Aid Commissions (LACs). LACs are independent statutory authorities funded by the Commonwealth and respective State and Territory governments to provide legal assistance to people experiencing financial disadvantage. LAC services focus on prevention, timely intervention, and the appropriate resolution of disputes. The LACs are an integral part of the legal assistance sector and the justice system and generate net benefits to the community including the avoided costs to individuals and the community of unresolved legal issues. This includes the significant costs associated with systems responses to family violence, child protection, health and mental health, disability, housing, social security, as well as the costs associated with the justice system and self-representation.

Nationally, Legal Aid Commissions provide over 1.5 million instances of legal assistance a year and are the main providers of legal representation for people experiencing disadvantage in Australia. Legal Aid services are provided to the most disadvantaged people in Australia – in 2021/2022 for clients of the 150,000 legal aid approved matters, 100% were financially disadvantaged, 20% were Aboriginal or Torres Strait Islander (61% Northern Territory Legal Aid and 32% Legal Aid Western Australia) and a significant proportion of those accessing family and civil law services were women and children.¹ 25% of clients receiving intensive legal assistance self-identified as a person with a disability.²

Wellbeing measurement approach

NLA welcomes the Australian Government's commitment to measuring wellbeing and developing a wellbeing framework in the context of its Budget policy. Broader measurements beyond traditional macroeconomic measures are critical in both ensuring and evaluating the impact of investment in policy and programs across quality of life, societal benefit and intergenerational equity.

¹ [National Legal Aid Statistics Reports](#)

² NLA, *Legal Aid Commissions' Disability and Intersectional Service Data 2018-19 to 2020-21* (15 October 2021). The data is an underrepresentation due to limitations in data collection and reliance on self-reporting.

Importantly, wellbeing measures also generate an assessment of policy and programs in terms of their cross-sector and system impact. Access to justice and the provision of legal assistance to people experiencing disadvantage is often understood as only impacting the justice system, implementing a wellbeing measurement framework would highlight and broaden understanding of the community and individual impacts legal assistance has across a range of social policy and systems including community resilience and financial independence, ending violence against women, child protection, disability and social security.

A wellbeing framework incorporated within Budget policy would also provide an opportunity to assess investment in the context of existing national priorities and incorporate their measures. This includes the National Agreement on Closing the Gap, the National Plan to End Violence Against Women and Children, the Australian Disability Strategy and national partnerships such as the National Legal Assistance Partnership.

Access to justice measurement

It is critical that an access to justice measurement is included as part of any Budget Wellbeing Framework. Whilst not included in the OECD framework indicators it is internationally recognised that access to justice is integral to measuring community wellbeing. A number of countries have introduced a wellbeing framework and the majority, particularly those countries with First Nations communities, include an access to justice measure as part of their core priorities of good governance and human rights.³

In Canada, Justice and Human Rights is a core domain within the headline of Good Governance and includes measures on discrimination and unfair treatment, cyber-bullying, access to fair and equal justice (civil and criminal), resolution of serious legal problems and representation in corrections custodial population.⁴

In New Zealand, in continuing to embed a wellbeing approach into the Budget process introduced four priorities to better address complex, multi-generational challenges, which included access to justice. This resulted in a cross-government response that brought Ministers and agencies together and led to a 2022 commitment of an additional \$190 million to maintain and strengthen legal aid for people experiencing disadvantage.⁵

In Australia, access to justice measures are already a key component of a number of national priorities. For example, four of the seventeen outcomes of the National Agreement on Closing the Gap focus on improving access to justice and the National Plan to End Violence Against Women and Children identifies the implementation of a trauma informed justice system (including criminal and family) as a critical outcome within its four priority domains.⁶

Australia has also provided global leadership in developing a holistic cost benefits approach to analysing access to justice. In 2009 NLA commissioned PwC to develop a first-of-its-kind report that estimated the benefits from Legal Aid services that accrue from the increased efficiency of the justice system. In 2019, the World Bank undertook a literature review of the

³ Canada, New Zealand, Wales, Italy and Scotland all have access to justice indicators as part of their wellbeing frameworks. Wales included their indicator in 2021 following an evaluation of the framework and the identification of existing gaps.

⁴ [Measuring What Matters: Toward a Quality of Life Strategy for Canada - Canada.ca](#)

⁵ [Minister of Finance: Wellbeing Budget 2022 Speech | Beehive.govt.nz](#)

⁶ See [Closing the Gap targets and outcomes | Closing the Gap](#) and [The National Plan to End Violence against Women and Children 2022-2032 | Department of Social Services, Australian Government \(dss.gov.au\)](#)

key findings from various cost benefit analyses of access to justice and legal assistance globally and cited the PwC report as evidence of best practice ways to analyse and capture the economic benefits. In 2022 NLA commissioned PwC to undertake an updated analysis of the benefits of providing access to justice with a focus on federally funded legal aid family and civil law. This estimates that there is a \$601 million in benefit each year, representing a Benefit Cost Ratio of 2.25. This includes costs saved within the legal system, but importantly also includes avoided costs to individuals and government through addressing domestic and family violence, minimising out of home care costs and reducing pain and suffering as a result of legal issues.⁷

There are a range of existing data sets, including the National Legal Assistance data set, that could be utilised to measure any access to justice indicator. It is noted that internationally, the key tool used to measure access to justice indicators is a regular national social survey.⁸ There is currently no national survey in place that regularly assesses community access and understanding of access to justice in Australia. This is a major gap that could be addressed by implementing a regular, national Public Understanding of Law Survey (PULS) similar to the one currently being undertaken by the Victoria Law Foundation.⁹ The PULS is exploring community ability to navigate access to justice, knowledge of the justice system and its institutions, impact or role of law in the community and how people experience and respond to legal problems.

Consultation and engagement

There are a range of legal assistance stakeholders with expertise in impact evaluation, outcomes measurement and wellbeing frameworks. NLA has particular expertise on broader cost benefits of legal assistance as well as expertise in outcomes measurement and relevant legal assistance data sets. Any further development of a Budget Wellbeing Framework should include consultation and engagement with the legal assistance sector, including NLA, to assist in the identification of measures, data sets and to test different approaches.

⁷ PwC *The Benefits of Providing Access to Justice*, January 2023

⁸ Scotland and Wales use a social survey as the key data set for access to justice measures

⁹ [The Public Understanding of Law Survey \(victorialawfoundation.org.au\)](https://victorialawfoundation.org.au)