
J Building the evidence base

The rationale for establishing an evidence base in the civil justice system is presented in chapter 25. This appendix details some of the data required to help build the evidence base.

Collecting data is not costless and some participants in this inquiry have raised concerns that data are sometimes collected with little apparent purpose. To ensure the relevance of data collected, the Commission has identified a number of policy questions that can be used to frame an ongoing assessment of the civil justice system, and identified the data that would help answer those questions.

These questions form the basis of table J.1. The table also takes stock of available data and suggests possible responses to identified data gaps. Greater detail on data requirements is contained in the relevant chapters.

Table J.1 Policy-relevant data

<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Understanding and measuring legal need			
<ul style="list-style-type: none"> • How many people have legal need? • What are the factors that contribute to legal need? • How are people resolving their legal needs? What works and what does not work? • How many people have unmet legal need? • What are the consequences of unmet legal need? • What are the characteristics of people who experience multiple legal problems? 	<ul style="list-style-type: none"> • Information about the legal problems that people face, as well as the demography of those with legal need. • Information about the steps taken (or not taken) to resolve legal problems — ideally through time. 	<ul style="list-style-type: none"> • There are no regular surveys of legal need in Australia. Demographic data are usually limited to those that have a dispute in the formal system. • No consistent definition of legal problems — infrequent surveys use inconsistent definitions, which make comparisons difficult, especially across time. • There is a lack of longitudinal information to track individuals through time. 	<ul style="list-style-type: none"> • The <i>Legal Australia-Wide (LAW) Survey</i>, undertaken in 2008, examined legal need and responses to legal need. A more contained survey should be repeated on a regular basis. • There should be better collaboration between researchers in this field to ensure that methodologies and definitions become more consistent. • A longitudinal component to legal needs surveys should be added where possible.
<ul style="list-style-type: none"> • How many businesses have legal needs? How do they resolve their legal problems? How many have unmet need? 	<ul style="list-style-type: none"> • Information about the characteristics of businesses, their legal problems and the steps taken to resolve them. 	<ul style="list-style-type: none"> • There is no regular survey to address the legal needs of businesses. Only one survey of small businesses has been undertaken recently in Australia. 	<ul style="list-style-type: none"> • A survey of businesses should be undertaken to provide data in this area. The Australian Bureau of Statistics (ABS) should consider adding questions around legal disputes to the <i>Business Characteristics Survey</i>.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
How accessible is the civil justice system?			
<ul style="list-style-type: none"> • Do legal costs, delays and complexity reduce access to the civil justice system? • How is accessibility changing over time? • Does accessibility vary according to the nature of users? 	<ul style="list-style-type: none"> • Costs to consumers. • Timeliness by case type. • Survey data on the ease of using the system. 	<ul style="list-style-type: none"> • Timeliness data reported by ombudsmen and some tribunals, and Report on Government Services (RoGS) measures the timeliness of courts. However, timeliness measures are not consistent across these institutions. • Private costs (including legal costs) to users of courts are unclear and comparable data across different time periods are lacking. • <i>LAW Survey</i> provided information on characteristics of users, and asked whether action was not taken because it was too stressful or the respondent did not know what to do. • Australia Institute survey asked respondents how long it took to resolve their legal problems, and whether they thought the system was too complicated to understand properly. • Some courts measure user satisfaction by asking court users how clear they found the processes and forms. • Demographic data are collected but may not assist in answering accessibility questions because they are not linked to barriers. 	<ul style="list-style-type: none"> • There is a need for consistent terminology across institutions. • Information from claims lists can form the basis of a measure of average costs/time by case type. For example some jurisdictions, such as South Australia, prepare claims lists (such as small claims and motor vehicle claims) that can be used to form such a basis. • Comparable sources of legal cost data are needed to allow for study of legal costs over time. • Surveys should be repeated periodically to assist in understanding longitudinal effects and changes to accessibility.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Understanding and navigating the system			
<ul style="list-style-type: none"> • How many people lack legal capability including knowledge of their rights and the capacity to take action? • Do disadvantaged people have lower levels of legal knowledge and does this affect their access to the civil justice system? 	<ul style="list-style-type: none"> • Unprompted and prompted recall of legal services and rights. • Demographic and income data on survey respondents. 	<ul style="list-style-type: none"> • <i>LAW Survey</i> provided information on the educational levels of respondents and whether respondents took no action because they did not know what to do. • Australia Institute survey asked respondents whether they know their rights and whether they know how to get help if they had a legal problem. • ‘Disadvantage’ is not defined consistently across survey instruments, providers and institutions. • Better understanding of why some groups are more likely to have problems is needed. 	<ul style="list-style-type: none"> • Surveys should seek to incorporate measures of legal knowledge and capacity. • ‘Disadvantage’ needs to be consistently defined so that it is easier to measure the legal knowledge of disadvantaged people.
<ul style="list-style-type: none"> • How effective and efficient are services that aim to improve legal capability including community legal education (CLE), and legal information? • How effective and efficient are legal health checks, outreach and holistic services? • Are referrals appropriate? 	<ul style="list-style-type: none"> • Cost and activity count of each type of service. • Client satisfaction and follow-up data. • Count of best practice legal information and CLE that is shared amongst legal service providers. • Count of referrals from legal and non-legal service providers. 	<ul style="list-style-type: none"> • Activity-based performance targets are a requirement of the National Partnership Agreement on Legal Assistance Services (NPA). • NPA reports track the number of services delivered including website traffic, number of education sessions, publications printed and referrals. • Aggregate expenditure is recorded but not disaggregated by types of services. • Outcomes are not measured. • Reported data are inconsistent and incomplete across jurisdictions. • Measures of effectiveness are generally not based on empirical evidence or evaluations. 	<ul style="list-style-type: none"> • Clear, consistent definitions of each type of service are needed. • Client satisfaction and whether services led to satisfactory outcomes could be revealed through surveys of users. • Disaggregated expenditure data on each type of service should be recorded. • Benchmark average costs across jurisdictions over time for each type of service. • Review CLE and information to ensure best practice. • Well-recognised entry points to record whether callers were referred to the helpline and if so, the type of organisation that made the referral. Where callers are referred to should also be recorded.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Protecting consumers of legal services			
<ul style="list-style-type: none"> • How can consumers be better informed about the costs of taking legal action? 	<ul style="list-style-type: none"> • Publicly available, aggregate billings data and information on billings models for consumers. • Average, median or range of fees by legal matter. 	<ul style="list-style-type: none"> • Information is not public. 	<ul style="list-style-type: none"> • Aggregated information on average and typical legal costs, by type of matter, could be published in each jurisdiction.
<ul style="list-style-type: none"> • How can more consistency be introduced to how cost assessors determine 'fair and reasonable' costs? 	<ul style="list-style-type: none"> • Breakdown of costs by legal matter. 	<ul style="list-style-type: none"> • Cost assessors do not publish their determinations of 'fair and reasonable' costs. 	<ul style="list-style-type: none"> • The results of cost assessors' decisions should be published by type of legal matter. Where necessary, these should be de-identified.
<ul style="list-style-type: none"> • Are complaints bodies achieving effective redress for consumers of legal services? 	<ul style="list-style-type: none"> • Data on use and nature of sanctions, timeliness and user satisfaction. 	<ul style="list-style-type: none"> • Sanctions and timeliness data not consistently collected. • While complaints bodies seek feedback, more rigorous and systematic follow-up is not undertaken. This means that there is not a complete picture of what works. 	<ul style="list-style-type: none"> • Complaints bodies should report publicly on outcomes achieved for consumers. • Surveys should be conducted periodically.
A responsive legal profession			
<ul style="list-style-type: none"> • How responsive is the legal profession? 	<ul style="list-style-type: none"> • Number of lawyers in total and practicing by area of law. 	<ul style="list-style-type: none"> • ABS definition of lawyers is not sufficiently descriptive. • NSW Law Society publishes information on the number of lawyers. 	<ul style="list-style-type: none"> • ABS definition of lawyers needs to be redefined to get better survey results.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Alternative dispute resolution (ADR)			
<ul style="list-style-type: none"> • How effective is alternative dispute resolution (ADR) and does effectiveness vary depending on: the nature of the dispute; the parties; or the ADR techniques employed? • How often is ADR used? 	<ul style="list-style-type: none"> • Cost of ADR. • Count of individual ADR processes. • Demography of users. • Settlement rates and determinants of settlement, for example referral stage. 	<ul style="list-style-type: none"> • Unclear whether demographic data are collected. • Costs of provision unknown. • Terminology is inconsistent and data are reported in an ad hoc way and cannot be easily collated and compared. • ADR carried out in the informal sector is not recorded, so extent of use and settlement rates are unknown. 	<ul style="list-style-type: none"> • Terminology needs to be agreed on and standardised. • Settlement rates and stage of settlement need to be collected. • At a minimum, how settlement was achieved should be recorded. • Legal assistance providers should be required to report on use of ADR services. • Courts and tribunals should report on how disputes have been settled and whether ADR was used. • Surveys or studies should ascertain ADR use among general population, including for what kind of legal problem, how it was initiated, and whether it was successful.
Ombudsmen and other complaint mechanisms			
<ul style="list-style-type: none"> • How efficient are ombudsmen? Where could improvements be made? • Are generalist or specialised ombudsmen more efficient and effective? 	<ul style="list-style-type: none"> • Full list of ombudsmen and data on type, cost, caseload, 'other' responsibilities and timeliness. • Breakdown of resources devoted to complaints. 	<ul style="list-style-type: none"> • Timeliness, costs and caseload are reported by most ombudsmen, however definitions are sometimes inconsistent. • Complaints functions of most ombudsmen are not separately costed. • Data are not coordinated across ombudsmen, making comparisons difficult. 	<ul style="list-style-type: none"> • Measures relating to types of disputes and timeliness should be standardised and used consistently for data collection and reporting in order to assist benchmarking. • Benchmarking of similar entities. • Complaints functions need to be separately costed to aid benchmarking of ombudsmen so that average costs are not overestimated.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Tribunals			
<ul style="list-style-type: none"> • How efficient are tribunals? • Where could improvements in tribunal services be made? 	<ul style="list-style-type: none"> • Data on the number of tribunals and their caseload, costs, fees and timeliness, by case type. 	<ul style="list-style-type: none"> • Consistent and complete data not reported in Annual Reports. • Not all amalgamated tribunals collect cost data separated by case type. 	<ul style="list-style-type: none"> • Consistent terminology needed for benchmarking. • Caseload, fees, cost and timeliness data required; separated by case type for amalgamated tribunals.
<ul style="list-style-type: none"> • Are tribunals easy to use, including for self-represented litigants? 	<ul style="list-style-type: none"> • Rate of legal representation. • Referral rate of ADR. • Settlement rates through ADR. 	<ul style="list-style-type: none"> • Data not reported for all tribunals; reporting measures are inconsistent. 	<ul style="list-style-type: none"> • Data on the rate of legal and other types of representation, by type of case. • Data on how disputes were settled and whether ADR was used.
Court processes			
<ul style="list-style-type: none"> • What is the relative effectiveness and efficiency of different case management approaches? • What is the scope of disproportionate discovery? • Have reforms to discovery rules been effective? • Have reforms to expert evidence rules been effective? 	<ul style="list-style-type: none"> • Cost and timeliness data by case type by case management method. • Costs of discovery relative to total costs of litigation including the value of what is at stake for the parties involved and number of discovered documents. • Surveys of judges' and practitioners' views on the extent to which discovered documents assist in the resolution of the dispute. • Cost of expert evidence to litigants, court time utilised for expert evidence, survey data on the quality/utility of different forms of expert evidence. 	<ul style="list-style-type: none"> • Limited data overall. • Limited data on the cost-effectiveness of different case management approaches for resolving different case types. • It is unclear the extent to which different courts measure the impacts of different case management approaches on timeliness, court resources and litigant costs. Little information is publicly available. • Very limited data on prevalence of disproportionate discovery and the impact of discovery reforms. • Cost of expert evidence not publicly available. 	<ul style="list-style-type: none"> • Courts' case management systems should collect statistics which allow courts to evaluate the impact of case management and procedural reforms on timeliness and court resources. • An appropriate body for coordinating analysis and evaluation of different case management approaches should be determined. Evaluations should include the impact of procedural and case management reforms on litigant costs. • Data could be collected at infrequent intervals on: total litigation costs and amount of costs associated with discovery; the value of what is at stake for the parties in the litigation; the number of discovered documents that are relied upon at trial; whether settlement was achieved after discovery; and lawyers' impressions of the extent to which discovered documents were crucial in resolving the dispute or narrowing the issues in dispute. A closed case survey instrument could be used for this purpose. Surveys developed by the Federal Judicial Centre in the United States could be drawn upon for this purpose.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Court processes (continued)			
<ul style="list-style-type: none"> • How often is ADR used in the resolution of disputes lodged in courts? • How efficient and effective is ADR in assisting in the resolution of each type of dispute? 	<ul style="list-style-type: none"> • Referral rate of ADR by legal matter. • Type of ADR process used. • Timing of ADR referral. • Cost of ADR. • Settlement rates. • User satisfaction with the process. 	<ul style="list-style-type: none"> • Some data for ADR referral rates and settlement rates are reported in court annual reports but these data are not consistently reported and not broken down by legal matter. • Limited evaluations assessing user satisfaction with different ADR processes. 	<ul style="list-style-type: none"> • Courts to report on how different legal case types have been resolved, if ADR was used and settlement rates. • Terminology for legal case types and ADR processes would need to be agreed.
Costs awards			
<ul style="list-style-type: none"> • How can costs awards better encourage parties to only incur reasonable costs? 	<ul style="list-style-type: none"> • Periodic calculations of representative costs. • Typical costs awards by case type, amount in dispute and length, relative to legal expense. 	<ul style="list-style-type: none"> • Lack of transparency around how costs awards are determined. Costs awards are based on scales of costs, but method of setting scales is unclear. • Most recent studies of legal costs for state courts released in 1993 and 1994. Legal costs of Federal Court and Family Court are from 1999. 	<ul style="list-style-type: none"> • ABS should collect data on legal costs and costs awards at regular intervals.

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Self-represented litigants			
<ul style="list-style-type: none"> • What proportion of court and tribunal users are self-represented? • What are their characteristics? • Why do people self-represent? • How does self-representation affect courts and tribunals? • Are measures aimed at assisting self-represented litigants effective? 	<ul style="list-style-type: none"> • Number of self-represented litigants relative to total users, by legal matter. • Demographic data on self-represented litigants. • Data on reasons why people self-represent. • Outcomes of self-represented litigants compared with other users, and how assistance measures affect outcomes. • Court/tribunal time and resources used to support self-represented litigants compared with other users, and how assistance measures affect this. 	<ul style="list-style-type: none"> • Most federal courts publish tallies of self-represented litigants. The Family Court and the Federal Court publish the most extensive information. • Few state and territory courts and tribunals publish data on self-representation and it is unclear whether they collect this information. • Published data are too high-level. Courts and tribunals do not hold demographic data on users. • Queensland Public Interest Law Clearinghouse (QPILCH) surveys self-represented litigants who have used its services. • It is unclear whether courts and tribunals collect data to assess the effectiveness of initiatives aimed at assisting self-represented litigants. 	<ul style="list-style-type: none"> • Greater and consistent reporting of proportion of self-represented litigants in courts and tribunals should be undertaken in each jurisdiction. • The Family Court or Federal Court are possible models for other courts in this area. • At a minimum, the number and type of legal matter should be collected to inform policy. • Ongoing collection of demographic data on court users may be too onerous. Instead, annual surveys of court users could be undertaken to study differences between self-represented litigants and represented users. • Smarter use of case management technology including software could capture information on case outcomes and use of court/tribunal resources so that effectiveness of measures could be assessed.
Court and tribunal fees			
<ul style="list-style-type: none"> • Do court and tribunal fees appropriately recover costs? 	<ul style="list-style-type: none"> • Fully distributed costing of courts and tribunals activities. • Court and tribunal fees. • Count and proportion of users paying full fees. • Methodology for fee setting. • Demographic and income data on court users (those who are and are not paying full fees). 	<ul style="list-style-type: none"> • Methodology for setting court and tribunal fees is unclear. • Basis of different levels of cost recovery across courts and tribunals is unclear. • Many courts do not undertake costing of their activities — service costs and overheads are unclear. • Report on Government Services (RoGS) reports average court fees but acknowledges that distribution of court fees is unclear. 	<ul style="list-style-type: none"> • Cost breakdown by type of case and overheads. • Court and tribunal fees. • Demographic data on court users.

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Court and tribunal fees (continued)			
<ul style="list-style-type: none"> • Who is deterred by court and tribunal costs? • How should fee waivers be targeted? 	<ul style="list-style-type: none"> • Income and demographic data including on the nature of disadvantage experienced by users. • Number and value of waivers given. • Methodology for setting waivers. 	<ul style="list-style-type: none"> • More accurate picture of average court fees can be gleaned once number of waivers are reported. • Federal Courts report number of waivers given in a financial year. State courts do not report this information publicly. • Average size of waiver relative to court fee is not known. 	<ul style="list-style-type: none"> • Income and demographic data on those who apply for fee relief should be collected, in addition to whether a waiver was granted. • Surveys to be conducted periodically. • Count and value of waivers to be collected by all courts and methodology to be made public. • Courts to collect data on the size of the waiver given, relative to court fee.
Courts — technology, specialisation and governance			
<ul style="list-style-type: none"> • What impact do different court technologies have on accessibility, efficiency and effectiveness? 	<ul style="list-style-type: none"> • Data on uptake of different technologies. • Data to support cost-benefit analysis of technological take-up. 	<ul style="list-style-type: none"> • Limited data on uptake of different technologies are reported. • Data on cost-effectiveness of court technological solutions are not publicly available. 	<ul style="list-style-type: none"> • Courts to report on uptake of different technologies. • Courts to consider how case management systems can be used to collect data to measure the cost-effectiveness of different technologies. • Courts could periodically conduct user surveys to collect data on levels of satisfaction with the availability of different technologies.
<ul style="list-style-type: none"> • Are current levels of court funding and judicial resourcing appropriate to ensure accessible, efficient and effective court services? 	<ul style="list-style-type: none"> • Measures of court workload. • Number of judicial officers and court staff. • Data that indicates how courts are performing against agreed outputs and performance measures. 	<ul style="list-style-type: none"> • Current RoGS performance indicators include fees paid by applicants, judicial officers, backlog, attendance, clearance rate, judicial officers per finalisation, FTE staff per finalisation and cost per finalisation. • Courts report against different outputs and time standards in annual reports. 	<ul style="list-style-type: none"> • Courts to consider the potential for case management systems to provide more sophisticated measures of workload. • Courts and governments could investigate the value of a wider range of performance measures drawing from a range of international tools for measuring court performance.

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Private funding for litigation			
<ul style="list-style-type: none"> • How can consumers be better informed about options for private funding? • What are the impacts of caps on conditional and damages-based billing? • What are the impacts of different types of billing arrangements? 	<ul style="list-style-type: none"> • Publicly available, aggregate billings data and information on billings models for consumers. • Median fees by legal matter. • A methodology for converting bill values into percentages of damages awards. 	<ul style="list-style-type: none"> • Data are not generally publicly available but the Queensland Legal Services Commission conducts periodic surveys on billing practices in Queensland. However, surveys have a low response rate. 	<ul style="list-style-type: none"> • Periodic surveys and audits to be undertaken in each jurisdiction by legal complaints bodies to ascertain the prevalence of different billing agreements and compliance with billing regulation.
Legal assistance landscape			
<ul style="list-style-type: none"> • Are legal aid commissions (LACs), Aboriginal and Torres Strait Islander legal services (ATSILS), family violence prevention legal services (FVPLS) and community legal centres (CLCs) providing services effectively and efficiently? • Is the allocation of legal assistance funding amongst LACs, ATSILS, FVPLS and CLCs appropriate? 	<ul style="list-style-type: none"> • Demographic and income data on users. • Information on the cost of providing different sorts of services (for example advice, casework, CLE). • Client satisfaction data. • Data on those unable to gain access to services. 	<ul style="list-style-type: none"> • Demographic data are collected on users, but can be of poor quality. • Information on costs of different services by provider is lacking. • Apparent divergence between required data and what is actually reported (some missing fields; definitions not always adhered to). • National Legal Aid (NLA) does not publish cost data. Some LACs, including Legal Aid WA and Legal Aid QLD publish average costs of services. • Comparing the outcomes between different LACs can be difficult. • ATSILS no longer collect client satisfaction data. Have moved to selected stakeholder assessment instead. • Data on those who cannot access the system are not collected frequently and are not precise enough to measure unmet need of particular groups, including Aboriginal and Torres Strait Islander people. 	<ul style="list-style-type: none"> • Demographic data should be collected more efficiently by examining what data items are needed and reducing load by removing those that are not. • Types of services (e.g. minor assistance) should be consistently defined and reported to allow for benchmarking. • Reporting requirements should be consistent within and across legal assistance providers. This will allow for comparisons across the legal assistance landscape and will reduce reporting burden. • Regular surveys should be undertaken to better measure unmet need of particular groups, including Aboriginal and Torres Strait Islander people.

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Legal assistance landscape (continued)			
<ul style="list-style-type: none"> • What are the incomes and assets of people receiving legal aid grants relative to those being rejected? • How restrictive is the means test for a grant of legal aid? 	<ul style="list-style-type: none"> • Income and assets of legal aid users and grant applicants. 	<ul style="list-style-type: none"> • Some LACs publish the proportion of users on income support. • Users' income (including those not earning an income and not receiving income support) not published. • Aggregate data on applicants' incomes not published. • NLA publishes application statistics by jurisdiction and by law type (criminal, civil, family). 	<ul style="list-style-type: none"> • NLA should report information on the number and characteristics of people applying for grants, receiving grants and being rejected and whether applications have been rejected due to means, merit or the nature of the matter.
<ul style="list-style-type: none"> • How effective are legal assistance providers over time? 	<ul style="list-style-type: none"> • Follow-up data on, or tracking of, users. 	<ul style="list-style-type: none"> • Reported data only allows for 'snapshots'. • Understanding the longitudinal effects of legal assistance provision requires users to be tracked across time. 	<ul style="list-style-type: none"> • Providers should track outcomes through time.
<ul style="list-style-type: none"> • What are the characteristics of intensive users of legal assistance? What factors contribute to the multiplicity of their legal problems? • What share of legal assistance resources are allocated to assisting intensive users? • How effective and efficient are legal assistance services targeted at intensive users? 	<ul style="list-style-type: none"> • Extensive demographic data (see results of Legal Aid NSW study on intensive users). • Longitudinal data on intensive users including frequency of use, nature of legal problems, and actions sought. • Financial and time costs of providing services to identified intensive users. 	<ul style="list-style-type: none"> • Demographic data reported by some legal assistance providers is incomplete and inconsistent — particularly in relation to Indigenous and disability status. LACs in New South Wales and Victoria have detailed data on their websites. It is unclear whether other jurisdictions collect similar information but do not report it publicly. • There is a lack of information on whether interventions have been successful in achieving resolution of legal problems and whether intensive users return to seek legal assistance with related legal problems. • Spending on intensive users, relative to total cost of legal assistance, is not collected. • No agreed definition of intensive users. 	<ul style="list-style-type: none"> • Adopt a common definition of intensive users, identify the characteristics of this group and measure the share of services they use. • Track outcomes for these users over the medium (as well as short) term. • Identify risk factors for poor outcomes over the medium term.

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<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Legal assistance landscape (continued)			
<ul style="list-style-type: none"> • How cost-effective are the strategies used by government agencies to proactively engage with at-risk Aboriginal and Torres Strait Islander Australians to reduce this group's likelihood of needing legal assistance to resolve disputes with government agencies? • Are culturally tailored ADR services for Aboriginal and Torres Strait Islander people cost-effective? • What is the cost of increasing the supply of appropriately qualified interpreter services to better support Aboriginal and Torres Strait Islanders access to justice? 	<ul style="list-style-type: none"> • Cost of culturally tailored ADR, interpreter services and early engagement strategies. • Count of individual culturally tailored ADR processes, interpreter services and early engagement strategies. • Demography of users. • Outcomes of early engagement strategy. • Settlement rates and determinants of settlement, for example referral stage. • Satisfaction with interpreter services. 	<ul style="list-style-type: none"> • Some demographic data are collected. • Cost of service provision is unknown. • Anecdotal evidence suggests culturally tailored early engagement strategies may be cost effective compared with the cost of legal assistance to support disputes with governments. • Anecdotal evidence suggests that ADR is less expensive than going to trial but this is unclear for culturally tailored ADR. • Terminology is often inconsistent and data are reported in an ad hoc way and cannot be easily collated and compared. 	<ul style="list-style-type: none"> • Terminology needs to be agreed on and standardised. • Counts, demography of users, service costs and outcomes of different early engagement strategies, culturally tailored ADR and interpreter services needs to be collected. • Settlement rates and stage of settlement need to be collected for culturally tailored ADR. At a minimum, how settlement was achieved should be recorded. • Legal assistance providers should be required to report on use of culturally tailored ADR services. • Courts and tribunals to report on how disputes have been settled and whether culturally tailored ADR was used. • Surveys and/or studies to ascertain culturally tailored ADR use among Indigenous population, including for what kind of legal problem, how it was initiated, and whether it was successful.

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Pro bono			
<ul style="list-style-type: none"> • What are the most cost-effective pro bono programs? 	<ul style="list-style-type: none"> • Value of pro bono activities undertaken measured on a cost per hour, matter or client basis. Costs should be defined broadly to include costs to pro bono volunteers, CLCs, LACs or referral bodies, and opportunity costs. 	<ul style="list-style-type: none"> • Main sources of data are ABS (2009) and National Pro Bono Resource Centre (NPBRC) surveys, which define pro bono services differently. • Surveys detail the number of pro bono hours per lawyer and sometimes by law firm size and legal matter. • Pro bono services used by individuals are poorly captured by existing measures. 	<ul style="list-style-type: none"> • Consistent definition of pro-bono activities to be established. • The NPBRC and the ABS should coordinate in undertaking surveys on the value of pro bono services.
Family law			
<ul style="list-style-type: none"> • What is the relative efficiency and effectiveness of different models of family dispute resolution (FDR)? 	<ul style="list-style-type: none"> • Costs of service provision and user outcomes for different models of FDR. 	<ul style="list-style-type: none"> • Quantitative research has been undertaken by the Australian Institute of Family Studies (AIFS). In particular, AIFS has conducted a longitudinal study which provides considerable insight into the dispute resolution pathways for separating parents. • Data on the relative effectiveness and efficiency of different models of FDR are lacking. 	<ul style="list-style-type: none"> • Australian Government to ensure that government funded FDR providers, including LACs and FRCs, report on the costs of providing FDR services. • Australian Government to ensure that outcomes for users of different types of FDR services can be tracked through time. This could be done through AIFS studies which seek to distinguish between broad types of FDR models.

Table J.1 Policy-relevant data

<i>Policy question</i>	<i>Data required</i>	<i>Available data and gaps</i>	<i>Data response</i>
Family law (continued)			
<ul style="list-style-type: none"> • What level of unmet legal need exists for family law matters involving family violence? • What level of unmet legal need exists for low value property disputes? What are the impacts? 	<ul style="list-style-type: none"> • Demographic and income data on users of FDR and on those screened out. • Number of self-represented litigants at family law courts whose matters involve family violence. • Demographic and income data on self-represented litigants at family law courts whose matters involve family violence. • Breakdown of service provision by government funded FDR providers by family law dispute type. 	<ul style="list-style-type: none"> • There is a lack of data on the number of self-represented litigants in the family law courts who experience family violence. • There is a lack of data on the number of people who are screened out of FDR because of family violence and who cannot afford a private lawyer. • There is a lack of data on the extent to which family relationship centres (FRCs) and other Family Support Program (FSP) funded service providers cover family law property matters (whether or not associated with parenting issues). 	<ul style="list-style-type: none"> • In future studies, AIFS should include questions on self-representation at the family law courts and how this is correlated with family violence and income. • All government funded FDR providers, including LACs and FRCs, should report on the number of FDR services they provide for property matters and their rejection or turn away rates. • In future studies, AIFS should seek to explore the reasons for people who nominate 'nothing specific, it just happened' as their main dispute resolution pathway. • General legal needs surveys (as identified above) should be undertaken.

