
7 Courts interpretative material

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The Courts interpretative material is supporting material and includes explanations of why indicators have been chosen, and wherever possible, a link to the stated objectives of the service. It includes indicator definitions, technical details defining how the indicator is measured and guidance on how the indicator is to be interpreted, including caveats and the indicator’s completeness and comparability status.

Further information on the Report on Government Services including other reported service areas, the glossary and list of abbreviations is available at <https://www.pc.gov.au/research/ongoing/report-on-government-services>.

7.1 Context

Box 7.1 Supreme court jurisdictions across states and territories

Criminal courts

All State and Territory supreme courts have jurisdiction over similar criminal matters such as murder, treason and certain serious drug offences, but significant differences exist in this court level across the states and territories:

— District/county courts do not operate in Tasmania, the Australian Capital Territory and the Northern Territory, so in this state and these territories the supreme courts generally exercise a jurisdiction equal to that of both the supreme and district/county courts in other states.

— The Queensland Supreme Court deals with a number of drug matters, which supreme courts in other states and territories do not hear.

— In the New South Wales Supreme Court, almost all indictments are for offences of murder and manslaughter, whereas the range of indictments routinely presented in most other states and territories is broader.

— In the Western Australian Supreme Court, with the introduction of the *Court Jurisdiction Legislation Amendment Act 2018* which came into effect on 1 January 2019, the Court predominantly deals with the most serious offences such as homicide and related offences, and serious breaches of Commonwealth drug enforcement laws.

All State and Territory supreme courts hear appeals, but the number and type of appeals vary because New South Wales, Victoria and Queensland also hear some appeals in their district/county courts.

Civil courts

All supreme courts deal with appeals and probate applications and have an unlimited jurisdiction on claims but:

New South Wales usually deals with complex cases, all claims over \$750 000 (except claims related to motor vehicle accidents or worker's compensation) and various other civil matters.

Victoria deals with complex cases, high value claims and various other civil matters.

Queensland deals with claims over \$750 000 and administrative law matters.

Western Australia usually deals with claims over \$750 000.

South Australia exercises its unlimited jurisdiction for general and personal injury matters.

Tasmania usually deals with claims over \$50 000.

The Australian Capital Territory usually deals with claims over \$250 000.

The Northern Territory also deals with mental health, family law and *Coroners Act 1993* applications.

Source: Australian, State and Territory court administration authorities and departments.

Box 7.2 **District/county court jurisdictions across states and territories**

There are no district/county courts in Tasmania, the Australian Capital Territory or the Northern Territory.

Criminal courts

The district/county courts have jurisdiction over indictable criminal matters (such as rape and armed robbery) except murder and treason, but differences exist among the states that have a district/county court. For example, appeals from magistrates' courts are heard in the district/county courts in New South Wales, Victoria and Queensland, but not in Western Australia and South Australia. In the latter two states, all appeals from the magistrates' court (criminal) go directly to the Supreme court. Briefly, the jurisdictions of the district/county courts are:

New South Wales: The District Court deals with most of the serious criminal cases that come before the courts. It has responsibility for indictable criminal offences that are normally heard by a judge and jury, but on occasions by a judge alone. It does not deal with treason or murder.

Victoria: The County Court deals with all indictable offences, except the following which must be heard in the Supreme court: murder, attempted murder, child destruction, certain conspiracy charges, treason, and concealing an offence of treason. Examples of criminal offences heard in the County Court include drug trafficking, serious assaults, serious theft, rape and obtaining financial advantage by deception.

Queensland: The District Court deals with more serious criminal offences than heard by the Magistrates' Court - for example, rape, armed robbery and fraud.

Western Australia: With the introduction of *the Court Jurisdiction Legislation Amendment Act 2018*, which came into effect on 1 January 2019, the District Court has had jurisdiction for all indictable offences (and therefore the ability to impose a range of life imprisonment sentences) except those related to Murder, Manslaughter, attempt to unlawfully kill, assisted suicide etc, and selected Commonwealth offences - these are dealt with by the Supreme Court.

South Australia: The District Court is the principal trial court and has jurisdiction to try a charge of any offence except treason or murder or offences related to those charges. Almost all matters have been referred following a committal process in the Magistrates Court.

Civil courts

All district/county courts hear appeals and deal with the following types of cases:

New South Wales: claims up to \$750 000 (or more if the parties consent) and has unlimited jurisdiction in motor accident injury claims.

Victoria: appeals under the Family Violence Protection Act 2008, adoption matters and change-of-name applications. Has unlimited jurisdiction in both personal injury claims and other claims.

Queensland: claims between \$150 000 and \$750 000.

Western Australia: claims up to \$750 000 and unlimited claims for personal injuries and has exclusive jurisdiction for motor accident injury claims.

South Australia: unlimited claims for general and personal injury matters.

Source: Australian, State and Territory court administration authorities and departments.

Box 7.3 Magistrates' court jurisdictions across states and territories

Criminal courts

New South Wales: deals summarily with matters with a maximum penalty of up to two years' imprisonment for a single offence, and up to five years' imprisonment for multiple offences, including some indictable offences.

Victoria: deals with summary offences and determines some indictable offences summarily.

Queensland: deals with summary offences and determines summarily some indictable matters where the penalty imposed by this jurisdiction may be up to three years' imprisonment.

Western Australia: deals with summary offences and determines some indictable offences summarily.

South Australia: deals with matters with a maximum penalty of up to five years imprisonment for a single offence and 10 years imprisonment for multiple offences. Magistrates are able to sentence a defendant in relation to certain major indictable offences where the Director of Public Prosecutions (DPP) and defence agree to the defendant being sentenced in the Magistrates Court.

Tasmania: deals with matters with a maximum penalty of up to two years imprisonment for a single offence and up to five years imprisonment for a second or subsequent offence. Also deals with some indictable offences summarily.

Australian Capital Territory: deals summarily with matters with a maximum penalty of up to two years imprisonment. With the DPP's consent, an offence punishable by imprisonment for longer than two years but up to five years. With a defendant's consent, matters with a maximum penalty of up to 14 years imprisonment where the offence relates to money or property (up to 10 years in other cases).

Northern Territory: deals with some drug and fraud charges and matters with a maximum penalty of up to 10 years imprisonment (or 10–14 years imprisonment if the accused consents).

Civil courts

New South Wales: deals with small claims up to \$10 000 and general division claims up to \$100 000, as well as family law matters.

Victoria: deals with claims up to \$100 000 for monetary damages, and applications for equitable relief and applications under the *Family Violence Protection Act 2008* and *Personal Safety Intervention Orders Act 2010*.

Queensland: deals with claims up to \$150 000. Since 1 November 2010 minor civil disputes are lodged with the Queensland Civil and Administrative Tribunal (QCAT).

Western Australia: deals with claims for debt recovery and damages (not personal injury) up to \$75 000, minor cases up to \$10 000, residential tenancy applications for monies up to \$10 000, residential tenancy disputes and restraining orders.

South Australia: [from 1 August 2016] deals with minor civil claims up to \$12 000, and all other claims including commercial cases and personal injury claims up to \$100 000.

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Box 7.3 (continued)

Tasmania: deals with claims up to \$50 000 (or more if both parties consent) for monetary damages and debt recovery, minor civil claims up to \$5000, residential tenancy disputes, restraint orders and family violence orders.

Australian Capital Territory: deals with claims between \$25 000 and \$250 000, victims financial assistance applications up to \$50 000, matters under the *Domestic Relationships Act 1994* and commercial leasing matters. Until December 2016, small claims up to \$10 000 were dealt with by the ACT Civil and Administrative Tribunal. From December 2016 the ACT Civil and Administrative Tribunal has had jurisdiction for small claims up to \$25 000.

Northern Territory: deals with claims up to \$100 000 and workers compensation claims.

Source: Australian, State and Territory court administration authorities and departments.

Box 7.4 State and territory court levels – specific elements

The data sets from the following areas are reported separately from their court level to improve comparability and understanding of the data presented.

Probate

In all states and territories, probate issues are heard in supreme courts and encompass applications for the appointment of an executor or administrator to the estate of a deceased person. The two most common types of application are:

- where the executor nominated by a will applies to have the will proved
- where the deceased was intestate (died without a will) and a person applies for letters of administration to be entitled to administer the estate.

Children's courts

Children's Courts are specialist jurisdiction courts which sit within magistrates' courts. Depending on the State or Territory legislation, children's courts may hear both criminal and civil matters. These courts in the main deal with summary proceedings, however some jurisdictions have the power to also hear indictable matters.

Children's courts deal with complaints of offences alleged to have been committed by young people. In all states and territories, children aged under 10 years cannot be charged with a criminal offence. People aged under 18 years at the time the offence was committed are considered a child or juvenile in all states and territories. In February 2018, the *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016* commenced in Queensland, increasing the age that a person can be charged as an adult from 17 to 18 years. This brought Queensland in line with all other Australian states and territories.

Children's courts may also hear matters where a child has been seriously abused or neglected. In these instances, the court has jurisdiction to determine matters relating to the child's care and protection. The majority of matters heard in the civil jurisdiction of children's courts are care and protection orders, although some jurisdictions also hear matters such as applications for intervention orders. In Tasmania, child protection matters are lodged in the criminal registry.

Coroners' courts

In all states and territories, coroners' courts (which generally operate under the auspices of State and Territory magistrates' courts) inquire into the cause of sudden and/or unexpected reported deaths. The definition of a reported death differs across states and territories, but generally includes deaths for which the cause is violent, suspicious or unknown. All coronial jurisdictions investigate deaths in accordance with their respective Coroners Act. Each Act defines what constitutes a 'reportable death' to determine which deaths must be investigated by a coroner. In some states and territories, the coroner has the power to commit for hearing, while in others the coroner is prohibited from making any finding of criminal or civil liability (but may refer the matter to the DPP). Suspicious fires are generally within the jurisdiction of the coroners' courts in New South Wales, Victoria, Tasmania and the Australian Capital Territory but not in the other states and territories. In 2015-16, the scope of fires captured by the ACT Coroners' Act changed which has resulted in a substantial reduction in the number of fires reported to the coroner in the Australian Capital Territory.

Source: Australian, State and Territory court administration authorities and departments.

Box 7.5 Australian government courts

The Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia are, for the purposes of the *Public Governance, Performance and Accountability Act 2013*, a single listed entity known as the Federal Court of Australia.

Federal Court of Australia

The Federal Court has jurisdiction to hear and determine any civil matter arising under laws made by the Federal Parliament, as well as any matter arising under the Constitution or involving its interpretation. The Federal Court also has original jurisdiction in respect of specific subject matter conferred by 240 statutes of the Federal Parliament. It sits in all capital cities on a continuous basis and elsewhere in Australia from time to time.

The Federal Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Federal Court, decisions of the Federal Circuit Court in non-family law matters, decisions of the Supreme Court of Norfolk Island and particular decisions of State and Territory supreme courts exercising federal jurisdiction.

The Federal Court has the power to exercise indictable criminal jurisdiction for serious cartel offences under the *Competition and Consumer Act 2010* (formerly the Trade Practices Act). The Federal Court also exercises a very small summary criminal jurisdiction, but the cases are not separately counted. There are so few cases, these would not make a material difference by being included in the civil case totals.

Family Court of Australia and the Family Court of Western Australia

The Family Court of Australia has jurisdiction in all states and territories except Western Australia (which has its own family court). It has jurisdiction to deal with matrimonial cases and associated responsibilities, including divorce proceedings (noting that under direction, almost all divorce applications (except in WA) are lodged with the Federal Circuit Court), financial issues and children's matters such as who the children will live with, spend time with and communicate with, as well as other specific issues relating to parental responsibilities. It can also deal with ex nuptial cases involving children's matters. The Appeal Division of the Family Court of Australia hears all appeals from the trial division of the Family Court of Australia, Family Court of Western Australia and the Federal Circuit Court of Australia in relation to family law.

Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia)

The Federal Magistrates Court was established to provide a simpler and more accessible service for litigants, and to ease the workloads of both the Federal Court and the Family Court of Australia. As a result of legislative amendments which recognise the work and status of the Court, the Federal Magistrates Court of Australia was renamed the Federal Circuit Court of Australia on 12 April 2013. The inclusion of the word 'circuit' to the name of the court highlights the importance of the Court's circuit work in regional areas and its broad Commonwealth jurisdiction in both family law and general federal law.

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Box 7.5 (continued)

The jurisdiction, status and arrangements under which the Court operates have not changed. Its jurisdiction includes family law and child support, administrative law, admiralty, anti-terrorism, bankruptcy, copyright, human rights, industrial, migration, privacy and trade practices. State and Territory courts also continue to do some work in these areas.

The Federal Circuit Court has concurrent jurisdiction in almost all family law matters with the Family Court and in some significant areas of general federal law with the Federal Court. The intention is for the latter two courts to focus on more complex legal matters. The Federal Circuit Court hears most first instance judicial reviews of migration matters. In trade practices matters it can award damages up to \$750 000. The Federal Circuit Court hears most of the final family law cases. In family law matters its jurisdiction is shared with the Family Court, except that only the Family Court can consider adoption disputes and applications concerning the nullity and validity of marriages. By arrangement, only the Family Court deals with parenting issues under The Hague Convention. Otherwise, the Federal Circuit Court has jurisdiction to hear any matter transferred to it by either the Federal Court or the Family Court.

Source: Australian, State and Territory court administration authorities and departments.

Information on the manner in which court authorities value and treat assets is provided in table 7.1.

Table 7.1 Treatment of assets by court authorities

		<i>Federal Court of Australia</i>	<i>Federal Circuit Court</i>	<i>Family Court of Australia</i>	<i>NSW (a)</i>	<i>Vic</i>	<i>Qld (b)</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Revaluation method	Land	na	na	na	Fair value	na	..	Market	Fair value	Fair value	Fair value	Fair value
	Buildings	Fair value	Fair value	Fair value	Fair value	na	..	Market	Fair value	Fair value	Fair value	Fair value
	Other assets	Fair value	Fair value	Fair value	Fair value	na	..	..	Fair value	Fair value	Fair value	Fair value
Frequency of revaluations	Land	3 yrs	3 yrs	3 yrs	5 yrs	5 yrs	5 yrs	na	6 yrs	5 yrs	3 yrs	Sufficient regularity to avoid material misstatement
	Buildings											
	Other assets	3 yrs	3 yrs	3 yrs	..	..	..	na	na	5 yrs	3 yrs	
Useful asset Lives (c)	Buildings	na	na	na								
	General equipment	4-10 yrs	4-10 yrs	4-10 yrs	4-10 yrs	5-10 yrs	3-7 yrs	5-10 yrs	5-54 yrs	5-20 yrs	3-20 yrs	5-10 yrs
	IT	3-5 yrs	3-5 yrs	3-5 yrs	3-4 yrs	3-5 yrs	3-4 yrs	3-10 yrs	3-25 yrs	na	4-5 yrs	3-6 yrs
	Office equipment	4-8 yrs	4-8 yrs	4-8 yrs	4-10 yrs	10 yrs	3-5 yrs	5-10 yrs	3-25 yrs	na	3-20 yrs	5-10 yrs
	Vehicles	na	na	na	na	5 yrs	na	2-8 yrs	na	na	na	na
	Library material	10-40 yrs	na	na	na	na	Infinite	na	25 yrs	20 yrs	50 yrs	na
Capitalisation threshold	Buildings	2 000	2 000	2 000	3 000	na	10 000	1 000	5 000	10 000	5 000	5 000
	IT	2 000	2 000	2 000	3 000	na	5 000	1 000	5 000	10 000	50 000 (d)	5 000
	Other assets	2 000	2 000	2 000	3 000	5 000	5 000	1 000	5 000	10 000	5 000	5 000

^a In NSW, land and buildings are revalued at least every five years. Property, plant and equipment are measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. The straight line method of depreciation is used. ^b In Queensland, non-current physical assets measured at Fair value are comprehensively revalued at least every five years with interim valuations, using appropriate indices, being otherwise performed on an annual basis where there has been a material variation in the index. ^c Asset lives for some assets have been grouped with other classifications. For some jurisdictions, IT equipment includes software. ^d For software only. **na** Not available. **..** Not applicable.

Source: Australian, State and Territory court administration authorities and departments

7.2 Indicators

Different delivery contexts, locations, caseloads, case mixes and government policies can affect the equity, effectiveness and efficiency of court services. The allocation of cases to different courts also differs across states and territories and Australian courts.

The comparability of performance indicator results is shaded in indicator interpretation boxes, figures and data tables as follows:

- Data are comparable (subject to caveats) across jurisdictions and over time.
- Data are either not comparable (subject to caveats) within jurisdictions over time or are not comparable across jurisdictions or both.

The completeness of performance indicator results is shaded in indicator interpretation boxes, figures and data tables as follows:

- Data are complete (subject to caveats) for the current reporting period. All required data are available for all jurisdictions.
- Data are incomplete for the current reporting period. At least some data were not available.

Outputs

Outputs are the actual services delivered (while outcomes are the impact of these services on the status of an individual or group) (see section 1). Output information is also critical for equitable, efficient and effective management of government services.

Equity

Access — Interpreter services

‘Access to interpreter services’ is an indicator of government’s objective to provide court services in an equitable manner (box 7.6). One component of equity of access to court services in Australia is an ability to receive access to interpreter services for those who need assistance with understanding and communicating in the court system.

Box 7.6 Access to interpreter services

‘Access to interpreter services’ is defined as the number of booking requests made for an interpreter in the courtroom where the interpreter attended, divided by the number of booking requests made for an interpreter in the courtroom, multiplied by 100.

As Australia’s population becomes increasingly diverse, there is a growing need to provide access to interpreters in the courtroom to accommodate the linguistic diversity of people coming before the courts. This is particularly the case for Aboriginal and Torres Strait Islander people, with more than 100 languages and dialects spoken by Aboriginal and Torres Strait Islander people in the Northern Territory (Hurst 2019, available on North Australian Aboriginal Justice Agency website).

The ability of courts to provide interpreters to meet demand is heavily dependent upon the availability of suitable interpreters. Factors affecting the suitability of an interpreter for a particular defendant can include qualifications in the relevant language, cultural factors such as familiarity with community, and sex (Judicial Council on Cultural Diversity 2017).

Demand for interpreter services in the courtroom is likely to be greater than the availability of appropriate and qualified interpreters. This gap will vary across states and territories as the diversity of language composition of state and territory populations differs.

High or increasing proportions of booking requests where an interpreter attended are desirable.

Data are not yet available for reporting against this indicator. Box 7A.1 provides a case study example which shows 2019-20 pilot data for South Australian criminal courts and the Tasmanian Supreme court (criminal) — this case study is presented to provide insights into the potential value of this measure when more courts become able to report.

Effectiveness

Access — Judicial officers

‘Judicial officers’ is an indicator of governments’ achievement against the objective of providing services that enable courts to be open, accessible and affordable. This indicator relates access to the number of judicial officers available to deal with cases in relation to population size (box 7.7).

Box 7.7 **Judicial officers**

‘Judicial officers’ is defined as the number of full time equivalent (FTE) judicial officers divided by the relevant resident population, multiplied by 100 000.

Judicial officers can make enforceable orders of the court. For the purposes of this Report, the definition of a judicial officer includes: judges; associate judges; magistrates; masters; coroners; judicial registrars; all other officers who, following argument and giving of evidence, make enforceable orders of the court. Where judicial officers have both judicial and non-judicial work, this refers to the proportion of time allocated to judicial work.

A high or increasing proportion of judicial officers in the population indicates potentially greater access to the judicial system.

Factors such as geographical dispersion, judicial workload and population density are also important to consider when comparing figures concerning judicial officers.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Access — Backlog

‘Backlog’ is an indicator of governments’ achievement against the objective of processing matters in an expeditious and timely manner (box 7.8).

Box 7.8 **Backlog**

'Backlog' is a measure of the age of a court's active pending caseload at 30 June, against nominated time benchmarks. It is defined as the number of cases in the nominated age category as a proportion of the total pending caseload.

The following national benchmarks have been set.

For the Federal Circuit Court, magistrates' and children's courts:

- no more than 10 per cent of lodgments pending completion are to be more than 6 months old
- no lodgments pending completion are to be more than 12 months old.

For Supreme courts, the Federal Court, district/county, family and coroners' courts and all appeals:

- no more than 10 per cent of lodgments pending completion are to be more than 12 months old
- no lodgments pending completion are to be more than 24 months old.

In the criminal jurisdiction lodgments that have bench warrants associated with them have been excluded from the pending count. In the civil jurisdiction lodgments that have not been acted upon in the last 12 months are deemed finalised and excluded from the pending count (the deeming rule does not apply to appeal cases). These exclusions are so that only those matters that are part of an active caseload are included in the pending count. Jurisdictions diverting from the national counting rule are footnoted.

Court backlog and timeliness of case processing can be affected by a number of factors, some of which may not be due to court delay. In addition to changes in lodgment and finalisation numbers, backlog in criminal courts may be influenced by: (a) the complexity of cases, which may vary across court levels and across jurisdictions; (b) whether cases have become inactive or remain an active part of the court's workload; (c) cases which require finalisation in another court level; (d) matters on interlocutory appeal; (e) cases delayed by related cases or co-accused; (f) unavailability of a witness or other participant. Backlog in civil matters may be influenced by: (a) different case flow management practices across court levels and across jurisdictions; (b) involvement of several related applications or issues that require judgements and decision by the court for a single case; (c) matters which may be adjourned at the instigation of, and by the consent of, the parties which are outside the control of the court; (d) the court employing case management or other dispute resolution processes (for example, mediation) as alternatives or prior to formal adjudication; (e) family law matters determined to be 'on hold'.

Performance relative to the benchmarks indicates effective management of caseloads and timeliness of court services.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Access — On-time case processing

‘On-time case processing’ is an indicator of governments’ achievement against the objective of processing matters in an expeditious and timely manner (box 7.9).

Box 7.9 On-time case processing

‘On-time case processing’ is a measure of the age of cases which have been finalised in the financial year, against nominated time categories. It is defined as the number of finalised cases at each court level which were finalised in less than or equal to 6, 12 or 24 months (dependent on court level), as a proportion of the total cases finalised during the financial year.

Higher proportions of cases finalised in these time categories indicates effective management of caseloads and timeliness of court services. The on-time case processing indicator should be considered in conjunction with the backlog indicator.

Time taken to process cases is not necessarily due to court delay. Some delays are caused by factors other than those related to the workload of the court (for example, a witness being unavailable). See tables 7A.22–23 for further information about factors which can impact on delay.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Access — Attendance

‘Attendance’ is an indicator of governments’ achievement against the objective of processing matters in an expeditious and timely manner (box 7.10).

Box 7.10 Attendance

'Attendance' is defined as the average number of attendances recorded (no matter when the attendance occurred) for those cases that were finalised during the year. The number of attendances is the number of times that parties or their representatives are required to be present in court to be heard by a judicial officer or mediator/arbitrator where binding orders can be made. The number includes appointments that are adjourned or rescheduled. A court appearance extending over more than one day is counted as one attendance.

Fewer attendances may suggest a more effective process. However, this should be balanced against the likelihood that the number of attendances will increase if rehabilitation or diversionary programs are used, or if intensive case management is used. Both of these paths are believed to improve the quality of outcomes as:

- rehabilitation and diversionary programs aim to provide therapeutic benefits for the offenders, and benefits of reduced recidivism for the community
- intensive case management is believed to maximise the prospects of settlement (and thereby reduce the litigant's costs, the number of cases queuing for hearing, and the flow of work on to appellate courts); alternatively, it can narrow the issues for trial (thus shortening trial time and also reducing costs and the queuing time for other cases waiting for hearing).

Alternative Dispute Resolution (ADR) can resolve some types of matters out of court and thereby reduce the need for judicial hearings. Accordingly, differences across jurisdictions in the availability and use of ADR can affect the comparability of the attendance indicator.

Data reported for this indicator are:

- not comparable across jurisdictions, but are comparable (subject to caveats) within jurisdictions over time
- incomplete for the current reporting period. All required 2019-20 data were not available for the NSW Supreme court and were not provided by the Victorian Supreme court.

Access — Clearance

'Clearance' is an indicator of governments' achievement against the objective of processing matters in an expeditious and timely manner (box 7.11).

Box 7.11 Clearance

'Clearance' indicates whether a court's pending caseload has increased or decreased over the measurement period, by comparing the volume of case finalisations and case lodgments during the reporting period. It is measured by dividing the number of finalisations in the reporting period by the number of lodgments in the same period, multiplied by 100.

The following can assist in interpretation of this indicator:

- a figure of 100 per cent indicates that, during the reporting period, the court finalised as many cases as were lodged, and the pending caseload should be similar to the pending caseload 12 months earlier
- a figure greater than 100 per cent indicates that, during the reporting period, the court finalised more cases than were lodged, and the pending caseload should have decreased
- a figure less than 100 per cent indicates that, during the reporting period, the court finalised fewer cases than were lodged, and the pending caseload should have increased.

Higher or increasing proportions of cases cleared indicates effective management of caseloads. However the clearance indicator can be affected by external factors (such as those causing changes in lodgment rates), an increase or decrease in the numbers of cases proceeding to a hearing or trial and the time required to finalise them, as well as by changes in a court's case management practices. Results for this indicator need to be interpreted within the context of changes in the volumes of lodgments, finalisations and pending caseloads over time.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Access — Affordability — Fees paid by applicants

'Fees paid by applicants' is an indicator of governments' achievement against the objective of enabling courts to be open, accessible and affordable (box 7.12).

Box 7.12 Fees paid by applicants

'Fees paid by applicants' is defined as the average civil court fees paid per lodgment. It is derived by dividing the total civil court fees collected (filing, sitting, hearing and deposition fees) by the number of civil lodgments in a year. Court fees exclude enforcement, transcript and mediation fees.

Providing court service quality is held constant, lower court fees help keep courts accessible.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Quality — Court file integrity

‘Court file integrity’ is an indicator of governments’ objective to provide court services in a high quality manner (box 7.13). Accurate, complete and readily available court files and records are critical for effective case management and daily court operations.

Box 7.13 Court file integrity

‘Court file integrity’ is defined as the proportion of court files that are accessible, accurate and complete.

High or increasing levels of court file integrity are desirable.

Data are not yet available for reporting against this indicator.

Efficiency

Judicial officers per finalisation

‘Judicial officers per finalisation’ is an indicator of governments’ achievement against the objective of providing court services in an efficient manner (box 7.14).

Box 7.14 Judicial officers per finalisation

‘Judicial officers per finalisation’ is measured by dividing the number of full time equivalent judicial officers within each court level for the financial year by the total number of finalisations for the same period, and multiplying by 1000.

All else being equal, a lower or decreasing number of judicial officers per finalisation suggests greater efficiency. However efficiency data should be interpreted with caution as data could also reflect under-resourcing. The following points need to be considered in interpreting the results for this indicator:

- some finalisations take a short time and require few resources, whereas other finalisations may be resource intensive and involve complicated trials and interlocutory decisions
- factors such as geographical dispersion, judicial workload and population density are important considerations when comparing figures on judicial officers.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Full time equivalent staff (FTE) per finalisation

‘FTE staff per finalisation’ is an indicator of governments’ achievement against the objective of providing court services in an efficient manner (box 7.15).

Box 7.15 Full time equivalent (FTE) staff per finalisation

‘FTE staff per finalisation’ is measured by dividing the total number of FTE staff employed by courts for the financial year by the total number of finalisations for the same period, and multiplying by 1000.

FTE staff include those employed directly by court authorities or by umbrella and other departments (see section 7.4 for further details).

All else being equal, a lower or decreasing number of full time equivalent staff per finalisation suggests greater efficiency. However efficiency data should be interpreted with caution as data could also reflect under-resourcing. The following points need to be considered in interpreting the results for this indicator:

- some finalisations take a short time and require few resources, whereas other finalisations may be resource intensive and involve complicated trials and interlocutory decisions
- additional staff may sometimes be appointed to undertake project work (eg. ICT or new buildings) or deliver restorative justice approaches (like liaison officers) that do not directly contribute to the resolution of cases
- factors such as geographical dispersion, court workload and population density are important considerations when comparing figures on FTE staff.

Data reported for this indicator are:

- comparable (subject to caveats) across jurisdictions and over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Cost per finalisation

‘Cost per finalisation’ is an indicator of governments’ achievement against the objective of providing court services in an efficient manner (box 7.16).

Box 7.16 **Cost per finalisation**

‘Cost per finalisation’ is measured by dividing the total recurrent expenditure (gross and net – excluding payroll tax) within each court for the financial year by the total number of finalisations for the same period. This indicator is not a measure of the actual cost per case.

All else being equal, lower expenditure per finalisation suggests greater efficiency. However efficiency data should be interpreted with caution as data could also reflect under-resourcing. The following points need to be considered in interpreting the results for this indicator:

- some finalisations take a short time and require few resources, whereas other finalisations may be resource intensive and involve complicated trials and interlocutory decisions
- additional funding may sometimes be allocated to undertake project work (eg. ICT or new buildings) or deliver restorative justice approaches (like liaison officers) that do not directly contribute to the resolution of cases
- expenditure data may include arbitrary allocation between criminal and civil jurisdictions
- net expenditure is calculated by deducting income (court fees and other sources of revenue, excluding fines) from total expenditure, and for civil courts is impacted by court fee relief and exemptions
- a number of factors are beyond the control of jurisdictions, such as geographic dispersion, economies of scale and socioeconomic factors.

Data reported for this indicator are:

- not comparable across jurisdictions, but are comparable (subject to caveats) within jurisdictions over time.
- complete (subject to caveats) for the current reporting period. All required 2019-20 data are available for all jurisdictions.

Outcomes

Outcomes are the impact of services on the status of an individual or group (while outputs are the actual services delivered) (see section 1).

Perceptions of court integrity

‘Perceptions of court integrity’ is an indicator of government’s objective to encourage public confidence and trust in the courts (box 7.17). Community confidence and trust in the fairness and equality of court processes and procedures is integral to a willingness to engage with courts and comply with court outcomes. High levels of perceived integrity of courts is an indicator of community confidence and trust that courts treat people fairly and appropriately and that court processes are administered in a consistent and unbiased manner.

Box 7.17 Perceptions of court integrity

'Perceptions of court integrity' is defined as the proportion of the community who believe that courts in Australia treat people fairly, equally and respectfully.

High or increasing proportions of perceived court integrity are desirable.

Data are not yet available for reporting against this indicator.

7.3 Homicide and related offences — selected indicators

Case-type can have a significant impact on performance against certain indicators – some case-types will inherently require more court time and judicial resources than other case types, which may impact on backlog and clearance results. Aggregating performance across all case-types can mask differences in case composition between jurisdictions and court levels.

Homicide data have been selected to be presented by indicator in the section because of the seriousness of the offence. Table 7.2 presents indicator data for backlog, attendance and clearance results for homicide and related matters processed by the Supreme, District, Magistrates' and Children's courts during 2019-20. Given that homicide-related lodgments are generally small in number, percentages in the table should be interpreted with caution.

A lodgment for homicide is counted where any criminal matter initiated, commenced, lodged or filed in a particular court level includes a charge of murder, attempted murder, manslaughter or driving causing death. Lodgments are based on a count of defendants, not a count of charges (a defendant may have multiple charges) and are counted independently at each court level. The charge(s) against a defendant may change once a matter has been lodged in the courts and proceeds through the court process and the data do not reflect whether or not a defendant has been found guilty.

Table 7.2 Homicide and related offences, 2019-20^a

	<i>Unit</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld (b)</i>	<i>WA</i>	<i>SA</i>	<i>Tas (c)</i>	<i>ACT</i>	<i>NT</i>
Supreme									
Lodgments	no.	69	66	90	47	33	14	7	10
Finalisations	no.	61	51	92	25	14	11	5	8
Pending	no.	96	72	74	63	25	21	15	11
Backlog >12 mths	%	34.4	19.4	25.7	31.7	12.0	47.6	53.3	18.2
Backlog >24 mths	%	7.3	6.9	–	1.6	–	9.5	6.7	–
Attendance	no.	na	na	10.3	7.2	8.4	25.5	17.0	10.0
Clearance rate	%	88.4	77.3	102.2	53.2	42.4	78.6	71.4	80.0
District/County									
Lodgments	no.	88	19	2	19	18	..	..	..
Finalisations	no.	91	51	2	19	10	..	..	..
Pending	no.	92	9	–	14	13	..	..	..
Backlog >12 mths	%	30.4	33.3	..	14.3	7.7	..	..	..
Backlog >24 mths	%	3.3	11.1	..	–	7.7	..	..	..
Attendance	no.	9.0	8.7	3.0	4.9	4.7	..	..	..
Clearance rate	%	103.4	268.4	100.0	100.0	55.6	..	..	..
Magistrates'									
Lodgments	no.	248	157	111	73	79	13	2	16
Finalisations	no.	196	73	103	84	82	11	6	14
Pending	no.	254	97	156	41	36	3	2	9
Backlog >6 mths	%	42.9	59.8	67.3	29.3	41.7	33.3	50.0	22.2
Backlog >12 mths	%	8.7	15.5	42.3	2.4	13.9	33.3	50.0	–
Attendance	no.	7.3	8.7	16.7	7.3	4.9	1.8	5.3	8.9
Clearance rate	%	79.0	46.5	92.8	115.1	103.8	84.6	300.0	87.5
Children's									
Lodgments	no.	17	6	11	10	–	np	–	4
Finalisations	no.	8	6	3	5	–	np	2	1
Pending	no.	16	4	10	5	–	np	–	1
Backlog >6 mths	%	37.5	75.0	40.0	–	..	np	..	–
Backlog >12 mths	%	12.5	–	–	–	..	np	..	–
Attendance	no.	9.3	8.8	17.7	6.4	..	np	2.5	7.0
Clearance rate	%	47.1	100.0	27.3	50.0	..	np	..	25.0

^a Homicide and related offences' is defined according to the Australian and New Zealand Standard Offence Classification (ANZSOC) coding and includes murder, attempted murder, manslaughter and driving causing death. ^b Data for Queensland do not include offences for dangerous driving causing death. ^c Homicide data for the Tasmanian children's court are not published in order to minimise re-identification risks due to the small number of homicide and related offences in this court. **na** Not available. **np** Not published. **..** Not applicable. **–** Nil or rounded to zero.

Source: Australian, State and Territory court authorities and departments (unpublished).

7.4 Definitions of key terms

Active pending population	A lodgment that is yet to be finalised but is part of the active case management of court administrators.
Attendance indicator	An attendance is defined as the number of times that parties or their representatives are required to be present in court (including any appointment which is adjourned or rescheduled) for all finalised matters during the year. The actual attendance is one that is heard by a judicial officer or mediator/arbitrator.
Case	The measurement of workload in the civil jurisdiction. It is the issues, grievances or complaints that constitute a single and related series of disputes brought by an entity (or group of entities) against another entity (or group).
Comparability	Data are considered comparable if, (subject to caveats) they can be used to inform an assessment of comparative performance. Typically, data are considered comparable when they are collected in the same way and in accordance with the same definitions. For comparable indicators or measures, significant differences in reported results allow an assessment of differences in performance, rather than being the result of anomalies in the data.
Completeness	Data are considered complete if all required data are available for all jurisdictions that provide the service.
Cost recovery	The amount of court fees collected divided by the amount of court expenditure.
Court fees collected	Total court income from fees charged in the civil jurisdiction. Can include filing, sitting hearing and deposition fees, and excludes transcript fees.
Electronic infringement and enforcement system	A court with the capacity to produce enforceable orders against defendants (such as fines, licence cancellation and incarceration) and to process infringements, on-the-spot fines and summary offences.
Excluded courts and tribunals	This includes such bodies as guardianship boards, environment resources and development courts, and administrative appeals tribunals. The types of excluded courts and tribunals vary among the states and territories.
Finalisation	The formal completion of a matter before the court. The date of finalisation in the criminal courts occurs when all charges against a defendant have been completed and the defendant ceases to be an active unit of work to be dealt with by the court. The date of finalisation in the civil courts occurs when all matters pertaining to a file cease to be an active unit of work for the court. In the civil jurisdiction, (with the exception of appeals heard in the Supreme and District courts, the Federal Court of Australia, and all matters finalised in the Family court of Australia), cases may be deemed finalised if there is no action on a file for more than 12 months.
FTE staff	Full time equivalent (FTE) staff can include the following categories of staff employed directly by court authorities or by umbrella and other departments: <ul style="list-style-type: none">• judicial officers, judicial support staff and registry court staff• court security, bailiff and sheriff type staff• court reporters• library and information technology staff• counsellors, mediators and interpreters• cleaning, gardening and maintenance staff• first line support staff and probate staff• corporate administration staff and umbrella department staff.
Income	Income derived from court fees, library revenue, court reporting revenue, sheriff and bailiff revenue, probate revenue, mediation revenue, rental income and any other sources of revenue (excluding fines).

Judicial officer	Judges, magistrates, masters, coroners, judicial registrars and all other officers who, following argument and giving of evidence, make enforceable orders of the court. The data are provided on the basis of the proportion of time spent on the judicial activity.
Lodgment	The initiation or commencement of a matter before the court. The date of commencement is counted as the date of registration of a court matter. In the criminal courts lodgment counts are based on the number of defendants per case. Unless otherwise noted, matters excluded from the criminal court lodgment data in this collection are: any lodgment that does not have a defendant element (for example, applications for telephone taps), extraordinary driver's licence applications, bail procedures (including applications and review), directions, warrants, and secondary processes - for example, interlocutory matters, breaches of penalties (that is, bail, suspended sentences, probation). In the civil courts, lodgment counts are based on: the number of cases (except in children's courts where, if more than one child can be involved in an application, the counting unit is the number of children involved), and the number of reported deaths (and, if relevant, reported fires) for coroners' courts. Unless otherwise noted, the following types of matters are excluded from the civil lodgment data reported in this collection: admissions matters (original applications to practice and mutual recognition matters), extraordinary drivers licence applications, cross-claims, directions, secondary processes - for example, interlocutory matters, breaches of penalties (that is, bail, suspended sentences, probation), and applications for default judgments (because the application is a secondary process).
Matter	<p><i>Coronial matters:</i> Deaths and fires reported to the coroner in each jurisdiction, including all reported deaths and fires regardless of whether the coroner held an inquest or inquiry. Coronial jurisdictions can extend to the manner of the death of a person who was killed; was found drowned; died a sudden death of which the cause is unknown; died under suspicious or unusual circumstances; died during or following the administration of an operation of a medical, surgical, dental, diagnostic or like nature; died in a prison remand centre or lockup; or died under circumstances that (in the opinion of the Attorney-General) require that the cause of death be more clearly ascertained.</p> <p><i>Criminal matters:</i> Matters brought to the court by a government prosecuting agency, which is generally the Director of Public Prosecutions but could also be the Attorney-General, the police, local councils, traffic camera branches or other government agencies.</p> <p><i>Civil matters:</i> Matters brought before the court by individuals or organisations against another party, such as small claims and residential tenancies, as well as matters dealt with by the appeal court jurisdiction.</p> <p><i>Excluded matters:</i> Extraordinary driver's licence applications; any application on a pending dispute; applications for bail directions or judgment; secondary processes (for example, applications for default judgments); interlocutory matters; investigation/examination summonses; firearms appeals; escort agents' licensing appeals; pastoral lands appeals; local government tribunals; police promotions appeals; applications appealing the decisions of workers compensation review officers.</p> <p><i>Probate matters:</i> Matters such as applications for the appointment of an executor or administrator to the estate of a deceased person.</p>
Real expenditure	Actual expenditure adjusted for changes in prices using the general government final consumption expenditure (GGFCE) chain price index deflator and expressed in terms of current year prices (i.e. for the courts section with 2019-20 as the base year). Additional information about the GGFCE index can be found in section 2.
Recurrent expenditure	Expenditure that does not result in the creation or acquisition of fixed assets (new or second hand). It consists mainly of expenditure on wages, salaries and supplements, purchases of goods and services, and the consumption of fixed capital (depreciation).

Specialist jurisdiction court A court which has exclusive jurisdiction in a field of law presided over by a judicial officer with expertise in that area. Examples of these types of courts which are within the scope of this Report are the family courts, the Children's Courts and the Coroners' Courts. Examples of specialist jurisdiction courts which are excluded from this Report include Indigenous and circle sentencing courts and drug courts.