



## Measuring What Matters Consultation Round 2 Submission

Law and Justice Foundation of NSW

Submitted via online form 26 May 2023

**Did the five emerging policy themes Prosperous, Inclusive, Sustainable, Cohesive and Healthy resonate with meeting participants? Yes / No. If not, why not?**

[The following was omitted due to character limits in the online form: While participants viewed that overall the emerging policy themes presented a reasonable basis for the Measuring What Matters framework, and appreciate The Treasury's desire to establish a narrow set of policy areas to facilitate easier identification of interrelationships between policy areas]

Concern was raised that narrowing down to these five areas lends itself to siloing in monitoring and application, which could diminish cross-departmental and cross-sector effort and accountability.

**What do you see as the most important issues for future wellbeing? Are these captured by the emerging policy themes?**

Participants were concerned that there was no reference to rights, and the ability of individuals to enforce their rights, as would be enabled by a well functioning and accessible justice system. This was viewed by participants to be a significant oversight of the framework, given the social, health and economic consequences of access to justice that impact upon wellbeing.

The Law and Justice Foundation of NSW's (herein 'The Foundation') research outlines the adverse health and social consequences that can result from legal problems. In the Foundation's 2012 Legal Australia-Wide (LAW) Survey involving over 20,000 respondents across Australia, respondents reported their legal problems caused: income loss or financial strain (in 29% of cases), stress-related illness (20%), physical ill health (19%), relationship breakdown (10%) and having to move home (5%). These adverse impacts of legal problems reflect the potential value of prevention and early intervention strategies, so that legal problems can be resolved before they impact and resonate throughout several areas of life.

The wellbeing implications of access to justice are also reflected in the Productivity Commission's 2014 Access to Justice Arrangements Inquiry Report, which notes that 'the ability of individuals to enforce their rights can have profound impacts on a person's wellbeing and quality of life' (Productivity Commission 2014, p. 6).

The Productivity Commission (2014) also notes the fiscal benefits of a well functioning and accessible justice system, given that prompt, affordable and well understood dispute resolution can avoid issues escalating into more serious problems that can place burdens on health, child protection, and other community welfare services, in addition to the cost of legal assistance services and the judicial system itself.

Indeed, effective access to justice touches upon realising multiple areas of the proposed Measuring What Matters framework, including:

- Prosperity – as civil law underpins the framework for 'an economy that provides opportunities to all Australians' and helps ensure 'effective access to necessary services and amenities'
- Inclusive – as employment, antidiscrimination and other civil law underpins 'access to secure, well-paying jobs' and a 'society that supports diversity and equity'

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- Cohesive – as the rule of law and access to justice is central to both community safety and a society that is Closing the Gap. We note that four of the seventeen outcomes of the National Agreement on Closing the Gap focus on improving access to justice (see: <https://www.closingthegap.gov.au/national-agreement/targets>)

Addendum: The Inquiry Report reflects that a well-functioning civil justice system yields several social benefits, including the protection of individuals and businesses from infringement of their legal rights by others, promoting social order, and reinforcing civic values and norms. For example, at the individual level, a well functioning and accessible justice system would enable someone who has sustained injuries due to negligence of others to seek compensation for impairment and reduced income generating capacity, having a profound impact upon that individual's wellbeing and quality of life.

### How might the descriptions be amended to best reflect our priorities?

- Prosperous – access to education, knowledge and training may be better aligned to 'inclusive' rather than 'prosperous' in policy area
- Inclusive – we suggest rewording to a society that allows all people to **access** life's essentials, rather than afford these essentials (which unamended would be more aligned to 'prosperous' than 'inclusive')
- Sustainable – while the overarching policy area description references a natural environment that is sustainably managed, there appears to be an absence of preventative or responsive sub-descriptors that focus upon reducing or preventing the impact of climate change before damage occurs. We also note an absence of descriptors focusing on the protection and use of resources that would be central to progress in this policy area.
- Healthy – we note the focus on good physical health and good mental health, at the expense of recognising the reality that not everyone does or can have good physical or mental health. We encourage inclusion of additional descriptors that consider how people can live a good life with an illness, such as people having access to necessary supports and services, and people feeling supported when unwell. Additionally, we note a specific focus on children but not other population groups under this policy area. We encourage inclusion of a descriptor relating to the health needs of older people, especially given Australia's growing ageing population. We also note that 'a society that values the contributions of all regardless of health or ability' may be better aligned to 'inclusive' as a policy area.
- Inclusive – the description, alongside the overall Measuring What Matters framework seems to be insular and lacks consideration of global citizenship and inclusion. We see this as a missed opportunity, with the view that how Australians feel about themselves links to their worldwide impact.

### Are there any indicators and existing data sources that will be critical to inform the emerging policy themes?

We urge The Treasury to include a description and to track relevant indicators relating to access to justice, for the reasons outlined above. This may most naturally fit under the 'Inclusive' policy theme. We propose the following description to be included under the 'Inclusive' policy area for The Treasury's consideration:

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‘a well functioning, accessible justice and legal system that enables people to enforce their rights’. To our knowledge, there are no currently measured indicators monitoring progress against the above in Australia. Subsequently, we strongly encourage The Treasury to consider as part of the Measuring What Matters framework and its budget decisions the resourcing of a regular (at least once every 5 years) legal needs survey to monitor the prevalence of people reporting legal problems, and the number of people who self-report that they were able to make informed decisions about their legal issue, with access to the right help and support to take action or no action accordingly, as effective indicators to measure progress with respect to the above descriptor.

We also note Australia is a signatory to the Sustainable Development Goals (SDG) and the indicator SDG 16.3.3 in the “proportion of the population who have experienced a dispute in the past two years and who accessed a formal or informal dispute resolution mechanism, by type of mechanism” as developed by the OECD, UNDP and UNODC could alternatively be used to track progress against promoting the rule of law and ensuring equal access to justice for all, per SDG target 16.3, under a periodic legal needs survey.

Investment in legal assistance services could also be a useful indicator. This could encompass per capita investment in legal assistance, though we suggest a more nuanced and meaningful indicator would entail tracking the alignment of jurisdictional investment in legal assistance and the justice sector with potential legal need. This could be undertaken by utilising the Foundation’s Need for Legal Assistance Services indicators (see [Need for Legal Assistance Services \(NLAS\) indicators - 2021 Census Update](#)).

**Is there any additional information you would like to see in the Measuring What Matters statement? If so, please outline.**

We are of the view that:

- The overall Measuring What Matters framework and its indicators could be enhanced by greater focus on innovation and blue sky thinking
- The overall Measuring What Matters framework seems to overlook risks and responses to wellbeing, such as international threats, which could warrant further reflection and review
- There could be benefit in greater reference to the role of technology throughout the Measuring What Matters framework, given its significance to everyday life, and wellbeing outcomes – especially with respect to the proposed ‘prosperous’ and ‘healthy’ policy areas

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