

Submission - NLAP Discussion Paper: Legal Assistance Service Data Requirements

February 2020

1. About Victoria Law Foundation

Victoria Law Foundation (VLF) supports better justice through research, education and grants. Our research team investigates the civil legal needs of Victorians, including how people understand the law and what they do when they have legal problems. The team evaluates the impact of legal assistance programs and interventions using rigorous research methods. We work collaboratively with Victoria's legal assistance sector, courts and tribunals and connect the sector through our research network.

VLF welcomes the opportunity to respond to the Legal Assistance Service Data Requirements Discussion Paper (Discussion Paper), having provided feedback on the National Legal Assistance Partnership (NLAP) Overview Paper in October 2019. We are currently conducting a research project to map the availability and quality of Victoria's civil justice administrative and service data (the Data Mapping Project). Further detail on this project is provided below.

2. VLF feedback on Discussion Paper

VLF agrees that a new NLAP is an opportunity to improve data collection and reporting to understand legal assistance services and access to justice. We support the Department's commitment to supporting the legal assistance sector to collect more accurate and consistent service data.

The feedback we provide here is specifically directed at these issues raised in the Discussion Paper:

- the intention to enable dissemination of data to inform research about the legal assistance sector
- the need for broader information sources to understand complex legal needs and to measure the performance of NLAP objectives and outcomes
- the need to ensure consistency and accuracy of legal assistance service data to meaningfully inform research and measure the performance objectives of the NLAP.

Our feedback is limited to our expertise in supporting access to justice through research, including relevant findings from our current Data Mapping Project, which focuses on use of administrative data in the Victorian legal assistance sector. While the Project is not yet complete, the findings of this research are of direct relevance to the Discussion Paper and are likely to provide timely insights about legal assistance service data for the Department.

Our research indicates that administrative data from the Victorian legal assistance sector is likely to be deficient in accuracy and consistency. This is evident in the variations in data practices and data capability across the Victorian sector. Similar issues are also likely to be

present elsewhere in Australia. Consistency and accuracy are critical to data quality.¹ Inconsistent and inaccurate data preclude meaningful comparative analysis and accurate measurement of performance objectives, including those in the NPA and the NLAP.

2.1 VLF's Data Mapping Project

VLF's Data Mapping Project focuses on Victoria's public legal assistance sector.²

The project investigates the data collection protocols and practices, flexibility and consistency, quality, use and accessibility, documentation, technical details and future data needs of the Victorian legal assistance sector.

A total of 29 organisations participated in the project.³ The majority were community legal centres, with other legal assistance organisations also represented. The participants reflected a broad cross-section of the legal assistance sector.⁴

The methodology involved:

- a structured set of questions covering data collection, data flexibility and consistency, quality, use and accessibility, documentation, technical details and future needs
- a review of the variables collected by each participating organisation and key documentation, such as intake forms
- consultation with key stakeholders, including Victorian funders of legal assistance services and peak sector bodies
- mainly qualitative, with some quantitative analysis of responses, using established analytical methods.

VLF will release a public report with findings in the first half of 2020. The findings in this submission are preliminary and high-level and are consequently not for further circulation or publication.

2.2 Challenges to data consistency and accuracy

In 2014, the Productivity Commission Inquiry Report into Access to Justice Arrangements identified that 'data on the civil justice system are seriously deficient for policymaking and evaluation purposes.'⁵ The Productivity Commission highlighted that the key drivers of data deficiency were:

- inconsistent measures of services and client demographics used across the sector
- insufficiently detailed data for the purposes of policy making

¹ See for example: Natalie Byrom, Digital Justice: HMCTS data strategy and delivering access to justice (2019, The Legal Education Foundation); Roxanne Connelly, 'The role of administrative data in the big data revolution in social science research' (2016) 59 *Social Science Research* 1; Rebecca M. Blank, 'A Cautionary Tale About the Use of Administrative Data: Evidence from Age of Marriage Laws (2009) 1 (2) *American Economic Journal: Applied Economics* 128; David A. Grimes, 'Garbage In, Garbage Out: Epidemiologic Research Using Administrative Databases (2010) 116 (5) *Obstetrics and Gynecology* 1018; Hastings et al, Integrating Administrative Data for Policy Insights (2018) Rhode Island Innovative Policy Lab, Brown University, Providence, RI.

² For the purposes of this research project 'public legal assistance sector' refers to public legal assistance organisations. These include community legal centres, legal aid, Aboriginal legal services and family violence services.

³ We note that a small number of organisations that participated in the project do not receive Commonwealth funding.

⁴ The sample included both metropolitan and regional organisations as well as generalist and specialist legal assistance organisations.

⁵ Productivity Commission, *Productivity Commission Inquiry Report: Access to Justice Arrangements* (Australian Government, 5 September 2014) 879.

- insufficient information about outcomes
- incomplete and inconsistently reported and collected data
- inadequate data management systems and information technology
- a lack of resources to collect accurate and useful data.⁶

The National Partnership Agreement on Legal Assistance Services 2015-2020 (NPA),⁷ the Indigenous Legal Assistance Program (ILAP)⁸ and the Family Violence Prevention Legal Services⁹ have each been recently evaluated. All three evaluations highlight data deficiency in measuring and assessing performance against objectives and outcomes,¹⁰ notwithstanding efforts to guide and standardise data practice through the introduction of the National Legal Assistance Standards Manual.¹¹

We find that similar factors to those identified by the Productivity Commission in 2014 continue to adversely affect the consistency and accuracy, and therefore the quality, of legal assistance sector data. These are caused by variations in:

- data management systems used by individual organisations
- data collection practices
- measures of services
- measures of client demographics and priority client indicators.

Variations in data management systems and tools used

Our research found considerable variation in the data management systems and tools used by legal assistance sector organisations. The overwhelming majority of participating organisations use either multiple data management systems (for example, both Community Legal Assistance Service System (CLASS) and Actionstep) and/or additional spreadsheets to record other information about services and clients. Other organisations, such as Victoria Legal Aid, have unique database systems (not CLASS) and practices.¹²

The common reasons given for using multiple databases and/or spreadsheets are:

- the need for merged organisations¹³ to create an information barrier using two separate data systems
- ongoing frustration that the legal service data recorded in CLASS does not accurately report actual service delivery, necessitating services to be recorded in separate systems and spreadsheets
- CLASS not working for case management purposes

⁶ Productivity Commission, *Productivity Commission Inquiry Report: Access to Justice Arrangements* (Australian Government, 5 September 2014) 879, 882.

⁷ Urbis, *Review of the National Partnership Agreement on Legal Assistance Services 2015-2020* (Prepared for the Australian Government Attorney General's Department) (19 December 2018).

⁸ Cox Inall Ridgeway, *Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020 Final Report* (Prepared for the Attorney-General's Department) (February 2019).

⁹ Northern Institute, Charles Darwin University, *Family Violence Prevention Legal Services National Evaluation Report* (June 2019).

¹⁰ Northern Institute, Charles Darwin University, *Family Violence Prevention Legal Services National Evaluation Report* (June 2019) 21-23;

¹¹ Australian Government Attorney-General's Department, *National Legal Assistance Data Standards Manual* (2015).

¹² As do a small number of other organisations.

¹³ This occurs where two organisations merge to become a new organisation. The need for an information barrier arises because of conflicts between clients of the formerly separate entities. The primary reason for requiring two distinct databases is that information barriers are unable to support information barriers.

- CLASS is not fit for purpose and cannot be configured to collect data for specific legal assistance programs (for example, health justice partnerships)
- largely transactional administrative data systems (such as CLASS) being ill-suited to an increased interest in capturing outcomes (rather than outputs).

In this context, the use of spreadsheets is a pragmatic response by individual legal assistance organisations. We found that many organisations use the information collected in spreadsheets to plan and deliver appropriate services that respond to the needs of their communities. Further, the information is used to monitor and evaluate the delivery of service initiatives to meet those needs, including to priority client groups. These are the exact activities 'fit-for-purpose' data management systems should be used for. However, the limitations of CLASS outlined above preclude use of a single data management system to record the data necessary for organisations to plan and deliver services to their communities.

While the use of spreadsheets and multiple databases may be a pragmatic response of the legal assistance sector, our finding that the practice is widespread raises several concerns in addition to data accuracy and consistency. These concerns include:

- using multiple databases and/or spreadsheets is less efficient and more resource intensive than using one database
- spreadsheet data can be difficult to retrieve and integrate with service data in CLASS and other databases
- current data management systems do not appear to meet the data needs of legal assistance organisations (they are not fit for purpose).

These findings also demonstrate that the data proposed to be required under the NLAP may not fully capture the extent, complexity and benefit of legal assistance services. This is discussed further in section 2.5 below.

Variations in data collection practices

Our research found that variation in data collection practices occur both across the legal assistance sector, and within individual organisations. Variations include, but are not limited to:

- who enters data (for example, data may be entered by legal staff, administrative staff or volunteers, or any combination of these)
- different data is collected for different programs within organisations, and sector-wide
- the training, supervision and guidance provided to those who enter data
- when and how data is recorded (for example, data collection can differ in terms of timing and method, such as in-office, outreach or duty lawyer service settings)
- what information is recorded in intake forms and systems.

Variations in measures of services

Many of the organisations reviewed for the Data Mapping Project record and report the data required under the current National Partnership Agreement.¹⁴ This includes information about services.

However, we found that although nearly all organisations recorded and reported the number of services delivered, there was variation in the way service measures were collected and recorded. Even basic units of observation (for example advices, representations, referrals in and referrals out and acts of assistance) varied across organisations. This means that standard services are not measured consistently.

Variations in measures of client demographics

We found considerable variation in measures of client demographics and indicators. A key example of this is demonstrated in the variability of client intake forms. An analysis of a sample of organisation intake forms found variation in the way *every* demographic measure required under the DSM is worded and collected. This includes even the most basic demographic data, such as:

- gender
- date of birth
- income
- if a client identifies as Aboriginal or Torres Strait Islander
- disability status
- employment status.

Our analysis of the same sample of intake forms shows that key priority client indicators are also not consistently worded and collected, such as:

- homeless status
- family violence
- financial disadvantage.

These variations were apparent in a relatively small sample. There is a high likelihood that an analysis of intake forms across Australia would reveal further inconsistencies in wording and data collection practice. This means that the most fundamental data collection tool used by legal assistance organisations is driving data inconsistency.

These variations in data entry practices, measures of services and measures of client demographics and priority client indicators result in inconsistency of data and ultimately may preclude meaningful comparison. However, the effort required to align these inconsistencies (cleaning the data) is onerous and requires a significant level of data expertise.

¹⁴ A small number of services do not receive Commonwealth funding, and so are not required to report data under the NPA. They have other reporting requirements, for example to state government departments or agencies and/or philanthropic funders.

2.3 Factors that affect capability to collect and report data

Variation in data collection practice is compounded by varying capability in organisations across the sector. Our research finds there is considerable variation in data capability, influenced in broad terms by three factors:

- data management systems that are fit for purpose
- staffing and data expertise
- resourcing, including use of core funding prioritised to frontline service provision over 'back-end' operational matters including administrative data operations.

Data management systems that are fit for purpose

We found wide variation in data management systems across the Victorian legal assistance sector, including whether they have been configured to the organisation's purposes and operations.

Organisations that have optimised their data management system (for example configuring CLASS or Actionstep for their purposes) are better placed to collect consistent and accurate data than those which have not. Customised systems can reduce data entry decisions. This can involve, for example:

- optimising variables (such as demographic or service variables) to support accurate data entry, such as drop-down menus that are tailored and not unwieldy to use
- minimising the use of catch-all variables (for example, 'unknown' or 'other') or variables that can be difficult to interpret

The Victorian Federation of Community Legal Centres recently employed a staff member, with funding from the Victorian Department of Justice and Community Safety, to attend community legal centres and assist them to configure CLASS to their needs. Several Data Mapping Project participants reported that this had increased their data capability.

Despite this positive initiative, we found that many CLASS users continue to report operational and data management challenges – some of which are not related to whether CLASS is optimised or not. Common problems reported by participants were:

- inaccurate reports run through CLASS, where reports run did not appear to accurately reflect service delivery numbers
- inaccuracies and errors in basic service and demographic data, particularly where CLASS had not been optimised and configured
- lack of organisational expertise to tailor CLASS to meet the data needs of the organisation (where organisations are unable to configure CLASS to suit their needs)
- difficulty extracting service information from CLASS, particularly during reporting periods where multiple community legal centres users can slow or crash the system.

Staff and data expertise

Legal assistance organisations that employ dedicated administrative staff to record data, rather than relying on frontline staff and/or volunteers, are more likely to collect accurate and consistent data.

Further, organisations that can employ people with data expertise are better able to increase the data capability of other employees in their organisations. For example, data experts within organisations can:

- improve existing systems and practices
- increase staff awareness of the importance of data
- support data-driven decision-making
- undertake regular audits and identify and remedy errors or frequently missed variables.

We found that organisations that have this capability are more likely to have a clarity of purpose about data collection and reporting. They are more likely to have a better understanding of the use and value of data. Participants in the Data Mapping Project reported that when staff understand the value of accurate and consistent data, they are incentivised to enter data accurately and consistently, because they understand how quality data can help them deliver better legal services.

Resourcing

Participants reported that there is a critical gap in funding for data capacity building, including funding data administration positions. It was reported that a primary driver of this is that core funding (Commonwealth¹⁵ and Victorian government funding) is explicitly directed to frontline legal services. We note that there are Victorian Government grants given intermittently for the purposes of improving data capability.

With respect to resourcing it is important to note that legal assistance services varied in the extent to which they received funding beyond Commonwealth and Victorian Government sources. The findings suggest that organisations that receive additional funding (such as from philanthropic foundations, local councils or the Victorian Legal Services Board), generally have additional data reporting requirements, but also greater data capacity to do so. For example, some centres have pooled non-core funding sources to create data administration or expert data positions. Several Victorian legal service organisations have also expanded their data and evaluation capability by creating dedicated positions.

2.4 Consequences and suggested responses

The combined impact of variations in service and client data collection, and in the capability of organisations, is that current data practices do not generate the level of accuracy, consistency or quality required to make meaningful comparisons across the sector. As a result, they are therefore highly unlikely to deliver accurate measurement for NLAP performance purposes without significant improvement.

Where data (and particularly aggregated data) is used, its deficiencies and limitations need to be made clear, and any conclusions drawn with appropriate caution. This also has a bearing on what data can and should be used for. Using Victorian legal assistance sector administrative data in its current form to inform policy or funding decisions will come with significant uncertainty and risk because the evidence base is inconsistent and in other ways unstable.

¹⁵ Council of Australian Governments, *National Partnership Agreement on Legal Assistance Services* (2015), Schedule B, stating that 'Commonwealth funding should be directed to the delivery of front-line services and focused on meeting the legal needs of priority clients.'

Our work to date demonstrates that there should not be any assumption of an acceptable level of accuracy, consistency and quality in the data currently collected and reported under the NPA. In short, we found that the deficiencies in data identified in the 2014 Productivity Commission Inquiry Report are evident today.

Foundational work is therefore required to build and maintain the required data capability and infrastructure to generate accurate, consistent and quality outputs. Proper investment in data collection and development of outcomes measures is essential for evidence-informed policy and to improve access to justice. Without this, assessment of the performance of the NLAP against its objectives and outcomes, as well as the National Legal Assistance Data Strategy (including improved outcome measurement capability), will be frustrated. We suggest the following, established responses that are grounded in our research:

- the application of an administrative data quality framework, with examples from other jurisdictions, designed in collaboration with the sector
- investment in the data capability of organisations across the legal assistance sector
- analysis of whether CLASS is fit for the data collection purposes and needs of modern legal assistance sector organisations, or whether an alternative data collection system would be better suited to organisational need and to meet the priorities of the National Partnership Agreement
- sufficient resourcing to support these initiatives and achieve robust and reliable data collection.

2.5 The need for broader information sources to understand complex legal needs

VLF supports the statements in the Discussion Paper on the need for a range of methods to measure the objectives and performance of the NLAP and to respond to the identified legal needs of Australians. In addition to the measures outlined above to increase the quality, consistency and accuracy of data, a broader range of information sources is required to better understand complex legal needs, learn about service outcomes and improve legal assistance services and access to justice.

The advantages of broader information sources

VLF supports the Department's view that a range of information is required to better understand the identified legal needs of Australians and to make appropriate policy responses. Performance monitoring using administrative service data is one of a range of empirical methods/designs required to capture the work of the legal assistance sector. Other important elements include:

- client surveys (noting that these surveys only gauge the experience of service users and do not measure experiences of people who don't use legal assistance services)
- legal needs surveys, which can gauge the experience of people regardless of the action they take to address their problems
- evaluative research quantifying the impact of services and identifying 'what works' (including randomised controlled trials where appropriate)

Other instruments, (such as surveys exploring public understanding of law and attitudes to justice) can also offer important insights into the performance and deficiencies of the legal assistance sector.

Different approaches can be used in well considered combination at different levels to maximise the opportunity to improve justice for Australians and the efficiency of the whole system.

Further, in addition to legal assistance sector service data (which currently measures delivery of services in simple counting terms), outcome measures are valuable in better gauging performance and value and build the evidence base on what works. However, as set out above, outcome measurement requires investment and will not be meaningful unless basic indicator data is reliable.

The need to measure complexity of legal services and clients

A key finding of the Data Mapping Project is that legal assistance organisations are delivering complex legal services for clients with complex legal and related needs. It is well established that people in disadvantaged groups frequently experience multiple and often interrelated socio-legal problems.¹⁶ Our evidence shows that current data practices do not adequately capture the time and range of tasks involved in responding to complex cases. This includes variation in legal matter complexity and severity as well as variation in service user complexity and need.

The National Partnership Policy reforms target financially disadvantaged and priority client groups who potentially stand to benefit most from public assistance, but who often face multiple legal and related problems.¹⁷ These reforms also likely mean that the complexity and difficulty of legal assistance work has also increased.¹⁸ Monitoring performance in complex service environments requires:

- looking at both the legal and related needs and circumstances of priority clients who access legal assistance services
- accurate accounting of services delivered
- measuring the effort and resources to deliver services to priority clients.

Better measures of both service and client complexity are required to monitor performance. Where legal assistance services are prioritised to those most in need it is entirely possible that this will result in legal assistance services having to work harder and do more for clients, yet this may not be reflected in service numbers.

Determining if something as simple as whether change in service numbers is positive or negative can be challenging. For example, service numbers may decline over time due to a shift from 'easy' to 'hard' clients if an organisation delivers fewer duty services in a court setting. This change may be because, for example, the organisation is assisting clients at an earlier stage of their legal issue. However, it could also be because an organisation is seeing fewer clients. Identifying the cause of such change is difficult, particularly as client priority groups change. Under current administrative data limitations such nuances cannot readily be determined or addressed in analysis.

¹⁶ Hugh M. McDonald and Zhigang Wei, 'Concentrating disadvantage: a working paper on heightened vulnerability to multiple legal problems' (Law and Justice Foundation of New South Wales Updating Justice No 24, May 2013); Hugh M. McDonald and Zhigang Wei, 'How people solve legal problems: level of disadvantage and legal capability' (Law and Justice Foundation of New South Wales, 2016).

¹⁷ McDonald and Wei, 'Concentrating Disadvantage' (n 16); McDonald and Wei, 'How people solve legal problems' (n 16).

¹⁸ McDonald and Wei, 'Concentrating Disadvantage' (n 16); McDonald and Wei, 'How people solve legal problems' (n 16).

2.5 The intention to enable dissemination of data to inform research about the legal assistance sector

VLF supports the Department's intention to provide data collected by the legal assistance sector to legitimate research bodies. Making service data available subject to appropriate safeguards, will enable research and evaluation to inform and improve legal assistance service delivery.

VLF does however suggest that the wording of Principle 2:

The user has the appropriate authority to access the data

could be clarified and strengthened as follows:

The user and organisation using the data have the appropriate authority, expertise and data governance structures and policies, including human research ethics guidelines, to access and use the data.

This amendment recognises that authorised users of the data (such as reputable research institutions) should have appropriate expertise and existing data governance structures, policies and procedures. The expansion of this principle will ensure that the use of data for evaluation and research is accompanied by adequate safeguards, to protect privacy and confidentiality and to ensure that data use is consistent with human ethics guidelines.¹⁹

VLF also submits that as currently drafted, it is not clear what purposes the data will be put to, either by the Commonwealth, or other data users and clarity is needed. VLF's research identified concerns that the purpose of changes in data reporting requirements were not adequately communicated to the services required to report. Clear communication is an important way to build trust between funders and organisations. Participants in our data mapping project reported that a stronger understanding of how data will be used is critical in engaging all staff in data collection, which in turn increases the accuracy and consistency of data entered.

2.6 Proposed changes to data reporting requirements in the Discussion Paper

Reducing the data collection and reporting burden on organisations

Our research finds that the 'burden' of collecting and reporting data is not experienced by all organisations equally. Organisations that are well-resourced and have dedicated staff for data entry are able to meet the requirements and in fact frequently exceed them.

Organisations that are less resourced reported that a data collection and reporting burden arises because limited resourcing, and a directive to use core funding for frontline work, creates a tension between data activity and frontline legal services. VLF submits that the solution to reducing the data burden experienced by *some* organisations is not to require less data but to adequately resource organisations to do this vital work with prioritised resourcing aimed at increasing their data capability.

¹⁹ Australian Government, National Health and Medical Research Council and the Australian Research Council, *National Statement on Ethical Conduct in Human Research* (2007, updated 2018).

Challenges of aggregating unit level data

Reporting unit level data may be of some benefit to individual organisations (for example, reducing the time it takes to prepare a report) rather than the current NPA requirement to report aggregate six-monthly service performance indicators and benchmarks. However, even if unit level data can be simply extracted from the range of data systems used across the sector, there is likely to be increased burden in putting this data together at a jurisdictional level. It is unclear in the Discussion Paper what agency will be responsible for extracting and compiling unit level data and whether this is a state/territory or Commonwealth responsibility.

Further, our analysis indicates that a substantial proportion of Victorian legal assistance services are using Actionstep (or other organisational systems) as their primary data management system. This raises multiple concerns regarding unit-level data extraction and reporting. Firstly, it is unclear how unit level data extraction from Actionstep (or other organisational systems) can occur in practice. Secondly, CLASS does not currently have Application Programming Interface (API), which allows one database to talk to another. This means that data extracted from different data management systems (CLASS, Actionstep) cannot be automatically aggregated. Compiling it will be time-consuming and resource-intensive which further increases the likelihood of data inconsistency.

Reporting unit level data also presents other risks. As outlined above, ensuring accuracy and consistency is key. This means that combining unit-record service data across organisations and jurisdictions for analysis and comparison risks masking inconsistent, inaccurate and poor-quality data. This in turn risks increasing the likelihood of researchers or policy makers drawing wrong or misleading conclusions. Substantial investment in improving data capability and minimum data standards and practices is required for data of sufficient quality and reliability for meaningful comparison.

The need for baseline data

We note that three major changes recently coincided:

- the introduction of the DSM, which set out new counting rules and interpretations for legal assistance
- CLCs transitioning to CLASS (and some to Actionstep)
- new national legal assistance policy priority client groups.

Together, these changes have come at some cost of 'baseline' understanding of service figures. A baseline of service figures is necessary to monitor changes over time, as well as possible changes through new policies and programs. Until a consistent baseline is established, use of data to monitor such changes is vexed.

We also found efforts across the Victorian legal assistance sector aimed at improving data practice consistency, clarity concerning DSM requirements, and training and customisation of data systems (such as the project by the Federation of Community Legal Centres) was still ongoing at least through to the end of 2019. We found for example, that organisations that had been assisted by the Federation of Community Legal Centres to build their CLASS capacity had benefited greatly. We note, however, that this was a recent benefit and some organisations are newly confident in CLASS data and reporting.

A cross-section of the legal assistance services that participated in the Data Mapping Project were of the view that there was still some distance to go to achieve consistent baseline data.

VLF respectfully submits that the proposal to change the collection and reporting of data requirements has the potential to further degrade the consistency and accuracy of data. Any increase in data inconsistency will further preclude and frustrate meaningful comparisons across the sector and create even greater difficulties in measuring NLAP performance outcomes. The lessons from the transition to the DSM and CLASS shows that such changes come with a considerable adjustment period, which is made challenging due to resourcing and capacity constraints.

Potential for increased inconsistency precluding meaningful comparison and measurement

As discussed above, inconsistent data collection and reporting remains a persistent issue for the legal assistance sector. The proposal to create two non-mandatory tiers of information (Tiers Two and Three) is in fact likely to *increase* inconsistency in an already inconsistent data environment. We suggest that the current wording for Tier Two, which is that data:

must be reported under the NLAP if it is possible and appropriate; and that there is a presumption for collecting the data but a recognition that there are situations where it may not be appropriate

lacks sufficient clarity and utility. What's 'possible' and 'appropriate' is likely to vary across organisations and introduce additional data reporting inconsistency.

We submit that Tier Three, which is collected under the DSM but will not need to be reported under the NLAP, will almost certainly lead to inconsistency of reporting. Legal assistance services are likely to build data reporting practices and systems to meet minimum compliance requirements. Consequently, *any* Tier Three data reported will have little or no analytical utility.

VLF's data mapping research finds that some legal assistance organisations have a *higher* level of data capability and collect data above and beyond what is currently required under the NPA. They do this for their own operational reasons, including to:

- learn more about the operation, impact and benefit of different services and models
- plan services that meet the needs of their communities
- undertake monitoring and evaluation and research.

However, organisations with *lower* capability may respond to the changes by collecting the very minimum data required. This will result in an increased polarisation of data collection practices between more and less capable legal assistance organisations, because the latter find it much harder to implement this kind of change.

This means that data reported under Tiers Two and Three is likely to be partial and patchy as it is highly unlikely that all organisations will report Tier Two and Tier Three data. Partial and patchy data will make meaningful analysis across service types difficult for policy makers or researchers.

Inconsistent demographic data requirements across service types

VLF submits that a basic, consistent standard of demographic data across all service types should be collected and reported. There is an established international best standard for the measurement of vulnerability/disadvantage in legal assistance services. This includes, for example, Her Majesty's Courts and Tribunals Service program (the data collection for courts

and tribunals commitment) to collect minimum demographic data to measure vulnerability/disadvantage.²⁰ The proposed changes (creating three tiers of information, where certain demographic data is not required to be collected or reported) do not meet this standard. As proposed, they are highly likely to create fundamental inconsistencies in what demographic data is collected across different service types. Our research revealed the challenges in collecting demographic information for relatively 'light' contact services, such as legal information and referral. However, sufficient reporting of demographic variables is essential for meaningful data analysis of which services are provided to which groups, and for what types of problems.

VLF respectfully disagrees that the proposed changes will allow for a better understanding of service complexity. Our research and experience, and research internationally, indicates that generally, *more* and not less data is required for both measuring client and service complexity and measuring outcomes, particularly for vulnerable/disadvantaged people.²¹ To design the most efficient and responsive legal services for vulnerable/disadvantaged clients (NPA priority clients) we need to understand the full spectrum of their legal and non-legal needs, and what it takes to respond to them.

Currently, methods and measures to capture client and service complexity are under-developed. In order to operationalise this in a busy frontline service context, there is a need for judicious additional demographic and services measures. These measures can be used as proxies for user legal capability and matter complexity, particularly given the overall policy direction of the NLAP and National Strategic Framework.

Additional data collection approaches and methods may also be needed to measure outcomes. If the proposed changes are implemented, it is possible there will be an increase in inconsistencies in demographic and indicator data (set out above) intended to measure vulnerability. This is likely to frustrate efforts to measure specific vulnerabilities of clients across the sector and to identify trends and systemic issues.

Timing of the proposed changes

VLF's research has found that some measure of confidence has only recently returned to the CLC sector following the transition from CLSIS to CLASS. Many organisations reported inaccuracies and inconsistencies in CLASS data in 2017 and 2018, directly after it was implemented.

VLF urges the Department to engage further with the sector to understand the full impact of further changes to data collection and reporting requirements so soon after the implementation of CLASS. Responses to our Data Mapping Project suggests there is change fatigue (for example because of changes to the DSM and the transition to CLASS) across the Victorian legal assistance sector. This means there is little appetite for further mandated change to data recording, reporting and systems without adequate provision of resources to effect such change.

²⁰ This best practice standard requires courts and tribunals to collect data on: age, disability, employment status/income, English as a foreign language, gender reassignment, highest level of education (proxy for literacy), postcode (permanent address, to identify whether in a care home, homeless, or in an area of low internet coverage), pregnancy and maternity, race, religion or belief, sex, sexual orientation, fear or distress connected with e.g. domestic violence/abuse, in detention, survivor of trafficking/trauma, Natalie Byrom, *Digital Justice: HMCTS data strategy and delivering access to justice- Report and recommendations* (October 2019, The Legal Education Foundation) 5.

²¹ See for example, Natalie Byrom, *Digital Justice* (n 20).