



FAMILY COURT OF
WESTERN AUSTRALIA

FAMILY COURT OF WA
Annual Review
2012/2013



CONTENTS

04 FROM THE CHIEF JUDGE

06 THE FAMILY COURT

- 06 Our Jurisdiction
- 06 Our Area of Service
- 06 Our Workload
- 06 Our People

07 OUR JUDICIARY

08 OUR BUDGET

09 OUR WORKLOAD

- 09 Applications for Final Orders
- 10 Applications for Interim Orders
- 10 Applications for Spousal Maintenance, Child Maintenance and Child Support
- 10 Order Contravention – Parenting
- 11 Case Assessment Conferences and Hearings

12 COURT PERFORMANCE

- 12 Trials and Other Judicial Work
- 13 Time from Filing to Trial Commencement
- 14 Time from Filing to Finalisation for Non-Trial Matters
- 15 Appeals
- 15 Regional Circuits

16 REGISTRARS' WORK

- 16 Divorce Applications
- 16 Applications for Consent Orders
- 16 Conferences

17 TRENDS

- 17 Self-representation
- 17 Applications Made by Unmarried Parties
- 17 Exemption Certificates
- 18 E-Filing

19 COUNSELLING AND CONSULTANCY SERVICE

- 20 Risks Identified
- 21 Child Protection Consultant

22 OUR SERVICES

- 22 Customer Service
- 22 Information Sessions and Tours
- 23 Website and Publications
- 23 Commonwealth Courts Portal (CCP)
- 23 Child-Minding Service
- 23 Legal Aid WA Family Court Services
- 23 Justices of the Peace

24 2012/13 HIGHLIGHTS

- 24 New Case Management Guidelines
- 24 Family Violence Amendments
- 24 Upgrade of the Digital Recording System
- 24 “When Separating” – groundbreaking DVDs produced by Legal Aid WA
- 24 Court Traineeships

25 FUTURE DIRECTIONS

- 25 Time from Filing to Trial Commencement
- 25 Protection and Care Jurisdiction
- 25 Casetrack2
- 25 Accommodation Planning
- 25 Website Update
- 25 E-Filing
- 25 Audio Visual Over Internet Protocol Pilot Program
- 25 Cognos Reporting Tool

26 APPENDIX 1

- 26 Family Court of Western Australia Committees 2012/13
- 27 Committees Involving External Agencies

FROM THE CHIEF JUDGE

I am pleased to present the annual review of the work of the Family Court of Western Australia for the financial year ending 30 June 2013.

Another Difficult Year

In my last annual review I described 2011/12 as the most difficult in the Court's history. The difficulties primarily related to the ongoing illness of two of the Court's five judges. Sadly, during the year now under review, Justice Carolyn Martin passed away and Justice Stephen Crooks resigned due to ill health. I paid tribute to both of them in last year's report. A formal tribute to Justice Martin appears in this annual review.

The Court continued to feel the impact of the loss of our two judges throughout the year. The impact on the work of the Court was ameliorated due to the ongoing use of acting judges. We were most fortunate to have the assistance of the Honourable Jennifer Boland AM for another three months and the Honourable Brian Jordan for another six months.

I have previously acknowledged the cooperation of both State and Federal governments in arranging the appointment of the acting judges. While this was greatly appreciated, the fact remains that over the last two years the Court lost eight months of "judge time". Regrettably, this is reflected in the wait time to trial, which now stands at an unacceptable 107 weeks.

New Judicial Appointments

I am again grateful to the State and Federal governments for their speedy appointment of judges to replace Justices Martin and Crooks. Justice John Walters and Justice Susan Duncanson commenced in office on 6 December 2012.

The Court is fortunate to have secured the services of such experienced judicial officers. Justice Walters

previously served for over 10 years as a Federal Magistrate in Melbourne and Justice Duncanson previously served for over 10 years as a Family Law Magistrate in our own court.

The Honourable Alan Barblett AO

This year also saw the passing of the Honourable Alan Barblett AO after a long illness.

Alan Barblett was the first Chief Judge of our court and was later appointed as Deputy Chief Justice of the Family Court of Australia. He will be remembered as an outstanding administrator and fine judge who placed the Court on a firm footing from the time of its establishment in 1976. He retained a keen interest in the Court and its staff long after his retirement.

Our sincere condolences are extended to Mrs Pat Barblett AM and the whole Barblett family.

Mr Lindsay Geddes

The year under review also saw the tragic loss of our longest serving family consultant, Mr Lindsay Geddes who died in an accident on 24 November 2012.

Mr Geddes had been a Family Consultant at the Court for 25 years. He was a highly skilled counsellor and was extremely popular amongst his colleagues and members of the legal profession.

Our thoughts remain with Lindsay's beloved wife, Bethwyn, and all of their family.

Registrar Sally Vanderfeen

Registrar Sally Vanderfeen resigned as a registrar of the Court in January 2013 due to ill health. Mrs Vanderfeen also served as the Appeals Registrar and was very active in the committee

work of the Court. I extend to Registrar Vanderfeen and her husband, Ian, best wishes for a long and happy retirement.

The Court has been assisted by the appointments of Ms Leonie Forrest and Mr Tom Kuurstra as registrars in order to fill the vacancies created as a result of the departure of Registrar Vanderfeen and the appointment of another registrar as an acting magistrate. The Court has been fortunate in securing the services of such experienced legal practitioners to fill these important roles.

Funding for Acting Magistrates

The Court continued to have the benefit of funding provided by the Federal Government for an acting magistrate to deal with the backlog of cases. An acting magistrate was also appointed to cover the position left vacant by the elevation of Justice Duncanson. Magistrates Colin Kaeser and Laura De Maio ably filled these roles during the year.

During the year, the Federal Government made clear that funding for the acting magistrate position would not be renewed when it expires in August 2013, citing the Court's greatly increased fee revenue. Representations have been made to the State Government to allow these fees to be used to meet the cost of appointment of a permanent magistrate when the acting magistrate funding finishes. In next year's review I will report on the successful outcome of these representations.

De Facto Financial Jurisdiction

In last year's report I noted with satisfaction the decision of the State Government to provide funding to allow for the appointment of an acting magistrate for two years to assist the Court to deal with its de facto financial jurisdiction. Until then, the Court had

not received sufficient funding to allow for the appointment of a judicial officer to deal with this work.

The Court was fortunate to secure the services of a senior legal practitioner, Mr Mark Calverley, to fill the position created with this new funding. Mr Calverley took up his appointment in September 2012.

As a result of this appointment, the Court was able to allocate Magistrate Alan Moroni, one of our most experienced magistrates, to deal with trials in the de facto financial jurisdiction. Although his Honour dealt with a very large number of matters, the jurisdiction requires more than one magistrate and thus other cases were heard by other judicial officers.

A total of 58 de facto financial matters went to trial in the year under review, in which 16 also dealt with parenting orders. Of those trials 42 of were dealt with by a magistrate (compared to 10 dealt with by magistrates in the previous year). The benefit of the increased judicial resources is clearly demonstrated by the median age of de facto financial (and joint parenting and financial) matters in the defended list, which now stands at 73 weeks compared to 84 weeks for married parties.

Visit by Commonwealth Attorney General

I was pleased to host a visit in August 2012 by the former Attorney General, the Honourable Nicola Roxon MP. It was beneficial to be able to explain to the Attorney the cohesive family law system in Western Australia and to highlight the close links between the Court, service providers and government agencies, especially the Department for Child Protection. I was also able to explain the way in which our judges and Family Law Magistrates work together to provide seamless service delivery.

The Attorney had consultations with other local agencies during her visit. Following the visit, it was most gratifying to hear how many of those had stressed to the Attorney the value they place on their close connections with the Court.

New State Attorney General

During the year I have had a number of meetings with the new State Attorney General, the Honourable Michael Mischin MLC. We have formed a strong working relationship, built during what has been a very trying time. The cooperation of the Attorney and the State Government during this difficult period has been greatly appreciated by the Court and the legal profession.

Statistics

The statistics contained in this report show that the year under review was out of the ordinary. The Court rarely sees significant changes in rates of filing of particular application types, but this year there was a 10.7% increase in final order applications seeking only parenting orders and a 13.9% reduction in final order applications seeking only financial orders. Including those applications seeking both parenting and financial orders, the number of final order applications involving parenting issues increased by 5.5% and those involving financial issues decreased by 16.9%.

The increase in parenting applications is cause for concern. A particular concern is that about half of all final order parenting applications were filed by self-represented litigants, which is a major increase in the rate of self-representation. This presents a significant challenge, given that the Court is greatly assisted when parties have lawyers.

Alongside these trends the number of clients in contact with Legal Aid's Family Court Services team increased by 21.1%. It is to be hoped that levels of Legal Aid funding can be increased to ensure more parents have the benefit of legal advice in seeking to obtain good outcomes for their children.

The reduction in filing of financial applications is gratifying, however closer analysis of the statistics demonstrates that the reduction primarily occurred in the first quarter of the year, following the introduction of a requirement for parties to file an affidavit when commencing proceedings. Rates of filing began to return to previous levels later in the year.

Much anecdotal evidence suggests that more lawyers are encouraging clients to follow alternative pathways towards the resolution of financial cases. Unfortunately, in cases involving children, the majority of applications are by parents who are exempt from alternative dispute processes. That level of exemption is, in part, a reflection of the increasingly complex nature of cases being heard, the majority of which involve multiple risk factors for the children involved.

Court Governance

The management of the Court continues to be overseen by the Board of Management, to which the judges have delegated their authority, subject always to the right of review. Many changes had to be made during the year under review as a result of the passing of Justice Martin who played an integral role in almost every aspect of court management.

The Board of Management meets fortnightly. I am particularly indebted to Justice Crisford who chairs the Board in my absence and who continues to undertake the thankless task of List Judge. I express also my thanks to the Principal Registrar, the Director of Court Counselling and the Acting Executive Manager (and their delegates) who sit on the Board and contribute to the smooth management of the Court.

I also thank the many judicial officers, family consultants and members of staff who willingly take part in the work of the various committees, often out of normal hours. These committees are of great importance to the work of the Court. This report contains a full list of the committees and their membership.

Finally, I thank everyone at the Court for their support during another difficult year. We now have a full complement of judicial officers who, along with all the staff, look forward to meeting the challenges of the year ahead.

Justice Stephen Thackray

Chief Judge

Family Court of Western Australia

THE FAMILY COURT

Our Jurisdiction

The Family Court of Western Australia (FCWA) was established in 1976 as a state court exercising both state and federal jurisdiction. The Court comprises judges and registrars. It deals with disputes arising out of the breakdown of marriages and de facto relationships. Specialist Family Law Magistrates work alongside the judges. The work of the Court is supported by the family consultants working in the Family Court Counselling and Consultancy Service.

The Department of the Attorney General (WA) provides administrative and logistical support for the Court. The Court is principally funded by the Federal Government, with important support from the State Government to assist in dealing with the de facto financial jurisdiction.

Our Area of Service

The Court services the whole of our vast state. Apart from having exclusive jurisdiction in family law matters in the Perth Metropolitan area, the Court circuits to the following regional centres:

Albany
Broome
Bunbury
Geraldton
Kalgoorlie

Our Workload

Applications received	14,634
Matters finalised	15,280
Divorce Applications	5,129
Final Order Applications	2,572
Interim Order Applications	4,533
Consent Order Applications	2,400
Final Order Trials Commenced	347
Appeals	30

Our People

As per the approved FTE levels for 2012/13:

5	Judges
7.6	Magistrates
1	Acting Magistrate
2	Acting Registrars
49.7	Listings and judicial support staff
22.5	Customer service staff
12	Business services and records staff
14.1	Family Consultants
2.5	Counselling support staff

OUR JUDICIARY

As at 30 June 2013

Chief Judge

The Honourable Justice Stephen Thackray

Judges

The Honourable Justice Jane Crisford

The Honourable Justice Simon Moncrieff

The Honourable Justice John Walters

The Honourable Justice Susan Duncanson

Acting Judges

The Honourable Acting Judge Jennifer Boland AM
(1 July 2012 to 24 August 2012)

The Honourable Acting Judge Brian Jordan
(15 October 2012 to 19 April 2013)

Principal Registrar

Magistrate David Monaghan

Magistrates/Registrars

Magistrate Annette Andrews

Magistrate Alan Moroni

Magistrate Elizabeth Stewart

Magistrate Jill Vander Wal

Magistrate Gail Sutherland

Magistrate Francine Walter

Magistrate Mark Calverley (Acting)

Magistrate Laura De Maio (Acting)

Magistrate Colin Kaeser (Acting)

Registrar Leonie Forrest

Registrar Thomas Kuurstra



JUSTICE CAROLYN MARTIN

A woman known for her many 'firsts', as much as for her warmth, colour and wit, Justice Carolyn Martin sadly passed away on 1 October 2012. Her Honour was the first female Deputy Registrar of our court when appointed in October 1983 and became the State's first female Stipendiary Magistrate in 1985.

Her career advanced with appointments as the Registrar of the Court (Principal Registrar) in 1990, Acting Judge in 1995 and finally as the first female judge of the Family Court of Western Australia in 1996.

Justice Martin will be long remembered for her unique personal qualities, her intellectual ability and the dedication she brought to her work, especially her unparalleled knowledge of the law of adoption and surrogacy.

Her Honour was greatly loved by her colleagues, by court staff, the legal profession and by many of the litigants who appeared before her. She will be sadly missed.

OUR BUDGET

FAMILY COURT OF WESTERN AUSTRALIA

Budget Summary 2012/13

The audited budget summary of the Court was not available at the time of printing. It will be displayed on the Court's website when it becomes available.



OUR WORKLOAD

The workload of the Court, as measured by the overall number of applications filed, remained static by comparison with the previous year. The work related to parenting issues increased, while the proportion of work related to financial issues reduced.

Applications for Final Orders

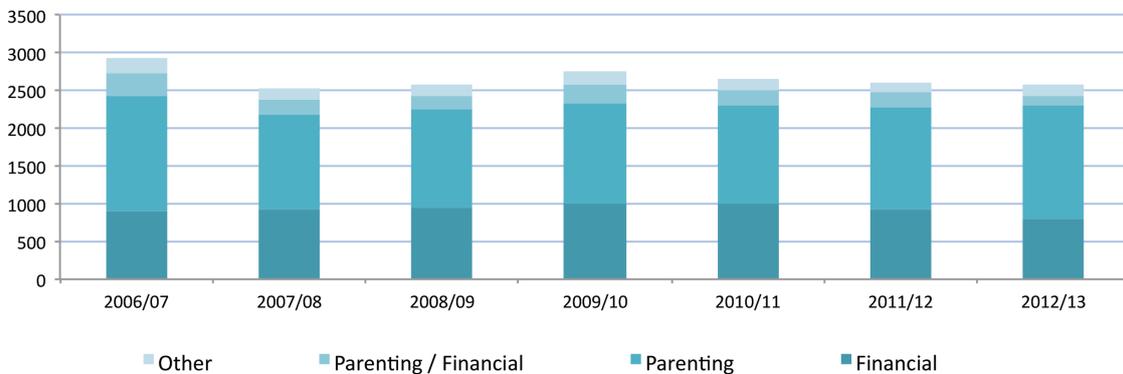
There were 2,572 applications for final orders lodged in 2012/13, consistent with the volumes seen since 2007/08.

Of those 2,572 applications, 58.3% sought only parenting orders, 31.2% sought only financial orders, and 5.2% sought both parenting and financial orders. The remaining applications sought other relief, such as for the issue of passports and injunctions.

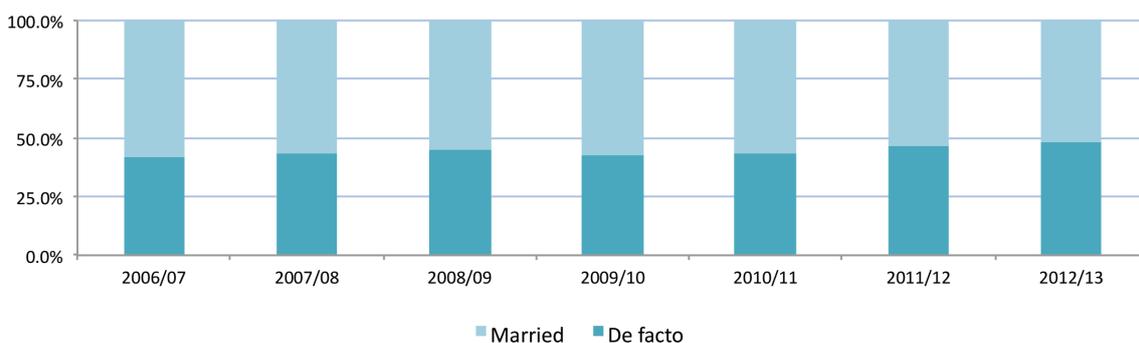
Compared with the previous year, this represents a 10.7% growth in parenting only applications against a 13.9% reduction in financial only applications, with the largest variation being seen in applications for both parenting and financial orders which reduced by 30.8%. Overall this equates to a 5.5% increase in applications involving parenting issues and a 16.9% decrease in applications involving financial issues.

Over the period since 2006/07 there has been an increase in the proportion of de facto parties making an application for final orders, accounting for 42% of final orders applications in 2006/07 and 48.4% in 2012/13. Of the 1,499 final order applications seeking only parenting orders, 61.8% were filed by unmarried parties.

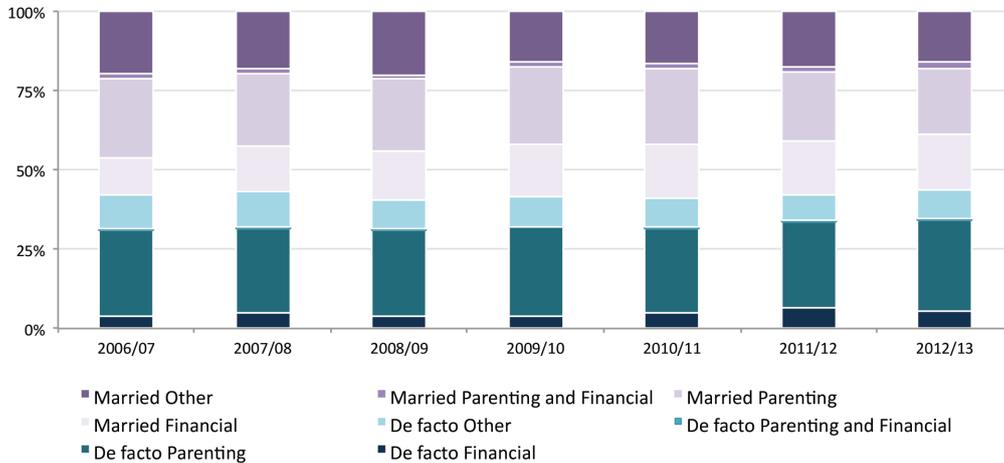
Final Order Applications by Orders Sought



Proportion: Final Order Applications by Marital Status



Applications for Interim Orders by Marital Status and Orders Sought



Applications for Interim Orders

There were 4,533 applications for interim orders, compared with 4,483 in the previous year. While representing only an increase of 1.1% on the previous year, this represents a 13% increase compared to 2006/07.

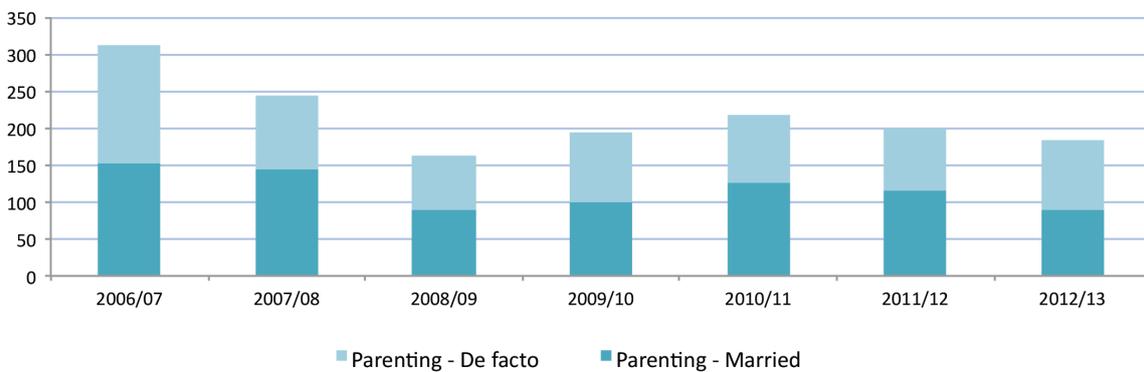
Applications for Spousal Maintenance, Child Maintenance and Child Support

There were 101 applications seeking spousal maintenance, child maintenance or child support orders in 2012/13, compared with 110 such applications in the previous year.

Order Contravention – Parenting

There were 183 applications alleging contravention of a parenting order in 2012/13. This represents a decrease of 8% against the previous year, with the rate of filing remaining at much lower levels than prior to the introduction of individual case management of parenting matters.

Contravention Applications (Parenting) by Marital Status



Case Assessment Conferences and Hearings

There were 1,093 Case Assessment Conferences (CACs) and 1,388 Children's Cases Assessment List Hearings conducted in 2012/13.

Prior to January 2011, on the first return date, all initiating applications seeking parenting orders were the subject

of a CAC and hearing conducted by a family consultant and magistrate. Resources did not permit the continuation of this service. The Child-Related Proceedings List was therefore established. Each case is now triaged in court by a magistrate and family consultant to ensure the most effective use of the Court's resources. It is for this reason that the number of CACs

decreased substantially over 2010/11 and 2011/12. However, 2012/13 has seen the reversal of this trend, with the volume of CACs growing by 14.1%, associated with the increasing volume of final order parenting matters combined with the increasing complexity of these matters over the same period.



COURT PERFORMANCE

The significant improvement in the clearance ratio achieved since 2009/10 was further enhanced during 2012/13.

Although there was a minor reduction in applications filed (down from 14,730 to 14,634), there was a 4.2% increase in finalisations (up from 14,669 to 15,280). These figures vary from the previous annual review following an amendment to counting rules to better reflect distinct finalisations.

The improvements seen in the clearance ratio since 2009/10 reflect the Court's ongoing efforts to finalise older matters and provide an indication of benefits associated with the engagement of additional acting judicial officers over recent years. The application of the rule deeming dormant matters to be finalised continues to assist in providing a more accurate reflection of the efficiency of the Court, although it is pleasing to see that the number of final order applications deemed finalised decreased by 9.8% in the year under review against an increase of 20.9% in active final order finalisations.

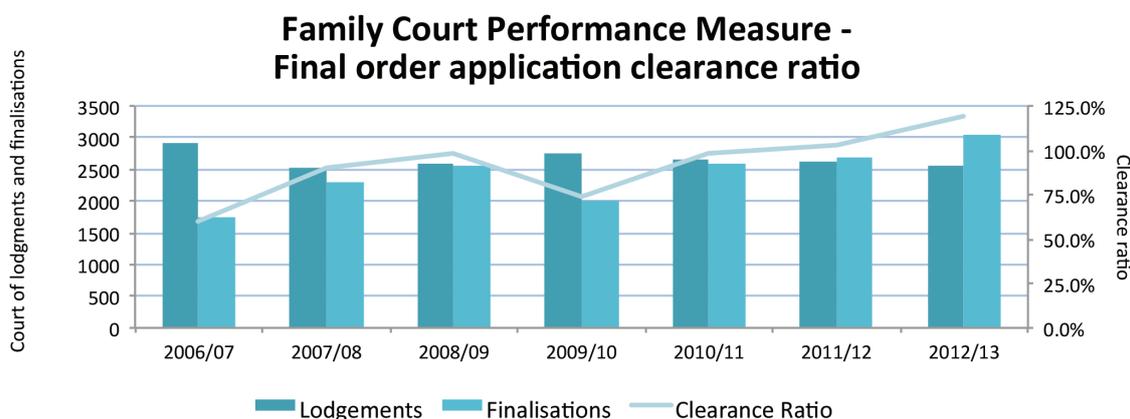
The Court's clearance ratio (number of finalisations divided by the number of filings) is a measure of whether the Court is keeping up with its workload. In 2012/13 the clearance ratio was 104%. This figure reflects all application types including interim applications and does not provide an accurate reflection of efficiency due to deficiencies in management of data relating to interim applications. A significant number of interim applications are not recorded as finalised due either to the failure of a judicial officer to formally dismiss an application which has in fact been finalised or failure of staff entering data to record the finalisation of such matters. Efforts are being made to deal with these deficiencies in data.

The collection of data for final order applications is not affected by these problems to such an extent. Accordingly the reported

clearance ratio of 118.9% for final order applications is considered to be a fair reflection of the work of the Court. The ratio indicates the Court is now disposing of a greater number of matters than were filed, suggesting that inroads are now being made into the unacceptable backlog which has developed over recent years.

Trials and Other Judicial Work

The year under review saw a continuation of the trend of increasing numbers of trials being heard by judicial officers. There were 192 matters listed for commencement or continuation of a defended trial (not limited to final order trials) before judges and 198 listed before magistrates, an overall increase of 40 trials from the previous year when there were 190 matters listed for trial before judges and 160 matters listed for trial before magistrates.



In addition there were:

- 329 matters listed in Duty Judge Lists, a decrease of 6% from last year, when there was an 18.2% increase over the previous year;
- 41 applications made for adoption and 50 ancillary applications under the *Adoption Act 1994* (Cth). In total, 43 adoption orders were made;
- 276 applications for Telecommunication Interception Warrants and 58 Stored Communication Warrants, a significant increase on the previous year's figures. All judges have volunteered to deal with these applications, the great majority of which need to be heard on an urgent basis and are sought after hours; and
- 38 judicial conferences conducted by judges in lieu of readiness hearings as part of a strategy to increase the rate of pre-trial settlement and to improve preparedness for trial.

Time from Filing to Trial Commencement

For the year under review, the median time from filing to trial stood at 107 weeks, up 11 weeks from the previous year.

The long wait for a trial date is attributable to many factors including:

- the increasing complexity of matters coming before the Court, including a high proportion of parenting cases where multiple risk factors are identified;
- the incremental effect of the Court having taken on the de facto financial jurisdiction in 2002 without any increase in judicial resources to deal with the jurisdiction until very recently; and

- the long-term illness of two of the five judges. Although acting judges were appointed, the total time served by the acting judges was eight months less than the time lost due to illness.

Another significant factor in delays arises from the failure of parties to seek to progress their own matter to a conclusion. This can be seen in two recent case studies included in this report.

The calculation of the time to trial is based on the median time between filing and trial of all matters that proceeded to trial during the year. Hence, over the 2012/13 year, half of all matters proceeding to trial had been pending for more than 107 weeks and half had been pending for less than 107 weeks.

CASE STUDY 1

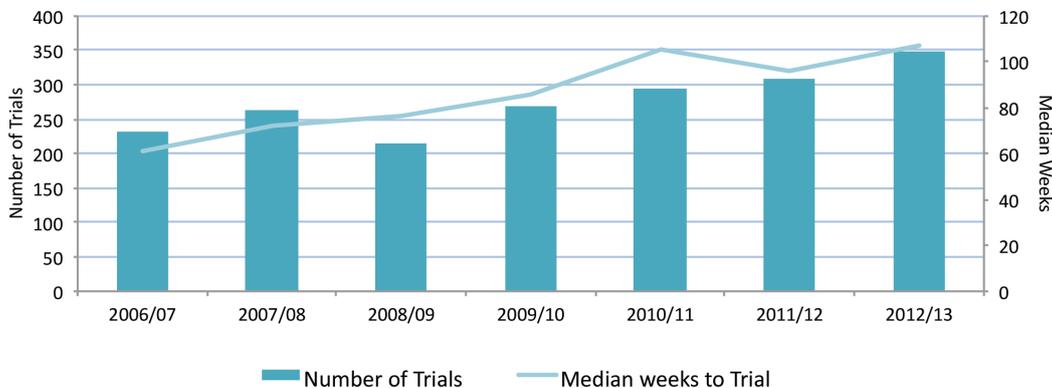
This parenting matter was lodged in May 2009 and took 211 weeks to finalise.

This matter involved complex parenting issues, the lodgment of multiple notices of child abuse and two breaks in proceedings (one of 26 months and one of 10 months) after which the parties sought to relist.

Overview: following the lodgment of the final order application, interim orders were made in June 2009 placing an injunction on removing the children from Australia and directing the parties to Family Dispute Resolution (FDR) after which they would be at liberty to apply to have the matter relisted. Having complied with the FDR requirement a request to relist was received in May 2010 with a listing for directions made for the same month. The matter was then adjourned to June 2010 awaiting the filing of minutes by the parties. The June 2010 listing was adjourned to July 2010 due to the failure to file the required minutes. Following the filing of the minutes interim orders were made in July 2010, and all applications were otherwise adjourned generally with liberty for both parties to apply to relist.

In September 2012 a request to relist was received, with the matter listed that month to the Child-Related Proceedings List. The matter was then referred to a Child Dispute Conference (CDC) with a family consultant in October 2012 and adjourned for an interim hearing in November 2012. On the basis of the CDC the family consultant listed the matter to a Case Assessment Conference in November 2012. Interim orders were made at the November 2012 hearing, with the matter otherwise adjourned for a further interim hearing in January 2013. At this hearing, further interim orders were made including a direction to attend a readiness hearing in May 2013 and subject to compliance with the filing of documents adjourned to trial in June 2013. The matter proceeded to trial in June 2013, with consent orders then made.

Time from Filing to Trial Commencement



CASE STUDY 2

This financial matter was lodged in July 2009 and took 202 weeks to finalise.

This matter involved a number of adjournments at the request of the parties or as a result of delays in the parties filing documents, and a seven month break in proceedings after which the parties sought to relist.

Overview: following the lodgment of the final orders application, interim orders were made in August 2009. In October 2009 orders were made to lodge documents and proceed with a conciliation conference. A conciliation conference listed for December 2009 was adjourned to March 2010 on the request of the parties due to delays in obtaining valuations of the assets. A notice of ceasing to act for the respondent was received in March 2010, with the respondent then seeking an adjournment to April 2010 to allow time for the instruction of their new solicitor. The April 2010 conference progressed with a subsequent conference listed in June 2010. This conference was adjourned generally following advice from the parties that they intended to continue negotiations informally.

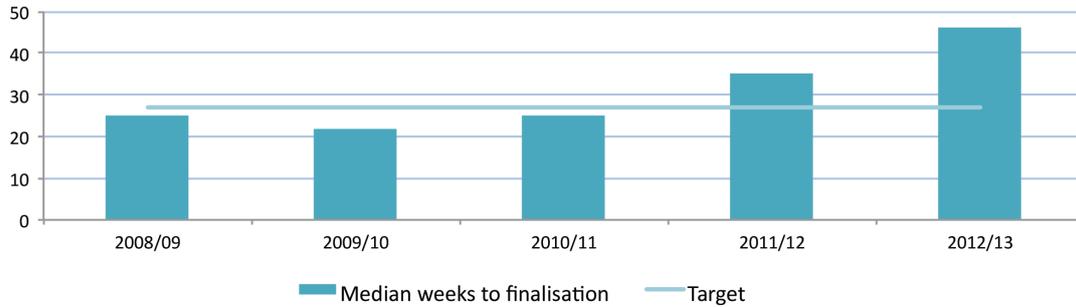
In February 2011 the applicant sought to relist the matter for a conciliation conference after the informal negotiations proved unsuccessful, with the conference listed for May 2011. The respondent did not attend the conference due to transportation issues and the conference was relisted to July 2011. At the July 2011 conference no agreement had been reached and the matter was referred to the Defended List and in June 2012 a readiness hearing was listed for August 2012. This hearing was adjourned to a further readiness hearing in December 2012 due to a failure to file documents. The December 2012 hearing was adjourned to March 2013 for the same reason. The March 2013 hearing saw the matter allocated to callover in April 2013, at which a June 2013 trial date was allocated. The trial then commenced in June 2013.

Time from Filing to Finalisation for Non-Trial Matters

For the year under review, the median time to non-trial finalisation for final order matters stood at 46 weeks, up 11 weeks from the end of the previous year. Over the same period, the number of non-trial finalisations grew to 2,107, an increase of 21.7%. The greatest growth was seen in the volume of finalisations relating to parenting orders, which increased by 43.5%.

The statistics reported here have been affected by magistrates being allocated their own docket of cases in the year under review, which has led to more active management, including ensuring dormant matters are finalised. Those matters would otherwise not have been represented in these finalisation statistics.

Median Weeks from Filing to Finalisation for Non-Trial Matters



Appeals

This year there were 30 appeals/ applications for leave to appeal from decisions of judges and Family Law Magistrates of the FCWA.

Appeals from judges exercising non-federal jurisdiction and Family Law Magistrates exercising non-federal jurisdiction and making final orders are

heard by the Western Australian Court of Appeal, rather than by the Full Court of the Family Court of Australia. Eight such appeals were filed during the year under review.

A total of 7 Full Court judgments were handed down; 3 appeals were dismissed and 4 were allowed. As at 30 June 2013 the number of appeals outstanding was 24.

Regional Circuits

The FCWA Family Law Magistrates provide support and advice to country magistrates and conduct regular circuits to the major regional centres. The judges circuit to the same centres as required, hearing defended matters. Bunbury continues to be the busiest regional circuit.



REGISTRARS' WORK

The registrars deal with most of the applications for consent orders, subpoena hearings, procedural hearings and divorces, and they conduct most of the conferences, as well as advising court staff and litigants on more complex matters of practice and procedure. Statistics for some of the work they undertake are set out below.

Divorce Applications

There were 5,129 applications for divorce during the year under review, representing a slight decrease from the 5,311 in the preceding year.

In 67.2% of cases (3,449) the divorce application was dealt with in the absence of the parties – a slightly higher proportion to the previous year's figure of 64%.

Applications for Consent Orders

There were 2,400 applications for consent orders in 2012/13, a small increase from the 2,325 filed in the previous year. The great majority of these applications (83.8%) sought only financial orders. De facto relationships accounted for 26.2% of the applications for consent financial orders.

Of the 2,400 applications, 6.4% sought only parenting orders, of which 49.4% were filed by parties to a marriage.

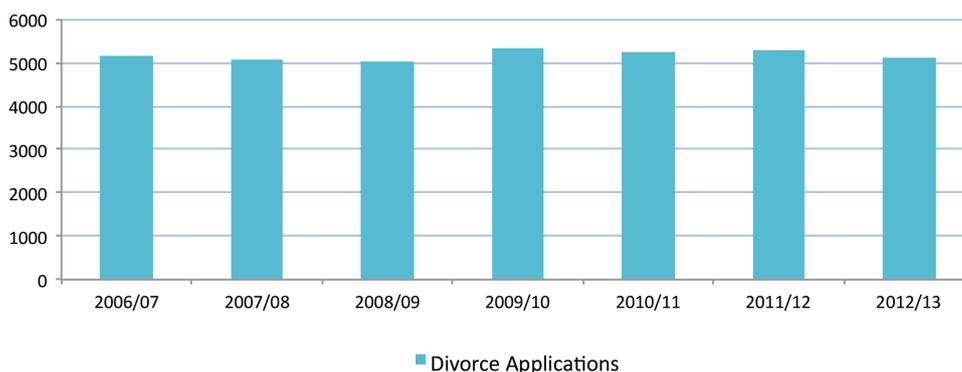
The remaining 9.8% of applications for consent orders sought both financial and parenting orders or other order types, of which 83.8% were filed by parties to a marriage.

Conferences

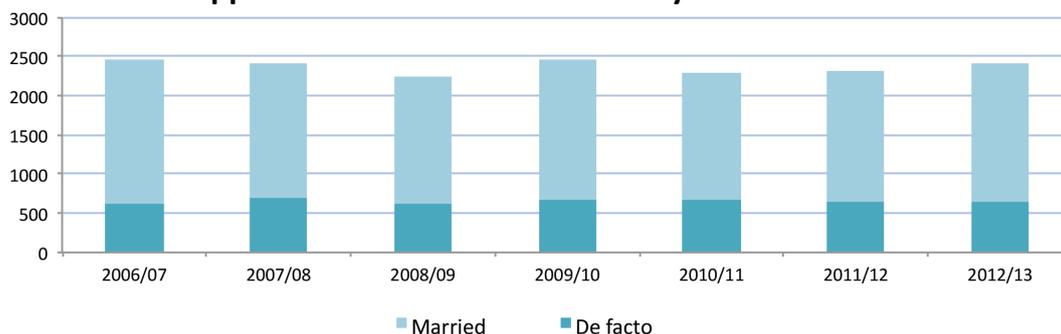
In the year under review:

- 960 readiness hearings were conducted which is a significant increase from the 756 in the preceding year.
- 223 procedural conferences were conducted compared with 312 in the preceding year.
- 885 conciliation conferences were conducted compared with 1,085 in the preceding year. This is reflective of the decrease in final order financial applications over the same period, and an anecdotally reported increase in the uptake of private mediation resulting in exemption from attending a conciliation conference.

Divorce Applications



Applications for Consent Orders by Marital Status



TRENDS

The Court continues to deal with a high volume of cases involving unmarried parties. An increasing proportion of litigants are self-represented and many have not undertaken Family Dispute Resolution.

Self-representation

Of the year’s final order parenting applications 49.6% (744) were matters in which the applicant was self-represented at the time of filing - up from 44.3% in 2011/12. In financial cases an increase was also seen, with 32% (257) of applicants self-represented in the year in review, compared to 19.2% in 2011/12.

Of the 5,129 divorce applications, 84.2% were filed by persons without legal representation – a slightly higher proportion than the previous year’s figure of 81.5%.

Applications by parties without legal representation accounted for 82.3% of all contravention/contempt applications, a much higher proportion than the previous year at 67.4%.

Applications Made by Unmarried Parties

The Court continued to receive a high volume of applications made by unmarried parties.

For final order applications, of the 1,499 seeking only parenting orders, 61.8% were filed by unmarried parties. Of the 802 seeking only financial orders, 24.3% were filed by unmarried parties. Of those seeking both parenting and financial orders, 20.7% were filed by unmarried parties.

Of the 183 contravention applications in parenting proceedings, 49.2% were filed in relation to children of a marriage and 50.8% in relation to ex nuptial children.

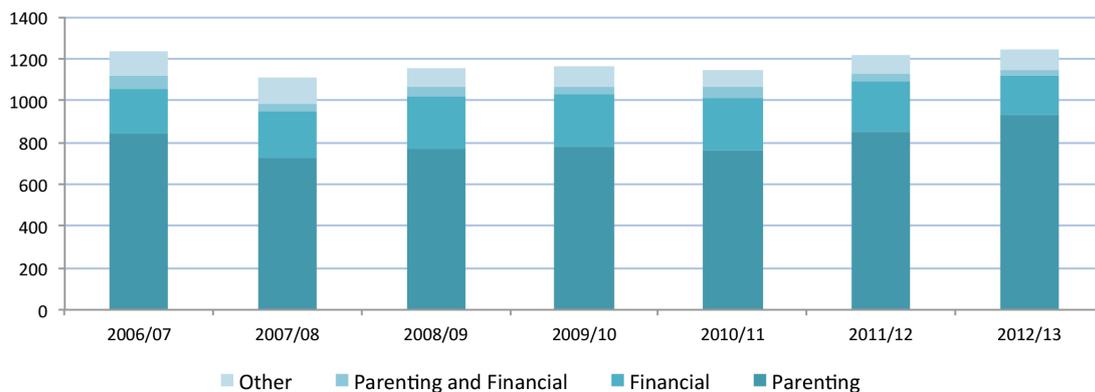
De facto parties continue to file a higher proportion of applications seeking parenting orders, with parenting only

applications accounting for 74.5% of de facto final order applications. This can be contrasted with applications filed by married parties, where only 43.1% of applications are limited to seeking parenting orders only.

Exemption Certificates

The legislation provides for parties to undertake a Family Dispute Resolution (FDR) process prior to commencing parenting proceedings. However, there are a number of grounds on which parties may be exempted from attending FDR. During 2012/13, 1,047 FDR Exemptions were lodged. With 876 of these lodged against a final orders application, about 53.6% of all final order applications seeking parenting orders were commenced on the basis that a ground for exemption was established, hence FDR was not conducted prior to filing.

De Facto Final Orders Applications by Orders Sought



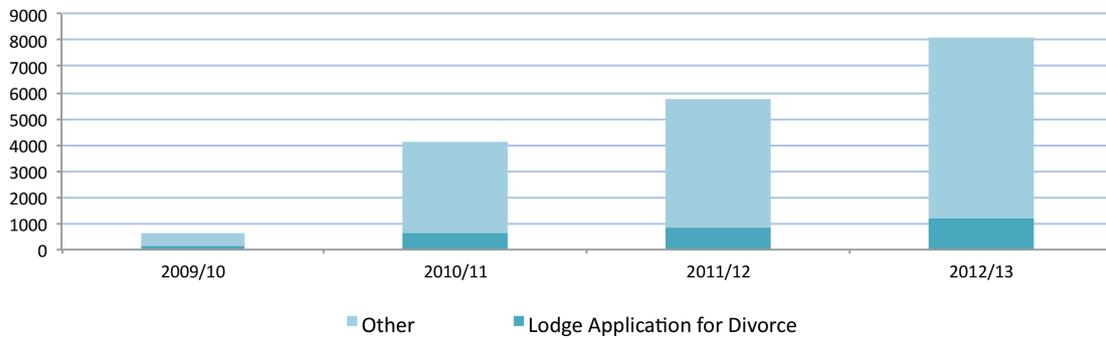
E-Filing

E-Filing of applications for divorce was implemented through the Commonwealth Courts Portal (CCP) in March 2010. There has been a steady increase in the number of e-filed

divorce applications, with a total of 827 having been filed electronically in the year under review compared to 631 in the previous year.

In addition to divorce applications, 4,898 lodgments of documents were made via the Court’s E-filing system. This represents a significant increase over the previous year.

E-Filed Lodgments



COUNSELLING AND CONSULTANCY SERVICE

The management of children's cases continues to be based on collaboration between the family consultants, magistrates and the judges.

The Family Court Counselling and Consultancy Service (FCCCS) provides services focussing on the needs of children involved in parenting disputes. Services are delivered through an initial screening assessment as part of the Child-Related Proceedings List, more detailed assessment of risk through Case Assessment Conferences (CAC), and case management including Child Dispute Conferences and Family Reports. Family Consultants provide assessments to the Court, assist parents to negotiate sustainable child focussed arrangements and deal with issues affecting their parenting. The family consultants also provide recommendations to judicial officers to inform decisions.

The Child-Related Proceedings pathway enables cases to be triaged for referral to a CAC and allows the FCCCS a greater capacity to provide a higher level of case management of complex cases. Against 1,634 final order parenting applications (including those also seeking financial orders) there were 1,093 cases (67%) for which a CAC was conducted in order to assess potential risk to children.

Maintaining relationships with external agencies is a key focus to maximise knowledge about available services and to enable feedback to inform

our practice. These relationships have been fostered through having a representative on the Family Pathways Network, through engagement in training with staff from other agencies and through individual agency staff observing the work of the FCCCS. We have also met with managers of Child Contact Centres and Family Violence services to ensure effective referrals. The coordination and information sharing protocols with other agencies provide support to the FCCCS and the Court is appreciative of the cooperation of all the agencies involved.

Applications for parenting orders often have high levels of complexity, as demonstrated in the data included in this report. In about 80% of cases assessed for risk there are combinations of mental health, drug and alcohol, family violence and child protection issues identified as potential risks to children. The service continues to provide training to staff in a range of these areas, especially family and domestic violence.

In 2012/13 there was a 6% reduction in family consultant staffing. In the same period there was a 5.5% increase in final order applications seeking parenting orders (with or without other orders sought). Overall, the consultant workload, measured by Children's Case Assessment List matters, Case Assessment Conferences, Child Dispute Conferences and Consultant Report Interviews, declined by 4.8% due to the reduced staffing levels.

Productivity has been maintained through prioritising work with families where there are higher risks and maintaining intensive case management for more complex cases. The emphasis is on cases with potentially higher risks for children. To manage demand, CACs were prioritised over other services.

The service conducted 1,093 CACs in 2012/13 compared to 958 in 2011/12, an increase of 14.1%. Alongside the increasing number of CACs, the trend of increasing complexity continued, with 53% of CACs involving the identification of 3 or more risk issues, compared to 44% in 2011/12, and 24% in 2007/08.

Risks Identified

The following data support current FCCCS case management strategies, and informs future planning for the Court.

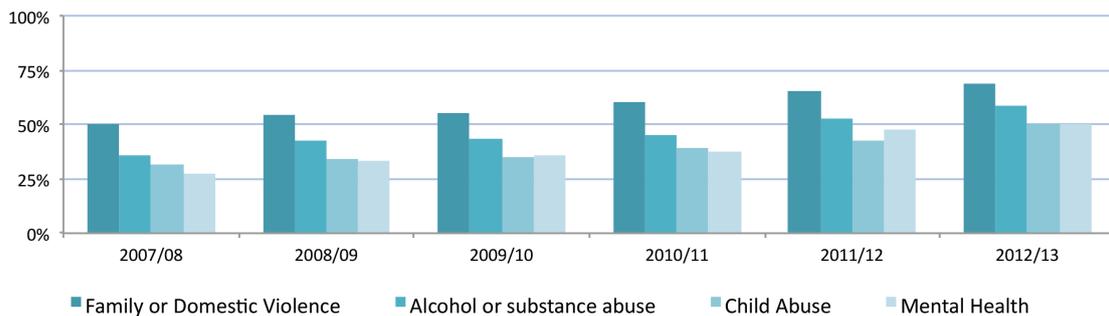
The continuing trend of increased levels of identified risks relating to family violence (in 69% of CACs), substance abuse (in 59% of CACs), child abuse (in 51% of CACs), and mental

health issues (in 50% of CACs) reflects the complex nature of the cases. The two graphs below demonstrate this trend. There was an increase from 77% to 80% of CACs where one or more risk was identified. This trend is expected to continue.

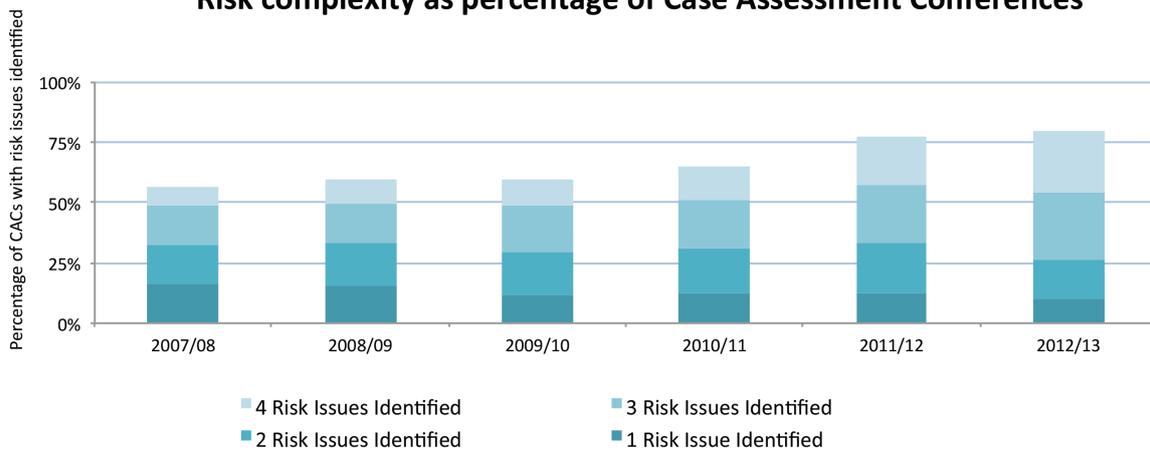
The number of Form 4 Notifications relating to child abuse or family violence increased from 410 to 544 in part due to the broadened definition

of “child abuse” in the *Family Law Act 1975* (Cth) introduced at the end of the previous financial year. These notifications involve child protection and are forwarded to the Department for Child Protection and Family Support (DCP). Ongoing partnerships with DCP, Legal Aid and other jurisdictions are essential in managing and addressing these complex cases.

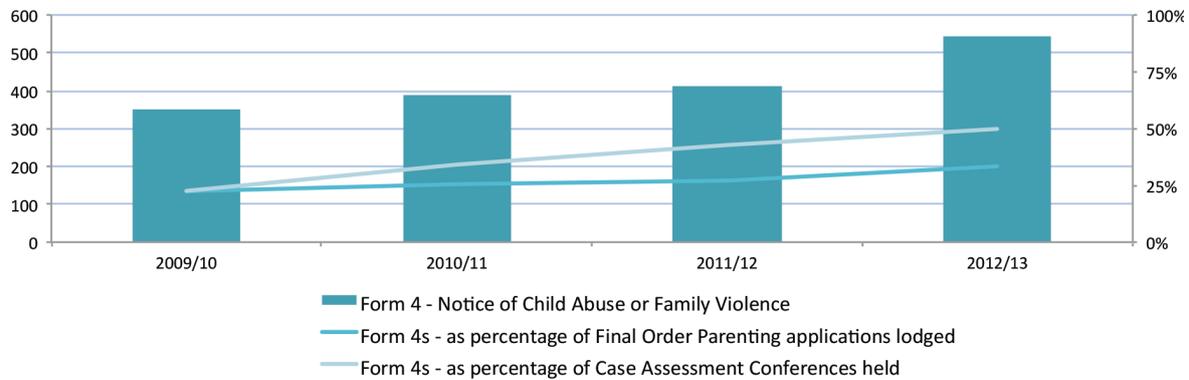
Risk issues identified as percentage of Case Assessment Conferences



Risk complexity as percentage of Case Assessment Conferences



Notices of Child Abuse or Family Violence - Form 4 Lodgments



Child Protection Consultant

The Department for Child Protection and Family Support (DCP) works closely with the family consultants in meeting challenges arising in cases where concern is expressed about the safety of children.

Ms Michèle Cohen, the on-site DCP consultant, provides liaison between DCP, the Family Court, Legal Aid WA and the Independent Children’s Lawyers. Ms Cohen’s contribution to child protection in family law was recognised this year by her nomination as a finalist in the Social Worker of the Year Awards.

This year was a very busy one for DCP, following legislative amendments expanding the definitions of family violence and child abuse. These precipitated a 46% increase in the number of Notices of alleged child abuse and family violence referred to the Department.

The Department “substantiated” abuse in only about 11 – 15% of all cases, a trend consistent with previous years. There has been a notable increase in the number of ‘no further action’ responses provided by the Department following the amendments. This trend seems to coincide with the reporting of alleged historic family violence and/

or where there are no current risks to children which warrant further action by DCP.

Sussan Fowler, the DCP part-time support officer, manages the Department’s response to Notices of alleged child abuse and family violence and assists the Court in the provision of information prior to ex parte applications. She has developed strong working relationships with the Family Court since joining the Department in 2012.

During the year, new learning initiatives and practice guidelines have been introduced for DCP staff, including an Advanced Legal Processes course to reflect current working relationships with the Family Court, Perth Children’s Court and Legal Aid WA. Ms Cohen completed state-wide training in the lead up to the family violence amendments and visited a number of DCP offices across the State. She has also presented papers at conferences and continues to represent WA on a national forum of child protection authorities engaged in Family Court work.

There has been an exponential increase since 2009 in the number of DCP officers participating in FCWA court events. Departmental officers attribute this to increasing levels of

confidence and comfort in participating in this jurisdiction as a direct result of departmental training and the on-site support received from departmental staff.

This year has also seen a significant increase in the number of requests for departmental information in the lead up to court events. There has also been an increase in the number of requests for information from the Legal Aid Duty Lawyer Service and consultations with Independent Children’s Lawyers about matters before the Court.

The Family Court greatly values its strong and effective working relationship with DCP.

OUR SERVICES

In 2012/13 the Court continued to adopt innovative approaches to resolution of family law disputes.

Customer Service

The Court strives continually to improve services, with a focus on the needs of clients, many of whom are in distress. Staff served 58,690 clients over the year, with demand peaking at an average of 256 clients a day in April 2013.

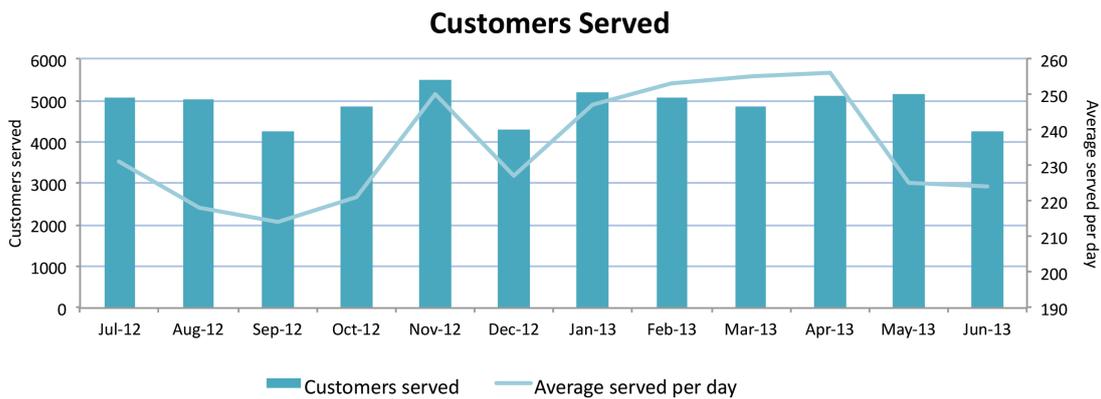
A Client Administration Officer is allocated to every parenting matter (other than matters where only a divorce is sought) to ensure a constant point of contact within the Court.

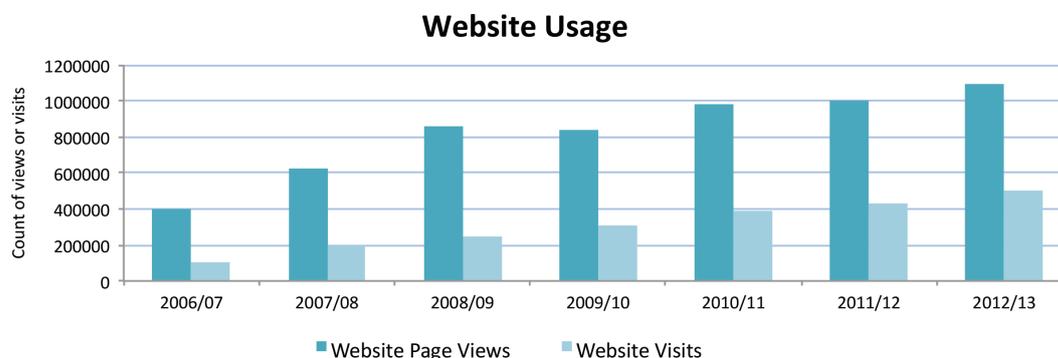
Information Sessions and Tours

Since 2011/12 the Court has offered online information sessions via its webpage, making a wide range of

information readily available to the public 24 hours a day. The Court continues to develop the content of the webpage to ensure it services the changing needs of its clients.

Tours for departmental officers, law students and a range of community agencies have been maintained and in 2012/13 the Manager of Customer Service conducted a total of 11 tours, and 6 court inductions.





Website and Publications

The Court's website continues to be an effective means of providing information to litigants and legal practitioners, with website visits increasing by 17.4%. The website offers a range of information including court listings, procedural advice, links to legislation, anonymised judgments access to forms and links to outside agencies where clients can obtain further assistance.

The graph above shows a continued increase in the number of visits and views recorded since 2006/07. These figures vary from those previously reported following the transition to a new website statistical reporting tool.

Commonwealth Courts Portal (CCP)

The Family Court of Australia, Federal Court of Australia, and the Federal Circuit Court, together with FCWA have worked towards the development of the CCP, which enables online inquiry about matters proceeding through the Court. Lawyers are able to view details about parties, documents filed and court events. Self-represented litigants can also access information via the Court's website using the File Search facility.

Child-Minding Service

A free child-minding service is offered for clients attending court or who have appointments with the counselling service. The service is well patronised with 1,579 children utilising the facilities during the year, an increase of 6.5% from 2011/12. The centre cared for 240 children in January, its busiest month of the year.

Legal Aid WA Family Court Services

Legal Aid WA continues to provide service to the Court's clients on-site. Services include representation in court, assistance with documents, and referral to Alternative Dispute Resolution.

The Legal Aid WA service saw 4,058 clients in 2012/13, an increase of 21.1% on the previous year. Referrals to the service are made by judicial officers, family consultants and registry staff.

The Court is most grateful for the excellent service provided by the dedicated staff of Legal Aid WA.

Justices of the Peace

Justices of the Peace carry out a range of important administrative and judicial duties in the community. These include witnessing affidavits and other documents.

An afternoon tea for the very small but dedicated group of volunteer Justices of the Peace is hosted by the Chief Judge in appreciation of the valuable assistance they provide to the clients of the Court.

2012/2013 HIGHLIGHTS

New Case Management Guidelines

On 7 May 2012 the Court introduced new Case Management Guidelines, intended to inform those who use the Court of how the Court's case management system works, the arrangements that regulate the progression of cases and the events which make up that progression.

Following the implementation of these changes the Court has seen a significant reduction in the number of financial final order applications, although the Chief Judge points out in his foreword that it is too early to determine whether this reduction will be sustained. While the Court is pleased with this decline, it is noted that 2012/13 also saw an increasing volume of parenting applications, negating the impact of the reduction in financial applications filed.

Family Violence Amendments

Changes to family law were enacted on 7 June 2012 with the aim of providing better protection in family law cases where there is family violence and abuse. Amendments to the *Family Law Act 1975* (Cth) include:

- Updates to the definitions of family violence and child abuse. The definitions now include a broader range of unacceptable behaviours such as physical and emotional abuse and the exposure of children to family violence;
- Removing disincentives to disclosing family violence to the Court; and
- Ensuring the safety of children is prioritised in family law disputes.

Following the enactment of these amendments the Court has seen a 32.7% increase in the number of notices of abuse/violence received.

These amendments are to be mirrored by amendments to the *Family Court Act 1997* (WA).

Upgrade of the Digital Recording System

The year under review saw the completion of the project to replace the Court's Digital Recording System. This will ensure the provision of recordings and transcripts of court proceedings will be maintained, allowing cases to be progressed and the current level of service for provision of transcripts and access to recordings to continue.

"When Separating" – groundbreaking DVDs produced by Legal Aid WA

Over 2012/13 the Court collaborated with Legal Aid WA in the development of the *When Separating* series of DVDs, which are designed to assist clients and members of the public to gain a better understanding of the process of separation. The DVDs explain the role of the Court and highlight that there are many other ways of resolving family disputes, other than coming to court. Many members of court staff were involved in the project and the Court congratulates Legal Aid WA on this outstanding venture.



Court Traineeships

The Court continued to participate in the Court's Traineeship program in 2012/13 with trainee Tim Darby successfully completing a Certificate III in Government with excellent marks, while undertaking an Aboriginal business traineeship with the Department of the Attorney General, as well as working full-time across a number of the Court's business area. Tim's dedication to his studies saw him complete the course within six months. Tim accepted a permanent appointment as Court Officer Records in April 2013 where he continues as a highly valued member of the team.

FUTURE DIRECTIONS

The Court has identified initiatives to ensure continued service improvement. These include:

Time from Filing to Trial Commencement

Now that the Court has a full complement of judicial officers for the first time in some years, renewed efforts will be made to deal with the unacceptable delays in getting matters to trial. This will include working with the legal profession to improve the extremely poor rate of compliance with procedural orders which significantly increases the delays in many cases.

Protection and Care Project

During the year under review the Court, the Children's Court, Legal Aid WA and DCP discussed a range of opportunities to improve coordination in the protection and care jurisdiction. Given the shared enthusiasm for a more collaborative approach the Court looks forward to progressing these discussions over 2013/14.

Casetrack2

Throughout 2012/13 the Court was involved in preparations for the upgrade of its now out-dated case management system Casetrack. The upgrade to Casetrack, known as Casetrack2, will result in a more user friendly, efficient and flexible system for the Court and its clients. With the staggered release of Casetrack2 modules expected to commence in mid 2013/14, the Court is keen to see continued improvements achieved over the coming year.

Accommodation Planning

The appointment of acting judicial officers during the year under review has highlighted concerns regarding the adequacy of the Court's existing accommodation. Additional accommodation is required to ensure judicial officers are able to list matters when required without being limited by the availability of appropriate conference rooms or courtrooms. Analysis of utilisation levels and workload trends commenced in 2012/13 with a view to providing forecasts on the Court's accommodation requirements, with a final report expected in 2013/14.

Website Update

Work will continue on the updating and redesign of the Court's website.

E-Filing

The Court now provides E-filing of divorce applications and of limited supplementary documents via the Commonwealth Courts Portal. Further important enhancements are expected in 2013/14.

Audio Visual Over Internet Protocol Pilot Program

The Court is piloting an Audio Visual over Internet Protocol pilot program. This will allow a party to take part in proceedings from a remote location, and will be of particular use in cases where it is not appropriate for a party to be in the same courtroom as the other party.

Cognos Reporting Tool

Following the signing of a Memorandum of Understanding with the Family Court of Australia in 2011/12, the Court commenced use of a reporting tool called Cognos. During 2012/13 a number of new performance reports were created using the tool.

It should be noted that variances may be seen in some figures in this review compared to those which have been published in previous annual reviews. This is due primarily to the Court's housekeeping practices to ensure the accuracy of retrospective data, and the ongoing refinement of the reports and the underlying statistical model. Explanations for variances are provided where the revised historical figures differ significantly from those previously reported.

The transition to Cognos as the primary statistical reporting tool for the Court is an ongoing process, with the ultimate aim of having all performance indicators, both published and internal, utilise figures extracted through Cognos reports.

APPENDIX 1

FAMILY COURT OF WESTERN AUSTRALIA COMMITTEES 2012/13

BOARD OF MANAGEMENT

Chief Judge Thackray – Chair
Justice Crisford (Chair in the absence of Chief Judge)
Principal Registrar Monaghan
Director Court Counselling
Executive Manager

CASE MANAGEMENT COMMITTEE

Justice Crisford – Chair
Chief Judge Thackray
Principal Registrar Monaghan
Magistrate Sutherland
Acting Magistrate De Maio
Registrar Kuurstra
Registrar Forrest
Manager, FCCCS
Manager, Customer Services
Manager, Listings and Judicial Support
Manager, Caseflow

CONTINUING PROFESSIONAL EDUCATION COMMITTEE

Magistrate Andrews – Chair
Justice Moncrieff
Magistrate Vander Wal
Magistrate Sutherland
Magistrate Walter
Manager, FCCCS
Team Manager, FCCCS
Administrator to the Chief Judge
Resource & Administration Officer

FAMILY COURT MANAGEMENT TEAM

Executive Manager – Chair
Manager, FCCCS
Manager, Customer Service
Manager, Listings & Judicial Support
Manager, Business Services
Manager, Information Services
Librarian
Administrator to Chief Judge
Supervising Secretary
Senior Court Officer

INDIGENOUS COMMITTEE

Justice Duncanson – Chair
Acting Magistrate De Maio
Manager, FCCCS
Executive Manager
Manager Customer Services
Librarian
Aboriginal Legal Service
Representative

INFORMATION RESOURCES COMMITTEE

Acting Magistrate Kaeser – Chair
Justice Moncrieff
Executive Manager
Manager, FCCCS
Manager, Customer Services
Manager, Listings and Judicial Support
Manager, Information Services
Librarian
Library Manager (Courts and Legal)

OCCUPATIONAL HEALTH AND SAFETY COMMITTEE

Chair – rotates
Managers as determined by Executive
Manager from time to time
OSH Representatives

POST CALLOVER COMMITTEE

Justice Crisford – Chair
Principal Registrar Monaghan
Registrar Forrest
Manager, Listings and Judicial Support
Caseflow Manager
Caseflow Supervisor (Callover)

RESEARCH COMMITTEE

Chief Judge Thackray – Chair
Director Court Counselling & Support Services
Acting Magistrate Calverley
Executive Manager

SECURITY AND VIOLENCE COMMITTEE

Justice Moncrieff – Chair
Principal Registrar Monaghan
Magistrate Stewart
Executive Manager
Manager, Court Counselling and Support Services
Manager, Listings and Judicial Support
Manager, Business Services
Manager, Court Security and/or Senior Court Security Officer

CASETRACK & STATISTICS COMMITTEE

Magistrate Sutherland – Chair
Chief Judge (invited as required)
Justice Crisford
Principal Registrar Monaghan
Acting Magistrate De Maio
Chief Judge's Administrator
Manager, FCCCS
Manager, Business Services
Manager, Listings and Judicial Support
Manager, Information Services
Business Performance Analyst
Supervising Secretary

TIME TO TRIAL COMMITTEE

Chief Judge Thackray – Chair
Justice Crisford
Principal Registrar Monaghan
Magistrate Sutherland
Acting Magistrate De Maio
Chair, National Family Law Section, Law Council of Australia
Manager, Customer Services
Manager, Listings and Judicial Support
Manager, Information Services
Business Performance Analyst
Chief Judge's Administrator

WELLNESS COMMITTEE

A/Magistrate Calverley – Chair
Elected Staff representatives

COMMITTEES INVOLVING EXTERNAL AGENCIES

CHIEF JUDGE'S CONSULTATIVE MEETING (Family Law Practitioners' Association - FLPA)

Chief Judge Thackray – Chair
Principal Registrar Monaghan
Director Court Counselling & Support Services (or nominee)
Executive Manager (or nominee)
FLPA Executive members

FAMILY LAW NETWORK

Principal Registrar Monaghan – Chair
Executive Manager
Manager, FCCCS
Manager, Customer Services
Manager, Listings and Judicial Support
Numerous external agencies

FAMILY VIOLENCE COURT/FCWA PROTOCOLS

Principal Registrar Monaghan – Chair
Director Court Counselling & Support Services
Magistrate Gluestein
Manager, FCCCS
Department of Corrective Services Representative
Family Violence Service Representative
Magistrates Court Representative
Legal Aid WA Representative

FCWA REFERENCE GROUP

Chief Judge Thackray – Chair
Principal Registrar Monaghan
Director Court Counselling & Support Services
Executive Manager
DCP/Family Court Representative
Child and Adolescent Health Service Representative
Relationships Australia Representative
Women's Council Domestic and Family Violence Representative
Centrecare Representative
Legal Aid WA Representative
Child Support Agency (Human Services) Representative
Anglicare Representative
DCP Representative
Aboriginal Legal Service Representative
Women's Law Centre Representative
FLPA Representative
ARCS Adoption Research & Counselling Service Representative

LEGAL AID WA FAMILY COURT SERVICES USER GROUP

Director Family Law – Chair
Legal Profession Representative
Principal Registrar Monaghan
Executive Manager
Manager, FCCCS
Manager, Customer Services
Manager, Listings & Judicial Support
Senior Court Officer
Legal Aid WA Coordinator
Legal Aid WA lawyer
Legal Aid WA Paralegal
DCP Representative

FCWA/DCP/LAWA PROTOCOLS MEETING

Principal Registrar Monaghan – Chair
Director Court Counselling & Support Services
Manager, FCCCS
Team Manager, FCCCS
Department for Child Protection and Family Support Representatives
Director Family Law – Chair



FAMILY COURT OF
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