



FAMILY COURT OF
WESTERN AUSTRALIA

Family Court of Western Australia
Annual Review

2019

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FROM THE CHIEF JUDGE

I am pleased to present the review of the work of the Family Court of Western Australia for the year ending 31 December 2019.

The workload of the Court

In raw terms, 2019 saw the highest number of final order applications (one of the Court's most resource intensive application types) that were actively finalised for any year in the past decade. The Court's clearance rate (finalisations as a percentage of filings) for final order applications increased to 103.8%. Overall the clearance rate for all application types increased to 99.8%.

Although in 2019 there was a reduction in the number of final order applications actively finalised at or after a defended trial (down from 363 in 2018 to 294 in 2019), more positively 2019 also saw an increase in the number of final order applications actively finalised prior to trial (from 2,438 in 2018 to 2,582 in 2019). In part, the reduction in matters actively finalised at or after a defended trial was due to the cessation, in October 2018, of two 12 month acting Magistrate positions. These acting appointments had enabled the Court to dedicate additional magistrates to hear trials in 2018.

Overall, in 2019 the Court experienced a minor decrease in filings across all major application types, as compared with the previous year, except for divorce and consent order applications, which recorded modest increases. There were falls in the numbers of the two most resource intensive application types: a 7.4% decrease in final applications (to 2,895) and a 6.1% decrease in interim applications (to 5,038). It remains to be seen whether filings in these application types will continue to decline in future years. This is because over the past decade such filings have trended upwards. Filings of final order applications have increased by 4.7% and interim applications have increased by 12.1%.

The Court continues to explore innovations to further improve its clearance rate and reduce the delays and costs experienced by litigants. One of the most significant of these innovations is the Mediation Pilot Program.

Mediation Pilot Program

In 2019 the Court began a mediation pilot program. The pilot started on 15 July 2019 and will run until 30 June 2020. The pilot offers existing litigants in the Court an opportunity to take part with an experienced Registrar in a one day confidential mediation session (called a Pre Trial Conference) to see whether their dispute can be settled or narrowed in scope prior to trial. Up to 31 December 2019, 115 mediations had been completed. Of these, 56% settled all outstanding issues (pending the filing of terms of settlement) and a further 32% partially settled. Including incomplete mediations, the pilot has already saved an estimated 166 days of judicial sitting time and significant savings to the parties in legal costs.

Accommodation

Previous Annual Reviews have identified ongoing issues with the Court not having enough court rooms and other facilities in the Peter Durack Commonwealth Law Courts

Building and the negative effect on the Court's efficiency and the ability of our clients to readily access services located on the Court's premises. In 2019, the Court made some progress with its accommodation issues. In late 2019, the Court finalised plans to construct a mediation suite by re-purposing some of its existing space on Level 4. The mediation suite will comprise two conference rooms and separate "break out" rooms. It is anticipated the mediation suite will be completed and available for use by mid-2020. The Court also continues to explore options to increase the number of courtrooms and other facilities available to it within the existing building.

Judicial retirements, appointments and milestones

In August 2019, Magistrate Alan Moroni retired as a Magistrate at the Court, after nearly 30 years with the Court. In his years at the Court, Magistrate Moroni made a valuable contribution to the Court's operations, including as a docket magistrate, trial magistrate, acting Principal Registrar and acting Judge. I acknowledge and thank his Honour for his years of service at the Court and wish him well in his retirement.

There were also a number of other significant changes in the judicial complement of the Court:

- In February 2019, Judge Ciara Tyson received a dual commission as a Justice of the Family Court of Australia;
- In July 2019, Magistrate Andrew Mackey was appointed as a permanent Magistrate of the Court to fill the position left vacant by Magistrate Moroni's retirement. Magistrate Mackey has extensive family law experience. At the time of his appointment, he was the Senior Family Law Consultant with Legal Aid WA. He also served as an acting Magistrate at the Court for a period of 12 months in 2017/2018;
- Following the re-structure of the Principal Registrar's position, Registrar Leonie Forrest was permanently appointed to this role. Before her appointment, Principal Registrar Forrest previously served as a Registrar, acting Magistrate, Deputy Principal Registrar and acting Principal Registrar of the Court;
- In July 2019, Ms Jocelyn Connick and Mr Andrzej Meysner were permanently appointed as Registrars. Before their permanent appointments, both served as contract Registrars. Before joining the Court, Registrar Connick worked as a senior family lawyer with Legal Aid WA, including heading the Duty Lawyer Service at the Court for many years. Registrar Meysner practiced law in both Queensland and Western Australia, where he undertook significant family law work, including as an Independent Children's Lawyer;
- In July and August 2019, Mr Simon French and Ms Megan Wadsworth respectively were appointed as contract Registrars until 30 June 2020. Registrar French has extensive family law experience, including as an accredited arbitrator and mediator. Before joining the Court, Registrar Wadsworth also carried out significant family law work, including as an Independent Children's Lawyer.

Finally, 2019 heralded a significant milestone. In May 2019, Magistrate Annette Andrews celebrated her 30th anniversary as a judicial officer at the Court. Over the years, her Honour has ably fulfilled various judicial roles, including as a deputy registrar, appeals registrar, docket magistrate, trial magistrate and acting Principal Registrar.

Vale Family Consultant Shelley Chadwick

The Court was very saddened by the unexpected death of Family Consultant Shelley Chadwick during 2019. Her sudden passing greatly saddened friends and colleagues at the Court. I express my sincere gratitude to the Counselling and Consultancy Service staff, the judicial officers and other court staff for their efforts and understanding during a difficult time.

Justices of the Peace

Thank you to the Justices of the Peace who volunteer every day to witness documents and assist our clients to ensure their paperwork is in order. In 2019 the Justices of the Peace served 6,309 of our clients. Their assistance is invaluable and very much appreciated.

Court governance

The Board of Management continues to oversee the management of the Court. The Board is greatly assisted by the various committees, which are listed later in this Annual Review. I acknowledge and thank all the judicial officers, family consultants and members of staff for the work they do on these committees on top of their usual tasks. I also acknowledge and thank the Department of Justice, Legal Aid WA (including the Family Advocacy and Support Services staff), the legal profession, the Family Law Pathways Network and other service providers for their ongoing support and assistance to the Court and parties who use the Court's services.

Justice Gail Sutherland
CHIEF JUDGE
FAMILY COURT OF WESTERN AUSTRALIA

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, magistrates and registrars. It deals primarily with disputes arising out of relationship breakdowns. The work of the Court is supported by a specialist team of family consultants in the Family Court Counselling and Consultancy Service.

The Department of Justice provides administrative and logistical support for the Court.

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 five major regional centres:

- Albany
- Broome
- Bunbury
- Geraldton
- Kalgoorlie

The Family Law Magistrates provide support and advice to country magistrates and conduct regular circuits to the five regional centres. The judges circuit to the same centres as required, hearing defended matters. Bunbury continues to be the busiest regional circuit, accounting for over 58% of circuit hearings held.

OUR BUDGET

Funding for the Court is principally sourced through a grant from the Commonwealth Government, which is provided annually to the Western Australian Government. The WA Government provides limited funding for disputes brought under State legislation dealing with property disputes between de facto couples.

WORKLOAD SUMMARY

Primary Applications	Received	Finalised
Initiating Applications for Final Orders	2,895	3,004
Applications for Interim Orders	5,038	5,005
Divorce Applications	5,451	5,259
Applications for Consent Orders	2,286	2,322
Total	15,670	15,590

OUR JUDICIARY

As at 31 December 2019

Chief Judge

The Honourable Justice Gail Sutherland

Judges

The Honourable Justice Simon Moncrieff
The Honourable Justice Susan Duncanson
The Honourable Justice Richard O'Brien
The Honourable Justice Ciara Tyson

Magistrates

Magistrate Annette Andrews
Magistrate Lisa Stewart
Magistrate Francine Walter
Magistrate Mark Calverley
Magistrate Colin Kaeser
Magistrate Catherine Osborn
Magistrate Eric Martino
Magistrate Paul Glass
Magistrate Neil Anderson
Magistrate Andrew Mackey

Principal Registrar

Principal Registrar Leonie Forrest

Registrars

Registrar Andrzej Meysner
Registrar Jocelyn Connick
Registrar Thomas Kuurstra
Registrar Simon French
Registrar Megan Wadsworth

OUR PEOPLE

The approved FTE (128.1) for 2019 was allocated as follows:

5	Judges
10	Magistrates
5.40	Registrars
88.10	Registry and support staff
19.60	Family consultant and support staff

NEW WORKLOAD

Initiating Applications for Final Orders and Applications for Interim Orders

Initiating applications for final orders and related applications for interim orders are the Court's most resource intensive application types. Lodgment of final order applications decreased 7% for 2019 compared to 2018.

Parenting-only orders continued to be the most commonly sought order when commencing an application for final orders, accounting for 60% of applications lodged. 1,745 of these applications were lodged in 2019, a decrease of 5% on 2018. The high proportion of parenting applications has a profound impact on the Court's workload, as additional time and resources are dedicated to assessing the best interests of the children when making orders.

Legislation requires parties to undertake a Family Dispute Resolution (FDR) process prior to starting parenting proceedings, but there are a number of grounds on which parties may be exempted from attending FDR and there is no mechanism in other cases to ensure both parties attend. In 2019, both parties had attended FDR in only 15% of cases where an application was made for parenting orders. In all other cases a ground for exemption had been established or a certificate from a family dispute resolution practitioner was filed advising only one party had attended for FDR or alternatively that FDR was deemed inappropriate.

TABLE 1 - Applications Lodged

	2019	Change from 2018	Change from 2015
Final Order	2,895	-7%	-3%
Interim Order	5,038	-6%	2%
Divorce	5,451	1%	3%
Consent Order	2,286	3%	-1%

ACTIVE WORKLOAD

Applications that remain on hand at the end of the year constitute the Court's active workload. Changes in final and interim applications on hand are of particular interest, as these are the most resource intensive of the Court's primary application types.

The reported reduction in final order applications lodged (7%), without a commensurate reduction in finalisations has resulted in a 3% reduction in the number of these applications on hand.

Other Applications

The Court's other key application types are consent order applications (where parties apply jointly to the Court) and divorce applications.

During 2019 the Court received:

- 5,451 divorce applications, an increase of 1% from 2018; and
- 2,286 consent order applications, an increase of 3% from 2018. Unlike applications for final orders, which have a high proportion of parenting issues, consent orders are predominantly sought to formalise financial agreements. This year 85% of consent order applications sought orders in relation to financial issues only.

Self-representation

Many parties engaging with the Court do not have legal representation, either by choice or because they cannot afford it. The Court is aware this can put parties at a disadvantage and cause difficulties in understanding and complying with court processes and orders. This in turn can delay and complicate the progress of matters through the Court. The Court maintains a range of guides designed to ensure self-represented parties are able to effectively participate in the process, and are aware of their options for seeking legal advice.

The table below details the percentage of applications filed by self-represented litigants:

TABLE 2 - Self-Representation

		2019	2018
Final Order	Parenting	47%	49%
	Financial	24%	27%
	Parenting and Financial	32%	32%
Consent Order	Parenting	47%	57%
	Financial	37%	40%
	Parenting and Financial	42%	48%
Divorce		79%	81%

TABLE 3 - Primary Applications on Hand

	2019	Change from 2018	Change from 2015
Final Order	4,352	-3%	8%
Interim Order	5,254	0%	18%
Divorce	1,293	19%	-31%
Consent Order	325	-16%	-31%

COURT PERFORMANCE

Clearance Rate

The Court's clearance rate representing finalisations as a percentage of filings is a measure of whether the Court is keeping up with its workload.

The Court had a clearance rate of 104% for applications for final orders, an increase from the 97% clearance rate achieved in 2018. The higher clearance rate reflects the combined effect of the 7% decrease in lodgments against a 1% decrease in the number of these applications finalised by the Court. Despite this reduction in finalisations, there was actually an increase in finalisations by Court order or direction (up 3%), against a reduction in finalisations due to inactivity without any formal finalisation occurring (down 44%).

Time to Finalisation for Non-Trial Matters

The Court's Key Performance Indicator (KPI) is its median time to non-trial finalisation for final order matters. These constitute the majority of final order applications finalised, with 90% of these applications finalised by the Court before the matter reached trial.

The KPI for 2019 stood at 47 weeks against the target of 27 weeks. This is an increase of one week from 2018. The median for parenting-only matters was 52 weeks, compared to 40 weeks for financial-only matters.

The over target result is associated with an increase in the number of KPI finalisations, particularly for parenting-only applications. The number of KPI parenting finalisations increased 4% since 2018 and 42% since 2015. This growth is associated with the long term increase in lodgments, and the introduction of a more comprehensive docket system in 2012-13 which reduced the number of matters being deemed finalised.

TABLE 4 - Median Weeks to KPI Finalisation

	2019	Change from 2018	Change from 2015
Parenting	52	11%	35%
Financial	40	5%	18%
Overall	47	2%	31%

TABLE 5 - Count of KPI Finalisations

	2019	Change from 2018	Change from 2015
Parenting	1,504	4%	42%
Financial	865	15%	32%
Overall	2,582	6%	34%

Counting Rule Note:

The KPI calculation is based on the time between filing and court-ordered finalisation for all initiating applications for final orders that did not proceed to trial, excluding matters that were deemed finalised after a year of inactivity. Matters with prolonged inactivity are excluded to provide a more accurate representation of the Court's performance, as parties may agree to suspend their proceeding before a final determination is made.

Time to Trial

The year under review saw the median time to trial increase to 101 weeks. In parenting-only matters, the median time was 102 weeks, while the median time for financial-only matters was 94 weeks.

TABLE 6 - Median Weeks to Trial

	2019	Change from 2018	Change from 2015
Parenting	102	2%	20%
Financial	94	11%	22%
Overall	101	4%	23%

The complexity of a matter is difficult to quantify, as is the impact of complexity on a matter's time to trial. It is, however, possible to get some sense of the potential impact by comparing matters with a specific marker for complexity to those without that marker.

For example, one marker for complexity in parenting matters is the allocation of an Independent Children's Lawyer (ICL). An ICL represents the child's/children's best interests and makes sure that is the focus of any decisions about parenting arrangements. An ICL is often appointed in disputes involving:

- allegations of abuse or neglect in relation to the children
- a high level of conflict and dispute between the parents
- allegations of family violence
- allegations of substance abuse
- serious mental health issues in relation to one or both of the parents or children
- difficult and complex issues involved in the dispute.

While anyone taking part in the proceedings can ask the Court to appoint an ICL, the Court decides if an ICL will be appointed.

When comparing parenting only applications based on the involvement of an ICL, those with an ICL had a median time to trial of 135.5 weeks, 43.5 weeks higher than those without one.

The Court recognises the importance of trial timeliness, and applies its own internal performance targets, being 52 weeks for parenting-only trials and 60 weeks for financial-only trials.

Based on these internal targets:

- 8% of parenting-only matters reached trial within target, compared to 17% in 2018; and
- 6% of financial-only matters reached trial within target, compared to 12% in 2018.

While these figures demonstrate capacity to allocate a trial date for urgent matters within an acceptable timeframe, the Court remains committed to exploring how changes in practice and legislation can help reduce the delays. It is recognised however, that adequate resourcing, particularly judicial, accommodation and technological resourcing is central to increasing the Court's capacity to deal with matters effectively and efficiently.

Other Work

In other key areas of Court activity:

- 36 applications were made for adoption and a further 27 made for ancillary applications under the *Adoption Act 1994* (WA). In total, 53 adoption related orders were made;
- 401 applications for Telecommunication Interception Warrants; including Stored Communication Warrants and Surveillance Device Warrants, were made. One Telecommunication Interception Warrant was refused. All judges have volunteered to deal with these applications, which often need to be heard on an urgent basis after hours; and
- 13 watch list orders were made following after-hours referrals from Crisis Care.

TIME TO TRIAL CASE STUDY

The following two case studies are examples of the progress to trial of two parenting matters. In Case Study 1, the proceedings were expedited to trial in seven months at the request of one party citing urgent circumstances. In Case Study 2, the parties asked the court to delay the proceedings so they could continue their negotiations. As a result, the proceedings took 24 months to reach trial. In both cases the parties were able to agree final orders on the first day of trial, albeit the proceedings were not then immediately finalised.

Case Study 1

August 2018

The mother commenced child-related proceedings against the father, seeking orders for sole parental responsibility and permission to relocate with the child to live in Country A.

The mother cited urgent reasons for needing to relocate.

The father filed his responding documents several weeks later.

Both parties were represented by solicitors at the time of filing their initial court documents.

Towards the end of August, the matter came before the court for a procedural hearing. The matter was placed in the Judge's Defended List and orders made programming the matter to go to trial, with a Readiness Hearing listed in early October.

Interim orders were also made for the child to spend time with the father, and for the WA Police Force to supply information in relation to the family under [section 202K](#).

The court has the power under family law legislation to make an order requesting the WA Police to provide certain information in relation to parties and other persons of interest, including criminal history and incident reports.

September 2018

The court issued subpoenas to produce documents at the request of the mother.

The father's solicitors ceased acting for him (and the father represented himself for the remainder of the proceedings).

The father filed his trial documents.

October 2018

The mother filed her trial documents on the same day as the Readiness Hearing. The matter was placed in the October [Callover](#) of matters awaiting a date for Trial.

The Callover is a procedural hearing at which the court allocates trial dates.

Other procedural orders are made, including granting the parties permission to inspect the documents produced by the WA Police Force in response to the section 202K order made the previous month.

In late October the parties filed their [Callover certificates](#).

Parties are ordered to file Callover certificates indicating the unavailable dates of counsel and witnesses. The certificates are essential to the court's planning prior to the Callover, to ensure that as many matters as possible are allocated a trial date.

At the Callover the parties were allocated a Trial date in February 2019.

November/December 2018

The court listed two procedural hearings to deal with matters arising from the subpoenas issued at the request of the mother, including questions of [legal professional privilege](#).

Sometimes documents produced under subpoena will be subject to a claim of legal professional privilege. If so, the court can make orders the party claiming the privilege has the first right of inspection, to identify, remove and/or redact privileged material.

January 2019

The court issued various subpoenas at the request of the mother for people to attend at trial and give evidence.

The mother filed an application, seeking the court's permission for two of her witnesses to [give evidence by telephone / video link](#).

In an appropriate case, the court is able to facilitate the giving of evidence by telephone or video link.

February 2019

The father filed a response to the mother's application, opposing the mother's witnesses giving evidence by telephone / video link.

The father attempted to file a further, substantial affidavit supporting his position for trial. The mother's solicitors wrote to the court and objected to the affidavit.

The mother filed her [Papers for the Judicial Officer](#).

A template for the Papers is available on the court's website for both parenting and property matters. The Papers act as a case summary and are designed to highlight the issues the judicial officer will need to consider.

The court listed a hearing to deal with the father's late-filed affidavit. An order was made permitting the father to rely on the affidavit, but on the basis the mother was permitted to file a responding affidavit before Trial.

The father's objection to the mother's witnesses giving evidence by telephone / video link was adjourned to the first day of the trial.

On the first day of the trial, orders were made by consent for the child to live in Western Australia but travel to Country A with the mother. The proceedings were not finalised at that time due to uncertainty as to the mother's circumstances.

Instead, arrangements were made for the parties to attend a [Child Dispute Conference](#) with a Family Consultant in late 2019 to discuss the arrangements.

A Child Dispute Conference is a reportable conference conducted with a family consultant. Such conferences may be ordered by the court in circumstances where, for example, an interim agreement has been reached between the parties and the consultant wishes to assess how the arrangements are going.

The parties ultimately did not require the Child Dispute Conference, and the managing Judge directed the proceedings be finalised.

Case Study 2

November 2017

The father started child-related proceedings against the mother, alleging drug use, neglect and mental health issues.

Both parties were self-represented throughout the proceedings, save for receiving some assistance from the [Duty Lawyer Service](#).

The court is fortunate to have a permanent duty lawyer service, staffed by lawyers and paralegals from Legal Aid WA. The duty lawyer service provides advice and assistance to clients with family law issues.

December 2017

At the first hearing orders were made by consent for the children to live with the mother and spend time with the father on alternate weekends, and for the mother to file her responding court documents within 28 days. The parties were also ordered to attend a [Case Assessment Conference](#).

At the first court event, if risk issues are identified, the parties will be directed to attend a case assessment conference. The conference is conducted outside the courtroom; however, the details of the conference are reported back to the judicial officer. The purpose of the conference is to identify the issues in dispute, allow the parties to negotiate and formulate a case management plan.

February 2018

The mother filed her responding court documents, late.

The mother attended the Case Assessment Conference. The father failed to attend. Following the Conference, the Family Consultant recommended the children's views be obtained, and the court obtain information about the parties from the WA Police Force.

March 2018

The matter came back before the court. The parties were each represented by a duty lawyer. An order was made for the father to attend a further Case Assessment Conference (as he missed the first). Orders were also made:

- (1) for the appointment of an [Independent Children's Lawyer](#);
- (2) directing the WA Police Force to provide certain information in relation to the parties, including criminal history and incident reports;

- (3) listing the matter to an interim hearing in May 2018; and
- (4) programming the matter to Trial, with a Readiness Hearing in August 2018.

An ICL is appointed by the court to represent the best interests of the child. There are guidelines that set out the circumstances in which an ICL might be appointed, such as cases involving high conflict or risk. The ICL might interview the child, but they do not have to follow the child's instructions and will form a view based on all the information available. Parties can speak to the ICL, but their conversations will not be confidential and may be reported back to the court.

April 2018

The mother filed her documents in preparation for the interim hearing.

May 2018

The father filed his documents in preparation for the interim hearing.

The father attended the second Case Assessment Conference, following which the Family Consultant recommend a more comprehensive assessment of the family be carried out.

At the interim hearing orders were made (among others) directing the parties to attend a [Dispute Resolution conference at Legal Aid WA \(LAWA\)](#).

If an ICL has been appointed to a case, or one of the parties is in receipt of LAWA, the parties may qualify for LAWA's dispute resolution program. If so, the parties will be invited to participate in a mediation. If one or both parties do not already have legal representation, LAWA will arrange a lawyer for the purposes of the mediation.

August 2018

The ICL wrote to the court, advising the parties attended a dispute resolution conference and reached an interim agreement. The court made orders in terms of a Minute signed by the parties and the ICL.

The parties wanted to continue negotiating, and asked the court to list a directions hearing in January 2019.

January 2019

The parties were unable to reach a final agreement.

At the directions hearing an order was made for the parties to attend a

further Readiness Hearing, with trial documents to be filed no later than 28 days before that hearing.

July 2019

Both parties were late in filing their documents for trial, but did file them before the Readiness Hearing. The matter was direct listed for trial before a magistrate in November 2019. An order was also made for the parties to attend a [Child Inclusive Child Dispute Conference](#) with a Family Consultant.

The Family Consultant will meet not only with the parties, but also the children. The ICL will also participate if one is appointed. Usually the children are interviewed separately. The Family Consultant will report to the court on what the children have said about their wishes.

September 2019

Following the Child Inclusive Child Dispute Conference, the Family Consultant prepared a report which included the children's wishes. The parties agreed at the Conference if the mother returned a clean drug test, then final parenting arrangements could be put in place.

October 2019

The ICL filed a Minute of Proposed Orders for Trial.

November 2019

On the first day of the trial, the court made orders by consent for the mother to undergo drug testing. The court also made orders by consent the proceedings would be finalised largely in accordance with the ICL's Minute of Proposed Orders for Trial if the mother's drug test came back clean. In light of those agreements, the Trial was vacated.

Towards the end of November, the ICL wrote to the court and provided a copy of the mother's clean drug test results.

The file was referred to the presiding Magistrate who made final orders, save for one issue that could not be agreed. That issue was listed to a separate final hearing.

APPEALS

There are different appeal processes depending on:

- Whether state or federal jurisdiction is being exercised
- Whether the decision was final or interlocutory and
- Whether the decision was made by a judge, family law magistrate or other magistrate.

The Full Court of the Family Court of Australia hears appeals from judges and family law magistrates exercising federal family law jurisdiction [that is: pursuant to the *Family Law Act 1975* (Cth)]. Information in relation to appeals to the Family Court of Australia is available at: www.familycourt.gov.au.

In relation to the exercise of non-federal family law jurisdiction [that is: pursuant to the *Family Court Act 1997*(WA)]: the Court of Appeal of the

Supreme Court of Western Australia hears appeals from judges and appeals concerning final orders made by family law magistrates. Information in relation to appeals to the Court of Appeal of the Supreme Court of Western Australia is available at: www.supremecourt.wa.gov.au.

All appeals filed in Western Australia against a decision of a magistrate exercising non-federal jurisdiction, or an interlocutory decision of a family law magistrate exercising non-federal jurisdiction are heard by the FCWA.

In 2019, there were ten applications to the FCWA seeking leave to appeal interlocutory orders of Family Law Magistrates. Of the appeals filed in 2019 or previous years, seven appeals were finalised in the year. All seven finalised in 2019 were dismissed.



COUNSELLING AND CONSULTANCY SERVICE

The Family Court Counselling and Consultancy Service (FCCCS) is involved in Family Court child related proceedings. A FCCCS Family Consultant attends the Child Related Proceedings List (CRPL) which is the first hearing for most parenting matters. The Family Consultant will carry out a preliminary assessment if needed and give the magistrate advice on parenting queries and determine which cases may be appropriate for FCCCS involvement.

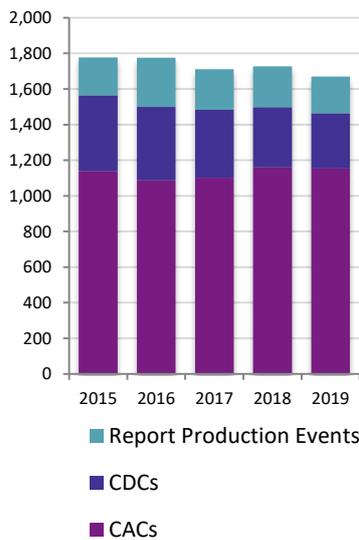
A Family Consultant may provide further case management support, including convening and undertaking activities such as Case Assessment Conferences (CAC), Child Dispute Conferences (CDC), Child Inclusive Conferences and Family Reports. The aim is to help parents negotiate sustainable child-focused arrangements and address issues affecting their parenting.

In 2019, FCCCS attended 2,020 CRPL hearings. For the previous year, there were 2,068 CRPL hearings.

Family Consultant Events

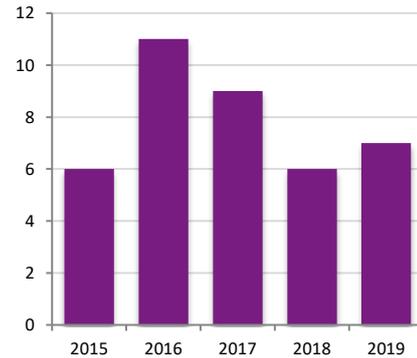
In total, FCCCS carried out 1,669 out of court events (the previous year was 1,728). This included 1,154 CAC's which is consistent with the previous year (1,160); 310 Child Dispute Conferences (last year was 338) and 171 Family Reports (last year was 149). It is noted the total of FCCCS out of Court activities remains consistent and CACs continue to be the majority of FCCCS out of Court activities.

GRAPH 1 - FCCCS out of Court events



The median weeks to CAC at the end of 2019 was seven weeks. At the end of 2018, this was six weeks. This timeframe was affected by the unexpected death of a Family Consultant in October 2019.

GRAPH 2 - Median Weeks from Listing to CAC



■ Median weeks to from listing to CAC

Risks Identified at CAC

In completing a CAC, the Family Consultant identifies and assesses a number of risks such as family and domestic violence, child abuse, alcohol and/or substance abuse and mental health. In the majority of CACs there was at least one risk identified.

During a CAC, assessing the nature and type of risks presenting in families is a critical early intervention focus. In 2019, the following list outlines the risks identified by a Family Consultant at CAC:

- Family and domestic violence 81% (previous year was 84%)
- Alcohol and/or substance abuse 68% (previous year was 75%)
- Child abuse 65% (previous year was 72%)
- Mental health 62% (previous year was 71%).

TABLE 7 - Count of Risk Identifications at CAC

	2019	Change from 2018	Change from 2015
Family / Domestic Violence	903	-3%	2%
Child Abuse	718	-10%	-8%
Alcohol / Substance Abuse	756	-9%	-5%
Mental Health	683	-13%	6%

Stakeholder Relationships

The involvement and engagement of stakeholders and services involved in FCCCS matters continues to be an integral component to ensure better involvement, referral, and feedback for all parties and support services.

The Department of Communities (Communities) is a key stakeholder within the Court with a Child Protection Consultant located in FCCCS who works on matters where there has been a Notice of Child Abuse or Family Violence (or Risk). Communities' presence in the Court enables sharing of information and collaboration in the management of highly complex cases.

In 2019, the number of parenting applications where there was a Notice of Child Abuse or Family Violence (or Risk) lodged was 689. This is slightly lower than the previous year's total of 757. In some instances, there is more than one form lodged per parenting application; the total number of forms lodged was 838 (903 in the previous year).

OUR SERVICES

Information Sessions and Tours

Tours for departmental officers, law students and community agencies have been maintained. In 2019 the Manager of Customer Services conducted monthly court inductions and bimonthly "Walk in Their Shoes" tours.

The Walk in Their Shoes tour offers an opportunity for participants from a wide range of government and not-for-profit agencies, including the WA Police Force, the Department of Communities, Legal Aid WA, and family law support workers to learn more about the Court process and the complexities facing a self-represented litigant. The tour is a joint initiative between the Court, Legal Aid WA and the WA Family Pathways Network, with the administration undertaken by WA Family Pathways.

Website and Publications

The Court's website continues to be an effective means of providing information to customers and court users, including legal practitioners. Regular review and updates of the content occurs to ensure any information is current and up to date.

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.

Registry and Call Centre Services

The Court continues to provide procedural advice and support to customers through the FCWA Registry and Call Centre.

The Court has a self-service kiosk area which provides the opportunity for parties to eLodge applications and documents, view the Court's website and have access to other information resources on line.

Child-Minding Service

A crèche service is offered for clients attending court or who have appointments with the Family Consultant.

Legal Aid WA Family Court Services

Legal Aid WA continues to provide duty lawyer services to the Court's clients on-site. Services include information; legal advice and representation; assistance with preparation of urgent court documents; and referral to Family Dispute Resolution and non-legal support services.

Legal Aid WA also provides Family Advocacy and Support Services (FASS) which are specialist legal and social support services for families experiencing family violence. These services are also provided to support clients attending FCWA Magistrates Court Circuits and Magistrates Courts in regional locations.

Clients were referred to Legal Aid WA by judicial officers, family consultants and Perth and circuit court registry staff.

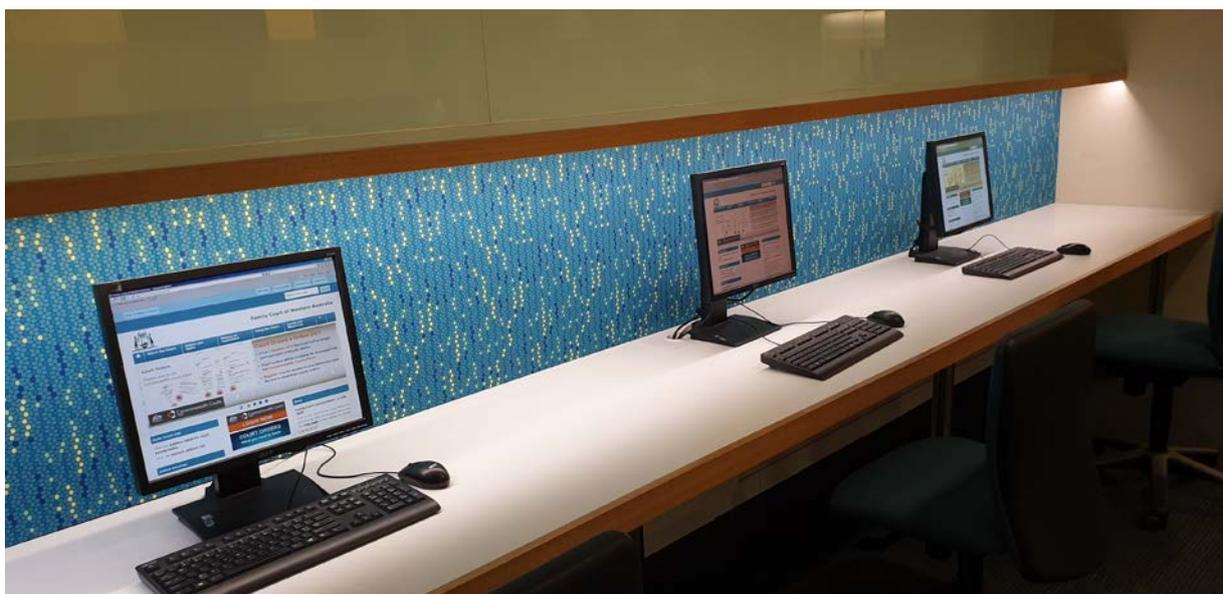
During 2019 a total of 5,641 occasions of service were provided as follows:

- Duty Lawyer - 3,382
- Social Support - 581¹
- Information/referral to other services (including non-legal) - 1,678².

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



¹ Limited services were provided for a three month period whilst contracts were renewed.

² This figure is understated due to data recording issues.

KEY EVENTS AND FUTURE DIRECTIONS

Digital Court Program

Most applications and documents can now be filed online through the Commonwealth Courts portal (CCP), following the expansion of eLodgment services in November 2018.

For the year approximately 27% of final and interim order applications were electronically filed, along with 43% of consent applications and 73% of divorce applications. While eLodgment rates are significantly higher for divorce applications, the capacity to electronically file those applications has been in place since 2010. It has been encouraging to see the uptake of this new lodgment method for the other application types, now that it is more broadly available.

Parties who are registered for the CCP have electronic access to their Family Court file, which includes any relevant court orders, details about parties, documents filed and court events.

During the year the Court began a project to replace the current Casetrack system with the WA State based Integrated Courts Management System. It is anticipated the system will go-live in mid-2021.

Administrative Release of Subpoena

From 1 January 2019, the Court changed the way it deals with subpoenas to produce documents. When a subpoena is issued by the Court, instead of allocating a court hearing date, a 'production date' will be given. The initiative has increased the availability of judicial officers and reduced the number of court events for parties to attend.

Statistical Note

Variances may be seen in some figures in this review compared with 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, 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.

FAMILY COURT OF WESTERN AUSTRALIA COMMITTEES 2019

Board of Management
Case Management / Rules Committee
Continuing Professional Education Committee
Digital Court Project Committee
Indigenous Committee
Library Committee
Occupational Health and Safety Committee
Post Callover Committee
Research Committee
Security and Violence Committee
Social and Wellness Committee

COMMITTEES INVOLVING EXTERNAL AGENCIES

CHIEF JUDGE'S CONSULTATIVE MEETING

Representatives from:

- FCWA and FCCCS
- Family Law Practitioners' Association

FAMILY LAW NETWORK

Representatives from:

- FCWA and FCCCS
- Numerous external agencies

FCWA / DCPFS / LAWA PROTOCOLS MEETING

Representatives from:

- FCWA and FCCCS
- Legal Aid WA
- Department of Communities

LEGAL AID WA FAMILY COURT SERVICES USER GROUP

Representatives from:

- FCWA and FCCCS
- Legal Aid WA
- Department of Communities

FCWA REFERENCE GROUP

Representatives from:

- FCWA and FCCCS
- Aboriginal Legal Service
- Aboriginal Family Law Service
- Anglicare
- Adoption Research and Counselling Service
- Centrecare
- Child and Adolescent Health Service
- Children's Court of Western Australia
- Citizen's Advice Bureau
- Communicare
- Community Legal Centres Association
- Department of Communities
- Department of Education
- Family Law Practitioners' Association
- Legal Aid WA
- Relationships Australia
- WA Police Force
- Women's Council Domestic and Family Violence
- Women and Newborn Health



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