



FAMILY COURT OF
WESTERN AUSTRALIA

Family Court of Western Australia
Annual Review

2021

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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 (the Court) for the year ending 31 December 2021.

Significant Milestones in 2021

On 23 August 2021, the Court officially moved off Casetrack (the case management system used by the Federal Family Law Courts) and onto ICMS (the electronic case management system used by all other Western Australian Courts and Tribunals) and the Western Australian e-Courts portal. The Court's new standalone Family Court Rules also commenced on the same day.

The ICMS project was a massive undertaking for the Court; and has resulted in significant changes to the way in which the Court undertakes its work. There are very real benefits to the Court in being fully integrated into ICMS. The Court is now part of a proven electronic case management system, which has been operating successfully in other Western Australian Courts and Tribunals for many years. The move has enabled the Court to transition from paper files to e-files. It also gives the Court greater opportunities to leverage off the Western Australian state system to build further, effective information sharing protocols and working arrangements with other Western Australian Courts and Tribunals, state government departments and agencies. This can only further benefit Western Australian families involved in the family law system.

Change is hard at the best of times. It is stressful and challenging to implement new business processes, and then learn and adapt to new ways of performing our day-to-day work. I wish to acknowledge and thank all the judicial officers, family consultants and the Court's staff for their perseverance, their patience, and their undoubted good humour throughout the project. I especially wish to acknowledge and thank the following people for their very valuable contributions in achieving such a successful outcome: Principal Registrar Leonie Forrest; the Court's Executive Manager Ms Suzanne Taylor (together with her management team); and the Court's Project Business Leader, Ms Liz Womersley.

In the 2020 Annual Review, I reflected on the increasing complexity of parenting cases in the Court in the last 10 years; and of some of the markers of complexity that had significantly increased over those 10 years. 2021 continued to evidence the increasing complexity of such cases. For example:

- There was a further increase in lodgements of Notices of Family Violence / Child Abuse (or Risk) in 2021: from 889 in 2020 to 910 in 2021.
- The risks identified by Family Consultants in Case Assessment Conferences continued to be very significant. For example, of the 1667 conferences conducted in 2021: child abuse was identified as a risk factor in 49% of the cases; family violence was identified as a risk factor in 68% of the cases; substance abuse was identified as a risk factor in 53% of the cases; and mental health was identified as a risk factor in 49% of the cases.

- In 2021, Independent Children's Lawyers were appointed on 1,446 parenting applications on hand, out of a total of 3,057 (or 47%); as compared with 46% in 2020. As I observed in the 2020 Annual Review, the appointment of an Independent Children's Lawyer is a marker of complexity in parenting cases, as such appointments are commonly made in disputes involving difficult and complex issues, or a high level of conflict and dispute between the parents, or where there are allegations of (1) family violence, (2) substance abuse, (3) serious mental health issues, or (4) allegations of abuse or neglect in relation to children.

As I observed in the 2020 Annual Review, at the end of the day, only experienced family law magistrates and judges can hear and determine the increasing numbers of complex parenting cases that come before the Court; and that ultimately, in the absence of additional appointments, further delays and costs to litigants are inevitable. It therefore gives me great pleasure to record that in December 2021 the Commonwealth Government announced that in 2022, it would provide additional ongoing funding to enable the appointment of a permanent 6th judge of the Court "to help separating families to resolve disputes in a timely, effective and efficient manner". I acknowledge and thank the Commonwealth Attorney General, Senator the Honourable Michaela Cash and the Western Australian Attorney General, the Honourable John Quigley MLA, for their support in securing the appointment of an additional permanent judge - the first in the Court's 45 year history. I look forward to the new appointment being made in a timely manner in 2022.

The Court's ongoing response to the COVID-19 pandemic

In 2021, the COVID-19 pandemic continued to impact on the Court's services. The Court's services were significantly impacted during the two short lockdowns: in February and April 2021. The number of defended trials throughout the year was also reduced, particularly those cases in which one or more of the parties involved was unable to return to Western Australia for the trial (and the case was not suitable to be conducted electronically). However overall, the Court largely continued to deliver its usual services.

In 2021, the Court undertook considerable work to enable it to conduct more Court hearings electronically through Microsoft Teams, as and when necessary. Seven of the Court's Courtrooms were fully enabled by December 2021, with the remaining three to follow in early 2022.

Update in relation to Judicial Officers

In March 2021, Justice Susan Duncanson was involved in an accident, and after surgery, required extended time off work to convalesce. Later in the year Magistrate Mark Calverley also became unwell. Fortunately, following surgery, Magistrate Calverley was able to resume his duties after some weeks.

Magistrate Paul Glass resigned from the Court in October 2021, to take up a judicial appointment in Victoria. I thank Magistrate Glass for his service to the Court and wish him well in his new role. I also thank the Western Australian Attorney General, the Honourable John Quigley MLA for approving (on very short notice) the appointment of Principal Registrar Leonie Forrest as an acting Magistrate to assist in covering the magistrates' heavy workload during this period.

In 2021, Registrar Samantha Padfield successfully completed her training to become an accredited mediator, further enhancing her ability to assist litigants to resolve their matters prior to trial. I congratulate Registrar Padfield on her efforts to increase her already significant skill set, to the benefit of parties engaged in litigation in the Court.

Accommodation

The Court continues to explore options to increase the number of Courtrooms and other facilities available to it within the Peter Durack Commonwealth Courts Building, and to seek the necessary resources to reduce delays in the allocation of hearing dates.

Justice of the Peace

Thank you to the Justices of the Peace who volunteer to witness documents and assist our clients to ensure their paperwork is in order. Their assistance is invaluable and very much appreciated.

Court governance

The management of the Court continues to be overseen by the Board of Management. 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 in the committees, in addition to their usual tasks. I also acknowledge and thank the Department of Justice, Legal Aid WA (including the Family Advocacy and Support Services staff), the Department of Communities co-located 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 Court was established in 1976 as a state Court exercising both state and federal jurisdiction. The Court comprises judges, family law 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

Family law magistrates provide support and advice to country magistrates and conduct regular circuits to the five regional centres. 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 proceedings brought under State legislation dealing with property disputes between de facto couples.

WORKLOAD SUMMARY

Primary Applications	Received	Finalised
Initiating Applications for Final Orders	2,733	2,654
Divorce Applications	5,804	6,057
Applications for Consent Orders	3,301	2,880
Total	11,838	11,591

OUR JUDICIARY

As at 31 December 2021

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 Neil Anderson
Magistrate Andrew Mackey

Principal Registrar

Principal Registrar Leonie Forrest

Registrars

Registrar Andrzej Meysner
Registrar Jocelyn Connick
Registrar Simon French
Registrar Megan Wadsworth
Registrar Samantha Padfield

OUR PEOPLE

The approved FTE (128.7) for 2021 was allocated as follows:

5	Judges
10	Magistrates
6.0	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. Lodgement of final order applications increased by 3% for 2021 compared to 2020.

Parenting-only orders continued to be the most commonly sought order when commencing an application for final orders, accounting for 61% of applications lodged. 1,665 of this application type were lodged in 2021. 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 otherwise no mechanism to ensure both parties attend. In 2021, both parties attended FDR in only 17% 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 attended for FDR or alternatively that FDR was deemed inappropriate.

TABLE 1 - Applications Lodged

	2021	Change from 2020	Change from 2017
Final Order	2,733	3%	-3%
Divorce	5,804	-2%	14%
Consent Order	3,301	30%	55%

Other Applications

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

During 2021 the Court received:

- 5,804 divorce applications, a decrease of 2% from 2020; and
- 3,301 consent order applications, an increase of 30% from 2020. Unlike applications for final orders, which have a high proportion of parenting issues, consent orders are predominantly sought to formalise financial agreements. This year, 89% 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

		2021	2020
Final Order	Parenting	39%	39%
	Financial	22%	21%
	Parenting and Financial	30%	28%
Consent Order	Parenting	43%	51%
	Financial	30%	31%
	Parenting and Financial	34%	35%
Divorce		73%	78%

ACTIVE WORKLOAD

Applications that remain on hand at the end of the year constitute the Court's active workload.

Final order applications on hand reduced by 3%. Divorce applications on hand reduced by 20% which can be attributed to an increase of 9% in the number of divorce sittings for the year. Consent applications on hand increased by 166% which is expected given the 30% increase in the number of applications lodged.

TABLE 3 - Primary Applications on Hand

	2021	Change from 2020	Change from 2017
Final Order	4123	-3%	-6%
Divorce	975	-20%	-25%
Consent Order	675	166%	-23%

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 97% for applications for final orders, a decrease from the 105% clearance rate achieved in 2020.

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. Such matters constitute the majority of final order applications finalised, with 92% of these applications finalised by the Court before the matter reached trial.

The KPI for 2021 stood at 47 weeks against the target of 27 weeks. This is consistent with the 2020 result. The median for parenting-only matters was 51 weeks, compared to 39 weeks for financial-only matters.

The higher than target result is primarily due to long-term increases in the volume and complexity of parenting applications lodged, and the introduction of case management practices that encourage matters to remain active until a finalising order is made.

TABLE 4 - Median Weeks to KPI Finalisation

	2021	Change from 2020	Change from 2017	Change from 2012
Parenting	55	9%	22%	90%
Financial	33	-15%	-13%	14%
Parenting and Financial	84	*	*	*
Overall	47	0%	9%	57%

- Data not previously recorded

TABLE 5 - Count of KPI Finalisations

	2021	Change from 2020	Change from 2017	Change from 2012
Parenting	1263	0%	-6%	52%
Financial	904	4%	20%	18%
Parenting and Financial	196	*	*	*
Overall	2,363	1%	6%	38%

- Data not previously recorded

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 decreased to 126 weeks. In parenting-only matters, the median time was 101 weeks, while the median time for financial-only matters was 121 weeks.

TABLE 6 - Median Weeks to Trial

	2021	Change from 2020	Change from 2017
Parenting	101	-15%	15%
Financial	121	3%	36%
Parenting and Financial	150	*	*
Overall	126	2%	39%

- Data not previously recorded

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 appointment of an Independent Children's Lawyer (ICL). An ICL represents the child's/children's best interests in proceedings 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 154 weeks, 53 weeks higher than those without one. ICL matters accounted for 36% of all "time to trial" matters in 2021, compared to 34% in 2020.

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.

While these figures demonstrate the Court's capacity to expedite the trial in urgent matters, the Court remains committed to exploring how changes in practice and legislation can help reduce the delays for all litigants. 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:

- 26 applications were made for adoption and a further 11 made for ancillary applications under the Adoption Act 1994 (WA). In total, 38 adoption-related orders were made.
- 185 applications for Telecommunication Interception Warrants; including Stored Communication Warrants and Surveillance Device Warrants, were made. All judges have volunteered to deal with these applications, which often need to be heard on an urgent basis after hours.

CASE STUDIES: COMPLEXITY AND TIME TO TRIAL

The following two case studies have been selected to demonstrate the impact of complexity on time to trial in parenting proceedings. **Case Study 1** is an example of a matter involving very severe risk issues in which the Court appointed an Independent Children's Lawyer and obtained information from multiple independent sources. This case study demonstrates the relevance of the manner in which the parties choose to conduct the proceedings, including to attempt to re-establish the father's relationship with the child by way of supervised contact, which was ultimately unsuccessful. **Case Study 2** involved two parents who each posed different risk issues, including drug / mental health issues, relationships characterised by domestic violence, and criminal associations. The paternal grandparents ultimately intervened in the proceedings seeking the child live with them. Case Study 2 is a matter which the Court 'case managed' over a significant time, to give the parents the opportunity to ameliorate the issues mentioned above, and to negotiate agreed final parenting orders.

Case Study 1

Note: the mother was represented during the proceedings by Legal Aid. The father was legally represented at times during the proceedings and was a self-represented litigant at other times.

June 2014

The parties separate when the child is only 3 months old. The child lives with the mother and does not spend any time with the father.

September 2015

The father commences proceedings in the Family Court of Western Australia seeking for the child to spend a fixed amount of time with him on weekends and on weekdays.

October 2015

The mother files responding documents seeking that she has sole parental responsibility for the child and the child live with her. She raises specific concerns about the father's ability to care for a young child. She also alleges that the father had raped her and raises concerns about the father threatening to harm (including kill) her and the child, the father's state of mental health, and his very negative views about women.

At the first hearing of the matter, the Court makes orders for the appointment of an Independent Children's Lawyer, and to obtain information from the Department of Communities (DOC), and from the Western Australian Police.

An **Independent Children's Lawyer (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 does 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.

The Court has the power to make an order requesting the WA Police and the DOC to provide certain **information** in relation to parties, the children, and other persons of interest.

The Court also makes orders for the parties to attend a Case Assessment Conference with a Family Consultant.

Orders are made for the father to spend time with the child on a supervised basis.

December 2015

The parties attend a Case Assessment Conference.

At the first Court event, if risk issues are identified, the parties will be ordered to attend a **Case Assessment Conference with a Family Consultant**. The conference is conducted outside the Courtroom; however, the details of the conference are provided in a written report 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.

This Case Assessment Conference generates a wealth of information for the Court, including that each party reports they had historically used drugs, but maintains they do not presently do so. The father raises risk issues about the mother,

including that the maternal grandmother was a risk to the child. The father concedes that he frequently drinks to the point of intoxication. The Family Consultant also confirms with the father that some of the mother's allegations are true. The mother discloses to the Family Consultant a post made on social media by the father which suggests that rape should be accepted in society. After the Case Assessment Conference, further orders are made by consent for the father to continue to spend supervised time with the child.

Shortly after the Case Assessment Conference, the DOC responds to the Court's request for information and indicates, among other things, that it is concerned due to the father's views about incest and rape that the child may suffer harm if she resides with or is left unsupervised with the father.

February 2016

Orders are made for the appointment of a Single Expert Witness.

The Court may appoint a **Single Expert**. The Single Expert is a person with specialised knowledge who is qualified by training, study or experience to provide an expert opinion which the judicial officer can consider in deciding the issues in dispute. The Court will generally allow evidence from only one expert in relation to a specific issue. In a parenting case, social workers, psychologists and psychiatrists are often appointed as Single Experts.

During February 2016, the ICL issues subpoenas to a number of external sources of information, including to treating mental health practitioners of the parents.

February 2016 - December 2017

Between these dates, the father attends 27 supervised visits with the child, and a report of those visits is obtained. There are some difficulties during those visits, including the father insisting on taking the child to the toilet himself instead of the supervisor (which results in a temporary suspension of visits until the father complies with the policy of the supervision provider) and his ability to act protectively when the child engaged in risky play activities.

The matter then comes before the Court again in December 2017. The parties negotiate a Minute for the child to spend time with the father every Thursday for a period of 2 hours on each occasion. The matter is also included in the Judge's Defended List at this hearing, and a Readiness Hearing is allocated to mid-2018. The parties later vacate this date by consent on two occasions and eventually seek the Readiness Hearing be listed in mid-2019.

2018 - 2019

The father continues to spend some supervised time with the child. The supervision is occasionally cancelled due to the supervision provider's decision to suspend services, including due to the father's conduct at those visits.

October 2018

The Single Expert Witness files their report. The report comments upon delays arising from waiting for supervision reports and other information, including documents provided pursuant to subpoena.

A subpoena compels the recipient of the subpoena to provide the documents requested in the subpoena to the Court. In proceedings involving an ICL, they are ordinarily issued by the ICL. Depending on the issues in a case, they are frequently issued to medical practitioners, schools, the police, or other relevant government agencies. The parties can then bring the information contained in the subpoenaed documents to the Court's attention where necessary.

April 2019

The parties attend a late intervention dispute resolution conference and reach an agreement for the father to continue to spend supervised time with the child, for the parties to obtain a further report, for the father to undergo hair-follicle and urinalysis

testing, and for the mother to be reviewed by a psychiatrist. The parties otherwise seek the Readiness Hearing again be vacated and the matter removed from the Judges Defended List. The parties agree to attend another conference in November 2019.

Late 2019

During late 2019, the child becomes resistant to spending time with the father, experiencing stress and anxiety. The child commences attending counselling, which does not ultimately resolve the issue. The child ceases spending time with the father.

May 2020

The matter is re-listed and orders are made for the parties to file their trial documents. The matter is included in the November 2020 callover. The father fails to file his trial documents, but files them prior to the callover.

The callover is a procedural hearing at which the Court allocates trial dates.

March 2021

The Single Expert Witness files an updated report.

November 2021

The matter proceeds to a 4 day trial.

December 2021

Judgment is delivered, and final orders are made which provide that the child live with the mother, she have sole parental responsibility for the child, and the father have no contact with the child other than sending cards, gifts, and photographs on special occasions.

Case Study 2

Note: over these proceedings, the parties were represented by solicitors / counsel at times and were also self-represented litigants for extended periods. The child was represented by an ICL. The parties were self-represented litigants in the preparation of their trial documents, and at the trial.

October 2015 - December 2015

The parties separate. The child is aged two. The child lives with the father. The mother spends time with the child and then keeps the child in her care. She institutes Family Court proceedings and seeks the child live with her. The mother alleges that both parties used methamphetamine during the

relationship and indicates that she is concerned the father has continued to use the drug.

The father files responding documents alleging the mother continues to use methamphetamine and is suffering from significant mental health issues, including having experienced a drug induced psychosis. The father seeks the child live with him. The father files a Notice of Child Abuse or Family Violence.

Under family law legislation, a party who alleges that a child has been abused or is at risk of being abused, must file a **Notice of Child Abuse or Family Violence (or Risk)**, setting out particulars of the alleged abuse (or risk). The Court in turn provides a copy of that Notice to the relevant child protection authority, who conduct an assessment of the allegations and determine whether it is necessary to intervene in the proceedings.

December 2015

At the first return hearing, the Court has the benefit of a memorandum from the Family Consultant who has obtained information from DOC regarding the child in the matter. The memorandum confirms instances of domestic violence, and recent reports to DOC that the parents used crack, and that the mother's (then) partner was a methamphetamine dealer. At the hearing, the parties agree to consent orders for each to have shared care for the child, premised upon each party providing various undertakings to the Court, including refraining from illicit drug use. The matter is otherwise programmed to a Case Assessment Conference.

March 2016

The father files a Form 2 Application alleging the mother frequently fails to return the child to his care in accordance with the Court orders. The father also alleges that the mother does not have a fixed residence. An ICL is appointed.

April 2016

The parties attend a Case Assessment Conference with a Family Consultant. They agree the child's time with the father will be supervised by the grandparents.

July 2016

The parties attend a Child Dispute Conference with a Family Consultant to monitor the ongoing arrangements for the child.

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 Family Consultant wishes to assess how the arrangements are going.

November 2016

A Single Expert Witness is appointed. The ICL issues several subpoenas to external sources of information, including the parties' treating medical practitioners.

May 2017

The Single Expert Witness report is published. Relevantly, the Single Expert Witness interviews the paternal grandparents (**the grandparents**), who indicate that the child is currently residing with them, and they are prepared to have the child reside with them whilst the parents seek treatment and/or assistance for their ongoing drug related and other issues. Shortly after the report is filed, the grandparents seek leave to intervene in the proceedings. The ICL seeks orders from the Court for the child to live with the grandparents and orders are made in those terms by consent.

June 2017

Trial directions are made and a Readiness Hearing is listed for November 2017.

Trial directions (also referred to as programming orders) are a series of procedural orders made by the Court that require the parties to file various documents in preparation for trial. Generally speaking, the Court requires the parties to have

filed their trial documents prior to the Readiness Hearing. If the parties fail to file their trial documents in time, the judicial officer presiding over the Readiness Hearing may refuse to place the matter in the callover for allocation of a trial date.

November 2017 - January 2020

The parties choose to vacate several Readiness Hearings as they consider the matter is not ready to proceed, including because reports from therapeutic and forensic medical professionals, supervision providers, and counsellors are not yet ready. The grandparents continue to manage the time which the parents spend with the child during this time. In April 2019, and then again in January 2020, the parties attend late intervention dispute resolution conferences and reach interim agreements.

March 2020 - October 2020

Further trial directions are made and the parties eventually file their trial documents. There are several further extensions of time given to all the parties to file their trial documents during this period. In October 2020, the matter is included in the list of cases awaiting a callover.

December 2020 - March 2021

The matter is removed from the callover so that the parties can attend a Pre-Trial Conference in March 2021. The conference narrows the issues in dispute to whether the child should live with the grandparents or with the mother but did not achieve a final resolution. The matter is reallocated to the list of cases awaiting callover.

Since July 2019, the Family Court has offered **Pre-Trial Conferences**, which are a full-day facilitated mediation with a Registrar. In its first year of operation, the Pre-Trial Conference program saved 334 days of judicial hearing time by assisting parties to resolve part or all of their dispute.

June 2021

The ICL files Papers for the Judge.

A template for the **Papers for the Judge** 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 that the judicial officer will need to consider.

June 2021 - September 2021

The matter proceeds to a 3 day trial. Other than the ICL, each party represents themselves. The presiding judicial officer falls ill on the third day in June and so the matter is completed in early September 2021.

September 2021

The judicial officer hands down reasons for decision and pronounces final orders which provide for the parents and the grandparents to have equal parental responsibility for the child, and for the child to live with the grandparents and spend time with the mother each alternate weekend and half of each school holidays. The orders also provide for the child to spend time with the father as agreed between the father and the grandparents, provided that such time does not interfere with the mother's time.

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 Federal Circuit and Family Court of Australia (Division 1) 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 FCFCoA is available at: www.fcfcOA.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 a judge of the Court.

In 2021, there were nine appeal applications filed in the Court seeking leave to appeal interlocutory orders of family law magistrates. Of the appeal applications filed in 2021 or previous years, nine applications were finalised in the year. Six of those finalised in 2021 were discontinued or dismissed by consent, two were dismissed after a hearing, with one leave to appeal being granted, the appeal allowed and the matter remitted for rehearing.



COUNSELLING AND CONSULTANCY SERVICE

The Family Court Counselling and Consultancy Service (FCCCS) is involved in Family Court child-related proceedings. A FCCCS Family Consultant usually attends the Child-Related Proceedings List (CRP List) which is the first hearing for most parenting matters. As part of this process, the Family Consultant may carry out a preliminary assessment and provide the Family Law Magistrate with information about parenting queries and determine which cases may be appropriate for FCCCS involvement.

After the CRP List, 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.

To ensure consistent and timely service delivery, especially when managing and dealing with COVID-19 impacts, FCCCS has provided service by video or telephone.

In addition, given the changeover to ICMS as the Court's client record management system, some of the data is still undergoing some clean-up and correction. This means that the below data is best viewed as indicative.

Family Consultant Events

FCCCS carried out 1,667 events in the 12 months to 31 December 2021. For the previous 12 months, FCCCS carried out 1,862 events. This variance is likely due to COVID-19 impacts.

When a matter has been referred to FCCCS for further assessment, the median weeks for a conference appointment to be made is ten weeks.

Risks Identified at CAC

When undertaking assessments, 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. Assessing the nature and type of risks presenting in families is a critical early intervention focus.

The following outlines the risks identified by a Family Consultant at each event during 2021:

Family and domestic violence	68%;
Alcohol and/or substance abuse	53%;
Child abuse	49%;
Mental health	49%.

OUR SERVICES

Information Sessions and 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. Unfortunately, a number of these tours did not proceed in 2021 due to the COVID-19 pandemic. The Court hopes to resume the tours in the future.

Website and Publications

The Court's website continues to be an effective means of providing information to customers and Court users, including legal practitioners.

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.

Regular review and updates of the content occurs to ensure any information is current and up to date.

Registry and Call Centre Services

During the year the Court modified its face-to-face services in response to the COVID-19 pandemic. Procedural advice is now provided to customers by the Court's Call Centre service. The system will be upgraded in the coming year to provide greater flexibility and management of incoming calls.

The Court has a self-service kiosk area where there is a Customer Service Officer in attendance to assist with the upload of documents onto the e-Courts Portal. The service provides the opportunity for parties to e-lodge applications and documents, view the Court's website and have access to other information resources online. The computers and printers in the self-service kiosk will be upgraded and increased in number.

Information Technology

The Court has the ability to deliver electronic hearings and conferences. Over the next year all court rooms and conference rooms will have the functionality implemented.

Child-Minding Service

A crèche service is offered for clients attending Court or who have an appointment with a 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 the Court's regular circuits in regional locations. Clients were referred to Legal Aid WA by judicial officers, family consultants and registry staff.

In the 2021 calendar year, the provision of services was again impacted by the COVID-19 pandemic due to reduced numbers of in-person attendances at the Court.

A total of 4,598 occasions of service were provided as follows:

- Duty Lawyer - 2,156
- Social Support - 692
- Information and/or referral to other services (including non-legal) - 1,750

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 duties in the community. These include witnessing affidavits and other legal documents.

FUTURE INITIATIVES

Information Sharing

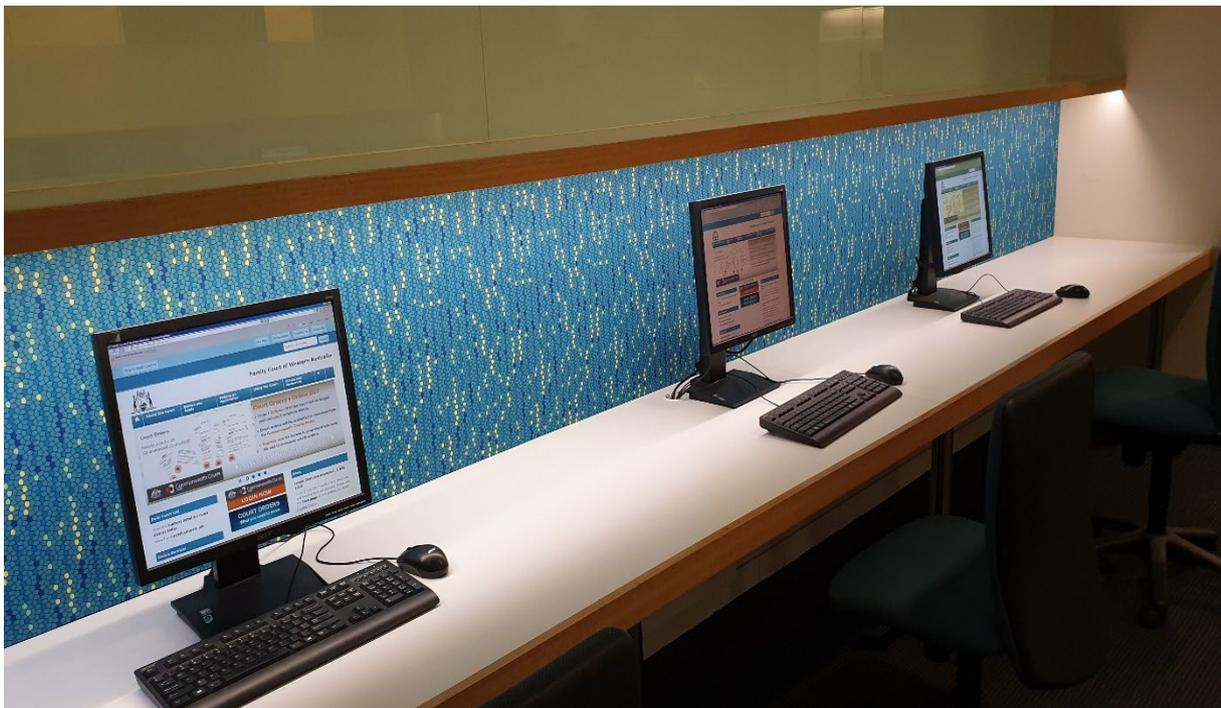
The Court has continued consultation with the Commonwealth Attorney General's Department in relation to enhanced information sharing protocols and arrangements, including possible legislative changes, with other agencies in particular Police and Communities. In addition to this, the Court will continue to seek feedback from the legal community and court users in relation to enhancements to the Western Australian e-Courts portal and further improve functionality to automate the sharing of information between the Court and agencies in relation to family court proceedings.

System and Process

Following the first phase of the implementation of the ICMS case management system in August 2021, the Court continues to work in partnership with the Courts Technology Group to identify further improvements to the functionality over the coming year, with additional phases to be implemented.

Staff education and training on the use of the ICMS case management system and the e-Courts portal is ongoing.

The Court continues to refine internal processes, including improvements to the Court's website which will assist in making it easier for court users to lodge applications and documents with the Court.



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 2021

Board of Management
Case Management / Rules Committee
Continuing Professional Education 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 / DOC / 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
- Centre for Women's Safety and Wellbeing
- 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



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