



FAMILY COURT OF
WESTERN AUSTRALIA

Family Court of Western Australia
Annual Review

2024

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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 2024.

Judicial appointments and retirements

Magistrate Jane Johnson was appointed as a Family Law Magistrate, with effect from 1 January 2024. Magistrate Johnson's appointment was as a consequence of two existing Family Law Magistrates jointly moving to part time roles.

Magistrate Joanne Brinkley was appointed as a Family Law Magistrate, with effect from 5 August 2024. Prior to her appointment, Magistrate Brinkley was a Registrar of the Court. On 2 September 2024, **Magistrate Max Beckerling** was appointed as an acting Family Law Magistrate for a 12-month period.

In July 2024, **Registrar Devin Sanghavi** was permanently appointed as a Registrar of the Court, filling the position left vacant by the appointment of (then) Registrar Jocelyn Connick as a Family Law Magistrate in 2023.

In August and September 2024, **Registrar Emma Walke** and **Registrar Tonya Jensen** were also appointed as Registrars of the Court, for 12-month periods. One appointment was to fill the position left vacant by Magistrate Brinkley's appointment, and the second of which was to enable the Court to increase its capacity to provide dispute resolution to litigants. In 2025 the Court will advertise for a new Registrar Pool, to then fill the positions on a permanent basis.

Magistrate Mark Calverley retired as a Family Law Magistrate in December 2024. His Honour made a valuable contribution to the Court's operations, including as a docket Magistrate and as the Circuit Registrar from 2018 until 2023. I acknowledge and thank Magistrate Calverley for his years of service at the Court and wish him well in his retirement.

In December 2024, the State Government announced the appointments of two additional permanent Family Law Magistrates, whose appointments will commence in January 2025: **Magistrate Samantha Craig** and **Magistrate Stacey Wellings**. Their appointments will increase the number of FTE permanent Family Law Magistrates to 13.

Accommodation update

In July 2024, the project to build an additional court room and other facilities for the Court on Level 4 was completed. In late 2024 the Court also started work on the construction of additional Registrars' chambers on Level 1. These new facilities are expected to be completed in early 2025.

Onsite drug and alcohol testing

Since August 2024, the Court has accommodated an outside drug and alcohol testing agency onsite, the first Family Court in Australia to do so. The agency conducts hair strand tests three days per week from an office on Level 3. The service has enabled the judicial officers to send litigants straight from a court hearing to do a test. It is a service which has quickly proven itself to be very convenient for litigants.

The workload of the Court

In 2024, the Court experienced increased filings in 2024 across most major application types, including a 4.1% increase in Final Order applications (the most resource intensive application type) and a 19% increase in Interim Order applications.

The appointments of the additional Family Law Magistrates and Registrar enabled the Court to increase the numbers of magistrates allocated to hear defended trials on a full-time basis, increase the Court's capacity to provide dispute resolution to litigants, and otherwise continue with or introduce a number of strategies to reduce the delays in the litigation pathway, such as the PPP500 program referred to below. The increased judicial resources have already been effective in reducing the Court's backlog of work. For example, in the 2024 calendar year, the Court's Defended List was reduced by approximately 14.7%.

Of the 2,695 final applications that were finalised in 2024, 93.8% (2,527) did so without being listed to a defended trial. Approximately 52% were finalised within 12 months of lodgement; and approximately 72% were finalised within 2 years of lodgement.

In 2024, the Court finalised a greater number of matters listed for a defended trial (168 as compared with 124 in 2023). As I reported in the 2023 Annual Review, the number of trials that took 6 days or more increased from 10 in 2022 to 24 in 2023. This remained consistent in 2024, with the number of trials that took 6 days or more totalling 21.

In 2024, for the relatively small number of cases that proceeded to trial, the median time to trial was 190 weeks. Many of these cases involve markers of complexity, such as complex family dynamics, high conflict, and other risk factors, including family violence, substance abuse, and mental health issues. The case studies featured in this annual review illustrate this.

PPP500 program

In 2023 the Court received additional funding from the Commonwealth Government to commence the Priority Property Pools Under \$500,000 (PPP500) Program, as from 2 October 2023. The Program is a simplified, expedited process for dealing with simple financial cases. To qualify for the Program: (1) The net value of the property of the parties (excluding superannuation) is, or is likely to be, \$500,000, or less. (2) There are no entities (such as a family trust, company or self-managed superannuation fund) owned or in the effective control of either party that might require valuation or expert investigation, and there are otherwise no elements of complexity involved in the case. (3) Neither party seeks parenting, child support, or enforcement orders.

The Program comprises two phases: (1) The Registrar-led resolution, from filing of the application to a dispute resolution conference within 90 days. (2) If the matter does not settle, then judge/magistrate-led resolution - to an expedited trial.

The Program has proven to be a very successful initiative.

For the 2024 calendar year:

- 418 “financial only” Final Order applications (or 37% overall) were initially included in the Program. However, 90 applications were subsequently removed, due to parenting issues being introduced, the estimated trial hearing time being greater than 2 days or for other complexities.
- 284 applications finalised, including 277 settling by consent, four discontinuing, and three proceeding to an undefended trial.
- The remainder were still progressing through the Program.

Appointment to the Family Law Council

In March 2024, **Justice Richard O’Brien** was appointed to the Family Law Council for a three-year term. The Council is a statutory authority established under the *Family Law Act 1975* (Cth) to provide advice and recommendations to the Commonwealth Attorney General on issues related to family law.

Justices 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.

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 and Family Law Magistrates circuit to the same centres as required, hearing defended matters. Bunbury continues to be the busiest regional circuit, accounting for 59% of circuit hearings held in 2024.

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.

OUR JUDICIARY

As at 31 December 2024

Chief Judge

The Honourable Justice Gail Sutherland

Judges

The Honourable Justice Richard O’Brien
The Honourable Justice Ciara Tyson
The Honourable Justice Michael Berry
The Honourable Justice Robin Cohen
The Honourable Justice Steven Jones

Magistrates

Magistrate Annette Andrews
Magistrate Lisa Stewart
Magistrate Francine Walter
Magistrate Catherine Osborn
Magistrate Eric Martino
Magistrate Neil Anderson
Magistrate Andrew Mackey
Magistrate Megan Wadsworth
Magistrate Rebecca Hall
Magistrate Jocelyn Connick
Magistrate Jo Brinkley
Magistrate Jane Johnson
A/Magistrate Max Beckerling

Principal Registrar

Principal Registrar Leonie Forrest

Registrars

Registrar Andrzej Meysner
Registrar Samantha Padfield
Registrar Simon French
Registrar Fiona Amaro
Registrar Genevieve Smit
Registrar Samantha Craig
Registrar Devin Sanghavi
A/Registrar Emma Walke
A/Registrar Tonya Jensen

OUR PEOPLE

The approved FTE (146) for 2024 was allocated as follows:

6	Judges
13	Magistrates
9	Registrars
99	Registry and support staff
19	Family consultant and support staff

WORKLOAD SUMMARY

Primary Applications	Received	Finalised
Initiating Applications for Final Orders	2,719	2,695
Divorce Applications	5,741	5,745
Applications for Consent Orders	3,241	3,213
Total	11,701	11,653

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 4.1% since 2023.

Parenting orders continued to be the most commonly sought order when commencing an application for final orders, accounting for 53.5% of applications lodged. 1,455 of this application type were lodged in 2024. 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 2024, both parties 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 attended for FDR or alternatively that FDR was deemed inappropriate.

TABLE 1 - Applications Lodged

	2024	Change from 2023	Change from 2014
Final Order	2719	4.1%	-8.7%
Divorce	5741	0.4%	8.3%
Consent Order	3241	-1.2%	40.8%

Other Applications

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

During 2024 the Court received:

- 5741 divorce applications, an increase of 0.4% from 2023; and
- 3241 consent order applications, a decrease of 1.2% from 2023. Unlike applications for final orders, which have a high proportion of parenting issues, consent orders are predominantly sought to formalise financial agreements. This year, 90.1% 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 can 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

		2024	2023
Final Order	Parenting	41%	39%
	Financial	17%	18%
	Parenting and Financial	24%	32%
Consent Order	Parenting	40%	39%
	Financial	25%	26%
	Parenting and Financial	34%	25%
Divorce		73%	72%

ACTIVE WORKLOAD

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

Final order applications on hand increased by 1.3%. Divorce applications on hand reduced by 13.3%. Consent applications on hand have increased by 2.2% which can be attributed to an increase of the number of applications listed per hearing list.

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 99.1% for applications for final orders, a decrease from the 99.8% clearance rate achieved in 2023.

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 93.8% of these applications finalised by the Court before the matter reached trial.

The KPI for 2024 stood at 47 weeks against the target of 27 weeks. The median for parenting-only matters was 65 weeks, compared to 27 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 First KPI Finalisation

	2024	Change from 2023	Change from 2020	Change from 2014
Parenting	65	20.4%	30%	75.7%
Financial	27	-12.9%	-30.8%	-15.6%
Parenting and Financial	172.5	30.7%	113%	213%
Overall	47	9.3%	0%	34.3%

TABLE 5 - Count of KPI Finalisations

	2024	Change from 2023	Change from 2020	Change from 2014
Parenting	1,260	-0.6%	3.6%	15.9%
Financial	1,052	8.9%	27.8%	48.5%
Parenting and Financial	134	-18.8%	-30.6%	2.3%
Overall	2455	2.0%	9.7%	27.1%

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.

TABLE 3 - Primary Applications on Hand

	2024	Change from 2023	Change from 2020
Final Order	4,364	1.3%	7.7%
Divorce	810	-13.3%	-34.9%
Consent Order	330	2.2%	27.4%

Time to Trial

The year under review saw the median time to trial increase to 190 weeks. In parenting-only matters, the median time was 185 weeks, while the median time for financial-only matters was 154 weeks.

TABLE 6 - Median Weeks to Trial

	2024	Change from 2023	Change from 2020
Parenting	185	4.8%	56.1%
Financial	154	-2.5%	30.5%
Parenting and Financial	203	8.6%	41%
Overall	190	9.2%	53.2%

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.

When comparing parenting applications based on the involvement of an ICL, those with an ICL had a median time to trial of 207 weeks, and those without had a median time of 152 weeks. Parenting matters with an ICL accounted for 38.6% of all "time to trial" matters in 2024, compared to 61.4% with no ICL.

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:

- 25 applications and a further 14 ancillary applications were made under the *Adoption Act 1994* (WA).
- No applications were made under the *Surrogacy Act 2008* (WA).
- 1 application was filed pursuant to the International Child Abduction Convention.
- 240 applications for Telecommunication Interception Warrants; including Stored Communication Warrants and Surveillance Device Warrants, were made. All eligible judges have volunteered to deal with these applications, which often need to be heard on an urgent basis or after hours.

CASE STUDY: COMPLEXITY AND TIME TO TRIAL

The following two case studies have been selected to demonstrate the impact of complexity on time to trial and how delays can also occur for reasons unrelated to the court process itself. Both cases involve acrimonious relationships between the parents and competing allegations of very serious risks to the child concerned. In both cases, the Court appointed an Independent Children's Lawyer (ICL) and a Single Expert Witness (SEW). Both case studies are examples of the delays that can occur in the provision of single expert reports. Both case studies also demonstrate the impact of the way the parties choose to conduct the proceedings, including delays caused when one or both of the parties fail to file trial documents on time.

CASE STUDY 1:

Note: Both parties were legally represented during the proceedings. An Independent Children's Lawyer was also appointed to represent the child's best interests.

2013 to May 2016

The parties married within a few weeks of meeting each other in 2013. The parties had one child of their relationship (the Child).

At the time they started their relationship, the father had a long history of illicit poly-drug use, alcohol misuse, and other addictive behaviours. In addition, he had a number of long-standing serious physical health issues, including chronic pain. Both parties also had a history of serious mental health issues.

During the parties' relationship, the father subjected the mother and her older child (from an earlier relationship) to significant physical, verbal and psychological family violence, (including subjecting them to coercive and controlling behaviours intended to intimidate, frighten and control them). The father frequently used illicit drugs, such as methamphetamine, in the home and in the presence of the Child. The father was also frequently absent from the parties' home, including at times when he was on extended drug binges, in hospital or in rehab facilities.

The parties separated on a final basis in May 2016. At the time of separation, the Child was 1 year and 5 months old.

March 2018

The father commenced parenting proceedings by filing his Form 1 Initiating Application. At this time, the Child was 3 years and 2 months old.

*An **initiating application (Form 1)** is a form completed by the party who wishes to commence proceedings at the Court. If the application is accepted for filing, the application and its accompanying documents are then sealed and added to the file,*

and the applicant is to serve the sealed copies to the responding party.

The father did not set out the final parenting orders he sought. The father had not seen the Child since December 2016, had no information as to the Child's or the mother's whereabouts, and had been unable to take part in Family Dispute Resolution with the mother. The application was accepted for the filing on the basis that the father was exempted from filing a Family Dispute Resolution certificate.

***Family Dispute Resolution (FDR)** involves parties discussing their issues and attempting to reach an agreement. Completing FDR is usually required for parties before they commence parenting proceedings at court. Even if parties can't reach agreement at FDR, it assists them in narrowing the issues they wish to bring to court.*

May 2018

The Court made a Commonwealth Information Order for the provision of information about the Child's whereabouts to allow service to be affected on the mother. The mother was subsequently served with the court documents.

*A **Commonwealth Information Order** is a court order that requires a Commonwealth government department or authority to provide the court with information about a child's location, which is contained in their records.*

October 2018

The mother filed her responding documents and a Notice of Child Abuse or Family Violence or Risk.

*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.

In the same month the parties attended a Case Assessment Conference.

*Where there are risks alleged by either party, the Court may require the parties to attend a **Case Assessment Conference** with a Family Consultant. Parties can attend with their legal representatives (if they are represented). Discussions during the Conference are not confidential. After the Conference, the Family Consultant will prepare a written report for the Court. The Consultant will seek to identify any risk issues and may provide recommendations in their report regarding the next steps in the matter.*

During the Case Assessment Conference each party made allegations that the other posed a significant risk to the Child, including due to serious mental health concerns. The Family Consultant opined that the parties' parental relationship was acrimonious; and recommended the appointment of an ICL and that both parties undertake an independent psychiatric assessment.

After the Conference, at the parties' request, orders were made by consent in chambers for the appointment of an ICL; and for the father to undergo hair strand drug analysis testing at the request of the ICL.

*An **Independent Children's Lawyer** is a legal representative appointed by the Court to represent a child's best interests. There are guidelines that set out circumstances where it may be appropriate for an ICL to be appointed, such as cases involving intractable conflict or allegations of abuse. The ICL will collate information about the child's welfare and may recommend orders to the court.*

December 2018

The Department of Communities provided its written response to the Notice filed by the mother. The Department advised the Court that it had previous contact with the family, primarily in relation to family and domestic violence.

At a directions hearing, the Department's response was distributed to the parties and the ICL and accepted into evidence. Further procedural orders were also made requiring the parties to particularise the final parenting orders sought by them, placing the matter in the Defended List, making specific orders for the filing of trial documents and listing a readiness hearing in May 2019.

*The **Defended List** is a list of all matters awaiting the allocation of a trial date. The Court will make a raft of procedural orders when adding a matter to the Defended List, including requiring the parties to file various documents for trial.*

January 2019

The mother filed an amended Form 1A Response. She sought final orders including that the Child live with her, she have sole parental responsibility, and the Child have no time and no communications with the father.

February 2019

Consent Orders were made appointing a Clinical Psychologist as the SEW.

*The court may appoint a **Single Expert Witness (SEW)** to provide expert evidence in relation to an issue in the case. The court may appoint a SEW on its own initiation or on the application of a party. In a financial case, property valuers are financial consultants are often appointed as experts. In a parenting case, such as this one, clinical psychologists and therapists are often appointed as experts.*

March - April 2019

Various subpoenas to produce documents were filed by the father and objected to by the mother. The Court made orders restraining all parties and their solicitors from inspecting the material until the objections were dealt with. Subsequently the Court dealt with the objections and made orders to facilitate the redaction of any information that might identify the mother's or the Child's whereabouts

before the documents were then inspected.

May 2019

By May 2019, no party had complied with the Court's orders to file their trial documents. In May 2019, at the request of the parties, procedural orders were made by consent in chambers, including placing the matter into a later Callover and extending the time for the parties to comply with previous orders made regarding their filing of their trial documents.

*The **Callover List** is a procedural hearing where the Court allocates trial dates for matters awaiting trial.*

September 2019 - January 2020

The SEW report was filed in September 2019. In the report, the SEW recommended, amongst other things, that both parties undergo an independent psychiatric assessment (notwithstanding both parties denied that they each had any current significant mental health concerns - whilst asserting that the other party did).

At the Callover in November 2019 the matter was listed for trial before a Judge in February 2020.

In December 2019, the Court made orders in chambers that a cross-examination ban applied in the matter, as a final family violence order had been made for the personal protection of the mother against the father.

*Under the Family Law legislation, a **cross-examination ban** is to be applied in certain circumstances where allegations of family violence have been raised.*

At the request of the parties, in December 2019 further procedural orders were also made by consent, again extending the time for the parties to comply with previous orders made regarding their filing of their trial documents (and in the case of the father) to particularise the final parenting orders sought by him.

January - April 2020

In January 2020, the father filed an amended Form 1 Application. He sought final orders that the parties have equal shared parental responsibility for the Child and the Child live with the parties equally. Also in January 2020, each party filed their trial affidavit, together with affidavits of their witnesses.

In late January 2020 the mother filed a Form 2 application on an urgent basis, seeking a number of procedural orders, including for the existing SEW Clinical Psychologist to be discharged, for both parties to undergo an independent psychiatric assessment with a new SEW Psychiatrist, and for the trial to be vacated.

*An **interim application (Form 2)** deals with temporary orders sought by a party whilst the court makes its decision about the substantive matter. They are usually made when there is an urgent issue that needs action whilst court proceedings are underway.*

In February 2020 the Court vacated the trial, to enable both parties to undergo independent psychiatric assessments with a new SEW Psychiatrist and programmed the remaining issues for further hearing. Subsequently, the existing SEW Clinical Psychologist withdrew her consent to continuing to act as the SEW in the matter. In April 2020, the Court made orders for the formal discharge of the SEW.

December 2020 - May 2022

In December 2020 the ICL provided a written update to the Court advising that the parties had still not undertaken their psychiatric assessments with the new SEW Psychiatrist.

In July 2021, the Court received the psychiatric assessments from the new SEW Psychiatrist and distributed them to the parties and the ICL.

In May 2022, the ICL wrote to the Court and advised that following receipt of their psychiatric assessments, the parties were still unable to reach any agreement about parenting issues and the matter would need to proceed to a defended trial.

August 2022 to July 2023

At a directions hearing in August 2022, the Court made procedural orders for the filing of the parties' updated trial documents and expediting the listing of a further readiness hearing in November 2022.

By the time of the second readiness hearing in November 2022, the mother had filed her updated trial documents but the father had not.

The Court made various procedural orders, including extending the time for the father to file his updating trial documents and placing the matter in the next available Callover. The matter was subsequently included in the July 2023 Callover.

The father did not comply with the orders to file his updating trial affidavits and in June 2023, the mother filed a Form 2 application seeking that she have leave to proceed on an undefended basis at trial. The mother's Form 2 application was listed for directions in September 2023.

In July 2023 the Court made orders removing the matter from the July 2023 Callover and instead including it in the October 2023 Callover.

September 2023

Shortly prior to the hearing date to determine the mother's Form 2 application, the father filed his updated trial affidavits. At the hearing, the Court made orders (which were not opposed by the mother or the ICL) extending the time for the father to file his updated documents (to the date they were filed), and the mother's Form 2 application was dismissed.

October 2023

At the Callover, the trial is listed to commence in June 2024 with an estimated hearing time of 7 days.

June 2024

In June 2024, the trial took place. At the time of trial, the Child was 9 ½ years of age. The Child had lived with the mother since the parties' separation and had no contact with the father for the past seven years. At the start of the trial, the father conceded that the mother would have sole parental responsibility for the Child and the Child would live with the mother. By the end of the trial, the father also conceded that the Court should make personal protection orders to protect the Child and the mother from the father. On the last day of the trial, trial Judge reserved her decision. The key issue to be determined by the trial judge then revolved around whether the father should be permitted to have any time or communications with the Child.

September 2024

The trial Judge published Reasons for Decision from chambers and the matter was listed for orders to be made pursuant to judgment on the following day. In summary, the Court

made final orders that the mother have sole parental responsibility for the Child, the Child live with the mother, and a no contact order be made in relation to the father. In addition, personal protection orders were made to protect the Child and the mother from the father; and the mother was permitted to travel within Australia and outside of the Commonwealth with the Child (without the necessity for the father's consent).

In summary, the trial Judge found that the father had perpetrated significant family violence against the mother and the Child's older half-sibling to which the Child was exposed. The Judge was satisfied that the mother continued to suffer trauma and anxiety due to the father's conduct and she remained genuinely fearful of him. The Judge had significant concerns that the father was not full and frank about his illicit poly-drug use after separation (including because of the father's concessions that he had not been honest in his evidence about his drug use after separation and because of his failure to fully comply with the drug testing orders made by the Court). The Judge found that the father minimised his poly-drug use and his use of violence towards the mother and the Child's older half-sibling; and that he lacked insight into the impact of his conduct on them (and on the Child). The Judge considered that the Child did not have a meaningful relationship with the father and was at ongoing risk of harm from him. Further, any contact between the father and the Child would compromise the mother's capacity to parent the child. The risks to the Child from the father could only be ameliorated by making orders that the father have no time or communications with the Child.

CASE STUDY 2:

Note: Both parties were legally represented for the trial in August 2024. An Independent Children's Lawyer was appointed to represent the child's best interests during both the first and second rounds of the proceedings.

Mid-2014 - July 2017

The parties commenced an on/off relationship in mid-2014. They never married. The parties had one child together. The parties separated on a final basis in late 2016 or early 2017. At the time of their final separation,

the child was approximately 14 months old.

The mother had a long history of significant mental health issues, including being hospitalised several times with episodes of delusional disorder and/or psychosis and/or severe emotional dysregulation (including aggressive behaviour), both in the years before, and after, the child's birth. Although the mother received a number of provisional mental health diagnoses during her hospitalisations, she never underwent a formal psychiatric assessment or received an effective treatment plan. Both parties had a history of illicit drug use, with the mother in particular using illicit drugs throughout most of her adulthood, including in the years before, and after, the child's birth.

September 2017 - June 2020

In September 2017, the father commenced the first round of the parenting proceedings, in circumstances where the mother was using illicit drugs daily, the mother's mental health had deteriorated to such an extent that she was hospitalised for some weeks, and the mother had placed the child in the maternal grandmother's care. The Court appointed an ICL and later a SEW in the matter, who provided two reports to the Court. Initially, consent interim orders were made for the child to live with the maternal grandmother and spend time with the father. Subsequently, further interim consent orders were made for the child to transition back into the care of the mother, whilst still spending time with the father. In August 2019, the Court made interim consent orders for the child to live with the mother and spend regular time with the father.

The proceedings were then adjourned to enable the parties to participate in alternate dispute resolution with Legal Aid Western Australia. In June 2020, the Court made final consent orders in the same terms as the August 2019 interim orders.

A Legal Aid Dispute Resolution Conference is a dispute resolution service that involves the parties meeting with a qualified Family Dispute Resolution Practitioner or experienced family law mediator provided by legal aid to assist with finding solutions to family law issues that are disagreed.

July 2021 - August 2021

In July 2021 the mother unilaterally ceased the child's time with the father and also unilaterally enrolled the child in another school.

In July 2021, the father filed a Form 2 enforcement application, seeking to enforce the 2020 final orders. The mother then filed responding documents, seeking that the father's time pursuant to the 2020 final orders be suspended, on the basis that the mother made numerous allegations that the child was at risk of harm from the father, including of physical abuse, sexual abuse and sexual grooming. At the first hearing date of the enforcement proceedings, the Court made orders for the re-appointment of the ICL and for the parties to file further court documents.

In August 2021, the mother then commenced the second round of the parenting proceedings, including seeking that the child spend time with the father, strictly supervised by a professional supervision agency. The mother again made numerous allegations that the child was at risk of harm from the father.

September 2021 - October 2021

In September 2021, the father filed his responding documents. The father sought final orders that the parties have equal shared parental responsibility, and that the child spend time with the parties on a week about basis. The father denied the mother's allegations of abuse / grooming.

In October 2021 the Department of Communities provided the Court with written information in accordance with the Memorandum of Understanding between the Department and the Court.

The Department set out a history of the mother's complaints to the Department and medical providers that the child was being physically and sexually abused by the father and/or his family members. The Department's investigations revealed that there was no credible evidence of harm and that the situation was complicated by the mother's mental health issues intensifying her delusional beliefs.

November 2021

In November 2021, the parties attended a Case Assessment Conference.

As the parties were unable to reach any agreement on an interim basis, the issue of the father's ongoing time with the child was listed to an interim hearing.

At the interim hearing in mid-November 2021, the Court made consent orders for the re-appointment of the SEW to prepare an updated report. The following day, the Court delivered oral reasons for decision in relation to the interim issues and made interim orders for the father's time with the child to be reinstated and increased to five nights in each fortnight during the school terms, and additional time during school holidays.

December 2022

The SEW filed her updated report. In the updated report, the SEW noted that there had been a significant delay in the publication of the report for various reasons, including: (1) delays in the SEW's availability to conduct interviews / assessments with the parties due to the SEW's existing workload; (2) delays due to the father's new partner giving birth to their first child; and (3) delays waiting for the production of relevant subpoenaed material from various third-party agencies. The SEW considered that the child was at risk from the mother due to her mental health issues, coupled with symptoms of paranoia exacerbated by her use of illicit drugs. The SEW recommended that the mother engage with a psychiatrist for a proper review and diagnosis.

January 2023

The Court made orders that the proceedings be included on the Defended list and for the filing of trial documents prior to an expedited readiness hearing in June 2023.

March 2023

In March 2023, the Court made various procedural orders, including adjourning the readiness hearing until August 2023, extending the time for the parties to file their trial documents and otherwise expediting the matter to a defended trial.

August 2023

By the time of the readiness hearing in August 2023, no party had complied with the orders to file their trial documents.

At the parties' request, the Court made orders by consent adjourning the readiness hearing and again extending the time for the parties to file their trial documents.

November 2023 - March 2024

By the time of the adjourned readiness hearing in November 2023 the parties had filed their trial documents. The Court made procedural orders, including for the matter to be included in the next available Callover.

In March 2024 Callover, the proceedings were listed for trial in August 2024 with an estimated hearing time of 4 days.

August 2024

The trial took place over 4 days. At the time of the trial, the child was nearly 9 years old.

September 2024

The trial Judge published Reasons for Decision from chambers and listed the matter to make orders pursuant to the judgment. In summary, the main final orders made by the Court were that the father have sole parental responsibility for the child, the child live with the father and spend time with the mother on alternating weekends during school term and for each half of the school holidays.

In the Reasons for Decision, the Judge found that the child was not at risk of harm in the father's care. However, the child had been emotionally harmed, and was at ongoing risk of harm, while in the mother's care, due to the mother's untreated mental health issues which were detrimentally impacting on her parenting of the child. In particular the mother's untreated mental health issues, aggravated by her long-term illicit drug use, were major contributing factors in the mother's reactivity, aggressiveness and paranoid traits. If the child remained in the mother's care, then the child's mental health and wellbeing was likely to continue to deteriorate. The Judge was also satisfied that the father had a positive, child focussed attitude to the child and to his parenting responsibilities. On the other hand, the mother's ability to do so was significantly undermined by her hostility towards the father and his family members, her fixed beliefs about various issues, and her minimising and/or denying the negative aspects of her own behaviour.

APPEALS

There are different appeal processes depending on:

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

The Federal Circuit and Family Court of Australia (Division 1) (FCFCoA) 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.fccoa.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 2024, there were 6 appeal applications filed in the Court seeking leave to appeal interlocutory orders of a family law magistrate. There were no applications filed seeking leave to extend the time in which to file an appeal application.

Of the 6 appeal applications filed in 2024, 4 applications were finalised in the year. One application was discontinued and in one matter, the appeal was dismissed by consent. Both of the other two finalised applications were dismissed. The application (and application in an appeal) remaining from 2023 were ultimately dismissed.

The final 2 applications filed in 2024 are listed for determination in February and March 2025.



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 (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 to assist the court in assessing and managing risk issues or concerns to members of families.

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 Review Conferences (CRC), and Child Inclusive Conferences (CIC). The aim is to identify potential risk to children and parents, and help parents negotiate safe and sustainable child-focused arrangements addressing issues that are affecting their parenting.

To ensure consistent and timely service delivery, including in regional and more isolated areas of the state, the FCCCS is able to provide service by video (MS Teams) and/or telephone.

Family Consultant Events

FCCCS carried out 1733 events in the 12 months to 31 December 2024. For the previous 12 months, FCCCS carried out 1455 events. This increase is due primarily to successfully filling Family Consultant positions which has enabled the service to provide a more timely response. For matters referred to FCCCS for CAC's, the median weeks for a conference appointment reduced from 13 weeks to 7 weeks. It was anticipated this timeframe would be reduced in 2024 due to staffing increases.

Risks Identified at Family Consultant Events

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.

In September 2021, the changeover to ICMS as the Court's client record management system resulted in unclear risk reporting data requiring review and correction. The data for 2023 appeared to be an underreporting of risk issues being assessed by Family Consultants.

Improved reporting of data has identified the following levels of risk being assessed by Family Consultants during 2024 for each conference undertaken, a level that reflects the complexity of parenting cases referred to the service:

Family and domestic violence	75%
Alcohol and/or substance abuse	59%
Child abuse	63%
Mental health	62%

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.

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

The Court has a self-service kiosk area where there are Customer Service Officers 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.

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 assistance at the Court to ensure that all Western Australians have an opportunity for access to justice regardless of poverty or disadvantage. On site services include information, legal advice and representation, assistance with the preparation of urgent court documents and referrals (including to family dispute resolution, other legal practitioners and legal services, and non-legal support).

The Family Advocacy and Support Service (FASS) provided specialist legal and social support services for families impacted by family violence in both Perth and our circuit regions, with that service expanded to also support people with mental health issues trying to navigate the Family Court system. Two additional dedicated mental health support workers were funded in Perth as part of FASS to receive referrals from our judicial officers, court staff, Legal Aid WA and other stakeholders. They assisted clients with mental health concerns, counselling, family violence, victim support and other related matters.

Between 1 January and 30 November 2024*, a total of 5,617 occasions of service were provided by FASS and the Family Court Services team:

- Duty Lawyer - 1,447
- Social Support - 476
- Information and / or referrals to other services (including non-legal) - 3,694

Service numbers reduced slightly from previous years due to the complexity of client matters requiring assistance, with duty lawyer legal support needing to be provided in matters which previously would have been the subject of private practitioner grants of legal aid.

Justices of the Peace

Justices of the Peace are volunteers who attend the Court to witness affidavits and other Court documents. The Court is also most grateful for the excellent service provided by the small team of dedicated JP's who attend at the Family Court.

* in early December 2024, Legal Aid Western Australia transitioned to a new client management and reporting system, data was therefore unavailable for inclusion in the Annual Review.

FUTURE INITIATIVES

Information Sharing

The Court has continued consultation with the Western Australian Department of Justice, various State government agencies and family law sector organisations, together with the Commonwealth Attorney General's Department, in relation to enhancing information sharing protocols and arrangements. 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

The Court continues to work in partnership with the Courts Technology Group to identify further improvements to the State e-courts portal and ICMS case management system.

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.

Accommodation

The additional courtroom which was constructed on Level 4 of the building became operational from July 2024.

The Court commenced a project to construct additional offices on Level 1 of the building to provide accommodation for Registrars.

Plans are underway to consider options to refurbish existing space in the Family Court of Western Australia's registry into offices suitable for the Legal Aid Duty Lawyer and FASS services. It is expected that the project will be completed in the first half of 2025.

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 2024

Board of Management
Case Management / Rules Committee
Continuing Professional Education Committee
Indigenous & Torres Strait Islander Network Engagement Committee
Occupational Health and Safety 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

FCWA / DOC / LAWYER PROTOCOLS MEETING

Representatives from:

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

LEGAL AID WA FAMILY COURT SERVICES USER GROUP

Representatives from:

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

FCWA REFERENCE GROUP

Representatives from:

- FCWA and FCCCS
- Aboriginal Legal Service
- Aboriginal Family Law Service
- Anglicare
- ARCS Adoption Research and Counselling Service
- Centrecare/WAFLPN
- 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
- WA Family Law Pathways Network



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