

# Management of the Court

## Governance arrangements

Under the *Federal Magistrates Act 1999*, the Chief Federal Magistrate is responsible for ensuring the orderly and expeditious discharge of the business of the Federal Magistrates Court in conjunction with management of the administrative affairs of the Court. In the latter role, the Chief Federal Magistrate is assisted by the Chief Executive Officer.

The Chief Executive Officer has the responsibilities and powers of an agency head for the purposes of the *Public Service Act 1999* and the responsibilities of a chief executive of an agency under the *Financial Management and Accountability Act 1997*. The Chief Executive Officer's agency head powers under the *Public Service Act* apply to the Australian Public Service employees of the Court. The *Financial Management and Accountability Act* imposes obligations on the Chief Executive Officer to manage the affairs of the Court in a way which promotes the efficient, effective and ethical use of Commonwealth resources.

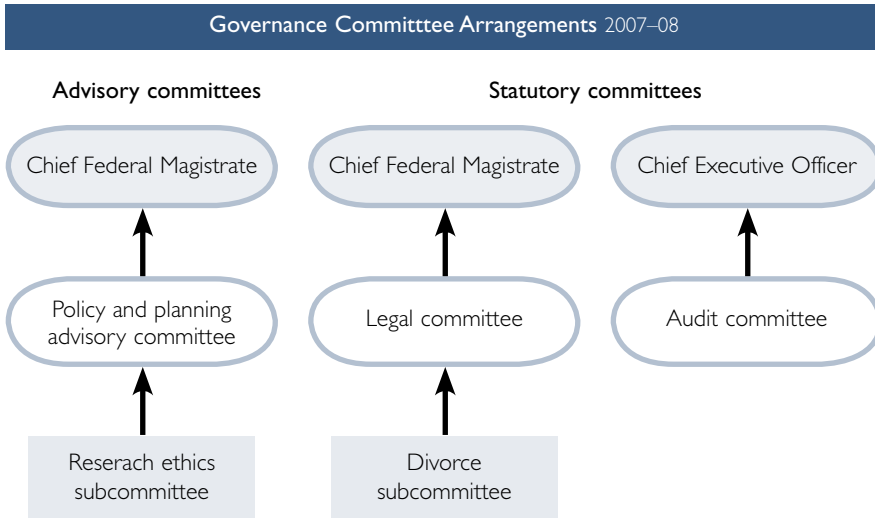
The Chief Federal Magistrate is Mr John Pascoe AO. The Chief Federal Magistrate took up his appointment on 14 July 2004. Mr John Mathieson is the Chief Executive Officer. Mr Mathieson was appointed on 26 April 2005 for a period of five years.

## Advisory and statutory committee structure

Section 93 of the *Federal Magistrates Act 1999* provides for the Court to form advisory committees on the following aspects of the Court's business:

- the exercise of powers under the *Federal Magistrates Act*
- the making of Rules of Court
- the management of the administrative affairs of the Court.

The Court's committees provide the strategic direction of the Court, and provide advice on significant management decisions and monitor financial performance and compliance standards. The following structure is in place:



The Court has established a model committee charter under which all advisory and statutory committees operate. The charter articulates the purpose and role of the committee, and its accountability measures. The charter is supported by a 'Guideline on committee business rules' which provides a useful resource to committee chairs and secretariats.

Advisory committee membership is drawn from the judiciary. Members are chosen for skills, expertise and knowledge. In line with the model charter, committee membership is reviewed on a biennial basis.

## Advisory and statutory committee achievements

### Policy and planning advisory committee

The policy and planning advisory committee provides advice to the Chief Federal Magistrate and the Chief Executive Officer in relation to the Court's overall strategies for the delivery of services. In 2007–08 this committee met on six occasions and examined the critical issue of Court performance, in addition to monitoring changes in practice and procedures following the regionalisation of court services.

The committee advanced a number of key matters within the Court. It endorsed the proposed IT strategy, and confirmed the roles of the national co-ordinator of case management and the regional co-ordinating federal magistrates. In December 2007 the committee considered the administrative roles of the Chief Federal Magistrate, the national co-ordinator of case management and the regional co-ordinating federal magistrates. The committee endorsed the recommendations

and clarified the duties associated with each role to strengthen governance arrangements. The committee's activities throughout 2007–08 have allowed the Chief Federal Magistrate further opportunities to focus on strategic relations.

During the reporting period the committee established a research ethics subcommittee in order that full and proper consideration could be given to requests received by the Court to participate in research studies.

In 2007–08 this subcommittee considered a proposal from the Australian Institute of Family Studies that the Court participate in a research project to evaluate the effectiveness of the package of reforms made to the family law legislation during 2006. The policy and planning advisory committee approved the subcommittee's recommendation that the Court participate in this research project.

The Court is now actively working with the Australian Institute of Family Studies to complete the first component of the project and looks forward to receiving invitations to participate in further components of the research project.

### Legal committee

This committee assists the Chief Federal Magistrate to carry out statutory responsibilities by providing advice in relation to:

- the Court's Rules and forms
- the issuing of practice directions and other notices in relation to court practice and procedure
- legislative developments in the jurisdiction of the Court.

In keeping with the legislative requirement that the Rules of the court be made by all federal magistrates, or a majority of them, the legal committee refers its recommendations to the Chief Federal Magistrate for the consideration of the Court as a whole. In the 2007–08 year, the committee met on 11 occasions.

A divorce subcommittee has been established to consider issues which arise in divorce proceedings.

### Audit committee

The audit committee is established in accordance with section 46 of the *Financial Management and Accountability Act 1997*.

This committee supports the Chief Executive Officer to ensure that the Court's financial accounts are in accordance with the Finance Minister's Orders and that they are a true and accurate description of the Court's financial position.

## Working with the Federal Court and the Family Court

The Federal Court of Australia and the Family Court of Australia continue to provide a range of shared services to the Court under formal memoranda of understanding. Both superior federal courts carry out a range of functions on behalf of the Court. Such arrangements include making staff available for the work of the Court, provision of shared registries and accommodation facilities, such as chambers and courtrooms. In addition to these, the Family Court provides information technology infrastructure and support services to the Court.

The Family Law Courts Board (FLCB) represents a cross-agency governance arrangement between the Family Court and the Federal Magistrates Court. The FLCB membership comprises the Chief Justice of the Family Court, the Chief Federal Magistrate and the Chief Executive Officers of both organisations. The board meets regularly to supervise, co-ordinate and monitor a series of administrative arrangements which are of common interest to the courts. The existence of the FLCB and its high-level membership provide a very clear indication of the seriousness with which both courts approach the task of exercising their common responsibility of providing the best possible family law services to the Australian community.

The FLCB established a national shared services committee in November 2007. The committee was formed to provide direction to registries for the provision of shared client services, thereby allowing the FLCB to focus on higher level strategic issues. This committee meets bimonthly discussing national operational issues in addition to providing the FLCB with advice on performance of the Family Law Courts. In addition, regional shared services committees have been formed to manage local operations and provide a forum to monitor the services provided at family law registries in each region.

In September 2007 the Family Court and the Federal Magistrates Court convened a joint steering committee on resource transfer to consider the allocation of resources between the courts. The committee met on two occasions to discuss the terms of reference and principles for resource transfer; however, discussions were inconclusive. Further meetings have been deferred pending the outcome of the Attorney-General's review into the delivery of family law services and related courts' administration.

### Collective decision making

The governance of the Court is supported by the collective involvement of federal magistrates in periodic plenary meetings. In 2007–08 federal magistrates met collectively in August 2007 and April 2008. The gathering together of the judiciary on these occasions affords an opportunity for open discussions to take place about the challenges facing the Court. They also allow for professional development activities to be held at a forum away from the pressures of the bench.

At the August 2007 meeting federal magistrates participated in an intensive, three-day judgment writing program led by Professor James Raymond, a New York-based legal writing consultant. The participants discussed judicial writing styles, principles for preparing and delivering oral judgments and strategies to use their time more effectively when preparing and writing judgments.

A cultural diversity workshop was held at the April 2008 meeting. This workshop provided the judiciary with a chance to reflect on the diversity of the Australian community they serve.

## Service charter

The Court's service charter describes the level and standard of services the administrative staff aim to provide. The charter was developed in consultation with staff of the Court, members of the legal profession and other organisations with which the Court works closely. It also provides guidance on how to lodge a complaint if service falls short of expectations. The service charter is available on the Court's website.

# Management of human resources

## Staff turnover and retention rates

The Court's separation rate includes resignations from the Australian Public Service (APS), moving to another APS agency and voluntary early cessation of a non-ongoing contact. The overall separation rate for the Court over the 2007–08 period was 29.1 per cent.

## Collective agreement

The Federal Magistrates Court of Australia Collective Agreement 2006–2009 was lodged with the Office of the Employment Advocate on 12 December 2006. The collective agreement provides for non-salary benefits such as access to health and wellbeing programs, flexible and family-friendly work practices such as flex-time, time off in lieu and emergency child care costs. The agreement also reinforces the Court's commitment to staff through initiatives such as study assistance and strategies to develop a skilled workforce. The consultative process for the next collective agreement has recently commenced.

## Workplace diversity

The Court values the significant contributions that people of diverse backgrounds and experiences make to the organisation. The court has a range of policies and initiatives to support this commitment including fair and transparent recruitment and selection processes, and inclusive work practices.

## Disability strategy

The Court continues to be committed to meeting the requirements of the *Disability Discrimination Act 1992*, including recruitment, performance monitoring, training and development. The Court has a range of policies and initiatives to support this policy. These include guidelines on eliminating workplace harassment, providing recruitment information in a range of forms to ensure that all persons have equal access to this information. The recruitment and selection process is transparent and fair; ensuring equitable and non-discriminatory consideration is given to all applicants.

## Occupational health and safety

The Court has continued its commitment to staff in occupational health and safety matters through the staff consultative committee. Staff from all court locations are able to raise occupational health and safety concerns through the committee. Initiatives undertaken during the year to support employee health and wellbeing have included the ongoing promotion of the Judicial and Employee Counselling Program and subsidy of healthy lifestyle programs in the collective agreement.

There were no accidents or dangerous occurrences during the year and no investigations were conducted. The Court was not required to give any notices under section 68 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*. No directions under section 45 or notices under sections 29, 46 or 47 of that Act were given to the Court during 2007-08.

## Training and staff development

Associates conferences are held regularly to provide ongoing development to associates and deputy associates. The sessions include a session with the Australian Public Service Commission on APS values and code of conduct and further sessions devoted to national and regional issues.

Study assistance is another means by which the organisation is able to assist employees ongoing career development. All ongoing and some non-ongoing staff are eligible to apply to undertake or continue an approved course of study.

Staff have also undertaken a wide variety of training and staff development in areas relevant to their roles such as mental health, first aid, APS code of conduct training and case management.

## The APS code of conduct

The Court requires staff to observe the APS code of conduct and appropriate action is taken if it is determined a possible breach has occurred. Court staff are aware that breaches of the code of conduct will be taken seriously and may result in disciplinary action.

All staff commencing with the court are required to complete training about the APS code of conduct and values. Employees are then required to participate in annual code of conduct training conducted by the Australian Public Service Commission. Code of conduct training was undertaken by all associates and deputy associates of the Court in April 2008 while the federal magistrates held their plenary meeting.

## Senior appointments

At 30 June 2008 the Court's principal executive group comprised:

### John Mathieson, Chief Executive Officer

Mr Mathieson was appointed as Chief Executive Officer of the Federal Magistrates Court on 26 April 2005. The Chief Executive Officer has the responsibilities and powers of an agency head for the purposes of the *Public Service Act 1999* and the responsibilities of a chief executive of an agency under the *Financial Management and Accountability Act 1997*.

### Glenn Smith, Deputy Chief Executive Officer

The Deputy Chief Executive Officer is responsible for delivering court services and non-corporate services functions. This includes the network of regional offices that provide administrative and operational support, dispute resolution services, strategic support, communications and management of human resources.

### Anne Hicking, Executive Director Corporate Services

The Executive Director Corporate Services has overall strategic responsibility for financial, information and facility management functions as well as Chief Finance Officer responsibilities.

### Adele Byrne PSM, Principal Registrar

The Court's Principal Registrar supports the judicial functioning of the Court through the provision of high-level legal and procedural advice within the Court.

## Remuneration

The Remuneration Tribunal determines remuneration for the Chief Executive Officer. There is one employee at the Senior Executive Service level.

The performance management program for staff of the Court provides for performance linked advancement within a salary range at various levels. The higher pay point then becomes the employee's nominal salary. If employees are at the top point of the salary range for their level there is no further advancement in salary, but those employees are eligible for a three per cent performance-based bonus. Performance bonuses for 2007–08 were paid following the end of the reporting period. The aggregate amount of performance pay was \$43 155.23 in relation to 26 employees. Details by classification are included in Appendix D.

## Financial performance

The Federal Magistrates Court is a prescribed agency under the *Financial Management and Accountability Act 1997*.

### Operating revenues and expenses

The major source of revenue for the operations of the Federal Magistrates Court is an appropriation from government. The appropriation amount for 2007–08 was \$54.27 million (2006–07 \$39.08 million). Other revenue, mainly related to a funding transfer from the Family Court for the appointment of federal magistrates and family consultants and a funding transfer from the Federal Court for the appointment of a federal magistrate, amounted to \$2.20 million (2006–07 \$0.31 million).

During 2007–08, operating expenses were \$58.30 million (2006–07 \$37.4 million). This resulted in an operating deficit of \$1.85 million (2006–07 \$1.98 million surplus). The deficit in 2007–08 mainly resulted from an overall increase in the workload of the Court.

The major expenses in 2007–08 were \$30.49 million in respect of employee expenses, \$26.43 million relating to supplier payments, and \$1.38 million in asset depreciation and amortisation.

### Resources received free of charge

The Federal Magistrates Court relies on infrastructure and support provided by the Family Court and the Federal Court of Australia. The Family Court has supplied figures of resources provided to the Federal Magistrates Court, which total \$19.50 million, (\$16.46 million in 2006–07). The ANAO also provided resources free of charge of \$38 000, for the audit of 2007–08 financial statements. All are reflected in the Court's financial statements as notional revenues and expenses.

As a consequence of a transfer of funding from the Federal Court to the Federal Magistrates Court in 2007–08, no resources free of charge were provided by the Federal Court in 2007–08; however, the Federal Magistrates Court reimbursed the Federal Court for the estimated value of services provided to the Court for infrastructure and support which totalled \$8.018 million (2006–07 \$7.96 million).

### Administered revenue and expenses

The Court received revenue on behalf of the Commonwealth (administered revenue is not available to offset Federal Magistrates Court operating costs), mainly for court fees. The amount received in 2007–08 was \$17.4 million (\$15.7 million in 2006–07). The main variations when compared to 2006–07 relate to an increase in applications filed and fee increases, based on movement in the Consumer Price Index, as set by regulation.

The court administers an appropriation on behalf of the Government to source primary dispute resolution services from community-based organizations. In 2007–08, the appropriation was \$0.8 million (\$0.7 million in 2006–07) and expenses were \$0.5 million (\$0.4 million in 2006–07).

## Financial position

The major change in the Court's financial position as at 30 June 2008 related to additional appropriation in the 2007–08 Budget of \$4.341 million and a capital injection of \$306 000 for additional federal magistrates for family law.

## The Court's fees

Fees for filing and other services in the Federal Magistrates Court have historically been set by Regulation at a lower rate than the equivalent fees in the Federal Court and the Family Court. Fees are normally increased biennially by government regulation, based on movements in the Consumer Price Index, with the next biennial increase on 1 July 2010.

Under the regulations, an exemption from payment of fees may be granted to people who are eligible for legal aid or qualify for certain government social security benefits. Fees may be waived if they would cause financial hardship. The value of exemptions and waivers in 2007–08 was \$8 625 883.00 or 33.1 per cent of the total value of fees collected by the Court.

Details of fees and eligibility criteria for exemption or waiver are available on the Court's website.

## Information technology and records management

During 2007–08 the Court continued to improve its delivery of, and access to, services to litigants by providing more and improved services online.

The redesigned online divorce application [www.divorce.gov.au](http://www.divorce.gov.au) was launched on 3 March 2008 by the Chief Federal Magistrate and has proven a very successful site with an average of over 14 000 hits per month since March.

The Commonwealth Courts Portal <https://www.comcourts.gov.au> was officially launched in Melbourne by the Attorney-General, Robert McClelland, and the three jurisdictional heads on Tuesday 17 June 2008.

The Court is currently working on a project with the Family Court to develop and implement an enhancement to the portal which will allow e-filing of supplementary documents by family law practitioners who are registered with the portal.

The Court is also working on a project with the Federal Court to develop and implement an e-lodgement solution through the portal for all general federal law applications and supplementary documents.

## Key projects

### Divorce.gov.au

The Court's online divorce application at [www.divorce.gov.au](http://www.divorce.gov.au) underwent a significant redesign to improve its usability. The online version has the same questions as the hard-copy divorce application but the online divorce application is faster and easier to complete, and provides online instructions to help the user complete the form accurately. At this stage, the form cannot be filed electronically. However, the user can save the completed divorce application to their home or office computer and then print it out later for filing at a registry when completed.

### Commonwealth Courts Portal

The Commonwealth Courts Portal is a single entry point to access secure web-based information about cases that are before the Federal Court, the Family Court and the Federal Magistrates Court and is aimed at enhancing access to justice and reducing costs for litigants. At the launch, the Chief Federal Magistrate said: 'The portal will be of particular benefit to lawyers with cases in a high-volume jurisdiction like the Federal Magistrates Court because it will streamline processes and save time.'

### E-filing of family law documents

The Federal Magistrates Court is working in partnership with the Family Court on a project to allow filing of supplementary documents. Supplementary documents are those which are lodged against any existing cause of action and that do not attract a fee. Timeline for completion of the first stage of this project is the second half of 2008.

### E-lodgment of general federal law applications

The Federal Magistrates Court is also working in partnership with the Federal Court on a project to allow electronic lodgment and filing of an initiating application and all other documents via the portal. This is a complex project and will require significant testing before it can be implemented as planned in early 2009.

### Improvement of circuit technology

The Federal Magistrates Court continues to develop and improve the provision of technology services to judicial officers and staff who accompany them on circuit. During the period the court implemented ADSL and NextG wireless connectivity to a majority of regional locations to provide faster and more efficient remote access to the Court's core systems.

## Information, records and document management

During the 2007–08, the Court's information and knowledge management section continued to promote the efficient management of its corporate resources and the fulfilment of the records and electronic management obligations.

Library services, policies and procedures were formalised to ensure that legal resource material was supplied in a cost effective and efficient manner to support the day-to-day research requirements of the federal magistrates and their chambers staff.

The records and electronic document management program continues to help manage the Court's records and to comply with its regulatory and legal obligations.

During 2007–08 the Court finalised all necessary documentation for Step B of the Designing and Implementing Record Keeping Systems (DIRKS) methodology. This documentation was submitted to the National Archives of Australia for its consideration. The step C documentation of the DIRKS methodology was also finished and it will be submitted to the National Archives of Australia in the near future.

## Categories of documents

Under arrangements made with the respective courts, certain Federal Court and Family Court registries maintain the following categories of documents for and on behalf of the Federal Magistrates Court:

- documents relating to matters heard by the Court, including applications, affidavits, transcripts, orders and copies of judgments
- registers and indexes of matters coming to the Court
- general correspondence.

The Federal Magistrates Court maintains the following categories of documents:

- general correspondence
- documents concerning the development and implementation of policy
- documents concerning administration and financial aspects of the operation of the service.

## Risk management, fraud control and internal audit

The Court's audit committee oversees the internal audit program, fraud control plan and risk management plan. The Court has reviewed its risk management plan, areas of risk and their rating. In 2007–08 the Court engaged Deloitte Touche Tohmatsu to provide internal audit services. Internal reviews conducted during the year included a review of the Court's assets and asset management procedures.

In accordance with the Commonwealth Fraud Control guidelines the Federal Magistrates Court has a fraud control plan in place to prevent and detect fraud. There were no cases of fraud reported in the Court in 2007–08.

## Property and environmental management

The Federal Magistrates Court occupies accommodation that was previously occupied by the Federal Court and Family Court in the Commonwealth Law Courts. The Family Court and the Federal Court continue to be directly funded for the property costs associated with the accommodation on behalf of the Federal Magistrates Court as reflected in the several memoranda of understanding referred to previously.

The Court leases administrative premises at 167 Macquarie Street Sydney, courts and chambers at John Maddison Tower in Sydney and chambers at 47 Bolton Street Newcastle.

During 2007–08 a Federal Magistrates Court subregistry was established at the John Maddison Tower to enable the filing of general federal law file applications at that location. This followed the relocation of all general federal law federal magistrates from the Queens Square Law Courts precinct to the John Maddison Tower.

The Federal Magistrates Court continues to work with authorities in developing ecological sustainable development of its occupancies and maintaining energy efficiency in its daily operation according to the Energy Efficiency in Government Operations policy.