

# **The Combined Registry Initiative**

*Presented by*

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## **Background to the Combined Registry**

On 12 June 1975, the Family Law Bill 1975 received royal assent and on 28 August the Act was proclaimed to come into operation on 5 January 1976, on which date the first five Judges of the Family Court of Australia (FCoA) were sworn in<sup>1</sup>. Today, the FCoA is a national organisation with a presence in 20 locations across Australia, with the exception of Western Australia, which is serviced by the Family Court of Western Australia<sup>2</sup>.

The FCoA, through its specialist judges and staff, helps Australians resolve their most complex family disputes. As Australia's superior court in family law, the purpose of the FCoA is to:

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<sup>1</sup> Fogarty, J.F. 2001, *Towards the Establishment of the Family Court of Australia and its Early Years – a Postcard from the Past*.

<sup>2</sup> The legislation provided the option for States to establish State family courts to be funded by the Federal Government. In August 1975 Western Australia took up that invitation.

- Determine cases with complex law, facts and parties;
- Cover specialised areas (such as applications pursuant to the Hague Convention on International Child Abduction, special medical procedures, and international relocation); and
- Provide national coverage as the appellate court in family law matters.

The FCoA has been self-governing since 1990. The Chief Justice is responsible under the Family Law Act for managing the administrative affairs of the Court, and is assisted by the Chief Executive Officer (CEO). The CEO has very broad powers under the Family Law Act, and is an Agency Head within the meaning of the Financial Management and Accountability Act, but is subject to directions from the Chief Justice.

The Federal Magistrates Court of Australia (FMC) was established by the Commonwealth Parliament at the end of 1999, and conducted its first sittings on 3 July 2000. The court was established by the Federal Magistrates Act 1999 (FM Act), and its jurisdiction is found in the Federal Magistrates (Consequential Amendments) Act 1999.

The FMC is an independent federal court under the Australian Constitution. Its judicial officers, although appointed as judges under Chapter III of the Constitution are designated as ‘Federal Magistrates’. The FMC has since its creation been self-administering. However, in recognition of its increasing size and complexities of its administration, its statutory governance structure was modified in November 2005 to mirror that of the superior federal courts. The Chief Federal Magistrate and Chief Executive Officer have since had similar responsibilities and powers to those of the FCoA’s Chief Justice and Chief Executive Officer outlined above.

The establishment of the FMC marked a change in direction in the administration of justice at the federal level in Australia. Prior to the establishment of the FMC, Australia had never had a lower level federal court, although a considerable amount of federal law work had been done in State and Territory courts of summary jurisdiction under the provisions of the Judiciary Act 1903.

The purpose of the FMC is to provide a simple and accessible alternative to litigation in the superior courts, and to relieve the workload of the FCoA and the Federal Court of Australia.

The FMC has federal magistrates located in capital cities and a number of regional centers in all States and Territories who exercise jurisdiction in a wide range of areas, including family law. The FMC's jurisdiction spans administrative law, admiralty, bankruptcy, consumer protection and trade practices, copyright, privacy, migration, unlawful discrimination and workplace relations.

The FCoA and FMC are independent courts established within the Commonwealth of Australia. The courts operate under a memorandum of understanding for the provision of a range of services, which supplements the formal arrangements made by heads of jurisdiction to the Chief Executive Officers under various legislative provisions. The principles that guide the implementation of these arrangements include that:

- the two courts have been established to satisfy the demand in the community for a diversity of services for the resolution of family disputes;
- the paramount consideration in the implementation of these arrangements is the delivery of high quality services, to litigants and the community;
- some of the resources provided to FCoA by appropriation are provided to support Commonwealth obligations in relation to family law; and
- To the maximum extent practical, the staff of FCoA will provide support services to FMC in respect of family law.

The family law system in Australia is changing in line with significant Government reforms. Concurrently, the Government continues to grow the FMC in part, so as to deal with the significant volume of less complex family law disputes that reach the courts, enabling the FCoA's judges to focus on the most complex and protracted disputes requiring the Courts' intervention as well as its appellate workload. The number of FCoA judges has reduced from 48 to 40 since the introduction of federal magistrates in family

law. In contrast, the FMC now consists of 45 federal magistrates and continues to grow, for very good reason.

## **Rationale for the Combined Registry**

The Government, the Courts, the legal profession, community based organisations and the general public have all contributed significantly to developing a new approach to the way family law services are delivered. The Combined Registry is a joint initiative of the FCoA and FMC that commenced during 2004 in response to a number of reports and enquiries, including:

- the report of the Family Law Pathways Advisory Group, *Out of the Maze: Pathways to the Future for Families Experiencing Separation*, July 2001;
- the House of Representatives Standing Committee Report on Family and Community Affairs, *Every Picture Tells a Story*, December 2003;
- the Prime Minister's Statement responding to the Committee's Report, July 2004;
- the Australian Government discussion paper, *A New Approach to the Family Law System*, November 2004;
- the Australian National Audit Office's Report No. 46, *Client Service in the Family Court and Federal Magistrates Court*, May 2004;
- the Family Court of Australia's *Client Satisfaction Survey & Client Satisfaction Report*, September 2004;
- the Joint Committee on Public Accounts and Audit *Report 404 Review of Auditor-General's Reports 2003-2004 Third & Fourth Quarters; and First & Second Quarters of 2004-2005*, November 2005; and
- The Family Court of Australia's *Feedback from Focus and Discussion Group Consultation with Family Court Clients and Legal Practitioners*, August 2005.

Additionally, the development of the Combined Registry initiative specifically involved considerable consultation internally within both Courts and externally with the legal profession, the community sector and others with an interest in the family law system.

In this way, the rationale for the development of the Combined Registry initiative emerged and, consequently, the objectives of the Combined Registry initiative were very clear:

- to reduce confusion for clients by:
  - simplifying the path in the family courts system;
  - establishing a single point of filing for the Family Law Courts with a common application form;
  - effective streaming of applications to appropriate court and court events;  
and
  - producing shared family law information;
- to reduce the number of times clients need to attend court;
- to ensure earlier access to a judicial officer where appropriate; and
- To provide services which make the process more timely.

## **Key Elements of the Combined Registry**

The Combined Registry initiative has not been a single activity or enterprise but, rather, it's planning and implementation has been managed as 16 discrete projects. These projects can be considered in two groups:

- those that have a direct impact on parties and legal practitioners; and
- Those that have a direct impact on internal processes.

## **Elements that Directly Impact on Parties and Legal Practitioners**

### **National Enquiry Centre**

The National Enquiry Centre (NEC) was designed to provide uniform and effective telephony services for clients of both Courts. The NEC commenced operations on 3 April 2006 based in the Courts' Parramatta Registry. The NEC provides the first telephonic point of access nationally for clients of both Courts, answering general enquiries, providing advice regarding the Courts' processes and, when required, transferring calls to specific registry staff. It also responds to email enquiries or redirects these to relevant registry staff if necessary.

The NEC is accessed via a 1300 toll free number, 1300 352 000, thus providing greater access for regional and rural callers. Currently, the NEC manages more than 22,000 calls and 400 emails per month, with callers waiting on average 43 seconds before being attended to, and 73% of calls being managed to conclusion by NEC officers.

The NEC frees up staff in registries allowing for a greater focus on litigants and legal practitioners attending in person, as well as increasing staff capacity to manage and process applications received through the post. Registries have experienced more than a 50 percent reduction in the volume of telephone calls received since the establishment of the NEC.

### **Shared Family Law Internet**

A new shared family law content Website ([www.familylawcourt.gov.au](http://www.familylawcourt.gov.au)) went live on 1 July 2006. It provides a single point of entry to shared topic-based information, forms, brochures, and links to both Courts' individual Websites. The site also provides links to a number of other sites including Australian Law Online, Child Support Agency, and Family Relationships Online. The next stage of this project is to develop client-based

'entry points' to content - for example, an entry point tailored to the specific information needs of legal practitioners.

### **Common Application Form**

The Courts are nearing completion on work to produce a common application form. This has been a complex project. Some of the complicating factors include that:

- Both Courts have different requirements for case management;
- Both Courts have different philosophies on whether the initiating application can contain applications for both final and interim orders or alternatively, that separate applications for each must be filed;
- the FCoA captures information on its application form that is not required by the FMC; and
- The impact any change to the application may have on the Rules of each Court.

The Courts recognise that it is crucial that any change to application forms be done correctly and only once, given the impact that form changes have on legal practices and software requirements.

### **Rules Harmonisation**

The courts will have harmonised rules to deal with how applications are filed using one form and accommodate the move to streaming and other necessary matters.

The Courts will remain separate entities with their own case management approaches and procedures. Each court will continue to have its own set of Rules.

## **Transfers**

The Courts aim to improve processes for matters transferred from State courts and between the FCoA and FMC. In the past, matters have been transferred between the courts with parties and legal practitioners having to wait for written advice regarding the date of the next court event and the nature of that court event. In the future, litigants will have this information prior to leaving the court. This will assist parties and legal practitioners to prepare for the next court event and ensure that the event is meaningful and productive.

It is also intended that matters transferred will be listed to events in the other court that are commensurate with the stage that the proceedings are at in the transferring court.

## **Single Casetrack System**

*Casetrack* is the computerised case management system used by both the FCoA and FMC, although each has its own version that is accessed separately. It is critical to develop the system to support the goals for the Combined Registry, in particular ease of creation of a file in either jurisdiction by client service officers, ease of transferring matters between the Courts, and the requirement for a 'single file' are essential, whilst still maintaining the capability to extract separate statistical information for each Court.

On 1 January 2007 a single number regime will be introduced for each location. The numbering regime will be used for both Courts and will support the introduction of a single file. Parties should then only ever have one file number for a family law matter regardless of the number of applications they file or the court in which those applications are filed.

## **The Streaming Model**

One of the most critical aspects of the Combined Registry initiative is to improve dealing with family law matters by implementing an appropriate and effective case management pathway. The proposed streaming model was developed through extensive consultation. Full implementation of the proposed model will depend on there being an appropriate mix of judicial resources available at each location. It may take some time before it can be fully operational in all registries.

The aim of streaming is to ensure that matters are listed to the most appropriate court event at the earliest point in time. The bulk of matters will commence with the FMC. Exceptions will include:

- matters that are certified by legal practitioners as appropriate for the Family Court of Australia; and
- Hague and special medical procedures applications, as well as other complex or unusual application types as may be agreed between the courts.

The courts are working towards a 75/25 split in filings with the greater portion being with the FMC. It is unlikely that certification, Hague and special medical procedure applications will constitute 25% of filings. The balance will be made up of matters streamed to the FCoA by federal magistrates - federal magistrates will identify complex matters and transfer them to the FCoA at the earliest possible point in time.

If a shift in workload of the magnitude envisaged is to be managed efficiently, federal magistrates will require different registry support to that provided in the past. A number of strategies are being developed to assist federal magistrates in managing family law applications and the streaming of matters to the FCoA. Perhaps the most significant of these involve registrars directly supporting federal magistrates to manage high volume caseloads. Some alternative approaches for this support are presently being piloted and will be evaluated shortly. These include:

- Firstly, a callover is conducted by a Registrar of all matters with a first hearing date with the aim that the Registrar clear the duty list of matters not requiring the attention of a federal magistrate.
- Secondly, where Registrars prepare and conduct conciliation conferences on all property and financial applications filed in the FMC prior to docket allocation. This provides litigants with an early opportunity to resolve their application while freeing federal magistrates of the need to intervene until it is clear this is required.
- Thirdly, where registrars assist federal magistrates with the duty list workload. The registrars will undertake work referred by federal magistrates from the duty list.

### **Signage Project**

A consistent approach to signage has been introduced in all locations. New signage identifies registries as a 'Family Law Registry' rather than a Family Court of Australia Registry, and all signage has been upgraded to reduce confusion as far as possible.

## **Elements that Directly Impact on Internal Processes**

### **Single File Cover**

The Combined Registry initiative will integrate the FCoA and FMC paper files into one Family Law Courts file cover. The single file cover will be introduced from 1 January 2007 for new files.

### **Family Reports**

The Courts are working to develop an improved system for allocation of resources for family reports. A new style of preliminary report based around the new Child Responsive

Model has been developed and is being trialed at Sydney, Parramatta and Dubbo. The results have been encouraging. It appears likely that this approach will allow a greater number of reports to be provided in the future within existing resources and without compromising quality.

### **Intranet Project**

The Combined Registry initiative has also resulted in a re-development of the Family Court intranet and the development of an intranet for the Federal Magistrates Court. These will enable easier sharing of family law content and will improve ease of locating legal research materials, policies and procedures and other information.

### **Communications**

A Communications Project is underway to create a new, consistent visual theme for all Family Law Courts publications and web content. Publications include:

- Style Guides;
- Brochures; and
- Information Bulletins.

### **Alignment Project**

It is critical that registry client support services (in the form of staff, procedures and structures) are aligned to the new combined registry model. This work will be progressed after evaluation of the various registrar support pilots.

### **After Hours Support Project**

The After Hours Support Project extended to federal magistrates the same level of registrar support as is provided for FCoA judges when rostered to attend after hours emergency calls from family law clients. This project was completed in late 2005.

### **Letters Project**

The Letters Project is to standardise, where appropriate, the range of letters used by registries for clients of both Courts. All letters have been reviewed and finalisation of changes is nearing completion. To date, 46 letter formats have been discarded.

### **Procedural Manual Project**

The Procedural Manual is an internal document made available online to staff of both courts detailing operational procedures, and is critical to the smooth and efficient support of the judicial function of both Courts. The manual has been redesigned to include changes in process and to improve ease of use. It is anticipated this project will be completed by November 2006.

## **Planning and Implementation Issues**

The Combined Registry initiative represents significant change to the organisation and structure of support and other services provided to the judicial officers and clients of both Courts. The most significant planning and implementation issues have related to the management of that change. Particular attention has been focused on:

- Cultural differences;
- The involvement of the judiciary; and
- Stakeholder management.

Every court develops and fosters a prevailing culture. A court's culture is representative of many factors that are influenced by the judiciary, the senior executive management team, and staff at all levels. The culture is generally representative of the prevailing and locally accepted approach to core business, which feeds off many factors, such as budgetary constraints, staffing structures and, in courts, the many aspects that define the nature and treatment of caseload.

Whilst the Combined Registry initiative does not compromise the mutual independence of the FCoA and FMC, it requires an adjustment of their respective cultures to accommodate a single model of administration for family law services and the development of a new culture with the staff delivering services to both courts. Accordingly, a significant aspect of the project has been identifying the cultural differences between the two Courts. This has involved giving consideration to:

- differing strategic ambitions and direction;
- differing governance situations and expectations;
- the requirements of case management pathways;
- differing logistical requirements and expectations; and
- Staffing structures and scope of duties.

The involvement of the judiciary in both a leadership and support capacity is essential for managing significant change in courts. Contemporaneously, assimilating the leadership and support of one court's judiciary (with the ambitions and aspirations that that entails) with that of another can be difficult. For court administrators, it can be difficult to reconcile the requirement to vigorously pursue the needs and direction proffered by the jurisdictional head and, at the same time, accommodate a government's expectations, meet the needs of both courts' clients, and secure the many compromises necessary to achieve the overall objectives.

Indeed, managing the expectations of external stakeholders is critical to successful change management in such a situation. Broad and ongoing consultation is essential and has been a strong feature of this initiative – and something that has improved planning and implementation significantly.

## **Results to Date**

Overall, the Combined Registry initiative has progressed very well with significant parts complete or nearing completion. To date, the initiative has reduced confusion for clients by better telephony management, the introduction of a shared Internet site, more consistent communications materials, and a more recognisable single point of entry to the Courts.

The Courts are continuing to work at simplifying the path in the family courts system (and effectively stream applications) through the various registrar pilots and improved transfer protocols. This should, in turn, ensure earlier access to a judicial officer and reduce the number of times clients are required to attend court and ensure that each event is meaningful and purposeful.

Internal processes to better support clients' and judicial officers' needs are being established through the development of a single Casetrack and shared Intranet facility, and the introduction of a single paper file from January 2007.

One of the most significant achievements to date has been the establishment of the Family Law Courts Board, consisting of the Chief Justice, Chief Federal Magistrate, and the two chief executives. The Board has functioned very effectively in considering and working towards the resolution of implementation issues.

## **Combined Registry – The Next Phase**

The work undertaken through the Combined Registry initiative has been essential in laying the foundation for cooperative service delivery on an ongoing basis. The Courts are continuing to build upon that foundation in many aspects of business, including corporate management considerations.

In relation to information technologies, a significant factor underpinning co-operative planning and development of such services within the Combined Registry context has been the fact that the Federal Magistrates Court uses the Family Court's IT infrastructure, and has adopted with some modification, the *Casetrack* case management system.

In response to feedback, a new service has been developed, called 'File Search', which is now available to lawyers and clients from the Family Law Courts website. File Search allows practitioners to log in via the website to access details about a client's case. This service covers family law matters in the Family Court, Federal Magistrates Court and also the Family Court of WA. File Search can display the following information:

- Parties and practitioners names;
- The case coordinator's name and contact telephone number;
- The name of the family consultant attached to the file;
- All past, present and future events including hearings, conferences and appointments;
- Any documents and/or forms that have been lodged; and
- Dates that Court orders were made.

In developing File Search, substantial effort has been made to ensure the privacy and the security of information, and issues around client safety. Client addresses, phone numbers, dates of birth, and children's details are not viewable. If concerns such as family violence, child abuse or witness protection, are raised, specific information about events or entire Court files will be suppressed.

*Casetrack* is also used by the Federal Court. This is enabling the three Courts to work in partnership on an ambitious and exciting new era of Web-based services for the profession. The shared vision is for a Commonwealth Courts' Portal - a gateway to e-Services of the three Courts. Ultimately the Portal would permit practitioners to transact business with the Courts using one sign on to view, search, lodge applications and documents, and to access judgements and transcripts of these Courts.

The results of a feasibility study on the Portal indicated strong support from the profession and a willingness and readiness to embrace opportunities to use online services. The first practical step is now under way - a project team has been established to investigate, test and develop a working model for technical architecture, identity management, and a practical service of benefit to the profession. This project will be advanced between now and June 2007.

Another area of co-operative approach by the Courts is investigation of the feasibility of providing wireless broadband internet access for clients and lawyers within or around the courtroom. The Brisbane Commonwealth Law Courts Building is likely to be the pilot site and consultation will commence in the near future.

The Courts have now also commenced discussions around the extension of Family Law Registry services to accommodate the FMC's general federal law filing requirements. Such proposals could not have been realistically considered prior to the establishment of the Combined Registry.

## **Conclusion**

The Combined Registry initiative was developed to position the Courts to deliver effective and efficient outcomes (via a simpler and seamless process) to family law clients in this new environment. The design and development of the initiative was informed by numerous Government and community reviews, discussion papers and

stakeholder forums, to ensure that the Courts address clients' expectations in line with the Government's intent for the broader family law system.

So, whilst the successes to date are pleasing and encouraging, it is important to recognise those achievements as the foundation for a more strategic and cooperative engagement between the Courts into the future, which will continue to benefit the clients in family law in Australia.