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Ms Sharon Grierson MP  
Chair  
Joint Committee of Public Accounts and Audit (JCPAA)  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Ms Grierson

Please find attached the Family Court of Australia's submission to the Joint Committee of Public Account and Audit in relation to the efficiency dividend on small agencies.

The Court would like to thank the Committee for the opportunity to make a submission to the inquiry.

Should you require further information or clarification about any points raised in this submission, please contact me on the number above.

Yours sincerely

Richard Foster PSM

## **Submission to Joint Committee of Public Account and Audit in relation to the efficiency dividend on small agencies.**

### **Family Court of Australia**

The Family Court of Australia (the Court) is a Superior Court of Record established by Parliament in the Family Law Act 1975 and under Chapter III of the Constitution. As a Chapter III Court, it is part of the judicial arm of the Government of the Commonwealth. Its relations, both statutory and informal, with the other arms of Government particularly the Executive Government, are affected by the doctrine of the separation of powers.

The Court's jurisdiction is set out in the *Family Law Act 1975* (Cth). The Court predominantly deals with the most complex matters related to the jurisdiction, including determination of:

- arrangements for children whose parents have separated or divorced; and/or
- financial matters arising from marital breakdown as well as a range of associated matters.

The Court is a statutory Agency for the purposes of the Public Service Act and the Financial Management and Accountability Act. It observes generally the requirements of policy determined in relation to Agencies by the Executive Government. However, it is differently placed in this regard from a statutory agency forming part of a portfolio. As part of the judicial arm of Government, it is not a mere portfolio agency in the normal sense and the ordinary requirements of Ministerial control and direction of such agencies cannot formally apply in relation to it.

The Court is self administering. The Chief Justice is responsible for managing the Court's administrative affairs<sup>1</sup>. The Chief Justice is assisted in this regard by the Chief Executive Officer of the court<sup>2</sup>. It is the Chief Executive Officer who is the titular head of the statutory agencies to which reference is made above.

The Family Court of Australia provides family law services for over 200,000 new clients each year in all states and territories except Western Australia. The Court's Strategic Plan, Service Charter and National and Registry Business Plans clearly identify our purpose, vision and business outcomes<sup>3</sup>. All incorporate a strong focus on client service.

The operating budget of the Court is in excess of \$137 million per annum. The Family Court's budget has a significant component of fixed costs (56%). At the end of June 2007 there were 40 Judges of the Court including the Chief Justice and the Deputy Chief Justice. The costs associated with these judicial officers and their support staff, as well as property and depreciation are fixed costs within the courts operating budget.

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<sup>1</sup> see *Family Law Act 1975*, s.38A

<sup>2</sup> see *Family Law Act 1975*, s.38B

<sup>3</sup> further information about the Court's purpose can be found at [www.familycourt.gov.au](http://www.familycourt.gov.au)

## Background to the application of the efficiency dividend to the Court's appropriations

In the 2007/08 budget, there was an additional 0.25% increase to the ongoing efficiency dividend of 1.00%, applied by Government. The cost to the Court of the increase in Efficiency Dividend from 1.00% to 1.25% is approximately \$300,000 each year.

The additional one-off efficiency dividend of 2% was applied to the Court's appropriations during the 2007/08 Budget process. The application of this additional 2%, although a one off for 2008/09, was proportionally applied to 2007/08 and is also applied to each year beyond 2008/09. The cost to the Court of this 2% efficiency dividend is equivalent to \$600,000 in 2007/08 and \$2.6M each year thereafter.

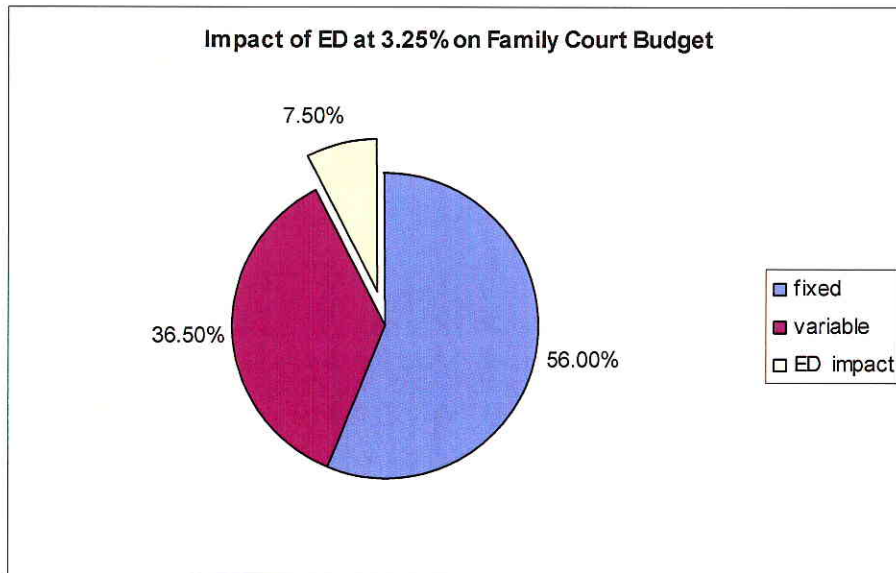
The increase in the efficiency dividend will have the following impact on the Family Court:

1. a reduction of approximately 26 full-time equivalent positions;
2. a reduction in travel for the Court;
3. a reduction in communications; and
4. a reduction in the general administration costs (of approx. \$0.6m).

The Court has not made significant redundancies to date rather it has managed these additional costs through reductions in non-ongoing staff.

## Impact of the efficiency dividend.

Table 1



As the pie chart in Table 1 above illustrates, 56% of the Courts costs are fixed in nature. The Family Courts fixed costs include:

- Judicial salaries and associated operating costs – these are set by the Remuneration Tribunal and the appointment of judicial officers is



determined by Government. Therefore the Court is not in a position to reduce these costs. The Court has previously sought to have Judicial officers salaries exempted from the application of the Efficiency Dividend without success.

- Property including Commonwealth Law Courts in prime CBD locations which incur significant property cost. It is neither feasible nor practical for the Court to shift to outer-suburb locations to reduce these costs as the Court is tied into long term leases with Department of Finance and Deregulation.
- Depreciation - expenditure that is required to replace the Court's fixed assets as they are "consumed" in the delivery of services.

Therefore the impact of the Efficiency Dividends falls disproportionately on the remaining 44% of the Court's variable budget. Effectively a 3.25% efficiency dividend translates into approximately a 7.5% efficiency dividend for the Family Court. This then impacts on the delivery of client services and corporate costs of the Court.

The Governments funding approach, by adjusting baseline appropriations for the Wage Cost Index less the Efficiency Dividend assumes that ongoing recurrent savings can be found each year, a position which is not sustainable in the long term, especially when the Efficiency Dividend also applies to Judicial officers salaries which are outside the control of the Court.

The Court's funding, excluding any New Policy Proposal funding, has typically resulted in a small increase in total appropriations per annum (less than 1%). The Court however faces cost increases of 4% to 7% in property costs; 4.5% for salary increases relating to the collective agreement; and increases in supplier expenses.

The Court has incurred operating losses in 2005/06 & 2006/07 and had planned for cost reductions in 2007/08 and the out years. The Court's capacity to find further additional Efficiency Dividend savings will be difficult to achieve without further reducing services to family law clients and judges. As the Court also provides services to the Federal Magistrates Court, for example registry services, client services, information technology, and property, any reductions arising from the Efficiency Dividend will also have an impact on the level of services we can provide to the Federal Magistrates Court and their clients.

### **Coordinated Procurement Initiative**

The recently announced *Coordinated Procurement Initiative* whereby estimated savings will be withdrawn from agencies funding at the commencement of each coordinated procurement contract. The Court understands that initial contracts will cover travel services and telecommunications and then be expanded to include major office machines, desktop computers, stationery and paper, printing & some professional services.

This new initiative has the potential to further limit the Court's capacity to achieve savings. Currently the Court is able to use savings from these areas to meet the Efficiency Dividend.

In conclusion, the impact of the Efficiency Dividend on the Family Court is one that will affect clients and the delivery of family law services to the community. Whilst the Court understands the initiative of the Efficiency Dividend, we would argue strongly that it is disproportionately applied to the total budget of the Court. The Court believes that given 56% of the budget is fixed, and that the Efficiency Dividend would need to be sourced from 44% of the budget we would seek exemption from the Efficiency Dividend on the fixed component of the Courts budget.