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Submission No: 2-2

19 August 2008

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 an addendum to the Family Court of Australia's submission to the Joint Committee of Public Accounts and Audit in relation to the efficiency dividend on small agencies.

The Court would like to thank you for the opportunity to appear before the Committee.

Yours sincerely



Richard Foster PSM

Addendum to the Family Court of Australia submission dated 26th June 2008

1. Whether the efficiency dividend has a disproportionate impact on smaller agencies, including whether or not smaller agencies are disadvantaged by poorer economies of scale or a relative inability to obtain funding for new policy proposals;

1. Diseconomies of scale – The Court has approximately 654 staff, including 37 Judges, spread over 19 locations (all states & territories excluding WA). The efficiency dividend carries an additional impact on the Court, particularly in the 8 Rural & Regional Registry locations where the Court needs a minimum base level of staffing to maintain an effective presence. Effectively, the Court cannot reduce FTEs (due to ED impacts) below a certain level without making our presence unviable and/or impacting on the safety and security of the existing staff.

2. Inability to obtain NPP funding. The Court, like many small agencies, has had limited success in obtaining funding for new policy proposals. The Court’s NPPs typically fit into the category of ‘minor’ NPPs, that is, less than \$10m in each of the Budget & forward years, and are therefore considered by the Minister for Finance in consultation with the Attorney General rather than considered by the Expenditure Review Committee.

In some instances the Court has been requested to self fund NPP initiatives, for example, costs associated with the development of the business case and scoping study for a proposed Commonwealth Law Courts facility Newcastle are being met from within the Court’s operating budget. The impact of this the imposition of a further \$750,000 of operating expenditure which can not be recouped

3. High Proportion of Fixed costs- The Court has a high proportion of fixed costs and this directly affects the ability of the Court to meet efficiency dividend requirements.

Figure 1 – The Court’s Fixed and Variable Budget

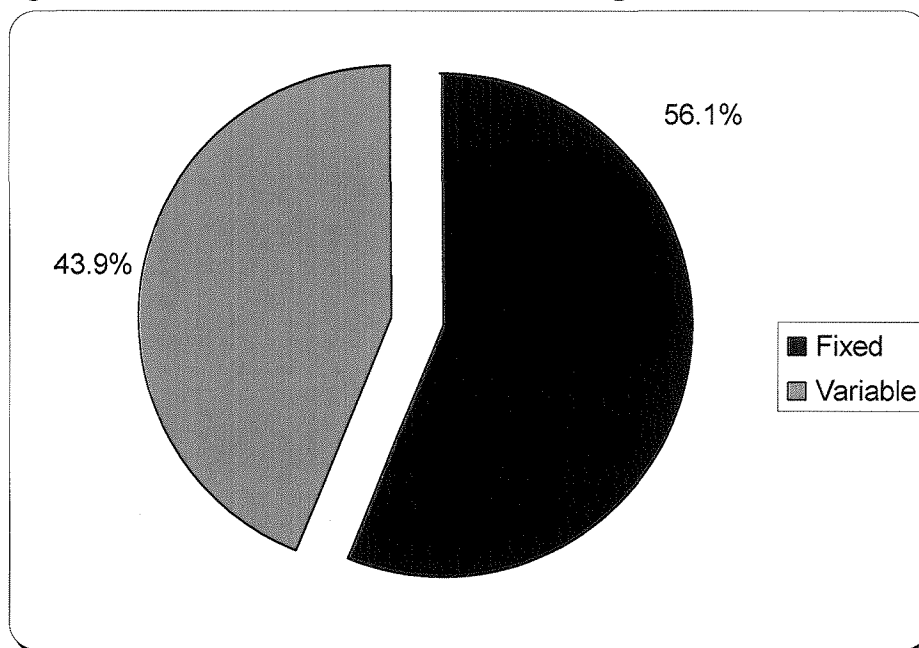
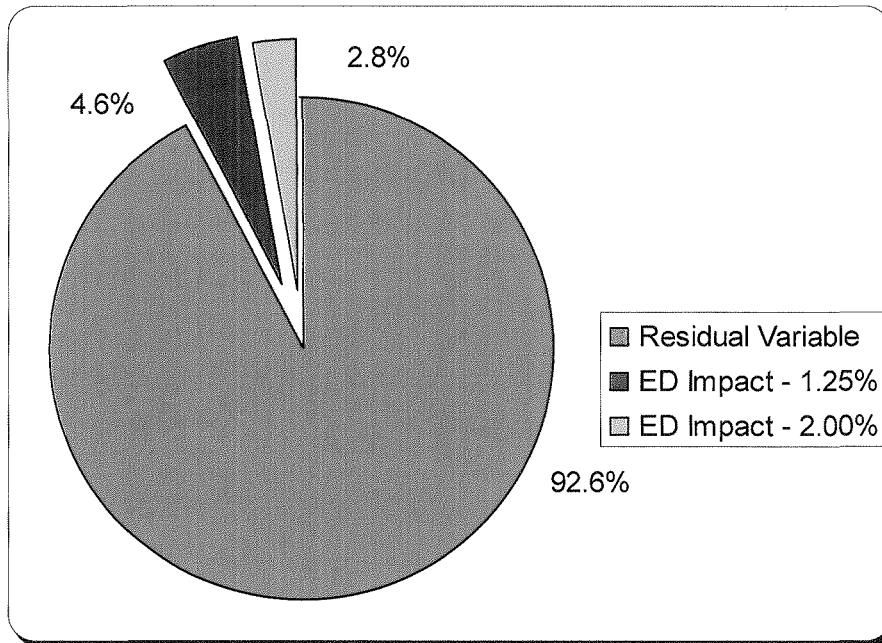


Figure 2 – Impact of the Efficiency Dividend on the Court’s Variable Budget



As figure 1 illustrates, approximately 56% of the Courts costs are fixed in nature and are unable to absorb the efficiency dividend impacts. Therefore the impact of the 3.25% efficiency dividend impacts on the variable component (44%) only. The impact of the 1.25% ongoing and 2% ‘one off’ efficiency dividend on the Court’s variable expenditure is shown in figure 2 (and comes to 7.5% in total).

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 costs (including Commonwealth Law Courts) – the Court operates 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 – this is expenditure that is required to replace the Court’s fixed assets as they are ‘consumed’ in the delivery of services. Erosion of the Court’s depreciation funding severely impacts on its ability to replace its assets when required.

Quantified, the impact of the efficiency dividend on the Court is shown in Table 1.

Table 1 – Impact of the Efficiency Dividend on the Court.

	2007-08	2008-09	2009-10	2010-11	2011-12 ¹
	\$m	\$m	\$m	\$m	\$m
Election savings commitment: 2% efficiency dividend	-\$0.6	-\$2.6	-\$2.6	-\$2.6	-\$2.6
Efficiency dividend: 1.25% & 1% per annum ¹	-\$1.6	-\$1.6	-\$1.6	-\$1.6	-\$1.3
Total	-\$2.3	-\$4.2	-\$4.2	-\$4.3	-\$3.9

Notes:

1. Under Estimates Memorandum 2007/42 the efficiency dividend was raised from 1% to 1.25% per annum from 2007/08 to 2010/11. The efficiency dividend from 2011/12 remains at 1%.

4. The Court could gain economies of scale from coordinated procurement activity. However, under the recently announced *Coordinated Procurement Initiative*, the estimated savings arising from coordinated procurement activity will be withdrawn from each individual agency's Appropriations at the commencement of each coordinated procurement contract. This **has the potential** to further limit the Court's ability to find savings to meet the ongoing efficiency dividend. Contracts that are to be reviewed as part of the first round include travel services and telecommunications. This will be later expanded to include major office machines, desktop computers, stationery and paper, printing & some professional services. This essentially means that any major procurement activity of the Court is covered by the terms of this review.

2. Whether the efficiency dividend is now affecting the capacity of smaller agencies to perform core functions or to innovate;

The Court's capacity to find further ongoing 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, including 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 the Court can provide to the Federal Magistrates Court and their clients. The value of these services for 2007/08 was estimated to be in the range of \$19.2m.

Due to a reduction in operating budget the Court has sought to reduce discretionary expenditure wherever it can be found. As such the discretionary project activity of the Court has been curtailed. Operating funding for projects in 2008/09 has decreased 80% since 2005/06 to less than \$0.5m. This limits the Court's ability to identify and fund innovative approaches which may result in greater efficiencies and /or business improvements across the Court.

3. What measures small agencies are taking to implement the efficiency dividend, and effect on their functions, performance and staffing arrangements;

The Court has undertaken the following action to implement the 2% ED:

1. a reduction of approximately 26 full-time equivalent positions;

2. a reduction in a range of expenditure items for the Court; including travel, communications; and administration; and
3. The Court has applied a policy of all staff travelling economy class between Canberra and Sydney.

The Court has not made significant redundancies to date rather it has managed these FTE reductions through cessation of non-ongoing staff.

The Court, in order to meet the ongoing efficiency dividend (1.25%), continues to identify and implement strategies that consider driving efficiencies from targeted supplier reductions across the Court and identification of staff reductions generated through process efficiencies. In order to better manage this position the Court has adopted a quarterly budget review process.

4. Any impact of the efficiency dividend on the use by smaller agencies of 'section 31' agreements to secure non-appropriation receipts (e.g. through user charges and cost recovery) – noting that these receipts are not subject to the efficiency dividend;

Regulation 15 and 16 of the Financial Management and Accountability Regulations prescribes the types of receipts (known as Relevant Agency Receipts) that agencies may retain. These regulations came into effect on the 01 July 2008 and apply to all FMA Act Agencies (of which the Court is one of).

These regulations provide clear guidelines into the types of activity that increase an agency's departmental revenue.

Regulation 15(4) further stipulates that a *specified amount* may not be retained if an agency has already received an appropriation in relation to the amount.

The Court therefore, has limited opportunity to increase its Section 31 receipts, and where it does have such opportunities, implications on the principle of 'access to justice' must be considered.

Currently the major contributors to Section 31 Receipts for the Court include Casetrack Bureau services & development (\$1.2m), copies of file documents (\$0.3m) and photocopying (\$0.2m).

5. How application of the efficiency dividend is affected by factors such as the nature of an agency's work (for example, cultural, scrutiny or regulatory functions) or the degree of discretion in the functions performed by smaller agencies;

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.

Other factors include:

- Court work is non-discretionary and arbitrary reductions potentially impact on the access to justice. Furthermore, the Court has limited (or no discretion) on the continuation of Court services (eg to close a registry. Dandenong example);
- Court operations often are required in rural and remote locations (met by Circuit activity), reductions, such as travel, limit the Court's ability to meet the needs of these communities;
- Judicial independence – budgetary constraints, such as the efficiency dividend, potentially have impacts upon the perception of Judicial independence;
- Physical presence is required in locations, which might be considered too costly or not feasible, to ensure that the Family Law Services have sufficient coverage; and
- Access to justice, although new innovative approaches to providing Family Law Services can be found.

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.

6. If appropriate, alternatives to an across the board efficiency dividend to encourage efficiency in the Commonwealth public sector, including consideration of whether certain agencies should be exempted from the efficiency dividend, or whether the rate of the dividend should vary according to the agency size or function.

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.