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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

(Roundtable)

Reference: Review of Auditor-General's reports, fourth quarter 2003-04

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JOINT STATUTORY COMMITTEE ON

PUBLIC ACCOUNTS AND AUDIT

Monday, 4 April 2005

Members: Mr Baldwin *(Chair)*, Senators Hogg, Humphries, Moore, Murray, Scullion and Watson and Mr Broadbent, Ms Burke, Ms Grierson, Miss Jackie Kelly, Ms King, Mr Laming, Mr Somlyay, Mr Tanner and Mr Ticehurst

Members in attendance: Senators Hogg, Moore and Watson and Mr Baldwin, Ms King, Mr Laming and Ms Grierson

Terms of reference for the inquiry:

To inquire into and report on:

Review of Attorney-General's reports, fourth quarter 2003-04.

WITNESSES

COCHRANE, Mr Warren John, Acting Deputy Auditor-General; and Group Executive Director, Performance Audit Services Group, Australian National Audit Office 1

COOKE, Ms Jennifer, Executive Director, Client Services, Family Court of Australia 1

CRISTOFANI, Mr Greg, Senior Director, Australian National Audit Office 1

CROSSLEY, Mr David, Executive Director, Performance Audit Services Group, Australian National Audit Office 1

FOSTER, Mr Richard John, Chief Executive Officer, Family Court of Australia 1

GIBSON, Ms Dianne, Principal Mediator, Family Court of Australia 1

MAYNARD, Mr Peter James, Manager, Strategy and Review, Family Court of Australia 1

MORRIS, Mr Andrew, Senior Director, Performance Audit Services Group, Australian National Audit Office 1

SCAMMELL, Mr Brian, Acting Chief Executive Officer, Federal Magistrates Court of Australia 1

Committee met at 10.39 a.m.

COCHRANE, Mr Warren John, Acting Deputy Auditor-General; and Group Executive Director, Performance Audit Services Group, Australian National Audit Office

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SCAMMELL, Mr Brian, Acting Chief Executive Officer, Federal Magistrates Court of Australia

CHAIR—Today's public hearing is one of a series of hearings to examine a report tabled by the Auditor-General in the last quarter of the financial year 2003-04. This morning we will be taking evidence on Audit Report No. 46: *Client service in the Family Court of Australia and the Federal Magistrates Court*. I remind witnesses that the hearings today are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

I will be running today's session using a roundtable format with witnesses from the three agencies appearing together. However, I ask participants to remember that only members of the committee can put questions to witnesses if this hearing is to constitute formal proceedings of the parliament and attract parliamentary privilege. If other participants wish to raise an issue for discussion, I would ask them to direct their comments to the committee. It will not be possible for participants to directly respond to each other. Given the short time available today, statements and comments by witnesses should be relevant and, importantly, succinct. Would you each like to make a brief opening statement to the committee?

Mr Foster—The Family Court accepted the 11 recommendations without reservation. Recommendation 10 was not relevant to the Family Court of Australia. Our detailed response was contained as an attachment to the report. The world has moved a long way since this report was released. Many things have happened in relation to client services, including much more work being done on a single point of entry into the system—one file, one fee, one form—and an enormous amount of work being done on a combined registry in relation to new signage, which

will be completed by 30 June. There are also new governance arrangements which have been agreed by the Chief Justice and the Chief Federal Magistrate in relation to a shared service platform for client service and there are new corporate service governance arrangements, where the Family Court of Australia will provide corporate services to the Federal Magistrates Court under service level agreements.

In addition to that, a Commonwealth court forum has been established. That is an initiative of the Attorney-General and the Attorney-General's Department which recognises the independent nature of the courts, is chaired by the Attorney-General's Department and has members comprising the CEOs of the Commonwealth courts. It is a forum that provides for a much more integrated and strategic approach to those items that are consistent in terms of practice across the various courts—in other words, common areas of operation. Those are areas such as the appropriate use and sharing of property and advancing the activity based costing model and the resource planning models so there is more transparency in how the courts operate and what they cost.

We have also moved forward and reviewed our complaints procedures significantly, in terms of both complaints against judges and complaints against officers of the court. We have also undertaken a client feedback survey in various shapes and forms, and we can talk about that. We have proposed a new model of mediation which is consistent with the Children's Cases Project, which is a system of looking at the way children's matters are dealt with in the Family Court in a less adversarial way. That has been piloted in Parramatta and Sydney and has gained support across the board from government, the legal profession, the courts themselves and the non-government section of the community. Plans are now well afoot to implement that same system in our Melbourne registry. That is a very brief summary of some the things that I think are important and the committee might like elaboration on. Also, I provide a report to the judges each year on the activities of the courts. I am quite happy to table the report from September 2004.

CHAIR—The committee will receive that submission.

Mr Scammell—I just want to make a couple of brief points. Members of the committee may be aware of a report by the House of Representatives Standing Committee on Family and Community Affairs entitled *Every picture tells a story*, which was tabled in December 2003. Since the ANAO report was issued the government has released a statement in response to that report on the parliamentary inquiry into child custody arrangements following separation. That statement outlined some very significant proposed changes to the family law system. They impact on some of the same areas that the ANAO report has already highlighted. The thrust of the policy is to focus on resolving family disputes before they go to court and includes the establishment of family relationship centres to help parents resolve parenting issues after separation.

Another aspect of policy that is relevant to the ANAO report is the intention to create a combined courts registry to assist people to navigate through the court system. Mr Foster has outlined some of the things that are happening in relation to that. Many recommendations in the ANAO report are being addressed in the context of the broader changes outlined in the response to the report of the parliamentary inquiry. There is some commonality in the findings and some overlap, so that is providing some impetus.

CHAIR—Thank you. Is there any comment from the Audit Office?

Mr Cochrane—I think, as usual, we will let the report speak for itself, but I am happy to hear from the two chief executives that things are moving on.

CHAIR—The report was tabled on 20 May 2004. One of the key aspects was the lack of harmonisation between the Family Court of Australia and the Federal Magistrates Court. In particular, a couple of areas that were outlined were the difference in forms, the different affidavits—an affidavit taken for the Federal Magistrates Court did not comply with the requirements of the Family Court of Australia—and the fact that case managers set files out using different methods which then had to be recompiled when moving from one jurisdiction to another. You said that there have been moves in that, but why did it start off on the wrong foot by having separate requirements in the two different areas?

Mr Foster—The establishment of the Federal Magistrates Court is largely a matter of government policy and the courts were separate and independent. My understanding of the establishment of the Federal Magistrates Court was to provide a court—then called the Federal Magistrates Service—that would deal with matters in a more economical, cheaper, quicker way. The intent was that matters dealt with in that jurisdiction would be, by their very nature, different to the matters dealt with in the Family Court of Australia. After four years of operation, I think both courts have come to an understanding that their work is very similar and that there are only variations at a small end of the scale. It has taken two or three years for that to emerge.

Since the tabling of the report, the Chief Justice of the Family Court asked for a number of workshops to be run with registry staff to get their feedback on the very points that you raise. It was obvious from a number of the four workshops that we held around the country that staff were actually more advanced in their thinking than, perhaps, the central administration. In fact, they saw themselves as working for family law clients and not for the Family Court of Australia or the Federal Magistrates Court—they were actually working for the clients. They were the ones who saw the nonsense of having separate filing fees, separate application forms and separate processes at that point of entry. Since that time, we have now conducted workshops with a whole range of people, including judges, federal magistrates, staff across the court, registrars, mediators, the legal profession, community organisations and litigants in these matters. We have now formed a project plan. There is a steering committee consisting of the Chief Justice, the Chief Federal Magistrate, the Deputy Chief Justice, another federal magistrate, the two CEOs and a number of other people which on Wednesday this week is considering this project plan to move the combined registry process—one form, one file, one fee, badging—forward.

CHAIR—Do you have any comment on that, Mr Scammell?

Mr Scammell—When the two courts started, our court was a very small court. We are a lower level court and the Family Court of Australia is a superior court, the same as the Federal Court. We are moving towards a model where the overwhelming majority of applications will be filed in the Federal Magistrates Court at first instance. We are only able to do that because the court has grown. There is still an issue to be addressed in terms of how we deal at the lower level court with the majority of applications.

In terms of uniformity, we were set up to be simpler and quicker than the superior courts so we cannot really adopt the same procedures as the superior courts—otherwise there would be no reason for our existence. We are moving to a model where the presumption is that matters can be handled simply and quickly, and the exception will be that they are transferred to a superior court. I guess I am saying that the system is evolving over time.

CHAIR—Does the Audit Office have any comments on the progress that has been made, given that you raised the issues of harmonisation and seamless integration of the two courts for the applicants?

Mr Cochrane—We are not in a position to judge the progress that has been made but, as I said at the start, we are happy to hear that progress is being made. Perhaps some time in the future we will have to have another look at what the movement has been. From what has been said here it certainly sounds as if the right areas are being concentrated on.

CHAIR—What would be the normal time frame for the Audit Office to go back and revisit the Family Court?

Mr Cochrane—We are on about a four-year cycle at the moment, because the Family Court is just one of the many, as you would appreciate. But, as I said in the private briefing, we are happy to look at everything on a risk basis, and certainly if we think that progress is not being made quickly enough we will go back earlier rather than later.

Ms KING—I have a question along that line. Does that mean that the Federal Magistrates Court fee is going up or that the Family Court of Australia fee is going down?

Mr Scammell—Under the proposal we are looking at, the applications would be filed in the first instance in our court, which I believe has the lower fees at the moment, but fee setting is really a matter for the government.

Ms KING—So it sounds as if it will be going up.

Mr Foster—I would like to add that this is not just in terms of the 'one file, one fee'; there are a number of other things that the courts have done towards harmonisation. We have reviewed all of our publications. That was something that the ANAO commented on. We reviewed every publication, every brochure and every document that we had to ensure as far as is possible that where we can put out a joint publication we do. We have been working very closely with the FMC and their communications area in that regard. Significant work has been done.

We have also reviewed every form letter that we use—firstly, to reduce the number of them and, secondly, to ensure that there is some consistency with the FMC in relation to form letters. We have also made our intranet available to the FMC and we are now working towards developing a joint family law web site so that people who access the web site do not have to go to two different web sites to find out how the court process works. We have found in relation to our self-represented litigants project that the greatest number of hits on our web site are for that particular part of the web site. Joining the web sites together would be another tremendous improvement, and we are working aggressively in that regard. So it is not just in relation to 'one

form, one file, one fee'; there is a whole range of other things that are going on as well that will still maintain the courts' separateness and independence but without confusing the client.

CHAIR—In that same light, we have heard from the Audit Office that filings cannot be lodged for the Family Court of Australia at every registry, they can only be lodged in Canberra or Sydney. So if somebody wants to lodge for the Family Court in Wollongong, for example, the file must go to Sydney or Canberra. Why can't filings be made at all of the federal magistrates courts?

Mr Foster—The registries were set up initially under the Family Court of Australia, so that was one of the issues—that, when the FMC was implemented, the Family Court of Australia provided its registry services. The Family Court of Australia manages the Wollongong registry and takes filings for the Family Court of Australia, but at this stage the Federal Magistrates Court have a decision—Brian can speak for himself—that they do not accept filings in that court. But the Family Court of Australia can take filings at any of our 11 registries around the country.

Mr Scammell—This comes back to the issue about the way that the Federal Magistrates Court was established, in that we do not currently have the capacity to deal with all the applications that are probably suitable for our court, because we do not have enough federal magistrates to do the work. But that is changing over time. When we started off, our initial complement was about 12. We now have 31 federal magistrates, but on average only about 19 of those federal magistrates do family law; the balance do general federal law work—migration and things like that.

So over time the lower level court is growing in size and over time it will be able to have that increased capacity. We do not currently have a capacity to do family law in the Sydney CBD. We do not have any federal magistrates appointed there. But that is a matter we have made representations to the government about, and I understand the government is actively considering those representations.

Senator HOGG—I have a couple of questions on your coming together, so to speak, as it appears from here. How has that affected the budget of both organisations?

Mr Foster—In relation to the Family Court, we provide a number of services free of charge to the Federal Magistrates Court, which are in the budget. I think currently we provide $12.5 million of services to the FMC free of charge.

Senator HOGG—Is that covered by an MOU of some sort?

Mr Foster—There is an MOU between the two courts about how they will operate in a whole range of different things. From the Family Court's point of view, its budget was reduced when the Band 2 registrars were taken out of the system and replaced by magistrates. But, in terms of its client service—what happens in the registry itself and staffing in the registries—the budget was unaffected.

Senator HOGG—It just seems to me that the workload has shifted down to the Federal Magistrates Court, and I am just wondering whether there was a shift in the budget to compensate for the shift in workload. Is that a wrong perception from this side of the table?

Mr Scammell—When the government decided to establish the Federal Magistrates Court, they said that we were to use the existing registry services of the Family Court and the Federal Court, including their buildings. The Family Court of Australia actually provide an IT infrastructure and things like that. So I think the Family Court budget when this report was done was around $120 million and ours is around $15.7 million or thereabouts. At the time this report was done we had about 82 staff, including magistrates, and I think the Family Court had just under 700 staff. Richard would be able to correct me on that. So there is a big difference in the size of the two courts, and obviously that has an impact on our relationship, in the sense that the Family Court of Australia has a management structure in each location around Australia, whereas we do not. We have a small central administration.

CHAIR—Is there a duplication of administrative resources that could perhaps be streamlined?

Mr Scammell—No, because we do not run a registry service. Most of the management requirement is actually in the registry services, and so in each location—Melbourne, Sydney, Brisbane, around the country—we do not actually have any administration in those locations. We have only got a small administration in Melbourne that really has just a corporate function for a small agency.

Mr Foster—It is an unusual way to actually implement a new organisation—not to really give it any resources and to use the resources of an existing organisation, and so it is a bit tricky to understand how it actually works. The Family Court was there and it had been there for 25 years. It had the resources for family law. Then there was a new body that came in that said, 'We are going to play in this area as well.' There was a corresponding transfer of resources at a quasi judicial level but it was decided at the time that the Family Court of Australia would provide the registry services. In other words, if you wanted to file a document in the Federal Magistrates Court, you went to the registry, which at that time was called the Family Court of Australia registry, and you filed that document. So the staff in the Family Court of Australia registries were operating two different systems.

Senator HOGG—That is what I meant: that led to inefficiencies within your system which must have been a cost. I am trying to find out whether you have now become a more efficient organisation and also whether there has been a transfer of costs across to the Federal Magistrates Court?

Mr Foster—I think it did lead to inefficiencies and that is the primary reason that the new shared service arrangement has been agreed to by the Chief Justice and the Chief Federal Magistrate. In effect, in future there will be a board comprising the Chief Justice, the Chief Federal Magistrate and the two CEOs. They will decide what registry services are provided to which court. So, if there were an argument about, for example, whether the Family Court would provide X hundreds of thousands of dollars worth of mediation services to the FMC and at the CEO level we could not sort that out, the board would make that decision. We did not have that structure in the past and I think it created some antagonism in the courts. I think over the last two

or three years we have moved on significantly from that. But this new system where both courts will put their client service money in the middle and it will be managed by a board will overcome I think the inefficiencies you are talking about and give greater equity and fairness in how the services are delivered.

Senator HOGG—I am pleased to hear that. That leads me to the next question: how, through the likes of the annual report, do we interpret what is happening? Is it going to be so seamless that we are not going to be able to see what is happening in either jurisdiction or is there going to be a need for some common report coming out of the two jurisdictions to explain what is happening?

Mr Foster—In terms of the annual report, certainly from my perspective, the courts will still have their separate independent reports, because they are separate independent bodies. To use figures that are just by way of an example, let us look at what would happen if the Family Court put $80 million into the middle and the FMC, because it is not resourced in the same way, put $10 million into the middle, so there would be $90 million of client services money in there for the board to manage—and there must be some accountability about that. At the end of the day, as I understand the structures, I, as the person responsible, would still be responsible for reporting on how that $80 million is spent in that service platform.

Ms GRIERSON—What is the selection process for that board?

Mr Foster—It is an internal board comprising the Chief Justice, the Chief Federal Magistrate and the courts' two CEOs.

Ms GRIERSON—I see. Is it part of the new memorandum of understanding?

Mr Foster—There is an existing memorandum of understanding. The board has yet to be established, as the report has only just been agreed over the last several weeks. In fact it was only in January that the report was agreed between the two courts. As I understand it, it has now been agreed by the Attorney-General.

CHAIR—Can you, on notice, submit that as an exhibit to this committee?

Mr Foster—Yes.

Ms KING—There is fairly extensive work being undertaken: can both your organisations do it within your existing resources?

Mr Foster—From the Family Court's perspective, we are never going to be able to do the things we want to do within our allocation of resources. Similarly, the FMC do not have enough federal magistrates. We would argue that we do not have enough judges, but that is a futile argument really. We have to deal with what we have got and we have to cut our cloth accordingly. Each year we go through a process of working out what the most important priorities are, what they are going to cost and how much we can afford. Like every other organisation, we have to cut our cloth to fit what we can do. But our absolute priorities are the combined registries, the single point of entry, and we are putting our resources into doing that, as an outcome of the government's discussion paper and also the ANAO report.

CHAIR—In a similar vein to that, could you perhaps advise what the average time to finalise a matter in each of your courts is?

Mr Foster—I will take that on notice, because it varies from registry to registry, and I did not bring that information with me.

CHAIR—You can take that on notice. Do you have that information here, Mr Scammell?

Mr Scammell—Around 70 per cent of matters are finalised in less than six months and most are finalised within 12 months.

Ms KING—Could I get a response from the Federal Magistrates Court regarding the budget question I asked before?

Mr Scammell—I will make a few points. As I mentioned previously, the judicial system is changing over time, and I think the lower level court will grow over time, so we are hoping that future matters that are suitable for a simple and quicker process will be able to be handled by the lower level court. As I mentioned, our budget is substantially less than the Family Court's budget, and that has been a source of tension over our five-year period of operation. However, I believe the new governance arrangements for the combined registry will allow us to have a greater input into the way resources are directed to priorities in the lower level court. They are the two main points I would make in relation to that.

CHAIR—Regarding the time frame for the settlement of matters, are those who are self-represented in court taking longer than those who are represented by legal counsel?

Mr Scammell—I do not think I have information that could tell you that.

Mr Foster—I could take it on notice, but my guess would be that there is no difference, because cases reach a certain spot in the process and whether you are represented or not is irrelevant to your progress through it.

Ms GRIERSON—I question that. Some registries have much higher numbers of self-represented clients; therefore their resource burden is quite pronounced. I would imagine that many of those self-represented people are shifted to the Magistrates Court, but I am not sure. Has there been a review within both your organisations to come to terms with the challenge for judges, magistrates and support staff in dealing with self-represented clients?

Mr Scammell—One of the main things we have done in the last 12 months is an evaluation of the services that we provide for self-represented litigants. That was completed in October, and we are progressively implementing a number of recommendations from that.

Ms GRIERSON—So you did do a review.

Mr Scammell—We did do a review. I can give you a brief outline of what we did if that would assist.

Ms GRIERSON—That would be good.

Mr Scammell—The project involved two phases. During the first phase, three independent consultants were engaged to pose as self-represented litigants in the court and provide feedback about their experience. This was a bit like the mystery shopper that some companies use. In effect, they were asked to step into the shoes of a self-represented litigant. Each was given a scenario that basically involved making telephone inquiries, browsing the web site, obtaining information about primary dispute resolution, identifying documents required for filing, completing an application or request for information at the registry counter, and attending and observing a duty list in the court. During the second phase, 70 self-represented litigants were surveyed. The survey covered topics such as contact with the court, primary dispute resolution, preparing documents, the court hearing and their overall experience with the court.

We believe that that two-stage process provided us with a good insight into the needs of self-represented litigants. The recommendations focused on the following key areas: public information, data recording, the court's web site, self-help kits, forms, signage, training for the judiciary and staff, and ongoing monitoring and research. There were 12 recommendations, some of which were short term and some of which need a longer time frame. Things that we have progressed in the short term include an increase in the number of brochures and fact sheets—these have been developed in a plain English, less legalistic format—and an increase in the amount of information on our web site targeted at self-represented litigants. With the assistance of the Family Court we have obtained more information about brochures and fact sheets that need to be translated, and we are just about to get those translated. We are also reviewing signage in conjunction with the Family Court.

CHAIR—Do you wish to add to that, Mr Foster?

Mr Foster—I do. The Family Court decided in 2001 that it would adopt an approach recognising the issues with self-represented litigants. Our research indicated that, at that stage, nearly 40 per cent of parties were self-represented at some stage during the process.

Ms KING—Do you know why that is increasing?

Mr Foster—It has not increased a lot. Our latest research, which we did in response to the government report on family law, was that it had only gone up to 43 per cent. So it had not actually changed very much. It was a small study.

Ms KING—Is it high compared to other courts?

Mr Foster—The Family Court of Australia is a superior court and, yes, it is high in terms of superior courts. But I think you have to take note of the jurisdiction and other magistrates courts around the country. In my experience, and I have worked in state jurisdictions, that would be a fairly normal figure. But, yes, it is a significant figure when nearly half of your clients are self-represented at some stage.

Ms KING—And it has not increased over time?

Mr Foster—No. That figure of 40 per cent was identified in 2001 and it has increased marginally since then.

Ms KING—What about going back beyond 2001?

Mr Foster—We did some research last year and the figure had increased only by two or three per cent. We started this project, chaired by now Deputy Chief Justice Faulks, in 2001. The report was released in 2003, and a copy was provided to every member of parliament, both in the House of Representatives and in the Senate.

Ms KING—Before you go on, I want to clarify this point: do you have statistics going back prior to 2001?

Mr Foster—I could take that on notice but, certainly, not to my knowledge.

Ms KING—That figure of 40 per cent seems high to me. Certainly my experience is that it would not have been as high. To my thinking, it would not have been as high, but I do not know if that is true.

Mr Foster—I do not know, but I certainly can take that on notice. It was before I came to the court, so I am not really aware of what research, if any, was done before that period.

Ms KING—I am sorry to have interrupted.

Mr Foster—Phase 1, the first two years, we have reported on. Since that time, there have been a number of other initiatives for self-represented litigants. We are developing an e-learning package, an electronic learning package, for staff to deal with SRLs. We are developing a joint management plan with the Federal Magistrates Court so that we treat self-represented litigants in a similar way, which seems to make a fair bit of sense. We are also looking at possibly doing research into the characteristics of serial litigants, who are normally self-represented, with the Australian Institute of Family Studies. Serial litigants are becoming an increasing problem in many jurisdictions, not just ours. It is interesting, and I mentioned earlier in my evidence—

CHAIR—When you say serial litigants, are these people who keep lining up for child custody—

Mr Foster—Or whatever.

CHAIR—Because once the divorce is finalised that part of it is finalised.

Mr Foster—The divorce aspect of it is really not the significant part. The issue is more about children. Consistently, application after application comes back about children and their relationships with their parents. It is really difficult to deal with. They make frivolous and vexatious applications on a constant basis. It is an issue that confronts many courts in the country, not just the federal courts. We are looking at perhaps doing some research into how we might assist those litigants. They consume the resources of the court when someone else with a more meritorious case might get a go.

Mr LAMING—I have two questions. The first is for you, Mr Foster, and the second is for the Audit Office. I want to extend the chair's question regarding the time through to resolution. Can we analyse the outcomes from both courts? I know we are comparing apples to oranges when

dealing with people with amounts greater than $700,000 as a rough benchmark for which court they end up in. Is that correct?

Mr Scammell—That is property.

Mr LAMING—It is an indication.

Mr Scammell—There is a $700,000 property amount, but the parties can elect to still file in the Federal Magistrates Court.

Mr LAMING—My real concern is that the legal system has been blind to which place these families end up in. Can we look at the outcomes, judgments and legal decisions that are being made in the two courts to know that, effectively, regardless of which court you end up in, the chances of having the same outcome are equal? Do you actually look at outcomes?

Mr Foster—It is a pretty tough question. From my point of view that is probably a matter for the Chief Justice to respond to because the judges are bound by the legislation, as are the federal magistrates. There are a whole lot of criteria which they have to take into account when making a decision. I am not sure any research has been done in relation to decisions by federal magistrates vis-a-vis judges of the Family Court.

CHAIR—Perhaps that can be taken on notice and a response provided to the committee.

Mr Foster—I am not aware of any such research being done.

Mr Scammell—The judge and the federal magistrate need to make a decision according to the law. What we have got is records on the number of appeals in family law matters since the Federal Magistrates Court was established. The trend is that the overall number of successful appeals has not altered from what occurred before the Federal Magistrates Court was established to what occurred after. So that might in some way give an indication along those lines. I think the overall number of appeals made has probably dropped since it was established.

Mr LAMING—The second part of the question was about my original concern that some of the recommendations out of the Audit Office were, I thought, relatively weak, and yet it seems to me that you have taken a number of steps since this report that seem stronger than what was in the audit report. Is this a result of the audit itself? I did not feel that you were addressing some of the really major issues—certainly, recommendations 1, 2 and 3. You have gone a long way towards pooling service delivery money and trying to have a more seamless system. This question is to the representatives of the Audit Office: do you feel you have gone far enough in your recommendations when, in fact, these courts might not have done what they have done if you had not recommended it in your report?

Mr Cochrane—I think we have given the courts some latitude to decide how they might resolve some of the gaps that we have pointed out in the audit report. That is probably the way I would like to express it.

Mr LAMING—My point goes to recommendation 4. That is the key one where you have talked about an integrated approach. The four elements to that recommendation are, I think,

fairly non-specific and yet you have gone ahead and come up with some very strong ideas to integrate. If you had not made those decisions, would we still be left with the two courts flailing away fairly independently and inefficiently? I am not sure that that recommendation goes to the heart of some of the things you have moved ahead and done.

Mr Foster—From my point of view, this would have happened anyway. In saying that, I think that the ANAO report has provided evidence for us to ensure that we do move forward. There has been the appointment of a new chief justice and a new chief federal magistrate and there have been some changes at the highest level. It is like any organisation: when there is a change at the top it brings about other sorts of changes. I am not being disrespectful to anybody in that regard at all, but I think it provided the catalyst for openness in the way that the two courts deal with one another.

You raised the issue of doing a comparison between the decision making of the two courts. It is important to remember that most decisions are not made by judges and that only a very small number of matters ever get to a judge. In fact, only about 10 per cent of the matters that are filed in our courts actually get to a judicial determination. Most are settled in some other way—by mediators or by deputy registrars or in some other way by consent. Certainly, just off the top of my head, I think the research that you suggest would be quite difficult, because the types of matters that you would be dealing with by their very nature between the two courts should be quite different. The Family Court should be dealing with the more complex, difficult child abuse matters and the FMC should be dealing with the more routine matters. I am not saying that the outcomes should be any different but they might be. It is also much smaller numbers.

Ms KING—The Audit Office looked in particular at the difference in client service between people living in metropolitan areas and people living in regional and rural areas. Why are there such differences? What are you doing to improve them?

Mr Foster—This is one thing that we took issue with the ANAO over, because they were critical of our service in Lismore for not processing some divorce applications, if my memory serves me correctly. We were saying that it is about priorities and that there was not going to be a circuit for hearing those matters so there was not any great urgency to process them.

We do not have processing delays in our rural and regional registries. We have had issues with our telephone systems and we are looking at installing a 1300 number and a different way of dealing with country clients so that they can have access to the same level of service that the city people have. But I do not think that the ANAO provided any strong evidence to support the assertion that the level of service was different—other than the court circuit to these places. You do not always have a judge or a registrar on tap as you do in the major locations.

CHAIR—Can you tell us when that 1300 number will be introduced?

Mr Foster—You will recall that I said we go through a budget process bid, and we are going through that now to set up our budget. In May we will know whether that is going to be supported. If it is supported—and I suspect that it will be—it will be set up early in the next financial year. It will be a significant cost to us—nearly $300,000—to introduce such a number, and we have to find that money from within our existing resources.

CHAIR—But if you are a person sitting in a rural or regional area where it is not a local call and you are sitting for half an hour or an hour at a time waiting—

Mr Foster—I could not agree more.

CHAIR—In addition to that, when people bring forward their case and want to lodge a file is there any form of 'triaging' to make sure that they are taking the appropriate steps and that they have all of their filing materials ready prior to lodging so that the filing is not rejected and they are not asked for more information? Is there pre-counselling on that?

Ms Cooke—In terms of the applications that are filed, it is the role of the client services staff to assist people in person when they come in. Obviously a lot of our applications come in by mail so there are some limitations there. Within the Family Court we have set up a system called 'case coordination' and the aim of that is for every client of the court, as their case goes through the court, to have the name of one staff member who will be their point of contact. So if they have a query, particularly if their matter goes towards a final hearing, where there are more requirements in terms of documentation and management—which can be very tough, particularly for self-represented litigants—they have a staff member who they can deal with rather than having to tell their story over and over.

Ms KING—When people lodge by mail do they always get it right when they fill their forms out?

Ms Cooke—No, certainly not.

Ms KING—You laughed a bit. Is it rare for them to get it right?

Ms Cooke—It is a problem for self-represented litigants and for those clients who are legally represented. We have a problem getting lawyers to meet our requirements and fill in the forms to the standard that we need.

Ms KING—Your forms might be a bit too complex.

Ms Cooke—There may be issues with forms but as a court we struggle with the general issue of the level of compliance to legal requirements.

Ms KING—So, whilst a court circuit was not due for a while, a delay in opening mail in a regional area could provide a significant problem or a significant delay for people if they got their information wrong.

Mr Foster—No, because if there is a delay in opening the mail—and there was not in this case; it was a delay in processing it because there was no way that the matter would be heard anyway—there is a system in place for the work to be shifted to another registry.

Ms KING—I live in Ballarat and hopefully I will never be faced with the need to lodge a form in a court for this purpose but if I did are you confident that I would get exactly the same service as if I lived in metropolitan Melbourne?

Mr Foster—You will not get the same service because you live in Ballarat and we do not have a registry in Ballarat but, if your matter was posted, there are currently no delays in processing in Melbourne.

Ms KING—What about across Australia, between regional and metropolitan areas?

Ms Cooke—The only area where we currently have an issue is Rockhampton in Far North Queensland. We are establishing some measures to address that. Some slight delays have built up there since January, although they were up to date in January. We very carefully monitor the timeframes for processing. I did a review prior to this meeting and I found that Rockhampton was the only area where we have processing delays at the moment. We have put some extra resources in place so I am confident that by the end of the week after next they will also be up to date.

Ms KING—Why do you not have a registry in Ballarat?

Mr Foster—I guess we do not have a registry in Port Pirie or—

Ms KING—Do you have one in Geelong or Bendigo?

Mr Foster—No.

Ms KING—They are major provincial cities with populations of over 100,000.

Mr Foster—I think registries were largely brought about by an act of history, quite frankly. That is how they were. We have one in Dandenong, for example.

Ms KING—I know.

Mr Foster—But is there any rationale for that? I do not know.

Ms GRIERSON—I want to ask the ANAO if they had a view on the resource allocation for the regional areas—let us take the main capital cities out. There are not that many. I think it is Canberra, Newcastle and the north of Queensland. Do you have a view on whether the resource allocation was impacting on settlements and processing?

Mr Cochrane—I will ask one of the guys to revisit that point about the regional areas, but certainly we have got to emphasise that, in the work we did at the time of the audit, we were not convinced at all that there was a consistency in the service between city and country.

Mr Cristofani—I can talk about the Lismore example. An observation at the time we did the fieldwork was that there were some weeks of letters unopened and there were some specific issues associated with the staffing at that very small subregistry. That was an example. The majority of our fieldwork was conducted where the majority of filings occurred, which was in major capital cities. At Lismore my recollection is that some of the backlog was resolved by transporting the mail to Brisbane to assist in the reduction of that backlog.

Mr Foster—We actually have a planning model in the Family Court which has been in place now for some 4½ years. It is an internal resource allocation instrument. It is based on the previous year's workload, so it is retrospective in that sense. If there is a sudden increase in filing in a particular registry—and we can also cost that, because we have an activity based costing methodology as well—we will shift our resources around. We will certainly not reduce the Newcastle registry, but we might shift some resources from one registry where the workload has gone down to another registry where there are more pressures. Those pressure points are monitored on a very regular basis.

Ms GRIERSON—I think your data collection is much better.

CHAIR—Do you regularly analyse where the applicants are from to see if there is a demand or need to have an additional registry? In other words, do you analyse if there is a high load coming out of Ballarat and a lesser load coming out of Dandenong to see whether you should either shift registries or institute a new registry?

Mr Foster—We know, because we have used the census data, where people are making applications from. So we can tell, if people make an interim or a final application, which postcode they live in. We analyse that from time to time. But I am not aware of any great pressure at the moment to have a registry in Ballarat, I must admit.

Ms GRIERSON—The ANAO did find that the two courts could better assist their clients make the right choice initially on whether they go to the Federal Magistrates Court or to the Family Court of Australia. Have you put processes in place to assist that and get better outcomes so that you do not then have to transfer a case over to the Family Court or vice versa?

Mr Foster—There was work done following the consultations with staff which I referred to earlier and then the following joint workshops run by the Chief Justice and the Chief Federal Magistrate, which included magistrates, judges and all the various players. From those workshops, some principles were determined—basically that there be a single point of entry, which would be the Federal Magistrates Court. Since those workshops finished in late February, there has been a joint working party working to come up with a model, which they have just completed. That is going to the steering committee on Wednesday.

Largely, that model says that you go into the system through one front door, which will be the Federal Magistrates Court. There will be some screening done very quickly. It is likely that that screening will be done by a federal magistrate. That federal magistrate might then decide that the matter would more appropriately be dealt with in the Family Court of Australia. It would then be transferred immediately. They might decide that that is a matter they should be dealing with, and that is where it would stay. There should be a lot less confusion when that process is implemented. It is not going to happen overnight; there is an awful lot of work to do. Our target, which I hesitate to nominate, to implement the new system is mid-2006, but that is a very aggressive start date for such an important process.

Ms GRIERSON—Mr Scammell, it seems that everything gets shifted to the magistrates court system to do that initial screening. How is that being coped with?

Mr Scammell—As Mr Foster said, we have got a time frame that is looking at mid-2006. We are currently working on how it is going to be implemented and how we are going to deal with resourcing issues to make it happen. There is an issue, as I have mentioned previously, about the number of federal magistrates available to do the work. But we are looking at some options.

Ms GRIERSON—And you just shifted our original one from Newcastle. We are going to miss him very much.

Mr Scammell—There are resources that we can bring to bear. We are looking at federal magistrates working with teams of staff from the Family Court of Australia at that initial input stage to try and move things very quickly from that point.

Ms GRIERSON—It is going to take quite some time to get some outcomes and indicators of whether that is going to be successful, and how it is being managed, isn't it?

Mr Foster—It has. It has taken us until now just to develop the project plan, which goes to the steering committee on Wednesday. Then both courts will be required to put resources in to make that happen, aside from any additional federal magistrates. If you did adopt such a system, obviously there would need to be some. That, at the end of the day, is a matter for the government, on advice from the courts about what they might and might not need to do it.

Ms GRIERSON—Since the Cornelia Rau case, which is obviously not one of your cases, many of the courts at all levels have been making comments on the provision of services to the mentally ill. Have you taken that on and does that influence very much, particularly, I would think, self-represented clients? Have you responded to those needs? How do you respond to those needs? Are they impacting on the court systems?

Mr Foster—We are actually conducting a mental health support project. We got funding of $300,000 from the Department of Health and Ageing to run a pilot project. The original intent was to try and identify whether there was any causal link between the court and its processes, and male suicide. But it is called the mental health project, so there are much wider implications for staff. Part of the project will be providing some training for staff to perhaps recognise when people may have a mental health problem, and providing the staff with information about where they might be referred. It is a very difficult area to work in. We are initially going to set up a pilot project in Adelaide and Darwin. We do not have the resources and the skills to deal with it. That is why we have been partnering with the Department of Health and Ageing. I guess at the conclusion of the pilot there will be some evaluation and decisions made about what happens next. But an important component of it is to provide training programs for the staff who deal with these people on a regular basis.

Ms GRIERSON—And that would complement your operations, too, Mr Scammell.

Mr Scammell—Yes. We have got a member of staff participating in that training.

Ms GRIERSON—Having just come back from an inquiry into Indigenous communities, can you give us some view on your Indigenous specific services and how they are operating?

Ms Cooke—In the Family Court we have had, since 1994, an Indigenous family consultant program, where we employ Aboriginal and Torres Strait Islander workers in Cairns, Alice Springs and Darwin. We have six workers. Obviously with six workers there is a limitation on what we can achieve, but with those six workers the participation of Indigenous clients with the Family Court in the Northern Territory and Northern Queensland has increased. We are convinced that, when people are able to deal with an Indigenous worker who supports them and assists them in their dealings with the court, certainly people do come to the court when needed.

We also have a system in Australia where the managers and the team in each registry are required to set up links with local Indigenous communities and agencies. Family Court consultants will initially assist the registries to do that. The aim is that, when registries have Indigenous clients, they will be able to have local contact people and get advice from the community on how to assist those people.

The other major initiative is the court's new forms, which were introduced in March last year. As far as we know, this is the first time ever that any court in Australia or overseas has asked people to identify whether they are Aboriginal or Torres Strait Islander. It means that for the first time we will have some data on the number of Aboriginal and Torres Strait Islander clients coming to the court. Previously, it has been anecdotal. We did do some basic statistics in the Northern Territory when we started the program. There is an overall commitment and requirement of the managers to have in place in each location a strategy for dealing with the clients themselves and the wider community agencies and groups.

Senator MOORE—I want to follow straight on from Ms Grierson's question. The ANAO made some comments about the court's relationship with not just Aboriginal and Torres Strait Islander clients but also people from non-English-speaking backgrounds. In the court's response there was some concern that perhaps it had not been adequately reflected in the ANAO report. I would just like to get some further comments on that. Firstly, the fact that there are only six officers in Indigenous services at the moment is of genuine concern. Where services are at such a distance, in any area, it makes it hard. I think the ANAO referred to someone in Parramatta getting services from Darwin, or something like that. Secondly, I would like to hear how the court and the magistrates area are working—because I know you link in this way—and whether you have accepted the spirit of the ANAO report, which is that it needs to be better.

Ms Cooke—I will talk firstly about clients from culturally and linguistically diverse backgrounds. Since 2004, the court has had a strategy—which I can table—in terms of a cultural diversity plan. Again, one of the major issues there has been data collection. We now collect that data on our forms. We have adopted a number of strategies in the information area in terms of translations and in terms of contacts with the major community agencies and groups representing these people.

We had a major roundtable meeting where we invited all the state representatives from the major or peak multicultural bodies. The meeting was chaired by the former Chief Justice. We agreed on a number of strategies that the court would adopt to improve its services. The issues are across the whole board. They are about the information we provide; they are about the backup services we provide in conjunction with other communities; they are about a review of our interpreter services. They are all set out in this plan and strategy. We are in the middle of the implementation of that strategy at the moment.

Senator MOORE—That was the meeting in 2003?

Ms Cooke—Yes, it was the roundtable. For a number of years the court has been looking specifically at our issues in relation to culturally and linguistically diverse clients in every area of our operation—that is, how we present our publications, the data that we collect on our forms, how we communicate, our interpreter services, our linkages at the local and national level with all the key players and stakeholders. It has been a comprehensive strategy, and we are now well advanced towards it. We will be doing a review of the whole strategy at the end of next year, but we anticipate that we will be meeting all the targets that we set out in the strategy. That is now very much embedded in the work of the court.

In terms of the Indigenous issues, there are some limitations in terms of the identified positions. Those positions and that program were identified as best practice in the pathways report, which you may remember, and in the *Every picture tells a story* report. So it has been recognised as a program that has definitely delivered positive outcomes for Indigenous clients of the court. We have a resource limitation which we have tried to get around by, as I said before, linking up with the local community agencies and stakeholder groups in each location. The role of the family consultants in Cairns, Alice Springs and Darwin is to work with the local managers to help them set up the links. After that, the managers will continue with the links. That was a deliberate strategy so that we can get over the limitation of having only six identified positions. Obviously, if we were in a situation where we could employ more people in identified positions we would. But, realistically, we also have to make sure that at each of our locations there is that linkage because, as you know, each Indigenous community is different and has different needs. So it is not a matter of someone from Cairns coming to Canberra to talk to the local Indigenous community there; you have to have the links with the local people as well. So it is quite a comprehensive strategy.

Senator MOORE—Is the expectation of playing a community role now in the performance assessment of the managers?

Ms Cooke—Yes, it is. There has been a very strong emphasis on that over the last four years. It is in their performance agreements. They are required to have in their business plans each year a strategy of how they are going to progress those objectives with both Indigenous clients and culturally and linguistically diverse clients.

CHAIR—Is it the wish of the committee that the Family Court of Australia's National Cultural Diversity Plan 2004-06 and the report by the CEO of the Family Court of Australia on the court's recent activities through to September 2004 be accepted as evidence? There being no objection, it is so ordered.

Senator HOGG—Following on from Senator Moore's question, how do you deal with Western Australia? We have heard about the Northern Territory and Far North Queensland, but how do you deal with Western Australia—the tyranny there being time and distance?

Mr Foster—The Family Court of Western Australia is a state court, so it is not part of our jurisdiction.

Senator HOGG—Why is that so?

Mr Foster—You would probably have to ask the Western Australians about that. When the Family Court of Australia was set up, I guess Western Australia did not agree to hand over power, for whatever reason. So it is a state court. From time to time, our Indigenous family consultants in Darwin sneak across the border to work in Kununurra and places like that to help families in desperate need. But we do not provide any services to the Family Court of Western Australia, other than in the corporate sense. They run the same computer system and they are members of our rules committee and some joint committees, but they are a separate and independent state court.

Senator HOGG—Do you know if the Western Australians offer a service similar to what you offer in your jurisdiction?

Mr Foster—They do not.

Senator MOORE—Mr Scammell, can I get a comment from you on the issues presented by Ms Cooke of the Family Court?

Mr Scammell—The Federal Magistrates Court relies on the work that the Family Court has done on the services they have put in place in their registries. Federal magistrates can refer people to Indigenous family consultants. We support the strategy that has been tabled, and we have access to it. From our own review of the needs of self-represented litigants, one of the obvious things was that we needed to get translations of our documents, fact sheets and brochures. We have relied on information obtained by the Family Court on the languages that need to be translated, and we are in the process of doing that now. We have certainly recognised that we need to do something in that area, and we are doing it.

Senator MOORE—I have one question on self-represented litigants which links into this area and then there may be questions about the dispute resolution process and mediation. Other people might want to go there as well. With that project you are referring to and the work that both of your organisations are doing on the self-represented litigants, is there any research being done that perhaps links in with the community support groups that are supporting self-represented people? You have people who, for whatever reason, are self-representing but they rely on a whole range of community resource groups which give them help in doing that. Is there any research on the correlation between the role of the community groups and the people who are self-representing?

Mr Foster—From my perspective, not directly, but we do work very closely with, for example, the Victorian court network, which provides a service for self-represented litigants. They have a family law section of their service. The Chief Justice also has a community forum which has representatives from a whole range of key stakeholders, including community based organisations. Issues such as self-represented litigants are raised at those forums. That is a quarterly workshop. But there is not a formal relationship in that regard to my knowledge.

Senator MOORE—It is just that, through my office and I am sure other people's as well, we get regular communication from men's support groups that are concerned about the operations of your area as well as a whole range of other areas including the child support area. I know that one of their issues is that so many of their members have to self-represent because of the

financial situations they are in. Is there any particular communication between the various groups that are under that banner—it is a very big banner—and the magistrates area?

Mr Foster—We have certainly recognised the importance of the men's groups and have started over the last 12 months or so some serious dialogue with the men's groups. It is a low-key but deliberate approach to canvassing what the men's groups' experiences are with the court. We are certainly looking at what the next possible actions might be, including community engagement. We have run a training program for staff in relation to issues for men. That was presented by a men's group to staff across the court. It was the most satisfactory and acclaimed training program to run in the court. The staff thought that it was a really worthwhile training program.

Senator MOORE—When was that run?

Mr Foster—That was done by Crisis Support Services and Mensline towards the end of last year.

Senator MOORE—In 2004?

Mr Foster—Yes. It was across the courts. It was a very successful program. We are engaging with Mensline, Dads in Distress and other like organisations at all levels across the court. To be fair, we would have to acknowledge that it is probably an area in which the court has not done as well as it could have in the past, but certainly there are some very positive moves in that regard happening now.

Senator MOORE—Has that flowed on to your area, Mr Scammell?

Mr Scammell—That is right. The only other thing I would mention is that both courts have been collaborating with other agencies to put out information about situations. We have publications with Centrelink and the Child Support Agency that try to give the overall picture about what people need to do to get through the system.

CHAIR—Mr Foster, in the report that you tabled on your recent activities I notice there is an area called Magellan, which involves dealing with matters of serious child abuse. It has been implemented in all registries except New South Wales. You stated there that it is because the New South Wales Department of Community Services has not yet agreed to participate. Can you perhaps update the committee on what stage that is up to?

Mr Foster—We are in the process of establishing a meeting with the Director-General of the Department of Community Services in New South Wales, to be attended by Justice Dessau, who is the judge in charge of the Magellan project, me and another person from my office. I think there is a willingness from both parties for Magellan to be implemented in New South Wales, but I must admit that I am not entirely certain what the department's concerns are. There have been no real concerns expressed by any other department of the various states and Magellan has been successful everywhere. To be fair, the Department of Community Services in New South Wales is keen to implement Magellan as soon as possible. It is the biggest state and it is not happening in New South Wales.

CHAIR—Moving into the area of primary dispute resolution, how do you believe the Federal Magistrates Court should seek to improve settlement rates in cases referred to community based organisations, Mr Scammell?

Mr Scammell—To go back a bit, when we were first established, we were given funding by the Commonwealth government of around $600,000 to source primary dispute resolution services from community based organisations. The way we went about that was to go out to tender with a set of requirements in terms of quality control and the like. We subsequently contracted with 35 community based organisations.

In setting the standards under those contracts, the court relied on the quality framework and approval requirements established by the Department of Family and Community Services under their Family Relationships Services Program. That is a $30 million program, and the court considered that it was reasonable to rely on the requirements of that program. Under that program, the requirements are what are called 'foundational', but they are supported by a quality improvement strategy, which is an aspirational approach to quality, under which organisations are encouraged to undertake quality improvement initiatives in their own right. The Department of Family and Community Services conducts external verification that the requirements have been met.

So I guess I am saying that we did put in place what we could to ensure that we got good-quality services from those community based organisations, but it is a particularly difficult area in which to get what you would call a success. People are at a stage where they already have some entrenched conflict, so success in that environment is difficult. That is basically what I want to say.

Ms GRIERSON—I will take you up on that point. When we see government services that were once delivered in-house being outsourced to private operators, we would have a common trend of great diversity of outcomes and success and of standards being maintained. You rejected the recommendation from the Audit Office that you take more responsibility for assessing the standard of service that those community organisations are providing. Is that because (1) you do not think it is your responsibility, or (2) you think the framework is there and therefore they will deliver within it? I am not quite sure.

Mr Scammell—We do get figures back from the community based organisations about which matters have been settled and which matters have been partially settled. We do get the information back. What I am saying is that we put in place an arrangement at the beginning of the program that was based on the requirements that had been put in place for the much larger family and community services program. On top of that, since the report, we have now had an independent evaluation of the program done. Those two things combined, we believe, were sufficient for us to ensure that we were getting a reasonable result from the program.

Ms GRIERSON—Ms Gibson, I think you have the mediation services responsibility—is that right?

Ms Gibson—In the Family Court of Australia, yes, I do.

Ms GRIERSON—Is it becoming more in-house again, or is it still very much outside, reliant on other companies?

Ms Gibson—The Family Court of Australia has an in-house service and provides its mediation services from employed court mediators. We do supplement the service with regulation 8 welfare officers that are approved through the Family Law Act. They occasionally provide additional family reports for us, but the service is primarily conducted in-house.

CHAIR—Does the Audit Office have a comment on that?

Mr Cristofani—Only in terms of the Federal Magistrates Court's approach: I think their response in the report stands.

Ms GRIERSON—I would like to ask the Audit Office: do think there is enough emphasis on those community based organisations getting fairly quickly to an outcome or is it just a process that can continue without any real motivation to come to a conclusion?

Mr Cristofani—That element was not a focus of the audit. Our focus was more on what assurance the court could provide that what was working was pursued and that what was not working was acknowledged and dealt with.

Mr Scammell—I can add some information on that. During 2003-04 the average time taken between the date a PDR order was made and the return of the referral to the court was 70 days.

Ms KING—Ms Gibson, have you any comment on the relationship between the mediation in the Family Court and these new family relationship centres that are being set up?

Ms Gibson—Yes. As you heard earlier, we are in a very dynamic family law system at the moment. The court is certainly considering the services it will need to provide that will complement the new family relationship centres when they are rolled out. We are considering the family relationship centres, our new less adversarial approach to children's matters, the combined registry and the client satisfaction survey at this time to see what sort of service we will deliver in the future.

In relation to the family relationship centres, after some consultation and consideration within the court, we are proposing that we not continue to provide the privileged services that we currently do—that is, the confidential services to clients. We think that the family relationship centres will in fact take over what we have described in the past as our resolution phase in the Family Court, particularly if we proceed to a time when applicants are required to have some sort of certificate of compliance for attendance at one of those centres before they file in the court. We think that will create quite a significant shift in thinking and attitudes—that when people are filing in the court they will be filing because they are saying they need a determination from the court. So we will be realigning our services more closely with the core business of the court—the determinations—and conducting non-privileged mediation, which, of course, is not an accurate descriptor because there is no such thing as non-privileged mediation.

We are also currently thinking about changing the descriptor of what we would provide in the Family Court. We have had lots of discussions about this. Our preference at the moment is to

describe ourselves more broadly as something like family and child consultants, consulting with families, courts, legal representatives and so forth. But I do not think that has been well received by government, so we are tending towards 'specialist' at the moment, but if you have any better ideas we will be very pleased to hear about them.

Ms KING—Do you see any potential problems—they have been raised in this report, obviously—with the creation of the family magistrates court? I know that there are obviously changes in the way in which you do business. Are you keeping an eye on the potential problems that could occur with these new family relationship centres? If people are going to those centres first, are you watching for inconsistencies in the information given?

Ms Gibson—We certainly are. In the Family Court's response to the discussion paper after *Every picture tells a story*, I think we laid out very clearly the sorts of procedures we thought were important to put in place to ensure that there would not be that sort of confusion. We are aiming for continuity of service for the family so that what happens must make sense for the family. So coming through a family relationship centre and then filing in the Family Court with the one form and one fee—

Ms KING—Or filing in the Federal Magistrates Court.

Ms Gibson—Yes. Moving forward, we want to make it as seamless as possible. We are certainly up to the stage now with the combined registry discussions of talking to the Federal Magistrates Court about how those PDR services would be delivered to clients in that sort of environment.

Senator MOORE—That is certainly along the lines that I was following up on, but I am interested, Ms Gibson and Mr Scammell, in the fact that at the moment, before the changes come in, the two operations have significantly different processes for PDR and mediation. What kind of research has been done on how they interact? I would imagine there has been research done on how those two systems of mediation and counselling interact—has there?

Mr Scammell—We do not use the community based organisations exclusively. A lot of our mediation and counselling is done through the Family Court of Australia.

Senator MOORE—But there is quite a significant amount done through the CBOs.

Mr Scammell—Yes, about $600,000 worth. I do not think there are any issues about the coordination of that type of thing. That combination is actually working well and gives us flexibility to source services in the community when they are not available through the Family Court, particularly in regional areas.

Senator MOORE—Absolutely. Is that how you see it, Ms Gibson—that they are working in complementary ways?

Ms Gibson—Yes, they do complement each other.

Mr Foster—I also think that the new shared service platform will mean that both courts will be working much more closely together. Each court will not be able, under that new structure, to

make a decision to provide that service. It will have to be done in consultation at that board level. In other words, both courts will decide what the service will be. I think we will see a greater mix of in-house and external services for both courts because all the money goes into the central pot and it is shared by both courts.

Ms GRIERSON—I notice that the Audit Office found that different registries had developed their own best practices and individual innovations that were very successful, and they recommended that both courts look at those and find ways to use that best practice or innovation more widely across the system. I also noticed in your CEO's report the first conference for regional staff, and that would obviously be a good start. What has happened about adopting those or applying and implementing them in other areas?

Ms Cooke—In terms of best practice in how the Family Court was providing services to the FMC, after the audit report we certainly took that a further step with our local managers. Certainly Parramatta came out clearly as the registry that had the most sophisticated and most comprehensive systems in place for those services. So, through the registry manager group, which is the national group, there was discussion and an agreement on the principles taken from the report and from the work that Parramatta has done. Then, through the performance agreements and through the business plans, each registry is required to have initiatives in place modelled on those best practice principles in terms of how they provide communication and services to the Federal Magistrates Court. That is regularly reviewed as part of the business planning review and the performance agreement reviews. We have also got an overarching framework now, which has been further developed in terms of best practice approaches to make it easier and more streamlined for individual registries. Where there are best practices identified, they are quickly identified, evaluated and then adopted across the network. So we have been putting a lot of work into the framework.

Ms GRIERSON—So do you feel there is a difference? Is it all working much better?

Mr Scammell—I think it would be fair to say that it has been working better, particularly over the last six months. We are certainly now invited to forums that the Family Court has in place in its registry management structure. Those issues are raised there in agenda items about aspects that can be improved or projects that are under way. Our ability to participate in all kinds of management forums is restricted just because we do not have the sheer numbers in our organisation.

Ms GRIERSON—But you feel that there are more inclusive processes?

Mr Scammell—I believe there are, yes.

Ms Cooke—It is the same with the national registry managers group. We have a representative of the Federal Magistrates Court who is a full representative on that group, so they can raise issues and be part of the decision making. That group includes operational managers who are making the decisions in terms of the services that are delivered. We have also set up another group with the principal mediator, the principal registrar and me with client services to try to streamline and better integrate our services within the court as well, which I think will also be reflected in the services we deliver in a coordinated way to the Federal Magistrates Court.

CHAIR—Mr Foster, you said that by mid-2006 you will have the new system of one form and one set process implemented. Could you report to the committee on a regular basis before and after implementation so that we can be advised on the progress of that?

Mr Foster—Certainly. I actually said that was the target date; I did not say we would have the system in place by 2006. We do not know yet how much work is involved in doing it, but that is our anticipated target date. But certainly we will report to you.

CHAIR—Does the Audit Office have anything further to say or raise?

Mr Cochrane—I have a comment following on from your question earlier, Mr Chairman, about when we would go back. As I said, we would normally do it over a normal cycle—about four or five years—but, having listened to the evidence that has been given today, I would say that there is the intention for a fair amount of change. That change will obviously take time to filter down to the performance indicators on client service. I think that, if we did go back, we would certainly like to allow some time to pass before those changes could impact on clients.

CHAIR—Mr Foster or Mr Scammell, do you have anything further to add?

Mr Foster—No.

CHAIR—One thing comes to mind. With all the information you provide to self-represented litigants, have you considered having—maybe once a month or whenever may be suitable—a workshop day when they can come, if they are going to represent themselves, and ask questions rather than tying up phone lines or wrongly filing documents, to better prepare them for the court processes and procedures?

Mr Foster—We have not considered that, but we have forums where we call in self-represented litigants, get in a facilitator who is not part of the court—we do not have any officers of the court present—and ask them what they think about the process. The first question is 'if you could talk to the Chief Justice directly, what are the two most important recommendations for change you would make?' So we are talking to self-represented litigants in a broader sense. It is very difficult to talk about individual cases but if in a broader sense we can get feedback from people to change the system then we will do that.

CHAIR—It is more so that they understand the process, the terminology, when they can speak, when they cannot speak and what is required in filing. If there are delays in telephone calls for people to access information then maybe it might be better that you have information days when people can come, sit down and ask questions after a presentation.

Mr Foster—We do. We run information sessions. They used to be done by video, and we are developing a DVD, but the situation is in such a state of flux at the moment that we have stopped the development of the DVD because we are not sure what the process is going to be. We used to run information sessions on a regular basis. We still intend to do that. We do have a step-by-step guide on the web site, which is an excellent guide to each process of the court.

CHAIR—Fortunately I have not had to access that.

Mr Foster—I hope you do not have to.

CHAIR—There being no other questions, I thank the Audit Office, the Federal Magistrates Court and the Family Court of Australia for appearing today. It has been very informative.

Committee adjourned at 12.09 p.m.