

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
FAMILY COURT OF AUSTRALIA

**Question No. 226**

**Senator Mason asked the following question at the hearing on 14 February 2006:**

Please provide a table showing the following: a list of judges; the number of cases each sat on; how many days they sat; how many judgements (including joint judgements) they delivered; the average time taken between hearing and delivery of judgement; for each of the last three years (either calendar or financial year).

**The answer to the honourable senator's question is as follows:**

The Court recognises its obligations to report on the Court's systemic outcomes, but takes the view that these obligations do not appropriately extend to reporting against individual judges of the Court.

The primary work of a judge of the Family Court is the hearing and determination of cases. The nature and complexity of individual matters before judges varies enormously. Some cases are disposed of more easily than others, and some are of more complexity. It is therefore not valid or reasonable to compare one judgment with another or the numbers of judgments produced by one judge against the numbers of judgments produced by another.

The Chief Justice of the Family Court ultimately is responsible for the administration of the Court and for ensuring that the work of the Court is as efficiently carried out as the resources provided to the Court allow. In this regard the Chief Justice ensures that available hearing time is maximised so far as it is possible to do so and that judges are available to sit and hear cases, having regard to workloads, other requirements on judges (for example, case management functions and maintaining judicial availability after hours to deal with urgent matters), and personal needs, such as leave. The Chief Justice has a firm policy of ensuring that available hearing time is maximised wherever possible.

The Court, recognising that only about one half of the cases that are ultimately listed for hearing will proceed, has a monitored system of over-listing to ensure that time for judges in Court is maximised. In the event of a listed case settling, prior to or during trial, the Court's rigorous listing practices ensure that a reserve case is ready to take its place at short notice. The lists are monitored by a dedicated List Judge in each registry on a daily basis. If it appears from time to time that cases are settling and insufficient matters have been readied to commence trial, or conversely, reserve overlisted cases are not being reached, an adjustment is made to the listing ratio in that registry. This is monitored by the Deputy Chief Justice and case management judges in each registry.

The timeliness of delivery of first instance judgments is monitored by the Chief Justice and the Deputy Chief Justice on a monthly basis. Where the standard for the delivery of judgments is not being met, a discussion with the judge concerned takes place and a timeframe in which the outstanding judgment(s) will be delivered, consistent with the judge's obligation to continue sitting, is agreed and monitored. If it cannot be met then it may be necessary to temporarily remove a judge from hearing new matters in order to complete the judgments. This is done with reluctance, but in the understanding that the delivery of judgments is a priority.

The success with which the Court has been approaching its tasks is reflected in the fact that the pool of cases awaiting a final hearing after having completed all alternative dispute resolution services available to the parties has diminished by 19% during 2005 and by 9% during 2004. Provided the number of judges available for the hearing of matters in the Family Court is not diminished, the Court is confident that within a period of two years it will be in a position to report a significant diminution of waiting time for cases in the Court.

It happens from time to time that judges are not able properly to perform the duties that would ordinarily be expected of them. This may be due, as in the case of one judge during the last twelve months, to a severe illness. In such instances the Chief Justice advises the Attorney-General.

The Court requires that its judges attend regular training programs and provides, through its committee and research structure, advice and assistance to judges on questions of access to justice and the development of their legal learning. Such training activities when conducted by judges are as far as possible not undertaken at the expense of the core work of the Court. This is consistent with the recommendations of the National Judicial College of Australia about the opportunity for judicial development that courts should provide for judicial officers. During 2005-06, for example, the Court is committed to providing appropriate training to judges to be able to conduct children's cases in a less adversarial manner. All judges will be trained by 1 July, by which time it is anticipated the Government's legislation will require new cases to be dealt with in a less adversarial manner.

The Court remains committed to its primary purpose and recognises that any other matters are subsidiary to that purpose.