

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
FAMILY COURT OF AUSTRALIA

Question No. 117

Senator Kirk asked the following question at the hearing on 24 May 2007:

Since the Courts' [Federal Magistrates Court] inception [2000], have cases been finalised more quickly [in the Family Court of Australia] (given the transfer of some work to the Federal Magistrates Court)?

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

The Family Court is able to provide statistics for timeliness to dispose of **all** matters in the past 4 financial years from 2003/2004. The Family Court is unable to provide data on timeliness to dispose of **all** cases/matters prior to 2003/2004. This is due to the Court's previous statistical collection software, Blackstone, which did not contain accurate data. The Court replaced its Case Management Recording System in 2002 with Casetrack. As a result, 2001/2002 and 2002/2003 financial year data is incomplete and unreliable and therefore not provided.

The table below shows the median time and the time to dispose 75% of cases within the Family Court of Australia.

Time (months) from filing to disposal of Final Orders Applications, by Financial Year

	2000/01	2003/04	2004/05	2005/06	2006/2007 (March YTD)
50% of Applications for Final Orders finalised within (months)	n.a	6.7	8.2	7.6	8.1
75% of Applications for Final Orders finalised within (months)	n.a	14.3	16.6	17.0	16.9

Source: NOR 30 June 2004 and 30 June 2006

It is evident that the timeliness in disposing of matters in the Family Court has not reduced in the past 4 years. Although the number of matters commencing in the Family Court is now significantly less than before the FMC was established, there are a number of factors which have meant that the Court has not been able to reduce the timeliness to dispose of those matters:

- 1) When the FMC commenced operation the FCoA already had a significant backlog of older matters that were not suitable for transfer to FMC and since that time the Court has been trying to reduce these, despite workload coming to the FCoA at a decreasing rate. In 2003/2004, the FCoA had 13,000 final orders cases pending, while at the end of 2005/2006 this had been reduced to 9,000 – a fall of about **32%**. Within the same period matters finalised reduced by **18%** and work commencing fell by only **27%** (ie the Clearance rate had increased from 106% to 118%). The process of reducing the Court's nett backlog has meant it has been able to dispose of more of its older cases. This is reflected in the FCoA's time to disposal statistics
- 2) In the same period since the FMC commenced, the judicial resources of the Family Court have been reduced. For example, in June 2000, there were 48 Judges compared to 40 Judges at June 2007; 7 Judicial Registrars in June 2002 compared to 4 at June 2007 (1 to retire in August 2007); and 17 Senior Registrars in June 2000 (21 appointed in 1999)

compared to 1 Senior Registrar as at June 2007. This overall reduction equates to 8 Judges, 3 Judicial Registrars and 20 Senior Registrars. This is a reduction of 40% of the FCoA's decision making resources. . Of course, the overall resources available for family law work has increased with the establishment and growth of the FMC.

- 3) Over this period the FCoA has increasingly been the Court to handle the most complex Family Law matters. This has meant that a larger proportion of its matters are less likely to settle earlier in the system and more inclined to proceed further towards trial and require judicial case management and ultimately judicial determination. In 2000/2001, with the available data, about 5% of matters required judicial determination, while currently about 7% require determination. However more recently 44% of cases now require judicial case management, where it was 35% of matters for 2003/2004. Cases that are more complex, purely by their nature will require more judicial involvement which means more court events and therefore increased time.

Although complex matters have always existed in the FCoA, when the FMC was introduced the backlog of matters in FCoA was increasing as compliance with timeliness benchmarks was reducing (although there is insufficient data available to back this claim). These reasons were cited as the major influences for the introduction of the FMC. Until recently the introduction of FMC did not see the shift in workload to compensate for the loss of FCoA resources which is a major reason for the Court not being able to reduce its backlog of cases and therefore improve the timeliness to dispose of cases. As the FCoA reduces the backlog of cases in line with its available resources, it expects to see improvement in the time it takes to dispose of its matters.