

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

**Question No. 154**

**Senator Evans asked the following question at the hearing on 31 October 2006:**

Please indicate:

- (a) The number of FTE magistrates assigned to the Court in 2004-05 and 2005-06.
- (b) The number of decisions handed down in 2004-05 and 2005-06.
- (c) The average period between an application on a matter and the handing down of the final decision.
- (d) The average period between the final hearing and the handing down of the final decision.

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

No magistrates are assigned to the Family Court of Australia. The Senator's questions are answered in terms of judges appointed to the Family Court of Australia. Such appointments are made until age 70 or resignation by the judge at an earlier age.

- (a) The number of FTE judges appointed to the Court in 2004-05 and 2005-06

The work of the Court is divided between the judges of the Appeal Division and the General Division. The Appeal Division judges are appointed by the Government, and include the Chief Justice, the Deputy Chief Justice, and such other judge (currently eight) as are assigned.

The role of the Appeal Division is to hear and determine appeals from the Trial Division of the Family Court, the Family Court of Western Australia and the Federal Magistrates Court. For appeals from the Federal Magistrates Court, the Chief Justice may determine that particular appeals be heard by a single judge of the Appeal Division, and most appeals from the Federal Magistrates Court are heard in this way. In addition to hearing appeals, judges of the Appeal Division conduct directions hearings, whereby orders are made about preparation of the appeal book and preparing the appeal for hearing before the Full Court. With increasing numbers of self-represented litigants (41% of appellants were self-represented during 2005-06), directions hearings are increasingly time consuming.

At 30 June 2005, the Court consisted of:

- A Chief Justice and Deputy Chief Justice;
- 7 judges of the Appeal Division; and
- 36 judges in the General Division for the hearing of first instance cases.

At 30 June 2006, the Court consisted of:

- A Chief Justice and Deputy Chief Justice;
- 7 judges of the Appeal Division; and

- 33 judges in the General Division for the hearing of first instance cases.

(b) The number of decisions handed down in 2004-05 and 2005-06

We propose to answer this question with several different pieces of information as we are unclear about precisely what is sought. If, for example, it is only those matters that have a judgment delivered being sought, we will provide that information, but we will also indicate how many matters end up before a judge at a final hearing, plus those that are completed prior to a final hearing.

The reason for including these figures is that matters having a hearing and requiring a final judgment are only one part of a judge's work. Many cases settle once they come before a judge but not before the judge has read all the material filed and prepared for the hearing. Many matters settle because the judge, fully apprised of the case, has assisted the parties to identify the issues, focus on what the dispute is really about, and settle some, if not all, of the issues. This work is just as important as hearing and determining a case by judgment and needs to be acknowledged whenever statistics are being considered. Even cases that settle prior to reaching a final hearing require judge involvement in the form of case management and the conduct of interlocutory and interim hearings.

Applications finalised by the Family Court of Australia:

- During 2004-05, the Court finalised 41,175 applications in total.
- During 2005-06, the Court finalised 37,623 applications in total.

These statistics are representative of the work of the entire Family Court (i.e. judges, judicial registrars, registrars and mediators), and equate to 1143 applications (2004-05) and 1140 applications (2005-06) finalised per year by the Family Court for each judge.

Cases finalised at trial before a judge:

- 1826 cases were finalised at trial (before first instance judges) during 2004-05.
- 1801 cases were finalised at trial (before first instance judges) during 2005-06.

This equates to 51 cases finalised at trial per first instance judge during 2004-05, and 55 cases finalised at trial per first instance judge during 2005-06.

Additionally, the Court's Appeals Division heard and determined 234 Appeals during 2004-05 and 212 Appeals in 2005-06.

The number of cases that have a final hearing and require a judgment:

- 924 cases in which final orders were sought in parenting and property matters were finalised by a judgment at the conclusion of trial (before first instance judges) during 2004-05.
- 851 cases in which final orders were sought in parenting and property matters were finalised by a judgment at the conclusion of trial (before first instance judges) during 2005-06.

The total number of written judgments (including interlocutory but not including extempore judgments) delivered by judges was 1235 during 2004-05 and 1262 during 2005-06.

In addition to final hearings, the Court's judges and judicial registrars delivered 8006 judgments (2004-05) and 7137 judgments (2005-06) for other applications (e.g. applications for interim orders and under the Hague Convention).

(c) Period between an application in a matter and the handing down of final decision

Of all cases finalised by the Family Court, the time elapsed between filing of application for final orders and finalisation was:

- 8.2 months (median) during 2004-05; and
- 7.6 months (median) during 2005-06.

Of cases finalised at final hearing before a judge by a judgment or by settlement, the time elapsed between filing of application for final orders and finalisation was:

- 18.6 months (median) during 2004-05; and
- 19.8 months (median) during 2005-06.

Of those cases finalised by a judgment at the conclusion of a hearing before a judge, the time elapsed between filing of application and judgment was:

During 2004-05:

- 17.5 months (median); and
- 18.9 months (average); and

During 2005-06:

- 18.5 months (median); and
- 19.8 months (average).

(d) Period between the final hearing and the handing down of the final decision

Of those cases finalised by judgment during 2004-05, the time elapsed between the conclusion of the final hearing and delivery of judgment was:

- Less than 1 week (median); and
- 1.1 months (average).

Of those cases finalised by judgment during 2005-06, the time elapsed between the conclusion of the final hearing and delivery of judgment was:

- Less than 1 week (median); and
- 1.3 months (average).