

Information Paper on Family Consultants and Registrars

12 August 2009

Introduction

On 7 May 2009, the Family Law Courts Advisory Group (FLAG) approved the recommendations in the report *Review of the Future Organisational Structure and Resource Allocation of Family Consultant and Registrar Services for the Family Court of Australia and Federal Magistrates Court*, on a new governance and management structure for Family Consultants and Registrars for both Courts. Following the approval of the new management structure, consultations have been held with NSO Executive members, Registry Managers, Director Child Dispute Services and the Principal Registrar. Position Descriptions on the role and responsibilities for the Regional Coordinators Child Dispute Services (RCCDS) and the newly created positions of Senior Family Consultant (SFC) are in the process of being finalised.

Consistent with the Consultant's Terms of Reference relating to implementation, this paper proposes a transition strategy for the initial allocation of existing Family Consultant and Registrar resources from FCoA to FMC. This strategy has evolved from discussions with both Courts and detailed consultations with Case Management Judges and Case Management Federal Magistrates who supported an incremental approach.

The transition strategy provides for:

1. A structure that recognises the separate case management systems for each Court and provides identified Family Consultant or Registrar positions to respond to each Court's requirements.
2. A revised regional management approach that provides for regional flexibility through the involvement of each Court's judicial case managers with Registry management including the relevant judicial support staff.
3. A dedicated amount of Family Consultant resources, as an initial allocation to FMC, to provide Federal Magistrates with the capacity for more flexible case management practices and reduce the current over reliance on Regulation 7 Family Reports.
4. A dedicated allocation of Registrar resources to the FMC to undertake responsibilities consistent with the FMC case management requirements.

5. An incremental change management process that allows the Courts to make ongoing adjustments to their respective case management practices and judicial resource levels.
6. A transparent case management system that monitors regional resource utilisation and reports regularly to the FLAG for both review and appropriate adjustments.
7. Regional agreement by both Courts on the initial level and organisation of the judicial support resources.
8. A structured process for systematic feedback from the judiciary of both Courts on the quality of services provided.

Family Consultants

Standardised Counting Rules in Determining Finalised Cases

As previously agreed by both Courts, it is important that the standardised counting rules used to calculate disposals/finalisations commence at the same point in the case management process/pathway. Both the FMC and FCoA have agreed to the future counting rules on disposals/finalisations. Details in this report on the number of children and joint children and property finalised cases have been based on these agreed rules:

- A case can only be counted once from the time of lodgement through to disposal/finalisation.
- Does not count transfers out from one court or Division to the other.
- Transfers in from one court or Division to the other are counted. This will provide incentive for quick transfers and reduce potential case 'churn'.
- A case is only counted as new if there is a subsequent application after an earlier finalisation.
- Does not count consent orders pursuant to Rule 10.4.
- Does not count divorces.
- Does not count interim matters.
- Does not count appeals.

Number of FCoA and FMC Finalised Children's and Joint Children and Financial Matters for 2008 to 2009 and Combined Family Consultants

Following are the details provided by the Statistical Analysis Unit on the number of child related and joint child and property cases finalised by both Courts for 2008 to 2009. This data includes adjustments recently undertaken by FMC following a review to improve the quality of FMC data input to Casetrack.

The chart shows the total number of 70 Family Consultants available to both Courts. Currently 55 of the 70 positions are with the FCoA and they also provide the FMC with a number of Family Reports through a Memorandum of Understanding (MOU). In addition to these resources, an additional budget is available to the FMC for Regulation 7 Family Reports. In both Queensland and South Australia some Family Reports are also provided by Legal Aid to both Courts.

Finalised Cases of Children and Children and Property Matters and Total Number of Family Consultants for 2008-2009

LOCATION	FCOA	FMC	TOTAL	PROPOSED NO. OF FCs
Adelaide	149	1132	1281	4.8
Darwin	11	143	154	1
Brisbane	184	2075	2259	7.8
Lismore	0	93	93	1
Northern Queensland				
Townsville	48	270	318	3.7
Cairns	20	169	189	1
Melbourne/Dandenong	581	3177	3758	16.1
Tasmania				
Hobart	191	107	298	2.6
Launceston	7	171	178	1
Sydney	436	713	1149	9.4
Wollongong	1	147	148	2
Dubbo	2	45	47	.8
Parramatta	324	826	1150	8
Canberra	33	385	418	2.6
Albury	1	98	99	2
Newcastle	189	514	703	5
Total	2177	10065	12242	69*

Note * An additional 1 FTE to be included for FMC to total 70 positions

The figures represent the funded capacity for each location

The statistics show significant variation of finalised children's matters across Registries with 90% or more of cases being dealt with by FMC in Adelaide, Brisbane, Canberra and Darwin compared to 57% in Sydney and 68% in Tasmania.

Family Consultant Resource Adjustment

In 2008 to 2009 the FCoA relied almost exclusively on internal Family Consultant resources for Family Reports with the exception of a few Regulation 7 reports and some Family Reports provided by Legal Aid in Queensland and South Australia.

In 2008 to 2009 the FMC relied on a number of sources for Family Reports that include:

- Existing 13.8 internal Family Consultants.
- 3,149 regulation 7 reports.
- 515 Family Reports provided by current FCoA Family Consultants.
- Some Legal Aid funded reports in Queensland and South Australia.

The 2009 to 2010 budgeted allocations for FMC is \$2,500,000 for Regulation 7 Family Reports. This represents a significant reduction, from what would have been the anticipated expenditure of \$5,668,200, if a similar number (3,149) of Regulation 7 Family Reports were ordered for this financial year as were ordered in 2008 to 2009.

To achieve optimal utilisation of the total Family Consultant resources, and reduce the number and cost of outsourced Reports, the future strategy for resource management of Family Consultants for both Courts must redistribute the existing Family Consultant numbers according to their work effort and outputs

To commence the changes necessary to achieve budget allocations, the initial number of resources to be transferred between the Courts is outlined in the following chart. To achieve a smooth transition the proposed number allocated to FMC is stated as a guarantee of the minimum level of resources to each location. A number of regional variations in the supply and demand will continue to occur, including judicial numbers that will allow for adjustments as required. It is also intended that the FCoA Family Consultant resources will continue to provide Family Reports to the FMC and other services should this capacity become available. This will best be managed at a regional level through a transparent management process that reports to the FLAG on a regular basis.

Below is the proposed initial adjustment of Family Consultant positions for FCoA.

**FCoA Existing and Proposed Initial Adjusted Family Consultant Positions
for 2008 - 2009**

Location	FCoA Current FCs	FCoA Adjusted FCs	Children Cases Finalised 2008-2009
Adelaide	3.3	2.8	149
Darwin			11
Brisbane	6.8	3.8	184
Lismore			0
Northern Queensland			
Townsville	2.7	2.7	48
Cairns			20
Melbourne/Dandenong	15.1	10.1	581
Tasmania			
Hobart	2.6	2.6	191
Launceston			7
Sydney	9.4	7.4	436
Wollongong			1
Dubbo			2
Parramatta	7	5	324
Canberra	2.6	1.6	33
Albury			1
Newcastle	5	3	189
Total	55	39	2177

As indicated previously, FMC have a number of sources for the provision of Family Consultant services. A number of FMs have emphasised the importance of ongoing access to external report writers. They have emphasised that integral to their acceptance of the proposed adjustment to the division of resources is their capacity to obtain a Family Report in a timely way. Should this not be the outcome, they will request an adjustment to achieve a higher level of resources for outsourced services.

Below is the proposed initial adjustment of Family Consultant positions for FMC.

FMC Existing and Proposed Initial Adjusted Family Consultant Positions and Outsourced Family Reports for 2008 to 2009

LOCATION	Existing FCs	Additional FCs	Total FCs	Chns Cases Finalised	No. of Reg 7 Reports 2008-2009
Adelaide	1	1	2	1132	332 (29%)
Darwin	1		1	143	14 (10%)
Brisbane	1	3	4	2075	579 (28%)
Lismore	1		1	93	54 (58%)
North Queensland					
Townsville	1		1	270	15 (5%)
Cairns	1		1	169	29 (17%)
Melbourne/Dandenong	1	5	6	3177	1469 (46%)
Tasmania					
Hobart				107	0
Launceston	1		1	171	0
Sydney		2	2	713	195 (27%)
Wollongong	2		2	147	26 (18%)
Dubbo	1		1	45	0
Parramatta	1	2	3	826	193 (23%)
Canberra		1	1	385	53(14%)
Albury	2		2	98	4 (4%)
Newcastle		2	2	514	186 (36%)
Total	14	16	30*	10065	3149 (31%)

*FMC has requested an additional FC as a floater to make a total of 31 FTE.

Organisation of Family Consultant Services

During the consultation with FMs, they were requested to express a preference regarding the way in which internal Family Consultant resources are best organised recognising that resources will be required to serve both Courts. All models require a commitment to ensure that the predetermined quantum is achieved for each Court. Three possible models were identified:

1. A "flexible pool model" of Family Consultant resources from which the predetermined resources are to be allocated.
2. Separately dedicated Family Consultant personnel for each Court.
3. A "hybrid model" where a particular number of Family Consultant personnel are assigned to each Court and the balance are provided from the "flexible pool".

Judiciary from both Courts recognised that smaller Registries and country locations would be best serviced by the "flexible pool model". All FCoA Case Management Judges preferred the "flexible pool model", however, recognised that the FMC may have other preferences. The FMC chose either the "flexible pool model" or the "hybrid model". The FMC Registries that chose the "flexible pool model" were Adelaide; Sydney; Parramatta; and Newcastle.

Two FMC Registries chose the "hybrid model" of the dedicated FMC Senior Consultant and an additional identified Consultant exclusively identified for FMC work, with the balance of the "entitlement consultant services" being provided from a pool. They were Melbourne and Brisbane.

Both of these locations considered the benefits of such an approach to be:

1. It will allow some comparisons of the three systems to enable us to consider which best fits their practices;
2. It will provide a measure of flexibility for both FMs and the Family Consultants;
3. It will provide a resource that can be utilised for interventions that may not easily be accommodated within a pool structure;
4. It will provide the opportunity to understand if the business rules put in place to safeguard the allocation of resources between the two Courts will work efficiently.

Judiciary from both Courts endorsed a more structured feedback process where they regularly advise Family Consultant management on the quality and responsiveness of Family Consultant services.

Proposed Registrar Resource Adjustment

Judiciary from both courts accepted the proposed Registrar resource adjustment and the future management from a common pool of resources. The proposed adjustments are as follows:

Proposed Number of Registrar Positions for FCoA and FMC for 2008 - 2009

Location	Proposed FCoA Registrars	Proposed FMC Registrars	Total Registrars
Adelaide	1	2	3
Darwin			
Brisbane	4.75	2	6.75
Lismore			
Northern Queensland			
Townsville	.8	1	1.8
Cairns			
Melbourne/Dandenong	4.8	3	7.8
Tasmania			
Hobart		1	1 for both Courts
Launceston			
Sydney	6.2	1.5	7.7
Wollongong			
Dubbo			
Parramatta	1	1.5	2.5
Canberra	.2	1	1.2
Albury			
Newcastle	1	1	2
Total	19.75*	14	33.75

*Includes 3 for Appeal in Brisbane, Sydney and Melbourne

Recommendations

FLAG approve:

1. The development of a transparent resource allocation management tool that ensures predetermined levels of resources to each Court on the basis of case complexity and finalisations and accounts regularly to the Family Law Courts Advisory Group.
2. The proposed regional management approach that provides regional flexibility through the involvement of each Courts judicial case managers with registry management including relevant judicial support staff.

3. The overall strategy of introducing more flexible Family Consultant resources to reduce the overreliance on Family Reports.
4. The initial level of Family Consultant resources proposed for each Court in this report.
5. The quantum of Registrar resources proposed for each Court in this report.
6. The organisation of Family Consultant and Registrar services as proposed in this report.
7. A systematic feedback from the judiciary of both Courts to Child Dispute Services management on the quality and responsiveness of Family Consultant services to be developed.

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12 August 2009

Proposed Number of Family Consultant Positions for FCoA and FMC

For 2008 - 2009

LOCATION	Existing FCA	Existing FMC	Total FCs	Adjusted FCA	Adjusted FMC	Total FCs
Adelaide	4.8	1	5.8	3.8	2	5.8
Darwin		1	1		1	1
Brisbane	6.8	1	7.8	3.8	4	7.8
Lismore		1	1		1	1
North Queensland						
Townsville	2.7	1	3.7	2.7	1	3.7
Cairns		1	1		1	1
Melbourne/ Dandenong	15.1	1	16.1	10.1	6	16.1
Tasmania						
Hobart	2.6		2.6	2.6		2.6
Launceston		1	1		1	1
Sydney	9.4		9.4	7.4	2	9.4
Wollongong		2	2		2	2
Dubbo		1	1		1	1
Parramatta	7	1	8	5	3	8
Canberra	2.6		2.6	1.6	1	2.6
Albury		2	2		2	2
Newcastle	5		5	3	2	5
Total	56	14	70	40	30	70