



Countdown to the commencement of the new Federal Circuit and Family Court of Australia

The new Federal Circuit and Family Court of Australia will officially commence operations on 1 September 2021 following the passing of legislation to amalgamate the Federal Circuit Court of Australia and the Family Court of Australia.

The legislation and the new Court has provided an opportunity to change the conversation about family law litigation in particular. The architecture of that conversation includes asking litigants if there is a smarter, better way for them to separate without the impact, stress and expenses of protracted family law litigation.

There will be a greater emphasis on encouraging parties to settle their disputes, where it is safe to do so, before proceedings are issued and ensuring that, if they do issue, they are aware of the ramifications for them and their families. For those cases that do need to proceed to litigation, the new Court will provide a modern, transparent and more efficient system of justice which is aimed at getting these parties through the process as safely, quickly and fairly as possible without undue delay. It is also aimed at dealing with the increasing rate of family violence in our community by ensuring risks to vulnerable parties and children at high risk are identified at the very earliest stage in the litigation and treated appropriately.

The new Court will for the first time in 21 years, have a single point of entry and harmonised rules, forms and case management processes to provide a streamlined approach to family law proceedings. It will simplify procedures and enable cases to be moved through the family law system quickly and fairly and with as little detrimental impact on families and children as possible.

Chief Justice of the Family Court of Australia and the Federal Circuit Court of Australia, the Hon Will Alstergren said that for decades, people in the legal profession, and the wider community, have been calling for change and commenting that the “system” wasn’t working.

“The Courts have responded to these calls for change. The Federal Circuit and Family Court of Australia will provide a completely new family law system which focuses on risk, responsiveness and resolution. There will also be a significant focus on compliance with court orders, demonstrated by the establishment of a new National Compliance List which will also commence on 1 September 2021.

“Since the legislation passed to establish the new Court, we have been working tirelessly towards creating the significant and meaningful change to create the best system we can with the resources available to the Court. A system of family law justice that so many people in our community have called for. A system of family law that those who established the Family Court of Australia in 1975 and the Federal Circuit Court of Australia in 1999 envisaged. I understand that the family law system has experienced unacceptable delays for many years, and I am determined to develop a system that the Australian community deserves.

“It means however, that we need to do things differently. We will have a system where identifying risk and safety at the very beginning of every case is a priority, where parties will be given ongoing opportunities for dispute resolution where it is safe to so, and if cases cannot be resolved, it will be listed for a trial before a judge much earlier than previously experienced,” Chief Justice Alstergren said.

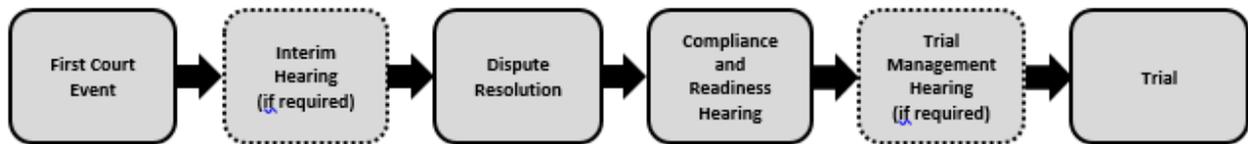
Integral to the new case management model will be the increased involvement of Senior Registrars, Registrars and Family Consultants early in the process to undertake the triage and case management of all matters filed. As far as possible, duty lists will be conducted by Registrars and interim hearings will be



FAMILY COURT OF AUSTRALIA FEDERAL CIRCUIT COURT OF AUSTRALIA

conducted by Senior Registrars which is designed to alleviate the front end case management burden on Judges and ensure that they are able to hear and determine trials and deliver judgments in the matters that require judicial attention as quickly and efficiently as possible.

In the general course, matters filed in the new Court will follow a nationally consistent case pathway, which is set out in general terms in the following diagram:



The First Court event is to take place within 6-8 weeks of filing. Parties should be at mediation or dispute resolution within 5 -6 months of filing before they have spent too much money on costs and have become too entrenched in the system. If they are still unable to settle they will be sent to trial which is to commence where possible within 12 months. These steps are aimed at resolving up to 90% of cases within 12 months which will be a substantial improvement.

To facilitate these changes the Commonwealth Government has provided more than \$100 million in new funding. The Courts have now been able to undertake an intensive recruitment drive to secure the services of highly skilled and energised family law practitioners to assist the Courts' existing hardworking and diligent Registrars and staff.

The number of Judges has also been increased to the highest ever number of Division 2 (or Federal Circuit Court) judges and the highest number of Division 1 (or Family Court) judges since 2007. The new Court will have 111 judges, including 90 specialist family law judges.

WINTER CALLOVER TO DEAL WITH 7000 CASES NATIONALLY

Whilst the changes to the system will impact new cases issued within the Court after 1 September 2021, the Courts are conscious of those cases that have been in the system for some time and have not been resolved. With this in mind, the Federal Circuit Court and the Family Court will be conducting a Winter Callover, commencing on 2 August 2021 in Adelaide, Brisbane, Melbourne, Parramatta and Sydney.

“Approximately 7000 cases will be brought before the Courts across all locations (generally by electronic means) to assist parties to identify, narrow and hopefully resolve matters in dispute with appropriate cases being referred to mediation and family dispute resolution. Many of these will be provided by the Court's in-house Registrar and Family Consultant experts.

“To further assist the parties, in some cases, they may be offered assistance from retired judges who have volunteered to hold private settlement conferences on a pro bono basis or limited cost basis. A list of barristers and solicitors will also be made available for parties to identify possible private mediators.

“The Courts acknowledge, and are grateful for the support provided by the local Bar Associations, Law Societies and importantly legal aid and other community legal assistance services,” Chief Justice Alstergren said.

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