

No excuse for Government's failure to replace retiring family court judges

The Law Council of Australia has called on the Federal Government to make a clear public commitment to immediately replace retiring judges in the Family and Federal Circuit Courts, with recent replacement delays causing unacceptable hold-ups in justice for at-risk children and families.

In the most recent example, Justice Robert McClelland commenced work in the Sydney registry of the Family Court last week, but the Judge he replaced retired 20 months ago. The Law Council noted there was no surprise about the timing of the retiring judge, who had simply reached his mandatory retirement age.

Mr Rick O'Brien, chair of the Law Council's Family Law Section, said the delays were inexplicable.

"There is absolutely no excuse for a failure by any government to ensure that retiring judges are replaced immediately," Mr O'Brien said.

"Judges do not retire on short notice. Many retire at the mandatory age of 70. Even those who retire short of the mandatory retirement age inevitably give many months' notice of their intention to depart."

Mr O'Brien noted that the family law system was already stretched to breaking point in terms of under-resourcing, and that delays with judge replacement are making a bad situation much worse.

"The inexcusable and unexplained neglect by governments on the resourcing of the family courts is nothing new, and the courts need more judges. In the meantime, the very least governments can do is maintain existing resources by replacing judges quickly," Mr O'Brien said.

"By the end of this year, 14 of the 32 justices of the Family Court will be eligible to retire. Our courts will hit breaking point if the Government does not lift its performance in terms of replacing judges."

Law Council of Australia President, Mr Duncan McConnel, called on the Federal Government to urgently commit to being more responsive in replacing retiring judges.

"At a time when the horror of child sex abuse and domestic violence have been rightly brought into the public spotlight, the Government should at least be ensuring there are not gaping holes in our Family Court judicial roster," Mr McConnel said.

"Yes, the family court system desperately needs more funding. Yes, we need to increase the number of judges. But at a bare minimum, we need to ensure that when judges predictably retire we are able to replace them immediately so that cases can continue to be heard in something resembling a timely manner."

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