



THE HON. CHRISTIAN PORTER MP
Attorney-General
Minister for Industrial Relations
Leader of the House

Media Release

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Court reforms to deliver better outcomes for families

Fixing the broken structure of the family court system and helping families achieve faster and lower cost resolutions are the key aims of legislation to be introduced into Federal Parliament today.

The Bills merge the Family Court of Australia and the Federal Circuit Court – both of which exercise largely the same family law jurisdiction – into a new single court structure to be known as the Federal Circuit and Family Court (FCFC).

The merger will help reduce delays and backlogs in the family law courts and remove the unnecessary confusion, duplication and additional costs that have plagued the existing dual court system for decades.

“Families going through a separation are under enough stress and pressure already without also having to navigate their way through two separate court systems that ostensibly do the same thing, but have different entry points, forms, procedures, rules and practice management styles,” Attorney-General Christian Porter said.

“Bringing the courts together under one amalgamated structure creates a single point of entry for families who will no longer be bounced around between different courts – an issue that occurs too often in the current system and can lead to lengthy delays for families because matters have to begin again.”

The Federal Circuit and Family Court of Australia Bills have been informed by multiple independent inquiries held over the past decade which examined the user experience and efficiency of the existing system. The most recent of those reviews found that this reform has the potential to allow an extra 8,000 cases to be resolved each year.

“The reality is that everyone involved in the family law system has known for years that it needs to be reformed, but no one has been able to agree on the best way forward,” the Attorney-General said.

“Doing nothing is no longer an option, as Australian families deserve better.

“Our courts need to function efficiently so that people can move through them as quickly as possible and then get on with rebuilding their lives. This is critically important for children of separating couples.”

Importantly, the reform will not abolish the Family Court. Division 1 of the FCFC will be a continuation of the Family Court, whilst Division 2 of the FCFC will be a continuation of the Federal Circuit Court.

The Bills introduced today include amendments to the legislation previously introduced into the Parliament. Most notably, family law appeals will continue to be heard by the FCFC, in Division 1, rather than in the Federal Court of Australia. However, there will be no Appeal Division in the FCFC (Division 1). Instead, all FCFC (Division 1) judges will be able to hear appeals either as a single judge, which will allow the FCFC to hear more matters each year.

The legislation also requires that those hearing family law matters in either Division will need to satisfy additional appointment criteria to ensure they are suitable to deal with family law matters, including family violence.

“The unfortunate reality is that many of the matters that come before the family law courts involve family violence, and as such, it is appropriate to codify that judicial appointees have the ability to deal with such cases.”

As part of this reform, the Government has provided \$4 million in funding to the federal courts to review court rules and assist with implementing the reforms, as well as a \$3.7 million boost to court resources.

For more information about the reforms, please visit the Attorney-General’s Department website at: <https://www.ag.gov.au/LegalSystem/Courts/Pages/Structural-reform-of-the-federal-courts.aspx>



Structural reform of the federal courts

Fact Sheet – Overview of reforms

December 2019

Subject to the passage of legislation before the Parliament, the Family Court of Australia (Family Court) and the Federal Circuit Court of Australia (FCC) will be brought together to be known as the Federal Circuit and Family Court of Australia (FCFC).

The current court structure and overlapping family law jurisdiction between the Family Court and FCC leads to significant inefficiencies, confusion, delays, additional costs and unequal experiences for many families. This results in poor outcomes for some children and families. The reforms will address these inefficiencies.

The FCFC will provide a consistent pathway for Australian families having their family law disputes dealt with. The reforms are designed to maximise the use of highly skilled and trained judicial officers and court resources, to significantly improve access to justice for Australian families; improve the efficiency of the family law system; reduce the backlog of matters in the family law courts; and drive faster, cheaper and more consistent resolution of disputes for Australian families.

Structure of the FCFC

The FCFC will comprise two Divisions. The FCFC (Division 1) will be a continuation of the Family Court and comprise the existing judges of the Family Court, and the FCFC (Division 2) will be a continuation of the FCC and comprise the existing judges of the FCC. The FCFC will operate under the leadership of one Chief Justice with the support of one Deputy Chief Justice, who will each hold a dual commission to both Divisions of the FCFC.

The FCFC (Division 1) will deal only with family law matters, while the FCFC (Division 2) will deal with both family law and general federal law matters. The FCC's existing general federal law jurisdiction and fair work jurisdiction will not be impacted by the establishment of the FCFC, with no changes to the existing appeal pathway. The current Fair Work Division of the FCC will be retained in the FCFC (Division 2).

To ensure the continued existence of the Family Court, Regulations may prescribe a minimum number of judges who are to be appointed to the FCFC (Division 1).

Single point of entry and common case management approach

The FCFC will be a single federal point of entry for all Australian family law matters. All family law matters will be filed in the FCFC (Division 2). Matters will be subject to a common case management approach led by judges and registrars. Urgent and high risk cases will continue to be prioritised, and all cases will be allocated at the earliest possible point to the most appropriate judge in the most appropriate Division.

Once a matter has been allocated to the most appropriate Division, the matter will only be able to be subsequently transferred between Divisions by the Chief Justice or Chief Judge.

The Chief Justice and Chief Judge are obliged to work cooperatively to ensure common Rules of Court and forms, and common practices and procedures across both Divisions of the FCFC. The Chief Justice and Chief Judge will be invested with the power to make the Rules of Court for their respective Divisions for the first two years from the commencement of the new court structure, after which the power will revert back to judges or a majority of judges of each respective Division. Any proposed Rules of Court after this two-year period are not to be made if the Chief Justice or Chief Judge considers that they are not consistent with the aim of ensuring common Rules of Court and forms.

This consistent approach will provide families with greater certainty about how their disputes will be resolved, enabling information to be readily available about what to expect and when, and providing an earlier sense of the likely time and cost implications of lodging a family law application.

Judicial expertise

Persons appointed to either Division of the FCFC will need to satisfy additional appointment criteria to ensure that they are suitable by reason of knowledge, skills, experience and aptitude, to deal with the types of matters coming before them. Where these matters are family law matters, this includes matters involving family violence.

Handling of appeals

The FCFC (Division 1) will retain jurisdiction to hear family law appeals. However, there will be no Appeal Division in the FCFC (Division 1). Instead, all FCFC (Division 1) judges will be able to hear appeals either as a single judge or as part of a Full Court. All appeals from decisions of the FCFC (Division 2) and Family Law Magistrates of Western Australia will be heard by a single judge, unless the Chief Justice of the FCFC (Division 1) considers it appropriate for the appeal to be heard by a Full Court.

This will contribute to the FCFC being able to hear more matters each year, reduce the backlog in first instance family law matters and contribute to reducing median case waiting times.

There will be no changes to the rights to appeal as currently provided for under the *Family Law Act 1975*.

Timing of reforms

Subject to the passage of legislation through the Parliament, the FCFC will commence operation by Proclamation or the day after the end of a six month period from when the legislation receives Royal Assent.

Transitional arrangements will be put in place for proceedings before the courts at the time of the commencement of the reforms to ensure that matters before the courts at that time are dealt with as effectively and efficiently as possible, and with the minimum of inconvenience and delay.

Further information about the reforms is available on the Attorney-General's Department website (<https://www.ag.gov.au>).