
FAMILY LAW COURTS ADVISORY GROUP MEETING

Minutes of Meeting – Brisbane
13 December 2010

Present: Chief Justice Bryant (CJ), Chief Federal Magistrate Pascoe (CFM), , Federal Magistrate Baumann (BFM), Richard Foster (RF), Matt Minogue (MM), Stewart Fenwick (SF), and Leisha Lister (LL).

By Phone: Justice Watts (WJ) until 11am EST

Apologies: NIL

Meeting commenced: 10 a.m. EST

1. Minutes from 11 August 2010

Read and accepted

Action items

All Action items completed.

2. Agenda Items

3.1 Budget

RF provided the following update:

Performance Summary for 2010/11 YTD

- Based on preliminary figures the Courts are forecasting Operating Losses for 2010/11.
- In accordance with Estimates Memorandum 2010/51 the Courts have submitted applications seeking approval to budget for an Operating Loss
- Agencies may not budget for a genuine operating loss without prior approval of the Finance Minister according to the *Budget Process Operational Rules (EM 2010/39)*

FCoA YTD

- \$1m loss forecast
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FMC YTD

- \$2m loss forecast
- Includes the impact of delays in the restructure, including additional temporary corporate positions required when Government has already taken the savings for these positions.

FCoA – PERFORMANCE SUMMARY

YTD November result highlights include:

- Related Entity revenue is over budget by \$0.272m, primarily related to cost recovery from FMC for Joint Conference/FM Plenary, Federal Court Bureau Charges, and Casetrack.
- General Administration, a targeted savings area, is over budget by \$0.589m, however \$0.440m is related to FMC appropriations transfers leaving a variance of \$0.149m which is a result of a combination of higher than budgeted Archiving Fees, Printing, and Conference Registration Fees.
- Property expenditure is \$0.362m under budget, mainly as a result of lower than budgeted expenditure in Repairs & Maintenance, Energy, Cleaning, and Rent.
- Workers Compensation (Comcare) Premium is under budget by \$0.200m as result of a credit from Comcare arising from lower than estimated salary and wages expenses.
- Travel, a targeted savings area, is over budget by \$0.182m, mostly as a result of higher than budgeted Accommodation and Meals for the Judges Annual Conference, Judicial Exchange, and Airfares (International).
- Court Operations is \$0.179m under budget, reflective of a steady decline in expenses across the years which would be attributable to a decline in FCoA Judicial Numbers.

ASLs are significantly under budget for the YTD by 17.16, however, Salary and Wages expenses are over budget by \$0.119m, this variance has been achieved as a result of Judicial Payrise and lower than budgeted salary savings in Corporate.

The Court's Equity is showing a decrease of \$2.690m since the start of the year, with the Court's Assets and Liabilities likewise showing a decrease since the start of the year. The decline in Assets & Liabilities is primarily reflective of the payment of creditors and the reduction of accrued revenue and expenses.

The Court's cash balances remain relatively constant, as required by Gov't. For the YTD, the total cash received by the Court was \$83.915m with cash used being \$83.969m resulting in a decrease in cash at bank of \$0.054m.

FMC - PERFORMANCE SUMMARY

The YTD underlying result for November is a deficit of \$0.864M against a budgeted deficit of \$0.927M, resulting in a YTD variance of \$0.064M.

November result highlights:

- Revenue is over budget by \$0.586M
- Employee Expenditure is over budget by \$0.532M
- Separation & Redundancy is under budget by \$0.173M.
- Travel is over budget by \$0.154M.
- Court Operations is over budget by \$0.069M.

Revenue continues to be over budget this month as a result of the additional revenue accrued to supplement the recent REM Tribunal Determinations providing for an extra 4.1% and 1.5% increase in judicial salaries. This is equally offset in employee expenditure which is over budget by \$0.532M for the month.

Separation & Redundancy is under budget for the YTD by \$0.173M as a result of timing delays in anticipated redundancies. It is expected that the full budget of \$0.400M will not be required and an adjustment will be made at the upcoming Mid Year Budget Review.

Travel is over budget by \$0.154M for the YTD due to higher than expected travel across the Registries.

For the YTD, Court Operations expenditure is over budget by \$0.069M. The primary contributors to this variance are Reg 7 reports (\$0.118M) and Court Recording (\$0.057M). These are however offset by an underspend in Interpreters of \$0.157M YTD.

Projects & Capital Works are under budget for the year to date by \$0.595M. This is the result of delays in expected capital costs associated with the Brisbane CLC upgrade, resulting in a considerable variance of \$0.742M.

There has been a downward movement of \$1.093M across the Court's assets from the beginning of the financial year. Total Liabilities have increased by \$0.338M primarily due to an increase in Employee Provisions.

Action Item:

No action items

3.2 FMC Divorce Review – Workload of Registrars

Dependant on Registrar Resources. Discussed at Agenda Item 3.5

Action Item:

No action items

3.3 Transfers between the two Courts

Concerns raised regarding the way transfers are managed between the Courts. Both Courts agreed the number of incorrect transfers is sufficiently small and in the interest of the litigants these matters should not be transferred back to the referring Court. Late transfers should be discussed with the other Court prior to transferring the matter.

Action Item:

- Both Chief Justice and Chief Federal Magistrate will raise the issue of transfers at the next respective Policy Advisory Committee meeting.

3.4 Family Consultant Review

BFM, RF and Steven Agnew to meet in January to prepare terms of reference in relation to the use of family consultant resources between the two courts. A group, chaired by Watt J and Baumann FM, will be established to manage these terms of reference.

Action Item:

- BFM, RF and Steven Agnew to meet in January to prepare terms of reference in relation to the use of family consultant resources between the two courts.

3.5 Registrar Resources

The report on services provided by Registrars was only received by RF today. The report requires further work and will be tabled at the respective Case Management meetings.

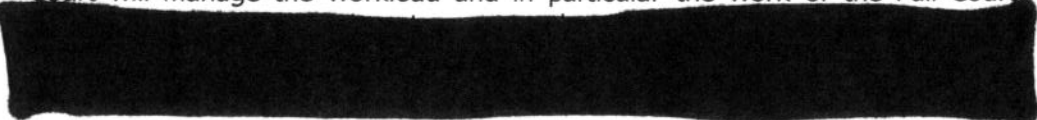
A decision regarding the future use of Sessional Registrars has been delayed pending further investigation into the workload of Registrars.

Action Item:

No action items

3.6 Judicial Appointments

FCoA expect between 6 and 8 retirements in 2011. Concerns about how the Court will manage the workload and in particular the work of the Full Court.



Concerns were raised about the number of interim parenting orders appeals from the FMC. This has led to some final hearings being adjourned although dates had been allocated, and can also simply delay the final hearing. .

Suggested to the AGD that the Act be amended so that leave of the Court be required in parenting matters similar to that of property matters.

Action Item:

No action items

3.7 Status of FLCAG discussions

The minutes of the meetings will continue to be provided to the Attorney-General following each meeting. The Group was reminded that the purpose of FLCAG meetings are to provide advice to the heads of jurisdiction who have the responsibility for the management of the respective courts. .

Action Item:

No action items

3.8 Protocol e-filing

Currently in the final testing stage of development for Initiating Applications. At present, if an applicant chooses to file an Initiating Application in the FCoA, they are immediately presented with the Protocol and required to tick a box to acknowledge the following message before they can commence to efile - *"The court I have selected to file in is in accordance with the information provided in the Protocol."*

If a party chooses to file in the FMC, as per the CFM's instructions, no such Protocol appears and they are free to proceed to e-file.

Discussion about the importance of uniformity in the e-filing process and concerns as to whether litigants will understand the protocol.

To ensure uniformity, it was agreed that there should only be a reference to the Protocol for the Initiating Documents if litigants were uncertain where to file, in which case they could select a button which would re-direct them to the protocol.

Action Item:

- RF to talk to Phil Hocking to develop a process and refer to the two Chiefs for consideration.

3.9 After-hours Service

Discussion regarding the proposed changes to the after hours service procedures. The following recommendations were agreed:

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- 1) That the referral process for Registrars in the After Hours Service Manual be modified to make Federal Magistrates the only judicial officers for registrars to contact when there is no existing application or order in either court.
 - 2) In those matters where there are existing proceedings in the FCoA, those matters should continue to be referred to a judicial officer in the FCoA.
 - 3) That Section 6.2.4 of the AHS Manual be amended to reflect the following:
If the Registrar determines it is appropriate to contact a Judicial Officer, the decision as to which is the appropriate jurisdiction is based on the following:
 - If the case involves a potential order to restrain an aircraft from leaving the jurisdiction, contact the Judge/~~Judicial Registrar~~ unless there is a case pending in the FMC.
 - If there is no existing application or order in/of either court, contact the ~~Judge/Judicial Registrar~~ Federal Magistrate.
 - If there is an existing application or order in/of the FCoA, contact the Judge/~~Judicial Registrar~~.
 - If there is an existing application or order in/of the FMC, contact the Federal Magistrate."
 - 4) References to "judicial registrar" in the Manual also be removed as this is now an obsolete reference.
 - 5) That this change commence from 1 January 2011.
 - 6) That this change be communicated to all judicial officers in both courts and to all staff.

Action Item:

- LL to prepare a draft email regarding these changes to the After-Hours Service for the CH and CFM.
- CJ and CFM to advise Judges and Federal Magistrates of the changes
- RF to advise Registrars of the Changes.

3.10 Other Business

3.10.1 Domestic Violence Register

RF raised concerns about the introduction of the new Domestic Violence Register and the impact that may or may not have on the Courts.

Action Item:

- MM to forward further information regarding the Domestic Violence Register.

Future Meeting Dates 2011

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- **Wednesday 2 March**
 - **Wednesday 1 June**
 - **Wednesday 7 September**
 - **Wednesday 7 December**