



Australian Government
Attorney-General's Department

Access to Justice Division

14/13451

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Committee Secretary
House of Representatives Standing Committee
on Social Policy and Legal Affairs
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Committee Secretary

**Parliamentary Inquiry into the Child Support Program – Attorney-General's Department –
Questions on Notice**

This letter provides information to the Committee following the department's appearance at the public hearing for the Parliamentary inquiry into the Child Support Program on 25 September 2014.

In addition to answering the questions I took on notice at the hearing, I have also provided some further information in relation to the reports I undertook to provide to the Committee.

Question on Notice: You note that it is difficult for people to seek resolution through the family law system within [the] 14-week time frame [imposed by the child support system before a change in child support is effected]. ... [Y]ou say it normally takes about 12 months for that process to be finalised through the Family Court system. Do you know if that is what they are achieving, though?

The Annual Reports of the Family Court of Australia and the Federal Circuit Court provide statistics about the performance of the courts. The following information has been obtained using the 2013-14 Annual Reports which can be found at the following addresses:

Family Court of Australia:

http://www.familycourt.gov.au/wps/wcm/connect/FCOA/home/about/publications/annual/FCOA_ar_13-14

Federal Circuit Court of Australia: <http://www.federalcircuitcourt.gov.au/pubs/html/AR1314.html>

The Family Court of Australia

The Family Court of Australia deals with ‘the most complex and difficult family law cases containing either parenting or financial issues or a combination of both.’ In 2013-14, 19,651 applications were filed in the Court¹.

The Family Court of Australia Annual Report 2013-14 provides statistics on the Court’s performance for 2013-14 and the previous four years. One of the Court’s key performance indicators (KPIs) is that 75% of matters pending conclusion are less than 12 months old. The statistics for this KPI are set out in the table below²:

KPI/target	2009-10	2010-11	2011-12	2012-13	2013-14
75% of matters pending conclusion are less than 12 months old	72%	70%	73%	70%	73%

While the Court has not met its target of finalising 75% of matters within 12 months, the rate of completion has been 70% or above for each of the past 5 years.

The Annual Report states that:

The Court has, for the past four years, successfully met its aim to finalise more cases in a year than start in that year – in other words, to have a clearance rate of at least 100 per cent. Achieving this target means the Court is able to ‘clear out’ as many cases as the number that commence, so that the backlog of cases does not increase. This year the Court achieved 98 per cent despite achieving a seven per cent increase in finalisations during the year, but this was offset by an unexpected 10 per cent increase in filings resulting in more cases starting than could be finalised. The fact that general division judges are being allocated to sit on the Appeal Division may also have an impact, together with the retirement of a judge in Sydney who has not been replaced.³

The Federal Circuit Court of Australia

Family law matters constituted 90% of all applications filed in the Federal Circuit Court of Australia in 2013-14. This was a total of 83,357 applications filed in 2013-14⁴.

The Federal Circuit Court of Australia Annual Report 2013-14 reports against a KPI, ‘Time goal: the time taken from filing to disposition is less than six months in 90 per cent of cases’. In relation to this KPI, the Annual Report states⁵:

In family law, 82 per cent of applications were completed within six months and 94 per cent were completed within 12 months.

¹ Family Court of Australia Annual Report 2013-14, p.58

² Ibid, p. 55

³ Ibid

⁴ Federal Circuit Court of Australia Annual Report 2013-14, p.40

⁵ Ibid, p.38

Question on Notice: Upon the establishment of the FRCs, I am aware we saw a significant decline in the number of cases going to the Family Court. Has that been sustained? Is there some evidence that the presence of the FRCs is continuing to reduce the caseload in the Family Court system?... Are there any stats that are easily available around that? Like how many people are availing themselves of the FRC program and a bit of a snapshot in time over that?

The Australian Institute of Family Studies (AIFS) is currently finalising a draft research report that examines the trends in family law court filings over a nine-year period between the 2004-05 and 2012-13 financial years⁶.

While AIFS is yet to release and publish the draft research report, they have agreed that the department can provide an extract of the statistical information in responding to the committee's questions. The research provides an update on the information previously published by AIFS in the *Evaluation of the 2006 family law reforms*.

Overall, the tables below show a sharp decline in filings in 2007-08, when the Family Relationship Centres (FRCs) came on line and mandatory family dispute resolution became a requirement when filing with the courts, unless the exceptions such as family violence or urgency were claimed. Filings did begin to rise again slightly from this point, although not to the pre-reform levels reported in 2004-05 and 2005-06.

All three tables reflect a decline in filings with the Family Court of Australia and an increase in filings with the Federal Circuit Court which indicates a major shift in case load distribution.

The information below in relation to All Final Orders, Children's Matters and Property Only Matters is obtained from the AIFS research:

ALL FINAL ORDERS⁷

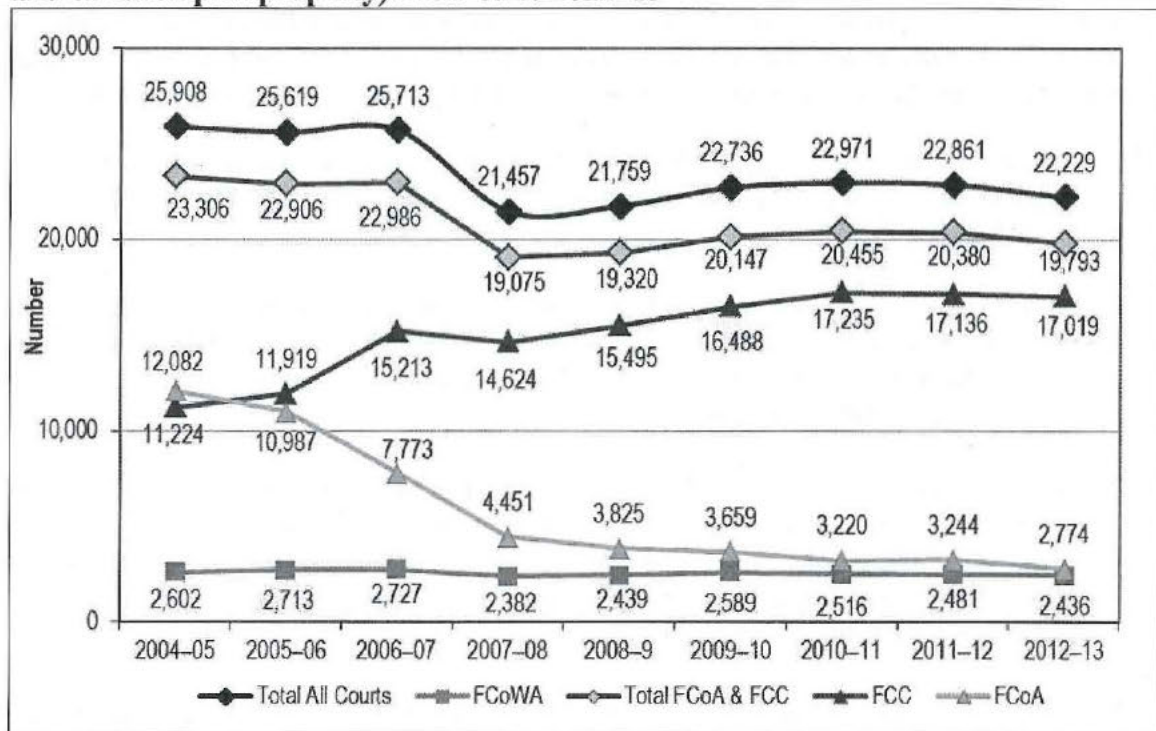
Across all courts for the entire period under review (the 2004-05 financial year through to the end of the 2012-13 financial year), filings for final orders with respect to children-only, children-plus-property, and property-only applications, declined by 14%.

Much of this decline occurred in the period 2006-7 to 2007-08. This was the first full year in which the majority of the FRCs had come on line and therefore the first full year in which the s60I provisions requiring parents' to use family dispute resolution were likely to have had a significant impact.

⁶ Rae Kaspiew, Lawrie Moloney, John De Maio and Jessie Dunstan *Research Paper: Family law court filings 2004-05 to 2012-13 (Draft)* Australian Institute of Family Studies

⁷ Ibid.

Figure 2.1 Number of applications for final orders (total: children only, property only, and children plus property) 2004–05 to 2012–13

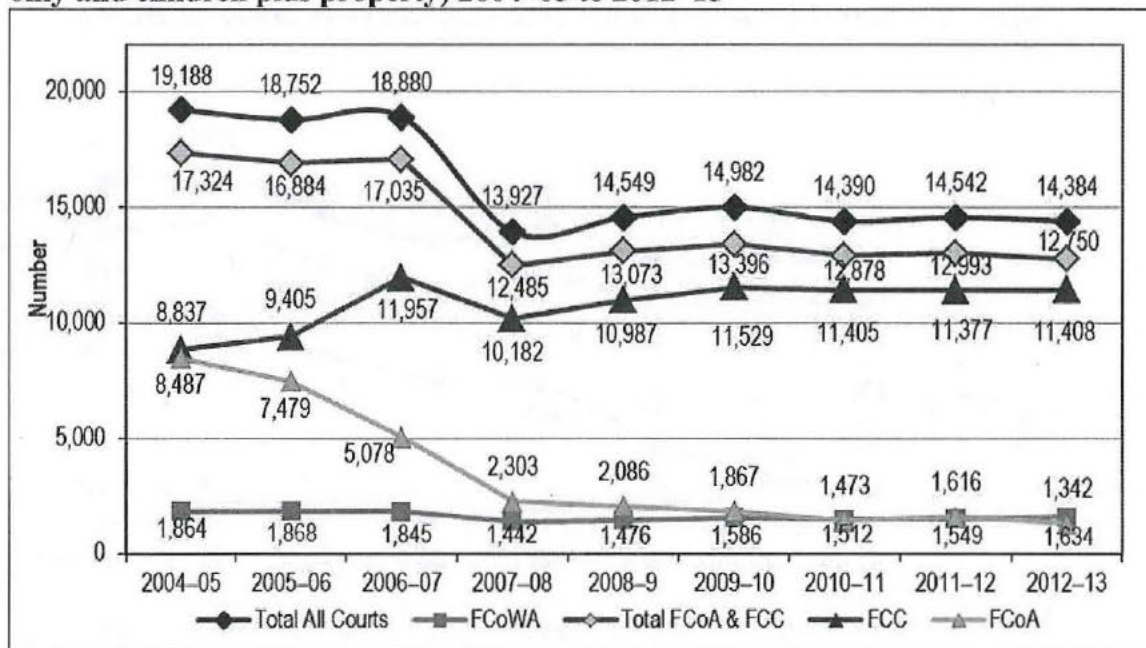


CHILDRENS' MATTERS⁸

Across all courts, applications for final orders in children only and children-plus-property cases (children's matters) declined by 25% from 2004–05 to 2012–13.

This was made up of an 84% decline and a 29% increase in the Family Court of Australia and the Federal Circuit Court respectively (leading to an aggregate decline of 26%) and a 12% decline in the Family Court of Western Australia.

Figure 2.2 Number of applications for final orders in cases involving children (children only and children plus property) 2004–05 to 2012–13



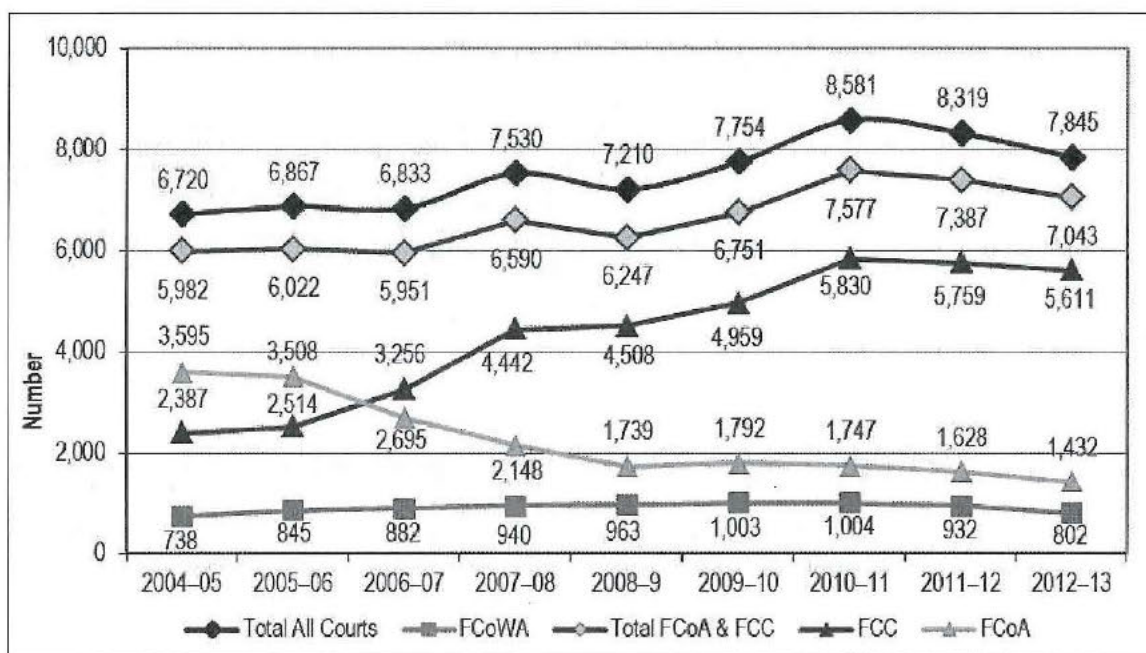
⁸ Ibid.

PROPERTY ONLY MATTERS⁹

Filings in relation to final orders for property only, *increased* by (17%) across the three courts over the survey period between 2004–05 and 2012–13.

The large increase in property filings in the period 2008–09 to 2010–11 reflects the impact of legislation introduced in 2008 that allowed de facto financial matters to be dealt with under the *Family Law Act 1975* (Cth) in federal courts rather than in state and territory based systems.

Figure 2.3 Number of applications for final orders (property only), 2004–05 to 2012–13



Family Relationship Centres

The establishment of 65 FRCs was part of the 2006 reforms to the family law system. AIFS was commissioned to undertake an extensive evaluation of the reforms. The report on the evaluation was released in early 2010. The evaluation highlighted the complex and varied issues faced by separating parents and their children and the importance of having a range of services that can effectively respond to those issues. The evaluation found that overall, there was a significant increase in the use of relationship services, such as the FRCs, by parents pre- and post- separation, a decline in filings in the courts in children's matters and some evidence of a shift away from an automatic recourse to legal solutions in response to post-separation relationship issues.

AIFS has also recently completed a third wave of a longitudinal study of post-separation parenting, property and relationship dynamics after five years¹⁰. The Longitudinal Study of Separated Families (LSSF) is a national study of parents with children under 18 years old who separated after the 2006

⁹ Ibid.

¹⁰ Qu, L., Weston, R., Moloney, L., Kaspiw, R., & Dunstan, J. (2014). Post-separation parenting, property and relationship dynamics after five years. Canberra; Attorney-General's Department. (pp. xiii, xv and xvi)

family law reforms were introduced and who were registered with the Child Support Program in 2007. The third wave sample undertaken between September and November 2013 involved interviewing 9,028 parents of which 5,755 were members of the original wave 1 sample and 3,273 parents were a “top up”. From the third wave sample of separated parents, around one third had accessed family law services in the two years prior to the third wave sample with the FRCs being the most commonly used service with the most common issue being to sort out parenting arrangements. In each wave of the LSSF, the majority of parents reported they had sorted out their parenting arrangements. When questioned about the pathway used by parents to sort out their parenting arrangements, the most common response from parents (77% of parents from the wave 1 cohort and 70% of parents from the wave 3 cohort) was through inter-parental discussions and “it just happened”.

The information below on client numbers for FRCs is sourced from service level data collected from the funded family law services for the last grant period 1 July 2011 to 30 June 2014¹¹. New five year grant agreements commenced on 1 July 2014 and are due to expire on 30 June 2019. The client figures include all contacts with the FRCs including general enquiries, referrals and family dispute resolution.

Financial Year	Number of clients for FRCs
2011-12	61,947
2012-13	81,673
2013-14	91,081

Question on Notice: Ms CLAYDON: *You mentioned earlier on about a risk-screening tool that had been developed by the department and is available now. ... I am very interested in whether you have ever reviewed the tool or whether this is something that the department intends to review, to see how it is working on the ground.*

Ms HARVEY: *... We could make a copy of that available to the committee as part of a package if you would like?*

Ms CLAYDON: *Yes, I would like to see it.*

The Department has made two copies of both the Detection of Overall Risk Screen (DOORS) assessment tool and the AVERT Family Violence Training Package available to the Committee.

Common Screening and Risk Assessment Framework ('DOORS')

DOORS was commissioned by the department, and developed by Relationships Australia South Australia together with Family Transitions. It is a common screening and risk assessment tool and framework and associated training package and software system, that enables the detection of and response to safety and well-being risks in families, at the entry point to services, across the family law system.

¹¹ Data provided by the Department of Social Services extracted from the Family Support Program Data System – October 2014.

DOORS is simple, practical and flexible enough to meet the needs of different professionals, locations and client demographics. It facilitates the referral of clients to appropriate services, when required.

DOORS covers the following behaviour domains: client's culture and religious background, about the separation, managing conflict with the other parent, how the client is coping lately, how the other parent seems to be coping, client's child(ren), managing as a parent, children's safety, parent's personal safety, safety behaviour and other stresses.

The use of DOORS is not mandatory within the family law system. However, family law system agencies are able to adapt the framework to inform their own screening and risk assessment practices as required.

To date, more than 3,000 copies of DOORS have been distributed free of charge by the department.

'AVERT' Family Violence Training Package

The 'AVERT' Family Violence Training Package was developed by Relationships Australia South Australia.

The package targets lawyers, judicial officers, counsellors and other professionals working in the family law system, to improve levels of understanding about the dynamics of family violence and the handling of family violence cases.

More than 750 copies of the training packages have been distributed by the department, free of charge, to stakeholders within the family law system. An online component of AVERT is also available to allow professionals to access the training as part of an induction package for new employees or as a refresher resource.

Question on Notice: Ms HARVEY: [O]ne of the other things we have been doing a lot of work around is the interaction between the child protection system and the family law system and better sharing of information, so that everyone who is dealing with a particular family has the same understanding of what has been going on in that family. There can be some times when that information just is not there.

Ms CLAYDON: What are the blockages around sharing information, or is that too long a list?

Ms Harvey: We have had a couple of reports, which I would be happy to make available to the committee, which we commissioned. ...

Ms CLAYDON: Thanks very much.

In certain situations children can be involved in the state and territory child protection systems and the federal family law system. The department is involved in a number of projects to improve collaboration between these two systems to streamline processes and practices.

Professor Richard Chisholm AM (former Family Court Judge) was engaged by the department in April 2012 to assist with the development of a best practice framework to improve the exchange of information by the federal family courts and the state and territory child protection systems.

In March 2013, the department published the report *Information-Sharing in Family Law and Child Protection: Enhancing Collaboration*. The project aimed to ensure that information relevant to

decisions about children is appropriately shared between the family law system, the state and territory child protection system, and the legal aid commissions and independent children's lawyers.

The report includes a model information sharing agreement to guide the development of agreements between the family law courts, child welfare authorities and relevant stakeholders.

In May 2013, the department engaged Professor Chisholm to review in more detail, the sharing of experts' reports between the child protection system and the family law system. A taskforce comprising representatives from key stakeholder groups assisted with the preparation of this report. The taskforce was comprised of representatives from the department, the Family Court of Australia, the Federal Circuit Court of Australia, the Family Court of Western Australia, National Legal Aid, the New South Wales and Queensland child protection departments, and the Tasmanian Director of Public Prosecutions.

Professor Chisholm provided his final report in March 2014.

Two copies of the reports have been provided to the Committee in hard copy. Both reports are publicly available on the Department's website at the following link:

<http://www.ag.gov.au/FamiliesAndMarriage/Families/Pages/Familylawandchildprotectioncollaboration.aspx>

I trust this information is of assistance to the Committee.

Yours sincerely

Tamsyn Harvey
Assistant Secretary
Family Law Branch

