

FAMILY LAW COURTS ADVISORY GROUP MEETING

Minutes of Tele-Meeting
Thursday 24 June 2010 – 2pm (EDST)

Present: Chief Justice Bryant (CJ), Chief Federal Magistrate Pascoe (CFM), Justice Watts (WJ), Richard Foster (RF), Elizabeth Kelly, Alison Playford, and Leisha Lister (LL)
(Minutes)

By phone: Federal Magistrate Baumann (BFM)

Apologies: NIL

Meeting commenced: 2.05 p.m.

1. Minutes from 1 April 2010

Minutes accepted as accurate

1. Action items

Appointments – Alison provided the group with an update on judicial and Federal Magistrate appointments to date. All future appointments are with the Attorney.

Alison noted that all FCoA appointments are scheduled to be considered very shortly.

AGD is currently working through the various diaries to see if the AG can attend the ceremonial sittings. In the event that he can not attend, a Departmental representative will attend on his behalf.

RF to see if the new Courtroom can accommodate the swearing in ceremony in Newcastle.

Agenda Items

3.1 Welcome

The Chief Justice, on behalf of the Family Law Courts Advisory Group, formally welcomed Elizabeth Kelly and Alison Playford to the meeting.

Action Item:

No action items

3.2 Combined Enterprise Agreement

Richard gave an update on the Combined Enterprise Agreement (Federal Magistrates Court of Australia and Family Court of Australia Enterprise Agreement 2010) which was approved by Fair Work Australia on 18 June. The Agreement commences on 25 June 2010 and from that date will supersede the previous individual Collective Agreements of each of the Courts. See the database for a copy of the new agreement.

The nominal expiry date of the new Agreement is 30 June 2011. However, under present arrangements, the Agreement will continue to operate after that date until replaced or formally terminated.

Richard noted that this is a significant event for both Courts as it means that from the commencement date, people working side by side doing similar work will be working under the same terms and conditions of employment. It also positions the Courts for future developments in the conduct of workplace relations within the government sector.

Richard formally acknowledged those involved for their work in bringing the Agreement to fruition, in particular he acknowledged the work of Cathy Argyle.

Action Item:

RF on behalf of FLAG to write to Cathy Argyle thanking her for her assistance with the negotiations.

3.3 Budget

RF provided the following update:

FCoA Performance Summary - The YTD result for May is a surplus of \$1.968m against a budgeted surplus of \$2.562m resulting in a YTD variance of \$0.594m.

YTD May result highlights include:

- Property is \$4.196m over budget;
- Separation & Redundancy Expenses \$0.664m over budget;
- Consultants and Grants are \$0.348m under budget;
- General Administration Costs is \$0.312m over budget;
- Leave & Other Entitlements are \$0.295m over budget;
- Write Down, Losses & Impairment of Assets are \$0.230m over budget;
- External Contractors are \$0.169m under budget;
- Depreciation & Amortisation is \$0.167m under budget;
- Travel is \$0.159m under budget; and
- Court Operations is \$0.127m under budget.

A variance in Appropriations (\$4.243m) is a result of supplementations for Rent increase in CLC's (\$4.008m) and Judges pay rise (\$0.235m). They are offsetting increases in Property and Employee expenditure.

Variances in Other Revenue (\$0.704m) and Suppliers is primarily a result of timing differences between budget and the actual project activity undertaken (Sydney LBB & Newcastle additional Courtroom).

ASLs are under budget for the Month and have contributed to the May YTD ASLs being under budget by 10.21. Although ASLs are under budget, Salary and Wages are over budget, primarily as a result of budgeted offsets in Corporate being higher than actuals for the year to date.

There has been a significant upwards movement of approximately \$8.498m in the Court's assets. The main contributors are Receivables (\$6.376m) and Fixed Assets (\$2.430m). The Court's Liabilities have increased by \$6.497m and this is primarily a result of outstanding Creditors (\$6.926m). It is partially being offset by a decrease in Employee Provisions (\$0.555m).

The cash flow statement records the amounts of cash and cash equivalents entering and leaving the Court. As at May, the total cash received by the Court was \$144.843m. This amount is predominately the appropriations received by the Court up to the end of May. The cash used totals are represented by payments to employees, suppliers and acquisitions such as plant and equipment.

FMC Performance Summary - The YTD actual result for May is a deficit of \$1.790M against a budgeted deficit of \$3.658M, resulting in a YTD variance of \$1.869M.

May result highlights:

- Employee Expenditure under budget by \$0.892M.
- Court Operations under budget by \$0.639M.
- Property is over budget by \$0.170M.
- Travel is under budget by \$0.144M.

Employee Expenditure continues to be the significant contributor to the YTD expenditure variance for the Court. Salary & Wages are under budget by \$0.637M. (There are currently 2 FMs on LSL and 3 FM Support on Maternity Leave)

Court Operations remains to be underspent YTD with a \$0.639M variance from budget. Interpreters (\$0.220M), Court Recording (\$0.229M), and Reg 7 Family Reports (\$0.189M) are all the main contributors to this underspend.

Property is overspent this month due to the recognition of the CLC rental increase (\$0.202M). This will continue to be overspent for the remainder of the Financial Year.

Travel is under budget by \$0.144M, primarily as a result of Domestic Air Fares (\$0.070).

Projects & Capital Works are within 14% of budget, being \$549k under budget for the YTD. Total Capital (including Project Capital & Capital Works) is under budget by \$0.389M. Total Operating expenditure is \$0.160M under budget.

There has been a reduction of approximately \$2.688M across the Court's assets since 30 June 2009. Prepayments, Fixed Assets have both increased, whereas Cash and Receivables have decreased. Total Liabilities have decreased by \$0.898M as a result of a decrease in Employee Provisions and Other Liabilities.

Action Item:

No action items

3.4 Savings Strategies

RF provided an update on the agreed savings strategies – see database for the updated savings strategies and the committees tasked with these. The current forecast is that the Courts will have an operating combined loss of \$1.3M.

With the savings strategies it is estimated that we can save around 1.2M. The savings strategies include the changes to Court Officers. The savings are:

- Child Dispute Services - \$470K
- Review of Divorce - \$380K
- Conciliation Conferences - tbc
- Judicial Support - \$300K
- With related redundancies - \$+870K
- Registrar & FC circuits - tbc
- Interpreters - \$150 pa
- Guarding Services – \$100K
- User Pays Options - \$520K
- Review of videolink & teleconferences - \$nil
- Library Services - \$tbc
- Savings have also been made in reductions in general administration, travel, suppliers, FBT and lease straight lining in Commonwealth Law Courts.

Watts J gave an update on the FCoA Family Consultant strategy. The major spend is in Reg 7. The overall strategy, the report has not been written as yet however preliminary recommendations would be for a user pays model for reports to enable the internal resources to be used for earlier intervention.

Possible model for FMs and Judges to order 62G reports and subject to the financial resources of the litigant, order that the user pays. The order would go to the Manger CS for allocation to a REG 7. The Court would underwrite all Reg 7

reports and seek reimbursement from the clients. Tests still need to be conducted against the costs of administrating this.

FM Baumann discussed the model being used in the FMC in Melbourne and Dandenong and expressed his support for a user pays model for those who can afford it.

It was also expressed that judicial education and further education in the family law arena be undertaken in order for all to understand the reasons for a user pays model and the benefits of enabling a family report earlier in the litigation process.

RF raised the issue of the current management structure of Child Dispute Services. Currently of the 70 Family Consultant resources, 18% are purely for management. Richard sought approval from FLCAG to revisit the management structure of Child Dispute Services for both the FMC and FCoA with a view to making recommendations to FLCAG later this year. Further discussion ensued about the role of a manager versus the role of a Family Consultant and that it was important that the majority of child dispute resources are available for client work.

FLCAG agreed to the establishment of a working group consisting of Steve Agnew, Jane Reynolds and Jamie Crew and Chaired by Stephen Andrew. The working group is to consult with Di Gibson (professional), Tony Lansdell (business) and Simon Kelso (HR issues).

Action Items:

RF to circulate further updates on savings strategies that were presented at 23 July 2010 CEO's Management Advisory meeting.

RF to task the working group outlined above and to provide a report with recommendations to FLCAG at the August meeting.

3.5 Appointments

The Appointment of FM Donald to the position of Chief Magistrate of Norfolk Island is currently with the AG along with the two Family Court Appointments.

Action Item:

No action items

3.6 Courts Restructure

AP provided an update about the Bill to restructure the Family Courts. The Bill was introduced this morning, first read today at 10.14 am, second reading moved, resumption of debate made an order of the day for the next sitting.

A copy of the Bill and Explanatory Memoranda is available on the database. The Chief Justice was of the view that the major issues raised by the Family Court have been addressed.

AF stated that the AG wanted to personally thank the Courts for arranging consideration of and feedback on the Family Court Restructure Bill 2010 and the Military Court of Australia Bill under such short timeframes. The Attorney-General will write to both the Chief Justice and Chief Federal Magistrate Pascoe shortly passing on his thanks.

Alison advised that there would be an opportunity for the FCoA and the FMC to participate in the Committee process and that the Department was happy to further meet with the Courts to discuss

Action Item:

No action items

3.7 Military Court

The bill was introduced today and referred to the Senate Committee on Legal and Constitutional Affairs. A copy of the Bill and Explanatory Memoranda is available on the database.

Action Item:

No action items

3.8 Accommodation

Baumann FM raised the issue of accessing State Court resources for the purposes of circuits. RF also raised the issue that rural and remote State Courts are sending invoices to the FCoA for the use of State Courts. Feedback from local practitioners and litigants that it is difficult to plan as regular circuits are difficult to plan because of the lack of resources.

AP suggested that AGD raise this with the AG so that the matter can be raised with State colleagues for a policy response.

[REDACTED]

RF meeting with the CEO of the Federal Court next week to discuss these issues further and to develop a strategy to deal with this significant problem.

[REDACTED]

RF flagged that the FCA Administration were soon to be relinquishing Level 3 in the LBB . [REDACTED]

Action Item:

Baumann FM to prepare a paper for the next FLCAG about issues with access to State Courts for the purpose of rural and remote circuits.

3.8 Nth QLD Resources

FM Baumann recently visited Cairns to assess the Registrar situation as promised. Practitioners in Cairns continue to assert that they have lost the services of a Registrar for their clients. The Townsville Registrar has expressed his capacity to undertake the role of Registrar for both Townsville and Cairns for both courts. Given the current sensitivities, it was agreed that the present situation whereby Registrar Spinks from Brisbane is responsible for the FCoA circuits in Cairns should continue at least until later in the year. As registrar Boyd is spending one week per month in Cairns it was agreed that the CJ would look into him spending more time in Cairns.

Action Item:

CJ to investigate whether Registrar Boyd can spend more time in Cairns.

3.9 ATSI Committee

See Database. Suggested that it be Joe Harmon be appointed to the committee when FM Donald is appointed to the Norfolk Island Magistrates Court.

Action Item:

CFM to approach FM Harmon about the ATSI Committee

3.10 National Legal Advisory Body

The AG has written to the Courts seeking a nomination of a judicial officer to join the Advisory Body.

FLCAG recommended that FM Charlotte Kelly be nominated.

Action Item:

CFM to approach FM Kelly and advise RF
RF to advise AGD

3.11 Court Performance & Judicial Workload

Tony Lansdell provided an update on the Court Performance & Judicial Workload project. See the database for a copy of the presentation.

Tony thanked Dennis Beissner for his fantastic contribution and support to the project. The members of FLCAG agreed that the data prepared to date could be shared with the Policy Advisory Committees of both courts.

Action Item:

No Action items

3.12 New Business

3.12.1 AIJA Child Protection Conference – May 2011

AIJA has requested that someone from the FCoA or FMC be appointed to assist with the planning for the conference. Suggested that FM Kate Hughes be approached.

Action Item:

.CFM to approach FM Hughes about being the representative for the Family Law Courts for this Conference.

3.12.2 YEAG

Richard provided an update on the Young Employees Advisory Group final presentation to the CEO's Management Advisory Group meeting.

YEAG's presentation will be filmed and distributed on a DVD for other jurisdictions to view. He noted that the group was very innovative and enthusiastic and the programme has been a great success for the Courts.

A CEO announcement was made today announcing the new YEAG members which will commence in the new financial year. The fifteen new members are:

- Mr Jason Toser, FMC Deputy Associate, Sydney
- Ms Eileen Subtain, Executive Assistant, Sydney
- Ms Emma Langton, Legal Associate, Parramatta
- Mr Marko Casule, FMC Deputy Associate Parramatta
- Ms Therese Aroyan, Deputy Associate, Parramatta
- Ms Erin Firn, FMC Associate, Melbourne
- Ms Aisling Clifford, FMC Associate, Melbourne
- Ms Haylee Hobbs, FMC Deputy Associate, Melbourne
- Ms Rachel Holmes, FCoA Associate, Brisbane
- Mr Matthew Brown, Client Service Officer, Adelaide
- Ms Madelaine Angeletti, Client Service Officer, Adelaide
- Ms Melinda Holland, Communications Officer, NSO

Ms Stacey Crisp, Payroll Officer, NSO
Mr Scott Amos, Client Service Officer, NEC
Ms Emma Beesley, Client Service Officer, NEC

Action Item:

No action items

3.13 Future Meeting Dates

- . Wed 11 Aug 10-12 noon
- Wed 6 Oct 10-12 noon
- Wed 8 Dec 10-12 noon