

The Auditor-General
Audit Report No.46 2003-04
Performance Audit

Client Service in the Family Court of Australia and the Federal Magistrates Court

Australian National Audit Office

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of Australia 2004

ISSN 1036–7632

ISBN 0 642 80776 0

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Canberra ACT
20 May 2004

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Family Court of Australia and the Federal Magistrates Court in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Client Service in the Family Court of Australia and the Federal Magistrates Court*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, which appears to read 'P. J. Barrett', is positioned below the text 'Yours sincerely'.

P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations

ANAO	Australian National Audit Office
ATSI	Aboriginal and Torres Strait Islander
CAC	Case Assessment Conference
CALD	Culturally and Linguistically Diverse
CBO	Community-Based Organisation
CEO	Chief Executive Officer
CJCC	Chief Justice’s Consultative Council
DIMIA	Department of Immigration and Multicultural and Indigenous Affairs
FCoA	Family Court of Australia
FM Act	<i>Federal Magistrates Act 1999</i>
FM	Federal Magistrate
FMC	Federal Magistrates Court
FRSP	Family Relationships Services Program
IFC	Indigenous Family Consultant
MoU	Memorandum of Understanding
MRIC	Mediation Review and Implementation Committee
NOR	National Operations Report of the FCoA
PBS	Portfolio Budget Statements
PDR	Primary Dispute Resolution
SRL	Self-Represented Litigant

Glossary

Affidavit	A written statement setting out the facts of a party's case—their evidence. Sworn or affirmed, usually before a Justice of the Peace, a Commissioner of Oaths, or lawyer, as a true statement. Affidavits may also be prepared and submitted by other parties with an interest in the case (as witnesses).
Associate	In the Federal Magistrates Court, provides secretarial and administrative support to a Federal Magistrate in court and in chambers.
Case assessment conference	The first major event most people have at the FCoA after documents have been filed. The case assessment conference provides an early opportunity to identify issues in dispute, to reach an agreement if possible, and to identify dispute resolution events to be undertaken by the parties.
Casetrack	The integrated case management support system and national database used by the FCoA, FMC and the Family Court of Western Australia.
Conciliation conference	A conference held under Rules 12.05 and 12.06 of the FCoA's Family Law Rules, with legally trained registrars who conduct conferences with the parties and their lawyers to resolve disputes in financial cases.
Consent orders	Made when both parties come to an agreement and lodge that agreement in writing for approval by the Court.
Court mediators	Qualified social workers and psychologists with specialist experience working with families who are experiencing separation.
Deputy Associate	Assists Associates in the Federal Magistrates Court in providing secretarial and administrative support to a Federal Magistrate.
Deputy registrars	Court lawyers with extensive family law experience. The role of deputy registrars includes the conduct of divorce hearings, case assessment conferences, directions hearings, conciliation conferences and Pre-Trial Conferences. Deputy registrars have the power to make orders.

Determination phase	Commences once the last resolution phase event has concluded without final resolution being achieved. Means a case is proceeding to a trial.
Diary rules	The specified basis for a federal magistrate's scheduling of cases or court activities. For example, a magistrate may issue instructions that a particular time each week be set aside for cases to report back following mediation, and therefore this timeslot should not be filled with first court events for new listings.
Directions hearing	The date that a matter first comes before the courts, either at the conclusion of a Case Assessment Conference, or in a separate list. The date is set when an application is filed. Directions as to the way a case will proceed (documents to be filed, mediation etc) are made at the directions hearing, if the parties have not reached settlement.
Divorce hearing	The court process in which a registrar finalises a divorce application (in most cases this results in the granting of a divorce).
Family report	A behavioural science assessment of a family from a non-legal and non-partisan perspective, independent of the case presented by either party to a dispute. Prepared for the courts by family and child counsellors (including Court mediators) and welfare officers appointed under Family Law Regulations.
Federal Magistrate	Federal magistrates are judicial officers appointed by the Governor General under the <i>Federal Magistrates Act 1999</i> , and operate within the jurisdiction under that Act.
Filing	Lodging a document in a registry of the court, and having it stamped with the seal of the court. May be done by post or in person.
First Return Date	The date of the first court event for a particular matter.
Interim orders	Temporary orders made on urgent issues relating to children or property matters, while the parties are waiting for the final decision in their case.

Joint conference	A FCoA process involving a conference with a registrar and mediator to help resolve disputes about children or finances when other forms of mediation have been unsuccessful.
Judge	The person who will make a final decision about a case if it goes to trial in the FCoA.
Judicial Registrar	Similar to a judge but has fewer powers and can therefore only make certain types of orders.
Mediation	Ordered by the courts after an application has been filed where there is a dispute about children. The process of mediation seeks to help to settle disputes by agreement rather than through a court hearing.
Mediator	Person who conducts a mediation session, and who may be trained in law, social work or psychology, or counsellors who are expert in children's issues and who also have a background in social work or psychology.
Orders	The courts have the power to order a person to do certain things. The court endorsed document that describes who has to do what is referred to as an order.
Pre-trial conference	Held by a deputy registrar before a case is listed for trial in the FCoA. Another opportunity to settle the dispute. If this is not possible, the deputy registrar determines whether the case is ready for trial and sets the relevant date.
Primary Dispute Resolution	Services offered by the courts to help parties to settle their disputes by agreement, rather than through a hearing. PDR includes mediation, conciliation, and case assessment conferences. These services are available in the FCoA, and from community-based organisations.
Registrar	Qualified lawyer appointed by the FCoA or the FMC who has the power to hear certain cases, including divorce, maintenance and some interim children's matters.
Registry	An office of the court that files court documents or accepts court documents for filing, maintains case files and attends to over-the-counter, telephone and email enquiries from the public.

Resolution phase	Covers the period from the commencement of proceedings to the point at which it is decided that a matter must be prepared for trial. Resolution processes aim to reach an agreed solution between the parties, without the need for judicial determination.
Subpoena	A document issued by the court which requires a person to go to court to give evidence or bring documents, books or other things to the court which are in their possession, custody or control. The parties involved, rather than the court, request these.
Transfer	The removal of a case from one judicial officer or court (e.g. the FCoA) to another judicial officer or court (e.g. the FMC).
Trial	The final hearing of a matter before a judge, judicial registrar, or federal magistrate. Evidence will be heard by a judge or federal magistrate who, at the end of the trial, will make a decision and orders, which will finalise the matter.
Trial notice	A written notice issued by the FCoA at the end of the resolution phase if a case is not settled. It contains orders for the preparation of a case for trial, and advises the date and time for a pre-trial conference. This document is issued for FCoA cases only.

Summary and Recommendations

Summary

Introduction (Chapter 1)

1. Both the Family Court of Australia (FCoA) and the Federal Magistrates Court (FMC) operate in a jurisdiction characterised by high volume workloads, and have many clients experiencing extreme emotional distress relating to their personal circumstances. The seeming complexity of the legal system, the nature of its processes, and the implications of possible case outcomes, often heightens the stresses on clients.

Family Court of Australia

2. The FCoA was created in 1976. The FCoA administers the *Family Law Act 1975*, the *Child Support (Assessment) Act 1989*, and the *Child Support (Registration and Collection) Act 1988*. The FCoA's objective is to resolve or determine disputes arising from family separation. The Court has one identified outcome in the Attorney-General's Portfolio Budget Statements (PBS):

- serving the interests of the Australian community by ensuring families and children in need can access effective high quality services.

Federal Magistrates Court

3. The FMC was established by the *Federal Magistrates Act 1999* (FM Act), and heard its first cases in July 2000. It was established as a lower level, independent, federal court to provide a simpler and more accessible service for litigants, and to ease the workload of both the FCoA and the Federal Court of Australia.

Audit objectives

4. The objective of the audit was to examine and report on the economy, efficiency and effectiveness of the courts' client service arrangements for family law clients. The audit also assessed the effectiveness of the coordination between the two courts, and of their administration of Primary Dispute Resolution (PDR) services.

Client Service (Chapter 2)

5. While the Australian National Audit Office (ANAO) found elements of better practice in some areas in the course of its fieldwork, there are significant issues of inconsistency of service across the courts' networks. In this context, there is scope to improve services to rural and regional areas, and indigenous clients.

6. The FCoA has taken some steps towards addressing current client service gaps, for example, by building partnerships with stakeholders, by recognising current challenges, and by attempting to address them through the roll-out of the new case management model and the cultural diversity strategy. The FMC, however, has some way to go in terms of consolidating its client service approach.

7. Submissions and interviews revealed that stakeholders were overwhelmingly concerned with issues of timeliness, access and equity. These are issues that should be addressed by the courts in seeking to improve their client service approach. The two courts could also work more effectively together on client service issues, not least by seeking and acting on feedback from their clients, to make sure that their services are meeting clients' needs into the future.

Coordination Between the Courts (Chapter 3)

8. The ANAO acknowledges the emotive environment in which the courts operate, and notes that the FCoA and the FMC are separate entities within a shared jurisdiction. This can present the courts with difficulties in developing joint approaches to issues affecting client service, as each court is at times competing with the other for resources and an overlapping client base. However, the policy issues underpinning these structural and resource issues were outside the scope of the audit.

9. Nevertheless, the ANAO observed a number of promising initiatives emerging from the courts, and considers that local examples of better practice need to be more systematically identified and applied across court registries.

10. The ANAO also considers that the courts should approach, on a more jointly coordinated basis, those issues impacting on family law clients generally, rather than focusing on the singular objectives of each court. For example, client information material on family law could be jointly produced as a family law reference or guide, to explain the roles and processes of each court, rather than being prepared from only one court's perspective.

11. In addition, the ANAO considers that family law clients would benefit from more integrated pre-filing information about the courts and their processes. This information could also assist in the direct flow of less complex cases to the FMC, freeing the FCoA to focus on more complex cases.

12. The ANAO also considers that there is considerable opportunity for the FCoA and the FMC to work more closely together: to develop an up-front assessment of filings to better determine the nature of individual cases; and so to direct them, initially, to the more appropriate court for resolution or determination.

Primary Dispute Resolution (Chapter 4)

13. Although there are some shortcomings with the quantitative PDR data collected by the courts, there appear to be variations in PDR services across registries and Community Based Organisations (CBOs). However, a lack of qualitative information on the PDR services makes a full assessment of the effectiveness of PDR difficult. Improved client feedback and evaluation strategies will assist the courts to do this in the future.

14. The courts have adopted different approaches to assure the quality of their PDR services, based on their different service delivery models. Although the FMC's initial approach to quality assurance was sound, a lack of ongoing monitoring and review makes it difficult for the FMC to provide reassurance to its stakeholders of the quality of its PDR services. The ANAO notes that a new approach to quality assurance in the FCoA is to be implemented in early 2004. This should improve the quality of its PDR.

15. Although there is some scope for flexibility in the FCoA's PDR services, more could be done to improve its services to rural and regional clients. Similarly, although the FCoA has adopted some good initiatives to provide PDR services to indigenous clients and clients who are culturally and linguistically diverse, services to these clients are variable across registries. Given the range of options for PDR service delivery in the FMC, there is considerable scope for even greater flexibility. This may be further enhanced by the CBOs' other client service initiatives.

Overall conclusion

16. Family breakdown has significant long-term financial, social and emotional costs for both the families directly involved, and the broader Australian community. Navigating through the family law system can be an additional stress on families who are separating. In recent years, the Government has focused on ways to reduce the complexity of the family law system. This has occurred primarily by encouraging effective partnerships amongst agencies that provide services to separating families, by emphasising mediation and other forms of dispute resolution in the family courts, and through the introduction of the FMC. The FMC was established to provide a faster, simpler and less expensive forum for the resolution of less complex disputes. Typically, less complex disputes would not involve allegations of serious child abuse or domestic violence, or property in dispute worth more than \$700 000.

17. The FMC and the FCoA share jurisdiction in family law matters. It is, therefore, essential that the two courts coordinate their activities and work effectively together for the benefit of families facing separation—their clients.

18. Both courts have scope for improvement in terms of setting and refining their individual client service approaches. The ANAO noted examples of better practice in some locations, in terms of local initiatives designed to meet local clients' needs. However, the ANAO also found significant examples of inconsistency in the levels of service provided across the courts' networks. In particular, the ANAO considers that there is significant scope for improvement in relation to the level of service extended to rural and regional, and indigenous, clients.

19. It is also of concern to the ANAO that neither court is currently meeting its own designated targets in terms of the timeliness of services provided. Furthermore, neither court is currently collecting nor analysing reasons for administrative delays. The ANAO considers that the two courts could work more effectively together on client service issues, providing relevant and useful information to clients at each stage of the litigation process. They should also seek feedback from their clients to verify that their services are meeting their needs and are continually improved, where appropriate.

20. The ANAO considers that there is currently scope for the FCoA and the FMC to improve the efficiency and effectiveness of their coordination arrangements. In particular, the ANAO believes there is a strong need for enhanced communication at the operational level. The ANAO acknowledges that the courts are operating in an emotive and stressful environment. However, it would be desirable for the FCoA and the FMC to focus jointly on shared family law clients, rather than each focusing on the more singular objectives of their own court. Without a strong joint foundation, it is difficult for the courts to provide an efficient, effective and high quality service to their clients. The ANAO also considers that there is scope for the two courts to apply a more coordinated approach to the streaming of matters between them.

21. Finally, the ANAO found that there are shortcomings in the quantitative and qualitative data collected by the courts on the outcomes of their PDR services. These shortcomings make a full assessment of the effectiveness of PDR difficult. The ANAO considers that both courts could do more to validate that their PDR services are providing value for money and are meeting their clients' needs. The lack of ongoing monitoring and review in the FMC, in particular, means that it is difficult for that court to provide assurance as to the quality of its PDR services.

22. Coordination between the two courts in relation to PDR is generally effective, although different practices were evident across the registry network in dealing with common issues and challenges. This means that administrative processes, and services provided to clients, differ around the country. The ANAO considers that, in particular, there is potential for PDR services to be improved for significant client groups, such as rural, regional and indigenous clients.

Recommendations and courts' responses

23. The ANAO has made 11 recommendations aimed at strengthening client service in the FCoA and the FMC.

24. The courts have generally agreed with the report and its recommendations and have advised the ANAO of their response to the audit as follows:

FCoA

In recent years, the Family Court of Australia has made major advances in efficiency and effectiveness in client service, reflecting a philosophy and systemic commitment to client focus, quality and continuous improvement. Significant investment has been made in strategic projects and reforms. The pace of reform has sometimes taxed the Court's own capacity to maintain it, and based on feedback received, has taxed the ability of other stakeholders in the family law system to keep up. Having said this the Court recognises that there is a need for continuous improvement and is committed to a process which involves ongoing efforts to improve service to its clients.

In the initial stages, FCoA registries serve all clients of the FCoA and FMC. FCoA draws no distinction between FCoA and FMC clients—they are all clients of the family law system deserving of equal treatment. This may contribute to clients being unclear as to which court they are clients of, but it is seen as a fundamental of good client service. While the ANAO report suggests clients may need better information to provide clarity on this point, FCoA believes that the solution is more complex. Further, such organisational distinctions are often of less importance to clients than the outcome or remedy they are seeking. FCoA supports the ANAO recommendation for a single intake, with cases streamed through coordinated case management and case assignment.

FCoA appreciates the need for simpler, less complex cases to be processed using simpler procedures (one of the reasons FMC was established). However, at some points, the ANAO report appears to be critical of the two courts for having divergent client service practices. FCoA sees this as an inevitable consequence of FMC being set up as a separate entity with a different focus/objective—simpler, faster, cheaper, less complex disputes.

FCoA is strongly committed to providing services for culturally and linguistically diverse (CALD) clients, ATSI clients, rural and regional clients and self represented litigants. Numerous initiatives specifically support these groups. Some of the desired changes have proceeded more slowly than preferred because supporting infrastructure and systems (such as the new Casetrack information system) were required; also there are competing resource demands. However, the Court is being recognised as a best practice organisation for some of these efforts. (e.g. DIMIA recognition of its programs in support of CALD clients.)

FMC

The ANAO performance audit of the administration of the Family Court and the Federal Magistrates Court, which has been conducted in the fourth year of operation of the Federal Magistrates Court, relates to a relatively small part of the Federal Magistrates Court's operations. The report does not touch upon the very substantial relationship that the Federal Magistrates Court has with the Federal Court of Australia or the primary function of the federal courts—the determination of disputes according to law by federal judicial officers.

The performance audit is a study of a system that is in transition. The Federal Magistrates Court has not yet developed its full capacity to handle all of the less complex family law work that exists within the family law system. This means that some of that less complex work is often done at a higher level than is necessary. It will be some years before that structural imbalance in the system is rectified. In the meantime, resource constraints and higher priorities will limit the capacity of the courts to implement many recommendations of the audit.

The Federal Magistrates Court was established independently, with the intention that it should not operate in the same manner as the Family Court, because there is a qualitative difference in the types of matter each court is hearing. The thrust of the ANAO report appears to be that the courts should work to minimise differences in their procedures and operations. The court considers that although there might be a benefit from minimising unnecessary differences in court procedures it cannot be assumed that net benefits will always arise. This is well stated in the Attorney-General's Department's Justice System Strategy paper, where it is said,

'Harmonisation should not occur at the expense of flexibility. The reduction of unnecessary differences between the procedures of different courts should not be at the expense of those differences that are of benefit to users of court services, particularly where lower level courts may have simpler procedures specifically designed for less complex proceedings.' (p.67)

The court supports the notion that most family law litigants could enter the family law system through a single point from which the more complex litigation matters could be identified and separately managed. Optimally, the single entry point would be at the lowest level within the family law system. This is a matter that is being considered in another context.

Recommendations

The ANAO's recommendations aimed at strengthening client service are set out below, with abbreviated responses from the courts. The courts' more detailed responses are shown in the body of the report, immediately after each recommendation.

Recommendation No.1
Para. 2.36

The ANAO recommends that, in order to improve the quality of service currently offered to clients, the FCoA and the FMC should actively seek to identify and better understand the needs of their various client groups, and implement a range of measures to address those needs.

FCoA response: Agree.

FMC response: Agree.

Recommendation No.2

The ANAO recommends that, in order to improve complaints handling procedures, the FCoA should:

Para. 2.64

- a) ensure that its complaints handling policy is implemented consistently across the registry network;
- b) collect information on the types of complaints received and their outcomes, analysing any trends, and regularly reporting on complaints activity to registry managers; and
- c) report on complaints activity to the FMC, where complaints raised and/or resolved within the registries involve FMC clients.

FCoA response: Agree.

FMC response: Recommendation does not directly affect the FMC.

**Recommendation
No.3
Para. 2.75**

The ANAO recommends that the FCoA and the FMC enhance the effectiveness of monitoring and reporting on client service, by: examining their business processes and case management models; developing data quality review systems and improved inter-court performance reporting on FCoA services to FMC clients; and regularly surveying clients on their satisfaction with court processes.

FCoA response: Agree.

FMC response: Agree.

**Recommendation
No.4
Para. 2.95**

The ANAO recommends that, in order to continuously improve services offered to clients, the FCoA and FMC should have an integrated approach to:

- (a) remaining responsive to changes in technology by coordinating the development and implementation of electronic forms and filing technology, where appropriate;
- (b) ensuring that the information offered to clients in the registries is relevant, up-to-date, and provides sufficient information regarding both courts to allow clients to make informed choices about their individual matters;
- (c) developing and distributing information on the courtroom to those clients whose matters cannot be resolved, and providing regular courtroom familiarisation opportunities for these clients; and
- (d) providing information to clients who have finished their business in the courts on the significance of the orders they have received, and their options for the future should they wish to seek further counselling, appeal, or if their circumstances change.

FCoA response: Agree.

FMC response: Agree in-principle.

**Recommendation No.5
Para. 3.26** The ANAO recommends that both the FCoA and the FMC identify examples of better practice in coordination within court registries, and systematically apply these practices across all registries.

FCoA response: Agree.

FMC response: Agree in-principle.

**Recommendation No.6
Para. 3.41** The ANAO recommends that, in order to facilitate planning and assess and monitor ongoing cost-effectiveness, the FCoA and the FMC jointly develop an agreed model for calculating the cost of providing services to their clients.

FCoA response: Agree.

FMC response: Agree.

**Recommendation No.7
Para. 3.62** The ANAO recommends that, in order to better assist family law clients in making more informed filing decisions, the FCoA and the FMC jointly develop and publish family law information for clients.

FCoA response: Agree.

FMC response: Agree.

**Recommendation No.8
Para. 3.79** The ANAO recommends that, in order to reduce confusion for clients and inefficiencies in court processes, the FCoA and the FMC investigate the possibilities for a common entry point into the family law system and the consequent distribution of workload to each court.

FCoA response: Agree.

FMC response: Agree in-principle.

**Recommendation
No.9
Para. 4.29**

The ANAO recommends that, in order to facilitate ongoing assessment and evaluation of their PDR services, the FCoA and FMC regularly:

- a) obtain qualitative data on client satisfaction with their PDR services; and
- b) evaluate this data in conjunction with quantitative data on settlement rates to identify better practice and areas for improvement.

FCoA response: Agree.

FMC response: Agree in-principle.

**Recommendation
No.10
Para. 4.43**

The ANAO recommends that the FMC obtain performance information from CBOs, through regular monitoring and review activities, to provide itself and stakeholders alike with data on the quality of CBO PDR services, or to identify any deficiencies in PDR services.

FCoA response: No response.

FMC response: Disagree.

**Recommendation
No.11
Para. 4.55**

The ANAO recommends that the FCoA and FMC conduct evaluations of their PDR services on a regular basis, in order to provide information that will allow the courts to continuously assess and improve their PDR services.

FCoA response: Agree.

FMC response: Agree.

Audit Findings and Conclusions

1. Introduction

This Chapter provides an overview of the administration of the Family Court of Australia and of the Federal Magistrates Court. It sets out the audit objectives and approach, and the structure of the report.

Background

1.1 Both the Family Court of Australia (FCoA) and the Federal Magistrates Court (FMC) operate in a jurisdiction characterised by high volume workloads. They have many clients experiencing extreme emotional distress relating to their personal circumstances. Clients' stress can be heightened by their involvement in a seemingly complex legal system and the nature of its processes, and the implications of possible outcomes on their future lives and those of their children. As a result, the interactions between the courts and their clients can be strained because of the nature of the environment.

1.2 The estimated costs associated with family breakdowns and associated litigation in Australia range from \$3 billion to \$6 billion per annum.¹ The lower range estimate includes the direct cost to government of social welfare benefits to a proportion of sole parents, the operating costs of the FCoA and the Child Support Agency, and legal aid spending on family law cases. The upper range estimate includes a range of possible indirect costs, including physical and mental health issues, employee absenteeism and low productivity attributed to relationship problems.

1.3 Both the FCoA and the FMC encourage parties to attempt to resolve their disputes themselves through a variety of mediation and other Primary Dispute Resolution (PDR) interventions, rather than streaming them directly towards judicial determination. For example, in 2002–03 only 6.5 per cent of FCoA final order applications proceeded to a hearing before a judge.² The remaining matters were dealt with through a variety of different means, including mediation.

Family Court of Australia

1.4 The FCoA was created in 1976. The FCoA administers the *Family Law Act 1975*, the *Child Support (Assessment) Act 1989*, and the *Child Support (Registration and Collection) Act 1988*. The FCoA's objective is to resolve or

¹ House of Representatives Standing Committee on Legal and Constitutional Affairs, *To have and to hold: Strategies to strengthen marriage and relationships*, June 1998, p.51, and in Hansard, Monday, 22 June 1998, p.4987. Also referred to in *Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation*, December 2003, p.12.

² *Family Court of Australia Annual Report 2002–03*, p.32.

determine disputes arising from family separation. The court has one budgetary outcome:

 serving the interests of the Australian community by ensuring families and children in need can access effective high quality services.³

1.5 The court has the power to grant divorces in respect of family separations. In addition, the Court makes orders relating to:

- arrangements for children;
- the distribution of property of the parties;
- spousal maintenance;
- child maintenance and child support reviews; and
- the protection of a party.

1.6 The Chief Justice is responsible for managing the administrative affairs of the FCoA, assisted by the Chief Executive Officer (CEO).⁴ The CEO of the FCoA holds agency head responsibilities and powers under Commonwealth financial management and public service legislation. In 2003–04, the total appropriation for the FCoA was \$112.4 million. The court also received revenue from other sources in the order of \$6.8 million.⁵ In its 2002–03 Annual Report, the FCoA reported having 704 employees and judicial officers (e.g. registrars, deputy registrars) across both its national support office in Canberra, and its network of 11 metropolitan and eight rural and regional registries around Australia.

Federal Magistrates Court

1.7 The FMC was established by the *Federal Magistrates Act 1999* (FM Act), and heard its first cases in July 2000. It was established as a lower level independent federal court to provide a simpler and more accessible service for litigants and to ease the workload of both the FCoA and the Federal Court of Australia. The impetus for change lay in a widespread concern about the timeliness, cost and complexity of litigation.

³ Attorney-General's Department 2003, *Portfolio Budget Statements 2003–04*, 'Family Court of Australia,' p.108.

⁴ *Family Law Act 1975*, Sections 38A and 38B.

⁵ Attorney-General's Department 2003, *Portfolio Budget Statements 2003–04*, p.109. The FCoA's revenue from other sources includes court fees and interest earned on financial assets.

1.8 As outlined in the objects of the FM Act, the underpinning principles of the FMC are to:

- operate as informally as possible in the exercise of judicial power;
- use streamlined procedures; and
- encourage the use of a range of appropriate dispute resolution processes.⁶

1.9 In this context, the FMC has one outcome identified in the Attorney-General's PBS:

to provide the Australian community with a simple and accessible forum for the resolution of less complex disputes within the jurisdiction of the Federal Magistrates Service.⁷

1.10 The FMC shares jurisdiction with the FCoA and the Federal Court of Australia. Its jurisdiction includes family law and child support, administrative law, bankruptcy, unlawful discrimination, consumer protection law, privacy law, migration and copyright. At the time of the audit, family law and child support matters made up approximately 80 per cent of the FMC's workload, although the FMC's other federal law workload is growing. Over half of all migration matters and more than 40 per cent of all family law children's and property applications are now completed in the FMC.

1.11 The Chief Federal Magistrate is responsible for 'the orderly and expeditious discharge of the business of the court'.⁸ The CEO of the FMC assists the Chief Federal Magistrate. In its 2002–03 Annual Report, the FMC reported having 22 federal magistrates and 53 full-time staff, comprising 36 judicial support staff, and 17 national administration staff based in Melbourne. In 2003–04, the total appropriation for the FMC was \$14.8 million.

1.12 In order to minimise the expense of establishing a new court, the Government decided that, upon its establishment, the FMC would use the existing Federal Court and FCoA infrastructure and administrative support, with district registry functions being performed by those courts under arrangements between them and the FMC. This means that the FMC has no independent registry or court facilities of its own. The FCoA registries accept and process FMC family law applications and other documents. They also provide file control, and general client services to FMC clients until the first

⁶ *Federal Magistrates Act 1999*, Section 3.

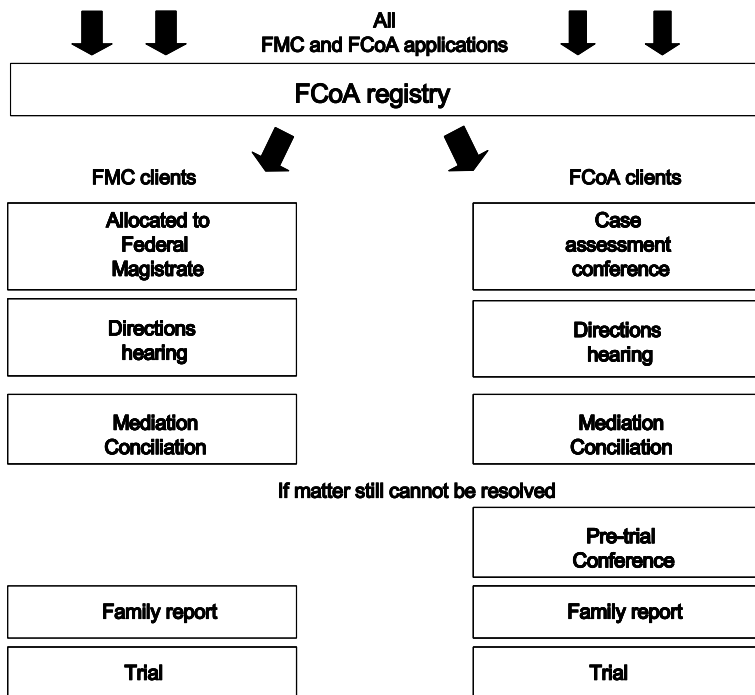
⁷ Attorney-General's Department 2003, *Portfolio Budget Statements 2003–04*, 'Family Court of Australia,' p.108.

⁸ *Federal Magistrates Act 1999*, Section 12.

court event, after which client service is provided by the Federal Magistrates' Associates. The major administrative processes are set out in Figure 1.1 below.

Figure 1.1

Major administrative processes—FMC and FCoA.



Source: ANAO

Previous reviews and reports

ANAO audit reports

1.13 The ANAO has previously conducted two audits of the administration of the FCoA. The first, *Use of Justice Statement Funds and Financial Position—Family Court of Australia*, focused on the financial position of the court.⁹ The second examined the efficiency and economy of the non-judicial administrative functions of the court, and identified 10 recommendations to achieve better administrative procedures that could be promulgated throughout the court.¹⁰ The ANAO’s recommendations were aimed at improving court administration in the areas of corporate planning, performance measurement, administrative decision-making processes,

⁹ ANAO Report No.4, 1995–96, *Use of Justice Statement Funds and Financial Position—Family Court of Australia*.

¹⁰ ANAO Report No.33, 1997–98, *The Administration of the Family Court of Australia*.

organisational structures, internal administrative procedures, and information technology. The FCoA accepted all of the ANAO recommendations arising out of that audit.

1.14 The House of Representatives Standing Committee on Legal and Constitutional Affairs conducted an inquiry into the ANAO's audit of the administration of the FCoA in 1997.¹¹ The Committee considered that the ANAO's recommendations should prove useful to the Court as it sought to improve its efficiency and effectiveness. The Committee also raised a number of areas where it considered a future review of the FCoA could add value. In particular, the Committee expressed a strong interest in an examination of the economy, efficiency, effectiveness and accountability of the court's administration of PDR, given that it constitutes a major part of the court's operations. The administration of PDR is reviewed in Chapter 4 of this report.

Other reviews and reports

1.15 There have been a number of other relevant reviews and reports into family law matters since the ANAO's previous audit into the FCoA. Key findings from a selection of these are set out below.

Shared parenting inquiry

1.16 The House of Representatives Standing Committee on Family and Community Affairs released its report on the inquiry into child custody arrangements in 2003.¹² The Committee reviewed a broad range of issues impacting on child custody covering options for shared parenting, including grandparents in post-separation arrangements, and the fairness of the existing child support formula. It extended its investigations to include an examination of the effectiveness of the current family law process.

1.17 The Committee made a number of recommendations aimed at streamlining the current family law process. It recommended the establishment of a new entry point or shopfront, separate from the FCoA and FMC, which would advise separated parents on their options for shared parenting and dispute resolution. There would be a requirement for separating parents to undertake mediation or other forms of PDR before they could make an application to a court or tribunal for orders. The Committee also recommended the establishment of a new body, the non-adversarial Families Tribunal, which would decide on less complex disputes.

¹¹ House of Representatives Standing Committee on Legal and Constitutional Affairs, *Report on a Review of Audit Report No.33 1996–97: The Administration of the Family Court of Australia*, November 1997.

¹² House of Representatives Standing Committee on Family and Community Affairs, *Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation*, December 2003.

1.18 The Committee recommended that the role of the courts be significantly reduced, and limited to cases involving entrenched conflict, family violence, substance abuse and child abuse. In parallel with the establishment of the Families Tribunal, the Committee recommended that the current structure of courts with family law jurisdiction be simplified. The Committee recommended only one federal court with family law jurisdiction, with an internal structure of judges and magistrates, effectively amalgamating the FCoA and the FMC. The Government is yet to respond to the report.

Review of the FMC

1.19 Also in 2003, a review of the FMC from 1 July 2000 to 30 June 2002 was finalised by a working group comprising officers of the Attorney-General's Department, the Department of the Prime Minister and Cabinet, and the Department of Finance and Administration. The review examined matters such as the jurisdiction of the FMC and the arrangements that had been made for the provision of registry and related services. A copy of the report was provided to the Senate Legal and Constitutional Legislation Committee in December 2003, and is available on the Committee's internet web pages.

Pathways report

1.20 In May 2000, the Government established the Family Law Pathways Advisory Group to advise it on how to achieve an integrated family law system that would achieve the best possible outcomes for families. The advisory group considered the family law system as a whole—encompassing both the courts and the many service providers and individuals who help families to resolve legal, financial and emotional problems in the case of family breakdown. The report of the Advisory Group *Out of the Maze: Pathways to the future for families experiencing separation* was the result of community concern over aspects of the family law system including timeliness, cost and complexity.

1.21 The report identified a number of examples of better practice. However, it also found that, among other things, in the current family law system there was insufficient collaboration between services, not enough information to make informed choices easier, and a lack of holistic assessment of individual cases.¹³ It found that there was too much unnecessary litigation and adversarial behaviour, and that the public and private costs involved were too high. The report noted that, in particular, the FCoA and the FMC should verify that the community-based PDR services being put in place are coordinated and modelled as a shared service to achieve a common purpose, common standards and common outcomes. In addition, it noted that funding

¹³ Family Law Pathways Advisory Group, *Out of the Maze: Pathways to the future for families experiencing separation*, July 2001.

contracts for community-based service delivery organisations should focus on outcomes rather than inputs or throughputs.

1.22 The Government supported the Advisory Group’s recommendations in its May 2003 response to the report. As a result, the Government decided to maintain the Family Law Pathways Taskforce to coordinate implementation of Pathways initiatives. The Taskforce is chaired jointly by the Attorney-General’s Department and the Department of Family and Community Services.

Australian Law Reform Commission

1.23 In 2000, the Australian Law Reform Commission listed a number of goals that it considered were vital to the effectiveness of the federal civil justice system in its *Managing Justice: A review of the federal civil justice system*.¹⁴ These included:

- emphasising dispute avoidance and prevention;
- encouraging appropriate, effective and timely settlement;
- ensuring cost effective case preparation and case management;
- ensuring time effective and cost effective hearings; and
- preventing excessive legal fees.

1.24 The report made a number of recommendations specifically for the FCoA aimed at improving practices, procedures and case management. The *Managing Justice* report also recommended an independent review of the performance of the Family Court of Australia within two years, focusing on the efficacy of the FCoA’s originating processes, forms and case management procedures; the duration and outcomes of cases; and the effectiveness of the FCoA’s information technology system and data collection. The Government supported the continuous monitoring of practices, procedures and case management in the FCoA.

Audit objectives and approach

1.25 The primary objective of this audit was to examine and report on the economy, efficiency and effectiveness of the courts’ client service arrangements. The audit also assessed the effectiveness of the coordination between the two courts, and of their administration of PDR services. A particular focus was services provided to regional and rural Australians, and to clients who are culturally and linguistically diverse.

¹⁴ Australian Law Reform Commission Report No.89, 2000, *Managing Justice: A review of the federal civil justice system*.

nine metropolitan and regional registries, which together accounted for 78 per cent of total family law filings in 2002–03. The ANAO examined client service initiatives in each of the registries visited, comparing and contrasting the registries' approaches, and identifying better practice where possible. The ANAO also considered the administrative arrangements supporting coordination between the courts, and examined arrangements for the administration of PDR services.

1.27 The ANAO reviewed files, analysed statistics generated from the courts' Casetrack information system, and conducted over 60 interviews with officers involved in the administration of the FCoA and the FMC. The ANAO also invited submissions from, and consulted with, stakeholders who have an interest in this aspect of Commonwealth administration. Stakeholders who have provided input into this report include legal and PDR practitioners, peak bodies, court user groups, and other government agencies. Sixteen formal submissions were received from stakeholders, and meetings were held with a further thirteen interested parties. The stakeholders concerned are listed at Appendix 2.

1.28 The ANAO visited a total of nine registries in Victoria, New South Wales, Queensland, Tasmania and the Australian Capital Territory. Focus groups were conducted in each of the registries visited, involving 50 FCoA client service officers. This was an opportunity for registry staff to give their views on client service, and the coordination between the two courts, as well as to give feedback on clients' experiences of the courts. The aim was to identify what was working well, as well as to identify areas that could be improved.

1.29 The audit was conducted in accordance with the ANAO Auditing Standards. The audit commenced in September 2003 and fieldwork was completed by November 2003. The total audit cost was \$340 000.

Report structure

1.30 This report focuses on client service in the FCoA and the FMC. Chapter 2 examines client service arrangements. This includes an assessment of the extent to which the courts are meeting their clients' needs, and a review of the timeliness and quality of services provided. Chapter 3 addresses the effectiveness of the coordination between the courts, and its impact on clients. Chapter 4 discusses the administration of PDR, and its impact on clients.

2. Client Service

The ANAO examined whether the courts have processes in place to ensure that their services are meeting their clients' needs. The ANAO also examined the timeliness and quality of the services provided by the courts.

Introduction

2.1 Good client service relies on agencies planning for high quality client service delivery, and regularly monitoring and reporting on their performance. Agencies should seek feedback from significant client groups to make sure that services are meeting their needs, and that they are improving over time. Client service will only be effective if agencies remain responsive to changes in their client base and the means by which they provide services to them.

2.2 Clients should be able to have confidence that agencies are managing their risks proactively, and should be entitled to expect a high quality, timely, and cost effective service that improves over time. This is particularly important for clients passing through the family law system, which is a very complex and challenging environment for both clients and staff, with financial and emotional impacts that will affect both the individuals directly concerned, as well as the wider community, for many years to come.

Planning for high quality client service delivery

Establishing a corporate commitment to client service

2.3 Good client service starts from a genuine commitment to excellence in service delivery at all levels of an organisation. The courts have signalled that they have made client service a priority by including it in corporate planning documents, and by developing standards and targets for client service. The Memorandum of Understanding (MoU) between the courts in 2001 also addressed the issue of client service. The MoU states that services provided by the FCoA to the FMC will be 'performed in a like manner and to the same standard, quality, and using a like process and procedure as apply day to day in FCoA'.¹⁵

2.4 The FCoA also identifies client service as one of its major strategic themes in its strategic plan. The FMC does not have a publicly available strategic plan, but has emphasised client service performance in other internal strategic planning documents. Both courts also have client service charters.

¹⁵ Memorandum of Understanding between the Family Court of Australia and the Federal Magistrates Service for the Provision of Services, 17 April 2001, 2.1.

However, the FMC client service charter applies only to FMC administrative staff, rather than to Federal Magistrates (FMs) and FCoA registry staff providing services to its clients. Similarly, the FCoA client service charter does not mention services provided to clients of the FMC. The ANAO considers that these represent missed opportunities to present a united commitment to excellence in service delivery to family law clients.

2.5 Both courts have standards and targets for client service. The FCoA has standards and targets set out in the Attorney-General's PBS, in its business procedures manual, and in its case management guidelines. The FMC has targets set out in the PBS.

2.6 Staff do not have individual client service targets. In most of the registries visited, however, staff were aware of various targets at the registry level. The better performing registries, based on the court's own measures, were Parramatta (where a client service ethos had been developed, and where there was regular reporting to staff on performance), and Melbourne (where staff had participated in an 'October challenge' to reduce the registry's mail backlog, and where there was also regular reporting to client service staff on performance). The FCoA is aiming to enhance staff focus on client service over the next few months, as it rolls out its new case management model.

Understanding the client base

2.7 It would be difficult for the courts to tailor their services to clients' needs without first having identified and understood their existing and prospective client bases. In this context, it would be reasonable to expect that the courts would have identified their most significant client groups, and made explicit their commitment of high quality service to these clients. The ANAO was particularly interested in reviewing services provided to rural and regional clients, to self-represented litigants (SRLs), to indigenous clients, and to other culturally and linguistically diverse (CALD) clients. Currently, however, the courts are limited in their capacity to accurately identify the size and significance of each of these client groups.

2.8 Self-represented litigants, in particular, are a significant and growing segment of the client population throughout the Australian justice system. SRLs are estimated at between 30 and 40 per cent of all clients in the FCoA.¹⁶ In the FMC, SRLs are involved in an estimated 19 per cent of applications involving children and property matters, rising to 66 per cent of divorce applications.¹⁷ SRLs, in general, require a higher than normal level of service

¹⁶ Family Court of Australia, 2002, *Self Represented Litigants—A Challenge: Project Report*, p.iv.

¹⁷ Federal Magistrates Court of Australia, 2003, *Research Project—A Day in the Life of a Self Represented Litigant: Discussion Paper*, p.3.

from client service staff and judicial officers. Notwithstanding the steps taken to date to improve services for SRLs, it is important that both courts are aware of the size of their SRL client base, and of these clients' requirements, in order to plan services and to tailor processes for them effectively.

2.9 The FCoA has made some progress toward formalising its commitment to its various client groups. Key Result Area 1 of the FCoA strategic plan sets out the court's commitment to better targeted services. The strategic plan outlines the court's intention to 'develop and implement initiatives to improve access to court services for clients from rural and remote communities, indigenous clients, and clients with specific cultural needs'. In the FCoA, the issue of identifying client groups is to be addressed to some extent through the release of new forms in 2004, which will ask clients whether they are Aboriginal or Torres Strait Islander (ATSI), their country of birth, and whether they would like an interpreter to assist them. The FMC will not share these forms, and is not currently in a position to clearly identify the different components of its client base.

2.10 In seeking to improve its services to CALD clients, the FCoA commissioned a diversity audit in 1999, which found that the court was not meeting the needs of clients from culturally diverse backgrounds. The report found that the court could not begin to meet these clients' needs when it did not know who they were, or how to tailor its services to them. Research has suggested that over 40 per cent of divorces involve couples where one or both partners were born overseas.¹⁸ The FCoA has taken some tentative steps to identify its CALD client base by collecting data on the number of requests for interpreters at the counter and in the courtroom, and by working closely with CALD stakeholders. The FMC is yet to take these more formal steps to identify CALD clients. However, it has obtained some data on CALD clients in some areas through the tender process for PDR, which is discussed in Chapter 4.

2.11 Consequently, both courts currently face some significant challenges in making an assessment of their clients' needs, and tailoring their services accordingly. Some registries have been more proactive than others in terms of building partnerships and networks with representative groups, but only one of the registries visited had made any attempt to quantitatively analyse its client base.

¹⁸ The Hon. Justice Alastair Nicholson AO RFD Chief Justice, 'Cultural Diversity and the Family Court: Taking a responsive approach to the family law needs of a diversified Australia,' Address to the Managing Diversity Conference, Darebin, 3 October 2003.

Tailoring services to meet clients' needs

Rural and regional clients

2.12 The primary way that rural and regional clients access the courts is through circuit activity in rural and regional areas. The courts provide a range of circuits: judicial, deputy registrar, mediator, SES registrar, and judicial registrar. The FMC circuits to 24 locations and the FCoA circuits to 23, with over half of these locations serviced by both courts. The FCoA has commented that to some extent circuits have an historical base and once established it is very difficult for the court to change the level of service even when the demand for services changes, without significant community concern. However, the FMC is currently analysing demographic information and developing criteria to determine the most appropriate location and duration of circuit activity. While the ANAO acknowledges that there may be difficulties for the courts in terms of obtaining access to appropriate facilities in some regional and rural areas, it is important that circuit schedules remain responsive to areas of emerging need.

2.13 The FCoA has advised that negotiations on draft protocols on the management of circuits between the FCoA and the FMC commenced in 2002, and are still in progress.

2.14 Where clients cannot physically access court facilities, both courts also provide access through video and telephone links, and by making a lot of information available via their websites. Video callovers are used immediately prior to judicial officers undertaking their circuits in rural and regional areas, which is an effective way of making sure that matters are ready for trial. These strategies rely, however, on people having access to either the internet or videoconferencing facilities, which in many areas of rural and regional Australia is not the case. Even contacting the registries by telephone to make enquiries can be a challenge for rural and regional clients, as they must pay long distance telephone charges to contact the courts, as the registries do not have toll-free numbers. Telephone waiting times can also be lengthy, with some clients reporting being kept on hold for up to thirty minutes at a time. The ANAO notes that some registries (such as Parramatta, Melbourne and Sydney) are actively managing this issue through telephone monitoring.

2.15 It is not currently possible to say that rural and regional clients can expect to receive the same standard of service as their metropolitan counterparts. For example, clients who do not appear in person to lodge forms over the counter in the registry may experience significant delays, as some registries have significant backlogs in terms of dealing with postal applications. At the time that the ANAO visited the Lismore registry, for example, it had been some weeks since divorce applications had been processed. (The FCoA said forms were not processed because a circuit to this

location was not scheduled for some time.) Delays in processing forms means that errors will not be identified for some time, leading to further delays being experienced by the client when applications are returned for correction, and who then must re-enter the processing chain. It has been estimated that 30 per cent of forms are returned to clients as incorrect or incomplete in the first instance. In this regard, the ANAO considers that the interactive divorce form currently being piloted by the FMC offers opportunities for improved efficiency and effectiveness.¹⁹

2.16 In addition to the challenges noted above, which face regional and rural clients in both courts, there are particular access and equity issues for rural and regional FMC clients. These clients will experience different levels of service depending on where they live and where they choose to lodge. For example, in Wollongong, the FMC has decided that the registry cannot accept applications over the counter. Clients wishing to file with the FMC in Wollongong must first file with the FCoA, at the higher FCoA fee, and then have their matter transferred to the FMC, involving additional administrative steps, higher costs to the client, and longer delays. Similarly, FMC clients cannot file applications for child and/or property matters in the Sydney CBD registry at all, with only the Parramatta registry servicing FMC clients in the Sydney metropolitan area.

2.17 While the ANAO also identified some examples of better practice in terms of ‘roadshows’ or outreach activities in some rural and regional areas, the courts should give greater attention to the level of service currently provided to rural and regional clients. This is a view expressed by a number of stakeholders, who also raised concerns about the quality of service currently extended to these clients.

Self-represented litigants

2.18 As discussed above, SRLs face a number of additional challenges compared to other clients, as they are attempting to independently navigate a highly complex area of the law, which will directly impact on their future financial and emotional wellbeing, in an unfamiliar, and often intimidating environment. It is worth noting that SRLs, like other clients, are also not a cohesive group. They have different needs and experiences. Some are self-represented by choice, others by circumstances, being unable to afford representation, or to obtain legal aid. Some are self-represented for most or all of the process, while others may have representation at different times.

2.19 Both courts have been proactive in terms of reviewing the quality of service provided to SRLs, and attempting to address service gaps. In terms of

¹⁹ The interactive divorce form is intended to be completed on-line, and guides applicants through each answer and makes sure that information complies with the court’s rules. Once completed, it can be printed and signed for lodgement.

determining SRLs' needs, the FCoA has recently released the report of its broad-ranging two-year project focusing on SRLs. The report was recognised as better practice internationally, and culminated in a series of recommendations to the Chief Justice's Consultative Council (CJCC)²⁰, and a plan for further action at the registry level. In the FMC, the smaller scale 'Day in the Life' project is currently underway. Its aim is to gather information on SRLs' experiences in the courts. This has involved a number of consultants posing as SRLs, and making an assessment of the effectiveness of services provided to them at the Melbourne registry. Their report includes a number of internal and external recommendations.

2.20 As well as the two projects currently underway, the courts have given attention to the quality of information available to SRLs via their websites. The FCoA has a 'step by step' guide to proceedings available electronically, which includes a video presentation on what to expect in the courtroom. The FMC's website is less user-friendly. However, both courts also have links to 'do-it-yourself' kits, which aim to assist applicants in filling out the forms required. As noted above, this level of assistance relies on clients being computer literate, and having access to the internet. A recent study indicates that 58 per cent of Australians aged 14 years or more have access to the internet, with usage lowest among persons not working, the elderly, low income earners, and those living in rural areas.²¹ In addition to these groups, another recent study identified lower internet usage among indigenous Australians, people from non-English speaking backgrounds and blue collar workers.²²

2.21 Judges, Federal Magistrates (FMs) and client service staff overwhelmingly indicated to the ANAO that SRLs require a much higher degree of support than other clients. Staff in the focus groups indicated that they spent more time with these clients than others, trying to help them to understand the processes involved, and referring them to relevant community agencies for legal advice and other assistance. Some registries had additional services available to support SRLs, such as access to duty solicitors and Justices of the Peace onsite, volunteer court support programs, IT facilities, and factsheets developed in-house to assist clients with particular forms or procedures. Both courts should continue their efforts in relation to SRLs, aiming for greater consistency in terms of the services offered to SRLs across

²⁰ The CJCC is the main executive committee of the Family Court. It comprises senior judges and staff and meets quarterly to set and review the FCoA's strategic priorities.

²¹ National Office for the Information Economy (now the Australian Government Information Management Office), *The Current State of Play: Online Participation and Activities 2003*, p.4.

²² Cited in *National Centre for Social and Economic Modelling News*, Issue 22, February 2004, p.5.

the registries, and recognising the particular needs of SRLs as part of broader improvements to client service and information delivery.

Aboriginal and Torres Strait Islander clients

2.22 The *Family Law Act 1975* emphasises the importance of recognising and respecting ATSI heritage in seeking to protect the best interests of the child.²³ In this regard, the FCoA's Indigenous Family Consultants (IFCs) have a very important role in terms of assisting the courts to develop culturally appropriate responses to family law issues facing ATSI clients. Annual funding to the IFC program is \$588 000.²⁴

2.23 While the courts do not currently know how many ATSI clients access their services, IFCs estimate that they have provided over 4000 services to FCoA and FMC clients since July 2002. The majority of the IFCs' work involves informal contact with clients in person, by telephone, or through voluntary mediation. As well as their direct client work, IFCs are also significantly involved in community education and liaison.

2.24 There are currently six IFCs based in the Northern Territory and Far North Queensland. Stakeholders commented to the ANAO that this number is not sufficient to meet the needs of ATSI clients Australia-wide. The ANAO also notes that there are particular challenges for the court's metropolitan and regional ATSI clients in other parts of Australia, who will have quite different needs and expectations from ATSI clients in rural and remote areas. At the moment, for example, the IFC assigned to the Parramatta registry is located in Darwin, which makes it difficult for the large indigenous populations in Mt Druitt and areas of western NSW, to be adequately supported. There have also been concerns expressed about services to indigenous communities in and around Bairnsdale in Victoria. Both the Family Law Pathways Group and the House of Representatives Standing Committee on Family and Community Affairs have recently highlighted the need for the expansion of the IFC program.²⁵

2.25 Although each registry is assigned an IFC, there have been varying levels of success in building networks and supporting local ATSI communities. There was evidence of better practice in some registries. For example, the

²³ *Family Law Act 1975*, Section 68F (2)(f).

²⁴ House of Representatives Standing Committee on Family and Community Affairs, 2003, *Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation*, Parliament of the Commonwealth of Australia, Canberra, p.55.

²⁵ Family Law Pathways Advisory Group 2001, *Out of the Maze: Pathways to the future for families experiencing separation*, Commonwealth of Australia, Canberra, p.92; and House of Representatives Standing Committee on Family and Community Affairs 2003, *Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation*, Parliament of the Commonwealth of Australia, Canberra, p.56.

Brisbane registry has been involved in a working party on indigenous issues since 2002, which includes legal practitioners and representatives from local indigenous groups. The Hobart registry has also been working with other service providers, including Centrelink, as part of the 'Tagari Kani' project to identify the needs of ATSI communities and to build more effective links on issues, decisions, policies and legislation that impact on ATSI families. There has also been some success in other areas of Australia in terms of engaging with ATSI clients participating in PDR. These are highlighted in Chapter 4.

2.26 However, it was a concern that none of the nine metropolitan and regional registries visited by the ANAO had provided training to client service staff aimed at meeting the needs of ATSI clients. The FCoA had previously (in 1996 and 1998) run two workshops focussing on ATSI issues in the Northern Territory and Far North Queensland respectively. However, the ANAO considers that there is scope for the courts to do more to meet their ATSI clients' needs.

2.27 There was also a lack of signage and information directed at ATSI clients. While the FCoA has produced a brochure for ATSI clients, it was not displayed in the registries visited, and stakeholders have suggested that the courts should consider alternative forms of information delivery, such as videos, or tailored information sessions for ATSI clients. The FCoA has an agreement with the NT interpreter service to provide ATSI language services. However, while interpreters and translators were available for other language groups, there were no local registers of ATSI language speakers who could assist ATSI clients using the courts in the registries visited by the ANAO. Similar issues were highlighted in the Family Law Pathways Advisory Group's 2001 report.

2.28 Some stakeholders commented that they felt more confident referring ATSI clients to the FCoA, than the FMC, as the FCoA had been more proactive in terms of engaging with ATSI issues. An exception was in South Australia and the Northern Territory, where the FMC has set up a network of circuits to the more remote communities, and provides 'bush courts' to ATSI clients. This is important in terms of creating and maintaining links with remote communities, and in remaining responsive to their needs.

Clients who are culturally and linguistically diverse

2.29 As discussed above, in 1999 the FCoA commissioned an audit to review its capacity to meet the needs of its CALD clients. The audit assessed the FCoA's performance against the seven principles set out in the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA's) *Charter of*

Public Service in a Culturally Diverse Society.²⁶ The audit found that there was scope for the court to significantly improve the quality of its services to CALD clients. The FCoA has since undertaken a number of initiatives aimed at improving the services it provides to CALD clients.

2.30 The FCoA provides a series of brochures in languages other than English, and in 2001, it released policy guidelines on the use of interpreters. The policy makes provision for CALD clients to access interpreters from their initial attendance at the counter, through to their appearance in court. The policy states that all clients requiring interpreters will be able to have access to them. The FMC shares the FCoA's policy on interpreter and translator use. In 2002–03, FCoA expenditure on interpreters was \$384 000. The most frequently requested languages were Vietnamese, Mandarin, Cantonese, Arabic and Turkish.

2.31 In 2003, the FCoA held a Roundtable Conference on Cultural Diversity in partnership with the Australian Multicultural Foundation, which involved representatives from State/Territory government multicultural offices, the Federation of Ethnic Communities' Councils of Australia, the Attorney-General's Department, and DIMIA. The Conference did not include representatives from the FMC. Delegates made a number of recommendations aimed at enhancing the court's responsiveness to CALD clients, and the FCoA has developed an action plan to implement these recommendations across its registry network. Stakeholders commented favourably on the FCoA's responsiveness in this regard.

2.32 Some registries have done more than others in terms of establishing networks with multicultural organisations, and identifying CALD clients' needs. For example, in Parramatta there has been some contact with local Arabic community leaders, and in Sydney, a Chinese divorce list was previously conducted once a week with a Cantonese and Mandarin interpreter available in court all day. The ANAO considers that there is scope for both courts to work more constructively together for the benefit of CALD clients. Beyond sharing the FCoA's policy on interpreter use, the FMC is yet to develop any strategies aimed specifically at meeting its CALD clients' needs.

2.33 While the FCoA has been proactive in terms of attempting to meet CALD clients' needs, it was a concern that staff in the registries reviewed by the ANAO were not always able to identify their most significant CALD client groups. Nor had client service staff in many of these registries undertaken cross-cultural training aimed at enhancing their capacity to respond to CALD clients' needs. The FCoA has previously provided cross-cultural training to

²⁶ The Charter summarises seven principles central to the design, delivery, monitoring, evaluation and reporting of quality government services in a culturally diverse society—these are access, equity, communication, responsiveness, effectiveness, efficiency and accountability.

judges, deputy registrars and mediators, and the Chief Justice recently announced his intention for cultural awareness training to become a prerequisite for all client service staff. Enhanced training and awareness raising will be a focus as the court rolls out its cultural diversity strategy during 2004. The roll out of the cultural diversity strategy should significantly improve the quality of service currently provided to CALD clients by the FCoA.

Building effective partnerships

2.34 It is essential that government agencies and other groups involved in the family law system work effectively together to minimise confusion and inconvenience for their shared clients. The FCoA has formalised its commitment to effective relationship management through its Relationship Management Strategy. In the course of the audit, the ANAO identified examples of better practice in terms of the courts' liaison with other agencies. For example, in Victoria there are regular meetings involving both the FCoA and FMC with representatives of other relevant government and non-government agencies, including Legal Aid, Centrelink, the Victorian Department of Human Services, the Child Support Agency, the Law Institute of Victoria, and other stakeholders. Similar groups were operating at the registry level in other locations, although not all of these involved the FMC.

2.35 The ANAO also found some evidence of better practice in some registries in terms of partnership building, and communication with stakeholders. For example, the ACT registry had invited representatives from a number of relevant non-government and community-based organisations to address staff, which meant that staff were in a better position to provide informed advice to clients about services available to them. There were also examples of better practice in terms of some registries' liaison with each other. For example, in Victoria, Dandenong and Melbourne registries have established a state-wide approach to service delivery with peak load processing shared between the registries, state-wide management of PDR, and joint strategic planning, among other things. A similar approach is being trialed by the NSW and ACT registries, which offers the potential for better outcomes for clients in these areas.

Recommendation No.1

2.36 The ANAO recommends that, in order to improve the quality of service currently offered to clients, the FCoA and the FMC should actively seek to identify and better understand the needs of their various client groups, and implement a range of measures to address those needs.

Implementation of Recommendation

2.37 The ANAO considers that there are a number of ways in which the courts could improve the quality of service currently offered to clients. For example, collecting and analysing court application data to better understand the size and significance of their various client groups, would assist the courts to determine strategies to tailor their services accordingly.

2.38 In respect of rural and regional clients, the ANAO considers that the courts could make it easier for rural and regional clients to access court services by: providing toll-free telephone numbers, and actively monitor and manage the timeliness of responses to correspondence and other enquiries; developing frameworks to allow the courts to offer rural and regional clients the same standards and level of service regardless of the location in which they choose to lodge; and regularly reviewing circuit locations on a joint basis to make sure that the courts remain responsive to areas of emerging need.

2.39 In terms of ATSI and CALD clients, the ANAO considers that the courts could: enhance the effectiveness of the IFC program for regional and metropolitan clients in NSW/ACT, Victoria, South Australia and Tasmania; provide training to staff so as to enhance their capacity to deliver a high standard of client service to all court clients, including ATSI and other CALD clients; and work effectively together to build partnerships with ATSI and other CALD community groups, with the aim of tailoring services to meet these clients' needs.

FCoA response: Agreed. The court provided extensive additional comments describing initiatives already in place, the court's commitment to client service, service levels to FMC clients and issues associated with rural and regional clients, SRLs, CALD and indigenous clients. These comments are at Appendix 1.

FMC response: Agreed. The FMC agreed that quality of service delivery will be improved through an understanding of the needs of different client groups and that some quantitative analysis should be planned to collect information. The court indicated that it has undertaken a major project—'Day in the Life'—to collect information about the service needs of the key group of litigants who do not have legal representation. The court also indicated that it will, subject to the availability of resources, work with the Family Court to obtain and analyse additional information about other groups of court users.

Monitoring and reporting on performance

Timeliness

Targets

2.40 It is important that court services are delivered in the most timely and cost effective manner possible. Both courts have targets that they must meet in relation to timeliness. These targets are set out in the Attorney-General's PBS, and in other corporate documents. Monitoring cost and timeliness of service is particularly important for the FMC, as it was established to operate as a faster, simpler and less expensive alternative to the FCoA. The extent to which the courts are working effectively together to achieve this objective is addressed in Chapter 3.

2.41 Neither court is currently meeting its targets in terms of the timeliness of services provided. As can be seen from Table 2.1, the FCoA did not meet its timeliness targets in 2003 for any of its resolution or determination services. The FMC did not meet its timeliness target for defended matters.

2.42 The self-assessed performance against selected timeliness targets identified by the courts is set out in the table below:

Table 2.1

FCoA and FMC Timeliness Targets and Results

FCoA	Timeliness targets	2003 results (%)
Mediated agreements	90% of matters resolved through mediated agreement, resolved within 6 months of filing	67%
Consent orders	90% finalised within 4 weeks of filing	82%
Divorces	90% processed within 3 months of filing	85%
Interim Orders	90% processed within 3 months of filing	67%
Final orders	75% finalised within 6 months of issue of trial notice	70%
All defended matters	90% of all defended matters, from filing to finalisation, to be completed within 12 months	71%
FMC	Timeliness targets	2002–03 results (%)
All defended matters	90% of all matters, from filing to finalisation, to be completed within 6 months	72% (92% within 12 months)

Source: FCoA National Operations Report—January 2003–December 2003; *Federal Magistrates Court Annual Report 2002–03*.

2.43 This inability to meet targets is of significant concern, given that in the area of family law, any delays are likely to increase the emotional and financial hardship suffered by the courts' clients. An additional concern is that the longer that the proceedings take, the greater the risk that as the way of life for the parties concerned continues, new matters may become relevant, and formerly important matters become less so. Any valuations, reports or affidavits may lose their currency and need to be re-prepared, leading to longer delays, increased costs and inconvenience for all parties involved.

2.44 The FMC was established to provide a faster service for less complex matters. Although currently 72 per cent of matters are being finalised within the six-month target timeframe, many stakeholders expressed concerns about increasing delays and pressures throughout the FMC's networks. At the time of the audit, many registries were already listing FMC matters more than six months ahead. For example, in September 2003 in Dandenong, the next available FMC listing date was August 2004, and in December 2003 in Lismore, the next available listing date was September 2004.

Minimising delays

2.45 Where the courts were not meeting their targets in terms of timeliness, the ANAO considered the reasons for any delays, as well as other factors impacting on average case duration. There is a range of possible reasons for delays experienced by clients as they move through the family law system (such as, processing or administrative errors; lack of compliance by clients or their legal representatives; clients' need for more time to attempt to negotiate a mediated agreement; and/or resourcing issues including staff and judicial availability). However, neither court is currently collecting or analysing reasons for administrative delays experienced by clients, and hence they are limited in their capacity to address them. Stakeholders overwhelmingly raised concerns over delays in their submissions to the ANAO.

2.46 While there is only a limited amount of quantitative information on reasons for delays throughout the process overall, the FCoA does collect data on reasons for adjournments, when matters that have been scheduled to come before a judicial officer cannot proceed. The FCoA's statistics suggest that more than half of all adjournments are instigated by the parties themselves, with most of these matters requiring adjournments because either required material has not been prepared, because the parties have entered into further negotiations, or because one or both parties do not present on the day in question.

2.47 In both courts, effective case management is essential to minimise delays and inconvenience to clients as they move through the process. In response to weaknesses within its current case management system, the FCoA is rolling out its new 'case management from a client perspective' model,

which emphasises a more proactive, individualised approach. The new model will need to be closely monitored and reviewed to make sure that the issues that reduced the effectiveness of the former Caseflow model do not recur. The FMC does not yet have a court-wide case management system—case management remains at the discretion of individual judicial officers. It would be desirable, nevertheless, for the FMC to make sure that its processes provide a high quality, consistent and timely service to its clients.

2.48 While there is limited data on the reasons for delays experienced by clients, the ANAO identified a number of issues of concern in the course of its fieldwork in September and October 2003. For example, there was evidence that:

- clients were experiencing unnecessary delays at the counter as staff entered data into Casetrack while clients waited. Although most registries have strategies in place aimed at serving most clients within 30 minutes, the ANAO observed that this was a particular problem when legal practitioners lodged bulk applications;
- data was being entered incorrectly, very late, or not at all, by FCoA and FMC staff into the Casetrack database. This meant that clients were experiencing unnecessary delays as their cases could not proceed, or confusion as they had not been advised of the outcomes of individual events, and the next steps that they would have to take. The FCoA has advised that it is in the final stages of developing a data quality program aimed at addressing these issues, with a major audit on data completeness to be conducted in 2004. The FMC is also separately reviewing data quality issues;
- documents lodged by clients were not being processed or filed in a timely manner, with some clients experiencing delays of many months due to administrative delays or oversights. This was a particular problem for documents received by post, where clients who may have filled out forms incorrectly would have to wait for some time before their documents were processed and returned for correction, and then be forced to re-enter the process, with further consequent delays;
- poor communication between the courts sometimes resulted in inconvenience and unnecessary expense for clients, such as when hearing dates were changed and clients were not advised in time, or when clients' complaints or enquiries were not delivered to the appropriate court for a timely response; and
- there were delays processing transfers between the courts. In one registry visited, clients whose cases had been transferred in May 2003, were having their preliminary processing undertaken five months later,

in October 2003. In another registry, stakeholders reported delays of up to two years between transfer of matters from the local courts, and subsequent hearings in the FCoA. Challenges around transfers, and relationships with other courts, are discussed in the next chapter.

2.49 A final potential reason for delays is the availability or otherwise of administrative and judicial resources. This is a policy matter for Government, and as such, was not reviewed by the ANAO. However, in reviewing the performance of individual registries, the ANAO had regard to the fact that trial notices had been suspended at various times in a number of the registries reviewed, and in one registry, trial notices were being issued even though there was not yet a judicial officer appointed to hear them. Some of these periods were quite lengthy—for example, in Brisbane it took up to seven months to have judicial resources replaced on two separate occasions. It would be desirable for the risks involved to be more proactively managed by the courts.

Over-listing

2.50 While both courts should do more to manage their risks, both have attempted to make the best use of existing resources in monitoring and adjusting their listing approaches. Both courts currently over-list matters to take account of the fact that many matters will settle ‘on the steps of the court’, which can result in judicial officers being under-utilised. Over-listing ratios vary across the courts’ networks, with the ratio highest in Melbourne, which traditionally has a higher settlement rate than other centres.

2.51 This has advantages and disadvantages for clients, as some clients who are listed and who must engage their legal representatives for the day or several days, will not have their matters heard at all and will need to be rescheduled. Others, however, may have their matters heard sooner than expected, if other matters drop out of the list. The ANAO reviewed a number of complaints relating to over-listing. However, the courts indicated that they were responsive to clients’ concerns about over-listing, and attempted to minimise the potential inconvenience and costs to clients.

2.52 The ANAO considers that the courts have taken an innovative approach to over-listing, with joint planning for judicial resources across the Parramatta and Sydney registries, which included effective coordination between FMC and FCoA judicial officers. However, it would be desirable for the courts to remain alert to the potential inconveniences suffered by clients who cannot have their matters heard on any given day. They should make sure that communication with these clients is clear and open as to the risks when their matters are listed, and that all relevant staff understand the implications for clients in terms of the cost and time expended for matters that cannot proceed.

Quality of services

2.53 The ANAO considers that in making an assessment of quality, the courts should regularly monitor performance against corporate targets, seek feedback from clients as to their satisfaction with court processes, and respond effectively to client concerns where these exist. The FMC recently surveyed legal practitioners and PDR providers on their satisfaction with the quality of service provided by the FMC. Ninety-four per cent of legal practitioners surveyed rated the FMC as good, very good, or excellent overall. PDR providers also indicated that they were generally satisfied with the quality of service delivered by the FMC. However, neither court is currently in a position to assess other court users' satisfaction with the quality of services provided. While both courts report the number of formal written complaints recorded as received in the registries, this is only one measure of client satisfaction, and both courts could do more to make sure that their services are meeting their clients' needs.

2.54 While both courts have client satisfaction targets set out in the PBS, they are currently limited in their capacity to report against them. The FCoA, for example, is not currently able to report at all against the client satisfaction targets set out in the PBS. The PBS outlines, among other things, that:

- 75 per cent of FCoA clients should be satisfied with divorce processes;
- 75 per cent of FCoA clients receiving interim orders should be satisfied with court processes; and
- 75 per cent of the FCoA's final orders clients should be satisfied with the litigation process overall.

2.55 The FMC has less stringent measures in the PBS, which provide only for feedback from clients on whether their disputes have been handled quickly and simply, and on the simplicity and effectiveness of court rules to be assessed. While clients' views are not formally sought on either of these issues, the FMC is able to report on client feedback through an analysis of complaints received, and of the types of emails received through the court's client service email address. These are rather simplistic measures of client satisfaction. The ANAO believes scope exists for the introduction of comprehensive measures to confirm that FMC services are meeting clients' needs.

2.56 Both courts could also do more to seek feedback from clients who have finished their involvement with the courts. This could help the courts to understand the reasons why people are leaving the system (whether due to successful mediation, by mutual consent, or due to frustration), as well as helping clients to understand the orders that they have obtained, and aiming to prevent them from returning to the court for repeated breaches and contraventions.

2.57 The FMC has not yet surveyed its clients, and the FCoA has not undertaken a survey of client satisfaction for many years, although it plans to conduct a survey of its clients in the first half of 2004. A tear-off survey was attached to the back of the FCoA client service charter available in some registries. However, it was unclear to the ANAO how this information was distributed to clients and then collected or analysed on a national scale. Finally, none of the registries visited had initiated regular meetings or forums for their clients. The ANAO is aware that the Adelaide registry has a court user group, and there would be value in other registries considering this approach. In addition, while some registries had taken steps to identify and consult with representatives of their most significant CALD client groups, and some had conducted roadshows for regional and rural clients, there had been less success in establishing links with ATSI clients or their representative groups. This was an issue raised by a number of stakeholders, and the ANAO would encourage both courts to address it.

Complaints

2.58 Complaints generally fall into three categories:

- complaints about the outcomes of individual cases;
- complaints about the behaviour of individual judicial officers; and
- complaints about administrative issues.

2.59 The FMC recorded 45 written complaints in 2001–02; and 96 in 2002–03. The FCoA reported that it received 202 written complaints in 2001–02; and 226 in 2002–03. The ANAO reviewed a sample of complaints in each of the registries visited, and at the national office of both courts. The ANAO also reviewed processes for responding to oral, written, and emailed complaints. The courts indicated to the ANAO that they do not maintain statistics on oral complaints, as such a process would be resource-intensive and not necessarily produce reliable statistics. At the same time, where oral complaints cannot easily be resolved at the registry counter, complainants are advised to make a written complaint.

2.60 Both courts have complaints handling policies, and include references to these as part of their client service charters. Both courts also provide information on their websites for clients wishing to make a complaint. The courts worked together in developing and agreeing complaints management protocols, and had regard to the Commonwealth Ombudsman's *A Good Practice Guide for Effective Complaint Handling* in doing so.

2.61 Of the two courts, the ANAO considers that the FMC has the more robust complaints handling system. It was generally well understood in the registries which type of matters should be referred to the FMC, and to whom. The ANAO considered that complaints received by the FMC were being dealt

with effectively and expeditiously. The FMC was also meeting its performance target in relation to complaints, having less than one per cent of cases litigated or divorces processed subject to complaint.

2.62 However, the ANAO noted that complaints handling procedures were inconsistent across the FCoA registries, and there was not sufficient assurance that the FMC was receiving information about all complaints from its clients. For example, there was a tendency for oral and written complaints to do with registry service to be resolved within the registry, with no reporting to the FMC on either the complaint or its outcome. It would be desirable for the FMC to be more involved in consideration of issues affecting its clients.

2.63 In general, FCoA reporting on complaints was very poor. Aside from a quarterly report to senior management, there was little internal or external reporting on trends or types of complaints, and the FCoA annual report includes statistics derived from a complaints management database that is not used as intended in most of the registries visited. While the FCoA's complaints handling policy was sound, it was not being consistently implemented across the registries, and complaints handling procedures were inadequate in most of the registries visited. The ANAO understands that, during the course of the audit, the FCoA has taken steps to address some of the current shortcomings in complaints handling procedures.

Recommendation No.2

2.64 The ANAO recommends that, in order to improve complaints handling procedures, the FCoA should:

- (a) ensure that its complaints handling policy is implemented consistently across the registry network;
- (b) collect information on the types of complaints received and their outcomes, analysing any trends, and regularly reporting on complaints activity to registry managers; and
- (c) report on complaints activity to the FMC, where complaints raised and/or resolved within the registries involve FMC clients.

FCoA response: Agreed. The court provided further comments on a project it has underway to upgrade its client feedback and complaints policy systems and on its processes in relation to complaints from FMC clients. These comments are at Appendix 1.

FMC response: No comment. This recommendation does not relate directly to the FMC, although the court noted, in relation to recommendation 2(c) that there is a protocol with the FCoA for complaints about matters affecting the operations of the FMC to be referred to it.

Consistency

2.65 Organisations providing high quality client service will seek to confirm that service is consistent throughout their operating networks, and that the services being provided give effect to corporate goals.

2.66 Client service is not currently consistent across the FCoA registries. In part, this is because the former Caseflow case management model was rolled out inconsistently across the registry network. The introduction of the new 'case management from a client perspective' model in 2003 was intended to address this. Consistency should also be enhanced by the release of a new online case management manual in the FCoA, which should help to standardise practices across the registries. Previous business procedures manuals had a low take-up rate among staff interviewed by the ANAO, with a common criticism being that the material in the manual was often incorrect or out of date.

2.67 In terms of consistency, it is also of particular concern that there is currently no formal induction program for commencing FCoA staff, and until very recently no ongoing training for more experienced staff. As a result, practices vary within and across registries. The FCoA is attempting to address this through the roll out of three client service training modules focusing on delivering quality client service, communicating effectively with clients, and self-management. At the time of the audit, the new training modules had been delivered in Sydney and Parramatta, with other registries scheduled to follow. The FCoA is also currently developing a series of online training modules focussing on induction, case management from a client perspective, and the new court rules to be introduced in early 2004.

2.68 It is of concern that until very recently, the lack of training and support provided to staff has resulted in very low morale in a number of registries visited by the ANAO, and a significant degree of frustration with the management of both courts. The FCoA has one of the highest rates of

unscheduled absences across the Australian Public Service.²⁷ The ANAO also notes that the pressure on FMs' Associates from lengthy days supporting the FMs in court, and their significant administrative and client service workloads, is considerable. The ANAO considers that the FMC has a major opportunity to be responsive to this issue and provide greater support to its staff.

2.69 Better practice was noted to exist, however, in Parramatta, where commencing registry staff were taken offline for two weeks to undertake formal induction. In all other registries visited, induction tended to be ad hoc, and on-the-job. As a result, client service officers identified problems with clients sometimes being given the wrong information by less experienced staff, and with different officers developing different procedures for the same tasks. At the registry level, there were also differences in the types of services provided to clients, and different solutions being developed for common problems.

2.70 The FMC has recently implemented a formal induction program for staff supporting the FMs in Chambers. This involves spending time at the national office learning about the work of the different administrative sections. It would be desirable for the two courts to work together on training and induction, as many of the skills required are common to both courts. At the very least, there could be benefit in new staff spending some time learning about the parallel court, its people, processes and procedures. This may help to address some of the challenges raised in Chapter 3.

2.71 On a broader scale, the FMC is also struggling with consistency issues in terms of the services that it delivers to clients. The FMC's case management model gives responsibility to individual FMs for the management of cases filed in their home registries. The registry provides service to FMC clients until the first court date, in theory providing the same type and level of service it provides to FCoA clients. Beyond this point, the FMs' Associates and Deputy Associates provide it. The FMC has established a two-person coordination team in its Melbourne office to undertake administrative tasks for the FMs and their Associates, and to liaise with Registry Managers around Australia. However, the model has not been entirely effective, and local arrangements have taken over, resulting in inconsistent practices and procedures nationally.

2.72 FMC clients, consequently, must negotiate a registry network that is providing different types and levels of service, and then a second tier of administration—the FMs and their Associates—who are equally dispersed and independent. This affects all manner of client service outcomes such as clients' ability to file with the court of their choice, their ability to contact Chambers when the Associates are supporting the FMs in court, the time that it takes for

²⁷ ANAO Audit Report No.52 2002–03, *Absence Management in the Australian Public Service*, Appendix 2.

enquiries to be responded to, and the way that documents are handled and managed within the registry. While client service is at the individual FM's discretion in the FMC, there may be some benefit in better client service practices being circulated for consideration among the FMs, to allow FMC judicial officers and their staff to consider different options for service delivery, to enhance consistency, and to learn from the experiences of others.

Reporting

2.73 The FCoA produces regular reports on client service performance at both the registry and the national level. These are circulated amongst senior staff in the registries and at the national office. The quarterly management reports produced by the registries are an opportunity for better practice to be highlighted and shared across the network, and for variations in performance to be identified and addressed. Some registries have also implemented other reporting strategies with the aim of improving service delivery. For example, in Parramatta, there was a highly visible performance indicator board updated daily, and provision for staff to make suggestions for improvement on a whiteboard in a central area, which were followed up through staff and management meetings.

2.74 Both courts report externally through their annual reports. However, it was a concern that neither the registries, nor the FCoA national office reported regularly to the FMC on services provided by the FCoA to FMC clients. While the courts have the opportunity to discuss client service delivery issues in monthly meetings between the court CEOs, the absence of regular, formal reporting is a concern.

Recommendation No.3

2.75 The ANAO recommends that the FCoA and the FMC enhance the effectiveness of monitoring and reporting on client service, by: examining their business processes and case management models; developing data quality review systems and improved inter-court performance reporting on FCoA services to FMC clients; and regularly surveying clients on their satisfaction with court processes.

Implementation of Recommendation

2.76 The ANAO considers that the courts could enhance the effectiveness of monitoring and reporting on client service in a number of ways. The courts could examine their business processes, collect and analyse reasons for administrative delays, and manage the risks accordingly. The courts could also regularly monitor and review the effectiveness of their respective case

management models, aiming for improved consistency of service across court networks.

2.77 The ANAO also considers merit in the courts: conducting regular surveys of clients on court processes, in order to facilitate reporting against corporate targets; collecting information on the reasons that clients leave the system; and verifying that services are meeting clients' needs. In addition, the provision of reports to the FMC on the performance of FCoA registry services provided to FMC clients would assist the courts to better understand the levels of client service provided.

2.78 Further, the ANAO believes that the courts could provide a common mechanism for court users, including ATSI and CALD clients and their representatives, to provide feedback on court services across individual registries.

FCoA response: Agreed. The FCoA has provided further detailed comments describing processes to review its core business over time, as well as providing its view of delays in counter service, client satisfaction monitoring, the filling of judicial vacancies and staff induction, training and morale. These comments are at Appendix 1.

FMC response: Agreed. The FMC agreed that the effectiveness of monitoring and reporting systems should be the subject of regular review. The court indicated that it will seek to have enhanced reporting standards included in the MoU between the two courts.

Continuously improving service delivery

Responding to change—keeping pace with technology

2.79 The ANAO considers that it is important that both courts aim to make it easy for their clients to do business, by offering a choice of service channels, and where possible, providing customised service channels. Both courts currently provide a significant proportion of services by video and telephone link. This is particularly useful for rural and regional clients, and for other clients who reside at some distance from the court where their matter is being heard.

2.80 The FCoA currently delivers all Information Technology (IT) services to the FMC, with the exception of the FMC website. The ANAO considers that there have been a number of positive recent initiatives in terms of the courts' IT approaches. These include the introduction of the shared Casetrack case management system and associated reporting mechanisms, and the introduction of a number of other systems aimed at enhancing the efficiency of

the courts, such as voice recognition software for judicial officers, and digital transcription services.

2.81 As discussed previously in paragraph 2.20, the FCoA's website is user-friendly and includes access to information on a range of family law issues, step-by-step guides to proceedings, and an online guided tour of a courtroom. The FCoA has also been proactive in terms of developing its IT capability for the benefit of its staff and judicial officers. For example, the FCoA has developed an Electronic Benchbook that supports the work of the judiciary and registrars. It is also about to roll out an online case management manual, which is a comprehensive procedures manual aimed at achieving more consistent, higher quality service at all levels of the FCoA. The FCoA is also exploring the potential for IT to be used more effectively, for example through the use of 'smart forms'. These are forms that clients can fill out on the web, and which can then be directly downloaded into a database reducing processing times. Any such development is contingent, however, on the success of the FCoA's new forms, released in March 2004.

2.82 Of the two courts under review, the FMC has been the first to develop electronic forms for the benefit of its clients. The FMC has developed an interactive divorce form, which guides applicants through each answer and makes sure that information provided complies with the court's rules. The FMC has had limited success piloting the interactive divorce form to date. The first pilot was established in the Canberra registry, and there was a very low take-up rate. The second pilot is about to commence in the Dandenong registry, and it is to be hoped that the pilot will allow more clients to take advantage of the technology.

Sharing better practice

2.83 As discussed in paragraph 2.73, the FCoA has introduced formal quarterly reporting from the registries. This allows variations in performance to be identified and analysed, and strategies developed in better performing registries to be shared across the network, as appropriate. The FCoA has also been proactive in terms of bringing registry teams and other senior managers together to share experiences, and to plan for joint challenges for the future. This should help, over time, to address inconsistencies across the FCoA network, which will in turn assist clients.

2.84 By comparison, the ANAO observed that the FMC currently has limited means of identifying and promoting consistency and better practice across its network, as each of the FMs and their staff are largely operating as independent administrative entities. While the FMs and the Associates come together twice a year for conferences, the ANAO considers that more could be done to provide FMs and their Associates with information on processes and

procedures that are working well in other locations, which may help to improve client service generally.

2.85 Both courts produce regular newsletters, which are a further means for sharing better practice across the network. The FCoA newsletter—*Courtside*—is available to staff, and to the public via the FCoA website. The FMC newsletter—*Knowledge Matters*—is only available internally, but nevertheless could provide an opportunity for better practice to be identified and shared.

Responding to clients and other stakeholders

2.86 It is important that the courts consult regularly—and preferably jointly, with their major stakeholders including court users, legal practitioners, relevant community based and non-government organisations, and other state and Commonwealth government agencies. This allows stakeholders to provide feedback on services, and gives the courts the opportunity to continuously improve services, where possible, in partnership with other government agencies. It is also a useful way for the courts to communicate any changes to service delivery to minimise confusion and disruption to their clients and other court users. Consultation can take place through regular liaison groups, through focus groups convened for particular issues, through roadshows in regional and rural areas, or through questionnaire and other survey activities.

2.87 Consultation with the legal profession was well established in most of the registries visited by the ANAO. In most registries, there were regular meetings with the profession through court liaison groups that also included representatives from other relevant state and Commonwealth government agencies. Some registries had also established email lists so that solicitors could be advised of waiting times to minimise delays at the counter. Both courts had established electronic mailing lists via their websites to inform court users about changes to service delivery and other issues. However, with the exceptions of Melbourne and Dandenong, the FMC was not involved in the registries' regular meetings with the profession and other court users. It would be desirable for the FMC to implement more regular liaison sessions with its clients and other court users, ideally, in partnership with the FCoA. This was an issue raised by a number of stakeholders.

2.88 There was evidence that the registries are responsive to requests from legal practitioners for enhanced service delivery. For example, in most of the registries visited, drop boxes had been introduced for document lodgement by legal practitioners with a guaranteed turnaround time of 24 hours in some registries and 48 hours in others. This reduced time spent waiting at the counter for practitioners, and for other clients who would otherwise have to wait while practitioners made bulk lodgements. As each application takes an average of 20 minutes to enter, the time savings are considerable. The FMC has also sought to minimise administrative delays for some of its client groups.

PDR practitioners, in particular, spoke positively of the FMC's use of email for referrals and appointments.

Strengthening client service into the future

2.89 Good client service relies on accurate, timely, useful and consistent information being accessible to clients who are making decisions. Both courts make information available to their clients through brochures and via their websites, and this is often followed up with individual telephone contact initiated by the clients, or through face-to-face service in the registries. In most states, the courts' information strategies rely on clients accessing the courts directly. In Tasmania, this is augmented with the assistance of Service Tasmania outlets, which make information on court services available throughout the state. The ANAO suggests that the courts could make better use of other similar facilities, including public libraries, to provide information on court services to their clients.

2.90 It was also suggested that the courts could make better use of technology by providing information via video to clients unable to access the registries in person, or unable to access or interpret electronic or printed material. For example, a number of the registries visited by the ANAO, such as Parramatta and Dandenong, noted that there are significant literacy issues amongst their clients. For FCoA clients, there is an information session at the start of the process that explains the case assessment conference. This session is mandatory in some registries, and voluntary in others. However, staff consistently commented that the information presented in the session was out of date, was consequently not as useful to clients as it could be, and was a waste of time to both attend and present. The FMC does not provide information sessions for clients, and is not mentioned in the FCoA's session.

2.91 Different registries visited by the ANAO had developed different strategies to try to fill information gaps. Most had developed factsheets to assist clients to fill out forms, to provide information on services available in the community, or to guide clients through the most common procedures, such as divorce. In some registries, client service staff had gone even further. For example, in Lismore, 'divorce classes' were previously provided to help clients to understand the process.

2.92 The ANAO considered that, while there was a lot of information for clients at the beginning of the process—albeit some of it was not in the most user-friendly form—there was a need for more information to be available to clients as they passed through the process. It can take many months, or years, for clients to resolve their matters and it is in both the courts' and their clients' interests to help clients to understand their options, and to make timely and informed decisions about their individual matters.

2.93 In particular, the ANAO considered that there was a need for more information to be available to clients immediately before, and immediately after, their matters came before a judge or federal magistrate. Having a matter in either the FCoA or FMC is intimidating and emotionally charged for many clients. Both courts could do more to assist clients to feel comfortable in the courtroom by increasing their knowledge of the legal process. While the FCoA provides a virtual courtroom tour on its website, this is not accessible to all clients, and there would be benefit in this being available to clients at each court building on a regular basis.²⁸ At the very least, factsheets on what to expect in the courtroom should be made available to clients before they appear before a judge or federal magistrate. The only registry that provided any similar information was Brisbane, where maps and information sheets were available.

2.94 The ANAO also considers that more could be done to assist clients to exit the process once their matters have been determined. Many of the complaints reviewed by the ANAO related to individual decisions, which would be better addressed through the appeal process, or through post-order counselling. The fact that clients are leaving the process unaided also means that both courts are missing the opportunity to obtain valuable feedback on clients' satisfaction with court processes, to adjust their processes accordingly, and to strengthen client service delivery into the future.

Recommendation No.4

2.95 The ANAO recommends that, in order to continuously improve services offered to clients, the FCoA and FMC should have an integrated approach to:

- (a) remaining responsive to changes in technology by coordinating the development and implementation of electronic forms and filing technology, where appropriate;
- (b) ensuring that the information offered to clients in the registries is relevant, up-to-date, and provides sufficient information regarding both courts to allow clients to make informed choices about their individual matters;
- (c) developing and distributing information on the courtroom to those clients whose matters cannot be resolved, and providing regular courtroom familiarisation opportunities for these clients; and

²⁸ Family Court of Australia, 'Guided tour of courtroom: About going to court', *Step by Step Guide to Proceedings in the Family Court*, viewed 12 January 2004, <<http://www.familycourt.gov.au/guide/html/video.html#>>, 2002.

- (d) providing information to clients who have finished their business in the courts on the significance of the orders they have received, and their options for the future should they wish to seek further counselling, appeal, or if their circumstances change.

FCoA response: Agreed. The FCoA noted that in relation to recommendation 4(b), the Court is only able to provide information to clients on procedural issues, and in relation to recommendation 4(d), that general assistance to clients at the conclusion of their involvement with the court would have resource implications for the FCoA. The court provided further detailed comments on these issues, its adoption of new technologies and its approach and consistency of client service. These comments are at Appendix 1.

FMC response: Agreed in-principle. The FMC noted that the implementation of the recommendations relating to the provision of information to litigants could require the provision of additional resources. Further comments provided by the court are at Appendix 1.

Conclusion

2.96 The ANAO considers that both courts have some way to go in terms of setting and refining their client service approaches, and improving consistency where appropriate. While the ANAO found elements of better practice in some areas in the course of its fieldwork, there are significant issues of inconsistency of service across the courts' networks, and the courts do not yet appear to be doing enough to identify and meet their clients' needs. Improving services to rural and regional, and indigenous, clients in particular should be a priority for both courts.

2.97 The FCoA has taken some steps towards addressing current client service gaps, for example by building partnerships with stakeholders, and by recognising current challenges and attempting to address them through the roll-out of the new case management model, and the cultural diversity strategy. The FMC, however, has some way to go in terms of consolidating its client service approach.

2.98 Stakeholders were overwhelmingly concerned with issues of timeliness, access and equity. These are issues that should be addressed by the courts in seeking to improve their client service approach. The two courts could also work more effectively together on client service issues, not least by seeking and acting on feedback from their clients to make sure that their services are meeting clients' needs into the future.

3. Coordination Between the Courts

The ANAO considered the extent to which the FCoA and the FMC work effectively together to provide a streamlined, high quality service to their clients.

Introduction

3.1 As both courts have been structured to share family law jurisdiction, premises, and court registry and mediation services, a strong commitment to coordination between the FCoA and the FMC is essential in order to efficiently and effectively deliver client service.²⁹ Sound coordination requires appropriate systems and structures between the courts, open communication channels and a collective willingness to work together to deliver quality client service.

3.2 While providing efficient and effective administration in this environment presents significant challenges for the courts, continuing improvements in the efficiency and effectiveness of coordination are likely to benefit clients and also provide the potential for improved cost-effectiveness of the courts.

The resources environment

3.3 As previously indicated in Chapter 1, the FCoA will receive funding of \$119.2 million (\$112.4 million in appropriations and approximately \$6.8 million in revenue from other sources) in 2003–04. The FMC will receive \$14.8 million in appropriations in 2003–04 (and \$9.9 million in resources received free of charge from the FCoA and the Federal Court). The FCoA incurs a number of expenses, such as staff salaries, service contracts, and property costs when performing services on behalf of the FMC in line with its obligations under the MoU. In this context, FCoA staff:

- attend to general enquiries, accept (at the counter and by mail) and process applications filed in the FMC, and prepare files and attach documents to files for FMC matters, up until the first return date;
- prepare FMC files for duty lists, hearings and circuits for all current matters; and
- store/archive FMC files once matters are completed.

3.4 FMC magistrates and their associates are then required to manage FMC matters and client enquiries from their chambers after the first return date.

²⁹ Family law jurisdiction is shared with the exception of adoption, property disputes concerning property worth over \$700 000 (without the consent of both parties to remain in the FMC), and applications concerning nullity or validity of marriage (which are handled by the FCoA).

3.5 The first MoU between the courts noted that the FCoA would calculate the cost of providing services to the FMC, so that each court could record the amount in their respective financial statements as services provided/received free of charge. The ANAO notes that currently these amounts can only be estimated, as FCoA staff do not separately attribute the tasks they undertake for FCoA and FMC clients respectively. For 2002–03 the amount reported by the courts regarding these services provided by the FCoA was \$8 million.³⁰

3.6 Both courts also agreed in the MoU to work towards a workload costing model that would allow them to compare their performance. To date, this has not occurred.

The administrative environment

3.7 As separate entities, the FCoA and the FMC each has its own corporate objectives and governance structures.

3.8 Under the *Family Law Act 1975*, the Chief Justice of the FCoA is responsible for managing the administrative affairs of the court, assisted by the CEO.³¹ The Chief Justice and the CEO have a number of judicial, executive and administrative committees and forums to assist them in this role.

3.9 The FCoA's organisational structure consists of a National Support Office of 79 staff in Canberra, and a further 625 employees and judicial officers across its network of 19 registries around Australia.

3.10 Under the *Federal Magistrates Act 1999*, the federal magistrates are responsible for the administrative affairs of the FMC.³² The Chief Federal Magistrate is responsible for the day-to-day management of the court, and the CEO of the FMC can exercise powers on behalf of federal magistrates in relation to the court's administrative affairs.

3.11 The FMC's organisational structure consists of a National Administration Office of 17 staff, and FM Associates and Deputy Associates who provide direct administrative support to federal magistrates. The Associates and Deputy Associates are located in magistrates' chambers, and their responsibilities include managing their magistrate's diary and court listings, providing support in court and for case follow-up (e.g. liaising with clients over the progress of matters and undertaking research for their magistrate), and preparing court documents and orders for their magistrate's signature.

³⁰ *Federal Magistrates Court 2002–03 Annual Report*, Note 11 of the Notes to and forming part of the Financial Statements.

³¹ *Family Court of Australia Annual Report 2002–03*, p.14.

³² *Federal Magistrates Act 1999*, Section 89.

Coordination between the FCoA and the FMC

Systems for coordination

3.12 The development of effective coordination mechanisms is necessary to plan for client service delivery in the family law system and provide a means for systematically resolving issues arising between the two courts. In particular, mechanisms for appropriately allocating or reallocating resources to meet emerging workload issues, and effective processes for ensuring that the courts' procedures dovetail to the maximum extent possible, are essential for effective client service.

3.13 Currently, coordination between the courts is formally managed in a number of ways:

- the Chief Federal Magistrate and CEO of the FMC attend the quarterly meetings of the FCoA's CJCC;
- an MOU governs the level of service the FCoA provides to the FMC;
- each FCoA registry's monthly case management meeting offers membership to a federal magistrate or FMC Associate³³;
- the FMC Coordinator of Court Services meets regularly on rotation with all FCoA registry managers; and
- the CEOs of the FCoA and the FMC meet monthly, and relevant National level staff (for example the Principal Mediator in the FCoA and the PDR Coordinator in the FMC) also meet regularly.

3.14 The courts' representation on the Family Law Pathways Taskforce also provides opportunities for coordination between the FCoA and the FMC.

MoU between the FCoA and the FMC

3.15 The MoU is a high level document that sets out the parameters for the provision of FCoA services to the FMC. Although the FMC accepted filings from 23 June 2000, the MoU was not signed until 17 April 2001. It took effect from 1 July 2000, and was to remain in force until reviewed or until 30 June 2002. Although a revised MoU has been the subject of negotiation for a considerable time, it has not yet been finally agreed between the courts. Consequently the first MoU is still currently regarded as being in force. The current MoU outlines the nature of services to be provided by FCoA staff in relation to FMC matters, including the provision of advice of a routine and

³³ Monthly case management meetings provide an opportunity for the managers of the registry, mediation and client service areas and an administrative judge to discuss issues associated with caseload and case management, and to monitor the implementation of relevant CJCC initiatives and strategies.

procedural nature to clients, checking and accepting documents for filing and preparing files for hearings and circuits. It also reflects the agreement between the Chief Federal Magistrate and the Chief Justice of the FCoA, that the delivery of services by FCoA staff to FCoA clients should not be compromised by the performance of functions on behalf of the FMC.

3.16 Interviews with registry staff and client service managers at the FCoA indicated that the MoU does not play a significant role in the day-to-day running of the courts and registry services, although it has been used at times as a ceiling on the service levels offered to the FMC. While this may accord with the high level nature of the MoU, the ANAO notes that registry staff have tended to develop operational practices and procedures locally, (although operational guidance on service levels has been provided by the FCoA's National Administration Office since the introduction of the FMC).

Regular meetings between the courts

3.17 Beyond the monthly court liaison meetings between the CEOs and senior staff of the two courts, most of the regular forums in which the courts come together are not specifically joint forums. Rather they are FCoA meetings to which relevant FMC staff are invited to attend (e.g. the CJCC and regular case management meetings). Given that each court has separate and distinct corporate objectives, the ANAO considers that these forums are only likely to be effective for joint business planning on issues where there is a clear alignment of the courts' objectives.³⁴ Where a specific issue may adversely impact on the FMC's capacity to deliver a simple and accessible service to its clients and/or the FCoA's capacity to deliver high quality services to its clients, the ownership of a forum and its agenda may reduce the scope for the two courts to work jointly to resolve operational issues as they arise. The ANAO notes the courts' tensions and difficulties in jointly resolving resourcing issues, and considers that there are structural impediments to effectively resolving such issues. For example, the FMC's role in regular meetings appears predominantly to be as a family law stakeholder, rather than a joint client service partner.

3.18 At the registry level, regular (usually monthly) case management meetings are held involving the registry management team. In some registries, examples of better practice were evident.

3.19 In Victoria, there are regular meetings involving the FCoA, the FMC and representatives of other relevant government and non-government

³⁴ The FCoA aims to 'Serve the interests of the Australian community by ensuring families and children in need can access effective high quality services'. The FMC aims to 'Provide the Australian community with a simple and accessible forum for the resolution of less complex disputes within the jurisdiction of the Federal Magistrates Service'. (*Attorney-General's Department 2003, Portfolio Budget Statements 2003-04*, pages 108 and 128 respectively.)

agencies, including Legal Aid, Centrelink, the Child Support Agency, the Law Institute of Victoria, and other stakeholders.

3.20 The Parramatta registry holds two types of regular meetings between the FMC and registry staff. The first involves the federal magistrates' Associates and the client service team leaders (to discuss operational issues), and the second involves the registry management team (registry manager, client service manager, mediation manager) and the FMs. The registry manager at Parramatta also surveys the FMs and their Associates and asks them to rank the quality of service provided by the registry. This provides another feedback opportunity between the courts to maximise the quality of service offered by the FCoA to the FMC.

3.21 By engaging relevant staff of the FCoA and the FMC in these regular forums, staff from each court indicated that most issues could be quickly addressed and resolved, which resulted in enhanced working arrangements and better client service. In this regard, the ANAO observed an example of better practice in the Parramatta registry, where the Client Service Manager and FMC Associates had agreed to let each other know of their availability for clients. This enabled FCoA registry staff to better manage FMC client expectations for enquiries about various matters. For example, FCoA staff could advise FMC clients that the relevant FMC Associate was on circuit or in court until late.

3.22 More broadly, the FMC regularly surveys federal magistrates on their level of satisfaction with services provided by FCoA registries. Some federal magistrates and Associates have expressed a sense of frustration that issues raised through the surveys remain unresolved over time (e.g. case files not being delivered to magistrates' chambers in sufficient time prior to hearings, or documents missing from case files). While it is unclear to the ANAO as to how these issues are raised with the FCoA, or why these issues remain unresolved over time, the perceived role of the FMC as a stakeholder, rather than as a joint family law client service partner, inhibits its capacity to develop a systematic approach to quality control for registry-related services.

3.23 The ANAO notes that the FMC's current governance model relies on federal magistrates to be the FMC administrative representative in most registries. It was apparent during the course of the audit that a number of federal magistrates and their Associates are often unavailable for regular administrative meetings with registry staff, due to court listings. This can impede the timely resolution of some operational issues at the local level.

3.24 The ANAO observed that examples of better practice tend to occur in registries where federal magistrates' Associates understand the work of registry staff, and registry staff are familiar with the Associates' role and the FMC's processes. Where this occurred, formal channels of communication (e.g.

regular meetings) were an effective mechanism for enhancing the mutual understanding of each court's issues and resolving issues as they arose.

3.25 The ANAO concludes that the arrangements for coordination between the courts are not systemically effective, particularly at the operational level. Examples of better practice exist, but rely on a number of non-systemic factors such as the goodwill of individuals within each court at particular locations. While formal strategies for communication and information exchange between the courts exist throughout the courts' judicial and administrative levels, the outcomes generated do not always provide for strategic, consistent levels of client service to be implemented across all court registries. Ultimately, identified better practices could be reflected in the courts' client service charters and guide the content of service level agreements between the courts.

Recommendation No.5

3.26 The ANAO recommends that both the FCoA and the FMC identify examples of better practice in coordination within court registries, and systematically apply these practices across all registries.

FCoA response: Agreed. Detailed comments from the FCoA, on the mechanisms for coordination between the FCoA and the FMC, are at Appendix 1.

FMC response: Agreed in-principle. The FMC agreed that examples of better practice in the coordination of the work of the court and local registries should be implemented, when practical, across the organisation. The court indicated that it will formalise the collection of information about coordination with local registries through its Court Services Committee.

Coordination and business planning to enhance client service

3.27 As the FCoA and the FMC have concurrent jurisdiction in family law matters, issues can arise from time to time which may impact on service delivery across the jurisdiction (e.g. each court's decisions on the frequency and locations of rural and regional circuits, approaches to case management and rules, forms and procedures). The challenge facing both courts is to work together effectively to benefit clients, while also recognising that each court is an autonomous entity, with its own objectives, governance structure and corporate responsibilities.

3.28 Currently, each court progresses issues through its own governance structures, even if outcomes may potentially impact on the clients of both courts. One such example involves the FCoA's Rules Revision Project.

The FCoA's Rules Revision Project

3.29 The FCoA recently revised its rules and forms, with a view to improving clarity and accessibility for clients and practitioners. The court expects the revised rules to significantly reduce the number of applications and forms required from its clients in order to progress their matters. Clearly, a simpler and more easily understood system is desirable from a client service perspective.

3.30 While the FCoA invited the FMC to participate in the project (the Chief Federal Magistrate was on the Steering Committee), the clear purpose of the exercise was to revise the rules that drive case management in the FCoA and forms for FCoA clients. As such, final decisions on the adoption of the committee's recommendations rested with the FCoA.

3.31 In circumstances where the objective of an exercise was to revise one court's rules and forms, a truly joint approach to family law rules and forms did not appear possible. The FMC indicated that, as the Rules Revision Project was to impact on the FCoA only, jointly applicable outcomes could not have been achieved unless the FMC adopted FCoA rules and forms, rather than the FMC being in a position to co-develop and agree joint family law rules and forms. One approach may have been to jointly review family law rules and forms for both courts and develop a more integrated approach to those elements that are common to both courts. This would have been more consistent with the close collaboration and partnership approach to service delivery espoused in *Out of the Maze*.³⁵

3.32 This is not to suggest that the co-development of rules and forms should necessarily result in total uniformity between the courts. However, the ANAO considers that the rules and forms could be developed jointly to ensure that any differences really are necessary, and can be clearly identified and understood so as to minimise potential confusion for family law clients and other court users.

3.33 In this context, the ANAO notes FMC research that suggests its clients often think they are clients of the FCoA. This can easily contribute to clients' confusion about the family law system and the processes that apply to their case. By not recognising that they are dealing with a different organisation with a different case management system to the FCoA, client expectations about FMC court events and processes may be adversely affected (given that these clients may rely on FCoA brochures to develop their understanding of the family law system).

³⁵ Family Law Pathways Advisory Group, *Out of the Maze—Pathways to the Future for Families Experiencing Separation*, 2001.

3.34 The ANAO considers that there would be merit in the courts working more closely together so that family law clients are aware of the court in which their matters are filed, and providing clients with a clearer understanding of how their cases will be managed.

3.35 Effective coordination is enhanced by the creation of a business environment that values the nurturing of a close working relationship between the two courts, and one that formally builds this into strategic and operational planning.

3.36 At the strategic level, the senior staff of both courts meet monthly to discuss issues such as the working relationship and coordination between the courts.

3.37 At the operational level, each registry develops its own business plan to provide registry staff with a framework for achieving operational objectives. It is apparent from these documents that most registries currently perceive the FMC as one of a number of external groups and organisations (such as legal aid providers and CBOs) with an interest in the administration of family law services. As such, the ANAO has observed that the FMC is not perceived as an employer or 'purchaser' of FCoA registry services.

3.38 The apparent lack of formal recognition or acknowledgement of the FMC as a significant workload driver in registry business plans, despite some registries having a caseload predominantly driven by filings in the FMC, suggests that coordination could be improved by more clearly identifying and clarifying the registry resourcing applied to matters filed in each court. This would be an opportunity to provide national leadership that could be given effect in individual registry business plans. In this context, the ANAO notes that only three registries currently identify developing the relationship with the FMC as a Key Result Area priority.³⁶

3.39 Currently, even though the courts agreed in the MoU to jointly develop a workload cost model, the only tool for assessing registry resource needs is the FCoA's Resource Planning Model. As a result, the FMC has very limited influence over registry resourcing and processes or over its own ability to respond quickly to resourcing requirements arising out of changes in the volume of cases coming before it. Staff of both courts suggested that a culture of identifying strongly as FCoA staff can also impact on the nature of advice provided by registry staff to clients filing new applications. The ANAO considers this is because some registry staff understand the FCoA and its processes better than the FMC and its processes.

³⁶ The FCoA identified five Key Result Areas as the focus for national priorities, major targets or immediate outcomes for 2003–04. Three registries identified their relationship with the FMC as a local priority within these Key Result Areas.

3.40 The ANAO also considers that a stronger joint focus on resource planning and workload analysis by the courts has the potential to improve client service, and to enhance accountability, through benchmarking and a more consistent application of policies and procedures across registries and between courts. The ANAO notes that this was seen to be of sufficient importance by both courts to be included in the current MoU, although there is no evidence to suggest that it has occurred to date.

Recommendation No.6

3.41 The ANAO recommends that, in order to facilitate planning and assess and monitor ongoing cost-effectiveness, the FCoA and the FMC jointly develop an agreed model for calculating the cost of providing services to their clients.

FCoA response: Agreed. Comments provided by the FCoA on its Resource Planning Model and the influence of the FMC over the resourcing of FCoA registries, are at Appendix 1.

FMC response: Agreed. Comments provided by the FMC on a broad indication of its cost effectiveness and on the FMC's reliance on information from the FCoA on the cost of providing services to FMC clients, are at Appendix 1.

The two courts working together to benefit clients

3.42 The ANAO does not consider that improving coordination should necessarily translate into the adoption of identical procedures and processes by both courts. While clearly operating in an environment of concurrent jurisdiction, the FMC is intended to handle less complex family law cases, and the FCoA is intended to handle more complex issues within the family law jurisdiction. As such, it is reasonable to expect that more complex cases may require a different approach to resolution or determination than less complex cases.

3.43 During the course of the audit fieldwork, the audit team noted a number of examples of the two courts working well together for the benefit of clients, including:

- the joint adoption of Casetrack as the courts' integrated case management support system;
- the acceptance of a document in either court if it is in a form used for a similar purpose in the other court³⁷;

³⁷ For example, an affidavit prepared on an FCoA affidavit form will be accepted in the FMC if it substantially complies with the information required by the FMC.

- family reports ordered by the FMC are handled by FCoA registry and mediation staff in the same way as those ordered by FCoA staff;
- the regular transfer of matters for hearing between the courts in some registries, in line with the availability of federal magistrates and FCoA judges³⁸; and
- the FCoA and the FMC have agreed on the categories of cases that would normally fall within the FMC's jurisdiction.

3.44 However, the ANAO observed examples of the two courts missing opportunities for better coordination, with potentially adverse impacts on clients. These examples fall within four areas:

- communication between the courts;
- family law information for clients;
- training of the courts' staff and the impact on clients; and
- assisting clients to choose the court that better meets their needs.

Communication between the courts

3.45 As indicated earlier in this chapter, the FCoA and the FMC communicate formally through a number of forums at a variety of levels from the FCoA's Chief Justice and the FMC's Chief Federal Magistrate to FCoA registry managers and FMC staff.

3.46 Despite the courts' efforts to work together to resolve issues over time, the ANAO notes that at the time of the audit there remained a number of unresolved client service issues in some registries. For example, a number of federal magistrates indicated that frustrations emerged when FMC files were incomplete or documents were not filed in the required order on the file by FCoA registry staff. When this occurred, court events were at times delayed or adjourned while these issues were resolved. This impacted on both clients and the efficiency of the use of federal magistrates' time.

3.47 The ANAO notes that some registries appeared to experience difficulties in developing sustainable solutions to issues such as this, although formal communication channels existed. The registries able to resolve these issues tended to rely on good working relationships between key staff of the two courts at the local level, rather than on formal communication channels. In this way, impediments such as staff training and familiarity with both courts'

³⁸ In the Parramatta registry, FCoA judges may hear some FMC matters if a federal magistrate is over-stretched. In these circumstances, the case is heard in the other court, with the new file (FCoA file for previously FMC matter) made up in the registry at the end of the day. Clients are given the option of waiting for a federal magistrate, or appearing before an FCoA judge.

processes could be readily identified and addressed. The formal communication structures between the courts did not always deliver solutions to local issues, even if these issues appeared to be widespread across registries.

3.48 The ANAO considers that the courts should work together more closely to ensure that court policies and procedures are well understood by staff, and that there is a sufficiently robust system in place to resolve these types of operational issues as they arise.

Family law information for clients

3.49 Currently, most court information booklets and brochures do not reflect a consistent, joint approach to inform family law clients. As a consequence, clients have limited consolidated information to select the most appropriate court in which to file their matter(s). The ANAO notes that many less complex cases are being filed in the FCoA for a variety of reasons, including an apparent lack of awareness of the existence and/or role of the FMC.

3.50 Clients, including self-represented litigants, have the option to file an application in either the FCoA or the FMC, but do not have access to consolidated information upon which to make an informed decision.

3.51 There is significant scope to increase the audio-visual material provided by the courts to assist applicants decide whether to file their applications in the FCoA or the FMC.

3.52 The only information currently provided through the registries is a video/DVD to prepare clients for the FCoA's case assessment conference, and caters for clients who have already filed with the FCoA.

3.53 The FMC has not provided registries with any audio-visual material on the FMC or its processes.

3.54 In terms of printed material, the court registries offer a wide range of brochures, booklets and information sheets, prepared individually by the FCoA, the FMC, the Commonwealth Attorney-General's Department, and a number of organisations including legal aid commissions and community-based PDR providers.

3.55 While there is a clear need for some individual court brochures to explain court specific processes (e.g. preparing for a case assessment conference in the FCoA, or for FMC clients referred to community-based PDR), there are a number of FCoA brochures on subjects that could apply jointly to the FCoA and the FMC (e.g. *Parental responsibilities and parenting orders* and *What is a subpoena?*). The ANAO observed that it is left to individual registry managers to develop a more coordinated approach.

3.56 During the course of its fieldwork in September 2003, the ANAO observed an example of better practice in the FCoA's Melbourne Registry, where a number of jointly badged information sheets are produced, including:

- *Divorce Application Checklist* (although the filing fees quoted were out of date)
- *Change of Name Application*
- *Marriages Under Two Years Total Duration*
- *Dispensation of Service for Divorce*
- *Separation Under the One Roof*

3.57 Examples which the ANAO considers highlight insufficient cooperation in the preparation of client-focused information material, include:

- The courts' fee structure pamphlet (at Figure 3.1); and
- *The Family Court Book*.³⁹

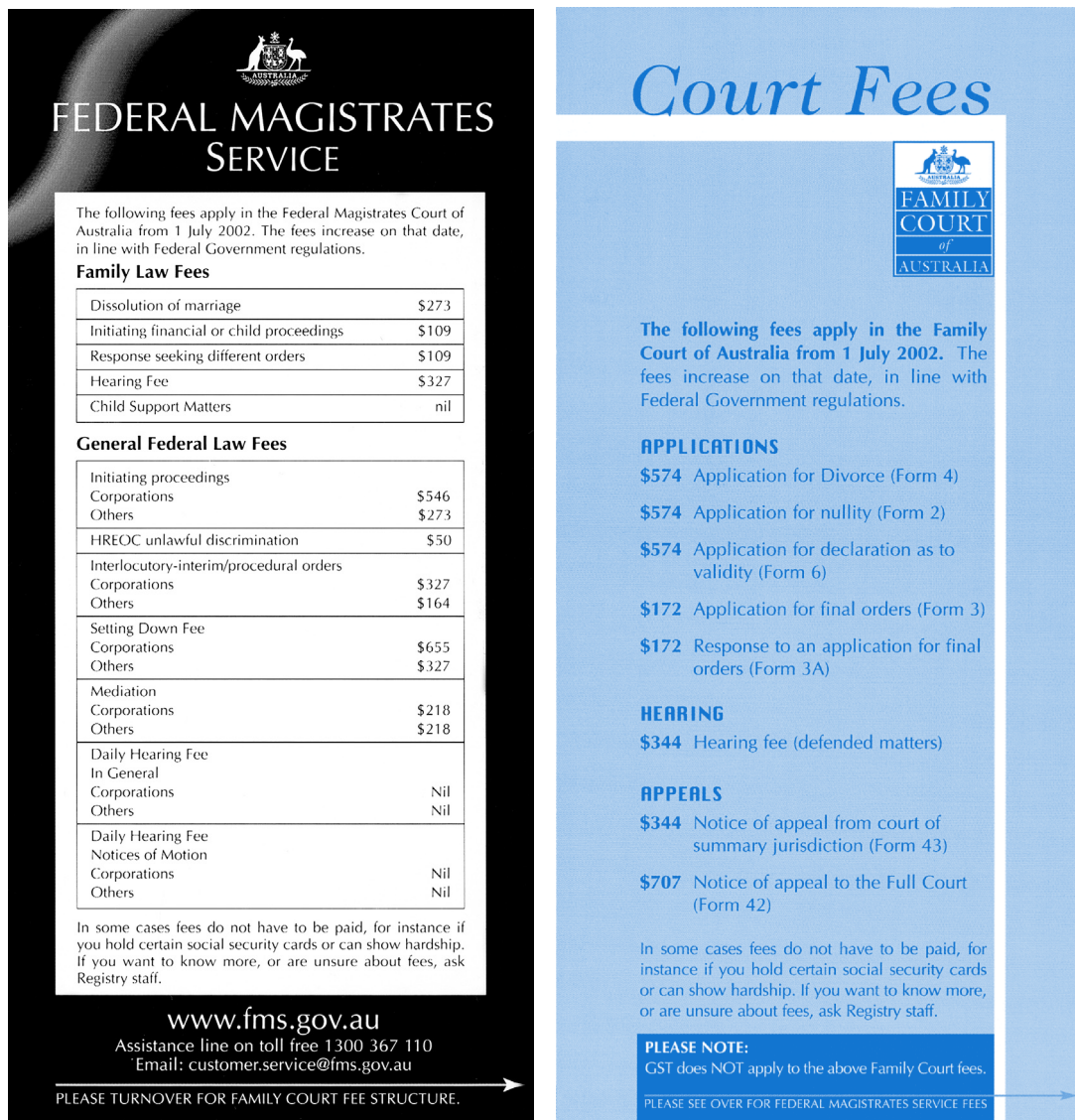
3.58 It is clear from the fee pamphlet that the courts have cooperated to produce a single pamphlet outlining the fee structure for the FCoA on one side and the fee structure for the FMC on the other. However, the courts did not use common terminology when describing the applications and services on the pamphlet. As a result, it is difficult for clients to directly compare the fees for the services of each court. Client service staff in registries indicated to the ANAO that clients often seek to clarify the fees and services after reading the pamphlet.

3.59 In contrast, *The Family Court Book* (which is the most comprehensive book on the family law system produced by the FCoA and is freely available in all registries), contains no information on the FMC or its processes, and mentions the FMC four times in 108 pages. This is despite being revised in 2002, two years after the introduction of the FMC.

³⁹ Family Court of Australia, *The Family Court Book*, 2002, (3rd Ed.).

Figure 3.1

The Current Joint Pamphlet on Court Fees



3.60 The FCoA has advised the ANAO that as part of its Rules Revision Project, information for clients was improved, with more than 20 new brochures now available. The ANAO notes, however, that these new brochures are the product of a FCoA process rather than a joint process.

3.61 The ANAO considers that there is significant scope for the courts to work more closely together in the planning of content and production of information for prospective and current family law clients. A stronger commitment to working more closely together has the potential to assist family

law clients to decide on the appropriate court for filing and to assist clients to better understand the courts' processes. This has the potential to provide a platform for the courts to better manage their clients' expectations about case management and administrative processes.

Recommendation No.7

3.62 The ANAO recommends that, in order to better assist family law clients in making more informed filing decisions, the FCoA and the FMC jointly develop and publish family law information for clients.

FCoA response: Agreed. The FCoA's comments outlining examples of collaboration between the FMC and FCoA on present and planned joint information for family law clients are at Appendix 1.

FMC response: Agreed. The FMC indicated that the courts are working together on the development of a joint information product to be provided in DVD and VHS formats.

Training of the courts' staff and the impact on clients

3.63 In order to effectively perform their duties, client service staff should fully understand both the FCoA's and the FMC's procedures and processes, and have access to documented filing requirements and approaches to case management.

3.64 The FCoA has developed an online Case Management Manual, which forms the basis for initial and ongoing training of client service staff. The FCoA has advised that while provision has been made to accommodate FMC case management procedures, the relevant fields in the online manual have not yet been populated.

3.65 The FMC's approach to staff training centres on providing new Associates and Deputy Associates with one week of preliminary training at the FMC in Melbourne before commencing duties in a magistrate's chambers.

3.66 During the course of fieldwork, FCoA client service staff indicated to the ANAO that on-the-job training tended to be the most common technique used, with a more experienced client service team member sitting with a new starter to explain the tasks and processes.

3.67 Prior to the FMC receiving family law applications, the FCoA and the FMC offered information and training sessions across all FCoA registries, and provided staff with a regular newsletter providing practical guidance on a range of issues arising from the introduction of the FMC. Despite these national level efforts, a number of registry staff indicated to the ANAO that there was still some confusion about why the FMC existed and why its

requirements differed from those of the FCoA. This suggested that the training provided was not entirely successful.

Assisting clients to choose the court that better meets their needs

3.68 Applications may be filed in either the FCoA or the FMC for a broad range of reasons. Less complex matters are often filed in the FCoA rather than the FMC, and a small proportion of more complex matters are filed in the FMC instead of the FCoA. In a number of cases, geography may be a determining factor, as one court may have greater coverage than the other in a particular region. The Chief Justice recently noted that there is continuing confusion over which court is appropriate for the circumstances of each case.⁴⁰

3.69 Registry managers and client service staff consistently indicated that many applicants come to the counter without understanding their options to file a matter in the FCoA or the FMC. A number of stakeholders also suggested that the current environment created confusion for clients, noting that the courts do not always use common terms for common events, and have separate processes that are not well understood by applicants. While clients may choose a court on the basis of a number of factors (such as court fees, timeframe for the first court event and a client's perceived complexity of a case), the ANAO considers that greater guidance for clients prior to filing would particularly assist self-represented clients to choose the court that better meets their needs.

Transferring matters from one jurisdiction to another

3.70 Matters can be transferred between the FCoA and the FMC, and from other jurisdictions such as local courts to the FCoA, for a number of reasons.⁴¹ Some cases are filed in the FMC and are transferred when it becomes apparent that a matter is of greater complexity than initially expected. In other cases, the relevant staff of the FCoA may transfer a matter considered more appropriate to be filed in the FMC. The FCoA provides guidance to staff on matters generally suitable for transfer to the FMC.⁴² These matters include applications for divorce, maintenance, child support, and enforcement and contraventions of orders.

⁴⁰ *Family Court of Australia Annual Report 2002–03*, p.9.

⁴¹ Current legislation requires that transfers from local courts are made to the FCoA. The FCoA is then required to assess the matter and transfer appropriate matters to the FMC. Both courts consider this to be a cause of inefficiency, and note that amendments to the legislation have been drafted but not yet enacted.

⁴² Chief Justice's Practice Direction No 7 of 2001, *Filing of Discrete Applications requiring Summary Determination*, and Principal Registrar's *Guidelines for the Discretionary Transfer of Matters from FCoA to FMS by Deputy Registrars and Case Management of Matters Transferred from FMS*, of 26 November 2001 (amended 23 June 2003).

3.71 In 2002–03, 2 025 matters were transferred between the FCoA and the FMC.⁴³ Some stakeholders cited examples where transferred matters were subject to significant time delays as a result of being transferred. During the course of its fieldwork, the ANAO confirmed that matters transferred from one court to another have at times experienced significant delays in progressing towards resolution or determination. Several factors appear to contribute to these delays, particularly if a matter is transferred from a local court to the FCoA.⁴⁴ The ANAO notes that the FCoA attributes documentation issues, and the length of time some matters can be in local courts, as contributors to delays in progressing transferred cases.

3.72 The ANAO notes that while the process of transferring files is not currently systematically documented, through a local initiative, the FMC and the FCoA's Brisbane registry are developing Casetrack procedures to ensure that relevant staff can efficiently transfer cases on the system.

Determining the complexity of individual cases

3.73 Reflecting the differences in case management between the courts, the FCoA and the FMC do not share a consistent approach to the initial assessment of family law applications.

3.74 Currently, the FMC applies a 'two-day rule' to applications to reflect expected complexity. If a federal magistrate assesses a matter as being likely to take less than two days to hear, then it is deemed to be a less complex case and is suitable for hearing in the FMC. The FCoA considers a range of factors, including the likely duration of a case, family dynamics such as family violence, and child abuse issues when determining the expected complexity of a case. The issue of complexity in the FCoA is usually considered at the case assessment conference, where both parties meet with a Deputy Registrar.

3.75 The information in the FCoA Chief Justice's guidance to staff and practitioners titled *Filing of Discrete Applications requiring Summary Determination* describes a number of applications that are generally considered to be less complex and suitable for filing in the FMC, and reflect the matters suitable for transfers described in paragraph 3.70.⁴⁵

3.76 The different perspectives of court staff on how case complexity could be commonly determined were evident in discussions across a number of court registries. The main suggestions were that either matters be filed in the FMC as a default, (with cases assessed by magistrates and dealt with or transferred to

⁴³ FCoA National Operations Report 2002–03.

⁴⁴ Under current legislation, local court matters cannot be transferred directly to the FMC.

⁴⁵ Chief Justice's Practice Direction: No 7 of 2001, *Filing of Discrete Applications requiring Summary Determination*, issued on 5 December 2001.

the FCoA at the first court event), or that matters are filed and initially assessed in the FCoA (and distributed to FMs or retained in the FCoA after the first court event).

3.77 While acknowledging that the level of complexity of an individual case may not always be obvious at the time of filing, the ANAO considers that the courts should work more closely together to provide greater guidance to clients, particularly SRLs, prior to the filing of applications. The courts should also systematically address the assessment of applications by working jointly to pursue how a filtering process for applications may benefit clients. This view was reinforced by a number of stakeholders, who considered that a more integrated approach to the initial assessment of applications between the courts would assist in the earlier identification of appropriate matters for each court.⁴⁶

3.78 The issues arising across the four broad areas described in the preceding paragraphs appear to be symptomatic of the broader tensions that the courts experience in the context of resourcing and different organisational cultures. While the issue of resourcing is clearly beyond the scope of the audit, the ANAO considers that the levels of client service offered by the courts will be difficult to improve while resourcing issues between the courts appear to be a significant barrier to greater cooperation.

Recommendation No.8

3.79 The ANAO recommends that, in order to reduce confusion for clients and inefficiencies in court processes, the FCoA and the FMC investigate the possibilities for a common entry point into the family law system and the consequent distribution of workload to each court.

FCoA response: Agreed. The FCoA strongly supported this recommendation, believing that the present arrangements run contrary to sound client service principles and to sound resource management principles. Further comments are at Appendix 1.

FMC response: Agreed in-principle. The FMC noted that this recommendation is similar to a recommendation of the Federal Justice System Strategy Discussion Paper. The FMC notes that the question of the establishment of common entry points for the federal judicial system is a matter to be considered by the federal courts and the government in the context of consideration of that report's recommendations.

⁴⁶ The process of initial assessment at the point of filing is sometimes referred to as 'triage', (which is the term used in a medical context to describe the initial assessment of patients in hospital emergency departments to determine the best course and timing of subsequent action and treatment).

Conclusions

3.80 The ANAO acknowledges the emotive environment in which the courts exercise jurisdiction. However, the ANAO considers that there is significant scope for the FCoA and the FMC to improve client service by improving the efficiency and effectiveness of coordination.

3.81 While there are a number of promising initiatives emerging from the courts, local examples of better practice need to be more systematically identified and applied across court registries. Addressing and progressing key issues using the formal communications between the FCoA and the FMC at the operational level, may improve the joint commitment of the two courts to reduce confusion for clients over documentation and processes. At the same time, the ANAO notes that the courts have different outcome statements, and that tensions can arise between the courts when issues have resource implications that may impinge on the capacity to deliver on their respective outcomes.

3.82 The ANAO also considers that the courts should jointly approach issues impacting on family law clients more often, rather than focussing on the more singular objectives of each court. For example, client information material on family law such as *The Family Court Book* could be jointly produced as a family law reference or guide, to explain the roles and processes of each court rather than being prepared from only one court's perspective.

3.83 In addition, the ANAO considers that family law clients would benefit from more integrated pre-filing information about the courts and their processes, which could also assist in the direct flow of less complex cases to the FMC, freeing the FCoA to focus on more complex cases.

3.84 The ANAO also considers that there is a considerable opportunity for the FCoA and the FMC to work more closely together to develop an up-front assessment of filings to better determine the nature of individual cases and direct them initially to the more appropriate court for resolution or determination.

4. Primary Dispute Resolution

In examining the administration of PDR in the context of client service, the ANAO sought to examine whether: there was effective coordination between the two courts; PDR services were of a high quality; the courts reviewed and evaluated their PDR services to promote continuous improvement; and that there was flexibility in the delivery of PDR services to meet clients' specific needs.

Introduction

4.1 Primary Dispute Resolution (PDR) refers to the procedures and services offered by the courts to help resolve disputes other than by judicial determination. The courts place significant priority on this process, which is considered to be more likely to result in a more acceptable and timely resolution to a dispute. According to the FCoA only 6.5 per cent of its matters are subject to judicial determination, underlying the importance of the PDR processes in the court.⁴⁷ Both the *Family Law Act 1975* and the *Federal Magistrates Act 1999* encourage PDR as a means of resolving disputes.⁴⁸

4.2 PDR was a significant focus of the recent House of Representatives Standing Committee on Family and Community Affairs report into shared parenting.⁴⁹ The Committee recommended a renewed focus on PDR services in the family law system and advocated compulsory pre-filing mediation for applicants.

4.3 There are a number of different terms associated with PDR, sometimes used interchangeably. For the purpose of this report, *mediation* will refer to PDR services relating to children and *conciliation* will refer to PDR services relating to property.

Family Court of Australia

4.4 The FCoA provides its own PDR services to clients, which may be accessed in a number of different ways. Once an application is filed in the court, PDR is undertaken primarily by court-employed Mediators (trained in social services) in children's matters, and court-employed Deputy Registrars

⁴⁷ *Family Court of Australia Annual Report 2002–03*, p.32.

⁴⁸ *Family Law Act 1975*, Part III; *Federal Magistrates Act 1999*, Part 4.

⁴⁹ House of Representatives Standing Committee on Family and Community Affairs, December 2003, *Every picture tells a story: Report on the inquiry into child custody arrangements in the event of family separation*.

(trained in law) in property matters.⁵⁰ The three main PDR events that clients may attend, once they have filed an application are:

- the case assessment conference (conducted by a Mediator for matters involving children; or jointly by a Deputy Registrar and Mediator for matters involving children and property);
- mediation (conducted by a Mediator for matters involving children); and
- conciliation (conducted by a Deputy Registrar for matters involving property).⁵¹

4.5 Approximately 40 per cent of final applications in the FCoA undergo a case assessment conference, 50-60 per cent undergo mediation and 36 per cent undergo a conciliation conference.⁵² Basic FCoA PDR processes are outlined in Figure 4.1.

4.6 Prior to 2002, the FCoA offered *voluntary pre-filing* mediation for parties who sought to resolve their dispute prior to lodging an application in the court. Following a review of its mediation services in 2001, it was determined that pre-filing mediation was not core-business of the court and the FCoA stopped offering this service in the major metropolitan areas.⁵³ However, this service is still offered in some regional registries.⁵⁴ If parties wish to undertake voluntary pre-filing mediation in major metropolitan areas, then they must attend a CBO that provides these services.

Federal Magistrates Court

4.7 In family law matters, the FMC's PDR services are provided by the FCoA and CBOs. In a significant shift from the FCoA's 'traditional' in-house PDR services, the FMC has deeds of standing offer with 35 CBOs for the delivery of PDR services on a fee-for-service basis.⁵⁵ All of these organisations provide mediation for children's matters, whilst a small number provide conciliation for property matters. The FMC receives \$600 000 per annum in Commonwealth funding for these services.

⁵⁰ In some regional areas (e.g. Rockhampton) the court has contracted with local community-based PDR providers to provide mediation in children's matters.

⁵¹ A joint conciliation conference involving a Deputy Registrar and Mediator may be provided where children's and property issues are so enmeshed that it is not possible to discuss either issue in isolation.

⁵² FCoA National Operations Report January 2003–December 2003.

⁵³ Sankey McGuigan Strategic Management Consultants July 2001, *Family Court of Australia Review of Mediation*.

⁵⁴ Albury, Alice Springs, Cairns, Canberra, Darwin, Dubbo, Launceston, Lismore, Rockhampton and Wollongong.

⁵⁵ These CBOs were selected via a tender process conducted in 2001.

4.8 Once an application for final or interim orders has been filed, all matters involving children undergo mediation (provided by the FCoA). For matters involving property, and if FCoA mediation has been unsuccessful in the children's matters, it is at the Federal Magistrate's discretion as to whether parties will undertake PDR and where they will order the parties to attend PDR. The Federal Magistrate may order:

- mediation for children's matters (provided by FCoA Mediator or CBO); and
- conciliation for property matters (provided by FCoA Deputy Registrar or CBO).

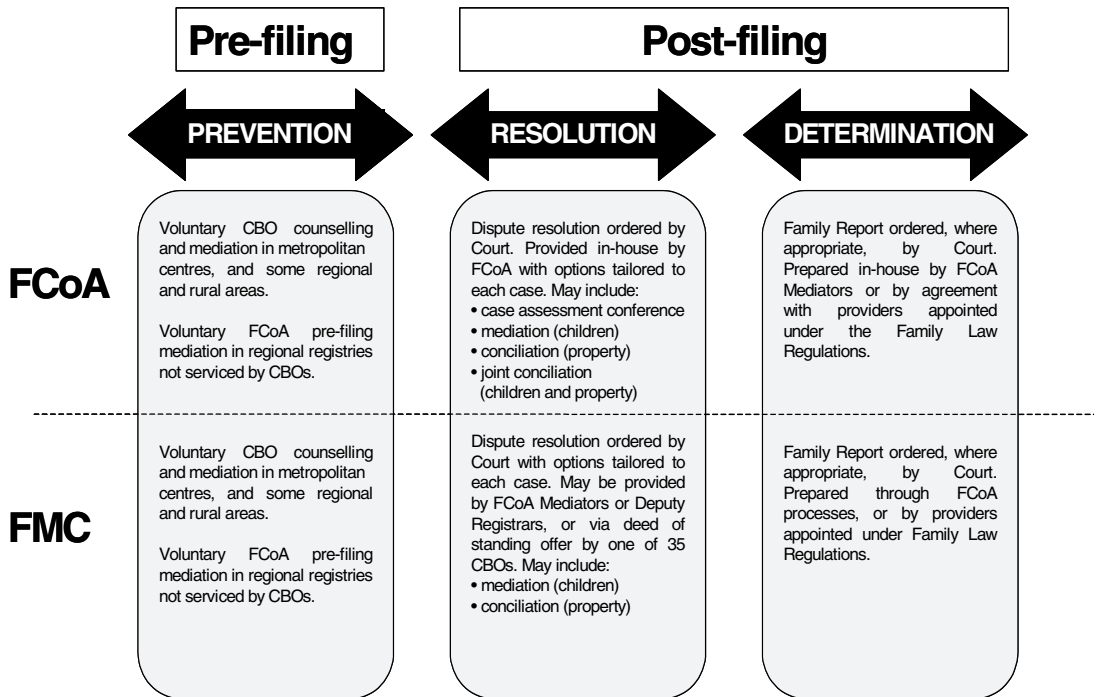
4.9 At the conclusion of a matter, the Federal Magistrate may also order the client/s to attend post-order counselling with a CBO to give practical assistance to enable them to comply with the Court's orders. Approximately 16.4 per cent of matters in the FMC undergo conciliation⁵⁶ and 0.6 per cent undergo post-order counselling. The FMC has advised the ANAO that similar figures for matters undergoing mediation are not available, as no separate figures are kept on matters referred to the FCoA for mediation. Basic FMC PDR processes are outlined in Figure 4.1.

4.10 Similarly to the FCoA, a person wishing to undertake *voluntary pre-filing* PDR would have to access these services in CBOs or in the FCoA outside the major metropolitan areas.

⁵⁶ A small proportion of this figure represents conciliation services offered by CBOs in children's matters.

Figure 4.1

FCoA and FMC PDR interventions



Source: ANAO, based on information from the FCoA and FMC

Coordination between the FCoA and FMC for PDR services

4.11 An effective working relationship between the two courts is crucial for PDR service delivery, as the FMC sources the majority of its PDR services from the FCoA. To provide effective client service in PDR, the courts need to be cooperative and coordinated in their approach.

4.12 At the national level there is an effective working relationship between the Principal Mediator in the FCoA and the PDR Coordinator in the FMC, which is facilitated by regular meetings on both a formal and informal basis. The PDR Coordinator in the FMC also liaises with Mediation Managers in the registries. Within the registries, effective working relationships have also developed between the Federal Magistrates and their Associates and the Registry Management Team (including the Mediation Manager).

4.13 When providing mediation or conciliation services, the FCoA makes no distinction between FCoA clients and FMC clients. A lesser service is not offered to FMC clients, nor is priority given to FCoA clients when scheduling appointments.

4.14 Although there is a generally productive working relationship between the courts on PDR, the issue of Family Reports has proven to be a continual source of frustration.⁵⁷ The primary issue is that the courts have been unable to agree on what is an appropriate number of reports to be ordered from the FCoA by Federal Magistrates. Whilst this is largely based on differences arising out of the different case management practices of each court, the issue has delayed the signing of the new MoU for several months. As at April 2004, the courts had still not reached agreement.

Measuring PDR effectiveness

4.15 One measure of the effectiveness of PDR in the courts is the outcomes that are achieved at the conclusion of the PDR process (or each event), i.e. whether the parties have reached an agreement and finalised their matter. A lack of information across the two courts makes an assessment based on this information the most tangible means of measuring PDR effectiveness.

Family Court of Australia

4.16 PDR statistics in the FCoA are collected and disseminated to staff via the quarterly National Operations Report (NOR). The NOR primarily relies on data from Casetrack, for which FCoA Mediators and Deputy Registrars are responsible for inputting the data at the conclusion of specific PDR events. In this respect, the FCoA acknowledges that there may be shortcomings in the data, due to user non-compliance.⁵⁸ Nevertheless, the FCoA reports that 69 per cent of final applications filed in the FCoA are resolved through mediated agreement, against a PBS target of 75 per cent.⁵⁹ The statistics on total mediated agreements by registry are provided in Table 4.1.

⁵⁷ Family Reports are designed to assist the Judge or Federal Magistrate to make a decision on matters involving children. A Family Report is prepared based on a series of meetings, interviews and observations of the parents and children.

⁵⁸ As mentioned previously in Chapter 2, the FCoA is planning to address this issue through a new data quality program.

⁵⁹ FCoA National Operations Report, January 2003–December 2003.

Table 4.1

FCoA Mediated Agreements by Registry

Registry	% of matters resolved through mediated agreement	Registry	% of matters resolved through mediated agreement
Adelaide	72	Melbourne	61
Brisbane	81	Newcastle	64
Canberra	54	Parramatta	65
Dandenong	76	Sydney	64
Darwin	61	Townsville	75
Hobart	83	FCoA Total	69

Source: FCoA National Operations Report, January 2003–December 2003.

4.17 These figures initially suggest two things: overall the FCoA is close to achieving its target, but there is variable success across the FCoA registries. For example the Hobart registry appears to have achieved considerable success in PDR, with 83 per cent of matters resolved through mediated agreements. In other registries the figures indicate that there may be room for improvement. The ANAO acknowledges that there may be a number of reasons for the variability in the number of mediated agreements across the registries, such as the impact of local legal culture and practice, as well as different standards of PDR services amongst the Registries. In any event, the ANAO is of the view that the FCoA should be analysing the reasons for the variability in resolution outcomes across the registries and aiming for greater consistency in performance across registries. At present the FCoA is not in a position to do this, due to a lack of information. However, a new initiative to track case progression rates through the various court processes, discussed later in this chapter, is likely to improve this aspect of PDR administration.

4.18 There is a risk in attributing the number of mediated agreements directly to the PDR services provided by the Court. One means by which PDR effectiveness may be evaluated is by looking at the settlement rates at the conclusion of specific PDR events. At present, Casetrack facilitates the collection of this data for case assessment conferences and conciliation conferences, as FCoA staff are required to input data into the system at the conclusion of these PDR events. A similar figure is not available for mediation services because the court is reluctant to record these cases as settled at the event, given that a Deputy Registrar is not present to sign off consent orders. A summary of the outcomes of these events is provided in the NOR, providing information on a registry-by-registry basis. These figures are provided in Table 4.2.

Table 4.2

FCoA Finalisation Rates for Case Assessment Conferences and Conciliation Conferences

Registry	Finalisation rate (%)		Registry	Finalisation rate (%)	
	CAC	Conciliation		CAC	Conciliation
Adelaide	22	22	Melbourne	24	29
Brisbane	31	38	Newcastle	23	32
Canberra	26	34	Parramatta	29	35
Dandenong	33	39	Sydney	19	28
Darwin	50	26	Townsville	29	30
Hobart	37	41			

Source: FCoA National Operations Report, January 2003–December 2003.

Note: Finalisation rate refers to the matters finalised at these events, as a proportion of the total of these events conducted.

4.19 The weighted average for the finalisation of matters in all registries is 27 per cent for case assessment conferences and 31 per cent for conciliation conferences. These figures suggest that the finalisation of cases that can be directly attributable to PDR events is quite low. Although there are no similar figures for mediation events, given the low number of matters subject to judicial decision, the implication is that a significant number of clients are arriving at agreements on their own accord, without the assistance of the FCoA’s Mediators and Deputy Registrars. Another possible explanation is that the clients are ‘dropping out’ of the system and reaching agreement themselves due to frustration or dissatisfaction with the court’s processes.

4.20 However, a frequent observation from FCoA Mediators and Deputy Registrars was that good work on their part will not always result in a settlement of the matter at the PDR event, but it may clarify the issues in dispute or lead to a partial agreement. The parties may then discuss the matter further with their legal representatives and subsequently draw up consent orders, drawing on the experiences and lessons of the PDR event. As a result, FCoA staff suggest that the quantitative statistics available from Casetrack are not an appropriate measure of the effectiveness of PDR in the FCoA.

4.21 Whilst the ANAO acknowledges this view, the lack of qualitative data collected by the FCoA on the effectiveness of its PDR services means that the quantitative statistics from Casetrack and the NOR remain the most tangible measure of PDR effectiveness. To facilitate a more informed assessment of its PDR services the ANAO is of the view that the FCoA should regularly seek its clients’ feedback on PDR services. This issue is addressed further below.

Federal Magistrates Court

4.22 The FMC is in a similar position to the FCoA, in that it also provides quantitative data on outcomes of PDR events, but cautions against the use of the figures as a measure of the effectiveness of PDR. Similarly to the FCoA, the FMC has a PBS target, which aims to have 60 per cent of matters undergoing PDR resolved. However, due to shortcomings in its data collection, the FMC is unable to report accurately on this target.

4.23 Data on the outcomes of PDR provided to FMC clients is collected through Casetrack for FCoA-provided PDR (excluding mediation) and a PDR referral report for PDR provided by CBOs. As indicated in paragraph 4.9, the FMC is unable to provide figures on the number of matters referred to the FCoA for mediation. Nevertheless, 2 755 interviews were held in 2002–03, but it was not possible to provide information on the number of cases that were settled.⁶⁰ On the other hand, the FMC reports that the FCoA conducted 1 322 conciliation conferences on its behalf in 2002–03 (6.3 per cent of total applications), and that 27 per cent of these matters were settled at the conference.⁶¹

4.24 A total of 972 matters were referred to CBOs for PDR in 2002–03 and 611 matters in 2001–02. A summary of PDR outcomes for referrals the FMC deemed as finalised in 2002–03 is provided in Table 4.3.⁶²

Table 4.3

FMC PDR Referrals to CBOs (2002–03)

	Mediation		Conciliation	
	No of Referrals	%	No of Referrals	%
Fully Settled	121	20.8	91	42.7
Partially Settled	119	20.4	14	6.6
Not Settled	271	46.5	84	39.4
Incomplete	72	12.3	24	11.3
Total	583	100	213	100

Source: FMC

Note: The FMC referred a further 127 matters for Post-Order Counselling. These matters are not included in the above table, as this counselling does not impact on settlement rates. (Post-Order Counselling seeks to assist parties after a court order has been made and therefore does not contribute to settling disputes through PDR.)

⁶⁰ *Federal Magistrates Court Annual Report 2002–03*, p.37.

⁶¹ *ibid*, p.38.

⁶² Note that not all referrals made were finalised before the end of the year.

4.25 The settlement rates for CBO PDR services suggest that there is room for improvement in PDR services in the CBOs. However, similarly to the FCoA, the FMC argues that quantitative data is not an appropriate measure of PDR effectiveness and advises that ‘the low settlement rates at community based agencies for PDR conferences reflects that parties will often use the conference as a basis for further discussions and resolve the dispute on or before the next court event’.⁶³ The ANAO considers that the FMC, like the FCoA, should be seeking feedback from clients on the extent to which PDR assisted them in resolving their disputes.

Deficiencies in PDR data

4.26 The ANAO agrees with both the FCoA and FMC that the quantitative statistics on the PDR settlement rates do not provide a complete assessment of the effectiveness of the courts’ PDR services. Nevertheless, the variations in settlement rates across the registries in FCoA PDR suggest that there may be some good practices that are being followed in some registries, which may have application across the other registries. Similarly, variations in settlement rates at CBOs might suggest that some CBOs are more effective than others, and that there would be value in the FMC considering the reasons for this, and the potential impacts on its clients.

4.27 Unfortunately, a lack of qualitative data means a full appraisal of the effectiveness of PDR is not possible. Qualitative data on client satisfaction with the PDR processes should be obtained and used by both courts, in conjunction with the quantitative data on settlement rates, to enable a comprehensive assessment of PDR services. It would also assist the courts to ascertain whether clients are satisfied with their agreements and whether the agreements are likely to be sustainable for the clients (or whether the clients may seek to re-litigate their matter in the future).

4.28 One means by which qualitative data may be obtained is through regular and systematic collection of client feedback across registries and CBO services. This would also assist in determining the quality of mediated agreements and whether clients are reaching sustainable agreements because of the PDR services from the courts, or whether they are arriving at unsatisfactory agreements in an effort to resolve their frustrations with the process.

⁶³ *Federal Magistrates Court Annual Report 2002–03*, p.36.

Recommendation No.9

4.29 The ANAO recommends that, in order to facilitate ongoing assessment and evaluation of their PDR services, the FCoA and FMC regularly:

- a) obtain qualitative data on client satisfaction with their PDR services; and
- b) evaluate this data in conjunction with quantitative data on settlement rates to identify better practice and areas for improvement.

FCoA response: Agreed. The FCoA indicated that it will be conducting a client survey by the middle of this year to assess client satisfaction with this and other aspects of client service. The court also indicated that it is presently planning to commence the capture of settlement rates following all PDR events. Further comments are at Appendix 1.

FMC response: Agreed in-principle. The FMC indicated that it is currently conducting an evaluation of PDR services. The court indicated that it will give further consideration to the means by which additional information about satisfaction with the services delivered by PDR providers can be collected.

Quality PDR services

4.30 Ensuring high quality PDR services is essential to delivering effective client service within the family law system. The courts have sought to promote the quality of their PDR services in different ways, primarily necessitated by their different service delivery models.

Family Court of Australia

4.31 To promote quality PDR services, the FCoA has relied on a collection of policies and guidelines, and a reporting and supervisory structure that supports its Mediators and Deputy Registrars. Policies and guidelines are available on the FCoA intranet on topics such as:

- protocols for the conduct of mediation and joint mediation/conciliation conferences;
- the preparation of Family Reports;
- PDR involving children; and
- PDR where there are family violence issues.

4.32 Quality assurance is also facilitated by the supervisory structure whereby Mediation Managers and Deputy Registrars conduct performance appraisals of their staff based on the FCoA's Personal Development Scheme

and directly observe their staff conducting PDR events. Family Reports are also subject to a separate, rigorous quality assurance process, where each Report is subject to peer review and supervisor approval before it is tendered to the Court.

4.33 In the course of the audit, FCoA judges, Federal Magistrates and other stakeholders made positive comments about the quality of the PDR services provided by FCoA Mediators and Deputy Registrars. Nevertheless, the data on settlement rates of PDR events, as discussed earlier, suggests that there may be room for improvement.

4.34 The quality assurance framework underpinning the FCoA's PDR services was considered in the 2001 Review of Mediation⁶⁴, with mixed results. In order to address some of the shortcomings in the FCoA's PDR quality assurance arrangements, the Review recommended that:

- the FCoA should introduce a quality assurance system including competency based job and selection criteria, structured induction and training program, practice manual and performance management system;
- the FCoA should establish a policy register together with a process for maintaining it and monitoring staff knowledge and compliance; and
- the FCoA should review all policies to ensure their relevance, accuracy and appropriateness in light of changes to relevant legislation and administrative practices.

4.35 The FCoA supported the recommendations of the review and formed the Mediation Review and Implementation Committee (MRIC) to implement the recommendations. The FCoA plans a roll-out of MRIC's initiatives in early 2004, including:

- a Quality Assurance framework;
- an updated on-line Policy Register;
- the development of 10 core competencies for Deputy Registrars, IFCs and Mediators; and
- evidence-based practice initiatives.

4.36 Once implemented, it is considered that the new Quality Assurance measures will enhance the quality of PDR services within the FCoA. However, after almost two years, the ANAO would have expected to see greater progress in implementing the recommendations of the Review.

⁶⁴ Sankey McGuigan Strategic Management Consultants, *Family Court of Australia Review of Mediation*, July 2001.

Federal Magistrates Court

4.37 Given that the FMC receives the majority of its PDR services from the FCoA, it is largely reliant on the quality assurance framework that currently exists within the FCoA. To a certain extent, the capacity of the FMC to monitor and influence the quality of FCoA PDR services is limited, given its position as a relatively new court and its heavy reliance on existing FCoA structures and processes. Similarly, the FMC has not been involved in MRIC. To ensure the quality of CBO PDR services, the FMC has relied upon the requirements of the 2001 tender process.

4.38 During the tender process the FMC drew significantly on the requirements of the Department of Family and Community Services' Family Relationships Service Program (FRSP).⁶⁵ The FMC's tender specifications were broadly similar to the FRSP's 14-point quality framework and approval requirements, with the addition of a case study that tested a tenderer's understanding of and response to a particular scenario. Quality of PDR service delivery was covered by tender requirements such as the following.

- The organisation is a member of one of the three industry representative bodies.
- The organisation's practitioners have appropriate qualifications.
- The organisation's practitioners receive regular professional supervision to address practice issues.
- The organisation's practitioners have access to training and development opportunities.
- The organisation uses a range of performance indicators as part of its internal monitoring processes.

4.39 Where a tendering organisation had approval under the FRSP they were exempted from addressing identical specifications. Of the 35 successful tenderers, 33 had approval under the FRSP whilst the other two were contracted via a MoU that they would provide services through two FRSP approved organisations. The ANAO considers that the FMC's reliance on the FRSP approval requirements was sound in principle, and that the FRSP does provide a quality assurance framework for the provision of PDR services by CBOs. However, as discussed earlier, the settlement rates at the conclusion of CBO provided PDR events suggests that there may be room for improvement in terms of the quality of services being offered.

⁶⁵ The FRSP is a program which provides funds to approximately 100 community organisations around Australia to provide family relationships services, including PDR services.

4.40 Furthermore, in the course of the audit some stakeholders raised concerns about the quality of the CBOs' PDR services, and there was a perception, particularly amongst legal practitioners, that their services were not appropriate for family law litigation, given the long history of structured PDR services within the FCoA. Although the ANAO found many examples of better practice from CBOs in the course of the audit, these are perceptions that will need to be addressed by the FMC, in giving effect to the government's objective for capacity-building in the community PDR sector. The work currently being undertaken by the Department of Family and Community Services and the Attorney-General's Department to develop a Quality Assurance accreditation scheme should go some way to addressing these perceptions.

4.41 However, it is of concern that the FMC does not monitor or review CBO services on a regular basis and that the FMC receives no regular, meaningful, reports from the CBOs addressing qualitative aspects of their PDR services. Similarly, there are no performance indicators in the contracts with the CBOs, although the FMC has since advised that this will be addressed in the next round of contracts. The ANAO believes that this should be done as a matter of urgency.

4.42 Although the PDR Referral Report is received by the FMC at the conclusion of each referral, it only contains information on the type of service delivered, the dates of sessions conducted, the outcomes of the PDR services, and whether there are any issues of child abuse. As discussed earlier, this type of information does not facilitate a full evaluation of the CBOs' PDR services. Enhanced monitoring of CBOs via regular reports or audits would provide assurance to the FMC and stakeholders alike of the quality of PDR services delivered on its behalf by CBOs or any deficiencies that may be apparent.

Recommendation No.10

4.43 The ANAO recommends that the FMC obtain performance information from CBOs, through regular monitoring and review activities, to provide itself and stakeholders alike with data on the quality of CBO PDR services, or to identify any deficiencies in PDR services.

FCoA response: No response. This is a matter for the FMC.

FMC response: Disagreed. The court considers that the requirement that contracted organisations satisfy the quality framework and approval requirements of the much larger Department of Family and Community Services' program and the conduct of an independent evaluation of the court's program provide appropriate risk mitigation strategies for a program of this size. The court notes the separate role of the National Alternative Dispute

Resolution Advisory Council in establishing quality standards for primary dispute resolution.

ANAO response: The Department of Family and Community Services booklet 'A Guide to Approval Requirements For Family Relationship Services' emphasises that the '... Approval Requirements are 'foundational' for quality provision. That is, compliance with the standards is viewed as necessary to providing a quality service, even if the standards themselves are not sufficient to ensure quality'.⁶⁶ In this context, the ANAO notes that meeting these approval requirements does not guarantee quality service. The ANAO considers that alternative measures, such as performance information from CBOs, would provide the FMC with a greater level of assurance on the quality of PDR services provided by CBOs. In making this recommendation, the ANAO is also cognisant that the PDR services provided to FMC clients are focused on encouraging agreement over matters such as property settlements following marital breakdown. The nature of this work can differ from more mainstream family and relationships services counselling.

Continuous improvement

4.44 To provide the best possible PDR service to clients, the courts should continually seek to improve their services, and conduct reviews and evaluations to identify better practice and areas for improvement. The ANAO examined the strategies the courts had in place to facilitate this.

Professional Development

4.45 At the national level, continuous improvement is facilitated by regular meetings of Mediation Managers and Senior Deputy Registrars, who meet twice a year. These meetings are an opportunity for FCoA staff to share their experiences in the registries and discuss ways to improve services. Approximately once every 18–24 months, Mediators and Deputy Registrars also convene as a national group. The ANAO considers these meetings are an effective means by which better practice may be discussed and promulgated throughout the court.

4.46 At the registry level, meetings of Mediators and Deputy Registrars also facilitate continuous improvement. Generally, the meetings provide staff with the opportunity to discuss operational issues and potential impacts on service. To differing extents, the registries also use the meetings as an opportunity for learning and development and to discuss professional developments of interest. In one registry a particularly good practice had developed whereby

⁶⁶ Department of Family and Community Services booklet, *A Guide to Approval Requirements For Family Relationship Services*, p.3.

the Mediation Manager aggregated information on PDR complaints for discussion as a group. The ANAO considers that these meetings, provided they are held on a regular basis with a structured component of professional development, are a good opportunity to promote continuous improvement in the court's PDR services. These meetings are also a good opportunity for staff in regional registries to liaise with their metropolitan colleagues and keep abreast of developments.

Stakeholder Liaison

4.47 Another means by which continuous improvement may be facilitated is through regular stakeholder liaison. Regular liaison with legal practitioners, CBOs and representative client groups will assist in the collection of feedback and suggestions which can be used to improve service delivery.

4.48 In the FCoA, stakeholder liaison is achieved through Pathways groups⁶⁷ and registry liaison meetings. These typically involve judges, representatives from the Registry Management Team and client groups, CBOs, state and Commonwealth departments and legal practitioners. CBOs and legal practitioners indicated to the ANAO that they welcomed the opportunity to participate in these forums and provide feedback to the FCoA.

4.49 Stakeholder liaison is more difficult to achieve in the FMC, given its concentration of staff in the National Administration Office in Melbourne and the fact that its only presence in the registries are the Federal Magistrates and their Associates. Nevertheless, CBOs spoke highly of the FMC PDR Coordinator's liaison efforts and appreciated the opportunity to participate in a survey in 2002, in which the FMC sought to gauge their views on the administrative arrangements and processes for PDR.⁶⁸ However, some CBOs indicated that they would also like to have greater access to Federal Magistrates and their Associates at the registry level. This was a consistent comment made by clients and other stakeholders alike.

Evaluating PDR Services

4.50 As discussed earlier, the courts' evaluation efforts are hampered by a lack of qualitative data on the effectiveness of PDR services. Regular and systematic collection of client feedback should facilitate this. This will also assist the FCoA to report against its PBS target, which states that '75% of clients are satisfied with the court's resolution processes'.⁶⁹ As no data is

⁶⁷ These are meetings of CBO PDR providers with Court representatives.

⁶⁸ Twenty-three representatives from CBOs provided feedback on, and generally praised, the FMC's administrative arrangements.

⁶⁹ *Attorney-General's Portfolio Budget Statements 2003-04*, p.113.

systematically collected by the FCoA, it is currently unable to report against this target. There is no similar target in the FMC's PBS.

4.51 Previous efforts by the courts to assess client satisfaction with PDR processes have been minimal and ad hoc. The FMC's second survey of legal practitioners in 2002 asked practitioners whether they thought that their clients found the CBOs' PDR services beneficial. Only 40 per cent of respondents' clients had been referred to a CBO, and of those, 71 per cent indicated that they thought their clients had found the PDR services beneficial (29 per cent thought that their clients did not). The last survey of client attitudes to PDR services in the FCoA was in 1994, and 'overall the results of the client survey were extremely positive, indicating high levels of satisfaction with the counselling process'.⁷⁰

4.52 Although these surveys returned positive responses, they are limited in their capacity to provide the courts with any assurance as to the effectiveness of their PDR services. The FMC's survey was limited to a single, broad question for legal practitioners, thereby diminishing its value as a rigorous evaluation of PDR services from a client's perspective. Although the FCoA's survey was more thorough in its approach, it had been conducted almost 10 years previously and does not give an adequate appraisal of its current services.

4.53 Both courts have indicated they will soon be conducting more thorough evaluations of their PDR services. The FMC has engaged a consultant who will conduct a questionnaire of approximately 1000 clients, consult with Federal Magistrates, CBOs and legal practitioners and conduct a series of focus groups with stakeholders.⁷¹ The evaluation will also be used to inform the new contracting arrangements with CBOs that are to be negotiated in mid-2004. Similarly, the FCoA will soon be implementing an evaluative program using data from Casetrack that will examine case survival rates through various court processes, including PDR. The data from this exercise will be used to inform court administrators of the performance of PDR services on a registry-by-registry basis.

4.54 The courts' planned evaluations of their PDR services should produce information that can be used in conjunction with the quantitative data on PDR outcomes and qualitative information from regular client feedback. Collectively, the information should improve the courts' ability to evaluate the effectiveness of their PDR and continuously improve service delivery. The

⁷⁰ Gibson, J., Harrison, M. and Brown, C., *Client Attitudes to the Counselling Service of the Family Court of Australia*, November 1996.

⁷¹ The FMC advises that they intended to conduct this evaluation in mid-2003 after two years' operation of the CBO PDR Program, although this has since been delayed.

ANAO considers that this should be done as a matter of some urgency, and should also be conducted on a regular basis in the future.

Recommendation No.11

4.55 The ANAO recommends that the FCoA and FMC conduct evaluations of their PDR services on a regular basis, in order to provide information that will allow the courts to continuously assess and improve their PDR services.

FCoA response: Agreed. The FCoA indicated that it will be conducting a client survey this year and is developing strategies for ongoing regular qualitative evaluation. Further comments are at Appendix 1.

FMC response: Agreed. The FMC indicated that it is currently undertaking an evaluation in conjunction with an Australian university.

Flexibility in PDR service delivery

4.56 Flexibility in PDR service delivery was a key issue raised by stakeholders. The ANAO sought to ensure that the courts' PDR services were adaptive, and that clients' needs were identified and addressed in the delivery of PDR. The ANAO had a particular focus on a number of significant client groups, including rural and regional clients, and clients who were culturally and linguistically diverse. Flexibility in PDR service delivery may be achieved through the types of PDR events clients may be ordered to attend, and the method of delivery of those events.

Flexibility in PDR processes

4.57 There is some flexibility within the FCoA resolution phase to assess the needs of clients and direct them to PDR appropriate to their needs. Generally, Deputy Registrars make court orders as to which court events clients should undergo, including PDR. They are assisted in this task by the case assessment conference, which allows the Deputy Registrar and a Mediator to assess the clients' situation and determine an appropriate course of action.

4.58 At one extreme, if there are urgent issues involving child safety, the clients may not attend any PDR at all and the matter may be listed for an urgent hearing. Other clients, however, may be asked to attend multiple mediation sessions if the Mediator believes there is a real chance of resolving the clients' issues and they need more time and resources to do so. There is also some capacity to cater for clients' practical and physical needs through the use of teleconferencing and interpreters. Finally, where a party to a dispute feels uncomfortable with, or threatened by, their former partner PDR may be conducted with the parties in different rooms.

4.59 There is considerable scope for flexibility in the FMC's PDR processes. Primarily, there is an inherent measure of flexibility derived from the fact that the FMC may source its PDR services from either the FCoA or CBOs. In making a decision as to where the clients will attend PDR, the Federal Magistrates will consider geographic convenience, suitability of programs and timing of appointments.⁷²

4.60 On another level, the CBOs' intake and assessment processes also provide for considerable flexibility. On being ordered to attend PDR in a CBO, clients now attend an intake process whereby their needs are assessed and an appropriate service of PDR is identified.

Rural and regional clients

4.61 The FCoA facilitates access to PDR services for its rural and regional clients primarily through its regional registries, circuits and the use of teleconferencing. The court's Mediators and Deputy Registrars go on circuit, and generally cover more regional areas than judicial circuits. However, there is some inconsistency in the FCoA's approach to circuits, and coverage is wider in some states, such as Victoria, than others, such as Queensland. For example, in Queensland, the FCoA has registries in Brisbane, Townsville, Cairns and Rockhampton, but Mt Isa is the only inland circuit location for central and western Queensland.⁷³ To a certain extent this may be explained by the different population demographics of the two states, as Victoria has greater population density than Queensland. However, the lack of circuits to central and western Queensland was raised as a major issue for stakeholders in those areas.

4.62 The increasing use of teleconferencing facilities goes some way to redressing the inconsistency of services but FCoA staff and stakeholders alike noted the shortcomings of this facility. As technological impediments to this service are addressed, client service will be improved, but until then the FCoA's service to rural and regional clients is likely to be inconsistent.

4.63 As the FMC receives services from both the FCoA and CBOs, it is in a better position to provide effective services to its rural and regional clients. Many of the 35 CBOs engaged by the FMC have networked regional offices that clients can attend for their greater convenience. Better service delivery to rural and regional clients was also assured by the FMC at the conclusion of the tender process, when it was apparent that there were gaps in particular

⁷² *Federal Magistrates Court Annual Report 2002–03*, p.35.

⁷³ Townsville mediators circuit to Mackay, Atherton, Innisfail, Charters Towers, Ingham, Ayr, Bowen, Arakun, Laura and York Island, whilst Brisbane mediators circuit to Coffs Harbour. In Victoria, mediators from Melbourne circuit to Ballarat, Mildura, Warrnambool, Bendigo, Geelong and mediators from Dandenong circuit to Bairnsdale, Morwell, Traralgon, Sale and Lilydale.

regional areas. With the approval of the Attorney-General's Department, which acted as probity adviser for the tender process, the FMC specifically approached organisations to provide additional services in those areas.

Clients who are culturally and linguistically diverse

4.64 PDR services to CALD clients are variable in the FCoA. At present, the capacity to tailor PDR services with culturally appropriate mediation options largely depends on FCoA staff being proactive in recognising the clients' background and being familiar with alternative approaches to PDR service delivery to which those clients might respond. For example, FCoA staff advised of ad hoc occasions where a client's cultural background was recognised, and research conducted into culturally appropriate options for raising children and mediation sessions conducted accordingly.

4.65 However, currently there is no systematic way in which this is being done, as no data on cultural or linguistic considerations is presently collected by the courts when litigants file an application. As a result, Mediators and Deputy Registrars are generally not aware of the client's background when they attend their first PDR event. FCoA staff advise that the capacity to offer a better service to these clients largely depends on the time and resources of the Mediator or Deputy Registrar. It also assumes that the clients will return for subsequent PDR events.

4.66 As mentioned in the Client Service chapter, more work needs to be done by FCoA registries to identify and cater for the major client groups of each Registry. This will have beneficial flow-on effects for the court's PDR services. The ANAO recognises that the roll-out of the FCoA's cultural diversity strategy in early 2004 should significantly improve services to CALD clients, nevertheless enhanced data collection and awareness-raising at the filing stage is also necessary to improve this aspect of PDR service delivery.

4.67 Whilst some good efforts have been made in some areas of the FCoA with providing services to indigenous clients, services across the registries are variable and there is considerable scope for improvement. Some good examples of the court's work are the establishment of an Indigenous Committee in Adelaide to inform FCoA staff of indigenous cultural issues, and attempts by FCoA Mediators and Deputy Registrars to become involved in local indigenous communities. Similarly, the work of the IFCs in involving the wider indigenous community in providing more appropriate and relevant mediation and assistance in the preparation of Family Reports is another example of good client service. Another example of a good initiative from the FCoA aimed at indigenous clients is provided in Case Study 1.

Case Study 1

The Peacemaker Program

The Peacemaker Program is a mediation program developed for indigenous communities in the Cairns and Cape York regions of Queensland. The aim is to empower indigenous communities through the use of community justice groups, whereby elders and other respected representatives from the different communities participate in community mediation. The program has been established on the assumption that community dispute resolution outcomes are often more appropriate for indigenous clients.

The initial program involved two phases of training that was given to 40 community justice coordinators or elders from indigenous communities. The first phase of training taught generic mediation skills, whilst the second phase was FCoA specific and taught participants specific skills and techniques involved in community mediation on issues related to separating families and children. These skills are now primarily being used to resolve family disputes outside the court's processes, although community justice coordinators and elders have also been involved in post-filing mediation in conjunction with FCoA mediators.

A post-implementation review conducted after six months of the program's operation indicated that participating members were enthusiastic about the training they received and that mediation in these communities is now more likely to be culturally appropriate, with accommodation made for gender issues and other cultural considerations. The FCoA has since acted on other communities' requests to expand the Program beyond its initial 40 participants.

4.68 However, services in registries where there is no permanent IFC presence are variable. Although IFCs are available for consultation by these registries, this approach has shortcomings. Primarily, it is incumbent on the Mediators and Deputy Registrars to identify a need for IFC involvement and liaison. One stakeholder suggested this was not being done as required. On the other hand, the ANAO recognises that there may only be marginal benefit for staff from registries in NSW/ACT, SA, Victoria and Tasmania liaising with IFCs from Darwin and Far North Queensland, who may not be familiar with the specific cultural issues or factors relevant to indigenous clients in other areas. This is a significant issue for the FCoA that needs to be addressed.

4.69 The ANAO believes that the implementation of Recommendation No.1 at paragraph 2.36, should also improve the FCoA's PDR services to its CALD and indigenous clients.

Conclusion

4.70 Both the FCoA and the FMC collect quantitative data on the outcomes of their PDR services. Although there are some shortcomings with this data, the data does suggest that there are variations in PDR services across registries and CBOs. However, a lack of qualitative information on the PDR services makes a full assessment of the effectiveness of PDR difficult. Improved client feedback and evaluation strategies will assist the courts to do this in the future.

4.71 The courts have adopted different approaches for assuring the quality of their PDR services, based on their different service delivery models. Although the FMC's initial approach to quality assurance was sound, a lack of ongoing monitoring and review makes it difficult for the FMC to provide reassurance to its stakeholders of the quality of its PDR services. The ANAO notes that a new approach to quality assurance in the FCoA is to be implemented in early 2004. This should improve the quality of its PDR.

4.72 Although there is some scope for flexibility in the FCoA's PDR services, more could be done to improve its services to rural and regional clients. Similarly, although the FCoA has adopted some good initiatives to provide PDR services to indigenous clients and clients who are culturally and linguistically diverse, services to these clients are variable across registries. Given the possible options for PDR service delivery in the FMC, there is considerable scope for even greater flexibility, which is further enhanced by the CBOs' client service initiatives.

Canberra ACT
20 May 2004



P. J. Barrett
Auditor-General

Appendices

Appendix 1: Responses to the audit report from the FCoA and the FMC

FCoA

The FCoA provided the following response to the audit report.

1. Background and Introduction

Since the last performance audit by ANAO in 1997, the Family Court of Australia has made major advances in efficiency and effectiveness in client service. As recommended in the 1997 audit, the Court has adopted a philosophy of continuous improvement. It has made significant strides, with major efforts into ongoing reforms directed at improving client services, improving management of the court, promoting greater strategic alignment between operational activities and long term planning and improving efficiency. There has been a significant investment in strategic projects and reforms.

The commitment has been not only to addressing the issues identified in the 1997 audit but also to wider continuous improvement. This reflects the Court's recognition that meaningful and lasting performance improvement is not achieved through one-off efforts, rather it requires a philosophy and systemic way of managing that focuses on the needs of clients and makes quality the business of everyone in the organisation. It recognises that performance is a relative term that exists in a continuum and that no matter how far we have come, there will always be further to go. There must be the capacity to adapt to the changing external environment.

In practical terms, a continuous improvement program requires that decisions be made about relative priorities of improvement projects. This recognises, firstly that not everything can be achieved at once and secondly that some initiatives are contingent upon others and must be timed accordingly. Budgetary conditions, size of individual projects, competing priorities, external influences, availability of suitably skilled personnel to undertake projects etc all interact to influence the ability of the Court to advance at the desired pace. It also must be borne in mind that FCoA (and FMC) is part of the wider family law system, which may in itself impact on the pace of reform.

In terms of recent reforms, the Court's own feedback suggests that the view of many *other participants* in the family law system is not that FCoA is proceeding too slowly, but rather that the pace with which it is tackling new initiatives is

taxing *their* ability to keep pace. The Court needs to address the interests of all its stakeholders in the way it manages its business, including the legal profession.

In some respects therefore, FCoA is a little disappointed that despite the supporting evidence having been presented, the report has not acknowledged the extent to which FCoA has advanced its continuous improvement initiatives in recent years in the face of a dynamic and very challenging environment.

The Court freely acknowledges the need to keep up the pace and pressure of reform, and also accepts that there are some ongoing deficiencies in client services as pointed out by ANAO. However, it believes that it is desirable in the interests of balance and perspective that recognition be given to the very considerable advances that have been achieved over the past 4-5 years.

2. Response to Specific Recommendations

This section provides the Court's response to specific recommendations made by ANAO and further comments on some of the key issues.

Chapter 2: Client Service

Recommendation No 1 (Para. 2.36):

'The ANAO recommends that, in order to improve the quality of service currently offered to clients, the FCoA and the FMC should actively seek to identify and better understand the needs of their various client groups, and implement a range of measures to address those needs.'

FCoA Response: **Agreed.**

Further Comments:

Initiatives already in place

FCoA has recognised for some time the need to understand in depth the nature of its client base, and the service needs of specific groups of clients. Initiatives commenced in response to these needs, include mechanisms to *further identify* client needs, especially the needs of Aboriginal and Torres Strait Islander (ATSI) clients, culturally and linguistically diverse (CALD) clients, self represented litigants (SRLs) and rural clients.

Further detail on some of the more important initiatives is summarised in the sections below. In terms of better understanding the Court's client base, there have been some practical constraints to the speed with which the Court has been able to act. Primarily, the Court needed to implement Casetrack, its electronic case management system, and develop new Rules of Court and new Court forms before it could implement systematic collection, collation and analysis of data. Those reforms were implemented on 29 March 2004.

FCoA Corporate Commitment to Client Service

Client service is a major strategic theme in the Court's Strategic Plan, which includes a Key Result Area for 'better targeted' services to meet the needs of clients. Hence, the Court has been for some time very alert to the need to 'seek to identify and better understand the needs of their various client groups'. Although the timing of some initiatives has been affected by the need for the infrastructure changes identified above (Casetrack, new Rules and forms), these being the basic mechanism to collect such targeting information. The need for such supporting infrastructure has been recognised for some time (it was one factor that led to the decision to develop Casetrack).

Initiatives supporting FCoA's strategic commitment to client service improvement include:

- The roll out of the 'case management from a client perspective' model in November 2003, which allocates each client to a specific client services staff member. When a staff member including mediators and deputy registrars as well as judicial officers, identifies a client's particular needs, the assigned client services staff member (case coordinator) ensures that the necessary actions to meet client need are identified.
- The Court's Family Violence Strategy, released in March 2004, will help ensure that the needs of clients with family violence concerns are addressed at all points along the case management pathway.
- Implementation of the Children's Cases Program, which is using less adversarial approaches to case management.

Service Levels to FMC Clients

The ANAO has observed in its report (para 2.4) that the FCoA Client Service Charter makes no overt mention of services provided to clients of the FMC. This is purely a presentational issue, as FCoA draws *no distinction* between FCoA and FMC clients. People presenting at a registry are treated in the same manner, no matter in which Court they have commenced their action. The only caveat to this is the obvious proviso that after the first return date, when the client's file is passed by the registry to the FMC to manage, after which client service to the client is the responsibility of the FMC.

The Court believes that the current division of jurisdiction between FCoA and FMC is difficult to explain to the public and clients. It frequently results in confusion about where to file and whether someone is being dealt with by FCoA or FMC. To some extent, this may be due to the fact that the FCoA is a court specifically dealing with family law matters, has the words 'family court' in its name, has a high public profile and has been around for many years. FMC on the other hand is new, does not mention 'family' in its name and has a

more generalised jurisdiction traversing a range of subject areas. Under the circumstances, it is not surprising that clients of the FMC sometimes regard themselves as being clients of 'the Family Court' especially when they are serviced out of FCoA registries by FCoA staff during the initial stages of their case.

At several points in the report, the ANAO mentions that there is confusion amongst clients about where to file. Leaving aside the issue of whether clients understand the distinction, at present the decision as to where to file is made not by the Court, but by the client (in theory, more complex matters should be dealt with by FCoA and less complex ones by FMC). At the time of filing and for some time there after, clients are very often not in a position to determine whether a matter is complex or otherwise, as issues emerging in the course of the matter being resolved or determined will establish this. Usually this requires a proper screening and assessment of the issues in dispute. This applies even more so to SRLs who may not have sought the legal advice needed to help them make this decision. Although the ANAO report asserts that this problem may be overcome by providing better information to clients, the solution is more complex than this, given the impediment to absorbing information that usually goes with the emotional state of clients in family law disputes and the structural complexity arising from the essentially joint jurisdiction of the two courts.

In fact, the courts themselves are not in a position to know where a particular case 'belongs' in those early stage. For example, FMC applies a rule that a case is 'complex' if the hearing of the substantive issues in dispute is to take over two days. While this criterion is only relevant to the small percentage of cases which reach trial, the situation is that even with these cases there may be no way of knowing whether a case is 'complex' until trial preparation stage is reached, often a considerable time after the case commences. These type of considerations inevitably result in cases being filed in one court when they more properly should be in the other, and considerable confusion on the part of clients.

In recent years it has been recognised as a better practice in client service, for the service 'mine shafts' between agencies to be reduced or eliminated so that clients do not face such dilemmas. We believe that this requires a better means of streaming cases during the initial stages (beyond the initial intake). For these reasons, FCoA strongly supports the view (also recommended by ANAO in recommendation No 8) that, at a minimum, a single entry point should be implemented as a matter of urgency.

Thus the Court's view is that it is essential that clients not only be serviced from a single registry at the time of initial filing, but also be streamed through a coordinated system of case management. They should remain in this system until the point at which a logical decision can be made whether to assign the

case to a Federal Magistrate or a Judge for hearing. Such decisions might take account not only of case complexity but also resource availability and other relevant factors.

Rural and Regional Clients

The ANAO report appears to misunderstand, to some extent, the way FCoA meets its commitment to rural clients. Every attempt is made to comply with a direction made by the Chief Justice some years ago, that judicial and other circuits will be held to whichever regional areas have the demand for them. There is, however, an ongoing need to balance service demands with resource availability. Whilst circuits are essential in the interests of client service, they are *less efficient and more costly* compared with Registry-based pools of judges or federal magistrates.

A further complication of allocating resources efficiently to service rural clients, as noted in the report, is community concern regarding circuit changes, especially reduced service levels should demand change due, for example, to changing regional demographics. This can make change more difficult and politically sensitive for FCoA than for FMC, which more or less has the benefit of a 'green fields' situation due to having only relatively recently commenced or not at all in a specific location.

As with the FMC, FCoA is later this year commencing a study of the longer-term influences of regional demographic changes on service level demands. This will aid services planning and longer term decision making, including for capital budgets (e.g. building needs), and support consultation with stakeholders about potential changes.

FCoA is uncertain about the point being made in para 2.14 regarding access by regional clients to internet or videoconferencing facilities as an alternative to face-to-face services. Video call-overs are held using conferencing facilities available at the regional registries. Clients access the services at the registry not through personal facilities.

In relation to other services distributed via the internet, it is acknowledged there may be problems experienced by rural clients who are unable to access effective internet services, but this is not a matter which can be solved by FCoA, being the subject of other areas of government policy.

It is acknowledged that there is a need to monitor and manage phone waiting times etc to ensure that rural clients are not unavoidably disadvantaged.

FCoA believes that the wrong conclusion has been drawn in para 2.15 in relation to delays in processing divorce applications at Lismore. The view held by FCoA is that this instance is an example of *effective priority setting and resource utilisation*. The applications in question were not processed immediately because a circuit to this location was not scheduled for some time.

This allowed for some more urgent work at the registry to be dealt with first but they were processed before the circuit, so there was no real disadvantage to the clients. Priority setting of this sort is an essential part of sound resource management that needs to be made on a day-to-day basis in probably all registries as a part of the resource management process.

Initiatives in support of improved services to rural /regional clients include but are not limited to:

- All rural and regional registries now accept FCoA filings and the majority also accept filings for FMC.
- The video conferencing strategy has involved equipment upgrades and training of staff in its use. All rural and regional locations now have effective equipment.
- All rural and regional phone systems have been upgraded to better cope with the volume of calls.

Percentage of SRL Clients

Since the audit was commenced further analysis has been undertaken which shows that of the applications for Final Orders that were disposed during 1 January 2003 to 31 December 2003:

- In approx 25% of cases the applicant only (not the respondent) was recorded as represented.
- In approx 6% of cases the respondent only (not the applicant) was recorded as represented.
- In approx 55% of cases both applicant and respondent were recorded as represented.
- In approx 14% of cases neither party was recorded as represented.

From these figures it can be concluded that approximately 45% of cases have at least one party self-represented during the life of the matter. Casetrack data also shows that approximately 19.5% and 14%, respectively, of applicants for interim orders and final orders are unrepresented at the point of filing. Because Casetrack is a new way of collecting information, it is not possible to be definitive about whether it reflects actual representation through the life of a case. The Court is therefore only able to conclude in general terms that the percentage of cases with at least one SRL (self represented litigant) party is in the range 40-45%.

Initiatives in Support of SRLs

The Court has reported on the first two years of its efforts to address the needs of SRLs—See ‘Self Represented Litigants: A Challenge. December

2000-December 2002'. Since that time the project is focussing on collaborative strategies with other service providers to expand opportunities to meet their needs. The Court is working closely with the legal profession, the FMC and the Federal Court, National Legal Aid and the National Association of Community Legal Centres as well as the Attorney-General's Department to implement a range of initiatives that will help them manage their experience of the Court. This includes access to legal advice, unbundled legal services, referral to other services etc.

Initiatives in support of improved services to SRL clients include but are not limited to:

- A key feature of the 'case management from a client perspective' model is its assistance for SRL clients. In particular at the point where it is determined that their matter will go to a hearing, all SRL clients are contacted by client services staff and offered procedural assistance in providing the documentation that is required for the hearing. (With clients of FCoA being litigants in a legal system, we are precluded from providing more than *procedural* assistance to them.)
- The recently implemented pilot designed to trial a new way of handling hearings in Children's Cases is particularly focused on the needs of SRLs. A major initiative, it is extremely innovative in terms of Australian jurisprudence.

CALD Clients

In para 2.10 the report states that FCoA has 'taken tentative steps' towards identifying its CALD client base. This appears to substantially understate the actual efforts made in support of CALD clients. While FCoA acknowledges that the collection of data on CALD clients is only a relatively recent initiative (dependent on implementation of Casetrack, the Family Law Rules 2004 and new forms), FCoA has made a very substantial *strategic commitment* to reform and improvement of services to CALD clients.

The ANAO report mentions (at para 2.32) a Chinese divorce list previously held at Sydney Registry as having been suspended '*as the FMC had taken over the divorce list and had not been advised that the service had previously been offered.*' This conclusion is incorrect. The divorce list for clients of Chinese background, held in Sydney once per week, was discontinued in 2002 due to limited demand. An interpreter assisted list was introduced but it was not exclusively for matters that required interpreters, nor was it limited to a particular language.

The report mentions (para 2.31) favourable comments by stakeholders to FCoA's responsiveness to the needs of CALD clients. It is relevant to mention that the Court will be shown as a best practice organisation in the annual access and equity report *Progress in implementing the Charter of Public Service in a Culturally Diverse Society*, published by the Department for Immigration and Multicultural and Indigenous Affairs (DIMIA). It will be the first Australian court to report fully against the charter (voluntarily at the request of DIMIA because of its interest in the work being done by the Court).

That said, FCoA acknowledges that more can be done and notes ANAO's comments about the need for staff to understand more about the characteristics and needs of the more significant client groups serviced by their registries. Initiatives in support of improved services to CALD clients include, but are not limited to:

- Interpreter services are provided for all Court events, including mediation events, free of charge.
- All Court staff have been provided cultural diversity awareness training in preparation for the new forms which for the first time collect data on ethnicity and Aboriginal and Torres Strait Islander status.
- All registries have developed relationships with local multicultural organisations to seek feedback on services provided and to form partnerships to improve service delivery to CALD clients.

ATSI Clients

Whilst acknowledging the points made by ANAO regarding potential areas of improvement (training to staff, building of networks with ATSI communities, signage and information for ATSI clients), the Court considers the ANAO report substantially understates the efforts and achievements of the Court with regard to improved services to ATSI clients.

Initiatives in support of improved services to ATSI clients include, but are not limited to:

- All Court staff have been provided cultural diversity awareness training in preparation for the new forms which for the first time collect data on ethnicity and Aboriginal and Torres Strait Islander status. The Indigenous Family Consultants were involved in the delivery of this training.
- Guidelines have been developed to assist Court staff in registries across Australia where Indigenous Family Consultants are **not located**, in order to best utilise the Indigenous Family Consultants based in the Northern Territory and North Queensland. This is particularly relevant for mediators when working with Family Consultants in the

preparation of family reports. The involvement of the Indigenous Family Consultants mean that Indigenous clients have the opportunity to discuss their issues with them and be supported through the court process.

- A range of videos have been produced for distribution to Indigenous communities and agencies that describe the role of the Indigenous Family Consultants.
- The value of the program has been acknowledged through the Australian Institute of Judicial Administration award in 2002.

This program has been stretched as far as current resources will allow. The Court acknowledges the difficulty of servicing the needs of urban aboriginal people and its southern registries from North Queensland and the Northern Territory. The value of the program and the need for injection of more government funding has been recommended by both the Family Law Pathways Report and the House of Representatives Family and Community Affairs committee.

Recommendation No 2 (Para 2.64):

'The ANAO recommends that, in order to improve complaint handling procedures, the FCoA should:

- (a) ensure that its complaints handling policy is implemented consistently across the registry network;**
- (b) collect information on the types of complaints received and their outcomes, analysing any trends, and regularly reporting on complaints activity to registry managers; and**
- (c) report on complaints activity to the FMC, where complaints raised and/or resolved within the registries involve FMC clients.'**

FCoA Response: **Agreed.**

Further Comments:

FCoA, having identified the need to upgrade its client feedback and complaints policy and systems, has a project under way to bring the formal policy into line with the requirements of AS 4269-1995. This includes upgrading the IT system and management processes which support the policy. So far, the policy has been redrafted and disseminated for comment within FCoA. Consultations have been held with other agencies as one means of the Court achieving better practice in the area. It is expected that these initiatives will be fully implemented by the middle of this year.

In relation to complaints from FMC clients, the present practise is that if a complaint is received from an FMC client it is forwarded to the FMC for handling, unless the complaint relates to services delivered out of an FCoA registry. In this event FCoA agrees that it should have processes in place to keep the FMC informed of such complaints and of their outcomes.

Recommendation No 3 (Para 2.75):

'The ANAO recommends that the FCoA and the FMC enhance the effectiveness of monitoring and reporting on client service, by: examining their business processes and case management models; developing data quality review systems and improved inter-court performance reporting on FCoA services to FMC clients; and regularly surveying clients on their satisfaction with court processes.'

FCoA Response: Agreed.

Further Comments

Review of Core Business Processes

Over many years FCoA has regularly reviewed and improved its core business processes, most particularly, its case management model. Until around a decade ago, the idea of pre-trial case management by courts was regarded as a radical idea, although it was one that FCoA embraced early. Since then the Court has been on a path of continuous reform and development of new and improved processes.

More recently, the *Children's Cases Program* commenced in Sydney and Parramatta, implementing less adversarial trial procedures, with the judge taking greater control of what evidence is called and how it is presented. Reform efforts such as these, directed at adopting and in some instances even leading world best practice, are central to the culture of the Court and it is envisaged will continue to be embraced by it in its search for improved client service.

Delays in Counter Service etc

In the context of the section of the report in which this recommendation appears, the ANAO report raises a number of issues relating to delays in counter service etc at various unnamed registries. FCoA believes that in certain respects the ANAO report does not accurately reflect its understanding of the situation regarding service delays at registry counters.

The report asserts, for example, that there are unnecessary delays whilst staff enter data into Casetrack and that data is being entered very late or not at all into Casetrack. We believe that whilst there may be relatively isolated instances of this occurring, this problem only existed as a more widespread

issue immediately after Casetrack's implementation when staff were still learning the system (and the system itself still required further enhancements). These issues have now been addressed.

The importance of accurate management information for planning and decision making is recognised and initiatives have been introduced to continuously improve data quality. Such initiatives will continue in the future, with careful management required of the tension between the competing resource demands of data entry / collection and immediate client service.

All registries now have systems in place to monitor and manage counter waiting times. It is relevant to again state that *no distinction* is drawn between FMC and FCoA clients when they present at a registry and to date it has been seen as unnecessary (and possibly counter productive) to artificially make that distinction for the purpose of monitoring.

The report states that documents lodged by clients were sometimes not processed in a timely manner after having been lodged. Again, whilst there were some problems in the past, and may continue to be temporary problems at specific registries from time to time, this issue is under constant monitoring and review. Generally, this is not a significant ongoing concern as it is believed to be well under control at this time.

The report raises the issue of delays with postal lodgements or when matters are transferred between courts (which presumably refers to the situation in which a matter is initially dealt with by a state Magistrates Court and is then transferred to FCoA.)

It certainly does occur that mistakes / omissions made in the applications / files can require the requisitioning of further information. This will then delay processing of the file by the FCoA. It is a difficult issue to manage because in these instances the initial creation of the documents is outside of the control of FCoA. It is also recognised that such situations cause double handling and rework for Court staff so effective management of the issue is important. It has been further compounded by the fact that FMC matters transferred from a state court have to be transferred to FCoA due to the drafting of the relevant statutory provisions. (This is now being addressed by legislation which is before Parliament.) These situations present ongoing challenges for the Court. FCoA is attempting to find suitable strategies to deal with them.

Finally on this theme, the report stated that such counter service delays were a particular problem when lawyers lodged bulk applications. Again, all registries have now implemented bulk lodgement procedures to avoid such problems arising. FCoA information is that, if not totally eliminated, such problems are at least being effectively managed.

Client Satisfaction Monitoring

FCoA acknowledges that it has been some years since it has undertaken a client satisfaction survey. This has not been because it has lacked interest in the needs of clients, but rather because the pace and volume of change over the past 4-5 years has been so great that available resources have, of necessity, been directed elsewhere. When such surveys are conducted with end users (rather than legal practitioners) the logistics involved are significant and the projects potentially very expensive, depending upon the detailed objectives of the survey and hence the methodology utilised. This can make it difficult to conduct an extensive and comprehensive survey on a regular basis. It is more likely therefore, that FCoA requires a 'rolling program' of surveys targeting different questions or perhaps client groups each year in order to make the cost more manageable.

FCoA has recognised the need for balanced reporting and evaluation of both quantitative and qualitative measures. It is considering the possibility of introducing a 'balanced scorecard' model for performance monitoring.

FCoA recognises the need for current and timely data about client satisfaction and a client survey is being planned to be undertaken before mid year. Amongst other things, the project will aim to find a method that allows us to meet our objective to repeat the exercise regularly without excessive cost.

Whilst the ANAO suggests that clients should be approached for feedback when they finish their involvement with the Court we believe that it is preferable to allow some time to elapse prior to this occurring. This is because the processes involved and decisions needed are often so personally painful that people are unlikely to be objective near to the events, especially if the judicial decision has not been what they anticipated. By approaching clients in the context of a structured survey it is felt that more meaningful results may be obtained.

Filling of Judicial Vacancies

The report indicates problems arising from delays in filling judicial vacancies (para 2.49) and suggests that the courts pro-actively manage the risks involved. FCoA is very alert to this need and when it becomes aware that a judicial vacancy is to arise, it usually makes an early submission asking that a rapid replacement decision be made. This is of greater necessity under the current government policy that requires that every such vacancy be reviewed with a view to potentially replacing a judge by a federal magistrate. However, the final decisions on these matters are in Government's hands and, assuming a replacement is granted, it can take considerable time for a new appointee to take up that role. To facilitate more rapid decision making, FCoA has been attempting to negotiate the adoption of a standardised methodology for assessing the case for judicial replacements. This is still under way.

FCoA recognises that it can go some way towards alleviating problems caused by judicial vacancies by rostering and relief arrangements. This has been the Court's standard business practice in recent years. However, with constitutional limitations preventing acting judicial appointments, every relief arrangement is at the expense of the location where the relieving judge normally sits. There are also very significant costs associated with judicial relief.

Staff Induction, Training and Morale

Client service delivery within the Family Court is a challenging area for staff as clients generally come to the Court with highly emotional issues involving themselves and their intimate family relationships. The Court supports staff through comprehensive training, a structured performance development scheme and a specific reward and recognition scheme for staff in all areas of the organisation which particularly focuses on examples of outstanding client service. The Court particularly over the last two years has had an ambitious change agenda with a number of major projects being implemented. Effective change management and project management has been in place but significant change does place an extra pressure on staff working within an already challenging client environment.

Recommendation No 4 (Para 2.95):

'The ANAO recommends that, in order to continuously improve services offered to clients, the FCoA and FMC should have an integrated approach to:

- (a) remaining responsive to changes in technology by coordinating the development and implementation of electronic forms and filing technology, where appropriate;
- (b) ensuring information offered to clients in the registries is relevant, up-to-date, and provides sufficient information regarding both courts to allow clients to make informed choices about their individual matters;
- (c) developing and distributing information on the courtroom to those clients whose matters cannot be resolved, and providing regular courtroom familiarisation opportunities for these clients; and
- (d) providing information to clients who have finished their business in the courts on the significance of the orders they have received, and their options for the future should they wish to seek further counselling, appeal, or if their circumstances change.'

FCoA Response: **Agreed.** (subject to comments below in relation to recommendations 4(b) and 4(d))

Further Comments

Adoption of New Technologies

FCoA is sensitive to the need to adopt new technological approaches and has already implemented various innovative services and for many years provided forms via the internet although not yet in interactive form due principally to other priorities.

FCoA has recently implemented an on-line Case Management Manual that provides intelligent support in the form of context sensitive links for staff who are providing face-to-face service to clients. This is a major technology initiative. It is being provided to FMC.

The Court is keen to further advance this as technology advances and better business cases may be made for the adoption of other service channels. A major review of its service channels strategy will commence next financial year.

Client Service Approach and Consistency

FCoA agrees with the need for itself and FMC to collaborate and to share better practice. FMC's Coordinator of Court Services has been attending key management meetings such as the Registry Management Group.

The Court recognises that there needs to be close communication and collaboration between it and FMC, although it should be recognised that there are limits to the extent that this is achievable. At a number of points throughout the report, ANAO appears to be critical of the different paths taken by FCoA and FMC in relation to specific aspects of client services. There appears to be an inherent contradiction in establishing FMC as a separate court in support of the objective of having it develop 'simpler, faster, cheaper' processes for less complex disputes and then criticising the courts for having evolved separate processes. Notwithstanding this, we do agree with the need for ongoing close consultation between the courts in the interests of ensuring that where processes and services need to be coordinated, they are.

The difficulty of managing in this environment should not be under-estimated, where two organisations have overlapping jurisdictions, share some resources, serve similar and sometimes the same clients, need to be coordinated and yet have (and need) different core processes. This is more so when it is realised that the two organisations frequently need to compete with each other for the resources needed to service their client base. As pointed out by ANAO there is no formal mechanism for system-wide governance. This limits the ability of the organisations to always respond effectively. Both organisations grapple with these issues on a daily basis, for the most part in collaboration with each other, even where they have competing needs. The ANAO report appears to go some way to recognising these difficulties although it makes no specific recommendations to address them.

The report (seems to) understates the participation of FMC in various collaborative management forums sponsored by FCoA. It suggests that they are relegated to a somewhat subordinate role. Whilst it is true to say that FMC's role in the CJCC is only as a 'stakeholder' rather than a full partner (as this is the nature of that forum and is true of all participants) this is not true of other forums. FCoA has been innovative in involving FMC managers and regards them as fully participating members of meetings, particularly at the operational management level (e.g. RMG). There are also regular meetings between the CEOs.

Para 2.90 mentions the need for a joint video for an information session for new clients of both FMC and FCoA. FCoA has recently negotiated with FMC for the courts to collaborate on the development of a DVD product that will meet the needs of both organisations and set them within the broader context of the family law system.

The report also mentions (para 2.92) the perception that there is a ‘lot of information for clients at the beginning of the process’ but not much available thereafter (in the process). This does not take full account of the range of information provided to clients as they proceed through the system.

Provision of up to Date Information to Clients

In general, the Court agrees with the need to provide up to date information to help clients make informed decisions and elsewhere in this response has alluded to some of the particular initiatives implemented for SRLS etc.

It should be stated, however, that because FCoA is a court, there are limits to which this can legitimately be done. Whilst FCoA can provide procedural assistance to clients, it is unable to provide more than this (legal advice, for example).

Providing Information to Clients at the Conclusion of Their Involvement with the Court

Whilst FCoA sees merit in providing information to clients as they conclude their involvement with the court system, the ANAO report appears to envisage that this go beyond providing information sheets to encompass the provision of post order counselling or advising clients about the meaning of orders made etc. There is currently provision in the Act for the Court to assist parties with parenting orders relating to contact where a judge decides this assistance to be necessary. Extending this to a more general arrangement of the type envisaged by the ANAO would entail significant issues for the Court, including resources which are currently not available. What clients really need after a parenting order which has been determined by a judge is external ongoing assistance to help them manage their responsibilities.

Chapter 3: Coordination Between Courts

Recommendation No 5 (Para 3.26):

‘The ANAO recommends that both the FCoA and FMC identify examples of better practice in coordination within court registries, and systematically apply these practices across all registries.’

FCoA Response: **Agreed.**

Further Comments

FCoA acknowledges the need for ongoing efforts to systematically identify examples of better practice that may be adopted and applied across the system.

There are various mechanisms for coordination which are regularly used by FCoA and FMC. For example, external meetings with the Chief Justice’s Consultative Committee, which is held quarterly involves the FMC. This is an

important high level system-wide group, providing a mechanism for input and discussion on key issues at the most senior levels.

FCoA has adopted the practice of inviting FMC to be involved in major projects that have the potential to affect that Court. This is now a routine feature of our method of operation.

For example, in 2000, FCoA had identified in its Future Directions Report the need for a complete revision of the Family Law Rules which had been initially drafted in 1984 and amended over the years. This was consistent with reviews being conducted by other Superior courts in Australia (particularly the state courts of Queensland—Uniform Civil Procedure Rules) and overseas. Rules Revision was seen as a critical client service improvement. It encompassed issues around improved case management and access to justice, with the need for the rules of the court to be in modern language, with clearer structure and revised forms.

As noted elsewhere in this response, other day to day mechanisms for consultation are also in place and in particular the FMC Coordinator of Court Services now attends most key operational management meetings of FCoA Client Services Division as a full participating member.

Recommendation No 6 (Para 3.41):

‘The ANAO recommends that, in order to facilitate planning and assess and monitor ongoing cost-effectiveness, the FCoA and the FMC jointly develop an agreed model for calculating the cost of providing services to their clients.’

FCoA Response: **Agreed.**

Further Comments

Resource Planning Model (RPM)

FCoA’s Resource Planning Model (RPM) is its mechanism for assessing the time requirements / cost of various core activities and aggregating them (based on projected activity levels in the forecast period) to provide a model which assists in estimating resource requirements at registries and allocating available funding accordingly.

Influence of FMC over Resourcing of Registries (para 3.34 et seq)

Just as no distinction is drawn between FMC clients and those of FCoA for the purposes of delivering registry services, equally, no distinction is made between them for the purposes of the RPM (to the extent that they share common processing stages).

It is felt therefore, that the ANAO assertion that the '*FMC has very limited influence over registry resourcing*' misses the point to the extent that the same formula (and the same activity weighting) is used for calculating resourcing requirements whether the clients giving rise to those activities belong to FCoA or to FMC.

The extent to which FCoA provides services to the FMC is ultimately governed by the MOU, and in practice, FCoA is itself resource limited. It has no capability to provide resourcing or services beyond that negotiated in the MOU.

Recommendation No 7 (Para 3.62):

'The ANAO recommends, that in order to better assist family law clients in making more informed filing decisions, the FCoA and the FMC jointly develop and publish family law information for clients.'

FCoA Response: **Agreed.**

Further Comments

As noted above, FMC and FCoA are already collaborating on the development of joint information for family law clients. Examples of initiatives completed or presently under way include:

- Marriage, Families and Separation brochure (currently being rewritten in a joint development).
- Family Court book. It will in future be known as the Family Law Book and provide information about the processes and procedures of both Courts, as well as information about other services available in the broader family law system.
- FMC has accepted an invitation to participate in the development of a new DVD based information product for clients of both courts.
- Development of new FCoA forms. FMC was fully involved in the development. FMC has implemented a new Divorce Kit based on the new FCoA Divorce Kit.
- Other products are also being reviewed for future joint redevelopment as they become due for replacement.

Recommendation No 8 (Para 3.79):

'The ANAO recommends that, in order to reduce confusion for clients and inefficiencies in court processes, the FCoA and the FMC investigate the possibilities for a common entry point into the family law system and the consequent distribution of workload to each court.'

FCoA Response: **Agreed.**

Further Comments

As previously noted (in the court's response to recommendation 1), FCoA strongly supports this recommendation, believing that the present arrangements run contrary to sound client service principles and to sound resource management principles.

It is essential that this concept (whilst tagged a 'common *entry point*') also extend to a some form of case management and case assignment system, under which decisions whether to assign a case to a judge or federal magistrate (should this become necessary) are made later in the case management cycle when enough is known about the cases to make objective decisions.

As noted elsewhere, the Court believes that the ANAO underestimates the difficulty of assessing the complexity of cases prior to or soon after filing. It believes that the common entry point mechanism is the only effective solution to this problem, as proposed in the Pathways Report.

Chapter 4: Primary Dispute Resolution

Recommendation No 9 (Para 4.29):

'The ANAO recommends that, in order to facilitate ongoing assessment and evaluation of their PDR services, the FCoA and FMC regularly:

- (a) obtain qualitative data on client satisfaction with their PDR services; and**
- (b) evaluate this data in conjunction with quantitative data on settlement rates to identify better practice and areas for improvement.'**

FCoA Response: **Agreed.**

Further Comments

As indicated elsewhere, FCoA will be conducting a client survey by the middle of this year to assess client satisfaction with this and other aspects of client service.

The Court is presently planning to commence the capture of settlement rates following all PDR events. Care needs to be taken in relying too much on quantitative measures as mediation events which do not fully resolve a matter never the less frequently contribute to later settlements by reducing the gap in issues between parties.

Recommendation No 10 (Para 4.43):

‘The ANAO recommends that the FMC obtain performance information from CBOs, through regular monitoring and review activities, to provide itself and stakeholders alike with data on the quality of CBO PDR services, or to identify any deficiencies with PDR services.’

FCoA Response: **No response.**

Further Comments

This is an FMC matter.

Recommendation No 11 (Para 4.55):

‘The ANAO recommends that the FCoA and FMC conduct evaluations of their PDR services on a regular basis, in order to provide information that will allow the courts to continuously assess and improve their PDR services.’

FCoA Response: **Agreed.**

Further Comments

FCoA will be undertaking a client survey this year. It is developing strategies for ongoing regular qualitative evaluation which amongst other things will allow the FCoA to report against its PBS targets for satisfaction in the resolution process.

Para 4.61 mentions perceived shortcomings in services to rural and regional clients in relation to access to PDR services, specifically mentioning lack of circuits to central and western Queensland. This is not entirely the case as there are PDR circuits to Mt Isa. More importantly it needs to be borne in mind that the FCoA tries to achieve a balance in the level of circuits services provided based on demand and capacity to respond to that demand. There is an opportunity cost associated with every circuit, which consumes resources that are also needed at other locations.

FMC

The FMC provided the following response to the audit report.

The ANAO performance audit of the Family Court and the Federal Magistrates Court has been conducted in the fourth year of operation of the Federal Magistrates Court. The audit relates to a part of the Federal Magistrates Court's work that part of the work of the court that is co-extensive with the work of the Family Court.

The performance audit is a study of a system that is in transition. The Federal Magistrates Court has not yet developed its full capacity to handle the less complex family law work and the family court has greater capacity than would be required for the work that is more complex. It will be some years before that structural imbalance in the system is rectified. The capacity of the court to develop in the manner suggested by some of the ANAO's recommendations has been limited by the absence of sufficient resources or the need to allocate resources to investment of higher priority.

The Federal Magistrates Court was established with the intention that it not operate in the same manner as the Family Court. It is established as an independent federal court. Each of the federal courts is independent of each other and the executive. The thrust of the ANAO report appears to be that the courts should work to minimise any differences in their procedures and operations. The court considers that while there can be benefits from minimising unnecessary differences in procedures it cannot be assumed that there will always be a consumer benefit from the removal of differences. This is well stated in the Attorney-General's Department's Justice System Strategy paper, where it is said,

Harmonisation should not occur at the expense of flexibility. The reduction of unnecessary differences between the procedures of different courts should not be at the expense of those differences that are of benefit to users of court services, particularly where lower level courts may have simpler procedures specifically designed for less complex proceedings. (page 67)

The government decided that the majority of the client services delivered by the court, primarily through court registries, would be delivered for the Federal Magistrates Court by the Family Court. There was an assumption implicit in that decision that the resources of the Family Court would be available to promote the intention of the new arrangements. The two courts are working together to achieve the government's intention. However, the two courts do not have an absolute flexibility to move resources between each other and resources appropriated to the Family Court are not always available for the purposes of the Federal Magistrates Court. The ANAO report appears

to assume that there is a complete freedom to shift resources between the two agencies.

The ANAO has approached the performance audit on the basis that its focus of consideration is limited to three aspects of the court's administrative activity and that it will not consider or comment on the resource impacts of its conclusions. The performance audit does not touch on the primary function of federal courts - the determination of disputes according to law. Accordingly, the discussion and recommendations reflect the ANAO's view of the priorities and management decisions that ANAO might make if it were administering the court without other obligations or priorities and without resource restraints. That limitation of approach necessarily limits the utility of the report and its recommendations.

The Federal Magistrates Court response to each of the recommendations made by ANAO is:

Recommendation 1

The Federal Magistrates Court agrees that quality of service delivery will be improved through an understanding of the needs of different client groups and that some quantitative and qualitative analysis should be planned to collect information. The court has undertaken a major project — 'Day in the Life' — to collect information about the service needs of the key group of litigants who do not have legal representation. The court will, subject to the availability of resources, work with the Family Court to obtain and analyse additional information about other groups of court users.

Recommendation 2

No comment. This recommendation does not relate to the Federal Magistrates Court, although the court notes, in relation to recommendation 2(c) that there is a protocol with the Family Court for complaints about matters affecting the operations of the Federal Magistrates Court to be referred to it.

Recommendation 3

The Federal Magistrates Court agrees that the effectiveness of monitoring and reporting systems should be the subject of regular review. The court will seek to have enhanced reporting standards included in the memorandum of understanding between the two courts.

Recommendation 4

The Federal Magistrates Court and the Family Court of Australia work closely on technology issues, including those mentioned by the ANAO.

The Federal Magistrates Court agrees that some public information could be provided jointly. It is, for example, working with the Family Court on the production of a joint DVD and VHS information product. Similarly, the two

courts have cooperated in the production of similar documentation for many application types, including common applications such as divorce.

The court will consider the ANAO's proposals in relation to provision of information to litigants. It is noted that the implementation of those recommendations, if considered appropriate, could require the provision of additional resources.

Recommendation 5

The Federal Magistrates Court agrees that examples of better practice in the coordination of the work of the court and local registries should be implemented, when practical, across the organisation. The court will formalise the collection of information about coordination with local registries through its Court Services Committee.

Recommendation 6

The Federal Magistrates Court agrees with this recommendation. The court has published a broad indication of cost effectiveness in its most recent annual report, which indicates that, based on direct appropriations and estimates by the Family Court and Federal Court of the resources they provide free of charge, the Federal Magistrates Court consumed approximately 12% of the total resources available to the federal courts. At the same time, the court does more than 40% of family law children's and property applications, most divorce work and a substantial number of general federal law matters (e.g. more than 50% of migration matters).

A substantial proportion of the cost of providing services to Federal Magistrates Court clients is currently contained within the appropriations of the other federal courts. The court is therefore reliant on information from those courts to progress this recommendation. However, the Federal Justice System Strategy Discussion Paper issued by the Attorney-General on 27 February 2004 includes a recommendation that the courts implement mechanisms that ensure that shared services adequately meet the needs of all the courts for which they are provided, and identifying the cost of services may be an element of that process. The court is currently considering that recommendation.

Recommendation 7

The Federal Magistrates Court agrees with this recommendation. The courts are working together on the development of a joint information product to be provided in DVD and VHS formats.

Recommendation 8

The Federal Magistrates Court notes that this recommendation is similar to a recommendation of the Federal Justice System Strategy Discussion Paper. The

question of the establishment of common entry points for the federal judicial system is a matter to be considered by the federal courts and the government in the context of consideration of that report's recommendations.

Recommendation 9

The Federal Magistrates Court is currently conducting an evaluation of PDR services. The court will give further consideration to the means by which additional information about satisfaction with the services delivered by PDR providers can be collected.

Recommendation 10

The Federal Magistrates Court does not agree with this recommendation. The court considers that the requirement that contracted organisations satisfy the quality framework and approval requirements of the much larger Department of Family and Community Services' program and the conduct of an independent evaluation of the court's program provide appropriate risk mitigation strategies for a program of this size. The court notes the separate role of the National Alternative Dispute Resolution Advisory Council in establishing quality standards for primary dispute resolution.

Recommendation 11

The Federal Magistrates Court agrees with this recommendation. The court is currently undertaking such an evaluation in conjunction with an Australian university.

Appendix 2: Stakeholders who contributed to the audit

Aboriginal and Torres Strait Islander Services

Aboriginal and Torres Strait Islander Women's Legal Service

Anglicare Hobart

Anglicare Launceston

Attorney-General's Department

Australian Institute of Family Studies

Australian Law Reform Commission

Centacare

Department of Family and Community Services

Department of Immigration and Multicultural and Indigenous Affairs

Family Mediation Centre

Federation of Ethnic Communities' Councils of Australia

Indigenous Family Consultants

Law Council of Australia

Law Institute of Victoria

Law Society of the Australian Capital Territory

Legal Aid Queensland

Lone Fathers Association

National Alternative Dispute Resolution Council

National Legal Aid

National Network of Women's Legal Services

Relationships Australia Hobart

Relationships Australia Queensland

Relationships Australia Victoria

Toowoomba Community Legal Service

Women's Legal Resources Centre

Note: Some stakeholders made multiple submissions, or met with the ANAO on more than one occasion.

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