



# Structural reform of the federal courts

## Fact Sheet 1 – Overview of reforms

10 December 2018

In early 2019, the Family Court of Australia (Family Court) and the Federal Circuit Court of Australia (FCC) will be brought together to be known as the Federal Circuit and Family Court of Australia (FCFC). A new Family Law Appeal Division (FLAD) in the Federal Court of Australia (Federal Court) will also be established to hear all appeals in family law matters from the FCFC and appeals from the Family Court of Western Australia.

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

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

### ***Structure of the FCFC***

The FCFC will comprise two Divisions. The FCFC Division 1 will be a continuation of the Family Court and comprise the existing judges of the Family Court, and the FCFC Division 2 will be a continuation of the FCC and comprise the existing judges of the FCC.

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

### ***Operation of the FCFC in family law matters***

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

The FCFC will operate under the leadership of one Chief Justice with the support of one Deputy Chief Justice, who will each hold a dual commission to both Divisions of the FCFC. The appointment of a single Chief Justice and Deputy Chief Justice allows for the implementation of common rules of court, practice and procedure and approach to case management, and will result in a more efficient and consistent handling of family law matters.

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

### ***Handling of appeals***

A fundamental change in establishing the FCFC will be the removal of a substantial part of the appellate jurisdiction of the Family Court, allowing considerable judicial resources currently used to hear appeals to focus on hearing first instance family law matters. This will contribute to the FCFC being able to hear more matters each year, reduce the backlog in first instance family law matters and contribute to reducing median case waiting times.

The FCFC will retain jurisdiction to hear appeals on family law matters from State and Territory courts of summary jurisdiction. This appellate jurisdiction will be extended to both Divisions of the FCFC.

All family law appeals from the FCFC (and appeals in federal family law matters from the Family Court of Western Australia) will be heard by the new FLAD of the Federal Court. There will be no changes to the rights to appeal as currently provided for under the *Family Law Act 1975*.

### ***Timing of reforms***

The Government passed legislation through the House of Representatives in the Spring Parliamentary sittings. Subject to the passage of legislation through the Senate, the FCFC and the FLAD will commence operation in early 2019.

Initially, the Federal Court and both Divisions of the FCFC will maintain their existing court rules. Following consultation with the judiciary, legal profession and other stakeholders, the FCFC will review and rewrite existing court rules with a view to achieving consistency in forms, procedures, administrative matters and practice directions.

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

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