

# Appendix 10

## Annual performance statement

### *Introductory statement*

I, Sia Lagos, as the accountable authority of the Federal Court of Australia, present the 2019–20 annual performance statements for the entity, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



**Sia Lagos**

Chief Executive Officer and Principal Registrar  
Federal Court of Australia

## Outcome 1

### Program 1.1: Federal Court of Australia

Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.

## Outcome 2

### Program 2.1: Family Court of Australia

Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court.

## Outcome 3

### Program 3.1: Federal Circuit Court of Australia

Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.

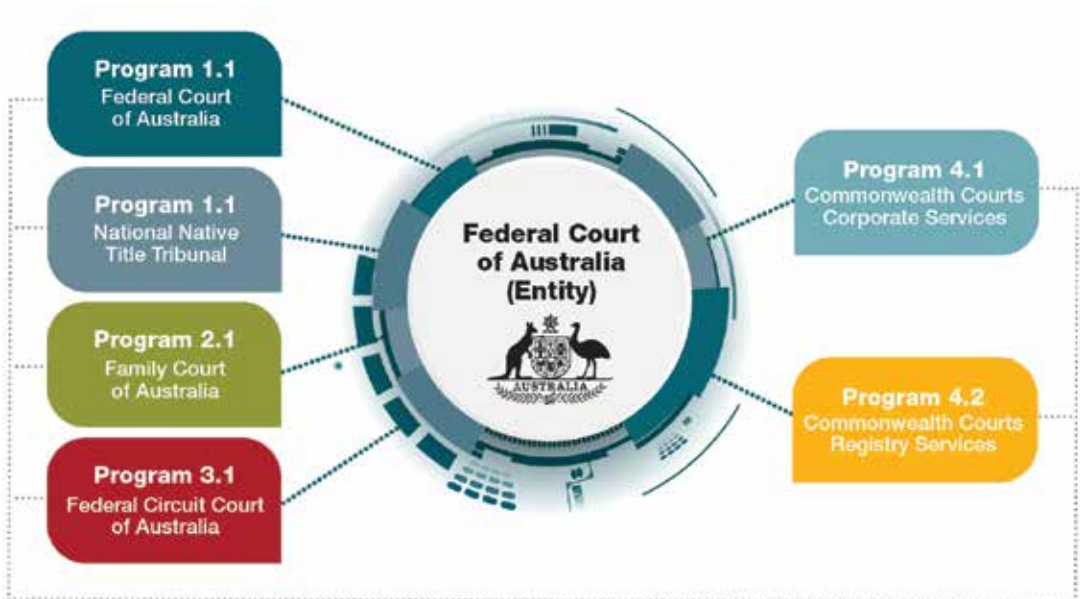
## Outcome 4

### Program 4.1: Commonwealth Courts Corporate Services

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.

### Program 4.2: Commonwealth Courts Registry Services

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.



# Federal Court of Australia

The relationship between the Federal Court's Portfolio Budget Statements, corporate plan and annual performance statement

	OUTCOME 1	OUTCOME 2	OUTCOME 3	OUTCOME 4
<b>Portfolio Budget Statements</b>	Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.	Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court.	Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.	Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.
	↓	↓	↓	↓
	<b>Program 1.1</b> Federal Court of Australia	<b>Program 2.1</b> Family Court of Australia	<b>Program 3.1</b> Federal Circuit Court of Australia	<b>Program 4.1</b> Commonwealth Courts Corporate Service
	↓	↓	↓	↓
	<b>Timely completion of cases</b> 85% of cases completed within 18 months of commencement Judgments to be delivered within three months	<b>Timely completion of cases</b> Clearance rate of 100% 75% of judgments to be delivered within three months 75% of cases pending conclusion to be less than 12 months old	<b>Timely completion of cases</b> 90% of final order applications disposed of within 12 months 90% of all other applications disposed of within six months 70% of matters resolved prior to trial	<b>Correct information</b> Less than 1% of enquiries result in a complaint about registry services. <b>Timely processing of documents</b> 75% of documents processed within three working days. 90% of documents processed within five working days.
				<b>Efficient registry services</b> All registry services provided within the agreed funding and staffing level.

## OUTCOME 1

## OUTCOME 2

## OUTCOME 3

## OUTCOME 4

Corporate  
Plan purpose

Decide disputes according to the law as quickly, inexpensively and efficiently as possible



Help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively



Provide timely access to justice and resolve disputes in an efficient and cost effective manner, using appropriate dispute resolution processes.



Provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal



Provide efficient and effective registry services to the Commonwealth courts and tribunals

Annual  
performance  
statement

**Analysis of performance**  
Federal Court 2019–20 annual report: pages 15–38; 40–68; 70–80; and 193–198.



**Analysis of performance**  
Federal Court 2019–20 annual report: pages 193–198.  
Family Court 2019–20 annual report: pages 16–39



**Analysis of performance**  
Federal Court 2019–20 annual report: pages 193–198.  
Federal Circuit Court 2019–20 annual report: pages 23–57



**Analysis of performance**  
Federal Court 2019–20 annual report: pages 40–59; and 193–198.



**Analysis of performance**  
Federal Court 2019–20 annual report: pages 59–68; and 193–198.

## OUTCOME 1

### Program 1.1:

# Federal Court of Australia

#### Purpose

Decide disputes according to the law as quickly, inexpensively and efficiently as possible.

#### Delivery

- Exercising the jurisdiction of the Federal Court of Australia.
- Supporting the operations of the National Native Title Tribunal.

#### Performance criterion

##### Timely completion of cases

- 85 per cent of cases completed within 18 months of commencement.
- Judgments to be delivered within three months.

#### Criterion source

- Table 2.1.3: Performance criteria for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

#### Results

TIMELY COMPLETION OF CASES		
Target	Result 2019–20	Target status
85 per cent of cases completed within 18 months of commencement	93 per cent of cases were completed within 18 months of commencement	TARGET MET
Judgments to be delivered within three months	77 per cent of judgments were delivered in three months	TARGET MET

#### Analysis

The Court met both targets in relation to timely completion of cases:

- **85 per cent of cases completed within 18 months of commencement**

The Court disposed of 93 per cent of cases within 18 months of commencement. This figure

includes appeals and related actions and excludes native title cases. This is well above the target rate of 85 per cent.

- **Judgments to be delivered within three months**

The Court has a goal of delivering reserved judgments within a period of three months. Success in meeting this goal depends upon the complexity of the case and the pressure of other business upon the Court.

During 2019–20, the Court handed down 2,313 judgments for 2,158 court files (some files involve more than one judgment being delivered, e.g. interlocutory decisions and sometimes, one judgment will cover multiple files).

This is an increase of 46 judgments from last financial year. The data indicates that 77 per cent of appeals (both full court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved.

Significant decreases in filings in 2019–20 were experienced in company winding up applications dealt with by registrars of the Court and appeals from the Federal Circuit Court.

On 25 March 2020, the Commonwealth government introduced changes to corporate insolvency and bankruptcy legislation to provide relief to companies and individuals affected by the COVID-19 pandemic, with the introduction of the *Coronavirus Economic Response Package Omnibus Act 2020* (Cth).

The six months relief provided by these amendments included changes to the threshold amounts for the issue of statutory demands and bankruptcy notices to \$20,000 up from \$2,000 and \$5,000 respectively, and an increase in the time to respond to a statutory demand or a bankruptcy notice from 21 days to six months. These amendments have had a direct impact on filings in corporate insolvency and bankruptcy and specifically the workload of registrars through this period.

While filings decreased gradually for the first three quarters of the 2019–20 financial year, the onset of COVID-19 in the final quarter caused a more significant decrease in overall filings.

A detailed analysis on the performance of the Federal Court can be found in Part 3 (*Report on Court performance*) and Appendix 5 (*Workload statistics*) of this report.

## OUTCOME 2

### Program 2.1: Family Court of Australia

#### Purpose

To help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively.

#### Delivery

- Exercising the jurisdiction of the Family Court of Australia.

The Family Court of Australia is a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2019–20 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2019–2020*.

#### Performance criterion

##### Timely completion of cases

- Clearance rate of 100 per cent
- 75 per cent of judgments to be delivered within three months
- 75 per cent of cases pending conclusion to be less than 12 months old.

#### Criterion source

- Table 2.2.2: Performance criteria for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

#### Results

##### TIMELY COMPLETION OF CASES

Target	Result 2019–20	Target status
Clearance rate of 100 per cent	The clearance rate was 99 per cent	TARGET NOT MET
75 per cent of judgments to be delivered within three months	83 per cent of judgments were delivered within three months	TARGET MET

##### TIMELY COMPLETION OF CASES

Target	Result 2019–20	Target status
75 per cent of cases pending conclusion to be less than 12 months old	65 per cent of cases pending conclusion were less than 12 months old	TARGET NOT MET

#### Analysis

While the COVID-19 pandemic evolved largely in the last quarter of the 2019–20 financial year, its impact on the operations of the Family Court was significant.

There was a period of significant upheaval and adjustment at the end of March and beginning of April, during which the Court shifted to electronic hearings. This required substantial effort, reorganisation, training and administrative work on the part of judges and staff.

Despite this, there are certain hearings, such as trials in particularly complicated matters, that could not proceed. This is due to the inherent nature of conducting proceedings electronically, including the unpredictability of the technology and internet connection of the parties and witnesses, the added difficulties for some unrepresented litigants or those parties requiring interpreters, the impact of stay-at-home restrictions and the additional time consumed to conduct an electronic hearing compared to a face-to-face hearing. These effects will continue to be felt into the 2020–21 financial year.

The Court used its best endeavours to continue finalising as many cases as possible, and, to the credit of judges and staff, has maintained a clearance rate of 99 per cent across all applications. It is noted that, but for the impacts of the COVID-19 pandemic, the Court is likely to have met the 100 per cent clearance rate target. The Court received a 7 per cent increase in the number of Final Order Applications filed, an 8.2 per cent increase in the number of Applications in a Case filed, and a 7.5 per cent increase in the number of Applications for Consent Orders filed during 2019–20 compared to 2018–19.

The Court aims to deliver 75 per cent of reserved judgments within three months of completion of a trial. In 2019–20, 83 per cent of the 939 reserved original jurisdiction judgments (excluding judgments on appeal cases) were delivered within that timeframe.

The Court aims to have more than 75 per cent of its pending applications less than 12 months old. At 30 June 2020, 65 per cent of pending applications were less than 12 months old, an improvement compared with 62 per cent at 30 June 2019.

The Court regularly reviews its oldest cases to better understand the causes of their delay and to determine ways in which older cases can be managed. In February and March 2020, the Court was undertaking the Summer Campaign to clear aging pending final order applications nationally across the Court through referrals to both internal and external ADR, including where appropriate, family dispute resolution (FDR) with both a registrar and family consultant. This was successful in resolving a number of matters, however the Summer Campaign was postponed after completion in only two registries due to COVID-19.

A detailed analysis on the performance of the Family Court of Australia can be found in Part 3 (*Report on Court performance*) of the Family Court of Australia's 2019–20 Annual Report.

## OUTCOME 3

### Program 3.1: Federal Circuit Court of Australia

#### Purpose

To assist with the effective resolution of disputes using streamlined procedures and appropriate dispute resolution processes to resolve matters as efficiently and cost effectively as possible.

#### Delivery

- Exercising the jurisdiction of the Federal Circuit Court of Australia.

The Federal Circuit Court of Australia remains a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2019–20 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court Corporate Plan 2019–2020*.

#### Performance criterion

##### Timely completion of cases

- 90 per cent of final order applications disposed of within 12 months.
- 90 per cent of all other applications disposed of within six months.
- 70 per cent of matters resolved prior to trial.

##### Criterion source

- Table 2.3.2: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

#### Results

TIMELY COMPLETION OF CASES		
Target	Result 2019–20	Target status
90 per cent of final order applications disposed of within 12 months	62 per cent of final order applications were disposed of within 12 months	TARGET NOT MET
90 per cent of all other applications disposed of within six months	89 per cent of all other applications were disposed of within six months	TARGET NOT MET
70 per cent of matters resolved prior to trial	73 per cent of matters were resolved prior to trial	TARGET MET

#### Analysis

In 2019–20, the Federal Circuit Court achieved one target under timely completion of cases and was unable to achieve two. The first target includes disposals of final order applications filed in family law, as well as applications filed in general federal law and migration.

It is noted in this financial year, the Notice of Risk cause of action has not been included in consideration of the results of the second target as the Notice of Risk is not an application type. Previously in the 2017–18 and 2018–19 Annual Reports, the Notice of Risk cause of action was included in this target.

The impact of the COVID-19 pandemic on the Court's operations in 2019–20 can be detected in the performance statistics. While the Court has been able to continue with the majority of its workload, there are certain categories of work that have not been able to be conducted electronically at the usual rate they would be undertaken, for example trials for final orders applications. Some trials have needed to be temporarily adjourned when parties do not have access to technology or a satisfactory internet connection, or when there are difficulties arising from access to an interpreter or other procedural fairness issues.

Additionally, there was a period of significant upheaval and adjustment at the end of March and beginning of April, during which the Court shifted to electronic hearings. This required substantial effort, reorganisation, training and administrative work on the part of judges and staff, which accounts for the slightly lower number of applications finalised overall during this financial year compared to the previous financial year (90,666 compared to 91,794).

A detailed analysis on the performance of the Federal Circuit Court can be found in Part 3 of the *Federal Circuit Court of Australia's 2019–20 Annual Report*.

## OUTCOME 4

### Program 4.1: Commonwealth Courts Corporate Services

#### *Purpose*

To provide efficient and effective corporate services to the Commonwealth Courts and the National Native Title Tribunal.

#### *Delivery*

Providing efficient and effective corporate services for the Commonwealth Courts and the National Native Title Tribunal.

#### *Performance criterion*

##### **Efficient and effective corporate services**

- Corporate services to be provided within the agreed funding.

#### *Criterion source*

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

#### *Results*

##### **EFFICIENT AND EFFECTIVE CORPORATE SERVICES**

Target	Result 2019–20	Target status
Corporate services to be provided within the agreed funding	This target has been achieved	TARGET MET

#### *Analysis*

The key outcome measure for Corporate Services is improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal, through efficient and effective provision of shared corporate services.

The intent behind the creation, in 2016, of Corporate Services, was to deliver short-term savings and place the Courts on a sustainable funding footing over the longer term, ensuring they are better placed to deliver services to litigants. The ability of Corporate Services to meet budget and projected average staffing numbers are the metrics that will be used to measure performance.

During 2019–20, the work of corporate services continued to focus on supporting the evolving needs of judges and staff across all the courts and tribunals, while delivering on required efficiencies to meet reduced appropriations.

As expected, a key focus was in the delivery of solutions to support the work of the Courts and Tribunal in response to the COVID-19 pandemic, effectively and quickly moving the business of the Courts to an online model. This involved upgrading the Courts' existing video conferencing platform to provide assurance around its capacity to continue to deliver the majority of its hearings online for the foreseeable future.

Investment in IT security was increased and



various measures were implemented to enhance the protection of Court information and assets by reducing IT security risks and improving general IT security maturity levels.

A key achievement during the reporting period was the delivery of the digital court file in family law, allowing the Courts to create and access all court files electronically from any location around the country.

A detailed analysis on the performance of Corporate Services can be found in Part 4 (*Management and accountability*).

## OUTCOME 4

### Program 4.2: Commonwealth Courts Registry Services

#### Purpose

To provide efficient and effective registry services to the Commonwealth Courts and tribunals.

#### Delivery

Providing efficient and effective registry services for the Commonwealth Courts and tribunals.

#### Performance criterion

##### Correct information

- Less than 1 per cent of enquiries result in a complaint about registry services.

##### Timely processing of documents

- 75 per cent of documents processed within three working days.
- 90 per cent of documents processed within five working days.

##### Efficient registry services

- All registry services provided within the agreed funding and staffing level.

#### Criterion source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

## Results

CORRECT INFORMATION		
Target	Result 2019–20	Target status
Less than 1 per cent of enquiries result in a complaint about registry services.	.004 per cent of enquiries resulted in a complaint about registry services.	TARGET MET
TIMELY PROCESSING OF DOCUMENTS		
75 per cent of documents processed within three working days	97.8 per cent of documents were processed within three working days	TARGET MET
90 per cent of documents processed within five working days	98.4 per cent of documents were processed within five working days	TARGET MET
EFFICIENT REGISTRY SERVICES		
All registry services provided within the agreed funding and staffing level	All registry services were provided within the agreed funding and staffing levels.	TARGET MET

## Analysis

From 2019–20, the registry services functions for the Federal Court, Family Court and the Federal Circuit Court have been amalgamated into a separate program under Outcome 4: Program 4.2 Commonwealth Courts Registry Services. This initiative will provide the Courts with the opportunity to shape the delivery of administrative services across all federal courts in a more innovative and efficient manner. A focus on maximising registry operational effectiveness through streamlined structures and digital innovations will significantly contribute to the future financial sustainability of the Courts.

In 2019–20, Registry Services performed within its overall budgeted allocation of \$30,445,000 by 3 per cent, primarily due to COVID19 related savings in supplier expenditure.

Registries receive and process applications lodged at registry counters, via eFiling and in the mail. Registry Services staff processed

approximately 860,000 applications and supplementary documents in 2019–20.

Overall, family law filings have remained relatively consistent in volume for 2019–20. However, high volume, resource demanding applications such as applications for consent orders and divorce applications have increased by 7 per cent (14,908) and 3 per cent (45,886) respectively. Subpoena management, including the filing of subpoenas, notices of request to inspect and notices of objection, has decreased by 6 per cent (from 89,187 in 2018–19 to 81,444 in 2019–20). Major causes of action in federal law have decreased overall by 8 per cent in 2019–20.

Staff working on the counters in both federal law and family law registries handle general enquiries, lodge documents relating to proceedings, provide copies of documents and/or orders and facilitate the viewing of court files and subpoenas. Registry Services staff provide an efficient and effective service when dealing with litigants in person and the legal profession face-to-face at counters across Australia.

Approximately 835,000 enquiries are made to the Courts and tribunals each year, with almost half of these enquires being handled by the National Enquiry Centre. A 28 per cent decrease in counter enquiries compared to 2019–20 was expected given the face-to-face restrictions resulting from COVID-19.

There were a total of 38 complaints in relation to Registry Services during 2019–20. The number of complaints is relatively small, being less than .005 per cent of the total number of enquiries and significantly less than the performance target of 1 per cent.