

# Appendix 10

## Annual Performance Statement

I, Sia Lagos, as the accountable authority of the Federal Court of Australia, present the 2020–21 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.

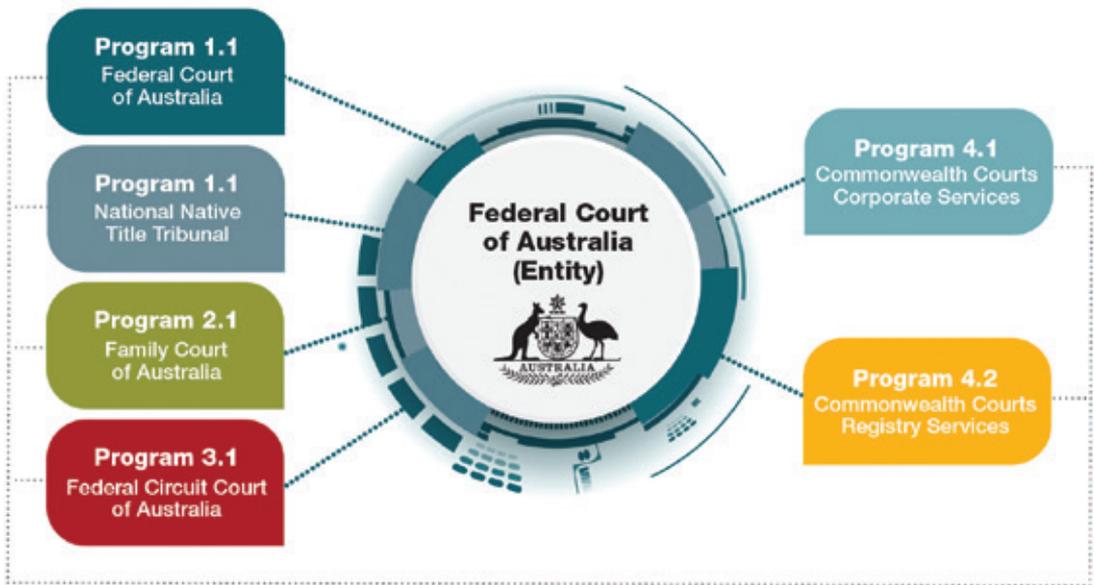
## Outcome 4

### 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 Services	<b>Program 4.2</b> Commonwealth Courts Registry Services
	↓	↓	↓	↓	↓
	<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>Efficient and effective corporate services</b> Corporate services to be provided within the agreed funding	<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. <b>Efficient registry services</b> All registry services provided within the agreed funding and staffing level.

	OUTCOME 1	OUTCOME 2	OUTCOME 3	OUTCOME 4
<b>Corporate Plan purpose</b>	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 a simple and accessible alternative to litigation in the Family Court and Federal Court	Provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal
<b>Annual performance statement</b>	<b>Analysis of performance</b> Federal Court annual report: Chapter 3; Chapter 4 and Appendix 10	<b>Analysis of performance</b> Federal Court annual report: Appendix 10 Family Court annual report: Chapter 3	<b>Analysis of performance</b> Federal Court annual report: Appendix 10 Federal Circuit Court annual report: Chapter 3	<b>Analysis of performance</b> Federal Court annual report: Chapter 4 and Appendix 10

## 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 2020–21*.
- *Federal Court of Australia Corporate Plan 2020–21*.

### Results

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2020–21	TARGET STATUS
85% of cases completed within 18 months of commencement	82.3 per cent of cases were completed within 18 months of commencement	Not met
Judgments to be delivered within three months	84.3 per cent of judgments were delivered within three months	Met

### Analysis

During the reporting year, the Court completed 82.3 per cent of cases in less than 18 months. As shown in Figure A5.5 and Table A5.5 in Appendix 5, in the previous four years, the Court consistently exceeded its benchmark of 85 per cent, with the average over the five years being 90.38 per cent. A key factor contributing to the Court not achieving the benchmark this year was that a number of complex matters required face-to-face hearings that could not be conducted as a result of significant periods of restrictions imposed by Government in response to COVID-19.

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 other issues affecting the Court.

During 2020–21, the Court handed down 1,906 judgments for 1,656 court matters (some matters involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple matters). The data indicates that 73.5 per cent of appeals (both Full Court and single judge) were delivered within three months and 84.3 per cent of judgments at first instance were delivered within three months of the matter being reserved.

## 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 2020–2021.

### Performance criterion

#### Timely completion of cases

- 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.

### Criterion source

- Table 2.2.2: Performance criteria for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2020–21*.
- *Federal Court of Australia Corporate Plan 2020–2021*.

### Results

#### TIMELY COMPLETION OF CASES

TARGET	RESULT 2020–21	TARGET STATUS
Clearance rate of 100 per cent	The clearance rate was 96 per cent	Not met
75 per cent of judgments to be delivered within three months	83 per cent of judgments were delivered within three months	Met
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	Not met

### Analysis

While the COVID-19 pandemic evolved largely in the last quarter of the 2019–20 financial year, it continued to have a significant impact on the operations of the Family Court as recorded in this Annual Report for the entirety of the 2020–21 financial year.

The Court has 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 96 per cent across all applications.

Despite this, there are certain hearings, such as final hearings in particularly complicated matters that have not been able to 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.

In 2020–21, the Family Court achieved one target under timely completion of cases and was unable to achieve two. However 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 1.2 per cent increase in the number of Applications for Final Orders filed, a 4.6 per cent increase in the number of Applications in a Case filed and a 7.4 per cent increase in the number of Applications for Consent Orders filed during 2020–21 compared to 2019–20.

## 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 2020–21 Federal Court of Australia Portfolio Budget Statements and in the Federal Court Corporate Plan 2020–2021.

### Performance criterion

#### *Timely completion of cases*

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

### Criterion source

- Table 2.3.2: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2020–21*.
- *Federal Court of Australia Corporate Plan 2020–2021*.

### Results

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2020–21	TARGET STATUS
90 per cent of final orders applications disposed of within 12 months	59 per cent of final orders applications were disposed of within 12 months	Not met
90 per cent of all other applications disposed of within six months	96 per cent of all other applications were disposed of within six months	Met
70 per cent of matters resolved prior to trial	80 per cent of matters were resolved prior to trial	Met

### Analysis

The Court was responding to the COVID-19 pandemic and associated changes to public health directions and restrictions for the entirety of the 2020–21 financial year. This has had a significant impact on the Court's ability to plan ahead and efficiently manage the work of the Court, and has required judges and staff to be flexible and adapt to changes to the way all aspects of the Court's work are conducted in very short periods of time. Despite this, the Court maintained an impressive clearance rate for applications for final orders in family law of 96 per cent.

While the Court has been able to continue with the majority of its workload during the pandemic and has maintained a high clearance rate, 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 if parties do not have access to technology or a satisfactory internet connection, or where there are difficulties arising from access to an interpreter or other procedural fairness issues. It is also accepted that conducting high volume lists and hearings electronically can be more time consuming, so while judges, registrars and

staff have been working diligently, the volume of matters undertaken has been slightly lower than it otherwise would have been.

The first target includes disposals of final order applications filed in family law, as well as applications filed in general federal law and migration. The second target only includes disposals of other applications filed in family law, and does not include other applications filed in migration or general federal law, such as interlocutory applications.

High migration filings continues to have a substantial impact on the Court. The pending migration caseload has increased from 12,158 applications in 2019–20 to 14,445 applications in 2020–21. At 30 June 2021, the clearance rate for final order applications in family law was 96 per cent. For migration applications, it was 58 per cent. To put that in perspective, without further resources, on current filing rates, the pending migration caseload will surpass the pending family law caseload in less than two years.

### *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 2020–21*.
- *Federal Court of Australia Corporate Plan 2020–2021*.

#### Results

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

TARGET	RESULTS 2020–21	TARGET STATUS
Corporate services to be provided within the agreed funding	This target has been achieved	Met

#### Analysis

During 2020–21, the work of corporate services focused on supporting the evolving needs of judges and staff across all the Courts and Tribunal, while delivering on required efficiencies to meet reduced appropriations.

As expected, a key focus in 2020–21 was to continue the delivery of solutions to support the work of the Courts and Tribunal in response to the COVID-19 pandemic.

There was a continued focus on supporting the Courts to operate online. Further upgrades to video conferencing equipment supported the increased use of hybrid hearings undertaken throughout the year where a combination of in-court and remote technology was used to support court operations. Infrastructure and security upgrades were deployed to enhance the stability and security of the remote technology solutions to support judges' and staffs' capacity to work from home when required.

During this period, COVIDSafe plans were updated to ensure consistency with changing requirements across the country. Measures were undertaken to ensure compliance with required hygiene protocols across all locations to mitigate the risk of infection to staff and the public.

The People and Culture team developed additional support programs to assist staff over the year, particularly staff impacted by ongoing lockdowns. Resilience, mindfulness and wellbeing sessions have been offered to all staff and delivered regularly. This training has been extremely important in underpinning our response to the COVID-19 pandemic. The provision of Microsoft Teams-based sessions, utilising the services of an external facilitator, provided the platform to staff support and reinforced engagement.

Several significant property projects were commenced during the year, with completion expected in 2021–22.

### *Outcome 4: Program 4.2: Commonwealth Courts Registry 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**

##### *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.

##### *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 2020–21*.
- *Federal Court of Australia Corporate Plan 2020–2021*.

## Results

CORRECT INFORMATION		
TARGET	RESULT 2020–21	TARGET STATUS
Less than 1 per cent of enquiries result in a complaint about registry services	0.01 per cent of enquiries resulted in a complaint about registry services	Met
TIMELY PROCESSING OF DOCUMENTS		
75 per cent of documents processed within three working days	98.2 per cent of documents were processed within three working days	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	Met

### Analysis

Registry Services staff manage enquiries, document lodgments, subpoenas and safety plans. The number of safety plans activated in 2020–21 was 1,380 across all registry locations. Safety plans decreased by approximately 75 per cent in 2020–21 due to the suspension of face-to-face services in some registries affected by COVID-19 lockdowns and the subsequent move to a heavy reliance on electronic hearings for that period. Supporting the electronic hearings and additional registrar resources however, became a significant additional workload for registry services.

Throughout the year, although there were interruptions to in-person services due to state-based COVID-19 restrictions, Registry Services staff continued to process urgent enquiries and applications and provided support for difficult issues for a diverse range of clients with different needs both professionally and courteously. This included supporting vulnerable clients and ensuring people from non-English speaking backgrounds are suitably supported.

The COVID-19 pandemic has caused some significant shifts in workload. Overall, family law filings have remained relatively consistent in volume for 2020–21, however, high volume, resource demanding applications such as applications for consent orders and divorce applications have increased for a second year in a row, by 7.4 per cent (16,008) and 8 per cent (49,625) respectively. Major causes of action in federal law have decreased overall by 25 per cent in 2020–21.

After a 6 per cent decrease in 2019–20, the 2020–21 reporting year has seen a significant 26 per cent increase in subpoena management, including the filing of subpoenas, notices of request to inspect and notices of objection (103,075).

There were a total of 19 complaints in relation to Registry Services during 2019–20. The number of complaints is relatively small, being less than .001 per cent of the total number of enquiries and significantly less than the performance target of 1 per cent. Enquiries include phone, email and live chat actioned enquiries to the NEC.