



# The Federal Circuit and Family Court of Australia commenced in September 2021

**Date: Monday September 27, 2021**

From 1 September 2021, the Family Court of Australia and the Federal Circuit Court of Australia merged to become the Federal Circuit and Family Court of Australia (FCFCOA). In this blog, we look at how this merger impacts you and your family law matter.

The FCFCOA has stated that they wish the Court to be “innovative, fair and efficient and focus on risk, responsiveness and resolution”.

There is a new set of Rules and Regulations which focus on dispute resolution with an aim to resolve 90% of cases within 12 months. This is a significant goal to publish from the outset.

## A new pre-action requirement was implemented

To achieve their goal, the Court implemented a new pre-action requirement for both parties in a family law matter. A Genuine Steps Certificate must be filed. This document should demonstrate that attempts have been made to resolve any dispute prior to filing your matter with the Court.

There is a new pathway to follow, with more opportunities for [alternative dispute resolution](#) (where safe to do so), and if that is unsuitable or unsuccessful, trials will be listed much earlier than under the old system.

To achieve this, the Commonwealth Government has provided an additional \$100 million worth of funding. The Court has more Registrars and Senior Registrars with additional powers.

## The structure of the Federal and Family Court of Australia

With the merger of the two courts, there are harmonised rules, forms and case management. There is a single point of entry with two divisions.

All initiating applications are filed in Division 1 (Family Court of Australia). Appeals are filed in Division 2 (Federal Circuit Court). There are new court rules governing the new structures.

## **What impact will the Family Court merger have on me?**

For those families who have current applications before the Court, your application will remain under the “old system”.

In the new system, before an application can be filed with the Court, you must:

In [property matters](#), exchange a Notice of Intention to Commence Property Claim and explore options for settlement;

comply with your obligations of [disclosure](#); and

file a Genuine Steps Certificate setting out your attempts made to resolve your dispute prior to relying on the Court to determine your matter.

There are greater cost implications for parties and/or their lawyers who don't conduct matters in a manner consistent with the Court's overarching purpose. All lawyers and parties need to be aware of the frequency of filing costs notices and being upfront about costs incurred, and costs estimates moving forward.

If, in your application, you are seeking Interim Orders (as well as Final Orders), the Court will try and list the interim hearing on the same day as the first Court event. This means that rather than being a programming hearing, the Court will try and list an argument to determine the interim issues. For example, if you are seeking spousal maintenance, the Court will try and determine the application for spousal maintenance that day.

For urgent matters, for example, where there is a risk to a child, or urgent need to injunct sale proceeds of a house, the Court will also try and list those matters on that day.

As such, you need to be prepared on the first day with submissions for argument.

The use of electronic hearings will continue where appropriate. This provides for the list to be allocated outside of your region. For example, you may have your matter in Sydney heard by a Registrar in Brisbane.

## **New timelines designed to assist parties and progress matters faster**

The FCFOA is working towards a fixed timeline for matters to assist with meeting parties' expectations. These include:

The first Court event or listing will be between 6 - 8 weeks of filing an application;

Interim hearings (to be conducted by both Senior Registrars and Judges) will only be listed for two hours, and cross-examination will be limited and require leave (permission) of the Court;

Prior to any [Family Dispute Resolution \("FDR"\)](#), the parties will meet with a Court Child Expert (formerly known as Family Consultants) to prepare a Child Impact Report, to provide the child's voice to the matter and identify issues in dispute;

Within 5 months of the commencement of proceedings, the matter will progress to Dispute Resolution;

At 30 weeks post-filing date, the matter will be listed for a compliance and readiness hearing to determine each party's compliance with Family Dispute Resolution. This hearing will be conducted by a Judge who will not hear the matter if it proceeds to a final trial;

The matter will be listed for a trial management hearing where the Judge who is hearing the trial will make trial directions;

A trial will be listed within 12 months of filing, with an aim for judgment to be published within 3 months of that trial.

It is important to note the FCFCOA does not apply in Western Australia.

The Family Court of Western Australia still resolves disputes for matters filed in this Court. The FCFCOA applies to all other states and territories in Australia.

## Get help from a family lawyer

At Meillon & Bright, we are fully briefed on all the changes that came about due to the merger of the Family Courts and can assist you with any of your family law issues or disputes.

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*The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*