

Memo to all court staff February 5, 2021

UNCLASSIFIED

Dear Colleagues

I hope that you all had a relaxing and enjoyable break with your friends and family after what was a very difficult year.

Please see below updates for this week.

Face-to-face hearings and travel

As I noted in my email on 29 January 2021, we are starting to increase the number of face-to-face hearings where we are able to do so. Subject to any further outbreaks and changes to restrictions please give consideration to what trials, urgent applications and other low volume work can be heard face-to-face. High volume lists and most appeals will continue to be heard electronically. If there are appeals that do not require interstate travel they may start to be heard face-to-face if necessary.

Where matters are identified as being suitable for face-to-face hearings, please seek approval from your National Case Management Judge, Justice Hartnett or Judge Dunkley as relevant.

Intrastate travel for circuits is able to occur, please inform your local Case Management Judge if you intend to travel for a circuit. However, any travel by air is discouraged and approval is required from me.

Mask wearing in Court

Please note that fitted face coverings should be worn in all public corridors and waiting areas within the Court building and everyone in a courtroom must wear a mask, unless:

- The person concerned is an active participant in the proceedings namely the presiding judge, the associates or court officers, a practitioner who is responsible for presenting the case in court or a witness giving evidence.
- The person concerned has a valid exemption for not wearing a mask; or
- at the discretion of the presiding judge.

Retirement of the Honourable Justice Colin Forrest

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Justice Colin Forrest leaves the Court today after 10 years of dedicated service to the Family Court of Australia. I would like to sincerely thank his Honour for his extraordinary contribution to the Court and to the family law jurisdiction. I would wish his Honour a restful retirement, however I am sure that he will now spend his extra time continuing to upstage us by completing triathlons and marathons in his spare time. I have been reliably informed that his Honour now has Chambers at the Bar, and will by next week have a thriving practice in arbitration and mediation. I look forward to referring matters to him. Please join me in wishing him all the very best for his retirement.

Future Retirements

I have been informed over the break that Justices Jan Stevenson and Judy Ryan intend to retire this year. Jan will be retiring effective 21 May 2021 and Judy will be retiring by the end of July.

The retirement of both of these highly respected and admired judges will be a great loss to the Court. Both have had a long history in family law. Jan will have been, by the time of her retirement, in the Family Court of Australia for over 20 years, while Judy has spent over 20 years on the Bench initially as a Federal Magistrate before her appointment to the trial division of the Family Court in 2006 and then as an Appeal Division Judge in 2012. I will say a great deal more about both Jan and Judy prior to their retirements.

The above retirements demonstrate the significant changes that will be occurring in both Courts in the next 14 months. Other retirements in the Family Court include:

- Justice Robert Benjamin 22 May 2021;
- Justice Michael Kent July 2021
- Justice Garry Foster 12 August 2021;
- Justice Strickland 21 November 2021;
- Justice Kirsty Macmillan March 2022; and
- Justice Garry Watts 31 March 2022.

The Federal Circuit Court had a large number of retirements last year and has been allocated an additional 3 GFL Judges and 1 Family Law Judge. I am hoping that at least some appointments to fill those vacancies will be made by the first or second week in March 2021. The FCC will also be losing Judge Janet Terry from Newcastle on 8 August 2021. This will be an incredible loss to the Court. It will be impossible to replace Janet with just one Judge. I will say a lot more about Janet prior to her retirement. Judge Sylvia Emmett has also indicated that she will be retiring from the Court in July this year. Sylvia will be a significant loss. Sylvia was appointed on 5 July 2004 and has made a tremendous contribution during her time on the Court, particularly in the general federal law jurisdiction. Again, I will be saying much more about Her Honour prior to her retirement.

Please be assured that I will do my very best to have each vacancy filled as quickly as possible. If you have any suggestions for appointments please email me directly and I will treat them with the utmost confidentiality. If any other judges are

considering retirement please let me know as soon as possible so I can start the process of requesting from the Government a suitable replacement. The Attorney-General has assured me that he will fill all vacancies.

Recruitment and Court operations

Our CEO David Pringle is continuing to recruit Senior Registrars and Registrars. David and his team have done a fantastic job and we have some outstanding new Registrars assisting Judges in both Courts. I have been overwhelmed by the number of Judges, especially in the FCC who have been extremely positive and complementary of the performance of our Registrars, especially in new case management roles. If any of you would like further Registrar assistance please contact David.

The new National Case Management Judges, Justice Norah Hartnett and Judge David Dunkley have commenced their roles. Please do not hesitate to contact them if you have any questions.

We will be continuing to progress and expand our initiatives this year including the Lighthouse project and the COVID-19 list. The Lighthouse Project commenced in the Brisbane and Parramatta registries on 11 January 2021 and so far has been operating very effectively to screen litigants for risk and allocate matters to the most appropriate case pathway. My thanks to Lisa O'Neil, Elizabeth Evans and the Project team for their hard work in making the launch in these registries such a success. On 15 January 2021, I issued the New Practice Direction to expand the successful COVID-19 List. The expanded List commenced on 20 January 2021 and has already provided greater opportunities for litigants to seek urgent assistance from the Courts via the fast-track nature of the List.

The Rules Harmonisation Project is proceeding well. Over the break we received a number of very helpful suggestions and feedback from internal and external stakeholders. In the coming weeks that feedback will be discussed with the Working Group and a final working draft will be produced for your consideration. Any changes will be clearly identified. You will each be given enough time to consider these proposed rules before a vote takes place.

Plenary, Judge's meeting and Judicial training

Both Courts desperately need to have a Plenary and a Judge's meeting. We are hoping to be able to hold the Plenary at the end of May or early June in Melbourne or Sydney. Details will be sent out next week.

We will continue to provide judicial education, resilience and judicial conduct training this year. At this stage the training will be provided online but we are hoping to have face-to-face sessions in each major registry by the end of 2021.

Judicial Conduct

Pursuant to previous communication, the Judicial Conduct procedures are being reviewed and changes implemented. Whilst this is going on and as a preliminary step, I have appointed a Judicial Conduct Committee made up of three independent retired judges. All three are former judges of the Supreme Court of Victoria and the Chair is also a former judge of the Federal Court of Australia. They are:

- The Hon Julie Dodds-Streeton QC (Chair);
- The Hon David Habersberger QC; and
- The Hon Catherine Williams.

I have also appointed the Deputy Principal Registrar Virginia Wilson the complaint handler.

The Committees' brief is to investigate any judicial complaint I refer to them and provide me with advice as to whether the allegations are made out and if so what action should be taken.

At this stage I wanted to mention that more work is being done to ensure that we continue to have a safe and respectful work environment for all. Please do not hesitate to contact me, my executive assistant Renee Corcoran or your team leaders if you have any concerns at all. Maintaining a safe and respectful work place is of the highest priority.

I hope that you all have a lovely weekend,

Will

The Hon. Justice William Alstergren

Chief Justice

Family Court of Australia

Chief Judge

Federal Circuit Court of Australia

03 86004355

I acknowledge the Australian Aboriginal and Torres Strait Islander peoples as the first inhabitants of the nation and the traditional custodians of the lands where we live, learn and work