



FEDERAL MAGISTRATES COURT OF AUSTRALIA

Chambers of the Chief Federal Magistrate

Federal Magistrates Court of Australia
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5 June 2008

Mr. Des Semple

ADDRESS

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Dear Mr ~~Semple~~,

Submission of the Federal Magistrates Court to the Review

Thank-you for making the time available to visit all the major Registries of the Court and to participate in free ranging discussions with my colleagues in relation to the Review.

In light of the discussions which have already occurred this letter seeks only to express the overall view of the Court.

1. The Structure of the Courts

This Court has developed a unique ethos, structure and approach to its work. All of the available material makes it clear that this has worked strongly in favour of litigants, especially those who are disadvantaged economically and/or geographically. The unique approach of the Court has only been possible because it has been able to be different. Federal Magistrates believe that any diminution in the Court's independence will result in the destruction either quickly or slowly over time of its collegiality, culture and work practices.

The Court currently has the following fundamental characteristics which it regards as critical:

- Its own head of jurisdiction
- Power to determine its own rules and case management practices
- Control over its expenditure
- An entirely independent governance structure free of any outside interference
- Ability to determine its processes independently of overt or covert pressure from other superior courts

Federal Magistrates believe that to change the current structure is to place at risk the very essence of the culture that has made it successful. The morale of the Court would be destroyed.

The Court believes much of its strength lies in its capacity to do work in a broad range of federal law, not just family law. The Court has specialists in family law and general federal law. The maintenance of the current structure allows resources to be transferred from one area to another, depending on demand. There is increasing specialisation which has lead to the Court considering the establishment of two separate divisions, namely family law and general federal law. If this occurs the Chief Federal Magistrate will still have the power to transfer individual judicial

officers from one division to the other, depending on skill and work demands. This will ensure optimum use of Court resources and is particularly important if the Court is to provide access to all of its jurisdiction to those Australians located in rural and regional areas.

The panel system which operates within the Court will be further developed to ensure on-going expertise in all major areas.

2. Administration

The Court accepts that there is currently a major resource issue in family law which needs to be addressed. In particular, Federal Magistrates have suffered from a lack of resources, especially in light of the Court's overall workload, which is impacting adversely on litigants and particularly the children of those litigants. This has been a problem across all major Registries.

A proper distribution of resources based primarily on outputs would be welcomed by the Court. The Court is of the view that there should be an annual allocation in the budget based on output to the Federal Magistrates Court and the Family Court. Each Court would then spend the money allocated as it sees fit.

The Court accepts that a joint administration is an alternative way to manage allocation of resources and achieve the efficiencies needed to ensure future resourcing needs. It is axiomatic that a joint administration would have to be just that, and not a de facto administration by the Family Court. Moreover, it is fundamental that the Court must run its administration and not the other way round.

In addition, it is critical that any system of resource allocation is completely transparent and cannot be dismantled or changed in any major way over time without the agreement of the Court. The Court must have at least an equal voice in any combined administration. The Court is happy with the current arrangements with the Federal Court.

This letter has been discussed in all Registries and has received unanimous support.

The Court would be happy to provide you with any further information.

Yours sincerely,

John H Pascoe
Chief Federal Magistrate