



FEDERAL
MAGISTRATES
SERVICE

ANNUAL REPORT

2000-01

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FEDERAL MAGISTRATES SERVICE

11 October 2001

The Honourable Daryl Williams AM QC MP
Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney-General

FEDERAL MAGISTRATES SERVICE – ANNUAL REPORT

I have pleasure in submitting the Annual Report of the Federal Magistrates Service for the period 1 July 2000 to 30 June 2001 in accordance with section 117 of the *Federal Magistrates Act 1999*, which requires the Federal Magistrates Service to prepare and give you a report of the management of the administrative affairs of the service during the financial year as soon as practicable after 30 June in each financial year.

This is the Federal Magistrates Service's first full year annual report.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Diana Bryant'.

Diana Bryant CFM

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Introduction

This is the first full year annual report of the Federal Magistrates Service. The Federal Magistrates Service was not required to provide an annual report last financial year as the Federal Magistrates

Service did not become a prescribed agency for the purposes of the *Financial Management & Accountability Act 1997* until 1 July 2000.

Part One provides a brief introduction to and overview of the Federal Magistrates Service – its establishment, objective, organisational structure and jurisdiction.

Part Two contains reviews of the year by the Chief Federal Magistrate and the Chief Executive Officer. The reviews examine major legal and administrative developments during the year.

Part Three contains information on the Federal Magistrates Service's performance during the year, the work of the court, highlights of significant cases, results from a survey on awareness of the Federal Magistrates Service and its performance, and information on complaints and appeals, court circuits and primary dispute resolution.

Part Four contains information on corporate governance, including names and responsibilities of senior executives, committees and their roles and a report on their activities, corporate and operational planning and performance reporting and review, remuneration of senior executives and an analysis of financial performance.

Information about external scrutiny and management of human resources is contained in Part Five.

Part Six contains information on purchasing, assets management, consultations and competitive tendering and contracting.

Financial statements are contained in Part Seven. A compliance index, a summary resources table, information regarding presentations given by federal magistrates over the past year, successful tenderers for primary dispute resolution services and Federal Magistrates Service staffing numbers are contained in appendices in Part Eight.

Contact officer

Requests for further information about any item in this report should be directed to the Public Affairs Officer, Ms Melinda Brown, at the Federal Magistrates Service, 305 William Street, Melbourne, Victoria 3000. Tel: (03) 8600 4476. Fax: (03) 8600 4445. Email: melinda.brown@fms.gov.au.

A great deal of useful information about the Federal Magistrates Service, its operations and services can also be found on the Internet site at www.fms.gov.au.

PART ONE: OVERVIEW

Establishment

The Federal Magistrates Court is a federal court of record established under the Constitution by the *Federal Magistrates Act 1999*. The Federal Magistrates Act commenced operation on 23 December 1999 when the Act received royal assent.

The Federal Magistrates Court is constituted by federal magistrates, who are justices under the Constitution.

The Federal Magistrates Court is also to be known as the Federal Magistrates Court of Australia or the Federal Magistrates Service. When sitting as a court, the title Federal Magistrates Court is used. For all other purposes, the court is to be known as the Federal Magistrates Service.

Section 2 of the Federal Magistrates Act provides that proceedings were not to be instituted in, or transferred to, the Federal Magistrates Service before the earlier of a date fixed by proclamation for commencement or the day six months after the date of royal assent. The first applications were filed on 23 June 2000. The first sittings of the court were on 3 July 2000 in Adelaide, Brisbane, Canberra, Melbourne, Newcastle, Parramatta and Townsville.

Jurisdiction is conferred on the Federal Magistrates Court by laws of the Commonwealth other than the Federal Magistrates Act. The initial jurisdiction of the court was conferred by the *Federal Magistrates (Consequential Amendments) Act 1999*. Further information about the jurisdiction of the court is provided in Part Three.

Outcome and objective

The Federal Magistrates Service was established to provide a simple and accessible alternative to litigation in the established federal courts and to relieve the workload of those courts. The Federal Magistrates Service has one outcome: to provide a cheaper, simpler and faster method of dealing with less complex Family Court and Federal Court matters.

The Federal Magistrates Service places emphasis on using a range of means to resolve disputes. There is no automatic assumption that every matter ends in a contested hearing and the use of conciliation, counselling and mediation and a range of other alternative dispute resolution techniques is strongly encouraged in appropriate cases. Where practical, parties are encouraged to take responsibility for resolving their disputes themselves. This approach is likely to result in a more enduring resolution of a dispute.

That impetus for change lies in a widespread concern that litigation is overly expensive, unduly complex and fraught with unnecessary delay. Often the financial and non-financial costs of litigation are disproportionate to the matters in dispute or the financial capacity of the parties to resolve their dispute. For this reason, the Federal Magistrates Service's objective is to provide a simple and accessible alternative to litigation in the Federal Court and the Family Court.

The administration of the court

Section 12 of the Federal Magistrates Act provides that the federal magistrates shall be responsible for the administrative affairs of the court. The federal magistrates are assisted by the Chief Executive Officer.

The Chief Federal Magistrate is responsible for the day to day management of the business of the court and for this annual report.

The primary mechanism for the performance of that function is the meetings of federal magistrates held every six months. During 2001 meetings were held in Melbourne and Canberra.

The federal magistrates have established a committee structure to assist them to make, implement and monitor administrative decisions between meetings. More information on the committees can be found in Part Four.

Organisation

The Federal Magistrates Court consists of the Chief Federal Magistrate and 15 federal magistrates.

The federal magistrates appointed to the Court as at 30 June 2001 were:

Chief Federal Magistrate Diana Bryant – Melbourne (appointed 11 May 2000)

Federal Magistrate Warren Donald – Newcastle (appointed 13 June 2000)

Federal Magistrate Christine Mead – Adelaide (appointed 13 June 2000)

Federal Magistrate Judy Ryan – Parramatta (appointed 13 June 2000)

Federal Magistrate Michael Baumann – Brisbane (appointed 19 June 2000)

Federal Magistrate Jim Brewster – Canberra (appointed 19 June 2000)

Federal Magistrate Norah Hartnett – Melbourne (appointed 19 June)

Federal Magistrate Stephen Scarlett – Parramatta (appointed 19 June 2000)

Federal Magistrate John Coker – Townsville (appointed 26 June 2000)

Federal Magistrate Murray McInnis – Melbourne (appointed 26 June 2000)

Federal Magistrate Rolf Driver – Sydney (appointed 31 July 2000)

Federal Magistrate Kenneth Raphael – Sydney (appointed 31 July 2000)

Federal Magistrate Stuart Roberts – Hobart and Launceston (appointed 4 December 2000)

Federal Magistrate Maurice Phipps – Melbourne (appointed 18 December 2000)

Federal Magistrate Jennifer Rimmer – Brisbane (appointed 5 February 2001)

Federal Magistrate Michael Connolly – Melbourne (appointed 4 June 2001)

The Governor-General, on the advice of the federal government, appoints federal magistrates until age 70.

The Chief Executive Officer, Peter May, was appointed for a period of five years on 23 March 2000.

Jurisdiction

The Federal Magistrates Court shares jurisdiction with the Federal Court and the Family Court. The Federal Magistrates Court currently has six principal areas of jurisdiction.

Much of the court's workload focus is on family law. The areas of family law in which the Federal Magistrates Court has jurisdiction are:

- Applications for divorce.
- Applications concerning spousal maintenance.
- Property disputes where the property in dispute is worth less than \$300,000 or property disputes worth more with the consent of the parties.
- All parenting orders, whether the parents are married or unmarried.
- Enforcement of orders made by either the Federal Magistrates Court or the Family Court.
- Location and recovery orders and warrants for the apprehension or detention of a child.
- Determination of parentage and recovery of child bearing expenses.

The Federal Magistrates Court has the same jurisdiction as the Family Court in matters under the Child Support Act.

This means that the Federal Magistrates Court will exercise jurisdiction that is very similar to the Family Court, with the exception of adoption, property disputes concerning property worth more than \$300,000 and applications concerning nullity or validity of marriage.

In general federal law matters, the Federal Magistrates Court shares jurisdiction with the Federal Court in:

- Unfair trade practices matters arising under Division I of Part V of the *Trade Practices Act 1974* and product safety and information matters arising under Division IA of Part V of the *Trade Practices Act 1974*, with power to award damages up to a maximum of \$200,000.
- Matters arising under the *Bankruptcy Act 1966*.
- Applications made under the *Administrative Decisions (Judicial Review) Act 1977*.
- Appeals from the Administrative Appeals Tribunal that are transferred to the Federal Magistrates Court by the Federal Court.
- Unlawful discrimination matters under the *Human Rights and Equal Opportunity Commission Act 1986*.

Jurisdiction of courts legislation

The legislation establishing the court's jurisdiction was amended in December 2000 by the *Jurisdiction of Courts (Miscellaneous Amendments) Act 2000*. That legislation was enacted to remove any doubt about the jurisdiction of the court in certain divorce and administrative law proceedings and to confirm the validity of decisions made by the court under the original legislation.

Expansion of residence jurisdiction

The *Family Law Amendment Act 2000* amended the *Family Law Act 1975* to confer original jurisdiction in residence proceedings. Previously, the court did not have power to make an order about where children were to live unless each of the parties to the proceedings consented to the court exercising jurisdiction.

Privacy jurisdiction

The *Privacy Act 1988* was amended by the *Privacy (Private Sector) Act 2000* to extend the operation of the Privacy Act to certain private sector operations. The Act invested the Federal Magistrates Court with jurisdiction, concurrent with that of the Federal Court, to enforce determinations of the Privacy Commissioner, and private sector adjudicators. The new jurisdiction commences on 22 December 2001.

Workload — location and trends

Family law and child support

During the first six months of the court's operation the greater part of the court's workload resulted from matters transferred from the Family Court. However, in the last six months of the year, matters filed directly in the court assumed a greater significance.

Table 1.1: Transfers from Family Court to Federal Magistrates Court

Month	Registry											
	Adelaide	Brisbane	Canberra	Darwin	Dandenong	Hobart	Melbourne	Newcastle	Parramatta	Sydney	Townsville	Total
July 2000	20	42	66	0	1	0	373	94	50	0	12	658
Aug	25	41	53	0	1	5	10	97	79	0	26	337
Sep	19	29	23	0	10	0	14	58	17	0	32	202
Oct	7	26	14	38	6	11	8	19	32	2	7	170
Nov	9	33	3	1	14	3	27	12	38	1	5	146
Dec	10	19	4	9	18	13	14	13	26	3	2	131
Jan 2001	13	30	3	3	14	4	22	10	11	1	2	113
Feb	30	35	7	8	17	16	52	1	21	1	0	188
Mar	29	50	6	0	13	33	33	3	24	0	1	192
Apr	10	8	0	0	2	4	5	3	7	0	0	39
May	23	47	4	0	13	31	27	1	20	0	8	174
June	10	34	2	15	4	17	25	2	18	0	1	128
FcoA Transferred to FMC	205	394	185	74	113	137	610	313	343	8	96	2478

Table 1.2: Transfers from Federal Magistrates Court to Family Court

Month	Registry											
	Adelaide	Brisbane	Canberra	Darwin	Dandenong	Hobart	Melbourne	Newcastle	Parramatta	Sydney	Townsville	Total
July 2000	0	0	1	0	0	0	5	2	0	0	2	10
Aug	0	0	0	0	0	4	0	0	0	0	0	4
Sep	3	0	1	0	0	0	3	2	2	0	0	11
Oct	1	2	0	0	0	0	8	4	4	0	3	22
Nov	0	1	3	10	0	0	8	5	6	0	4	37
Dec	1	0	1	0	1	9	5	0	4	0	3	24
Jan 2001	2	0	1	0	1	2	1	3	5	0	1	16
Feb	4	1	2	1	0	1	7	3	6	0	1	26
Mar	4	0	4	0	1	4	5	1	3	0	2	24
Apr	0	0	2	1	0	0	1	1	1	0	0	6
May	2	0	2	4	3	9	19	3	2	0	0	44
June	0	4	2	0	0	2	8	3	3	0	1	23
FMC Transferred to FCoA	17	8	19	16	6	31	70	27	36	0	17	247

Relatively few matters are transferred to the Family Court. The court has interpreted this as an indication that litigants are making appropriate and informed choices about the court in which their action should be commenced in the vast majority of cases. Matters transferred to the Family Court represent less than three per cent of the court's ancillary application workload.

The court has adopted a guideline of two days hearing as the indicator for hearing a matter itself or transferring the proceedings to the Family Court. With a few limited exceptions, the practice of the court has been that it will not retain longer matters in its lists. Occasionally it has been necessary to retain a longer matter because, for example:

- the matter had been transferred to the court from the Family Court and it was considered inappropriate to delay the hearing by referring the matter back, or
- the complexity of the matter became apparent only in the hearing.

The court applies this guideline flexibly. During the first year of operation, less than 40 matters required more than two days hearing time.

General federal law

Except in bankruptcy, there has been a slow take up of the court's capacity in general federal law work. This is due partly to the relatively smaller volume of matters in the general federal law jurisdictions and partly to the limitations of the court's jurisdiction.

In bankruptcy, the court is now dealing with a significant proportion of the bankruptcy applications dealt with by federal courts. That was to be expected given the lower fees charged for commencing action and the capacity of federal magistrates to deal promptly with bankruptcy matters.

The trade practices workload of the court is affected by limitations on the monetary jurisdiction of the court and gaps in the jurisdiction that provide an incentive for litigants to issue proceedings in other courts. The monetary jurisdiction is limited to damages of \$200,000. This amount can be contrasted, for example, with the jurisdiction of intermediate courts in New South Wales and South Australia, where the limit is \$750,000 and unlimited respectively.¹

While the court has jurisdiction in relation to some matters arising under Part 5 of the Trade Practices Act, its jurisdiction does not include matters concerning unconscionable conduct, which often arise in conjunction with misleading and deceptive conduct claims about which the court does have jurisdiction, or claims in relation to financial services or claims concerning manufacturers or importers liability.

The court has heard many unlawful discrimination matters, which have been transferred to it from the Federal Court or filed in the court. This is a new jurisdiction for both federal courts and the court has been instrumental in establishing the new jurisprudence. It can be anticipated that the majority of applications in this jurisdiction will be suitable for hearing in a lower level court.

¹ The Attorney-General's Department and the Treasury have issued a discussion paper proposing, among other matters, that the damages limit be increased to \$750,000.

PART TWO: THE YEAR IN REVIEW

Review by Chief Federal Magistrate

The Federal Magistrates Service celebrated its first anniversary on 23 June 2001. Many milestones were achieved in the court's first 12 months, not the least being the establishment of the first lower level federal court since the passage of the Judiciary Act in 1903.

The Federal Magistrates Service was established to provide a simple and accessible service for litigants and to ease the workload of both the Family Court and Federal Court. At the end of the first year I can say confidently that the court has been very successful in meeting initial expectations and has established a firm basis for future development of its services.

Some of the highlights of the past year include:

- The Federal Magistrates Service has taken on a busy circuit workload, taking over some of the Family Court circuits and establishing some new ones. As will be apparent from the circuit details provided in Part Three, all federal magistrates have undertaken a great deal of travel associated with the work of the court.
- The court's workload has expanded rapidly. In the last quarter, the court was receiving 22 per cent of all family law applications and one-third of the applications in the places where it sits regularly. It was also receiving a substantial proportion of the work of federal courts in bankruptcy and unlawful discrimination.
- The court has established protocols for transfers from courts of summary jurisdiction and in relation to transfers between the federal courts.
- The court consulted widely and worked on rules of court that are to operate from 30 July 2001.
- The court has designed a judicial gown that reflects the simple and accessible objectives of the court, while adding to the dignity of the court.
- The court's jurisdiction was clarified by the *Jurisdiction of Courts (Miscellaneous Amendments) Act 2000* and expanded by the *Family Law Amendment Act 2000* and the *Privacy Amendment (Private Sector) Act 2000*. The *Family Law Legislation Amendment (Superannuation) Act 2001* amends the Family Law Act to provide the court with revised powers in relation to some matrimonial property.
- The court has finalised arrangements with the Federal Court and the Family Court for the provision of registry services and a range of other administrative matters pursuant to sections 90, 91 and 92 of the *Federal Magistrates Act 1999*, and for a delegation of power to registrars of the other courts in a limited range of matters. The detail of these arrangements is described in memorandums of understanding between the courts.

I will comment in greater detail on some of these matters in the course of this review.

Management of the administration of the court

Pursuant to section 89 of the *Federal Magistrates Act 1999*, the Federal Magistrates Court is to administer its own affairs (subject to, and in accordance with the Act). In order to do so the federal magistrates have established a number of committees, which meet regularly. Most meetings are held by teleconference and the court has developed systems to support the effective conduct of teleconferences.

Each federal magistrate is on several committees and is, by participation in committee work and a fortnightly teleconference involving all federal magistrates, directly involved in the administration of the court.

The committees that have been established are:

- Audit (a statutory committee for the purposes of the *Financial Management and Accountability Act 1997*)
- Primary Dispute Resolution
- Pro Bono
- Judgments
- Ethics
- Legal (including Rules)
- Court Users and Systems
- Business Information Management
- Self Represented Litigants

The federal magistrates have two face to face meetings per year at which they can discuss issues affecting the operation of the court more fully and develop the strategic plans of the court.

Family law jurisdiction

The bulk of the work of the Federal Magistrates Court involves family law, although the proportion of general federal law work is growing. Family law work has placed considerable pressure on the court as practitioners and litigants have very promptly responded to the availability of a court that has the capacity to deal with some matters more quickly than might otherwise have been the case. The newness of the court has meant that, at least in some places, it has been able to provide a quicker resolution of some matters. However, that capacity would disappear if the court continued to take on every family law matter that it is urged to hear.

The court was assisted considerably during the year in the conduct of its family law work by the Family Court, which provides registry and related services under a memorandum of understanding. Close cooperation by the two courts was demanded by the system that was created when the court was established. Without that close cooperation, it is likely that services to litigants and other participants in the family law system would be compromised. As it has transpired the two courts have been able to provide complementary services to the public.

In its family law property work, the court was assisted by the registrars of the Family Court, who were made available for the conduct of conciliation conferences. This enabled many matters to be resolved prior to hearing.

An example of an area in which the two courts have worked particularly well together is in the management of circuit work. The Federal Magistrates Service has taken over some circuits from the Family Court and is sharing others. In Victoria, it has taken over the Geelong and Bendigo circuits. In the Dandenong registry of the Family Court, the Federal Magistrates Service has been sitting at least 50 percent of each month and plans to increase its sitting time in Dandenong in the coming financial year.

The organisation and implementation of circuits is quite complex, involving many staff and the resources of not only the two federal courts but, more often than not, the human and physical resources of state court systems. There are competing demands for available state court premises and it is often difficult to make federal judicial officers available at the same time as state facilities are available. The increase in use of court technology, especially in the Federal Magistrates Service, has presented the court with difficulty in managing circuit work as many older court buildings, especially in regional areas are not equipped for the demands of a technologically advanced court. The court's requirements include the availability of the court and the capacity to conduct telephone conferences and to establish a stable data connection for computers. In many state courthouses that are visited, those facilities are not available. Despite these difficulties, the court has made a commitment to circuit work and has used state facilities where they are available.

There are many less complex matters that are suited to the Federal Magistrates Service because of the simpler case management practices and earlier availability of a hearing date. The Federal Magistrates Service was influenced by report No. 89 from the Australian Law Reform Commission, "Managing Justice", and has endeavoured to make its procedures simple and to avoid litigants having to return to court on multiple occasions wherever possible. To facilitate this, where matters have not resolved after primary dispute resolution intervention, the practice of the court is, generally, to allocate a date for hearing at a fairly early stage of the proceedings.

In an endeavour to avoid parties returning to court on multiple occasions, compliance mentions and other simple mentions are generally done by telephone. This has proved to be extremely popular with the legal profession.

In family law, the profession and the Family Court have been quick to identify less complex matters that can be dealt with by the Federal Magistrates Service and the Family Court has readily transferred cases.

However, the Federal Magistrates Service is aware of concerns that it might not be able to meet its objective of providing a resolution for less complex matters within six months if it did not control its workload actively. The Federal Magistrates Service is therefore careful to ensure that only those matters that are appropriate for it to hear remain in its list.

Two issues, particularly, arise in this context. The first is the court's policy in family law matters that it will generally limit the cases it takes to those in which the hearing time will not exceed two

days. In the first months of operation the court had capacity to take on longer cases. This stopped once filings commenced and the court will be diligent in its endeavours to ensure that longer hearings do not compromise its capacity to deal effectively and efficiently with those matters that it was established to hear and that appropriate cases are transferred to the Family Court.

Secondly, the reduction in numbers of SES Registrars in the Family Court has raised questions about whether federal magistrates should hear interim applications with the final hearing to be in the Family Court. As a matter of principle the court does not consider that to be the best use of its judicial resources and has encouraged the Family Court to consider other options for handling the demand on it for interim decisions.

The Federal Magistrates Service is conscious of the impact that the interim workload of the Family Court has on that court's operations and on the operations of the family law system. For that reason it has identified discrete types of matters that could be appropriate for transfer to reduce the demands on the superior court. These include child support, spousal maintenance, child maintenance and enforcement of orders. In registries where there is no senior registrar or judicial registrar who is available to make interim orders, some interim work in Family Court matters is also done.

General federal law jurisdiction

The court has quickly developed a significant workload in bankruptcy and unlawful discrimination matters.

In bankruptcy work, the Federal Magistrates Court was ably assisted by registrars that the Federal Court made available. Bankruptcy registrars continue to do most of the preliminary work in this jurisdiction and also provide excellent support for federal magistrates in the conduct of other general federal law work.

The unlawful discrimination jurisdiction is a new area of work for federal courts. A significant proportion of claims are now commenced and heard in this court.

Already, the court has identified some areas in which consideration might be given to an expansion of the court's jurisdiction. The proposals would remove limitations in areas such as consumer protection, including the level of damages that might be awarded, and to add new types of jurisdiction, such as corporations law and migration law². These are matters that the court will discuss with the government.

The docket system

Another method by which the court has maintained control over the time taken to resolve matters and the cost of representation is by exercising strong judicial control over the conduct of the proceedings. The clear intention is to limit the range of issues that will be the subject of a hearing to those essential to decide the case according to law and to limit the number of occasions when the parties or their representatives have to come to the court. The court operates a modified

² Legislation has been introduced: *Jurisdiction of the Federal Magistrates Service Legislation Amendment Bill 2001*.

docket system in which a federal magistrate has supervision of the proceedings at all stages from the first court date until the hearing. When feasible, the docket federal magistrate also hears the matter. However, the obligations of the court in relation to circuits and the high volume demands of the court's workload preclude the possibility of the docket federal magistrate always hearing the matter and will occasionally result in another federal magistrate being involved at an intermediate stage.

Use of audio and video technology

Federal magistrates have been able to reduce costs by making considerable use of telephone hearings as a means of avoiding the need for a court appearance, mainly in interlocutory proceedings. This reduces costs for the parties and can be a far more effective use of the court's time and resources.

The Federal Magistrates Act provides for the use of video or audio link. Due to the locations in which the court is operating, video or audio links are used wherever possible. All video or audio hearings are recorded.

A popular use of video technology has been the callover of circuit lists in the week preceding the circuit to establish the hearing list for the following week. This has many advantages, including enabling the federal magistrate to commence the hearing list early on the first day of the circuit, thus maximising the time available during the circuit for hearings. It also means that litigants do not have to travel from remote locations to the circuit town on the first day of the circuit on the chance that their matter may commence on that day.

Where there is no resident federal magistrate, most interim applications are dealt with by video or audio link.³ Telephone hearings are recorded, but not necessarily transcribed. In addition, the Federal Magistrates Service tries to ensure that litigants do not have to attend court in person for short matters where a telephone or video mention would be suitable.

Primary dispute resolution

The Federal Magistrates Service is committed to the integration of appropriate community primary dispute resolution (PDR) providers into its dispute resolution strategies. Arrangements have been entered into with community PDR service providers for the delivery of services to clients in their communities. Where appropriate, clients will be ordered to attend a PDR process at a community organisation. The Federal Magistrates Service will pay for this service. A list of contacted organisations is available on the Federal Magistrates Service website and clients who telephone the court with counselling queries are referred to this list.

For a list of PDR community organisations contracted to the Federal Magistrates Service, see Appendix D.

The capacity of the court to do its work

At present, the court has 16 federal magistrates. This will not be a sufficient number for the court to continue to do its work, if it is to meet the expectation that the court will sit regularly outside the

³ This occurs regularly with Darwin and Perth matters.

capital cities and continue to resolve matters within a relatively short time. I am hopeful that the number of federal magistrates will increase as the court's workload expands.

It is, of course, always difficult to determine how many judicial officers a court should have, especially when the court is new and its jurisdiction developing. It cannot be assumed that a judicial officer will be available to sit every day of every week. There are the demands of administering the court, an obligation that the legislation places on each federal magistrate; the need for time to write judgments and conduct other relevant research, including keeping up with changes in the law; the need for the court to meet collectively at least twice each year; the need to provide time for circuit travel and the need for all federal magistrates and staff to make appropriate time available for their family life. All of this means that it is unlikely that federal magistrates will be available to sit, on average, more than about 200 days in any one year. In the past year, the availability of federal magistrates has been higher than that benchmark, reflecting the priority that has been placed on sitting during the establishment phase and the absence of significant accrued leave entitlements.

The demands on a court that has a large circuit requirement should not be underestimated. Circuits have a high financial cost and are demanding on the human and systems resources of the court. They impose high demands on federal magistrates and the staff of the court, who must expect to be away from their homes for at least eight weeks in each year for this aspect of the court's work. Some federal magistrates, such as the federal magistrate in Tasmania, are expected to make even greater sacrifices of their personal life in order to meet the expectation that the court will sit in a wide range of locations. That said, the court accepts that there is a need for the court to conduct circuits in a wide range of places. The court needs to be adequately resourced to do that and resourcing arrangements must recognise the higher costs associated with conducting the work of the court away from the court's principal offices.

The court has found that it is desirable that, to the greatest extent possible, federal magistrates should be co-located in teams of at least two. This permits the court to overlist and manage the work of the court far more effectively. There is an inherent loss of efficiency in the operation of a single federal magistrate registry.

Notwithstanding the inefficiency of some arrangements, the court has managed to resolve the vast majority of matters within six months. The average age of all matters finalised in the last quarter of 2001 was under 3.4 months.

In its general federal law jurisdictions, the court does still have some capacity to take on additional work. It is considered important by the court that its general federal law jurisdiction be expanded. The court has found the limitations of its trade practices jurisdiction has actively discouraged a flow of work that would otherwise be appropriately dealt with by the court. Similarly, the absence of a corporations law jurisdiction has acted to limit the knowledge within the legal profession of the work of the court and its capacity to provide a proportionate response in less complex matters.

For the foreseeable future, the major source of workload of the Federal Magistrates Court will continue to be family law. The court now has the vast majority of creditor's petitions in bankruptcy, but registrars do much of that work.

The court has adopted an active policy of ensuring that each federal magistrate has the opportunity to hear cases in all of the court's jurisdictions.

Links with the legal profession and groups

Nationally, the court meets regularly with representatives of the Law Council of Australia to discuss issues of interest to the legal profession.

At a local level, the court in each location has meetings regularly with the legal profession and other community groups.

The court also participates in meetings of the Family Court's Chief Justice's Consultative Committee, which provides an opportunity for discussion about family law issues with National Legal Aid and the peak providers of primary dispute resolution services.

Memoranda of understanding with the Federal Court and Family Court

The court has memoranda of understanding with the Federal Court and the Family Court to establish the basis on which those courts will provide support to the Federal Magistrates Service. The memoranda are quite comprehensive and provide a sound basis for the management of the ongoing business of the court. They will be reviewed regularly to ensure that the arrangements continue to provide a sound basis for the support of the court's work.

The arrangements rely on the capacity of the superior courts to continue to meet the requirements of this court. For the moment, this has not presented great difficulty. However, as the court grows in size and scope, there is likely to be a time when the business needs of the Federal Magistrates Service and the two superior courts could fall out of alignment to the extent that either of the superior courts is unable to provide the additional support required by this court.

The Federal Magistrates Court Rules

Although the rules of court do not commence during the period of this report⁴, it is appropriate that I make some comment about the rules of court, which will replace the operation of the Family Law Rules and the Federal Court Rules. First, there has been considerable consultation over a period of more than three months about the rules. Secondly, the new rules will provide simple processes, and not be unduly complicated. The objects are stated at the beginning and the rules are to be applied to avoid undue delay, expense and technicality.

Some of the more significant initiatives in the new rules of court are:

- All proceedings are commenced by application.
- An affidavit must be filed with an initiating application.

⁴ The rules of court commenced on 30 July 2001.

- The cost scale is a fixed cost party/party scale only. With minor exceptions, the cost rules do not regulate the manner in which lawyers contract with their clients, which is governed by state law.

Parenting compliance regime

During the past year, the *Family Law Act 1975* was amended to change the way that the court deals with matters where parenting orders have been breached. The new parenting compliance regime provides for a three-stage process in dealing with parenting orders.

Members of the Attorney-General's Department, representatives from the Family Court and the Federal Magistrates Service and representatives from various community sector peak organisations meet regularly to discuss aspects of the new parenting regime.

Self represented litigants

The court is aware of its responsibility to address the needs of unrepresented litigants and to demystify the court's processes. Consequently, the court has considered the recommendations of the Australian Institute of Judicial Administration in its paper, *Litigants in Person Management Plans: Issues for Courts and Tribunals*, and a litigants plan is being formulated, based on the recommendations in the paper. The court will not replicate the work being done by other organisations and the implementation of the plan will highlight areas where the court differs from those organisations. The court will utilise the resources and networks already assisting self represented litigants, while targeting material to facilitate the specific needs of litigants appearing in the Federal Magistrates Court.

Thanks and acknowledgments

Throughout the year the Federal Magistrates Service has been greatly assisted by the judges and staff of the Federal Court and the Family Court and I have been particularly assisted by the cooperation of the Chief Justices of those Courts.

I would like to thank all of the staff of the Federal Magistrates Service who, particularly in the first year of the operation of the court, have been uniformly dedicated to ensuring that the objectives of the court were achieved. It is a requirement to maintain cooperative relationships with staff of the Federal Court and Family Court and because of the docket system, to deal extensively with the legal profession and the public. In the first year of operation the staff have been required to be innovative, flexible and they were uniformly ready to work long hours in different locations without concern or complaint. I am grateful to them for their support of the court, which has been invaluable in its establishment.

Review by Chief Executive Officer

The reporting year was the first full year of operation of the Federal Magistrates Service. The court commenced operation as a court on 3 July 2000 and most of the staff of the court were employed during this financial year.

Major highlights

The court has grown substantially

Not surprisingly, the past 12 months have been demanding for all involved in the work of the court. The court, and its administration, has managed a period of significant growth in demand for the court's services and in the size of the court itself. In managing growth of substantial proportion in a relatively short period the court had to confront many difficult issues.

All members of the court, and its staff, have responded effectively and with enthusiasm to the challenges. At 1 July 2000 the court staff consisted of 10 federal magistrates appointed by that date, the chief executive officer and three staff. At the close of the financial year the number of people engaged in the work of the court had increased nearly five-fold. There were, at 30 June 2001, 16 federal magistrates, the chief executive officer and 45 staff. Staffing statistics are provided in Appendix E.

Services provided by the Family Court and Federal Court

The court has received, and continues to receive, substantial support from the Family Court and the Federal Court. That support is in the form of the provision of registries, primary dispute resolution services, accommodation and information technology. A preliminary estimate suggests that the value of that support is an amount that is similar to the current operating costs appropriated directly to the court. During the next year, further work will be done to refine the understanding that each of the courts have of the actual cost of services provided to the Federal Magistrates Service. In due course, that amount will be transferred to the court's appropriation so that the appropriation will better reflect the actual cost of its operations.

The court has been effective in using technology

The court is using technology to make a range of processes more effective and to promote the court's strategies.

One of the court's priorities is to provide remote services. To this end the court has made considerable use of video and audio conferencing and has developed IT systems for use by all federal magistrates and court staff that are portable.

Federal magistrates use digital recording technology to dictate judgments, which are then emailed and transcribed at a central point in Melbourne. This has helped the court to maintain a capacity to deliver judgments promptly and with a consistent style. It has also assisted the court to publish judgments on its website. This technology removes the need for federal magistrates to be co-located with their staff in order to finalise judgments.

The court has established a Notes database to assist its corporate governance. A committees database provides all federal magistrates and staff with ready access to the work of the court's committees and a single point of reference for all decisions made in the administration of the court.

The court's website delivers information about the court

The court has made the development of its website a principal priority. The site contains information such as the daily court lists, all legislation and caselaw relevant to the work of the court, descriptions of the procedures of the court and contact points. The site is updated regularly.

The court has received good feedback about the utility of the site and has received a number of comments on the court's operations through the customer relations facility provided on the site.

The website was used as a primary tool for consultation on the court's new rules of court.

Staffing

Deputy associates engaged to assist federal magistrates

In the early months of operation of the court, it became apparent that the structure of the court required a non-traditional response to the need to provide direct support for federal magistrates. In most courts a judicial officer is supported by an associate and receives additional support from court officers who are employed either in a pool to provide support to all judicial officers or, occasionally, allocated to an individual judicial officer.

Initially the court made use of court officers made available by the Family Court in its family law jurisdiction. It was soon learned that this arrangement, while effective in providing some of the services required by federal magistrates, did not adequately satisfy the demands of a high volume court that did not have dedicated registry support to fall back on. The structure of the court and the location of federal magistrates, often acting without the capacity to share their workload with another co-located federal magistrate, created a requirement to establish positions known as deputy associate. Those positions were created after an independent review of the workload and workflow within federal magistrate's offices.

A deputy associate has been allocated to each federal magistrate whose workload has a major component of family law work. In the general federal law jurisdiction, the court continues to use court officers made available by the Federal Court.

Sessional registrar positions established to assist in the management of divorce work

The court has also responded to high demand by establishing positions described as sessional registrars. The function of a sessional registrar is to hear undefended divorce applications exercising judicial power delegated to them by the federal magistrates. By 30 June 2001, a sessional registrar had been appointed in Newcastle and Parramatta. That person sits one day a week in Newcastle and one day per month in Parramatta. The purpose of establishing the position of sessional registrar was to enable the court to make more effective use of the judicial

capacity of federal magistrates in matters that require the power of a federal justice to make final orders. Other positions are planned in Tasmania, Melbourne, Dandenong and Brisbane.

New certified agreement made with Federal Magistrates Service staff

The staff have negotiated a certified agreement with the Federal Magistrates Service. That agreement promotes the objectives of the Federal Magistrates Service and deals specifically with work practices that are unique to a small nationally distributed court that has high volume workloads. Some innovations in the certified agreement include arrangements that have staff working longer hours during periods when the court is operating as a court and provide leave during periods when the court is closed over the Christmas/New Year break. This ensures that staff are available when they are needed to do the work of the court.

Financial management

A major activity during the first year was the establishment of sound financial management practices. The court established an audit committee with an independent chair to oversee the implementation of its financial systems. The audit committee has met regularly and has established internal audit systems that are functioning already to improve aspects of the court's financial management.

During the year internal audit studies were made of the payments system and minor improvements to processes were implemented in response to the audit. The court was able to demonstrate that the financial accounting requirements of a small agency could be managed using relatively inexpensive commercially available software, such as MYOB. Although this type of software is not readily adaptable to some aspects of Commonwealth administration, such as contributions to Commonwealth superannuation schemes, these relatively minor difficulties were resolved promptly with the assistance of Comsuper and other agencies.

Cooperative contracting with other agencies

During the year the court joined with other Commonwealth agencies in a number of contracts to take advantage of discounts available from combined buying power. This included joint tendering with the Family Court and Federal Court for transactional banking services; joining with agencies in the Attorney-General's portfolio and Centrelink in a contract for air travel services; and joint tendering with the Family Court for court recording and transcription services. This joint approach to purchasing provides the Federal Magistrates Service with access to better value than might be available if it approached the market independently.

Funding reallocated to ensure delivery of family law services

The spending of the court during the year was lower than had been anticipated, primarily because of delay in the appointment of federal magistrates and their support staff. This meant that a significant part of the court's expenditure was not required in the first year, although the costs will be incurred in later years as the court expands. The court has deliberately conserved its appropriation in order to ensure that funds are available for priority projects that will only be identified as the needs of the court emerge.

In order to ensure the continued delivery of family law services within the family law system, the court provided some funding that it did not require in 2000-01 to the Family Court in order to enable that court to continue to engage registrars. The court has also made a similar arrangement for the 2001-02 financial year.

Arrangements for delivery of PDR services by community agencies

Although the court has now made arrangements with community agencies for the delivery of primary dispute resolution (PDR) services, that funding was not expended in the financial year and has been carried over into following years. The court now has arrangements with 33 agencies and is seeking to expand that number in the following months. Further information about the PDR arrangements is provided in Part Three of this report.

PART THREE: PERFORMANCE – THE WORK OF THE COURT

The work of the court

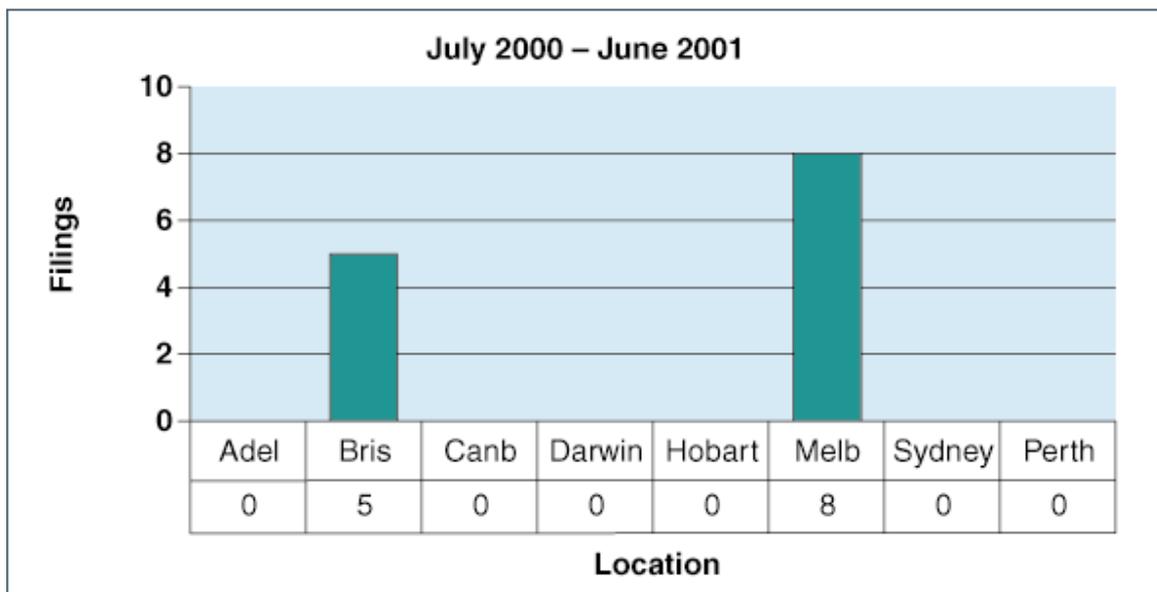
Administrative Law

The court has jurisdiction to hear applications made under the *Administrative Decisions (Judicial Review) Act 1977* and appeals from the Administrative Appeals Tribunal that are transferred to the Federal Magistrates Court by the Federal Court. These are matters in which judicial review of an administrative decision is sought by an applicant. It can concern any administrative decision other than migration matters⁵.

Highlights

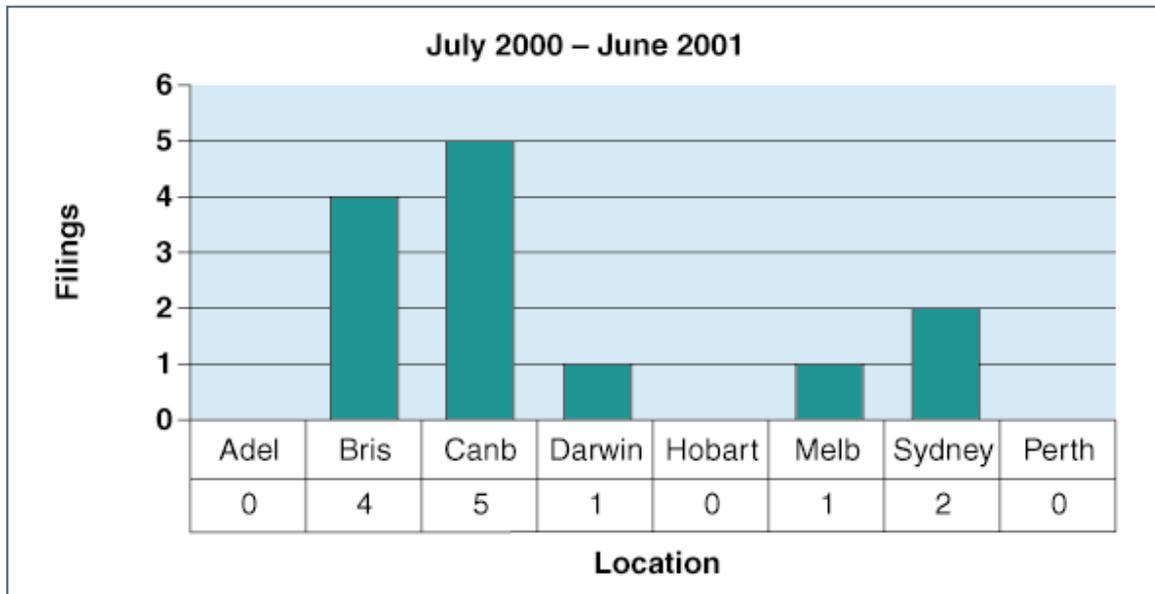
- 11 Administrative Appeals Tribunal appeals were transferred to the court, which had finalised three matters at 30 June 2001.
- 11 Administrative Decisions (Judicial Review) matters were received in the court, which had finalised six matters at 30 June 2001.

Figure 3.1: Administrative Appeals Tribunal matters



⁵ The government has introduced legislation that will have the effect of removing this restriction of the court's jurisdiction.

Figure 3.2: Administrative Decisions (Judicial Review) matters



Significant matters

***Hardcastle v Repatriation Commission* [2001] FMCA 42**

In this case, the applicant appealed from a decision of the Administrative Appeals Tribunal.

The Tribunal had affirmed a decision under review which was a decision by the Veterans Review Board. The Veterans Review Board had affirmed a Repatriation Commission decision which had found that hypertension and trigeminal neuralgia were not war-caused diseases within the meaning of that term in section 9 of the *Veterans Entitlements Act 1986* and did not satisfy the requirements of the Statement of Principles Instrument. Federal Magistrate McInnis found that no error of law pursuant to section 44 of the *Administrative Appeals Tribunal Act 1975* was made by the Tribunal. Accordingly the application was dismissed.

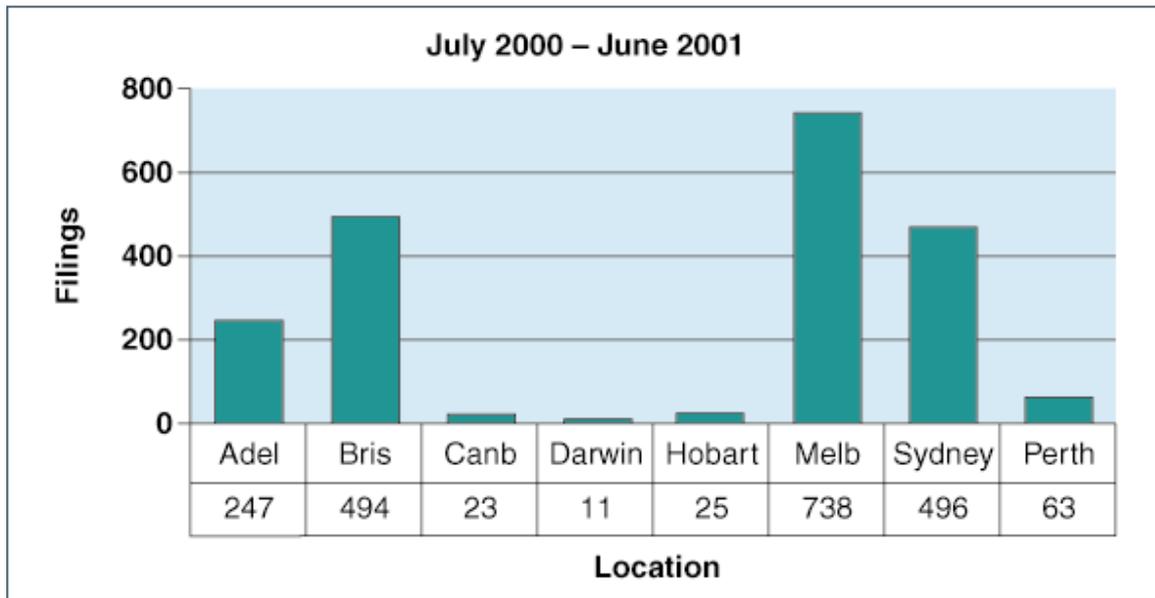
Bankruptcy

The Federal Magistrates Court has concurrent jurisdiction with the Federal Court in matters arising under the *Bankruptcy Act 1966*. The only exception is the capacity to undertake trials with a jury pursuant to section 30(3) of the *Bankruptcy Act*. That power is limited to the Federal Court.

Highlights

- The court finalised 1106 bankruptcy matters during the year.

Figure 3.3: Bankruptcy matters



Significant matters

The Federal Court decision of Moore J in *Lee v McNulty* [2000] FCA 1519 considered the validity of bankruptcy notices issued in the Federal Magistrates Court. Amendments to the prescribed form were not made at the time the Federal Magistrates Court was first able to exercise jurisdiction. Amendments were prescribed retrospectively and Moore J decided, at least in the present case, that this had no material legal consequence.

In *Derek George Shephard v Blueberry Farms of Australia (Corindi) Limited* [2001] FMCA 2 the court had to consider whether errors or omissions in the bankruptcy notice invalidated the notice.

The conflicting decisions of the full Federal Court on the point (*Kirk v Ashdown* [1999] FCA 1664; *Bendigo Bank Ltd v Williams* (2000) 173 ALR 175; *Trustees of the Franciscan Missionaries of Mary v Weir* [2000] FCA 574) were considered. Federal Magistrate Driver noted that the approach taken in those cases varied between a strict approach in *Bendigo Bank* and a more liberal approach in *Kirk*. It was noted that in an attempt to resolve these differences, a full bench of five in the Federal Court heard three matters and gave judgment upon them on 22 December 2000 (*Australian Steel Company (Operations) Pty Ltd v Lewis* [2000] FCA 1915; *Royal and Sun Alliance Workers' Compensation Ltd v Oakes*; and *Metropolitan Fire and Emergency Services Board v Zemlic*). In this instance, the Federal Magistrates Court followed the full Federal Court decision in *Australian Steel Company v Lewis* and held that the bankruptcy notice contained an error which breached a requirement made essential by the Act and which had the capacity to mislead a debtor in the position of the applicant. Therefore the bankruptcy notice was held to be invalid by reason of irregularity.

In *Plant v Ken Smith Electronics* [2000] FMCA 7, Federal Magistrate Raphael considered an application for an order of annulment of bankruptcy. Federal Magistrate Raphael noted that it is

now well accepted that in order for an applicant to succeed in an application, the applicant must establish both that the sequestration order ought not to have been made and that it is proper for the court to exercise its discretion to annul the order. While Federal Magistrate Raphael found that there were grounds for setting aside the bankruptcy, in this instance it would be inappropriate to annul the bankruptcy as contrary to the public interest. This was considered particularly so when the result could well be that another petition might issue which, if successful, would put the applicant in the same position as he was before but his creditors in a worse position in that the relation back period referable to the current bankruptcy would no longer apply.

In *Alan Richard Nicholls v Anna Plant* [2001] FMCA 22, the Federal Magistrates Court considered the issue of antecedent transactions. This case involved a claim for moneys paid by a bankrupt to his wife and Federal Magistrate Driver had to consider whether monies were recoverable under section 120 of the *Bankruptcy Act 1966* in the absence of a "settlement".

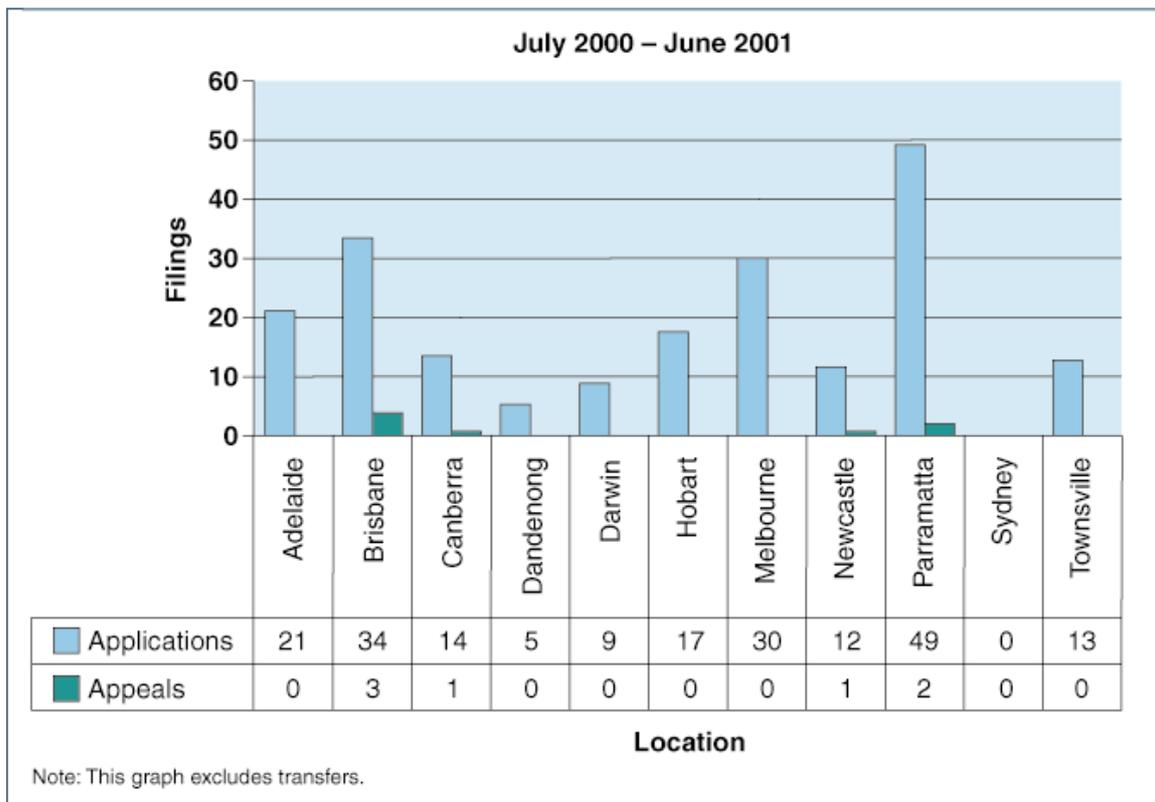
In *Inner Central Investment v Shore* [2001] FMCA 56, the court was asked to go behind a judgment and creditors petition. Federal Magistrate McInnis considered when it was appropriate for a court to exercise its discretion and go behind a judgment for determining whether there was a debt owed to the creditor.

Commonwealth Development Bank Of Australia v Tancock [2001] FMCA 37 considered the issue of the method of valuation ("forced sale" or "open market" valuation) of a debtor's assets where the petitioning creditor was a secured mortgagee. The interpretation of section 44 of *Bankruptcy Act 1966* was considered.

Child Support

The Federal Magistrates Court has the same jurisdiction as the Family Court in matters under the Child Support Act.

Figure 3.4: Child support matters



Family Law

In the family law area, federal magistrates have jurisdiction in the following matters:

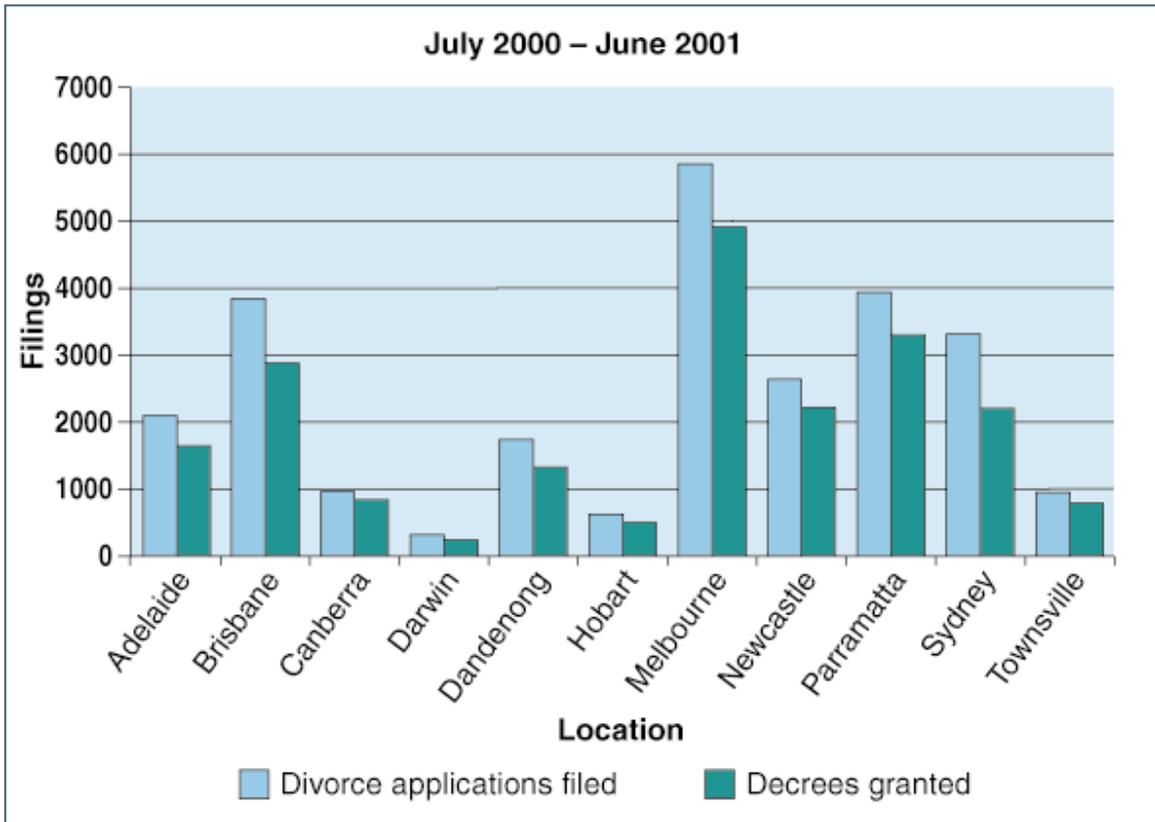
- Applications for divorce.
- Applications concerning spousal maintenance.
- Property disputes where the property in dispute is worth less than \$300,000, or property disputes worth more than this with the consent of the parties.
- All parenting orders, whether the parents are married or unmarried.
- Enforcement of orders made by either the Federal Magistrates Court or the Family Court.
- Location and recovery orders as well as warrants for the apprehension or detention of a child.
- Determination of parentage and recovery of child bearing expenses.

Highlights

- The court was invested with full jurisdiction in relation to residence matters by the *Family Law Amendment Act 2000*.
- During the last quarter of 2001, the court received 22 per cent of all ancillary applications made under the Family Law Act in federal courts.

- The court established a panel of providers of primary dispute resolution services for family law matters.

Figure 3.5: Divorces filed and decrees granted



Significant matters

The reporting of family law proceedings is subject to section 121 of the Family Law Act. Significant family law decisions, edited for the purposes of that provision, are published on the court's website.

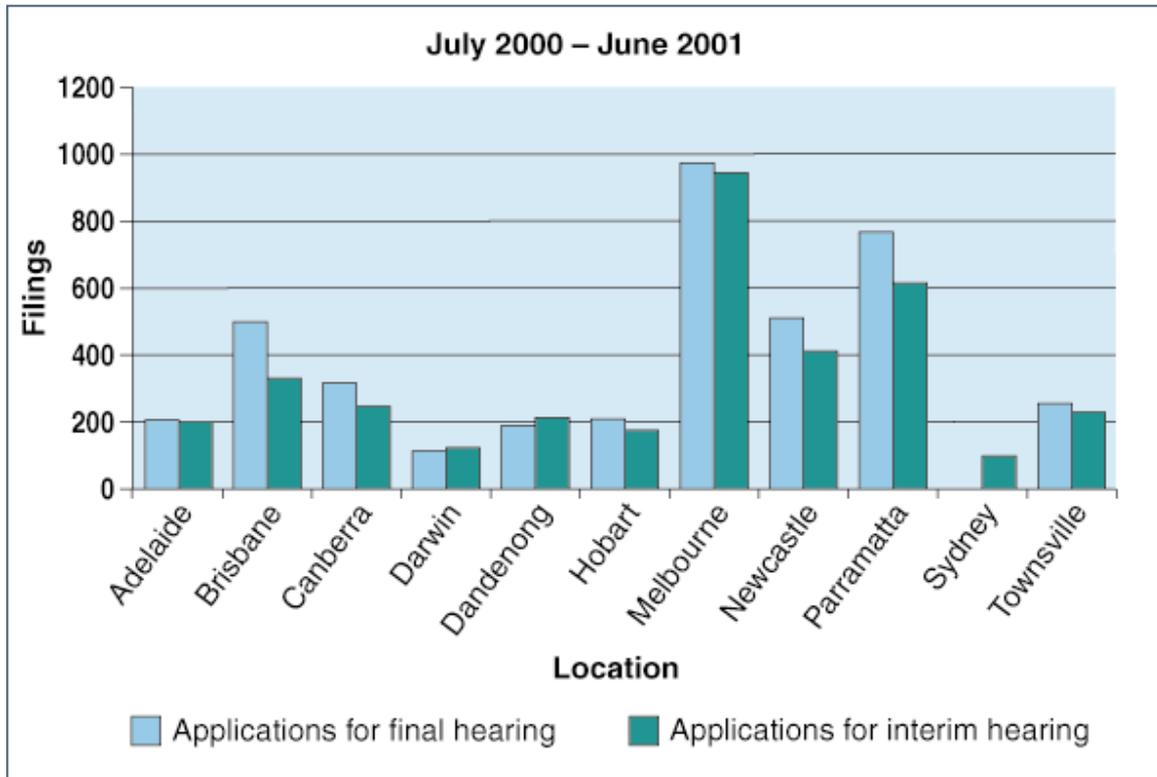
Re Bryant; Ex parte Guarino [2001] HCA 5

This matter involved an application for writs of certiorari and prohibition against the Chief Federal Magistrate (and presumably any other federal magistrate) in relation to proceedings for dissolution of marriage filed by the applicant's wife. In dismissing the application, Hayne J considered the constitutional reach of sections 71, 79 and 80 of the Constitution and whether provisions of the *Federal Magistrates Act 1999* and the *Federal Magistrates (Consequential Amendments) Act 1999* offended these sections. While Hayne J noted that section 79 uses the word "judges" and does not use the word "magistrate", nevertheless he considered " *...it is clear when regard is had to s71 and the power given to the Parliament to create "other federal courts" that the title given to the judicial officer by Parliament in creating such another federal court is not*

determinative of the constitutional reach of s79 and the other provisions in Ch III. The constitutional reach of s79 extends to the Federal Magistrates appointed to serve in the court created by the Parliament by the Act."

In considering the constitutional expression "Justices of a court created by the Parliament", Hayne J rejected the applicant's argument that this did not extend to federal magistrates. He decided 'there is therefore, no reason to consider that the provisions made in the Act about the term of office and conditions for resignation or removal from office of Federal Magistrates are invalid'.

Figure 3.6: Ancillary applications filed



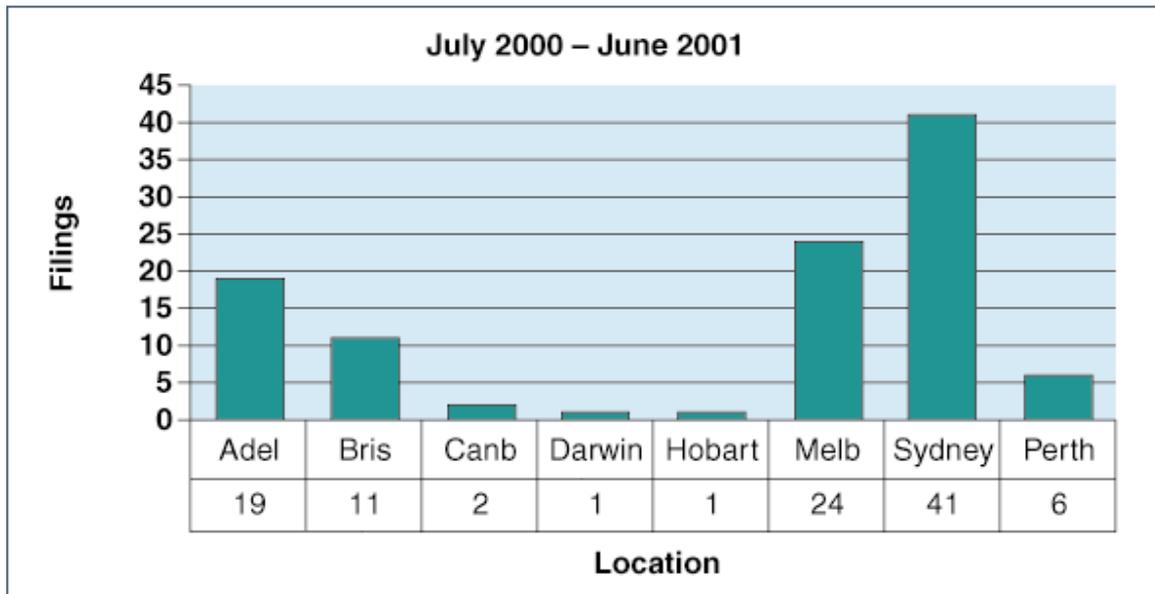
Unlawful Discrimination

The Federal Magistrates Court has the power to hear unlawful discrimination matters under the *Human Rights and Equal Opportunity Commission Act 1986*. This includes matters of racial, sexual or disability discrimination.

Highlights

- 105 matters were received in the court, which had finalised 37 matters at 30 June 2001.

Figure 3.7: Unlawful discrimination matters



Significant matters

***Johanson v Blackledge Meats* [2001] FMCA 6**

This was an action for damages under the *Human Rights and Equal Opportunity Act 1986* alleging sexual harassment and sex discrimination under the *Sex Discrimination Act 1984*.

The applicant claimed that she had been sold a bone prepared in the shape of a penis and that this caused her psychological harm and economic loss.

The respondents defended the claim on the basis that they had no knowledge of the sale of the object to the applicant, that the sale of the offending object was accidental and that they were not vicariously liable for the actions of the employee.

Federal Magistrate Driver found that the sale was accidental in that the employees of the respondents had not intended to sell that particular bone to the applicant. Nevertheless, the court found that the sale constituted sexual harassment in the provision of goods for the purposes of the *Sex Discrimination Act*. The court also found that the sale constituted discrimination against the applicant in that she had been treated less favourably than a male customer would have been in the same circumstances.

The court found that the applicant was entitled to damages for pain and suffering and for psychological counselling. However, the applicant’s claim for damages for economic loss was unsuccessful.

***Xiros v Fortis Life Assurance Ltd* [2001] FMCA 15**

In this case, Federal Magistrate Driver found that the respondent insurance company was entitled to rely upon a defence available under section 46(2) of the *Disability Discrimination Act 1992* in a

claim by the applicant for damages for disability discrimination brought under the *Human Rights and Equal Opportunity Act 1986*.

Section 46(2) of the Disability Discrimination Act provides that it is not unlawful for an insurance company to discriminate in the provision of insurance where the discrimination is based upon reasonable actuarial/statistical data.

The court found that in this case a death and disability insurance company legitimately excluded cover for HIV/AIDS because substantial statistical data showed there was a proper basis for the exclusion over the period of time in question in the proceedings.

There was no doubt that the applicant suffered from a disability in that he was HIV positive and there was no doubt that he had suffered discrimination in the provision of insurance services. However, the court found that section 46(2) operated to protect the insurance company in the circumstances.

Costs awards in unlawful discrimination matters

In a series of cases, Federal Magistrate Driver developed jurisprudence relating to the awarding of costs in human rights proceedings.

In *Low v Australian Tax Office* [2000] FMCA 6, Federal Magistrate Driver said that the court should be slow to award costs at an early stage of human rights proceedings in order to give applicants a reasonable opportunity to take advice, to formulate their case and to assess their position.

In *Gibbs v Wanganeen* [2001] FMCA 14, Federal Magistrate Driver applied the principle he established in *Low v ATO* where the proceedings had been resolved at a preliminary stage without the need for a full hearing.

In *Xiros v Fortis Life Assurance Ltd*, Federal Magistrate Driver declined to award costs against the unsuccessful applicant on the basis that the proceedings contained a public interest element of substance because of the lack of judicial precedent on the point in issue in that case and because the respondent bore the onus of proving that it was entitled to the defence afforded by section 46(2) of the *Disability Discrimination Act*.

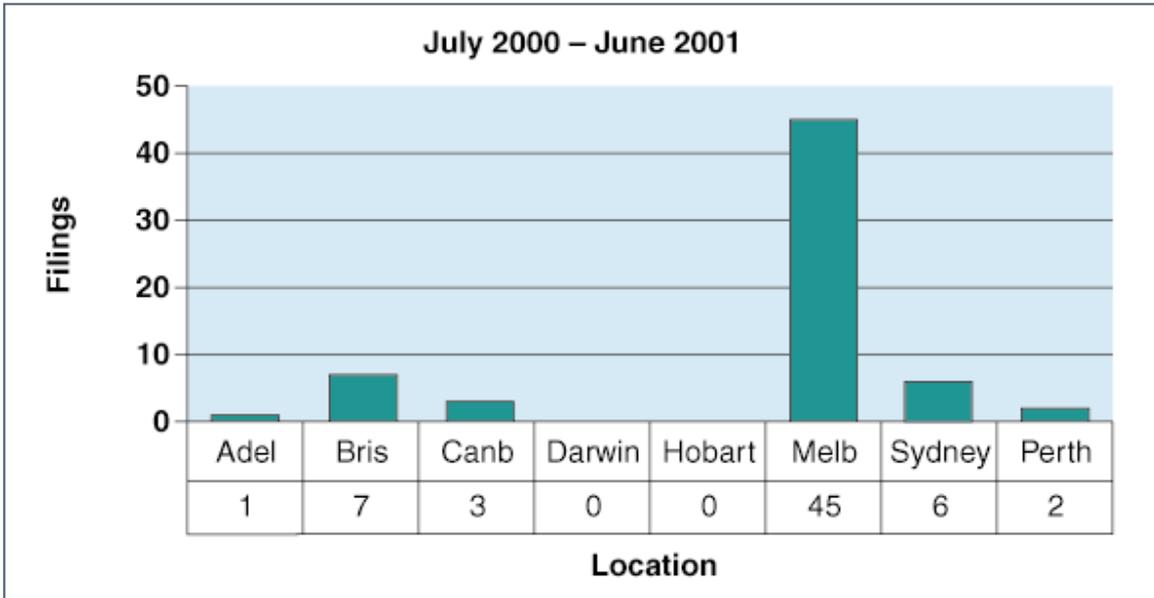
Federal Magistrate Driver held that the applicant was not in a position to properly assess the strength of his case because the case turned on the availability of the statutory exemption and the availability of that exemption depended upon the assessment of the actuarial and statistical data, which was evidence solely within the knowledge of the respondent.

In *Tadawan v State of South Australia* [2001] FMCA 25, Federal Magistrate Raphael referred to the costs decisions of Federal Magistrate Driver and declined to make an order for costs against the unsuccessful applicant because human rights proceedings were formerly considered to be “no costs” proceedings, as evidenced by the practice of state tribunals and the Human Rights and Equal Opportunity Commission and because it would be inappropriate to order costs against an unsuccessful applicant where the claim, although unsuccessful, was justifiable.

Trade Practices

The Federal Magistrates Court can hear unfair trade practices matters arising under Division I of Part V of the *Trade Practices Act 1974* and product safety and information matters arising under Division IA of Part V of the *Trade Practices Act 1974*, with power to award damages up to a maximum of \$200,000.

Figure 3.8: Trade practices matters



Performance measures

The performance measures included in the Federal Magistrates Service Portfolio Budget Statements were:

Quality

- Less than 1 per cent of cases litigated or divorces processed are subject to complaint. (See page 38).
- The time taken from filing to disposition is less than six months in 90 per cent of cases. (See page 36).
- Primary dispute resolution services resolve disputes for people who are referred to them by the court in more than 60 per cent of cases. (Data is not available for the reporting period.)
- Feedback from clients as to whether they are satisfied that their disputes have been handled quickly and simply. (See page 38).
- Feedback from clients regarding the simplicity and effectiveness of court rules. (The rules of court were not introduced until 30 July 2001, outside the reporting period).
- Feedback from clients regarding the availability of information about the service. (See page 37).

Quantity

- Number of cases litigated and divorce cases processed. (See pages 35 and 36).
- Number of counselling, mediation, conciliation and other primary dispute resolution services used. (See pages 44 and 45).
- Number of information session conducted and publications issued. (See page 59 and Appendix C).

Performance

Workload

In the initial weeks and months, the majority of the court's work came from transfers from the superior courts. However, very quickly in some places, and more slowly but steadily in others, the court's own workload began to build up.

By the end of June 2001, a consistent pattern of filings had emerged.

Excluding divorces, for the 12 months to 30 June 2001, 4010 applications were filed in the Federal Magistrates Court. This represented approximately 17.4 per cent of total filings in the Federal Magistrates Court and the Family Court. In addition, in the same period there were 2478 matters transferred from the Family Court.

In some locations such as Tasmania, Darwin and Dandenong, filing of ancillary applications did not start until late 2000.

For the last quarter, April to June 2001, the filings in the Federal Magistrates Court represented about 22 per cent of the total filings in both courts.⁶ Transfers to the court were occurring at the average rate of approximately 150 per month. There was a significantly lower rate of transfer from the court – about 25 per month. That is to be expected, although it is also anticipated that the frequency of transfer to the superior courts will increase in the next year.

The Federal Magistrates Court workload was initially constituted by matters transferred from the Family Court. Throughout the year, the rate of filings in the Federal Magistrates Court continued to grow.

A total of 26,070 applications for divorce were filed in the Federal Magistrates Court for the year. The number of these applications filed in the Federal Magistrates Court grew steadily throughout the year. The filings for the quarter July to September 2000 numbered 5533 as compared with 7273 in the final quarter.

In the area of general federal law, 2097 bankruptcy applications were lodged in the Federal Magistrates Court. A total of 103 human rights applications and 64 Trade Practices Act applications were filed with the court.

The Federal Magistrates Court set a benchmark of six months for completion of 90 per cent of all applications. The period of six months is measured from commencement in the court to final disposition of an application. In order to measure the effectiveness of the Federal Magistrates Court against this standard, a data collection method was established. Filing dates and dates of finalisation were recorded to measure the time taken for cases. That data shows the Federal Magistrates Court was effectively meeting the six month benchmark with the average time taken for cases being 3.36 months. Of course, some matters do take longer than six months. That occurs usually because the litigants, and their advisers, have sought to conduct the litigation over an extended period.

⁶ Other than divorces, there are no Federal Magistrates Service family law filings in the Sydney registry. The Federal Magistrates Service does not have family law jurisdiction in Western Australia.

Survey on awareness and performance

After almost 12 months of operation, the Federal Magistrates Service sought feedback about whether its objectives were being met and any suggestions for improvement. In particular, the Federal Magistrates Service sought feedback from lawyers about their awareness of the court's services and whether their clients were satisfied that disputes had been handled quickly, simply and economically.

The Federal Magistrates Service engaged Profmark Consulting Pty Ltd to conduct the survey. Profmark contacted a limited sample of legal practitioners who had used the court during the previous 12 months. The Federal Magistrates Service has not yet sought to directly survey the individual parties to proceedings in the court.

The results of the survey are intended to contribute to assessment of organisational performance for the Federal Magistrates Service, and to provide data relating to the qualitative performance measures identified in the Federal Magistrates Service budget statements.

Summary of results

Most respondents (82 per cent) had been involved in family law matters. This is consistent with the proportion of family law work done by the court during its first 12 months of operation.

The survey sought response to two major issues: awareness of services provided by the Federal Magistrates Service and satisfaction with the services provided.

Awareness of the services provided by the Federal Magistrates Service

Availability of information

In relation to availability of information, 75 per cent of respondents indicated that there was sufficient information available about the Federal Magistrates Service.

Some practitioners indicated that the interaction between the Federal Magistrates Service and other courts could be clearer and that further information could be provided about the general federal law jurisdiction of the Federal Magistrates Service.

Many believed the Federal Magistrates Service had done a good job in promoting its services, with the website being frequently mentioned.

Legal practitioners believed the general public did not have sufficient information about the Federal Magistrates Service.

Preferred method of communication

Approximately 55 per cent of practitioners would prefer to receive information by email, 38 per cent by mail, and 7 per cent by fax.

Information on proceedings in the court

Approximately 87 per cent of respondents believed the Federal Magistrates Service had kept them sufficiently informed about progress in matters in which they were involved.

Satisfaction with the services provided by the Federal Magistrates Service

Quicker and simpler outcomes for clients

Approximately 88 per cent of respondents believed the Federal Magistrates Service was meeting its objectives of providing a simpler and more accessible forum.

The concept of the Federal Magistrates Service was widely applauded. However, many practitioners commented that, due to its success, the court was becoming busier and this was affecting hearing dates and, therefore, accessibility.

Extent to which the Federal Magistrates Service operates informally

Many respondents (85 per cent) commented that federal magistrates were appropriately informal while maintaining the decorum and dignity expected of a court.

Overall rating of service

Approximately 21 per cent rated Federal Magistrates Service services excellent, 42 per cent very good and 34 per cent good.

Complaints

During the period that the Federal Magistrates Service has been in operation, the court has received 28 written complaints. A written complaint is one that is received by mail, fax or email.

The court has also received numerous compliments during the same period.

The Federal Magistrates Service has developed complaint-handling procedures to ensure that complaints are dealt with expeditiously and with a degree of urgency. Associates and other staff have received instructions on how to process complaints.

Complaints and compliments are viewed as providing valuable information about community perceptions of the work of the court, client satisfaction and service delivery. For this reason, one of the performance standards is that less than 1 per cent of cases litigated or divorces processed are subject to complaint. The number of complaints filed is well within this performance benchmark.

Some of the matters that have been treated as complaints could more broadly be defined as general grievances. The Federal Magistrates Service adopts a broad interpretation and includes such general grievances in the figures reported.

The complaints received have included concerns about:

- The performance of lawyers.
- Delay in the delivery of a judgment.
- Concerns about the outcome of proceedings.
- Frustration about the level of information provided by a registry.
- Confusion over arrangements in relation to transfer of proceedings between courts.

- Difficulty in obtaining a copy of the transcript of proceedings for the purpose of seeking legal advice as to whether or not to lodge an appeal.
- Delays in processing applications.

Some of the issues raised by correspondents are more appropriately dealt with by the appeal process or should be referred to state or territory legal bodies or professional practice tribunals. Complainants are often advised that their concerns can only be addressed by an appeal – about which they might be best advised to obtain legal advice – or by reference to a state or territory legal body.

Complaints about the judicial work of the court are not appropriately handled by the court's complaints system. Complaints about a judicial decision are appropriately dealt with by the appeal processes. Complaints about the behaviour of a federal magistrate are referred to the Chief Federal Magistrate, who will generally refer the complaint to the relevant federal magistrate.

The Federal Magistrates Service has established a protocol for the reporting of complaints about delays in delivery of reserved judgments and benchmarks for handing down reserved decisions. The protocol is designed to ensure that decisions are handed down and reasons given as expeditiously as possible. The protocols provide:

- A benchmark for the handing down of reserved judgments within six weeks of hearing or receipt of submissions in writing. A judgment which is outstanding for in excess of eight weeks will be regarded as outside the guidelines for delivery of judgments and reportable for statistical purposes as outstanding.
- That complaints about delivery of a reserved judgment may be directed to the president of the appropriate law society or bar association. The president will then refer the inquiry to the Chief Federal Magistrate for attention without disclosing which of the parties raised the matter.

The Federal Magistrates Service seeks to utilise complaint handling as an important indicator of client satisfaction with the administration of the court. This is particularly important in an organisation such as the Federal Magistrates Service, where a significant part of the client service functions are performed by registry staff who are not employed directly by the Federal Magistrates Service. Information from complaints can be fed back through the organisation to ensure continuous improvement of service delivery and compliance with standards established in the relevant memorandum of understanding.

Other means of monitoring client satisfaction include calls made to the national telephone line (1300 367 110) together with queries received via the customer service email address.

Anyone may lodge a complaint with the court. Complaints should be in writing and should be sent to:

Chief Executive Officer
Federal Magistrates Service
305 William Street
Melbourne 3000

If the complaint relates to specific proceedings, complainants are asked to provide a file reference number.

National telephone number

The 1300 number receives an average of 62 calls per day, with Monday being the busiest day.

Of these calls, approximately 28 per cent originate from Victoria, 31 per cent from Queensland and 28 per cent from NSW. The other states are lightly represented.

Many calls relate to divorce (33 per cent) or requesting a divorce kit (10 per cent). Half of the callers are identified as not having a lawyer, with 32 per cent of queries coming from solicitors.

Queries on individual cases on a federal magistrate's docket are dealt with by direct calls to the relevant associate.

Appeals

Appeals are possible as of right from final decisions of federal magistrates to the full court of the Federal Court or the Family Court, depending on the jurisdiction exercised.

Leave is required to appeal from interlocutory decisions (sections 24 and 25 of the *Federal Court of Australia Act 1976*, sections 94AA and 94AAA of the *Family Law Act 1975*). An appeal is not by way of a hearing *de novo*. However the statutory nature of an appeal to the Family Court provides for a re-hearing by the full court when discretion is re-exercised: *CDJ v VAJ* (1998) 197 CLR 172; *Allesh v Maunz* (2000) HCA 40.

During the financial year 2000-01, 30 appeals were filed in the Family Court from orders made by federal magistrates.

In one divorce matter that went to the Family Court on appeal, the applicant sought special leave to appeal to the High Court.

Of the 30 appeals filed (this figure includes appeals against interim decisions), 10 were dismissed, six were allowed, seven were withdrawn and seven were still proceeding at the end of the 2000-01 financial year.

In the same period, eight appeals were filed in the Federal Court from orders made by federal magistrates. One appeal was dismissed, three were withdrawn, two were resolved by consent orders and two remain current with no result at the end of the 2000-01 financial year. No appeal was allowed.

The Chief Justice of either the Federal Court or the Family Court has a power to direct that an appeal shall be heard by a single judge, who will constitute a full court. This has occurred in all appeals to date.

The *Federal Magistrates Court Rules 2001* contain rules in relation to a review of the exercise of power by a registrar (exercising delegated judicial powers). The application should be listed within 14 days of filing and must be served within seven days of filing. The following time limits apply:

- 21 days – delegated bankruptcy power.

- 28 days – dissolution power.
- Seven days for other matters.

Figure 3.9: Appeals to Family Court

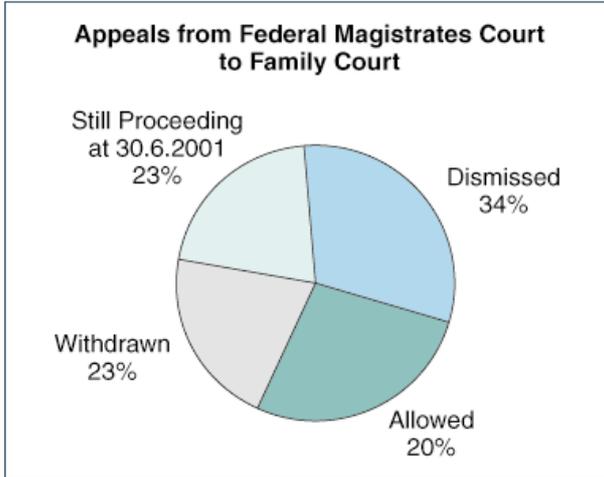
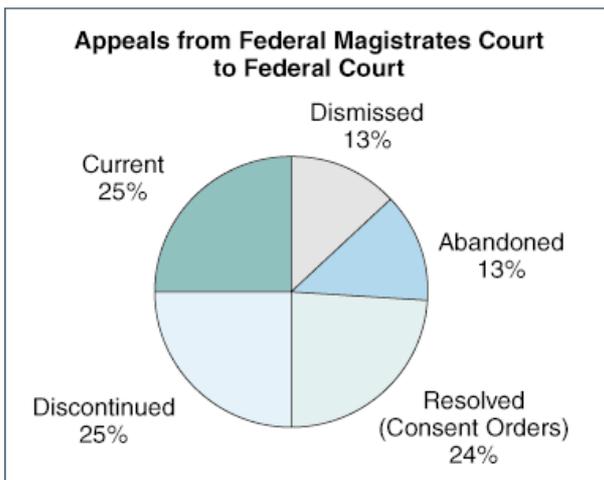


Figure 3.10: Appeals to Federal Court



Transcript arrangements

All matters before the Federal Magistrates Court, excluding uncontested dissolution and bankruptcy applications, are recorded. Various service providers undertake the recording in all locations.

In certain situations the federal magistrate will order that a transcript of the proceedings be produced. A transcript is generally ordered when an appeal is lodged; an *ex tempore* judgment is given or if the federal magistrate feels it is appropriate to retain a transcript on the court's file.

A party to proceedings can obtain a copy of the transcript by contacting the relevant service provider. The cost of the transcript is payable by the party seeking the transcript and is payable to the service provider, not to the court.

Working in regional Australia

The Federal Magistrates Service identified as a priority the need to provide services to regional areas. A circuit roster was structured to accommodate this priority.

The Federal Magistrates Service, along with conducting circuits in regional areas, aims to use technology such as audio and video links to conduct hearings in remote locations and to service areas between circuits.

The following list sets out areas circuited to during the reporting period.

Victoria

There were regular circuits to Warrnambool (sitting in Hamilton), Morwell, Sale, Geelong, Bendigo and Shepparton. There was one circuit to Albury-Wodonga. In addition, the Federal Magistrates Service sat in Dandenong for two and a half weeks each month and heard one matter in Moe.

New South Wales and Australian Capital Territory

The court sits regularly at Sydney, Parramatta, Canberra and Newcastle. There were no circuits in New South Wales during the reporting period, although the court did sit in Armidale to hear one matter. Arrangements for circuits in 2001-02 have been made and circuits will commence in October 2001 to Dubbo, Lismore, Coffs Harbour and Wollongong.

Queensland

The Federal Magistrates Service circuited to Mackay, Rockhampton and Cairns.

Tasmania

The Federal Magistrates Service heard cases in Devonport, Hobart and Launceston.

South Australia

The Federal Magistrates Service circuited to Berri, Port Augusta, Port Lincoln, Port Pirie and Whyalla.

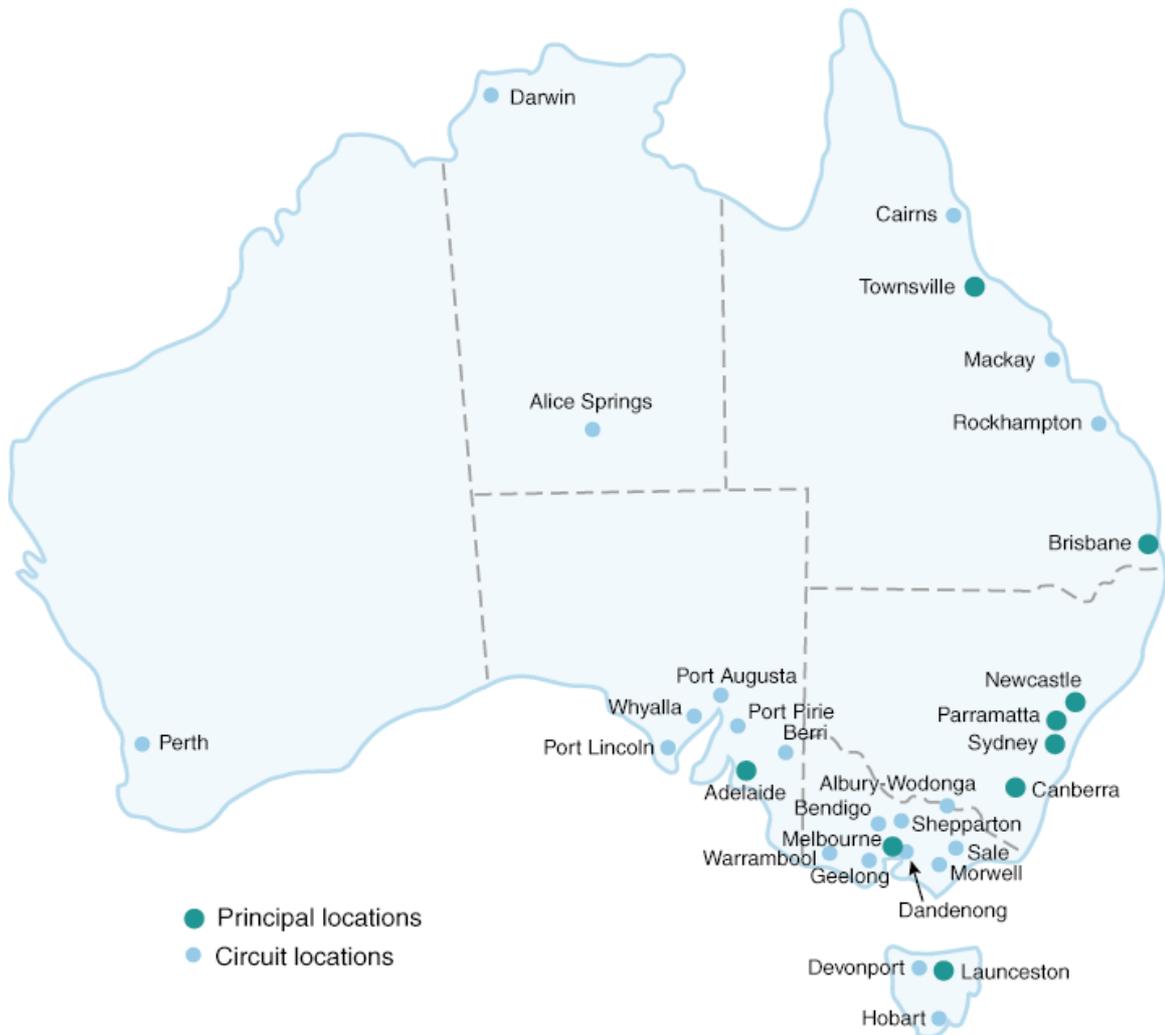
Northern Territory

Until the appointment of a further federal magistrate, the Federal Magistrates Service services Darwin and Alice Springs from Adelaide by video and audio link and visits Darwin monthly to hear cases.

Western Australia

The Federal Magistrates Service cannot exercise any family law jurisdiction in Western Australia, but the Federal Magistrates Court sits in Perth to hear general federal law cases every two months.

Figure 3.11: Federal Magistrates Court principal and circuit locations



Primary dispute resolution

The Federal Magistrates Service is committed to the delivery of primary dispute resolution (PDR) services to people near where they live. So that people can access services in their communities, public tenders were invited for the delivery of counselling, mediation and conciliation services in family law matters from community organisations in those states where the Federal Magistrates Service has jurisdiction.

PDR in family law

Tender

The invitation to tender was advertised on 3 March 2001 and tenders closed on 4 April 2001. Tenders were sought from community organisations to deliver counselling, mediation, and conciliation services in family law matters. Forty-three tenders were received and 33 tenderers were successful. Deeds of Standing Offer have been entered into with the successful tenderers. Service providers are in both urban and regional areas. See Appendix D for a list of successful tenderers.

In family law matters, federal magistrates now have the option of ordering or referring parties to a PDR process in either the Family Court's mediation service or a community organisation.

Following the tender process, there were a number of areas where there were still no PDR service providers. Consequently, a number of organisations that did not tender for the delivery of services have been approached to deliver PDR services for the Federal Magistrates Service.

Protocols have been finalised for the ordering or referring of matters to community organisations.

A PDR brochure has been produced to give clients information about PDR in family law matters.

PDR information and a list of service providers are published on the Federal Magistrates Service website.

Services delivered by the Family Court Mediation Section

Pre-first court date counselling

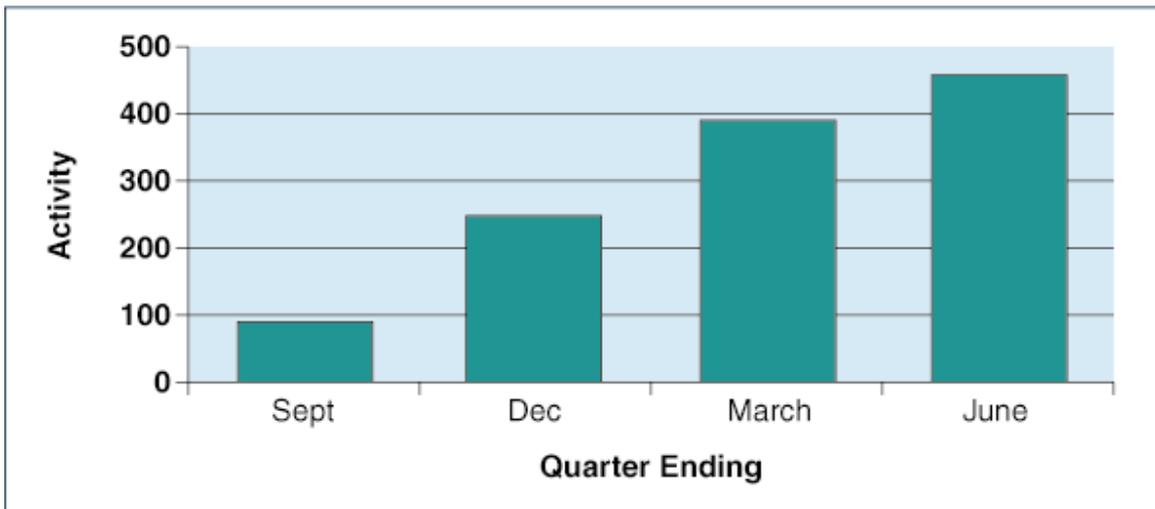
In family law matters, parties are ordered to attend counselling prior to the first court date. Appointments are made for clients with the Family Court Mediation Section at the time of filing of documents. Clients are advised of the appointments by letter. The letters are given to the applicant with the service documents. The applicant retains one letter and the other is served on the respondent with the documents. Pre-first court date counselling assists settlement negotiations at an early stage in proceedings.

Conciliation counselling

Other services delivered by the Family Court Mediation Section for Federal Magistrates Service clients are conciliation counselling and family reports.

The following graph indicates the counselling numbers for the September, December, March and June quarters.

Figure 3.12: Quarterly family law mediation figures



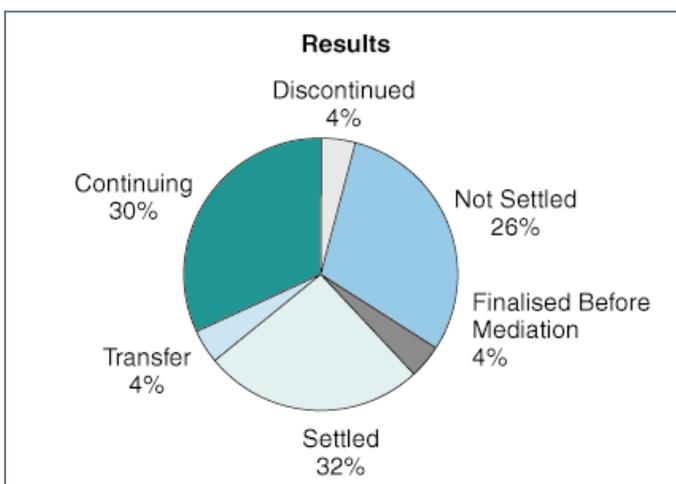
Family reports have been prepared by both Family Court counsellors and welfare officers appointed pursuant to Regulation 8 of the Family Law Regulations. Family reports are prepared for trials of matters where a federal magistrate considers that an assessment of the family will assist in determining the issues in dispute between the parties. Family reports are prepared in cases where confidential counselling and other PDR processes have been completed.

A total of 221 family reports have been prepared by the Family Court Mediation Section for the Federal Magistrates Service.

PDR in general federal law

In general federal law matters, the registrars of the Federal Court have conducted mediations in general federal law matters. Forty-five matters were ordered to mediation. Of those 14 settled, 12 did not settle, two matters were discontinued, two were finalised before mediation and two were transferred. Thirteen were still ongoing at the end of the 2000-01 financial year.

Figure 3.13: General federal law mediations



PART FOUR: ADMINISTRATION AND GOVERNANCE

Section 89 of the *Federal Magistrates Act 1999* provides for the Federal Magistrates Service to administer its own affairs. Under section 12 of the Act, the Chief Federal Magistrate is responsible for the orderly and expeditious discharge of the business of the court. A collegiate approach is taken by federal magistrates to court administration. A number of advisory committees were established to provide direction on various aspects of court administration.

Court advisory committees

Business Information Management Committee

The Business Information Management Committee is a committee of federal magistrates established for the purpose of examining and developing processes to better manage the work of the court.

The formation of the Federal Magistrates Service has provided a unique opportunity for the implementation of appropriate business management practices unfettered by past systems or practices.

The role of the committee has necessarily involved it, therefore, in attempting to identify priorities in this area for the court given budgetary and operational constraints. Areas examined include, for example, the allocation of information technology resources; specification and development of the Federal Magistrates Service's case management system; training in relation to information technology facilities for federal magistrates and staff; voice dictation facilities; development of, and access to research facilities; provision of information technology facilities to the courtroom; and case management system integration with document management, website and office automation products.

The proposed use by the Federal Magistrates Service of the Family Court Casetrack system will occupy much of the committee's attention in the immediate future together with investigations resulting in recommendations for the further provision of appropriate technology and training to the Federal Magistrates Service.

The committee oversees the management of the court's business information systems.

Court Users and Systems Committee

This committee is responsible for developing policy on the delivery of court services.

Issues discussed include case management and listing arrangements and the development of pro forma orders and benchmarks for disposition of cases.

The committee seeks to devise best practice processes and procedures that will facilitate the legislative objectives of providing a simpler and accessible alternative to litigation in the superior courts.

Information material has been prepared and is available to provide litigants and practitioners with an understanding of the practices and procedures of the court. The committee was responsible for overseeing the preparation of information material in relation to the rules.

In addition, the committee has sought to develop links with court users and members of the profession to ensure that there is regular contact with those who use the courts and who can assist with suggestions for improvements and provide a means of continuing performance evaluation.

Ethics Committee

This committee, which is composed exclusively of federal magistrates, was established to take on an advisory role regarding ethical issues that arise from time to time and on which federal magistrates might like some guidance or to discuss with their peers.

The committee is also to act in an advisory capacity in considering ethical issues referred to it by the Chief Federal Magistrate.

The committee has made contact with the St James Ethics Centre. The committee has dealt with protocols for surveys involving federal magistrates and protocols relating to how complaints regarding federal magistrates should be handled.

The committee has also considered a protocol in relation to dealing with practitioners when a breach of ethics may have occurred.

Legal (Rules) Committee

The role of this committee is wider than merely a consideration of appropriate rules of court and practice and procedure generally. This committee also has an important function of considering proposed legislative changes and preparing submissions in relation to jurisdictional and other legal issues of relevance to the Federal Magistrates Service. For example, the committee considered:

- Amendments to the *Privacy Act 1998*, which will confer concurrent jurisdiction with the Federal Court to enforce determinations of the Privacy Commissioner and private sector adjudicators.
- Amendments to the *Family Law Act 1975*, which introduced a new parenting compliance regime and financial agreements, arbitration and other miscellaneous amendments.
- Amendments introduced by way of the *Family Law Legislation Amendment (Superannuation) Act 2001*, which will allow couples to split their superannuation interest in the same way as other assets. This amendment will, when in force, have an impact on the property jurisdiction of the Federal Magistrates Service and there are discussions with government in relation to the best way of dealing with this.
- A submission to the Australian Law Reform Commission report, *The judicial power of the Commonwealth: A review of the Judiciary Act 1903*.

However, a considerable amount of the committee's time so far has been devoted to drafting rules of court and accompanying forms. (The *Federal Magistrates Court Rules 2001* commenced on 30 July 2001). The committee considered it appropriate to consult widely prior to settling the rules and was assisted by the many useful submissions that were received. The committee met frequently to consider all these submissions before federal magistrates approved a final draft. It is the intention of the committee for further consultation in relation to any changes to the rules and to assess their workability. The committee is especially keen to ensure that the rules are widely available, easily understood and facilitate the legislative objectives of the Federal Magistrates Service.

The committee has links with the comparable committees of the Federal Court and Family Court in areas where jurisdiction is shared. In addition, the Office of Legislative Drafting in the Attorney General's Department provided much valuable assistance.

Audit Committee

The Audit Committee is chaired by Maurie Kennedy PSM and has two federal magistrates and the registrar of the court as members.

The committee met on three occasions during the year. The main issues considered during these meetings were:

- The audit committee charter.
- The engagement of an internal auditor and an internal audit charter.
- Fraud risk assessment and a fraud control plan.
- An overall risk management plan.
- Internal audit plans.
- Budgeted financial statements.
- Financial delegations.

Judgments Committee

The role of the Judgments Committee is to provide general guidance on format, style and layout of judgments. It has developed a document template for judgments consistent with the Australian Institute of Judicial Administration *Guide to Uniform Production of Judgments*.

The committee is responsible for considering the publication of judgments. It developed a protocol for referral of judgments for publication and has otherwise ensured that all judgments (with catchwords) are placed on an internal database. Final judgments (with catchwords) in family law matters are edited pursuant to section 121 of the Family Law Act and electronically forwarded to the registrar and then forwarded to Austlii and SCALEplus. Subject to acceptance of a recommendation by the author of a judgment, edited judgments (with catchwords) are forwarded to publishers.

The committee has developed protocols in relation to the forwarding of judgments to Administrative Appeals Tribunal members whose decisions may be the subject of appeal in the Federal Magistrates Court.

The designation on judgments in general federal law matters is "FMCA" and in family matters "FMCA fam".

The objective of the committee in relation to judgments of the court is to ensure that all judgments, apart from interim matters, are readily available to the public.

Pro Bono Committee

This committee was set up to coordinate the approach of the Federal Magistrates Court to pro bono assistance for unrepresented parties.

In the year 2000-01, the committee has concentrated on the creation of a pilot program for pro bono assistance in general federal law matters. Meetings were held with members of the profession, both barristers and solicitors, legal advice centres and specialist disability advice groups in both Sydney and Melbourne. It was agreed after the meetings that work on the pilot program would proceed separately in Sydney and Melbourne. Discussions are still continuing in Melbourne but in Sydney a pilot program has been established.

The Sydney pilot program consists of four firms of solicitors: Blake Dawson Waldron, Clayton Utz, Allens Arthur Robinson Group and Gilbert & Tobin. Access to the program will be available to any unrepresented litigant who comes before the Federal Magistrates Court in New South Wales in a general federal law matter. It is expected that pro bono advice will be provided after the first court hearing date. The proceedings will be adjourned for the litigant to receive pro bono advice. The participants in the scheme have promised a turnaround time of not more than two weeks. The pro bono providers will, in conjunction with the unrepresented litigant, decide on the extent of legal assistance to be given. All referred litigants will receive initial advice upon their claim. In appropriate cases assistance can extend to representation at hearing.

The Federal Magistrates Court will utilise Rule 12 of the Federal Magistrates Rules where an unrepresented litigant is provided with pro bono representation at hearing.

The pro bono pilot scheme will be complementary to an independently funded legal aid advice scheme operating in the Federal Court and in the Federal Magistrates Court in Sydney for human rights matters. Under this scheme advice can be given to an unrepresented litigant by a duty solicitor who will attend at the Federal Court approximately once a month and who will give assistance to unrepresented litigants in relation to matters affecting their case. The legal aid service will not represent parties at hearings unless those parties otherwise qualify for legal aid.

The pilot scheme was expected to operate until 30 June 2001 but will be the subject of constant monitoring by the pro bono committee. It is also hoped that a similar scheme can be started during the course of the year 2001-02 at other centres.

The pro bono committee of the Federal Magistrates Court is extremely proud of having put in place the first pro bono scheme directly related to the needs of a particular court. It is anticipated that almost all unrepresented litigants coming before the court in general federal law matters in New South Wales will have an opportunity to access the scheme.

Primary Dispute Resolution Committee

This committee is responsible for policy on the delivery of primary dispute resolution (PDR) services. Services have primarily been delivered by the Family Court in family law matters and the Federal Court in federal law matters. The committee monitored the PDR tender process for the delivery of PDR services by community organisations, the introduction of pre-first court date counselling, the ordering of family reports by federal magistrates, and the production of the PDR brochure.

Self Represented Litigants Committee

The committee's role is to consider how the Federal Magistrates Service can best address the needs of unrepresented litigants and to implement a plan to assist them. The committee considered the recommendations of the Australian Institute of Judicial Administration as outlined in its paper, *Litigants in Person Management Plans: Issues for Courts and Tribunals*. A plan is being formulated based on the recommendations in that paper.

The Federal Magistrates Service will not replicate the work being done by other organisations but will highlight areas where the Federal Magistrates Service differs from those organisations. The Federal Magistrates Service plans to use the resources and networks already providing assistance to litigants in person while targeting material to facilitate the specific needs of litigants appearing in the Federal Magistrates Court.

Corporate plan

A corporate plan was established for the first year of operation. The plan is based around an overall goal of providing a simple and accessible venue for the resolution of less complex federal law disputes. It identified six key result areas:

- Primary dispute resolution.
- Public information.
- Effective court services.
- Technology.
- Effective use and management of resources.
- Developing relationships with stakeholders.

It is intended that a longer-term plan be developed in the next reporting period.

Risk management

The Federal Magistrates Service participated in a series of workshops on risk management sponsored by Comcover, the Commonwealth's insurable risk scheme. Flowing from the workshops, the Federal Magistrates Service has identified major risks and developed a risk management plan.

A fraud risk assessment was also undertaken during 2000-01 and a fraud control plan is in place, which complies with the Commonwealth's fraud control policy. There were no instances of fraud detected during the year.

Internal audit services are provided by Deloitte Touche Tohmatsu. Audits were conducted during 2000-01 relating to fixed assets, expenses, revenues and employee entitlements.

The APS code of conduct

During 2000-01, the Federal Magistrates Service promoted the APS values and code of conduct by:

- Including relevant material in staff induction.
- Reference to the APS values and code of conduct in offers of employment.
- Distribution of posters to each office highlighting the values and code of conduct.
- Conducting a survey of staff to contribute to the Public Service Commissioner's *State of the Service* report.

Senior appointments

The Chief Executive Officer of the Federal Magistrates Service is Peter May. The Chief Executive Officer assists the Federal Magistrates Service in the conduct of its administrative affairs. The Chief Executive Officer has the power of a secretary under the *Public Service Act 1999* and the responsibilities of the chief executive of an agency under the *Financial Management and Accountability Act 1997*.

The principal executive group of the Federal Magistrates Service comprises:

- Adele Byrne, Registrar.
- Brian Scammell, Chief Finance Officer.
- Steve Agnew, Coordinator of Court Services.
- Susan Cibau, Coordinator of Primary Dispute Resolution Services.

Remuneration

Remuneration for the federal magistrates and Chief Executive Officer is determined by the Remuneration Tribunal. During 2000-01, the senior executives were remunerated at the Australian Public Service Executive Level 2 range, in accordance with a determination made by the Chief Executive Officer under Section 24 of the *Public Service Act 1999*. There are no employees at the Senior Executive Service level.

Performance pay for 2000-01 was paid following the end of the reporting period. The aggregate amount of performance pay was \$32,653. APS staff were paid 1.5 per cent in accordance with provisions in the Chief Executive Officer's determination under section 24 of the *Public Service Act 1999*. The Chief Executive Officer was paid 15 per cent in accordance with a determination made by the Remuneration Tribunal.

Financial performance

The Federal Magistrates Service became a prescribed agency under the *Financial Management and Accountability Act 1997* with effect from 1 July 2000. The first set of financial statements for the Federal Magistrates Service is included with this annual report.

The major source of revenue for the operations of the Federal Magistrates Service is an appropriation from government. The original appropriation amount for 2000-01 was \$11.679 million. For 2000-01, the appropriation was initially included in the Attorney-General's Department budget statements. The amount was subsequently transferred to the Federal Magistrates Service under section 32 of the *Financial Management and Accountability Act* and separate budgeted financial statements were published for the Federal Magistrates Service with the Attorney-General's portfolio additional estimates for 2000-01. An amount of \$721,000 was subsequently transferred to the Family Court under section 32, leaving an appropriation balance of \$10.958 million.

During 2000-01, operating expenses were significantly less than revenues from appropriations. This largely reflects the timing of appointments of federal magistrates and deferral of other start-up costs. The major expenses in 2000-01 were \$4.6 million in respect of employee expenses and \$2.2 million relating to supplier payments.

The Federal Magistrates Service relies on infrastructure and support provided by the Family Court and Federal Court. In particular, those courts provided registry services for the Federal Magistrates

Service as the Federal Magistrates Service does not have its own registries. Both of those courts have supplied estimates of resources provided to the Federal Magistrates Service free of charge. The aggregate amount is approximately \$8.4 million, and is reflected in the financial statements included with this annual report. The work that the Federal Magistrates Service now undertakes is work that would have previously been undertaken by the Federal Court and Family Court. The cost of resources provided by those courts is therefore a cost that those courts would otherwise have incurred as part of their operating costs had the Federal Magistrates Service not been established.

The Federal Magistrates Service receives revenue on behalf of the government (administered revenue not available for Federal Magistrates Service operating costs) mainly relating to court fees. The amount received in 2000-01 was approximately \$6.7 million.

Arrangements with the Federal Court and Family Court

Arrangements have been made by the Chief Federal Magistrate, pursuant to legislative provisions, for the Federal Court and the Family Court to carry out certain functions on behalf of the Federal Magistrates Court.

In addition, arrangements have been made to use the courtrooms and to share the registries and other facilities of those courts. Both courts provide registry services for clients of the Federal Magistrates Service. The Family Court provides information technology infrastructure and support services to the Federal Magistrates Service. During 2000-01, a memorandum of understanding was signed with each court detailing support arrangements.

Management of human resources

Certified agreement

The terms and conditions for staff appointed under the *Public Service Act 1999* were initially determined by the Chief Executive Officer under section 24 of that Act.

During 2000-01 a certified agreement was negotiated with staff of the agency, to commence from 1 July 2001. The agreement was ratified by the Australian Industrial Relations Commission on 16 August 2001.

The agreement is intended to provide a fair reward for staff in return for their commitment to the Federal Magistrates Service objective of providing a simple and accessible forum for the resolution of less complex disputes. Federal Magistrates Service staff will need to be skilful, enthusiastic, innovative, adaptable and committed to service to the community. They will need to embrace new technologies and systems of work.

Key features of the agreement are:

- Salary increases of 5 per cent on 1 July 2001 and 4 per cent on 1 July 2002.
- The introduction of a performance management program linked to Federal Magistrates Service objectives, and salary advancement linked to performance.

- Increased flexibility in managing leave and attendance, recognising the need for staff to balance work and non-work priorities.
- Streamlining leave processing and salary advancement dates.
- A commitment to training and staff development.
- Emphasis on the APS values and code of conduct.

Review of the role of associates

During 2000-01, Results Consulting was engaged to review and assess the work and performance management of the associates in the Federal Magistrates Service. This review examined the role of the associate; integration with the federal magistrate and other staff of the Service; interaction with the Family Court and Federal Court registries; the functions and level of workloads; the level of autonomy and need for supervision; use of technology; the standard of contribution expected and how performance is managed.

The major recommendation from the report was the appointment of deputy associates to relieve the workload of associates by undertaking, under direction, the lower level functions of the associate role, and to undertake the role previously performed by court officers. This was intended to provide leave and training relief, as well as succession planning for the associate position. This recommendation was accepted and implemented during 2000-01.

The court continues to obtain some court officers from the Family Court. They are provided under arrangements made subsequent to the creation of the deputy associate positions in order to meet the requirements of the court when a federal magistrate is on circuit, when an associate or deputy associate is on leave for any purpose or to meet occasional high demand requirements of the court.

Workplace diversity

The Federal Magistrates Service developed a workplace diversity plan during 2000-01, which was signed by the Chief Federal Magistrate and Chief Executive Officer and circulated to all staff.

Disability strategy

The Federal Magistrates Service's workplace diversity plan includes strategies relating to people with disabilities. In relation to court clients, the Federal Magistrates Service also has a complaints/grievance mechanism and participates in court building forums which address issues relating to court access for people with disabilities. The Federal Magistrates Service plans to develop a formal service charter during the next reporting period which will address accessibility to the Service for people with disabilities.

Occupational health and safety

The Federal Magistrates Service aims to provide a safe and healthy work environment for staff.

During 2000-01, an occupational health and safety handbook was developed and circulated to staff, which highlighted the need to maintain a safe and healthy work environment and identified

staff roles and responsibilities in relation to health and safety. The Federal Magistrates Service also signed an occupational health and safety agreement with the Community and Public Sector Union.

Initiatives taken during the year included the following:

- Ergonomic assessments for staff undertaken by CRS Australia. These assessments provided staff with advice and information on work station set-up, working posture, stretching and work breaks. Where necessary, additional or replacement equipment has been provided.
- An agreement was entered into with a professional employee assistance provider, IPS Pty Ltd, to provide staff and their immediate families with access to voluntary, free and confidential counselling about any problems which affect their lives, work performance or job satisfaction.
- A session on judicial stress, diet and exercise was included in the biannual federal magistrates conference.
- A review of associate positions in the Federal Magistrates Service included, among other things, addressing workload issues. Recommendations arising from this aspect of the review resulted in the engagement of additional support staff (see previous section relating to the review of associates' positions).

In relation to security, the Federal Magistrates Service is co-located with the Family Court and Federal Court and relies on the safety measures put in place by those courts regarding security and building management. The marshal of the Family Court is also the marshal of the Federal Magistrates Service, and provides security advice and management for both courts. During 2000-01 a security assessment of the homes of federal magistrates was conducted and, where necessary, work was undertaken to ensure an appropriate level of security.

There were no accidents or dangerous occurrences during the year and no investigations were conducted. The Federal Magistrates Service was not required to give any notices under section 68 of the *Occupational Health and Safety (Commonwealth Employment Act) 1991*. No directions under section 45 or notices under sections 29, 46 or 47 of that Act were given to the Federal Magistrates Service during 2000-01.

Training and staff development

The focus in 2000-01 was on developing staff competencies in the main computer applications in use in the Federal Magistrates Service, particularly Lotus Notes and the standard Microsoft Office applications. The majority of this training was provided through one-on-one sessions provided by Drake Training.

On-the-job training was also provided in the case management systems operated by the Family Court and Federal Court.

Associates conference

Associates of the Federal Magistrates Service met in October 2000 for a conference marking the first time together as group. This inaugural meeting was held at the Commonwealth Law Courts

complex in Melbourne. The conference was opened by the Chief Executive Officer and attended in part by the Chief Federal Magistrate.

The forum provided instructional information regarding the Federal Magistrates Service, court procedures and the handling of complaints amongst other items. The need for consistency of practice was highlighted, initiating the first steps towards an associate's manual.

A high level of enthusiasm was evident throughout the conference with associates demonstrating a strong desire to achieve the aims of the Federal Magistrates Service.

PART FIVE: EXTERNAL SCRUTINY AND INVOLVEMENT IN EXTERNAL ACTIVITIES

The ALRC reference on the Judiciary Act

The court provided a submission to the Australian Law Reform Commission review of the *Judiciary Act 1903*.

Remuneration Tribunal

The court provided submissions to the Remuneration Tribunal's 2000 review of judicial remuneration. The tribunal made a determination (2000/13) with effect from 1 October 2000.

The government has announced that it will provide supplementation for the effect of increases in judicial remuneration determined by the tribunal.

Ombudsman

The Ombudsman has advised that no complaints within the jurisdiction of the Ombudsman were lodged during the year. The Ombudsman received one complaint concerning the court that was not within the Ombudsman's jurisdiction.

Privacy

The court holds no personal information, other than personnel information, in relation to the administrative affairs of the court.

Freedom of Information

There were no freedom of information requests made to the Federal Magistrates Service in the reporting period.

Section 5 of the *Freedom of Information Act 1982* provides that the Act does not apply to any request for access to a document of the court unless the document relates to matters of an administrative nature.

Inquiries concerning access to documents or freedom of information matters generally should be directed to:

The Chief Executive Officer
Federal Magistrates Service
305 William Street
Melbourne 3000

Arrangements for outside participation

Regular formal consultations have been established with the:

- Family Court Chief Justice's Consultative Council (CJCC).
- Family Court Rules Committee.
- Family Law Section of the Law Council of Australia.

- Law Council of Australia.
- National Legal Aid.
- National Alternative Dispute Resolution Advisory Committee.
- Family Law Council.

There was continuing liaison with community organisations such as Relationships Australia, Centacare and Family Services Australia to discuss the provision of counselling and mediation services as an adjunct to those provided by the Family Court.

Regular and formal consultation takes place in each state and territory with bar associations and law societies. Informal consultation has occurred with many other professional bodies. The court meets at least quarterly with the Family Law Section of the Law Council of Australia, and has recently established regular meetings with the Law Council relating to its other jurisdictions. The court meets with legal aid and community organisations, and in each state the federal magistrates regularly meet with local organisations.

Individuals or bodies may participate in the policy formulation of the Federal Magistrates Service by making representations in writing. For example, there was extensive consultation in relation to the Federal Magistrates Court Rules. The court received representations in relation to the draft rules from a broad range of interested individuals and organisations.

Categories of documents

Under arrangements made with the respective courts, certain Federal Court and Family Court registries maintain the following categories of documents for and on behalf of the Federal Magistrates Service:

- Documents relating to matters heard by the court including applications, affidavits, transcripts, orders and copies of judgments.
- Registers and indexes of matters coming to the court.
- General correspondence.

The Federal Magistrates Service maintains the following categories of documents:

- General correspondence.
- Documents concerning the development and implementation of policy.
- Documents concerning administration and financial aspects of the operation of the service.

Availability of access to information outside the Freedom of Information Act

Rule 2.08 of the *Federal Magistrates Court Rules* provides for searching the records of the court by the Attorney-General (in family law proceedings), a party, a lawyer for a party, a child representative (in family law proceedings) or a person granted leave by the court or a registrar. Leave may be granted if a proper interest is shown and may be subject to conditions.

Public information

The Federal Magistrates Service has initiated projects to make its services as relevant and accessible as possible. Brochures providing a guide to using the Federal Magistrates Service for family law and general federal law matters were produced and were available from Federal Court and Family Court registries, legal aid offices and community legal centres, among other organisations. A general guide to Federal Magistrates Court fees was also issued. These brochures were being updated for re-issue during the 2001-02 reporting year and a guide on using primary dispute resolution services in the Federal Magistrates Court was also being printed.

The Federal Magistrates Service's website provides much useful information about the court, including the rules, forms, court lists, jurisdiction, access to judgments, history of the Federal Magistrates Service, contact details for registries and links to other legally related Internet sites.

During the reporting year, the federal magistrates presented papers, gave lectures and chaired sessions at judicial conferences, judicial administration meetings, continuing legal education courses, university law schools, Bar reading courses, law society meetings, high schools and other public meetings.

In June 2001, the Federal Magistrates Service engaged a Public Affairs Officer to assist in the dissemination of information about the court, its judgments and its practices and procedures to the media and general public.

PART SIX: PURCHASING AND CONTRACTING

The Federal Magistrates Service purchasing practices and procedures take account of the Commonwealth Procurement Guidelines: Core Policies and Principles.

The Federal Magistrates Service also employs a specialist contracts officer to oversee the procurement of goods and services and to ensure that the arrangement and administration of contracts have regard to the Commonwealth Procurement Guidelines.

Advertising and Market Research

Profmark Consulting Pty Ltd was engaged to conduct a client satisfaction and awareness survey during 2000-01. The cost of these services was \$13,466 (\$5280 paid in 2000-01 and the balance in 2001-02).

A total of \$39,457 was paid to Starcom Worldwide (Aus) Pty Ltd (previously AIS Media) for recruitment and tender notices during 2000-01.

Consultancy Services

The Federal Magistrates Service engages consultants for the provision of professional or expert advice, or for services that cannot be met through internal resources.

The total amount paid to consultants during 2000-01 was \$437,242. Amounts were paid to 14 consultants.

Amounts paid to consultants in excess of \$10,000 during 2000-01 were:

- Deloitte Touche Tohmatsu: \$200,506 (Finance, human resource and internal audit services).
- Roseback Pty Ltd: \$78,294, (IT implementation and advisory services).
- Managed Networks: \$53,026 (IT network implementation and advisory services).
- Australian Government Solicitor: \$41,653 (Legal advisory services).
- Results Consulting: \$23,448 (Review of the role of associates).

PART SEVEN: FINANCIAL STATEMENTS



INDEPENDENT AUDIT REPORT

To the Attorney-General

Scope

I have audited the financial statements of the Federal Magistrates Service for the year ended 30 June 2001. The financial statements comprise:

- Statement by the Chief Executive;
- Statements of Financial Performance, Financial Position and Cashflows;
- Schedules of Contingencies and Commitments;
- Schedules of Administered Revenues and Expenses, Assets and Liabilities and Cashflows; and
- Notes to and forming part of the Financial Statements.

The Service's Chief Executive is responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them to you.

The audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Australian Accounting Standards, other mandatory professional reporting requirements and statutory requirements in Australia so as to present a view of the Service which is consistent with my understanding of its financial position, its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

PO Box A456 Sydney South NSW 1235
130 Elizabeth Street
SYDNEY NSW
Phone (02) 9367 7100 Fax (02) 9367 7102

Audit Opinion

In my opinion,

- (i) the financial statements have been prepared in accordance with Schedule 1 of the Financial Management and Accountability (Financial Statements 2000-2001) Orders;
- (ii) the financial statements give a true and fair view, in accordance with applicable Accounting Standards, other mandatory professional reporting requirements and Schedule 1 of the Financial Management and Accountability (Financial Statements 2000-2001) Orders, of:
 - the financial position of the Federal Magistrates Service as at 30 June 2001 and the results of its operations and its cash flows for the year then ended; and
 - the Commonwealth assets and liabilities as at 30 June 2001 and the revenue, expenses and cash flows of the Commonwealth for the year then ended, which have been administered by the Service.

Australian National Audit Office



P Hinchey
Senior Director

Delegate of the Auditor-General

Sydney
20 September 2001



STATEMENT BY THE CHIEF EXECUTIVE

In my opinion, the attached financial statements give a true and fair view of the matters required by Schedule 1 to the Financial Management and Accountability (Financial Statements 2000-2001) Orders made under section 63 of the *Financial Management and Accountability Act 1997*.



Peter May
Chief Executive

17 September 2001

FEDERAL MAGISTRATES SERVICE
STATEMENT OF FINANCIAL PERFORMANCE

for the period ending 30 June 2001

	<i>Notes</i>	2000-2001 \$
Revenues from ordinary activities		
Revenues from government	2A	19,455,623
Interest	2B	291,456
Other	2C	1,767
<i>Total revenues from ordinary activities</i>		<u>19,748,846</u>
Expenses from ordinary activities		
Employees	3A	4,612,416
Suppliers	3B	10,713,969
Depreciation and amortisation	3C	194,728
<i>Total expenses from ordinary activities</i>		<u>15,521,113</u>
Net operating surplus from ordinary activities		<u>4,227,733</u>
Net surplus		<u>4,227,733</u>
Equity interests		
Net surplus attributable to the Commonwealth		<u>4,227,733</u>
Total changes in equity other than those resulting from transactions with owners as owners		<u><u>4,227,733</u></u>

The above statement should be read in conjunction with the accompanying notes.

FEDERAL MAGISTRATES SERVICE
STATEMENT OF FINANCIAL POSITION

as at 30 June 2001

	Notes	2000-2001 \$
ASSETS		
Financial assets		
Cash	4A	4,084,497
Receivables	4B	4,674,164
Total financial assets		<u>8,758,661</u>
Non-financial assets		
Infrastructure, plant and equipment	5A	653,966
Intangibles	5B	93,169
Other non-financial assets	5D	26,203
Total non-financial assets		<u>773,338</u>
Total assets		<u><u>9,531,999</u></u>
LIABILITIES		
Provisions		
Capital use charge	6A	48,000
Employees	6B	754,494
Total provisions		<u>802,494</u>
Payables		
Suppliers	7	139,158
Total payables		<u>139,158</u>
Total liabilities		<u><u>941,652</u></u>
EQUITY		
Accumulated surpluses		8,590,347
Total Equity	8	<u><u>8,590,347</u></u>
Current liabilities		729,937
Non-current liabilities		211,715
Current assets		8,784,864
Non-current assets		747,135

The above statement should be read in conjunction with the accompanying notes.

**FEDERAL MAGISTRATES SERVICE
STATEMENT OF CASH FLOWS**

for the period ending 30 June 2001

	<i>Notes</i>	2000-2001 \$
OPERATING ACTIVITIES		
Cash received		
Appropriations for outputs		6,288,693
Sales of goods and services		1,767
Interest		286,599
GST refunds		138,975
Total cash received		<u>6,716,034</u>
Cash used		
Employees		3,857,922
Suppliers		2,242,366
Total cash used		<u>6,100,288</u>
Net cash from operating activities	10	<u>615,746</u>
INVESTING ACTIVITIES		
Cash used		
Purchase of property, plant and equipment		807,359
Purchase of intangibles		116,308
Total cash used		<u>923,667</u>
Net cash used by investing activities		<u>(923,667)</u>
FINANCING ACTIVITIES		
Cash received		
Proceeds from equity injections		4,851,418
Total cash received		<u>4,851,418</u>
Cash used		
Capital use charge paid		459,000
Total cash used		<u>459,000</u>
Net cash from financing activities		<u>4,392,418</u>
Net increase in cash held		4,084,497
Cash at beginning of the reporting period		-
Cash at end of the reporting period		<u><u>4,084,497</u></u>

The above statement should be read in conjunction with the accompanying notes.

**FEDERAL MAGISTRATES SERVICE
SCHEDULE OF COMMITMENTS**

as at 30 June 2001

	2000-2001 \$
By type	
Other commitments	
Operating leases	169,592
Total other commitments	169,592
Net commitments	169,592
 By maturity	
All net commitments	
One year or less	140,993
From one to five years	28,599
Net commitments	169,592
 Operating Lease Commitments	
One year or less	140,993
From one to five years	28,599
Net commitments	169,592

<i>Nature of lease</i>	<i>General description of leasing arrangement</i>
Agreements for the provision of motor vehicles to senior executive officers	<ul style="list-style-type: none"> • no contingent rentals exist; • there are no renewal or purchase options available to the Agency.

The above schedule should be read in conjunction with the accompanying notes.

FEDERAL MAGISTRATES SERVICE
SCHEDULE OF CONTINGENCIES

as at 30 June 2001

There were no Agency contingent losses or gains as at 30 June 2001.

SCHEDULE OF UNQUANTIFIABLE CONTINGENCIES

There were no unquantifiable contingencies as at 30 June 2001.

The above schedule should be read in conjunction with the accompanying notes.

FEDERAL MAGISTRATES SERVICE

SCHEDULE OF ADMINISTERED REVENUES AND EXPENSES

for the period ending 30 June 2001

	<i>Notes</i>	2000-2001 \$
Revenues from ordinary activities		
Non-taxation		
Other sources of non-taxation revenues	20	<u>6,706,336</u>
<i>Total non-taxation</i>		<u>6,706,336</u>
<i>Total revenues from ordinary activities</i>		<u>6,706,336</u>
Expenses from ordinary activities		
Other	21	<u>2,300</u>
<i>Total expenses from ordinary activities</i>		<u>2,300</u>
<i>Cash transferred to Official Public Account</i>		<u>6,703,061</u>
Net increase in administered net assets		<u>975</u>

The above schedule should be read in conjunction with the accompanying notes.

FEDERAL MAGISTRATES SERVICE**SCHEDULE OF ADMINISTERED ASSETS AND LIABILITIES***as at 30 June 2001*

	<i>Notes</i>	2000-2001 \$
ASSETS		
Financial assets		
Receivables	22	<u>975</u>
Total financial assets		<u>975</u>
Total assets		<u><u>975</u></u>
LIABILITIES		
Total liabilities		<u><u>-</u></u>
EQUITY		
Accumulated results	23	<u>975</u>
Total Equity		<u><u>975</u></u>
Current liabilities		-
Non-current liabilities		-
Current assets		975
Non-current assets		-

The above schedule should be read in conjunction with the accompanying notes.

FEDERAL MAGISTRATES SERVICE
ADMINISTERED CASH FLOWS
for the period ending 30 June 2001

	<i>Notes</i>	2000-2001
		\$
OPERATING ACTIVITIES		
Cash received		
Other		6,703,061
Total cash received		6,703,061
Cash used		
Cash to Official Public Account		6,703,061
Total cash used		6,703,061
Net cash from operating activities	24	-
Net increase in cash held		-
Cash at beginning of the reporting period		-
Cash at end of the reporting period		-

The above statement should be read in conjunction with the accompanying notes.

FEDERAL MAGISTRATES SERVICE
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2001

Note	Description
1	Summary of Significant Accounting Policies
2A	Revenues from government
2B	Interest
2C	Other Revenue
3A	Employee expenses
3B	Suppliers
3C	Depreciation and amortisation
4A	Cash
4B	Receivables
5A	Infrastructure, plant and equipment
5B	Intangible assets
5C	Analysis of Property, Plant and Equipment, and Intangibles
5D	Other assets
6A	Capital use charge
6B	Employees
7	Suppliers
8	Analysis of Equity
9	Restructuring
10	Cashflow Reconciliation
11	Executive Remuneration
12	Agency Appropriations
13	Reporting by Outcomes
14	Resources received free of charge
15	Services provided by the Auditor-General
16	Act of grace payments and waivers
17	Average staffing levels
18	Financial Instruments
19	Trust Moneys
20	Administered Revenue
21	Administered Expenses
22	Administered Assets
23	Movements in Administered Equity
24	Administered Cashflow Reconciliation
25	Administered Financial Instruments

Notes to and forming part of the financial statements

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Federal Magistrates Service (FMS)

The objective of the FMS is to provide a cheaper, simpler and faster method of dealing with less complex Family Court and Federal Court matters. The FMS is structured to meet this single outcome.

FMS activities contributing to this outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the FMS in its own right. Administered activities involve the management or oversight by the FMS on behalf of the Government of items controlled or incurred by the Government.

1.2 Basis of Accounting

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* and are a general purpose financial report.

The Federal Magistrates Service became a prescribed agency under the *Financial Management and Accountability Act 1997* on 1 July 2000. This is the first year that financial statements have been prepared for the FMS as a separate agency under that Act.

The statements have been prepared in accordance with

- Schedule 1 to the Financial Management and Accountability (Financial Statements 2000-2001) Orders made by the Finance Minister for the preparation of Financial Statements in relation to the financial year ending on 30 June 2001;
- Australian Accounting Standards and Accounting Interpretations issued by the Australian Accounting Standards Boards;
- Other authoritative pronouncements of the Boards and
- Consensus Views of the Urgent Issues Group.

The statements have been prepared having regard to:

- Statements of Accounting Concepts; and
- the Explanatory Notes to Schedule 1, and Guidance Notes issued by the Department of Finance and Administration.

The FMS Statements of Financial Performance and Financial Position have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets which, as noted, are at valuation. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. Assets and liabilities are recognised in the FMS Statement of Financial Position when and only when it is probable that future economic benefit will flow and the amounts of the assets or liabilities can be reliably measured. Assets and liabilities arising under agreements equally proportionally unperformed are however not recognised unless required by an Accounting Standard. Liabilities and assets which are unrecognised are reported in the Schedule of Commitments and the Schedule of Contingencies.

The continued existence of the FMS in its present form, and with its present programs, is dependent on Government policy and on continuing appropriations by Parliament for the FMS's administration and programs.

1.3 Changes in Accounting Policy

This is the first year that financial statements have been prepared for the FMS under the *Financial Management and Accountability Act 1997*.

1.4 Revenue

The revenues described in this Note are revenues relating to the core operating activities of the FMS

(a) Revenues from Government - FMS Appropriations

Appropriations for departmental outputs are recognised as revenue to the extent that the Finance Minister is prepared to release appropriations for use (that is, the full amount of the appropriation passed by the Parliament less any savings offered up at Additional Estimates and not subsequently released).

Notes to and forming part of the financial statements

(b) *Resources Received Free of Charge*

Services received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised at their fair value when the asset qualifies for recognition, unless received from another government agency as a consequence of a restructuring of administrative arrangements.

(c) *Other Revenue*

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Revenue from disposal of non-current assets is recognised when control of the asset has passed to the buyer.

1.5 Transactions by the Government as Owner

Appropriations designated as 'Capital - equity injections' are recognised directly in equity to the extent drawn down as at the reporting date.

Net assets received under a restructuring of administrative arrangements are designated by the Finance Minister as contributions by owners and adjusted directly against equity. Net assets relinquished are designated as distributions to owners. Net assets transferred are initially recognised at the amounts at which they were recognised by the transferring agency immediately prior to the transfer.

1.6 Employee Entitlements

Leave

The liability for employee entitlements includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the FMS is estimated to be less than the annual entitlement for sick leave.

The liability for annual leave reflects the value of total annual leave entitlements of all employees at 30 June 2001 and is recognised at the nominal amount.

The non-current portion of the liability for long service leave is recognised and measured at the present value of the estimated future cash flows to be made in respect of all employees at 30 June 2001. In determining the present value of the liability, the FMS has taken into account attrition rates and pay increases through promotion and inflation.

Superannuation

Staff of the FMS contribute to the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS). Employer contributions amounting to \$138,338 in relation to these schemes have been expensed in these financial statements.

No liability is shown for superannuation in the Statement of Financial Position as the employer contributions fully extinguish the accruing liability which is assumed by the Commonwealth.

Employer Superannuation Productivity Benefit contributions totalled \$32,675.

Federal Magistrates and certain temporary staff are not members of these schemes. The FMS contributes to eligible superannuation funds nominated by these employees. In 2000-01, total employer contributions were \$256,310 to these funds. There is no accruing liability to the Commonwealth arising from these arrangements.

1.7 Leases

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of leased non-current assets and operating leases under which the lessor effectively retains substantially all such risks and benefits. The Federal Magistrates Service has no finance leases.

Operating lease payments are expensed on a basis which is representative of the pattern of benefits derived from the leased assets.

Notes to and forming part of the financial statements

1.8 Cash

Cash includes notes and coins held and any deposits held at call with a bank or financial institution.

1.9 Financial Instruments

Accounting policies for financial instruments are stated at note 18 and for administered financial instruments note 25.

1.10 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring administrative arrangements. In the latter case, assets are initially recognised at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

1.11 Property, Plant and Equipment

Asset recognition threshold

Purchases of property, plant and equipment are recognised initially at cost in the Statement of Financial Position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

Revaluations

As 2000-01 was the first year of operation for the FMS as an agency under the *Financial Management and Accountability Act 1997*, no asset re-valuations have been undertaken. It is intended that land, buildings, infrastructure, plant and equipment will be revalued in accordance with Schedule 1 to the Financial Management and Accountability (Financial Statements 2000-2001) Orders.

The FMS recognises its assets at their depreciated replacement cost.

Where assets are held which would not be replaced or are surplus to requirements, measurement is at net realisable value.

Recoverable amount test

Schedule 1 to the Financial Management and Accountability (Financial Statements 2000-2001) Orders requires the application of the recoverable amount test to departmental non-current assets in accordance with AAS 10 *Recoverable Amount of Non-Current Assets*. The carrying amounts of these non-current assets have been reviewed to determine whether they are in excess of their recoverable amounts. In assessing recoverable amounts, the relevant cash flows have been discounted to their present value.

Depreciation and Amortisation

Depreciable property, plant and equipment assets are written off to their estimated residual values over their estimated useful lives to the FMS using, the straight-line method of depreciation.

Depreciation/amortisation rates (useful lives) and methods are reviewed at each balance date and necessary adjustments are recognised in the current, or current and future reporting periods as appropriate. Residual values are re-estimated for a change in prices only when assets are revalued.

Depreciation and amortisation rates applying to each class of depreciable asset are based on the following useful lives:

	2000-2001
Plant and equipment	4 to 8 years

The aggregate amount of depreciation allocated for each class of asset during the reporting period is disclosed in Note 3C.

1.12 Taxation

The FMS is exempt from all forms of taxation except fringe benefits tax and the goods and services tax.

1.13 Capital Usage Charge

A capital usage charge of 12% is imposed by the Commonwealth on the net departmental assets of the FMS. The charge is adjusted to take account of asset gifts and revaluation increments during the financial year.

1.14 Insurance

The FMS has insured for risks through the Government's insurable risk managed fund, called 'Comcover'. Workers compensation is insured through Comcare Australia.

Notes to and forming part of the financial statements

1.15 Foreign Currency

Transactions denominated in a foreign currency are converted at the exchange rate at the date of the transaction. Foreign currency receivables and payables are translated at the exchange rates current as at balance date. Associated currency gains and losses are not material.

1.16 Comparative Figures

Comparatives are not presented as 2000-01 was the first year of operation for the FMS as an agency under the *Financial Management and Accountability Act 1997*.

1.17 Rounding

Amounts shown in these financial statements have been rounded to the nearest dollar.

Notes to and forming part of the financial statements

2000-2001

Note 2A	Revenues from government	
	Appropriations for outputs	10,958,000
	Resources received free of charge (see Note 14)	<u>8,497,623</u>
		<u>19,455,623</u>
Note 2B	Interest	
	Deposits	<u>291,456</u>
		<u>291,456</u>
Note 2C	Other	
	Supplier refunds	<u>1,767</u>
		<u>1,767</u>
Note 3A	Employees	
	Remuneration (for services provided)	<u>4,612,416</u>
		<u>4,612,416</u>
Note 3B	Suppliers	
	Supply of goods and services	10,710,319
	Operating lease rentals	<u>3,650</u>
		<u>10,713,969</u>
Note 3C	Depreciation and amortisation	
	The aggregate amounts of depreciation or amortisation expensed during the reporting period for each class of depreciable asset are as follows:	
	Plant and equipment	171,589
	Intangibles - computer software	<u>23,139</u>
		<u>194,728</u>
	No depreciation or amortisation was allocated to the carrying amount of other assets.	
Note 4A	Cash	
	Cash at bank	<u>4,084,497</u>
		<u>4,084,497</u>
Note 4B	Receivables	
	Appropriations	4,669,307
	Interest and dividends	<u>4,857</u>
		<u>4,674,164</u>
	Receivables (gross) are aged as follows:	
	Not Overdue	<u>4,674,164</u>
		<u>4,674,164</u>
Note 5A	Infrastructure, plant and equipment	
	Plant and equipment at cost	827,209
	Accumulated depreciation	<u>(173,243)</u>
		<u>653,966</u>
	Total Plant and Equipment	<u>653,966</u>

Notes to and forming part of the financial statements

		2000-2001
		\$
Note 5B	Intangibles	
	Computer software	
	purchased (include any modification cost)	116,308
	accumulated depreciation	(23,139)
		<u>93,169</u>
	Total Intangibles	<u><u>93,169</u></u>

Note 5C Analysis of Property, Plant and Equipment and Intangibles

TABLE A - Movement summary 2000-01 for all assets irrespective of valuation basis

	Plant and Equipment	Computer software - Total intangibles	Total
Gross Value at 1 July	-	-	-
Additions	807,359	116,308	923,667
Other Movements	19,850	-	19,850
sub-total at 30 June	827,209	116,308	943,517
Accumulated depreciation or amortisation at 1 July	-	-	-
Charge for assets held at 1 July	-	-	-
Charge for additions	171,589	23,139	194,728
Adjustment for other movements	1,654	-	1,654
Accumulated depreciation or amortisation at 30 June	173,243	23,139	196,382
Net book value at 30 June	653,966	93,169	747,135
Net book value at 1 July	-	-	-

2000-2001
\$

Note 5D	Other non-financial assets	
	Prepayments paid	26,203
		<u>26,203</u>

Note 6A	Provision for Capital Use Charge	
	Capital use charge	48,000
		<u>48,000</u>

Note 6B	Provision for employees entitlements	
	Salaries and wages	116,363
	Leave	542,435
	Superannuation	95,696
	Aggregate employee entitlements	<u>754,494</u>
	Current	542,779
	Non-current	211,715

Notes to and forming part of the financial statements

2000-2001
\$

Note 7 Suppliers

Trade creditors	138,807
GST Liability	351
	139,158

Note 8 Analysis of Equity

Item	Accumulated Results	Capital	TOTAL EQUITY
	2000-01	2000-01	2000-01
Balance at 1 July 2000	-	-	-
Net surplus after extraordinary items	4,227,733	-	4,227,733
Restructuring transfers	4,869,614		4,869,614
Capital Use Charge	(507,000)	-	(507,000)
Balance at 30 June 2001	8,590,347	-	8,590,347

2000-2001
\$

Note 9 Restructuring

The Federal Magistrates Service was established by the *Federal Magistrates Act 1999* which was passed in December 1999. As noted at Note 1.2, the Federal Magistrates Service became a prescribed agency under the Financial Management and Accountability Act 1997 on 1 July 2000. Prior to this the Attorney-General's Department was responsible for the start-up of the Federal Magistrates Service.

The following assets and liabilities were recognised at the date of transfer:

Assets

Cash	4,869,928
Plant and Equipment	18,196

Total assets recognised **4,888,124**

Liabilities

Creditors	2,450
Provisions	16,060

Total liabilities recognised **18,510**

Net assets assumed **4,869,614**

Note 10 Cash Flow Reconciliation

Reconciliation of operating surplus (deficit) to net cash from operating activities:

Net surplus	4,227,733
Depreciation/amortisation	194,728
Decrease (increase) in receivables	(4,674,164)
Decrease (increase) in prepayments	(26,203)
Increase (decrease) in creditors	139,158
Increase (decrease) in provisions	754,494

Net cash from by operating activities **615,746**

Notes to and forming part of the financial statements

Note 11 Executive remuneration

The number of Executives who received or were due to receive total remuneration of \$100,000 or more:

\$200,001 - \$210,000	Number 1
-----------------------	---------------------------

The aggregate amount of total remuneration of Executives shown above.	\$207,618
---	------------------

The aggregate amount of separation and redundancy payment during the year to Executives shown above.	Nil
--	------------

Note 12 Agency appropriations

Annual Appropriations for Departmental items (outputs)	2000-01
	\$
Appropriation Acts 1 & 3 credits:	
Section 7 - Act 1 - basic appropriation (budget)	11,679,000
Less: FMA Act	
Section 32 - Transfer to Family Court	721,000
<hr/>	
Total Current Appropriation Acts	10,958,000
Add: FMA Act appropriations	
s30A appropriations (GST recoverables)	138,975
s31 appropriations	288,366
<hr/>	
Total appropriated in the year	11,385,341
Balance brought forward from previous period	4,851,418
<hr/>	
Total appropriations available for payments	16,236,759
Payments during the year	7,482,955
<hr/>	
Balance of appropriations (unspent) at 30 June carried to next period	8,753,804

Notes to and forming part of the financial statements

Note 13 Reporting of Outcomes

Reporting by Outcomes

	Actual	Total Budget
	\$	\$
Total net administered expenses	-	-
Add Net cost of departmental outputs	6,730,267	7,094,000
Outcome before extraordinary items	6,730,267	7,094,000
Net Cost to Budget Outcome	6,730,267	7,094,000
Outcome - specific assets deployed as at 30/6/2001	9,531,999	8,356,000
Assets that are not outcome specific deployed as at 30/6/2001	-	-

Major Agency Revenues & Expense by outcome	Actual	Total Budget
	\$	\$
Operating revenues		
Revenues from government	19,455,623	10,958,000
Interest	291,456	302,000
Total operating revenues	19,747,079	11,260,000
Operating expenses		
Employees	4,661,006	4,725,000
Suppliers	10,665,379	2,425,000
Depreciation	194,728	246,000
Total operating expenses	15,521,113	7,396,000

Major Administered Revenues & Expense by outcome	Actual	Total Budget
	\$	\$
Non-taxation		
Revenues from government	-	-
Other	6,706,336	5,940,000
Total operating revenues	6,706,336	5,940,000
Operating expenses		
Other	-	-
Total operating expenses	-	-

Notes to and forming part of the financial statements

		2000-01 \$
Note 14	Resources received free of charge	
	Services received from the Auditor-General	12,000
	Services received from the Family Court of Australia	6,000,000
	Services received from the Federal Court of Australia	2,437,034
	Comcover premium - paid directly by appropriation	48,589
		<u>8,497,623</u>

The Family Court of Australia and the Federal Court of Australia each provided significant resources free of charge to the FMS during 2000-2001. The resources relate primarily to infrastructure and support services, particularly court registry services.

Note 15	Services provided by the Auditor-General	
	Financial statement audit services provided free of charge	12,000
		<u>12,000</u>

No other services were provided by the Auditor-General.

Note 16 Act of Grace Payments and Waivers and Defective Administration Scheme

No Act of Grace payments were made during the reporting period.

No waivers of amount owing to the Commonwealth were made pursuant to subsection 34(1) of the *Financial Management and Accountability Act 1997*.

No payments were made under the Defective Administration Scheme during the reporting period.

Note 17 Average Staffing Levels

The average staffing levels for the Agency in 2000-2001 were 37.

Notes to and forming part of the financial statements

Note 18	Financial Instruments (a) Terms, conditions and accounting policies	Notes	Accounting Policies and Methods (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms & conditions affecting the amount, timing and certainty of cash flows)
Financial assets			Financial assets are recognised when control over future economic benefits is established and the amount of the benefit can be reliably measured.	
Cash - deposits at call	4A	4A	Deposits are recognised at their nominal amounts. Interest is credited to revenue as it accrues.	Money is held at call with the Reserve Bank. Monies in the FMS's bank accounts are swept into the Official Public Account nightly and interest is earned on the daily balance at rates based on money market call rates. Rates have averaged 6% for the year. Interest is paid quarterly.
Receivables for goods and services		4B	These receivables are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less rather than more likely.	Receivables both external to the Commonwealth and with other Commonwealth agencies. Credit terms are net 30 days.
Financial liabilities			Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured.	
Trade creditors		7	Creditors and accruals are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).	Creditors are both external to the Commonwealth and with other Commonwealth agencies. Settlement is usually made net 30 days.

Notes to and forming part of the financial statements

Note 18 Financial Instruments (cont.)

(b) Interest Rate Risk

It is considered that there is no interest rate risk.

(c) Net Fair Values of Financial Assets and Liabilities

The net fair values of cash and non-interest-bearing financial assets and liabilities equate to their carrying amounts disclosed in the financial statements.

(d) Credit Risk Exposures

The FMS's maximum exposures to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Balance Sheet.

The FMS has no significant exposures to any concentration of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

Note 19 Trust Moneys

Court Litigants Trust Account

Legal Authority – Section 20 of the FMA Act

Purpose - to hold and disburse money paid into Court in accordance with Order 63, rule 2 of the Federal Court Rules (money held pending acceptance by litigants; or as security deposits for costs; or pursuant to an order of a Federal Magistrate).

	Trust Money Court Litigants Trust Ac. 2000-2001 \$
Receipts during the period	<u>750</u>
Available for Payments	<u>750</u>
Payments made	<u>-</u>
Balance carried forward to next period	<u><u>750</u></u>

Notes to and forming part of the financial statements

		2000-01 \$
Note 20	Other sources of non-taxation revenues	
	Court fees and fines	6,706,336
		<u>6,706,336</u>
Note 21	Other Expenses	
	Doubtful debts	2,300
		<u>2,300</u>
Note 22	Receivables	
	Court fees and fines	3,275
	Less: Provision for doubtful debts	(2,300)
		<u>975</u>
	Receivables (gross) are aged as follows:	
	Overdue by:	
	less than 30 days	875
	30 to 60 days	850
	60 to 90 days	500
	more than 90 days	1,050
		<u>3,275</u>

Note 23 Movements in Administered Equity

Item	Accumulated Results	TOTAL EQUITY
	2000-01	2000-01
Balance at 1 July 2000	-	-
Net change in Administered net assets from operations	6,704,036	6,704,036
Amount to Official Commonwealth Public Account	(6,703,061)	(6,703,061)
Balance at 30 June 2001	975	975

		2000-01 \$
Note 24	Administered Cash Flow Reconciliation	
	Reconciliation of "Net change in administered net assets" from Schedule of Administered Revenues and Expenses to net cash provided by operating activities:	
	Net increase (decrease) in administered net assets	975
	Decrease (increase) in receivables - fees and fines	(975)
	Net Cash from Operating Activities	<u>-</u>

Notes to and forming part of the financial statements

Note 25 Administered Financial Instruments			
(a) Terms, conditions and accounting policies			
Financial Instrument underlying instrument (including & conditions affecting the amount, certainty of cash flows)	Notes	Accounting Policies and Methods (including recognition criteria and measurement basis)	Nature of significant terms timing and
Financial assets		Financial assets are recognised when control over future economic benefits is established and the amount of the benefit can be reliably measured.	
Receivables for goods fees and fines. and services	22	These receivables are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less rather than more likely.	Receivables for
Financial liabilities		Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured.	

Note 25 Financial Instruments (cont.)

(b) Interest Rate Risk
It is considered that there is no interest rate risk.

(c) Net Fair Values of Financial Assets and Liabilities
The net fair values of cash and non-interest-bearing financial assets and liabilities equate to their carrying amounts disclosed in the financial statements.

PART EIGHT: APPENDICES

Appendix A: Compliance with guidelines for annual reports

The Federal Magistrates Service has complied, where appropriate, with the Requirements for Annual Reports, approved by the Joint Committee of Public Accounts and Audit and issued by the Attorney-General's Department on 11 July 2001.

Categories specified in guidelines	Location of material in annual report
Letter of transmittal	4
Table of contents	1 – 3
Index	98 – 99
Contact officer	5
Internet home page address and address for report	inside cover
Review by agency head	13 – 24
Summary of significant issues and developments	13 – 24
Overview of department's performance	13 – 24
Outlook for following year	13 – 24
Significant issues and developments	13 – 24
Overview	6 – 11
Role and functions	6 – 9
Organisational structure	7
Outcome and output structure	6
Review of performance during year in relation to output and contribution to outcomes	25 – 45
Actual performance in relation to PBS performance targets	35
Performance of purchaser/provider arrangements	60
Narrative discussion and analysis of performance	25 – 45
Factors, events or trends influencing performance	13 – 24
Significant changes in nature of principal functions/services	13 – 24
Discussion and analysis of financial performance	52
Summary resources tables by outcomes	Appendix B
Names of the senior executive and their responsibilities	51
Senior management committees and their roles	46 – 50
Corporate and operational planning and associated performance reporting and review	46 – 55
Approach adopted to identifying areas of significance financial or operational risk and arrangements in place to manage risk	51
Policy and practices on the establishment and maintenance of appropriate ethical standards	47
Judicial decisions and decisions of administrative tribunals	30
Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	57
Workforce planning, staff turnover and retention	21, 53 – 54
Training and development undertaken and its impact	55
Impact and features of certified agreements and AWAs	53
Occupational health and safety performance	54
Statistics on staffing	Appendix E
Performance pay	52
Assessment of purchasing against core policies and principles	60
Number of consultancy services contracts let and total expenditure on consultancy services	60
Report on performance in implementing the Commonwealth Disability Strategy	54

Federal Magistrates Service Annual Report 2000-01

Financial statements	61 – 86
Occupational health and safety (section 74 of the <i>Occupational Health and Safety (Commonwealth Employment) Act 1991</i>)	54
Freedom of Information (subsection 8(1) of the <i>Freedom Of Information Act 1982</i>)	57 – 58
Advertising and market research (Section 311A of the <i>Commonwealth Electoral Act 1918</i>)	60

Appendix B: Summary resources

Table 8.1: Summary Resources

TOTAL RESOURCES FOR OUTCOME 1 (\$'000)				
Outcome 1 - To provide a cheaper, simpler and faster method of dealing with less complex Family Court and Federal Court matters				
	(1) Budget*	(2) Actual expenses 2000-2001	Variation (column 2 minus column 1) \$'000	Budget** 2001-2002 \$'000
Administered Expenses (including third party outputs)	600	–	(600)	600
Total Administered Expenses	600	–	(600)	600
Price of Departmental Outputs				
Output 1.1 – Provision of a Federal Magistrates Service	11,679	***15,228	3,549	11,338
Revenue from Government (Appropriation) for Departmental Outputs	11,679	15,228	3,549	11,338
Revenue from other Sources	300	293	(7)	410
Total Price of Outputs	11,979	15,521	3,542	11,748
TOTAL FOR OUTCOME 1 (Total Price of Outputs and Administered Expenses)	11,979	15,521	3,542	12,348
		2000-2001		2001-2002
Staff Years (Number)		37		74
* Full-year budget, including additional estimates				
** Budget prior to additional estimates				
*** Includes resources received free of charge				

Appendix C: Presentations by federal magistrates

CFM Bryant

- Presentation to the 9th annual family law conference in Sydney, 3 July 2000
- Presentation on the Federal Magistrates Service to the ITSA Conference in Brisbane, 21 July 2000
- Presentation on the Federal Magistrates Service to the Gippsland Law Association quarterly dinner, 13 September 2000
- Presentation on the Federal Magistrates Service to Hobart legal practitioners, 15 September 2000
- Presentation on the Federal Magistrates Service to the Bendigo Law Association, 18 October 2000
- Presentation on the Federal Magistrates Service and PDR to the Family Services Australia annual conference in Hobart, 26 October 2000
- Presentation on the Federal Magistrates Service to the Australian Professional Legal Education Council conference in Perth, 10 November 2000
- Presentation on women in law to the Women Lawyers Association of Tasmania, 16 February 2001
- Presentation on how to deal with family law matters in the Federal Magistrates Service to the Watts McCray family law conference, 16 March 2001
- Presentation on self represented litigants to Queensland Family Law Residential annual conference on the Gold Coast, 27 - 28 April 2001
- Presentation on the Federal Magistrates Service to a Queensland Law Society CLE function, 27 April 2001
- Presentation on "Sibling rivalry or best friends: the developing relationship between the Family Court of Australia and the Federal Magistrates Service", 5 May 2001
- Presentation on establishing the Federal Magistrates Service to a legal studies forum at Caulfield Grammar, 9 May 2001

FM Baumann

- Presentation on the Federal Magistrates Service rules to the Queensland Family Law Residential annual conference, 27 - 28 April 2001
- Speech to legal studies students at All Saints Anglican school, 27 April 2001
- Presentation to the Family Law Council, 11 May 2001

FM Brewster

- Presentation to legal practitioners, Wagga Wagga, NSW, 14 July 2000
- Presentation to legal practitioners, Narooma, NSW, 8 September 2000
- Speech about FMS initiatives in PDR at Relationships Australia seminar, May 2001

FM Coker

- Presentation to North Queensland Law Association annual conference about the Federal Magistrates Service and its operation after four months, 30 September 2000
- Presentation to the Institute of Mercantile Agents on the Federal Magistrates Service and federal law jurisdiction, particularly bankruptcy, 18 November 2000
- Presentation to Legal Aid Queensland by video link on the Federal Magistrates Service and the provision of legal services to rural and remote communities, 21 February 2001
- Presentation to the Family Law Practitioners Association/Continuing Legal Education Family Law Residential on the provision of legal services to rural and remote communities by video and audio technology, and the Federal Magistrates Court draft rules, 27 April 2001
- Presentation on the Federal Magistrates Service rules to the Queensland Family Law Residential annual conference, 27 - 28 April 2001

FM Connolly

FM Connolly was appointed to the FMS on 4 June 2001.

FM Donald

- Presentation to Hunter Valley Family Law Practitioners Association, October 2000
- Presentation to the Lone Fathers Association, November 2000
- Presentation to Newcastle University law students, March 2001

FM Driver

- ITSA workshop presentation, 11 November 2000
- Presentation on the Federal Magistrates Service to the North Brisbane Law Society, 12 December 2000

FM Hartnett

- Presentation to a group of teachers regarding the startup of the Federal Magistrates Service, June 2000
- Presentation on the Federal Magistrates Service to the Family Lawyers Group, August 2000
- Presentation on the Federal Magistrates Service to the Family Law Practitioners Association of Tasmania at Launceston Northern Annual Conference, 26 August 2000
- Presentation on the evolution of the Federal Magistrates Service to family lawyers at the Law Institute of Victoria, December 2000
- Presentation on the Federal Magistrates Service at a Law Institute of Victoria conference, 7 April 2001
- Presentation

FM McInnis

- Paper presented to Western Suburbs Law Association, 29 August 2000
- Paper presented to Northern Suburbs Lawyers Association
- Paper presented to Geelong Lawyers Association, 7 September 2000
- Attended a seminar organised by the Victorian Bar – Public Law Section, 18 October 2000
- Paper presented to Insolvency and Trustee Service (ITSA) Melbourne, 9 November 2000
- Paper presented to Insolvency Law Workshop – Business Law Section Law Council of Australia, 16 November 2000
- Paper presented to seminar conducted by Federal Litigation Section, Law Council of Australia, AIJA and Law Institute of Victoria entitled "The New Federal Magistracy and its relationship with the Federal Court", 16 November 2000
- Mentor Monash University – Masters Course Mediation, 2 December 2000
- Presented paper entitled "The Federal Magistrates Court – Rules and Costs" presented to the Leo Cussen Institute seminar "State of the Law 2001", 5 February 2001
- Paper presented to the Victorian Bar Readers Course, 4 April 2001
- Paper presented to Litigation Lawyers Section, Law Institute of Victoria, 1 March 2001
- Presented paper entitled "Administrative Law and the Federal Magistrates Court" presented to National Administrative Law Forum, Australian Institute of Administrative Law, Canberra, 5 July 2001

FM Mead

- Presentation on the Federal Magistrates Service at the South Australian Country Lawyers conference, 20 October 2000
- Presentation on the Federal Magistrates Service to solicitors in Mt Gambier, 13 December 2000
- Presentation on the Federal Magistrates Service to city lawyers at a Law Society of South Australia CLE lecture, 28 February 2001
- Annual lecture for year 11 and 12 students at Renmark High School which included an outlines of the Federal Magistrates Service and FM Mead's role, March 2001

- Presentation on the Federal Magistrates Service and circuits to lawyers in Whyalla, March 2001
- Commentator at a Family Law Section presentation on new enforcement regime, March 2001
- Presentation on the Federal Magistrates Service and circuits to lawyers in Port Lincoln, April 2001
- Attendance at a Law Society of South Australia practical legal education course for graduates on three successive afternoons to give a talk on the Federal Magistrates Service and to then adjudicate an argument between counsel in relation to a complex interim residence dispute, June 2001

FM Phipps

- Presentation on the Federal Magistrates Service to the Institute of Arbitrators and Mediators Australia breakfast meeting, 27 February 2001
- Paper on "Courts, federal jurisdiction and building cases" delivered at Law Council of Australia Business Law Section construction and infrastructure law committee/building dispute practitioners society, 23 May 2001

FM Raphael

- Made speeches twice to NSW Young Lawyers in 2000
- Article published in *NSW Law Society Journal*
- Speech to Eastern Suburbs Law Society
- Presented a paper on the jurisdiction of the Federal Magistrate's Court to the NSW Law Society CLE conference in March, 2001
- Paper on "Human rights jurisdiction of the Federal Magistrates Court of Australia", delivered as part of Law Week activities in Sydney, May 2001
- Presented paper on human rights and equal opportunity to NSW Legal Aid, 4 June 2001
- Presented paper on human rights jurisdiction to the Human Rights and Equal Opportunity Commission, 12 July 2001

FM Rimmer

- Presentation to Queensland Legal Aid office lawyers, March 2001
- Presentation on the Federal Magistrates Service rules to the Queensland Family Law Residential annual conference, 27 - 28 April 2001

FM Roberts

- Presentation to Family Law Section's national seminars in Hobart and Launceston about the work of the Federal Magistrates Service in Tasmania, March 2001
- Guest of honour at the Young Lawyers Society in Devonport and spoke about the Federal Magistrates Service, 27 June 2001

FM Ryan

- Speech to NSW Young Lawyers in Sydney and Parramatta, November 2000
- Speech to Legal Aid NSW, November 2000
- Speech to Eastern Suburbs Law Society on the Federal Magistrates Service, November 2000
- Presentation at Law Council Intensive, held in Sydney, on "Is there a new civil litigation climate?", 17 February 2001
- Chaired workshop at the Law Council Intensive, held in Sydney, on "Third party creditors and family law", 17 February 2001
- Presentation on Federal Magistrates Service to lawyers at Port Macquarie, 24 February 2001
- Speech to Parramatta District Women Lawyers inaugural meeting on "Women in the Law" on 19 June 2001
- Presentation on "Litigants in Person" plenary session at the Family Court's 25th conference, July 2001

FM Scarlett

- Presentation on "The Federal Magistrates Court" at the St Georges Sutherland Regional Law Society annual general meeting, 31 October 2000
- Presented paper on "The Federal Magistrates Court" to the CLE Centre "Family Law Review" seminar, 17 November 2000
- Presented paper on "The Federal Magistrates Court" to LAAMS seminar on "Children in the crossfire of divorce", 21 November 2000
- Presented paper on "Where do you go? (an examination of the relationship between the Federal Magistrates Court and other courts in respect of allegations of domestic violence in family matters)" at a domestic violence forum held at the Hornsby Shire Council Chambers, 28 November 2000
- Presented a paper at the 41st annual Armidale CLE conference at the University of New England, 4 February 2001
- Speech about "The Federal Magistracy 12 months on - a federal magistrate's perspective" at the NSW College of Law, 24 February 2001
- Speech to continuing legal session of the NSW Bar Association, 12 March 2001
- Talk to year 11 and 12 students from seven different high schools about the role of the Federal Magistrates Court in family law, 16 March 2001
- Two school groups visited Court, watched Proceedings and were briefed by FM Scarlett on what happens in court and taken on a tour, 8 -9 May 2001

Appendix D: Community PDR providers

Table 8.2: Victoria

Organisation	Places services delivered
Centacare Melbourne	Footscray, Mitcham, Dandenong, Cabrini, Geelong
Relationships Aust. Vic	Croydon, Narre Warren, Sunshine, Preston, Eltham, Greensborough, Ballarat, Traralgon, Shepparton
Gordon Homes for Boys & Girls	Highett
Family Mediation Centre	Moorabbin, Ringwood, Narre Warren, Carlton
Mallee Family Care	Swan Hill, Mildura
Lifeworks	Melbourne
Centacare Ballarat	Ballarat, Mildura, Hamilton, Warrnambool

Table 8.3: Northern Territory

Organisation	Places services delivered
Relationships Aust. NT	Darwin, Alice Springs
Anglicare Top End	Darwin, Alice Springs, Katherine

Table 8.4: Australian Capital Territory

Organisation	Places services delivered
Relationships Aust. Canberra & Region	Deakin, Wagga
Centacare Canberra	Forrest

Table 8.5: Tasmania

Organisation	Places services delivered
Centacare Tasmania	Burnie, Launceston, Hobart
Relationships Aust. Tasmania	Hobart, Launceston, Devonport
Anglicare Tasmania	Hobart, Burnie
Positive Solutions	Hobart, Launceston

Table 8.6: New South Wales

Organisation	Places services delivered
Relationships Aust. NSW	Westmead, Illawarra, Bondi, Lane Cove, Hamilton
Centacare Sydney	Sydney, Bankstown, Fairfield, Sutherland
Centacare Bathurst	Bathurst
Unifam	Parramatta, Sydney, Newcastle
Centacare Wollongong	Wollongong, Nowra
Centacare Broken Bay	Gosford, Narrabeen, Waitara
Centacare Newcastle	Newcastle, Muswellbrook, Taree
Centacare Wilcannia	Forbes, Narromine
Family Centre Community Projects	Tweed Heads

Table 8.7: Queensland

Organisation	Places services delivered
Centacare Brisbane	Fortitude Valley, Gold Coast, Maroochydore
Centacare Toowoomba	Toowoomba
Centacare Townsville	Townsville, Bowen, Mt Isa, Ingham
Relationships Aust. Qld	Townsville, Mt Gravatt
Centacare Rockhampton	Rockhampton, Mackay, Bundaberg

Table 8.8: South Australia

Organisation	Places services delivered
Centacare Adelaide	Adelaide, Salisbury
Relationships Aust. SA	Adelaide, Elizabeth, Berri
Centacare Port Pirie	Port Pirie, Port Augusta, Port Lincoln, Whyalla
Whyalla Counselling Service	Whyalla

Appendix E: Staffing levels

The number of staff at 30 June 2001 (by location, classification, and gender).

Table 8.9: FMS staffing levels (by location and gender)

	Federal Magistrates		Staff		Total
	Male	Female	Male	Female	
Adelaide	0	1	2	1	4
Brisbane	1	1	2	2	6
Canberra	1	0	0	2	3
Launceston	1	0	0	2	3
Melbourne	3	2	6	14	25
Newcastle	1	0	0	3	4
Parramatta	1	1	0	4	6
Sydney	2	0	0	3	5
Townsville	1	0	0	2	3
TOTAL	11	5	10	33	59

Notes:

- In Adelaide, two male staff share one position.
- In Sydney, two female staff share one position.
- The Melbourne female staff includes one non-ongoing employee.
- The Newcastle female staff includes one non-ongoing sessional registrar (casual) position.
- Four female staff employed in Melbourne through an agency on a temporary basis as at 30 June 2001 are excluded from the above figures.

Table 8.10: FMS staffing levels (by classification)

	Chief Federal Magistrate \$177,900	Federal Magistrate \$153,800	Chief Executive Officer \$125,500	Executive Level 2 \$64,000 to \$84,000	Executive Level 1 \$56,000 to \$62,000	APS 5 \$40,000 to \$43,000	APS 4 \$35,000 to \$39,500	APS 3 \$32,500 to \$35,000	TOTAL
Adelaide	0	1	0	0	0	1	1	0	3
Brisbane	0	2	0	0	0	2	2	0	6
Canberra	0	1	0	0	0	1	1	0	3
Launceston	0	1	0	0	0	1	1	0	3
Melbourne	1	4	1	4	5	5	3	2	25
Newcastle	0	1	0	0.4	0	1	1	0	3.4
Parramatta	0	2	0	0	0	2	2	0	6
Sydney	0	2	0	0	0	2	0	0	4
Townsville	0	1	0	0	0	1	1	0	3
TOTAL	1	15	1	4.4	5	16	12	2	56.4

Notes: The above figures are full-time equivalent (ie two half-time are equivalent to one full-time).
Four female staff employed in Melbourne through an agency on a temporary basis as at 30 June 2001 are excluded from the above figures.

Table 8.11: FMS staffing levels (by gender and salary level)

	Chief Executive Officer \$125,500	Executive Level 2 \$64,000 to \$84,000	Executive Level 1 \$56,000 to \$62,000	APS 5 \$40,000 to \$43,000	APS 4 \$35,000 to \$39,500	APS 3 \$32,500 to \$35,000	TOTAL
Male	1	2	2	1	4	0	10
Female	0	3	3	16	9	2	33

Notes: In Adelaide, two male staff share one APS 4 position.
In Sydney, two female staff share one APS 5 position.
In Melbourne there is one female non-ongoing employee at the APS 3 level.
There is one non-ongoing female sessional registrar (casual) EL 2 position.
Four female staff employed in Melbourne through an agency on a temporary basis as at 30 June 2001 are excluded from the above figures.

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