

PART 3
REPORT ON COURT PERFORMANCE



OUTCOME AND OUTPUTS

The Family Court revised its outcome and outputs structure for 2008–09 to reflect the changing role of the Court as a result of legislative reforms to the family law system over many years. The continued work of the Federal Magistrates Court, the establishment of Family Relationship Centres and the provision of funding support to the community sector to undertake family dispute resolution have ensured that the Family Court can focus on determining the most complex family law disputes and on providing national coverage as the appellate court in family law matters. The revised structure therefore reflects the reduced emphasis on providing dispute resolution (mediation) services and the increased emphasis on providing judicial and registry services.

Figure 3.1 shows the outcome and outputs structure as published in the Attorney-General's Portfolio Budget Statements 2008–09.

Figure 3.1 Outcome and outputs structure

Outcome 1

As Australia's specialist superior family court determine cases, including in particular those with complex law and facts, and provide national coverage as the appellate court in family law matters.

Output Group 1.1: Judicial services

Output Group 1.1 contributes to Outcome 1 by providing judicial services to Family Court clients which provide, through a case management pathway, for matters filed with the court to be finalised.

Output Group 1.2: Registry services

Output Group 1.2 contributes to Outcome 1 by providing registry services to clients of the Family Law Courts (comprising the Family Court of Australia and the Federal Magistrates Court of Australia) who are considering filing an application or who wish to file an application with either court.

RESOURCES

The total resources for Outcome 1 are shown in Table 3.1.

Table 3.1 Outcome 1 summary of resources

	Budget 2008–09 \$'000 (a)	Actual Expenses 2008–09 (\$'000) (b)	Variation \$'000 (a) – (b)
Output Group 1.1: Judicial services			
Ordinary annual services (Appropriation Bill No. 1 & No. 3)	94 815	93 312	1 503
Revenues from independent sources (section 31)	1 472	3 926	-2 454
Expenses not requiring appropriation in the budget year ¹	8 983	7 446	1 537
Subtotal for Output Group 1.1	105 270	104 684	586
Output Group 1.2: Registry services			
Ordinary annual services (Appropriation Bill No. 1 & No. 3)	33 993	33 454	539
Revenues from independent sources (section 31)	528	1 408	-880
Subtotal for Output Group 1.2	34 521	34 862	-341
Total for Outcome 1²	139 791	139 546	245
Average staffing level (number)		601	

1. *Includes liabilities assumed by related entities for the Judges Pension Scheme and resources received free of charge for Australian National Audit Office services.*
2. *Special Public Money special accounts, Litigants Fund Special Account and Other Trust Monies, have been excluded, consistent with the resource statement in the 2009–10 Budget.*



OUTPUT GROUP 1.1: JUDICIAL SERVICES

Output Group 1.1 contributes to Outcome 1 by providing judicial services to Family Court clients which provide, through a case management pathway, for matters filed with the court to be finalised.

Judicial services include:

- determining cases that are complex in law, facts and parties
- covering specialised areas in family law
- providing national coverage as the appellate court in family law matters.

Summary of performance

The Court achieved fewer than half of its performance targets in 2008–09 (see Table 3.2). Importantly, the Court achieved its target clearance rate, which indicates that it maintained a relatively stable output and workload commensurate with its resources and the demand on its services. In three other 2008–09 metrics where the Court missed its targets, it needs to make only small improvements to reach the targets in 2009–10.

In particular the Court is striving, where it is able to and as appropriate, to reduce the number of pending ‘older’ cases by actively managing those cases to disposal. If the Court is able to achieve this, it should lead to improved timeliness for future case disposal.











The Court is concerned that it has a higher than desired proportion of its reserved judgments waiting more than three months for their final decision. Although the number of cases is relatively low compared to the total number of cases finalised, it is important for the Court to ensure that its clients are provided with an outcome and orders as soon as possible after their trial. The Chief Justice

is committed to ensuring timely delivery of decisions and will review strategies during 2009–10 to ensure improvement in this area.

Volumes of finalisations are difficult to predict each year, as they are significantly dictated by client demand for Family Court services and the level of available judicial resources. Both of these are out of the control of the Court, as clients determine where they will file their case and judicial appointments are at the discretion of the government. Overall, the Court sets its targets based on its expected caseload and resource levels.

Table 3.2 summarises the Court's results in delivering judicial services against the key performance indicators and targets published in the 2008–09 Portfolio Budget Statements.

Table 3.2 Summary of performance—Output Group 1.1: Judicial Services

Key performance indicators	Target	Result	Target achieved
Number of finalisations per annum	Final order finalisations: 4637	4883	
	Interim order finalisations: 5303	4328	
	Consent order finalisations: 11 228	10 164	
Clearance rate	100%	106%	
Backlog indicators	More than 75% of matters pending conclusion are less than 12 months old	73%	
	More than 75% of reserved judgments are waiting less than three months after the conclusion of trial*	54%	
Percentage of cases finalised	75% of matters are concluded within 12 months	89%	
	75% of matters requiring a reserved judgment are delivered no more than three months after the conclusion of the trial	71%	
Number of complaints received	Less than or equal to 1% of applications received	0.59%	
Price	\$4472 per finalisation	\$5019	

* The wording of this measure differs slightly from the PBS to better reflect the intent of the measure and to avoid confusion with similarly worded measure.

Detailed report on performance

The Court's case mix: complex cases

New workload for 2008–09

The Court continues to deal with the most complex and difficult family law cases. Figures 3.2 and 3.3 show the new caseload that commenced in the Court during 2008–09.

Members of the public often believe that the Family Court's most complex cases are those involving conflict over children. While child-related and parenting cases are very difficult, the Court also deals with very complex cases involving financial and property issues. Such cases often deal with the splitting of superannuation, corporate businesses and expensive and complex finance and property portfolios.

There has been a significant shift in the past few years, and the Court now deals with a greater proportion of its cases involving complex financial issues. Prior to 2006–07, about 60 per cent of the Court's caseload typically involved only parenting and about 30 per cent involved only finances, with about 10 per cent having both parenting and financial issues. More recently, approximately 45 per cent has involved only financial matters and approximately 40 per cent deal with only complex parenting issues, with approximately 15 per cent of cases having both children's and financial issues.

Figure 3.2 Applications filed, 2008–09

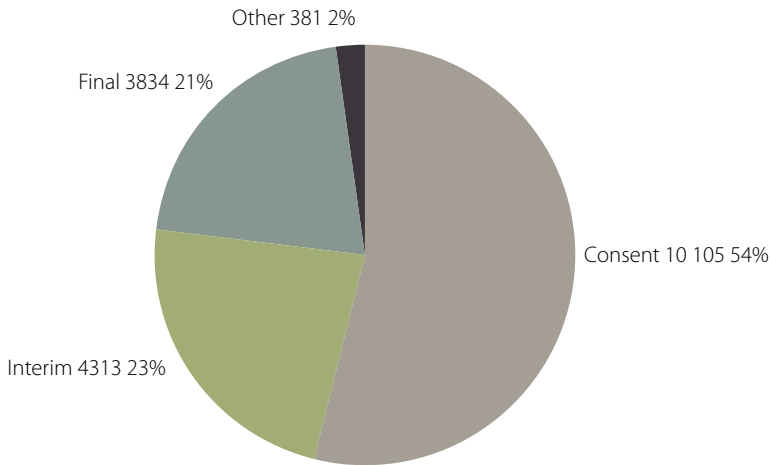
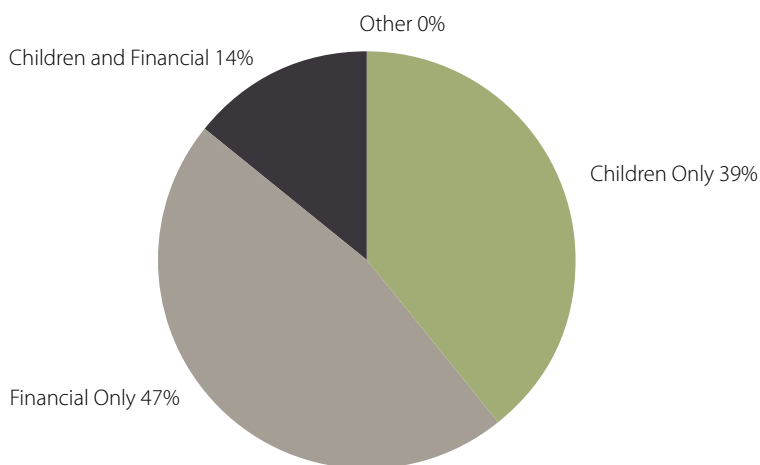


Figure 3.3 Issues sought on Final Order cases, 2008–09



Complex cases

In the past five years, the Court's case mix has changed dramatically, so that most of the more complex cases are dealt with by the Family Court and less complex cases are dealt with by the Federal Magistrates Court. When a case contains complex issues, many issues or higher levels of conflict it will have a lower probability of settling and be more likely to require more court and judicial interventions until it is resolved.

Figure 3.4 shows the typical proportions of cases finalised during 2008–09 and the case management stage in which they were resolved.

Figure 3.4 Stage when cases were finalised during 2008–09

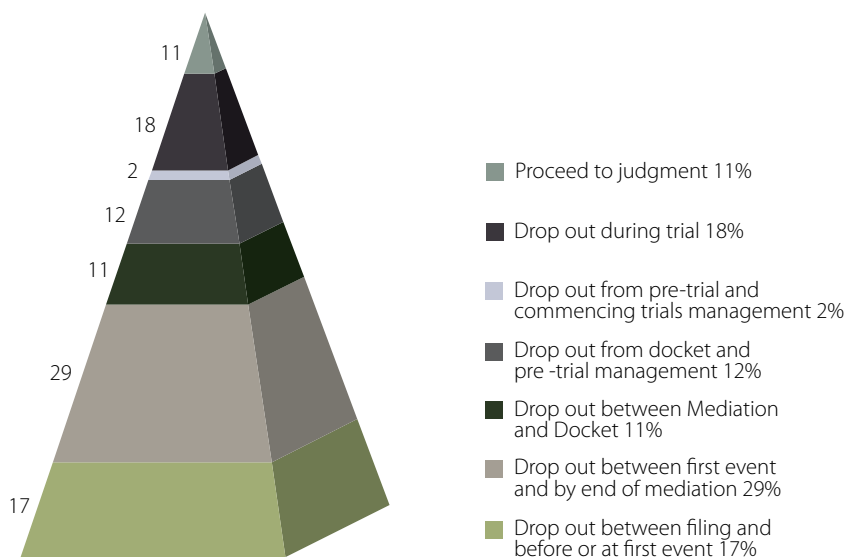
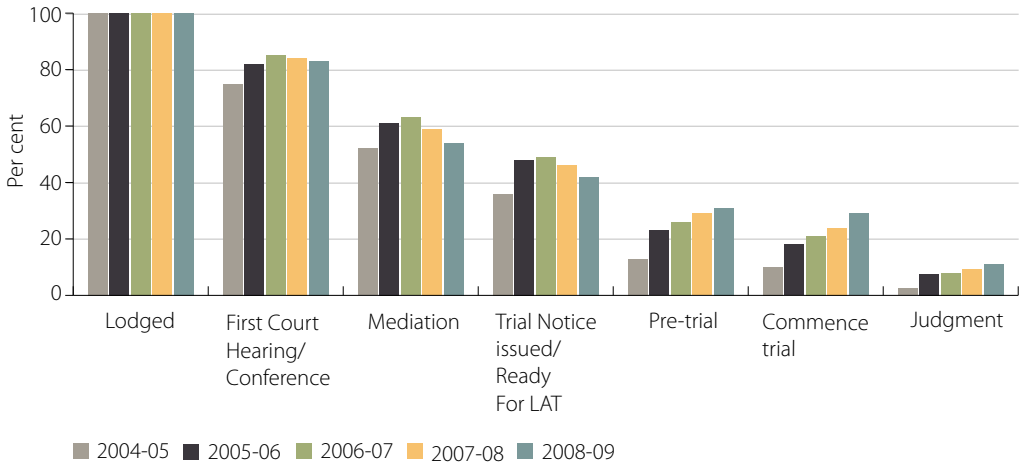


Figure 3.5 shows the changing trend in the Court’s caseload and where its cases are being resolved along the pathway. Over the past five years, an increasing proportion of the Court’s cases remain longer on the pathway and require judicial determination to be resolved. For many years about 5 per cent of Family Court cases required a judge to make a determination. Currently, over 11 per cent of the Court’s cases now require the judge to make a determination.

Figure 3.5 Trend in the Court’s caseload, 2004-05 to 2008-09

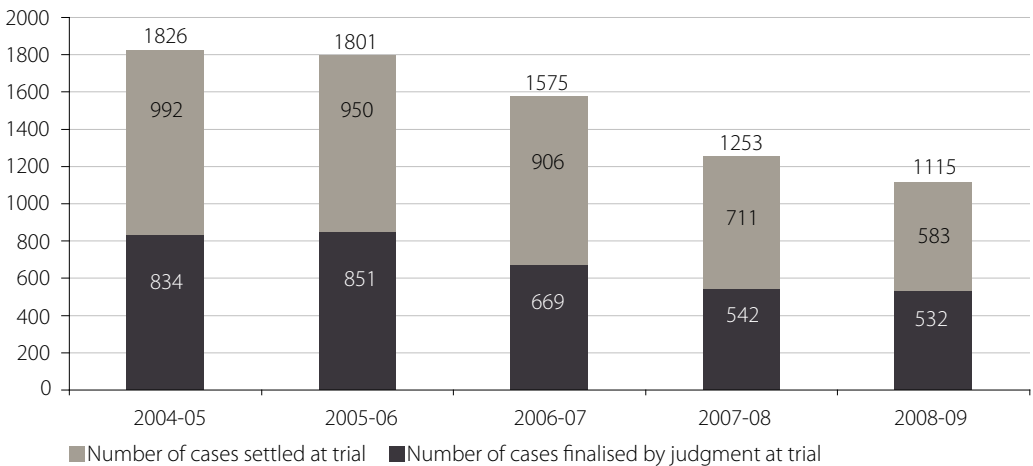


First instance trials

Ultimately, if parties cannot agree to settle their dispute they will require a judge to make a decision at a trial. However, it is still common for parties to settle during the trial.

Figure 3.6 provides details of the number of cases that are finalised at first instance trial (that is, the cases do not include Full Court appeals and related applications). Although the Court has had a reduction in the number of trials, the reduction is commensurate with the reduction in cases coming before the Court and, more particularly, with the reduced number of judicial officers available to deal with them.

Figure 3.6 Cases finalised at first instance trial, 2004-05 to 2008-09



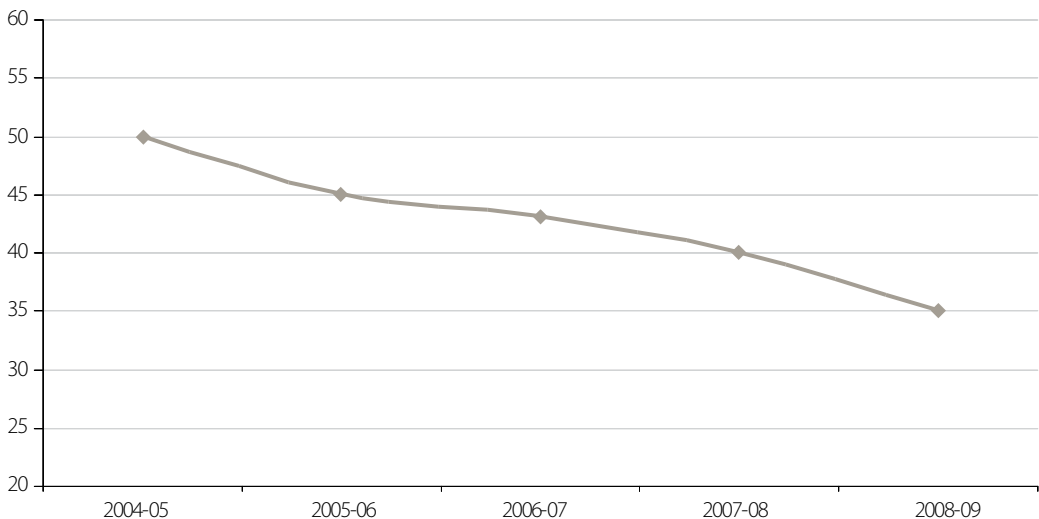
Impact of reduced number of judicial officers

As the number of Family Court judges has decreased, work has been transferred to the Federal Magistrates Court in line with government policy that the Federal Magistrates Court handle less complex cases. This is reflected in the lower number of filings: there are fewer judges to hear cases and as the cases that proceed to trial are increasingly complex they take longer to finalise.

Furthermore, the Court expects that at least five judges are likely to retire during 2009–10 (a 15 per cent reduction in judicial resources). A decision not to fill those positions, or a delay in doing so, will put pressure on the Court's ability to maintain or increase the rate at which it disposes of cases in 2009–10 and beyond.

Figure 3.7 shows the decrease in the Court's judicial officers in the past five years. It includes the Chief Justice, Deputy Chief Justice and judges assigned to the Appeal Division, whose main caseload is associated with appeals rather than first instance matters, although they undertake some first instance matters.

Figure 3.7 Number of judicial officers, 2004–05 to 2008–09



Number of finalisations

During 2008–09, the Court aimed to finalise 4637 final order cases, 5303 interim orders applications and 11 228 consent orders applications. These targets were set based on what the Court had historically achieved with its resource level, the estimated new applications initiated each year, and the number of active cases (pending). Each application requires a particular level of effort to resolve it. Final orders applications and interim applications attaching to the cases filed require more effort to resolve than consent order applications.

The main focus is on final orders applications as these are what ultimately require determination at a final hearing and therefore require the most effort to resolve. In addition to what are described as final orders applications, other discrete applications are filed (such as contraventions, contempt and applications made pursuant to the Hague Convention on the Civil Aspects of International Child Abduction).

The applications specified in the Portfolio Budget Statements performance indicators make up the significant majority of the Court's workload of parties seeking parenting or financial orders.

Final orders

During 2008–09, 4883 applications for final orders were finalised—5 per cent more than target and 30 per cent less than in 2007–08. Achieving more than the target was mainly due to the Court undertaking focused strategies to dispose of its older cases and partly to the success of the docket system, under which registrars and judges have had greater autonomy listing their matters to hearing and progressing them to disposition.

Interim orders (application in a case)

During 2008–09, 4328 interim applications (application in a case) were finalised—18 per cent less than target and 23 per cent less than in 2007–08. These applications are associated with an existing case and can be dealt with relatively quickly. The smaller number filed meant a reduction in the number that could be finalised, so the target could not be achieved.

Consent orders

During 2008–09, 10 164 consent orders applications were finalised—9 per cent less than target and 4 per cent less than were finalised during 2007–08. These applications are made where the parties have already agreed on their parenting and financial issues and are seeking the endorsement of the agreement by the Court. They are the least complex of the Court's workload and are usually dealt with by a registrar of the Court, not a judicial officer. Like interim applications, there was a significant reduction in consent applications filed and therefore fewer needed to be or could be finalised and the target could not be achieved. It is probable the reduction is due to the increasing use by parties of binding financial agreements, which do not require any judicial involvement.

Figures 3.8 to 3.11 display five-year trends in filings, finalisations and pending (outstanding) applications.

Figure 3.8 Final orders applications, 2004–05 to 2008–09

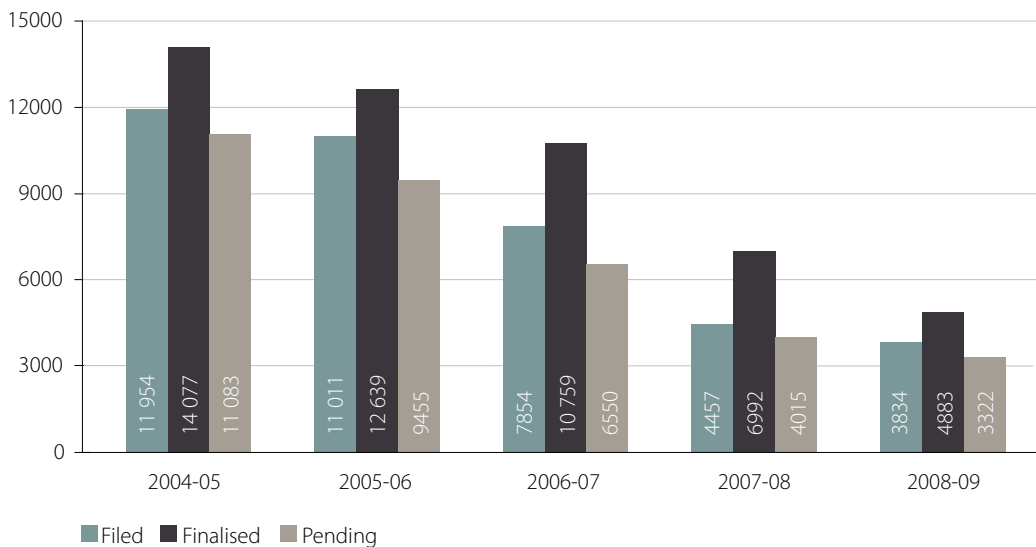


Figure 3.9 Applications in a case, 2004–05 to 2008–09

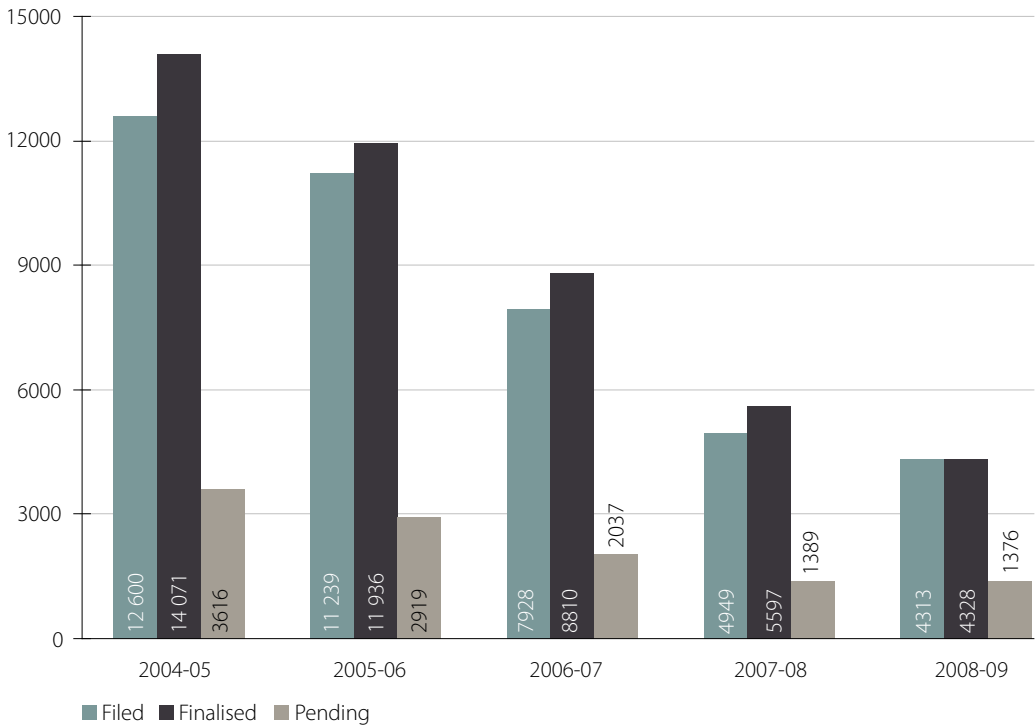


Figure 3.10 Consent orders applications, 2004–05 to 2008–09

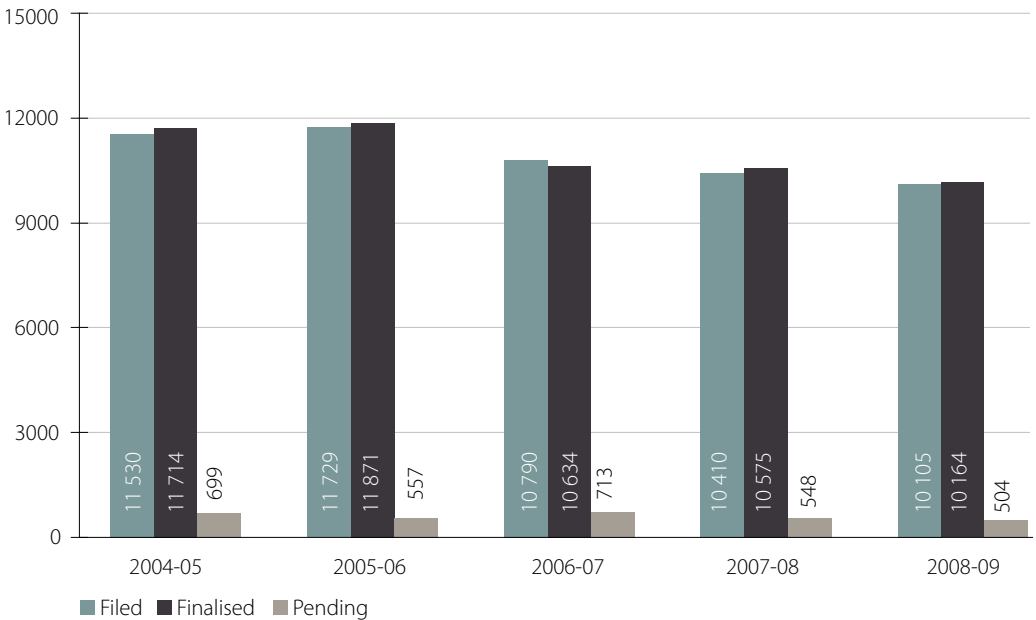
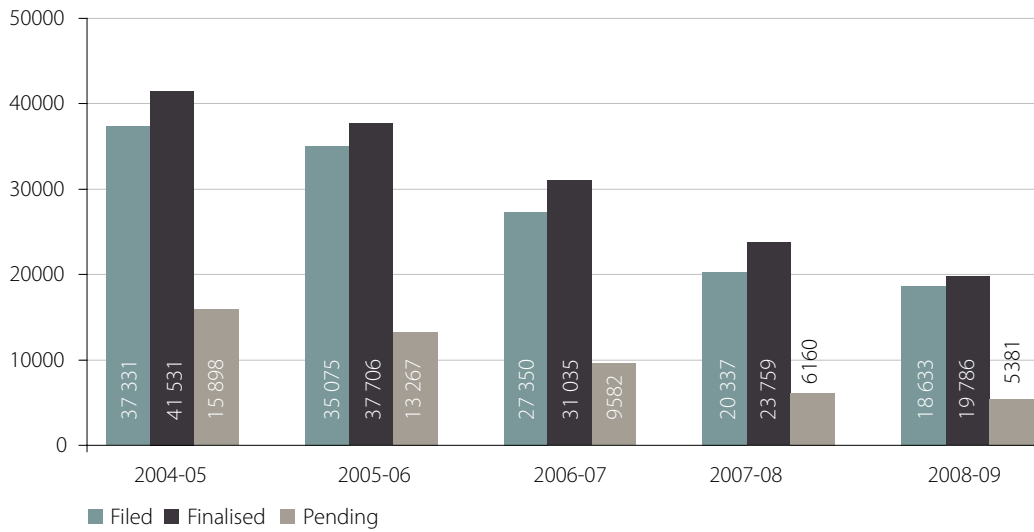


Figure 3.11 All applications, 2004–05 to 2008–09



Clearance rate

The Court aims for a clearance rate of 100 per cent; that is, to finalise cases at the same rate that new cases begin. A rate higher than 100 per cent indicates that the Court is reducing the backlog of pending cases (backlog); a rate under 100 per cent indicates that the number of pending cases is increasing. For a number of years, the Court has achieved a clearance rate over 100 per cent. This is due to reduced filings but also due to the Court’s ability to maintain its finalisations at a level that enables it to reduce its backlog to a manageable level.

In 2008–09, the Court achieved a clearance rate over 100 per cent for each of its major applications, and a total clearance rate of 106 per cent. This effectively reduced the number of pending applications by almost 800 (13 per cent) since 2007–08.

Figures 3.12 to 3.15 show five-year trends in clearance rates.

Figure 3.12 Final orders applications, clearance rates, 2004–05 to 2008–09

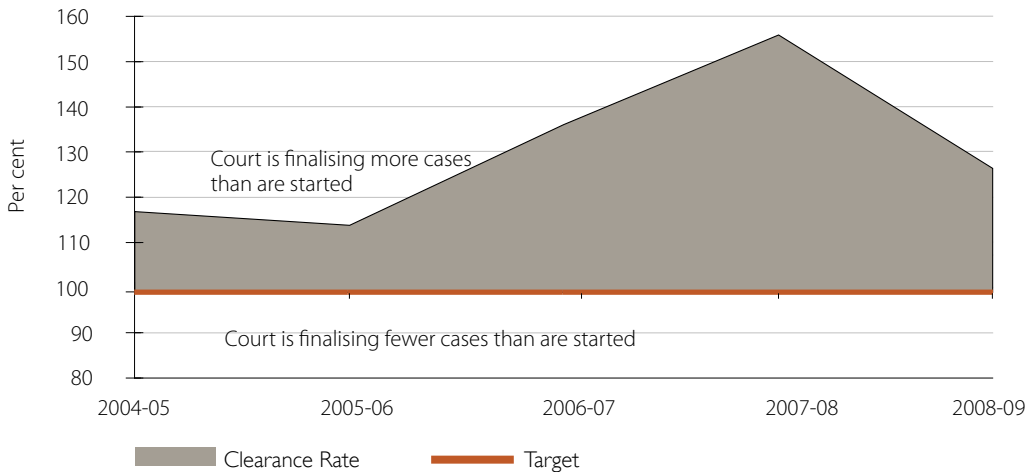


Figure 3.13 Applications in a case, clearance rates, 2004–05 to 2008–09

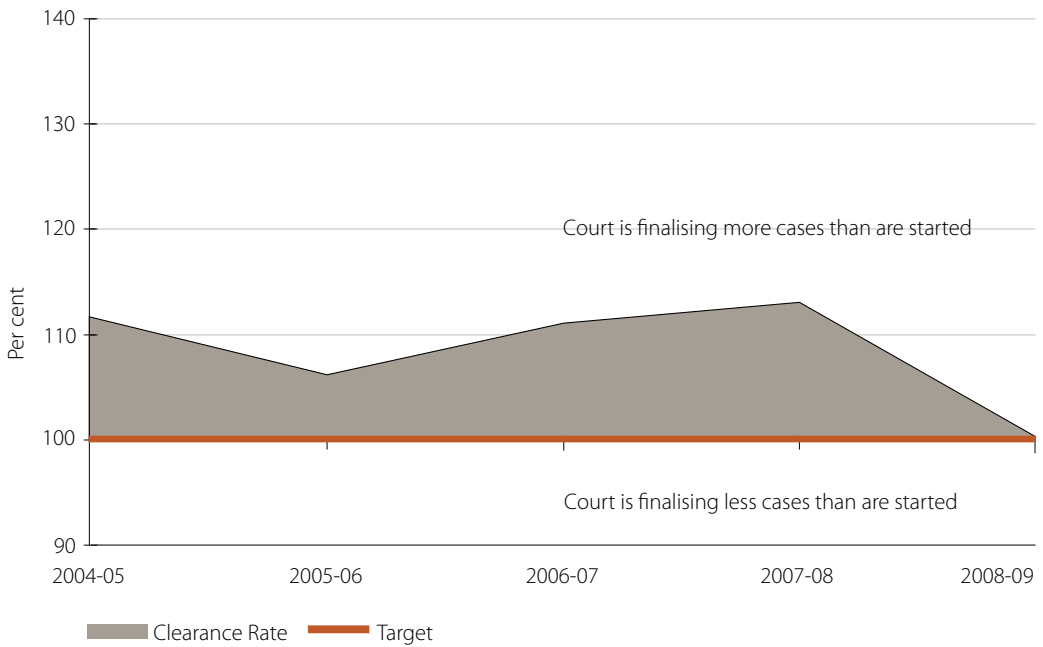


Figure 3.14 Consent orders applications, clearance rates, 2004–05 to 2008–09

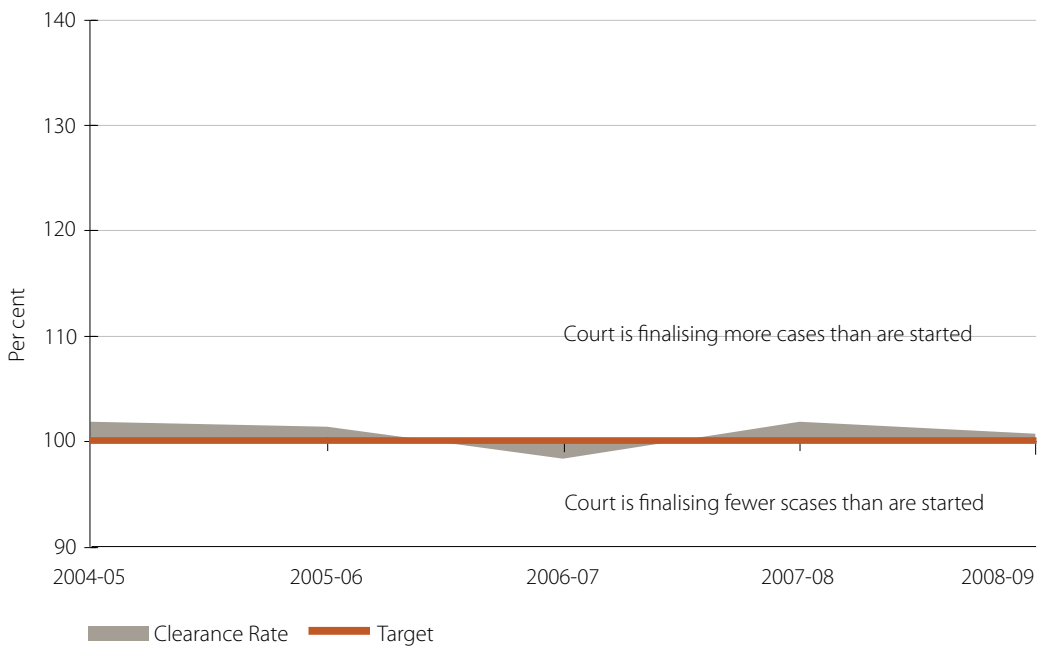
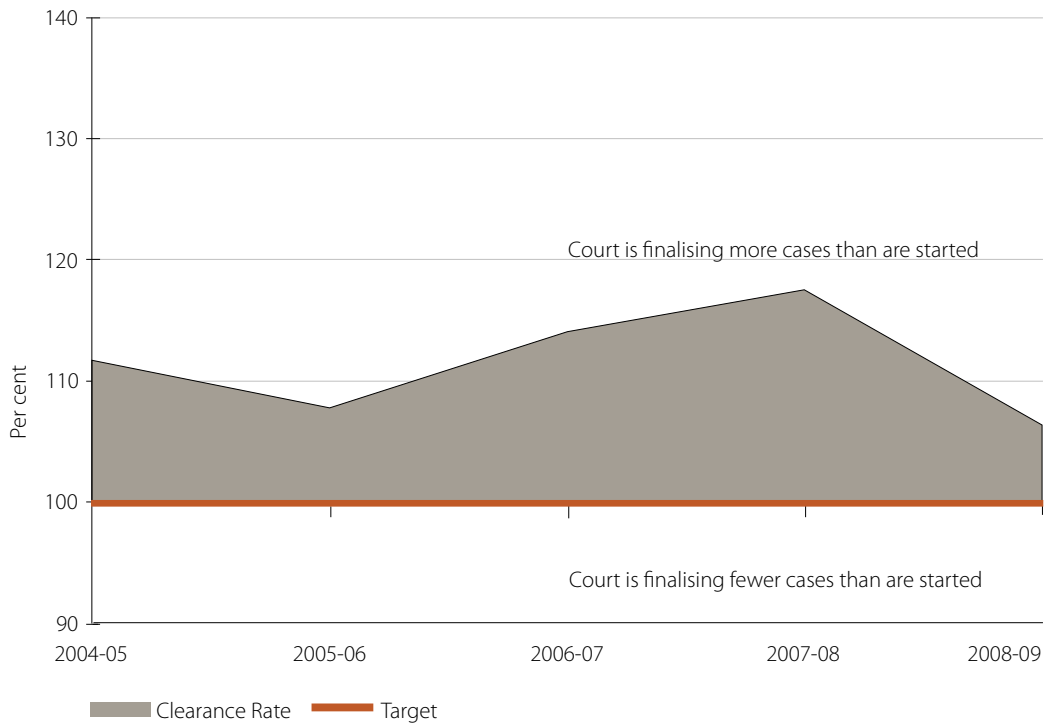


Figure 3.15 All applications, clearance rates, 2004–05 to 2008–09



Backlog indicators

The backlog is the number of cases and applications that are pending (that is, still active) at the end of the year. These applications are ‘waiting’ for a court event to occur or are being actively managed. The backlog contains older cases as well as cases that commenced more recently. Many of these cases will be disposed within the Court’s target. However, the completion of applications that are older and outside the timeliness target is the primary focus of the Court.

Age of pending applications

The Court aims to keep the number of old cases to a minimum and to maximise the proportion of younger cases. Keeping this blend of newer and older cases helps the Court to ensure that it is able to dispose its cases in a timely manner. The nature of high-conflict and complex cases inevitably means that many of the Court’s cases will take significant time to progress through to a decision. For this reason, the Court aims to have more than 75 per cent of its pending applications less than 12 months old (since they commenced in the Court). At the end of 2008–09, the Court had almost met its target: 73 per cent of pending applications were less than a year old, which is an improvement of 4 per cent over 2007–08. The main reason for this success was the Court’s focus on disposing the older cases, so that the main reduction was in cases aged 12–24 months.

Figure 3.16 shows the five-year trend in the age distribution of backlog applications. Figures 3.17 to 3.20 show trends by type of application.

Figure 3.16 Age of pending applications, 2004–05 to 2008–09

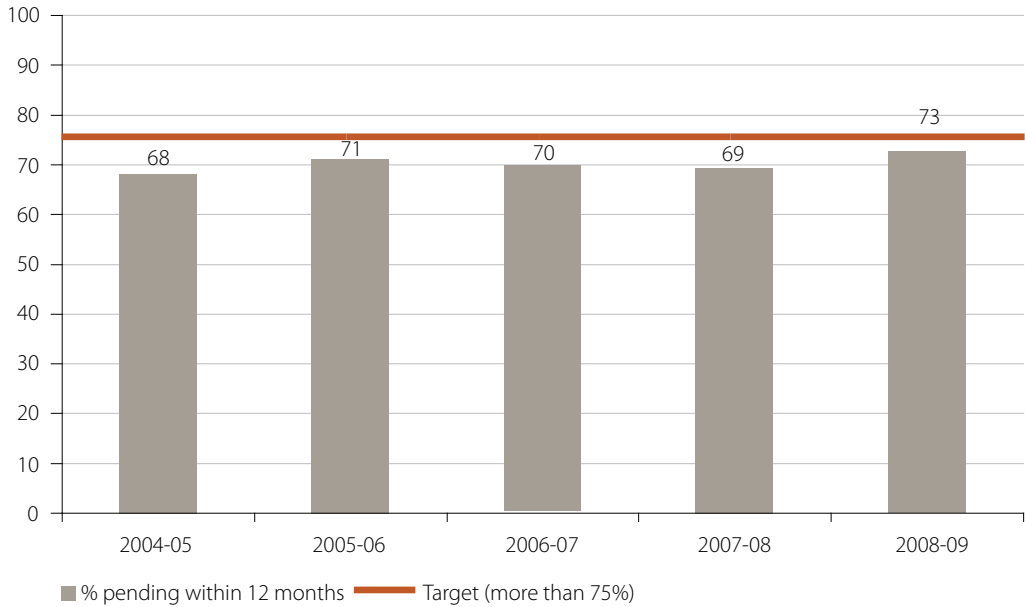


Figure 3.17 Final applications, pending time, 2004–05 to 2008–09

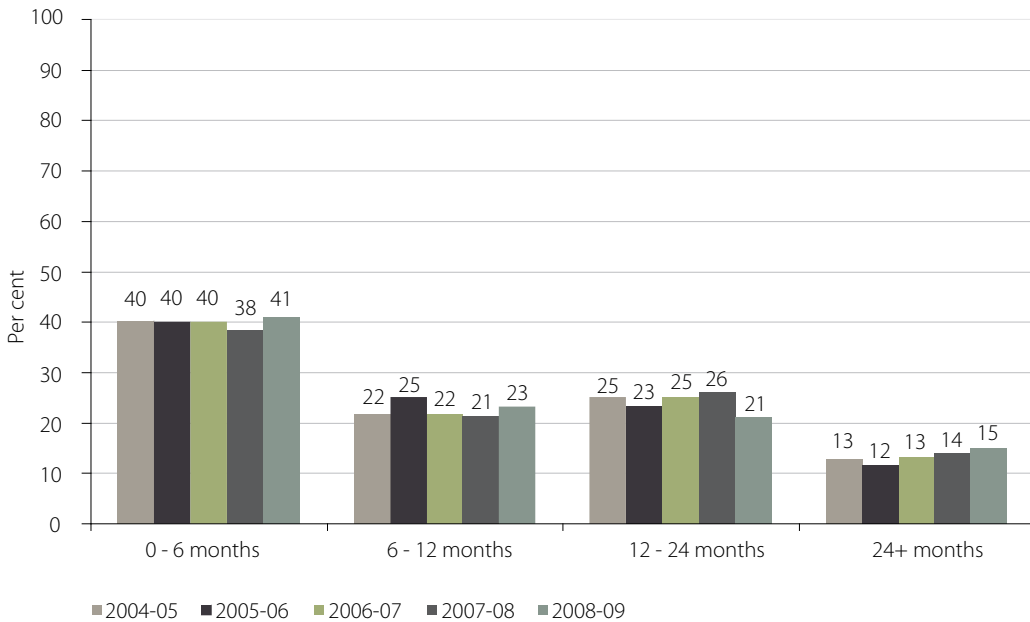


Figure 3.18 Interim applications, pending time, 2004–05 to 2008–09

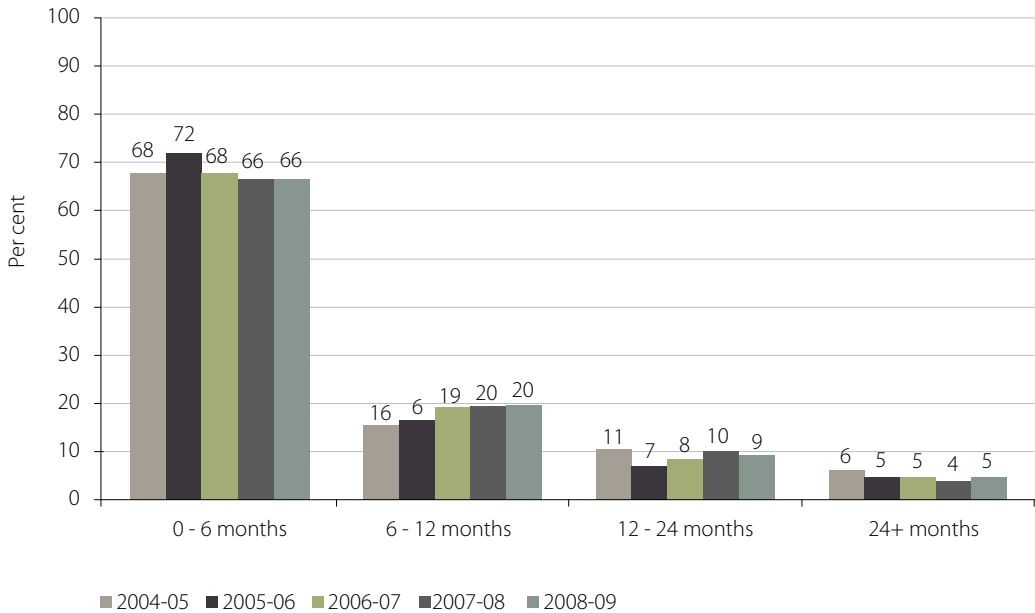


Figure 3.19 Consent applications, pending time, 2004–05 to 2008–09

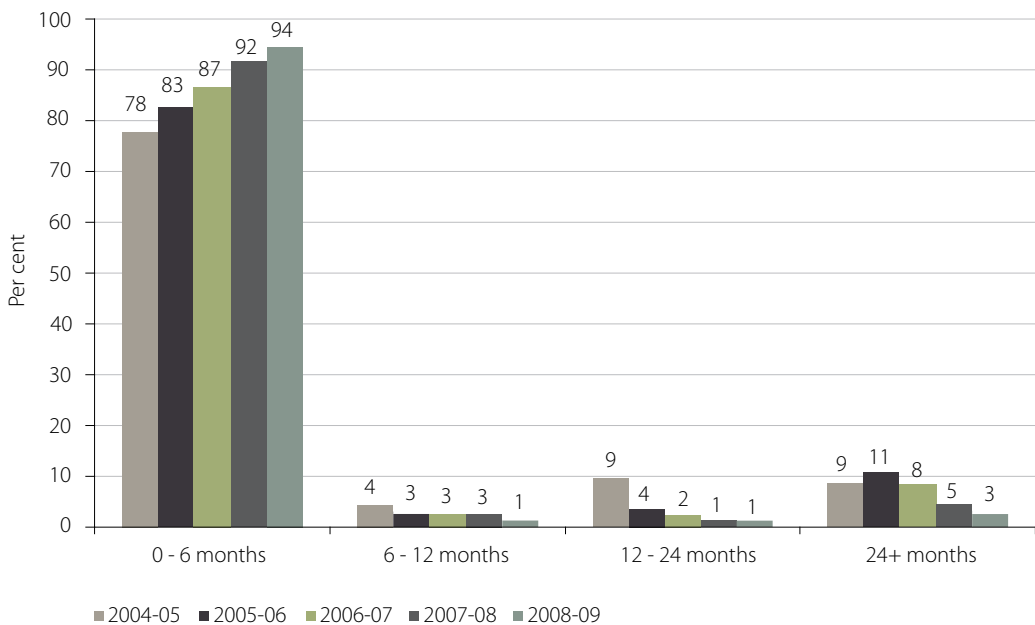
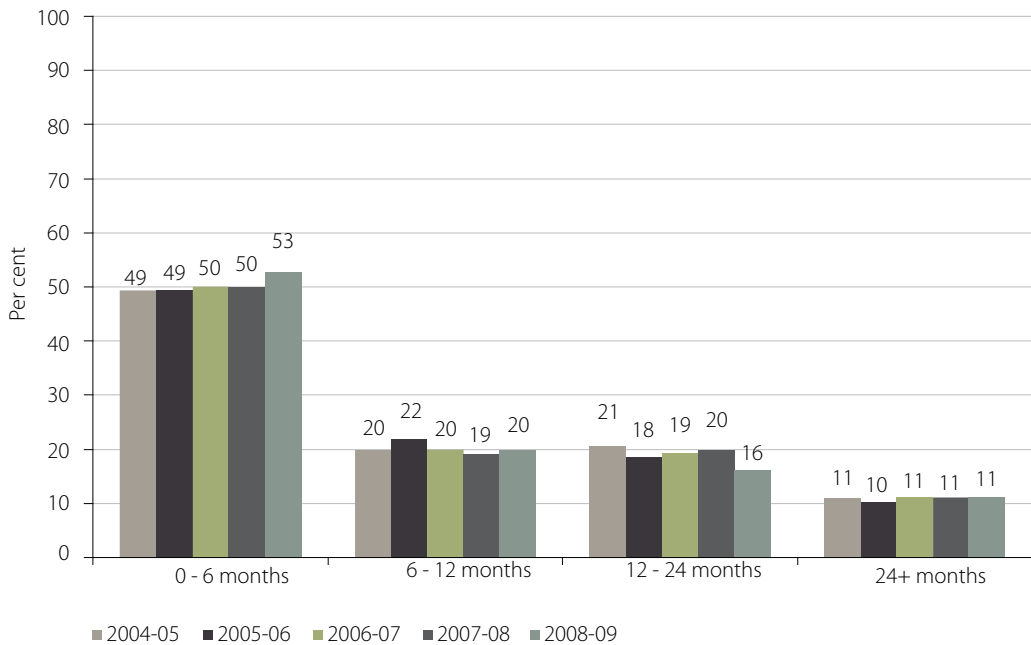


Figure 3.20 All applications, pending time, 2004–05 to 2008–09



Different applications, due to their complexity, take varying times to be disposed and therefore produce varying age distributions. Final order applications are the basis of cases and therefore take significantly more time to resolve. As a result, a larger proportion of final order applications are older than 12 months.

Age of reserved judgments outstanding

When parties proceed to trial, it is common for judges to reserve their decisions to consider the evidence and to deliver written reasons for their decisions. The Court aims to have reserved decisions delivered within three months after the trial on final order applications. The target is to have more than 75 per cent of matters awaiting a judgment waiting less than three months. At the end of 2008–09, 54 per cent of the Court’s reserved judgments were less than three months old (that is, 46 per cent had been waiting more than three months for their judgment). Figure 3.21 shows the five year trend in reserved judgments compared with the target of 75 per cent. Figure 3.22 shows the five-year trend in time taken for delivery of reserved judgments.

Figure 3.21 Reserved judgments outstanding, 2004–05 to 2008–09

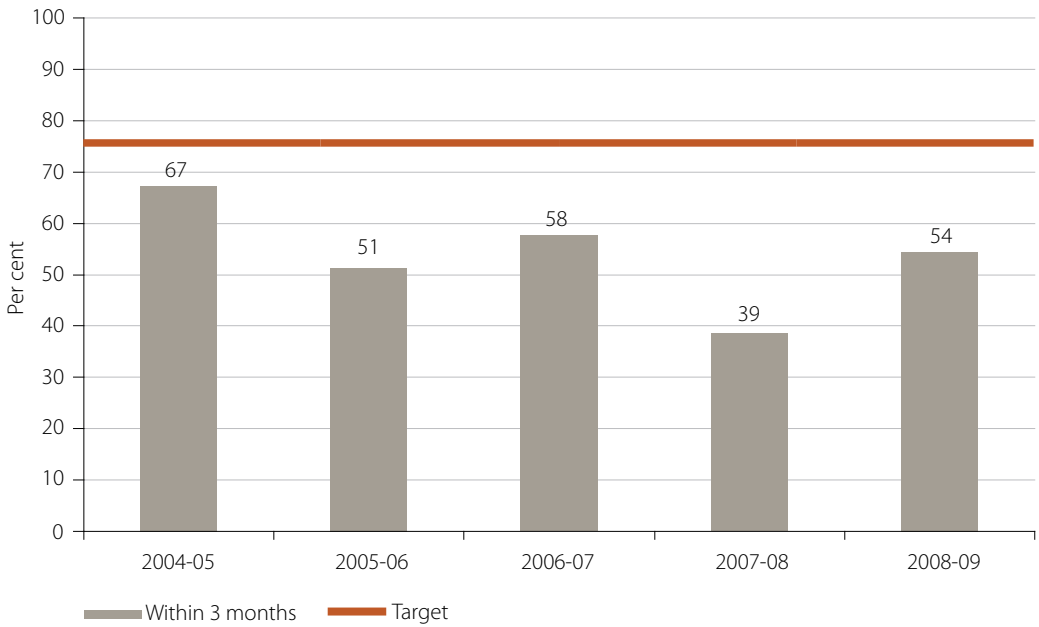
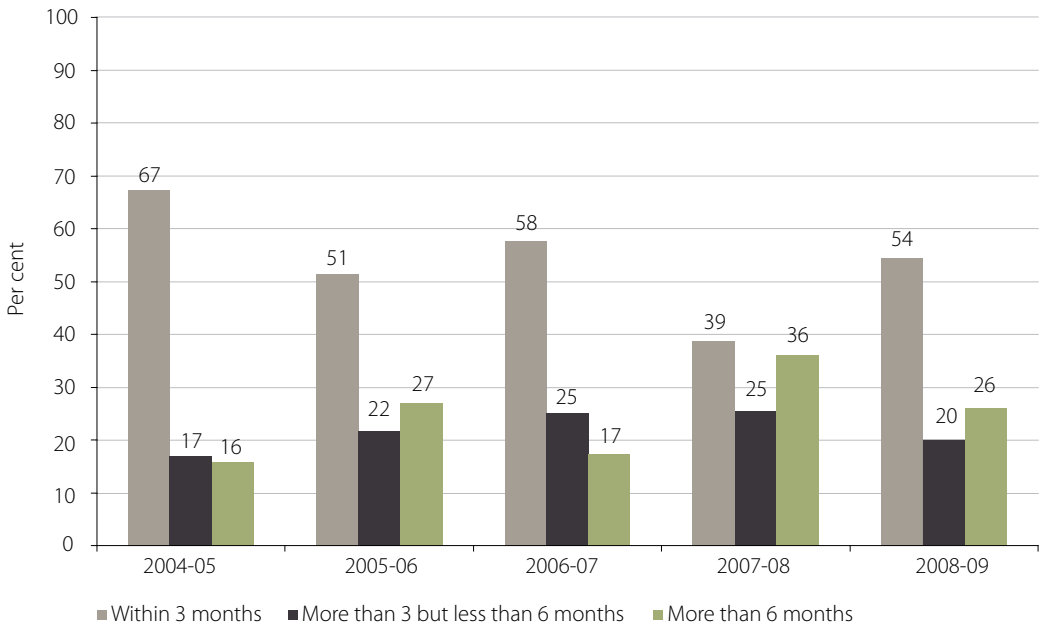


Figure 3.22 Time delay for reserved judgments, 2004–05 to 2008–09



The Court reduced the number of outstanding judgments by 22 (19 per cent) compared to the same time in 2007–08. Despite this improvement, the Court did not achieve its target. The Chief Justice continues to monitor reserved judgments and has taken steps to ensure that judges with outstanding interlocutory and final judgments are given opportunities to take time out of court to complete them. However, time out of court has to be balanced against the need for cases to continue to be heard so that they can be finalised and do not increase their waiting time. The Chief Justice has also ensured that interlocutory and interim judgments will form part of the performance figures in 2009–10 to show a more complete picture of the Court's judgments.

Percentage of cases finalised

The time it takes for cases and applications to be finalised is a major focus of the Court. It aims to ensure that its clients are able to leave the court with appropriate orders in a timely manner. Family law is particularly difficult and emotional, and the Family Court's decisions affect many lives for potentially many years. Therefore, the Court also recognises the need to allow clients enough time and appropriate interventions to deal with the many emotions that separation and the court process bring. It is difficult to set a timeliness target, as the level of conflict and the number of issues and parties associated with a case can affect its progress towards a decision.

Age of finalised applications

The Court has based the target for timeliness to finalisation on its experience of previous cases and the case management process applied to its cases. Case management and delays between court interventions are driven by available resources. The Court's target is to finalise 75 per cent of cases within 12 months; the other 25 per cent are the most complex cases, which cannot be expected to be managed within that timeframe.

During 2008–09, the Court finalised 89 per cent of applications within 12 months, which was above the target and an increase of 3 per cent since 2007–08. The main reason for this was the reduction in the number of the less complex applications filed, such as consent and interim applications, which could be finalised more quickly and therefore affect the overall figure for the Court.

Figure 3.23 shows the five-year trend in the age distribution of applications finalised. Figures 3.24 to 3.27 show the trend by the type of application.

Figure 3.23 Applications finalised within 12 months, 2004–05 to 2008–09

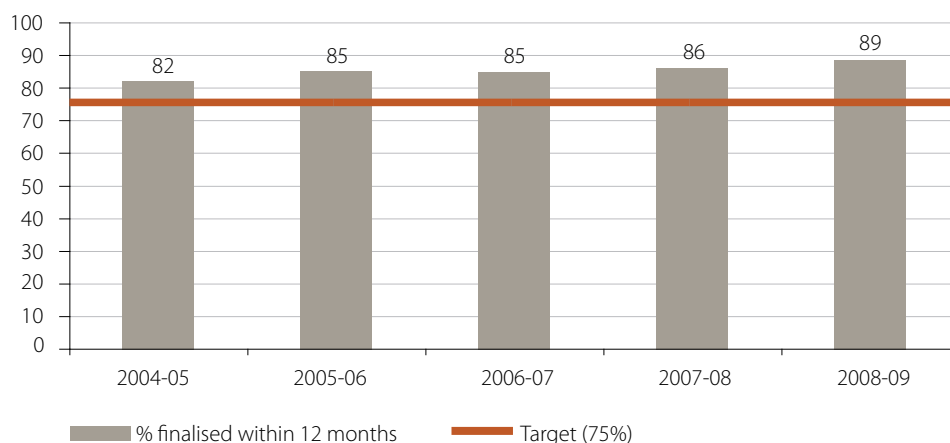


Figure 3.24 Final order applications, time to finalise, 2004-05 to 2008-09

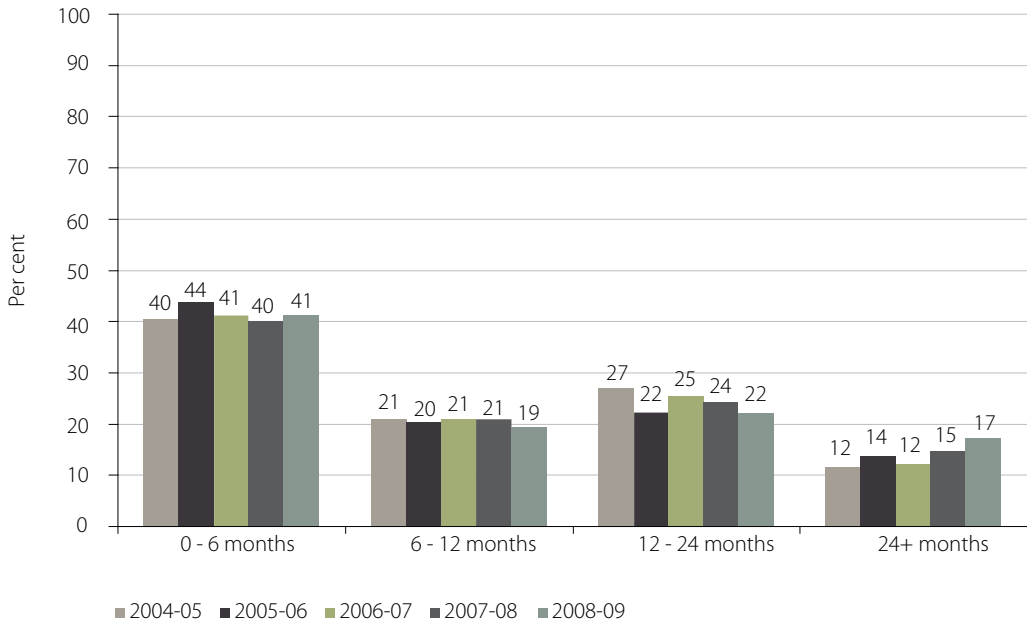


Figure 3.25 Interim order applications, time to finalise, 2004-05 to 2008-09

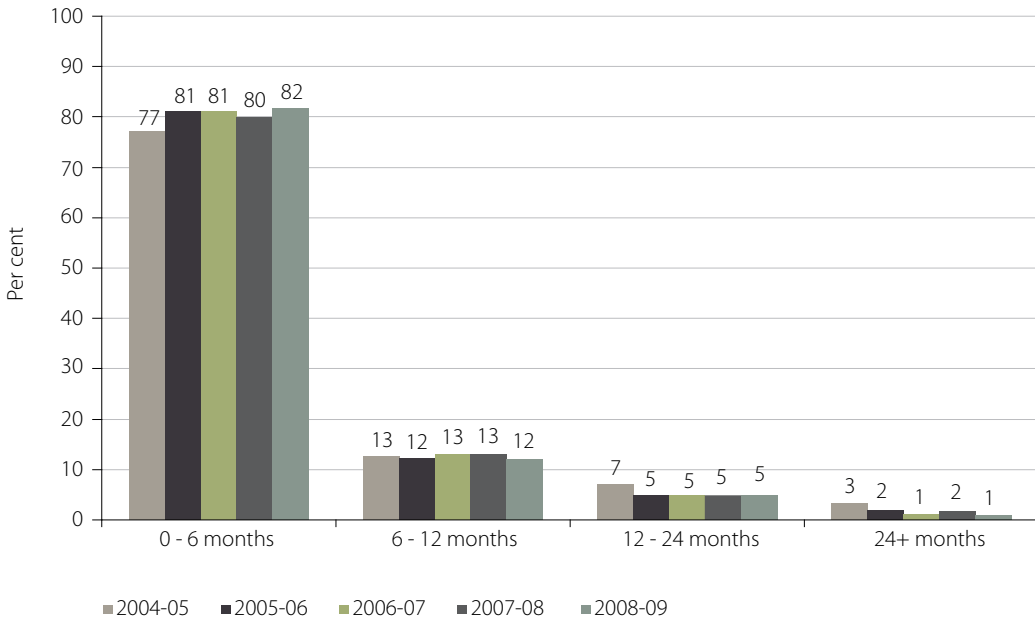


Figure 3.26 Consent order applications, time to finalise, 2004-05 to 2008-09

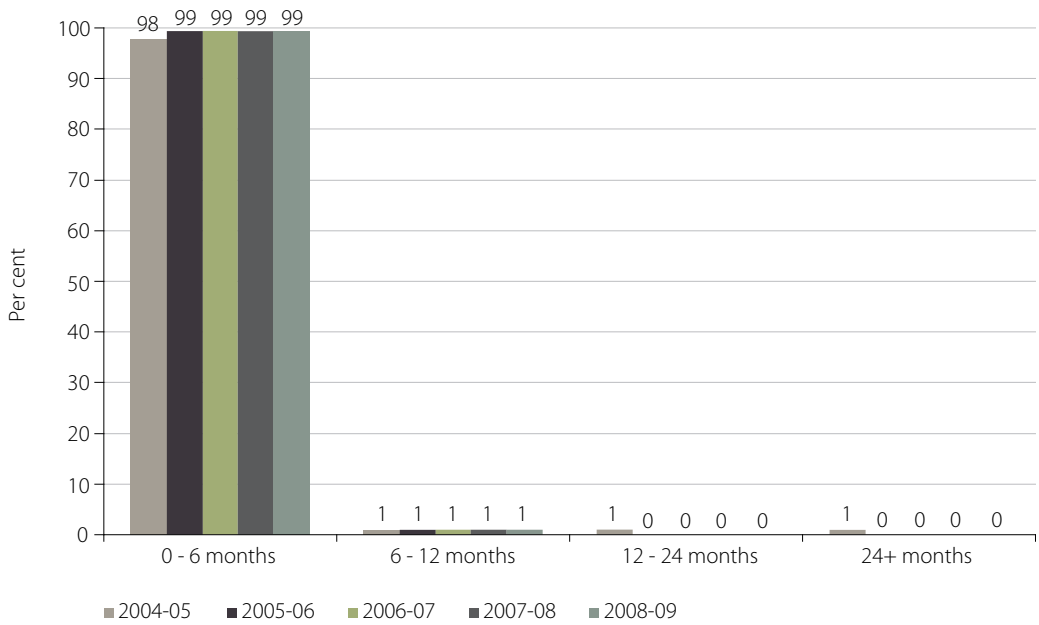
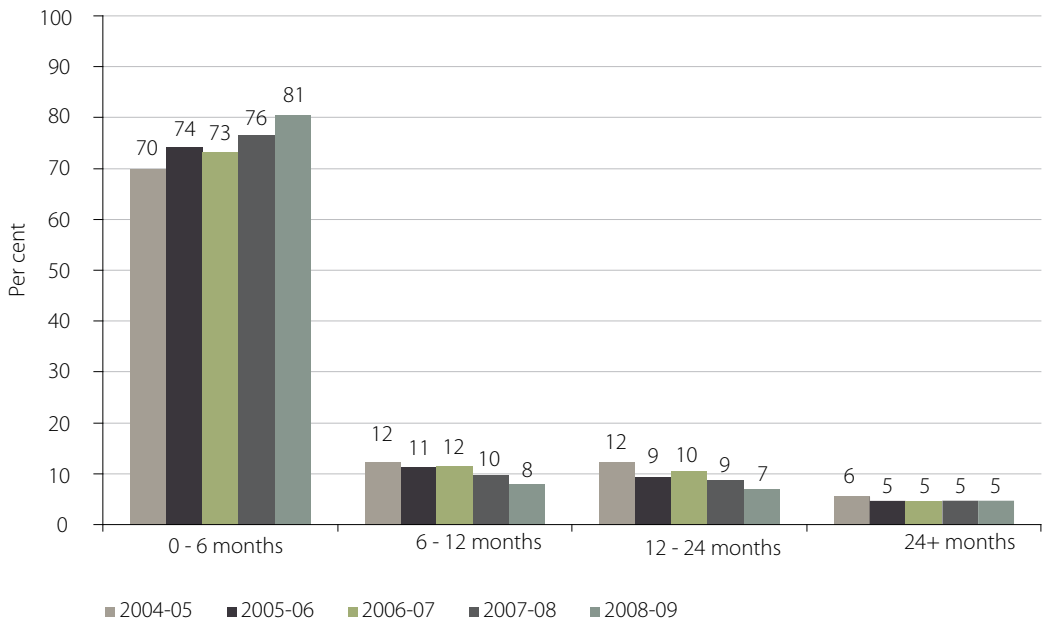


Figure 3.27 All applications, time to finalise, 2004-05 to 2008-09



Because the final order application is the basis of a case, a larger proportion of applications for final orders take longer than 12 months to resolve all issues in dispute.

Age of reserved judgments delivered

The Court wishes to have judgments delivered within three months after trial. Most interlocutory decisions are delivered *ex tempore* after the hearing and are not captured in these statistics, but because of the complexity of the issues at a final trial the judge will reserve judgment to provide written reasons after the trial. The Court aims to have 75 per cent of reserved judgments delivered within three months. The court delivered 331 final reserved judgments during 2008–09, which was 15 (4 per cent) less than in 2007–08. The Court fell just short of achieving its target, delivering 70 per cent within three months (an improvement of 1 per cent since 2007–08).

The reason for missing the target can best be attributed to the sheer complexity of those issues being reserved combined with the Court's commitment to having judges hearing matters in Court. Additionally the Chief Justice has taken action to ensure interlocutory judgments will be recorded and counted in future.

Figure 3.28 shows the five year trend of reserved judgments delivered within three months and Figure 3.29 shows time to deliver reserved judgments.

Figure 3.28 Reserved judgments delivered within three months, 2004–05 to 2008–09

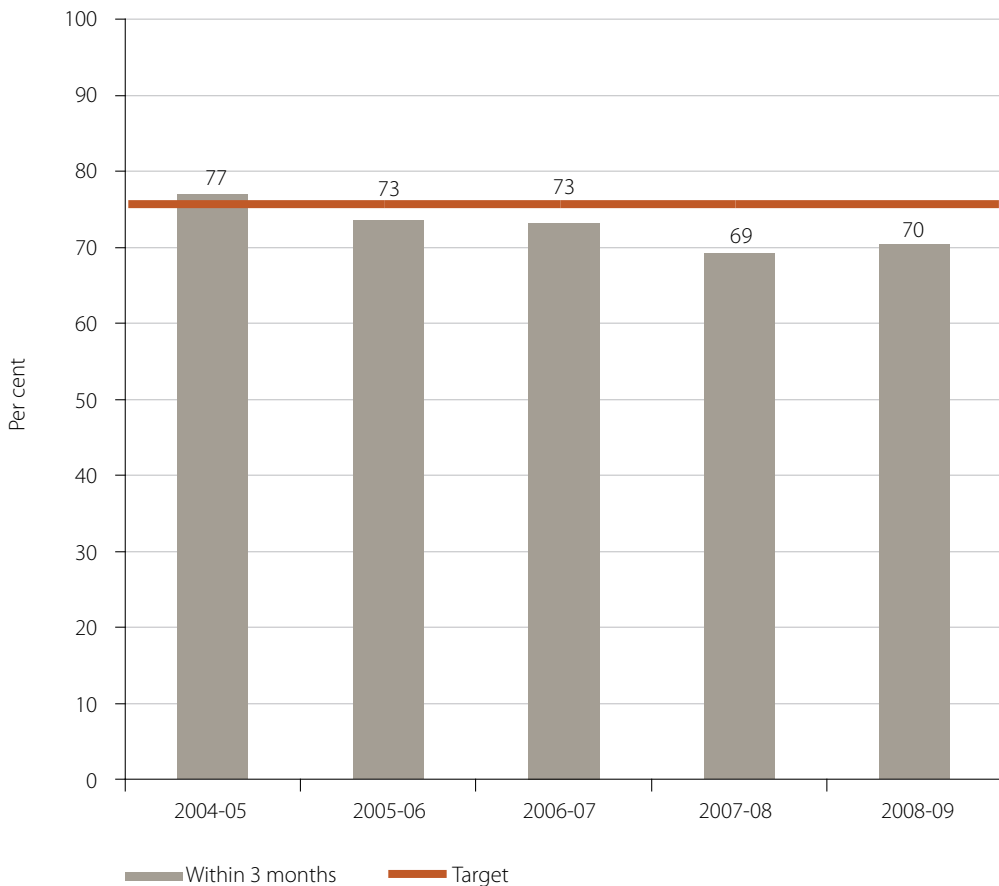
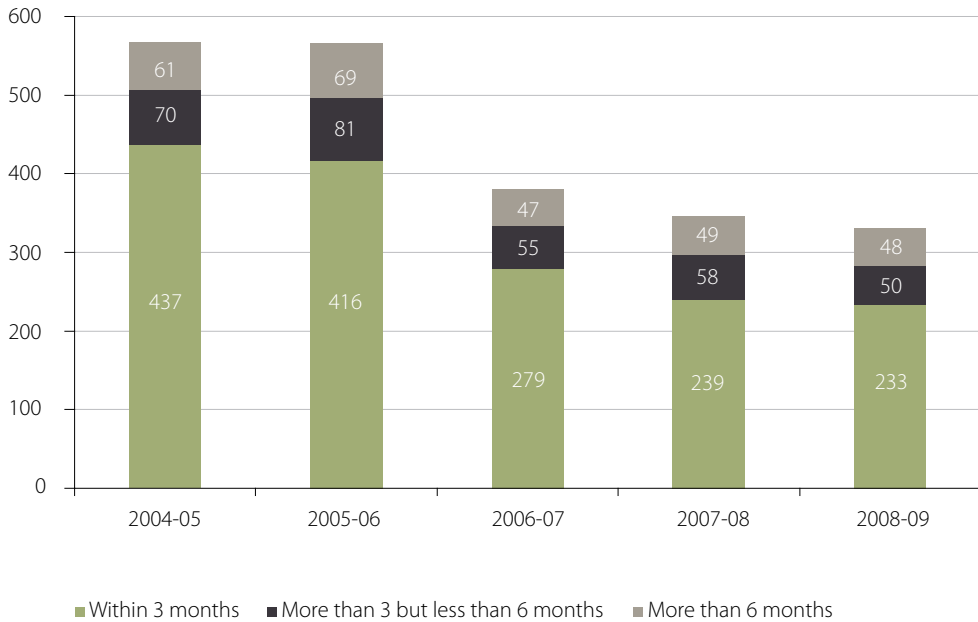


Figure 3.29 Reserved judgments, time to deliver, 2004–05 to 2008–09



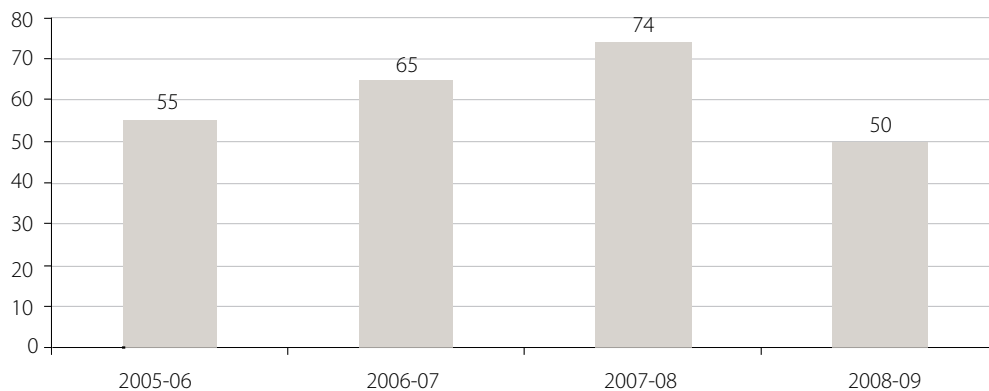
Judicial services complaints

Judges are accountable through the public nature of their work, the requirement that they give reasons for their decisions and the scrutiny of their decisions on appeal.

In 2008–09, the Court received 50 complaints relating to judges—17 concerning judicial conduct and 33 on the time taken in delivery of a judgment. This represented 0.59 per cent of all final, interim and other applications filed (8528), well under the Portfolio Budget Statements target of 1 per cent. This figure excludes consent order applications (where the parties have already agreed on parenting and financial questions and are seeking the endorsement of the agreement by the Court), as consent orders are generally dealt with by a registrar rather than a judicial officer.

In 2008–09, the number of judicial complaints received by the Court showed a downward trend to reach a level below that in 2005–06 (see Figure 3.30).

Figure 3.30 Total judicial complaints, 2005–06 to 2008–09



Judicial conduct

The Court received 17 complaints in 2008–09 about judicial conduct, a significant decrease from 31 received in 2007–08.

A complaint about the conduct of a judge in court or in connection with a case in the Family Court or the performance of a judge’s judicial functions must be made by letter addressed to the Chief Justice.

If the Chief Justice considers that the complaint is about judicial conduct, she will determine whether the complaint, on its face, has substance. The complainant will receive a comprehensive response to all matters raised. Because the process cannot provide a mechanism for disciplining judges, the Court’s response will not address anything other than the substance of the complaint. If the matter warranted it, the Chief Justice would bring the conduct complained of to the attention of the Attorney-General. In 2008–09 there were no complaints that were found to have substance and many were about the outcome of the case rather than judicial conduct per se.

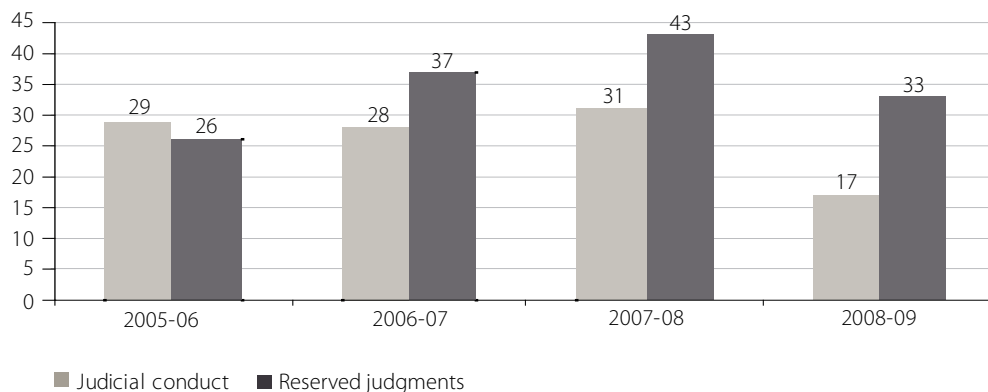
Delay in delivery of a judgment

The Court received 33 complaints about the time taken for reserved judgments, a decrease from the 43 received in 2007–08.

The Court aims to deliver all judgments promptly and has set a target of three months from the date the case is last heard or the last submission is received. Most judgments are delivered in much less than three months, but sometimes they take longer, particularly in complex cases. A party may express concerns or may complain about delay in the delivery of a judgment in writing to the president of the bar association or the law society in the state or territory in which the case was heard, and request that the president take up the matter with the Chief Justice. Complaints of this nature can also be made directly by letter addressed to the Chief Justice.

Figure 3.31 shows the four-year trend in judicial complaints in both these categories.

Figure 3.31 Judicial conduct and reserved judgments complaints, 2005–06 to 2008–09



Judicial decisions

Those concerned about judicial decisions in a case or about any other matter in connection with a case that is capable of being raised in an appeal, should consider whether or not to appeal to the Full Court of the Family Court. There are time limits for appeals and parties need to act promptly.

The Chief Justice cannot interfere with any decision made by a single judge. Complaints about the result of a case are generally outside the scope of the complaints procedure and are not included in the figures in this section.

Price per finalisation

Price per finalisation is an indicator of efficiency. This indicator is not a measure of actual cost per case. In 2008–09, the price per finalisation was \$5019, slightly above the target of \$4472.

The price per finalisation is derived by dividing the total costs attributed to the judicial services output by the number of finalisations for the same period.

Some finalisations take only a short time and require few resources, whereas others are resource intensive and involve complicated trials and interlocutory decisions. Some factors are beyond the control of the Court, including judicial appointments, geographic dispersion, economies of scale, and socioeconomic factors.

Efficiency results need to be viewed in the light of the performance indicator framework as a whole, as there can be trade-offs between efficiency, equity, effectiveness and quality.

National coverage as appellate court

Summary of appeal caseload

The Court's Appeal Division deals with all Full Court appeals. The matters are from decrees of the Family Court of Australia, the Family Court of Western Australia and the Federal Magistrates Court.

Table 3.3 summarises the appeals workload; more information about appeals is in Chapter 4 of this report.

Table 3.3 Appeal caseload, 2004–05 to 2008–09

	2004-05	2005-06	2006-07	2007-08	2008-09	% Change
Appeals filed	308	299	324	349	364	4%
Appeals finalised	234	212	346	318	361	14%
Appeals pending	216	314	185	216	230	6%

Social justice and equity impacts

Self-represented litigants

The Court uses the proportion of self-represented litigants as one measure of the complexity of its caseload. Self-represented litigants add a layer of complexity because they need more assistance to navigate the court system and require additional help and guidance to abide by the rules.

However, the use of legal representation can indicate that the parties consider their matter to be complex and best handled by trained legal representatives. Figures 3.32 and 3.33 show that an increasing proportion of the Court's cases and trials involve legal representation; fewer litigants are representing themselves.

Figure 3.32 Proportion of litigants representing themselves, finalised cases, 2004–05 to 2008–09

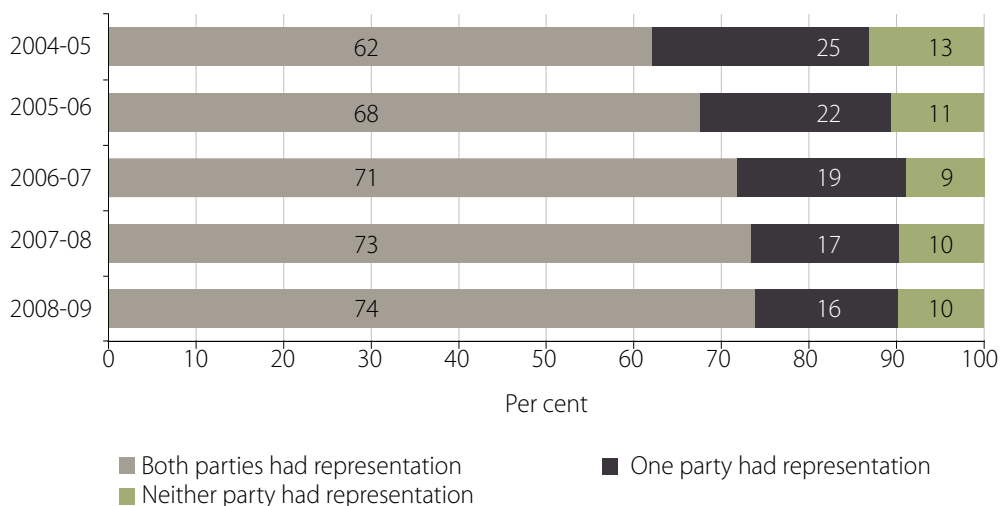
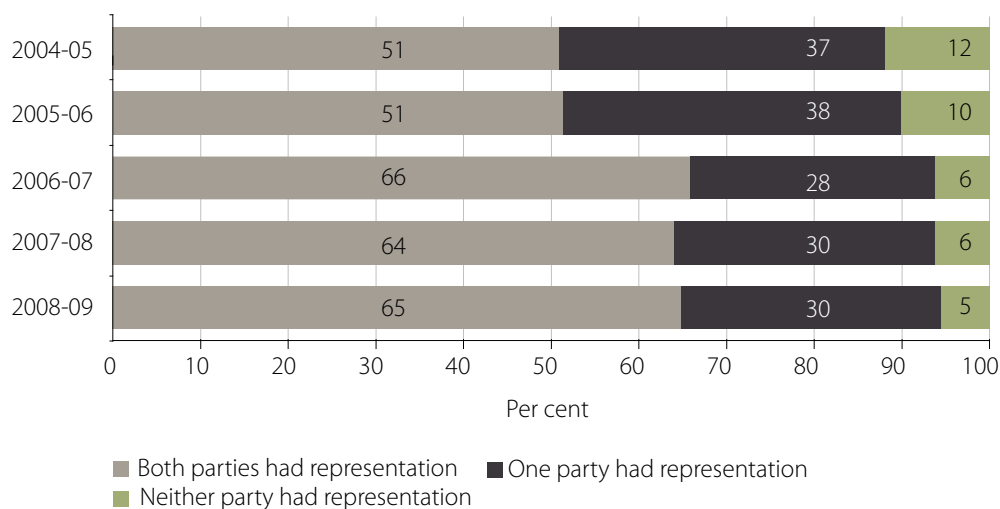


Figure 3.33 Proportion of litigants representing themselves, trials, 2004–05 to 2008–09



It is not appropriate for the Court to set, or attempt to achieve, a target on the level of self-represented litigants. However, the figures show how self-representation can affect the Court's caseload and its ability to meet its performance targets.

Shared parental responsibility—Children spending time with parents.

The reforms to Part VII of the *Family Law Act 1975* (Cth) introduced by the *Family Law Amendment (Shared Parental Responsibility) Act 2006* introduced a rebuttable presumption of equal shared parental responsibility, and particular obligations placed on family courts to consider 'equal time' and 'substantial and significant time' arrangements where the presumption applies.

Due to the complex and high-conflict nature of the cases that the Court deals with, it did not expect that a large proportion of its cases would be conducive to 'shared time'. To help the Court monitor and report the impact of the legislation, the Court began collecting information about the orders that parents were receiving for time with their children. In particular, the Court recorded the main reasons when significant and substantial time was not awarded to a parent.

The following figures for cases finalised during 2007–08 (2008–09 figures were being collated at the time of printing) provides a breakdown in the proportion of time that children are to spend with their mother and father, according to orders. Those numbers are broken down into cases where there was early agreement (consent orders) and those where an adversarial case (final orders) was filed.

Figure 3.34 Amount of time children spend with parents for finalised cases, 2007–08

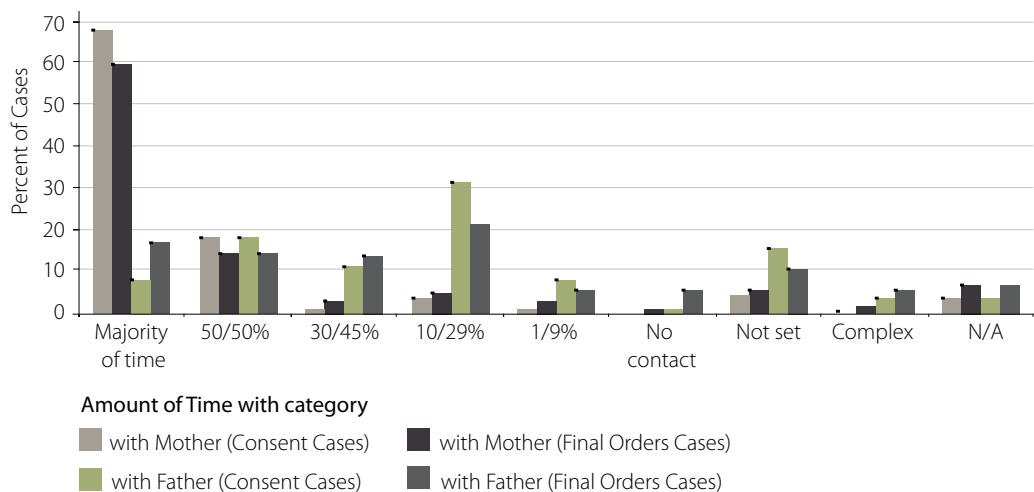


Figure 3.34 shows that:

- in most cases, the mother has most of the time with the child (or children)
- time with the child is shared in 15 per cent of adversarial cases and in 19 per cent of cases when there is early agreement
- only in very few cases is the child not provided with contact with their parent.

When a child is not given significant time with a parent, the reasons often have to do with violence and abuse (including substance abuse), or result from mental health problems affecting a parent.

Table 3.4 details the reasons either parent received less than 30 per cent of time with their child in final orders cases. The cases include cases where no contact was allowed and cases where contact was only to occur under supervision at a contact centre.

Table 3.4 Reasons that parents were ordered less than 30 per cent of time with their child in final orders cases

Reason	Less than 30% time spent with	
	Mother	Father
Abuse and/or family violence	16%	29%
Child's views	2%	2%
Distance / transport / financial barriers	16%	6%
Entrenched conflict	2%	15%
Mental health	31%	3%
Relocation	7%	4%
Substance abuse	7%	5%
Other	20%	35%
All	100%	100%

Note: The Court is unable to obtain the reasons when parents make their own agreements on consent order applications. Additionally when parents make agreements on final orders cases, the reasons might not always be captured. 'Other' category includes consents, multiple reasons or complex reasons not covered by available categories. Figures may not add to 100 per cent due to rounding.

More details about the 2007–08 figures can be obtained from the Court’s website at www.familycourt.gov.au.

Child abuse or family violence (or risk)

Under section 60K of the Family Law Act, the Court must consider and take action on notices of or risk of abuse or family violence. The prescribed notice is to be considered within seven days and dealt with within 28 days of filing.

Figure 3.35 shows that the number of notices filed has declined in the past five years, although the proportion of cases raising issues of abuse and family violence continues to rise (see Figure 3.36). This highlights the increasing complexity of the cases the Court deals with. Many parties raise the subject of violence and abuse not through the prescribed form, but during an event in court. Such allegations are treated seriously but might not be subjected to the process described for the form. The Court would like to encourage more parties to use the form and the process that follows.

Figure 3.35 Notices of child abuse or family violence filed, 2004–05 to 2008–09

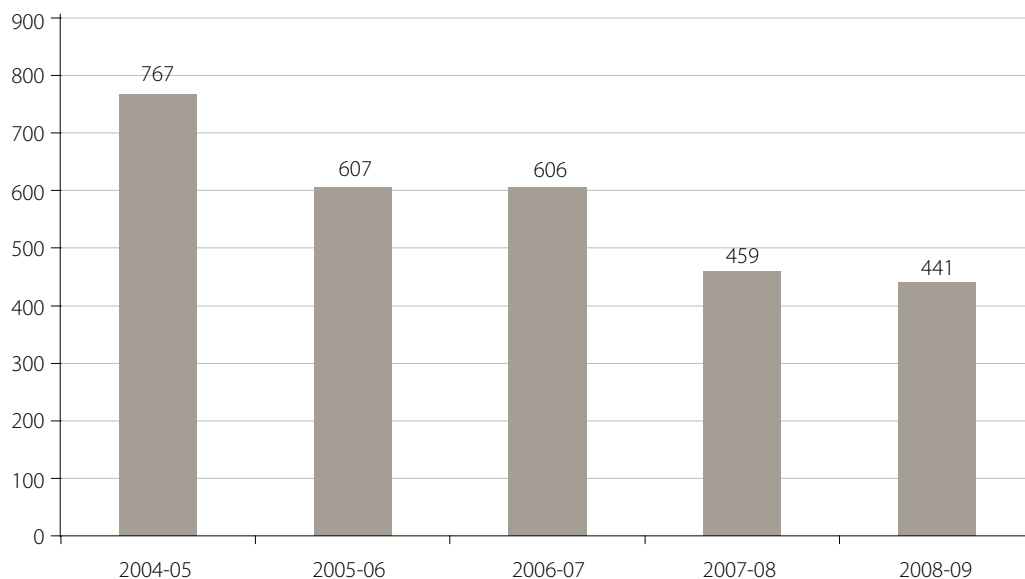
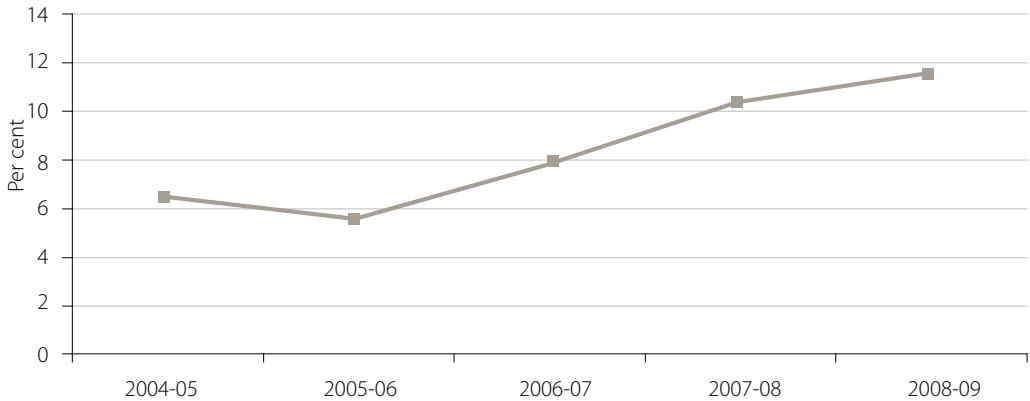


Figure 3.36 Proportion of cases in which a notice of child abuse of family violence is filed, 2004–05 to 2008–09



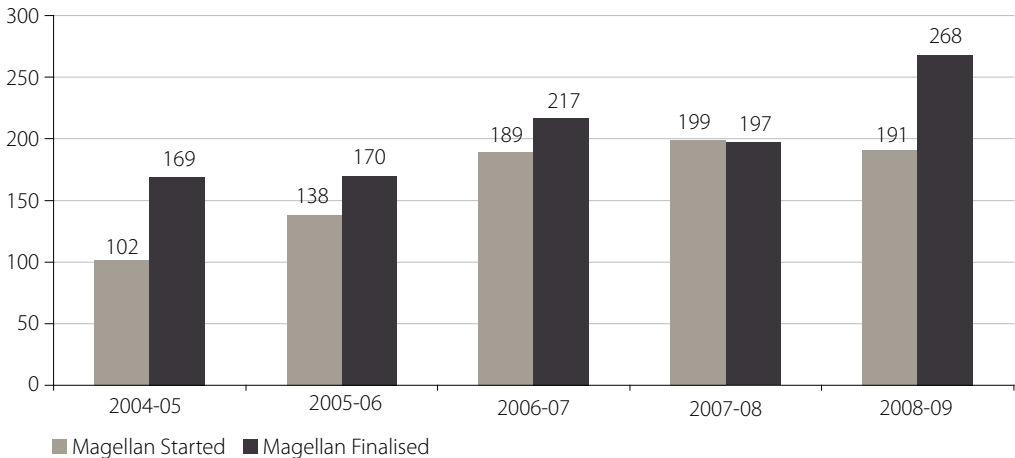
Magellan cases

Magellan cases involve allegations of serious physical abuse or sexual abuse of a child and undergo special case management. When a Magellan case is identified, it is managed by a small team consisting of a judge, a registrar and a family consultant. Magellan case management relies on collaborative and highly coordinated processes and procedures. A crucial aspect is strong interagency coordination, in particular with state and territory child protection agencies. This ensures that problems are dealt with efficiently and that high-quality information is shared. An independent children’s lawyer is appointed in every Magellan case, for which legal aid is uncapped.

Typically, a Magellan case is one where a notice of abuse or family violence is filed, although not all notices will necessarily be classified as a Magellan matter.

Figure 3.37 details the number of Magellan cases commenced and finalised in the past five years. At 30 June 2009, 277 cases were pending.

Figure 3.37 Magellan cases, 2004–05 to 2008–09



Note: The Court now records Magellan cases in its case management system, Casetrack; previously they were recorded manually. The figures presented in Figure 3.37 come from Casetrack and may differ from figures previously published.



Parramatta family law registry

OUTPUT GROUP 1.2: REGISTRY SERVICES

Output Group 1.2 contributes to Outcome 1 by providing registry services to clients of the Family Law Courts (comprising the Family Court of Australia and the Federal Magistrates Court of Australia) who are considering filing an application or who wish to file an application with either court.

Registry services include:

- provision of effective support to the Family Law Courts
- family law telephone and referral services
- family law document processing.

Summary of performance








Family law registries and the National Enquiry Centre (NEC) provided a high level of service to the clients of the Family Law Courts and to judges and federal magistrates during 2008–09.

The family law registries achieved all of their service targets for counter enquiries while maintaining the desired level of service. The registries exceeded the service target in processing applications.

The NEC achieved all but one of its service targets in 2008–09. The exception was a slightly low response rate in answering calls against the service target. While the target was not met, there was a significant improvement on the previous financial year. This was due to the additional responsibilities transferred to the NEC from other business units, which contributed to higher than expected work volumes, particularly email enquiries. The response time for email enquiries exceeded the service target significantly.

Table 3.5 summarises the Court's results in delivering registry services against the key performance indicators and targets published in the 2008–09 Portfolio Budget Statements.

Table 3.5 Summary of performance—Output Group 1.2: Registry Services

Key performance indicators	Target	Result	Target achieved
Response time for enquiries	80% of National Enquiry Centre telephone enquiries are answered within 90 seconds	75%	
	75% of all counter enquiries are served within 20 minutes	90%	
	80% of all email enquiries are responded to within two working days	92%	
Time taken to process applications lodged	75% of applications lodged are processed within two working days	90%	
Estimated number of telephone enquiries	183 778	415 598	
Estimated number of counter enquiries	141 924	143 931	
Estimated number of email enquiries	47 308	47 977	
Number of complaints received	Less than or equal to 1% of applications processed	1.08%	
	Less than or equal to 1% of enquiries processed	.03%	
Price	\$11.10 per enquiry	\$10.65	
	\$1288 per application processed ^a	\$1559	

^aIncludes related document and file management court support costs.

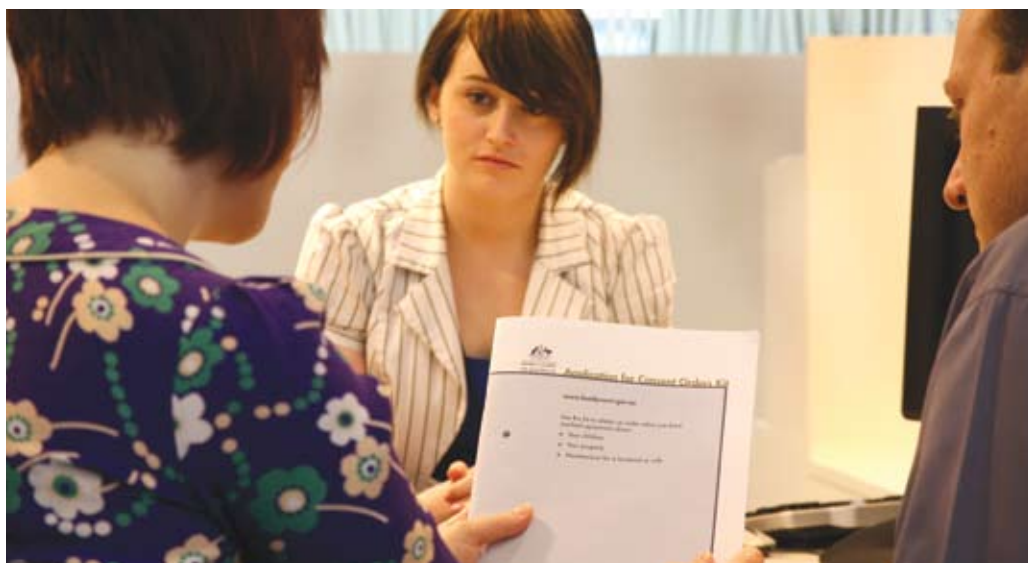
Detailed report on performance

Support to the Family Law Courts

Family law registries

There are 19 family law registries in locations in every Australian state except Western Australia. Family law registries provide registry services to both the Family Court of Australia and the Federal Magistrates Court of Australia and are staffed permanently. The key functions of the registries are:

- to provide information and advice about court procedures, services and forms, external options and referrals to community organisations, that enables clients to take informed and appropriate action
- to ensure that available information is provided in an accurate and timely fashion to support the best outcome through file management and quality assurance—from the initiation of proceedings, to hearing and to archiving



Brisbane family law registry

- to make the best use of court time by facilitating an orderly secure flow of clients, files and exhibits
- to enhance community confidence and respect by responding to clients' needs and assisting with making the court experience a more positive one
- to progress cases by providing administrative services in accordance with court processes and to manage external relationships to assist with the resolution of cases
- to schedule and prioritise matters for hearing and intervention to achieve the earliest resolution or determination
- to monitor and control the flow of cases
- to assist in the evaluation of caseloads by reporting on trends and exceptions to facilitate improvements in processes and allocation of resources.

Counter enquiries

Despite the creation of the NEC and the ongoing development of web-based services, the family law registries continue to provide a high level of service to meet a sustained high volume (143 931 in 2008–09) of clients seeking information face to face. This gives clients the flexibility to make an enquiry through the facility that best suits their needs.

Response time for enquiries

Staff working on the counters in family law registries handle general enquiries, lodge documents relating to proceedings, provide copies of documents and/or orders and facilitate the viewing of court files and subpoenas. The service targets set for 2008–09 were achieved. More than 90 per cent of clients were served within 20 minutes, against a target of 75 per cent. Client service staff provided an efficient and effective service when dealing with litigants in person and the legal profession face to face at registry counters across Australia.

Document processing

Family law registries are responsible for the receipt and processing of applications received at the counter and in the mail. The service target of 75 per cent was achieved (more than 90 per cent of applications were processed within two days of receipt).

Telephone and email enquiry and referral services

The NEC was established in April 2006 to provide a centralised telephone and email service to clients contacting the Family Court and the Federal Magistrates Court. The NEC answers general and simple case-related enquiries previously answered by registries. This allows registries to focus on face-to-face services and case management. The NEC has proved to be an essential part of the Family Law Courts and a successful approach to client services.

In 2008–09, the NEC received approximately 415 598 telephone enquiries, 47 977 email enquiries and 4500 divorce certificate requests.

The NEC's service benchmarks are:

- 80 per cent of calls are answered within 90 seconds (key performance indicator in the Portfolio Budget Statements)
- less than 5 per cent of calls abandoned
- less than 10 per cent of calls transferred to a family law registry
- 80 per cent of emails answered within two days (a key performance indicator in the Portfolio Budget Statements).

Table 3.6 National Enquiry Centre benchmarks—performance in 2007–08 and 2008–09.

Benchmark	2007–08	2008–09
	%	%
80% of calls answered within 90 seconds ^a	66	75
Less than 5% of calls abandoned	4	2
Less than 10% of calls transferred to a family law registry	6	5
80% of emails answered within two days ^a	100	92

^aKey performance indicator in Portfolio Budget Statements

The NEC achieved all but one of its Portfolio Budget Statements service targets in 2008–09, as well as its own benchmarks (see Table 3.6). The centre was close to meeting the target of answering 80 per cent of calls within 90 seconds, with a result of 75 per cent. The target was not met because of the additional responsibilities transferred to the NEC from other business units, which contributed to higher work volumes than expected.

In the first quarter of 2008–09, the NEC accepted responsibility for the first level of user support for the Commonwealth Courts Portal. This role involves registration, guidance and support for users of the portal. Due to the unprecedented take-up of the portal and high support demands, the NEC diverted more staffing resources than expected from telephone enquiries to support this initiative.



Parramatta family law registry

The NEC assumed responsibility for the first level of support for the Family Law Courts' after-hours emergency service in the third quarter 2008–09. The centre became the screening point for enquiries made to the service, referring those requiring action to a registrar.

Despite the additional functions, overall performance improved over 2007–08 (from 66 per cent to 75 per cent).

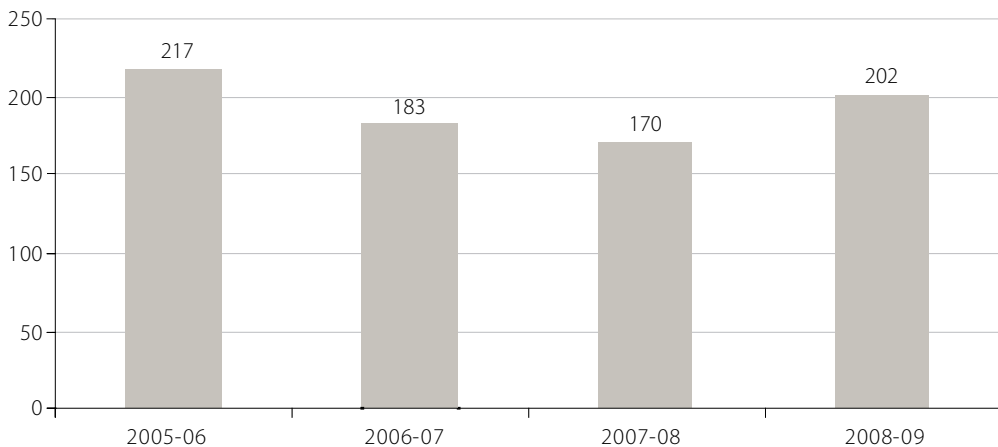
While telephone call volumes remained constant, email volumes increased by an average of 300 per month compared to 2007–08. The performance in answering enquiries within two working days remained significantly higher (92 per cent) than the benchmark (80 per cent).

Registry services complaints

The Family Court receives complaints relating to family law registries, which service both the Family Court and the Federal Magistrates Court.

The Court received 202 complaints relating to the administration of family law registries (Figure 3.38). This represented 1.08 per cent of all applications processed (18 633), slightly above the Portfolio Budget Statements target of 1 per cent, and 0.03 per cent of enquiries processed (607 506), well below the target of 1 per cent.

Figure 3.38 Total administration complaints, 2005–06 to 2008–09



Common areas of complaints included court policy, procedures, processes or concerned court staff including registrars and family consultants. As in previous years there were a substantial number of complaints that are counted in the above figures but are not relevant to the administration of the court. These include issues regarding family law legislation, government policy, matters in other jurisdictions and the outcome of family law proceedings.

Client feedback and complaints management

The Family Court of Australia is committed to responding effectively to feedback and complaints, and to complying with Australian Standard AS 4269–1995 (Complaints handling) and the Commonwealth Ombudsman's *Good Practice Guide for Effective Complaint Handling*.

The Family Court's client feedback management system allows all areas of the Court to efficiently and consistently manage complaints and client feedback, while also identifying clients' issues and monitoring trends.

The Court has a comprehensive complaints policy, a judicial complaints procedure and a detailed client fact sheet, *Complaints and feedback*, which explains how clients can provide feedback at all family law registries and on the Family Court website (www.familycourt.gov.au).

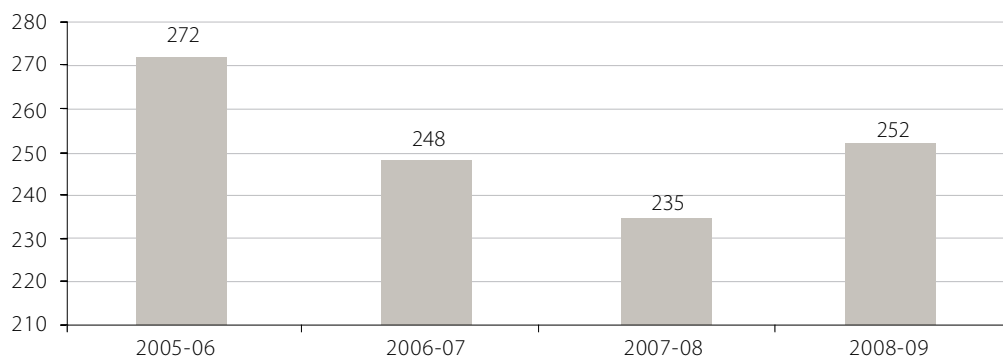
Clients can address complaints to the Chief Justice, the Chief Executive Officer, a registry manager or the Client Feedback Coordinator in writing, verbally by telephone, or by email to clientfeedback@familycourt.gov.au. If a complaint relates to a judge, it will be referred to the Judicial Complaints Adviser.

The Court will acknowledge receipt of a complaint within five working days and aims to send a formal response within 20 working days of receipt of the complaint.

During 2008–09, the Family Court recorded a total of 252 complaints, a 7.23 per cent increase from 235 in 2007–08 (see Figure 3.39). This included 202 complaints concerning the administration of the Court and 50 complaints about judicial services (see 'Judicial services complaints' and 'Registry services complaints' for more information about those categories). The majority of complaints, on examination, are not held to be justified, and are usually the result of limited knowledge about the judicial system, or dissatisfaction with judicial outcomes. There are a relatively minor number of complaints which justifiably highlight shortcomings in administrative procedures.

The Court also recorded eight compliments.

Figure 3.39 Total complaints, 2005–06 to 2008–09



The Court has acted directly on its analysis of client feedback in a number of ways. For example, more transmitters were installed in Parramatta Registry to assist the hearing impaired.

Price

Price per enquiry and price per application processed are indicators of efficiency.

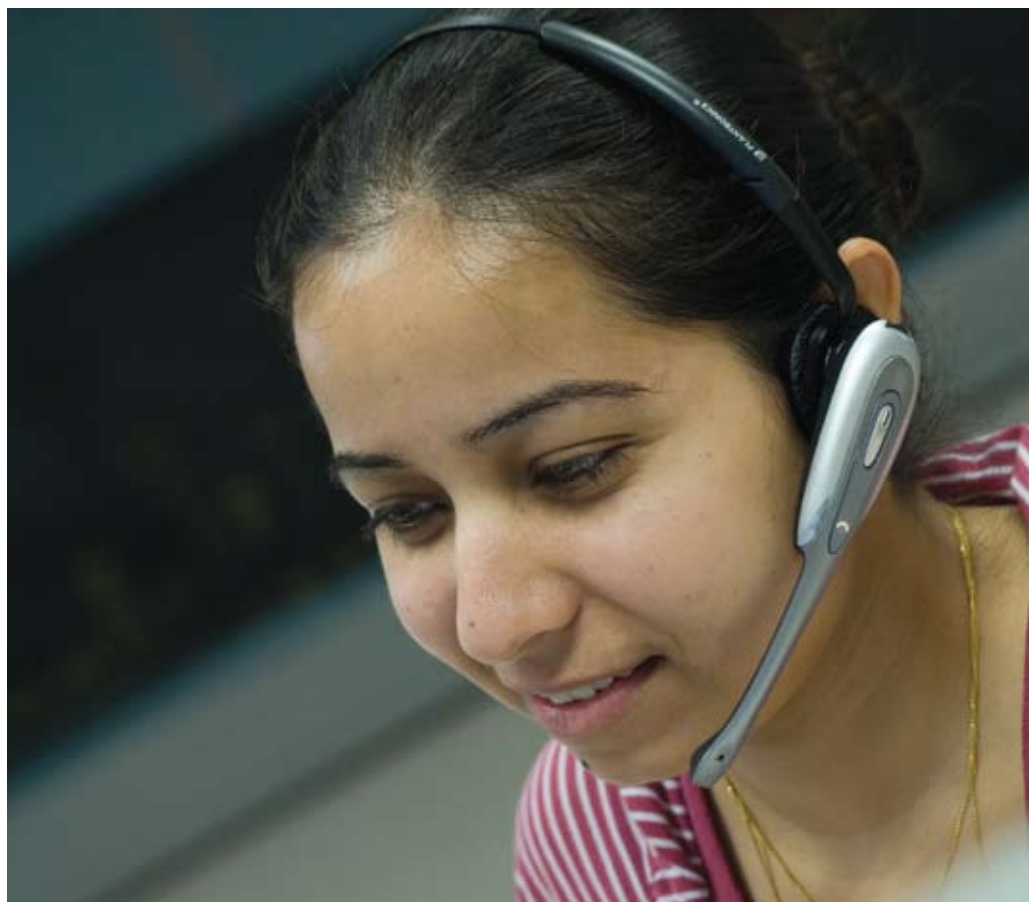
Price per enquiry is derived by dividing the costs attributed to the staff providing enquiry services in the registries by the number of enquiries for the same period.

Price per application processed is derived by dividing the costs attributed to the processing of applications (less those for processing of enquiries) by the number of applications processed in the same period.

In 2008–09, the Court recorded a price of \$10.65 per enquiry, which was lower than the target of \$11.10.

The price per application processed was \$1559, which was higher than the target of \$1288.

The Family Court provides resources free of charge to the Federal Magistrates Court for family law registry services. The costs of resources provided free of charge are included in the Family Court's registry services and are included in these calculations. Fluctuations in price per application reflect a shift in applications towards the Federal Magistrates Court, compared with projected results.



National Enquiry Centre staff member