

Episode 74: Summary

Episode name: The Risk Business: Triaging Risk in the Amalgamated Federal Circuit and Family Court of Australia

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What area(s) of law does this episode consider?

Family violence, the amalgamation of the Federal Circuit and Family Court of Australia (**FCFCOA**) and the Court's Lighthouse Project.

Why is this topic relevant?

Family violence is a pervasive and insidious behavior, which confronts family law practitioners across the country on a day-to-day basis. It's a perennial problem with few easy answers.

Recently, the freshly amalgamated FCFCOA's own data - arising out of matters screened as part of its Lighthouse Project - found that 54% of parties to a family law matter allege a child has been abused or is at risk of abuse, 64% allege they have experienced family violence, and 57% allege a child has experienced family violence.

Understanding these behaviours, the changes brought about by the amalgamation and the Court's Lighthouse Project is a key skill for family law practitioners.

What legislation is considered in this episode?

Family Law Act 1975 (Cth)

What are the main points?

- The main focus of the amalgamated FCFCOA is solutions and early dispute resolution.
- By merging the former courts, there is now one point of entry into the family law system rather than two. The process is streamlined with a single set of rules which allows the process to be more tailored and solution driven.
- The Court embeds parenting dispute resolution conferences in the process. These are usually reserved for parties who do not have the means for private mediation or dispute resolution.
- If parties have the means, the Court will make an order pursuant to section 13C of the *Family Law Act* that the parties go outside the Court for mediation.
- Court Child Experts can now also attend certain dispute resolution procedures to ensure the interests of the child are considered.
- Another benefit of the amalgamation is that 80% of interim applications in the new Court are now being dealt with by Senior Judicial Registrars.
- The Court going online - partly because of COVID-19 - has meant that matters from different regions, especially regional matters, can be heard remotely. They do not have to be packed into a short amount of time due to the travelling circuit only being in the region for a specific period.

- This additionally saves the parties money and time, as they do not have to travel into court and risk it being adjourned.
- Another factor is safety. Despite having safety plans in the Court, the Court can't protect victims of family violence when travelling to Court. By being online, the risk of violence occurring outside of the Court is removed.
- The Lighthouse Project involves risk screening, triage and potentially listing on the Evatt list. The process begins with parties being sent a link to an online tool when they file for parenting orders.
- That tool screens for risks that are relevant to proceedings, including mental health, family violence and perpetrator behaviours.
- The results of this screening process are confidential and are never seen by the registrar. Depending on the judgement of risk by the tool, the Court will determine case management and triage moving forward.
- If required, a high risk case will be assessed by an Evatt registrar to determine whether it goes onto the Evatt list. A matter on the Evatt list has specific case management procedures such as documents from other bodies being requested automatically.
- Post-amalgamation, there are different procedures that have to be undertaken before entering the Court system, including filing a Genuine Steps Certificate that indicates the parties have made a genuine attempt to resolve matters. This differs from a section 60I certificate.
- Before the first court date, the respondent must file their response material. A judicial registrar will triage risk and determine case management for the matter going forward.
- Look at the various materials available on the FCFCOA website. There is a practitioner and litigant's guide to the Evatt list, fact sheets and regular updates to the profession.

What are the practical takeaways?

Show notes

[Family Court of Australia, Annual Report 2020-2021, 2021](#)

[Federal Circuit and Family Court of Australia, Annual Reports 2021-22, 2022](#)

[Federal Circuit and Family Court of Australia, Guide for Practitioners in the Evatt List](#)

[Federal Circuit and Family Court of Australia, Information sheet for Parties – Lighthouse risk screening](#)

[Federal Circuit and Family Court of Australia, Updates to the Profession](#)