



CHIEF JUSTICE'S CHAMBERS  
FAMILY COURT OF AUSTRALIA  
Owen Dixon Commonwealth Law Courts  
305 William Street, Melbourne Vic 3000  
Telephone: +61 3 8600 4355

8 May 2020

Mr Geoff Dickson QC  
President  
Family Law Bar Association

By Email: [gdickson@vicbar.com.au](mailto:gdickson@vicbar.com.au)

Dear Mr Dickson

*Geoff,*

**Announcement of important innovations in child abuse, family violence and risk notification, screening and assessment, and update on the COVID-19 Lists**

I write to update you on three significant projects that the Family Court of Australia and Federal Circuit Court of Australia ('the Courts') are currently implementing:

1. harmonisation of the Courts' separate notices of risk into the Notice of Child Abuse, Family Violence or Risk (upon which I am seeking your feedback, if any, by 5pm on Thursday, 15 May 2020);
2. the Lighthouse Project; and
3. the National COVID-19 Lists.

These three projects demonstrate the Courts' commitment to the protection of vulnerable parties and children in family law proceedings. This involves early identification of risk, information sharing and appropriate triage and case management of family law matters involving allegations of child abuse or family violence.

**1. Introduction of the harmonised Notice of Child Abuse, Family Violence or Risk form for the Family Court of Australia and Federal Circuit Court of Australia**

I am pleased to inform you that the Courts are progressing the harmonisation of the Notice of Child Abuse, Family Violence or Risk of Family Violence filed in the Family Court and the Notice of Risk filed in the Federal Circuit Court.

As part of the rules harmonisation project, the early identification of risk in a consistent way across the Courts is crucial. Whilst the harmonisation project will take some time to finalise, the Courts have decided to implement the harmonised Notice of Child Abuse, Family Violence or Risk.

The Notice of Child Abuse, Family Violence or Risk has been the subject of extensive consideration by the Judges of the Courts' Family Violence Committee and the Joint Rules Harmonisation Working Group and has been recommended by those committees. It has also received overwhelming support from the Judges of both Courts in general terms, and after consultation with the profession, formal votes will be conducted with Judges of each Court.



The new Notice will be the mechanism by which the Courts fulfil their obligations under section 67Z and 67ZBA of the *Family Law Act 1975* (Cth) ('the Act'), as well as recording other allegations of risk to inform the Courts' obligations under section 69ZQ(1)(aa) of the Act. The key change is that it will be compulsory to file the Notice in both Courts when an application or response is filed seeking parenting orders.

Given the important function that this Notice will fulfil, and critical information that it will provide upon the commencement of proceedings, it is a priority for the Courts to have one consistent, tailored and harmonised form implemented as soon as possible. Aligning the practices in both Courts is an important aim, even more so when those practices relate to information that may shed light on children at risk. Obtaining more holistic information about multiple risk types such as mental health, substance abuse and parental incapacity will assist Judges in assessing risk and making orders in the best interests of the child.

As it is already compulsory to file the Notice of Risk in the Federal Circuit Court, which handles the bulk of the family law workload, the Courts do not expect that there will be a significant increase in the number of Notices referred to child protection agencies.

As the form collects additional information, it is anticipated that it will be of benefit to child welfare agencies as well as the Courts. The draft form has prompts and drop down boxes including yes/no answers, to simplify completion. It should also aid interpretation. The boxes where free flowing information can be provided will be locked, and have a maximum word limit to ensure that the document size remains compact and manageable.

A copy of the Notice is attached for your information. If you have any feedback to provide on the Notice, it would be appreciated if you could respond by email to my Executive Legal & Policy Adviser, Ms Jordan Di Carlo ([jordan.dicarlo@familycourt.gov.au](mailto:jordan.dicarlo@familycourt.gov.au)) by no later than 4pm on Wednesday, 13 May 2020.

## **2. Lighthouse Project and Evatt List**

The Courts are also commencing a risk screening and triage pilot which has been named the Lighthouse Project. The name 'Lighthouse' was chosen as it represents the objective of the Pilot – to illuminate risk and to provide guidance and support to families experiencing or at risk of family violence and other risk behaviours such as alcohol or drug abuse or mental health concerns.

The pilot will be conducted over the next two years in three registries of the Family Court and the Federal Circuit Court; Parramatta, Brisbane and Adelaide. Work is well underway to develop the many interrelated aspects of the pilot, and it envisaged the pilot will commence in mid-late 2020.

The pilot involves three interconnected processes: (1) screening parenting matters for family safety risks at the point of filing; (2) triaging matters to an appropriate pathway based on the identified level of risk; and (3) maintaining a specialist list to hear matters assessed as involving a high risk of family violence in the Federal Circuit Court, which will operate alongside the Magellan List. The specialist



list will be known as the Evatt List, named after the Honourable Elizabeth Evatt, who was the first Chief Justice of the Family Court and is a prominent advocate for human rights.

The Court, in conjunction with Relationships Australia, South Australia, and Professor Jennifer McIntosh are developing a bespoke, universal risk screening tool called DOORs Triage for use specifically within the Courts. Court users filing or responding to a family law parenting only application at one of the three pilot registries will be asked to complete an online risk screening questionnaire. After the initial risk screening is completed, a dedicated team within the Court will triage cases according to their identified level of risk, which will involve sorting cases into a traffic light system (high, medium, and low risk).

It is expected that use of risk screening will assist the Courts in:

- creating an objective model of risk assessment which can be applied in both Courts across cases and locations;
- offering safety and service planning to moderate and high risk cases, something currently left to individual litigants who may not otherwise appreciate their level of risk;
- improving litigant safety, parenting capacity and improved individual wellbeing;
- reducing the number of adjournment and time litigants are required to tell their story;
- informing the triage response and case management pathway via risk classification; the pathway would include early identification of high risk cases into Magellan or High Risk lists;
- providing more information available to the Court from the first stages to improve outcomes for litigants; and
- identifying lower risk cases suitable for referral to Alternative Dispute Resolution (ADR) or less adversarial approaches before conflict escalates.

### **3. National COVID-19 Lists**

The Courts have seen a significant increase in urgent applications filed since restrictions have been imposed as a result of the outbreak of the COVID-19 pandemic. In consultation with Ms Angela Lynch AM, CEO of Women's Legal Service Queensland, Ms Hayley Foster, CEO of Women's Safety NSW and Ms Helen Matthews, CEO/Principal Lawyer of Women's Legal Service Victoria, the Courts established the National COVID-19 Lists. These National Lists are dedicated court lists to deal with urgent applications filed as a direct result of the COVID-19 pandemic. Matters seeking to be heard in the list file via email using an application, template affidavit and cover letter for urgency. Two National COVID-19 List Registrars have been appointed to oversee the Lists on a national basis, assessing the cases filed and, if they meet the criteria, allocating a first Court date within 3 business days.

I am delighted to inform you that the Lists in their first week have been a great success. The two National Registrars, Brett McGrath and Elizabeth Mathews have dealt with a number of applications, all of which have been heard within 72 hours. These applications have been issued from locations across Australia. 91% of the applications filed have met the criteria and been accepted into the Lists. Any urgent applications that do not meet the criteria have been nonetheless listed promptly.



The restrictions imposed, and their economic and emotional ramifications, are having a significant impact on many Australian families and causing significant stress. There are many ways that this could necessitate an urgent application being filed. A non-exhaustive list of examples that are likely to be suitable for inclusion in the Lists include:

- **Supervised contact:** your current parenting arrangements involve supervised contact, and the contact centre is closed or the supervisor cannot perform their role and you cannot agree on an alternative.
- **Border restrictions:** you live in a different state to the other party and your child or children cannot travel between residences due to border restrictions.
- **Medical:** you, the other party and/or the child have tested positive for COVID-19 and you cannot fulfil the parenting obligations due to sickness or concerns of infection.
- **Non-compliance with social distancing requirements:** one party to a shared parenting arrangement may be disregarding restrictions imposed and placing the child at greater risk.
- **Family violence:** there has been an increase in risk due to family violence as a result of the restrictions imposed on families due to COVID-19.

#### **Feedback form about virtual hearings and electronic ADR events**

Lastly, the Courts are keen to obtain feedback from the profession, litigants and members of the public about their experience of participating in virtual hearings and electronic ADR events. Feedback surveys have been published on each Court's website. The feedback received will greatly assist the Courts in improving the way technology is used moving forward. The surveys can be accessed here:

<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/covid/covid-feedback>

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/about/covid/covid-feedback>

I look forward to your feedback about the Notice of Child Abuse, Family Violence or Risk, and I will continue to update you about the Lighthouse Project and the success of the COVID-19 List.

Thank you for your support.

Yours sincerely

The Honourable Justice Alstergren  
Chief Justice, Family Court of Australia  
Chief Judge, Federal Circuit Court of Australia

*Enclosed: Notice of Child Abuse, Family Violence or Risk.*