



**DISTRICT COURT
OF
WESTERN AUSTRALIA**

Community Development and Justice Standing Committee

An inquiry into options available to survivors of institutional child sexual abuse in Western Australia who are seeking justice

1. Background

This document provides some background information in relation to:

- a) historical child sexual abuse (HCSA) claims in the District Court; and
- b) the jurisdiction and judicial resources of the District Court.

2. Historical Child Sexual Abuse (HCSA) Claims

The District Court has unlimited jurisdiction for claims for damages of personal injury. In 2018, following the amendments to the *Limitation Act 2005* removing statutory limitation for claims for damages of child sexual abuse, the District Court has experienced a significant increase in HCSA claims.

Since 2018, 561 historical child sexual abuse actions have been lodged (against all – not just institutional – defendants).

Table 1: Number of writs for HCSA

HCSA	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Total
Writs lodged	99	115	73	146	92	36	561
Finalisation	14	56	103	90	64	15	342

From 2018 till present, 342 actions have been finalised and there are currently 236 actions on hand. Of the finalised matters, only 3 went to a trial hearing. One settled by consent after the first day of hearing.

a. HCSA actions on hand

There are currently 236 HCSA actions on hand, of which:

- 21 are listed for, and awaiting, trial;
- 19 are on the inactive cases list;
- 96 actions (~40%) are less than 12 months old;
- 90 actions (~38%) are between 12 and 24 months old (of which 12 are awaiting trial); and

- 50 (~21%) are over 24 months old (of which 3 are at judgment or post-judgment stage, and 9 are awaiting trial).

b. Current actions listed for trial

Of the 21 actions listed for trial:

- five (5) are due to be heard this year, and the remainder over the course of next year (the last commencing on 2 September 2024); and
- most involve significant lead times (with only 6 having been listed for trial within a year from the date of the listing conference) – although the lead times have shortened between those listed in 2022 and those listed in 2023.

c. Length of trials

Of the 21 actions listed for trial:

- Six (6) actions are listed for 7-9 days
- Nine (9) actions are listed for 10 days
- Six (6) actions are listed for 12-15 days

d. Mediation conferences

The District Court offers a special mediation service for HCSA actions, those conferences typically being conducted in the David Malcom Justice Centre building rather than in the District Court building.

Table 2: Number of mediations for HCSA actions

Mediations	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Mediation conferences	193	188	212	192	225	1,010
Mediation conferences for HCSA	10	17	41	36	54	152
Mediation conferences – finalised actions ¹	6	14	26	30	25	101

Table 3: Writs lodged

Writs	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Total writs - civil	4,898	5,152	4,757	5,514	6,220	26,541
HCSA writs	99	115	73	146	92	525

¹ This data represents the number of finalised HCSA actions in which a mediation conference occurred (it does not necessarily mean that finalisation occurred at or as a result of mediation – this data is unavailable).

Analysis:

- Over the last 12 month period, the Court conducted a total of 225 mediation conferences, 54 of which (~24%) were in HCSA actions. In the same period, HCSA actions comprised ~1.45% of the total number of civil writs lodge in the Court.
- Over the last 5 year period, the Court conducted a total of 1,010 mediation conferences, 158 of which (~15.6%) were in HCSA actions. In the same period, HCSA actions comprised ~1.9% of the total number of civil writs lodge in the Court.
- Around 1/3 of all finalised HCSA actions were mediated.

3. Court Resources – Judicial Officers

Table 4: Number of District Court judges and registrars

Judicial Officer	2018	2019	2020	2021	2022	2023
Number of judges ²	30	30	32	34	34	35 ³
Number of registrars	5	5	5	5	5	5

Report on Government Services 2023

The Report on Government Services (ROGS) provides comparable data across jurisdictions and over time on the function of courts. The below table provides some relevant comparisons between the District Court of Western Australia and other District and County Courts.

Table 5: Number of judicial officers per 100,000 people⁴

Year	NSW	Vic	Qld	WA	SA
2021-22	61.9	68.0	29.5	27.1	16.3
2020-21	62.7	50.7	28.9	25.6	15
2019-18	62.3	49.0	29.2	22.7	14.6
2018-19	57.4	47.5	29.0	22.4	14.9

Table 6: Number of civil lodgements per 100,000 people

Year	NSW	Vic	Qld	WA	SA
2021-22	66	83	70	216	55
2020-21	69	86	69	196	68
2019-18	78	96	85	213	86
2018-19	81	96	90	208	89

² Three (3) serving in other jurisdictions as President of Children’s Court and Deputy Presidents of the State Administrative Tribunal.

³ In addition to the three (3) judicial officers serving in other jurisdictions, one (1) judicial officer currently serves between the District Court and Children’s Court (on a split appointment).

⁴ Judicial officer is defined as the number of full time equivalent (FTE) judicial officers such as associate judges, magistrates, masters, coroner, judicial registrars and all other officer who make enforceable orders of the court.

Table 7: Finalisation of civil matters per 100,000 people

Year	NSW	Vic	Qld	WA	SA
2021-22	67	84	71	194	78
2020-21	73	85	82	197	83
2019-18	81	91	82	201	79
2018-19	84	95	95	199	85

4. Civil Jurisdiction

The table below reflects the civil workload of the Court.

Table 8: Number of civil lodgements, mediations and trials

Civil matters	2018/19	2019/20	2020/21	2021/22	2022/23
Civil writs filed	4,989	5,152	4,757	5,514	6,220
Mediation conferences	193	188	212	192	225
Trials ⁵	51	34	42	44	33

5. Criminal Jurisdiction

The table below reflects the workload of the Court's criminal jurisdictions.

Table 9: Number of criminal lodgements, sentences and trials

Criminal matters	2018/19	2019/20	2020/21	2021/22	2022/23
Accused lodgements ⁶	2,940	2,981	2,728	2,495	2,564
Sentences imposed	2,114	2,036	1,947	1,932	1,573
Trials ⁷	497	354	524	523	515

6. Change in Jurisdiction

The workload of the Court continues to increase in large due to legislative changes of the civil and criminal jurisdiction of the Court.

Criminal Jurisdiction

The Court deals with all serious criminal offences that must be tried before a judge and jury, or a judge sitting alone except homicide.

Life Imprisonment Offences

In 2017 the *District Court of Western Australia Act 1969* and the *Misuse of Drugs Act 1981* were amended to extend the jurisdiction of the District Court to impose a maximum sentence of life imprisonment for serious offences. As a result, the District Court has been given an

⁵ This only includes listed trials which proceeded.

⁶ A lodgement is one defendant with one or more charges with all charges having the same date of registration.

⁷ This only includes listed trials which proceeded in both Perth and regional circuit locations.

increased jurisdiction in non-homicide criminal matters which attract a maximum penalty of life imprisonment.

Serial Family Violence

In 2021 the *Family Violence Legislation Reform Act 2020* (WA) introduced certain amendments to the *Criminal Code Act 1913* (WA) and *Sentencing Act 1995* (WA). Specifically, it introduced the Serial Family Violence Offender (SFVO) declaration which allows the Court to exercise discretion to declare a person a SFVO. The amendments to the *Criminal Code Act 1913* (WA) also introduced a new offence under section 298 of suffocation and strangulation which prescribes common assault as an alternative offence.

Table 10: Length of criminal trials

Length	2018/19	2019/20	2020/21	2021/22	2022/23
1 – 3 days	295	207	306	274	265
4 – 5 days	144	108	149	187	180
6 days or more	58	39	70	62	70
Total	479	270	377	412	426

Civil Jurisdiction

The District Court has unlimited jurisdiction for claims for damages of personal injury. It also has jurisdiction for general claims for liquidated sums, debt or damages up to \$750,000.

Limitation Act 2005

Following amendments to the *Limitation Act 2005* which came into effect on 1 July 2018 claims have also been brought at the District Court as a result of the removal of the time limitations for claims for damages for child sexual abuse.

Table 11: Length of civil trials

Length	2018/19	2019/20	2020/21	2021/22	2022/23
1 – 3 days	36	48	39	40	23
4 – 6 days	77	52	65	72	76
6 days or more	52	55	60	59	73
Total	174	165	176	175	186

21 September 2023