



The Magellan List – Family Court Australia

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The Federal Circuit and Family Court has multiple specialised 'lists' where family law matters are heard. [The Magellan List](#) is one of these specialised lists which offers a focused case management pathway for the cases which involve the most vulnerable children to ensure that they are dealt with as effectively and efficiently as possible.

Criteria for the Magellan List

Whether a matter qualifies for inclusion into the Magellan List in family law proceedings is determined at the discretion of the Court but must also involve a recent notification or allegation of:

- Sexual abuse of a child; and/or
- Serious physical abuse of a child; and/or
- 'Fresh' or new allegations of historical abuse of a child which had never previously been disclosed; and/or
- Activity by a party to the proceedings or a relevant adult (such as a step-parent or relative) which:
 - Poses a risk of direct or indirect sexual abuse to the child, including activity directed towards children who are the subject of the proceedings or any other child/ren; and/or
 - Involves an allegation, charge or conviction for offences related to the production, possession and distribution of child exploitation material, whether or not the images relate to the children who are the subject of the proceedings; and/or
- Serious or escalating physical abuse of a subject child of the proceedings.

The inclusion of a matter into the Magellan List is not an indication that the Court considers the allegations made are true. It does not mean that the Court believes it is more likely than not that abuse of a child has occurred or that any finding of fact has been made, but rather, there is an allegation or a notification of this conduct that the Court needs to consider. The allegation alone can be enough for inclusion into the list if the Court considers it appropriate.

What is the purpose of the Magellan List?

The purpose of the Magellan List is to effectively and efficiently case manage matters where there are allegations of child sexual abuse or serious physical abuse of a child. The primary purposes of the Magellan List include:

Prioritising safety for children

All decisions, processes, and actions taken within the Magellan List are guided by ensuring that [the child's best interests are protected](#) and that [the child is safe from harm](#). This means that pending the finalisation of the matter, the Court is likely to take a conservative approach to making interim orders to ensure that the child is safe.

Expediting the family law process

Strict timelines are imposed onto parties in the Magellan List. As the Court takes a cautious approach to interim orders, the Court further acknowledges the need for these matters to be dealt with promptly and avoid unnecessary delays in the proceedings.

It might also mean that not all of the usual steps in the Court process are completed. For example, it may be that [mediation or dispute resolution](#) may not be required for matters in the Magellan List, as the Court may consider (depending on the individual circumstances of each matter), that given the allegations, it is not appropriate for parties to attempt this process.

The Court may form the view that compelling parties to participate in dispute resolution, given the circumstances, would just cause unnecessary delay, and so parties may instead just proceed to a final hearing for a Judge to determine the dispute.

Information sharing

Matters on the Magellan List gain the benefit of information sharing between government agencies, which can include the Federal Circuit and Family Court of Australia, the Magistrates' Court of Victoria (and other state and territory courts), child protection workers, family consultants, psychologists and social workers to collaborate and provide comprehensive insight and recommendations into what arrangements are in the children's best interests.

Consistency throughout the proceedings

Matters in the Magellan List are usually docketed to a single judicial officer from the commencement of the proceedings through to the conclusion. This ensures consistency throughout the proceedings and means that the parties get the benefit of a judicial officer who has been involved in their matter from the very beginning and understands the complex history.

How are matters allocated to the Magellan List?

Matters that are suitable for the Magellan List can be identified as follows:

- The filing of a parties' [Notice of Child Abuse, Family Violence or Risk](#) at the beginning of the proceedings;
- The filing of a party's updated Notice of Child Abuse, Family Violence or Risk throughout the course of the proceedings; or
- The Court can make orders for the matter to be considered for inclusion into the list at any point during the proceedings.

Magellan reports

Once parties are allocated to the Magellan List, the parties can obtain the benefit of a 'Magellan Report' and/or a 'Magellan Family Report'.

Magellan Reports

A Magellan Report is a comprehensive report prepared by the Secretary of the Department of Families, Fairness and Housing – [Child Protection](#) (“DFFH”). The reports will only be produced after the Court makes orders compelling DFFH to prepare such a report.

The Court can make orders for Child Protection to prepare and provide to the Court a report in relation to specific allegations that have been made, and also the general circumstances affecting any relevant parties (including any historic notifications or involvement).

These Magellan Reports are intended to be much more detailed than the usual [section 67ZBE responses](#) provided by DFFH as part of usual family law proceedings that are not allocated to the Magellan List. They assist the Court to clarify whether, and to what extent, DFFH intends to become involved with the family and the outcome of any investigations they have conducted.

Magellan Family Reports

A [Family Report](#) is an independent and comprehensive family assessment that assists the parties and the Court in making decisions about the children.

A Magellan Family Report is a family report prepared by a specialist family consultant who has significant experience in matters where there are allegations and instances of serious physical and sexual abuse of children.

The family consultant makes recommendations for arrangements that will best meet the children's future care, welfare and developmental needs in circumstances where these allegations have been made. Magellan Family Reports must be considered by the Court.

Get help from a family lawyer

Due to the complexities associated with allegations of sexual abuse and serious physical abuse in parenting matters, there is no 'one size fits all' approach.

Allegations of this nature and the transfer of proceedings to the Magellan List can have a significant impact on how these proceedings are managed and the pathway to resolution. It is important that your case is being managed properly and these kinds of allegations are appropriately considered and addressed.

If you have concerns about sexual abuse and serious physical abuse, we recommend you seek legal advice to see what the next steps are in your parenting matter.

Contacting Smith Family Law

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