

DCJ want to talk about my kids: what will happen?

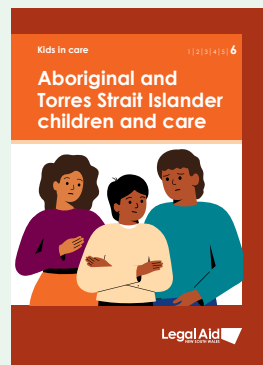
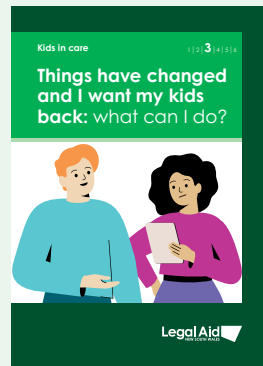


Kids in care

There are six booklets in the kids in care series available from Legal Aid NSW.

1 DCJ want to talk about my kids: what will happen?

- 2 Going to the Children's Court
- 3 Things have changed and I want my kids back: what can I do?
- 4 The Children's Court made a decision I am unhappy about: what can I do?
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Who are the Department of Communities and Justice (DCJ)?

DCJ are the main government agency in NSW that protects children. They used to be called FACS and DOCS.

Why are DCJ involved with my family?

Anyone who is concerned that your children may be at risk of significant harm can report their concerns to DCJ by calling the Child Protection Helpline. Certain professionals, such as teachers and doctors must report their concerns. These people are called mandatory reporters.

You will not know that someone has made a report about your family unless that report is investigated by DCJ. Not every report is investigated.

Reports are anonymous and confidential. DCJ won't tell you who made the report.

What does at risk of significant harm mean?

DCJ may think your children are at risk of significant harm for many different reasons, including physical or sexual abuse, neglect, exposure to drug and/or alcohol abuse by a caregiver, or exposure to domestic violence at home.

What happens when a report is made?

If DCJ investigate a report, a caseworker might:

- visit you at home or ask you to come to their office
- speak to your children at their school or somewhere else.
They don't need to get your permission to do this, or
- get information about your family from other people such as doctors, hospitals, police, teachers or other relatives.
They don't need to get your permission to do this.

Can DCJ remove my kids?

If DCJ are involved with your family, it does not mean your children will be removed from your care. DCJ must work with you to keep your children safe and well cared for. You might hear this called **active efforts**. Active efforts will look different for each family.

An example of an active effort that DCJ can take is to refer you for legal advice. If you agree, they can send a referral form to either Legal Aid NSW or the Aboriginal Legal Service (ALS). This is known as a Legal Assistance for Families: Partnerships Agreement Referral (LAFPA) referral. A lawyer will then contact you.

Sometimes the caseworker will ask you to do things to keep your children safe and well cared for. For example, the caseworker might ask you not to let your partner live with you and your children if they think your partner is not a safe person for your children. Or you might be asked to do a program or a course (for example, a parenting course). If you don't do what is asked of you, this may result in your children being removed from your care.

If DCJ think your children are at immediate risk of significant harm, they may remove your children. This is a last resort. If this happens, you will have to go to the Children's Court.

What help can I get?

At any time from when DCJ first contacts you about your kids, you can ask the caseworker for a referral for legal advice. Legal Aid NSW and the ALS help parents, grandparents and other family members worried about what is going on for their kids.

Legal Aid NSW and the ALS are independent from DCJ and can give you free legal advice. See page 10: **How do I get legal help?**

What may DCJ ask me to do?

Each family is different and there are many things that DCJ may try to put in place to make sure your children are safe and well cared for when living with you. Some of these are listed below.

Early intervention programs

Your family may be offered a referral to a program like 'Brighter Futures' or to a family support service. These services will work with your family to help you get back on track.

Talk to a lawyer about any agreement you reach with DCJ. Your lawyer can make sure what you have agreed to is realistic and can talk to DCJ if you have any concerns.

Alternative dispute resolution (ADR)

ADR involves an independent third person helping people to resolve their issue or dispute. ADR includes mediation. You can ask to participate in an ADR to talk about how you, your family and DCJ can keep your kids safe.

ADR is informal and does not involve decisions being made by a court or tribunal. It involves people coming together to try and reach an agreed way forward.

DCJ can make a referral for you to Legal Aid NSW or to the ALS to participate in an ADR, where you can talk about your children in a confidential place. Your lawyer can attend an ADR with you.

If you do not have a lawyer at the ADR you should speak with a lawyer after the ADR to make sure you understand what you're agreeing to. See page 10: **How do I get legal help?**

Case plans, safety plans and agreements

DCJ might make a written plan with you about the care of your children and what you need to do to keep your children safe. It may also include things like not using illegal drugs or going to see a psychologist or counsellor.

It's important that you do what you agreed. If you don't, DCJ may take more serious action and sometimes this can mean that your children will be removed from your care.

Parental responsibility contract (PRC)

This is a contract in writing between you and DCJ that sets out the things that you have agreed to do to keep your children safe and well cared for. It will also set out the things DCJ have agreed to do to help you. For example, you might have agreed to attend drug and alcohol counselling or a parenting course and DCJ has agreed to pay for it.

DCJ must give you a copy of the proposed contract and give you time to get legal advice.

Talk to a lawyer before signing a PRC.

Temporary care agreement (TCA)

A TCA is a written agreement in which you agree for your children to live somewhere else, such as with a family member. A TCA is usually for three months but can be for up to six months.

This is to give you time to do the things you need to do for your children to live with you safely. The goal of a TCA is for your children to return to live with you.

You can ask for a referral to speak to a lawyer before signing a TCA.

Parenting capacity order (PCO)

This is a court order that you must participate in a program or course to help you improve your parenting skills. You should talk to a lawyer if you have to go to court for this type of order.

Removals and care applications

If DCJ do not think that any of the above options will keep your children safe or these options have been tried and haven't worked, they may take legal action to remove your children from your care.

Tips for dealing with DCJ caseworkers

- It might be helpful to remember that caseworkers are there to help you to make sure your kids get the best possible care.
- It is understandable that you will be scared and upset when DCJ become involved in your life but if you yell, swear, abuse or threaten the caseworker this will only make things worse.
- Speak to your caseworker so you can understand why DCJ are getting involved with your family.
- Ask DCJ to refer you to a lawyer as soon as they become involved with your family.
- Try to get along with your caseworker even if you don't agree with the reasons they are getting involved with your family.
- If you can't resolve any difficulties with your caseworker, ask to speak to their manager.
- If a caseworker asks you to engage with services or supports, then you should follow through with these referrals. If you can't because of things like the cost, no transport or childcare, talk to the caseworker and explain. It's better to try and work things out rather than to just not turn up.
- Remember that nothing you say to anyone at DCJ is confidential. Notes are generally taken of all conversations. Anything you say or do may be used as evidence against you if your matter ends up in the Children's Court.
 - If you feel you need it, arrange for a support person to be present when you meet with caseworkers. You should choose someone who can help you keep calm and will help you to remember what was said after the meeting.
- Ask DCJ for a copy of all notes of the meetings which you attend, as well as for a copy of any agreement you have signed. Keep these documents in a safe place.
- Keep a diary. Write down all your meetings and appointments with your lawyer, caseworkers, courts, doctors, counsellors and anyone else and the dates so that you don't forget them.

- Keep a record of all telephone calls you make to your lawyer and caseworkers, even when you just leave a message and are not able to speak to them. If possible, get the name of the person who takes your message and write it in your diary with the date of the call.
- Keep a record of all courses you attend and services you engage with.



How do I get legal help?

Tell your caseworker you want legal advice. They can complete a referral for you to Legal Aid NSW or the Aboriginal Legal Service and a lawyer will call you.

You can also call the numbers below to make an appointment for legal advice.

LawAccess NSW

LawAccess NSW is a free information service run by Legal Aid NSW. They provide legal information and referrals for people with a legal problem in NSW.

If you need personalised advice or representation from a family lawyer, LawAccess NSW can make an appointment for you with a Legal Aid NSW lawyer, if your circumstances and legal issue meet our criteria. If a Legal Aid NSW lawyer isn't able to help, they might refer you to another legal service, like a community legal centre or the Aboriginal Legal Service.

Click on the Chat with us button at www.legalaid.nsw.gov.au or call **1300 888 529** from 9am to 5pm, Monday to Friday (excluding public holidays).

Aboriginal Legal Service

Call **1800 733 233** for family matters or visit www.alsnswact.org.au/care

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.



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For more information, visit: www.legalaid.nsw.gov.au

Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am–5pm) and ask for LawAccess NSW.

Do you find it hard to hear or speak?



If you are deaf, or have a hearing or speech impairment, contact us through the [National Relay Service \(NRS\)](http://www.nrs.gov.au). Ask for LawAccess NSW on **1300 888 529**.

