

What happens when my kids are in care?



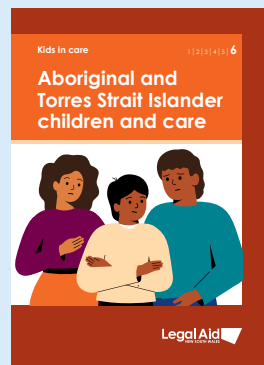
Kids in care

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?

5 What happens when my kids are in care?

- 6 Aboriginal and Torres Strait Islander children and care



Who will look after my kids?

When your children are first placed in care, the Department of Communities and Justice (DCJ) look for a placement that is safe and secure while the court decides if it is safe for your children to be returned to your care. This placement may be with a relative or a family friend or a carer you do not know.

Your family and friends can talk to DCJ about becoming carers for your children either during or after court proceedings. This involves them being assessed by DCJ.

If DCJ refuse to assess them, there will be some circumstances where your family or friend can apply to the NSW Civil and Administrative Tribunal (NCAT) to review the DCJ decision.

Applying to NCAT does not prevent your family or friend from making an application to the court to be joined as a party to the court case and ask the court to allow them to care for your children.

They can also get a referral for legal advice from Legal Aid NSW or the Aboriginal Legal Service (ALS). See page 10:

How do I get legal help?

What if DCJ are refusing to place my kids with my family?

If DCJ have parental responsibility for your children, then they decide where your children will live. The Children's Court cannot tell DCJ where to place your children. If you do not agree with DCJ you should talk to your lawyer.

If you think a relative or friend is safe to look after your children, you can talk to your lawyer and the caseworker about the court giving them parental responsibility for your children and the children living with them.

A relative or friend can also make an application to the court to be joined as a party in the case.

Who makes decisions about my kids while they are in care?

Anyone with parental responsibility can make decisions for children.

If the court has given parental responsibility for your children to DCJ, it means that DCJ caseworkers will be able to make decisions for them. Sometimes carers are managed by an agency whose caseworkers will make decisions for your kids on behalf of DCJ.

Sometimes the court orders give parental responsibility to more than one person, so it is very important that you check what the orders say.

In some cases, family members or kin who are significant to your children can be given some parental responsibility for issues like religion or culture.

Day-to-day things like what your children eat, the clothes they wear and whether they see the doctor or play sport at school are made by whoever is caring for your child.

For more information about parental responsibility and court orders, see **Booklet 2: Going to the Children's Court.**

How do I know how my kids are?

Make sure that DCJ has your current contact details. You can speak to your children's caseworker responsible for your children and ask them questions about how your children are doing in care.

You can ask to be provided with information about your children, including their health and how they are doing at school. You can ask the caseworker to give you copies of documents such as school reports.

You can also ask to go to case planning meetings and have a say about your children, especially when decisions are being made about your children's future.

Get legal advice if you have asked for information about your children or to attend meetings about your children but the caseworker is not responding or doesn't agree. See page 10:

How do I get legal help?

Will I see my kids during the court case?

While your case is in court and before final orders are made, DCJ will arrange for you to see your children. The amount of contact will depend on your children's circumstances. For example, with young babies it can be (but is not always) more than once per week. With school age children it can be weekly or fortnightly. It will usually be supervised contact.

If you want more contact with your children, you should talk to your lawyer about raising this issue with DCJ, or about filing an application for a contact order if DCJ will not agree.

Will I see my kids after final orders?

Once a case finishes, the amount of contact parents and other people important to children have will be different for all families and will depend on their circumstances.

If the court decided that your children can be restored to your care, DCJ might talk to you about a restoration plan, and it is likely that your contact will increase until the children return home.

If the court decided that your children are not going to be restored, your contact will usually be less than during the court case.

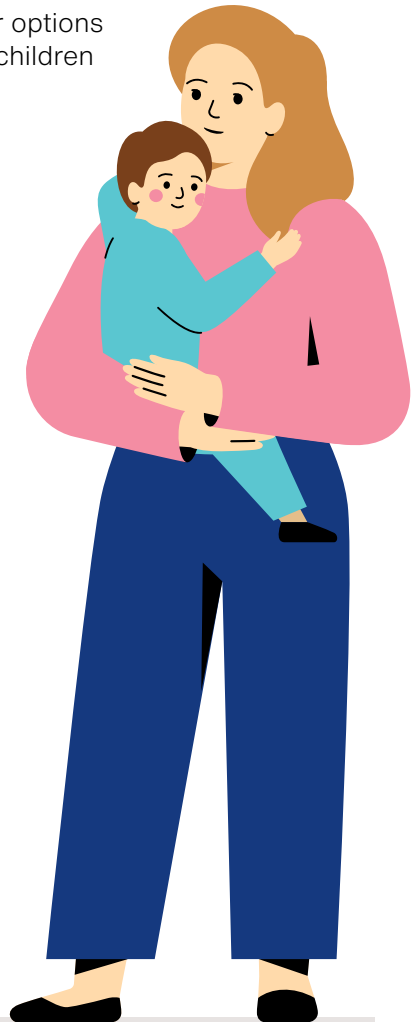
The arrangements for contact with your children will be set out in the care plan, including if it will be supervised. Contact arrangements can change over time if circumstances change.

What if I want to see my kids more often?

It may be possible for you to have more contact after the final orders, but only if the person with parental responsibility for your children agrees. A contact mediation is usually the first step.

You can get legal advice about your options if you want more contact with your children after final orders. See page 10:

How do I get legal help?



What is a contact mediation?

A contact mediation usually involves you, DCJ, the agency looking after your children, family members and a lawyer for the children. If an agreement is reached about increasing or changing your contact, the agreement can be registered with the court.

If you think your children would benefit from more contact with you and the person with parental responsibility refuses to consider more contact or to attend a mediation, your lawyer can talk to you about your options.



I have concerns about my kids in care: where do I go?

If you are concerned that your children are not doing well in care you can:

- speak to the children's caseworker as soon as possible
- follow up your concerns to the caseworker in writing
- arrange to meet with the caseworker
- take a support person to the meeting
- let the caseworker know there will be a support person with you, and
- ask the support person to help you write down what was discussed.

If you notice something that concerns you at a contact visit with your children, the best thing to do is write it down after the visit and raise it with your caseworker as soon as possible.

Follow up your concerns with the caseworker. If you feel your children are at risk and DCJ are not responding to your concerns, you should contact the Child Protection Helpline on **132 111**.

If you have concerns about your children, or you have difficulty communicating with DCJ, and you cannot resolve these concerns with your children's caseworker or casework manager, you can make a complaint to the DCJ Complaints Line on **1800 000 164**.

If you're still concerned, you can make a complaint to the NSW Ombudsman on **1800 451 524**.

The Ombudsman is an independent watchdog whose job is to make sure that agencies they watch over (including DCJ) fulfill their functions properly and improve their delivery of services to the public.

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 can 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 \(NRS\)](#). Ask for LawAccess NSW on **1300 888 529**.

