



# Caring for kids

in Aboriginal and Torres Strait  
Islander families

**HERE'S  
WHAT  
YOU DO**

**Legal Aid**  
NEW SOUTH WALES

## **Are you an Aboriginal or Torres Strait Islander grandparent, aunty, uncle, cousin or other relative who:**

- Is caring for young kids?
- Is worried about the safety or welfare of a child?
- Has been stopped from seeing the kids?

We can help you understand the law and know your legal rights when it comes to caring for kids.

## **What laws deal with caring for kids?**

There are two main areas of law dealing with caring for kids. These are:

- family law
- care and protection law.

If possible, you should try and have your matter dealt with under family law. It's best to get legal advice about your particular family's circumstances.

## **What if I'm being stopped from seeing the kids in my family?**

If your family is blewin' and you are stopped or you are having concerns about seeing the kids in your family, you can use family law to change things. You need to try and sort the problem out by yarning with the family or using a trained mediator to help solve agreements.

## **What is family law?**

**Family law deals with marriage, divorce and relationships splitting up, including what happens to property and what happens to the children.**

**Family law can also be used to have kids in your family live with or spend time with you.**

This is called mediation or family dispute resolution.

If yarning or mediation works you can have:

- a verbal agreement; or
- a written agreement signed by everyone (this is called a parenting plan); or
- court orders by agreement (if your agreement is lodged with the Court).

## **Can't sort it out? Talk to a lawyer**

If mediation doesn't work, talk to a lawyer about what to do next. For example, you can discuss going to court.

If you go to court, there will be another chance to try to sort it out. If you still can't agree, a judge will decide what would be in the children's best interests.

## **What if I've been looking after the kids and now the parents want them back?**

If you believe the kids are safer with you, you can use family law. A lawyer can tell you how to do this. Under family law you can ask the court for an order that the kids stay with you. If there is already an order that the kids live with you the parent(s) must go back to court to get the order changed.

## **What is care and protection law?**

Care and protection law aims to keep kids safe from neglect and abuse, including sexual abuse. It is the main law used by the Department of Communities and Justice (ex FaCS and DoCS) to remove kids they think are in neglectful or abusive homes.

## Worried about the kids' safety or welfare where they are living?

If kids in your family are living somewhere where you feel they are unsafe you should contact a lawyer to see what your choices are under the law.

If you don't want the Department of Communities and Justice involved you might be able to use family law to try and have the kids live with you. Get advice from a lawyer to find out how to do this.

If you think it is possible that the children are at risk of immediate harm you may want to make a confidential call to Communities and Justice on their 24 hour helpline on **132 111**. This comes under care and protection law.

If the situation is urgent, Communities and Justice can take the children to a safe place straight away.

If Communities and Justice thinks they shouldn't go back home, it might ask the Children's Court to decide where the children should live. While that is being decided, Communities and Justice will try to place the children with family first, then in an Aboriginal foster placement, or with a non-Aboriginal foster placement if there is no other option.

## How do I get legal aid?

If you need ongoing legal help from a lawyer, you need to fill in a form for a 'grant of legal aid'. The form will ask you about your personal and financial situation. Legal Aid NSW will look at your case and let you know if a lawyer will represent you. You can apply on our website, or get the form from Legal Aid offices or from duty lawyers at local courts.

## What can I do if Communities and Justice is already involved?

If Communities and Justice is already involved and the case is before the Children's Court you can ask to be heard in court by becoming "a party" to the Court case. If the Court agrees you can tell the Court where you think the kids will be safe to live.

If you don't want to join the court case you can still tell the Court what you think but you will not be able to participate in the case. Get advice from a lawyer to find out how to do this.

## What can I do to have contact with kids under care and protection law?

If the kids in your family have been removed by Communities and Justice and you are not happy with the contact arrangements, you can ask to have a contact mediation through the Family Dispute Resolution Service at Legal Aid NSW.

## Can I get financial help if I'm looking after the kids?

If you are looking after kids you may be able to get some financial help. This will depend on your own individual situation. You can find out about government payments by visiting a Centrelink office or by calling **13 61 50**.

It is best to talk to one of our lawyers before you apply for legal aid. You may be able to get help with your legal problem without needing to go to court.

You may be able to get child support from the parents. This is complicated so get more information by calling Services Australia on **13 12 72**.

You can also call the Centrelink Indigenous Call Centre on **1800 136 380**.

If you need help to get proof of parentage so you can apply for child support you can talk to one of our specialist lawyers at Legal Aid NSW. Call **02 9633 9916** or **1800 451 784** to make an appointment.

## Where to get legal and other help

There are a number of places where you can go to get legal help and advice:

- **Legal Aid NSW** has specialist family and care and protection lawyers and trained Aboriginal and Torres Strait Islander mediators who can help. Call the Family Dispute Resolution Service on **02 9219 5118** or any one of our offices for more information or to make an appointment. To find your closest office visit **[www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)** or call LawAccess NSW on **1300 888 529**.

## Can't get to a Legal Aid NSW office?

If you live in the country and there is no Legal Aid NSW office near you, call **LawAccess NSW** on **1300 888 529**. You can also call the Family Law Early Intervention Unit on **1800 551 589**, talk to a Registrar at your local court, or see a private lawyer who does legal aid work.

The **Aboriginal Legal Service NSW/ACT** (ALS) gives free legal advice. Call the ALS on **1800 733 233** or visit them on their website at **[www.alsnswact.org.au](http://www.alsnswact.org.au)**

**First Nations Women's Legal Contact Line** is a free telephone service run by Aboriginal women who give free legal advice to Aboriginal women. Call **1800 639 784**.

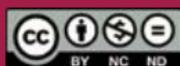
**Wirringa Baiya Aboriginal Women's Centre** is a NSW service which gives free legal advice and referrals to Aboriginal women and young people. Call **1800 686 587** or **02 9569 3847**.

**Women's Domestic Violence Court Advocacy Services** (WDVCASs) assist women and children experiencing domestic violence get legal protection from the court. Call **1300 WDVCAS** (**1300 938 227**) or check **[www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)** for your closest service.



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.



© Legal Aid Commission of NSW 2020

Order brochures online at  
[www.legalaid.nsw.gov.au/publications](http://www.legalaid.nsw.gov.au/publications) or  
email: [publications@legalaid.nsw.gov.au](mailto:publications@legalaid.nsw.gov.au)

For more information about Legal Aid NSW services:



## Do you need help to contact us?



If you find it hard to hear or speak, call the National Relay Service (NRS) on **133 677** and ask for LawAccess NSW or visit **[www.relayservice.gov.au](http://www.relayservice.gov.au)**

**Legal Aid**  
NEW SOUTH WALES

[www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)