

kids in care

Communities and Justice want to talk
about my kids: what will happen?



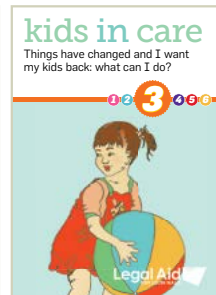
Legal Aid
NEW SOUTH WALES

kids in care

1 Communities and Justice want to talk about my kids: what will happen?

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

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Who are the Department of Communities and Justice?

Communities and Justice are the main government agency in NSW that protects children. They used to be called 'FACS' and 'DOCS' but are now the Department of Communities and Justice.

Why are Communities and Justice involved with my family?

Anyone who is concerned that your children may be at risk of significant harm can report their concerns to Communities and Justice by calling the 'Child Protection Helpline'. Certain professionals, such as teachers or doctors, are required by law to 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 Communities and Justice. Not every report is investigated.

Reports are anonymous and confidential, and you are not entitled to know who made the report.

What happens when a report is made?

If Communities and Justice decide to investigate the report, a caseworker may:

- ▲ make contact with you. Sometimes caseworkers may come to your home

with or without an appointment, or they might ask you to come to their office;

- ▲ speak to your children at their school or somewhere else. They do not need to get your permission to do this.;
- ▲ obtain information about your family from other people such as doctors, hospitals, police, teachers or other relatives. A caseworker does not need to get your permission to do this.

Can Communities and Justice remove my kids?

Just because Communities and Justice are involved with your family, it does not mean your children will automatically be taken away. If possible, Communities and Justice will work with you to keep your children safe and well cared for while they are still in your care.

Sometimes, the caseworker will ask you to do things to keep your children safe. For example, they might ask you not to let your partner live with you and your children. If you decide not to do what is asked of you, this may result in your children being removed from your care. If Communities and Justice think your children are at immediate risk of serious harm, they may remove your children. If this happens, you will have to go to the Children's Court.

What does 'at risk of significant harm' mean?

Communities and Justice 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. It may be that Communities and Justice consider your children have already been exposed to one or more of these issues, or it may be that there is a risk of it happening in the future.

What may Communities and Justice ask me to do?

Each family is different and there are many things that Communities and Justice 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:

▲ Early intervention programs

Your family may be offered a referral to an early intervention program, such as 'Brighter Futures' or a family support service run by a non-government agency. These services will work with your family to help you to address any concerns and help you get back on track.

Your participation in these services is voluntary. You cannot be made to participate if you do not want to. If you are referred, however, you should really consider working with these services as their role is to help you to stop things from getting worse which could result in your children being removed from your care.

▲ Case plans/safety plans/ agreements

Communities and Justice might make a written plan with you about the care of your children and what you need to do. It might include a list of things that you agree to do and things that you agree not to do.

For example, it might be agreed that you will not take drugs and that you will participate in drug testing.

It is really important that you comply with any case plan, safety plan or other agreement which you have entered into with Communities and Justice. If you do not, your children may be removed and proceedings in relation to your children will commence in the Children's Court.

The Children's Court will be given a copy of any agreement which you entered into. If you did not do the things you agreed to do, the Court will take this into consideration when deciding what orders to make in relation to your children.

▲ Parental Responsibility Contract

This is a written agreement between you and Communities and Justice. The contract will set out the things you need to do to improve your parenting skills and ensure your children are safe and well cared for.

The things you are required to do under the Parental Responsibility Contract will be things you have agreed to do that relate specifically to your family. A Parental Responsibility Contract may require you to do anything which Communities and Justice thinks is necessary to keep your children safe, such as:

- ▲ attending drug and alcohol counselling;
- ▲ doing urine testing or some other form of drug testing;
- ▲ taking courses to improve your parenting;
- ▲ going to counselling to help you deal with some issues in your life, for example domestic violence counselling.

You should seek legal advice before signing a Parental Responsibility Contract.

Communities and Justice must let you see the proposed contract and give you time to see a solicitor before signing the contract. The final contract can be registered in the Children's Court.

▲ Temporary Care Agreement

A Temporary Care Agreement is a written agreement in which you agree for your children to live somewhere else while you do the things you need to do for your children to live with you safely. The agreement can be in place for up to three months, and if agreed, can be extended again for a further period of three months.

If you have any doubts about signing a Temporary Care Agreement, seek legal advice before signing it.

When entering into a Temporary Care Agreement you can talk to Communities and Justice about where your children are going to live, for example with a member of your family. Communities and Justice will have the final say about where your children live while the Temporary Care Agreement is in place and if there are no suitable family members, they will make arrangements for your children to go into foster care.

▲ Alternative Parenting Plan

Communities and Justice may propose an alternative Parenting Plan if your child is

over 12 and cannot remain at home due to conflict. The Plan will say where your child will live, how and when your child will have contact with you and other family members, and who will make decisions about your child's education and medical care. Both you and your child must be provided with the opportunity to talk to separate lawyers before agreeing to an Alternative Parenting Plan.

▲ Alternative Dispute Resolution

If Communities and Justice think that your children are at significant risk of harm then you may be asked to participate in an Alternative Dispute Resolution Conference ('ADR'). This conference is likely to include your case worker, their manager and members of your family.

The conference is an opportunity to talk about ways that you, your family and Communities and Justice can keep the kids safe. If you have any questions about what is going to happen at a conference you should get some legal advice before attending.

Breach of a Parental Responsibility Contract

If you do not do the things you agreed to do in the Parental Responsibility Contract, Communities and Justice may file a contract breach notice to inform the Children's Court of your alleged breach.

If this happens, Communities and Justice are also likely to file a care application alleging that your children are 'in need of care and protection' and asking the Children's Court to make orders in relation to your children. For example, they may ask that your children be removed from your care and placed into foster care.

It is therefore really important that you understand the contract before signing it and that you can do everything you have agreed to do and can follow everything it says.

You should always get legal advice before signing a Parental Responsibility Contract.

Ending a Temporary Care Arrangement

After you have signed a Temporary Care Agreement, you have the right to end it at any time. You should think carefully about doing this because if you ask for it to end and Communities and Justice think that it is not safe for your children to return to your care, they may start proceedings in the Children's Court. You should seek legal advice before ending a Temporary Care Agreement early.

▲ Parenting Capacity Order

This is a Court Order that asks you to participate in a program or course to help you improve your parenting skills. The magistrate will only make an order if:

- ▲ They think there is a problem with your parenting which could place your children at risk;
- ▲ It's reasonable and practical for you to do the program or course;
- ▲ It's unlikely you will do the program or course without an Order.

You should seek legal advice if you have to go to court for this type of Order.

▲ Removals and Care Applications

If Communities and Justice do not think that any of the above options will ensure the safety, welfare or wellbeing of your child, or if one or more of the options have been tried and Communities and Justice still think your children are at risk, Communities and Justice may take legal action to remove your children from your care.

Tips for dealing with Communities and Justice caseworkers

- ▲ Speak to your caseworker so you can understand why Communities and Justice are getting 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 the caseworker's manager.
- ▲ Remember that nothing you say to an employee of Communities and Justice 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.
- ▲ Seek legal advice as soon as Communities and Justice become involved in your family.
- ▲ It is understandable that you will be scared and upset when Communities and Justice become involved in your life but if you yell, swear, abuse or threaten the caseworker this will only make things worse.
- ▲ It might be helpful to remember that caseworkers are there to make sure your kids get the best possible care.
- ▲ If a caseworker asks you to engage with services or supports to improve your parenting and make sure your children are safe, then you should follow through with these referrals. All families need help at some point, and engaging with these services may stop things getting worse and your children being taken away from your care.

- ▲ 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 Communities and Justice 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 or journal. Write down all of your meetings and appointments with your lawyer, caseworkers, courts, doctors, counsellors and anyone else so that you do not 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 receptionist or person who takes your message and write it in your diary.

- ▲ Keep a record of all courses you attend and services you engage with.

More information and help

- ▲ Legal Aid NSW Family Law Intervention Unit:
1800 551 589
www.legalaid.nsw.gov.au
- ▲ Aboriginal Legal Service:
1800 733 233
www.alsnswact.org.au
- ▲ LawAccess NSW:
1300 888 529
www.lawaccess.nsw.gov.au

What can happen when a family is involved with Communities and Justice

Someone makes a report to Communities and Justice

Communities and Justice investigate and decide whether the child is 'at risk of significant harm'

if NO ▼

Communities and Justice take no action, or provide referrals to services. Record is kept on file.

if YES ▼

Communities and Justice decide whether any action is required to protect the child or Record is kept on file. Make sure the child is properly cared for.

END OF MATTER

if NO ▼

Communities and Justice provide referrals to services

OR

Communities and Justice and family agree on actions to protect child

OR

Communities and Justice remove child and/or ask the Children's Court for Court Orders

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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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.



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

Legal Aid NSW acknowledges the prior publication *The Children's Court, Care, My Child and Me* from the Shoalcoast Community Legal Centre.