

kids in care

What happens when my kids are in care?



Legal Aid
NEW SOUTH WALES

kids in care

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

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What happens when the Court places my kids under the care of Communities and Justice?

When your children are placed in care, Communities and Justice look for a placement that is safe and secure. This placement may be with a relative or a family friend, a foster carer, a residential placement if your children have high needs and require close supervision, or an independent living arrangement.

A foster carer might be a single person, or a couple. They might have their own kids, or there might be other foster children living with them. There are foster carers from lots of different cultural and religious backgrounds.

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

Anyone with 'parental responsibility' can make decisions for children. 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 parents are given parental responsibility for issues like religion or culture, even if children are in care.

If the Court has given parental responsibility for your children to the Minister for Communities and Justice, then Communities and Justice caseworkers will be able to make decisions for them. Sometimes foster carers are managed by an agency whose workers will make decisions on behalf of Communities and Justice.

Even though foster carers do not have parental responsibility, they can still make decisions about the 'day-to-day' care

of your children. This includes making decisions about things like clothes and hair-styles (unless these are important for cultural or religious reasons), diet, discipline or behaviour management, going to out-of-school activities, and minor or emergency medical treatment.

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?

It is important to make sure that Communities and Justice has your current details so they can contact you. It is also important to keep in touch with the caseworker responsible for your children and take an interest in how your children are progressing by asking questions.

You are entitled to information about your children's development and progress including their health and how they are doing at school. You can ask Communities and Justice to give you copies of documents such as school reports.

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

After care proceedings finish, the Court may sometimes order Communities and Justice to prepare reports about how your children are doing. You will be sent copies of these unless the Court orders that this should not happen.

What about contact?

Except in very rare cases, most children in care have contact with their family. Arrangements for you to have contact with your child should be set out in the

Care Plan (see **BOOKLET 2: Going to the Children's Court**).

If the Children's Court has made an order about who can have contact with your children, then the order must be followed. The order will say how often contact should happen, and whether it needs to be supervised.

Sometimes instead of orders, the Court makes 'notations'. These are not enforceable but provide a guide for how contact should happen, whilst still allowing flexibility in case things change.

Remember that contact orders and Care Plans usually set a 'minimum' amount of contact. What this means is that it may be possible for you to have more contact after the final orders are made, but only if the person with parental responsibility for your children agrees.

Sometimes it is possible to have an arrangement for you to have telephone or other contact with your children. This will be set out in the contact order or the Care Plan.

It is often possible for you to write to your children while they are in care. You usually have to send mail through Communities and Justice who will send it to your children. You can send cards and letters at any time. You can include photographs if you like. You can also ask to send presents on special occasions if for some reason you cannot attend face-to-face contact with your children. It is important to make sure these contact arrangements are written in the orders or Care Plan.

If you want to have contact with your children it is very important that whoever has parental responsibility for your child

knows how to contact you. If you move or if your telephone number changes, you must tell them.

It is very important to turn up to all of the contact visits with your children. If you miss contact visits and you do not have a Court order for contact, the person with parental responsibility may reduce the amount of contact visits you can have with your children.

If things are going really well and your children are benefitting from the contact, it is always possible to agree to increase the amount of contact you have with your children. You then should get legal advice about filing a contact application or organising a contact mediation.

A contact mediation usually involves you, representatives from Communities and Justice and/or the organisation that is looking after the children, other important family members and a lawyer for the children. If an agreement is reached about increasing or changing the contact arrangements then this 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, you should get legal advice about filing a section 90 application also called a 'variation' or 'rescission' application to change the final order (see **BOOKLET 3: Things have changed and I want my kids back: what can I do?**)

What if Communities and Justice are refusing to place my kids with my family?

If the Minister for Communities and Justice has parental responsibility for

your children, then Communities and Justice can decide where your children will live. The Children's Court cannot tell Communities and Justice where to place your children.

Any member of your family can ask Communities and Justice to authorise them as a carer. If Communities and Justice refuse to do this, it may be possible for your family member to apply to the NSW Civil and Administrative Tribunal to review the Communities and Justice decision.

If you have a family member or a friend interested in caring for your child and Communities and Justice do not agree, ask your relative or friend to seek legal advice

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

If you have a real concern that your children are not doing well in care, it is important that you speak to their caseworker as soon as possible.

If you notice something that concerns you at a contact visit with your children,

bring it to the attention of the contact supervisor and ask them to make a note about it. Make sure you follow up your concerns with the caseworker.

If you feel your children are at risk and Communities and Justice are not responding to your concerns, you should contact the Child Protection Helpline on telephone 132 111.

If you have concerns about your children, or you have difficulty communicating with Communities and Justice, and you cannot resolve these concerns with your children's caseworker or Manager Casework, you can make a complaint to the Communities and Justice Complaints Line on telephone 1800 000 164.

If you are still concerned, you can make a complaint to the NSW Ombudsman online at: www.ombo.nsw.gov.au

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

How often do I get to see my kids?

- ▲ During Court proceedings your contact can be quite regular. With young babies it can be (but is not always) more than once per week. With older children it can be weekly or fortnightly.
- ▲ If the Court decides that your children are going to return home to you, your contact may increase until they are able to come back to you permanently. This is called restoration.
- ▲ If the Court decides that your children are not going to be returned to you, then your contact will usually be gradually reduced.
- ▲ How often you have contact depends a lot on your children's individual circumstances – their age, their health, where they live, their routine, school hours, and various other things happening in their life.

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

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

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