

# kids in care

Aboriginal and Torres Strait  
Islander children and care



1 2 3 4 5

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# kids in care

## 6 Aboriginal and Torres Strait Islander children and care

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

- 1 Communities and Justice 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**



Child protection is about keeping children safe. In NSW, the Department of Communities and Justice (previously known as 'FACS' and 'DOCS') have responsibility for the safety and well-being of children and for helping to protect children from abuse or harm.

If an Aboriginal or Torres Strait Islander child needs to be removed from his or her family, there are special rules that apply. These are called the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles.

### **The Aboriginal and Torres Strait Islander Child and Young Person Placement Principles**

When deciding where your child should live, the most important rule is your child's best interests. However, the Principles say that the preferred order is for an Aboriginal or Torres Strait Islander child to be placed with:

- ▲ the child's extended family or kinship group (like grandparents, aunts, uncles or cousins)
- ▲ other members of the child's community; or
- ▲ people from another community but near the child's home.

Your child can only be placed with a non-Aboriginal or non-Torres Strait Islander carer if an Aboriginal or Torres Strait Islander placement cannot be found from the three groups above. If Communities and Justice do this they must first consult with your child's extended family or kinship group and with Aboriginal or Torres Strait Islander organisations about other options.

### **What if your child has parents from different Aboriginal or Torres Strait Islander communities?**

The same rules apply if your child has parents from different Aboriginal or Torres Strait Islander communities. Communities and Justice have to consider the extended family or kinship groups of both parents. When deciding where your child should live, the most important rule is your child's best interests.

### **What if my child has one Aboriginal or Torres Strait Islander parent and one parent from another culture?**

If your child has one Aboriginal or Torres Strait Islander parent and one parent from another culture, the only rule in deciding where your child should live is what is in your child's best interests.

However, if your child lives with a non-Aboriginal or non-Torres Strait Islander family, Communities and Justice must make sure that your child stays in touch with his or her Aboriginal or Torres Strait Islander family, community and culture.

If your child lives with an Aboriginal or Torres Strait Islander family, Communities and Justice must make sure that your child can have contact with his or her other family, community and culture.

### **What if I do not agree with where my child is placed?**

Communities and Justice must listen to your views when it makes decisions about your child. If you are concerned that the Placement Principles have not been applied or you are worried about your child's safety you should tell Communities and Justice and your lawyer.

If Communities and Justice do not agree with you, your lawyer can help you to:

- ▲ talk to Communities and Justice about your worries,
- ▲ prepare an Affidavit (a written document for the Court) to tell the Court about your worries,
- ▲ get proof of the things you are worried about, such as asking to look at records from Communities and Justice and the police.

## More information and help

- ▲ Legal Aid NSW Family Law Intervention Unit: **1800 551 589**  
[www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)
- ▲ Aboriginal Legal Service: **1800 733 233**  
[www.alsnswact.org.au](http://www.alsnswact.org.au)
- ▲ LawAccess NSW: **1300 888 529**  
[www.lawaccess.nsw.gov.au](http://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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For more information about Legal Aid NSW Services:



## 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](http://www.relayservice.gov.au)

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