



RESPONDING TO CHILD PROTECTION ISSUES

Family Matters **ACT** COMMUNITY RESOURCE 2019



ACKNOWLEDGEMENTS

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PATHWAYS THROUGH THE CHILD PROTECTION SYSTEM

FAMILY SUPPORT AND OTHER SERVICES

If you need help looking after your children, or if you need help with problems affecting how you look after your children – like housing, health or family violence – you can get help to ensure your child is safe and avoid moving further into the statutory (legal) child protection system.

NOTIFICATION

If the “child protection department” (the Department) receives a report or notification that your child has experienced, is experiencing, or is at risk of experiencing harm – including abuse and/or neglect – they will begin to assess the notification.

INTAKE

The notification is considered and an initial assessment about whether to investigate further is made. To make this initial assessment, the Department may look at your family’s child protection history and contact services, schools, or hospitals etc.

If the Department decides not to investigate further, they may instead make referrals to family support and other services.

INVESTIGATION AND ASSESSMENT

If the Department decides to investigate further, they will make contact with you and your child. A full assessment of your child’s safety and wellbeing is made.

If the Department assesses that your child is safe and cared for, no further action will be taken, although they may refer you to family support and other services.

If the Department assesses that your child has been or is unsafe (this is called “substantiation”), they will decide what is required to keep your child safe.

If the risk of harm is low, the Department may decide to work with the family while your child continues to live in the family home.

If the Department thinks the risk of harm to your child is high, they may remove your child from the family home and place the child in “out-of-home care”. Out-of-home care includes kinship care, foster care and residential care. An out-of-home placement can be voluntarily agreed to by parents but if not, the Department must seek a court order to confirm any out-of-home care placement.



COURT

The Department may seek a court order (referred to as a “care and protection order” or “protection order”) to ensure that your child is safe and looked after.

Usually, before a final order is made, an interim order/s will be made. An interim order may specify where your child lives – for example, with you or in out-of-home care.

A final court order may also specify where your child lives, how long the order is for, and also whether you keep parental responsibility or whether this is given to the Department or another person.

You, as a parent, can agree to an interim or final order, or can disagree and contest the making of either type of order at court. You may be able to appeal against an order that is made by the court (for more information about this, see the section below).

ONGOING CASE MANAGEMENT

Throughout this process, the Department must work to ensure your child is safe and well. This includes where an interim or final order has been made. This process is called ongoing case management.

Ongoing case management may involve supporting you and your child so that your child can return home if it is safe for your child to be there. This is called “reunification”. Reunification may occur with a court order in place, or the Department may decide to withdraw involvement completely if they are satisfied that you can ensure your child is safe and well.

If reunification is not possible and your child remains in out-of-home care, the Department must ensure that your child is living in the most safe and culturally appropriate placement possible, and ensure that your child’s connections to family, community and culture are maintained and developed.



UNDERSTANDING CHILD PROTECTION INTERVENTION

1. I need help looking after my children – who can help?

You can get help from child care, playgroups, and family support services.

You can also get help for problems that could affect how you look after your children. These problems might concern your physical health, mental health, housing, family violence, alcohol and other drug misuse, gambling, or anything else.

There are Aboriginal and Torres Strait Islander organisations and staff that can help you and your children – see *Contact Lists*.

2. Why is 'child protection' calling and/or visiting me?

You, as a parent/caregiver, are responsible for making sure your children are safe and looked after.

But Child and Youth Protection Services (CYPS) is also responsible for your children's wellbeing.

If CYPS receives a "notification" or report regarding the safety of your children, they have to investigate and make sure your children are OK. A notification can be about your children experiencing or being at risk of physical harm, sexual harm, emotional harm or neglect. This could be about things you have done, or not done, or things that someone else has done.

Physical harm can be things such as hitting, punching or kicking a child, or shaking a baby.

Emotional harm can be things such as constantly putting a child down, humiliating or shaming a child, providing no love, support or guidance, threatening abuse, bullying a child or exposing a child to family violence.

Sexual harm can be things such as having sex with a child or touching a child's private parts, or exposing a child to adult sexual behaviours or pornographic materials.

Neglect can be things such as leaving a child unsupervised, infections due to poor hygiene or lack of medication, or not providing a child with affection or emotional support.

One of the first things they will do is contact you to talk about your children – they will call or visit you. CYPS must tell you what the notification is about and why they are contacting you.

You can get help from an Aboriginal and Torres Strait Islander legal service to understand why "child protection" is calling or visiting you – see *Contact Lists*.

3. Do I have to talk to CYPS? Do I have to let them into my house?

Yes, it is best for you and your children if you talk to CYPS if they call you or come to your house. This can be hard, so you can ask the child protection worker to call back later or arrange another time or place to meet. You can ask for time to get a support person or lawyer to help you talk to CYPS.

A support person could be a family member, friend, trusted community member, Aboriginal and Torres Strait Islander community organisation, and/or a lawyer from an Aboriginal and Torres Strait Islander legal service – see *Contact Lists*.

You do not need to let CYPS into your house, but they can get a court order to come into your house.

During the conversation, you have permission to ask for an interpreter if you need it. You should also ask the CYPS worker if he/she has anything in writing to give you. It is also a good idea for you to write down what the worker tells you. **It is important to tell the child protection worker that your children are Aboriginal and/or Torres Strait Islander.** This will help protect your children's cultural rights and ensure Aboriginal and Torres Strait Islander services are offered to you and your children.

CYPS has to treat you fairly and with respect. If you aren't happy with the way you've been treated, you have a right to complain to CYPS and/or the Ombudsman – see *Contact Lists*.



4. I'm worried that CYPS might take my children away from me. What can I do to stop CYPS taking my children away?

The best way to stop CYPS from taking your children away is to show CYPS that your children are safe and looked after by you.

If CYPS suggests that you do something – for example, see a counsellor – it is important that you do so. However, if a service is not right for you or your children, and/or if you want an Aboriginal and Torres Strait Islander service, you should say this to CYPS.

You can get help from your family, community and support services to make changes. There are Aboriginal and Torres Strait Islander organisations that can help you – see *Contact Lists*.

5. Can CYPS take my children away from me? What should I do if CYPS takes my children?

CYPS can take your children away from you if they believe there is an immediate risk that your children will be significantly harmed. CYPS can take your children away even without a court order but they will need to go to court very soon after. The court will decide if your children can come back home to you or not.

If CYPS takes your children away, it is important that you ask for any paperwork and for the reasons why they are taking your children – you should write these reasons down. It is also important to ask when the first court hearing is and then contact a lawyer. There are lawyers at Aboriginal and Torres Strait Islander legal services that can help you – see *Contact Lists*.

6. If CYPS takes my children, who will they stay with? Can I tell CYPS who I want my children to stay with?

CYPS must first see if your children can stay with your family. If there is a family member your children can stay with you need to tell CYPS about this person. CYPS will complete an assessment to make sure it's safe for your children to stay with them.

You can suggest family, friends, or other persons who you want your children to stay with. CYPS must consider and assess the person/s you

suggest, but CYPS doesn't need to choose that person/s. The court has the final say about who your children will stay with – the court might give CYPS the power to decide who your children stay with.

If there is no family your children can stay with, CYPS must then consider (in this order); an Aboriginal person in your community, an Aboriginal person in another community, and lastly a non-Aboriginal person who can make sure your children maintain a connection to their family, community, and culture, preferably living close to you. If CYPS cannot find one of these carers, your children may stay in a residential home with other children.

If you need help talking to CYPS about who you want your children to stay with, you can contact an Aboriginal and Torres Strait Islander organisation and/or an Aboriginal and Torres Strait Islander legal service – see *Contact Lists*.

7. Can I still see my children if they have been taken away from me?

Usually, yes. If CYPS has taken away your children and the matter has gone to court, the court will make an order that tells you when you can see them and if there needs to be someone to supervise your time with your children.

If there is no court order telling you when you can see your children or if there are any problems with seeing your children, you should talk to CYPS or contact a lawyer at an Aboriginal and Torres Strait Islander legal service – see *Contact Lists*.

8. If my children have been taken away from me, how will they keep their language and culture?

Your children can keep their connections to family, language, and culture by staying with a family member or carer from your mob, spending time with you and with other family, and going to family and cultural events.

CYPS is required to take your children's connections to family, language, and culture seriously, and must develop and follow a cultural plan to make sure that these connections are developed and maintained.

If you have any worries about your children's connections to family, language, and culture, you can speak to an Aboriginal and Torres Strait Islander organisation and/or a lawyer at an Aboriginal and Torres Strait Islander legal service – see *Contact Lists*.

9. How do I get my children back home? Do I have to do all of the things CYPS asks me to do?

You need to show CYPS that you can keep your children safe and looked after. You can do this by getting help and support from your family and community, and/or by getting help and support from support services – see *Contact Lists*.

You should also keep talking to your lawyer about getting your children back. A lawyer from an Aboriginal and Torres Strait Islander legal service can help you – see *Contact Lists*.

10. Do I need to go to court?

Yes, you need to go to every court hearing – even if your children are still living with you. It is best if you have a lawyer to help you at court. You can find a lawyer to help you from an Aboriginal and Torres Strait Islander legal service – see *Contact Lists*.

If you can't go to court, you need to tell the court or your lawyer this.

CYPS should tell you about the first time you need to go to court. If you don't know when the first or next court hearing is, you should contact CYPS and/or your lawyer.

11. What if I'm not happy with the court's decision?

If you're not happy with the court's decision, you need to talk to your lawyer about this as soon as possible. You may be able to appeal the decision, but you need to do this as soon as possible. For example, you must appeal a final order within 28 days of that order being made.

If things have changed since the court made its decision, you may be able to ask the court to change or remove an order. Again, you should talk to your lawyer about this as soon as possible.

If you don't already have a lawyer, you can contact an Aboriginal and Torres Strait Islander legal service to help you – see *Contact Lists*.

12. How do I make a complaint about CYPS?

CYPS is required to treat you fairly and with respect. They are required to keep your information private unless they need to share it to keep your children safe. They are required to give you all the information you need for you to understand what they are doing, what they are asking for, and why. This includes answering your questions about your children as soon as they can.

CYPS needs to make sure your children are safe and looked after, including if your children have been taken away from you. If you think CYPS hasn't acted in the right way, you can make a complaint.

Usually, it is best to first complain to your children's child protection worker or their supervisor. If you're still not happy, you can make a complaint to CYPS' complaint section. If you're still not satisfied with the way CYPS has handled your complaint, you can make a complaint to other agencies such as the Ombudsman – see *Contact Lists*.

It can be hard to make a complaint. If you need help you can speak to an Aboriginal and Torres Strait Islander organisation or lawyer at an Aboriginal and Torres Strait Islander legal service – see *Contact Lists*.

It is your lawyer's job to represent you fairly and properly. Your lawyer should also treat you fairly and with respect. If you don't think your lawyer has done their job properly and/or has treated you unfairly or disrespectfully, you can make a complaint – see *Contact Lists*.

13. What action can my community take?

You can take action by yourself or you can get a group of your community members together and take action together. A group with shared experiences and a strong voice can be a powerful force for change.





CONTACT LISTS

This document provides general information only. It does not provide or replace the need for legal, procedural or other advice. All efforts have been made to ensure the accuracy and completeness of information contained in this document, which was current at the time of publishing in 2019 and is subject to change.

CHILD AND YOUTH PROTECTION SERVICES, COMMUNITY SERVICES DIRECTORATE, AUSTRALIAN CAPITAL TERRITORY

T	General enquiries 13 22 81
E	ocyfs@act.gov.au
W	http://www.communityservices.act.gov.au/ocyfs

FAMILY SUPPORT SERVICES

The following services are available to help you with caring for your child and ensuring they are safe. They are tailored specifically to caring for children with an Aboriginal and/or Torres Strait Islander background. The use of these services aims to prevent moving into the statutory (legal) child protection system.

Child Care Access Hotline

T	1800 670 305
W	www.mychild.gov.au

ACT Playgroups Association

T	02 6251 0261 or 1800 171 882
W	http://playgroupact.org.au/

CHILD AND FAMILY CENTRES

T	General enquiries 13 34 27
E	childandfamilycentres@act.gov.au
T	Gungahlin Child and Family Centre 02 6207 0120
T	Tuggeranong Child and Family Centre 02 6207 8228
T	West Belconnen Child and Family Centre 02 6205 2904

ABORIGINAL AND TORRES STRAIT ISLANDER ORGANISATIONS

The following organisations provide support over a variety of sectors. If you have any questions or queries regarding your child, your rights and what your next step is, these organisations will be able to assist you.

ABORIGINAL AND TORRES STRAIT ISLANDER CHILD AND FAMILY SERVICES

Winnunga Nimmityjah Aboriginal Health Service NARRABUNDAH

T	02 6284 6222 or 1800 110 290 or 1800 120 859
W	http://www.winnunga.org.au/

Gugan Gulwan Youth Aboriginal Corporation | WANNIASSA

T	02 6296 8900
W	http://www.gugan-gulwan.com.au/



LEGAL SERVICES

The following services provide assistance on legal matters. If you have been contacted by Child and Youth Protection Services (CYPS) regarding your child, you can seek legal advice and assistance from these providers.

Aboriginal Legal Service (NSW/ACT)

T	02 6249 8488
W	http://www.alsthe ACTact.org.au/

COMPLAINTS

If you have any complaints regarding the justice system, Child and Youth Protection Services (CYPS) or any other service provider, the following contacts are available to make a complaint.

Child and Youth Protection Services, Compliments and Complaints

T	02 6207 5294
E	ocyfs@act.gov.au
W	https://www.communityservices.act.gov.au/ocyfs/children/child-and-youth-protection-services/compliments-and-complaints

ACT Ombudsman

T	1800 060 789
E	ombudsman@ombudsman.gov.au
W	http://www.ombudsman.act.gov.au/

ACT Law Society

T	02 6274 0300
E	mail@actlawsociety.asn.au
W	https://www.actlawsociety.asn.au/public-information/making-a-complaint



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