

Know Your Rights.

Aboriginal Families Navigating the NSW
Child Protection System & Finding Supports

Key contacts when involved with child protection

Lawyers, advocates and complaints: Support and contacts if your child is at risk of removal by the NSW Department of Communities and Justice.

This guide includes the experience and advice of Aboriginal families who have been through the New South Wales child protection system and were part of the [Bring Them Home, Keep Them Home \(BTHKTH\)](#) research at the University of New South Wales. The families have given us permission to share their experiences.

These are family experiences of what they found works for them that is shared. This does not constitute AbSec advice or views. AbSec recommends seeking independent legal advice wherever possible to assist you in your own circumstances.



Contacting legal services

Seek legal advice or representation as soon as you are contacted by DCJ.

Other times you should seek legal advice is if:

- Your child has been removed.
- You want your child returned home.
- You are changing an order made by the court like contact arrangements.
- Court orders are not being met.
- You need help deciding whether you can fight a matter or not.

Why is having a lawyer important?

Working with a lawyer could change the outcome of DCJ's involvement with your child. It will empower you with information and support for what could be ahead.

One parent said "If it wasn't for my lawyer then I don't know how long it would have taken me to know what I was doing." Lawyers can help to make sense of what is going on and your options.

What should a lawyer do for me?

Legal representation is when a lawyer is acting under your instructions and if they are doing things on your behalf such as writing to DCJ or handling your court matters. Lawyers should:

- Offer expert legal advice on how to fight for your child.
- Explain legal and Court processes.
- Listen to you and follow your instructions.
- Keep your information private, unless you instruct them differently.

Aboriginal parents have said they think it's important to tell your lawyer everything so they have the full picture, and they can give you the best legal advice.

Aboriginal parents have said that **it's really important that the lawyer pushes back on DCJ** and doesn't just agree to everything they have asked of you, or if they want to remove your child.

“My biggest mistake, and if I could ever help a family that even is getting the slightest feeling that they’re going to get looked at, your best bet is to go get legal advice straightaway. Because they [DCJ] don’t give you nothing. There is nothing in place. They make you believe that they can do whatever they want, and you’ve got no rights.”

How do I find the right lawyer for me?

Contact any of the below services and ask for a warm referral to a lawyer in your area, and if they cannot represent you, ask them to suggest other lawyers. If you want to choose your own lawyer, or a private lawyer, you can also contact legal aid and ask for the [list of ‘panel practitioners’ to choose from](#). This grant can move from lawyer to lawyer. If you ask your local Aboriginal organisations and mob, someone will usually know who the good lawyers are.

What if I’m going to Court and I don’t have a lawyer yet?

If your court date comes and you don’t have a lawyer yet (you may still be waiting on a legal service) you will be given a Duty Lawyer. They are not familiar with your case and might not understand you as a person.

- Ask your Duty Lawyer to ask that your case be heard later in the day, to give you more time to speak to them about your story, or to find another lawyer that is there on the day.
- Or you can ask them to ask for an adjournment (a delay).

Be aware that the Court will still want to make decisions while you look for a new lawyer. If you have a lawyer in mind and have time in advance, you can ask Legal Aid NSW or the Aboriginal legal Service (ALS) for another lawyer to be your lawyer. If you do get a Duty Lawyer and like them, they can continue to represent you if you ask, or they can help you to find a lawyer that will.

What if my lawyer isn’t following my instructions?

Aboriginal parents have said that they have had lawyers that just went along with what DCJ suggested, which led to bad outcomes. There are good lawyers out there that will fight for you and your family. A good lawyer listens to you about your matter, provides you options and then listens to what you want.

- You do not have to follow the advice of your lawyer.
- If your lawyer is not following your instructions, you can find a new lawyer.

If you want to change lawyers, let your current lawyer know and make contact with the ALS or Legal Aid to find another lawyer. You can request the transfer of your file to this new lawyer. However, if you fire your lawyer and you are with ALS, it might not be an option to transfer to a different lawyer in the ALS.

Everything you tell your lawyer will impact how the lawyer handles your case. If they have broken your confidentiality or have lied about what you have said, you can make a complaint to [The Office of the Legal Services Commissioner](#).

What if someone is using violence against me?

If your partner, or someone else, is using domestic, family, or sexual violence, it could be helpful to go to your lawyer alone (if possible). This can help you to tell the lawyer the whole story, which is especially important if DCJ are using this person’s violence as a reason to remove your child.

Everything you tell your lawyer is confidential (private), but they can’t lie about your situation to the court. For example, if your lawyer knows you are a victim/survivor of domestic, family, or sexual violence because you have told them about it, they can say nothing about it but they cannot lie and say that it is not happening.

Legal services that can help

Aboriginal Legal Service (NSW/ACT) Limited

Ph: 1800 765 767

E: als-care@alsnswact.org.au

ALS aims to provide culturally safe, expert legal and non-legal assistance. They aim to challenge the system in order to fight for Aboriginal children to have a connection to their family and culture. They work to prevent another Stolen Generation through keeping families together, help parents to achieve changes to get their children back, and make sure the court upholds the Aboriginal child placement principles. You can also receive advice and advocacy pre removal, support post proceedings, and for a section 90 (restoration).

Legal Aid NSW

Ph: 1800 551 589 / (02) 9407 2941

E: famac@legalaid.nsw.gov.au

- Early Intervention for Aboriginal and Torres Strait Islander people (EIU) is a specialist service of Legal Aid NSW. They aim to help families solve their family law issues early so you can avoid going to court. The issues they help with are seeing your kids, arrangements to look after kids within the family, child support, and issues with DCJ.
- Family Law Service for Aboriginal Communities (FamAC) aims to help Aboriginal and Torres Strait Islander families and children in family law and care and protection matters. The FamAC team provides advice, early intervention support, outreach and casework. They can help you with seeing your kids, problems with DCJ, getting your kids back, caring for kids within your family, domestic and family violence, and child support.

LawAccess NSW

Ph: 1300 888 529

A service of Legal Aid NSW, this is a free government service providing legal information, referrals, and in some cases, advice, to people with legal problems. Web chat: Monday to Friday, 9am to 5pm (excluding public holidays).

Wirringa Baiya Aboriginal Women's Legal Centre

Ph: 1800 686 587

A community legal centre for Aboriginal women, children and youth living in NSW. They provide free legal advice and representation relating to family violence. They are open Monday, Tuesday, Thursday, and Friday 10am-4pm.

Binaal Billa Family Violence Prevention Legal Service

Ph: (02) 6850 1234

E: admin@binaalbilla.com.au

A legal service that can do in-house case management support for family, domestic violence and sexual assault victims, and also give you free legal assistance. Aboriginal people or non-Aboriginal people with Aboriginal children can use the service. The case does not need to be in court yet for the family to be eligible for free legal advice and advocacy services. It is free and not means tested. They provide outreach services.

Women's Legal Service NSW

Ph: (02) 8745 6988

Aboriginal women: 1800 639 784

This service gives free legal advice to mothers and other female relatives who are dealing with DCJ. They can help you with welfare, family, discrimination or domestic violence. They have outreach services and can visit you in Emu Plains or Silverwater prisons.

Intellectual Disability Rights Service

Ph: (02) 9265 6350

The Ability Rights Centre (ARC), of Intellectual Disability Rights Service (IDRS), helps people with intellectual disability who have either had their children removed, or who are at risk of having their children removed. They offer legal advice, casework and representation.

Advocates and services

Aboriginal parents say that if DCJ becomes involved with your family, they will gather evidence to build a case against you.

DCJ utilise the DCJ caseworker, their manager, lawyers, mandatory reporters, the courts, and government power to do this.

This is why the most important thing you can do is to build your own support team and collect your own evidence to make your own case, to go up against theirs.

AbSec Carer Support Line
1800 888 698

I've got heaps of services that I've been involved with this whole time, since before my recovery, and I think that's helped a lot too because back then when my kids were taken, I had no one, and they took full advantage of the fact that I didn't have support. I didn't have a case worker, I didn't have family up there, all my family was down here. Yeah, it's very different this time around, but it's like everything's sort of starting to pick up.

- Parent, BTHKTH research

Why do I need a support team?

A support team could include your family, friends, community members, lawyer, advocate, Aboriginal Community-Controlled Mechanisms (ACCMs), Aboriginal Community-Controlled Organisations (ACCOs), or other community-based support services. The sooner you get your team together that you trust to have your back, the better.

What should DCJ be doing?

DCJ should be making Active Efforts¹ to support you, which often includes linking you up with services that genuinely help. They should know what service to refer you to, but if they don't or you already know of one you want to go to, DCJ can help overcome waitlists.

DCJ (called the Secretary in the law) can ask a government or funded non-government agency to give priority help or services to a child or young person at serious risk, and to their family². You can remind them of this.

Advocates and services that can help

Aboriginal Child and Family Advocacy Service 1800 765 767

The ALS's ACFAS is a pilot program that supports Aboriginal families in Dubbo and Moree that might have their children removed by DCJ. They have family advocates as well as lawyers to provide holistic support. Call direct (02) 6841 6969 or free call 1800 765 767, and ask for ACFAS.

Aboriginal Community-Controlled Mechanisms 1800 888 698

ACCMs are a community led group that is independent of government. They are focused on keeping the children in their community safe and connected to family, culture and country. The below services will work with you to support you and your family. To learn more about ACCMs, contact sfow@absec.org.au.

- Wee-Ya Win-na, Hunter region.
- Aboriginal Children on Country, Illawarra/Shoalhaven.
- One Mob Connection, Wagga Wagga.
- Dubbo Grannies Group, Dubbo.

Family Inclusion Strategies in the Hunter 1300 942 598

Family Inclusion Strategies in the Hunter (FISH) has peer workers—advocates with lived experience of the child protection and out-of-home care (OOHC) systems. Many have had children restored to their care. They care a lot about the experiences of other parents and family members. FISH works across Newcastle and the Hunter region. Email parentpeersnewcastle@gmail.com.

¹ <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157#sec.9A>

² Section 17, Children and Young Persons (Care and Protection) Act 1998.

Making a complaint

DCJ do not have good enough oversight of all children in OOHC and continue to have accountability mechanisms (like their complaints unit) that are not good enough³.

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I contacted the Ombudsman with a as detailed as I could report. Because they only let you put a certain amount of letters into a reports. So, I'm trying to get all this information in - so I gave them as detailed as I could. When they contact back, they had handed all the information over to the DoCS complaints line. But I'm not sure what happened all from there.

- Parent, BTHKTH research

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Why do parents need to complain?

Some Aboriginal parents report that DCJ caseworkers do not always listen to or believe them.

One mum said “He told me that he was being really badly abused and mistreated. Through the years I had made reports of what was going on with my kids and my son and what he was telling me what was going on in that house and it was basically dismissed or DoCS would go and talk to them and they would find out what [young person] was telling me and it would get even worse for him.”

Keep a record

If you are worried for your child's safety in OOHC:

- Be strategic by keeping a record of every time you call to make a complaint to the helpline.

You can use your complaint record to elevate your case, by saying “look at all of the times I have asked for help. You need to do something.”

What should DCJ and DCJ-funded services be doing?

They must follow the principles of respectful treatment and transparency, outlined in the [DCJ Managing Complaints and Feedback Policy](#).

The worker looking into the complaint needs to be different to the person being complained about, and there should be no unfair treatment to the person who made the complaint. The policy says you should be given help to make the complaint if you want it, and it should be confidential and accessible.

What if DCJ doesn't have case management?

If your child is being case managed by a Non-Government Organisation (NGO) or ACCO, and you want to make a reportable complaint about the safety of your child, [the agency is required to conduct a reportable conduct investigation](#)⁴.

These reportable allegations need to be about either your child's carer, an adult household member, or someone that works at the agency. Once investigated, the agency needs to tell the Office of the Children's Guardian (OCG) and DCJ what they found.

³ Audit Office of New South Wales, 2024.

⁴ Section 34, Children and Young Persons (Care and Protection) Act 1998.

Different options for putting in a complaint

Talk to your DCJ caseworker

Depending on your situation and caseworker, and if you feel safe enough, you could choose to talk to the DCJ caseworker about your concerns. If your child is in OOHC, DCJ should not be telling the carer information about your concerns if there is a risk it will harm your child. For example, DCJ should not be telling a carer that your child has told you or someone else that violence in the carer's home is happening, because it might put your child at further harm from the carer.

Community Services Centre

You can complain directly to your local CSC office, that is case manging or used to case manage your child. [Click here to find the location-specific number of the CSC you need to complain to.](#)

[Community Services Enquiry, Feedback and Complaints Unit](#)

1800 000 164

This hotline deals directly with DCJ's actions and decisions and other services that are funded by DCJ. They will try to handle the issue on the phone or give the issue to someone else to solve. They say they try to have the issue solved in 20 days, but experiences of parents is that they wait much longer than that. You can talk to them about decisions and actions DCJ have made, like being treated badly or bad communication. If they say your complaint is 'justified', they can either fix the mistake, say sorry, tell you why they made that decision, or make promises to improve their polices, practices or systems. They can decide to handle the complaint by contacting the local DCJ office with case management to solve it.

Email: complaints@dcj.nsw.gov.au

Post: Reply Paid 63437, Complaints Unit, Locked Bag 4028, Ashfield NSW 2131.

[Child Protection Helpline](#)

13 21 11

If you know your child is in an unsafe placement, you can call this helpline to make a child protection report. This is the same way that reports would have been made about your family, but the outcome might not be the same, and the type of assessment could be different.

[Office of the Children's Guardian](#)

(02) 8219 3800

OCG won't deal directly with complaints or concerns about risk of harm to individual children. If you are worried about an organisation's employee and how they behave around children, you can report this to the OCG. The report might be about sexual misconduct involving a child, ill-treatment of a child, neglect of a child, or assault against a child.

Email: complaints@kidsguardian.nsw.gov.au or reportableconduct@ocg.nsw.gov.au.

Post: Office of the Children's Guardian, Level 13, 418A Elizabeth St, Surry Hills NSW 2010.

[NSW Civil and Administrative Tribunal](#)

NSW Civil and Administrative Tribunal (NCAT) is an independent body that deals with fixing legal problems by resolving disputes and giving out enforceable orders. This can include reviewing decisions made by NSW government agencies (including DCJ). The resolution of disputes may involve a range of processes such as mediation, conciliation, case conferences or hearings.

You can complain to the Minister for Families and Communities and Minister for Disability Inclusion by [filling out this form](#)⁵. You can also write a letter and post it. Make sure to include evidence of what you are saying. They say they will try and get back to you within 20 days, but there are sometimes delays.

Your complaint will become a formal departmental record. If there is a threat in the complaint, they will send it to the NSW Police. Lots of families have approached their local Member of Parliament before and asked them to represent them to government decision makers (Ministers and Secretaries). This is often a way of putting pressure on and getting things heard by the Minister.

Post: The Hon. Kate Washington MP, PO Box 82, Raymond Terrace, NSW 2324.

NSW Ombudsman

The NSW Ombudsman is an independent agency that is responsible for investigating complaints about government and some NGO agencies (including DCJ, foster care, and OOHC agencies) and the actions made. They will look at the information you give them and decide what action to take.

If there are no current issues and the complaint is over a year old, they can say no to the complaint. They might find another agency to refer it to, help to solve it with the agency involved, and suggest to the agency what they could do. They then make findings and recommendations and keep tabs on what the agency does to make it happen.

The Ombudsman might ask for you to follow the other ways of complaining before they look at it. The Ombudsman receives more complaints than they investigate, and [formal processes can take a long time and be complicated](#)⁶.

Australian Association of Social Worker Ethics Office

Ph: (03) 9320 1000 E: ethicscomplaints@aasw.asn.au

Some case workers are social workers, and some social workers are a member to the Australian Association of Social Workers (AASW). You can make a complaint to the AASW if you believe that your caseworker has engaged in unethical conduct or gone against the AASW code of ethics. The complaint goes through to the Ethics Complaints Management Process.

Australian Health Practitioner Regulation Agency Psychology Board

1300 419 495

The Australian Health Practitioner Regulation Agency (AHPRA) Psychology Board monitor psychologists compliance with policies and procedures. If someone such as your caseworker or Children's Court clinician is a registered psychologist, you can report them to AHPRA.

Their response can include to take action to fix the matter if the psychologist went against their policies or procedures, explain the situation, apologise, or review their policies and procedures.

If you are feeling anxious, sad and in other ways not feeling good, you can call these numbers at any time:

13 yarn: 13 92 76

QLife: 1800 184 527

Brother to Brother: 1800 435 799

Lifeline: call 13 11 14, text 0477 131 114

Yarning Safe n' Strong: 1800 959 563

Suicide Call Back Service: 1300 659 467

⁵ <https://www.nsw.gov.au/nsw-government/ministers/minister-for-families-and-communities-disability-inclusion>

⁶ Family is Culture Review, p.304.

References

Bring Them Home, Keep Them Home research	unsw.edu.au/staff/bj-newton
Active Efforts	https://classic.austlii.edu.au/au/legis/nsw/consol_act/caypapa1998442/s9a.html
Aboriginal Case Management Policy	absec.org.au/aboriginal-case-management-policy/
Child Placement Principles	snaicc.org.au/our-work/child-and-family-wellbeing/child-placement-principle/
Children and Young Persons (Care and Protection) Act 1998	legislation.nsw.gov.au/view/whole/html/inforce/current/act-1998-157#sec.64
DCJ Guide for Families	dcj.nsw.gov.au/children-and-families/nsw-child-protection-guide-for-families.html
DCJ Practice Framework Standards	dcj.nsw.gov.au/children-and-families/caseworker-visits/practice-framework-standards.html
Aboriginal Child Protection Statistics	aihw.gov.au/reports/child-protection/child-protection-australia-2022-23/contents/aboriginal-and-torres-strait-islander-children/out-of-home-care

Know Your Rights.

Aboriginal Families Navigating the NSW Child Protection System & Finding Supports

A trusted and accessible online resource built by mob in NSW to stand up for our rights and keep our kids strong, safe and connected to family.

