

Working with Aboriginal families

Changes to the law



The way we work

We believe respectful partnerships with families build safety and create positive change for children and young people.

The NSW Practice Framework puts children and young people at the centre of our decisions and actions. It ensures we work with family and culture to keep children and young people safe.

The Aboriginal Case Management Policy promotes a culturally-informed response to the needs of Aboriginal families. It is child-focused, encourages family led decision-making, values community involvement and is designed to keep families together.

Recent changes

Changes to child protection legislation support our goal to keep Aboriginal children and young people at home with their families, with their kin and in their communities.

The Aboriginal and Torres Strait Islander Principles have not changed. They are about self-determination, participation in decision-making and the placement of Aboriginal and Torres Strait Islander children and young people.



Keeping families together

The Department of Communities and Justice must offer alternative dispute resolution (ADR) to families before going to court (unless there are exceptional circumstances).

There are different types of ADR but we prefer family group conferencing. This brings families together with an independent person so they can make a family-led plan to keep their children safe. Families can be supported by an Aboriginal facilitator, an Aboriginal caseworker or ask for other cultural support.

Families can access free legal advice before agreeing to ADR through the Aboriginal Legal Service NSW/ACT on 1800 733 233 or Law Access NSW on 1300 888 529.





A greater focus on family restoration

When a child can't live safely with their family, the Children's Court will now consider whether restoration is possible within 24 months. When parents have made some progress in creating a safe home they will have more opportunity for their children to return home.

When the court makes a short term court order with the goal as restoration, the Department of Communities and Justice will work with families to help children return home. In special circumstances, we can ask the court for more than 24 months if needed.



Allowing guardianship orders with consent

Parents will now be able to decide that a friend or family member will be guardian for their child without going through a lengthy court process. This is called a guardianship order by consent.

To make sure parents are supported in making a decision about guardianship, they must receive independent legal advice before the Children's Court can make an order. Families can apply to Legal Aid for assistance.



Giving children and young people a greater say

Children and young people should be active and respected participants in the decisions that are made about their lives. That's why when applications are now made to vary or terminate an existing care order, the Children's Court must prioritise the views of the child or young person.

Change to the law on open adoptions

Adoption remains the least preferred placement option for Aboriginal children and young people.

The Supreme Court can now approve a child's adoption by a guardian without the consent of parents. The court has to see that the child has a stable relationship with their guardian, the adoption will promote the child's welfare and adoption is in the child's best interests. For Aboriginal children, all other alternatives to adoption must have been explored.



WANT MORE INFORMATION?

Check out the [factsheets](https://www.facs.nsw.gov.au/child-protection-system) on the website at <https://www.facs.nsw.gov.au/child-protection-system> to learn more about the changes.