



Placing a Child in Care

Aboriginal and Torres Strait Islander
Child Placement Principle



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Need to know more about your legal rights when your family comes to the attention of Child Safety Services?

- *Contact ATSILS with any initial contact with Child Safety Services so we can advise you of your and your child/ren's legal rights.*

This fact sheet outlines:

- The importance of seeking legal advice
- Placing a Child in Care
- Child Placement Principle
- Non Aboriginal or Non Torres Strait Islander Placements
- Benefits of the Aboriginal and Torres Strait Islander Child Placement Principle
- How to obtain legal advice?

ATSILS is a non-profit, Aboriginal and Torres Strait Islander community based organisation with 28 locations across Queensland. We provide innovative and culturally competent legal services covering criminal, civil and family law areas.



FREE CALL 1800 012 255



1. Introduction

In the event that your family comes to the attention of Child Safety Services, Child Safety Services may conduct an Investigation and Assessment to determine the safety of a child within your family by assessing if the child has experienced harm or is at risk of experiencing harm. We always recommend that in any initial contact with Child Safety Services that you contact our organisation as we can advise you of your and your child/ren's legal rights in a way which will allow you to make an informed decision as to the options which is in your families best interest. Aboriginal and Torres Strait Islander children are over-represented across all phases of the child protection practice including Intake, Investigation & Assessment and Ongoing Intervention. This significantly impacts the adherence levels of culturally appropriate placements and further highlights the importance of legal representation.

Contacting Us

Aside from our regional office telephone numbers (which should be known to the local Child Safety Service Centre), our Organisation is available to provide legal assistance and advice 5 days a week 8.30am to 5.00pm, we can also be contacted via a free call on **1800 012 255**.

2. Placing and Child in Care?

In the duration of a Child Safety Services Investigation and Assessment or Ongoing Intervention phases it can be assessed that a child may require out of home care. Any placement of an Aboriginal and Torres Strait Islander child must be in accordance with the *Child Protection Act 1999 section 83 Additional provision for placing Aboriginal and Torres Strait Islander children in care*.

A child must be placed in care that best meets a child's needs and culturally safe. Child Safety Services **must first** consider placing a child with family members or other people who have a significant relationship with the child. This means that a family or community member must apply to become a **'Kinship Carer'** for the child, and this will involve police history and other checks.

Note: This can take time. ATSILS may be able to support the kinship carer application process including Blue card applications, responding to request for further information or appealing a decision. This can take time. It is important to note that criminal or child protection history does not necessarily exclude you from applying to become a carer.

The Child Placement Principle requires Child Safety Service Staff to:

- consult with representatives of local Recognised Entities (Aboriginal and Torres Strait Islander Child protection organisations) or other appropriate community representatives during investigation of child protection concerns and at all stages of intervention in child protection matters regarding Aboriginal and Torres Strait Islander children; and
- consider cultural factors which have a bearing on decision making to ensure the decision ensures optimal retention of the child's relationships with parents, siblings and other people of significance under Aboriginal or Torres Strait Islander Custom.

The general principle under the CPA is that an Aboriginal and Torres Strait Islander child should be cared for within the Aboriginal and Torres Strait Islander community.

An Aboriginal and/or Torres Strait Islander Recognised Entity must also be involved in any decision making process where it is a significant decision in a child's life including the placement of a child/ren, except in an emergency (and then an Aboriginal and Torres Strait Islander Recognised Entity must be consulted as soon as practicable).

If the child is an Aboriginal and/or Torres Strait Islander child, the following must be considered by Child Safety Services before a child is placed in care:

- The child's relationships with parents, siblings and other people of significance under Aboriginal tradition or Island custom is maintained.





- An order of priority of where the child should be placed:
 1. Member of the child's family
 2. Member of the child's community or language group
 3. Another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group
 4. Another Aboriginal person or Torres Strait Islander.

Note: It is strongly recommended families engage the Recognised Entity and provide relevant family and community information to ensure children are placed in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle.

ATSILS can ensure the information is appropriately considered by decision makers within Child Safety Services and the Children's Court as your legal representative.

- Where a child can't be placed according to the above hierarchy then consideration must be given to placing the child with a person who lives near the child's family, community or language group.

3. Non Aboriginal or Non Torres Strait Islander Placements?

If the child is placed with a Non-Aboriginal or Non-Torres Strait Islander carer, Child Safety Services must assess the carer's commitment to facilitating contact between the child and their family; maintaining their contact with their community and culture; and preserving the child's sense of Aboriginal and/or Torres Strait Islander identity.

Where an Aboriginal or Torres Strait Islander child cannot be placed within the preferred hierarchy of placement options. Safeguards when placing a child with a Non-Aboriginal or Non-Torres Strait Islander carer include that the carer must live near the child's family, community or language group, and must also be committed to the following:

- facilitating contact with the child's parents and other family members; and
- helping the child to maintain contact with his or her community or language group; and
- helping the child to maintain a connection with his or her culture; and
- preserving and enhancing the child's sense of Aboriginal or Torres Strait Islander identity.

Note: It is important that Child Safety Services should demonstrate within the child's case plan and the carer placement agreement how the Aboriginal and Torres Strait Islander Child Placement Principle will be implemented and benefit the child/ren.

4. Benefits of the Aboriginal and Torres Strait Islander Child Placement Principle?

The Principle aims to benefit children and families by:

- Reducing the over-representation of Aboriginal and Torres Strait Islander children on child protection orders.
- Ensuring that family reunification is given the highest priority and supported through the implementation of the child/ren's placement.
- Preserving and strengthening Aboriginal and Torres Strait Islander family unit by supporting parents and extended families to protect and care for their children.
- Protecting the unique cultural rights of Aboriginal and Torres Strait Islander children recognising their right to be connected and have regular contact with immediate and extended family, cultural language groups, significant individuals, and Aboriginal or Torres Strait Islander community through culturally safe placements.
- Ensuring the Holistic best interest and wellbeing of Aboriginal and Torres Strait Islander children in out of home care, inclusive of the preservation and enhancement of their Aboriginal or Torres Strait Islander Identity, sense of belonging to kin and country.ⁱ

ⁱ Combined Voices Committee and Queensland Aboriginal and Torres Strait Islander Child Protection Peak. 2009





5. Obtaining Legal Advice?

ATSILS provides innovative, professional and culturally competent legal service for Aboriginal and Torres Strait Islander people across Queensland.



FREE CALL 1800 012 255

We can be contacted toll free on **1800 012 255**, 24 hours a day, 7 days a week. We have 28 offices located across Queensland so you will be put in touch with the closest regional office that is able assist you with your legal needs. In some instances, ATSILS might have a conflict of interest and will not be able to provide you with legal advice. If this is the case, you may wish to try Legal Aid Queensland on their Indigenous Information line on **1300 65 01 43**.

This document is current as at February 2016. It is intended as a guide only and to provide general information. This document should not be relied upon as legal advice. Whilst all reasonable care has been taken in the preparation of this information, no liability is assumed for any errors or omissions.

