



ATSILS

Aboriginal and
Torres Strait Islander
Legal Service (Qld) Ltd

Legal Fact Sheet

Placing a Child in Care

*Aboriginal and Torres Strait Islander
Child Placement Principle*



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

Call 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 25 locations across Queensland. We provide innovative and professional legal services covering criminal, civil and family law areas.

Freecall 24/7  1800 012 255

Last Updated: February 2023



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. When Child Safety makes a significant decision about an Aboriginal or Torres Strait Islander child, such as removing the child from a parent, Child Safety must:

1. Have regard to the child placement principles; and
2. In consultation with the child and the child's family, arrange for an Independent Aboriginal or Torres Strait Islander entity for the child to facilitate the participation of the child and the child's family in the decision-making process. An Independent Entity can be a person who is an elder, a representative from the child's community or language group or an organisation which provides advice and support.

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.

- What are the Child Placement Principles The following principles apply in relation to Aboriginal and Torres Strait Islander children:1. Prevention –a child has the right to be brought up within the child's own family and community;2.Partnership- Aboriginal and Torres Strait Islander people have the right to participate in significant decisions;3. Placement- If a child is to be placed in care, the child has a right to be placed with a member of the child's family group;4. Participation - a child and the child's parents and family members have a right to participate, and be enabled to participate in an administrative or judicial process for making a significant decision about the child;4. Connection – a child has a right to be supported to develop and maintain a connection with the child's family , community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person. 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 Independent Aboriginal or Torres Strait Islander Entity for the child 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.

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.¹

¹ Combined Voices Committee and Queensland Aboriginal and Torres Strait Islander Child Protection Peak. 2009

5. Obtaining Legal Advice

ATSILS provides innovative and professional legal services for Aboriginal and Torres Strait Islander people across Queensland.

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This Factsheet is not intended to provide legal advice and has been provided for the purpose of providing information only. Whilst all reasonable care has been taken in the preparation of this information, no liability is assumed for any errors or omissions.