



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:

- Placing a Child in Care
- Child Placement Principles
- Benefits of the Aboriginal and Torres Strait Islander Child Placement Principle

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

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1. Introduction

In the event your family comes to the attention of the Department of Child Safety, Seniors and Disability Services (Child Safety), they may conduct an Investigation and Assessment to assess whether a child has experienced harm or is at risk of experiencing harm. **We recommend that in any initial contact with Child Safety you contact our organisation for advice about your legal options.**

Aboriginal and Torres Strait Islander children are over-represented across all phases of the child protection process including Intake, Investigation & Assessment and Ongoing Intervention. This further highlights the need for culturally appropriate placements and the importance of legal representation.

2. Placing a child in 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.

What are the Aboriginal & Torres Strait Islander Child Placement Principles?

A child must be placed in care that best meets a child's needs and is culturally appropriate in accordance with the placement principles. Child Safety **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 can apply to become a '**Kinship Carer**' for the child. This will involve criminal history and working with children checks.

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

The five core elements of the Child Placement Principle that apply to Aboriginal and Torres Strait Islander children are:

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;
5. 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.

Placement hierarchy - In order of priority the child should be placed with:

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.

As your legal representative ATSILS can ensure the information is appropriately considered by decision makers within Child Safety Services and the Children's Court. 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, and has a demonstrated capacity for ensuring the child's continuity of connection to kin, country and culture.

Who or What is an Independent Entity?

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 cultural advice and support. A child or the child's family does not have to consent to the involvement of an Independent Entity in their matter.

3. Benefits of the Aboriginal and Torres Strait Islander Child Placement Principles?

The Principles 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's placement.
- Preserving and strengthening Aboriginal and Torres Strait Islander families 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*

It is important that Child Safety demonstrate within the child's case plan and the carer placement agreement how the Aboriginal and Torres Strait Islander Child Placement Principle is to be implemented and benefit the child.

Obtaining Legal Advice

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

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We can be contacted toll free on **1800 012 255**, 24 hours a day, 7 days a week. We have 25 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 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.