

Child Protection Matters

What is Child Protection law?

Child protection law is about protecting children. It's about making sure that children are healthy and safe from harm.

How does Child Protection law work?

In the Northern Territory, NT Families and Children (FACS) is the department that has the job of making sure that children are safe. FACS have to follow the NT law in everything they do.

The law says that any adult in the Northern Territory must report to FACS or the police where they believe that a child has suffered or is suffering from bad treatment. This includes physical and emotional abuse, sexual abuse and neglect. This is called 'mandatory reporting'.

The people who are most likely to report child abuse are doctors, teachers, school workers, police, neighbours or other family members. The name of the person reporting to FACS must be kept strictly secret by FACS, and by the Court if the Court becomes involved.

We all need to look after our children. We should all help and support people looking after children. If people don't treat their children properly, then you should report it. On the other hand if you think FACS are taking children away and it's not right, tell the parents to contact a lawyer to get legal advice.

How can legal services help with FACS matters?

You don't have to wait until a matter is in court to get legal help. Legal services can give you independent advice and information about legal processes and explain what is happening with your case. They can also help you by talking to FACS or writing to FACS to give your side of the story. What you tell your lawyer is confidential (secret).

If your matter does go to court, legal services can go to Court for you and help you to have a say about your child.

A lawyer can also give you advice if you don't think FACS has done the right thing or has treated you or your child badly.

Some people think that FACS just comes in and takes children – what does FACS actually do?

All reports made to FACS should be assessed. There are times when they decide everything is OK. Other times, FACS might speak to the parents or guardians where the children are living and talk about ways of helping them to look after the children. Sometimes FACS might be so worried about the children that they decide that children should be removed for their own protection.

Sometimes, a child will be taken away for a short time, so FACS can investigate. Other times, FACS will apply to the Court to keep a child in the Department's care for a longer time – anywhere from a couple of months to a couple of years. If the matter is really serious then a child may be in the Department's care until they are 18.

Agreements with FACS

In some cases, FACS workers will see if the parents will agree for the children to go into the Department's care for a short period of time. This might be because the parents have some problems or stress that they need to sort out, and they are having trouble caring for the children at the same time. FACS might see if the parents will sign an agreement. If FACS talk to you about signing an agreement it is best to talk to a lawyer before you sign anything. You should never sign anything if you don't understand what it says.

If FACS apply to the Court for an order about my children, what can I do?

If FACS apply to the Court for an order about your children you should get advice from a lawyer as soon as possible. FACS will need to prove to the Court that your children are in need of care. FACS will need to show the Court a case plan about how your children are going to be looked after while they are in the Department's care. You can talk to FACS about this plan and your lawyer can help you to try to reach an agreement with FACS for you to see your children as often as possible while they don't live with you. FACS might put in the plan that you need to go to courses such as parenting classes, or drug and alcohol counselling, before the children will be able to live with you again.

What should I do if I get papers from FACS?

If you get given any papers from FACS you should talk to a lawyer as soon as possible. There are a number of different legal services that can help. There is a list of these services at the end.

What about a parent's rights to keep their children?

Parents' rights come after the rights of children. This is because a child's right to a safe home is seen as the most important thing. But a parent has a right to be heard and you should get legal advice about this so that you can make sure someone knows your side of the story.

Aboriginal customs about bringing up children can be very different to western cultural ways – does FACS treat Aboriginal children differently?

There are special provisions in the law for Aboriginal children. The Aboriginal Child Placement Principal recognises the importance of keeping Aboriginal children with their family and for Aboriginal children to grow up safe and knowing their culture. This means that FACS must try to make sure the child lives with their extended family.

Any carer, including family members, has to be assessed by FACS to make sure they are suitable. The assessment makes sure that the person offering to look after the child, their home, and other people who live or visit the home will care for and protect the child.

If the extended family can't have a child live with them, what about other families from the same country?

The law recognises the importance of a child retaining a strong link with his or her culture. FACS has to try to find a placement for a child with people from that child's own country.

Sometimes family members are involved in bringing up children – what can they do if a child is removed from a parent's care?

The involvement of key people in a child's life is important. So for example, if there is an Auntie or Grandmother who is an important person in a child's life or has been looking after the children, FACS should try to keep them involved.

If FACS have taken my children, can I go to the Family Court or the Federal Magistrates Court to get them back?

The Court that makes orders about protecting children is called the Family Matters Court. If the Family Matters Court has made orders taking away children, the Family Court and the Federal Magistrates Court will not be able to make any orders. If there are already family law orders in place then they will be suspended for the time that the FACS orders are in place. If you are not sure whether there are any orders about your children, you should get a lawyer to check this for you.

Can I get the court to change or remove the order?

If the Family Matters Court has made an order taking away your children then you can go to that Court to try to get the order changed or removed. You will need to show the Court that things have changed since the order was made and that your children will be safe and looked after if they live with you. You should speak to a lawyer about this.

How do I get help from a legal service?

Legal services across the NT which can help with FACS problems:

- **NT Legal Aid Commission** has offices in Darwin, Palmerston, Katherine, Tennant Creek and Alice Springs. Freecall 1800 019 343.
- **Central Australian Aboriginal Legal Aid Service** has offices in Alice Springs and Tennant Creek. Freecall 1800 636 079.
- **Central Australian Aboriginal Family Legal Unit** has an office in Alice Springs (**Freecall 1800 088 884**) and Tennant Creek (**call 8962 2100**) and services Yuendumu, Papunya and Ntaria (Hermannsburg).
- **Central Australian Womens Legal Service** has an office in Alice Springs. Freecall 1800 684 055.



Northern Territory Legal Aid Commission



Central Australian Aboriginal
Legal Aid Service

