

New agreement helps reduce the number of children entering foster care

Almost 2,000 families in NSW have received early legal advice under a landmark agreement to help prevent their children being taken into care.

The agreement introduced and implemented by the NSW Government in October last year, involves a partnership between Legal Aid NSW, the Aboriginal Legal Service, and the Department of Communities and Justice (DCJ). The agreement ensures all families, particularly Aboriginal families, are guided towards early legal advice where there is a risk of a child being removed from their care.

The Legal Assistance for Families Partnership Agreement (LAFPA) is aimed in part at reducing the over-representation of Aboriginal children in out-of-home care. The new data about the partnership follows the recent release of a report from the Office of the Advocate for Children and Young People that raised concerns about emergency accommodation for children in care.

“Providing legal advice before a child is removed enables the family to explore other care options,” says Legal Aid NSW Family Law Executive Director Katie Kelso.

“Those options can include placing the child with extended family members. This often enables a child to maintain contact with their parents and other loved ones
“We know that outcomes are better for children when we can keep them with family where it is safe to do so. We know from the Family is Culture report that for Aboriginal children - who are 10 times more likely to enter foster care - placement with family or kin maintains vital connections to culture and community.

“These alternative care arrangements involving family members can potentially prevent some of the adverse outcomes of foster care, such as children being subjected to harm^[1] or being at increased risk of engagement with the criminal justice system.”^[2]

Case study

Of the clients who have received advice from Legal Aid through this LAFPA initiative, 34 percent identify as Aboriginal or Torres Strait Islander.

Aboriginal woman Sue* was about to have her children removed because of concerns about substance abuse. The Department of Communities and Justice were at her house, and about to commence the removal paperwork, when an urgent referral for advice from Legal Aid was made by DCJ staff.

The telephone advice provided by Legal Aid’s Family Law Service for Aboriginal Communities enabled Sue to nominate a maternal grandmother who could care for the children while their mother completed residential rehabilitation. This arrangement ensured they were looked after by a family member rather than being placed in care.

Minister for Families and Communities, Kate Washington said the agreement was part of the Minns Labor Government’s commitment to reducing the number of children entering care.

"This partnership agreement is important in ensuring that families have the information and legal advice they need when they come into contact with the child protection system.

“By lining up legal advice, the NSW Government is backing families to come up with solutions to stay safely together,

“I thank Legal Aid and ALS for this powerful partnership that’s already showing signs of success.

Quotes from Karly Warner, Aboriginal Legal Service (NSW/ACT) Limited CEO

“Caseworkers are 12 times more likely to remove Aboriginal children from their homes than non-Aboriginal children.³ This growing over-representation is unacceptable and it’s denying Aboriginal children their rights to grow up safe and strong in community and culture.

“By providing early legal advice, we can empower families to find the solutions that are best for them and their kids. We can reduce the risk of a child being removed from their family, home, school, Country, cultural connections, and everything they know.

“The Legal Assistance for Families Partnership Agreement is the result of a recommendation from the Aboriginal-led Family Is Culture Review.

^[1] [Child protection Australia 2022–23, Data - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2022-23-data)

^[2] [Children in out-of-home care and the criminal justice system: A mixed-method study \(aic.gov.au\)](https://www.aic.gov.au/research-and-publications/children-in-out-of-home-care-and-the-criminal-justice-system)

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