



Domestic Violence NSW

CHILD PROTECTION FACTSHEET AND INFORMATION FOR YOU

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CHILD PROTECTION

A child may be at risk of harm if they are living in a house where they are exposed to domestic or family violence. This means that government agencies might check up on the child to make sure they are being cared for. There are also a number of things you can do to help protect children in NSW.

WHAT IS CHILD PROTECTION?

“Child protection” refers to the different methods for protecting children from harm.

Child protection covers many aspects of child safety, including:

- sexual abuse;
- physical abuse;
- intimidation;
- neglect;
- psychological harm;
- emotional harm; and
- environmental harm.

If a child is at risk of significant harm, sometimes the government will intervene and protect that child from harm.

The most appropriate type of protection for every child will be different, depending on their circumstances. Usually, the government, other agencies and professionals will work with the child’s family to make sure the child is safe. If a child is in immediate danger, it is likely they will be removed from the danger to a safe place.

In NSW, the Department of Family and Community Services (**FACS**) is the main government agency when it comes to child protection.

This factsheet provides information on how child protection works in NSW.

WHEN DOES A CHILD NEED PROTECTION?

A child needs protection when he or she is at risk of significant harm.

A child is at risk of significant harm if they are suffering, or are at risk of suffering, from neglect, abuse or psychological harm.

Some examples of situations when a child may be at risk of significant harm are:

SIGNS

The child’s **basic physical or psychological needs are not being met**, or are at risk of not being met

- low weight
- physical problems that have not been treated
- poor standards of hygiene
- scavenging or stealing food
- not attending school
- not receiving basic medical care
- living in dirty or unpleasant conditions
- ongoing homelessness

The child is **being physically abused**, or is at risk of being physically abused

- bruising, bite marks, scratches
- burns and scalds
- the child is exposed to domestic violence



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SIGNS

	<ul style="list-style-type: none"> there is a family history of violence
The child is being sexually abused , or is at risk of being sexually abused	<ul style="list-style-type: none"> child pregnancy injuries to the genital area the child has a sexually transmitted infection (STI) the child is describing sexual acts the child is exhibiting sexualised behaviour
The child has suffered serious psychological harm , or is at risk of suffering serious psychological harm	<ul style="list-style-type: none"> lack of trust extreme attention-seeking behaviour persistent running away from home anorexia or over-eating anxiety or depression suicide and self-harm the child is exposed to domestic violence

FACS – WHAT DO THEY DO?

The Department of Family and Community Services is the main government agency when it comes to child protection in NSW

This means that FACS is responsible for acting to protect children at risk of significant harm.

If you would like assistance from FACS, details of how to contact it are on its website: http://www.community.nsw.gov.au/welcome_to_docs_website.html.

FACS provides services for children and their parents or carers

FACS has many services for families that are aimed at preventing harm to children.

If you are concerned about your child's safety or wellbeing, you can ask for assistance from FACS at any time.

FACS will then provide assistance such as:

- organising child care;
- emergency finance;
- counselling;
- information; and/or
- referral to health or other services.

A request for assistance might lead FACS to investigate a child's situation further. FACS could stay in touch with your family to make sure your family are okay. FACS can ask you to sign a safety plan, which is designed to keep you and your family safe.

FACS receives reports of children who are at risk of significant harm

FACS also receives reports from people in the community who are concerned that a child may be at risk of significant harm.

Some people have to report their suspicions and concerns. This includes people working with or for children in healthcare, welfare, education, children's services, residential services and the police.

However, any person who has a concern is able to contact FACS, including parents, grandparents, relatives and friends.

If you want to make a report about a child you think is at risk of significant harm, you should call FACS's 24 Hour Child Protection Helpline on 132 111.

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FACS decides whether children are at risk of significant harm

After receiving a report or request, FACS decides whether the child is at risk of significant harm.

FACS might assess a report by:

- considering all of the child's circumstances, including any court orders in place;
- sending a caseworker to speak to the child, their family or any other relevant people; and/or
- visiting the child's household with police or a member of NSW Health.

If a child is reported to be at risk of significant harm, FACS is legally allowed to enter the home of that child, to speak with that child. FACS caseworkers are trained to speak with children and to assess family situations.

FACS normally takes around one month to assess a report, however if it is serious the report will be investigated immediately.

FACS protects children who are at risk of significant harm

FACS may decide that the child is not at risk, and to take no action. In that case, FACS may keep an eye on the child.

WHAT HAPPENS IF FACS DETERMINES A CHILD IS AT RISK OF SIGNIFICANT HARM?

If FACS decides the child is at risk, it might:

- provide support services;
- develop a care plan or parent responsibility contract;
- act immediately to protect the child, including removing the child from the risk; or
- apply for Children's Court orders.

In any action FACS takes, its first priority is the safety, well-being and welfare of the child. FACS will also consider the child's views, culture, disability, language, religion and sexuality. FACS will update the child about the decisions being made depending on their age.

If FACS visits your home because it is concerned your child is at risk of significant harm, talking to FACS and working with them is the best approach. If you are able to, you can always contact a lawyer for advice.

What types of support services can FACS provide?

FACS offers the services described on page 2 of this factsheet.

What are care plans and parent responsibility contracts (PRCS)?

Care plans (which are also referred to as safety plans) and parent responsibility contracts are written documents that require a child's parents or carers to do certain things, for example:

- go to training on their parenting skills;
- attending support services;
- taking their children to see a counsellor; and/or
- not allowing children to experience or be exposed to family or domestic violence.

These help FACS ensure that the people responsible for caring for the child are taking steps to care for him or her properly. If there is an agreed care plan and it is complied with, it is unlikely that a child will be removed from their primary carer.

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What immediate actions can FACS take to protect a child?

FACS can remove a child from a situation if they believe the child is at immediate, serious risk.

Once removed, the child will be temporarily cared for by FACS or another person that FACS chooses. FACS will not allow the child to go back unless the risk has been fixed.

This is an urgent step that FACS can take. If FACS removes a child it must apply to the Children's Court within 3 days.

The parents of a removed child must be served with court documents and be notified of the court date.

These orders will usually lead to other actions being taken by the Children's Court.

If FACS removes your child from you, FACS must inform you that the child has been removed and provide you with information about the court process and about the arrangements for your child.

What orders can be made by the Children's Court?

FACS can apply to the Children's Court to make the following types of orders:

- **emergency care and protection orders:** these are the immediate orders described above;
- **interim (or temporary) orders of parental responsibility:** this allows the court to make an order allocating parental responsibility to FACS or another person the court believes is a suitable person to care for the child during court proceedings;
- **examination orders:** under these orders, a child might be required to undertake a medical examination;

- **orders accepting undertakings:** these are formal promises made to the court by a child or their parent or carer to act in a particular way;
- **orders for support services:** the court can make orders that require an organisation to provide support services to a child;
- **orders to attend therapeutic treatment:** these orders require the child to attend a therapeutic or treatment program;
- **supervision orders:** under these orders, FACS will supervise a child's situation, which includes regularly meeting the child and inspecting their home;
- **contact orders:** these orders set out how much contact a child can have with their parents, carers or other people;
- **final orders allocating caregiver/parental responsibility:** these orders set out who will be responsible for acting as a child's parent or carer.

This person could be one or more of the child's parents, another family member or even FACS.

The person given this responsibility can make a whole range of decisions about the child's life, for example:

- where the child lives;
 - who they have contact with;
 - what education, religion and culture they will be exposed to; and
 - what medical and dental treatment they might get; and/or
- **parent capacity orders:** these require a child's parent or carer to go to training on parenting skills.
- FACS wants children to be with their family if that is a safe option. FACS will prefer:
- keeping a child home with their parent(s) when the child is safe;

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- the child staying with a relative, kin or other suitable person;
- adoption; and
- only **as a last resort**, care by FACS' approved foster carers.

Wherever possible, FACS will make sure a child stays in touch with their parents, carers, siblings, extended family, friends, family friends and the community.

FACS will try to make sure a child stays involved with their language, cultural and religious ties as much as possible.

If a child has been temporarily removed, decisions should be made as quickly as possible about where they will live.

FAMILY LAW COURT ORDERS

What is the difference between Children's Court and Family Law Court orders?

Both Family Law Court and Children's Court orders relate to how children will be cared for. There are some differences though:

Key differences

Children's Court Order	<ul style="list-style-type: none">• FACS makes the application• The order is made because a child is at risk of significant harm and requires protection
Family Law Court Order	<ul style="list-style-type: none">• Anyone concerned about a child can make an application, including the child, parents or other family members• The order is made because there is disagreement between the people involved about how to care for the child

What are parenting orders?

Parenting orders are decisions made by the Family Court or Federal Circuit Court about how a child will be cared for by their parents or others.

Often the court will ask the child's parents or other relatives to try to reach an agreement with the other people involved before they make a parenting order. This is called "Family Dispute Resolution".

Parenting orders can include decisions about:

- where a child lives and who they live with;
- whether a child can travel, when, how and who with;
- who a child spends time with and when;
- who a child has contact with and how;
- who makes decisions about a child's life;
- who provides financial support for a child; and/or
- anything else linked to a child's care, welfare and development.

If you wish to apply for parenting orders, you should speak to a lawyer or court staff about whether to go to the Family Court or the Federal Circuit Court, and which forms to fill out.

When making parenting orders, the court will consider the best interests of the child. The court will also consider:

- any investigations by FACS;
- any orders made by the Children's Court; and
- any Family Violence Orders that are already in place (see below).

The court hears from both parents and any other interested people, which may include the child, relatives, FACS, a family consultant or an independent children's lawyer.

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Each person affected by a parenting order must follow it.

Family Violence Orders

A Family Violence Order is any order made under a law in Australia to protect someone from family violence.

In NSW, family violence orders are called Apprehended Domestic Violence Orders (**ADVOs**). You can see the factsheet on “Apprehended Domestic Violence Orders” for more information.

The Family Law Courts can make parenting orders that are different to ADVOs that are already in place. If this happens, the ADVO will be over-ridden.

For example, if you have an ADVO that prevents the other parent from coming to your house – but the parenting order allows the other parent to collect your child from your house on Fridays at 5pm – the other parent is allowed to come to your house, but only on Fridays at 5pm.

Other Family Law Court Orders

The Family Law Courts can make other orders to help protect children. These include:

- emergency orders, if there is an immediate risk of domestic violence or child abuse;
- orders for the police or government agencies to help someone locate and recover a child; and/or
- orders that stop a child travelling overseas.

HELPFUL CONTACTS

Domestic Violence Line	1800 656 463
National Sexual Assault, Domestic Family Violence Counselling Service	1800 RESPECT / 1800 737 732 https://www.1800respect.org.au/
NSW Department of Family and Community Services	02 9377 6000 http://www.facs.nsw.gov.au/
Law Access NSW	1300 888 529 http://www.lawaccess.nsw.gov.au/
Family Law Courts and Registries	1300 352 000 http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/family-law-matters/ http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/home
Women’s Legal Services	02 8745 6988 1800 801 501 http://www.wlsnsw.org.au/