



# I AM IN PRISON AND MY CHILD IS IN CARE HOW CAN I HAVE A SAY ABOUT WHO LOOKS AFTER MY CHILD?

If the Department of Communities (sometimes called 'Child Protection') has taken your child into care and started a court case for a protection application at the Children's Court or your child is in care on a protection order, you might want a say about who looks after or cares for your child.

This fact sheet has information on how you can have a say about who cares for your child.

## How are decisions made about who cares for children?

The law says Child Protection and a magistrate at the Children's Court must make decisions based on what they think is in your child's best interests.

## If your case is still at court

If you do not agree with who is caring for your child (this is sometimes talked about as 'where

they have been placed'), think about who the best person would be to care for them.

Child Protection must assess this person to check they are suitable before they will agree for your child to live with them. You should ring that person and check they are able and want to be a carer. If they do, ask them to ring your child's case worker to arrange to get the assessment started. The assessment may take several weeks so the sooner it starts the better.

If they are assessed as suitable, Child Protection may place the child with your proposed carer. If they don't, or Child Protection will not do the assessment, you should get legal advice about what you can do.

If they are not assessed as suitable, you can ask why. As a parent you can make an interim application to the court to have your child live with your proposed carer. Speak to your lawyer about whether this is a good option in your case. The magistrate must have a report from Child Protection about their suitability before approving that person as a carer. The magistrate

will decide based on what they think is best for your child.

## If your case is finished and a final protection order has been made

If your child has been placed on a protection order (time limited), you can have a say about who looks after your child:

- at the monthly meetings (sometimes called family meetings, reunification meetings, or stability and connection planning meetings).
- at your child's care plan meetings. If you do not agree with a decision made at a care plan meeting, first speak to the person who ran the meeting. After speaking to this person, if you are still not happy with a decision, you can seek a review of the care plan decision by the Care Plan Review Panel.
- to the Care Plan Review Panel. You should ask for a review within 14 days of receiving the record of the care plan meeting. If it is over 14 days and you have a good reason, you can apply for an extension of time to put in your review application. You will need to get a librarian or prison officer to download a [Form 418: Application for a Review of a Care Planning Decision Under Section 93 of the Children and Community Services Act 2004 \(PDF, 102KB\)](#) or ring 1800 681 842 and ask to be sent a copy. You need the record to be able to say which decision you are not happy with. You should give reasons why you think the decision is not good for your child and what you think is best. Get legal advice about your application for review.

If your child is on a protection order (until 18), talk to the case worker. If that does not lead to a change, you will need to say what you want at your child's care plan meetings or through a care plan review application as set out above.

If your child is on a protection order (supervision) or (special guardianship), check the court order to

see if there is a condition about your contact with your child. Get legal advice if there is no condition or the condition is not being followed.

## Where to get legal help

You can contact:

- The [Legal Aid WA Prison Visiting Service](#) to apply for legal aid for advice and representation if your case is at court.
- The [Aboriginal Legal Service of WA \(ALS\)](#) if you are an Aboriginal or Torres Strait Islander prisoner.
- Family Violence Prevention Legal Services including Aboriginal Family Legal Services may be able to help if you are an Aboriginal or Torres Strait Islander in WA who has experienced, or who is experiencing, family and sexual violence.
  - [Aboriginal Family Legal Services](#) on (08) 9355 1502 to find out if there is an office near your prison.
  - [The Southern Aboriginal Corporation Family Violence Prevention Legal Service](#) in Albany on 1800 557 187 or (08) 9842 7751.
  - [Marnin Family Support and Legal Unit](#) in Fitzroy Crossing on (08) 9191 5284.
- Your local [community legal service](#) may also be able to help you with advice about reunification meetings or care plan review. Ask the Prison Visiting Service if there is a service near your prison.

**Legal Aid WA contacts:** Website + Chat [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au), Infoline 1300 650 579, Legal Yarn 1800 319 803.

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