***2 December 2016***

## Connections and Contact for Children In Care

The single factor most connected with positive outcomes for children is meaningful, lifelong connections with family, kin and community. Loneliness can have a devastating impact on a person's emotional, psychological and physical wellbeing. A meaningful connection to family, kin and community helps a child or young person develop a sense of belonging and hope.

Creating and keeping relationships and emotional permanence for a child or young person, through informal and formal types of contact, plays an important role in:

* easing the pain of separation and loss for a child or young person, their family and significant others
* reducing the child or young person's sense of abandonment
* reassuring the child or young person of their family's wellbeing
* promoting cultural and spiritual identity
* supporting restoration by maintaining relationships

## Resolving contact disputes

### Resolving contact disputes

If a contact dispute arises for a child or young person in OOHC the NGO should work with FACS to follow the required process for resolution.

The Child and Family District Unit (CFDU) can be contact via the local Community Services Centre across NSW.

### <http://www.community.nsw.gov.au/about-us/contact-us/facs-community-services-centres>

### Resolving contact disputes through alternative dispute resolution (ADR)

ADR is a process where an impartial person helps disagreeing parties come to an agreement and settle disputes. The use of ADR in contact disputes seeks to create a less adversarial practice that is more focused on the child or young person and their family.  
  
It is the role of Legal Aid NSW (not FACS) to determine the suitability of a matter for ADR. Consequently, all unresolved contact disputes must be referred for ADR. Legal Aid will appoint a mediator to run the ADR process. The mediator helps parties identify disputed issues, develop options, consider alternatives and try to reach an agreement.  
  
The focus of the ADR conference will be on formulating a written agreement, which will be signed by all parties on the day.

A child or young person can be eligible for more than one session of Legal Aid mediation. For that reason, any subsequent or recurring contact dispute should be referred to ADR

### Getting consent to refer a case to ADR

* Talk to the child or young person about the contact dispute and ADR
* Provide information about ADR to all people involved
* Where possible, ask each person if they consent to refer the matter and give their personal information to Legal Aid for the purpose of arranging ADR. Record if they consent or not.

### Managing request forms and supporting documentation

Email the completed [request for mediation form](http://www.legalaid.nsw.gov.au/what-we-do/family-law/care-and-protection-services/contact-mediations) and supporting documents to Legal Aid at [ADR@legalaid.nsw.gov.au](mailto:ADR@legalaid.nsw.gov.au). Record the referral and create an alternative dispute resolution record.

Get copies of the supporting documents, including care plan(s), current court orders (including any AVO) and any section 82 and 76 (4) reports in relation the child or young person.

If the ADR process is commenced by another party, complete the remaining sections of the form provided by Legal Aid and attach the supporting documents before returning the information to Legal Aid via email.

### If Legal Aid decides the matter is suitable for ADR

If Legal Aid decides that the matter is suitable for ADR, at the request of the child or young person's lawyer, arrange for the child or young person to meet with the child or young person's lawyer.

The purpose of the preparatory session is for Legal Aid to identify and discuss the relevant issues. Legal Aid mediators will also discuss logistics, clarify the parties' interest or concerns and agree to what (if any) further information is required to enable each party to determine their position with the Legal Aid mediator.

### If Legal Aid decides the matter is not suitable for ADR

If Legal Aid determines that the matter is not suitable for ADR:

* update and attach a copy of the Legal Aid letter to the record
* consider if an application for a contact order should be made to the Children's Court.

### Confidentiality

The *Children and Young Persons (Care and Protection) Act 1988* provides that anything said or done, or any admission made during ADR, must not be disclosed to any other person. Information disclosed or any document prepared for, during, or as a result of the ADR process cannot be used as evidence in court unless the persons participating in the ADR have agreed to it being used.

Only the mediator may disclose information about the ADR under the following circumstances:

* if the person who gave the information consents to its disclosure
* to make a risk of significant harm report.

A person participating in the ADR may only disclose information:

* to prevent injury to a person or damage to property
* to make a complaint about the professional conduct of the mediator or a legal representative participating in the ADR to an appropriate body.

### If an agreement is reached

If an agreement is reached at the ADR conference, a written agreement will be drafted by the parties and signed and dated by all parties at the conclusion of the conference.

### If an agreement is not reached

If the contact dispute remains unresolved through ADR, or the matter is not suitable for ADR and an application for a contact order is required, liaise with FACS.

It is the role of the mediator to determine that an agreement cannot be reached. If the mediator believes that a party is not participating in good faith, the mediator may determine that an agreement cannot be reached