

Active Efforts

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Acknowledgement of Country

I acknowledge the Gadigal People of the Eora Nation, on whose traditional lands we are meeting, and acknowledge all Aboriginal and Torres Strait Islander people here today.

I pay my respects to Elders past and present, and recognise Aboriginal peoples' ongoing connections to the lands and waters of NSW.

Changes to the Care Act

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Changes to be proclaimed in the Care Act



Section 9A

Principle of making 'active efforts' to prevent children from entering care, to restore children to parents or place/reunify them with family/kin

Section 63

When bringing a care application to the Children's Court (except an emergency care and protection order), DCJ must provide supporting evidence about the active efforts made and the alternatives to a care order that were considered before bringing the application.

Section 78

Additional care plan requirements for Aboriginal CYP, including that a cultural plan be developed as part of every care plan and is developed in consultation with the child, their parents, family and kin, and relevant organisations.

Section 78AA

Provides guidance to the Children's Court about the matters it can consider when deciding whether special circumstances exist that warrant the allocation of PRM for longer than 24 months.

Section 83 (3A)

Where DCJ has assessed that there is not a realistic possibility of restoration, requires DCJ to include in a permanency plan the reasons for the assessment outcomes and provide evidence of the active efforts made.

Section 83 (5B)

Allows the Children's Court to direct DCJ to provide the reasons why restoration was assessed as not being a realistic possibility and evidence of the active efforts made, before deciding whether to accept the DCJ's assessment on restoration.

Section 83 (8A)

Allows DCJ to assess that there is a realistic possibility of restoration within a period longer than 24 months, but only if there are exceptional circumstances that warrant that longer period.

Section 83A

Additional requirements for DCJ to include in when preparing a permanency plan for Aboriginal CYP, where DCJ has assessed that there is not a realistic possibility of restoration including evidence of active efforts made to place the child with a relative, kin, or other suitable person, and reasons for recommending that the child should or should not be placed with such persons. Also requires the Children's Court to make certain findings before making a final care order including that the permanency plan complies with all relevant principles under s 10A, s 12A and s 13; and includes a cultural plan.

Section 245

Decisions not to authorise a carer and reviewable by NCAT

Active Efforts

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About Active Efforts

Who will Active Efforts apply to:

- All children and families involved, or at risk of involvement, with the statutory child protection system

Who is responsible for using Active Efforts?

- DCJ caseworkers and managers
- Funded service providers with case management responsibility
- Ultimately, DCJ is responsible for ensuring active efforts are used with all children and families.

What will they focus on?

Early identification of Aboriginal children

Finding and engaging extended family and support networks early and throughout

Diverting families from further child protection involvement, including prenatal

Prioritising family - led decision making

All casework prioritises family preservation and restoration

FGC and family meetings early to increase safety

Use of TCA, PRC, PCO, SO and ADR before care orders are sought

Referring families to independent legal advice, ADR and LAFPA

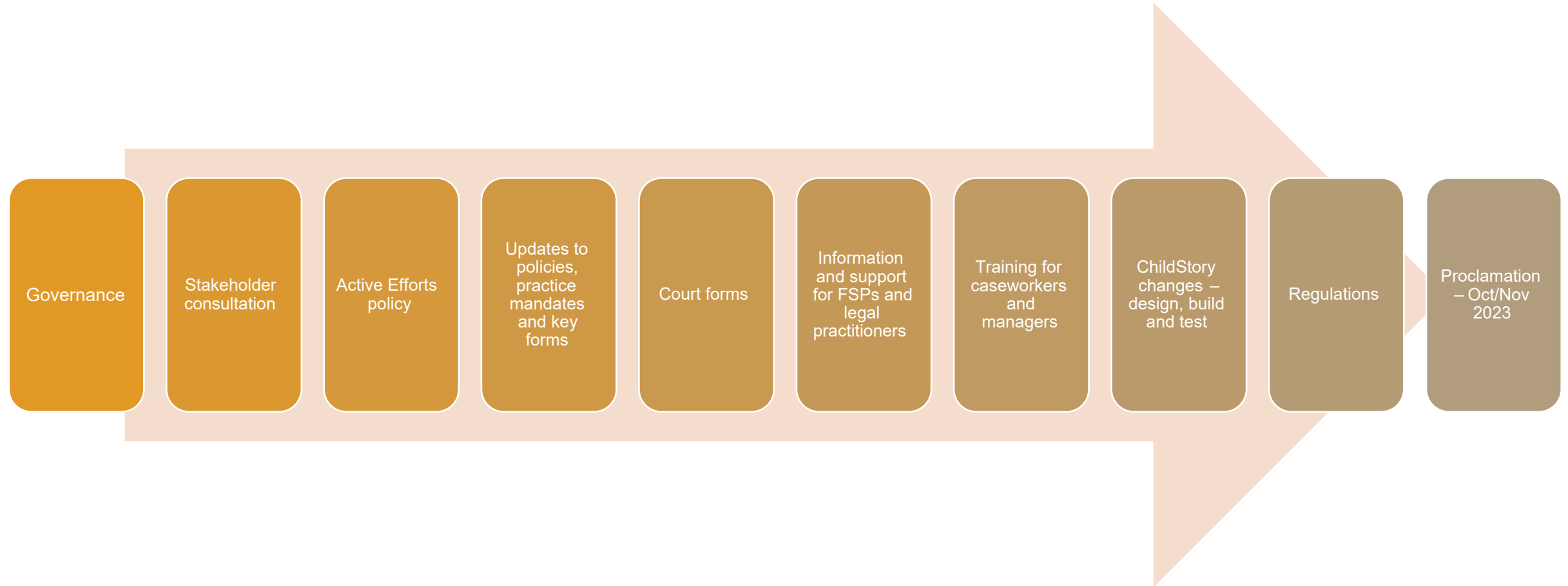
Working with Aboriginal families in accordance with s.12A and s.13

Timely restoration assessment, planning and casework

Enhanced planning and monitoring of cultural support plans and family time/contact

Earlier planning to support young people leaving care and beyond

How will they be implemented?



What will be different?

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What will be different because of Active Efforts?

- Family and support networks will be involved earlier from assessment through to case closure
- Family-led decision-making processes (incl AFLDM) guide assessments, planning and care and restoration decisions
- Families will be informed of their legal rights and supported with referrals to LAFPA or independent legal advice at critical stages (between SARA, prior to care proceedings, post -proceedings)
- ADR (incl FGC) will be offered and used earlier to facilitate important discussions and safety planning between families and DCJ, and ensure an impartial person is involved
- Families are referred to services to help them address current safety and risk concerns, their engagement and progress is supported and monitored. If they aren't benefiting from a service or at risk of disengaging, referrals or alternative options are arranged quickly
- Alternative options to removal (PRC, PCO, TCA, SO) are considered if safety and risk concerns aren't mitigated and family preservation remains the case plan goal
- Early identification and authorisation of carers from the child's family and support network. Placing Aboriginal children in accordance with s.12A and s.13.
- Adhering to strict timeframes to support timely restoration from EIC and from OOHC, ensuring children don't drift in care
- Better monitoring of family time to ensure children in care are maintaining connections to their parents, siblings and extended family and support network
- Leaving and After Care planning will commence with young people when they turn 15 and include their family and carer. All young people in care must have an approved plan in place by the age of 18, and have access to financial support, services and key documents once they transition from care up to the age of 25.

How will DCJ be accountable
for using Active Efforts?

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How will DCJ be accountable?

- Requirements for DCJ to provide evidence of Active Efforts
- Data and reporting – dashboard reporting, district reporting and Annual Report to Parliament on the implementation and impact of Active Efforts
- Aboriginal Safeguarding Decision Making Panels (being established)
- Aboriginal Community Controlled Mechanisms
- Children’s Court
- Lawyers

What should lawyers be
looking for?

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What Active Efforts should lawyers look for?

- Attempts to partner with family and services to divert family from further child protection involvement were made (warm referrals, family -led care arrangements)
- Child, parents, extended family and support network had opportunities to be involved in all assessment, planning and decision -making processes. Their views were recorded and acted upon.
- Families were offered or participated in ADR, including FGC (after safety assessment and again prior to care proceedings). If FGC was not immediately available, another option was used
- Information about legal rights provided and referrals to LAFPA or independent legal advice offered/made
- Families were supported to engage with services and their progress was regularly monitored. Re -referrals or alternative services were arranged as needed
- Meetings with family network to discuss limited or no positive change and alternative options to removal discussed/considered/used
- Family-led decision making was used to identify suitable family placement options. Wishes of the family were acted upon
- Placement decisions for Aboriginal children were made in accordance with s.13 – Aboriginal Child Placement Principle
- Cases involving Aboriginal children were reviewed by an Aboriginal Safeguarding Decision Making Panel prior to care application being submitted (except ECPO)

“If not, why not?”

Post-proclamation

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Implementation challenges to work through

- Full reporting capability won't be in place by proclamation and may need to be phased
- Shifting practice culture and uplift will take time
- Improving sector capacity
- Practice in Local Courts
- Limited resources and staff turnover

Post-proclamation activities

- Continued practice uplift – DCJ, NGOs and Courts
- Tailored training and casework practice resources
- Continue building data collection and reporting capability
- Review of Active Efforts policy and regulations within 12 months

Other work to support change

- Changes to way we assess safety and risk and build on family strengths (Better Decisions project)
- Improving restoration practice (new practice mandate and casework tools and reform)
- Closing the Gap Priority Reforms
- Implementation of *Family is Culture* recommendations
- Sector strengthening work

