



Aboriginal Representative Organisations

Frequently Asked Questions

Introduction

On 19 October 2021, the *Children and Community Services Amendment Act 2021*¹ (the Act) was passed by the Legislative Assembly and includes a range of amendments to increase the involvement of Aboriginal people in decision making processes concerning Aboriginal children in care, and to prioritise connections to family, culture, community and Country.

The Act implements recommendations of the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse and the 2017 Statutory Review of the *Children and Community Services Act 2004*² (the Review). It also includes additional amendments recommended by the Legislative Council Standing Committee on Legislation³, which inquired into the policy of the former Children and Community Services Amendment Bill 2019 before it lapsed when Parliament was prorogued on 7 December 2020.

The new laws will strengthen the Children and Community Services Act 2004 to better protect Western Australia's (WA) children⁴ from harm as a result of abuse. They are also intended to improve outcomes for children who are in the care of the Chief Executive Officer (CEO) of the Department of Communities (Communities), particularly Aboriginal⁵ children who are significantly over-represented in WA.

This document provides information on the amendments relating to Aboriginal Representative Organisations (AROs) and how they will be implemented across the State.

¹ A copy of the Amendment Act is available on the Western Australian legislation [website](#)

² A copy of the Review report is available on the WA Parliament [website](#)

³ A copy of the Legislative Council Standing Committee on Legislation, Report 44 can be viewed on the WA Parliament [website](#)

⁴ "Child" means a person who is under 18 years of age.

⁵ Use of the term "Aboriginal" in this document includes reference to Torres Strait Islander people

What provisions are included in the Act for AROs?

The Act includes the following provisions for AROs:

- **section 81** – before making a placement arrangement, in respect of an Aboriginal child in care, the CEO must, subject to the regulations, consult with an ARO
- **section 89A** – subject to the regulations, an ARO is to be given an opportunity to participate in the preparation of a cultural support plan for an Aboriginal child
- **section 90(2A)** – in the course of the review of an Aboriginal child’s care plan, subject to the regulations, the CEO must give an ARO an opportunity to participate in the review of the child’s cultural support plan.

What are the new amendments to section 81 under the Act?

The Act has been amended to reflect the following:

Before making a placement arrangement in respect of an Aboriginal child or Torres Strait Islander child, the CEO must consult with each of the following:

- (a) Aboriginal or Torres Strait Islander persons who are members of the child’s family;
- (b) subject to the regulations, an Aboriginal or Torres Strait Islander representative organisation;
- (c) an officer who is an Aboriginal or Torres Strait Islander person who, in the opinion of the CEO, has relevant knowledge of the child, the child’s family or the child’s community

What is an ARO?

When the legislation comes into effect, the CEO will be to approve an organisation to be an ARO for the purposes of the placement consultation and cultural support planning. AROs may be existing Native Title bodies or other Aboriginal Community Controlled Organisations (ACCO) that are recognised by the local Aboriginal community, and have knowledge of the child, the child’s family or the child’s community.

The term ‘representative organisation’ reinforces the need for these Aboriginal bodies to be placed-based, and therefore to hold local cultural knowledge of the child, the child’s family or the child’s community.

To become an ARO, ACCOs will need to meet certain criteria in regulations and will also need to comply with other standards such as the information sharing provisions under the Act and confidentiality requirements.

Why do we need AROs?

Currently, nearly 57 percent of children in care are Aboriginal. The over-representation is an issue that requires concerted effort to address, and we must do so by working in partnership with Aboriginal people and communities.

The Aboriginal and Torres Strait Islander Child Placement Principle in section 12 (s.12) of the Act sets out an order of priority for the placement of an Aboriginal child in care. The

intent of the principle is to keep children connected to their families, communities, cultures and Country, and to ensure the participation of Aboriginal people in decisions about their children's care and protection.

Subject to the best interests of the child, the order of priority is placement with:

- a) a member of the child's family;
- b) an Aboriginal person in the child's community in accordance with local customary practice;
- c) an Aboriginal person in close proximity to the child's community;
- d) either an Aboriginal person (who could be anywhere in WA) or a non-Aboriginal person in close proximity to the child's community; or finally,
- e) a non-Aboriginal person (who could also be anywhere in WA).

The role of AROs in placement consultations will help to achieve stronger compliance with the Aboriginal Child Placement Principle by increasing the likelihood of securing culturally appropriate placements with family or in closer proximity to children's communities than currently occurs.

AROs will have appropriate knowledge of community and culture in relation to a child and their participation in cultural support planning will promote stronger connections to family, culture and Country, which is critical to the ongoing safety and wellbeing of Aboriginal children in care. The establishment of AROs state wide will complement additional changes in the Act that focus on connecting children to family and culture and strengthen self-determination.

When will AROs come into effect?

On 01 November 2022 the 12 month ARO Pilot commenced in the Armadale district and Kimberley region. The McGowan Government has committed \$1.3 million to support the implementation of the ARO Pilot with Yorganop Association and Aarnja Limited (local ACCOs) delivering the ARO Pilot in the respective locations. The AROs were selected through a direct procurement process based on their existing capacity and expertise, as well as strong local and cultural knowledge, which will strengthen the application of the Aboriginal and Torres Strait Islander Child Placement Principle and ensure Aboriginal children in care are placed with family and remain in the community.

The aim of the ARO Pilot to test the service model, that was designed in partnership with Aboriginal community, for target cohorts and to inform how AROs will be implemented state wide when provisions are enacted in legislation. While the majority of sections of the Amendment Act commenced on 01 May 2022, the ARO provisions cannot officially commence until AROs are operational state wide.

Stage 1 of Communities phased approach to operationalising AROs and specialised service model throughout the state. The ARO pilot allowed the AROs to be involved in legislated Child Protection processes regarding:

- Consulted before Communities makes a placement arrangement for Aboriginal and Torres Strait Islander children; and
- Provided the opportunity to participate in the preparation and review of cultural support plans for an Aboriginal child coming into care

Stage 2 of the phased approach is the transition from the Pilot to state wide rollout. The roll-out of AROs state-wide will occur through a phased implementation approach, which, subject to confirmation of funding, will commence in mid-2024.

This transition stage will include activities including finalisation of the ARO service model, the development of relevant regulations, building ACCO sector readiness, tender processes restricted to ACCOs and training for child protection staff.

To ensure continuity of service for Aboriginal children and families during the transition to statewide rollout, the State Government has committed a further \$1.3 million to extend the ARO service delivery model in the Armadale and Kimberley for an additional 12 months, which commenced following conclusion of the Pilot in October 2023.

What role will the ARO have in placement decisions for an Aboriginal child entering care?

The role of the ARO is to provide information and cultural knowledge around placement options that align with the Aboriginal and Torres Strait Islander Child Placement Principle, and in accordance with s.12 of the Act.

AROs will be responsible for assisting Communities with information regarding:

- the child's family, extended family and kinship networks to identify possible placement options
- the child's cultural identity and skin group
- local culturally sensitive supports
- any other information considered to be important to placement decisions and cultural support planning for the child

AROs will not have responsibility for decision making regarding where a child is placed. This is a statutory function that will remain with the CEO.

What consultation has taken place with Community regarding AROs?

In 2017, the review was undertaken by the then Department of Child Protection and Family Support. The Review examined the operation and effectiveness. While the notion of AROs wasn't a specific part of the Review's Consultation Paper, it was something that emerged during the course of the Review's consideration of submissions once the consultation period closed.

Since the Review, Communities has conducted engagement across WA to obtain feedback and to capture the local voices of what would need to be included and considered to become an approved ARO that is accepted and respected by the Aboriginal community, including what the criteria in regulations should be to become an approved ARO and how these bodies should operate in each region. This was guided by an initial Aboriginal Culturally Secure Engagement and Service Design literature review completed in April 2020, that identified examples of best practice to inform culturally secure and responsive engagement and service co-design.

Stakeholder engagement was held between July and September 2020 through engagement videos, rather than face-to-face engagement as originally planned, due to COVID-19 restrictions. Consultation with Aboriginal people and ACCOs to date has highlighted AROs should be:

- Aboriginal organisations, in particular ACCOs. Other suggestions included Prescribed Body Corporates (PBCs) and Aboriginal Elders.
- Locally based and hold genuine local and cultural knowledge of the Aboriginal community.
- Recognised by their Aboriginal community and not self-appointed.
- Represent the diversity of language groups in each region.

In early 2022, Communities engaged the Noongar Family Safety and Wellbeing Council (the Council) and the Kimberley Aboriginal Children in Care Committee (KACCC), who undertook targeted and intensive stakeholder engagement in their respective ARO pilot location. The engagement targeted local ACCOs and child protection staff to ensure that the relevant information needed to develop a service model was captured.

How was the pilot ARO service model developed?

In March 2022, Communities engaged the Council and KACCC to undertake stakeholder engagement in their respective ARO pilot location. The engagement targeted local ACCOs and child protection staff to ensure that the relevant information needed to develop a service model was captured.

Following the engagement, the Council and KACCC produced a written stakeholder engagement report, which presented key findings and recommendations for the pilot ARO service model.

Think Culture, an independent Aboriginal consultancy, consolidated engagement findings (including those from previous community consultations) and have developed a pilot ARO service model that is adaptable and response to local needs and complies with changes to the Act. The service model went through a rigorous test and re-test phase with key stakeholders ahead of its delivery to Communities in mid-September.

What are are the ARO Cohorts?

Cohort 1: All Aboriginal children who have been assessed as being in need of Protection and / or enter Provisional Protection and Care during the pilot phase

This cohort will receive the following ARO service:

- Placement consultation
- Consultation for changes to placement (i.e. change/breakdown)
- Participation in Cultural Support Plan development.

Cohort 2: Aboriginal children with a court proposal seeking an extension/replacement of orders (revoke and replace)

This cohort will receive the following ARO service:

- Participation in the review of Cultural Support Plans

The Cohorts have been selected to enable testing of all ARO legislative functions.

If it is found during the Pilot that the number of ARO consultations is smaller than expected and there is additional capacity, then consideration will be given to additional cohorts.

Cohort 3: Aboriginal children in care who experience an unexpected placement breakdown (capped to 1 each per week for East and West).

This cohort will receive the following ARO service:

- Placement consultation
- Family finding/investigation around placement options

How do we know if the ARO Pilot was successful?

Think Culture have developed a Monitoring and Evaluation Framework in partnership with the AROs participating in the pilot, with IPS Management Consultants (IPS) having been procured to implement the framework and evaluate the Pilot.

Throughout all stages of the ARO Pilot, IPS were involved in the processes, reporting, opportunities for improvement. The Final ARO Evaluation Report (Evaluation Report) has identified positive outcomes regarding ARO involvement in Cultural Support Plans, Family Finding and placements in line with the Aboriginal and Torres Strait Islander Child Placement Principle. The transitional period will allow for Communities to take undertake improvement opportunities that were identified in the Evaluation Report that will assist when coming to the phased implementation.

How does the ARO Service align to broader reform initiatives to reduce the number of Aboriginal children in care?

Communities is progressing significant reform to enable and support child protection processes and decisions that are culturally informed and culturally safe for Aboriginal people.

This reform agenda is underpinned by the State Government's commitment to Target 12 of the National Agreement on Closing the Gap: by 2031 to reduce the rate of over representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 percent.

A range of initiatives are currently underway within Communities that together will help reduce the over-representation of Aboriginal children and families in the child protection system, and promote connection to family, culture and Country for Aboriginal children who are in care. These are:

- **Changes to our laws** to require cultural consultation and prioritise connection to family, culture and Country for Aboriginal children in care.
- Working **to address the key drivers** of over-representation, including family violence.
- **Trialling new ways of working**, including a pilot of Aboriginal Family Led Decision Making.
- Providing **earlier intervention and family support**, including through intensive in home family support services and the early years initiative.
- **Working in partnership** with Aboriginal people and Aboriginal Community Controlled Organisations to enable shared decision making and work towards self determination including a greater proportion of services for Aboriginal people delivered by Aboriginal people.

Will there be future opportunities for the Aboriginal Community and key stakeholder to support the implementation of AROs?

Development of the ARO service model has been informed by extensive consultation previously undertaken with Community, including targeted engagement with ACCOs and Child Protection staff in the Armadale and Kimberley locations.

Broader consultation with prospective AROs on the final service model for Statewide rollout may take place once the 12-month pilot has concluded. Further information about this consultation will be provided at a later date.

What are the next steps

Following the 12-month ARO pilot, a significant amount of work will be required to prepare for the implementation of AROs Statewide. Several of these activities will need to happen simultaneously and will include, but are not limited to:

- Consult with the sector on the proposed Statewide service model, based on findings from the Pilot by an Aboriginal registered business, engaged to evaluate the ARO Pilot project.
- building ACCO sector readiness
- development of Criteria for Regulations in the Act
- procurement of ACCOs to deliver ARO services
- learning and development training for ACCOs and Communities' staff.

A further \$1.3 million has been committed to extend the ARO service delivery for an additional 12 months in the pilot locations following its conclusion in October 2023, to ensure continuity of service for Aboriginal families during the transition to statewide rollout.

What support will there be for ACCOs to ensure they have the capabilities and capacity to deliver ARO services in their community?

In preparation for the transition to state wide roll out of the ARO service, it has been identified that ACCO capacity is priority for Communities. The ARO service will require an adequate number of AROs to be effective. Building the capacity of the ACCO sector is imperative to the future of the ARO service and other priority projects.

In March 2023, the ACCO Sector Building Grants Program (Grants Program) was released. While the ARO Service is only available to Aboriginal and Torres Strait Islander children in the Armadale district and Kimberley region, these grants are intended to support, strengthen and empower prospective AROs to increase readiness of the sector to be more competitive in future tender processes and to carry out ARO legislative functions in the future.

The Grants program was open to ACCOs that aspire to or provide services in relation to Aboriginal people on behalf of the Department of Communities and are interested in delivering ARO services in the future. The Grants Program enabled ACCOs to seek funding for activities to strengthen and build their capacity.

11 ACCOs across the state, representative of both Metropolitan and regional locations have been successful through the Grants Program, resulting in an investment in the ACCO sector totalling more than \$550,000.

Further Information

To find out more about Aboriginal Representative Organisations, please visit our website or send an email to the address below:

- **Web:** www.communities.wa.gov.au
- **Email:** aropilotproject@communities.wa.gov.au