



Aboriginal Representative Organisations

Frequently Asked Questions

Introduction

On 19 October 2021, the Parliament of Western Australia enacted the *Children and Community Services Amendment Act 2021*¹ (the Amendment Act). The Amendment Act is an Act to amend the *Children and Community Services Act 2004* (the Act), amongst other things, to implement recommendations of the 2017 statutory review of the Act (the Review).² The Amendment Act also includes additional amendments recommended by the Legislative Council Standing Committee on Legislation³ which inquired into the policies of the former Children and Community Services Amendment Bill 2019 before it lapsed when Parliament was prorogued on 7 December 2020.

The Amendment Act is intended to better protect Western Australia's (WA) children⁴ from harm as a result of abuse and improve outcomes for children who are in the care of the Chief Executive Officer (CEO) of the Department of Communities (Communities), particularly Aboriginal children who are significantly over-represented in out of home care in WA. The Amendment Act increases the involvement of Aboriginal⁵ people in decision making processes concerning Aboriginal children in care, and prioritises connections to family, culture, community and Country.

This document provides information on the provisions relating to Aboriginal Representative Organisations (AROs) and how they are to be operationalised by Communities once these are proclaimed.

What is an ARO?

Section 3 of the Amendment Act provides that an *Aboriginal or Torres Strait Islander representative organisation* refers to an Aboriginal or Torres Strait Islander representative organisation approved under section 22A(1). Section 22A(1) provides that the CEO may,

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.

in accordance with the regulations, approve an organisation as an Aboriginal or Torres Strait Islander representative organisation.

Community consultation told us that AROs could 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 (which will be outlined in the *Children and Community Services Regulations 2006*) and comply with other standards such as the information sharing and confidentiality provisions under the Act.

What provisions are in the Amendment Act for AROs?

Following the relevant provisions of the Amendment Act and amendment regulations coming into effect, the CEO will be able to approve an organisation to be an ARO for the purposes of the following sections:

- **section 81** – before making a placement arrangement, in respect of an Aboriginal child in care, the CEO must, subject to the regulations, consult an ARO;
- **section 89C** – subject to the regulations, the CEO must give an ARO an opportunity to participate in the preparation of the 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 amendments to section 81?

The Amendment Act deletes the current section 81 and inserts:

- (1) 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 persons 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 person 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.
- (2) If it is not practicable, for reasons of urgency or otherwise, to consult as required under subsection (1) before making a placement arrangement, the consultation must take place as soon as practicable after the placement arrangement is made.

Why do we need AROs?

The over-representation of Aboriginal children in the child protection system requires joint effort to address. By building working partnerships with Aboriginal people and communities into the legislation, Communities child protection processes will be enhanced.

The Aboriginal and Torres Strait Islander Child Placement Principle (the ATSICPP) sets out the order of priority for the placement of an Aboriginal child in care. The intent of the ATSICPP is to keep children connected to their family, community, culture and Country, and to ensure the participation of Aboriginal people in decisions that impact their children's wellbeing.

Subject to the best interests of the child, section 12 of the Act sets out the order of priority for the placement of an Aboriginal child:

- 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 who lives in close proximity to the child's community;
- d) an Aboriginal person (who resides in WA) or a non-Aboriginal person but who –
 - i. lives in close proximity to the child's community; and
 - j. is responsive the cultural support needs of the child and is willing and able to encourage and support the child to develop and maintain a connection with the culture and traditions of the child's family or community;
- e) placement with a non-Aboriginal person (who resides in WA) but who is responsive to the cultural support needs of the child and is willing and able to encourage and support the child to develop and maintain a connection with the culture and traditions of the child's family or community.

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 wellbeing of Aboriginal children in care. The establishment of AROs state-wide will complement additional amendments to the Act that focuses on connecting children to family and culture and strengthen self-determination.

When will AROs come into effect?

AROs are required to be operational throughout Western Australia before the relevant provisions in the Amendment Act can be proclaimed. Once proclaimed, the sections of the Act relating to consultation with AROs regarding placement arrangements and cultural support planning for Aboriginal children will be mandatory. At this stage, the ARO service model is continuing to be developed and tested in the Armadale district and Kimberley region.

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 ATSI CPP.

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; and
- 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 statutory function 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 of the Act. 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 criteria should be regulated 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 that 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; and
- 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 developed a pilot ARO service model that is adaptable and responsive 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 2022.

What are the ARO Cohorts?

Cohort 1: All Aboriginal children who have been assessed as being in need of protection and / or are in, or being taken into or placed in provisional protection and care of the CEO.

This cohort will receive the following ARO service:

- Placement consultation; and
- Participation in the preparation of the cultural support plan for the child.

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

This cohort will receive the following ARO service:

- Participation in the review of the cultural support plan for the child.

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; and
- Family finding for placement options.

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

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

How will we know if the ARO pilot was successful?

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

Throughout all stages of the ARO pilot, IPS were involved in the processes, reporting, and identification of opportunities for improvement. Evaluation to date has identified positive outcomes regarding ARO involvement in cultural support planning, family finding and placement arrangements in line with the ATSICP.

Communities is working with the AROs to continue to refine the ARO service model based on evaluation findings and ongoing internal evaluation as we move further into a service continuity phase. Ongoing evaluation will focus on strengthening data collection and measurement tools to further demonstrate the successes and outcomes of the ARO Program.

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 children in out-of-home care by 45 percent.

In addition to the development of an ARO service model, a range of initiatives are currently underway within Communities that together will operate to 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 in out-of-home 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 ACCOs to enable shared decision making and work towards self-determination including a greater proportion of services for Aboriginal people delivered by Aboriginal people; and
- Coordinating significant **Out of Home Care reforms** to align services with current evidence-based, trauma informed child protection case practice. This includes awarding contracts to five new ACCOs to deliver OOHC services in WA.

Will there be future opportunities to support the implementation of AROs?

Development of the ARO service model has been informed by extensive consultation previously undertaken with the Aboriginal community, including targeted engagement with ACCOs and Communities officers.

Further information about place-based consultation and engagement will be provided at a later date.

Will there be support for ACCOs to build capability and capacity to deliver ARO services in the future?

ACCO capacity is a priority for the WA Government. Building the capacity of the ACCO sector is imperative for the future of the ARO service model, so it can be place based and provided by local ACCOs.

In March 2023, the ACCO Sector Building Grants Program (Grants Program) was released. These grants were intended to support, strengthen and empower prospective AROs to increase readiness of the sector 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 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, were successful through the Grants Program resulting in an investment in the ACCO sector totalling more than \$550,000.

Communities is committed to ongoing support for capacity building and demonstrating the strength of the ACCO sector across WA, as a key deliverable under the ACCO Strategy 2022-2032.

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