

Consultation on the Children and Young People Bill 1 2023

Frequently asked questions

Introduction

The ACT Government is reforming child and family services to ensure we strengthen families and keep children and young people safe and connected. Legislative change is one part of this [plan for reform](#).

The ACT Government has committed to establishing a responsive, high-functioning legal framework for the ACT's child protection and family support system. This reform will align the *Children and Young People Act 2008* (the CYP Act) with [Next Steps for Our Kids 2022-2030](#) – the ACT's strategy for strengthening families and keeping children and young people safe.

By undertaking this reform, we aim to streamline the CYP Act, enhance its readability and ensure better alignment with the evolving needs of our community. More broadly, this legislative reform will allow the ACT Government to enable necessary reform to the ACT's child protection and family support system to shift focus to early support and intervention for children, young people and their families that facilitate positive life outcomes and ensure long term wellbeing for our community.

Why does the *Children and Young People Act 2008* need to be changed?

The CYP Act is one of the ACT's largest and most complex pieces of legislation. Since its enactment in 2008, the CYP Act has been regularly amended, making it increasingly complex and difficult to read and understand.

Over the past decade, significant advancements in child protection and family support across Australia have also occurred. As a result, the community's expectations of Government and how human services are delivered have changed.

To address these issues and deliver important reforms, it is necessary to review and modernise the CYP Act.

What are the key focus areas of this legislative reform?

The review of the CYP Act will bring about necessary reforms across 2 stages that prioritise children and young people's safety, welfare and wellbeing, and enable the system to provide earlier support when needed. At a glance, this includes:

- > reducing unnecessary complexity in the legislation to reduce uncertainty and increase accessibility
- > recognising the importance of self-determination for Aboriginal and Torres Strait Islander peoples as Australia's first peoples
- > amendments to fully embed the Aboriginal and Torres Strait Islander child placement principle in the legislation, including inserting the principle's five elements – prevention, partnership, placement, participation and connection
- > amending several important concepts of care and protection, including the focus of the legislation and functions of the Director-General to align with a family support-oriented service system
- > amendment to the best interests of children and young people

- > streamlining provisions relating to reporting, investigation and appraisal processes, to prioritise early support and assistance to families
- > amendments to implement previously agreed amendments to Chapter 19A (Children and Young People Death Review Committee)
- > updating information secrecy and sharing provisions to allow services to intervene earlier and to communicate better with each other to identify, assess, manage and reduce the risk of harm and support safety
- > confirming the role of the Director-General and the Children's Court in the exercise of parental responsibility
- > amendments to embed a Charter for Parents and Families involved with ACT child protection services
- > amendments to improve transparency and accountability through an external merits review process for child protection decisions
- > amendments to mandate Child Safe Standards agreed at a national level
- > amendments resulting from the establishment of an Aboriginal and Torres Strait Islander Children's Commissioner.

These changes will align the ACT's statutory child protection system with contemporary research, findings from recent inquiries and reviews, as well as the ACT Government's reform agenda.

Why are the reforms happening over two stages?

The release of successive key reviews and reports requiring legislative change means the necessary reforms to the CYP Act are complex and far-reaching. A two-staged approach to the reforms will ensure operational barriers can be resolved in stage one, while work continues to shift the strategic approach of child protection to family support.

A two-stage approach allows us time to consider and incorporate the advice of external consultants and community feedback on key pieces of legislative reform – including the Aboriginal and Torres Strait Islander child placement principle and proposed model/s for external merits review of child protection decision-making. This approach provides the best opportunity to prepare the elements needed for effective implementation of reform, including service redesign, communication materials, training and recruitment.

What changes are proposed in the Children and Young People Amendment Bill 1 2023?

The first set of amendments (Bill 1) reflects the Government's deep commitment to partnering with Aboriginal and Torres Strait Islander peoples and taking action to eliminate the over-representation of Aboriginal and Torres Strait Islander children and young people in the child protection system.

The proposed amendments in stage one also focus on reducing operational barriers to high-quality child protection practice and assessment.

More specifically in stage one, the draft Bill addresses:

- > adjusting the focus of the legislation and functions of the Director-General to align with a family support-oriented service system
- > recognising the importance of self-determination for Aboriginal and Torres Strait Islander peoples as Australia's first peoples
- > inserting the 5 elements of Aboriginal and Torres Strait Islander Child Placement Principle – prevention, partnership, placement, participation, and connection – and including them as 'best interest' considerations for decisions about children and young people
- > reorganising concepts of abuse and neglect toward an overarching concept of 'significant harm'

- > providing guidance on factors to consider when making a decision about 'best interests,' including clarifying that more weight should be given to the safety of the child or young person
- > implement previously agreed amendments to Chapter 19A (Child and Young People Death Review Committee).

What are you consulting on?

The consultation is particularly focused on the details of the discussion paper on the draft Bill to ensure the changes proposed are as clear and easy to understand as possible and achieve their intended purpose.

We invite anyone interested in this reform to read the discussion paper on our [YourSay Conversations](#) page and let us know what they think. The discussion paper:

- > sets out the key proposed changes in stage 1
- > explains what the changes will mean if the Bill is enacted
- > provides a brief explanation of the policy inputs that have guided the direction of the draft Bill.

Who is being consulted on this Bill?

Any person, organisation or community group can participate. There is no limitation on who may comment on the discussion paper that addresses key changes in the draft Bill. You can participate by:

- > completing an online survey
- > making a submission.

We strongly encourage participation from:

- > children, young people and families with lived experience of child, youth and family services
- > Aboriginal and Torres Strait Islander communities
- > funded service providers
- > community sector organisations
- > advocacy groups
- > oversight agencies.

Specific stakeholders and community groups have been directly invited to provide feedback on the Bill.

As part of stage 1 consultation, we have already had initial conversations with:

- > Public Advocate and Children and Young People Commissioner
- > Human Rights Commissioner
- > SNAICC
- > Our Booris, Our Way Implementation Oversight Committee
- > Children, Youth and Families Division within the Community Services Directorate
- > ACT Courts and Tribunals.

Why is Government continually asking the same stakeholders for feedback when they have already provided it?

Before the draft Bill is introduced to parliament, it is important to ensure any significant concerns with the proposed framework are identified and drafting errors rectified. Key stakeholders have expressed their desire to be involved in this important reform.

How does this reform fit with other ACT Government reform priorities?

The review of the CYP Act is one part of the ACT Government's plan to reform child and family services to ensure we strengthen and preserve families and keep children and young people safe and connected.

Modernising the CYP Act will help deliver action against or support several other key reforms, including:

- > implementing [Next Steps for Our Kids 2022-2030](#), the ACT's strategy to strengthen families and keep children and young people safe
- > implementing the [Our Booris, Our Way recommendations](#) to reduce the over-representation of Aboriginal and Torres Strait Islander children in the ACT child protection system
- > embedding the SNAICC [Aboriginal and Torres Strait Islander Child Placement Principle](#) into legislation
- > raising the [minimum age of criminal responsibility](#) and developing and embedding services to support at-risk children and young people
- > embedding the [Charter for Parents and Families involved with ACT child protection services](#) into legislation
- > progressing the establishment of an independent statutory oversight body, an Aboriginal and Torres Strait Islander Children and Young People Commissioner to advocate for Aboriginal and Torres Strait Islander children and young people
- > commissioning the [Child, Youth and Family Services Program](#) to support at-risk families
- > developing an external merits review of child protection decisions
- > reforming and embedding therapeutic approaches across youth justice in the ACT.

Combined, these reforms aim to enhance our ability to protect children, preserve families, make more informed decisions and improve the overall wellbeing and life outcomes of children, young people and families in the ACT.

How can I have a say?

We are committed to developing effective change through this consultation to ensure we get the best fit for the ACT. There are two ways you can have a say:

- > Complete an online survey – a simplified way to provide feedback.
- > Make a submission – allows you to provide more detailed feedback in response to the questions in the discussion paper.

The survey and submissions close at 11.59pm on 27 July 2023. Access them at [YourSay Conversations – Changing the Children and Young People Act 2008](#).

Will my feedback make a difference?

Yes. Once the consultation has closed, we will review all feedback and consider if changes are necessary. Your feedback will ensure the reforms put forward are fit-for-purpose and make a meaningful difference in modernising the Children and Young People Act 2008.

We will publish the outcomes of consultation on the consultation homepage, outlining the feedback received and explaining the rationale for any key changes from the proposals.

When will the reforms commence?

Following the stage one consultation process, we expect to provide a revised Children and Young People Amendment Bill 1 2023 to the ACT Government to consider in mid-2023, with the amendments to come into effect in early 2024.

The Children and Young People Amendment Bill 2 2024 consultation will commence in July 2023. Further information on this stage will be posted on the YourSay Conversation page following the stage 1 consultation period.