

# Frequently Asked Questions

## Changing the *Children and Young People Act 2008* – Stage 2

The ACT Government is reforming child, youth and family services to ensure we strengthen families and keep children and young people safe and connected. Legislative change is a foundational element of this plan for reform. Proposed changes to the *Children and Young People Act 2008* will deliver significant, tangible, positive change for children, young people, families, carers and workers who intersect with the child protection system.

### Why are you consulting now without a bill?

It is important to consult now on the Children and Young People Amendment Bill 2 2024 (Bill 2) as there is substantial change proposed in this legislation. Impacted entities need to be informed of this change and have time to determine what changes to existing policies and procedures need to be made once the legislation commences.

It is common to undertake public consultation before a bill is drafted to signal the scope of change proposed.

During this time, stakeholders will be invited to participate in consultation to support a smooth transition to the legislative change. The core focus of this consultation is:

- > Informing – Ensuring impacted entities have a comprehensive understanding of the proposed changes, their consequences and their role in implementing the change for their organisation.
- > Testing – Reviewing the detail of the proposed changes to ensure they deliver the intended purpose of the reforms.
- > Readiness – Gauging the preparations required by stakeholders for the new system, informing the commencement date for the new legislation.

At the moment, you are being asked to review the information paper that outlines the proposed changes the ACT Government intends to put in Bill 2.

You are being asked to comment on the intent of what is proposed. That means your feedback can be considered, and where possible incorporated into the technical process of drafting the legislation, which is currently underway.

We know it is important for you to see the actual Bill, and we will share it with you when drafting is completed. There is a lot of value in getting your expertise and views now and we are keen to work with you.

Keeping children and young people safe is a shared community responsibility and the community, sector and people with lived experience of the child protection system have told us they want these reforms – we need to get them right.

### Why have there been two bills when these amendments seem inextricably linked?

Having 2 separate bills serves a purpose in the legislative process.

Bill 1, in its initial stage, helps to 'set the scene' and puts stakeholders on notice about the comprehensive changes being proposed. This early introduction allows for vital conversations to begin and enables us to gather valuable preliminary feedback. This feedback, in turn, informs Bill 2 and its subsequent stage.

This staged approach ensures all necessary amendments are thoroughly considered and implemented effectively. It also facilitates targeted discussions and debates, ultimately leading to a more refined and comprehensive legislative outcome.

### **I've already been consulted on child, youth and family services reform and legislation at other stages of the process. Do I have to participate now?**

The ACT Government is reforming child, youth and family services to ensure we strengthen families and keep children and young people safe and connected and has conducted necessary consultation over several years to inform this work.

All feedback received to date has been considered when developing this transformative stage of legislative change to the *Children and Young People Act 2008* (the CYP Act) to deliver on the Government's commitment to a modern, accessible legislative framework.

The ACT Government has listened to those who have already shared their experience, perspectives and time to progressing child protection reform in the ACT.

This consultation is also cognisant of other relevant pieces of work also open to consultation at present, and feedback received through those processes will be incorporated into this work to ensure a cohesive, holistic approach to reform.

### **The legislation change looks good. How will you ensure people follow it and deliver the intended change?**

Creating lasting change is only achieved by coordinated improvements in legislation, policy and practice. This is why this consultation is needed, to ensure we have scoped all requirements for implementation to deliver the positive, practical change across the ACT's child protection system the Government has committed to delivering.

The ACT Government will work with government and non-government services as well as the wider community to understand what they need to get ready for the change, and when they think they will be ready for it to happen, to ensure these views are considered in implementing the required change.

### **How have you listened to the voice of lived experience?**

To best suit the needs of our community, the ACT Government has relied heavily on the invaluable insights of those with lived experience of the system – the voices of children, young people, their families and carers.

Much of this has come from those who were actively involved in the development of *Next Steps for Our Kids 2022-2030* (Next Steps), the ACT's strategy to strengthen families and keep children and young people safe and connected.

We've also listened to the feedback received during the first consultation stage of these reforms about the *Children and Young People Amendment Bill 1 2023* and are feeding this into the proposals for Bill 2.

Equally, we are continuing to listen and have scheduled specific sessions during this consultation with children, young people and families who have experience of the child protection system.

### **How have you considered human rights in these changes?**

In developing these changes we've placed a strong emphasis on upholding human rights. We are engaging closely with the ACT Human Rights Commission to seek their valuable input, expertise and scrutiny, and welcome this process.

It is also important to know, all new bills in the ACT must be accompanied by a Statement of Compatibility. This statement assesses the compatibility of the legislation with the rights and freedoms recognised in the seven-core international human rights treaties Australia has ratified, and in particularly the *Human Rights Act 2004*.

These processes will ensure the proposed changes not only comply with legal requirements but also promote and protect the fundamental rights of all individuals, particularly those involved with child protection services.

### **Won't expanding abuse types encourage even more mandatory reports?**

The ACT currently receives around 22,000 child concern reports per year which shows strong compliance with existing reporting laws and a desire for strong support to be provided to children and families when they need it.

These changes will not increase reporting, but better enable government to understand and address this concern from reporters.

Contemporary research shows children and young people who are abused are mostly maltreated in multiple ways, and multi-type maltreatment will be better categorised through these proposed changes. This will enable Government to act on accurate data and design and deliver strong service and referral pathways.

These changes will also empower mandated reporters to work collaboratively across the sector and seek out more appropriate and tailored early support services.

This early, proactive action will divert families from the statutory system when such an intrusive response is not needed and see better outcomes for these families.

Diverting families to early supports that do not need statutory involvement also enables child protection workers to focus more resources on the children and young people who are most at risk of significant harm.

### **Where would an external merits review mechanism sit?**

After conducting extensive consultations and comprehensive research, the Administrative and Civil Appeals Tribunal (ACAT) is proposed to oversee this external review function.

The proposal to entrust ACAT with this responsibility stems from the clear need for an accessible, efficient and user-friendly platform to address disputes and conduct reviews across various facets of child protection.

ACAT offers a holistic approach, encompassing conciliation and mediation processes before proceeding to formal hearings. This approach has a successful track record of resolving similar issues without the need for a formal hearing.

### **Legal representation for parents is still an issue, mainly due to access in short timeframes. How are you addressing this?**

We know acting quickly to protect children is important. Sometimes, we have to find a balance between getting legal help for parents and making timely decisions for children and young people. We are aware it is not always easy for parents to get legal support due to limited resources and access.

One of the proposed changes is to include a new principle of 'active efforts', which emphasises proactive and meaningful engagement with parents. Within this framework, we are considering explicitly recognising the importance of access to legal services to ensure parents have the necessary support when they need it most.

## **Information sharing still seems confusing with schemes across multiple acts, for example the proposed Domestic Violence Agencies (Information Sharing) Amendment Bill. Why haven't you tackled this as one holistic topic?**

Addressing information sharing across various acts is indeed a complex task. Each Act serves a distinct purpose and involves different stakeholders. Tackling this as a holistic topic would risk oversimplification, potentially overlooking crucial nuances.

By addressing information sharing within the specific context of each act, we can ensure the unique requirements and intricacies of each scheme are adequately considered. This approach allows for a more nuanced and tailored approach to information sharing, ultimately leading to more effective and comprehensive outcomes for the individuals and communities involved.

## **A shift to earlier support just seems to mean shifting responsibility outside of the statutory system. Is this true?**

Shifting towards earlier support doesn't mean passing responsibility. It is about working together with families and communities to tackle issues before they get worse. This way, Child and Youth Protection Services (CYPS) can concentrate on the most urgent cases, ensuring those at highest risk get the help they need.

It is creating a stronger safety net with everyone in the community playing a part, alongside CYPS, to keep children and young people in our community safe and supported.

## **The proposed changes seem to be setting a framework for a service system that doesn't yet exist. How will you ensure services keep up with demand?**

The new legislation will create transformative change for children, young people and their families who intersect with the child and youth protection system.

This reform will only be fully realised if the legislative change sets a framework for 2 things:

- > Change now for areas where immediate action is warranted and the system is ready to support the change.
- > Legislative footing for further change in future practice when the support system is ready.

Creating lasting change is only achieved by coordinated improvements in legislation, policy and practice. This is why this consultation is needed, to ensure we have scoped all requirements for implementation and plan effectively for the future.

## **How will the proposed amendments interact with the new minimum age of criminal responsibility in the ACT?**

The Justice (Age of Criminal Responsibility) Legislation Amendment Bill 2023 will increase the minimum age at which a person can be held criminally responsible in the ACT from 10 to 14 years (to 12 years on commencement and to 14 years on 1 July 2025). This bill also introduces a Therapeutic Support Panel and Intensive Therapy Orders under the *Children and Young People Act 2008*.

Proposed changes in the Children and Young People Amendment Bill 2024 will broaden the application of certain guiding principles to how the Therapeutic Support Panel and Intensive Therapy Orders will function. These principles include family preservation, child and youth participation, active efforts, and stability and permanency. This expansion represents a more holistic approach to caring for and rehabilitating children and young people who require support.

ACT Government staff who directly provide services to children and young people will continue to be mandated reporters. This obligation remains in place even with the new, higher age of criminal responsibility. It applies specifically to professionals who are both employed by the ACT Government and personally involved in delivering services to children and young people.

Collectively, proposed amendments to the *Children and Young People Act 2008* aim to create a more child-centred and comprehensive framework for responding to children and young people in the ACT. They highlight the importance of therapeutic interventions, active involvement of children and young people in decisions about their lives and ensuring stability.

### Next steps

Learn more about the changes the ACT Government wants to make to the ACT's child protection system and join the conversation. Our information paper has all the details about the proposed changes.

Visit [YourSay Conversations: Changing the \*Children and Young People Act 2008\*](#).