

# Appendix B: Responsibility for Implementation of Recommendations

## By Recommendation Number

Rec. No.	Short description	Body responsible for implementation
1	Whole-of-government approach	All departments and agencies
2	Cultural awareness training	All departments and agencies
3	Office of the Commissioner for Indigenous Affairs	Department of the Premier and Cabinet
4	Legislative definition of 'Aboriginal person' and 'Torres Strait Islander person'	Department of the Attorney General
5	Recognition of customary law consistent with international human rights standards	All departments and agencies
6	Constitutional recognition of Aboriginal people	Department of the Premier and Cabinet
7	Programs and services for Aboriginal people within the criminal justice system	Department of the Attorney General and Department of Corrective Services
8	Repeal home burglary mandatory sentencing laws	Department of the Attorney General
9	Funding for the Aboriginal Legal Service	Department of the Attorney General
10	Funding for the development of protocols for lawyers working with Aboriginal people	Department of the Attorney General
11	Funding to increase lawyers' awareness of Aboriginal culture	Department of the Attorney General
12	Cultural awareness training for staff of the Department of the Attorney General and Department of Corrective Services	Department of the Attorney General and Department of Corrective Services
13	Criteria for extraordinary drivers licences to include Aboriginal customary law	Department for Planning and Infrastructure
14	Application to cancel licence suspension order	Department of Corrective Services
15	Funding to Aboriginal Legal Service for education and legal representation in relation to traffic matters	Department of the Attorney General
16	Prohibition on people going onto Aboriginal community lands	Department of Indigenous Affairs
17	Establishment of community justice groups	Department of Indigenous Affairs
18	Review of by-law scheme	Department of the Premier and Cabinet
19	Statistics & records in relation to by-laws	Department of the Attorney General
20	Definition of 'driving' under s 73 of the <i>Road Traffic Act 1974</i> to apply to Aboriginal community lands	Department for Planning and Infrastructure

Rec. No.	Short description	Body responsible for implementation
21	Review of community officers under <i>Protective Custody Act 2000</i>	Western Australia Police and Department of Indigenous Affairs
22	Prohibition / restriction of alcohol in discrete Aboriginal communities	Department of Indigenous Affairs
23	Restrictions on sale or supply of alcohol to Aboriginal communities	Department of Racing, Gaming & Liquor
24	Aboriginal Courts	Department of the Attorney General
25	Repeal the offence of unlawful wounding	Department of the Attorney General
26	Development of educational initiatives to inform Aboriginal people about the criminal justice system	Department of the Attorney General
27	Reform of the defence of duress	Department of the Attorney General
28	Educational initiatives about parenting and the discipline of children under Australian law	Department of Indigenous Affairs, Department for Community Development, Department of Health, and Department of Education and Training
29	Responsible person bail for adults	Department of the Attorney General
30	Taking into account financial circumstances of surety for bail	Department of the Attorney General
31	Telephone applications for bail	Department of the Attorney General
32	Non-custodial bail facilities for children in remote communities	Department of Corrective Services
33	Cultural background as a relevant factor for bail	Department of the Attorney General
34	Relevance of Aboriginal customary law and culture during bail proceedings	Department of the Attorney General
35	Resources for improved bail and surety forms and notices	Department of the Attorney General
36	Cultural background of offender as a relevant sentencing factor	Department of the Attorney General
37	Taking into account the particular circumstances of Aboriginal people when considering imprisonment as a sentence of last resort	Department of the Attorney General
38	Consideration of Aboriginal customary law during sentencing	Department of the Attorney General
39	Evidence of Aboriginal customary law during sentencing	Department of the Attorney General
40	Time limit for adjournment of sentencing	Department of the Attorney General
41	Single-gender juries	Department of the Attorney General
42	Fitness to plead	Department of the Attorney General
43	Amendment of prosecutorial guidelines	Western Australia Police and the Office of the Director of Public Prosecutions for Western Australia

Rec. No.	Short description	Body responsible for implementation
44	Cautions for young Aboriginal people	Department of Corrective Services
45	Referring to cautions in subsequent court proceedings	Department of Corrective Services
46	Referral of young people to a juvenile justice team	Department of Corrective Services
47	Review of schedules of offences under the <i>Young Offenders Act 1994</i>	Department of Corrective Services
48	Referring to previous referrals to a juvenile justice team in subsequent court proceedings	Department of Corrective Services
49	Legislative criteria for the decision to arrest a young person	Department of the Attorney General and Western Australia Police
50	Establishment of a scheme for diversion to a community justice group	Department of Corrective Services and Western Australia Police
51	Evaluation of diversionary options for Aboriginal people	Department of the Premier and Cabinet
52	Legislative requirements for interviewing suspects	Department of the Attorney General
53	Police protocols for determining whether an Aboriginal person requires an interpreter	Western Australia Police
54	Review of move-on laws	Department of the Premier and Cabinet
55	Review of Northbridge curfew policy	Department of the Premier and Cabinet
56	Cultural awareness training for police officers	Western Australia Police
57	Recording of ethnicity by police	Western Australia Police
58	Update Western Australia Police website	Western Australia Police
59	Prison funeral attendance policies	Department of Corrective Services
60	Application process for funeral attendance	Department of Corrective Services
61	Use of physical restraints on prisoners attending funerals	Department of Corrective Services
62	Escorting prisoners and detainees to funerals	Department of Corrective Services
63	Parole Board and Supervised Release Review Board may request information from Elders or community representatives	Department of Corrective Services and Department of the Attorney General
64	Transport arrangements for prisoners when released from custody	Department of Corrective Services
65	Administration of intestate Aboriginal estates	Department of Indigenous Affairs
66	Obligation to administer Aboriginal intestate estates	Public Trustee of Western Australia
67	Proof of relationship to an Aboriginal deceased	Department of Indigenous Affairs
68	Release of funds of intestate estates by financial institutions	Department of the Attorney General
69	Education about wills for Aboriginal people	Department of Indigenous Affairs
70	Will-making initiative for Aboriginal people	Department of Indigenous Affairs
71	Claims for family provision against an Aboriginal estate	Department of the Attorney General
72	Public Trustee Aboriginal financial management protocols	Public Trustee of Western Australia

Rec. No.	Short description	Body responsible for implementation
73	Assessment of decision-making capacity of an Aboriginal person under the <i>Guardianship and Administration Act 1990</i>	State Administrative Tribunal
74	Regional partnerships with the Public Advocate and Public Trustee	Public Trustee of Western Australia and Office of the Public Advocate
75	Objection to post-mortem examination	State Coroner of Western Australia
76	Cultural, spiritual or customary beliefs to be taken into account when considering post-mortem examination	Department of the Attorney General
77	Expansion of coronial counselling service to rural areas and employment of Aboriginal coronial counsellor	Department of the Attorney General and Coroner's Court of Western Australia
78	Burial instructions of deceased to be observed – amendment to <i>Cemeteries Act 1986</i>	Department of Local Government and Regional Development
79	Forum for dealing with burial disputes and mediation between parties to burial disputes	Department of the Attorney General
80	Protocols for protection of Indigenous cultural and intellectual property	Department of Culture and the Arts
81	Protocols to regulate bioprospecting of Indigenous knowledge	Department of Environment and Conservation
82	State support for enhanced protection of Indigenous cultural and intellectual property	Department of Culture and the Arts
83	Definition of traditional Aboriginal marriage – amendment to the <i>Interpretation Act 1984</i>	Department of the Attorney General
84	Traditional Aboriginal marriage and other domestic relationships – amendment to the <i>Interpretation Act 1984</i>	Department of the Attorney General
85	Part 5A of the <i>Family Court Act 1997</i> to apply to traditional Aboriginal marriages	Department of the Attorney General
86	Consultation with child's extended family in consideration of adoption – amendment to the <i>Adoption Act 1994</i>	Department for Community Development
87	Culturally appropriate information about services and benefits for extended family carers	Department for Community Development
88	Enhance culturally appropriate service delivery in the Family Court of Western Australia	Department of the Attorney General and Family Court of Western Australia
89	Promotion of functional recognition of non-biological primary carers	Department of the Premier and Cabinet and Department for Community Development
90	Education about legal rights of women and children and criminality of child sexual abuse	Department of Indigenous Affairs
91	Community-based and community-owned Aboriginal family violence intervention and treatment programs	Department of Indigenous Affairs
92	Better provision of men's counselling, accommodation, treatment etc services in regional areas	Department for Community Development
93	Ongoing progress reporting of family violence initiatives	Department of Indigenous Affairs

Rec. No.	Short description	Body responsible for implementation
94	Free working with children checks for staff of Aboriginal not-for-profit organisations	Department for Community Development
95	Consultation with Aboriginal communities in review of the police order regime	Attorney General for Western Australia
96	Conservation to remain a priority in recognition of customary harvesting	Department of Environment and Conservation and Department of Fisheries
97	Government to consult with Aboriginal people about conservation programs	Department of Environment and Conservation
98	Enhancing communication of Aboriginal customary harvesting exemptions and restrictions	Department of Environment and Conservation and Department of Fisheries
99	Aboriginal customary harvesting exemption expanded to other customary purposes	Department of Environment and Conservation
100	Aboriginal customary harvesting exemption to apply to land under the <i>Conservation and Land Management Act 1984</i>	Department of Environment and Conservation
101	Aboriginal customary harvesting exemptions to remain applicable to introduced flora and fauna	Department of Environment and Conservation
102	Recognition of non-commercial barter and exchange of harvested flora and fauna	Department of Environment and Conservation
103	Review of commercial harvesting licensing regime under the <i>Wildlife Conservation Act 1950</i>	Department of Environment and Conservation
104	Education to avoid cruelty to animals harvested under Aboriginal customary harvesting exemptions	Department of Environment and Conservation
105	Clarification of permissible use of firearms by Aboriginal people in customary harvesting	Department of Environment and Conservation, Department for Planning and Infrastructure, and Western Australia Police
106	Adoption of the Aboriginal Fishing Strategy Working Group's definition of customary fishing	Department of Fisheries
107	Implementation of the Aboriginal Fishing Strategy Working Group's recommendations	Department of Fisheries
108	Clarification of Aboriginal peoples' right to access pastoral leasehold land for customary purposes	Department for Planning and Infrastructure
109	Exclusion of opinion and hearsay rules for evidence about Aboriginal customary law	Department of the Attorney General
110	Funding to upgrade special witness facilities in regional areas	Department of the Attorney General
111	Special witness for reasons of Aboriginal customary law	Department of the Attorney General
112	Sensitive information not to be referred to in court	Department of the Attorney General
113	Suppression of information for reasons of Aboriginal customary law	Department of the Attorney General
114	Judge of particular gender to be assigned to matter	Department of the Attorney General

Rec. No.	Short description	Body responsible for implementation
115	Witnesses can give evidence in groups	Department of the Attorney General
116	Evidence taken on country	Department of the Attorney General
117	Statewide Aboriginal languages interpreter service	Office of Multicultural Interests
118	Establishment of a committee to oversee the use of interpreters in courts	Department of the Attorney General
119	More training for Aboriginal language interpreters	Department of the Attorney General
120	Right to an interpreter in court proceedings	Department of the Attorney General
121	State to pay for interpreters in certain circumstances	Department of the Attorney General
122	The development of assessment guidelines to assist courts to determine if an interpreter is needed	Department of the Attorney General
123	Provision of information about interpreters	Department of the Attorney General
124	Establish guidelines for using Aboriginal language interpreters in court	Department of the Attorney General
125	Witness may give evidence in narrative form	Department of the Attorney General
126	Court may disallow questions put to witnesses who are vulnerable due to their cultural background	Department of the Attorney General
127	Aboriginal liaison officers to be employed in courts	Department of the Attorney General
128	Cultural awareness training for judicial officers	Department of the Attorney General
129	Accountability of local governments for 'Aboriginal' funding	Department of Local Government and Regional Development
130	Allowing functional remote Aboriginal communities to access federal funding	Department of the Premier and Cabinet
131	Legislative framework for reform of Aboriginal community governance to be informed by key principles	Department of Indigenous Affairs

## By Department or Agency

### All departments and agencies

- Recommendation 1 (whole-of-government approach)
- Recommendation 2 (cultural awareness training)
- Recommendation 5 (recognition of customary law consistent with international human rights standards)

### Attorney General for Western Australia

- Recommendation 95 (consultation with Aboriginal communities in review of the police order regime)

### Department of the Attorney General

- Recommendation 4 (legislative definition of 'Aboriginal person' and 'Torres Strait Islander person')
- Recommendation 7 (programs and services for Aboriginal people within the criminal justice system)
- Recommendation 8 (repeal home burglary mandatory sentencing laws)
- Recommendation 9 (funding for the Aboriginal Legal Service)
- Recommendation 10 (funding for the development of protocols for lawyers working with Aboriginal people)
- Recommendation 11 (funding to increase lawyers' awareness of Aboriginal culture)
- Recommendation 12 (cultural awareness training for staff of the Department of the Attorney General and Department of Corrective Services)
- Recommendation 15 (funding to Aboriginal Legal Service for education and legal representation in relation to traffic matters)
- Recommendation 19 (statistics and records in relation to by-laws)
- Recommendation 24 (Aboriginal courts)
- Recommendation 25 (repeal the offence of unlawful wounding)
- Recommendation 26 (development of educational initiatives to inform Aboriginal people about the criminal justice system)
- Recommendation 27 (reform of the defence of duress)
- Recommendation 29 (responsible person bail for adults)
- Recommendation 30 (taking into account financial circumstances of surety for bail)
- Recommendation 31 (telephone applications for bail)
- Recommendation 33 (cultural background as a relevant factor for bail)
- Recommendation 34 (relevance of Aboriginal customary law and culture during bail proceedings)
- Recommendation 35 (resources for improved bail and surety forms and notices)
- Recommendation 36 (cultural background of offender as a relevant sentencing factor)
- Recommendation 37 (taking into account the particular circumstances of Aboriginal people when considering imprisonment as a sentence of last resort)
- Recommendation 38 (considering Aboriginal customary law during sentencing)
- Recommendation 39 (evidence of Aboriginal customary law during sentencing)
- Recommendation 40 (time limit for adjournment of sentencing)

- Recommendation 41 (single-gender juries)
- Recommendation 42 (fitness to plead)
- Recommendation 49 (legislative criteria for the decision to arrest a young person)
- Recommendation 52 (legislative requirements for interviewing suspects)
- Recommendation 63 (Parole Board and Supervised Release Review Board may request information from Elders or community representatives)
- Recommendation 68 (release of funds of intestate estates by financial institutions)
- Recommendation 71 (Claims for family provision against an Aboriginal estate)
- Recommendation 76 (cultural, spiritual or customary beliefs to be taken into account when considering post-mortem examination)
- Recommendation 77 (expansion of coronial counselling service to rural areas and employment of Aboriginal coronial counsellor)
- Recommendation 79 (forum for dealing with burial disputes and mediation between parties to burial disputes)
- Recommendation 83 (definition of traditional Aboriginal marriage – amendment to the *Interpretation Act 1984*)
- Recommendation 84 (traditional Aboriginal marriage and other domestic relationships - amendment to the *Interpretation Act 1984*)
- Recommendation 85 (Part 5A of the *Family Court Act 1997* to apply to traditional Aboriginal marriages)
- Recommendation 88 (enhance culturally appropriate service delivery in the Family Court of Western Australia)
- Recommendation 109 (exclusion of opinion and hearsay rules for evidence about Aboriginal customary law)
- Recommendation 110 (funding to upgrade special witness facilities in regional areas)
- Recommendation 111 (special witness for reasons of Aboriginal customary law)
- Recommendation 112 (sensitive information not to be referred to in court)
- Recommendation 113 (suppression of information for reasons of Aboriginal customary law)
- Recommendation 114 (judge of particular gender to be assigned to matter)
- Recommendation 115 (witnesses can give evidence in groups)
- Recommendation 116 (evidence taken on country)
- Recommendation 118 (establishment of a committee to oversee the use of interpreters in courts)
- Recommendation 119 (more training for Aboriginal language interpreters)
- Recommendation 120 (right to an interpreter in court proceedings)
- Recommendation 121 (state to pay for interpreters in certain circumstances)
- Recommendation 122 (The development of assessment guidelines to assist courts to determine if an interpreter is needed)
- Recommendation 123 (provision of information about interpreters)
- Recommendation 124 (establish guidelines for using Aboriginal language interpreters in court)
- Recommendation 125 (witness may give evidence in narrative form)
- Recommendation 126 (court may disallow questions put to witnesses who are vulnerable due to their cultural background)
- Recommendation 127 (Aboriginal liaison officers to be employed in courts)
- Recommendation 128 (cultural awareness training for judicial officers)

## Department for Community Development

- Recommendation 28 (educational initiatives about parenting and the discipline of children under Australian law)
- Recommendation 86 (consultation with child's extended family in consideration of adoption – amendment to the *Adoption Act 1994*)
- Recommendation 87 (culturally appropriate information about services and benefits for extended family carers)
- Recommendation 89 (promotion of functional recognition of non-biological primary carers)
- Recommendation 92 (better provision of men's counselling, accommodation, treatment etc services in regional areas)
- Recommendation 94 (free working with children checks for staff of Aboriginal not-for-profit organisations)

## Coroner's Court of Western Australia

- Recommendation 77 (expansion of coronial counselling service to rural areas and employment of Aboriginal coronial counsellor)

## Department of Corrective Services

- Recommendation 7 (programs and services for Aboriginal people within the criminal justice system)
- Recommendation 12 (cultural awareness training for staff of the Department of the Attorney General and Department of Corrective Services)
- Recommendation 14 (application to cancel licence suspension order)
- Recommendation 32 (non-custodial bail facilities for children in remote communities)
- Recommendation 44 (cautions for young Aboriginal people)
- Recommendation 45 (referring to cautions in subsequent court proceedings)
- Recommendation 46 (referral of young people to a juvenile justice team)
- Recommendation 47 (review of schedules of offences under the *Young Offenders Act 1994*)
- Recommendation 48 (referring to previous referrals to a juvenile justice team in subsequent court proceedings)
- Recommendation 50 (establishment of a scheme for diversion to a community justice group)
- Recommendation 59 (prison funeral attendance policies)
- Recommendation 60 (application process for funeral attendance)
- Recommendation 61 (use of physical restraints on prisoners attending funerals)
- Recommendation 62 (escorting prisoners and detainees to funerals)
- Recommendation 63 (Parole Board and Supervised Release Review Board may request information from Elders or community representatives)
- Recommendation 64 (transport arrangements for prisoners when released from custody)

## Department of Culture and the Arts

- Recommendation 80 (protocols for protection of Indigenous cultural and intellectual property)
- Recommendation 82 (state support for enhanced protection of Indigenous cultural and intellectual property)

## Department of Education and Training

- Recommendation 28 (educational initiatives about parenting and the discipline of children under Australian law)

## Department of Environment and Conservation

- Recommendation 81 (protocols to regulate bioprospecting of Indigenous knowledge)
- Recommendation 96 (conservation to remain a priority in recognition of customary harvesting)
- Recommendation 97 (government to consult with Aboriginal people about conservation programs)
- Recommendation 98 (enhancing communication of Aboriginal customary harvesting exemptions and restrictions)
- Recommendation 99 (Aboriginal customary harvesting exemption expanded to other customary purposes)
- Recommendation 100 (Aboriginal customary harvesting exemption to apply to land under the *Conservation and Land Management Act 1984*)
- Recommendation 101 (Aboriginal customary harvesting exemptions to remain applicable to introduced flora and fauna)
- Recommendation 102 (recognition of non-commercial barter and exchange of harvested flora and fauna)
- Recommendation 103 (review of commercial harvesting licensing regime under the *Wildlife Conservation Act 1950*)
- Recommendation 104 (education to avoid cruelty to animals harvested under Aboriginal customary harvesting exemptions)
- Recommendation 105 (clarification of permissible use of firearms by Aboriginal people in customary harvesting)

## Family Court of Western Australia

- Recommendation 88 (enhance culturally appropriate service delivery in the Family Court of Western Australia)

## Department of Fisheries

- Recommendation 96 (conservation to remain a priority in recognition of customary harvesting)
- Recommendation 98 (enhancing communication of Aboriginal customary harvesting exemptions and restrictions)
- Recommendation 106 (adoption of the Aboriginal Fishing Strategy Working Group's definition of customary fishing)
- Recommendation 107 (implementation of the Aboriginal Fishing Strategy Working Group's recommendations)

## Department of Health

- Recommendation 28 (educational initiatives about parenting and the discipline of children under Australian law)

## Department of Indigenous Affairs

- Recommendation 16 (prohibition on people going onto Aboriginal community lands)
- Recommendation 17 (establishment of community justice groups)
- Recommendation 21 (review of community officers under *Protective Custody Act 2000*)
- Recommendation 22 (prohibition / restriction of alcohol in discrete Aboriginal communities)
- Recommendation 28 (educational initiatives about parenting and the discipline of children under Australian law)
- Recommendation 65 (administration of intestate Aboriginal estates)

- Recommendation 67 (proof of relationship to an Aboriginal deceased)
- Recommendation 69 (education about wills for Aboriginal people)
- Recommendation 70 (will-making initiative for Aboriginal people)
- Recommendation 90 (education about legal rights of women and children and criminality of child sexual abuse)
- Recommendation 91 (community-based and community-owned Aboriginal family violence intervention and treatment programs)
- Recommendation 93 (ongoing progress reporting of family violence initiatives)
- Recommendation 131 (legislative framework for reform of Aboriginal community governance to be informed by key principles)

### Department of Local Government and Regional Development

- Recommendation 78 (burial instructions of deceased to be observed – amendment to *Cemeteries Act 1986*)
- Recommendation 129 (accountability of local governments for 'Aboriginal' funding)

### Department for Planning and Infrastructure

- Recommendation 13 (criteria for extraordinary drivers licences to include Aboriginal customary law)
- Recommendation 20 (definition of 'driving' under s 73 of the *Road Traffic Act 1974* to apply to Aboriginal community lands)
- Recommendation 105 (clarification of permissible use of firearms by Aboriginal people in customary harvesting)
- Recommendation 108 (clarification of Aboriginal peoples' right to access pastoral leasehold land for customary purposes)

### Department of the Premier and Cabinet

- Recommendation 3 (Office of the Commissioner for Indigenous Affairs)
- Recommendation 6 (constitutional recognition of Aboriginal people)
- Recommendation 18 (review of by-law scheme)
- Recommendation 51 (evaluation of diversionary options for Aboriginal people)
- Recommendation 54 (review of move-on laws)
- Recommendation 55 (review of Northbridge curfew policy)
- Recommendation 89 (promotion of functional recognition of non-biological primary carers)
- Recommendation 130 (allowing functional remote Aboriginal communities to access federal funding)

### Office of the Director of Public Prosecutions for Western Australia

- Recommendation 43 (amendment of prosecutorial guidelines)

### Office of Multicultural Interests

- Recommendation 117 (statewide Aboriginal languages interpreter service)

### Office of the Public Advocate

- Recommendation 74 (regional partnerships with the Public Advocate and Public Trustee)

## Public Trustee of Western Australia

- Recommendation 66 (obligation to administer Aboriginal intestate estates)
- Recommendation 72 (Public Trustee Aboriginal financial management protocols)
- Recommendation 74 (regional partnerships with the Public Advocate and Public Trustee)

## Department of Racing, Gaming and Liquor

- Recommendation 23 (restrictions on sale or supply of alcohol to Aboriginal communities)

## State Administrative Tribunal

- Recommendation 73 (assessment of decision-making capacity of an Aboriginal person under the *Guardianship and Administration Act 1990*)

## State Coroner of Western Australia

- Recommendation 75 (objection to post-mortem examination)

## Western Australia Police

- Recommendation 21 (review of community officers under *Protective Custody Act 2000*)
- Recommendation 43 (amendment of prosecutorial guidelines)
- Recommendation 49 (legislative criteria for the decision to arrest a young person)
- Recommendation 50 (establishment of a scheme for diversion to a community justice group)
- Recommendation 53 (police protocols for determining whether an Aboriginal person requires an interpreter)
- Recommendation 56 (cultural awareness training for police officers)
- Recommendation 57 (recording of ethnicity by police)
- Recommendation 58 (update Western Australia Police website)
- Recommendation 105 (clarification of permissible use of firearms by Aboriginal people in customary harvesting)