



# Access to the open air in Victoria's Prisons

## Australian NPM joint statement

The Victorian Government proposes to override Victoria's Human Rights Act to limit the right of people in prisons in Victoria to access the open air, subject to 'operational considerations'.

On 19 January 2026, in *Marrogi v Secretary of the Department of Justice and Community Safety*, the Supreme Court of Victoria found that people detained in the Exford Unit at the Metropolitan Remand Centre and the Acacia, Melaleuca and Olearia Units at Barwon Prison had not been receiving the minimum entitlement required by law to spend one hour each day in the open air. The Court declared that Corrections Victoria had acted unlawfully and incompatibly with the right to humane treatment when deprived of liberty. Justice Harris found that covered-over exercise yards provided "no sense of being outside or in an open space". Justice Harris noted that the requirement needs to ensure more than just movement from one enclosed space to another.

The Victorian Government has since introduced a Bill that would, if passed, override protections within the Human Rights Act governing this minimum entitlement. The Victorian Government has stated that the proposed reforms are intended to respond to operational pressures within the prison system.

The Australian NPM is a network of independent bodies designated or nominated as National Preventive Mechanisms (NPMs) across Commonwealth, states and territories, with responsibility for monitoring deprivation of liberty in their respective jurisdictions. The purpose of these bodies is to prevent and strengthen protections against torture and ill-treatment of people deprived of their liberty.

Access to at least one hour in the open air daily is a fundamental human rights standard set out in the United Nations Minimum Rules for the Treatment of Prisoners (the **Nelson Mandela Rules**). NPMs regularly monitor access to the open air in prisons, which serves as a basic protection against torture and ill-treatment.

The Australian NPM recognises the significant challenges involved in operating safe and secure places of detention. However, these objectives are not achieved by weakening the minimum safeguards designed to uphold and protect people's basic rights where they are deprived of their liberty. They should be achieved by strengthening the systems, infrastructure and resourcing needed to meet those safeguards.



The law currently establishes the minimum standards that detention systems are expected to meet. It should not be amended because those standards require resources to achieve.

Regular access to fresh air, natural light, and physical exercise promotes physical and mental health, reduces the harmful effects of confinement, supports engagement in rehabilitation, and contributes to safer prison environments and more successful reintegration into the community. The requirement for one hour access to the open air each day reflects the minimum conditions considered necessary for humane detention.

Minimum standards in places of detention exist to protect the safety, dignity, and wellbeing of people who are dependent on the State for their care. These standards also support safer and more effective correctional systems and reinforce public confidence in the rule of law. When courts identify that those standards have not been met, the response should be to strengthen the systems that uphold them – not to weaken the safeguards themselves.



Because the Victorian Government has not designated an NPM to monitor the conditions and treatment of people deprived of their liberty in Victoria, the Australian NPM is issuing this joint statement to provide a collective preventive perspective on the proposed reforms and their implications for minimum entitlements in places of detention.

All people deprived of their liberty have the right to be treated with humanity and with respect for the inherent dignity of the person. Protecting the right to access the open air is an important safeguard to achieve this.

Regular preventive oversight benefits not only people deprived of their liberty, but also staff, service providers, authorities and the broader community. Safe, transparent and well-managed environments contribute to safer workplaces, strengthen public confidence, and support better outcomes for individuals and the community across custodial, detention and care systems.

For more information about OPCAT and the Australian NPM, visit [Australian NPM](#).

*This joint statement has been endorsed by, and is issued on behalf of, the Australian National Preventive Mechanism members whose logos appear below.*

