



Australian National Preventive Mechanism

Terms of Reference

1. Purpose and function

The Australian National Preventive Mechanism (NPM) consists of its constituent members: the bodies and people appointed, nominated or established as NPMs by the Australian, state, and territory governments.

The Australian NPM represents the collective identity of its members in fulfilling their functions and responsibilities to give effect in Australia to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Australian NPM also provides a means of support, engagement, information sharing and collaboration among members.

These terms of reference reflect the views of the Subcommittee on Prevention of Torture (SPT) that Australia's NPM should be more than a loose meeting of independent entities. The Australian NPM should be a collective enterprise in which all members are engaged to advance Australia's implementation of OPCAT

2. Membership

A list of members of the Australian NPM is at **Attachment A**.

The Australian NPM's Chair is the Commonwealth Ombudsman in their capacity as NPM Coordinator, or their representative.

3. Operation of the Australian NPM

All Australian NPM activity is undertaken in the spirit of collaboration and equality between members.

Unless otherwise provided in these terms of reference, decisions made by the Australian NPM require agreement from a majority of Australian NPM members.



All Australian NPM member activity, including meeting discussions, meeting outcomes and any documents prepared for meetings or related to Australian NPM activity, should be kept confidential. If member/s wish to share such information outside the group, they should seek agreement to do so. If the information has been provided by a particular member, the member seeking to share the information must seek agreement from that member. If the information otherwise belongs to the Australian NPM as a whole, such as meeting minutes, the member seeking to share the information must contact the Chair who will seek the agreement of the members. In such cases, the Chair should be contacted by emailing npmcoordinator@ombudsman.gov.au.

Information shared within the Australian NPM may be subject to legal or other obligations impacting its further sharing. Considerations of any such obligations should inform decisions on requests to share information.

This approach is to give confidence to members to engage in free and open information-sharing, while recognising the sensitivity of information that will be addressed within the Australian NPM.

Regular meetings

The Australian NPM will meet three times per year, on dates to be communicated to members by the Chair.

The Chair may invite any other person to attend any Australian NPM meeting as an observer or contributor, for specific discussions or the entire meeting, on a one-off or regular basis. The Chair will notify members of any proposed invitations for their consideration before the meeting. Members requesting the attendance of external invitees should advise the Chair before the meeting agenda is finalised.

Meetings will be minuted and a public communiqué on key points will be published on the Office of the Commonwealth Ombudsman website. The communiqué will contain only unclassified information that is fit for publication on the website and will only be published after members have had the opportunity to comment.

Other meetings

The Australian NPM Chair may convene further Australian NPM meetings on an ‘as needs’ basis or when requested by members.

Joint written work

The Australian NPM may prepare joint written work, including joint public statements and joint submissions, on matters falling within the NPM mandate. Participation is on an ‘opt in’ basis. Those members who endorse the joint work will be explicitly listed. Joint written

work will not refer to facilities within the remit of members who decline to participate in the piece of work without express permission from that member.

The drafting and review of joint written work will follow the agreed governance procedures for such work. Members are welcome to propose joint written work at any time, in accordance with agreed governance procedures.

Where being made public, final pieces of joint written work will be published on the Office of the Commonwealth Ombudsman website. They will also be shared on social media channels and communicated to journalists as needed. Participating members are encouraged to circulate and promote the joint written work using their own mechanisms.

Information-sharing and collaboration

Members are encouraged to share information or otherwise collaborate to support Australian NPM activities. This may include, but is not restricted to, training opportunities and participation in joint visit activity.

The NPM Coordinator will manage an online information-sharing platform for members. All members are invited to contribute information to that platform.

Branding

The Australian NPM logo and common branding will be used on Annual Reports of Australia's NPM and on post meeting communiqués.

The logo and common branding may also be used on pieces of joint written work where a majority of Australian NPM members participate, to support communication using our common identity.

4. Role of the NPM Coordinator

In accordance with [regulation 17\(3\) of the *Ombudsman Regulations 2017* \(Cth\)](#), the functions of the Office of the Commonwealth Ombudsman as NPM Coordinator include:

- consulting with governments and other bodies on the development of standards and principles regarding the treatment and conditions of persons deprived of their liberty
- collecting information on oversight arrangements in relation to persons deprived of their liberty and undertaking related research
- proposing options and developing resources to facilitate improvements in oversight arrangements in relation to persons deprived of their liberty, including by:

- facilitating the sharing of expertise, knowledge, and practice in order to build on the existing work of detention inspectorates of the Commonwealth, the states and the territories
 - proposing options for reducing duplication of, and overlap in, inspections of places of detention or
 - proposing options for covering gaps in oversight of places of detention
- communicating, on behalf of the Australian NPM, with the SPT
- convening meetings and facilitating collaboration between any of the following for the purposes of giving effect to OPCAT:
 - state and territory governments and governments of other countries
 - NPMs and NPM bodies, including those outside Australia
- giving information to the following for the purposes of giving effect to OPCAT:
 - the SPT
 - state and territory governments and governments of other countries
 - NPMs and NPM bodies, including those outside Australia
- reporting to the public and to Commonwealth, state, and territory ministers on the following:
 - the implementation of OPCAT
 - the activities of the Australian NPM
- making recommendations to the Commonwealth in relation to the implementation of OPCAT
- functions incidental to the function of the NPM Coordinator.

The Australian NPM is to be collaborative. Australian NPM members including the NPM Coordinator will not compel or direct any Australian NPM member in conducting OPCAT-related activity.

While the NPM Coordinator is available to support members in their work to give effect to OPCAT, each member is responsible for the implementation of their own functions under OPCAT.

5. Reporting

The NPM Coordinator is responsible for reporting to the public and Australian, state and territory Ministers on the implementation of OPCAT and the activities of the Australian NPM, in accordance with regulation 17(3)(g) of the *Ombudsman Regulations 2017*(Cth) and Article 23 of OPCAT.

Annual reports of the Australian NPM will be the principal means of reporting.

Annual reporting will reflect the work of Australian NPM members. Content of annual reporting will be drawn from all Australian NPM members.

The Chair will propose specific annual reporting arrangements to enable practical coordination of input, and to ensure that annual reporting needs can be met within reasonable timeframes and with minimal duplication with other member reporting requirements (for example, reporting requirements within their jurisdictions).

The NPM Coordinator may report on other matters relating to OPCAT in accordance with regulation 17(3)(g) of the *Ombudsman Regulations 2017* (Cth). In such cases the NPM Coordinator would first consult with the Australian NPM.

6. Secretariat

The Office of the Commonwealth Ombudsman, in its capacity as NPM Coordinator, will provide secretariat support to the Australian NPM for meetings.

The secretariat will set a preliminary agenda for each meeting. Members are encouraged to propose agenda items. Items may be introduced verbally in the course of meetings.

The secretariat will circulate the agenda and any supporting papers for each meeting at least five working days before the meeting. Minutes – and any communiqué if applicable – will be circulated within ten working days of any meeting to each attendee for comment, before being finalised.

The secretariat will follow up on any meeting action items as required.

7. Dissemination and Review

Once agreed, these terms of reference will be made publicly available on the website of the Office of the Commonwealth Ombudsman. Australian NPM members may share the publicly available terms of reference as they wish.

The terms of reference will be reviewed by Australian NPM members on an annual basis, or more frequently as required. The Australian NPM will agree to any revised terms of reference by consensus.

The list of members at **Attachment A** will be updated by the NPM Coordinator on an ‘as needs’ basis and will not require review and endorsement from the Australian NPM.

List of members – Australian NPM

As of March 2024, Australian NPM members are:

Commonwealth
Office of the Commonwealth Ombudsman (as NPM Coordinator and Commonwealth NPM)
Australian Capital Territory (ACT)
ACT Human Rights Commission
ACT Office of the Inspector of Correctional Services
ACT Ombudsman
New South Wales
No NPM(s) yet nominated
Northern Territory (NT)
Ombudsman NT
Office of the Children's Commissioner
Community Visitor Program
Queensland
No NPM(s) yet nominated
South Australia (SA)
Official Visitors
Training Centre Visitor
Tasmania
Mr Richard Connock (as Tasmanian NPM)
Victoria
No NPM(s) yet nominated
Western Australia (WA)
WA Office of the Inspector of Custodial Services
WA Ombudsman



South Australian Official Visitors

