

Meeting of the OPCAT Advisory Group 5 October 2022 COMMUNIQUÉ No. 2, 2022

On 5 October 2022, the Office of the Commonwealth Ombudsman's (the Office) OPCAT Advisory Group (OAG) held its second meeting for 2022. The meeting was chaired by Iain Anderson, who commenced as Commonwealth Ombudsman on 1 August 2022.

The following OAG members attended:

- Paris Aristotle AO – CEO, Foundation House (re-appointed member)
- Lorraine Finlay – Human Rights Commissioner, Australian Human Rights Commission (AHRC) (new member)
- Carolyn Frohmader – Executive Director, Women with Disabilities Australia (WWDA) (new member)
- Anne Hollonds – National Children's Commissioner, AHRC (new member)
- Vicki Mau – Director of Australian Programs, Australian Red Cross (new member)
- Emeritus Professor Neil Morgan AM – Professor of Law and Rapporteur for the Asian Pacific Conference of Correctional Administrators (Western Australia) (re-appointed member)
- Professor Bronwyn Naylor OAM – RMIT University; co-founder of the civil society Australian OPCAT Network (re-appointed member).

Welcoming both new and re-appointed OAG members, the Chair recognised the OAG's continuing role advising the Office in the lead-up to and beyond the commencement of Australia's remaining obligations under OPCAT.

The OAG noted:

- the expanded OAG membership, to increase diversity of representation including for people with vulnerabilities. The Office is still seeking a First Nations representative;
- the approaching OPCAT implementation deadline of 20 January 2023, and the continued work of the Office in readiness for this as National Preventive Mechanism (NPM) Coordinator;
- the Commonwealth NPM monitoring functions including the expansion into Australian Defence Force correctional facilities, and Australian Federal Police cells, and the importance and benefits of unannounced visits to places of detention;
- preparation for the visit to Australia by a delegation of the United Nations Subcommittee on Prevention of Torture (SPT) from 16–27 October 2022;
- preparation for review by the United Nations Committee against Torture (Committee) of Australia's sixth periodic report on implementation of the Convention against Torture, including a written submission to and upcoming private plenary meeting with the Committee in November 2022;
- the constructive National OPCAT Symposium recently organised by the AHRC.

Concerns around detention of children in Australia

The OAG noted with concern accounts of ill treatment in youth detention environments in Australia, most notably relating to the Banksia Hill youth detention centre (Banksia Hill) in Western Australia.

The OAG drew attention to the [July 2022 joint statement](#) by June Oscar AO, Anne Hollonds and Lorraine Finlay, on the youth justice system.

Contact us

ombudsman.gov.au
1300 362 072

GPO Box 442
Canberra ACT 2601

In 2020, the Commonwealth Ombudsman established the OPCAT Advisory Group (OAG) to provide expert advice and guidance to the Ombudsman about the functions and responsibilities as an NPM and as the Coordinator of the Australian NPM Network. The OAG's terms of reference are available [here](#).

More information on recent OPCAT developments in Australia can be found [here](#).

The OAG also noted the evidence of the Western Australian Inspector of Custodial Services – head of one of Australia’s NPMs – at the recent [public hearing on conditions in detention in the criminal justice system](#) of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

OAG members noted the significant issues raised in the Inspector’s evidence relating to Banksia Hill, including:

- the lack of a trauma-informed approach to supporting the children detained;
- the impact of lockdowns and isolation;
- shortcomings in identifying disability support needs;
- the impact of staffing attrition and staffing shortages on the treatment and conditions.

Civil society OAG members expressed concern that similar issues are likely to be occurring in other places across Australia where children are or may be detained.

OPCAT and children in detention

OPCAT complements international human rights treaties relevant to the treatment of children in detention.

OPCAT is designed to support the prevention of torture and other ill treatment in places of detention, and in doing so improve the treatment and conditions of those detained. Most notably, this occurs through regular preventive monitoring visits by NPMs to places where people are or may be deprived of their liberty by order or acquiescence of the government. This includes detention environments where children are or may be detained.

Regular visits by NPMs to these places ensures external, independent visibility of detention environments. OPCAT allows NPMs to make recommendations to authorities to improve detention conditions. OPCAT also requires dialogue from authorities with NPMs on their recommendations’ possible implementation.

The OAG reiterates the importance of a Network of NPMs across all jurisdictions being in place by 20 January 2023, including for the preventive monitoring of youth detention facilities.