

OPCAT Advisory Group

Terms of Reference

1. Purpose

The OPCAT Advisory Group (OAG) was established by the Commonwealth Ombudsman to provide expert advice and guidance to them regarding their functions and responsibilities under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), as conferred by Part 4 of the *Ombudsman Regulations 2017*.

2. Key functions

The OAG's key function is to provide considered advice to the Commonwealth Ombudsman regarding:

- a. the Office of the Commonwealth Ombudsman's (Office) current or proposed approach to fulfilling its responsibilities regarding places of detention under the control of the Commonwealth, as the Commonwealth National Preventive Mechanism (NPM);
- b. the Office's current or proposed approach to fulfilling its responsibilities as the NPM Coordinator for Australia, including engaging with and coordinating members of the Australian NPM;
- c. research or practice that may inform the Office's current or future approach to fulfilling its OPCAT responsibilities and functions;
- d. matters associated with the treatment and conditions of people in Commonwealth places of detention, and in other detention settings to the extent it is relevant to the work of the Commonwealth NPM; and

- e. issues arising from, or impacting, the implementation of OPCAT in Australia.

The Commonwealth Ombudsman will regularly seek the OAG's advice via formal meetings but may also invite members to provide advice or comment out of session.

The Commonwealth Ombudsman invites each of the members of the OAG for their respective experience and expertise but, as an independent and impartial statutory office holder, will not be bound by their advice.

3. Membership

The OAG Chair is the Commonwealth Ombudsman, Mr Iain Anderson.

In addition, as at April 2024, OAG members are:

Name	Organisation
Mr Paris Aristotle AO	CEO, Foundation House
Dr Eddie Cubillo	Associate Dean, University of Melbourne, descendant of the Larrakia, Wadjigan and Central Arrernte peoples
Ms Lorraine Finlay	Human Rights Commissioner, Australian Human Rights Commission
Ms Carolyn Frohmader	Human rights consultant
Ms Anne Hollonds	National Children's Commissioner, Australian Human Rights Commission
Emeritus Professor Neil Morgan AM	Former Inspector of Custodial Services (Western Australia)
Emeritus Professor Bronwyn Naylor OAM	RMIT University; co-founder of the civil society Australian OPCAT Network
<i>Representative TBC</i>	<i>Australian Red Cross</i>

Chair's discretion regarding Membership

If the Chair considers it is appropriate to do so, they may invite additional members to join the OAG at any time.

The Chair may invite any other person to attend meetings as an observer or contributor, for specific discussions or the entire meeting, on a one-off or regular basis. Members may also request other persons attend meetings as observers or contributors, for the Chair to decide accordingly.

If the Chair considers it is appropriate to do so, they may remove a member from the OAG.

4. Operation of the OAG

The OAG will meet twice per year, or as otherwise determined by the Chair.

If a member is unavailable to meet, they may, prior to the meeting, propose an alternative representative for the Chair's approval, to ensure adequate representation across the OAG.

Members agree that discussions by the OAG and any materials prepared for the purposes of a meeting of the OAG, including minutes, will be kept confidential unless otherwise approved by the Chair. The Chair will also ensure confidentiality requirements are made clear to any other persons joining OAG meetings.

A communiqué summarising the matters discussed at each meeting will be published on the Office's [website](#).

5. Conflicts of interest

Members agree that as soon as a member becomes aware that an actual, perceived, or potential conflict has arisen or is likely to arise relevant to their participation in the OAG, the member will immediately notify the Chair, provide all relevant information to the Chair in writing and take reasonable steps to resolve or otherwise manage the conflict. Based on this, and with regard to the significance of the conflict of interest, the

Chair may determine steps to be followed by the member to manage or resolve the conflict of interest.

Members should maintain any conflict of interest obligations in connection with their substantive roles. This provision is not intended to affect such obligations.

6. Secretariat

The Office will provide secretariat support to the OAG and will promulgate materials for discussion.

The Secretariat will set a preliminary agenda for each meeting, but any member of the OAG may seek the Chair's agreement to add items for discussion. Items may be introduced verbally but papers are encouraged so as to maximise understanding and discussion of the relevant issues.

After approval from the Chair, the Secretariat will ensure the agenda and supporting papers for each meeting are circulated at least ten working days before the meeting. Minutes will be circulated within ten working days of the meeting to each member and approved observers or contributors, as appropriate, for comment.

The Secretariat will follow up action items as required, on behalf of the Chair.

7. Review

These terms of reference will be reviewed by the Chair on an annual basis, or more frequently as required, with input from OAG members. The OAG will endorse any revised terms of reference.

The Chair will review the outcomes of the OAG annually, with input from OAG members.

VERSION: APRIL 2024

