

OPCAT Advisory Group

Terms of Reference

1. Background and purpose

OPCAT Advisory Group

The OPCAT Advisory Group (OAG) was established by the Commonwealth Ombudsman to provide them with expert advice and guidance 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*.

The OAG is an advisory body only. OAG members act in an advisory capacity and are not employees, agents or contractors of the Commonwealth Ombudsman.

OPCAT

OPCAT is an international human rights treaty to improve treatment and conditions for people in detention, and strengthen protections against their torture and other ill treatment.

OPCAT aims to do this through a system of monitoring by domestic and international bodies, which visit places of detention, provide recommendations and advice on improvements, and educate about OPCAT. OPCAT is focused on prevention: seeking to identify risks of mistreatment before they materialise.

Engagement with civil society is a key part of the work of both the domestic monitoring bodies under OPCAT, known as National Preventive Mechanisms (NPMs), and the international monitoring body, the United Nations Subcommittee on Prevention of

Torture. While NPMs must always remain strictly independent, civil society can provide unique experience, expertise and perspectives to inform NPMs and enable them in their preventive work. Civil society can also support NPM activity as a conduit between NPMs and the community at large, assisting with information flow and education.

OPCAT and Australia

Australia's NPM obligations under OPCAT are implemented by way of a cooperative network of Commonwealth, state and territory oversight bodies, coordinated by an NPM Coordinator. Collectively, this multi-body arrangement is known as the Australian NPM. As of March 2026, 12 Commonwealth, state and territory oversight bodies are members of the Australian NPM.

The Commonwealth Ombudsman has been appointed as:

- the NPM for places of detention under the control of the Commonwealth (Commonwealth NPM)
- one part of the NPM for places of detention under the control of the Australian Capital Territory (ACT NPM) and
- the Australian NPM Coordinator.

2. Functions

The OAG Chair is the Commonwealth Ombudsman.

The OAG's key function is to provide considered advice and guidance to the Chair on:

- a. the Office of the Commonwealth Ombudsman's (Office) current or proposed approach to fulfilling its responsibilities as the Commonwealth NPM
- b. the Office's current or proposed approach to fulfilling its responsibilities as the NPM Coordinator, 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 relevant to the work of the Commonwealth NPM and
- e. issues arising from, or impacting, the implementation of OPCAT in Australia.

The Chair will seek the OAG's advice via formal meetings, but may also invite members, individually or collectively, to provide advice out of session.

Other functions

At the request of Australian NPM members, and on their behalf, the Chair may also seek OAG members' advice on matters associated with the work of any or all Australian NPM members, and/or the treatment and conditions of people in places of detention other than those under the control of the Commonwealth.

The Chair may also, from time to time, ask members to provide advice or information to all Australian NPM members collectively, on areas within their scope of expertise. Any such activity would be on a case by case basis, and by mutual agreement.

The OAG exists separately from advisory groups which other individual Australian NPM members have themselves established, or may in future establish.

3. OAG membership

Members are chosen for their experience and expertise in fields relevant to OPCAT, detention, and the current or potential scope of NPM activity in Australia. Current membership of the OAG is at **Annex A**.

Membership, and the number of members, are at the discretion of the Chair. 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 use a publicly advertised expression of interest process for the selection of new members. The Chair may also make direct approaches to suitable individuals inviting them to become a member.



Where public calls for new membership are advertised, the Chair will inform existing members. Existing members are encouraged to share calls for membership among their own networks.

Membership duration

Membership of the OAG is for an open-ended period. Members are free to decide to end their membership of the OAG at any time. Membership of the OAG does not create any ongoing employment, contractual or agency relationship with the Office or the Commonwealth. If a member chooses to end their membership, they should do so in writing to the Chair.

If the Chair considers it is appropriate, they may remove a member from the OAG. Any removal of a member by the Chair will be done in good faith, and will give due consideration to the expectations of members set out further below.

Other participants in the OAG

The Chair may invite any other person to attend OAG 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 on a one-off or regular basis, for the Chair to decide accordingly.

4. Independence

The Commonwealth Ombudsman invites each member to participate as part of the OAG for their respective experience and expertise. OAG members are not subject to direction or control as to the manner in which they provide advice. However, as an independent and impartial statutory office holder, and in accordance with independence requirements for NPMs under OPCAT, the Commonwealth Ombudsman will not be bound by the OAG's advice.

Similarly, where OAG members provide advice or assistance to one or more other Australian NPM members, neither individual Australian NPM members nor the Australian NPM collectively will be bound by the OAG's advice.



5. Operation of the OAG

OAG meetings

The OAG will meet three times per year, or as otherwise determined by the Chair. Unless otherwise advised by the Chair, meetings will be held virtually. Members will receive an invitation by email ahead of each meeting.

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

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.

Any accessibility needs as an OAG member are to be communicated to the Chair, who will make arrangements accordingly to ensure all OAG members are able to participate in discussions.

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

6. Conduct of OAG members

Participation

Members are encouraged to be able to attend and actively participate in all OAG meetings they are invited to. Where members are unable to attend a meeting, they are requested to provide the Chair with as much notice as possible ahead of the meeting.

The Chair will endeavour to take all members' preferences into account when determining meeting dates and times, and will provide as much notice as possible in advising of confirmed meeting dates and times.



While attendance and active participation are encouraged, members are under no obligation to attend OAG meetings, nor is there an intention to create any legally binding relationship between members and the Office. Despite this, the OAG best achieves its objectives when meeting participation is maximised, and so members are encouraged to consider this where they are unable or decide not to attend multiple OAG meetings.

Other OAG activity

From time to time the Chair may ask OAG members if they wish to provide advice or assistance other than through regular OAG meetings. Particular arrangements for doing so will be by mutual agreement and confirmed on a case by case basis.

Confidentiality

The nature and purpose of the OAG is intended to allow free and frank discussions within the group. Members acknowledge 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. Any member queries about confidentiality should be directed to the Chair for further advice.

Where a member does not respect confidentiality requirements, the Chair will consider whether their continued membership is appropriate.

Any other persons who join OAG meetings from time to time must also respect the confidentiality of discussions. The Chair will ensure confidentiality requirements are made clear to such persons prior to their participation.

Conflicts of interest

Members acknowledge 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 should 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 other roles outside of the OAG. This provision is not intended to affect such obligations.

7. Recognition

The Chair recognises the time spent on OAG activity by members, along with the value of OAG members' contributions. Members who are not otherwise being compensated for their OAG participation through their substantive roles will be recognised for their attendance at OAG meetings, through receipt of an honorarium. Such recognition is to occur in accordance with the Office of the Commonwealth Ombudsman's Paid Participation Policy, as amended from time to time. Any honorarium given under these terms of reference is an *ex gratia* payment and does not constitute the payment of salary, wages or remuneration for employment.

While chosen for their experience and expertise, participation in the OAG by members receiving an honorarium is understood to be as a private recreational pursuit, to support the furtherance of the Office's work as part of OPCAT implementation in Australia. While honorariums are to be given in recognition of meeting attendance, there is no legally binding entitlement for members to receive an honorarium under these terms of reference or the Office of the Commonwealth Ombudsman's Paid Participation Policy. Members will also not receive any honorarium if they are unable to attend an OAG meeting.

Members should raise any queries or concerns regarding this recognition, including requests for recognition outside of the circumstances addressed under these terms of reference and the Office of the Commonwealth Ombudsman's Paid Participation Policy, with the Chair. The Chair remains solely responsible for any decisions on questions relating to honorariums and the recognition of any member participation.

Further details on recognition, including administrative arrangements for receipt of honorariums, will be communicated as necessary to those members being so recognised.



Honorarium amounts

The honorarium amounts for eligible members are provided in the Office of the Commonwealth Ombudsman's Paid Participation Policy, as amended from time to time. These amounts have been set by the Chair.

While honorariums are not considered remuneration, in setting appropriate honorarium amounts the Chair has given consideration to remuneration amounts provided to holders of part-time public office in accordance with determinations of the Commonwealth Remuneration Tribunal.¹

Honorarium amounts are based on meeting length, with normal meeting preparation not being recognised separately.

Other activity

Further details on honorariums to recognise contributions for any further advice or assistance provided outside of OAG meetings, will be provided on a case by case basis.

8. Wellbeing support

Due to the nature of issues which fall within scope of OPCAT, the subject matter dealt with in the course of OAG activity may at times be distressing.

Members are encouraged to advise the Chair where the distressing nature of the subject matter impacts, or may impact, their participation in OAG activity. Members are able to withdraw from OAG discussions at any time.

The Chair will ensure that all OAG members have access to the Office's formal wellbeing support service at no cost. The Office's wellbeing support service offers confidential, short term, solution-focused counselling and wellbeing support by telephone on an as needs basis.

¹ As of March 2026, this is the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2025* (Cth) made under subsections 7(3) and (4) of the *Remuneration Tribunal Act 1973* (Cth).



The wellbeing support service has counsellors who speak multiple languages, and a First Nations counsellor can also be requested.

Further details on the wellbeing support service, including how OAG members can access it, will be provided to members directly.

Provision of wellbeing support is not indicative of an employment relationship and is offered solely to support voluntary participation by OAG members.

9. Secretariat

The Office's NPM Coordinator team will provide the OAG secretariat support. This includes:

- ensuring the agenda and supporting papers for each meeting, after approval from the Chair, are circulated at least ten working days before the meeting
- attending OAG meetings to take minutes
- circulating minutes within a reasonable period after a meeting to each member and approved observers or contributors, as appropriate, for comment
- following up on action items on behalf of the Chair, as required.

Members are encouraged to contact the secretariat with any questions regarding administrative arrangements as they arise, including relating to OAG meetings.

10. 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 list of OAG members at Annex A will be updated as and when membership changes. Changes to **Annex A** will not require OAG endorsement, however the Chair will notify members of such changes when they occur.

Terms of reference will be published publicly on the Office's [website](#).



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

VERSION: MARCH 2026



OPCAT Advisory Group membership

Current as of March 2026

Name	Details
Mr Paris Aristotle AO	Chief Executive Officer, Foundation House
Ms Nicole Batch	Head of Migration Development, Australian Red Cross
Dr Eddie Cubillo	Associate Dean, University of Melbourne, descendant of the Larrakia, Wadjigan and Central Arrernte peoples
Dr Lorraine Finlay	Human Rights Commissioner, Australian Human Rights Commission
Ms Carolyn Frohmader AO	Human rights consultant
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
Ms Deb Tsorbaris	National Children's Commissioner, Australian Human Rights Commission