

Australia's National Preventive Mechanism Network

Terms of Reference

1. Purpose and function

The National Preventive Mechanism (NPM) Network is established by the bodies and people making up Australia's NPM (NPM bodies). The NPM Network supports each NPM body to fulfil 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 NPM Network provides a means of engagement, information sharing and collaboration.

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 NPM should be a collective enterprise which all members are engaged in to advance Australia's implementation of OPCAT.

2. Membership

The NPM Network's membership consists of the persons and bodies appointed, nominated or established as NPM by the Commonwealth, state, and territory governments. A list of members is at **Attachment A**.

The NPM Network's Chair is the Commonwealth Ombudsman, or a representative from the Office of the Commonwealth Ombudsman.

3. Operation of the NPM Network

All NPM Network activity is undertaken in the spirit of collaboration and equality.

Unless otherwise provided in these terms of reference, decisions made by the NPM Network are to be made by consensus, with agreement from all NPM Network members.

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

Information shared within the NPM Network 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 NPM Network.

Regular meetings

The NPM Network 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 NPM Network meeting as an observer or contributor, for

OFFICIAL

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 NPM Network Chair may convene further NPM Network meetings on an 'as needs' basis or when requested by members.

Joint public statements

The NPM Network may issue joint public statements on matters falling within the NPM mandate. Participation is on an 'opt in' basis. Where not all members participate, statements will be drafted clearly as being from signatory members only. Such statements will not refer to facilities within the remit of members who decline to sign the statement.

Member proposals for joint public statements should be communicated to the Chair via the NPM Coordinator, who will circulate the draft among members with a reasonable period for consideration.

Final joint public statements will be published on the Office of the Commonwealth Ombudsman website. Participating members may then circulate and publish the statement using their own mechanisms.

Information-sharing and collaboration

Members are encouraged to share information or otherwise collaborate to support NPM activities. This may include, but is not restricted to, training opportunities and participation in 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 NPM Network logo and common branding will be used on annual reports of Australia's NPM, and on post-meeting communiqués. NPM Network members may agree, by consensus only, that the logo and common branding can be used for other purposes.

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:

OFFICIAL

OFFICIAL

- 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 NPM Network, 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 NPM Network;
- making recommendations to the Commonwealth in relation to the implementation of OPCAT; and
- functions incidental to the function of the NPM Coordinator.

The NPM Network is to be collaborative. NPM Network members including the NPM Coordinator will not compel or direct any NPM Network 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 Commonwealth, state and territory Ministers on the implementation of OPCAT and the activities of the NPM Network, in accordance with regulation 17(3)(g) of the *Ombudsman Regulations 2017* (Cth) and Article 23 of OPCAT.

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

Annual reporting will reflect the work of the NPM Network members. Content of annual reporting will be drawn from all NPM Network 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). The NPM Coordinator would first consult with the NPM Network.

OFFICIAL

6. Secretariat

The Office of the Commonwealth Ombudsman, in its capacity as NPM Coordinator, will provide secretariat support to the NPM Network 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. NPM Network members may share the publicly available terms of reference as they wish to.

The terms of reference will be reviewed by NPM Network members on an annual basis, or more frequently as required. The NPM Network 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 NPM Network.

List of members – NPM Network

As of December 2022, NPM Network members are:

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