

FACT SHEET

OPCAT Implementation Bill 2021

The Bill creates a standalone framework to give effect to Tasmania's obligations arising from Australia's ratification of the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT).

OPCAT requires states and territories to nominate a body or bodies to fulfil the role of a NPM, who will regularly examine the treatment of persons deprived of their liberty in places of detention, for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment.

The Bill provides that place of detention is any place as defined under Article 4 of OPCAT, and includes examples of such places: prisons, hospitals, closed psychiatric facilities.

In Australia, each jurisdiction is required to establish one or multiple NPMs. The Bill provides for this through the appointment by the Governor of a person or persons as a Tasmanian NPM.

The NPM's functions include recommendations to relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty, issue of guidelines and standards, publication of reports, and consultation on policy. A relevant authority is required to discuss steps to be taken in respect of recommendations with the NPM, and provide information to the NPM if required.

The Bill provides the NPM, delegates and staff are authorised and required to act independently and impartially.

The Bill also provides for OPCAT's requirements to facilitate visits to Tasmania by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT). This includes duties on relevant authorities and the responsible Minister to ensure access to places of detention.

The Bill provides for matters including:

- regular monitoring by the NPM, and SPT when visiting, with access to places of detention, access to all relevant information relating to the treatment of persons and to conditions of detention, and to private and confidential interviews with both persons deprived of their liberty;
- information sharing to the NPM by a person or body, and referrals of matters for investigation by the NPM; and
- offences to ensure matters such as compliance with requirements of the NPM, confidentiality of information, and protection from reprisal against any person who provides information to the SPT or to the NPM.